

BEFORE THE PUBLIC UTILITIES COMMISSION OF  
THE STATE OF CALIFORNIA



**FILED**

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Application of Southern California Edison Company  
(U 338-E) to Establish Marginal Costs, Allocate  
Revenues, Design Rates, and Implement Additional  
Dynamic Pricing Rates

Application 11-06-007

**PROTEST OF THE UTILITY REFORM NETWORK**



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July 8, 2011

## **PROTEST OF THE UTILITY REFORM NETWORK**

Pursuant to Rule 2.6 of the Commission's Rules of Practice and Procedure, The Utility Reform Network (TURN) submits this protest to the application of Southern California Edison (SCE) in Phase 2 of its current General Rate Case. Rule 2.6 requires that protests be filed within 30 days of the date the notice of the filing of the application first appeared in the Commission's Daily Calendar. Notice of the instant application appeared on June 8, 2011, making the protest due July 8, 2011. TURN's protest is thus timely filed.

### **I. SCE'S PROPOSAL FOR INCREASES TO THE FIXED RESIDENTIAL CUSTOMER CHARGE VIOLATE STATE LAW**

SCE proposes to increase the existing non-CARE residential customer charge from 88 cents per month to \$6 per month for single-family homes and from 70 cents per month to \$4.68 per month for multi-family homes with a 20 percent discount for CARE customers.<sup>1</sup> In making this proposal, SCE acknowledges that the Commission recently addressed the legality of new or increased fixed residential customer charges in D.11-05-047 but asserts that the facts in this application are different from those presented by Pacific Gas & Electric in A.10-03-014. Despite these purported differences, SCE states that it "will maintain its current customer charge proposal" until the Commission has addressed applications for rehearing of D.11-05-047 and the period for petitions for writ of review have lapsed.<sup>2</sup>

The Commission should direct SCE to immediately remove its preferred fixed residential customer charge proposal from this application. SCE was a party to A.10-03-014 and aggressively litigated the meaning of legal restrictions on new or

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<sup>1</sup> SCE Application, page 7.

<sup>2</sup> SCE Application, pages 7-8.

increased customer charges in §739.9(a) and §739.1(b)(2). SCE prepared written testimony, was active in evidentiary hearings, filed briefs, submitted comments on the Proposed and Alternate Decision, and participated in all-party meetings with Commissioners. In adopting D.11-05-047, the Commission soundly rejected the legal arguments of SCE and PG&E in concluding that “a fixed customer charge is included in baseline rate limitations ‘for electricity usage up to 130 percent of the baseline quantities’ as prescribed in §739.1(b)(2) and §739.9(a).”<sup>3</sup>

Despite this complete rejection of SCE’s legal arguments by the Commission, SCE strangely asserts that the legal issue remains unresolved for the foreseeable future. The Commission should dismiss this effort to relitigate the issues already decided in D.11-05-047. The fact that SCE has filed an application for rehearing does not change the adopted conclusions of law prohibiting the primary fixed customer charge proposal contained in this application. Unless these conclusions are altered by either a decision on rehearing or an order from a court of competent jurisdiction, D.11-05-047 is binding upon the Commission and parties. It is unreasonable to allow any applicant to seek an outcome that has been deemed contrary to law by the Commission.

As the Commission is well aware, the pending applications for rehearing may not be addressed prior to 2012 and any final action by the court of appeals could stretch well beyond the timeline for final resolution of this proceeding. If the applications are still pending by the time intervenor parties are due to serve testimony, TURN and other parties would be forced to address the legal issues in testimony and briefs. It is not reasonable to ask parties to relitigate these issues in this proceeding and the Commission should not force parties to waste time and resources on a proposal that is presumptively illegal.

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<sup>3</sup> D.11-05-047, Conclusion of Law #6.

TURN urges the Commission to direct SCE to refile the application in compliance with the conclusions reached in D.11-05-047. If the Commission ultimately decides to modify this decision on rehearing, or is ordered to take such action by the court of appeals, SCE should be subsequently permitted to amend its application to include its preferred customer charge proposal.

## **II. OTHER ISSUES TO BE ADDRESSED BY TURN**

TURN intends to address a variety of issues raised in SCE's application. Specifically, TURN has concerns about the following:

- marginal energy costs and the role of RPS resources in the calculation of such costs
- marginal generation capacity costs
- discount rates and other adders (general plant, A&G, etc.)
- marginal distribution demand costs including replacement costs and O&M expenses
- calculations of replacements of transformers, services, and meters in the New Customer Only customer cost methodology
- residential customer charges and rate blocking
- mobilehome park discounts
- small commercial rate design
- treatment of TOU and critical peak pricing rates for small customers
- setting residential baseline allowances at 50% of average usage in each climate zone and establishing separate allowances for single-family and multifamily dwellings
- residential rate design including the number of rate tiers and the differential between the tiers

As TURN reviews the application, additional areas of interest will undoubtedly arise.

### **III. EFFECT OF THE APPLICATION ON THE PROTESTANT**

TURN is a non-profit consumer advocacy organization with a long history of representing the interests of residential and small commercial customers of California's utilities before this Commission. TURN's articles of incorporation specifically authorize our representation of the interests of residential customers. The instant application harms the interests of SCE's residential customers by seeking changes to revenue allocation that would raise rates by an average of 2.0% beginning in late 2012 and raising rates for smaller usage customers through regressive changes to residential rate design.

### **IV. NEED FOR EVIDENTIARY HEARINGS**

TURN agrees with SCE that hearings will be required in this proceeding.

### **V. SCHEDULE**

SCE seeks a schedule that would have DRA provide its testimony on December 6<sup>th</sup> with Intervenor testimony by TURN and other parties in January of 2012. TURN understands that DRA would prefer to submit testimony in late December. If this request is granted, TURN seeks at least 4 weeks between the submission of DRA's testimony and the date for serving intervenor testimony. With regard to the remainder of the schedule proposed by SCE, TURN believes that the general outlines are acceptable from today's vantage point. However, if SCE delays in providing timely responses to discovery requests, TURN reserves the right to seek additional time for the submission of either direct or rebuttal

testimony. TURN intends to address scheduling issues in more specificity at the prehearing conference.

Respectfully submitted,

MATTHEW FREEDMAN

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