



March 28, 2012

Mr. Lamont Jackson
Office of Electricity Delivery and Energy Reliability
Mail Code: OE-20
U.S. Department of Energy
1000 Independence Avenue SW
Washington, DC 20585

Submitted via email to: Lamont.Jackson@hq.doe.gov

Re: Department of Energy - Rapid Response Team for Transmission Request for Information, RRTT-IR-01, 77 Fed. Reg. 11517 (Feb. 27, 2012)

Dear Mr. Jackson:

Southern California Edison Company submits these comments in response to the Department of Energy's Request for Information concerning the efforts to resolve the issue of "incongruent development timelines" for the siting and permitting of electricity generation and transmission.

INTRODUCTION

Southern California Edison Company is one of the nation's largest electric utilities, serving nearly 14 million residents and 4.9 million service accounts over a 50,000 square mile area. SCE is the nation's leader in procuring and delivering energy from renewable sources. In 2010, 19.4% of SCE's total energy portfolio (and more than 14.5 billion Kwh of energy) came from renewable resources. SCE is also investing significant capital in expanding the capability of SCE's transmission and distribution system, including upgrading and constructing new transmission lines and substations for system reliability and increased access to renewable energy.

On April 12, 2011, California Governor Brown signed into law Senate Bill (SB) X 1 2, the 33% Renewables Portfolio Standard (RPS) program, which significantly increased the state's prior 20% RPS, and also modified program requirements. The California Public Utilities Commission (CPUC) determined in studies leading up to the legislation's passage that achieving this ambitious new goal by 2020 would require the construction of new generating facilities, transmission lines, and other transmission grid infrastructure. Timely construction of this infrastructure rests in large part upon the ability of independent generation project developers and public utilities to obtain the requisite regulatory approvals from agencies at all levels of government.

As a leader in renewables, SCE supports California's 33% RPS requirement and commends the Department of Energy's effort through this Request for Information to gain the information needed to expedite the permitting of transmission lines. SCE believes that the information in this submittal will aid the Department of Energy's Office of Electricity Delivery and Energy Reliability and newly-formed Rapid Response Team for Transmission (RRTT) in expediting the permitting (and eventual construction) of transmission lines throughout the United States, and particularly in the West. SCE encourages the DOE and RRTT to continue working on an effort to expedite the permitting of all types of transmission lines for all purposes, as the time delays slowing the permitting required to build transmission to renewables are present in many transmission construction efforts.

SCE'S RESPONSE TO REQUEST FOR INFORMATION

As a large, investor-owned electric utility primarily providing transmission and distribution services, and registered with NERC, SCE provides the following responses to the specific questions posed in the Request for Information:

1. *The development timelines for generation and attendant transmission are often not coordinated or run concurrently. Because of the lengthy time to obtain regulatory reviews, permits and approvals (collectively, "Regulatory Permits"), major new transmission lines can take significantly longer to develop than some types of generation to which the transmission would connect. This Request for Information will refer to the difference in development times between generation and transmission as "Incongruent Development Times" (IDTs). Please answer the following:*

a. *Describe the challenges created both by the timeline for obtaining Regulatory Permits for transmission and by the IDTs*

Permitting and licensing transmission are complex processes that require regulatory approvals from agencies at all levels of government. The potential for unnecessary delay looms large without strong coordination between the involved federal, state, and local agencies and the transmission developer. A lack of coordination between the regulatory agencies can result in duplicative or unnecessary work, project approvals that do not cover all aspects of a project, and inconsistent decisions by the governmental agencies. For example, agencies may neglect to include the telecommunication or distribution line required by the electric utility within the environmental review document for a renewable energy project if the agencies, utility, and developer do not closely coordinate the appropriate project scope. This would lead the agencies to create a supplemental or separate environmental review for the excluded telecommunication or distribution line, which could delay the entire project's on-line date. Such suboptimal outcomes increase the costs ultimately borne by the customer and delay the granting and effective dates of Regulatory Permits, and consequently increase the IDTs.

SCE believes that Regulatory Permit determinations of “project need” and “project alternatives” should be established and agreed upon early in the permitting process and held consistent throughout the permitting and construction of generation and transmission projects. This would allow agencies to be consistent in their project reviews. Occasionally, some agencies do not fully participate in the National Environmental Policy Act (NEPA) environmental review process, and its California equivalent – the California Environmental Quality Act. This leads to some federal agencies conducting their own environmental analysis after the NEPA document has been completed, which results in different analyses of project impacts, different and inconsistent mitigation for those impacts, and generally reflects the failure of agencies to work together because they have focused on their own needs. Agencies will often ignore the NEPA document’s findings if they did not participate in the NEPA process.

The RFI question above asks for a description of the challenges created by the timeline for obtaining Regulatory Permits. This question illustrates one of the primary issues faced by project applicants – the federal agencies do not have timelines for issuing Regulatory Permits. SCE recommends that a lead agency create a timeline for issuing all Regulatory Permits by all applicable federal agencies involved in a particular project. The timelines should be aligned with the operating dates of the generation projects and the associated transmission infrastructure needed to deliver the generation. Timelines also would be instructive to developers and the public, and would help identify when an agency may be taking longer than expected to achieve scheduled milestones.

Delays in the receipt of Regulatory Permits or extended IDTs can lead to increased electric customer costs. The costs to SCE’s customers associated with SCE delivering renewable power are primarily driven by (1) contracts to purchase power from renewable generators at negotiated prices, and (2) investment in transmission, telecommunication, and distribution infrastructure to deliver the renewable energy. There are also costs associated with backup generation and other renewables integration costs. The costs of renewable power generally increase as the length of time required to obtain Regulatory Permits increases because of the need for remedial action schemes that might allow for the delivery of renewable generation without a new or upgraded transmission infrastructure. If a remedial action scheme is not technically feasible, then the generator may be unable to provide power to the grid in a timely manner, which would increase the cost burden to the generator of the generation project.

- b. To what extent do the IDTs hamper transmission and/or generation infrastructure development?*

SCE participates in the California Independent System Operator's (CAISO) Generator Interconnection Procedures for studying infrastructure needed to interconnect new generation. In this process, generators submit their applications into a queue and are then studied together in a "cluster" to determine the potential need for new transmission facilities to connect the prospective generators to the electric grid. During the study period, generators will occasionally withdraw from the queue for a variety of reasons, including lack of funding, lack of site control, *etc.* These withdrawals may impose a higher cost burden for the generators that remain in the cluster to finance the needed transmission infrastructure.

The disconnect in development timeframes can create uncertainty for transmission and generation developers. For instance, at the time the initial interconnection request is made, a transmission developer will not know if a generation project will be constructed at the same time the transmission is constructed. Similarly, generators want to know that they will be able to deliver their energy to the grid before they construct their generation facilities. This so-called "chicken and egg" dilemma is only exacerbated by timing delays and regulatory uncertainties that arise through a multi-year permitting process prior to construction.

- c. What are the primary risks associated with developing transmission vis-à-vis the timeline for obtaining Regulatory Permits as well as the IDTs?*

To the extent that SCE cannot guarantee in-service dates to prospective generators because of the significant uncertainty as to timing and ultimate project scope through the lengthy permitting process, generators may be less likely to commit their resources until they have confidence as to when they can provide power to the grid. In addition, the fact that some generators' projects will not progress to full construction exposes both the surviving generators and SCE to cost uncertainty as the size of the transmission constructed may be subject to modification based on the potential variance in generation added to the system.

- d. How is the financing for developing the attendant transmission influenced by its lengthy development time and by the IDTs?*

Uncertain development times for transmission projects generally make the development of SCE's capital plans more difficult.

- e. *How if at all, do development timelines and the IDTs affect the decisions made in utilities' integrated resource planning, if applicable?*

As a utility within the CAISO control area, SCE does not perform integrated resource planning. However, SCE participates actively in the CAISO's Regional Transmission Planning Process (RTPP). Under the RTPP mechanism, the CAISO develops a 10-year transmission plan annually that provides a comprehensive evaluation of the CAISO transmission grid to identify upgrades needed. The transmission plan describes the transmission necessary for the state to meet its renewable energy goals.

- f. *How do development timelines and the IDTs affect the ability of parties to enter into open seasons or power-purchase agreements?*

From SCE's power procurement perspective, the IDTs create added uncertainty as to whether generators can provide the power and related products on the timeline and in the quantities specified in the power purchase agreements. SCE's renewables procurement team works with market participants and regulators to design solicitation rules and to draft contract terms and conditions that fairly allocate the risk created by this uncertainty, and to protect utility customers in the event that expected deliveries do not materialize.

With regard to solicitation rules, utilities can apply "participation screens" that require bidders to have completed certain project development milestones prior to participating in solicitations. Utilities can also incorporate the costs and risks of transmission-related project development milestones into their evaluation method.

Finally, as a practical matter, SCE only enters into agreements when, based on information provided as part of their proposal, it believes the seller can come on-line within the timeline set forth in the agreement. In these contracts, SCE addresses the IDTs in the contract terms with terms and conditions that include: (1) Termination rights for buyers and sellers if certain development cycle milestones (*e.g.*, permits, interconnection agreements, infrastructure completion) are not achieved; and (2) Posting of development security and performance assurance (*i.e.*, collateral) to protect utility customers from generator nonperformance.

2. *Besides improving the efficiency of permitting and approving transmission, are there any other steps the federal government could take to eliminate the barriers created by the IDTs?*

SCE believes that improving the efficiency of permitting and approving transmission would significantly reduce the IDTs.

3. *What strategies can the Federal government take to decrease the time that Federal agencies require for evaluating Regulatory Permits for transmission? What other steps can the Federal government take to address the challenges created by IDTs?*

Critical transmission infrastructure construction is often delayed due to lengthy multi-agency permitting processes at the state and federal levels. To reduce permitting barriers, which impact the ability of utilities to meet their RPS mandates and create uncertainty and delay in accessing renewable generation, SCE recommends the following with respect to the multiple state and federal agencies (Participating Agencies) that participate in evaluating and issuing Regulatory Permits for proposed transmission infrastructure:

- Create “Transmission Project Permitting” offices staffed by agency representatives from all Participating Agencies to work in a coordinated manner on transmission line permitting.
- Add sufficient staff from all Participating Agencies to the respective permitting offices to cover the anticipated increase in the renewables-related workload. For example, the U.S. Fish and Wildlife Service has generally been understaffed and unable to perform its Endangered Species Act consultation in a timely fashion. Without agency staff assigned to transmission and generation projects, the staff can be transferred to other projects; a dedicated staff would tend to ensure that transmission permitting remains a priority.
- Establish a DOE-led “Green Team” among the Participating Agencies with a purpose to oversee the federal and state Lead Agencies to ensure that priority is given to transmission permitting. This Green Team should be comprised of senior representatives from the Participating Agencies, and should meet regularly to monitor permit progress. Project schedules should be reviewed and steps taken to reach milestones that are unmet. The Renewable Energy Policy Group in California, pursuant to two Memoranda of Understanding among the Department of Interior and California agencies, has led to significant progress in this area. The federal RRTT appears to be a similar effort. Recently, the White House issued an Executive Order on March 22, 2012 (Improving Performance of Federal Permitting and Review of Infrastructure Projects) that seeks to address permitting issues. SCE believes that if the DOE and White House efforts, along with the RRTT, have not already been coordinated, that they should be combined into a single effort to achieve more effective regulatory permitting of transmission projects.
- Hold regular public workshops run by either senior Department of Energy or Department of the Interior representatives, and attended by Participating Agency representatives to review projects that are not on schedule, explain the reasons why, and identify recovery action plans. The workshops should include the type of dashboard contemplated in the White House’s Executive

Order – essentially a method for tracking major projects efforts to obtain authorizations within a specified project schedule.

- Complete the Bureau of Land Management’s (BLM) Programmatic Environmental Impact Statement (PEIS) for Solar Projects in a manner that combines the objectives of interconnecting generators, completing the associated transmission lines, and developing programmatic mitigation measures for the transmission line impacts. Ensure the PEIS has sufficient detail to shorten Federal environmental review of future projects.
- Develop plans, such as the BLM’s Desert Renewable Energy Conservation Planning effort, to identify renewable energy zones coupled with necessary transmission line corridors that balance the need for renewable energy with the costs of such energy and the impact to environmental and other resources.
- Use standard replacement ratios for habitat mitigation; possibly creating federally-run mitigation banks to be used by project proponents. This may require the Department of the Interior and Department of Agriculture to create Multiple Species Habitat Conservation Plans for federal lands.
- Require agencies to coordinate mitigation measures for project impacts. NEPA envisions that all Participating Agencies will participate in the environmental review process and rely upon the final NEPA document’s identified mitigation requirements. Some agencies, such as the Army Corps of Engineers, do not fully participate in the NEPA process, and wait until after the NEPA process is complete before processing an application under their jurisdiction. The agencies may then impose mitigation that is inconsistent with the mitigation measures already identified in the NEPA document. This can unnecessarily delay the receipt of all Regulatory Permits and increases the cost of project mitigation.
- Have U.S. Fish and Wildlife Service participate in NEPA document preparation so that any necessary Endangered Species Act consultation may be completed congruent with the land agency Record of Decision. The Fish and Wildlife Service often waits for the NEPA process to be completed prior to engaging in Endangered Species Act consultation, which delays project construction.
- Have environmentally preferred routes and sites identified in the Draft Environmental Impact Statement.
- Designate additional utility corridors on federal lands.

4. *One way to make the Regulatory Permit process and development times between remote generation and attendant transmission more commensurate, is to decrease the time for permitting transmission by some amount. In determining how much time can be saved, developing a benchmark may be helpful. What benchmark should be used?*

1. *Example – power purchase agreements as the benchmark: how far in the future do load serving entities (LSE's) seek to purchase energy or capacity from remote resources? Do LSE's seek PPAs that begin delivering energy/capacity 3 years from the signing of the PPA? 7 years? 10 years? Please explain why PPA's are signed at this time.*

The timeline for deliveries under a contract are dependent on the procurement program under which the resources are procured, and the LSE's respective renewable position. In California, some state government-mandated procurement programs require sellers to come on-line and to deliver energy within 18 months (*i.e.*, Renewable Auction Mechanism, CREST, and SPVP). Outside of these programs, LSEs will target procurement years in which it has an actual need for renewable energy. For example, if an LSE is short renewable energy over the next three years, it will seek to procure those resources that can come on-line as soon as possible. Conversely, if an LSE has excess renewable energy over a six-year period, it may choose to contract with resources for delivery in year seven.

2. *Example – development times as the benchmark: How long does it take to design, permit and build different types of remote generation?*

In SCE's experience, remote generation faces greater permitting and financial barriers than generation located closer to load. As SCE constructs very little generation, we defer to those with more expertise for a more complete analysis.

5. *In your experience, how long does it take to design, permit and build transmission?*

SCE finds that it generally requires 7-11 years to complete the process from the time a need is identified, through preliminary design, regulatory approval, permitting, final engineering, and construction.

6. *Assume that Federal, state, Tribal and local governments sought to set a goal for the length of time used for completing the Regulatory Permitting process for transmission projects so that the development times between generation and transmission were more commensurate, what goal should that be? As the length of the project and the number of governments with jurisdictions increase so will*

the time necessary for permitting and approvals; accordingly, consider providing a goal that could be scalable according to the length of the line.

SCE appreciates the DOE's work in improving the efficiency of permitting and approving transmission and believes that continued efforts will help to reduce the length of time required for completing the Regulatory Permitting process.

CONCLUSION

With significant needs to procure renewable generation that depends on new transmission, as well as the need to develop transmission to deliver new generation to the grid serving all of California, SCE appreciates the DOE's and RRTT's efforts to look for opportunities to reduce the overall timeframe for developing transmission. SCE looks forward to assisting the DOE and the RRTT in the future. If you have any questions or need additional information, please contact Connor Flanigan (SCE Manager of Federal Regulatory Affairs at 202-585-1185 or connor.flanigan@sce.com).