

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
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## TO PARTIES OF RECORD IN APPLICATION 12-08-001

This is the proposed decision of Administrative Law Judge (ALJ) Seaneen M. Wilson. This item is targeted to appear on Agenda No. 3325 for the Commission's October 31, 2013 Business Meeting, but may appear on a later agenda. Interested persons may monitor the Business Meeting agendas, which are posted on the Commission's website 10 days before each Business Meeting, for notice of when this item may be heard. The Commission may act on the item at that time, or it may hold an item to a later agenda.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov). Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. The current service list for this proceeding is available on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov).

/s/ KAREN V. CLOPTONKaren V. Clopton, Chief  
Administrative Law Judge

KVC:lil

Attachment

Decision PROPOSED DECISION OF ALJ WILSON (Mailed 9/23/2013)

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

Application of Southern California Edison  
Company (U338E) for Approval of Its  
Forecast 2013 ERRA Proceeding Revenue  
Requirement.

Application 12-08-001  
(Filed August 1, 2012)

**DECISION APPROVING SOUTHERN CALIFORNIA EDISON COMPANY'S  
2013 ENERGY RESOURCE RECOVERY ACCOUNT FORECAST  
IN PART AND DEFERRING SAN ONOFRE NUCLEAR  
GENERATING STATION RELATED COSTS**

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**DECISION APPROVING SOUTHERN CALIFORNIA EDISON COMPANY'S  
2013 ENERGY RESOURCE RECOVERY ACCOUNT FORECAST  
IN PART AND DEFERRING SAN ONOFRE NUCLEAR  
GENERATING STATION RELATED COSTS**

**1. Summary**

Today's decision adopts a 2013 Energy Resource Recovery Account (ERRA) revenue requirement forecast, less the difference between normal San Onofre Nuclear Generating Station (SONGS) costs included in the ERRA forecast and SONGS replacement power costs included in Southern California Edison Company's (SCE) ERRA forecast (net SONGS costs). This results in a 2013 ERRA forecast revenue requirement of approximately \$3.797 billion.<sup>1</sup> This approximate figure acts as a placeholder, and will be finalized through SCE's filing of a Tier 1 advice letter to institute ERRA rates. We make no determination today regarding the accuracy of the methodology used by SCE to determine the net SONGS costs, or the reasonableness of SONGS replacement power costs. Such determinations will be made as part of Investigation (I.) 12-10-013.

The actual net SONGS costs shall be tracked in the San Onofre Nuclear Generating Station Memorandum Account (SONGSMA) as set out in I.12-10-013. Recovery of costs recorded in the SONGSMA shall be determined at a later date in I.12-10-013. Similar to GHG cap-and-trade costs, these net SONGS costs shall not be considered in the ERRA Trigger calculation.

The ERRA proceeding revenue requirement consists primarily of SCE's:  
1) proposed 2013 fuel and purchased power costs; 2) estimated

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<sup>1</sup> When adjusted for the removal of Greenhou Gas (GHG) cap-and-trade costs as well as net SONGS costs, the approximate SCE 2013 ERRA forecast revenue requirement amount equals \$3.797 billion (\$4.389 billion - \$271 million - \$321 million).

December 31, 2012 year-end recorded balancing account balances that SCE requests to recover from or return to customers; and 3) other miscellaneous expenses, such as spent nuclear fuel expense and Department of Energy decontamination and decommissioning fees. This decision also adopts SCE's requested 2013 forecast of electric sales and associated rates.

## **2. Procedural Background**

On August 1, 2012, Southern California Edison Company (SCE) filed Application (A.) 12-08-001, its *Application of Southern California Edison Company (U338E) For Approval of Its Forecast 2013 ERRA Proceeding Revenue* (August Application), in which SCE requested that the Commission adopt a forecasted 2013 energy procurement revenue requirement of \$4.387 billion.

On September 4, 2012, protests were filed by the Division of Ratepayer Advocates (DRA), and jointly by Alliance for Retail Energy Markets (AREM) and Direct Access Customer Coalition (DACC). AREM/DACC also requested party status. On November 2, 2012, a Prehearing Conference took place in San Francisco to establish the service list for the proceeding, discuss the scope of the proceeding, and develop a procedural timetable for the management of the proceeding. In addition to AREM/DACC, party status was granted to DRA and the Public Agency Coalition (PAC).

On November 16, 2012, SCE served an update to its August Application (Update) requesting adoption of a total 2013 Energy Resource Recovery Account (ERRA) forecast revenue requirement of \$4.389 billion.

Pursuant to the *Scoping Memo and Ruling of Assigned Commissioner* (Scoping Memo), dated November 14, 2012, intervenor testimony was due December 3, 2012, SCE rebuttal was due December 17, 2012, and evidentiary hearings were scheduled for January 4, 2013. As discussed below, no intervenors filed

testimony, and the hearings were subsequently removed from the calendar. On January 11, 2013, the assigned Administrative Law Judge (ALJ) granted a request of the active parties to this proceeding to change the schedule of briefing in the current proceeding. Instead of one round of concurrent briefs due on January 25, 2013, pursuant to the Scoping Memo, the assigned ALJ ruled via electronic mail (e-mail) that the briefing schedule would instead consist of Opening Briefs due on January 25, 2013 and Reply Briefs due on February 1, 2013.

On April 15, 2013, rulings issued in Investigation (I.) 12-10-013 and in SCE's ERRA review proceeding for compliance year 2012<sup>2</sup> required the transfer of SCE's 2012 San Onofre Nuclear Generating Station (SONGS) related replacement power costs from the ERRA 2012 compliance year application to the SONGS Order Instituting Investigation (OII).

On April 19, 2013, a ruling in I.12-10-013 clarified the scope of the SONGS OII, stating that Phases 2 through 4 of the OII would, in part, address SONGS replacement power costs.

On April 23, 2013, the assigned ALJ issued a proposed decision in this proceeding, to which SCE and AReM/DACC and PAC (jointly) filed Opening Comments on May 13, 2013.

On May 24, 2013, the assigned Commissioner and ALJ issued their *Assigned Commissioner and Administrative Law Judge's Ruling to Reopen the Record and Request Response to Selected Inquiries* (Ruling to Reopen), for the sole purpose of receiving information regarding the forecast 2013 replacement power costs

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<sup>2</sup> A.13-04-001.

resulting from the shut-down of the SONGS. Responses to the inquiries posed in the Ruling to Reopen were filed by SCE, DRA, and jointly by AReM/DACC and PAC, on June 6, 2013. Replies to these responses were filed on June 24, 2013 by SCE and jointly AReM/DACC and PAC on June 21, 2013.

On June 7, 2013, the Commission and the public were notified of the permanent shutdown of SONGS by SCE, the majority owner of SONGS.

On July 22, 2013, at a pre-hearing conference held in San Francisco in I.12-10-013, assigned Commissioner Michel P. Florio stated:

Both [Southern California Edison and San Diego Gas and Electric] have very large ERRA requests pending before the Commission that reflect at least in part replacement power as a result of the San Onofre outage. And I have a hard time understanding myself or explaining to my colleagues, let alone the public, why we would be simultaneously recovering rates, the full amount of the replacement power cost, plus the full amount of the return on [the] investment and operating expenses of these plants.<sup>3</sup>

All rulings issued by the assigned Commissioner and ALJ are affirmed herein; and all motions not specifically addressed herein or previously addressed by the assigned Commissioner or ALJ, are denied.

### **3. Request**

#### **3.1. Southern California Edison Company's August Application**

The purpose of this proceeding is to determine SCE's 2013 ERRA forecast revenue requirement. In the ERRA, SCE records fuel and purchased power costs associated with serving bundled electric customers and tracks billed revenues

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<sup>3</sup> I.12-10-013, Pre-Hearing Conference (July 22, 2013), Tr. at 129-130.

against actual recorded costs. The ERRA regulatory process includes: (1) an annual forecast proceeding to adopt a forecast of the utility's electric procurement cost revenue requirement and electricity sales for the upcoming year, and (2) an annual compliance proceeding to review the utility's compliance in the preceding year regarding energy resource contract administration, least cost dispatch, fuel procurement, and entries made to the ERRA balancing account.

Thus, in this ERRA forecast proceeding, SCE primarily seeks approval of its forecast 2013 fuel and purchased power revenue requirement of \$4.387 billion. This forecast revenue requirement also includes the December 31, 2012 balances in certain balancing accounts that SCE seeks to recover from or return to customers, and other miscellaneous expenses such as spent nuclear fuel expense and Department of Energy decontamination and decommissioning fees. SCE also requests authority for its 2013 forecast of electric sales and associated rates. In its August Application, SCE's request was based on a number of underlying forecast components, including:

- SCE's Load Forecast;
- Forecast Energy Production and Costs from SCE's Portfolio of Resources;
- Financing Costs;
- Carrying Costs; and
- Cost Responsibility Surcharges (CRS) (Direct Access, Departing Load, and Community Choice Aggregation).

The request pursuant to SCE's August Application is \$506.62 million greater than the 2012 ERRA forecast of \$3.880 billion. The \$506.62 million includes an increase associated with the estimated fuel and purchased power of approximately \$561 million and a decrease of approximately \$53 million

associated primarily with over-collected balancing accounts in 2012. In particular, the requested increase includes:

1. A 2013 forecast of \$298 million of Greenhouse Gas (GHG) cap-and-trade related costs, but not the offset for cap-and-trade related revenue;
2. SCE's net short energy position, which is forecast to increase significantly as a result of the anticipated sale of SCE's ownership interest in the coal-fired Four Corners Generating Station and the then-limited availability of the SONGS;
3. The estimated average on-peak power price of \$40.79/Megawatt-hour (MWh), which is an increase of \$3.97/MWh above the average on-peak power price assumed in the 2012 forecast of \$36.82/MWh; and
4. The inclusion of new generation capacity contracts that will come online in 2013.

### **3.2. Southern California Edison Company's Update**

On November 16, 2012, SCE served its Update in order to: 1) update its 2013 ERRA forecast proceeding revenue requirement, including fuel and purchased power, financing costs and carrying costs, a more recent retail customer sales forecast, and updated estimate of its December 31, 2012 balancing account balances; 2) update the 2013 forecast Cost Allocation Methodology (CAM)-related revenue requirement; and 3) provide an estimate of the 2013 forecast CRS components for Direct Access, Departing Load, and Community Choice Aggregation customers.

Pursuant to its Update, SCE's 2013 forecast ERRA revenue requirement is \$4.389 billion, which is \$508.5 million greater than the current 2012 ERRA revenue requirement and \$1.845 million more than the 2013 ERRA forecast revenue requirement set forth in SCE's August Application. The \$508.5 million

includes a generation service revenue requirement increase of \$529.2 million and a delivery service revenue requirement decrease of \$20.7 million.

In its January 25, 2013 Opening Brief, SCE requests that \$271 million of GHG cap-and-trade related costs be removed from its proposed 2013 ERRRA revenue requirement. SCE requests this adjustment in order to be in compliance with Decision (D.) 12-12-033, Ordering Paragraph 20, in which the Commission requires utilities to defer inclusion of GHG cap-and-trade costs and revenues in rates until implementation is finalized in Rulemaking (R.) 11-03-012. SCE also proposes that it be allowed to file an advice letter to request this \$271 million of GHG cap-and-trade costs when implementation in R.11-03-012 is finalized.

The proposed revisions to SCE's request in its Update are driven primarily by the following:

1. Changes in the December 31, 2012 estimated balances of the various balancing accounts using recorded data through October 31, 2012 and estimated data for November and December 2012 activity. The updated cumulative balances result in a \$113 million reduction from the estimated December 31, 2012 balances included in the August Application;
2. An increase in the CAM revenue requirement, which is offset by balancing account over-collections;
3. A revision to SCE's fuel and purchased power estimate which is primarily driven by increases in forward natural gas and power market prices;
  - a. SCE's updated 2013 forecast assumes an average natural gas price of \$4.07/Million Metric British Thermal Units (MMBtu), which is based on an October 15, 2012 New York Mercantile Exchange gas price forward curve. This represents a \$0.59/MMBtu increase compared to the then current gas price forecast used to support SCE's August 2012 Application;

- b. SCE assumes an average power price of \$39.94/MWh, which is based on October 15, 2012 forward power broker quotes. This represents an approximate \$4/MWh increase in the average power price forecast compared to the then current forecast used to support SCE's August 2012 Application;
4. The impact from the increase in the forecast of gas and power prices is partially offset by several factors, including, but not limited to:
  - a. A lower SCE bundled load forecast;
  - b. A revised procurement planning assumption on SONGS unit availability in 2013; and
  - c. A lower GHG price forecast.
5. Updated retail sales forecasts which result in a lower forecasted annual bundled load;
6. Updated procurement planning assumption regarding SONGS availability in 2013, consistent with SCE's most recent filing with the Nuclear Regulatory Commission;
7. A GHG price outlook based on the forward broker quotes for 2013- traded GHG allowances as of October 15, 2012. The updated GHG price forecast is \$0.88/metric ton lower than the forecast used to support SCE's August Application. Combined with other factor changes, the lower GHG price forecast leads to a reduction in SCE's total forecast GHG-related compliance cost estimate; and
8. Inclusion of the costs that will be incurred in 2013 from SCE's recently completed 2012 All Source Request for Offers (AS RFO) solicitation. The 2012 AS RFO was completed on October 22, 2012.

#### **4. Discussion**

Part of determining whether SCE's forecasts should be adopted involves verifying the methods and inputs used by SCE in calculating its forecasts, and its compliance with applicable Commission decisions. While both SCE and PAC served testimony, DRA and AReM/DACC did not serve testimony in the current

proceeding, and instead discussed the scoped issues in their briefs. No party found SCE to be out of compliance with any of the applicable decisions, rules, or regulations, though both DRA and PAC suggested alternative inputs and methodologies that each party posited would be more reasonable than SCE's forecast. These are discussed further below.

SCE's 2013 ERRRA forecast and related estimates were performed according to standard regulatory protocols. SCE's forecast estimates for its 2013 load and sales, energy production and costs, power procurement and ERRRA balancing account financing costs, and fuel inventory and collateral carrying costs, are reasonable, except as addressed below.

#### **4.1. DRA's Recommendation**

In its Opening Brief, DRA recommends that the Commission should disallow the forecasted fuel and purchased power costs proposed by SCE in its Update, which is based on a single-day price, and recalculate this forecast using a 30-day average of the gas price. In support of its position, DRA states that: 1) the gas price used by SCE is not just or reasonable, as defined by Pub. Util. Code § 454.5(d)(1)-(5), and is not a best estimate as defined in a prior SCE ERRRA decision<sup>4</sup> to use in this calculation; 2) Even though SCE has used single day pricing in the past, it should not "mechanically" continue to use this method when trends change; 3) The Commission should order SCE to use a 30-day average gas price instead of a single-day price, which would have resulted in an input that is closer to the current gas price; 4) As a result of SCE's use of a single day price, SCE may set off the trigger mechanism, requiring it to file an

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<sup>4</sup> D.11-10-002, Appendix at 1.

application for recovery of funds from its ERRA prior to its scheduled compliance application date; and 5) SCE's forecast is not reasonable compared to PG&E's and SDG&E's current ERRA estimates.

In its Reply Brief, SCE responds to DRA's concerns, stating that: 1) there is no harm in using single-day pricing, because DRA's proposed revision results in a change in rates of less than one-tenth of 1 cent/kilowatt-hour (kWh), and the forecasted amounts collected from ratepayers are tracked in a balancing account and can be refunded or collected when trued up in the following year; and 2) if the Commission changes the single-day gas price, there are other assumptions and estimates that have changed since the Update, such as the forecast of SONGS usage, that could be revised as well.

SCE has used a methodology (single-day pricing) that it has used in the past, which results in a rate change that is not material and therefore not unjust or unreasonable. SCE's methodology is in compliance with applicable decisions and rules regarding its forecast of fuel and purchased power costs. Therefore, we deny DRA's request that SCE recalculate its forecasted fuel and purchased power costs. We also reject any comparison to other utilities' estimates in current proceedings, as they are not valid in determining SCE's ERRA forecast. These other forecasts are based on a different set of variables and inputs, such as sources of supply, location, types of customers, and timelines.

## **4.2. PAC Recommendations**

### **4.2.1. Power Charge Indifference Amount in SCE's Initial Application**

In its Opening Brief, PAC recommends that SCE should include its forecast Power Charge Indifference Amount (PCIA) data in the initial Application, because it would provide meaningful and necessary information for review by

parties. AReM/DACC agrees with PAC's concerns. In its Reply Brief, SCE agrees to provide its forecast PCIA in the initial application of its next ERRA forecast.

As parties are in agreement and inclusion of the PCIA forecast in the initial application provides parties more time to perform their analysis, we require SCE to include its forecasted PCIA and associated calculations in all future initial ERRA forecast applications that it files.

#### **4.2.2. PCIA Forecast**

PAC also advances that SCE's PCIA forecast discriminates against and unfairly impacts PAC's members, and that the *Vintaged Indifference Rate Calculation*<sup>5</sup> should be modified to reflect "historical and expected *normal* operation of SONGS."<sup>6</sup> PAC suggests that SCE should not have excluded SONGS and other supply resources from its supply forecast. In doing so, PAC posits that SCE's 2013 forecast supply is over 30% less than SCE's 2011 forecast.<sup>7</sup> PAC states that this exclusion distorts the results, and is discriminatory and unfair to customers such as PAC's members. AReM/DACC agrees with PAC's concerns regarding the PCIA, and that this issue should be addressed.

In its Reply Brief, SCE states that its calculation of the PCIA is in compliance with applicable rules, is not discriminatory, and is consistent with applicable rules and decisions, including but not limited to D.11-12-018. SCE proposes that if PAC wants to change the methodology used to calculate the PCIA, it should do so via a petition for modification.

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<sup>5</sup> PAC Opening Brief at 7, footnote 20.

<sup>6</sup> PAC Opening Brief at 10.

Since SCE's calculation of the PCIA is in compliance with applicable rules and decisions, we would ordinarily deny PAC's request that SCE revise its PCIA forecast. If parties wish to revise currently authorized methodologies regarding calculation of the PCIA forecast, they should propose such revision in a proceeding in which all utilities and parties affected would participate, such as a petition to modify. An application in which just one utility and selected parties participate is not the appropriate venue for a review that would affect multiple utilities and parties. However, our decision to defer recovery of net SONGS outage-related replacement power costs will necessarily result in a recalculation of the PCIA. SCE should provide the relevant supporting calculations in its implementation advice letter following this decision.

#### **4.2.3. 10-Year Rule**

In its Opening Brief, PAC ventures that SCE's calculation of the PCIA violates the "10-year rule," pursuant to D.04-12-048<sup>8</sup> and D.08-09-012.<sup>9</sup> PAC proposes that SCE recalculate its PCIA with the exclusion of resources that have received cost recovery for 10 years or more. In particular, PAC suggests that these two decisions require that cost recovery for utilities' non-renewable resources should occur over no more than 10 years; and that at the end of 10 years, bundled customers' indifference to the utility's load forecasts and resource portfolios no longer needs to be mitigated. PAC references SONGS as one of the resources that has received cost recovery for more than 10 years. If the Commission rejects PAC's proposal, PAC suggests that SCE not be allowed to

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<sup>7</sup> PAC Opening Brief at 8.

<sup>8</sup> See D.04-12-048 at 55-64.

seek cost recovery for resources that are older than 10 years from PAC members.<sup>10</sup>

AReM/DACC agrees with PAC that such utility resources should not be included in the PCIA calculation “ad infinitum,” but believes that this issue should be addressed in a consolidated fashion, and recommends inclusion in Petition (P.) 12-12-010.

In its Reply Brief, SCE posits that the 10-year rule only applies to utility owned fossil fuel generation acquired as a result of the procurement and use of fossil fuel.<sup>11</sup> As SONGS was not acquired as a result of the procurement process and is not fueled by fossil fuel, SCE believes this “10-year rule” is not applicable to SONGS.

Since D.04-12-048 clearly states that the “10-year rule” is applicable to generation acquired through the procurement process and is fueled by fossil fuel, the “10-year rule” is not applicable to SONGS. Therefore, we deny PAC’s request that SCE recalculate its PCIA and exclude SONGS and similar resources from that recalculation that have received cost recovery for 10 years or more. If parties wish to revisit the “10-year rule” pursuant to D.04-12-048, D.08-09-012, and any other applicable decisions, we suggest that parties file a petition to modify one or both of these decisions, in order to include all affected utilities and parties. We do not require that this issue be added to the scope of P.12-12-010 (as suggested by AReM/DACC), but suggest that parties to both the current

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<sup>9</sup> See D.08-09-012 at 52-55.

<sup>10</sup> PAC Opening Brief at 13.

<sup>11</sup> See D.04-12-048 at 61.

proceeding and to this petition may propose that this issue be added to the scope of any rulemaking resulting from P.12-12-010.

#### **4.2.4. Comparison with Another Utility**

In its Opening Brief, PAC posits that SCE's ERRA estimates are high compared to PG&E's. In its Reply Brief, SCE states that comparison of its forecast ERRA with PG&E's is not relevant to its current request. As discussed above in Section 4.1, we reject any comparison to other utilities' estimates in current proceedings, as they are not valid.

#### **4.3. SONGS Related Costs**

As discussed above, the assigned Commissioner and ALJ reopened the record in the current proceeding to receive information regarding the forecast 2013 replacement power costs resulting from the shutdown of SONGS.

DRA, AReM/DACC, and PAC believe that the difference between SONGS operation costs that are normally included in SCE's ERRA forecast and the SONGS replacement power costs included in the current ERRA forecast (net SONGS costs) should be removed from the forecast and determined on a final basis in the SONGS OII. DRA references Pub. Util. Code § 454.5 in support of its position.

SCE, on the other hand, believes that removal of SONGS replacement power costs from its 2013 ERRA forecast is inconsistent with applicable legislation, Public Utilities Code, and Commission decisions. In response to the assigned Commissioner's and ALJ's May 24, 2013 ruling, SCE stated that even though it does not agree with the removal of net SONGS costs, it calculated that such an amount would be approximately \$321 million.

The forecasted SONGS replacement costs proposed in the current ERRA proceeding are similar in character to the GHG costs associated with R.11-03-012.

We are treating GHG costs in two specific ways, first by deferring their recovery until a final determination is made regarding their disposition in a separate proceeding, and on the same basis, by excluding GHG costs from the ERRA Trigger Calculation. We will treat the net SONGS costs in the same way. As in the case of GHG costs, deferral of the net SONGS does not pre-judge recovery or disallowance, but holds the costs in stasis until a final determination is made.

#### **4.4. Conclusion**

The Commission appreciates all parties' concerns regarding the net SONGS costs. In an effort to authorize the balance of SCE's request as discussed herein, while still providing the Commission and parties an opportunity to thoroughly consider whether costs resulting from the unexpected closure of SONGS should be included in SCE's authorized 2013 ERRA forecast, the Commission removes net SONGS costs from SCE's 2013 ERRA forecast, and requires that the net SONGS costs be tracked in the San Onofre Nuclear Generating Station Memorandum Account (SONGSMA) as set out in I.12-10-013. In addition, these net SONGS costs shall be excluded from the ERRA Trigger calculation, since the Commission has not yet determined whether they are recoverable.

SCE may request recovery of the actual net SONGS costs recorded in the SONGSMA at a later date in I.12-10-013, when the Commission has reached a determination addressing the methodology and the reasonableness of recovery of such costs. We make no determination today regarding the accuracy of the methodology used by SCE to determine the net SONGS costs, or the reasonableness of SONGS replacement power costs. Such determinations will be made as part of I.12-10-013.

We therefore adopt SCE's adjusted 2013 ERRA revenue requirement forecast of \$3.797 billion. This approximate amount will be finalized through SCE's filing of a Tier 1 advice letter to institute its 2013 ERRA forecast rates, including revised Cost Responsibility Surcharges consistent with this decision. In addition, SCE's forecast of electric sales and revenues at present rates is adopted. We remind SCE that its calculation of the 2013 forecast ERRA, PCIA, and CAM amounts must be in compliance with all applicable Commission decisions and regulations.

In order for SCE to be in compliance with D.12-12-033, we grant SCE's request to reduce the 2013 ERRA revenue requirement by \$271 million of GHG cap-and-trade costs. We also authorize SCE to request the \$271 million of GHG cap-and-trade costs through the filing of a Tier 1 advice letter, once implementation in R.11-03-012 is finalized.

In order to implement the authority granted herein, SCE must file a Tier 1 advice letter within 30 days of the issuance date of this decision. The tariff sheets filed in this Tier 1 advice letter shall be effective on or after the date filed.

## **5. Procedural Issues**

### **5.1. Categorization and Need for Hearings**

In Resolution ALJ-176-3299 dated August 1, 2012, the Commission preliminarily categorized this application as ratesetting and that evidentiary hearings were necessary. On January 11, 2013, the assigned ALJ issued an e-mail ruling removing the previously scheduled evidentiary hearings from the calendar. Given these developments, we make a final determination here that the category is ratesetting, and a public hearing is not necessary.

## **5.2. Admittance of Testimony and Exhibits into Record**

Since hearings were not held in the current proceeding, there was no opportunity to enter testimony and exhibits into the record. In order for us to assess the proposals put forth by the parties, it is necessary to include all testimony and exhibits submitted by SCE and PAC into the record.

### **5.2.1. SCE Motion to Receive its Testimony and Exhibits into the Record**

Pursuant to Rule 13.8(d) of the Commission's Rules of Practice and Procedure,<sup>12</sup> SCE filed a motion on January 14, 2013 requesting that its testimony be received into the record. Rule 13.8(d) allows for testimony to be offered into evidence when hearings are not held.

We therefore receive both the public and confidential versions of SCE's testimony (Exhibits SCE-1, SCE-2, SCE-3, and SCE-4) into the record of the current proceeding. The confidential nature of selected SCE exhibits is addressed below, in Section 5.2.3.

### **5.2.2. PAC Motion to Receive its Testimony and Exhibits into the Record**

Pursuant to Rules 11.1, 13.7, and 13.9, PAC filed a motion on January 22, 2013 requesting that its testimony be received into the record and that the Commission take official notice of its Exhibits PAC-1 and PAC-2. As discussed in Section 5.2.1 above, Rule 13.8 is the applicable rule regarding requests for receipt of evidence in Commission proceedings. As the exhibits address issues within the scope of this proceeding, no hearings were held in

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<sup>12</sup> For the remainder of this decision all reference to Rules refer to the Commission's Rules of Practice and Procedure.

which to receive exhibits, and no parties objected to their receipt into evidence, the assigned ALJ granted PAC's motion for receipt of Exhibits PAC-1, -2, -3 -4 and -5 into evidence in A.12-08-001 via e-mail on January 26, 2013. As the exhibits have been received into evidence, there is no need to take official notice of them. Therefore, the assigned ALJ denied PAC's motion requesting official notice of Exhibits PAC-1 and -2. We affirm the assigned ALJ's rulings herein.

### **5.2.3. SCE Motion to Treat Confidentially and Seal a Portion of the Evidentiary Record**

On January 14, 2012, SCE filed a motion requesting authority to treat as confidential and seal portions of the evidentiary record in this proceeding (Exhibits SCE-1C and SCE-3C) pursuant to Rule 11.5 and D.06-06-066.

D.06-06-066 addresses our practices regarding the confidential treatment of electric procurement information submitted to the Commission that may be market sensitive, and Rule 11.5 addresses sealing all or part of an evidentiary record.

SCE states that Exhibits SCE-1C and SCE-3C contain confidential, market sensitive information, including but not limited to forecasts of fuel and collateral carrying costs, fuel inventory carrying costs, procurement collateral carrying costs, and an estimate of its revolving credit line to support procurement collateral requirements and general purpose working capital needs. SCE posits that disclosure of this information would cause SCE and its ratepayer's imminent and direct harm.

We have granted similar requests for confidential treatment in the past<sup>13</sup> and do so again here. Pursuant to Rule 11.5, we seal the confidential portions of

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<sup>13</sup> See D.11-12-031.

the evidentiary record, which include Exhibits SCE-1C and SCE-3C; and pursuant to D.06-06-066, we authorize the confidential treatment of Exhibits SCE-1C and SCE-3C as set forth in the ordering paragraphs of this decision.

**5.2.4. DRA Motion to Treat Confidentially and File the Confidential Version of its Brief Under Seal**

Pursuant to Rule 11.1, D.06-06-066, and General Order 66-C, DRA filed a motion on January 25, 2013 requesting authority to file the confidential version of its Opening Brief under seal. DRA states that its brief contains information identified by SCE as confidential. Pursuant to Rule 11.4, parties may request leave to file a document under seal. Since we grant SCE confidential treatment of similar information, we also grant DRA's request except as discussed in Section 5.2.3, and as set forth in the ordering paragraphs of this decision.

**5.2.5. SCE Motion to Strike a Portion of DRA's Opening Brief**

On February 8, 2013, SCE filed a motion requesting that portions of DRA's Opening Brief (brief) be struck. SCE believes that what it identifies as DRA's "analysis" and "study" of SCE's gas price forecast in both the text and attachment to DRA's brief constitute late submitted evidence. SCE posits that DRA's presentation of this information in its brief violates Rules 13.6(a), 13.7(e), and 13.8(b), which in part require the preservation of parties' rights. SCE goes on to state that it did not have an opportunity to submit rebuttal testimony to what SCE describes as evidence.

In its response of February 25, 2013, DRA stated that SCE's motion should be denied because the "analysis" and "study," consisting of Attachment A to the brief, and the corresponding discussion of SCE's gas price forecast in the body of

the brief, is not prepared testimony pursuant to the rules referenced above, and relies primarily on SCE's Exhibits SCE-1 and SCE-3. DRA also posits that the information in its brief is not prejudicial to SCE, because SCE will likely update its natural gas price forecast in a future compliance report. DRA also states that this information is illustrative and publicly available, and therefore could be officially noticed pursuant to Rule 13.9.

#### **5.2.5.1. Discussion**

We grant in part and deny in part SCE's motion to strike the "analysis" and "study" in DRA's brief. Most of DRA's brief, which we do not strike, relies on SCE's exhibits and publicly available information, while the balance, which we do strike, relies on new information presented in Attachment A to DRA's brief.

Briefs are based on the record of the proceeding. Pursuant to the schedule set out in the Scoping Memo, DRA had an opportunity to present its own testimony, and chose not to. Therefore, the information in Attachment A to DRA's brief and the associated text constitutes information that is not in the record.

The California Evidence Code Section 450 et seq., which Rule 13.9 is based on, requires that noticeable evidence be of common knowledge and not reasonably subject to dispute. We searched for such data and did not find it publicly available, and therefore find that it cannot be described as common knowledge. Therefore, we deny DRA's request to take official notice of Attachment A to its brief and the associated text, pursuant to Rule 13.9 and the California Evidence Code Section 450 et seq.

Based on the discussion above, I grant, in part, SCE's motion to strike the following sections of DRA's brief:

1. Page 6 – All of the second full paragraph;
2. Page 6 – All but the first sentence of the third full paragraph;
3. Page 11 – At the top of the page, the sentence that begins “As Attachment A shows” and ends “beginning of October”; and
4. Attachment A.

## **6. Comments on Proposed Decision**

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission’s Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

## **7. Assignment of Proceeding**

Michel Peter Florio is the assigned Commissioner and Seaneen M. Wilson is the assigned ALJ in this proceeding.

## **Findings of Fact**

1. In its Update, SCE proposes a 2013 ERRa forecast revenue requirement of \$4.389 billion. This request represents an increase of \$508.47 million from its 2012 ERRa revenue requirement, and is \$1.845 million more than the estimated 2013 ERRa proceeding revenue requirement originally forecast in SCE’s August Application.

2. In its January 25, 2013 Opening Brief, SCE requested that \$271 million of GHG cap-and-trade costs be removed from its 2013 ERRa forecast revenue requirement. SCE requested this adjustment pursuant to D.12-12-033, Ordering Paragraph 20, in which the Commission requires utilities to defer inclusion of GHG cap-and-trade costs and revenues in rates until implementation is finalized in R.11-03-012. SCE also proposes that it be allowed to file an advice letter to

request this \$271 million of GHG cap-and-trade costs when implementation in R.11-03-012 is finalized.

3. In response to the assigned Commissioner's and ALJ's May 24, 2013 ruling, SCE stated that even though it does not agree with the removal of net SONGS costs, it calculated that such an amount would be approximately \$321 million.

4. When adjusted for the removal of GHG cap-and-trade costs as well as net SONGS costs, the approximate SCE 2013 ERRA forecast revenue requirement amount equals \$3.797 billion (\$4.389 billion - \$271 million - \$321 million).

5. Forecasted SONGS replacement costs proposed in the current ERRA proceeding are similar in character to the GHG costs associated with R.11-03-012, which have been treated in two specific ways by the Commission. First, the recovery GHG costs has been deferred by the Commission until a final determination is made regarding their disposition in a separate proceeding. Second, GHG costs are excluded from SCE's ERRA Trigger calculation.

6. As in the case of GHG costs, deferral of net SONGS costs does not pre-judge recovery or disallowance, but holds the costs in stasis until a final determination is made.

7. No party found SCE to be out of compliance with any of the applicable decisions, rules, or regulations applicable to ERRA forecasts, though both DRA and PAC suggested alternative inputs and methodologies that each party posited would be more reasonable than SCE's forecast.

8. In its Opening Brief, DRA recommends that the Commission should disallow SCE's updated forecast of fuel and purchase power costs, which is based on a single-day price, and recalculate this forecast using a 30-day average of the gas price.

9. SCE used a methodology to determine its forecasted fuel and purchase power costs (single-day pricing) that is in compliance with applicable decisions and rules.

10. If SCE changed its methodology for determining forecasted fuel and purchase power costs from single-day pricing to a 30-day average, the resulting rate change would amount to less than one-tenth of 1 cent/kWh.

11. In its Opening Brief, PAC recommends that SCE should include its forecast of the PCIA in its initial application, because it would provide meaningful and necessary information for their review. AReM/DACC agrees with PAC's concerns.

12. In its Reply Brief, SCE agreed to provide its forecast of the PCIA in the initial application of its next ERRRA forecast.

13. PAC also advances that SCE's PCIA forecast discriminates against and unfairly impacts PAC's members, and that the *Vintaged Indifference Rate Calculation* should be modified to reflect "historical and expected *normal* operation of SONGS."

14. In its Opening Brief, PAC maintains that SCE's calculation of the PCIA violates what PAC identifies as the "10-year rule," pursuant to D.04-12-048 and D.08-09-012. PAC proposes that SCE recalculate its PCIA with the exclusion of applicable resources that have received cost recovery for 10 years or more.

15. The "10-year rule" only applies to utility-owned fossil fuel generation acquired as a result of the procurement process.

16. SONGS was not acquired as a result of the procurement process and is not fueled by fossil fuel.

17. Both DRA and PAC posit that SCE's ERRRA estimates are high compared to other energy utilities.

18. In Resolution ALJ-176-3299 and reiterated in the Scoping Memo, this application was preliminarily categorized as ratesetting and that hearings were required.

19. On January 11, 2013, the assigned ALJ issued an e-mail ruling removing the previously scheduled evidentiary hearings from the calendar.

20. On April 23, 2013, the assigned ALJ issued a proposed decision in this proceeding, to which SCE and AReM/DACC and PAC (jointly) filed Opening Comments on May 13, 2013.

21. An April 15, 2013 ruling in I.12-10-013 and in A.13-04-001, SCE's ERRRA review proceeding for compliance year 2012, required the transfer of SCE's 2012 SONGS related replacement power costs from the ERRRA 2012 compliance year application to the SONGS OII.

22. An April 19, 2013 ruling in I.12-10-013 clarified the scope of the SONGS OII, stating that Phases 2 through 4 of the OII would, in part, address SONGS replacement power costs.

23. On May 24, 2013, the assigned Commissioner and ALJ issued their *Assigned Commissioner and Administrative Law Judge's Ruling to Reopen the Record and Request Response to Selected Inquiries* for the sole purpose of receiving information regarding the forecast 2013 replacement power costs resulting from the shut-down of the SONGS. Responses to the inquiries posed in the Ruling to reopen were filed by SCE, DRA, and jointly by AReM/DACC and PAC, on June 6, 2013. Replies to these responses were filed on June 24, 2013 by SCE and jointly AReM/DACC and PAC on June 21, 2013.

24. On June 7, 2013, the Commission and the public were notified of the permanent shut down of SONGS by SCE, the majority owner of SONGS.

25. Pursuant to Rule 13.9, parties may request that official notice be taken of matters that may be judicially noticed pursuant to the California Evidence Code Section 450 et seq. This code section requires that noticeable evidence be of common knowledge and not reasonably subject to dispute.

26. D.06-06-066 addresses the Commission's practices regarding the confidential treatment of electric procurement information submitted to the Commission that may be market sensitive.

27. SCE requested that the public and confidential versions of its Exhibits SCE-1, SCE-2, SCE-3, and SCE-4 be received into the record.

28. PAC requested that its Exhibits PAC-1 through PAC-5 be received into the record.

29. PAC requested that official notice be taken of its Exhibits PAC-1 and PAC-2.

30. SCE requested that the confidential portions of the evidentiary record, which include its Exhibits SCE-1C and SCE-3C, be treated confidentially and be sealed pursuant to D.06-06-066 and Rule 11.5.

31. The Commission has granted similar requests for confidential treatment in the past, such as in D.11-12-031.

32. DRA requested authority to file the confidential version of its Opening Brief under seal, pursuant to Rule 11.4.

33. SCE requested that portions of DRA's Opening Brief be struck. SCE believes that what it identifies as DRA's "analysis" and "study" of SCE's gas price forecast in both the text and attachment to DRA's brief constitutes late submitted evidence.

34. In its response to SCE's motion to strike, DRA proposed that the information in its brief could be officially noticed pursuant to Rule 13.9.

35. Pursuant to the schedule set out in the Scoping Memo, DRA had an opportunity to present its own testimony, and chose not to.

### **Conclusions of Law**

1. SCE should be granted authority to reduce its 2013 ERRA revenue requirement forecast by \$271 million of GHG cap-and-trade costs, in order to comply with D.12-12-033.

2. SCE should be authorized to request its \$271 million of GHG cap-and-trade costs through a Tier 1 advice letter, once implementation in R.11-03-012 is finalized.

3. The Commission should remove net SONGS costs from SCE's 2013 ERRA forecast, and require that the net SONGS costs be tracked in the SONGSMA in I.12-10-013.

4. SCE should request recovery of the net SONGS costs recorded in the SONGSMA at a later date in I.12-10-013, when the Commission has reached final determinations addressing the accuracy of the methodology used to determine the net SONGS costs, and the reasonableness of SONGS replacement power costs.

5. SCE should exclude the net SONGS costs from the ERRA Trigger calculation, since the Commission has not yet determined whether they are recoverable.

6. The Commission makes no determination today regarding the accuracy of the methodology used by SCE to determine the net SONGS costs or the reasonableness of SONGS replacement power costs. Such determinations will be made as part of I.12-10-013.

7. The Commission should adopt a 2013 ERRA forecast revenue requirement for SCE of \$3.797 billion, which is net of an estimate of net SONGS costs of \$321 million and \$271 million of GHG cap-and-trade costs.

8. SCE's 2013 forecast of electric sales and revenues at present rates should be adopted.

9. Since SCE is in compliance with applicable decisions and rules regarding its forecast of fuel and purchase power costs, has used the single-day pricing methodology in the past, and any resulting rate change would be immaterial, we deny DRA's request that SCE be required to recalculate its forecast of fuel and purchase power costs using a 30-day average gas price.

10. SCE shall include its forecasted PCIA and associated calculations in all future initial ERRA forecast applications that it files.

11. SCE's calculation of the PCIA is in compliance with applicable rules and decisions, but the deferral of recovery of net SONGS costs meets PAC's request that SCE will have to revise its PCIA forecast in its implementation advice letter.

12. As the "10-year rule" (adopted in D.04-12-048 and D.08-09-012) is not applicable to resources such as SONGS, we deny PAC's request that SCE recalculate its PCIA with the exclusion of such resources that have received cost recovery for 10 years or more.

13. We do not require that reconsideration of the "10-year rule" be added to the scope of any rulemaking resulting from P.12-12-010, but parties may propose that this issue be added to the scope of any rulemaking resulting from P.12-12-010.

14. It is not reasonable to compare SCE's request to requests by other energy utilities.

15. A public hearing was not necessary in the current proceeding.

16. SCE's request that the public and confidential versions of Exhibits SCE-1, SCE-2, SCE-3, and SCE-4 be received into evidence should be granted.
17. SCE's request that its Exhibits SCE-1C and SCE-3C be treated as confidential and sealed should be granted.
18. PAC's request that its Exhibits PAC-1 through PAC-5 be received into the record should be granted.
19. PAC's request that official notice be taken of its Exhibits PAC-1 and PAC-2 should be denied.
20. DRA's request that the confidential version of its Opening Brief be filed under seal should be granted.
21. The new information included by DRA in its Opening Brief does not qualify for official notice, pursuant to Rule 13.9 and California Evidence Code Section 450 et seq.
22. SCE's request that portions of DRA's brief be stricken should be granted in part and denied in part. Except as detailed herein, DRA's brief should remain intact. The following portions of DRA's brief should be stricken:
  - a. Page 6 - All of the second full paragraph;
  - b. Page 6 - All but the first sentence of the third full paragraph;
  - c. Page 11 - At the top of the page, the sentence that begins "As Attachment A shows" and ends "beginning of October"; and
  - d. Attachment A.
23. In order to implement the authority granted herein, SCE should file a Tier 1 advice letter within 30 days of the issuance date of this decision.
24. All rulings issued by the assigned Commissioner and ALJ should be affirmed herein; and all motions not specifically addressed herein or previously addressed by the assigned Commissioner or ALJ, should be denied.

**O R D E R****IT IS ORDERED** that:

1. Southern California Edison Company's request to reduce its 2013 Energy Resource Recovery Account revenue requirement forecast by \$271 million of Greenhouse Gas cap and trade costs is granted.
2. Southern California Edison Company shall request authority to recover \$271 million of Greenhouse Gas cap-and-trade costs through a Tier 1 advice letter, once implementation in Rulemaking 11-03-012 is finalized.
3. Southern California Edison Company (SCE) is authorized to recover its 2013 Energy Resource Recovery Account (ERRA) forecast revenue requirement of \$3.797 billion, consisting of \$4.389 billion less \$271 million of Greenhouse Gas cap-and-trade costs, and less \$321 million accounting for the difference between normal San Onofre Nuclear Generating Station (SONGS) costs included in the ERRA forecast and SONGS replacement power costs included in SCE's current ERRA forecast.
4. The difference between normal San Onofre Nuclear Generating Station (SONGS) costs included in the 2013 Energy Resource Recovery Account (ERRA) forecast and SONGS replacement power costs included in Southern California Edison Company's current ERRA forecast shall be tracked in the SONGS Memorandum Account as set out in Investigation 12-10-013.
5. Southern California Edison Company may request recovery of the difference between normal San Onofre Nuclear Generating Station (SONGS) costs included in the 2013 Energy Resource Recovery Account (ERRA) forecast and SONGS replacement power costs included in its current ERRA forecast that

are recorded in the SONGS Memorandum Account in Investigation (I.) 12-10-013 at a later date in I.12-10-013, after the Commission has finalized the methodology for calculation and the reasonableness of recovery of such costs.

6. The difference between normal San Onofre Nuclear Generating Station (SONGS) costs included in the 2013 Energy Resource Recovery Account (ERRA) forecast and SONGS replacement power costs included in Southern California Edison Company's current ERRA forecast shall be excluded from the ERRA Trigger calculation.

7. Southern California Edison Company's requested 2013 forecasts of electric sales and revenues at present rates are adopted.

8. Public hearings were not necessary in this proceeding.

9. Southern California Edison Company must file a Tier 1 Advice Letter within 30 days of the issuance date of this decision in order to implement Ordering Paragraph 3.

10. Southern California Edison Company's request that the public and confidential versions of its testimony (Exhibits SCE-1, SCE-2, SCE-3, and SCE-4) be received into evidence is granted.

11. Southern California Edison Company's (SCE) Exhibits SCE-1C and SCE-3C are granted confidential treatment and are sealed, for a period of three years from the date of this order. During this three-year period, this information may not be viewed by any person other than the assigned Commissioner, the assigned Administrative Law Judge (ALJ), the Assistant Chief ALJ, or the Chief ALJ, except as agreed to in writing by SCE, or as ordered by a court of competent jurisdiction. If SCE believes that it is necessary for this information to remain under seal for longer than three years, SCE may file a

motion providing a justification for a further extension at least 30 days before the expiration of the three-year period granted by this order.

12. The Public Agency Coalition's request that its Exhibits PAC-1 through PAC-5 be received into the record is granted.

13. The Public Agency Coalition's request that official notice be taken of its Exhibits PAC-1 and PAC-2 is denied.

14. The Division of Ratepayer Advocates' (DRA) request that the confidential version of its Opening Brief be filed under seal is granted for a period of three years from the date of this order. During this three-year period, this information may not be viewed by any person other than the assigned Commissioner, the assigned Administrative Law Judge (ALJ), the Assistant Chief ALJ, or the Chief ALJ, except as agreed to in writing by DRA, or as ordered by a court of competent jurisdiction. If DRA believes that it is necessary for this information to remain under seal for longer than three years, DRA may file a motion providing a justification for a further extension at least 30 days before the expiration of the three-year period granted by this order.

15. Southern California Edison's request that portions of the Division of Ratepayer Advocates' (DRA) Opening Brief be stricken is granted in part and denied in part. Except as detailed herein, DRA's brief shall remain intact. The following portions of DRA's brief should be stricken:

- a. Page 6 – All of the second full paragraph;
- b. Page 6 – All but the first sentence of the third full paragraph;
- c. Page 11 – At the top of the page, the sentence that begins "As Attachment A shows" and ends "beginning of October"; and
- d. Attachment A.

16. All rulings issued by the assigned Commissioner and Administrative Law Judge (ALJ) are affirmed herein; and all motions not specifically addressed

herein or previously addressed by the assigned Commissioner or ALJ, are denied.

17. Application 12-08-001 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.