

PUBLIC UTILITIES COMMISSION505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

November 18, 2003

Agenda ID #3002
Ratesetting

TO: PARTIES OF RECORD IN APPLICATION 03-04-022

This is the proposed decision of Administrative Law Judge (ALJ) Galvin, previously designated as the principal hearing officer in this proceeding. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. This matter was categorized as ratesetting and is subject to Pub. Util. Code § 1701.3(c). Pursuant to Resolution ALJ-180 a Ratesetting Deliberative Meeting to consider this matter may be held upon the request of any Commissioner. If that occurs, the Commission will prepare and mail an agenda for the Ratesetting Deliberative Meeting 10 days before hand, and will advise the parties of this fact, and of the related ex parte communications prohibition period.

The Commission may act at the regular meeting, or it may postpone action until later. If action is postponed, the Commission will announce whether and when there will be a further prohibition on communications.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:hl2

Decision **PROPOSED DECISION OF ALJ GALVIN** (Mailed 11/18/2003)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) For Approval of its 2003 Revenue Requirement and related Estimates Under the Energy Resource Recovery Account (ERRA); For Approval of its 2003 AB57 Trigger and Threshold Amounts; and For Approval of a Proposed Scope and Schedule for ERRA Proceedings.

Application 03-04-022
(Filed April 1, 2003)

Robert Keeler, Attorney at Law, for Southern California Edison Company, applicant.
Regina DeAngelis, Attorney at Law, for the Office of Ratepayer Advocates

**OPINION ON
SOUTHERN CALIFORNIA EDISON COMPANY'S
ENERGY RESOURCE RECOVERY ACCOUNT**

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**OPINION ON
SOUTHERN CALIFORNIA EDISON COMPANY'S
ENERGY RESOURCE RECOVERY ACCOUNT**

I. Summary

This decision adopts a 2003 Energy Resource Recovery Account (ERRA) fuel and purchased power revenue requirement forecast of \$2.505 billion with an annual sales forecast of 79,796 gigawatt hours (GWh) and bundled service load of 73,262 GWh for Southern California Edison Company (SCE). A 2003 trigger amount is set at \$228.593 million and threshold amount at \$285.741 million. Forecasts and reasonableness reviews shall be conducted annually.

This decision also adopts an interest rate index for ERRA undercollected balances that adds a premium of three-fourths the difference between the three-month commercial paper rate and SCE's actual cost of short-term financing. Finally, the decision adopts tariff changes incorporating ERRA trigger and threshold amounts and excludes Electric Energy Transactions Administration (EETA) costs from ERRA.

II. Background

SCE filed its ERRA application in response to Commission directives in Decision (D.) 02-10-062 and D.02-12-074. Those decisions established ratemaking mechanisms to enable California investor-owned electric utilities to resume purchasing electric energy, capacity, ancillary services and related hedging instruments.

D.02-10-062 established an ERRA balancing account for the major energy utilities to track fuel and purchased power revenues against actual recorded costs.¹ This balancing account was modeled after the Energy Cost Adjustment Clause (ECAC) balancing account. That decision also required the major energy utilities to establish a fuel and purchase power revenue requirement forecast for 2003, a trigger mechanism, and a schedule for semiannual ERRA proceedings through an initial ERRA application.

D.02-12-074 modified and clarified the cost recovery mechanisms adopted in D.02-10-062. Those modifications and clarifications required the major utilities to amend their initial ERRA tariffs to, among other matters, identify the trigger and threshold amounts and exclude EETA costs.

III. Evidentiary Hearing

ERRA issues litigated between SCE and the Office of Ratepayer Advocates (ORA) during the September 3, 2003 evidentiary hearing were Nuclear Unit Incentive Procedure (NUIP) rewards, the interest rate applicable to over- and under-collected balances,² and the semiannual schedule. Not at issue were SCE's revenue requirement forecast and trigger mechanism setting its trigger and threshold amounts for 2003.

¹ Pacific Gas and Electric Company (PG&E), SCE, and San Diego Gas & Electric Company (SDG&E) were identified as the major energy utilities.

² SCE initially sought to utilize its actual borrowing rate for the cost of financing fuel inventories, collateral requirements, and all balancing account under collections. However, SCE limited its request to utilize its actual borrowing rate to its ERRA at the July 18, 2003 Prehearing Conference.

A. NUIP Reward

SCE seeks to recover \$19.2 million of NUIP rewards in this forecast proceeding. This request is opposed by ORA on the basis that the rewards are not based on a forecast, the intended purpose of this proceeding. The rewards are based on recorded performance.

1. Appropriate Issue?

ORA recommends that this issue be deferred to SCE's October ERRA application which will involve a reasonableness review of energy recorded costs.³ ORA concludes that this deferral would provide it and other interested parties notice and an opportunity to review the reasonableness of NUIP awards.⁴ However, if the NUIP rewards is addressed in this proceeding, ORA recommends that SCE be authorized only \$14.1 million of its requested \$19.2 million amount.

As detailed in the application, SCE served a copy of this application on the entire service list in the Commission's Generation Procurement Rulemaking (R.) 01-10-024 proceeding and in its Post-PROACT ratemaking Application (A.) 03-01-019. Further, no party objected to addressing this issue at either the May 21, 2003 or July 18, 2003 Prehearing Conference (PHC). ORA even went so far as to recommend an alternative NUIP rewards amount in the evidentiary hearing.

³ Subsequently, on October 3, 2003 SCE filed its second semiannual ERRA application (A.03-10-022) seeking approval of its revenue requirement forecast for 2004 and a reasonableness review of its costs from September 1, 2001 through June 30, 2003.

⁴ ORA's September 22, 2000 Opening Brief at p. 9.

Further, SCE's authorized tariff provides for the debiting of NUIP rewards to its ERRAs upon Commission approval.⁵ Although the tariff does not identify the specific proceeding that SCE should seek such approval, it does provide for NUIP rewards to be included in SCE's ERRAs upon Commission approval.

The above discussion demonstrates that all parties were notified that the NUIP rewards issue would be litigated in this proceeding, did not object at the PHC to include NUIP rewards as an issue, an alternative rewards amount was proposed by ORA, and SCE's tariff provides for the inclusion of rewards in its ERRAs. The issue of NUIP rewards is properly before us.

2. Reasonableness

By way of background, SCE's Palo Verde units performing above an 80% capacity factor for a fuel cycle are eligible for NUIP rewards.⁶ The rewards, based on the difference between the additional cost per kilowatt-hour (KWh) of nuclear fuel and the replacement power cost of the output above an 80% capacity factor, are shared equally between SCE's customers and shareholders.

During the period that the Power Exchange (PX) was operational (through January 2001), SCE used the average monthly price it paid the PX for energy SCE purchased for bundled service customers as its replacement power cost. Beginning in February 2001 and throughout 2002, SCE used the California Department of Water Resources (DWR) rate adopted in D.02-03-052 for recovery

⁵ Part ZZ, Sheet No. 3235-E of SCE's Preliminary Statement.

⁶ See 70 CPUC 2d 432 (D.96-12-083) and D.01-09-041.

of DWR procurement costs that it purchased for SCE's retail customers as the replacement power cost.

In D.02-02-052, the Commission-adopted a 9.706¢ per KWh rate that SCE's customers were obligated to pay DWR for energy DWR supplied SCE during 2001 and 2002. Since the replacement power cost for all NUIP fuel cycles was greater than the five-cents-per-KWh cap set in D.01-09-041, SCE limited its replacement power cost to that amount.

ORA used California Independent System Operator's (CAISO) market clearing prices as a reasonable proxy of DWR's then-actual prevailing market prices for incremental cost of energy. Hence, the \$5.1 million difference in NUIP rewards between SCE and ORA resulted from the use of different replacement power cost.

All power not supplied by SCE during this time period would have been supplied by DWR with an energy portfolio based on long and short-term purchased energy, only a portion of which was purchased through the CAISO. Of the two calculations, SCE's five-cent-per-KWh cap cost more accurately reflects the cost SCE's customers actually paid. Because the cost of energy from DWR during the NUIP rewards period may change after a true up is completed in A.00-11-038, et al. SCE should be authorized to debit its ERRA with \$19.2 million of NUIP rewards subject to the results of a DWR 2001-2002 energy cost true up pending in A.00-11-038, et al.

B. Interest Rate

SCE seeks to change the short-term interest rate applicable to its financing fuel inventories, collateral requirements, and undercollected balances in the ERRA. It seeks no change in the interest rate applicable to overcollected balances. The current interest rate for balancing account over- and under-

collections is the three-month commercial paper rate as reported in the Federal Reserve Statistical Release H-15 (index).

SCE seeks a deviation in the index because its actual short-term financing cost is substantially higher than the index. Since May 2002 its actual short-term financing cost has exceeded the index by more than 300 basis points. SCE estimates that its weighted average short-term financing cost in 2003 will be 4.48%,⁷ more than 300 basis points⁸ greater than the average index rate of 1.39%.⁹

1. Appropriate Issue?

ORA opposes any deviation from the index on the basis that it would constitute a major policy change affecting ratepayers of all regulated utilities. It also opposes the deviation because SCE did not identify any procedure for verifying that SCE will minimize its financing costs and maximize benefits. ORA recommends that this issue be deferred to either a separate SCE application or to a Commission instituted rulemaking proceeding.

This issue was identified in SCE's proposed testimony attached to its application and discussed at the July 18, 2003 PHC. At that PHC, which ORA participated in, SCE agreed to limit its interest rate proposal to its ERRRA balancing account.¹⁰ All parties were aware of this issue. For these reasons, the interest rate proposal is properly before us.

⁷ Exhibit 1 at p. 53.

⁸ One basis point equals 0.01%.

⁹ Exhibit 4, Table I-1 at p. 4.

¹⁰ See RT 15 at 23-25.

2. Interest Rate

SCE has been precluded from issuing commercial paper since December 2000 because of its low credit rating. Its current BB credit rating precludes it from issuing commercial paper now or in the foreseeable future. SCE does not expect to be able to borrow at the commercial paper rate until its credit rating improves to a BBB+. Absent its ability to issue commercial paper, SCE uses a \$700 million term loan and \$300 million revolving line of credit for its short-term borrowings. The term loan carries an interest rate of the London Interbank Offered Rate (LIBOR) plus 300 basis points. The revolving line of credit carries a commitment fee of 50 basis points on the unused portion of the loan and an interest rate of LIBOR plus 250 basis points on the amount actually drawn at any time.

SCE will not have an opportunity to recover its actual cost of financing undercollections if it is required to use the index while its short-term financing cost continues to exceed that index. Hence, an adjustment to the index may be warranted.

This issue of using actual financing cost is not new. It was previously addressed in a generic Commission investigation (Order Instituting Investigation (OII) No. 56 on August 14, 1979). At that time SCE's actual short-term financing cost approximated the index while SDG&E's actual short-term financing cost was higher than the index.

In D.91269 we concluded that the index was appropriate for over- and under-collected balances.¹¹ Except for SDG&E, that decision authorized the

¹¹ CPUC2d 3, 197-203 (1980).

major utilities to use the index for over- and under-collected balances. In recognition of its higher short-term financing cost, SDG&E was authorized a 50 basis point premium above that index.¹² Hence, any deviation from the index to recognize SCE's higher long-term debt cost in this proceeding would not constitute a major policy change as asserted by ORA.

The index and premium to that index was authorized in lieu of the utilities' actual short-term financing cost to provide the utilities an incentive to minimize undercollections and interest expense. Use of the index also deters a utility from investing in undercollections to the extent that it can recover more than its authorized rate of return. At the same time, it does not remove the utility's opportunity or risk associated with actual interest rates being lower or higher than authorized.

This interest rate issue can best be resolved by reducing undercollections. That can be accomplished through the mitigating factors incorporated into the ERRA process. Those mitigating factors include more accurate forecasts, ability to change rates as part of the semiannual ERRA applications, and utilization of the trigger mechanism for more frequent rate changes. Irrespective, over- and under-collections will occur.

SCE should have an opportunity to recover its short-term cost in financing undercollections. At the same time, SCE ratepayers should have an opportunity to benefit from SCE's short-term investment of overcollections. However, the proposal before us is for only undercollections. SCE proposes to continue using the index for overcollections. Consistency and fairness requires

¹² Id. at 202-203.

use of the same process (an index or actual cost) for both over- and under-collections.

Given that utility funds are commingled for a multitude of purposes, any consideration of using SCE's actual short-term financing cost would at the very minimum require SCE to demonstrate that it actually did not have access to or use lower cost funds for other utility purposes and that it actually accessed its short-term borrowings to finance undercollections. For overcollections, SCE would at the very minimum need to demonstrate where it actually invested overcollections, whether in three-month commercial paper, rate base or other uses and at what interest rate. For both over- and under-collections, SCE would also need to demonstrate that it prudently utilized the mitigating factors discussed above. This verification of cost and investments would be time consuming for both SCE and ORA and unnecessarily detract from our intended simplified ERRRA process. It could also be construed precedent setting for all utilities and all balancing accounts. Any consideration of using actual short-term financing of undercollections and investment of overcollections should more appropriately be addressed in a generic proceeding. For these reasons we reject SCE's proposal to replace the index with its actual short-term financing cost for ERRRA undercollections. We opt for the index or a variation of the index as adopted in D.91269.

A comparison of the index to SCE's short-term financing LIBOR base cost shows that the spread in rates is not materially different. For example, the September 2003 index is approximately 1.1% and the LIBOR rate for that same period is approximately 1.2%, of which official notice is taken. Hence, SCE's short-term financing rate is higher than the index due to the basis points premium it pays for using its term loan or revolving line of credit.

Consistent with the index variance approach previously adopted for SDG&E in D.91269, a variance to the index should be adopted for SCE. Since the index and LIBOR rates are comparable, that variance should be based on the premium SCE pays for using its short-term financing. It should be set at a level that fairly compensates SCE for its higher short-term cost while at the same time provides SCE with sufficient incentives to minimize undercollections, deters it from investing in undercollections, and utilizes the mitigation factors discussed above.

Based on informed judgment, that index variance should be set at three-fourths the spread between the index and SCE's actual cost of short-term financing. This variance should continue for undercollections until the spread is reduced to 50 basis points or less. At that time the interest rate should revert to the index. The interest rate for overcollections should continue to be set at the index rate.

C. Semiannual Schedule

SCE proposes that its semiannual ERRA applications be filed on April 1st and October 1st, consistent with the dates set forth in D.02-10-062. It wants a forecast phase in its April application so that it can update its ERRA revenue requirement for that calendar year with the goal of a June decision so that new rates may become effective July 1st.

SCE wants its October 1st filing bifurcated. The first phase would address its next calendar year's revenue requirement forecast with the goal of a December decision so that new rates may become effective January 1st of the following year. The second phase would be a reasonableness review of the preceding twelve months (July through June) recorded ERRA operations, Utility Retained Generation (URG) expenses, contract administration, and least-cost

dispatch operations. Its goal is to have a decision in this second phase issued in May of the following year.

SCE further proposes that the second phase of its October application be designated the proceeding to facilitate the consolidation of all SCE regulatory mechanisms and a reasonableness review of those mechanisms and true up of associated rate levels.

1. Forecasts

SCE's proposal for two forecasts each year was opposed by ORA on the basis that D.02-10-062 provides for only one forecast a year.

a. Transition Year Forecasts

Irrespective of different positions on the number of forecasts for each year, ORA concurred with SCE that two forecasts should be allowed in the 2003 ERRA transition year, a 2003 forecast in this proceeding and a 2004 forecast in the October application.

With the year 2003 almost completed, we concur with SCE and ORA. Two forecasts should be approved for SCE's initial ERRA year, one forecast for 2003 as requested in the current application and one for 2004 as requested by SCE in its October ERRA application.

b. Number of Future Forecasts

SCE and ORA's forecast recommendations were based on their individual interpretation of D.02-10-062. SCE relied on a table in that decision addressing "A comparison of the ECAC and the **recommended** (emphasis added) ERRA..."¹³ for providing two forecasts each year. ORA relied on a table

¹³ D.02-10-062, at p. 61.

in the decision that describes“ ... the semiannual update process that we **establish** (emphasis added) for fuel and purchased power forecasts and the ERRA mechanism”¹⁴ for limiting the number of forecasts to one each year. That process included a requirement that SCE file an April application proposing to establish an **annual** (emphasis added) forecast.

ORA also relied on Finding of Fact No. 25 of that same decision. That finding states that an annual update process should be adopted for forecasts and another proceeding to review balancing accounts, URG expenses, contract administration and least-cost dispatch. ORA also opposed semiannual forecasts on the basis that two forecasts each year would create unnecessary duplicative procedures and place additional work on ORA.

The ERRA process established in D.02-10-062 (and relied on by ORA) takes precedence over any process being recommended (and relied on by SCE) in that same decision. Hence, the ERRA schedule should provide for an annual forecast as set forth in the table ORA relied on and Finding of Fact No. 25. SCE’s ERRA applications should provide for only one forecast and one reasonableness review each year.

c. Appropriate Semiannual Application

Which semiannual application should be used for addressing future forecasts? SCE’s witness testified that SCE forecasts its energy cost often, sometimes on a daily basis.¹⁵ This process demonstrates a high degree of difficulty in accurately forecasting future costs. However, that witness also

¹⁴ Id. at p. 62.

¹⁵ RT, p. 29 at lines 2 through 4.

testified that the annual estimate SCE uses for its official budget is “locked in stone.”¹⁶

Given that SCE does not change its official budget, it is not appropriate to adopt a subsequent year’s forecast in SCE’s first semiannual ERRRA application. That is because the first semiannual application is scheduled for filing in April, eight months prior to the subsequent year and well before SCE’s adoption of an annual budget for the subsequent year. To enable us to adopt a more accurate and realistic forecast, SCE should use its October ERRRA application for seeking approval of subsequent forecasts.

2. Reasonableness Review

We next address SCE’s proposal to bifurcate its October application. ERRRA was adopted with the intent of providing the utilities more frequent opportunities to adjust energy rates than they had under the ECAC process. The intent, in part, was to adopt a process that balanced the need to adjust rates more frequently with utility and staff time. The result of that balance was an ERRRA process providing for semiannual applications with semiannual decisions. A trigger mechanism was also authorized so that more frequent rate changes could be made upon an established need.

Although SCE proposes to use its October ERRRA application for a reasonableness review and approval of its subsequent year’s forecast, it proposes no action on the reasonableness review after its forecast has been approved. This bifurcated approach effectively changes the semiannual application process to a triennial process requiring three separate decisions. It also extends the lag in

¹⁶ Id. at lines 8 through 11.

truing up its forecast and actual energy costs. For example, SCE has requested a reasonableness review of its September 1, 2001 through June 30, 2003 costs in its October 2003 ERRA application with a decision not expected on the reasonableness review until May 2004. This equates to a ten-month lag in truing up energy costs, from the June 30, 2003 actual energy cost under review to a May 2004 scheduled decision.

Consistent with the intent in D.02-03-052 for an annual update process for forecasts and another proceeding for a reasonableness review, we reject SCE's proposal to bifurcate its October ERRA applications. Having already concluded that energy forecasts should be addressed in the October ERRA application, its reasonableness review should be addressed in its April ERRA application.

Given that SCE has already filed its October application, the Administrative Law Judge (ALJ) assigned to that proceeding should have latitude in deciding whether that proceeding should be bifurcated to address reasonableness of SCE's energy costs through June 30, 2003. SCE should seek a reasonableness review of its actual energy costs from July 1, 2003 through December 31, 2003 in its April 2004 ERRA application.¹⁷ The reasonableness review for subsequent April ERRA applications should be from January 1st of the prior year through December 31st of the prior year. April ERRA applications should also be used to consolidate all SCE revenue requirements and unbundled rate levels to recover those revenue requirements.

¹⁷ The December 31st date was selected based on SCE's three-month delay between the last date (June 30, 2003) SCE included in its October 2003 request for an ERRA reasonableness review and the date SCE filed that application.

D. Revenue Requirement Forecast

SCE's revenue requirement forecast is based on fuel costs related to its generation stations, purchased power costs related to cogeneration and renewable contracts, existing inter-utility and bilateral contracts entered into prior to January 17, 2001, and new procurement-related costs that SCE began incurring on January 1, 2003. Purchased power costs associated with the California Department of Water Resources (DWR) power contracts are excluded. Also excluded are EETA costs pursuant to D.02-12-074.

SCE's calculation of its revenue requirement forecast also takes into account the above-market portion of qualified facilities (QF) and purchased power agreement (PPA) expenses, which are eligible for ongoing Competitive Transition Charge (CTC) treatment as provided in D.02-11-022. SCE proposes to track the above-market portion of these costs in the Direct Access (DA) Cost Responsibility Surcharge (CRS) tracking account to ensure that DA customers ultimately pay for them. Once the DA CRS is sufficient to begin covering the above-market portion of these amounts, SCE will credit its ERRA with applicable DA CRS revenues to reduce the Bundled Service customer's on-going ERRA revenue requirement. There is no opposition to this proposal.

Details of SCE's 2003 revenue requirement forecast is set forth in Exhibit 1 and sealed Exhibit A. Although individual components of the 2003 fuel and purchased power revenue requirement forecast of \$2.505 billion are under seal, details of those components were made available to interested parties under a protective agreement.¹⁸ All information placed under seal should remain sealed

¹⁸ Information deemed commercially sensitive and proprietary were placed under seal pursuant to a May 19, 2003 Administrative Law Judge Ruling.

for a period of two years from the date of a final order in this proceeding, and during that period shall not be made accessible or disclosed to anyone other than Commission staff except on the execution of a mutually acceptable protective agreement.

We adopt SCE's 2003 fuel and purchased power revenue requirement forecast of \$2.505 billion and tariff modifications incorporating this forecast. We also adopt SCE's proposed ratemaking treatment for above-market costs related to QF and PPA expenses as set forth in its application.

E. Trigger Mechanism

In D.02-10-062, the Commission required SCE to establish a trigger mechanism whereby over- and under-collections would not surpass 5% of the prior year's generation revenue. To implement timely rate adjustments when this difference exists, SCE is required to file an expedited application for approval 60 days from the filing date when its ERRA balance reaches 4% of the prior year's recorded generation revenues, excluding revenues collected for the Department of Water Resources (DWR). SCE's trigger amount for 2003 is \$228.593 million, based on its 2002 recorded generation revenues of \$5.715 billion.

Expedited applications are required to include a projected account balance for a period of 60 days or more from the date of filing depending on when the balance will reach the 5% threshold. SCE's threshold amount for 2003 is \$285.741 million, based on its 2002 recorded generation revenues of \$5.715 billion.

SCE intends to update its trigger and threshold amounts in late January of each year through the Advice Letter process once the amount of the previous year's recorded generation revenue is known.

There is no dispute on the 2003 trigger and threshold amounts calculated by SCE. SCE's 2003 trigger amount shall be set at \$228.593 million and threshold amount at \$285.741 million. The ERRA tariff modification proposal by SCE that incorporates its 2003 trigger and threshold amounts is adopted as well as the yearly Advice Letter filing proposed by SCE to update its trigger and threshold amounts. However, that yearly Advice Letter shall be filed on February 1st. If the first of February falls on a Saturday, Sunday, or holiday when the Commission offices are closed, the filing date is extended to include the first day thereafter.¹⁹

IV. Procedural Matters

By Resolution ALJ 176-3112, dated May 8, 2003, the Commission preliminarily designated the captioned application as "ratesetting" with hearings indicated. Notice of the application appeared in the Commission's April 23, 2003 Daily Calendar. There is no objection to the ratesetting categorization of this proceeding.

A Prehearing Conference (PHC) held on May 31, 2003 was continued to July 18, 2003 to establish issues and a hearing schedule. Following the continued PHC, Commissioner Peevey issued a July 31, 2003 Scoping Memo and Ruling setting a schedule that included an evidentiary hearing to begin on September 3, 2003 and continue on September 4, 2003, if needed.

On August 8, 2003 and prior to the evidentiary hearing, ORA distributed its prepared testimony to all interested parties. On August 22, 2004, SCE

¹⁹ The February 1st date is consistent with the date set for PG&E to update its trigger and threshold amounts as set forth in D.03-10-059, dated October 16, 2003.

distributed its rebuttal testimony. An evidentiary hearing was held on September 3, 2003. Seven exhibits were received into evidence, two of which were placed under seal. The sealed exhibits provided information that if disclosed would provide competitors an insight to SCE's energy procurement strategy and place SCE and its ratepayers at a disadvantage in seeking future energy contracts. ORA also filed a portion of its brief under seal because it contained confidential information. All sealed information should remain sealed for a period of two years after the effective date of this order. Three witnesses testified for SCE and one for ORA.

Briefs were filed on September 22, 2003 and reply briefs on October 8, 2003. This matter was submitted on October 17, 2003.

V. Comments on Proposed Decision

The proposed decision of ALJ Galvin in this matter was mailed to the parties in accordance with Section 311(d) of the Public Utilities Code and Rule 77.1 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

VI. Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Michael J. Galvin is the assigned ALJ in this proceeding.

Findings of Fact

1. SCE's application was filed in response to the Commission's directives in D.02-10-062 and D.02-12-074.
2. All parties have been noticed of the NUIP rewards issue and no party objected to that issue at the PHCs.
3. ORA recommends an alternative \$15.1 million in NUIP rewards, \$5.1 million less than the \$19.2 requested by SCE.

4. All power not supplied by SCE during the NUIP rewards period would have been supplied by DWR with an energy portfolio based on long and short-term purchased energy, only a portion of which was purchased through CAISO.

5. D.01-09-041 set a limit of five-cents-per-KWh limit on replacement power cost.

6. DWR energy cost is subject to a true up in A.00-11-038, et al.

7. The interest rate for ERRA balances is the three-month commercial paper rate as reported in the Federal Reserve Statistical Release H-15.

8. SCE estimates its actual cost of short-term financing in 2003 to be 4.48%, more than 300 basis points over the three-month commercial paper rate applicable to ERRA balances.

9. Order Instituting Investigation No. 56 addressed the use of actual financing cost.

10. D.91269 adopted a three-month commercial paper rate to be applied uniformly on a company wide basis for over- and under-collected balances, except for SDG&E.

11. In D.91269 SDG&E was authorized a 50 basis point premium to the three-month commercial paper rate for over- and under-collected balances.

12. SCE agreed at the July 18, 2003 PHC, which ORA participated in, that it would confine its interest rate proposal to the ERRA balancing account only.

13. SCE has not been able to issue commercial paper since December 2000 and its current BB credit rating precludes it from issuing commercial paper.

14. SCE's short-term loan carries an interest rate of the LIBOR plus 300 basis points.

15. SCE's revolving line of credit carries a commitment fee of 50 basis points on the unused portion of the loan and an interest rate of LIBOR plus 250 basis points on the amount actual drawn at any time.

16. D.02-10-062 provides for SCE to file an application proposing to establish annual fuel and purchased power forecasts.

17. Finding of Fact 25 in D.02-10-062 states that an annual update process should be adopted for forecasts and another proceeding to review balancing accounts, URG expenses, contract administration and least-cost dispatch.

18. SCE and ORA agree that two forecast proceedings should be allowed in SCE's 2003 transition year.

19. SCE's annual energy estimates in its official budget do not change.

20. SCE filed A.03-10-022 seeking approval of its revenue requirement forecast for 2004 and a reasonableness review of its costs from September 1, 2001 through June 30, 2003.

21. The inputs used to derive SCE's forecast of its 2003 ERRA revenue requirement are based on SCE's load forecast, the forecast of resources to meet its load, and the costs of the various resources.

22. In order to derive the 2003 ERRA revenue requirement, the calculation has to take into account the above-market portion of the QF and PPA expenses, which are eligible for ongoing CTC treatment.

23. Details of SCE's 2003 revenue requirement forecast are set forth in Exhibit 1 and sealed Exhibit A.

24. D.02-10-062 requires the establishment of an ERRA trigger mechanism with a 4% trigger and 5% threshold amount to be set each year based on SCE's prior year's actual energy cost.

Conclusions of Law

1. SCE's \$19.2 million NUIP rewards should be adopted subject to a true up in A.00-11-038.
2. SCE should be allowed to deviate from the three-month commercial paper rate applicable to ERRAs undercollections because it is not able to recover its actual cost of financing undercollections.
3. Any deviation to the three-month commercial paper rate should balance the interest of shareholders and ratepayers.
4. SCE's ERRA schedule should provide for only one forecast and one reasonableness review each year.
5. SCE should use its October ERRA applications for its annual energy forecasts. However, two forecasts should be allowed in SCE's 2003 ERRA transition year.
6. SCE should use its April ERRA applications for its annual reasonableness reviews.
7. SCE should seek a reasonableness review of its actual energy costs from July 1, 2003 through December 31, 2003 in its April 2004 ERRA application. Reasonableness reviews for subsequent April ERRA applications should be from January 1st through December 31st of the prior year.
8. The ALJ assigned to SCE's October 2003 ERRA application should have latitude in deciding whether that proceeding should be bifurcated to address reasonableness of SCE's energy costs through June 30, 2003.
9. Information placed under seal should remain sealed because, if disclosed, it would provide competitors an insight to SCE's energy procurement strategy and place SCE and its ratepayers at a disadvantage in seeking future energy contracts.

10. SCE's 2003 ERRA revenue requirement forecast should be adopted.
11. SCE's calculated 2003 trigger and threshold amounts should be adopted.
12. This decision should be effective immediately so that SCE's ERRA can be implemented expeditiously.

O R D E R

IT IS ORDERED that:

1. The 2003 forecast of Southern California Edison Company (SCE) regarding its load, the resources available to meet its load, fuel costs, and costs for the various resources are adopted.

2. All information placed under seal shall remain sealed for a period of two-years from the effective date of this order except upon the execution of a mutually acceptable nondisclosure agreement or on further order or ruling of the Commission or the Administrative Law Judge then designated as the Law and Motion Judge. If SCE believes that further protection of sealed information is needed beyond two years after the effective date of this order, it may file a motion stating the justification for further withholding of the sealed information from public inspection, or for such other relief as the Commission may provide. This motion shall be filed no later than 30 days before the expiration of this ordering paragraph.

3. SCE shall debit its ERRA with \$19.2 million of Nuclear Unit Incentive Procedure rewards. That amount shall be subject to true up in SCE's semiannual ERRA application to be filed after the completion of a Department of Water Resources 2001-2002 energy cost true up in Application 00-11-038.

4. The interest rate applicable to ERRA undercollections shall be set at the three-month commercial paper rate as reported in the Federal Reserve Statistical

Release H-15 (index) plus a premium of three-fourths the spread between the index and SCE's actual cost of short-term financing until that spread is 50 basis points or less. At that time the interest rate for undercollections shall revert to the index rate. The interest rate for overcollections shall be set at the index rate.

5. Two forecasts shall be approved for SCE in its 2003 ERRA transition year, a 2003 forecast shall be approved in this order and a 2004 forecast shall be approved in a decision addressing its October 2003 application.

6. SCE shall file its annual energy forecast in its October ERRA applications beginning in 2004.

7. SCE shall file its annual ERRA reasonableness review in its April ERRA applications beginning in 2004. The April applications shall also be used to consolidate all Commission-authorized revenue requirements and unbundled rate levels to recover those revenue requirements.

8. SCE's April 2004 ERRA application shall cover the reasonableness of its actual energy costs from July 1, 2003 through December 31, 2003. The reasonableness review for subsequent April ERRA applications shall cover the period from January 1st of the prior year through December 31st of the prior year.

9. SCE is authorized to record the above-market costs of Qualifying Facilities and power purchase agreements in its ERRA and also track the costs in its Direct Access Cost Recovery Surcharge Tracking Account as proposed in its application.

10. The trigger mechanism that SCE used to develop its trigger and threshold amounts shall be adopted.

11. SCE's 2003 ERRA revenue requirement shall be \$2.505 billion, trigger amount shall be \$228.593 million, and threshold amount shall be \$285.741 million

until further adjustment as provided by an ERRR application or Advice Letter Filing.

12. SCE shall file a yearly Advice Letter on February 1st to update its ERRR trigger and threshold amounts as set forth in the body of this order. If the first day of February falls on a Saturday, Sunday, or Commission holiday, the date shall be extended to the first day thereafter.

13. Application 03-04-022 is closed.

This order is effective today.

Dated _____, at San Francisco, California.