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Decision 97-05-081 May 21, 1997

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY (U-338-E) for a Certificate that the Present and Future Public Convenience and Necessity Require or Will Require the Construction and Operation of Applicant of a 500 kV Transmission Line Between Palo Verde Switchyard and Devers Substation and Related Appurtenances.

ORIGINAL

Application 85-12-012
(Filed February 26, 1986;
Amended August 15, 1988)

OPINION

1. Summary

Application (A.) 85-12-012 is dismissed without prejudice. The certificate of public convenience and necessity (CPCN) which conditionally authorized Southern California Edison Company (Edison) to construct the proposed Devers to Palo Verde No. 2 (DPV2) transmission line, granted by Decision (D.) 88-12-030, is rescinded. The subject-to-refund condition on the Sylmar-Pacific High Voltage Direct Current Intertie Expansion Project (HVDC Project) is removed. Edison is allowed recovery of $6.704 million of DPV2 regulatory and project development costs. Recovery of $1.75 million of accrued Allowance for Funds Used During Construction (AFUDC) and $850,000 of regulatory costs associated with Edison's untimely disclosure of an exchange agreement with the Los Angeles Department of Water and Power (LADWP Exchange Agreement) is not allowed.

2. Background

The historical background of this proceeding is set forth in the appendix to this decision. An Administrative Law Judge's (ALJ) ruling issued on November 17, 1995 provided that any party taking the position that this proceeding should not be dismissed should file an appropriate and fully substantiated motion to reactivate the proceeding. The ruling provided that in the absence of such a motion, an order of

dismissal would be prepared for the Commission's consideration. Parties were asked to address why this proceeding should not be dismissed and why the Commission's conditional grant of a CPCN to construct DPV2 should not be rescinded. The ruling also noted that there were outstanding issues which should be resolved even if Edison did not intend to construct DPV2. It therefore asked parties to consider whether (and how) to further address the HVDC Project cost cap issue; whether (and how) to further address the regulatory expense issue; and any other unresolved issues in this proceeding. Collaborative efforts and the filing of joint motions were encouraged.

In response to the ruling, Edison and the Division of Ratepayer Advocates (DRA)[1] collaborated and reached agreement on all issues identified in the ALJ ruling. Their agreement is reflected in a *Joint Motion of the Division of Ratepayer Advocates and Southern California Edison Company (U338-E) in Response to the November 17, 1995 Administrative Law Judge Ruling* (Joint Motion).

3. Discussion

3.1. Basis for Consideration of Joint Motion

No responses to the Joint Motion were filed. The moving parties, Edison and DRA, are the only active parties at this stage of the proceeding. They represent that the Joint Motion resolves all outstanding issues in this proceeding. The record of this proceeding is complete, and the matter is ready for decision.

The Joint Motion's recommendations are the product of compromise between Edison and DRA, but the moving parties do not believe that the Commission's settlement rules (Rules of Practice and Procedure, Article 13.5) are applicable to the recommendations. Nevertheless, they believe that the recommendations fully comply with the settlement rules.

Parties were given notice of the agreement by Edison's January 11, 1996 letter requesting an extension of time to file a joint motion and by the Joint Motion

[1] DRA was reorganized in September 1996 as the Office of Ratepayer Advocates.

itself. Accordingly, it is unnecessary to require strict application of the procedural aspects of the settlement rules. However, the provision that the Commission will approve only those settlements which are reasonable in light of the whole record, consistent with the law, and in the public interest (Rule 51.1 (e)) is an appropriate standard for reviewing the Joint Motion. As shown in the following discussion, the recommendations in the Joint Motion are reasonable in light of the extended record of this and related proceedings, and are consistent with governing statutes and Commission decisions. The proposed resolution of this proceeding as set forth in the Joint Motion is in the public interest as it brings to a conclusion a decade of litigation without the need for further litigation.

3.2. Disposition of CPCN to Construct DPV2

D.88-12-030 granted Edison a conditional CPCN to construct DPV2 more than eight years ago. Due to changed economic and regulatory conditions, Edison has not constructed DPV2 and it does not plan to do so. In addition, it is not actively pursuing compliance with the conditions of the CPCN. Edison and DRA believe that abandonment of the project is in the best interests of customers in light of the changed circumstances that have occurred since the certificate was granted. We are persuaded that the future public convenience and necessity no longer require the construction of DPV2 by Edison. Accordingly, and since the CPCN has not been exercised, and will not be exercised in the foreseeable future, it should be rescinded.

3.3. Disposition of Proceeding

As noted in the November 17, 1995 ALJ ruling, this proceeding has remained open but inactive for several years at Edison's request. We find that the proceeding should be closed and the application dismissed as proposed by Edison and DRA. As the ruling states, "many of the economic and environmental facts and assumptions underlying decisions issued years ago are, at best, questionable" due to the age of this matter. (*Administrative Law Judge's Ruling*, p. 6.) Also, the moving parties have made proposals for the disposition of all remaining issues. Thus, with today's decision, there will be no unresolved matters in this proceeding.

If Edison chooses to construct a transmission line between Devers and Palo Verde in the future, a new application will be needed. Accordingly, dismissal of A.85-12-012 should be without prejudice to Edison's right to file such a new application with appropriate justification.

3.4. Subject-to-Refund Condition—HVDC Project Capital Costs

A recommendation made by DRA in A.89-10-001 and a subsequent settlement between Edison and DRA led to imposition of a subject-to-refund condition on recovery of HVDC Project capital costs in D.93-02-007. The decision provided that this condition would remain in effect pending the Commission's review of the project's benefits in conjunction with consideration of the LADWP Exchange Agreement. DRA had recommended the condition because the $80 million cost cap established in Edison's 1988 general rate case (GRC) could potentially be lowered based on a cost-effectiveness analysis of the HVDC Project taking into account the LADWP Exchange Agreement. The moving parties now recommend that the condition be removed

DRA reviewed prior decisions and record evidence on the costs and benefits of the LADWP Exchange Agreement. DRA's updated analysis led it to conclude that, notwithstanding an analysis which it presented in Edison's 1988 GRC showing only $48 million in benefits for the HVDC Project, the LADWP Exchange Agreement increases the value of Edison's overall transmission capacity even in the absence of DPV2. DRA concludes that there is no reason to retain the subject-to-refund provision for the HVDC Project capital costs.

The moving parties have shown that the HVDC Project and LADWP Exchange Agreement yielded a net benefit of $26 million above the $75 million threshold established in D.93-02-007. It is both reasonable and consistent with prior decisions to remove the subject-to-refund condition.

3.5. DPV2 Cost Recovery

Edison incurred preliminary engineering, environmental assessment, regulatory, and other project development costs totaling $9.304 million for the DPV2 project. Edison and DRA jointly recommend that Edison's reasonably incurred costs,

less $1.75 million in accrued AFUDC, should be recovered by Edison. In addition, Edison and DRA recommend that $850,000 be removed from the amount recoverable from ratepayers. This is the estimated cost of analyses performed but rendered unusable by Edison's failure to timely disclose the LADWP Exchange Agreement.

Consistent with Public Utilities (PU) Code Section 1005.5(c) and the legislative history of that statute, the Commission may allow recovery of reasonably and prudently incurred construction costs of discontinued projects. The underlying policy consideration is that requiring a project to be completed before rate recovery is allowed, and not providing for reappraisal of projects under changed circumstances, is unfair to utilities.

In D.96-01-011 we restated our "long-standing rule" which provides that utilities should not recover costs for plant which is not used and useful unless they can show:

> "'...(1) that the project ran its course during a period of unusual and protracted uncertainty, (2) that the project was reasonable through the project's duration in light of both the relative uncertainties that then existed and of the alternatives for meeting the service needs of the customers, (3) when the projects were canceled, and (4) that they were canceled promptly when the conditions warranted.'" (D.96-01-011, mimeo, p. 54; quoting from D.91-12-076, 42 CPUC2d 645, 688; quoting from D.89-12-057, 34 CPUC2d 199, 269.)

The moving parties assert that recovery of DPV2 project costs is consistent with this rule. We concur, for the following reasons. Edison incurred regulatory and DPV2 project development costs through early 1994. During the pendency of the project, from the time of the application in 1986 until it was terminated, several developments occurred which created potentially dramatic impacts on the need for the project. These included a proposed merger of Edison and San Diego Gas & Electric Co. (Edison/SDG&E merger), the Energy Policy Act of 1992, and this Commission's initial electric industry restructuring efforts. This was clearly a period of unusual and protracted uncertainty. As to the second criterion, D.88-12-030 found that DPV2 would increase transmission service revenues, reduce production costs, reduce transmission

losses, improve utility interconnection support, improve air quality, and enhance transmission stability. It also found that even under the "most adverse" assumption of no production cost benefits, DPV2 would produce net benefits of more than $125 million net present value in 1990 dollars. D.88-12-030 conditionally approved DPV2 as cost-effective and in the ratepayers' interest. We found that the project was a superior alternative and that it should be built if certain conditions were met. The project was reasonable in light of the alternatives and, we believe, the uncertainties that existed at the time. Finally, Edison ceased active development altogether in early 1994 when this Commission initiated a proceeding to consider a major restructuring of the electric services industry. (R.94-04-031 and I.94-04-032; also, the "Blue Book.") All of the regulatory and project development costs for DPV2 were incurred prior to early 1994.

Edison and DRA submit that exclusion of accrued AFUDC is consistent with the Commission's ratemaking treatment of abandoned plant, citing D.85-11-018 (November 6, 1985), 19 CPUC2d 161 at 170; D.82-12-055 (December 13, 1982), 10 CPUC2d 155 at 196; and D.92497 (December 5, 1980), 4 CPUC2d 725 at 778. We concur that AFUDC should be excluded from cost recovery in keeping with prior decisions.

The LADWP Exchange Agreement impacted the economics and cost-effectiveness of DPV2, and, as noted above, rendered early analyses unusable. It is reasonable to exclude recovery of $850,000 of regulatory costs associated with Edison's untimely disclosure of the LADWP Exchange Agreement.

We find that it was reasonable for Edison to pursue development of the DPV2 project for a 1997 in-service date, and it might have been reasonable as early as 1993 if certain conditions could have been met. We authorize recovery of reasonably incurred regulatory and project development costs. Regulatory and project development costs amounting to $6.704 million ($9.304 million less $1.75 million for AFUDC and $850,000 for regulatory costs) should be recoverable from Edison's customers.

The moving parties propose that cost recovery be accomplished by an adjustment to Edison's Electric Revenue Adjustment Mechanism (ERAM) balancing account. They further propose that, in accordance with the Commission's ratemaking

treatment of abandoned project expense, the amount be recovered by debiting the ERAM balancing account $2.235 million per year over a three-year period with no interest allowance during the amortization period. We note that the proposed resolution of this long-dormant proceeding comes at a time of transition to a more competitive electric market and substantive changes in many of our traditional ratemaking approaches. Particularly relevant here are the adoption of a performance-based ratemaking mechanism for Edison in D.96-09-092 and that decision's provision for modification of ERAM; and our cost recovery plan decision by which provided for further consideration of whether an how to continue ERAM's auxiliary functions. (D.96-12-077, mimeo. p. 21.) Thus, while we approve the Joint Motion, and authorize recovery of DPV2 costs to the extent consistent with current ratemaking practice and with Assembly Bill 1890,[2] we recognize that it may be necessary for Edison to propose modifications to the *mechanism* for recovery of DPV2 costs that we authorize today.

Findings of Fact

1. Edison has not constructed DPV2 and does not plan to do so at this time.

2. Public convenience and necessity no longer require the construction of DPV2 by Edison.

3. The application and the supporting economic and environmental justification for constructing DPV2 are, for the most part, outdated.

4. As it has been shown that the HVDC Project and LADWP Exchange Agreement yielded a net benefit of $26 million above the $75 million threshold established in D.93-02-007, it is reasonable to remove the subject-to-refund condition on HVDC capital cost recovery.

5. It was reasonable for Edison to pursue development of the DPV2 project for a 1997 in-service date, and it might have been reasonable even earlier if Edison could add near-term transmission service revenues.

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[2] Stats. 1996, Ch. 854.

6. Edison incurred $9.304 million in preliminary engineering, environmental assessment, regulatory, and other project development costs in connection with the DPV2 Project.

7. Recovery of reasonably incurred DPV2 regulatory and project development costs is consistent with PU Code Section 1005.5(c) and the legislative history of that statute, and with this Commission's treatment of abandoned plant cost recovery.

8. Edison should be denied recovery of $1.75 million of accrued AFUDC in accordance with the Commission's ratemaking treatment of abandoned plant.

9. Edison should be denied recovery of $850,000 of regulatory costs associated with its untimely disclosure of the LADWP Exchange Agreement.

Conclusion of Law

The Joint Motion is supported by the record evidence, is consistent with the law, and is in the public interest. It should therefore be granted.

O R D E R

IT IS ORDERED that:

1. The Joint Motion of the Division of Ratepayer Advocates and Southern California Edison Company (Edison) is granted.

2. Application 85-12-012 is dismissed without prejudice.

3. The Certificate of Public Convenience and Necessity to construct the Devers to Palo Verde No. 2 (DPV2) transmission line, granted by Decision (D.) 88-12-030, is rescinded.

4. The subject-to-refund condition approved in D.93-02-007 is vacated.

5. Edison is allowed recovery of $6.704 million in DPV2 regulatory and project development costs as provided in the foregoing opinion, findings, and conclusions of law.

6. Application 85-12-012 is closed.

This order is effective today.

Dated May 21, 1997, at Sacramento, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners

APPENDIX

Historical Background

I. Phase 1—DPV2

A. Conditional Grant of CPCN

D.88-12-030 (30 CPUC2d 4), issued on December 9, 1988 in Phase I of this proceeding, conditionally granted Edison a CPCN to construct DPV2, a proposed 500 kilovolt transmission line between the Devers Substation near Palm Springs and the Palo Verde switchyard located 50 miles west of Phoenix Arizona. It would parallel an existing transmission line between those points (DPV1). The authorization was for an operating date no sooner than June 1993.

D.88-12-030 completed the Phase I examination of this application. (*Id.*, at 35.) However, the Commission found that the pending Edison/SDG&E merger "...could dramatically effect [sic] the economic benefits of DPV2 and possibly make 'no project' alternatives preferable." (*Id.*, at 37, Finding of Fact 27.) Accordingly, one of the conditions imposed by the Commission required suspension of construction and reevaluation of DPV2 in the event that the merger was an active possibility as of January 1, 1990. That possibility was realized with the filing of A.88-12-035 and subsequent merger-related events.

D.88-12-030 has been modified twice. D.89-06-064 (32 CPUC2d 231) was issued to correct clerical errors. By D.89-12-022 (34 CPUC2d 110) the Commission granted Edison additional time to fulfill certain conditions in the original order.

B. Status of DPV2

Ordering Paragraph 6 of D.88-12-030, as modified by D.89-12-022, required Edison to submit, by February 1, 1990, copies of signed agreements implementing benefit enhancement measures as well as copies of signed contracts for transmission service over DPV1 from 1990-93, over DPV2, and over Edison's existing system west of the Devers substation, including all final amendments to the LADWP Exchange

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Agreement. Ordering Paragraph 12 of D.88-12-030, as modified, required Edison to submit an amended cost estimate for DPV2 by February 1, 1990.

In response to these directives, Edison reported in a February 1, 1990 filing that it was unable to file either the signed agreements or the amended cost estimate. Edison stated that it had met certain of the requirements of D.88-12-030, including Ordering Paragraphs 3, 4, 5, 7, and 8. Edison concluded its report by stating:

> "As the operating date becomes finalized, Edison will recommend adoption of a procedural schedule that permits sufficient time for reevaluation of DPV2 consistent with the proposed operating date. Finally, Edison intends to keep the CPUC apprised of material developments regarding DPV2." (*Filing of Southern California Edison Company (U 338-E) In Compliance With Ordering Paragraph Nos. 6 and 12 of Decision No. 88-12-030, as Modified by Ordering Paragraph Nos. 4 and 5 of Decision No. 89-12-022*, p. 7.)

By D.91-05-028 issued on May 8, 1991 in the Edison/SDG&E merger proceeding, the Commission found that "Edison is making no effort to construct DPV2 prior to 1997..." (40 CPUC2d 159, at 197; also at 247, Finding of Fact 117.) The Commission also found that "...the merger is not responsible for the delay in DPV2 which is keyed to the difficulty applicants have encountered in meeting other Commission requirements regarding revenue enhancements." (*Id.*, at 221; also at 260, Finding of Fact 315.)

On August 14, 1991 Edison representatives advised the assigned ALJ that signed contracts still had not been received and that required environmental mitigation measures (Ordering Paragraph 9 of D.88-12-030) had not been completed. Edison considered the DPV2 project inactive.

II. Phase II—HVDC Project

C. Cost Cap

Phase II of this proceeding was established to examine the cost effectiveness of the HVDC Project (also referred to variously as the DC Expansion, the DC Expansion Project, the DC Upgrade, and the HVDC Expansion). The HVDC Project is a major

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augmentation of an existing transmission line connecting Southern California with the Pacific Northwest. Originally, the HVDC Project cost effectiveness issue was considered in Edison's 1988 GRC, A.86-12-047. In that GRC, Edison had requested $104.6 million in estimated plant additions for the HVDC Project. By D.87-12-066 (26 CPUC2d 392) the Commission adopted a ratemaking cost cap of $80 million and provided for further consideration of the cost effectiveness of the HVDC Project in this proceeding. (*Id.*, at 443-444; also, 613-614, Ordering Paragraph 13.) The need for further consideration arose upon discovery of an agreement between Edison and the LADWP which linked DPV2 and HVDC Project issues through an exchange of transmission service over the Pacific Intertie and the Devers-Palo Verde system. The Commission stated:

> "The cost-effective amount of investment in the DC Upgrade should be litigated in Edison's application for a CPCN to construct the Devers-Palo Verde line. The amount of investment ultimately found to be reasonable may not exceed the amount of investment determined to be cost-effective in the context of the Devers-Palo Verde proceeding. Should our subsequent cost effectiveness review yield different results, the HVDC Project cap adopted in this decision should be adjusted." (*Id.*, at 589, Finding of Fact 121.)

By D.89-01-039 (30 CPUC2d 576) the Commission clarified D.87-12-066 by specifying that the HVDC Project cost cap could be adjusted downward but not upward.

The 1988 GRC decision addressed the maximum amount that would be allowed in rate base, but it did not authorize ratemaking treatment of the HVDC Project. (26 CPUC2d 443.) In A.89-10-001, Edison sought authority to transfer recovery of HVDC Project costs to base rates. By D.93-02-007 (48 CPUC2d 14) the Commission approved a settlement between Edison and DRA which resolved the issues in that proceeding. Among other things, the settlement addressed a DRA recommendation that base rates authorized in that proceeding be made subject to refund in recognition of the possibility that a final determination of the cost-effectiveness of the HVDC Project could result in the Commission reducing the previously authorized $80 million cost cap. As provided

in the settlement (*Id.*, at pp. 27-28), the parties agreed that if the value of the HVDC Project is demonstrated to be $75 million or higher, Edison would be authorized to recover all of its reasonable HVDC Project costs up to $80 million. The cost cap would be lowered only in the event the Commission later determines the project's value to be less than $75 million, in which case the cap would be set equal to the project's value as determined by the Commission.

D. Regulatory Expense Issue

An ALJ ruling issued in this docket on January 4, 1988 reviewed Edison's failure to disclose the LADWP Exchange Agreement. Among other things, the ruling directed Edison to file an accounting of all expenses incurred to date on the DPV2 project. It provided further that "[a]fter this accounting is received, the Commission may consider a disallowance of regulatory expense incurred for work which was performed but is now useless due to the concealment of [a] 1985 letter agreement." (*Administrative Law Judge's Ruling*, January 4, 1988, p. 4.)

On February 3, 1988 Edison filed a response to the January 4 ruling. Edison reported that it had incurred about $3.4 million in unreimbursed project expenses through November 1987. Regulatory expenses represented $1.1 million of this amount. Edison asserted that the regulatory expense which might be duplicated as a result of the further hearings required because of its failure to disclose the LADWP Exchange Agreement would not exceed an estimated $300,000.

Pursuant to an ALJ ruling issued on August 15, 1988, Phase II was deemed to be the appropriate forum to consider regulatory expenses incurred by Edison through January 4, 1998 in connection with the DPV2 application.

In D.91-12-076 (42 CPUC2d 645), the Phase 1 decision in Edison's test year 1992 GRC (A.90-12-018), the Commission concurred with Edison's position that this proceeding, not the 1992 GRC, is the appropriate forum to consider disallowance of DPV2 costs. (*Id.*, at 715; also, at 750, Finding of Fact 259.)

(End of Appendix)