

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



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Application of Southern California Edison Company (U 338-E) for Authority to, Among Other Things, Increase Its Authorized Revenues for Electric Service in 2012, And to Reflect that Increase in Rates.

Application 10-11-015  
(Filed November 23, 2010)

**PROTEST OF THE UTILITY REFORM NETWORK**

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## PROTEST OF THE UTILITY REFORM NETWORK

On November 23, 2010, Southern California Edison Company (SCE) filed the instant application, seeking to increase its electric distribution and generation base revenue requirements by a startling amount. California reports ongoing statewide unemployment in excess of 12% (and far higher figures in the Inland Empire)<sup>1</sup>, with continuing economic woes causing nearly every other state business and resident to seek ways to tighten their financial belts. In what can only be described as a stunning display of tone-deafness, SCE seeks a net increase of \$866 million in 2012, as compared to currently projected and authorized 2012 revenue requirements, which is a single-year increase of nearly 20% in base revenue amounts.<sup>2</sup> Under SCE's proposal for post-test year ratemaking, there would be further net increases of \$246 million in 2013, and \$527 million in 2014.<sup>3</sup> Taken together, SCE asks that its ratepayers pay **\$3.6 billion** more over the three-year rate case cycle for electric service than ratepayers would pay if 2012 currently authorized base revenue requirements were to remain unchanged.<sup>4</sup> This request follows the Commission's decision in SCE's 2009 test year GRC, which authorized revenue requirement increases of \$495 million over the projected revenue requirement at present rate levels for 2009, \$206 million for 2010, and \$219 million for 2011, with a cumulative increase of \$2.1 billion over the current three-year cycle. It is hard to fathom

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<sup>1</sup> <http://www.calmis.ca.gov/file/lfmonth/countyur-400c.pdf>. The preliminary statewide figure as of November 2010 is 12.4%, with higher figures for San Bernardino county (13.9%) and Riverside county (14.6%).

<sup>2</sup> SCE Application, pp. 1, 3. SCE seeks an increase of \$938 million over the "estimated present rate revenue," offset slightly by "GRC revenue growth" of \$72 million. The \$866 million net increase is approximately 16% of the "estimated present rate revenue" of \$5.347 billion.

<sup>3</sup> SCE Application, p. 6.

<sup>4</sup> Calculation:  $(\$866 \text{ million}) \times 3 + (\$246 \text{ million}) \times 2 + (\$527 \text{ million}) = \$3.62 \text{ billion}$ .

how SCE's upper management convinced itself that the cumulative revenue increases of 22% from January 1, 2009 through the end of 2011 should be followed by even greater increases for the 2012-14 period, even as the worst economic conditions since the Great Depression continue to plague large portions of its service territory.

Pursuant to Rule 2.6 of the Commission's Rules of Practice and Procedure, The Utility Reform Network (TURN) submits this protest to SCE's application. Rule 2.6 requires that protests be filed within 30 days of the date the notice of the filing of the application first appeared in the Commission's Daily Calendar. Notice of the instant application appeared on November 29, 2010, making the protest due December 29, 2010. TURN's protest is thus timely filed.

#### **I. Grounds for Protest**

The Commission must ensure that the rates charged by SCE are just and reasonable. As the Commission explained in D.01-10-031:

We have a regulatory responsibility to ensure [SCE] provides adequate service at just and reasonable rates, and we must view the facts accordingly. Our legislative mandate encompasses promoting the "safety, health, comfort, and convenience of [SCE's] patrons, employees, and the public." *See* §451.<sup>5</sup>

TURN protests SCE's request for authorization to increase its revenue requirement as presented in this application, as SCE's request is without sufficient support is excessive, particularly in light of the ongoing economic conditions in California generally and within SCE's service territory in particular. As the applicant, SCE bears the burden of proving that it is entitled to the revenue requirement it seeks here and must affirmatively establish the reasonableness of each and every proposal

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<sup>5</sup> D.01-10-031, *Order Granting Rehearing of and Modifying Decision 00-02-046*, p. 5.

within its application.<sup>6</sup> Moreover, the starting point for the Commission's analysis must be that existing rates are reasonable unless a party meets its burden of proving that they are not.<sup>7</sup>

While TURN is still in the preliminary stage of our investigation and analysis, we expect to present evidence in our prepared testimony and through evidentiary hearings showing that SCE has failed to meet its burden of demonstrating the reasonableness of many aspects of its showing, including but not limited to certain proposals regarding electric distribution costs, customer service costs, electric generation costs, administrative and general expenses, shared services and other support costs, and rate base. TURN may additionally address some or all of the following aspects of SCE's showing:

- The intersection between SCE's GRC and its Advanced Metering Infrastructure (AMI) program, plus related programs, including demand response and Critical Peak Pricing.
- The inclusion of certain A&G-related Energy Efficiency and Demand Response program costs in the GRC, rather than in their respective program applications, which could have the effect of artificially increasing the cost-effectiveness calculations for those programs, as well as impacting the allocation among customer classes of these program costs.
- The proposal to increase SCE's pension cost funding from \$92.6 million to \$168.4 million due to the downturn in the market in recent years. The Sempra utilities, in contrast, are recommending that the Commission maintain existing funding levels, based on the assumption that the market recovery since the low point of several years ago will continue at least somewhat in the test year, and the existing balancing account treatment for these costs will enable an approach that avoids saddling customers with this additional cost during a period when their customers are already suffering from the ongoing impact of the economic downturn.
- The inclusion of approximately \$70 million for infrastructure, education, and

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<sup>6</sup> See, *i.e.*, D.09-03-025, p. 8 (discussing SCE's burden of proof in its Test Year 2009 General Rate Case, A.07-11-011).

<sup>7</sup> "[The utility] has the burden of proving that its current authorized revenues are unreasonable and should be adjusted." D.00-02-046, Conclusion of Law 3.

other costs associated with plug-in electric vehicles. The Commission is considering issues associated with ratepayer funding of any such costs in a separate rulemaking. SCE's proposal is premature at best.

- The request for approximately \$53 million in liability insurance expenses, nearly \$40 million above 2009 recorded levels. There is a separate application (jointly filed by SCE) to address issues associated liability risks associated with wildfires in a joint utility application (A.09-08-020). Consideration of the proposed increase in liability insurance expenses may need to be coordinated with the issues raised in that proceeding.
- The recently enacted federal tax legislation (the Small Business Job Act of 2010 and the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010) each include provisions that will permit rapid acceleration of depreciation of utility plant in the years 2010, 2011, and 2012. This will likely have implications on SCE's rate base and revenue requirement for the 2012 test year. SCE's testimony mentions the former, but the latter was enacted after the application was filed and testimony served.

There are also issues related to non-tariffed products and services (NTP&S) that should be the subject of further direct testimony in support of SCE's application. First, on December 16, 2010, the Commission issued Resolution E-4364 addressing SCE Advice Letter 2427-E. The resolution directs SCE to seek to include in this GRC "consideration of its method for apportioning the balance in the Gross Revenue Sharing Tracking Account (GRSTA) between CPUC- and FERC-jurisdictional revenue requirements."<sup>8</sup> TURN understands from an exchange of voice mail messages that SCE will seek to present testimony on this subject early in 2011 for consideration in this proceeding along with the rest of SCE's GRC request.

Second, the Commission should direct SCE to submit direct testimony in support of its position regarding continuation of the net revenue sharing mechanism first adopted in D.99-09-070. In the 2009 GRC, SCE's direct testimony was silent on this subject. When TURN addressed it in our testimony, SCE served rebuttal testimony that sought to

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<sup>8</sup> Res. E-4364, Ordering Paragraph 5.

generally defend the existing mechanism. The final decision (D.09-03-025) included the following Findings of Fact on this subject:

315. The Gross Revenue Sharing Mechanism for NTP&S adopted in D.99-09-070 is now 10 years old. During these years, the regulatory framework has changed significantly.

316. In 1999 SCE operated in a largely performance-based ratemaking environment but today the regulatory environment is more aligned with cost-of service ratemaking.

317. The \$16.773 million threshold for NTP&S was calculated based on SCE's incremental costs to provide NTP&S in 1995. This figure may bear little relation to TY 2009 conditions and both TURN and SCE express concern that no provision exists for increasing or decreasing this amount.

318. We find significant ambiguity about the circumstances under which SCE is permitted to recover its NTP&S costs from ratepayers.

319. SCE's comparison of the gross revenues received by ratepayers and the net revenues received by shareholders does not fully support the existing methodology or present an accurate picture of the shareholder benefits received under this program.

In the associated Conclusions of Law, the Commission agreed with TURN that it should revisit NTP&S but declined to do so at that time.<sup>9</sup> It also stated the agency's intention to issue a rulemaking in 2009 for purposes of reviewing NTP&S.<sup>10</sup> However, no rulemaking subsequently issued. SCE's direct testimony on the ratemaking treatment for NTP&S matters merely states, "As of the date of this filing, a rulemaking proceeding has not been established and SCE is not proposing any changes to the NTP&S and related revenue sharing provisions herein."<sup>11</sup>

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<sup>9</sup> D.09-03-025, Conclusion of Law 209.

<sup>10</sup> *Id.*, Ordering Paragraph 23.

<sup>11</sup> Ex. SCE-10, Vol. 1, p. 73.

The Commission should direct SCE to make a showing in support of maintaining the status quo, even though SCE is not proposing any changes to the existing NTP&S. The Findings of Fact from D.09-03-025 clearly indicate that the Commission had serious questions regarding the reasonableness of the existing mechanism given the various factors cited. SCE's direct testimony's silence on the subject of the NTP&S revenue sharing mechanism would effectively shift to other parties the burden of proving that the current mechanism is unreasonable. In SCE's 2009 GRC, the Commission very clearly stated that such an approach is inappropriate:

As the applicant, SCE must meet the burden of proving that it is entitled to the relief it is seeking in this proceeding. [Cite to SCE 2006 GRC] SCE has the burden of affirmatively establishing the reasonableness of all aspects of its application. Other parties do not have the burden of proving the unreasonableness of SCE's showing. As the applicant in this rate case, SCE has the burden of proving that each of its proposals is reasonable.<sup>12</sup>

If SCE believes it is reasonable to continue that mechanism going forward, even in light of the concerns raised in prior GRCs and the specific findings from D.09-03-025, SCE must meet its burden of proving such reasonableness. If the utility does not agree to submit supplemental direct testimony on this issue, the Commission should direct it to do so.

## **II. Effect of the Application on the Protestant**

TURN is a non-profit consumer advocacy organization, and has a long history of representing the interests of residential and small commercial customers of California's utility companies before this Commission. TURN's articles of incorporation specifically authorize our representation of the interests of residential customers. The instant

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<sup>12</sup> D.09-03-025, p. 8 (citing Public Utilities Code sections 451 and 454, and D.06-05-016 (SCE Test Year 2006 GRC)), p. 7.

application harms the interests of SCE's residential and small commercial ratepayers, whose interests TURN represents, by seeking authorization to collect from ratepayers charges that are unjust and unreasonable for the provision of electric utility service by SCE during the years 2012, 2013 and 2014.

### **III. Need for Evidentiary Hearings**

In Resolution ALJ 176-3265 (December 2, 2010), the Commission preliminarily determined that this proceeding should be categorized at "ratesetting" and that evidentiary hearings will be necessary. TURN concurs with this assessment. TURN intends to actively participate in evidentiary hearings, to the extent necessary to support our recommendations regarding the issue areas discussed above.

### **IV. Schedule**

The schedule for this proceeding needs to take a number of factors into consideration, including but not limited to the magnitude of the revenue requirement increase SCE seeks in this application, the additional subjects included in this application as compared to past SCE GRCs (such as the costs of SCE's solar photovoltaic and fuel cell programs, and MRTU-related costs<sup>13</sup>), the concurrent GRCs underway for Southern California Gas Company and San Diego Gas & Electric Company (with DRA, TURN and other intervenors active in all three GRCs), and the pattern of issuing GRC decisions after the start of the test year in each GRC of the past decade.

TURN is concurrently filing a motion seeking establishment of a memorandum account that would make the revenue requirement adopted for the test year go into effect on January 1, 2012 even if the final decision issues after that date, in part to mitigate the

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<sup>13</sup> SCE Application, pp. 7-11.

pressure to develop a schedule driven by a year-end target date for the decision. Regardless of the outcome on that motion, the schedule established in this proceeding must ensure that DRA, TURN and other parties have sufficient time to review and analyze SCE's requests prior to serving their testimony; to review rebuttal testimony and conduct discovery on that testimony before the evidentiary hearings commence; to conduct cross examination on material issues; and to otherwise have sufficient opportunity to present and support their positions. TURN does not have a specific schedule to propose at this time, but anticipates presenting one in a prehearing conference statement submitted prior to the first prehearing conference.

#### **V. Other Matters To Be Addressed Early In The Proceeding**

In addition to the substantive issues identified above, TURN takes this opportunity to identify other issues that the Commission may need to address at the prehearing conference or at some other relatively early point in the proceeding.

First, the Commission may need to address SCE's document retention practices for purposes of this proceeding. TURN's understanding is that SCE has standard document retention practices that apply to both paper and electronic versions of documents and other communications, and that for some documents the period for retention can be as short as a matter of months in some cases. Such an approach could unduly hamper the ability for parties to review or analyze SCE-produced materials related to this GRC. Therefore it may behoove the parties and the Commission to have a clear understanding very early in the proceeding as to SCE's document retention practices that will be applied to GRC-related materials, and how the utility defines GRC-

related materials for this purpose. TURN urges the utility to use the reply to protests as an opportunity to describe in detail the applicable document retention practices.

Second, the Commission regularly issues an order instituting investigation (OII) as a companion proceeding to each major energy utility's GRC. Among other things, the OII serves as the forum for parties other than SCE to present affirmative recommendations on subjects not covered by the utility's application or testimony. While the Commission has typically issued the OII within a few months of the GRC application being formally filed, in the 2011 test year GRC for PG&E (A.09-12-020) the OII did not issue until August 4, 2010, after the close of the evidentiary hearings (I.10-07-027). The Commission should either issue the companion OII much earlier in this proceeding or make clear at the prehearing conference that such an OII will issue and that parties should proceed accordingly.

December 29, 2010

Respectfully submitted,

By: \_\_\_\_\_/S/\_\_\_\_\_

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## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the “Protest of The Utility Reform Network” by electronic mail to the following persons on the official service lists for A.10-11-015 and A.07-07-011:

A.10-11-015

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A.07-11-011

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Executed this 29<sup>th</sup> day of December, 2010, at Scottsdale Arizona.

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