



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 Gas Service For Santa Catalina Island In 2009, And to Reflect That Increase In Rates.

A.08-09-019
September 23, 2008

**OPENING BRIEF OF THE
DIVISION OF RATEPAYER ADVOCATES**

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Application of SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) for Authority to, Among Other Things, Increase Its Authorized Revenues For Gas Service For Santa Catalina Island In 2009, And to Reflect That Increase In Rates.

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**I. INTRODUCTION AND SUMMARY OF
RECOMMENDATIONS**

Pursuant to Rule 13.11 of the Commission's Rules of Practice and Procedure, and the schedule established by Administrative Law Judge (ALJ) Robert Barnett, the Division of Ratepayer Advocates (DRA) submits this Opening Brief in the above-captioned proceeding, the 2009 General Rate Case for the propane gas distribution service provided by Southern California Edison Company (SCE) on Santa Catalina Island (Catalina, or Catalina Island), located twenty-two miles off the coast of Southern California.

DRA recommends that the Commission:

Rate Design

- phase-in over three years, without any carrying charges, on a prospective basis, the rate increase it approves in this proceeding, due to the large magnitude of the rate increases in the previous and current rate cases, and consistent with the phase-in adopted in D.04-12-018;
- allocate the increase in base rate revenues it approves in this proceeding entirely to the energy, or volumetric, component of customers' rates;

- adopt SCE's recalculation of the Baseline Quantities pursuant to Public Utilities Code Section 739;

Operations and Maintenance (O&M) Expenses

- approve \$18,000 in 2009 O&M expenses for Account 874 (Gas Distribution - Mains and Services Expense), compared to SCE's estimate of \$35,000;
- approve \$307,000 in 2009 O&M expenses in account 920/921 (Gas Distribution - Safety, Training and Misc. Non-operating Expenses, Customer Accounting and Office Supplies), compared to SCE's estimate of \$339,000;

Capital Additions

- disallow all of SCE's request to include in rate base an additional \$276,000, over the \$100,000 authorized in D.04-12-018, in capital additions for the Pebbly Beach Pipeline Replacement Project;
- disallow \$884,000 of SCE's request to include in rate base an additional \$1,166,000, over the \$1,303,000 authorized in D.04-12-018, in capital additions for the LPG Vaporization Plant Upgrade Project. These disallowed costs are for a heat tracing system, accompanying electrical supply system, ball-valve replacement, and an alarm system. The Commission should allow \$282,000 in rate recovery for the Gas Tank Purge, Fire Water System Modifications, and Gas Monitoring System;
- disallow all of SCE's request to include in rate base \$905,000 in capital additions for its Pipeline/Infrastructure Replacement Project; and
- disallow all of SCE's request to include in rate base of \$839,000 in capital additions for a Supervisory Control and Data Acquisition (SCADA) system.

II. BACKGROUND

SCE filed its application and testimony¹ on September 23, 2008. DRA filed its protest on October 27, 2008. A Prehearing Conference was held November 20, 2008. DRA submitted its testimony on February 5, 2009.² SCE filed its rebuttal testimony on March 5, 2008.³ Public Participation hearings were held in the city of Avalon on

¹ SCE-1.

² DRA-1, "Report on the Results of Operations for Southern California Edison Company Santa Catalina Island Propane Services," and DRA-2, Data Requests cited in DRA-1.

³ SCE-2.

Catalina on March 17, 2009. SCE and DRA agreed to submit the proceeding, based on the filed testimonies and some data responses,⁴ without holding evidentiary hearings.

In the previous rate case application, A.04-01-031, the Commission issued Decision (D.) 04-12-018, authorizing SCE “to increase its gas distribution base rate revenue requirement in Santa Catalina Island (Catalina) to \$984,500 to be phased in over a three-year period beginning in 2005. This equates to a 39.4% increase in 2005, a 28.2% increase in 2006, and a 22.0% increase in 2007 in authorized gas distribution expenses.”⁵

III. THE BURDEN OF PROOF TO ESTABLISH REASONABLNESS IS ON SCE

The Commission is charged with the responsibility of ensuring that all rates demanded or received by a public utility are just and reasonable; “no public utility shall change any rate... except upon a showing before the Commission, and a finding by the Commission that the new rate is justified.”⁶ Thus, in ratemaking applications, the burden of proof is on the applicant utility.⁷

The burden of proof remains with the utility regardless of the type of ratemaking case:

The inescapable fact is that the ultimate burden of proof of reasonableness, whether it be in the context of test-year estimates, prudence reviews outside a particular test year, or the like, never shifts from the utility which is seeking to pass its costs of operations onto ratepayers on the basis of the reasonableness of those costs.⁸

⁴ DRA-3, DRA-MRL-23 and DRA-4, DRA-JAB-25.

⁵ D.04-12-018, p. 1. DRA was known as the Office of Ratepayer Advocates (ORA) at the time of that decision.

⁶ Public Utilities Code Sections 851, 854 (2009).

⁷ See Application of Pacific Gas and Electric Company (2000) D.00-02-046, mimeo, p. 36, 2000 Cal. PUC LEXIS 239.

⁸ Id., citing Re Pacific Bell (1987) 27 CPUC 2d 1, 21, D.87-12-067.

SCE, as the Applicants in this case, have the burden of proving that their proposals are reasonable.

IV. ARGUMENT

A. Rate Design Issues

1. Allocation

SCE proposes that any cost increase be allocated 83% to variable costs, and 17% to fixed costs, consistent with its existing cost allocation. SCE argues that this proposal is consistent with D.04-12-018, in which the Commission decided that the cost increase be allocated 85% to variable costs, and 15% to fixed costs.⁹

DRA testimony noted that under the current rate structure, Catalina customers have far higher meter charges per customer, otherwise known as monthly fixed charges, than other gas utilities.¹⁰ For this reason, and to address the Commission's concerns, stated in SCE's last general rate case, D.04-12-018, that SCE compare its rate structure to those of other regulated gas utilities on the mainland and consider other rate approaches to ease the burden on Catalina customers,¹¹ DRA recommends that any increase in rates in this proceeding be allocated completely to the energy or variable component of Catalina customer rates.¹² This recommendation has the added benefit of providing customers more control for managing their usage, more choices for making bills affordable, and more flexibility to pursue conservation.¹³

2. Phase-In

In D.04-12-018, the Commission phased-in SCE's massive rate increase of an additional \$984,500 in rate base, about a 100% increase over then-current distribution

⁹ SCE-2, p. 17, *citing* D.04-12-018, p. 24.

¹⁰ DRA-1, Table 6-3, p. 42.

¹¹ See D.04-12-018, pp. 4, 21-22

¹² DRA-1, p. 42

¹³ DRA-1, p. 43.

rates, over a three-year period.¹⁴ The Commission rejected SCE’s plan to include carrying costs in a four-year phase-in, instead directing a phase-in without carrying costs. The Commission pointedly concluded that while SCE’s position had a certain “logic,”¹⁵ in that without the recovery of carrying costs investors would be earning lower than their fully authorized rate of return on that portion of the investment, “[a] slavish application of investor earning principles in this case would work obvious harm on these few Catalina customers while having virtually no effect on SCE shareholders, given the size of the Catalina gas operation relative to the utility’s overall operations.”¹⁶ The Commission noted that SCE waited seventeen years from 1987 to 2004 without filing for a rate increase, “apparently undeterred by a low or even negative rate of return during those years,”¹⁷ and thus rejected SCE’s request for recovery of carrying costs for the phase-in of the large rate increase. In the wake of the massive rate increase, the Commission also “encourage[d] SCE to consider other approaches that might ease the burden on SCE gas customers, up to and including statutory changes.”¹⁸

Consistent with the prior Commission reasoning, any increase granted in this proceeding should be phased-in over three years, without carrying costs. This phase-in should not be granted retroactively to cover costs incurred prior to the decision in this proceeding and included in the memorandum account established in this proceeding. SCE has shown absolutely no sensitivity to the concerns expressed by the Commission regarding the massive rate increase imposed upon Catalina customers in 2005, including no response in its application to the Commission order in D.04-12-018 that SCE consider other approaches to ease the burden on Catalina customers. Instead, SCE filed for an

¹⁴ D.04-12-018, p. 2.

¹⁵ *Id.*, p. 20.

¹⁶ *Id.*, p. 21.

¹⁷ *Id.*, p. 22. Indeed, SCE’s rebuttal testimony acknowledges that “[o]ver the past forty years of operating the gas system, SCE has only asked the Commission to increase our distribution rates twice, in 1987 and 2005, even though SCE has rarely earned its authorized rate of return.” SCE-2, p. 2.

¹⁸ D.04-12-018, p. 22.

even higher rate increase in this proceeding than in the prior one, without any phase-in proposal nor indication that it even considered other approaches to ease the burden on Catalina customers, with much of the increase associated with requests for additional money for projects authorized in D.04-12-018 that already caused Catalina rates to skyrocket. Catalina ratepayers experienced rate shock in the last proceeding, and any further increase over the massive increase ordered in D.04-12-018, particularly when associated with overspending on projects authorized in D.04-12-018, should also be phased-in to mitigate the effects of rate shock.

SCE's insensitivity to its ratepayers and to Commission directives about its request for another rapid, massive increase in Catalina rates is shown by its false assertion in rebuttal testimony that "[h]istorically, SCE has not been granted the opportunity to recover its full return on investment through rates."¹⁹ As noted above, SCE has only filed two previous rate cases for Catalina, in 1987 and 2004. Thus, for most of the years it has owned and operated the Catalina system, SCE has not sought to recover its full return on its Catalina investment. SCE has had the opportunity to request recovery of its full return, but mostly failed to exercise it. More importantly and accurately, with respect to its overall electric rate base of approximately \$10 billion, the Commission has already concluded that SCE's Catalina investment has no impact on SCE's overall return.²⁰ Thus, it is incorrect for SCE to claim that SCE has not been granted the opportunity for a full return on its overall operations based solely on the *de minimis* impact of a phase-in of Catalina rate increases on SCE's fiscal health.²¹ SCE further argues that because it is now filing more regular rate cases pursuant to the

¹⁹ SCE-2, p. 3.

²⁰ This reasoning is consistent with the Supreme Court's holding in Bluefield Water Works & Improvement Company v. Public Service Commission of the State of Virginia (1923) 262 US 679, 692-693 (a rate of return should be "...reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economic management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.")

²¹ The Commission concluded in D.04-12-018 that the impact of a phase-in on SCE's overall rate of return was 0.004%, or 0.00004 (four hundred-thousandths) of SCE's overall rate of return

Commission's rate case plan, phase-in of rate increases is unwarranted,²² but this ignores the extreme impact on ratepayers its immediate request for a further doubling of distribution rates would have, and disregards that much of the current rate increase is for projects for which SCE successfully requested approval in the previous rate case.

B. Direct Expense Issues

1. Account 874 Consultant Costs

SCE requests a total of \$35,000 for Test Year 2009 in Account 874, comprising \$32,000 in non-labor costs and \$3,000 in labor costs.²³ The account is to cover "labor and material expenses incurred in operating the gas distribution mains and services."²⁴ Non-labor costs were as low as \$1,000 in 2003, but have escalated to \$32,000 in 2006 "due to consultant work to develop and maintain regulatory compliance plans and vendor fees to prepare documentation and provide assistance as regulations changed and updates were required."²⁵ SCE did not provide citations or examples of any specific regulations requiring compliance plans.²⁶

Nevertheless, DRA used a five-year average to determine a recommendation of \$17,000 for this account. DRA noted in testimony that SCE failed to demonstrate the necessity of the consultant work, did not provide copies of the contracts with the consultant, nor testified that the contracts were competitively bid.²⁷

In its rebuttal testimony, SCE claims that it "has implemented extensive training programs to account for the more stringent regulatory and legally mandated requirements to operate the gas system,"²⁸ but again fails to mention exactly what those allegedly more

²² Id.

²³ SCE-1, p. 15.

²⁴ Id.

²⁵ Id., p. 16.

²⁶ See SCE-1, p. 16 and SCE Workpapers, Chapter III, pp. 1-88, which do not cite or otherwise mention any specific state or federal regulation.

²⁷ DRA-1, p. 22.

²⁸ SCE-2, p. 4.

stringent regulatory and legal mandates are that has led it to increase its non-labor costs in this account more than thirtyfold since 2003. SCE lists ten plans it claims to have developed “to comply with required gas distribution regulations,” but these plans include costs covered in other accounts, such as gas meter accuracy.²⁹ SCE also states that its contract with its consultant Shaw Environmental was competitively bid, without providing the contract or any supporting evidence.³⁰ Because SCE has not provided supporting citations or documentation to support its justifications for its spending, SCE has not met its burden of proving that its requested costs are reasonable and required for it to provide its distribution services in this account.

2. Account 920/921 Labor Costs

SCE requests \$339,000 for Account 920/921, which includes office supplies and expenses incurred with the general administration of SCE’s utility operations assigned to specific Administrative and General (A&G) departments and not provided in other accounts.³¹ Of this amount, \$126,000 is for labor costs, and \$214,000 for non-labor expenses. SCE used a three-year average for non-labor expenses, but a last-year recorded methodology for labor costs. DRA recommended the use of a three-year average for labor costs, reducing the amount for Account 920/921 to \$307,000.

As with Account 874, SCE’s costs have increased primarily due to its hiring of outside consultants, as it again claims that “changing regulations” caused it to retain “consultants to improve the maintenance and repair of the gas production and distribution system.”³² But SCE’s workpapers only referenced a single 2001 regulation pertaining to Liquefied Natural Gas, which is not directly applicable to SCE’s propane service on the island, and regarding which SCE provided no evidence of change to the regulation since

²⁹ See SCE-2, pp. 4 -5.

³⁰ SCE-2, p. 5 fn. 8.

³¹ SCE-1, p. 23.

³² SCE-1, p. 24.

the previous rate proceeding.³³ DRA testified that the only evidence of increased staffing initially offered by SCE was the hiring of a new superintendent in 2005.³⁴

In rebuttal testimony, SCE asserts that the increased staffing levels also included “the hiring of two administrative clerks and three additional operator mechanics to work on Catalina gas and water operations,” although SCE does not reference any of its initial application or testimony to support this assertion, and claims again without support that such hirings were made “[i]n order to meet the requirements of the regulatory programs.”³⁵ But SCE concedes that when referring to “changing state and federal regulations” as a justification for increased expenses it was not referencing any specific regulations, but rather its own internal “ongoing training and refinement of the programs mandated that are performed when annual reviews are conducted.”³⁶ Again, SCE fails to describe what programs are “mandated” and why they need refinement, nor why they needed to hire outside consultants for such work, other than its wholly unjustified and unsupported conclusory statement, not supported by any objective cost-benefit study, that “a combination of consultants and SCE personnel is the most cost effective organizational structure to utilize.”³⁷ SCE has the burden of proof of showing that its proposed staffing levels and costs are reasonable, and it has failed to meet this burden with respect to the costs for Accounts 920/921.

³³ DRA-1, p. 24; see also DRA-2, Item 1, DRA-GSD- 09, Response to Question 2 (citation to 2001 fire code).

³⁴ DRA-1, p. 24; see also DRA-2, Item 2, DRA-GSD-05, Response to Question 2 (“Beginning in 2005, labor expenses have increased primarily due to the hiring of a new superintendent to oversee water and gas operations and SCE expects this level to continue through the test year.”)

³⁵ SCE-2, p. 6.

³⁶ Id.

³⁷ Id., pp. 6-7.

C. Capital Additions

1. Most of SCE's Overspending on Capital Projects Approved in D.04-12-018 Is Unreasonable

Two key components of SCE's rate increase are requests to include in rate base a high level of additional capital expenditures for the Pebbly Beach Pipeline Replacement Project and the LPG Vaporization Plant Upgrade above the levels approved in D.04-12-018, the previous general rate case. The Commission authorized \$1.403 million in capital expenditures in D.04-12-018 for these projects, and SCE requests an additional \$1.441 million for these projects, resulting in a rate base increase more than double what was initially authorized by the Commission for these projects. These capital additions represent approximately 49% of the increase in this application, and SCE is proposing to raise base rates by 83% in this proceeding.³⁸ Because of the relatively small size of the capital projects on Catalina as compared to SCE's typical electric capital additions on the mainland, the four capital projects in dispute in this proceeding did not meet the minimum thresholds for management review once they were approved in the Annual Planning Process.³⁹ Moreover, SCE has already started spending on the two new capital projects it proposes in this proceeding, prior to receiving Commission authority for such projects. The Commission has denied recovery of unauthorized, new program costs from ratepayers under such circumstances.⁴⁰ All of these arguments support DRA's observation that SCE is insensitive to the effect of its rate increases on its ratepayers and DRA's recommendation not to allow in rate base most of SCE's proposed expenditures on capital additions.

a) *Pebble Beach Pipeline Replacement Project*

In D.04-12-018, the Commission approved \$100,000 to be included in rate base for a pipeline replacement project for twenty existing residences in Pebbly Beach Village.

³⁸ DRA-1, p. 27.

³⁹ DRA-1, p. 28.

⁴⁰ DRA-1, p. 29, *citing* D.92-12-015, pp. 52-53 and Ordering Paragraph 6.

SCE had requested \$200,000, and in response to DRA testimony that they had presented no cost-benefit analysis to justify the replacement of the underground pipe, SCE “presented evidence that it *will* be sharing the cost of this project with Santa Catalina Island Company”⁴¹ for a new fire flow line. In response, DRA testified that it “would support a \$100,000 allocation for the pipeline work if its costs are shared with the fire flow work.”⁴² The Commission approved \$100,000 “in the absence of any revised estimate of cost because of the participation in the work by the Santa Catalina Island Company.”⁴³

Despite the fact that the Commission’s approval of partial recovery for capital expenditures in D.04-12-018 was conditioned upon SCE’s representation that the Santa Catalina Island Company (SCICo) would jointly participate in the Pebbly Beach project, SCE requested an additional \$276,000 in capital costs to cover costs associated with SCICo’s non-participation in the project.⁴⁴ SCE also explained that there were additional contractor costs due to the redesign of the project caused by SCICo’s non-participation, outdated SCE maps, and a lack of qualification of the contractors in the fusion welding needed for the project.⁴⁵ SCE characterized these additional costs as due to “unforeseen circumstances.”⁴⁶

DRA recommends that none of these additional capital cost overruns be authorized and included in rate base. First, SCE bears sole responsibility for additional costs due to the non-participation of SCICo.⁴⁷ The Commission, in D.04-12-018, accepted SCE’s unqualified representation that it would be sharing the costs with SCICo, and noted that DRA’s lack of opposition to the project was expressly conditioned upon

⁴¹ D.04-12-018, p. 10 (emphasis added).

⁴² *Id.* at pp. 10-11.

⁴³ *Id.* at p. 11.

⁴⁴ SCE-1 at pp. 35; SCE-2 at p. 13.

⁴⁵ SCE-1 at pp. 35-36.

⁴⁶ SCE-1 at p. 36.

⁴⁷ *See* DRA-1, p. 30.

SCICo's participation in the fire project. By making such a representation to the Commission, SCE assumed responsibility for SCICo's participation for ratemaking purposes, regardless of whether it was foreseeable that SCICo would participate or not, or who was at fault if SCICo did not participate.

However, even if the test for whether the additional costs were reasonably incurred is, as SCE suggests, that such costs were unforeseen (or, more accurately, that such costs were reasonably unforeseeable), SCE still should be denied recovery for additional costs associated with the non-participation of SCICo. It was both reasonably foreseeable that SCICo would not participate in the absence of any legal obligation to participate, and SCE's own documents show that they did consider the possibility of SCICo's non-participation. SCE goes to great length in its rebuttal testimony to show that SCICo was intending to participate in the project with SCE, and concludes: "[p]ut simply, had SCICo kept its obligations as anticipated when this project was first authorized, SCE would not have experienced the level of cost overruns that it did."⁴⁸ But in response to a question asking about SCICo's "obligations," SCE did not maintain that SCICo had any legal obligation to participate in the project.⁴⁹ In any event, had SCICo had a legal obligation, SCE should be seeking cost compensation from SCICo, which it is not; instead, it requests cost recovery from its ratepayers. It was unreasonable for SCE to represent to the Commission in A.04-01-031 that SCICo would participate in the Pebbly Beach project absent a legal obligation, and it is unreasonable for SCE now to request recovery for additional costs based on SCICo's "unforeseeable" non-participation when SCE never negotiated any legal obligation with SCICo and has not pursued any financial remedy from SCICo.

SCE's own documents contradict the assertion that they could not have foreseen the non-participation of SCICo during the pendency of A.04-01-031. DRA testified that the "crucial new design specifications and plans for Santa Catalina Island Company's

⁴⁸ SCE-2, p. 15.

part of the proposed joint project had not been prepared by year-end 2004,⁵⁰ based on continued communication between SCE and SCICo regarding the finalization of such plans in July 2005, which also considered the option of the non-participation of SCICo.⁵¹ In the absence of a final joint design when the previous rate case proceeding was submitted, it was foreseeable that SCICo would not participate in the joint project.

Finally, in initial testimony SCE asserted that some of the cost overruns were due to costs associated with SCE's outdated maps of the areas it needed to dig, and the lack of qualifications amongst the contractor for the "fusion welding" needed for the project.⁵² DRA testified that such costs were either foreseeable and should have been included in SCE's request in the previous proceeding, or were unreasonably incurred.⁵³ SCE noted it had gas, water and electric lines on the site it was proposing to upgrade, but that "detailed maps of the underground services were not updated prior to SCE's acquisition of the system in 1964," and thus the workers needed to take especial care when digging.⁵⁴ SCE fails to explain why it was unforeseeable that they might need updated maps when they knew the maps were not updated in 1964 when they purchased the system or in the subsequent years since the purchase. SCE also testified that "as the project proceeded, SCE discovered that the contractor did not have the appropriate qualifications to perform the type of fusion welding required for this project," causing additional costs that were added to the contractor's bid.⁵⁵ But such welds were part of the project's initial specifications, and thus it was clearly foreseeable that the winning contractor should have the qualifications to perform such welds.

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⁴⁹ See DRA-4, DRA-JAB-25.

⁵⁰ DRA-1, p. 30, *citing* DRA-2, DRA-MRL-024, Attachments 9 and 10.

⁵¹ DRA-1, pp. 30-31, *citing* DRA-2, DRA-MRL-024, Attachment 9, Option II.

⁵² SCE-1, pp. 35-36.

⁵³ See DRA-1, p. 31.

⁵⁴ SCE-1, pp. 35-36

⁵⁵ SCE-1, p. 36.

b) *LPG Vaporization Plant Upgrade*

In D.04-12-018, the Commission authorized \$1.303 million for SCE's requested LPG Vaporization Plant Upgrade Project. The Commission noted that the "blended LPG is heated and vaporized into a gas-air mixture that ultimately is delivered into the distribution system vaporization system."⁵⁶ This project was the main contributor to the large increase in rates in the previous proceeding. For this reason, DRA recommended that the capital costs associated with this project not be included in rate base until the project was fully completed.⁵⁷ SCE agreed with DRA and the Commission approved DRA's recommendation. SCE completed the LPG Vaporization Plant Upgrade in February 2005,⁵⁸ within two months of the Commission's decision in the 2005 GRC.

In this proceeding SCE requests an additional \$1.166 million in capital cost overruns associated with the LPG Vaporization Plant Upgrade to be included in rate base. SCE's explanation is that because it had not upgraded the system in over forty years, and because of variables associated with Catalina Island such as its remote location in a marine environment, its initial "best" estimate in the prior rate case failed to include numerous changes to the scope of the project.⁵⁹ DRA testified that only \$282,000 in additional capital expenditures associated with required fire safety measures were reasonable to be included in rate base, and that \$674,000 in additional costs associated with additional equipment needed for Catalina's cold, damp environment (a heating system, accompanying electrical system, and a ball-valve replacement), and \$210,000 for an unnecessary, advanced alarm system, not be included in rate base.⁶⁰

Again, SCE maintains that it "encountered unforeseen events" in constructing its LPG Vaporization Plant Upgrade that caused it to change the scope of the project, thus

⁵⁶ D.04-12-018, p. 8.

⁵⁷ *Id.*, p. 9.

⁵⁸ SCE-1, p. 36.

⁵⁹ *See* SCE-1, p. 37

⁶⁰ DRA-1, pp. 32-34.

increasing costs.⁶¹ SCE testified that during the start-up and testing of its new LPG facility, it unexpectedly found the vaporized propane gas was returning to a liquid state (condensing) in piping running from the propane tanks, which it attributed to “the low ambient temperature and marine environment.”⁶² SCE determined that propane has the potential to return to a liquid state “when the ambient temperature drops to a significant degree,” and that the larger pipe it used in the new system as opposed to the previous system – which itself had a heating system – increased the possibility of condensation twofold.⁶³ SCE thus needed to install a heat tracing system and to keep its delivered gas from condensing, and an accompanying electrical system to run the heat tracing system. SCE also had to replace ball-valves that were also sticking in the marine environment due to the effects of condensation.⁶⁴

However, the damp, marine environment on Catalina was reasonably foreseeable, as was the need for a heat tracing system, accompanying electrical system, and ball-valve replacements. SCE’s previous system required a heater, SCE’s new design doubled the possibility of the vaporized gas returning to liquid form, and the presence of a cold, damp environment was known to SCE, all factors increasing the likelihood of condensation and the need for a heat tracing system.⁶⁵ On rebuttal, SCE asserts that the propane-only system on Catalina Island is one-of-a-kind such that it could not have known in advance of the need for a heat tracing system.⁶⁶ But nowhere in A.04-01-031 did SCE offer any evidence that its LPG vaporization facility was such a unique system that the effects of humidity and a marine environment on propane vaporization could not be anticipated and could not possibly be analyzed during the design phase. SCE is one of the largest utilities in the world, and it defies common sense that it was not capable of calculating

⁶¹ SCE-1, p. 37.

⁶² SCE-1, p. 38.

⁶³ *Id.*; DRA-3, SCE’s response to data request DRA-MRL-23, question 3.

⁶⁴ *Id.*, p. 40.

⁶⁵ DRA-1, pp. 33.

the effects of temperature and humidity on propane gas for a new vaporization plant on Santa Catalina Island.

SCE's timeline it provided initially in rebuttal testimony shows that it reacted quite swiftly to these supposedly unforeseeable design issues. The previous case was fully briefed by August 2004, and before the Commission had even issued D.04-12-018, SCE had installed its heat tracing system and discovered the ball-valve problem.⁶⁷

Given the extreme impact that these new projects had on rates on Catalina, SCE had the incentive to low-ball the cost estimates it presented in order to gain Commission approval. SCE's position in this proceeding effectively is that it bears no responsibility for the accuracy of its cost representations the Commission relies upon in approving capital projects, because if SCE fails to foresee even obvious costs, the Commission has to approve such cost increases as long as such costs are necessary to complete the project safely. The Commission pointedly noted in D.04-12-018 that "SCE's request for a significant increase in the Test Year 2005 revenue requirement is attributable primarily to the vaporization plant upgrade."⁶⁸ Yet even before that decision was issued SCE was aware that it seriously underestimated the costs of this project.

SCE also seeks an additional \$210,000 to cover the costs of a new alarm annunciator system. SCE initially testified that the alarm system was necessary for the operation of the vaporization plant, including visual inspection of the valves of the pipeline, but failed to explain why it omitted such a crucial aspect of the vaporization plant in its initial design.⁶⁹ Similarly, SCE does not explain why it initially decided that the original, four-alarm system would be adequate for the new plant despite the fact SCE "discovered that the old annunciator system was outdated and inefficient during the

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⁶⁶ SCE-2, p 10.

⁶⁷ SCE-2, p. 12.

⁶⁸ D.04-12-018, p. 8.

⁶⁹ DRA-1, p. 34; SCE-1, pp. 39-40.

design of the upgraded gas processing plant.”⁷⁰ In a data response, SCE added a new justification for its installation of the alarm system – that the old annunciator could not be integrated into its Supervisory Control and Data Acquisition (SCADA) system.⁷¹ But SCE is only in this proceeding first requesting approval for its SCADA system – a request which DRA recommends below be denied, which itself should result in a denial of inclusion of the costs of the alarm system in rate base – and thus SCE could not have used this argument in 2004 to justify including the alarm system as part of the vaporization system.

2. New Capital Projects Proposed in this Proceeding Are Not Necessary

Not content in proposing increases that would double the capital expenditures on recently approved capital projects, SCE also proposed two new large infrastructure projects costing \$1.74 million: a massive Pipeline Infrastructure Replacement Project for its entire system, and a SCADA system that would automate the monitoring and control of SCE’s gas plant. SCE has failed to show that these projects are currently necessary or cost-efficient for the safe operation of its system. Moreover, given SCE’s past failure to estimate accurately its capital expenditures on Catalina, DRA suspects that the true costs of these new projects will be far in excess of SCE’s estimates. DRA recommends that the Commission reject both projects with prejudice, and require that SCE, which has already spent funds on both the pipeline replacement project and SCADA system, receive prior Commission approval before commencing any spending on such projects in the future, and include a cost-justification for any future requests for approval of such projects.

a) Pipeline Infrastructure Replacement Project

SCE requests \$905,000 in capital expenditures for its newly-proposed pipeline infrastructure replacement project, in which SCE plans to systematically replace, over

⁷⁰ DRA-2 and DRA-3, SCE’s response to DRA-MRL-23, questions 4 and 5 and attached documents.

numerous rate cycles, its entire 6.5 mile distribution system. SCE asserts the forty-year old pipeline system is deteriorating and corroding, and claims that a third-party “vendor” has found underground gas leakage and that SCE crews have found deteriorated sections of pipeline, thus justifying the replacement of the entire system.⁷²

DRA’s un rebutted testimony, however, observed that SCE’s consultant concluded that the pipeline and accompanying monitoring system was “generally sound” and that the SCE system has recently experienced only minor safety incidents, mostly unrelated to pipe corrosion.⁷³ The Corpro Companies report SCE provided to DRA concluded that “[t]he overall number and size of coating faults are not significantly large in size or number that would warrant a coating rehabilitation program or vigorous inspection program.”⁷⁴ SCE’s own records show that from 1995 to 2007 there were only two safety incidents meeting the CPUC’s definition of non-reportable events.⁷⁵ DRA concluded that SCE provided evidence of only two incidents of deteriorated pipe from 2003 onwards.⁷⁶ SCE did not provide any cost-benefit analysis of its proposal. SCE did not respond to these arguments in its rebuttal testimony. Given the extreme nature of SCE’s representation of the condition of Catalina’s system, the lack of any supporting evidence for the need to replace the pipeline, and the contrary conclusion of its consultant on this question, is startling. With Catalina’s customers already paying for new capital-intensive projects, they can scarcely afford further expensive projects that are neither cost-justified nor necessary for safety reasons.

(continued from previous page)

⁷¹ DRA-1, pp. 34-35, *citing* DRA-4, DRA-MRL-023 1-5.

⁷² SCE-1, pp. 27-28.

⁷³ DRA-1, p. 36.

⁷⁴ DRA-1, p. 37 and fns. 56-59, *citing* DRA-1, Attachment 1, Correspondence, Corpro Companies Inc. to SCE. This document was produced by SCE in response to DRA-MRL-011, included in DRA-2.

⁷⁵ DRA-1, p. 36 fn. 52, *citing* SCE Workpapers, SCE-01, Ch. IV. See also DRA-2, DRA-MRL-011.

⁷⁶ DRA-1, p. 37.

b) *Supervisory Control and Data Acquisition (SCADA) System*

SCE has similarly failed to justify its proposal for SCADA System. The SCADA system would automate the monitoring and control of several elements of the gas distribution system, particularly the identification of the precise location of a problem, gas pressure, and BTU information.⁷⁷ SCE asserts that SCADA will lead to “a decrease in the number, length and extent of customer disruptions when abnormal conditions arise.”⁷⁸ SCE further argues that SCADA would also decrease manual readings,⁷⁹ although SCE proposed no corresponding decreased labor costs. SCE requests \$835,000 for the costs of the system.

However, as noted above, the Catalina system is not experiencing critical safety or performance issues that require the installation of such an advanced system. DRA found no evidence that the old monitoring system was inadequate nor in violation of legal standards.⁸⁰ In the previous section, DRA noted that the Catalina system was found safe by SCE’s consultant, and experienced few safety incidents. SCE failed to provide a cost-justification and attendant reduction in its request for operations and maintenance costs for SCADA, despite generally alleging an increase in efficiency in responding to system problems. Nor did SCE demonstrate that SCADA would reduce the number of safety incidents. On rebuttal, SCE merely repeated its unsupported assertions that SCADA is necessary for the safe operation of the system.⁸¹ Given the extreme impact of such a system on the Catalina ratepayers and lack of demonstrated safety issues, SCE has thoroughly failed to justify as reasonable the introduction of such an advanced, expensive monitoring system.

⁷⁷ SCE-1, p. 31.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ DRA-1, p. 38.

⁸¹ SCE-2, pp. 15-16.

V. CONCLUSION

During the most serious economic recession in living memory, SCE proposes an 83% increase in base gas distribution rates on Catalina, just four years after receiving a 129% rate increase. For all the foregoing reasons, and for the reasons set forth in its testimony, DRA asks that its recommendations to reduce this rate increase be adopted.

Respectfully submitted,

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April 24, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document
“**OPENING BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES**” in
A.08-09-019.

A copy was served as follows:

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 in San Francisco, California, on the **24th** day of **April 2009**.

/s/ Joanne Lark

Joanne Lark

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