BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHERN CALIFORNIA EDISON COMPANY (U338E) for Authority to, Among Other Things, Increase Its Authorized Revenues For Electric Service in 2009, And to Reflect That Increase In Rates.	Application 07-11-011 (Filed November 19, 2007)
And Related Matter.	Investigation 08-01-026 (Filed January 31, 2008)

OPENING COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES TO THE PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE DE ANGELIS AND THE ALTERNATE DECISION OF PRESIDENT PEEVEY

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1. SUMMARY

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) files these Comments to the Proposed Decision (PD) of Administrative Law Judge (ALJ) DeAngelis, and the Alternate Decision (AD) of President Peevey relating to the test year 2009 General Rate Case (GRC) Application filed by the Southern California Edison Company (SCE or Edison).

The PD of ALJ DeAngelis recommends a $4.743 billion base revenue requirement for test year 2009; the AD recommends a $4.889 billion revenue requirement for the test year. The PD provides SCE with post-test year revenue requirement increases of 3% in 2010 and 2011; the AD recommends an increase of 4.68% in 2010 and 4.87% in 2011.

DRA recommends that the Commission adopt the ALJ's PD, with the changes set forth below.[1] DRA does not recommend the adoption of the AD since the additional increases it would grant SCE are based on legal and factual errors, and would result in unjust and unreasonable rates.

1.1. Forecast Test Year Ratemaking

Part of SCE's justification for the enormous rate increase it seeks in this GRC is that it deferred or postponed capital replacements and maintenance due to "unanticipated load and customer growth in 2006-2007."[2] As both the PD and AD note, SCE diverted funds away from its Infrastructure Replacement project, including funds for preventative maintenance of distribution and substation equipment, such as circuit breakers and other similar equipment.[3] Now, to make up for deferring the capital replacements and maintenance, SCE asks the Commission for over one hundred million dollars for projects and activities *explicitly authorized* by the Commission in the past.

The PD states that it is Commission policy that:

> ... it would be unjust and unreasonable to make ratepayers responsible for expenses directly attributable to deficient or unreasonably deferred maintenance, or to make ratepayers pay a

[1] Although DRA does not necessarily agree with the resolution of all matters not specifically addressed below, consistent with Rule 14.3, these Comments address only legal, factual or technical errors.

[2] *See* PD, p. 3.

[3] PD, p. 3, AD, p. 3.

> second time for activities explicitly authorized by the Commission in the past.[4]

The AD, however, would give Edison over $170 million[5] for the years 2007-2009 for deferred replacements without sufficient factual evidence supporting a need for additional funding above historic levels. The AD also would give SCE additional funding in 2009-2011 for deferred preventative maintenance.[6]

In the past, as the PD notes, the Commission has found that one-time events, such as the unanticipated scope of Year 2000 (Y2K) projects, justify deferral of certain maintenance work.[7] Load and customer growth are hardly unique aspects in rate cases, however. Utilities are in the business of forecasting and anticipating load growth and customer growth, and in the past GRC, as in this one, SCE had the burden of proof of the reasonableness of its load growth and customer growth estimates.

Nevertheless, in this GRC, the AD would find that, because load and customer growth was unanticipated in the TY 2006 GRC, SCE's ratepayers must again provide additional funding over historical levels for SCE to complete projects it was given funding to address in the previous GRC cycle. The AD's justification is the following:

> In evaluating what constitutes 'reasonable' deferred maintenance, we herein take the view that if the activities to which the funds approved for one purpose are diverted are activities the Commission *would have authorized* had it been able to adequately anticipate those activities, then the deferral is reasonable. Under these circumstances, reapproving funding for activities already authorized but from which the associated funding was ultimately diverted is also reasonable.[8]

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[4] PD, p. 5.

[5] *See §* 8.3.3.1, Deteriorated Distribution Pole Replacements, PD, p. 201, AD, p. 203; §8.3.3.3, Street Light Replacement, PD p. 203, AD, p. 205; §8.3.3.5., Deteriorated Underground Structure Replacement, PD, p. 205, AD, p. 207; §8.3.3.6, Underground Mainline Oil Switch, PD, p. 206, AD, p. 208; §8.3.3.7, Underground Cable Replacement, PD, p. 207, AD, p. 209; §8.3.3.9, Worst Circuit Rehabilitation, PD, p. 209, AD, p. 212; §8.3.4.3, Distribution Circuit Breakers, PD, p. 213, AD, p. 215; §8.3.4.4, Distribution Protection and Control, PD, p. 214, AD, p. 216.

[6] *See* § 3.20.2. Overhead Line Maintenance, PD, pp. 100-101; AD, pp. 101-103.

[7] PD, p. 4.

[8] AD, p. 5, emphasis added.

This outcome is based on legal and factual errors and should not be adopted. First, the statement that the activities to which the funds approved were diverted "…are activities the Commission *would have authorized*…" has the effect of impermissibly altering a previous Commission decision in violation of Public Utilities Code Section 1708. While Section 1708 does allow the Commission to "… rescind, alter or amend any order or decision made by it," the Commission must first give notice of that to the parties and provide them with an opportunity to be heard. The issuance of the AD is the first intimation that the Commission would re-consider *now* what activities it "*would have authorized*" in Decision (D.) 06-05-016, SCE's last GRC.

Second, the AD's proposal to allow the Commission to find, after the fact, that some "...activities to which the funds approved for one purpose are diverted are activities the Commission *would have authorized* had it been able to adequately anticipate those activities" amounts to retroactive ratemaking. As the California Supreme Court has held, Public Utilities Code Section 728 "…vests the Commission with the power to fix rates prospectively only."[9] The Commission itself has said that:

> It is a well established principle of this Commission that ratemaking is done on a prospective basis. The Commission's practice is not to authorize increased utility rates to account for previously incurred expenses, unless, before the utility incurs those expenses, the Commission has authorized the utility to book those expenses into a memorandum account or balancing account for possible future recovery in rates.[10]

Third, as the PD points out, errors in forecasting occur. When they occur in a utility's favor, the utility does not return the surplus. Yet, according to the AD, if an adopted forecast *under*estimates costs in one GRC, then ratepayers could be required to provide additional funding in the next GRC for the same activities.[11] To DRA's knowledge, there is no legal precedent that allows for this unjust and unreasonable shifting of all the risks of forecasting to ratepayers.

In addition to the legal errors, the AD would give SCE approximately $170 million for the years 2007 - 2009 for capital expenditures based on factual errors. In eight areas described in

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[9] *Southern California Edison Company v PUC* (1978) 20 Cal. 3d 813, 816.

[10] *Application of California-American Water Company* (2002) D.02-07-011, p. 2.

[11] PD, p. 5.

more detail below, the AD would grant SCE's requests for additional funding far in excess of its historical spending based on SCE's argument that it deferred or diverted capital expenditures approved in the last GRC due to unanticipated customer and load growth.

In each of these areas, the PD correctly finds that SCE has not met its burden of proving that its historical expenditures are an insufficient basis for SCE to provide safe and reliable service going forward.[12] To justify its proposed increases, SCE must explain why projects that SCE determined were not serious enough to be performed in the last GRC cycle now urgently require funding far in excess of SCE's most recent actual expenditures. Simply saying that SCE diverted funding to set meters does not explain why, for example, the $76.6 million that it *did* spend on Deteriorated Distribution Pole Replacements in 2007 was sufficient to provide safe and reliable service *then*, but *now* must be increased by over $41.6 million for years 2007 – 2009.[13]

The AD's rationale is that the purposes to which SCE diverted funds were "… activities the Commission would have authorized had it been able to adequately anticipate those activities." In support of this, the AD cites to Exhibit SCE-3A, in which SCE says that the increase above 2006 expenditures was due primarily to: "the actual meter sets being 15,796 (or 22%) higher than we forecasted, and (2) the actual cost per meter set being $611 higher than forecast."

In discovery, DRA asked SCE to identify the programs affected by fund diversions due to load growth or customer growth. The most that SCE was able to provide was a list of programs and costs that "*could have been* used to fund Customer and Load growth projects above authorized levels."[14] In fact, SCE stated that "[n]o analysis has been performed to determine the specific amount of authorized funds removed from each program and reprioritized to Customer and Load Growth..."[15]

During the hearings, SCE's subject matter witnesses, who claimed that these "unforeseen increases in customer and load growth" were the reason SCE deferred projects, were not able to identify with any specificity the purposes to which SCE diverted the amounts or why SCE needs

[12] *See, e.g.,* PD, p. 206, §8.3.3.5.Deteriorated Underground Structure Replacement

[13] *See* PD, p. 202.

[14] Ex. DRA-15 WP, p. 115, SCE Response to DRA-135, Q/A. 1a.

[15] Ex. DRA-15 WP, p. 114, Q/A 1(a).

additional funding over historic levels. Questions about what money was diverted were met with answers like the following:

> A: I cannot -- I can't tell you about the growth projects, the load growth and customer growth projects. As far as the infrastructure replacement, the distribution infrastructure replacement projects, it sounds evasive, but it's a very difficult – it is difficult to figure out how far back you go when the money isn't available there for the infrastructure replacement. I am not sure that it is calculable. Our forecasts are based on where we think the reliability of the system is going and what do we need to do at that point to manage the reliability.
>
> *So I am not sure what we did, and I am not sure we even could figure out how much that set us back.*[16]

SCE introduced various exhibits during hearings that were supposed to show that "unforeseen customer and load growth compelled SCE to postpone work and divert funds." At most, however, the tables only show that SCE spent less on projects than it was authorized in the last GRC.[17] They do not show that the funding above historic levels is reasonable or necessary. SCE fails to meet its burden of proof that the incremental capital expenditures approved by the AD are necessary to provide safe and reliable service.

The PD provides sufficient funding for capital projects based on historical 2007 levels. With the modifications discussed below, the Commission should adopt the PD.

3. TRANSMISSION & DISTRIBUTION EXPENSES

3.5.1. Transmission Line Clearance

SCE asked for increases to FERC Subaccount 563.100 of $10.623 million for a Transmission Line Clearance study. DRA recommended a total of $7.7 million for labor and non-labor expenses for this study, an increase of $2.215 million over SCE's 2006 recorded expenses.

The PD and AD find as follows:

> SCE's proposed funding is for study, evaluation, and mitigation planning to address potential clearance issues on SCE's transmission and sub-transmission lines. Given the magnitude and complexity of this effort, including the need for additional

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[16] 11 RT 976 R.Lee/ SCE, emphasis added; s*ee also*, 10 RT 919-920, Salinas/ SCE.

[17] *See* Ex. SCE-33, Ex. SCE-33A, Ex. SCE-47, Ex. SCE-48, Ex. SCE-48A.

> engineers to oversee this project and to participate in mitigation design during the 2009-2011 periods, we find SCE's forecast reasonable.[18]

This summary does not address relevant, factual evidence in the record showing SCE's forecast is overstated. For example, DRA's testimony describes contracts SCE entered into relating to Transmission Line Clearance study with effective dates ranging from March 2005 to May 2008.[19] These contracts show that there are embedded costs for projects that are completed or will be completed in 2008. The funds that were used for these completed projects can be used for other study projects in the coming years.

DRA's recommendation was based on SCE's recorded expenses for 2006 plus an additional $2.215 million to reflect SCE's actual spending over the past GRC period. In contrast, SCE relied solely on "budgets" for its $10.623 million forecast. As the PD notes in connection with SCE's forecast for Operations Support Business Unit, budget based forecasting can be unreliable.[20] Past GRC decisions have noted in connection with post-test year ratemaking that a significant problem with budget-based ratemaking boils down to the fact that budgets are not always implemented as planned.[21] The same is true here. Based on the record, the Commission should adopt $7.7 million for the Transmission Line Clearance study.

3.10. Training Miscellaneous Transmission Expenses – FERC Subaccount 566.700; Training Miscellaneous Distribution Expenses – FERC Subaccount 588.700

SCE forecasts $13.380 million in expenses for FERC Subaccount 566.700, Transmission Training, which is an increase of $4.673 million over 2006 recorded expenses. For FERC Subaccount 588.700, Distribution Training, SCE forecasts $31.632 million, a $10.385 million increase over 2006 recorded. DRA recommended no increase over 2006 recorded figures.

SCE's justification for its request was based on SCE's opinion that "the Commission in the 2006 GRC allowed a 7.7% ratio of training costs to total labor, which included both O&M and capital-related labor."[22] SCE argued that its training request, as a ratio of the TDBU O&M and capital related labor dollars in TY 2009, results in a similar ratio of 7.76% for the test year.

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[18] PD, p. 56/ AD, p. 57.

[19] Ex. DRA-05, pp. 23-26.

[20] PD, pp. 171 -173.

[21] D.04-07-022, p. 276.

[22] PD, p. 62, AD, p. 63.

The PD and AD both note that SCE's analysis of the 2006 GRC decision is incorrect. Nonetheless, the PD and AD adopt a forecast that includes 50% of SCE's incremental requests. The final decision in this matter should adopt no increase for either Subaccount.

For Subaccount 566.700, granting SCE a 50% increase when SCE has failed to show that it is "entitled to such increase"[23] is legal error. The circular reasoning of SCE's argument that it should receive additional training funds simply because its forecast is "largely proportional to its forecasted hiring" is not clear and convincing evidence that its 2006 recorded adjusted expenses are insufficient to address its test year training needs.[24]

For Subaccount 588.700, SCE's failure of proof is even more striking. In the 2006 GRC decision, the Commission granted SCE a 56% increase over SCE's 2003 recorded amounts noting even as it did so that, "…though we have provided additional funding for the training of new employees, we are not totally convinced that these types of costs are not at least partially covered by the use of recorded 2003 data, and the $5.6 million increase in 2004 over 2003 that was incorporated in the test year estimates of both SCE and DRA." The Commission also noted that, "there is a question as to whether all historic training activities will be necessary in the test year and if not, how much of the new training it would offset."[25] SCE still has not shown why its historic training expenses are insufficient. Granting SCE any increase for these Subaccounts when SCE has not met its burden of proof would be legal error.

3.12. Maintenance of Overhead Lines – FERC Account 571

3.12.1. Poles & Structures – FERC Subaccount 571.100

SCE's forecast for FERC Subaccount 571.100 includes a request for additional funding of $7.626 million for its Transmission Life Extension Program. The PD denies SCE's request finding, based on the evidence in the record, that "SCE failed to meet the requirements of D.06-05-016 to provide additional detail and clarification on the incremental nature of this request."[26]

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[23] *Re SCE* (2004) D.04-07-022, mimeo, p. 10.

[24] Ex. DRA-05, p. 43.

[25] D.06-05-016, pp. 88-89.

[26] PD, p. 69.

The AD, however, would give SCE the additional $7.626 million on the basis of what the AD terms Edison's "detailed breakdown of the work it intends to do in 2009 under the life extension program."[27] The AD refers to Exhibit SCE-17B, Attachments 4 and 15 as support. Exhibit SCE-17B, Attachment 15 is titled "Event Report of Jul 1, 06 DPV 500 KV T/L M162-T2 Tower Failure." Nothing in this report shows how SCE's requested increase for TY 2009 is incremental to SCE's Transmission Life Extension Program. Exhibit SCE-17B, Attachment 4 is titled "Transmission Life Extension Program." This exhibit lists proposed projects and estimated costs, but still does not show that its 2006 expense levels are insufficient to address these projects.

The PD's resolution of this matter is supported by the evidence and should be adopted.

3.12.2. Insulators & Conductors – FERC Subaccount 571.200

3.12.2.1. Insulator Washing

SCE's forecast for FERC Subaccount 571.200 includes a request for an additional $2.007 million for insulator washing in the San Joaquin Valley. DRA opposes the increase because "SCE's historical expenses have embedded costs for increased insulator washing in agricultural areas such as in the San Joaquin area that can be utilized in the test year."[28]

The PD and AD grant SCE's requested increase stating:

> SCE claims DRA mistakenly finds 2006 recorded costs include insulator washing. The program for insulator washing did not begin until 2007, so no costs were recorded in 2006. On this basis, we find SCE's request reasonable.[29]

In its decision in SCE's last GRC, the Commission granted SCE's request for additional funding based in part on SCE's claim that it needed additional funding for "hot washing" insulators such as those in the San Joaquin Valley. In so doing, the Commission stated that "we recognize SCE's need to replace and repair insulators in the San Joaquin Valley, but will reduce the life extension program by 15% to account for potential double counting and non-recurring costs…."[30] Whether SCE spent the money it was granted in D.06-05-016 for insulator washing

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[27] AD, p. 70.

[28] Ex. DRA-05, p. 67.

[29] PD, p. 70; AD, p. 71.

[30] D.06-05-016, pp. 76-77.

in the San Joaquin Valley for that purpose, SCE already has the funds for this activity in rates. The Commission's final decision in this matter should deny SCE's request for additional funding as not supported by the record.

3.12.2.3. Insulator Replacement

SCE's forecast includes a $4.812 million increase for insulator replacement as part of its Transmission Life Extension Program. The PD denies this request pointing out that SCE has not shown why the embedded costs for this activity are insufficient or why SCE has not performed maintenance on this equipment on a regular basis.[31]

The AD, on the other hand, finds "Edison has made sufficient showing to justify its request" apparently because "Edison states that the pace of insulator replacement under the existing maintenance regime is insufficient to replace all insulators that need to be replaced in a timely manner."[32] As the PD notes, Edison's unsupported conclusion does not meet the standard of clear and convincing evidence. The Commission should deny this increase.

3.20. Maintenance of Overhead Lines – FERC Account 593

3.20.2. Overhead Line Maintenance – FERC Subaccount 593.300

FERC subaccount 593.300 records labor and material expenses required for overhead line repairs, whether identified during circuit inspections or as the result of a breakdown. SCE's forecast for Subaccount 593.300 is $53.291 million, which includes an increase for vehicles. SCE's recorded 2006 expenses for this Subaccount are $37.168 million. DRA's forecast is $37.681 million, slightly higher than SCE's 2006 recorded.

The PD and AD both hold SCE to its burden of proof and reject SCE's unjustified requested increase for vehicles. The PD also rightly rejects SCE's other proposed increases for "breakdown/reactive maintenance" and "line maintenance" expenses citing to SCE testimony in which SCE acknowledges that its deferred maintenance has led to SCE leaving equipment in service longer, thereby increasing the stress placed on that equipment.[33] The PD is consistent

[31] PD, pp. 71-72.

[32] AD, p. 73.

[33] PD, p. 101, citing Ex. SCE-17E, p. 51; Ex. SCE—3D, p. 170.

with a principle noted by the Commission in a previous SCE GRC, that "... ratepayers should not be required to pay twice for the same authorized expense."[34]

The AD does not address the evidence that SCE deferred preventative maintenance in this area, but instead grants the increases based on SCE's proposed linear (increasing) trend in expenses, and on SCE's claim that its Distribution Inspection and Maintenance Program (DIMP) will result in higher costs.[35] Failing to address the evidence of deferred maintenance does not resolve the issue. Moreover, the PD already takes into account the additional work SCE says it will be performing to implement DIMP.[36] The Commission should adopt the PD.

6. ADMINISTRATIVE & GENERAL EXPENSES

6.2. Results Sharing – Short Term Incentives for Non-Executives

Based on SCE's failure to comply with the Commission's directives in D.06-05-016 and the Commission's findings in D.08-09-038, the Commission should deny SCE's Results Sharing request entirely.

The PD rejects SCE's forecast methodology and finds it reasonable to reduce SCE's request by 50%. The PD further finds:

> Based on the evidence presented in this proceeding and the Commission's findings in D.08-09-038, we remain concerned about employee incentive compensation proposals, such as the Results Sharing Program, that provide shareholder value without imposing shareholder costs. DRA raises significant concerns about the success of SCE's efforts to redesign this program. We have no data to support funding this program, as redesigned, and to ensure that the redesign successfully addresses the known deficiencies identified in the 2006 GRC and in D.08-09-038.[37]

The AD, on the other hand, would grant SCE's Results Sharing request, finding that "in light of [SCE's corrective actions], we are generally satisfied that Edison has made the changes necessary to ensure the overall robustness of this program."[38]

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[34] *Re SCE* (2004) D.04-07-022, mimeo, p. 105

[35] AD, pp. 102-103.

[36] PD, p. 101.

[37] PD, p. 129.

[38] AD, p. 399.

This conclusion of the AD is based on factual error in that it does not take into account SCE's admission that SCE's "corrective actions" were neither in place in for its 2009 GRC nor were they corrective. First, the changes purportedly made to the Results Sharing program did not go into effect in time to change the TY 2009 metric.[39] Second, SCE failed to correct problems with the Results Sharing program and as such, the 2009 Test Year GRC request is based on the same broken metric that lead to the fraudulent behavior discussed in D.08-09-038.

SCE's TY 2009 Results Sharing forecast was based on customer service business unit goals, reliability business unit goals and health and safety business unit goals – all of which were implicated in SCE's Performance Based Ratemaking (PBR) fraud scandal. The shifting away from "business unit goals" and "net operating income" to a new set of "operational goals" does nothing to prevent the type of wrongdoing that took place at SCE from 1997-2003. The reason for this is simple: operational goals are composed of business unit goals, and net operating income still plays a part in determining the Results Sharing payout. SCE's Results Sharing witness admitted that, for example, SCE has a corporate goal for power procurement with a commensurate business unit goal.[40]

Furthermore, as it did in the past, SCE still uses a multiplier, which is based on the company's net operating income, to determine the Results Sharing payout. The only difference is the range of the scale. In the past, the multiplier was a number between 0 and 2, while for TY 2009, the range of the multiplier is between 0.5 and 1.5.[41] Thus, depending on whether, for example, O&M budgets were met, the payout could be above target.[42] Obviously, meeting budgets affects the company's net operating income, so while SCE claims that it has shifted away from net operating income to other "operational goals," this, in effect, is simply semantics: the same incentives for fraud that existed in the past are still clearly present. For this reason alone, SCE's request to have ratepayers fully fund its Results Sharing program should be denied.

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[39] *See* 14 RT 1562, where SCE's witness admits that 2006 Results Sharing awards were based on the 2005 Results Sharing plan design. These same 2006 awards are part of the metric that SCE used to justify its TY 2009 Results Sharing request.

[40] 14 RT 1560:13-16.

[41] Id at 1554:11-13 and p. 1555:3.

[42] Id at 1553:19-28.

SCE points to its Ethics Helpline, new safety goals and a company-wide ethics program to demonstrate that it has improved the integrity and control of Results Sharing data.[43] In reality, however, these alleged corrective actions have failed to improve the integrity and control of the Results Sharing data.

First, nearly 70% of SCE's employees are not confident in the integrity of SCE's Ethics Helpline investigation process.[44] In addition, nearly 50% of SCE's employees feel that they could not report unethical behavior without fear of retaliation;[45] and 65% of SCE employees believe that excellent performers who do not live up to SCE's ethics and compliance code are promoted or tolerated.[46] It is also striking to note that only 61% of SCE's employees have not felt pressure by other SCE employees or managers to compromise SCE's policies or Ethics and Compliance Code.

Second, on January 11, 2008, after substantiating several instances of willful health and safety violations at SONGS, the Nuclear Regulatory Commission ordered SCE to conduct multiday interventions that reinforce fundamental company values and to expand its corporate ethics program and to conduct integrity training of its SONGS managers and supervisors.[47] SCE's claim that its Ethics program has improved the integrity of its Results Sharing Program is flatly contradicted by the evidence.

D.08-09-038 recognizes the enormous increase in the Results Sharing program payout during the PBR period in which fraud occurred. Obviously, the amount of Results Sharing per employee is now much higher and this funding has been built, at least partially, upon a foundation of fraud and deceit.

As the Commission found in D.08-09-038:

> The [Results Sharing] program has changed considerably since its inception in 1995. Through collective bargaining, represented employees became eligible for Results Sharing program awards and the number of eligible employees has nearly doubled. Also,

[43] Ex. SCE-6b p. 9, Section B.

[44] Ex. DRA- 61 pp. 1 and 5.

[45] Id at p. 7.

[46] Id.

[47] Ex. DRA – 74, pp. 129, 136 and 137.

> the target and maximum payout percentages have changed. Originally, the maximum payout for represented employees was $400, whereas by 1999 those employees had a maximum payout of 6% of pay, which equated to approximately $3,600 per represented employee.[48]

SCE has never taken any corrective actins with regard to the enormous level and growth of Results Sharing payout that occurred during the fraud. Based on the findings in D.08-09-038, and the record in this case, ratepayer funding for Results Sharing should be zero.

The PD would at least put some reasonable limitation on the Results Sharing level for which ratepayers are responsible. Of the two decisions, only the PD is based on the record evidence. The AD simply casts aside all evidence on this issue and forces ratepayers to fully fund an excessively funded program built upon fraud. The AD would thus provide coverage to SCE management and allow them to escape accountability for the excesses of this program into the future. DRA continues to recommend no ratepayer funding for this program, but if any is granted, it should be funded at the level in the PD.

6.20. Operations Support Business Unit – FERC Accounts 920/921 and 923

SCE's forecast for its Operations Support Business Unit is $82.065 million. The PD adopts SCE's 2006 recorded expenses of $48.008 million finding that DRA and TURN make compelling arguments for reducing SCE's forecast.[49] These arguments include the unreliability of SCE's budget-based forecasting, the fact that SCE's expenses in this area have been stable since 2002, and SCE's inclusion of millions of dollars for employee moves when these costs are already embedded in rates.[50]

The AD grants SCE $82.065 million. This is based on factual error. First, in Rebuttal, SCE reduced its estimate for employee moves from $7 million to $3.635 million, a reduction not reflected in the AD.[51] Second, the AD appears to rely on SCE's claim that its overall increase is driven by increases to FERC Account 935.[52] Both the PD and AD reduce the amount of capital

[48] D.08-09-038, pp. 67-68.

[49] PD, pp. 172-173.

[50] Ex. DRA-07, pp. 77, 85.

[51] Ex. SCE-23, p. 17.

[52] AD, p. 175.

expenditures for SCE's Operations Support Business Unit, so, to be consistent, non-labor expenses for FERC Account 935, and FERC Accounts 920/921 should be reduced as well. Given the factual error and internal inconsistencies in the AD's reasoning, the ultimate conclusion that SCE's budget based methodology is adequately explained is not substantiated. The PD's recommendation should be adopted.

7. DEPRECIATION

SCE requests an increase of approximately $370 million for depreciation and amortization expense in 2009. SCE's request represents a 42% increase over the level authorized and recorded in 2006.[53] DRA agrees with SCE's proposals concerning the asset service lives, but opposes all of the changes SCE proposes to net salvage rates.

Both the PD and the AD adopt SCE's remaining life estimates and SCE's future net salvage estimates, and reject the proposals of DRA. The reasons the PD and APD give for rejecting DRA's proposal do not address relevant, factual evidence in the record and appear to be based, at least in part, on an assumption that is factually incorrect. DRA recommends the Commission correct the errors in the final decision and adopt DRA's proposals.

The PD and APD state some of the reasons cited by DRA for its proposal, but omit one of the most important: "SCE already collects sufficient funds under current rates to pre-fund future cost of removal."[54] As DRA shows in its testimony:

> Between 2005 and 2007, SCE collected approximately $667 million in rates from customers for net salvage (cost of removal) and incurred actual[] expenditures of approximately $500 million during the three year period. This means that about 75% of the amount collected in rates for cost of removal was actually spent by SCE for removal activities with the remaining 25% going towards ratepayer's contribution (accrual) to prefund future cost of removal. The 25% margin embedded in the current net salvage rates for the purpose of funding future cost of removal is adequate and should be retained during this rate case cycle.[55]

One of DRA's reasons the PD and AD do include is that, "for other utilities, net salvage rates have or will remain unchanged for more than the traditional 3-year GRC cycles due to the

[53] Ex. SCE-11B, pp. 25-26.

[54] Ex. DRA-18, p. 15.

[55] Ex. DRA-18, p. 15.

adoption of longer GRC cycles.'[56] This, however, incompletely describes DRA's evidence. As DRA pointed out, in SCE's TY 2003 GRC, the Commission did not modify the negative salvage rates, leaving in place SCE's existing rates. The Commission did, however, provide SCE with a significant increases in net salvage rates in its decision in SCE's TY 2006 GRC.[57]

Finally, the PD and AD include the following assumption: "DRA's primary concern is to retain the previously adopted net salvage rates in order to keep SCE's electricity rates down."[58] This incompletely characterizes DRA's testimony which actually states the following:

> The total revenue requirement that SCE is requesting in this proceeding is the largest dollar amount rate increase that the electric department of any California energy company has requested in recent years. It would result in a significant increase to existing rates which are currently ... high. Any additional rate increase will have a negative impact on ratepayers who are ...being harmed by the current economic downturn which has resulting in loss of jobs and homes to some California ratepayers. Given the sizable TY 2009 increase requested by SCE and the substantial amounts SCE has already collected in rates for negative salvage that have yet to be spent, the Commission should be receptive to those areas in which the rate increase can be mitigated.[59]

DRA's proposal is thus consistent with the findings in the PD and AD that:

> The financial markets in the United States continue to suffer significant upheaval in large part due to the home mortgage lending market crisis which directly led to the failures or mergers of many long-standing financial institutions. We do not know yet the long-term implications of this financial crisis. In the circumstances, it remains our obligation to use our best judgment, knowledge and experience to adopt a revenue requirement that provides SCE with sufficient funding to provide safe and reliable service at just and reasonable rates. [60]

The area of depreciation provides the Commission with an opportunity to mitigate the effects of SCE's requested increases to ratepayers with no risk or adverse impact to the utility and its shareholders. The difference between adopting SCE's proposals and adopting DRA's is

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[56] PD, pp. 176-177,

[57] Ex. DRA-18, p. 7.

[58] PD, p. 178.

[59] Ex. DRA-18, p. 13.

[60] PD, p. 5, AD, pp. 5-6.

approximately $100 million.[61] Based on the entirety of the factual evidence presented on this issue, DRA's proposal should be adopted.

8. RATE BASE, PLANT-IN-SERVICE, AND CAPITAL EXPENDITURES

8.2.1. Nuclear Generation

In connection with SCE's $49.2 million request in capital expenditures for SONGS 2 & 3 in TY 2009, the PD and AD state that DRA's testimony does not mention any recommended adjustments, and conclude that SCE's forecast appears uncontested.[62] This conclusion is factually incorrect. DRA's testimony states that "DRA used 2007 recorded capital expenditures for SONGS, Palo Verde, Four Corners, Mohave, Hydroelectric and Catalina, as opposed to SCE's forecasts."[63] The adjustments DRA made to the model, $5.9 million for SONGS and $3.1 million for Palo Verde, reflect DRA's use of recorded data because DRA *does* contest SCE's forecast. DRA continues to recommend that the Commission use SCE's actual recorded expenditures in these areas.

8.3. Transmission & Distribution Capital

8.3.3.1. Deteriorated Distribution Pole Replacements

SCE requests $80 million in 2007, $88.1 million in 2008, $109.7 million in 2009, $112.2 million in 2010, and $115.2 million in 2011, to replace deteriorating distribution wood poles.[64] DRA recommends $76.6 million for each of the years 2007, 2008 and 2009, based on SCE's actual expenditures. The PD adopts DRA's forecast finding that, "recorded costs, rather than a budget-based method, is a more reliable forecasting methodology in this instance as SCE has failed to provide a reasonable explanation for deferring work in this area…."

The AD, however, would grant SCE's request accepting SCE's explanation that "significant and unforeseen increases in customer and load growth required SCE to reprioritize its capital spending."[65] For the reasons discussed above in Section 1.1, the AD's conclusion is error. As the PD finds, "[u]nexpected load growth is not a sufficient reason to excuse

[61] Comparison Exhibit, p. 675.

[62] PD, p. 183; AD, p. 185.

[63] Ex. DRA-73, p. 1, lines 12-13.

[64] PD, p. 201.

[65] AD, p. 202.

maintaining distribution poles"[66] and SCE has failed to meet its burden of proving that its 2007 actual spending levels, adjusted for inflation, will be inadequate to provide safe and reliable service. The PD should be adopted.

8.3.3.3. Street Light Replacement

SCE requests a total of $45,600,000 for the years 2007-2009. DRA recommends a total of $32,200,000 to reflect the 2007 recorded spending level of $10.5 million for each of the years 2007-2009, adjusted for inflation.[67] The PD adopts DRA's recommendation; the AD grants SCE's request in its entirety, accepting SCE's load growth/ customer growth fund diversion argument.[68]

For the reasons discussed above in Section 1.1, adoption of the AD would be error. As the PD finds, SCE's explanation of unforeseen load growth is not a sufficient reason to defer maintenance in this area,[69] nor has SCE shown that its 2007 actual recorded spending levels will be inadequate to provide safe and reliable service. The PD should be adopted.

8.3.3.5. Deteriorated Underground Structure Replacement

SCE forecasts $7.2 million in capital expenditures for 2009-2011, of which $2.0 million is applicable to 2009 to replace eight deteriorated underground structures (vaults) per year. DRA relies on recorded data which shows that, with the exception of two vaults in 2004, and four in 2005, SCE did not replace *any* underground vaults between the years 2002 – 2007 and forecasts zero replacements in 2008.[70] DRA, therefore, recommends $0.8 million for the replacement of three of SCE's requested eight vaults in 2009.

The PD adopts DRA's recommendation. The AD, however, would grant SCE's request accepting SCE's explanation that it deferred replacement of these facilities due to the "…seriousness of the unexpected surge in load/ customer growth."[71]

[66] PD., p. 202.

[67] PD, p. 203.

[68] AD, p. 206.

[69] PD, p. 204.

[70] Ex. DRA-15, p. 19.

[71] AD, p. 208.

For the reasons discussed above in Section 1.1, adoption of the AD would be error. As the PD finds, SCE "… has not substantiated its claims that reliance on recorded data in this instance is not appropriate. Moreover, it is unclear why this serious problem took a lower priority to customer growth matters."[72] Since SCE has not shown that its 2007 actual recorded spending levels will be inadequate to provide safe and reliable service, the PD should be adopted.

8.3.3.6. Underground Mainline Oil Switch

SCE forecasts $32.7 million to replace 232 Underground Mainline Oil Switches in 2007, 185 switches in 2008, and 300 switches in 2009. DRA recommends $27.3 million, a $5.4 million reduction in SCE's 2009 forecast, to bring down the number of switch replacements in that year to the 2008 number of 185 switch replacements. The PD adopts DRA's recommendation; the AD adopts SCE's stating that SCE provided "extensive evidence suggesting an upward trend in switch failures as well as additional evidence indicating the significant impact of these increased failure rates on system reliability and safety."[73]

The PD addresses the evidence relating to system reliability and safety, but also notes that "SCE has an overlapping program that enables it to replace switches found to be deteriorating during periodic inspections. In addition, to the extent SCE deemed work on this equipment unnecessary due to unexpected load growth; we find SCE's explanation inconsistent with the public safety issues that could result in such deferred maintenance. Such a deferral also fails to support SCE's request to increase its replacement rate."[74]

The AD does not mention this evidence. Failure to address the evidence of deferred maintenance does not resolve the issue, and for the reasons set forth in Section 1.1 above, this increase should be denied. The PD should be adopted.

8.3.3.7. Underground Cable Replacement

SCE forecasts $58.5 million to replace 35 miles of Underground Cable in 2007, 78 miles of cable in 2008, and 200 miles of cable in 2009. DRA recommends $10.5 million based on

[72] PD, p. 206.

[73] AD, p. 209.

[74] PD, p. 207.

SCE's 36 mile yearly average rate for Underground Cable over the recorded years 2005-2007. The PD adopts DRA's recommendation.

The AD, however, would give SCE the entirety of its request stating that, "[i]n response to the 2006 GRC decision directing it to provide additional information to support cable replacement funding requests, SCE developed a study analyzing the relationship between cable age and failure rates. Using this information in combination with data regarding the age of cable in its system, SCE developed an assessment of the reliability impacts of leaving the existing cable in service."[75]

As the PD points out, although SCE claims that failure of this cable could pose serious reliability problems, at the same time, "SCE found it reasonable to fund the costs of new meters and install new distribution facilities to meet that growth by reprioritizing its capital spending, which led to reductions in spending on preemptive cable replacement. As a result, it is unclear what the level of urgency is for the proposed cable replacement."[76]

Again, the AD does not mention that, despite SCE's "study" assessing reliability impacts of leaving existing cable in service, SCE deferred the work for which it was authorized funding in the last GRC. In the 2006 GRC, SCE estimated that the company would replace 200 miles and 300 miles of cable in 2006 and 2007 respectively. The Commission authorized funding for SCE to replace 100 miles in 2006 and 2007. In reality, SCE replaced a fraction of what the company estimated and the Commission authorized. SCE has not shown that the level of funding DRA proposes, which would cover the costs to replace more miles of cable than SCE has actually replaced in recent years, is inadequate. For the reasons set forth in Section 1.1 above, SCE's proposed increase should be denied. The PD should be adopted.

8.3.3.9. Worst Circuit Rehabilitation

SCE forecasts $31.8 million over the period 2008-2009 to rehabilitate the worst performing circuits on its system in terms of reliability. SCE bases its forecast on rehabilitating 29 circuits in 2008 and 40 circuits in 2009. DRA recommends $10.5 million based on SCE's recorded data. The PD adopts DRA's recommendation; the AD would give SCE the entire $31.8 million.

[75] AD, p. 210.

[76] PD, p. 208.

The AD notes that "SCE explains that because it experienced significant and unforeseen increases in both customer growth and load growth, SCE funded the costs to set new meters and install new distribution facilities to meet that growth by reducing it spending in this area." The AD then concludes that Edison's program is "well justified."[77]

For the reasons discussed above in Section 1.1, adoption of the AD would be error. As the PD finds, SCE "… does not quantify the impact of its decision to postpone rehabilitation of these circuits by, for example, explaining whether maintenance costs increase or the amount of work needed to rehabilitate the circuits increased as result of this deferral. Moreover, it is unclear why rehabilitation of these circuits is urgent now, but during 2006-2007, it was not."[78] SCE has not met its burden of proof to show and granting its request, as the AD does, is error. The PD should be adopted.

8.3.4.3. Distribution Circuit Breakers

SCE forecasts $47.1 million over the period 2007-2009 to replace a total of 342 aging power circuit breakers, 54 in 2007, 148 in 2008, and 140 in 2009. DRA recommends $25.2 million for the replacement of 184 circuit breakers based on SCE's historical spending. The PD adopts DRA's recommendation. The AD, however, would give SCE the entire $47.1 million it asked for stating that it finds "Edison has adequately justified its proposed number of distribution circuit breakers replacement as well as the associated budget necessary to do so."[79]

As the PD notes, SCE did not base its circuit breaker replacement forecast on historical data because "…historical data would show a decrease in SCE's replacement efforts due to unexpected customer load growth." This historical data is relevant, and SCE fails to provide an adequate explanation for deferring this work[80] if it was so important, or why, if SCE provided safe and reliable service by replacing an average of 65 circuit breakers a year from 2005 – 2007, it must suddenly replace 148 and 140 circuit breakers to provide safe and reliable service in 2008 and 2009.

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[77] AD, p. 212.

[78] PD, p. 210.

[79] PD, p. 214; AD, p. 215.

[80] PD, pp. 213-214.

For the reasons discussed in Section 1.1 above, adoption of the AD would be error. SCE has not met its burden of proof in this area and the Commission should adopt the PD.

8.3.4.4. Distribution Protection and Control

SCE forecasts $18.6 million over the period 2007-2009 to replace distribution protection and control equipment at 25 substations. DRA recommends $10.5 million for the replacement of 12 distribution protection and control substations, based on SCE's historical data. The PD adopts DRA's recommendation. The AD would give SCE the entire $18.6 million it requested.

As both the PD and AD note, SCE diverted funds from this program to address growth issues, and SCE has not quantified how it reduced spending due to the growth issues.[81] The AD would, nonetheless, give SCE additional funding for this program. The PD, on the other hand, observes that, in light of SCE's decision to defer spending on this program because of customer and load growth, the urgency *now* of replacement is unclear.[82] The conclusion of the PD is consistent with the law and the record. For the reasons discussed in Section 1.1 above, the Commission should adopt the PD.

8.6. Operations Support Capital – Corporate Real Estate

SCE requests $1.197 billion for 2007 – 2011 for capital projects to construct or remediate non-electric facilities used by its Operations Support Business Unit. Of that, SCE seeks $500 million to build several new satellite service centers, a new corporate headquarters and the Rivergrade Projects. The PD denies the requested $500 million. The AD would also deny SCE funding for a new corporate headquarters, but would give SCE $75 million in support of the satellite service center and Rivergrade project proposals.[83]

The PD includes a detailed discussion of the evidence and an in-depth review of each of the projects citing exhibits offered by SCE, DRA and TURN. In the end, the PD concludes:

> We agree with DRA and TURN that conditions have changed since SCE filed its application. For example, SCE significantly lowered its meter forecast for all customer growth categories during the hearing to reflect current and more recent forecasted market condition in May 2008. Real estate values have also

[81] PD, p. 214; AD, p. 216.

[82] PD, p. 214-215.

[83] PD, p. 240, AD, p. 241, Attachment, p. 4.

> changed, so the reasonableness of SCE's Rivergrade project, which involves an $80 million purchase of two buildings set forth in a 2006 lease agreement, is doubtful. In addition, the current and more recent forecasted economic market conditions should require SCE to reassess these projects and to consider alternatives to these projects. All these conditions lead us to question whether SCE needs to substantially increase its office space at this time. *We find that SCE has not demonstrated the need to proceed with its Satellite Service Center, New Headquarters Building, or Rivergrade projects*[84].

Although the AD contains the same discussion, at the end, it finds that:

> "…while these changing conditions do not completely negate the basis of Edison's request, we do find that it significantly reduces the amounts that can be reasonably justified. … we are not convinced that Edison's requests with respect to its Satellite Service Center or the Rivergrade project are without merit. While the scale and scope of these projects should be adjusted substantially, we find it reasonable to authorize $75 million in support of these efforts."[85]

Granting an increase because the Commission "is not convinced" that a utility's "requests are without merit" does not meet the requirement that a utility show by clear and convincing evidence that a requested increase is reasonable. Moreover, the AD contains no explanation of why it considers the Satellite Service Center or the Rivergrade projects are "reasonably justified," nor why $75 million is a reasonable amount. Unlike the PD, the discussion in the AD does not support its ultimate conclusion. DRA recommends that the Commission adopt the PD.

9. RATE BASE – OTHER THAN PLANT IN SERVICE

9.1. Working Cash – Federal Income and Corporate State Taxes Lag Days

SCE proposes Federal Income Tax (FIT) and California Corporate Franchise Tax (CCFT) lag days of 46.1 and 20.5 days, respectively. DRA recommends the Commission adopt FIT and CCFT lag days of 147.94 and 143.75 respectively.

The PD and AD reject DRA's adjustments and adopt SCE's proposals. SCE's proposals are unsupported by factual evidence, contrary to actual experience and, thus, do not meet the

[84] PD, p. 240, emphasis added.

[85] AD, p. 241.

standard of clear and convincing evidence. The PD and AD conclude that "[s]ince it is based on actual recorded information, SCE's methodology is more likely to reflect what will actually occur in the test year."[86] However, neither decision identifies what the SCE figures are actually based on, and DRA has not been able to find in the record the "actual recorded information" to which the PD and AD refer. This is because actual state and federal tax payments are made by EIX, not by SCE. DRA's figures are based on actual 2006 tax payments made by EIX, as noted in both the PD and AD.[87]

The failure of SCE to provide factual evidence to support its proposals can be seen in a comparison between the lag days the PD and AD adopt for revenue and the lag days the PD and AD adopt for CCFT. For revenue lag days, the PD and AD adopt 41.67 lag days. Yet, for CCFT lag days, the PD and AD would adopt 20.5 lag days. This means that ratepayers would be paying as if SCE were required to pay state tax on revenue before SCE has actually collected that revenue. There is no evidence in the record to show that this is indeed SCE's/ EIX's actual experience or that it represents an appropriate test year forecast. This result is illogical and contrary to information presented by DRA on the issue. DRA provided undisputed factual evidence showing that the proposed CCFT lag days of 143.75 was the 2006 recorded figure based on the tax payments made by EIX. The FIT expense lag day of 46.1 days would likewise imply that SCE pays its federal income tax about 4 days on average after it has collected the revenue.[88] Again, there is no evidence in the record to show that this is SCE's/ EIX's actual experience, or a logical or reasonable test year forecast.

The PD and AD criticize DRA saying that it did "...not address or attempt to reflect the change in the recently implemented tax regulations that SCE argues significantly reduces tax payment lags..."[89] In fact, it is apparent from SCE's recorded data for the past five years, that tax payments vary, and that numerous factors can cause that variability.[90] However, making this

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[86] PD, p. 254; AD, p. 255.

[87] PD, p. 253; AD, p. 254.

[88] Ex. DRA-78-C.

[89] PD, p. 253; AD, p. 254.

[90] Ex. 78-C.

adjustment to the DRA FIT and CCFT lag day forecast, which is based on recorded data, would result in more logical and factually supported figures to derive a test year forecast.

The PD and AD also criticize DRA's method for calculating FIT and CCFT lag days because it "...solely uses 2006 information" and "...the SCE fourth quarter 2006 estimated tax payment was inordinately large, primarily as a result of very sizeable ERRA balancing account over-collections..."[91] This assertion is taken from a footnote in SCE's rebuttal testimony[92] which has no supporting documentation

The AD and PD fail to hold SCE to its burden of proof and focus entirely on weak and unsound arguments offered by SCE against using the recorded lag day data presented by DRA. The use of SCE's unsubstantiated forecasts will result in a working cash windfall to SCE as clearly shown by the CCFT lag day discussion above. The factual evidence in the case supports adoption of FIT and CCFT lag days of 147.94 and 143.75, based on 2006 recorded data. At a minimum, the PD and AD should adjust the DRA figures for the purported change in tax regulations (that the decisions find acceptable), and adopt those adjusted figures since they are logical and more consistent with actual experience than are the SCE figures.

14. POST-TEST YEAR RATEMAKING

SCE requests a budget-based revenue requirement for 2010 of $5,488,152,000, and $5,819,054,000 for 2011, representing increases of approximately 5.54% for 2010 and 6.6% for 2011.[93] The PD adopts a 3% increase to the TY 2009 revenue requirements resulting in a 2010 revenue requirement of $4,885,082,000, and a 2011 revenue requirement of $5,031,634,000.[94] The AD would give SCE an increase of approximately 4.68% to the TY 2009 revenue requirement for 2010, and a 4.87% increase for 2011.[95]

The PD includes a thorough discussion of the evidence, past Commission practices and the positions of the parties in this case before rejecting SCE's proposal for budget-based cost increases and concluding that a "3% increase in 2010 and 2011 revenue requirement is consistent

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[91] PD, p. 254; AD, p. 255.

[92] Ex. SCE-24A, p. 97.

[93] PD, p. 300.

[94] PD, p. 299 and Attachment, p. 5.

[95] AD, Attachment, p. 5.

with past commission decisions and provides SCE with the ability to continue its infrastructure replacement at the adopted 2009 level, which is substantial."[96]

Although the AD contains substantially the same discussion, at the very end, it adopts revenue requirement increases of 4.68% in 2010 and 4.87% in 2011 "using SCE's September 4, 2008 update."[97] The AD does not explain why adopting a revenue requirement $568 million[98] higher than the PD is reasonable, and fails to consider the current and near term economic climate it acknowledges earlier[99] when determining the appropriate post test year increases. DRA recommends that the Commission adopt the PD.

20. ESCALATION RATES

The PD reviews the escalation rates SCE submitted with its Application, and discusses the updates SCE submitted for those rates in its September 2008 filing.[100] In recognition of the "significant upheaval" experienced by the economy as a whole, and the fact that the economy is clearly heading towards, or already in, a recession which will likely continue in 2009, the PD concludes that "the earlier and lower forecast set forth in SCE's application is more likely to reflect the actual rates for the test year.[101]

The AD, on the other hand uses the escalation rates submitted by SCE in its Update with no explanation of why they are reasonable in the circumstances.[102] Since the conclusion of the AD is not supported by "substantial evidence in light of the whole record," DRA recommends that the Commission adopt the PD.

CONCLUSION

For all the foregoing reasons, DRA recommends the Commission adopt the ALJ's Proposed Decision with the modifications described above.

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[96] PD, pp. 302-303.

[97] AD, p. 304.

[98] This figure is calculated from the summary Attachment, p. 1, to the PD and AD.

[99] AD, pp. 5-6.

[100] PD, p. 308.

[101] PD, p. 308.

[102] AD, p. 305.

Respectfully submitted,

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December 8, 2008

APPENDIX A

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW TO THE PROPOSED DECISION OF ALJ DEANGELIS[103]

Proposed Findings of Fact

Section 3
56 **(a). SCE has embedded in rates already costs for Transmission Line Clearance study projects that have been completed or will be completed in 2008, and these funds can be used for other study projects in the coming years.**

74. ***[delete and replace with***:] **In D.06-05-016, the Commission granted SCE's request for additional funding for hot washing insulators such as those in the San Joaquin Valley.**

Section 6
169. ***[delete and replace with:]*** **SCE's current Results Sharing Program is based on the same flawed metric that led to the fraudulent behavior addressed in D.08-09-038.**

170. There is no data **to support ratepayer funding of** SCE's Results Sharing Program.

Section 7
248. ***[delete]***

249. ***[delete]***

250. ***[delete]***

251. ***[delete and replace with:]*** **SCE already collects sufficient funds under current rates to pre-fund future cost of removal.**

251 (a). The Commission provided SCE with significant increases in net salvage rates in D06-05-016, and a further increase at this time is unwarranted.

Section 8.1 and 8.2
255. **DRA contests** SCE's SONGS 2 & 3 and Palo Verde forecasts.

Section 9:
288. ***[delete and replace with:]*** **SCE's income tax lag day methodology would result in**

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[103] DRA's proposed changes to the Findings of Fact and Conclusions of Law in the Proposed Decision are in **bold** type. DRA recommends the Commission not adopt the Alternate Decision, and does not, therefore, propose changes to it.

ratepayers paying as if SCE were required to pay state tax on revenue before SCE has actually collected that revenue.

289. ***[delete and replace with:]*** **The use of SCE's forecasts would result in a Working Cash windfall to SCE.**

290. ***[delete and replace with:]*** **DRA's recommended FIT and CCFT lag days are based on actual 2006 tax payments by EIX.**

Proposed Conclusions of Law

<u>Section 3</u>
40. ***[delete and replace with:]*** **SCE's request for increases to FERC Subaccount 563.100 for its Transmission Line Clearance study is unreasonable in light of SCE's actual spending over the past GRC period.**

48. SCE's forecast of incremental costs for Transmission and Distribution Training is unreasonably excessive. [***delete the remainder]***

57. SCE's request for incremental funding for insulator washing in the San Joaquin Valley is **unreasonable.**

<u>Section 6</u>
110. In the absence of data upon which to evaluate whether SCE's redesigned Results Sharing Program successfully addresses the known deficiencies identified in the 2006 GRC decision and in D.08-09-038, it is **unreasonable to order any ratepayer funding of this program.**

<u>Section 7</u>
155. **DRA's** proposed depreciation rates should be adopted.

<u>Section 9</u>
191. **DRA's** estimates of income tax lag days are reasonable and should be adopted**.**

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **OPENING COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES TO THE PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE DE ANGELIS AND ALTERNATE DECISION OF PRESIDENT PEEVEY** in **A.07-11-011** and **I.08-01-026** by using the following service:

[X] **E-Mail Service:** sending the entire document as an attachment to an e-mail message to all known parties of record to this proceeding who provided electronic mail addresses.

[ ] **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on December 8, 2008, at San Francisco, California.

/s/ JOANNE LARK
Joanne Lark

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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