

Decision 83 04 064 APR 20 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Energy Recovery Project ("SANDER") To Utilize The Electric Transmission Facilities of San Diego Gas & Electric Company For the Purpose Of Transmitting Electricity.

Application 83-03-17 (Filed March 4, 1983)

O P I N I O N

Background

The San Diego Energy Recovery Project (SANDER), a joint powers authority comprised of the County and City of San Diego, was formed in 1981. It plans to build a solid waste resource recovery facility to burn solid waste. The facility could produce about 28 megawatts of power. Thus far the facility has been in the planning stages. A definite site has not been selected; however, SANDER will locate the facility in San Diego County.

SANDER has been negotiating with San Diego Gas & Electric Company (SDG&E) on terms under which SDG&E would buy the facility's power. This seems to have culminated in SANDER's desire to have 40% of the power wheeled for the use of city and county facilities, and to presumably sell the balance to SDG&E (Exhibit 3 to the application). SDG&E's response to the wheeling proposal was a polite "no". Its reasons for not agreeing to wheel with SANDER's power were: (1) SDG&E has no tariff for wheeling service; (2) SDG&E's system will not accommodate wheeling; and (3) if a wheeling rate was advantageous enough for SANDER to wheel, it would be disadvantageous to SDG&E's other ratepayers.

As a result of the impasse, SANDER filed this application under Public Utilities (PU) Code § 2812.5. That section requires the Commission to authorize a private energy producer to interconnect to a utility's distribution system and transmit power when the Commission can make the following findings:

1. No uncompensated burden will be placed upon the utility; and
2. The wheeling service will not result in added costs or adverse consequences to the utility's customers.

SANDER offers to pay the costs of interconnection and asks that we determine a method for calculating the rate SDG&E should receive for wheeling. This is the first proceeding initiated under the Private Energy Producers Act (PU Code § 2801 et seq.) by a private electric energy producer to compel interconnection for wheeling.

Applicability of California
Environmental Quality Act (CEQA)

On March 24 SANDER filed a motion under our Rule 17.2 asking that we find its application does not, insofar as this Commission is concerned, constitute a "project" subject to CEQA. It notes that other agencies will be issuing permits for the construction of the solid waste burning facility; the only construction that would result if SDG&E were to wheel SANDER's power, in the event SANDER prevails and accepts any adopted wheeling charge and conditions, would be an interconnection facility. Installing interconnection equipment is, in SANDER's view, a "minor alteration of existing facilities used to convey or distribute electric power." Accordingly, accepting SANDER's view that an interconnection facility is merely a minor modification to SDG&E's transmission and/or distribution grid, the activity, and this application, would be categorically exempt from CEQA (Rule 17.1(h)(A)2).

On April 1 the Executive Director sent a letter to SANDER indicating its application was deficient and that he would ask the Commission to dismiss it without prejudice to refiling. The deficiencies he listed were: (1) no Proponent's Environmental Assessment accompanied the application to allow this Commission to assess whether the application might, if granted, have a significant effect on the environment; (2) no site is specified, and without knowing the site in relation to SDG&E's grid, it is difficult to determine whether the interconnection facility would be a minor alteration of SDG&E's existing facilities; and (3) without knowing the site, it is very difficult to determine whether added costs or adverse consequences will result for SDG&E's customers. SANDER has not formally responded to the Executive Director's letter.

Discussion

We will dismiss this application without prejudice to SANDER's refiling. Under the Permit Steamlining Act we must process proceedings proposing CEQA projects within one year. Here, there is some question whether the project is categorically exempt from CEQA; however, we simply do not have the project details or data to make that determination. Meanwhile, if we did not dismiss the application, the processing deadline remains unchanged while we and our staff await the complete information and data which should have been submitted with the application when SANDER submitted it for filing. In these circumstances, it is our policy to dismiss applications without prejudice until we have adequate data supplied which will enable a meaningful review of CEQA issues within the time constraints imposed by law. We note that the interconnection facility would seem to be an integral part of the overall facility, particularly since there must be an interconnection regardless of whether SANDER has its power wheeled or sells it to SDG&E. Likewise, even if SDG&E had to construct additional lines to accommodate an eventual interconnection, that element of the overall project would

only come under our review if the lines were to handle 200 kV or more (General Order 131-B). These are the points which SANDER should clarify when it refiles.

The Executive Director's letter instructed SANDER to make any refiling as a complaint. This instruction accords with our established administrative practices; however, we will consider SANDER's complaint to be an "application of a private energy producer" as that phrase is used in the Private Energy Producers Act (PU Code § 2801 et seq.). In addition, as a practical matter, while SDG&E may not have violated any tariff rule, Commission order, or statute in its dealings with SANDER, which is usually a requisite allegation for a complaint, the wheeling question between SANDER and SDG&E has become adversarial. At this stage what would suit SANDER is for SDG&E, as a starting point, to file a tariff with rules, conditions, and rates for wheeling within its service territory.

When this matter is again before us, assuming SANDER and SDG&E cannot resolve their differences and culminate it with a SDG&E tariff filing, we expect a well-developed record. SANDER must, to the extent it can, fully address the issues we must consider under PU Code § 2812.5. Also, we will expect SDG&E, as the party most familiar with its grid, to fully explain:

1. Whether interconnection is possible;
2. If interconnection for wheeling would be difficult or costly, the costs should be detailed and explained;
3. The rate for the wheeling service which would fairly compensate SDG&E; and
4. The costs and detriment, if any, that would impact its other customers.

SDG&E's explanation of these issues is crucial to our ability to prescribe appropriate and reasonable terms, conditions, and requirements, pursuant to PU Code § 2812.5. Our staff's expertise on these, and other relevant points, will also assist us if SANDER refiles.

We are most interested in addressing the wheeling question, and SANDER should not take today's decision, which is based on technical and procedural points, as a sign that we are unresponsive to administering the Private Energy Producers Act.

Findings of Fact

1. SANDER's application does not designate a specific site for its facility or the specific city and county facilities to which power is to be wheeled which is necessary to compute line losses and line dedication to wheeling that will result.

2. The interconnection facility is not described as to size or location; neither is it addressed in environmental review thus far before the local agencies that must issue permits for the facility.

Conclusion of Law

SANDER's application does not provide sufficient data to clearly evaluate if the Commission is lead agency or whether the activity subject to Commission review and approval is categorically exempt. It should be dismissed without prejudice.

O R D E R

IT IS ORDERED that Application 83-03-17 is dismissed without prejudice.

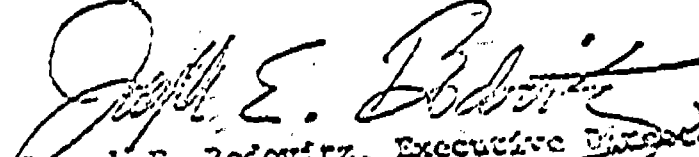
This order becomes effective 30 days from today.

Dated APR 20 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
DONALD VIAL
Commissioners

Commissioner Priscilla C. Grew, being necessarily absent, did not participate in the disposition of this proceeding.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director