

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of Southern California Edison Company (U338E) and San Diego Gas & Electric Company (U902E) For Cost Recovery of The Wheeler North Reef Expansion Project Marine Mitigation Costs.

Application 16-12-002

DECISION ADOPTING THE SETTLEMENT AGREEMENT REACHED BY SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E), OFFICE OF RATEPAYER ADVOCATES, AND THE UTILITY REFORM NETWORK

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Appendix A - Settlement Agreement

**DECISION ADOPTING THE SETTLEMENT AGREEMENT REACHED BY
SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E),
SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E), OFFICE OF
RATEPAYER ADVOCATES, AND THE UTILITY REFORM NETWORK**

Summary

We adopt the all-party¹ Settlement Agreement between Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), the Office of Ratepayer Advocates, and The Utility Reform Network attached hereto as Appendix A (Settlement Agreement).² The Settlement Agreement allows SCE and SDG&E (collectively the “Utilities”) to continue to maintain the Wheeler North Reef (WNR) Expansion Project memorandum accounts, established pursuant to prior rulings in this proceeding,³ and track costs related to the WNR Expansion Project as detailed in the Settlement Agreement. The current estimated cost for the WNR marine mitigation is \$19.4 million. Pursuant to the Settlement Agreement, the Utilities, upon completion of the California Environmental Quality Act (CEQA) process and issuance of other permits required for the project, will prepare an updated forecast of the WNR Expansion

¹ The parties note in the opening paragraph of the Settlement Agreement that, “[t]he Parties were the only active parties to ...the proceeding, anticipate that the Settlement will be unopposed, and therefore request that the [Commission] deem this an all-party Settlement.” The record shows that the Parties to the Settlement Agreement were the only active parties in the proceeding, and the Settlement Agreement was unopposed. We therefore deem this to be an all-party Settlement Agreement.

² All references to the Settlement Agreement refer to Appendix A attached to this Decision.

³ The Scoping Memo issued in this proceeding on April 4, 2017 authorized SDG&E to establish a specific memorandum account to track the costs associated with WNR Expansion Project subject to approval in the final decision in this proceeding. On May, 1, 2017 the assigned Administrative Law Judge issued a ruling granting SCE’s motion to establish a WNR Expansion Project memorandum account subject to approval in the final decision by the California Public Utilities Commission (Commission) in this proceeding.

Project costs based on the approved California Coastal Commission coastal development permit and review by the State Lands Commission. The updated forecast will be submitted through a Tier 3 Advice Letter (AL). Upon approval of the Tier 3 AL, a revenue requirement will be authorized based on the updated forecast. The revenue requirement will be collected in base rates⁴ with the Utilities continuing to record actual costs in the WNR memorandum accounts of each respective utility. If the costs recorded are less than the authorized costs, then the amount recorded is presumed reasonable with the overcollection returned to ratepayers. If the actual costs are higher than the authorized costs, then the Utilities bear the burden of proof to demonstrate the costs above the authorized amount are reasonable. The Utilities will file testimony in SCE's Test Year 2021 General Rate Case to demonstrate the reasonableness of any amounts above the authorized forecast.

This decision and the terms of the Settlement Agreement do not set precedent for other, future cost recovery applications brought before the Commission. The Settlement Agreement resolves all of the disputed issues in this proceeding. This proceeding is closed.

1. Background

In Decision (D.) 15-11-021 [SCE's 2015 General Rate Case (GRC)], the California Public Utilities Commission (Commission) found that costs related to Southern California Edison Company's (SCE) compliance with marine mitigation projects required under the California Coastal Commission (CCC) coastal

⁴ The revenue requirement will be collected in base rates with actual costs continuing to be recorded in the Utilities' applicable memoranda accounts. Expenses associated with nuclear power, here marine mitigation required as a condition to construct San Onofre Nuclear Generating Station units 2&3, are recovered from all customers through base rates.

development permit (CDP) for San Onofre Nuclear Generating Station (SONGS) Units 2&3 is a required cost of service properly paid by customers. D.15-11-021 authorized SCE to submit a separate application (outside of the GRC) to seek recovery for any additional artificial reef construction that was not included in SCE's GRC.⁵ SCE included a forecast for 2016-2020 ongoing management and maintenance activities related to marine mitigation in its 2018 GRC application, but due to the timing of the CCC directive to expand the Wheeler North Reef (WNR) Expansion Project and the Commission's directive in D.15-11-021, the costs for the WNR Expansion Project were not included with SCE's 2018 GRC application.⁶

The requirement for SCE to provide marine mitigation as a condition to construct SONGS units 2 & 3 occurred more than four decades ago. In 1974, the CCC issued a CDP as part of the approvals needed to construct SONGS units 2 & 3. The CDP required 1) establishment of a "three-member independent Marine Review Committee (MRC) to evaluate the impact of SONGS units 2&3 on the marine environment;" and 2) the CDP "authorized the CCC to direct SCE to meet requirements to address any adverse impacts to the marine environment identified by the MRC."⁷

In 1991 the CCC amended the CDP requiring SCE to: "1) develop a wetland restoration project to mitigate fish losses; 2) install fish behavioral barrier devices to reduce fish mortality in the cooling water intake system, and 3) construct an artificial kelp reef to mitigate impacts on the San Onofre kelp

⁵ See D.15-11-021 at 289, SCE-01 at 1:3-8, and SCE-01 at FN 1.

⁶ SCE-01 at 1:10-15.

⁷ SCE-1 at 3.

reef.”⁸ The 1991 amendment required an artificial kelp reef of 300-acres near the San Onofre Kelp Bed to be built in two phases.⁹ In 1994 the CCC amended the CDP requiring SCE to fund a fish hatchery program. The CDP also requires monitoring of wetlands restoration and the artificial reef projects.¹⁰ The mitigation for the artificial reef requirement was amended again in 1997 reducing the required size of the reef from 300-acres to 150 acres.¹¹ Phase I of the artificial reef requirement was completed in September 1999. Phase II was completed in September 2008. The CCC has not affirmed compliance of the artificial reef requirement as reflected in a 2015 report that concludes the “present size and configuration of the WNR is not sufficient to consistently support 28 tons of reef fish.”¹² The CCC sent formal notification to SCE in May 2016 that remediation of WNR is necessary to meet the CDP permit requirements.¹³

On December 1, 2016, the Utilities filed this joint application requesting cost recovery for the WNR Expansion Project. The Utilities sought the following relief from the Commission:

- The Utilities jointly requested that the Commission approve the cost recovery for the WNR Expansion Project.
- SCE requested that the Commission:

⁸ SCE-1 at 3.

⁹ Phase I was a small experimental reef intended to cover an area large enough to represent and analyze the processes that would affect the WNR once fully built out. *See* SCE-1 at 4.

¹⁰ SCE-1 at 3.

¹¹ SCE-1 at 4:15-24 thru 5:1-6.

¹² SCE-1 at 5:17-18.

¹³ *See* SCE-1 at 5:18-21 and FN 11 citing to Permit No. 6-81-330-A, p. 34 (“The permittee shall be responsible for fully implementing any remedial measures deemed necessary by the Executive Director”).

- Authorize recovery of recorded WNR Expansion Project expenses in SCE's distribution subaccount of the Base Revenue Requirement Balancing Account;
 - Authorize SCE to include in distribution rates an estimated annual WNR Expansion Project revenue requirement commencing January 1, 2018 through January 1, 2020; and
 - Audit WNR Expansion Project recorded costs in SCE's annual Energy Resource Recovery Account Review applications to ensure that all recorded costs are associated with activities as defined and adopted by the Commission in this proceeding.
- SDG&E requested that the Commission adopt the following ratemaking for the WNR Expansion Project:
 - Review and grant SDG&E's Motion to Amend its Marine Mitigation Memorandum Account (MMMA) and Record WNR Expansion Project Marine Mitigation costs starting January 1, 2017, filed concurrently with the Joint Application to modify its MMMA to create a subaccount for the WNR Expansion Project costs to record costs incurred on or after January 1, 2017;
 - Authorize SDG&E to recover costs it incurs on or after January 1, 2017 for the WNR Expansion Project; and
 - Authorize SDG&E to include in generation rates its WNR Expansion Project revenue requirement effective 2018 or as applicable depending on the timing of the Commission decision.

On December 15, 2016, the Commission preliminarily categorized this proceeding as ratesetting with hearings required in Resolution ALJ 176-3390. Protests were filed by the Office of Ratepayer Advocates (ORA) on January 9, 2017, and The Utility Reform Network (TURN) on January 11, 2017. On January 23, 2017, SCE filed a response to the Protests, and SDG&E filed a separate response to the Protests on the same date.

On March 1, 2017, the assigned Administrative Law Judge (ALJ) convened a Prehearing Conference (PHC) for this proceeding. The parties discussed whether supplemental testimony was needed from the Utilities and, if so, when such testimony could be provided. Additional discussion occurred regarding the remaining issues and schedules proposed by the parties in the Joint Case Management Statement.

On April 4, 2017, the assigned Commissioner and assigned ALJ issued the Scoping Memo, establishing the proceeding schedule and setting forth the following five issues to be examined in the proceeding:

1. Whether the Utilities' cost forecast is reasonable and whether it should be authorized as proposed;
2. Whether SCE's ratemaking and cost recovery proposals are reasonable;
3. What is the appropriate method for tracking expenses associated with SDG&E's 20% share of project costs;
4. Whether SDG&E's cost recovery proposal is reasonable; and
5. Whether the selected WNR Expansion Project option chosen is reasonable in light of the other potential options, and given that the CCC has not yet approved the proposed option.

On December 8, 2016, SDG&E filed a Motion to Amend its Memorandum Account for Marine Mitigation and Record WNR Expansion Project Marine Mitigation Costs Starting January 1, 2017. During the PHC the ALJ granted SDG&E's motion to allow for tracking of costs for the WNR Expansion Project, but required that a separate memorandum account for the WNR Expansion Project be set up. The specifications, including being subject to final approval of

the Commission in adoption of a final decision in this proceeding, are set out in the April 4, 2017 Scoping Memo.

SCE, on March 24, 2017 filed a Motion to Establish a Memorandum Account and a Motion to Shorten Time to Respond to Motion to Establish Memorandum Account. On May 1, 2017, the ALJ issued a ruling granting SCE's Motion to establish a memorandum account subject to conditions set forth within the May 1, 2017 ruling and subject to Commission approval of a final decision in this proceeding.

SCE submitted opening testimony with its application in this proceeding on December 1, 2016, and supplemental testimony on May 15, 2017. The CCC has provided eight potential options to SCE for meeting the requirements of marine mitigation related to the WNR. The proposed options are set out in the table below in the Discussion section of this decision.

SCE initially proposed Option 3, a 105 acre low relief/high density reef estimated to cost approximately \$33 million (2016\$, 100% share).¹⁴ On June 16, 2017 ORA and TURN submitted intervenor testimony raising concerns as to SCE's proposed option and the estimated costs. SCE submitted rebuttal testimony on July 14, 2017 withdrawing SCE's initial preferred option of Option 3 and instead identified Option 1- a 200 acre low relief/low density reef with estimated costs of \$19.4 million (2016\$, 100% share) as the elected option for

¹⁴ See SCE-01 at 0 and SCE-02 at 4, and Joint Motion at 4-5.

further review by the CCC and State Lands Commission (SLC).¹⁵ On October 11, 2017, TURN filed and served a Motion Seeking Admission of Attachments to Prepared Testimony which are identified and marked as TURN-02.¹⁶

The Utilities began negotiation discussions with ORA and TURN in July of 2017.¹⁷ On October 2, 2017, SCE sent notice to the service list in this proceeding that an all-party settlement conference would be held on October 9, 2017. A noticed all party settlement conference was held pursuant to Commission's Rules of Practice and Procedure¹⁸ Rule 12.1(d) on October 9, 2017.¹⁹ Evidentiary hearings were scheduled for October 10, 2017. During the scheduled time for evidentiary hearings the parties provided an update on settlement discussions and testimony was identified, marked, and received into the record. The parties

¹⁵ SCE-03 at 6.

¹⁶ The October 11, 2017 Motion filed by TURN explains that TURN previously served all parties with its Prepared Testimony of Robert Finkelstein (TURN-01) and the Attachments to Prepared Testimony of Robert Finkelstein. TURN inadvertently did not prepare copies of the Attachments to be identified, marked and received into the record on October 10, 2017 at the scheduled time for evidentiary hearings in this proceeding. The assigned ALJ directed TURN to file a motion seeking admission of the omitted Attachments and also directed that the exhibit list include an added reference for the Attachments which are here identified as TURN-02.

¹⁷ See Joint Motion of Southern California Edison Company (U 338-E), San Diego Gas & Electric Company (U 902-E), Office of Ratepayer Advocates, and The Utility Reform Network for Approval of Settlement Agreement (Joint Motion) filed with the Commission on October 13, 2017 at 2.

¹⁸ All references to rules in this Proposed Decision are to the Commission Rules of Practice and Procedure unless otherwise stated.

¹⁹ See Joint Motion at 2.

filed the Joint Motion requesting the Commission adopt the all-party Settlement Agreement on October 13, 2017.

2. Settlement

The parties have reached mutually agreeable positions on the disputed issues in this proceeding, as set forth in the Settlement Agreement. The Settlement Agreement addresses all of the issues set forth in the April 4, 2017 Scoping Memo, including all of the disputed issues between the parties. The parties “mutually and jointly support the proposed Settlement as reasonable, consistent with the law, and in the public interest.”²⁰ SCE’s testimony, served on December 1, 2016; May 15, 2017; and rebuttal testimony served on July 14, 2017; in support of this Application sets out the basis for the requested relief of the Utilities in the Joint Application. The testimony served by ORA and TURN in this proceeding on June 16, 2017 sets out the ratepayer advocacy groups’ positions and concerns regarding the initial relief requested by the Utilities. The Joint Motion submitted by the parties in support of the Settlement Agreement addresses all issues in the proceeding. The Utilities, ORA, and TURN support the relief granted in adopting the Settlement Agreement.

We accept the proposed Settlement Agreement and the testimonies served by the parties into the record of this proceeding, and consider the testimony submitted, the Joint Motion, and Settlement Agreement as part of the record upon which we base this Proposed Decision consistent with Rule 12.1(d). The testimony and proposed Settlement Agreement provided by the parties in this proceeding are as follows:

²⁰ Joint Motion, filed October 13, 2017 at 1.

1. **SCE-01** Testimony of Southern California Edison Company in Support of Joint Application for Cost Recovery of the Wheeler North Reef Expansion Project Marine Mitigation Costs, dated December 1, 2016; sponsoring witnesses R. Worden and D. Neal.
2. **SCE-02** Supplemental Testimony of Southern California Edison in Support of the Joint Application for Cost Recovery of the Wheeler North Reef Expansion Project Marine Mitigation Costs, dated May 15, 2017; sponsoring witnesses R. Worden and D. Neal.
3. **SCE-03** Rebuttal Testimony of Southern California Edison in Support of the Joint Application for Cost Recovery of the Wheeler North Reef Expansion Project Marine Mitigation Costs, dated July 14, 2017; sponsoring witnesses are D. Neal and R. Worden.
4. **SDG&E-01** Prepared Direct Testimony on Behalf of San Diego Gas & Electric Company, dated December 1, 2016; sponsoring witnesses T. Dalu, N. Jasso, and L. Browy.
5. **SDG&E-02** Prepared Rebuttal Testimony on Behalf of San Diego Gas & Electric Company, dated July 14, 2017; sponsoring witness T. Dalu.
6. **ORA-01** Testimony of the Office of Ratepayer Advocates on the Joint Application of Southern California Edison Company and San Diego Gas & Electric Company for Cost Recovery of the Wheeler North Reef Expansion Project Marine Mitigation Costs, dated June 16, 2017; sponsoring witness N. Rogers.
7. **TURN-01** Prepared Testimony of Robert Finkelstein, Joint Application of Southern California Edison Company and San Diego Gas & Electric Company for Cost Recovery of the Wheeler North Expansion Project Marine Mitigation Costs, dated June 16, 2017.
8. **TURN-02** Attachments to Prepared Testimony of Robert Finkelstein, Joint Application of Southern California Edison Company and San Diego Gas & Electric Company for Cost Recovery of the Wheeler North Reef Expansion Project Marine Mitigation Costs, dated June 16, 2017.

9. **All-Party Settlement (APPENDIX A)** to Joint Motion of Southern California Edison Company, San Diego Gas & Electric Company, Office of Ratepayer Advocates, The Utility Reform Network for Approval of Settlement Agreement, filed on October 13, 2017.

We receive into the record the above listed testimony and Settlement Agreement.

Accordingly, the parties moved for approval of the Settlement Agreement. The Settlement Agreement²¹ has been presented as an integrated package. The parties have agreed to the Settlement Agreement as a whole, as opposed to agreeing to specific elements of the Settlement Agreement. The Settlement Agreement includes the following notable terms:

- The intent of the Settlement is to permit the Utilities to recover through customer rates the reasonable actual costs incurred to implement the Wheeler North Reef (WNR) Expansion Project.²²
- SCE is responsible for minimizing the cost of WNR Expansion Project to the Utilities' customers.²³
- The Utilities will continue to keep open the WNR Expansion Project memorandum accounts for the purposes of recording all expenses associated with the WNR Expansion Project.²⁴
- Upon completion of the California Environmental Quality Act (CEQA) process and issuance of permits, SCE will prepare an updated forecast (including recorded expenses back to March 1,

²¹ The parties note that they have entered into this Settlement Agreement on the basis that it not be construed as an admission or a concession by them regarding any fact or matter of law in dispute in this proceeding. Furthermore, as contemplated by the Commission's Rule 12.5, the parties do not intend that the Commission's adoption of this Agreement be construed as any statement of precedent or policy of any kind for or against either of them, in the current or in any future proceedings. *See* Joint Motion at 2.

²² *See* the Settlement Agreement, Section 2.1 at A-2.

²³ *See* Settlement Agreement, Section 2.2 at A-2.

²⁴ *See* Settlement Agreement, Section 2.3 at A-2.

2017) of the WNR Expansion Project based on the approved CCC coastal development permit. The forecast will include the following cost categories: (1) Materials, Transportation and Construction (with costs broken out by each sub-category, to the extent feasible); (2) Mobilization and Demobilization of Construction Equipment; (3) Studies, Permitting, and Document Preparation; and (4) Engineering and Construction Verification, Compliance, and Project Management. The updated forecast will be presented in a Tier 3 Advice Letter.²⁵

- Upon approval of the Tier 3 Advice Letter (AL) described above, a revenue requirement will be authorized for the Utilities based on the updated forecast costs (identified above), but excluding contingencies. The revenue requirement will be collected in base rates with actual costs continuing to be recorded in the Utilities' applicable memorandum accounts. The recorded expenses will be itemized in the categories listed in paragraph 2.4 of the Settlement Agreement, with sufficient detail to permit a comparison of the recorded actual costs with the same cost categories set out in the forecast.²⁶
- If at the completion of the WNR Expansion Project the recorded costs for the project in the Utilities' memorandum accounts are equal to or below the authorized cost forecast, then the spending is considered to be per se reasonable. If the recorded expenses are below the authorized revenue requirement, the overcollection is returned to the Utilities' customers. The Utilities will each file a Tier 2 Advice letter to report that the final recorded costs came in at or below the updated forecast and, if there is an overcollection, how it will be returned to customers.²⁷
- If at the completion of the WNR Expansion Project the recorded costs for the project are greater than the authorized cost forecast, then the Utilities' bear the burden of proof to demonstrate these

²⁵ See Settlement Agreement (APPENDIX A), Section 2.4 at A-2.

²⁶ See Settlement Agreement (APPENDIX A), Section 2.5 at A-2.

²⁷ See Settlement Agreement, Section 2.6 at A-3.

incremental expenses are reasonable. To demonstrate that these costs above the forecast are reasonable, SCE and SDG&E shall file testimony in SCE's Test Year 2021 General Rate Case (including an additional exhibit in the Update Phase, if necessary).²⁸

- Any continuing expenses for the WNR Expansion Project beyond 2020 will be included in SCE's Test year 2021 General Rate Case forecast, with accompanying testimony. Such expenses are anticipated to be for ongoing monitoring, operation and maintenance of the reef, and not for construction of the WNR Expansion Project.²⁹
- The terms of this Settlement Agreement do not set a precedent for other, future cost recovery applications brought before the Commission.³⁰

3. Discussion

Pursuant to Rule 12.1(d), the Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest. In addition, the Commission has a well-established policy of approving a settlement if it is fair and reasonable in light of the whole record.³¹ This policy reduces the expense of litigation, conserves Commission resources, and allows parties to "reduce the risk that litigation will produce unacceptable results."³² As discussed herein, the Settlement Agreement reflects reasonable compromises

²⁸ See Settlement Agreement, Section 2.7 at A-3.

²⁹ See Settlement Agreement, Section 2.8 at A-3.

³⁰ See Settlement Agreement, Section 2.9 at A-3.

³¹ See D.88-12-083 (30 CPUC2d 189, 221-223); D.91-05-029 (40 CPUC2d 301, 326); D.05-03-022. Also see D.92-07-076 (45 CPUC2d 158, 166); D.92-12-019 (46 CPUC2d 538, 553).

³² *Id.*

on the issues, is supported by all parties' careful case evaluation and the record of this proceeding, is consistent with the law, and is in the public interest.

Here, the Utilities seek authorization to track costs in their respective memorandum accounts for costs incurred for the WNR Expansion Project and to have such costs deemed reasonable. Pursuant to the Settlement Agreement, a baseline forecasted cost will be deemed reasonable if the actual costs are less than or equal to the costs authorized in a CPUC-approved Resolution in response to the Utilities' updated forecast submitted in a Tier 3 AL. The Utilities will submit the Tier 3 AL after the CEQA process is completed and all permits are issued for the WNR Expansion Project.

The Commission often favors settlements, as long as the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest.³³ Here, we note that the Settlement Agreement has been presented to the Commission with the full support of all the parties. The parties have fully evaluated the facts and the law relevant to this case and believe they have reached reasonable compromises on the issues. Specifically, ORA and TURN were able to address all the concerns raised on behalf of ratepayers. The Utilities are able to move forward in the resolution of the underlying Application, under agreed upon conditions, without costly and protracted litigation. The approach taken in this Settlement Agreement balances the Utilities' needs set forth in their Application with the ratepayers' concerns set forth in the protests of ORA and TURN. The Settlement Agreement complies with all applicable statutes and prior Commission decisions, including established cost-of-service ratemaking

³³ Rule 12.1(d).

principles. The Settlement Agreement is in the public interest as it ensures ratepayers only pay for reasonable, actual costs for the WNR Expansion Project.

3.1. Marine Mitigation Options and Costs

A major factor contributing to the parties' ability to reach a settlement is the "shift in the focus of what was anticipated to be the project from a larger scale project to one that seemed to be a smaller scale with a lower price tag."³⁴ The CCC had provided eight potential options for meeting the marine mitigation requirements of the CDP. The proposed options are set out in the table below:

Option	Relief	Cover	Acres	Potential Biomass (kg/acre)	Average (kg/acre)	Additional Fish (MT)	Additional Fish (Tons)	Total Cost
1	Low	low	200	80-96	88	18	19	\$19,397,000
2	Low	medium	125	120-140	130	16	18	\$22,911,500
3	Low	high	105	120-300	210	22	24	\$32,935,250
4	Low	high	30	250-350	280	8	9	\$25,139,000
5	Low	low	240	80-96	88	21	23	\$22,406,600
6	Low	medium	155	120-140	130	20	22	\$27,366,500
7	Low	high	140	120-300	210	29	32	\$42,464,000
8	High	high	38	250-350	280	11	12	\$30,683,000

SCE initially proposed Option 3, a 105 acre low relief/high density reef estimated to cost approximately \$33 million (2016\$, 100% share).³⁶ On June 16,

³⁴ RT at 6:28 through 7:1-3.

³⁵ See SCE-02 at 4, Table II-3, Summary of Estimated Fish for Each Option. Also see SCE-03 at 6, Table II-1 Summary of Estimated Construction and Total Costs for Each Option for Total Cost column estimates.

³⁶ See SCE-01 at 0 and SCE-02 at 4, and Joint Motion at 4-5.

2017, ORA and TURN submitted intervenor testimony raising concerns as to SCE's proposed option and its estimated costs. SCE submitted rebuttal testimony on July 14, 2017, which withdrew its preference for Option 3, and instead identified Option 1- a 200 acre low relief/low density reef as the elected option for further review by the CCC and SLC. The updated cost estimate set out in the rebuttal testimony is for \$19.4 million (2016\$, 100% share) for Option 1 as opposed to the approximately \$33 million previously proposed for Option 3.³⁷

SCE stated in its rebuttal testimony that it had initially selected Option 3 "because the low relief/high density configuration was projected to attract sufficient fish biomass to meet the CCC's requirements for reef performance, and could fit within the areas previously surveyed by SCE during WNR Phase II."³⁸ In May of 2017, SCE completed bathymetric and side scan sonar surveys of the ocean floor in the potential expansion areas. The results of these studies demonstrated that Option 1 is a viable option for meeting marine mitigation requirements.³⁹

Option 1, a 200 acre low relief/low density reef, has three advantages. First, the cost is significantly lower than the other potential mitigation options. Second, this option was identified by the CCC as one which will attract sufficient amounts of fish to meet the fish biomass standard, and will provide a buffer to existing WNR in years with adverse oceanographic conditions.⁴⁰ Third, this is the same type of reef that was constructed for WNR Phase II. SCE will therefore

³⁷ SCE-03 at 6, Table II-1, Summary of Estimated Construction and Total Costs for Each Option.

³⁸ SCE-03 at 4:15-17.

³⁹ SCE-03 at 5:4-12 through 6:1-3

⁴⁰ SCE-03 at 6:4-11 and 6:15-7:5.

be able to utilize its experience with this same type of reef when constructing Option 1.⁴¹

3.2. Memorandum Accounts

The Scoping Memo issued on April 4, 2017 authorized SDG&E to establish a separate memorandum account to track costs for the WNR Expansion Project, subject to approval by the Commission as adopted in the final decision for this proceeding. On May 1, 2017, the assigned ALJ issued a ruling authorizing SCE to establish a separate memorandum account subject to approval by the Commission in the final decision for this proceeding. Consistent with the Commission's prior decisions, this decision provides approval of the established memorandum accounts consistent with the terms of the Settlement Agreement. As discussed below, we have examined the Settlement Agreement and determined that establishment of the WNR Expansion Project memorandum accounts for SCE and SDG&E respectively are reasonable and appropriate. We therefore authorize the established memorandum accounts to continue for purposes of recording costs incurred for the WNR Expansion Project consistent with the Settlement Agreement for the following reasons.

First, the expenses are required to meet CCC and SLC permit and lease requirements. Second, these challenges were not and could not have reasonably been foreseen in the Utilities' last GRC as the exact costs for the WNR Expansion Project will not be known until additional requirements that necessitate expenditures now (such as the CEQA review) are completed, and are expected to

⁴¹ SCE-03 at 7:6-7.

continue in the period before the next scheduled rate case.⁴² Third, the amount is in the tens of millions of dollars (original SCE estimate \$33 million dollars, and current SCE estimate \$19.4 million with a future revised forecast to be submitted once the CCC and SLC have issued final project approvals) which is a significant cost. Lastly, establishment of this memorandum account “promotes the safety, health, comfort, and convenience of its patrons, employees, and the public” required by Publ. Util. Code § 451, by enhancing the Utilities’ ability to (1) track these mitigation costs, (2) accurately forecast its overall budget needs to support safe and reliable mitigation in implementing the WNR Expansion Project that meets CCC and SLC requirements,⁴³ and (3) minimize potential budget and operational impacts due to unforeseen costs, by ensuring that the utilities only recover actual reasonable costs for the WNR Expansion Project.⁴⁴

Moreover, ratepayers would benefit because the Settlement Agreement requires the Utilities to carefully track those costs in the WNR Expansion Project memorandum accounts and submit subsequent ALs to confirm forecasted and actual costs. Ratepayers also benefit because the Settlement Agreement requires the Utilities to take steps to avoid any overlap between possible forecasted costs of the required WNR Expansion Project in rates with the costs tracked in the memorandum accounts, and specify the Utilities’ requirements for seeking future recovery of those costs. The Settlement Agreement also serves other

⁴² Joint Motion at 7-9.

⁴³ No party disputes that SCE is required to complete the WNR Expansion Project as directed by the CCC. *See* Joint Motion at 8.

⁴⁴ Joint Motion at 9.

public interests in that it provides speedy resolution of contested issues while avoiding the unnecessary litigation expense and waste of Commission resources.

We are also mindful that the WNR Expansion Project memorandum accounts are very similar to other memorandum accounts approved by the Commission. The parties have reached a sound settlement that is consistent with Rule 12 and prior Commission decisions approving settlements.

Here, the Utilities' request for authorization of the memorandum accounts were filed on December 8, 2016 and March 24, 2017 respectively, and we therefore approve the establishment of the accounts set up consistent with the prior rulings in this proceeding and the terms of the Settlement Agreement.

3.3. Rule 12

Procedurally, pursuant to Commission Rule 12.1(b), seven days advance notice of the date, time, and (telephonic) location of a settlement meeting must be provided. Here, the Parties have so provided the required notice of the settlement meeting.⁴⁵

Based on the foregoing and upon review of the entire proceeding record, including the Joint Motion, the accompanying Settlement Agreement, and testimony of the parties, we find that the Settlement Agreement and its terms are reasonable, consistent with the law, in the public interest and fully supported by the record of this proceeding consistent with Rule 12.1(d). For the foregoing reasons, we approve the Settlement Agreement.

⁴⁵ Notice of the all-party settlement conference was served on the proceeding service list October 2, 2017. Also *see* Joint Motion at 2.

4. Proceeding Category and Need for Hearings

In Resolution ALJ-176, dated December 15, 2016, the Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that hearings were needed. The Scoping Memo confirmed this preliminary categorization.

5. Waiver of Comment Period

This decision grants an all-party settlement and therefore is uncontested granting the relief requested in the Settlement Agreement. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is therefore waived.

6. Assignment of the Proceeding

Commissioner Clifford Rechtschaffen is the assigned Commissioner and Darcie L. Houck is the assigned ALJ.

Findings of Fact

1. On December 1, 2016, SCE and SDG&E filed a joint application seeking authorization to recover costs related to the WNR Expansion Project.

2. On December 8, 2016, SDG&E filed a motion to amend its memorandum account for marine mitigation and record Wheeler North Reef Expansion Project Marine Mitigation Costs Starting January 1, 2017.

3. On January 9, 2017, the ORA filed a Protest and questioned the reasonableness of certain costs.

4. On January 11, 2017, TURN filed a Protest and questioned the reasonableness of certain costs.

5. On January 23, 2017, SCE and SDG&E each filed separate replies to the protest filed by the ORA and TURN.

6. On March 24, 2017, SCE filed a motion to establish a memorandum account and a motion to shorten time to respond to the motion to establish a memorandum account.

7. SCE's initial estimate for Wheeler North Reef marine mitigation costs was approximately \$33 million.

8. SCE served rebuttal testimony on July 14, 2017. The rebuttal testimony stated that SCE would be utilizing a different option than the option initially proposed for the WNR Expansion Project. This new proposal anticipated costs significantly less than SCE's initial proposal.

9. The replacement proposal presented in SCE's July 14, 2017 supplemental testimony anticipated total costs for the WNR Expansion Project of \$19.4 million.

10. The parties filed joint status reports on August 2, 2017; September 25, 2017; and October 2, 2017.

11. A hearing in this proceeding was held on October 10, 2017 where the parties informed the Commission that a joint motion from the parties requesting the Commission to adopt a settlement would be filed shortly.

12. On October 11, 2017, TURN filed a motion seeking admission into the record of the attachments to the prepared testimony of Robert Finkelstein dated June 16, 2017.

13. On October 13, 2017, the parties filed a joint motion requesting approval of an all-party settlement.

14. The Settlement Agreement resolves all of the disputed issues in this proceeding, including all of the issues set forth in the April 4, 2017 Scoping Memo.

15. In compliance with Commission Rule 12.1(b), the parties have provided the required notice of the all-party settlement meeting that was held on October 9, 2017.

16. The WNR Expansion Project memorandum accounts will benefit ratepayers because costs related to the WNR Expansion Project will be subsequently reviewed for reasonableness before recovery.

17. The Settlement Agreement clarifies the types of costs that may be tracked in the memorandum accounts and clearly prescribes the information that the Utilities must provide in order to seek recovery of these costs.

18. Commission approval of the Settlement Agreement will provide speedy resolution of contested issues, and will result in significant savings in time, resources, and expense for all the parties, including the Commission and the ratepayers.

Conclusions of Law

1. Pursuant to Rule 12.1(d), the Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest.

2. The Settlement Agreement and its terms are reasonable, consistent with the law and in the public interest and should be approved and adopted.

3. The Settlement Agreement and its terms are consistent with the provisions of the Public Utilities Code, prior Commission decisions, and other applicable laws and should be approved and adopted.

4. The Settlement Agreement reflects reasonable compromise on the issues.

5. Establishment of these memorandum accounts and adoption of the Settlement Agreement “promotes the safety, health, comfort, and convenience of its patrons, employees, and the public” required by Pub. Util. Code § 451, by

enhancing the Utilities' ability to (1) track the WNR Expansion Project costs, (2) accurately forecast its overall budget needs to support safe and reliable services to its customers, and (3) minimize potential budget and operational impacts due to unforeseen costs by ensuring that the utilities only recover actual reasonable costs for the WNR Expansion Project.

6. SCE should be authorized to track costs related to the Wheeler North Reef Expansion Project in a memorandum account as conditioned in the Settlement Agreement and consistent with the May 1, 2017 ruling in this proceeding.

7. SDG&E should be authorized to track costs related to WNR Expansion Project in a memorandum account as conditioned in the Settlement Agreement and consistent with the April 4, 2017 Scoping Memo issued in this proceeding.

8. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. The Settlement Agreement between Southern California Edison Company, San Diego Gas & Electric Company, the Office of Ratepayer Advocates, and The Utility Reform Network (APPENDIX A) ,is approved and adopted.

2. Southern California Edison Company and San Diego Gas & Electric Company each shall maintain a memorandum account as established in this proceeding to track costs related to the Wheeler North Reef Expansion Project as set forth in the Settlement Agreement (APPENDIX A).

3. Southern California Edison Company and San Diego Gas & Electric Company shall comply with each and every term and condition set forth in the Settlement Agreement (APPENDIX A).

4. The establishment of the Wheeler Reef North Expansion Project memorandum accounts does not guarantee recovery of the recorded costs, and the establishment shall not be construed to mean that costs recorded in the memorandum accounts are reasonable consistent with the terms of the Settlement Agreement (APPENDIX A).

5. Southern California Edison Company shall record in its Wheeler Reef North Expansion Project memorandum account only those costs incurred for the Wheeler North Reef Expansion Project as set out in the Settlement Agreement (APPENDIX A).

6. San Diego Gas & Electric Company shall record in its Wheeler Reef North Expansion Project memorandum account only those costs incurred for the Wheeler North Reef Expansion Project as set out in the Settlement Agreement (APPENDIX A).

7. Southern California Edison Company and San Diego Gas & Electric Company shall, subject to the specific terms and actual language in the Settlement Agreement (APPENDIX A), comply with the following conditions:

- a. Southern California Edison Company is responsible for minimizing the cost of the Wheeler North Reef Expansion Project to the Utilities customers.
- b. Southern California Edison Company and San Diego Gas & Electric Company will continue to keep open the Wheeler North Reef Expansion Project memorandum accounts. Each utility will continue to record its proportional share of costs in its respective memorandum account.
- c. After completion of the California Environmental Quality Act process and issuance of coastal development permit and other permits required to construct and complete the Wheeler North Reef Expansion Project, Southern California Edison Company will prepare an updated forecast of the Wheeler North Reef Expansion Project, including costs, based on the approved

California Coastal Commission coastal development permit. This forecast will include the following cost categories:

- i. Materials, Transportation and Construction (with cost broken out by each sub-category);
 - ii. Mobilization and Demobilization of Construction Equipment;
 - iii. Studies, Permitting, and Document Preparation; and
 - iv. Engineering and Construction Verification, Compliance, and Project Management.
- d. Southern California Edison Company will present the updated forecast referenced in sub-section c above through submission of a Tier 3 Advice Letter to the Commission.
- e. Upon approval of the Tier 3 Advice Letter presenting the updated forecast described in subsections c and d above, a revenue requirement will be authorized for Southern California Edison Company and San Diego Gas & Electric Company based on the updated forecast costs, excluding contingencies. The revenue requirement will be collected in base rates with actual costs continuing to be recorded in the applicable memorandum accounts. The recorded expenses will be itemized in the categories listed in subsections c above, with sufficient detail to permit a comparison of the recorded actual costs with the same cost categories set out in the forecast.
- f. If at the completion of the Wheeler North Reef Expansion Project the recorded costs for the project in the applicable memorandum accounts are equal to or below the authorized cost forecast, then the spending is considered to be per se reasonable. If the recorded expenses are below the authorized revenue requirement, the overcollection will be returned to Southern California Edison Company's and San Diego Gas & Electric Company's customers.
- g. Southern California Edison Company and San Diego Gas & Electric Company will each file a Tier 2 Advice Letter to report that the final recorded costs came in at or below the updated

- forecast and, if there is an overcollection, how it will be returned to customers.
- h. If at the completion of the Wheeler North Reef Expansion Project the recorded costs for the project are greater than the authorized cost forecast, then Southern California Edison Company and San Diego Gas & Electric Company bear the burden of proof to demonstrate these incremental expenses are reasonable. To demonstrate that these costs are reasonable, Southern California Edison Company and San Diego Gas & Electric Company will file testimony in Southern California Edison Company's Test Year 2021 General Rate Case.
 - i. Any continuing expenses for the Wheeler North Reef Expansion Project beyond 2020 will be included in Southern California Edison's Test Year 2021 General Rate Case forecast, with accompanying testimony. Such expenses are anticipated to be for ongoing monitoring, operation and maintenance of the reef, and not for construction of the Wheeler North Reef Expansion Project.
8. The Settlement Agreement submitted by the parties, as Appendix A to the Joint Motion of Southern California Edison Company, San Diego Gas & Electric Company, the Office of Ratepayer Advocates, and The Utility Reform Network for Approval of Settlement Agreement (APPENDIX A) is received into the record.
9. All testimony served in this proceeding as identified in this decision is admitted into the record of this proceeding.
10. All pending motions that have not been ruled upon at the time this decision is adopted are deemed denied.
11. Application 16-12-002 is closed.

This order is effective today.

Dated _____, at San Francisco, California.