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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of Application of Southern California Edison Company (U338E) for Approval of Agreements to Sell Its Interests in Four Corners Generation Station.

Application 10-11-010  
(Filed November 15, 2010)

**ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING**

This scoping memo and ruling sets forth the category, scope, and schedule of the proceeding pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure. Southern California Edison Company's supplemental testimony described below shall be served on February 14, 2011. All other written direct testimony shall be served on April 1, 2011, rebuttal testimony shall be served on May 2, 2011, and an evidentiary hearing will be held on May 23 and 24, 2011, in San Francisco, California, as set forth more fully in the ruling.

**Background**

By this application, Southern California Edison Company (SCE) seeks an order from the Commission (1) authorizing it to sell, pursuant to a Purchase and Sale Agreement, its share of Units 4 and 5 of the Four Corners Generating Station (Four Corners), a coal-fired electrical generation facility located in New Mexico, (2) approving its request to make certain capital expenditures in the plant, and (3) authorizing its proposed ratemaking treatment. In addition, SCE seeks a finding that the sale does not require environmental review or, in the alternative,

asks the Commission to issue a Negative Declaration, pursuant to the California Environmental Quality Act (CEQA).

The Commission's Energy Division has determined that it will conduct an environmental review of the sale pursuant to CEQA. If the initial study shows that there is no substantial evidence that the proposed project may have a significant effect on the environment, or if the initial study identifies potentially significant effects and the project proponent makes or agrees to revisions to the project plan that will reduce all project-related environmental impacts can be reduced to less than significant levels, then the Energy Division will prepare a negative or mitigated negative declaration. (CEQA Guidelines § 15070.) Otherwise, Energy Division will prepare an Environmental Impact Report (EIR) that identifies the environmental impacts of the proposed project and alternatives, designs a recommended mitigation program to reduce any potentially significant impacts, and identifies, from an environmental perspective, the preferred alternative. (CEQA Guidelines §§ 15063(b), 15126.2, 15126.4, 15126.6, 15091(a)(1).)

If an EIR has been prepared, CEQA precludes the Commission from approving the proposed project or project alternative unless it requires the project proponent to eliminate or substantially lessen all significant effects on the environment where feasible (CEQA Guidelines § 15091(a)(3)), and determines that any unavoidable remaining significant effects are acceptable due to overriding considerations (CEQA Guidelines § 15093).

Regardless of whether negative or mitigated negative declaration or an EIR has been prepared, CEQA requires the Commission to review and consider it prior to approving the project or a project alternative, and to certify that the

document reflects the Commission's independent judgment. (CEQA Guidelines §§ 15090 and 15074(a)-(b).)

In determining the scope of this proceeding, I have considered SCE's application, the formal protests, Sierra Club's motion to become a party, the oral statements at the prehearing conference (PHC) conducted on February 1, 2011, and the requirements of CEQA.

### **Scope of Issues**

The issues to be determined in this matter are:

1. Is SCE's ownership of its interest in Four Corners no longer necessary or useful in the performance of its duties to the public, under Pub. Util. Code § 851?
2. Will divestiture of SCE's interest impair the reliability of the electric supply? (See Pub. Util. Code § 362.)
3. Is the divestiture pursuant to the Purchase and Sale Agreement reasonable? This issue includes consideration of whether the value of the agreement is reasonable and whether the divestiture is consistent with Senate Bill 1368 mandating a greenhouse gas emissions performance standard (EPS) for certain investments in baseload power plants and Commission decisions establishing and implementing the EPS for SCE.
4. Are SCE's proposed 2012 capital expenditures in Four Corners reasonable? This issue includes consideration of whether such expenditures are consistent with the EPS and Commission decisions establishing and implementing the EPS for SCE.
5. What is the appropriate ratemaking treatment of the gain on sale? This issue includes consideration of SCE's ratemaking proposal to credit the entire after-tax, above-book value gain for Four Corners, grossed up to a revenue requirement, to SCE ratepayers through the Base Revenue Requirement Balancing Account.

6. What are the unavoidable significant environmental impacts of the proposed project or, in the alternative, is there substantial evidence that, with the incorporation of identified mitigation measures, all project-related environmental impacts can be reduced to less than significant levels?
7. If there are significant environmental impacts, are there potentially feasible mitigation measures or project alternatives that will avoid or lessen them?
8. If there are significant environmental impacts that cannot be avoided then, as between the proposed project and the project alternatives, which is environmentally superior?
9. Are the mitigation measures or environmentally superior project alternatives infeasible?
10. If the proposed project or project alternative results in significant and unavoidable impacts, are there overriding considerations that nevertheless merit Commission approval of the proposed project or project alternative?
11. Was the negative or mitigated negative declaration or EIR completed in compliance with CEQA, did the Commission review and consider it prior to approving the project, and does it reflect the Commission's independent judgment and analysis?

### **Schedule**

Issue no. 1: This is a legal issue and does not require evidentiary hearings.

Issue no. 2: This issue has factual elements. SCE is directed to provide supplemental testimony in support of its position that divestiture of its interest in Four Corners will not impair the reliability of the electric supply.

Issue nos. 3, 4 and 5: These issues have factual elements. Parties may present evidence on these issues.

Issue nos. 6, 7 and 8: These issues are properly addressed in the course of the CEQA environmental review process and preparation of the negative or

mitigated negative declaration or EIR. Upon completion of the document, Energy Division shall submit it to the presiding officer for admission into the evidentiary record and review and consideration by the Commission. No evidentiary hearings or further evidence is needed on these issues.

Issue nos. 9 and 10: If the Energy Division prepares an EIR determining that the project results in significant and unavoidable environmental impacts, it may become necessary to conduct evidentiary hearings or take further evidence on issue nos. 9 and 10. In that event, SCE is directed to offer prepared direct testimony setting forth the specific economic, legal, social, technological, or other benefits of the project that may outweigh its unavoidable adverse environmental impacts, and any party may offer prepared direct testimony setting forth the specific economic, legal, social, technological or other considerations that render the project alternatives or mitigation measures infeasible pursuant to CEQA Guidelines § 15091. Such testimony shall not relate to matters which will be determined in the EIR (e.g., issue nos. 6, 7 and 9). Any party may offer prepared rebuttal testimony on either or both of these issues.

In the event that mitigation identified in a mitigated negative declaration or EIR results in additional costs of the project, it may also become necessary to take further evidence on issue nos. 3 and 4. In that event, any party may offer prepared testimony these issues.

As discussed below, the presiding officer may modify the schedule to accommodate these circumstances if they arise.

Issue no. 11: The Commission will review the negative or mitigated negative declaration or EIR to determine whether it was completed in compliance with CEQA and whether it reflects our independent judgment. To the extent that parties or other persons wish to present evidence to challenge the

conduct of the CEQA process and the completion of the document in compliance with it, such challenge should be pursued within that environmental review process, i.e., in comment on the proposed negative or mitigated negative declaration or draft EIR. No evidentiary hearings or further evidence is needed on this issue.

Briefs: All of the identified issues are within the scope of the concluding briefs on this matter.

**Schedule**

The following schedule is adopted here and may be modified by the presiding officer as required to promote the efficient and fair resolution of the application:

SCE supplemental testimony on reliability (issue no. 2)	February 14, 2011
Intervenor direct testimony (issue nos. 2, 3, 4 and 5)	April 1, 2011
SCE rebuttal testimony (issue nos. 2, 3, 4 and 5)	May 2, 2011
Evidentiary hearing*	Monday and Tuesday, May 23 and 24, 2011 9:00 a.m. Commission Courtroom State Office Building 505 Van Ness Avenue San Francisco, California
Concurrent opening briefs**	June 14, 2011
Concurrent reply briefs	June 24, 2011
Proposed decision	[no later than 90 days after submission]

\* In the event that no party objects to the admission of the prepared testimony without cross-examination, the presiding officer may remove the evidentiary hearing from the calendar.

\*\* These dates assume that a negative or mitigated negative declaration will have issued in time for the parties to address issue no. 11 in their opening briefs. In the event that the negative or mitigated negative declaration has not issued in time, the presiding officer may provide for the filing of supplemental briefs.

The foregoing schedule assumes that the Energy Division will prepare a negative or mitigated negative declaration pursuant to CEQA. In the event that the Energy Division prepares an EIR, the presiding officer may convene a PHC to develop a schedule for taking further evidence on issue nos. 3, 9 and 10 that may become necessary as a result (as discussed above). In any event, the proceeding should be resolved within 18 months of this scoping memo as provided by Pub. Util. Code § 1701.5.

### **Category of Proceeding/Ex Parte Requirements and Need for Hearing**

This ruling confirms the Commission's preliminary determination that this is a ratesetting proceeding and that hearings are needed. (Resolution ALJ 176-3264, November 19, 2010.) Accordingly, ex parte communications are restricted and must be reported pursuant to Article 8 of the Commission's Rules of Practice and Procedure.

### **Intervenor Compensation**

Notices of intent to claim intervenor compensation are due by no later than March 3, 2011, pursuant to Rule 17.1(a).

### **Assignment of Proceeding**

Commissioner Michael R. Peevey is the assigned commissioner and Administrative Law Judge Hallie Yacknin is the presiding officer to the proceeding.

#### **IT IS RULED that:**

1. The scope of this proceeding is described above.
2. The schedule of this proceeding is as set forth above.

3. These proceedings are categorized as ratesetting.
4. Hearings are needed, as described above.
5. The presiding officer is Administrative Law Judge Hallie Yacknin.

Dated February 8, 2011, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey  
Assigned Commissioner

**INFORMATION REGARDING SERVICE**

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated February 8, 2011, at San Francisco, California.

/s/ OYIN MILON  
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Oyin Milon

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.