

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Order Approving Proposed Settlement Agreement Regarding QFID 2014 (NP Cogen) and Authorizing Edison's Recovery of Payments Made Under the Proposed Settlement Agreement.

Application 01-11-033

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING SOUTHERN CALIFORNIA EDISON'S
MOTION FOR PROTECTIVE ORDER**

On November 21, 2001, Southern California Edison Company (Edison) filed an application (Application) for approval of its Settlement Agreement with NP Cogen, Inc. (NP Cogen). Accompanying its Application, Edison filed a motion for a protective order to prevent public disclosure of "Confidential Information" included in certain portions of the Application and all of the Settlement Agreement between Edison and NP Cogen.

Edison states that the confidential information falls into two broad categories: (1) the terms of the Settlement Agreement, and aspects of its negotiation; and (2) Edison's analysis of benefits under and reasonableness of the Settlement Agreement, including aspects of confidential litigation analysis. Edison argues that the disclosure of this confidential information would adversely affect Edison's ability to settle disputes and lawsuits concerning other contracts and obtain the best settlement terms for Edison ratepayers.

Edison states that the Settlement Agreement contains a provision whereby parties agreed that the settlement terms, and the negotiations preceding the settlement would remain confidential. Edison contends the Settlement Agreement should not become a starting point for negotiations with other parties' negotiations with Edison. Similarly, Edison argues its analysis of ratepayer benefits should remain confidential as this analysis may provide other QFs in future negotiations, a distinct advantage of knowing how Edison evaluates such agreements without reciprocal QF information. This information also includes Edison's internal analysis of litigation with NP Cogen, and therefore should be considered confidential litigation analysis.

Edison provides examples of similar applications in which protective orders have been granted to cover the terms of settlement agreements with QFs, exhibits, and analysis of customer benefits.

No responses to Edison's motion for a protective order were filed.

After reviewing the specific information Edison seeks to protect and consulting with the Assigned Commissioner, we conclude that the "Confidential Information" is worthy of protection. Edison has demonstrated that disclosure of this information on Edison's approach to negotiations, evaluation of its Settlement Agreement and litigation analysis should be kept confidential. Public disclosure of this information could affect the outcome of other QF contract litigation, and could cause harm to Edison and Edison ratepayers.

Accordingly, the motion of Edison for a protective order should be granted. The following items Edison filed as non-public versions under seal on November 21, 2001, shall remain under seal, and protected from public disclosure:

Application: Three complete and two partial sentences in Chapter 1.A, all of Chapter II.C (with the exception of the first paragraph), all of Chapter II.D, all of Chapter III

Exhibit SCE-2: The Settlement Agreement in its entirety

Exhibit SCE-3: Chapter II.C (with the exception of the first paragraph) and Chapter III

This confidential information shall not be made accessible or disclosed to anyone other than Commission staff, the assigned commissioner, the assigned ALJ, or the ALJ then designated as the Law and Motion Judge. Edison shall be excused from the requirement of providing a copy to interested parties (other than employees and agents of the Commission) unless and until such parties make a sufficient showing of need as to outweigh Edison's and the QF's interests in preserving the confidentiality of the Confidential Information.

Therefore, **IT IS RULED** that:

1. The November 21, 2001 Motion of Southern California Edison Company for a protective order is granted as described above.
2. These documents shall remain under seal for a period of two years.

Dated January 17, 2002, at San Francisco, California.

/s/ BRUCE DEBERRY
Bruce DeBerry
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Southern California Edison's Motion for Protective Order on all parties of record in this proceeding or their attorneys of record.

Dated January 17, 2002, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

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 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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