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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for a Commission Finding that its Procurement-Related and Other Operations for the Record Period January 1 Through December 31, 2008 Complied with its Adopted Procurement Plan; for Verification of its Entries in the Energy Resource Recovery Account and Other Regulatory Accounts; and for Recovery of $35.796 Million Recorded in Four Memorandum Accounts.	)	Application No. 09-04-002 (Filed April 1, 2009)

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) REPLY TO THE DIVISION OF RATEPAYER ADVOCATES' COMMENTS ON THE PROPOSED DECISION OF ALJ FUKUTOME

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SCE'S REPLY TO THE DIVISION OF RATEPYAER ADVOCATES' COMMENTS ON PROPOSED DECISION OF ALJ FUKUTOME

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Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, Southern California Edison Company (SCE) submits its reply to the Division of Ratepayer Advocates' (DRA's) comments on the June 29, 2010 Proposed Decision of Administrative Law Judge Fukutome (PD) in connection with SCE's April 2009 Energy Resource Recovery Account (ERRA) Review proceeding.

I.
INTRODUCTION AND SUMMARY OF COMMENTS

It is entirely proper for the PD to instruct the parties to address future ERRA scoping issues by referencing SCE's rebuttal testimony, Exhibit 4. DRA's confusion regarding the purpose of the ERRA Forecast proceeding and Trigger mechanism demonstrates the need for further clarification on this issue. The Commission should also reject DRA's request that the PD be modified to state that consolidated review of the investor-owned utilities' (IOUs') recorded costs in their respective Market Redesign and Technology Upgrade Memorandum Accounts (MRTUMAs) cannot be foreclosed due to "unknown implementation factors" associated with MRTU.[1] The PD clearly states that the Commission cannot foreclose consolidation absent a showing of the IOUs' MRTU Release 1 costs – not because certain implementation factors are "unknown." Finally, the Commission should address DRA's statement that it accepts the PD's rejection of its request to consolidate the IOUs' non-ERRA accounts "for this proceeding"[2] by modifying the PD to state that this issue cannot be re-litigated.

II.
THE PD CORRECTLY ADOPTS SCE'S CHARACTERIZATION OF THE SCOPE OF THE POST-ASSEMBLY BILL 57 (AB 57) FRAMEWORK

In this proceeding, DRA's misunderstanding of the purpose of the ERRA Trigger mechanism and Forecast proceeding led it to allege, incorrectly, that SCE recorded $255 million in "non-approved" procurement costs during the fourth quarter of 2008. SCE's rebuttal testimony was instrumental in clarifying the Commission's processes for reviewing and approving the IOUs' forecast and recorded fuel and purchased power costs in ERRA. SCE's

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[1] DRA Comments, p. 4.

testimony was based on prior ERRA decisions such as Decision (D.)02-10-062, D.02-12-074, and D.05-01-054.[3] DRA did not challenge SCE's interpretation of these Commission decisions or its characterization of the post-AB 57 landscape. To the contrary, DRA withdrew its misguided claim.

The PD concludes that SCE's characterization of these processes is correct and "should be used to determine where specific ERRA-related issues should be addressed."[4] This will help avoid further litigation on this issue, and DRA is wrong to argue that it will somehow be "detrimental" to the Commission's prior decisions regarding the scope of the ERRA proceedings. As noted above, SCE specifically based its explanation on these prior ERRA decisions. DRA would certainly not have withdrawn its "nonapproved procurement" claim if it thought SCE inaccurately represented the Commission's holdings in these decisions.

It is also not "burdensome," as DRA claims, to obtain a copy of SCE's rebuttal testimony.[5] This testimony is not confidential and is readily available to anyone interested in becoming a party to SCE's ERRA proceedings. SCE's notice for these proceedings states how an interested party can contact SCE and receive copies of its testimony. However, if the Commission nonetheless decides to address DRA's concern, then SCE recommends the PD be modified to include SCE's discussion on pages 5 to 8 of Exhibit 4.

III.

THE PD DOES NOT STATE THAT IT CANNOT RULE OUT CONSOLIDATION OF THE IOUS' MRTUMAS DUE TO "UNKNOWN IMPLEMENTATION FACTORS" ASSOCIATED WITH MRTU

SCE does not object to the PD's statement that consolidation cannot be completely foreclosed at this time. But the Commission should reject DRA's request to modify Finding of Fact No. 28 to state that consolidation cannot be foreclosed because there are "still many unknown implementation factors" associated with MRTU.[6] This is not what the PD concluded; it states that consolidation cannot completely be foreclosed absent "any showings related to any

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[2] Id. at p. 6.

[3] See Exh. 4, pp. 4-8.

[4] PD, p. 8.

[5] DRA Comments, p. 2.

of the IOUs' MRTU Release 1 costs."[7] DRA's proposed modification is inconsistent with this statement and has no basis in the PD.

SCE is also puzzled by DRA continuing to press for a comprehensive review of the reasonableness of the IOUs' MRTU implementation efforts. Contrary to DRA's understanding, the Commission has put in place standards for review of the IOUs' MRTU recorded costs. The Commission in D.09-12-021 stated that it intends to "primarily focus on whether the costs can be verified and are incremental."[8] DRA ignores this decision in its comments on the PD. DRA also ignores the PD's statements that the Commission "do[es] not intend to assess the reasonableness of MRTU or the associated requirements imposed on the IOUs" and that there is "little benefit" in trying to determine the reasonableness of each IOU's actions in implementing MRTU.[9] The Commission has clearly indicated that it has little interest in pursuing DRA's request.

In its pursuit of a consolidated review, DRA attempts to draw comparison between review of the IOUs' recorded costs in their respective MRTUMAs, and the review anticipated in D.10-06-047, which involves the IOUs' respective deployment plans for implementing the Smart Grid. This comparison is off-the-mark. D.10-06-047 does not prescribe consolidated review of the IOUs' Smart Grid costs or investments. The decision specifically states that "[s]ubsequent utility requests to make specific Smart Grid-related investments, however, would occur in utility-specific proceedings where the reasonableness of particular Smart Grid investments can be determined."[10] It also states that the Commission "conclude[s] that a utility may seek approval for Smart Grid investments either in its GRC and/or through separate applications."[11] The requirement for IOU-specific proceedings to review the cost of Smart Grid investments is precisely what the PD allows regarding MRTU implementation costs (i.e., review in SCE's April 2010 ERRA Review proceeding, A.10-04-002).

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6 Id., p. 4.

7 PD, p. 49.

8 D.09-12-021, p. 3, fn. 1.

9 PD, p. 49.

10 D.10-06-047, p. 5 (emphasis added).

11 Id. at p. 95. The Commission noted that "[I]n providing input on how the Commission should consider and approve Smart Grid Deployment Plans, most parties support the single-proceeding process. Some parties, however, confound this issue with how the Commission should consider and approve Smart Grid investments. . . Review of investments and review of the deployment plans are two different things." Id. at p. 88.

IV.

THE COMMISSION SHOULD NOT ALLOW DRA TO RE-LITIGATE ITS REQUEST FOR CONSOLIDATED REVIEW OF THE IOUS' NON-ERRA ACCOUNTS

The PD rejects DRA's request for a consolidated review of the IOUs' non-ERRA accounts, concluding that there is "insufficient reason to disregard the current cost recovery mechanism for each of the three IOUs."[12] DRA states that it disagrees with the PD's conclusion, but nonetheless "accepts this finding for this proceeding."[13] SCE is concerned by this cryptic statement, and interprets it to mean that DRA intends to re-litigate its request in SCE's April 2010 ERRA Review proceeding, A.10-04-002.

SCE requests the PD be modified to state unequivocally that the Commission's decision on this issue is final. This is a fair conclusion. DRA cannot claim that it was uncertain as to its burden of proof in this proceeding because this was clearly set forth in the June 24, 2009 Assigned Commissioner's Ruling and Scoping Memo. The parties litigated this issue, and the PD appropriately rejects DRA's request because, as SCE argued, DRA failed to make its required showing. It is telling that DRA in its comments claims that it disagrees with the PD's conclusion, yet does not attempt to explain why the PD is wrong.

DRA should not be permitted to litigate this issue year-after-year. To hold otherwise will sanction a collateral attack on the Commission's final decision in this 2009 ERRA proceeding. This is precluded under Public Utilities Code Section 1709.[14]

V.

CONCLUSION

For the above reasons, the Commission should reject DRA's requested modifications to the PD and state that its decision to not consolidate the review of the IOUs' respective non-ERRA accounts is final.

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[12] PD, p. 62.

[13] DRA Comments, p. 6 (emphasis added).

[14] Section 1709 states "[i]n all collateral actions or proceedings, the orders and decisions of the Commission which have become final shall be conclusive." (Emphasis added).

Respectfully submitted,

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July 26, 2010

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of the **SOUTHERN CALIFORNIA EDISON COMPANY'S (U-338E) REPLY TO THE DIVISION OF RATEPAYER ADVOCATES' COMMENTS ON THE PROPOSED DECISION OF ALJ FUKUTOME** on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **26th day of July, 2010**, at Rosemead, California.

/s/ Melissa Schary

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