

**PROPOSED DECISION**

Agenda ID #15247 (Rev. 12)

Ratesetting

10/27/2016 Item #17

Decision \_\_\_\_\_

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

Application of Southern California Edison Company (U338E) for a Commission Finding that its Procurement-Related and Other Operations for the Record Period January 1 Through December 31, 2014 Complied with its Adopted Procurement Plan; for Verification of its Entries in the Energy Resource Recovery Account and Other Regulatory Accounts; for Recovery of \$3.982 Million Recorded in Four Memorandum Accounts; and Review of Proposal to Return \$103.500 million in Unspent Demand Response Funds to Customers.

Application 15-04-002  
(Filed April 1, 2015)

**DECISION ADOPTING SETTLEMENT BETWEEN  
SOUTHERN CALIFORNIA EDISON COMPANY AND  
THE OFFICE OF RATEPAYER ADVOCATES**

**Summary**

This decision approves the Settlement Agreement between Southern California Edison Company and the Office of Ratepayer Advocates in Application 15-04-002 - SCE's 2014 Energy Resource Recovery Account compliance application, as discussed herein.

**1. Background**

The California Public Utilities Commission (Commission) established the Energy Resource Recovery Account (ERRA) balancing account mechanism in Decision (D.) 02-10-062 to track fuel and purchased power billed revenues

against actual recorded costs of these items. In the same decision, the Commission required regulated electric utilities in California to establish a fuel and purchased power revenue requirement forecast, a trigger mechanism (to address balances exceeding certain benchmarks), and a schedule for semiannual ERRA applications. A compliance review looks at whether a utility has complied with all applicable rules, regulations, opinions, and laws, while a reasonableness review looks at not only a utility's compliance, but also whether the data or actions resulting from, for example, the calculation of a forecasted expense, are realistic, based on the methods and inputs used. In the annual ERRA forecast application, the utility requests adoption of the utility's forecast of what it expects its annual fuel and purchased power costs for the upcoming 12 months to be. In a separate annual ERRA compliance application, a utility requests a determination of whether it is in compliance with applicable rules governing energy resource contract administration, prudent maintenance of utility-retained generation, ~~and least cost dispatch conducted during a prior year and therefore able to address any over-or-under-collection in its ERRA balancing account, and~~ that the recorded entries in its ERRA were appropriate, correctly stated, and in compliance with applicable Commission decisions. This decision resolves the Southern California Edison Company's (SCE) 2014 ERRA compliance application, Application (A.) 15-04-002 - *Application of Southern California Edison Company (U338E) for a Commission Finding that its Procurement-Related and Other Operations for the Record Period January 1 Through December 31, 2014 Complied with its Adopted Procurement Plan; for Verification of its Entries in the Energy Resource Recovery Account and Other Regulatory Accounts; for Recovery of \$3.982 Million Recorded in Four Memorandum Accounts; and Review of Proposal to Return \$103.500 million in Unspent Demand Response Funds to Customers (Application).*

On April 9, 2015, Resolution ALJ-176-3355 preliminarily determined that this proceeding was ratesetting and that hearings would be necessary. On April 30, 2015, a protest was filed by the Office of Ratepayer Advocates (ORA).

On September 3, 2015, 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.

On September 25, 2015, the assigned Commissioner issued a Scoping Memorandum setting out the scope and the procedural time table for the proceeding. During the pendency of the proceeding, the assigned Administrative Law Judge (ALJ) issued e-mail rulings removing the Evidentiary Hearing, granting a request to suspend the briefing schedule and holding the proceeding in abeyance pending SCE and ORA's settlement discussions.

On March 24, 2016, SCE provided formal notice of a Settlement Conference, set for March 31, 2016. Subsequently, on April 1, 2016, SCE filed a *Motion for Approval of Settlement Agreement Between Southern California Edison Company (U338E) and the Office of Ratepayer Advocates* (Motion), on behalf of itself and ORA.<sup>1</sup> Attached to the Motion was the *Settlement Agreement Between Southern California Edison Company (U338E) and the Office of Ratepayer Advocates* (Settlement Agreement).<sup>2</sup>

## 2. Summary of Parties' Initial Positions

### 2.1. Uncontested Issues

After its review and analysis of SCE's request, ORA agreed with or did not contest the following SCE requests:

1. ORA concluded that SCE acted prudently in complying with the Commission's reasonable manager standard and mitigated and

<sup>1</sup> SCE and ORA shall be jointly referred to as Settling Parties.

<sup>2</sup> The Settlement Agreement is attached to this Decision as Attachment A.

- managed the risks associated with the outages for SCE's Solar Photovoltaic Program;
2. For contracts excluding Demand Response, ORA does not object to SCE's request for approval of contract amendments and/or settlements that resulted in a change in the notional value of the contracts and were neither approved during the report period nor through a separate decision or resolution;
  3. ORA found that SCE appropriately complied with its adopted procurement plan and that the recorded entries in its ERRAs and nineteen other regulatory accounts were appropriate, correctly stated, and in compliance with applicable Commission decisions; and
  4. ORA found that SCE's requested total net revenue change (decrease of \$100.636 million) in 2016, which pertains to the recorded costs and revenues of five balancing, memorandum, and tracking accounts, is supported and correctly stated. ORA does not object to SCE's request for approval of the \$100.636 million net revenue requirement decrease.

## **2.2. Contested Issues**

### **2.2.1. Least Cost Dispatch of Demand Response Program**

In its testimonies (Exhibits SCE-1 and SCE-6), SCE provided details of its Demand Response Program. ORA evaluated whether SCE met the Commission's Least-Cost Dispatch standards set out in D.02-12-074. ORA found SCE to be significantly under-dispatching its Demand Response programs and also not accurately forecasting trigger conditions for its Aggregator Managed Portfolio (AMP) and the Summer Discount Plan programs. ORA recommended the Commission order a further metric to be provided by SCE to demonstrate that dispatch is being optimized.

SCE argued that the non-dispatch of its Demand Response resource meant that a lower cost option was available. SCE only dispatched its Demand Response resources when forecast market prices represented the higher of the

Demand Response resource's trigger condition or its opportunity cost.

According to SCE, its dispatch decisions should not be judged based on program tariff availability. To preserve the uniformity of least cost dispatch showings, SCE believes that SCE, Pacific Gas and Electric Company, San Diego Gas & Electric and ORA should be jointly required to develop any additional metrics to be included in ERRA compliance applications.

### **2.2.2. The Calculation of the Maximum Disallowance Cap for a Standard of Conduct (SOC) 4 Violation**

ORA recommended that the maximum disallowance for all SOC 4 violations for the Record Year be set at \$82,630,000.

ORA also recommended that the Commission require SCE testimony on SOC 4 disallowance cap amount, broken down by Procurement Functional Categories, in future ERRA compliance proceedings.<sup>3</sup>

<sup>3</sup> Given that there are no disallowances ordered by this decision or contained in the Settlement Agreement, the Commission expresses no opinion on the accuracy of ORA's calculation.

### **2.2.3. Utility-Owned Generation - Natural Gas**

During the Record Year, The Mountainview Generating Station (Mountainview Station) was the only SCE owned peaker unit with an unscheduled outage lasting more than 24 hours. The shutdown was due to damage caused by debris entrained in the turbine of one of the units at the Mountainview Station. According to SCE's testimony and documents reviewed by ORA, General Electric (GE) was responsible for inadvertently introducing the debris in the turbine. SCE's post-mortem report prepared by an independent engineering firm, RCE Consultants, recommended a number of corrective actions to prevent future outages. ORA recommended that the Commission require SCE to implement the corrective actions recommended by RCE Consultants, immediately seek monetary compensation from GE for the replacement power cost of the Mountainview Station outage, and provide replacement power cost calculations to ORA when it is requested.

SCE submitted that it manages its Utility-Owned natural gas resources, including with respect to outages of those resources, in a prudent and reasonable manner during the Record Year. In its rebuttal testimony, SCE agreed to implement the corrective actions and states that it has already provided the replacement power cost calculations to ORA.

### **2.2.4. Utility-Owned Generation - Nuclear**

SCE is one of seven owners of the Palo Verde Nuclear Generating Station (Palo Verde) located in Arizona. Palo Verde consists of three units, and during the Record Year, only Unit 2 experienced an unplanned outage. According to SCE, the shutdown was due to the failure of the upper gripper coil of Control

Element Assembly 15 located in the reactor vessel head.<sup>34</sup> As part of its review of the outage, ORA recommended that the Commission order SCE to:

- I. Implement the corrective actions in SCE's Root Cause Evaluation Report, subject to cost effectiveness analysis;
- II. Seek Nuclear Regulatory Commission concurrent if SCE chooses not to implement some of the corrective actions; and
- III. Report its compliance on the implementation and effectiveness of the corrective actions in its ERRA compliance filing.

In its direct testimony, SCE submits that it manages its nuclear resources, including their outages, in a reasonable and prudent manner. In its rebuttal testimony, SCE pointed out that it was a minority owner of Palo Verde, and as such, did not develop the Root Cause Evaluation Report and is not responsible for implementing the corrective actions. The operating license holder for Palo Verde is Arizona Public Service.

#### **2.2.5. Contract Administration (Demand Response)**

ORA focused its reviews on SCE's administration of the AMP Agreements. ORA recommended that SCE negotiate and manage Demand Response contracts to impose a financial cost when the aggregators do not provide the contracted capacity. ORA found that SCE's contract terms and administration do not sufficiently motivate aggregators to provide the contracted capacity.

According to SCE, the terms of its Demand Response contracts are outside the scope of the instant proceeding. SCE's annual ERRA review filings allow the Commission to review the costs recorded in its regulatory accounts, not the terms of its contracts.

<sup>34</sup> See ORA Report on SCE's Energy Resource Recovery Account Compliance Application for Record Year 2014 (ORA-1) at 6-3.

### 3. Summary of Settlement

#### 3.1. The Settling Parties Agree that SCE's Least Cost Dispatch Showing for the Record Period was Compliant

ORA agrees to withdraw its recommendations as to the insufficiency of SCE's testimony on Least Cost Dispatch issues and has no further objections to SCE's claim that its 2014 Record Period Least Cost dispatch showing is adequate complete and compliant with Commission precedents and standards.

The Settling Parties agree to hold a series of in-person and telephonic meetings to develop potential refinements to the Least Cost Dispatch Demand Response metrics and Demand Response dispatching practices. SCE agrees to review its Demand Response dispatching practices at least once a year and inform ORA on a quarterly basis of any process changes to those practices. Through their Motion for adoption of the settlement, the Settling Parties also petition the Commission to hold an all-Investor Owned Utility workshop regarding ORA's proposed new Least Cost Dispatch Demand Response metric.

#### 3.2. The Settling Parties Agree on all Utility Owned Generation Related Issues for the Record Period

SCE and ORA agree that no disallowances should be imposed on SCE for any Utility Owned Generation outages that occurred during the 2014 Record Period.<sup>5</sup> The Settling Parties agree to explore the practicality of SCE obtaining a retpayer funded insurance policy through ERRA to cover the cost of "replacement power" for future forced outages at Utility Owned Generation facilities. In addition, SCE will provide ORA with an analysis and evaluation of whether it is cost-effective and/or practical to pursue legal recourse against third

<sup>5</sup>[The Commission's adoption of the settlement does not include any potential disallowances that may arise out of I.12-10-013.](#)

parties for 'replacement power' costs when SCE claims that the third party is responsible for an unplanned outage.

SCE agrees to implement all corrective actions recommended by RCE Consultants relating to the Mountainview facility outage. SCE also agrees to report on all of the corrective actions undertaken by the Arizona Public Service, the operating license holder of the Palo Verde facility.

**3.3. The Settling Parties Agree on Future Showings Related to the Demonstration of Greenhouse Gas (GHG) Compliance Instrument Procurement in ERRA Compliance Proceedings**

The Settling Parties agree that in future ERRA Compliance proceedings SCE will provide testimony and workpapers on its GHG compliance instruments purchases and sales conducted (and recorded costs incurred) during the relevant Record Period.

**3.4. The Settling Parties Agree that the Instant Proceeding Should Not Address ORA's Recommendations Regarding Demand Response AMP Contracts.**

ORA agrees that the instant proceeding should not address issues related to AMP Contracts. ORA will raise its issues where SCE submits such contracts for Commission approval.

**4. Request for Adoption of the Settlement Agreement**

**4.1. Standard of Review for Settlement Agreement**

We review this settlement pursuant to Rule 12.1(d) of the Commission's Rules of Practice and Procedure (Rules), which provides that, prior to approval, the Commission must find a settlement "reasonable in light of the whole record, consistent with the law, and in the public interest." We find the Settlement

Agreement meets the Rule 12.1(d) criteria, and discuss each of the three criteria below.

#### **4.2. Settlement Agreement is Reasonable in Light of the Whole Record**

The Settlement Agreement is signed by both active parties to this proceeding. SCE and ORA reached a Settlement Agreement after good faith discussions, negotiations, and considerations of proposals to resolve the issue. The Settling Parties represent a broad array of affected interests. The record also shows that the Settlement Agreement was reached after substantial give-and-take between the parties which occurred during settlement conferences. This give-and-take is demonstrated by the positions initially taken by parties and the final positions agreed upon in the Settlement Agreement. The Settlement Agreement thus represents a reasonable compromise of the contested issues of the adverse parties.

The Settlement Agreement is also consistent with Commission decisions on settlements, which express the strong public policy favoring settlement of disputes if they are fair and reasonable in light of the whole record. This policy supports many worthwhile goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce unacceptable results. Here, the Settlement Agreement resolves all issues in dispute between ORA and SCE, which avoids further litigation in this matter. No party to this proceeding protested the Settlement Agreement.

#### **4.3. Settlement Agreement is Consistent with Law**

The Settling Parties believe that the terms of the Settlement Agreement comply with all applicable statutes. These include Pub. Util. Code § 451, which

requires that utility rates must be just and reasonable, and Pub. Util. Code § 454, which prevents a change in public utility rates unless the Commission finds such an increase justified. We agree that the required showings under Pub. Util. Code §§ 451 and 454 have been made. Further, nothing in the Settlement Agreement contravenes statute or prior Commission decisions.

#### **4.4. Settlement Agreement is in the Public Interest**

The Settlement Agreement is in the public interest and in the interest of the SCE's customers. The Settlement Agreement resolves all issues in dispute.

Approval of the Settlement Agreement avoids the cost of further litigation, and reduces the use of valuable resources. A.15-04-002 contains sufficient information for us to determine the reasonableness of the Settlement Agreement and for us to discharge any future regulatory obligations with respect to this matter. For these reasons, we approve the Settlement Agreement as proposed.

### **5. Other Procedural Matters**

#### **5.1. Change in Determination of Need for Hearings**

In Resolution ALJ 176-3355, dated April 9, 2015, the Commission preliminarily categorized A.14-05-002 as ratesetting, and preliminarily determined that hearings were necessary. In the Scoping Memo, the assigned Commissioner scheduled evidentiary hearings, though eventually it was determined that hearings were not necessary. Given that no hearings were held in the current proceeding, we change the preliminary and Scoping Memo determination regarding hearings, to no hearings necessary.

#### **5.2. Compliance with the Authority Granted Herein**

In order to implement the authority granted herein, SCE must file a Tier 1 Advice Letter within 30 days of the date of this decision. The tariff sheets filed in these Advice Letters shall be effective on or after the date filed subject to the Commission's Energy Division determining they are in compliance with this decision.

## **6. Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2) and Rule 14.6, the otherwise applicable 30-day period for public review and comment is waived.

## **7. Assignment of Proceeding**

Michel Peter Florio is the assigned Commissioner and S. Pat Tsen is the assigned ALJ in this proceeding.

## **Findings of Fact**

1. On March 31, 2016, SCE and ORA filed their motion requesting adoption of the all-party Settlement Agreement, resolving all issues in dispute in A.15-04-002.
2. The evidentiary record of A.15-04-002, including the Settlement Agreement, contains sufficient information for us to determine the reasonableness of the Settlement Agreement.
3. Rule 12.1(d) provides that, prior to approval, the Commission must find a settlement "reasonable in light of the whole record, consistent with the law, and in the public interest."
4. SCE and ORA reached the Settlement Agreement after discovery, careful analysis of the issues, serving of testimony by SCE and ORA, and substantial give-and-take between the parties which occurred during settlement conferences.

5. The Settlement Agreement is consistent with Commission decisions on settlements, which express the strong public policy favoring settlement of disputes if they are fair and reasonable in light of the whole record.

6. The terms of the Settlement Agreement comply with all applicable statutes, and do not contravene statute or prior Commission decisions.

7. Approval of the Settlement Agreement avoids the cost of further litigation, and reduces the use of valuable resources of the Commission and the parties.

8. The Settling Parties comprise all active parties in this proceeding.

9. No party responded to the motion requesting adoption of the Settlement Agreement.

10. No Evidentiary Hearings were held in A.15-04-002.

### **Conclusions of Law**

1. The Motion to adopt the Settlement Agreement proposed by SCE and ORA should be granted and that Settlement Agreement should be adopted.

2. Adoption of the Settlement Agreement is reasonable in light of the record, is consistent with law, is in the public interest, and is in the interest of SCE's customers.

3. Given that no hearings were held in the current proceeding, our preliminary determination regarding hearings should be changed.

4. In order to implement the authority granted herein, SCE should file a Tier 1 Advice Letter within 30 days of the date of this decision.

### **O R D E R**

**IT IS ORDERED** that:

1. *The Motion for Approval of Settlement Agreement Between Southern California Edison Company (U338E) and the Office of Ratepayer Advocates* is granted.

2. The *Settlement Agreement Between Southern California Edison Company (U338E) and the Office of Ratepayer Advocates* filed on March 31, 2016 is adopted.

3. Southern California Edison Company shall file a Tier 1 Advice Letter within 30 days of the date of this decision to implement the authority granted in this Decision.

4. All rulings made by the assigned Commissioner and ALJ during the pendency of this proceeding are affirmed herein. All remaining motions are denied herein.

5. No hearings are necessary in this proceeding.

6. Application 15-04-002 is closed.

This order is effective today.

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

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