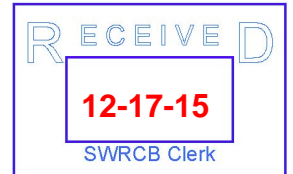


commentletters



From: Paul Teensma <Paul.Teensma@sce.com>
Sent: Thursday, December 17, 2015 10:37 AM
To: Wells, Paul@Waterboards; commentletters
Subject: Comment Letter – Emergency Regulation for Measuring and Reporting the Diversion of Water

Dear Mr. Wells, Ms. Townsend, and Members of the Board:

Southern California Edison Company (SCE) welcomes the opportunity to provide comment on the draft emergency regulation (Draft Regulation) proposed pursuant to Senate Bill 88 and published on December 7, 2015, by the State Water Resources Control Board (SWRCB). SCE recognizes the need for the SWRCB to better understand the availability and use of surface water in California, especially in times of scarcity. Collecting data is clearly an important early step in developing this improved understanding. SCE is concerned, however, that the proposed Draft Regulation will impose unnecessary and unjustified burdens on hydroelectric generation operations, while not providing the SWRCB with the data relevant to the goals of SB-88 and the proposed Draft Regulation. SCE believes that alternatives exist – particularly for non-consumptive users such as hydroelectric generation operations – that would reduce the economic impact of the Draft Regulation on hydroelectric generation while still accomplishing the SWRCB’s objectives. Moreover, the Draft Regulation, as currently proposed, might lead to conflict with regulations and laws governing the power market in California.

SCE’s hydroelectric generation and the water rights that support this generation are critical to the State of California.

SCE operates 33 hydroelectric generation projects throughout the State, with the capacity to generate 1,176 MW of electricity. It’s commonly accepted that 1 MW can power more than 1,000 homes. In addition to providing virtually emission-free energy, SCE’s hydroelectric generation provides critical ancillary services (such as voltage control) to the statewide power grid managed by the California Independent System Operator (CAISO). CAISO also requires SCE to provide generation from our hydroelectric generation units to some communities during peak demand and at other times when those communities become isolated from the statewide grid, such as during severe heat, wind, and/or precipitation storms. During these periods of critical need, it is essential that SCE can fully operate these hydroelectric generation units as allowed by the respective licenses issued by the Federal Energy Regulatory Commission (FERC).

Supporting this generation, SCE reports to the SWRCB on 24 permits, 27 licenses, and 34 supplemental statements. Almost all of these water rights are limited to hydroelectric generation and, by their nature, are not for consumptive uses (with very limited exceptions, primarily for the human health and sanitation of SCE employees stationed at some of these remote locations). Additionally, SCE has agreements with rural homeowners, farmers, water agencies, other utilities, and local, state, and federal agencies, to either deliver water to them or release water from our projects subject to certain conditions and schedules, and in compliance with water rights held separately by those downstream users. Of course, these are in addition to the requirements of our FERC licenses, which were issued with involvement from the public and public agencies, including the SWRCB and many others.

As applied to hydroelectric generators, the diversion reporting requirements in the proposed regulations do not provide SWRCB data that supports the goals of SB-88 and cannot be implemented effectively.

For practical purposes, SCE can be considered to “borrow” river water from locations that are relatively near the headwaters of river systems, often far removed from downstream consumptive users, and then SCE “returns” that water to the same river system. As such, over-measuring various temporary diversions of this water provides little insight into actual water supplies in a watershed, the consumptive uses of water throughout, and the overall availability or scarcity of the resource, the real target of SB-88’s data gathering authority. Consequently, water rights specific to hydroelectric generation should ideally be exempt from the Draft Regulation, as previously suggested to SWRCB staff by

other hydroelectric power producers. At a minimum, a distinct reporting requirement tailored to the unique nature of hydroelectric generation should be developed.

With respect to hydroelectric generation operations, SCE believes that the most critical information to downstream consumptive water rights holders, and the SWRCB in its efforts to effectively manage this precious resource, is the amount of water SCE holds in storage reservoirs and the schedule for releasing that water. SCE already shares this information with downstream users who have a need to know and – unless prohibited by other laws, regulations, and/or public policy interests – SCE can readily share this information with the SWRCB. SCE is concerned that the diversion information currently required in the Draft Regulation would be extremely burdensome to collect at hydroelectric generation operations and would not be readily useable by the SWRCB or other water users.

Certification requirements must be better defined.

The SWRCB asks for recommendation on “who should certify the adequacy of the alternatives to the measurement and monitoring requirements.” Downstream consumptive users of water from our non-consumptive projects are already satisfied with our level of monitoring and communication. SCE suggests that the individual responsible for installation and certification of measurement devices be able to certify the adequacy of alternatives. If there is a dispute regarding the adequacy of alternatives, a team comprised of representatives of the disputed SCE water right and the next downstream water right holder can certify. If the team cannot agree, the State Board should intervene within a specified time period.

SCE employs Hydrographers with extraordinary qualifications. All of our Hydrographers perform this work full time, have passed rigorous testing requirements, and are extremely well versed in standards created by agencies such as the U.S. Geological Survey (USGS). For these reasons, Hydrographers and their managers should be specifically spelled out as professionals who can certify compliance with the Draft Regulation as well as any alternative plans.

The amount of human resources dedication and cost of equipment required under the current Draft Regulation could become excessive and, in some cases, accessibility and environmental conditions could preclude some data gathering.

As noted above, SCE believes that the proposed measurement and reporting requirements focused on diversions are not appropriate for hydroelectric generation operations. With respect to the actual mechanics of data gathering, SCE believes that providing both provisional data and final data creates huge amounts of duplicative work. Because of SCE’s complex systems, extracting the data required for now-annual water rights reporting is already a comprehensive, exhaustive challenge. Currently, this data is extracted from our systems after the data has been validated by our Hydrographers and published by the USGS, for all locations spelled out in our FERC licenses. This process ensures that published data is accurate and can be used for valid, scientifically-based decision making. Plus, in addition to creating twice the work, publishing data that is not yet validated could create many misconceptions by individuals and entities who do not understand the processes involved.

To limit the amount of resources involved and to provide clarity on what data will need to be submitted, the Draft Regulation should make clear that an “end of pipe” measurement for complex hydroelectric generation systems will be allowed, provided that a plan for doing so is prepared by a qualified manager, engineer, and/or Hydrographer. If a single point of measurement is reasonably defined, then the amount of effort to provide both preliminary data and final, published data could be similarly reasonable. However, to comply with FERC, CAISO, and California Public Utilities Commission rules, it is possible that if the SWRCB requires real-time data, that data might still require SWRCB staff’s completion of a non-disclosure agreement.

Real-time data publication from hydroelectric generation operations may be regulated and controlled by other laws, regulations, and requirements.

Regulations and laws governing the electric power industry in California may restrict how much information about water flow through hydroelectric generation facilities can be shared. The electric market in California is designed, in part, to encourage price competition among generators, so that ratepayers pay the lowest price the market will allow. To

achieve this price competition, much information is proprietary and, in many cases, State and federal law dictate how much information may be shared among utilities and, sometimes, even within different departments of the same utility. In the case of hydroelectric generation, we are often not allowed to share certain real-time information about water movement because this will give competitors the ability to estimate how and when we intend to generate electricity from our hydroelectric plants. This could give them incentive to price electricity in a way that might hurt ratepayers.

On the other hand, our FERC licenses sometime require that certain data is published for the benefit of our ratepayers, environmental monitoring, and/or for the benefit of recreation users, such as whitewater rafters and boaters. This data can be similarly made available to the SWRCB without violating any regulation, law, or public policy objective.

Timing and methodology for determining insufficient supply must be defined.

Due to the staffing and resource demands described above, it is imperative that those responsible for compliance monitoring receive adequate notice to meet these demands. As such, the timing and methodology for determining insufficient water supply needs to be spelled out clearly in the Draft Regulation.

Conclusion

As currently proposed, SCE believes that the Draft Regulation would not be implementable at hydroelectric generation facilities and would not address the goals and objectives of SB-88 and the SWRCB as they relate to hydroelectric generation facilities. However, SCE is ready and willing to support the SWRCB in the development of workable solutions for hydroelectric generation operations, furthering the goals of SB-88, the SWRCB, and the public. Please contact me directly to schedule a time to discuss how SCE can help.

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