

May 27, 2020

Caroline Thomas Jacobs
Director, Wildfire Safety Division
California Public Utilities Commission
wildfiresafetydivision@cpuc.ca.gov

Re: Comments of Horizon West Transmission, LLC (U 222-E) on Draft Resolution WSD-009

Dear Director Jacobs and Wildfire Safety Division:

Introduction

Pursuant to Rule 14.5 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Horizon West Transmission, LLC (U 222-E) (“Horizon West” or “HWT”) submits these comments on Draft Resolution WSD-009—Resolution Ratifying Action of the Wildfire Safety Division (“WSD”) on Horizon West’s and Trans Bay Cable’s (“TBC’s”) 2020 Wildfire Mitigation Plans (“WMPs”) Pursuant to Public Utilities Code (“PU Code”) Section 8386 (“Draft Resolution WSD-009”). Horizon West requests that Draft Resolution WSD-009 be modified as described below to recognize that the Federal Energy Regulatory Commission (“FERC”) has exclusive authority to approve rates and cost recovery for Horizon West and TBC. With these modifications, Horizon West requests that the Commission adopt Draft Resolution WSD-009 and thereby ratify the action of WSD to approve Horizon West’s and TBC’s 2020 WMPs without conditions. Horizon West appreciates the WSD’s work reviewing and recommending approval of Horizon West’s 2020 WMP in accordance with PU Code Section 8386.3.

Horizon West also notifies WSD and the Commission of a circumstance that likely will prevent Horizon West from completing one of the fire hardening and risk mitigation measures in its 2020 WMP before the next fire season. As explained below, Horizon West is experiencing a delay in amending its existing easement agreement with San Diego Gas and Electric Company (“SDG&E”) to allow Horizon West to convert an existing overhead transmission line segment to

underground. Horizon West takes this opportunity to notify WSD that the undergrounding conversion, originally planned to be completed in time for the 2020 wildfire season, will be delayed until SDG&E agrees to amend the existing easement agreement and undertakes its own regulatory approval process. The delay required to complete SDG&E's stated regulatory plan could be significant, as explained below. Horizon West will continue to work with SDG&E. To facilitate immediate progress and minimize delay, SDG&E should be directed to cooperate with Horizon West to amend the easement agreement so that the underground conversion can be completed as soon as possible. To apply to SDG&E, this directive should be added to Draft Resolution WSD-005—Resolution Ratifying Action of the WSD on SDG&E's 2020 WMP Pursuant to PU Code Section 8386 ("Draft Resolution WSD-005"), as explained below.

Comments

1. Draft Resolution WSD-009 Should Be Modified to Recognize FERC's Exclusive Authority to Regulate Horizon West's and TBC's Cost Recovery.

Draft Resolution WSD-009 specifies that it "[d]oes not approve costs attributable to WMPs, as statute requires electrical corporations to seek and prove the legitimacy of all expenditures at a future time in their General Rate Cases (GRC)" and "[n]othing in this Resolution nor the WSD's Action Statement should be construed as approval of any WMP-related costs."¹ Horizon West understands and agrees that the Commission's approval of Draft Resolution WSD-009 and its ratification of the WSD's action to approve the 2020 WMPs does not approve any costs for rate recovery. Unlike other electrical corporations filing WMPs, however, Horizon West and TBC are not subject to rate regulation by the Commission. Instead, FERC has exclusive jurisdiction to approve rates and cost recovery for Horizon West and TBC pursuant to FERC's exclusive authority under the Federal Power Act over interstate transmission rates. The Commission recognized this in Decision ("D.") 19-05-041 when it approved Horizon West's and TBC's 2019 WMPs.²

¹ Draft Resolution WSD-009 at 2-3.

² D.19-05-041 at Finding of Fact 1 ("The Horizon WMP substantially complies with Section 8386(b) and the direction provided by the ALJ's Ruling on Wildfire Mitigation Plan Template, taking into account

Horizon West and TBC record their costs in accordance with FERC's accounting requirements, rather than in memorandum accounts authorized by the Commission. To reflect this, Draft Resolution WSD-009 should be modified on page 4 and in proposed ordering paragraphs 9 and 10 as follows:

On page 4, revise the third bullet under the heading "ESTIMATED COST" as follows (additions shown in bold, underlined text and deletions shown in bold, strikethrough text):

- Horizon West and TBC **are subject to rate regulation by the Federal Energy Regulatory Commission ("FERC") and record their costs in accordance with FERC's accounting requirements. Subject to FERC's requirements, they** may not record the same costs more than once or in more than one place, seek duplicative recovery of costs, or record or seek to recover costs in the ~~memorandum~~ **FERC** account already recovered separately. **Subject to FERC's requirements, Horizon West and TBC** ~~All electrical corporations~~ should ensure they carefully document their expenditures in ~~these memorandum~~ **the applicable FERC** accounts, by category, and be prepared for Commission review and audit of the accounts at any time.

On page 26, revise proposed ordering paragraphs 9 and 10 as follows:

9. Trans Bay Cable, LLC may track the costs associated with its Wildfire Mitigation Plan in ~~a memorandum account, by category of costs~~ **accordance with FERC's accounting requirements**, and shall be prepared for Commission review and audit of the accounts at any time.

the fact that *Horizon West is a transmission-only utility, its rates and cost recovery are regulated exclusively by FERC*, and it is just beginning construction of its first project.") and Finding of Fact 2 ("The TBC WMP substantially complies with Section 8386(b) and the direction provided by the ALJ's Ruling on Wildfire Mitigation Plan Template, taking into account the fact that *TBC is a transmission-only utility and its rates and cost recovery are regulated exclusively by FERC.*") (emphasis added). The Commission also recognized that FERC exclusively regulates Horizon West's rates in its decision granting Horizon West a certificate of public convenience and necessity for the Suncrest Facility. D.18-09-030 at 6 ("The costs of the Proposed Project will be recovered solely through transmission rates as part of the CAISO Transmission Access Charge (TAC), following approval by the Federal Energy Regulatory Commission (FERC), which has jurisdiction over rates for interstate transmission service."), and 51, Finding of Fact 9 ("Costs of the Proposed Project will be recovered solely through transmission rates as part of the CAISO's TAC, following approval by the FERC.").

10. Horizon West Transmission, LLC may track the costs associated with its Wildfire Mitigation Plan ~~In a memorandum account, by category of costs in accordance with~~ **FERC's accounting requirements**, and shall be prepared for Commission review and audit of the accounts at any time.

2. One of the Fire Hardening Measures in Horizon West's WMP Will Be Delayed Until SDG&E Agrees to Grant Necessary Easement Rights.

One of the fire hardening and risk mitigation measures in Horizon West's 2020 WMP provides for Horizon West to convert a short segment of overhead transmission line at its Suncrest Facility to underground.³ The Suncrest Facility was placed in service on February 29, 2020 and is currently operating. The Suncrest Facility is comprised of a static var compensator ("SVC") facility and an approximately one-mile 230 kV transmission line that connects the SVC facility to SDG&E's Suncrest Substation. Most of the approximately one-mile 230 kV connecting transmission line was installed underground as part of the original design of the Suncrest Facility. Only one approximately 115-foot segment of the line was installed overhead. This short overhead segment is the segment of the Suncrest Facility that interconnects with SDG&E's facilities at the Suncrest Substation. As noted above, the Suncrest Facility, including the overhead transmission segment, was placed in service and is currently operating. Horizon West's wildfire risk assessment determined that converting this one overhead segment to underground would mitigate the risk of ignitions and protect Horizon West's and SDG&E's facilities, both of which are located in a Tier 3 Extreme Fire Threat District in San Diego County. Horizon West included the underground conversion in its 2020 WMP and planned to complete it before the start of the 2020 fire season.⁴

The WSD's Draft Action Statement on Horizon West's 2020 WMP finds that the "key strengths" of Horizon West's planned mitigation "lies in its plans to ensure that the newly constructed Suncrest facility is fire-hardened as part of its initial design."⁵ The underground conversion is an important part of these fire-hardening plans.

³ Horizon West 2020 WMP at 39, 57.

⁴ Horizon West 2020 WMP at 39, 57.

⁵ WSD Draft Action Statement on Horizon West's 2020 WMP (May 7, 2020) at 5.

SDG&E's agreement and cooperation is needed to complete the underground conversion. Horizon West's approximately one-mile 230 kV connecting transmission line, including the short overhead segment, was built on SDG&E's land pursuant to an easement agreement between SDG&E and Horizon West that was executed on August 26, 2019 and recorded on October 24, 2019 ("Easement Agreement"). Construction occurred under a temporary construction easement that was executed as of August 27, 2019 and recorded on October 24, 2019 ("Construction Easement Agreement"). SDG&E filed Advice Letter 3405-E on July 19, 2019 requesting Commission approval under PU Code Section 851 and General Order 173 to grant Horizon West the easements conveyed in the Easement Agreement and Construction Easement Agreement. The Commission's Deputy Executive Director for Energy and Climate Policy/Director, Energy Division sent a letter to SDG&E confirming that Advice Letter 3405-E was effective as of August 19, 2019.

Converting the short overhead segment to underground will require an amendment to the Easement Agreement. Horizon West has proposed that this be done through a simple amendment that revises the description of the easement area to encompass the underground segment (which would be installed underground on the same legal parcel as the existing overhead easement) and authorizes the segment to be installed underground in that area. Horizon West is currently engaged in discussions with SDG&E to agree upon the terms of the amendment.⁶ Horizon West's perspective is that this should not be complicated given that Horizon West is merely seeking an adjustment to an existing easement area to convert the short overhead segment to underground. As stated above, this improvement will limit wildfire risk, not only on Horizon West's facilities, but also on the interconnected SDG&E Suncrest Substation.

SDG&E's response to date indicates that there will be a delay in obtaining an executed amendment to the Easement Agreement, which will delay Horizon West's ability to implement this element of its 2020 WMP. The current status of discussions is as follows.

⁶ To convert the overhead segment to underground, Horizon West also will need temporary construction access rights similar to those granted in the Construction Easement Agreement.

- SDG&E has not yet approved the alignment and location of the short transmission segment that will be converted to underground. Discussions between the engineering teams are ongoing.
- SDG&E has indicated that it will seek Commission approval for the amendment to the Easement Agreement (and presumably for the temporary construction easement) under PU Code Section 851. Given that the Commission previously approved the encumbrance of SDG&E's land for use by the Suncrest Facility, and the underground segment will be placed on the same parcel as the existing overhead segment, it is not clear why another approval is needed to modify the existing easement area to allow the conversion of the overhead segment to underground. To the extent another approval is required, Horizon West understood that the process would be an advice letter filing similar to Advice Letter 3405-E. SDG&E has stated, however, that SDG&E may elect to file an application requesting Commission approval under PU Code Section 851 to amend the easement area and authorize this underground conversion. The time required to complete an application process is likely to impose significant delay.
- SDG&E has stated that once it has an agreeable design, final forms of negotiated easements, and Horizon West obtains Commission approval for construction, it is SDG&E's intention to start its independent evaluation of the overall proposal pursuant to a Section 851 application and the California Environmental Quality Act ("CEQA"). This sequencing is likely to increase the delay. Horizon West has pointed out that the conversion of an existing overhead transmission line to underground does not require approval under General Order 131-D. Horizon West also has identified exemptions that apply to this work under CEQA. SDG&E's contrary legal position presently stands as a barrier to Horizon West's ability to complete the underground conversion before the start of the next fire season. If SDG&E files an application instead of an advice letter, then the application process would cause the delay to extend well beyond the next fire season.

Horizon West's current understanding is that the formulation and execution of SDG&E's legal assessment and regulatory approval plan will take months. This effectively stalls Horizon

West's ability to complete its fire hardening work, which is a "key strength" of the Horizon West WMP, as noted above.

The WSD Draft Action Statement concludes by stating that:

Catastrophic wildfires remain a serious threat to the health and safety of Californians. Electric utilities, including HWT, must continue to make progress toward reducing utility-related wildfire risk. Through the approval granted for its 2020 WMP submission, the WSD will ensure HWT is held accountable to successfully executing the wildfire risk reduction initiatives articulated in its 2020 WMP and required updates. The WSD expects HWT to meet the commitments in its 2020 WMP to ensure it is driving meaningful reduction of utility-related wildfire risk within its service territory.⁷

Horizon West intends to do everything in its power to meet these expectations. At this time, however, Horizon West cannot complete one if its key fire hardening measures without SDG&E's cooperation and agreement. Given SDG&E's role as the owner of the land where the Suncrest Facility's interconnecting transmission line is located, SDG&E should be held accountable for the delays caused by SDG&E's failure to act quickly to amend the Easement Agreement, and for the extent to which SDG&E's response impairs or delays Horizon West's execution of the fire hardening measures in its 2020 WMP.

To facilitate immediate progress and minimize delay, SDG&E should be directed to cooperate with Horizon West to ensure that the underground conversion can occur as soon as possible to benefit ratepayers and the public by protecting against the risk of wildfires and the associated potential damage and reliability impacts. To apply directly to SDG&E, this requirement should be added in Draft Resolution WSD-005 as a new ordering paragraph 9:

9. San Diego Gas & Electric Company is directed to cooperate with independent transmission owners whose facilities interconnect with San Diego Gas & Electric Company's facilities, and, within 30 days of this Resolution, to grant easement rights necessary to implement fire hardening and risk measures in the independent transmission owner's Commission-approved wildfire mitigation plans.

⁷ WSD Draft Action Statement on Horizon West's 2020 WMP (May 7, 2020) at 5.

Conclusion

Horizon West appreciates the WSD's and the Commission's consideration of these comments. These comments are being served on the service list in R.18-10-007.

May 27, 2020

Respectfully submitted,

/s/ Lisa A Cottle

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cc: Service list in R.18-10-007