

ORIGINALDecision 83 04 067 APR 20 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of Southern California Edison)
 Company to modify Decision 77400)
 to delete Finding of Fact 13 and)
 Ordering Paragraph 5 which)
 requires Edison to base its load-)
 dispatch system on least nitrogen)
 oxide (NO_x) emissions into the)
 South Coast Air Basin.)

Application 83-02-07
 (Filed February 2, 1983)

ORDER OF MODIFICATION

Southern California Edison Company (SCE) seeks an ex parte order modifying Decision (D.) 77400 (June 23, 1970) in Application (A.) 51294, its Huntington Beach Generating Station certificate proceeding, by deleting the least nitrogen oxide (NO_x) emissions system of load-dispatch.

Background

Specifically, SCE requests an order modifying D.77400 by deleting Finding of Fact 13 and Ordering Paragraph 5 of said decision which requires SCE to base its load-dispatch system on least NO_x emissions into the South Coast Air Basin rather than on economic considerations. SCE avers that this request is consistent with a recent court-ordered settlement regarding NO_x control reached with the South Coast Air Quality Management District (SCAQMD) and the Ventura County Air Pollution Control District (VCAPCD), the governmental agencies which have jurisdiction over stationary-source operation. It is also consistent with the dispatch practices of other California utilities which seek to minimize costs.

On August 1, 1969, SCE filed A.51294 for a certificate of public convenience and necessity for Huntington Beach Generating Units 6 and 7, two new steam-electric generating units. Subsequently, we issued an Order Instituting Investigation in Case (C.) 9007 to determine the need for facilities to meet public demand for electricity in SCE's service area. C.9007 was extended by D.77400 but was later terminated by D.82309 dated January 8, 1974.

In D.77400 dated June 23, 1970, we granted a certificate for Huntington Beach Generating Units 6 and 7. We also required SCE to convert its load-dispatch system from the most economical basis to the basis of least NO_x emissions into the South Coast Air Basin. In that decision we addressed NO_x dispatch as follows:

Finding of Fact 13

"Adoption of the least NO_x emissions load dispatch system by Edison is a reasonable emission control measure and will be required."

Ordering Paragraph 5

"As much earlier as feasible but within 60 days after the effective date of this order Southern California Edison shall convert its load dispatch system from the most economical basis to the least NO_x emissions into the South Coast Air Basin basis."

Further, Finding of Fact 18 stated, with respect to exercise of jurisdiction vis-a-vis a local air-pollution control district that:

"In event of conflict in the exercise of jurisdiction of the Commission over a regulated utility and a local air pollution control district, particularly when that conflict involves a matter of more than strictly local interest and with respect to which this Commission has made a full inquiry, as a conclusion of law the jurisdiction of the Commission is paramount."

On May 26, 1971, the California Supreme Court (4 C 3d 945) held that concurrent approval of the Commission and a local air-pollution control district, governing the district within which the plant will be built, is required before a power plant can be constructed. D.78920, issued July 13, 1971, modified D.77400 to reflect this decision by the Supreme Court. Since this decision and our modified decision, SCE has not received approval from the Orange County Air-Pollution Control District (now part of the SCAQMD) and has not built Huntington Beach Units 6 or 7. Neither the Supreme Court decision nor the subsequent Commission decision altered in any manner our NO_x emission dispatch order set forth in Ordering Paragraph 5 of D.77400.

On March 10, 1982, SCE reached a Settlement Agreement with the Air Resources Board (ARB), the SCAQMD, and the VCAPCD which, among other things, requires SCE to limit NO_x emissions to approximately 16,000 tons per year by 1990. The Settlement Agreement was made under Stipulation and an Order for Judgment in C.323997 in the Superior Court, County of Los Angeles. Related clauses have been excerpted from the Settlement Agreement and attached to this order as Appendix A.

SCE's Position

SCE avers, with respect to costs, that we found the additional cost resulting from NO_x dispatch was " . . . about \$1,000,000 per year." (71 CPUC 211, 218). SCE states that the annual cost of NO_x dispatch is now approximately \$10 million. SCE further states that fuel and purchased power costs now represent up to 60% of customers' bills. SCE concludes that economic dispatch is one way to reduce fuel costs and save customers approximately \$10 million per year.

SCE avers that the Settlement Agreement removes the need for NO_x dispatch. It states that the NO_x dispatch rule was ordered, among other reasons, because D.77400 was based heavily on air-quality considerations and local air-pollution control district concerns. (See Findings of Fact 6, 7, and 9, 71 CPUC 211, 224-225).

SCE states that now, under the Settlement Agreement, it is committed to annual NO_x emission ceilings in the SCAQMD and the VCAPCD. These annual ceilings, combined with each of the two districts' prohibitory rules governing NO_x emissions from power plants, restrict its emissions to a level consistent with local air agency regulations and state and federal clean air laws. SCE further states that it can still attain the NO_x Settlement Agreement limits by using economic dispatch and realize an annual cost savings of approximately \$10 million.

SCE avers that there are no air-quality regulations at this time which require it to use NO_x dispatch. It states that the only air-quality regulation which required the use of NO_x dispatch was SCAQMD Rule 475.1 adopted by the ARB for the South Coast Air Pollution Control District on February 3, 1978. This rule was deleted by the ARB on March 27, 1980, and readopted as SCAQMD, Rule 1135.1 and VCAPCD, Rule 59.1--both of which required the use of NO_x dispatch. The Settlement Agreement of March 10, 1982 vacated SCAQMD Rule 1135.1 and VCAPCD Rule 59.1 and ordered both rules immediately withdrawn from the State Implementation Plan.

SCE alleges that the stipulations in the Settlement Agreement state that the Order for Judgment (which does not require NO_x dispatch) constitutes a valid and enforceable means by which the air regulatory agencies can comply with state and federal clean air laws.

SCE avers that the Settlement Agreement was based upon the concept that SCE would be allowed management flexibility in selecting

methods to achieve NO_x emission limits. It concludes that its requested modification of D.77400 will be consistent with this approach while allowing it to take appropriate steps attempting to minimize costs associated with achieving NO_x emission limitations.

In its application SCE states that our Rules of Practice and Procedure in Rule 17.1(h) (1) (H) provide a Class 8 categorical exemption from the Environmental Impact Report requirement of the California Environmental Quality Act of 1970 for the type of decisionmaking activity contemplated by the application.

By letter dated February 15, 1983 to all parties to A.51294 and A.83-02-07, the assigned Administrative Law Judge (ALJ) summarized SCE's pleading and stated that:

"SCE requests that we issue an ex parte order modifying D.77400 by deleting Finding of Fact 13 and Ordering Paragraph 5.

"Any protest to granting the application (original and 12 copies) must be filed with our Docket Office and served upon all parties by March 7, 1983."

A.83-02-07 was served upon all parties to A.51294 and to successor agencies where there were changes. Notice of the application appeared in the Commission's Daily Calendar of February 4, 1983. No protest or any other communication has been received in response to either the filing and notice of the application or the ALJ's letter of February 15, 1983.

Discussion

Since we issued D.77400 in 1970, the Supreme Court has held that concurrent approval is required by the Commission for a certificate and by the local air-pollution control district for a permit for the proposed plant. The local district never gave approval for Units 6 and 7.

However, the ARB, SCAQMD, and VCAPCD have entered into a Settlement Agreement with SCE and the Los Angeles Department of Water and Power which requires SCE to limit its NO_x emissions to approximately 16,000 tons per year by 1990. The Settlement Agreement was made under Stipulation and Order for Judgment in C.323997 in the Superior Court, County of Los Angeles. There are no air quality regulations which require SCE to use NO_x dispatch. However, under the agreement SCE is committed to annual NO_x emission ceilings in the above districts. By correspondence incorporated in the application, VCAPCD concludes that SCE's present dispatch system has no measurable effect on NO_x emissions in the county. SCAQMD states in a letter to Edison dated December 8, 1982 that relieving SCE of its present dispatch procedure would result in increased NO_x emissions in the basin. However, the Settlement Agreement (p. 3) to which SCAQMD is a party states that "the provisions of this Order for Judgment will result in reductions in NO_x emissions from the Utilities' oil and gas-fired steam-electric generating boilers located within the jurisdiction of the SCAQMD and the VCAPCD." Further, VCAPCD stated that it is not opposed to the application and SCAQMD stated that it did not view SCE's modification of its load-dispatch procedure as an alteration of the NO_x limits set in the Settlement Agreement.

Lifting the NO_x dispatch requirement will permit SCE to establish dispatch practices similar to the other California utilities who are required to comply with air quality regulations and to minimize costs. SCE states that it can realize a \$10 million annual savings by utilizing economic dispatch and in selecting methods to achieve NO_x emissions limits. At the time of D.77400, air quality and concerns of local air pollution control districts were major considerations in ordering the NO_x emissions dispatch rule. Since that time there have been changed circumstances as discussed above.

Granting the application for conversion of the load-dispatch system in D.77400 from the least NO_x emissions basis to the most economic or other basis which would meet air quality regulations is consistent and in compliance with the Settlement Agreement. We believe that the request to delete Finding of Fact 15 and Ordering Paragraph 5 in D.77400 is reasonable in light of these changed circumstances.

In granting the request of SCE, we expect SCE management to select methods to achieve the NO_x emission standards set in the Settlement Agreement and to achieve cost savings from being able to use the most economic system of load dispatch.

Findings of Fact

1. A public hearing is not necessary.
2. ARB, SCAQMD, and VCAPCD have entered into a Settlement Agreement with SCE, which prescribes annual limits to SCE NO_x emissions.
3. Under the Settlement Agreement SCE is committed to annual NO_x ceilings in the above districts.
4. The Settlement Agreement will result in reductions of NO_x emissions from the steam-electric generating boilers located within the above districts.
5. The Settlement Agreement restricts SCE's NO_x emissions to a level consistent with local district regulations, and federal, and state clean air laws.
6. There are no air quality regulations which require SCE to use NO_x dispatch.
7. The districts have indicated that they would not participate in our proceeding on this application.
8. There could be a \$10 million annual saving by using economic dispatch and in selecting methods to achieve NO_x emission limits.

9. This application is within the class of project which under Rules of Practice and Procedure Rule 17.1(h)(1)(H) has a Class 8 categorical exemption from the Environmental Impact Report requirements of the California Environmental Quality Act for the type of activity proposed in this proceeding.

Conclusion of Law

D.77400 should be modified as set forth in the following order.

IT IS ORDERED that Finding of Fact 13 and Ordering Paragraph 5 of D.77400 are deleted. In all other respects D.77400 remains in effect. ✓

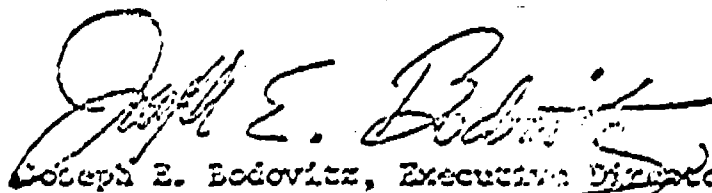
This order becomes effective 30 days from today.

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
ss

APPENDIX A

(Clauses excerpted from the Settlement Agreement)

"WHEREAS, the VENTURA COUNTY AIR POLLUTION CONTROL DISTRICT, CALIFORNIA AIR RESOURCES BOARD and SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (VCAPCD, ARB, and SCAQMD respectively), Respondents herein are charged under State and Federal statutes with the responsibility of implementing rules and regulations designed to protect and enhance the quality of the air and to achieve and maintain state and national ambient air quality standards for various pollutants; and

"WHEREAS, Respondents have adopted regulations to control emission of Oxides of Nitrogen (NOx) intended to achieve certain of these standards; and,

"WHEREAS, Petitioners, the SOUTHERN CALIFORNIA EDISON COMPANY (SCE) and the LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP), collectively referred to herein as the Utilities, during the lawful operation of their oil- and gas-fired steam-electric generating boilers located within the jurisdiction of the SCAQMD and the VCAPCD, emit NOx; and

"WHEREAS, this Stipulation and Order for Judgment will reduce emissions of oxides of nitrogen in the SCAQMD and VCAPCD;"

* * *

"WHEREAS, the provisions of this Order for Judgment will result in reductions in NOx emissions from the Utilities' oil- and gas-fired steam-electric generating boilers located within the jurisdiction of the SCAQMD and the VCAPCD, while avoiding the delays and uncertainties of continued litigation; and,

"WHEREAS, the Utilities and Respondents believe that the provisions of this Order for Judgment constitute a valid and enforceable means by which Respondents can comply with State and Federal clean air laws;"

* * *

"WHEREAS, this court finds and determines upon reading the Order for Judgment and the other documents filed in this case that the Order is in the public interest and represents a just, fair and equitable resolution of issues in this case;"

(END OF APPENDIX A)