Decision **ALTERNATE PROPOSED DECISION OF COMMISSIONER PICKER**
(Mailed 2/24/2015)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of its Forecast 2015 ERRA Proceeding Revenue Requirement.	Application 14-06-011 (Filed June 11, 2014)

DECISION ADOPTING SOUTHERN CALIFORNIA EDISON COMPANY'S 2015 ENERGY RESOURCE RECOVERY ACCOUNT (ERRA) PROCEEDING REVENUE REQUIREMENT FORECAST

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DECISION ADOPTING SOUTHERN CALIFORNIA EDISON COMPANY'S 2015 ENERGY RESOURCE RECOVERY ACCOUNT (ERRA) PROCEEDING REVENUE REQUIREMENT FORECAST

Summary

This decision adopts the 2015 Energy Resource Recovery Account electric procurement cost revenue requirement forecast, with end of year adjustments, of $5.983 billion for Southern California Edison Company, as adjusted herein. Electricity crisis refunds received in 2014 that would lower the 2015 revenue requirement by $206 million will be withheld until the Commission issues a decision in a subsequent phase of this proceeding regarding the appropriate allocation of the refunds between bundledservice and departing load customers. The revenue requirement of $5.983 billion is approximately $827 million higher than the 2014 revenue requirement currently reflected in present rates.

1. Procedural Background

Southern California Edison Company (SCE) filed its *Application of Southern California Edison Company in its Forecast 2015 Energy Resource Recovery Account (ERRA) Proceeding* (Application) on June 11, 2014. SCE's initial, most conservative forecast in its Application was that the revenue requirement would be $6.406 billion.[1] The forecast included proposed 2015 fuel and purchased power costs, including miscellaneous expenses, such as spent nuclear fuel

[1] The Application discussed this figure as a possible Alternative Case scenario if the pending settlement under the San Onofre Nuclear Generating Station (SONGS) Order Instituting Investigation (SONGS OII, I.12-10-003) was not approved, or was delayed beyond the implementation date for this revenue requirement proceeding. SCE also discussed a "Base Case" forecast, which assumed that the pending settlement would be approved. Because the settlement has now been approved by the Commission, the "Base Case" forecast formulated by SCE is the forecast being addressed herein.

expense and U.S. Department of Energy decontamination and decommissioning fees.

On July 21, 2014, a protest was filed by the Office of Ratepayers Advocates (ORA). On July 21, 2014, responses were filed by the Public Agency Coalition (PAC) and the Alliance for Retail Energy Markets and Direct Access Customer Coalition (AReM/DACC). SCE filed its reply to the protests and responses on July 31, 2014.

On September 9, 2014, a Prehearing Conference took place in San Francisco to establish the service list, discuss the scope, and develop a procedural timetable for the management of this proceeding. Thereafter, California Large Energy Consumers Association (CLECA) filed a motion for party status on October 16, 2014. The motion was granted on October 24.

The *Scoping Memo and Ruling of Assigned Commissioner* (Scoping Memo) was issued on September 19, 2014, and set the procedural schedule. SCE, ORA, PAC, AReM/DACC and CLECA are the only parties to this proceeding.

An evidentiary hearing was held on November 4, 2014, at which the parties had an opportunity to cross-examine witnesses testifying on behalf of SCE and AReM/DACC.[2] Opening briefs were filed by CLECA and jointly by AReM/DACC and PAC (collectively the "Direct Access (DA) Parties") on November 12, 2014.

SCE also filed its opening brief, along with its ERRA 2015 Forecast of Operations November Update (Update), on November 12. In its Update, SCE's

[2] Robert Thomas (Manager of Rate Design in Regulatory Operations) and Douglas Snow (Director of Revenue Requirements & Tariffs in State Regulatory Operations) testified on behalf of SCE. Mark Fulmer, Principal at MRW & Associates, LLC testified on behalf of AReM, DACC and PAC.

forecast decreased to $5.593 billion.[3] SCE and the DA Parties filed reply briefs on November 19.

2. SCE's Application and Update

The purpose of this proceeding is to determine whether the Commission should adopt SCE's Application for approval of its 2015 ERRA forecast revenue requirement. SCE's ERRA Application describes fuel and purchased power procurement costs, SONGS-related replacement power costs that SCE incurred during extended outages[4], balances that SCE proposes to return to customers as a result of settlement refunds from the 2000-2001 California Energy Crisis, and other miscellaneous expenses, such as spent nuclear fuel expense and Department of Energy decontamination and decommissioning fees. The revenue requirement forecast is based upon SCE's best estimate of such factors as kilowatt hour (kWh) sales and load, natural gas and power prices, and an estimate of the December 31, 2014 balancing account balances. The Commission scrutinizes the forecast to determine whether SCE's request and the forecast and methods used to determine it, are in compliance with all applicable rules, regulations, resolutions and prior Commission decisions. The forecast will be adopted if SCE's electric sales forecast, rate increase proposals, other inputs and calculations are reasonably accurate as forecast.

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[3] SCE decreased its forecast in anticipation that the Commission would approve the SONGS OII settlement at its November 20 meeting. The Commission approved the settlement in Decision (D.) 14-11-040.

[4] SCE removed approximately $467 million in 2013 net SONGS costs from its ERRA rates and deferred them for consideration in the SONGS OII. Now that the SONGS settlement agreement has been approved, SCE seeks to recover this amount in its ERRA rates.

In addition to this annual ERRA proceeding, SCE undergoes an annual compliance proceeding to review the utility's compliance regarding energy resource contract administration, least cost dispatch, fuel procurement and entries made to the ERRA balancing account in the prior year.

2.1. SCE's Updated Forecast

SCE's Update reflects revisions to its Application as a result of lower 2015 power and natural gas forward price estimates than forecast in June 2014, a lower load forecast, and credits of $534 million to the ERRA balancing account,[5] which reduced the 2014 ERRA undercollection.

SCE's Update forecast of $5.593 billion is approximately $437 million higher than the 2014 forecast revenue requirement adopted in D.14-05-003 in SCE's 2014 ERRA forecast Application (A.) 13-08-004.[6] In the testimony filed with its Application, SCE explains that the primary reasons for the increase above its 2014 forecast revenue requirement, are increases in: (1) its bundled customer load forecast; (2) its purchase of short-term power; (3) renewable procurement costs; (4) natural gas prices, which have increased $0.05/Million Metric British Thermal Units (MMBtu) above the average gas price included in the 2014 forecast,[7] and (5) average on-peak power prices of $41.75/megawatt

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[5] SCE estimates that $575 million will be credited to the ERRA balancing account. Of that amount, $41 million will be debited to the generation sub-account of the Base Revenue Requirement Balancing Account for recovery of the Unit 2 Cycle No. 17 refueling and maintenance outage expenses. Therefore, the net refund or credit is estimated to be $534 million (Update at 3, footnote 1).

[6] However, the Update forecast is approximately $31 million dollars lower than the $5.624 billion forecast in SCE's June 2014 Application.

[7] The 2014 forecast assumed an average natural gas price of $4.06/MMBtu, while the 2015 forecast assumes an average natural gas price of $4.11/MMBtu (Update at 4).

hour (MWh), which is an increase of $1.43 MWh above the average on-peak power price included in the 2014 forecast.[8]

SCE's Update includes a Table II-1 that illustrates the allocation of the revenue requirement and the categories which have decreased or increased. The $5,593 million forecast allocates $4,915 million to Fuel and Purchased Power (an increase of $141 million from 2014), $732 million to the ERRA Balancing Account (an increase of $456 million from 2014) and $149 million to other Balancing Accounts (an increase of $42 million from 2014). Energy Settlement Refunds are anticipated to account for a $204 million dollar reduction (compared to only $1 million of refunds in 2014).[9] SCE's Update Testimony also indicated that the "Base Case" forecast assumed that the Commission would approve SCE's additional proposal to credit the ERRA balancing account for reimbursements granted for O&M expenses from the Nuclear Decommissioning Trust. SCE filed this request in advice letter 2968-E, which has not yet been approved. In comments filed on January 20, 2015, SCE further updated the revenue requirement to a figure of $5.777 billion to reflect the final adjustments for the actual recorded December 31, 2014 balancing accounts, a change to the SONGS OII-related net refund amount, and removal of the Nuclear Decommissioning Trust Fund reimbursements.

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[8] The 2014 forecast assumed an average power price of $40.32/MWh, based on October 8, 2013 forward power broker quotes. The 2015 forecast assumes an average power price of $41.75/MWh, based on forward power broker quotes as of October 3, 2014.

[9] SCE's Application and Update forecasts include $204 million in such energy crisis settlement refunds received in 2014. The final year-end recorded balance is $206 million.

2.2. SCE's Opening Brief

In its opening brief, SCE requests that the Commission adopt its: (1) 2015 forecast revenue requirement; (2) electric sales forecast; (3) rate increase proposals; (4) proposed recovery of year end ERRA balances for 2014; (5) proposed recovery of net SONGS-related "replacement power" costs incurred in 2013 that were deferred from inclusion in previous ERRA revenue requirement forecasts; and (6) find that its inputs and calculation of the power charge indifference adjustment (PCIA), ongoing competition transition charge (CTC), and Cost Allocation Methodology (CAM) forecasts are reasonable and accurate.

In testimony filed with its Application, SCE described the methodology it used to determine the 2015 Cost Responsibility Surcharge (CRS) for Direct Access (DA), Departing Load, and Community Choice Aggregation customers, collectively DA-CRS. Its methodology assumes that if the SONGS OII Settlement is approved, certain SONGS related adjustments will be included in the calculation of the indifference amount (IA), which will have the effect of reducing it.[10]

[10] SCE explains that, when calculating the PCIA component of the 2015 CRS application to DA-CRS customers, it has used the methodology for calculating the IA and PCIA adopted in D.11-12-018 and Resolution E-4475. It also assumes that certain Utility Retained Generation (URG) requirements will eventually be approved as proposed in SCE's 2015 General Rate Case (GRC) Phase 1 Application (A.13-11-003). It proposes to update the IA calculation to reflect authorized revenue requirements included in bundled service rates at that time. In the meantime, SCE calculations reflect the URG revenue requirement authorized by the Commission in SCE's 2012 D.12-11-051.

2.3. Effect of SONGS OII Settlement Approval

As a result of the Commission's approval of SONGS OII Settlement on November 20, 2014 in D.14-11-040, SCE proposes to: (1) modify the 2012 GRC Phase I revenue requirement, to reflect recovery at the reduced rate of return outlined in the settlement; (2) refund revenues collected after February 1, 2012 that exceed the revenue authorized under the reduced rate of return outlined therein; and (3) include $467 million in net SONGS-related costs that were incurred in 2013 and deferred from inclusion in previous ERRA revenue requirement forecasts in the PCIA for purposes of this 2015 forecast. (Update at 49.) SCE contends that doing so is consistent with the Consensus Protocol adopted in D.14-05-003 and D.14-05-022. (SCE Opening Brief at 6.) SCE included the $467 million in net SONGS-related costs in both Base and Alternate scenarios provided in testimony filed with its Application.[11]

2.4. Future Treatment of Year End Recorded Balancing Account Balances

SCE proposes to omit balances of the Base Revenue Requirement Balancing Account (BRRBA), the Nuclear Decommissioning Adjustment Mechanism (NDAM), the California Alternate Rates for Energy Balancing Account (CARE) and the Public Purpose Programs Adjustment Mechanism (PPPAM) from future ERRA proceedings and instead include them in its annual revenue requirement and rate consolidation advice letter.

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[11] SCE-1 at 83 Table VIII-33 "2015 Base Case and Alternative Case Total Generation Portfolio Costs Applicable to DA-CRS."

2.5 Treatment of Energy Settlement Refunds From the 2000-2001 California Energy Crisis

SCE has been pursuing refunds from generators who overcharged SCE for electricity during the 2000-2001 California Energy Crisis. SCE's 2015 forecast includes generator refunds that it has received, or anticipates to receive in 2014 that have not already been included in retail rate levels. Refunds received are placed into the Energy Settlements Memorandum Account (ESMA). Ten percent of the refunds are retained by SCE to cover legal expenses associated with recovery of the refunds. The remaining 90% are refunded to bundled service customers. SCE includes $206 million of refunds received in 2014 in its adjusted forecast.

3. Parties Positions

3.1. PAC

In its initial response to the Application, PAC[12] states that its primary interest is that SCE properly calculate the PCIA, as this is a non-bypassable charge that can have a negative effect on the public benefit received from community aggregators. PAC expresses concern that SCE redacts key IA inputs in its Application. PAC indicates that SCE publicly disclosed and provided the IA inputs in its prior four ERRA proceedings and in associated advice letter filings. PAC requests that SCE's reply contain a narrative description of how SCE plans to record and carry forward negative indifference amounts to future years in order to offset future positive indifference amounts. Lastly, PAC states concern that SCE does not plan to return a share of energy settlement refunds to

[12] PAC is a regulatory coalition comprised of three public agencies that use direct access to provide community aggregation service - the cities of Cerritos and Corona, and the Eastside Power Authority.

DA customers. PAC contends that DA customers paid for and contributed to SCE's energy crisis procurement costs.[13]

PAC filed joint Opening and Reply briefs with AReM and DACC, details of which are discussed below.

3.2. AReM/DACC

In its initial response to the Application, AReM[14] and DACC[15] state that they are interested in ensuring that SCE's method of calculating the PCIA and CTC complies with D.11-12-018, Resolution E-4475, and the Consensus Protocol approved by the Commission in D.14-05-004. They want to ensure that SCE implements a fair and equitable manner of calculating the non-bypassable Cost Allocation Mechanism (CAM) charge[16] to be paid by DA customers, which is consistent with D.10-12-035. In addition, AReM and DACC argue that refunds in the ESMA should flow to DA as well as bundled customers.

AReM and DACC filed joint Opening and Reply Briefs with PAC as the DA Parties. Their Opening Brief explains the rationale for their contention that a portion of the refunds in the ESMA should flow to DA as well as bundled customers. They argue that the settlement agreement between the Commission

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[13] PAC points out that DAcustomers contributed both through the Historical Procurement Charge and through other cost responsibility surcharge elements.

[14] AReM is a California mutual benefit corporation formed by Electric Service Providers that are active in California's Direct access retail electric supply market.

[15] DACC is a regulatory advocacy group comprised of educational, governmental, commercial and industrial customers that utilize direct access for all or a portion of their electrical energy requirements.

[16] The CAM charge exists for the purpose of recovering the net capacity costs of new generation resources that provide system or local reliability benefits.

and SCE, dated October 2, 2001 (Settlement Agreement),[17] which led to establishment of the PROACT, provides that net refunds realized by SCE shall be refunded to "ratepayers," not just bundled ratepayers.[18] They point out that DA customers initially were not contributing to paying down the PROACT. However, SCE requested that the Commission require DA customers to contribute to the PROACT, and the Commission approved, establishing a Historical Procurement Charge (HPC) to permit recovery of undercollections and liabilities SCE incurred as a result of credits it was paying to DA customers.[19] Those credits, according to the DA Parties, were tied to SCE's excessive procurement related obligations due to excessive prices charged SCE by the California Power Exchange (PX). The Commission's D.03-09-016 set forth a calculation attributing a 13.9% portion of SCE's procurement related liability to DA customers. Thus, the DA Parties argue that they should receive a 13.9% share of the generator refunds which are reflected in this year's ERRA proceeding, as these refunds are also directly tied to excessive PX prices which

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[17] In 2001, SCE brought suit in the United States District Court for the Central District of California, alleging that the Commission violated the filed rate doctrine by preventing SCE from recovering in rates, its full wholesale electric procurement costs. The case (No. 00-12056-RSWL) was settled by a Settlement Agreement dated October 2, 2001. The Settlement Agreement allowed SCE, among other things, to recover past procurement cost undercollections that occurred during the Energy Crisis, and to set up a Procurement Related Obligations Account (PROACT) reflecting the procurement-related liabilities that SCE had accrued.

[18] Opening Briefing at 3, citing Settlement Agreement, Section 3.3(a).

[19] In D.02-07-032, the Commission granted SCE's request to establish the HPC and to adjust the credit that DA customers receive so that DA and bundled service customers would make equivalent contributions to the recovery of SCE's past procurement cost undercollections reflected in the PROACT balance. The Commission determined that the amount to be recovered from DA customers through the HPC would be based on the amount that SCE paid or was obligated to pay for negative credits (to DA customers whose credits exceeded the entire amount of their bills, in some cases).

SCE paid and which the generators are resolving via settlement payments.[20] They argue that the share of refunds credited to DA customers should be included in the Total Portfolio Cost element used in the calculation of the IA.[21]

Lastly, in its Reply Brief, the DA Parties object to SCE's proposal to include SONGS replacement power costs of $467 million in the PCIA forecast.[22] Although they concede that the Consensus Protocol indicates that it "would govern how a ratemaking surcharge would be incorporated into the PCIA to allow for recovery of the appropriate share of these costs from DA customers at the appropriate time,"[23] they contend that the "appropriate share" of the SONGS replacement power costs is actually zero.

They reason that implementing the PCIA was to ensure that bundled customers are "indifferent" and pay no higher rates due to the fact that DA customers have chosen DA, i.e., that DA customers pay the PCIA to cover the above-market costs of generation assets owned and under contract. However, they argue that short-term and market purchases made by SCE to serve its bundled load, are not entered into on behalf of departed DA customers, and are not included in the PCIA stranded cost calculation. SONGS replacement power costs also were short-term in nature, were not entered into on behalf of DA customers, and therefore should not be considered stranded costs. As such they should not be included in the PCIA. Furthermore, they say it is unfair to permit SCE to include these costs, when the Administrative Law Judge (ALJ) excluded

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[20] AReM et al. Opening Brief at 3-4.

[21] AReM et al. Opening Brief at 7.

[22] AReM et al. Reply Brief at 2-5.

[23] AReM et al. Reply Brief at 4, citing Consensus Protocol at 4.

consideration of SCE's Base Case scenario from the scope of issues in this proceeding, and the DA Parties have not addressed this issue in its testimony.

3.3. ORA

In its protest to the Application, ORA indicates that it is investigating the reasonableness of SCE's total 2015 revenue requirement by analyzing the underlying natural gas prices, loan and other cost inputs to the model used in determining the forecast. ORA did not express any concern regarding SCE's handling of Energy Settlement Refunds, nor take a position or state any opinion concerning the arguments made by AReM, DACC and PAC that a percentage of the settlement proceeds due to generator refunds should be refunded to DA as well as bundled customers.

3.4. CLECA

CLECA[24] filed an Opening Brief addressing only the issue of whether energy crisis settlement funds in 2014 should be returned to DA customers as well as bundled customers. CLECA agrees with SCE that the liabilities associated with bundled and DA customers were different and that the impact of the refunds could also logically differ between DA and bundled customers.[25] CLECA posits that the central question is whether the Commission participated in litigation arising from the energy crisis on behalf of both DA and bundled customers. In this regard, CLECA notes that the Commission previously

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[24] CLECA is an organization of large, industrial electric customers of SCE and Pacific Gas and Electric Company. CLECA members include companies in the steel, cement, industrial gas, pipeline, mining and beverage industries – among whom are both bundled service and direct access customers of SCE.

[25] CLECA Opening Brief at 5.

clarified that DA customers' liabilities were considered and included in the Settlement Agreement between it and SCE that established PROACT.[26]

4. SCE Responses and Rebuttal Testimony

In its Reply Brief, SCE maintains its position that Resolution E-3894 and "the last decade of Commission precedent and law" compel a conclusion that only bundled service customers should receive the benefits of the energy settlement refunds received during 2014. SCE contends that it would be procedurally improper to permit DA Parties to receive credit for a portion of the 2014 refunds, because the DA Parties are addressing this issue for the first time some ten years after the issuance of Resolution E-3894.

5. SCE Motion to Treat Confidentially and Seal a Portion of the Evidentiary Record

SCE filed declarations in support of its request to treat as confidential and seal portions of the evidentiary record in this proceeding pursuant to Rule 11.5. SCE states that certain of its Exhibits contain confidential, market sensitive information. As noted above, one party, PAC opposes granting confidential treatment with respect to key IA inputs which have been redacted in SCE's Application. PAC indicates that SCE publicly disclosed and provided the IA inputs in its prior four ERRA proceedings and in associated advice letter filings. In its Opening Brief SCE indicates that it worked informally with PAC to provide unredacted information to permit review of the IA inputs. There is otherwise no opposition to SCE's request for confidentiality. We have granted similar requests for confidential treatment in the past and do so again here. Pursuant to Rule 11.5, we seal the confidential portions of the evidentiary record, which

[26] CLECA Opening Brief at 6 citing D.02-12-027.

include Exhibits SCE-1C and SCE-4C, and pursuant to D.06-06-066, authorize the confidential treatment of those exhibits as set forth in the ordering paragraphs of this decision.

6. Discussion and Conclusion

Except for the issues of energy settlement refunds and inclusion of SONGS replacement power costs in the PCIA, no party objected to SCE's proposed electric sales forecast, forecasted rates, or SCE's 2015 forecast ERRA, CAM and fuel and purchased power expense. The Commission finds that these items are reasonable as forecast. The two contested issues are discussed below.

6.1 Inclusion of SONGS Replacement Power Costs in the PCIA

The DA Parties object to SCE's proposal to include SONGS replacement power costs of $467 million in the PCIA forecast, in part because they contend that the ALJ excluded consideration of SCE's Base Case scenario from the scope of issues in this proceeding. They claim that SCE raised the issue for the first time in its Update and that they did not have adequate time to address the issue in their testimony for this reason. However, these arguments are not persuasive.

We agree that the Scoping Memorandum in this proceeding clearly indicates that consideration of the potential impact of settlement in the SONGS OII Settlement initially would be excluded in consideration and evaluation of the application. However, it also provides that: *"Should the Commission issue a decision in the SONGS OII before the record in this proceeding is closed, we may later consider the impact of such decision on this proceeding."*[27] The SONGS OII Settlement was approved November 20. Accordingly, consideration of it is appropriate.

[27] Scoping Memo at 3.

Additionally, SCE did not raise the proposal to include SONGS replacement power costs of $467 million in the PCIA for the first time in its Update. SCE's original testimony includes the $467 million of SONGS replacement power costs in both its Base and Alternative Case scenarios[28], evidencing its intent to include these costs notwithstanding the timeliness of approval of the SONGS OII Settlement. As such, all parties had notice concerning SCE's intentions on this point. In fact, this amount was expressly deferred from inclusion in the 2014 ERRA forecast, with expectation that it would be included in a later ERRA.[29] Finally, there was opportunity to cross examine SCE witnesses about the inclusion of these costs during the evidentiary hearing held on November 4.

We note that AReM and DACC objected to including SONGS replacement power costs in the PCIA during the proceeding to approve the SONGS OII Settlement. However, D.14-11-040 states that under the terms of the SONGS OII Settlement Agreement (Agreement), recovery of 100% of SONGS replacement power costs are recoverable if they comply with Commission rules and other applicable requirements.[30] The Decision notes that section 4.10 of the Agreement allows SCE (and other utilities) to recover all "replacement power costs" associated with the non-operation of SONGS and to amortize these costs in rates by December 31, 2015. However, because the Agreement does not reach any conclusions about how replacement power costs should be calculated,

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[28] SCE-1C at 83 Table VIII-33 "2015 Base Case and Alternative Case Total Generation Portfolio Costs Applicable to DA-CRS."

[29] D.14-05-003 at "Section 7.1.2 Net Songs Costs."

[30] D.14-11-040 at 107.

D.14-11-040 requires SCE to file an advice letter explaining how it intends to charge those costs to ratepayers, including DA customers.[31]

Therefore, this ERRA proceeding will incorporate by reference the provisions proposed and approved for handling of SONGS replacement power costs during the advice letter process in compliance with D.14-11-040. By doing so, we recognize that TURN, ORA and other parties to the SONGS OII proceedings may contest recovery of those costs on reasonableness grounds.

6.2 Handling of Energy Settlement Refunds

6.2.1 Resolution E-3894

Issues pertaining to the ESMA and energy settlement refunds are within the scope of this proceeding pursuant to the Scoping Memorandum.[32] The larger question is whether Resolution E-3894 (E-3894) mandates that refunds received during the period covered by this proceeding must be returned to bundled ratepayers only.

SCE argues in its Opening Brief, filed rebuttal and evidentiary hearing testimony and Reply Briefing that Resolution E-3894 and "the last decade of Commission precedent and law, fairness and equity, and simply logic,"[33] compel a conclusion that only bundled service customers should receive the benefits of the energy settlement refunds received during 2014.

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[31] D.14-11-040 at 129 "We direct the utilities to expedite resolution of this issue by clearly identifying, what, if any replacement power costs they believe should be used in the PCIA calculation and why, in the Advice Letters updating the PCIA." Also *see* Ordering Paragraph #3.

[32] SCE Reply Brief at 3.

[33] SCE Opening Brief at 7; SCE Reply Brief at 1.

SCE is correct that, from the inception of the ESMA, energy settlement refunds have been allocated to bundled customers. SCE's Advice Letter 1811-E request[34] was framed as a request for authorization to credit the refunds received to bundled customers. Inasmuch as this proposal did not conflict with the Settlement Agreement, it was appropriately authorized. E-3894 authorizes allocation of 2004 refunds to bundled customers, but it does not explicitly or implicitly prohibit allocation of future refunds to other customers or ratepayers.

E-3894 authorized SCE to establish the ESMA in order to receive energy crisis settlement refunds for the period of October 2000 to January 17, 2001 from Williams Energy Companies pursuant to a Federal Energy Regulatory Commission (FERC) order issued on July 2, 2004. The refunds were described as related "to purchases of energy and ancillary services made by SCE on behalf of electric utility bundled service customers in markets operated by the California Independent System Operator Corporation (CAISO) and the California Power Exchange (PX)."[35]

By its terms, E-3894 addressed refunds received before the end of 2004, and their handling under the 2005 ERRA proceeding.

One Ordering Paragraph of E-3894 specifically requires SCE to consolidate receipts of all refunds actually received before the end of 2004, and to pass the refunds through to bundled customers through its consolidated ERRA procurement-related rate change expected in February 2005. This correlates to

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[34] Advice Letter 1811-E filed July 23, 2004.

[35] E-3894 at 2.

Finding 14, which also specifically mentions bundled ratepayers.[36] However, Finding 14 is specifically addressing "refunds received before the end of 2004." Two other findings in E-3894 – Ffindings 11 and 12 – broadly refer to "ratepayers" and another, Ffinding 15 mentions "customers."[37]

Contrary to SCE's contention that E-3894 was dispositive on the question of how refunds should be handled for all time, the resolution actually states that:

> *additional adjustments above the known settlement amounts approved by the FERC will be made at a later time. These additional amounts should be booked into the ESMA account as received, should be addressed under a subsequent ERRA proceeding, and ultimately should flow to ratepayers and shareholders, as provided for under the 2001 Settlement Agreement.*[38]

E-3894 clearly contemplated that ESMA and future refunds credited to it should be addressed under subsequent future ERRA proceedings, and should flow to ratepayers. SCE requested that 2004 refunds be allocated to bundled customers and this was approved. But there was no explicit requirement that

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[36] Finding 14 of E-3894 states: "SCE should apply refunds received and any pending refunds, if received before the end of 2004, into a consolidated ERRA rate change for bundled customers expected by February 2005."

[37] Finding 11 of E-3894 states: "For the refund settlement amount(s) received from SDG&E related to SONGS, SCE should record the entire amount in the ESMA …However, the net amount is subject to the 90% - 10% distribution to **ratepayers** and shareholders, respectively." (emphasis added) Finding 12 of E-3894 states: "SCE should apply 90% of the net remaining settlement refund monies to **ratepayers**, through the ERRA Forecast proceeding." (*emphasis added*) Finding 15 of E-3894 states: "It is reasonable to provide under the ESMA that if, at a later date, SCE has to return amount to market participants that it has already given back to its **customers** and shareholders, that such amounts are eligible for recovery through the operation of the ESMA." *(emphasis added).*

[38] Resolution E-3894, November 19, 2004 at 8.

future refunds be limited to the class of customers or ratepayers known as "bundled customers."[39]

For these reasons, the allocation of the $206 million of energy settlement refunds received during 2014 was deemed to be within the scope of this 2015 ERRA proceeding, and the reasonableness of SCE's proposal to allocate 2014 refunds to bundled service customers only, properly may be scrutinized herein.

6.2.2 DA Parties Request for Refunds

In its Reply Brief, SCE contends that it is procedurally improper to grant the relief that the DA Parties are seeking (i.e., to receive credit for a portion of the 2014 refunds), because the DA Parties are addressing this issue for the first time some ten years after the issuance of Resolution E-3894.[40] However, the DA Parties are not barred from raising this issue because it was found to be within the scope of this proceeding.

6.2.3 Commission Decision Authorizing HPC

In July 2002, SCE requested the Commission authorize it to establish a HPC against DA customers so that DA and bundled customers would contribute to SCE's past procurement cost undercollections in an equivalent manner. At that time, CLECA argued that DA customers had not contributed to the undercollection in the same way as bundled customers.

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[39] Resolution E-3894, November 19, 2004 at 8 -"As stated above, additional adjustments above the known settlement amounts approved by the FERC will be made at a later time. These additional amounts should be booked into the ESMA account as received, should be addressed under a subsequent ERRA proceeding, and ultimately should flow to ratepayers and shareholders, as provided for under the 2001 Settlement agreement."

[40] SCE Reply Brief at 3.

D.02-07-032 explained the rationale for implementing the HPC with extensive historical perspective on how need for it came about, and authorized SCE to recover $391 million from DA customers through the HPC.[41]

Bundled service customers receive the full range of electric services from SCE, which include energy procurement and delivery. SCE customers also have a DA option, which permits them to purchase electricity from an electric service provider (ESP). Total rates were frozen at levels in effect on June 10, 1996 for all customers. Bundled service customers paid these frozen rates for the duration of the transition period (January 1, 1998 through March 31, 2002 or a Commission-authorized earlier end date). These frozen tariff rates included a generation rate component. The generation rate component was unbundled into the market price and a CTC component. The CTC was calculated residually as the difference between the fixed generation rate component and the market price, where the market price was based on SCE's cost of procuring power from the PX and the California Independent System Operator. All customers paid the CTC and the CTC revenues were used to pay for SCE's stranded generation costs, also known as transition costs.[42]

SCE calculated a market price for billing purposes utilizing the cost and quantities of power purchased from the PX. This PX price was used to determine the contribution to the recovery of CTC (when compared to the generation rate component of frozen rates) and also represented SCE's avoided cost of procuring

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[41] In a petition to modify D.02-07-032, SCE provided additional evidence and detailed analyses to demonstrate that the amount to be collected from DA customers through the HPC should be higher. D.03-09-016 granted SCE's petition and authorized $473 million.

[42] D.02-07-032 at 3-4.

energy. The PX component of the generation rate was either applied to recover the cost of purchasing power for bundled service customers or given as a credit to DA customers. The credit reflected the fact that DA customers had chosen to procure their electricity through an ESP rather than SCE. So long as the market price, or DA credit, remained below the generation component of the customer's frozen rate, the DA customer continued to make a contribution to CTC in exactly the same manner as a similarly situated bundled service customer.[43]

Because the DA credit was based on the market price from the PX, it was possible that the credit would exceed either the generation rate component or the entire bill. If the PX credit exceeded the generation rate component, there was a negative CTC, i.e., no contribution to recovery of stranded costs. If the PX credit exceeded the entire amount of the bill, meaning that the PX credit was greater than the sum of the generation, distribution, transmission, public purpose, and the other rate components, there would be a negative bill. In other words, the DA customer would receive a credit for the entire utility bill. This is also known as a "credit" bill. Prior to June 1999, under the adopted tariffs, DA customers receiving the PX credit could experience, at a minimum, a monthly bill of $0. However, in D.99-06-058, the Commission approved a stipulation between SCE, Western Power Trading Forum, and Enron that eliminated the zero minimum bill provision.[44]

Elimination of the zero-minimum bill provision allowed DA customers to receive the entire PX credit even if it resulted in a negative (credit) bill. Prior to market dysfunctions in mid-2000, PX credits in excess of total monthly charges

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[43] D.02-07-032 at 4.

[44] D.02-07-032 at 4-5.

were generally carried over to succeeding months and were netted against positive bills.

The rise of market energy prices in the summer of 2000 resulted in numerous occurrences of negative CTC entries. As PX credits in excess of total bundled services charges became the norm, DA customers enjoyed consistent credits for the entire bill. On January 5, 2001, SCE stopped making payments to DA customers utilizing ESP consolidated billing for credit bills resulting from the application of the DA credit.[45]

On May 27, 2001, the Commission issued D.01-05-064, which adopted new rate levels for SCE customers, adding roughly 4¢/kWh to the frozen generation rate component. The new surcharge was comprised of the then existing 1¢/kWh emergency procurement surcharge (EPS) plus an additional 3¢/kWh authorized in D.01-03-082. However, the 3¢ surcharge did not apply to DA customers. The Commission did not state whether the EPS was applicable to DA customers. SCE's practice was to credit DA customers with the generation rate of their otherwise applicable tariff. This approach resulted in DA customers avoiding surcharges adopted by the Commission in year 2001 on a prospective basis.[46]

When SCE requested authorization to implement the HPC, it argued that it was necessary and fair, because DA customers contributed to SCE's procurement-related liabilities in the same manner as bundled service customers. DA customers were receiving a credit based on SCE's weighted-average electric procurement cost. To the extent this electric procurement cost continued to exceed the generation rate component of frozen rates, SCE incurred a liability to

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[45] D.02-07-032 at 5.

[46] D.02-07-032 at 6.

fund both electricity purchases for bundled service customers and electricity credits for DA customers.[47]

Following implementation of PROACT, SCE explained that although it received positive revenues from bundled service customers toward reducing its procurement-related obligations, DA customers contributed nothing to the recovery of the liabilities to which they contributed. SCE proposed the implementation of the HPC to rectify this inequity.

SCE contends that, after the PROACT was paid down, the Commission specifically directed SCE to return the refunds only to bundled customers, and that the language of "Resolution E-3894 (November 2004) made clear that the initial Energy Crisis settlement refunds, and all future Energy Crisis refunds, should be returned to bundled service customers only."[48]

6.2.4. Conclusion on Supplier Refunds

While both bundled and DA customers contributed to SCE's historical undercollections reflected in the PROACT settlement, they did not do so in entirely the same manner. Bundled customers *incurred* excessive procurement-related costs that were ultimately deemed unjust and unreasonable by FERC. The subsequent settlements with various suppliers have reduced the overcharges experienced by SCE's bundled service customers but did not eliminate them. On the other hand, parties who were DA customers during the 2000 to 2001 time period actually *benefitted* from excessive PX credits, which were based on the same unjust and unreasonable PX prices but were never required to refund the difference. In other words, the PX credits were not subject to retroactive

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[47] *Id*.

[48] SCE Reply Brief at 2 citing E-3894 at 2; 7-8; and Ordering Paragraph 2.

adjustment. The collection of the HPC reduced the amount of that over-compensation, but did not entirely eliminate it.[49]

The DA Parties rely on our determination in D.03-09-016 that DA customers were responsible for 13.9% of the total PROACT liability of $3.577 billion, or about $497 million, and the fact that those funds were recovered through the HPC. (The 13.9% DA share was based on the proportion of SCE's total liabilities that were caused by DA customers ($965 million/$6,947 million = 13.9%).[50] Therefore, they reason, if the refunds had been received prior to the PROACT account payoff, DA customers would have benefitted proportionally from the refunds since the HPC amount was set proportional to the PROACT balance. Table 1 in D.03-09-016 appears to indicate that over two-thirds of the liability attributed to DA customers during the litigation of SCE's petition for modification of D.02-07-032 was due to energy procured for DA customers who were bundled customers during some or all of the energy crisis period from May 1, 2000 to August 31, 2001. Consequently, the total liability attributed to DA customers in testimony SCE provided in the petition for modification consists of two distinct types of liabilities: unreasonable prices paid for energy procured for customers who were on bundled service during the crisis but who had left bundled service by July 2002 and excessive PX credits paid to DA customers who were DA customers during the crisis. Parties have presented no clear evidence whether the Commission would have credited DA customers' portion of the

[49] D.03-09-016 shows, at 7, a total shortfall caused by DA customers of $965 million. Of that total, only about $493 million was collected via the HPC or through other means. (*Id*. at 11.)

[50] D.03-09-016 at 10, 17.

PROACT liability that resulted from SCE's procurement of electricity for the DA customers who were bundled customers.[51]

We conclude that parties have not adequately differentiated between the two types of liabilities in their testimony and briefs. In light of the complexity of the issues under consideration, we will defer this issue to a subsequent phase of this proceeding. The assigned Commissioner or assigned ALJ may issue a ruling reopening the record to take additional comment on this issue.

7. Categorization and Need for Hearings

In Resolution ALJ-176-3338 dated June 26, 2014, the Commission preliminarily categorized this application as ratesetting as defined in Rule 1.3(e) and anticipated that this proceeding would require evidentiary hearings. An evidentiary hearing was in fact held on November 4, 2014, at which the parties had an opportunity to cross-examine witnesses. The determination of the Commission as to the categorization of this proceeding is affirmed.

8. Comments on Proposed Decision

The proposed decision of Commissioner Picker in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code. Comments were filed on March 16, 2015 by SCE and the DA Parties; and reply comments were filed on March 20, 2015 by the DA Parties and CLECA. The decision has been modified to remove some language regarding the precedential nature of previous ERRA decisions.

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[51] D.03-09-016 at 7.

9. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Patricia B. Miles is the assigned ALJ in this proceeding.

10. Findings of Fact

1. On June 11, 2014, SCE filed A.14-06-011, in which SCE requested that the Commission adopt a forecasted 2015 ERRA revenue requirement of $6.406 billion.

2. By Resolution ALJ 176-3338, dated June 26, 2014, A.14-06-011 was categorized as ratesetting with hearings needed.

3. Protests/responses to the application were filed by ORA, PAC and AReM/DACC. CLECA did not file a protest, but requested to be added as a party to the case.

4. An Evidentiary Hearing was held on November 4, 2014, at which the parties had an opportunity to cross examine witnesses testifying on behalf of SCE and AReM/DACC.

5. On November 12, 2014, SCE served its Update, in which it requested that the Commission adopt a forecasted 2015 ERRA revenue requirement of $5.593 billion, which should be adjusted to $5.983 billion to reflect actual recorded December 31, 2014 balancing account balances, a change to the SONGS OII-related refund, the removal of the Nuclear Decommissioning Trust fund reimbursements, and the withholding of energy settlement refunds.

6. SCE's forecast includes energy settlement refunds of $206 million which SCE received during 2014 from generators who overcharged SCE for electricity during the 2000-2001 energy crisis, which contributed to SCE's excessive procurement related obligations.

7. Resolution E-3894 indicates that energy settlement refunds should be addressed under ERRA proceedings and should flow to ratepayers and shareholders as provided for under the 2001 Settlement Agreement.

8. The 2001 Settlement Agreement does not include a definition of ratepayer, therefore, SCE was not prohibited under the Settlement Agreement from allocating refunds to both DA customers and bundled service customers.

9. The evidence that has been presented in this proceeding does not provide a sufficient basis for reaching a final conclusion regarding the allocation of energy settlement refunds between bundled service and DA customers.

10. SCE's 2015 ERRA forecast includes recovery of $467 million of net SONGS-related replacement power costs incurred in 2013 that were deferred from inclusion in the 2014 ERRA forecast under D.14-05-003.

11. Pursuant to D.14-11-040, approving the SONGS OII Settlement Agreement, SONGS replacement power costs are recoverable if they comply with Commission rules and other applicable requirements, and SCE is required to file an advice letter explaining how it intends to charge these costs to ratepayers, including DA customers.

12. Except as discussed herein regarding SONGS replacement power costs and energy settlement refunds, no party has objected to SCE's proposed electric sales forecast, forecasted rates or 2014 forecast of SCE's ERRA, CAM and fuel and purchased power expenses.

13. No party has objected to SCE's proposal to omit balances of the BRRBA, NDAM, CARE and PPPAM from future ERRA proceedings and instead include them in its annual revenue requirement and rate consolidation advice letter.

14. Rule 11.4 addresses a request to seal documents that have been filed.

15. Rule 11.5 addresses sealing all or part of an evidentiary record.

16. General Order (GO) 66-C provides definitions and guidance regarding public and confidential records provided to and requested from the Commission.

17. By D.06-06-066, we implemented Senate Bill 1488 which required that we examine our practices regarding confidential information, as it applies to the confidentiality of electric procurement data (that may be market sensitive) submitted to the Commission.

18. SCE requests that selected exhibits be given confidential treatment pursuant to GO 66-C and D.06-06-066.

19. We have granted similar requests for confidential treatment in the past.

20. SCE requests that the confidential version of its Application, as well as Testimony included with its Application and Update, be filed under seal pursuant to Rule 11.4.

21. SCE requests that the confidential portions of the evidentiary record be sealed pursuant to Rule 11.5.

11. Conclusions of Law

1. The Commission should adopt SCE's Updated 2015 ERRA electric procurement revenue requirement (with appropriate end of year adjustments) forecast of $5.777 billion, modified to reflect the withholding of $206 million of energy crisis settlement refunds.

2. SCE's proposed electric sales forecast, forecasted rates and calculation of the 2015 ERRA, CAM and fuel and purchased power expenses are reasonable and in compliance with applicable Commission decisions and requirements.

3. A subsequent phase of this proceeding should be opened to take additional testimony regarding the appropriate allocation of generator refunds between bundled service and departing load customers.

4. The Commission should find reasonable SCE's request to include $467 million of net SONGS replacement power costs in this 2015 ERRA forecast.

5. The advice letter that SCE was required to file pursuant to D.14-11-040, proposed how these costs should be allocated to ratepayers, including DA customers.

6. The Commission should approve SCE's proposal to omit balances of the BRRBA, NDAM, CARE and PPPAM from future ERRA proceedings and instead include them in SCE's annual rate consolidation advice letter.

7. SCE's request that the public and confidential versions of its Application, Testimony and Exhibits included with its Application and Update be received into evidence should be granted.

8. SCE's request for confidential treatment of unredacted versions of SCE's Application, Testimony and Exhibits included with its Application and Update, should be granted pursuant to Rule 11.5, GO 66-C and D.06-06-066.

O R D E R

IT IS ORDERED that:

1. Southern California Edison Company is authorized to recover a total 2015 electric procurement cost revenue requirement forecast of $5.983 billion, consisting of its: Generation Service forecast of $5,350 million (consisting of Energy Resource Recovery Account Balancing Account forecast revenue requirement of $899 million, Fuel and Purchased Power forecast revenue requirement of $4,460 million, reduced by Base revenue Requirement Balancing Account (BRRBA) forecast credit of $8 million) and its Delivery Service forecast revenue requirement of $633 million (consisting of New System Generation of $485 million, BRRBA Balancing Account revenue of $83 million, Nuclear

Decommissioning revenue credit of $47 million, and Public Purpose Programs revenue of $112 million).

2. Southern California Edison Company is ordered to withhold credits from the energy settlement refunds it received during 2014 until the Commission issues a decision in a subsequent phase of the instant proceeding regarding the appropriate allocation of these credits between bundled service and departing load customers. The assigned Administrative Law Judge is directed to commence a Phase 2 of this proceeding to address this issue as soon as practicable.

3. Southern California Edison shall file a Tier 2 advice letter to describe how it proposes to implement the changes to departing load customers' revenue requirement and rates related to SONGS OII implementation issues. Southern California Edison shall file a Tier 1 advice letter to implement all other aspects of this final decision.

4. Southern California Edison Company's forecast Energy Resource Recovery Account forecasts must be in compliance with all applicable Commission decisions and requirements.

5. Southern California Edison Company must include balances of the Base Revenue Requirement Balancing Account, Nuclear Decommissioning Adjustment Mechanism, California Alternate Rates for Energy and Public Purpose Programs Adjustment Mechanism in its annual rate consolidation advice letter if it omits these balances from future Energy Resource Recovery Account proceedings.

6. Southern California Edison Company's (SCE) confidential versions of its Application, Testimony and Exhibits included with its Application and, November 12 Update to its Application, are granted confidential treatment for a

period of three years from the date of this order. During this three year period, this information shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If SCE believes that it is necessary for this information to remain under seal for longer than three years, it may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

7. The confidential portions of the record, consisting of Southern California Edison Company's Application, Testimony and Exhibits included with its Application and November 12 Update to its Application are sealed, pursuant to Rule 11.5 of the Commission's Rules of Practice and Procedure.

8. Application 14-06-011 remains open for further proceedings in phase 2.

This order is effective today.

Dated _____, at San Francisco, California.