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Decision 97-11-078 November 19, 1997

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application
Southern California Edison Company
(U 338-E) for Section 376 Treatment
of Transmission Facility Upgrades.

Application 96-11-047
(Filed November 27, 1996)

O P I N I O N

Summary

Southern California Edison Company (Edison) moves to withdraw, without prejudice, its application for an order from this Commission finding that the costs of certain transmission facility upgrades fall within the scope of Public Utilities (PU) Code Section 376. This decision permits Edison to withdraw the application without prejudice and closes this proceeding.

Background

Edison filed its application on November 27, 1996. Notice was duly published in the Daily Calendar on December 5, 1996, and a pre-hearing conference was held on January 8, 1997. The assigned Commissioner, President Conlon, issued a ruling on February 11, 1997, setting a briefing schedule for the threshold legal issue of the applicability of Section 376 to Edison's application. Briefs and/or reply briefs were filed, by March 17, 1997, by Edison, the Office of Ratepayer Advocates (ORA), the California Farm Bureau Federation (CFBF), a coalition of groups (the Joint Parties¹), the Cities of

¹ The Joint Parties consist of the Energy Producers and Users Coalition (an *ad hoc* coalition of Amoco Production Company, Amoco Energy Trading Corporation, Atlantic Richfield Company, CalResources LLC, Chevron U.S.A. Inc., Mobil Oil Corporation, Shell Martinez Refining Company, Texaco Inc., and Union Pacific Fuels, Inc.), the Cogeneration Association of California (representing the Kern River Cogeneration Company, Sycamore Cogeneration Company, ARCO Western Energy (AWE) Placerita I, AWE Placerita II, Midway Sunset Cogeneration Company, AWE Kern Field Projects, AWE Oxford Lease Projects, Mid-Set Cogeneration Company, Texaco North Midway-Cogeneration Project, Texaco McKittrick Cogeneration Project, Texaco Four Start Lost Hills Cogeneration Project, and Union Pacific Fuels, Inc.), the California Industrial Users (Air Liquide America Corporation, Air Products and Chemicals Corporation, Amoco Chemical Company, Anheuser-Busch Companies, BOC Gases, the Chevron Companies, General Motors Corporation, Hughes Aircraft Company, Kimberley-Clark Corporation, Nabisco, Inc., Owens-Corning Fiberglass Corporation, Praxair, Inc., and Steelcase, Inc.), the California Large Energy Consumers Association, the California Manufacturers Association, and The Utility Reform Network.

Anaheim, Azusa, Banning, Colton, and Riverside, California, the Coalition of California Utility Employees (CUE), and Southern California Gas Company (SoCalGas).

Edison sought an order from this Commission finding that the costs of certain transmission facility upgrades fall within the scope of Section 376 because construction of those upgrades would reduce the need for must-run generation, further the unbundling of generation from transmission, promote competition over regulation in the generation market, and facilitate rapid generation divestiture. After the matter had been submitted for an interim decision on whether PU Code Section 376 applied to upgrades and had appeared on our agenda, Edison moved, on November 4, 1997, to withdraw its application on the grounds that the Independent System Operator (ISO) had not timely conducted the studies necessary to determine if the upgrades would eliminate the need for certain generating stations to be treated as "must-run" for system reliability purposes. Edison has decided to abandon its plans for the upgrade project until such time as the ISO directs Edison to make those improvements.

Discussion

Edison does not have the unilateral right to withdraw its application under all circumstances. (*See In re Southern California Gas Company* (1992) 43 CPUC2d 639, 640.) Considering the nature of the relief that it sought, however, no good cause appears to keep this application open. While Edison believed that various benefits would flow from the upgrades, it was unwilling to fund the upgrades without the assurance that its costs will be accorded PU Code Section 376 treatment, because it considered the risk to its shareholders too great. Edison's change of plans has mooted the application. Granting or denying the application will apparently have no effect on Edison's actions, and we should not decide the underlying legal issues in the absence of an actual project.

To avoid prejudice to other parties, we will require Edison to serve copies of any subsequent application pursuant to PU Code Section 376 related to the same or a similar project upon the service list for this proceeding.

Findings of Fact

1. Edison is an electric corporation.

2. Edison filed its application on November 27, 1996.
3. Notice was duly published in the Daily Calendar on December 5, 1996.
4. A pre-hearing conference was held on January 8, 1997.
5. The assigned Commissioner, President Conlon, issued a ruling on February 11, 1997, setting a briefing schedule for the threshold legal issue of the applicability of Section 376 to Edison's application.

6. Briefs and/or reply briefs were filed by March 17, 1997, by Edison, ORA, CFBF, the Joint Parties, the Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California, CUE, and SoCalGas.

7. Edison moved to withdraw its application on November 4, 1997.

Conclusions of Law

1. No useful purpose would be served by keeping this proceeding open.
2. The Commission should not decide the underlying legal issues in the absence of an actual project proposal.
3. Parties to this proceeding should be served with copies of any subsequent application pursuant to PU Code Section 376 for the same or a similar project.

O R D E R

IT IS ORDERED that:

1. The motion of Southern California Edison Company (Edison) to withdraw its application without prejudice is granted.
2. Edison shall serve a copy of any subsequent application pursuant to Public Utilities Code Section 376 covering the same or a similar project on the parties on the service list for this application.

A.96-11-047 ALJ/RC1/wav

3. Application 96-11-047 is closed.

This order is effective today.

Dated November 19, 1997, at San Francisco, California.

P. GREGORY CONLON

President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners