

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED
3-19-14
04:59 PM

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Southern California Edison Company Regarding the Acacia Avenue Triple Electrocution Incident in San Bernardino County and the Windstorm of 2011.

I.14-03-004
(Filed March 13, 2014)

**JOINT MOTION OF THE SAFETY AND ENFORCEMENT DIVISION AND
SOUTHERN CALIFORNIA EDISON COMPANY
FOR APPROVAL OF SETTLEMENT AGREEMENTS**

**PATRICIA A. CIRUCCI
ROBERT F. LeMOINE**

SCE Law Department
2244 Walnut Grove Avenue
Rosemead, California 91770
Telephone: (626) 302-4476
Email: robert.f.lemoine@sce.com

EDWARD MOLDAVSKY

Attorney for the Safety and Enforcement
Division

California Public Utilities Commission
320 W. 4th St., Suite 500
Los Angeles, CA 90013
Phone: (213) 620-2635
Email: edward.moldavsky@cpuc.ca.gov

March 19, 2014

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Southern California Edison Company Regarding the Acacia Avenue Triple Electrocution Incident in San Bernardino County and the Windstorm of 2011.

I.14-03-004
(Filed March 13, 2014)

**JOINT MOTION OF THE SAFETY AND ENFORCEMENT DIVISION AND
SOUTHERN CALIFORNIA EDISON COMPANY
FOR APPROVAL OF SETTLEMENT AGREEMENTS**

Pursuant to Article 12 of the Commission's Rules of Practice and Procedure, the Safety and Enforcement Division ("SED") and Southern California Edison Company ("SCE") (SED and SCE shall jointly be referred to as the "Settling Parties"), respectfully submit this motion to request that the Commission approve and adopt the attached Settlement Agreements (sometimes "Agreements"), which resolve the Commission's investigations regarding the three persons electrocuted at an address on Acacia Avenue in San Bernardino County on the morning of January 14, 2011 ("Acacia Avenue Incident") as well as a windstorm that centered in the San Gabriel Valley on November 30, 2011 and December 1, 2011 ("Windstorm Incident").

I. INTRODUCTION

The Settling Parties have entered into Settlement Agreements that include admissions by SCE regarding safety violations identified by SED. The public will greatly benefit from these Settlement Agreements as they acknowledge and address specific public safety concerns which were raised in the Commission's Order Instituting Investigation and substantiated by SED's investigations.

The Commission should find that the terms of the Settlement Agreements are: reasonable in light of the whole record of this proceeding, consistent with the law and in the public interest.

II. FACTUAL BACKGROUND

A. Acacia Avenue Incident

On January 14, 2011, at 0541 hours, two SCE 12 kV overhead conductors (B phase and C phase conductors) on the Vargas Circuit came into contact or near contact with each other and caused the C phase conductor to break, fall to the ground, and start a small grass fire. A resident at the incident site was electrocuted when he contacted a section of the conductor that was lying on the ground. His wife and his stepson tried to help him and were also electrocuted. The power lines that fell were installed, owned and operated by SCE. Seconds prior to the above contact, there was another conductor failure on the Vargas Circuit at West Hill Drive, 0.25 miles away from the incident site.

Prior to the above events occurring on January 14, 2011, phase-to-phase contacts occurred on the Vargas Circuit on December 23, 2006, December 25, 2007 and October 14, 2008. The December 23, 2006 contact resulted in a blown fuse or fuse(s). The other two contacts resulted in conductor failures.

SED investigated this incident, and issued a “Preliminary Incident Investigation Report” on December 17, 2012. SED concluded in this report that SCE violated General Order 95 (“GO 95”) as well as Section 451 of the Public Utilities Code.

B. Windstorm Incident

On November 30, 2011 and December 1, 2011, powerful winds swept through SCE’s territory, uprooting trees, and knocking down utility facilities. There were prolonged power outages during the event, which principally affected parts of the San Gabriel Valley. Two hundred forty-eight wood poles and 1,064 overhead conductors were affected by the event. 440,168 SCE customers experienced power outages during the event and the highest number of simultaneous customer outages was 226,053. According to SCE, there were no reports of injuries, deaths, or major fires due to the

impact of the windstorm on SCE's facilities. SCE provided customers with inaccurate power restoration time estimates, which was a major issue during the event.

SED investigated the event, and issued a final report titled "Investigation of Southern California Edison Company's Outages of November 30 and December 1, 2011" on January 11, 2013 ("Windstorm Investigation Report"). SED investigated the cause of the failed poles, and determined that SCE and other joint pole owners violated General Order 95 ("GO 95") safety factor requirements. SED concluded that at least 21 poles and 17 guy wires did not meet the safety factor requirements in GO 95, Rule 44.3. SED also concluded that SCE violated GO 95, Rule 19.

III. THE SETTLEMENT AGREEMENTS

The attached Settlement Agreements have been negotiated by the Settling Parties in good faith and resolve all issues with respect to SCE in this proceeding. The following provides a summary of the principal settlement terms reached by the Settling Parties in each Agreement. The complete settlement terms, including descriptions of the safety-related enhancements agreed to by SCE, are set forth in the Settlement Agreement to resolve the Acacia Avenue Incident (a copy of which is appended as Attachment 1) and the Settlement Agreement to resolve the Windstorm Incident (a copy of which is appended as Attachment 2).

A. Acacia Avenue Incident

- SCE's Safety Admissions
 - SCE admits that it violated GO 95, Rule 31.1 and Public Utilities Code section 451, under the circumstances of this incident, by allowing two 12kV overhead conductors on the Vargas Circuit to come into contact or near contact with each other, which caused one phase conductor to break and fall to the ground at the site where the three fatalities occurred.
 - Under normal conditions, conductors should not come into contact or near contact with each other. SCE admits that there were three phase-to-phase contacts on the 12kV Vargas Circuit prior to January 14, 2011. SCE admits that it violated GO 95, Rule 31.1 and Public

Utilities Code Section 451, by failing to properly consider the potential significance of these prior incidents in designing, constructing, or maintaining the facilities that were involved in the January 14, 2011 incident to prevent them from failing in the manner that occurred.

- Penalty and Remedial Payment – SCE will pay a total of \$16,500,000. From this total amount, \$10,000,000 will be a penalty paid to the State of California General Fund and \$6,500,000 will be spent on implementing programs to reduce the likelihood of reoccurrence of a similar incident.
- Confidentiality Waived – SCE agrees to waive section 583 confidentiality on all documents produced to SED in this matter.

B. Windstorm Incident

- SCE's Safety Admissions –
 - SCE admits that the safety factors for 20 poles, representing 8.1 percent of all failed or damaged poles were less than the values required by GO 95, Rule 44.3. Additionally, one pole that remained standing near an incident site had a safety factor below the value required by GO 95, Rule 44.3.
 - SCE admits that 17 guy wires had safety factors below the requirements of GO 95, Rule 44.3.
 - SCE admits that it did not preserve all failed poles and associated equipment from the windstorm event as required by GO 95, Rule 19. Furthermore, SCE's collection and cataloguing methodology prevented SED from reconstructing all but five poles for analysis. In mitigation, SCE believes that the preservation of all poles, conductors, and other associated equipment would have hindered SCE's efforts to restore power to its customers impacted by the windstorm at some locations. SCE further believes that SCE took steps to begin preserving failed pole materials after SED made a specific request that SCE take such action.

- Penalty and Remedial Payment – SCE will pay a total of \$8,000,000. From this total amount, \$5,000,000 will be a penalty paid to the State of California General Fund and \$3,000,000 will be spent on implementing programs to reduce the likelihood of poles becoming overloaded in SCE’s service territory.
- Confidentiality Waived – SCE agrees to waive section 583 confidentiality on all documents produced to SED in this matter.

IV. THE PROPOSED SETTLEMENTS ARE REASONABLE IN LIGHT OF THE RECORD, CONSISTENT WITH THE LAW, AND IN THE PUBLIC INTEREST

Rule 12.1(d) of the Commission’s Rules of Practice and Procedure prohibits the Commission from approving settlements “unless the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest.” As articulated further below, the Commission should find that the Settlement Agreements satisfy each of these criteria, and therefore should approve and adopt the Settlement Agreements.

A. The Proposed Settlements are Reasonable in Light of the Record

The record here includes the two SED investigation reports and the admissions of SCE described in Part III, *supra*. The agreed-upon combined penalty of \$15,000,000 is reasonable in light of these admissions, and the uncertainties of a litigated outcome. Furthermore, the combined \$9,500,000 allocation towards remedial measures is also reasonable given the record of these investigations.

The attached agreements were negotiated as a comprehensive settlement of SED’s allegations regarding SCE. The Settlement Agreements are a reasonable resolution of these investigations.

B. The Proposed Settlements are Consistent with the Law

As described above, the Settlement Agreements resolve these investigations with respect to SCE. The terms of the settlements are consistent with the California Public Utilities Code and the Commission’s rules and decisions, including GO 95. Moreover,

the agreed-upon penalties are consistent with law as they fall within the range of potential penalties authorized in California Public Utilities Code Section 2107.

C. The Proposed Settlements are in the Public Interest

The Commission has a long standing policy favoring settlements.¹ The instant resolution provides significant and direct public safety benefits and brings this proceeding to a just conclusion. The admissions and substantial penalties to be paid to the General Fund are in the public interest. The safety enhancements are also in the public interest, and would not necessarily have been obtained in a litigated outcome.

V. CONCLUSION

For the reasons stated above, the Settling Parties believe that the attached Settlement Agreements appropriately resolve these investigations. The settlements are reasonable in light of the record, consistent with the law and precedent, and in the public interest. Therefore, the Settling Parties jointly request that the Commission approve and adopt both Settlement Agreements in the forms presented.

Respectfully submitted,

PATRICIA A. CIRUCCI
ROBERT F. LeMOINE

/s/ ROBERT F. LeMOINE
Robert F. LeMoine

SCE Law Department
2244 Walnut Grove Avenue
Rosemead, California 91770
Telephone: (626) 302-4476
Email: robert.f.lemoine@sce.com

EDWARD MOLDAVSKY

/s/ EDWARD MOLDAVSKY
Edward Moldavsky

Attorney for the Safety and Enforcement
Division

California Public Utilities Commission
320 W. 4th St., Suite 500
Los Angeles, CA 90013
Phone: (213) 620-2635
Email: edward.moldavsky@cpuc.ca.gov

March 19, 2014

¹ Application of California-American Water Company, D.10-06-038, 2010 Cal. PUC LEXIS 224 at p.46.