

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) For Authority to, Among Other Things, Increase Its Authorized Revenues For Electric Service in 2006, And to Reflect That Increase in Rates.

Application 04-12-014
(Filed December 21, 2004)

**ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO
ESTABLISHING SCOPE, SCHEDULE, AND PROCEDURES
FOR PROCEEDING**

Summary

Pursuant to Article 2.5 of the Commission's Rules of Practice and Procedure (Rules), and following the prehearing conference (PHC) held on February 18, 2005, this ruling addresses the scope, schedule, and related matters in Southern California Edison Company's (SCE's) test year 2006 general rate case (GRC).

Procedural Context

SCE proposes that this proceeding be separated into two distinct phases: Phase 1, which covers the revenue requirement related testimony submitted with the application, and Phase 2, which covers yet-to-be-submitted testimony on marginal cost, marginal cost responsibility, revenue allocation and rate design. SCE should instead file a separate application for consideration of Phase 2 matters. This treatment is consistent with the Commission's legislative responsibilities under Public Utilities Code Section 1701.5.

For the reasons stated in SCE's application, this proceeding will not address demand side management cost effectiveness or resource plan issues.

Scope of Phase 1

SCE has provided the testimony of over 80 witnesses, which covers the need and reasonableness of its proposed 2006 generation, transmission, distribution, customer service, customer accounting and general administration operations, all of which SCE claims are necessary to serve its forecasted customers and loads for that year. The testimony also details the forecasted operating expenses and capital related costs of these operations, which are the foundation for SCE's base revenue requirement request for test year 2006 and post-test years 2007 and 2008. Issues brought up in conjunction with any of the various aspects of SCE's revenue requirement request and customer and sales forecasts, fall within the scope of Phase 1. At this point, issues raised in protests to the application and prehearing conference statements appear to be within the scope of this GRC.

Depreciation

At the PHC, there was discussion regarding a workshop on depreciation. Consideration of such a workshop was conveyed in Decision 05-01-027 to the Commissioner and Administrative Law Judge (ALJ) assigned to SCE's 2006 GRC.¹ The goal of such workshop would be to set guidelines regarding the type

¹ SCE's test year 2003 GRC decision, D.04-07-022, had ordered that prior to the 2006 GRC a workshop be held and parties should work jointly toward developing a reliable, independent depreciation study. In a petition to modify that decision, the Office of Ratepayer Advocates (ORA) indicated that due to the strongly subjective nature of the depreciation-related analyses, it was critical that ORA maintain its independence and not accede to the analysis and conclusions of a third party consultant. In D.05-01-027, while the Commission granted ORA's petition and eliminated the joint study

Footnote continued on next page

and quality of data that SCE would need to provide with its depreciation showing.

SCE indicated that the depreciation issues are fairly narrow and can be further narrowed within the normal order of the GRC. ORA indicated that it is continuing its discovery with SCE on this subject and does not see the need for workshops. TURN, on the other hand, recommended that the possibility of a workshop be kept open, stating that it has not yet been able to determine the quality of the depreciation data in this GRC, but given the possibility that there may be issues similar to the last GRC, it makes sense to try to address those issues up front.

While there is merit in addressing potential depreciation issues up front, it does not appear to be practical at this point. It is too late to meet the original intent of the suggested workshop regarding the type and quality of data that SCE would need to provide with its depreciation showing. SCE's depreciation showing has already been served as part of its GRC testimony. We also note the ORA and SCE reluctance to having the workshops. Resolving data quality concerns at this point might not be possible in a workshop environment. Also, to prepare for and hold a workshop and then to allow parties sufficient time to incorporate the results in their analyses and recommendations would likely extend the procedural schedule. For these reasons, the depreciation workshop will not be held for this GRC. Also, at the PHC, there were no responses to the ALJ inquiry regarding other alternatives for narrowing depreciation issues.

requirement, there was discussion regarding a The Utility Reform Network (TURN) suggestion for an ALJ sponsored workshop on depreciation. The Commission did not adopt the suggestion but indicated a workshop could be considered for the 2006 GRC.

Depreciation will therefore be considered, as in the past, through the normal course of the GRC. To the extent that parties participating in depreciation matters can reach common ground and narrow the issues, as they relate to facts, judgment or policies, such cooperation is encouraged and should be a focus throughout the proceeding.

Schedule

In its PHC statement, SCE included a proposed Phase 1 schedule that was jointly developed and supported by SCE, ORA, TURN and Aglet Consumer Alliance (Aglet). The joint proposal anticipates a Commission decision by December 21, 2005 and incorporates ORA's need for additional time to prepare its testimony and ORA's suggestion to consolidate the direct and rebuttal evidentiary hearings, which are separate under the Rate Case Plan. SCE states that it was willing to accede to ORA's needs, so long as the resultant schedule allowed for a decision by year-end 2005. The joint proposal will be adopted, with modifications as discussed below.

As discussed at the PHC, under a fully litigated scenario, the joint proposal, which reflects SCE's goal of a year-end decision, is ambitious. It eliminates a significant amount of time for preparing and issuing the ALJ's proposed decision (PD). Under the Rate Case Plan, the time between the end of rebuttal hearings to the PD date is 150 days; while under the joint proposal, that time is shortened to 126 days. Also, under the Rate Case Plan, the time between the filing of reply briefs to the PD date is 96 days; while under the joint proposal, that time is shortened to 77 days. Based on past experience, something closer to the Rate Case Plan's allotted time for the PD is needed. The date for the issuance of the PD is therefore set at December 2, 2005, which is 91 days following the

filing of reply briefs and 136 days following the end of evidentiary hearing on the direct showings and rebuttal.

The joint proposal includes 28 days for evidentiary hearing. In SCE's last GRC there were 39 combined days of hearings for direct and rebuttal testimony. SCE indicates that combining direct and rebuttal hearings might result in some efficiency gain. Also, the 2003 GRC had additional issues that were put in the proceeding by the Assigned Commissioner. Still, SCE indicates that under the joint proposal, the apportioning of cross-examination time may be necessary. At the PHC, both Aglet and the Federal Executive Agencies expressed concern over the apportioning of cross-examination time. To help mitigate the need to do so, the length of the evidentiary hearing will be extended to 30 days. Also, the ALJ is encouraged to ensure that the scope of cross-examination and responses are properly focused.

The actual need for apportioning cross-examination time can be determined once parties have had time to evaluate the remaining testimony and rebuttal to be filed. Parties should serve their estimates of cross-examination time and proposed order of witnesses no later than June 2, 2005. A second PHC will be held on June 6, 2005 to discuss the hearing schedule, the need for apportioning cross-examination time and other procedural matters.

With these modifications, the procedural schedule, as set forth in Appendix A, indicates that a final decision for Phase 1 issues would be considered at the first Commission Meeting in January 2006. This is consistent with the Rate Case Plan, whereby a final decision is expected 384 days after the application filing date. Since SCE filed on December 21, 2004, the expected decision date, by the Rate Case Plan, would be January 9, 2006.

The procedural schedule set forth in Appendix A is hereby adopted for Phase 1 of this GRC. The Assigned Commissioner or ALJ may modify the schedule as necessary. The goal is to resolve this matter as soon as possible after it is submitted. However, in no event will resolution exceed 18 months from the date of this scoping memo, pursuant to the requirements of Public Utilities Code Section 1701.5.

Category of Proceeding and Need for Hearings

This ruling confirms the Commission's preliminary finding in Resolution ALJ 176-3145, dated January 13, 2005, that this proceeding is a ratesetting proceeding and that hearings are necessary. This ruling, only as to category, may be appealed under Rule 6.4.

Ex Parte Communications

Parties shall observe and comply with the applicable Commission's ex parte communications rules set forth in Rules 7 and 7.1.

Assignment of Principal Hearing Officer

Pursuant to Rule 5(l), ALJ Fukutome will act as the principal hearing officer for this proceeding.

Final Oral Argument

Pursuant to Rule 8(d), any party requesting final oral argument before the Commission shall make such request by letter to the ALJ on the date set for filing of concurrent opening briefs.

Discovery

At the PHC, there was discussion regarding turnaround for discovery. We will follow the general rule of 10 working days to respond to data requests, which will apply to all parties. If a longer response time is required, the party preparing the response shall so notify the requesting party and indicate when the

response will be sent. Such notice should be as soon as possible, but no later than 10 days after receipt of the request. If parties have discovery disputes they are unable to resolve by meeting and conferring, they should raise these disputes with the Commission pursuant to Resolution ALJ-164.

Service List

The current service list for this proceeding is available on the Commission's web page. The most recent list should be used for all filings and submittals.

Filing and Service of Documents

At the PHC there was discussion related to the use of electronic mail (e-mail) to serve documents. We will use such service in this proceeding consistent with the recent revisions to the Rules, which allow for the routine use of e-mail and posting on web sites to serve documents in Commission formal proceedings.² As discussed at the PHC, e-mail service of documents shall be to the entire service list, including Information Only. Specific concerns regarding e-mail service, which were raised at the PHC, are covered by the Rules. Rule 2.3.1(c) states, in part, that documents served as attachments to an e-mail message must be in readable, downloadable, printable and searchable formats, unless use of such formats is infeasible. Rule 2.3.1(e) states, in part, that the serving party is not required to, but may agree to, re-serve any person listed in the Information Only section of the official service list after failure of e-mail service to such person. Also, consistent with the discussion in D.04-12-057, we

² The revised Rules regarding e-mail service were adopted by D.04-12-057 in Rulemaking 04-01-005, were adopted by the Office of Administrative Law on February 22, 2005, and will be effective March 24, 2005. A copy of these revised rules will be posted on the Commission's Website.

will not require SCE to set up a web site on which all documents would be posted.³

Parties should also note that when serving documents as attachments to an e-mail message, the serving party must include in the subject line of the message in the following order: the docket number, a brief name of the proceeding, and a brief identification of the document to be served, including the name of the serving party (Rule 2.3.1(c)); and in addition to any other requirements, the serving party must provide a paper copy of all documents served by e-mail to the assigned ALJ (Rule 2.3.1(e)).

Public Participation Hearings

A schedule of public participation hearings is attached as Appendix B. SCE shall have a representative, who is authorized to respond to customer inquiries and statements, available at each public participation hearing. ORA is encouraged to provide representation at these hearings, to the extent that its resources permit.

Procedural Ground Rules

The ground rules set forth in Appendix C are intended to promote fair and orderly hearings and efficient use of hearing time, and are hereby adopted for this proceeding.

³ The Commission stated “We are reluctant to adopt a rule that would require a potentially unwilling party to manage the document collection and posting for all parties in a complex proceeding.” (D.04-12-057, mimeo., page 4.) At the PHC, SCE expressed its concerns about, and appeared unwilling to voluntarily set up, such a web site.

IT IS RULED that:

1. The scope of this proceeding is as set forth in the foregoing discussion. Marginal costs, marginal cost revenue responsibility, revenue allocation and rate design shall be addressed in a separate application per legislative requirements of Public Utilities Code Section 1701.5.
2. The schedule for Phase 1 is set forth in Appendix A to this ruling.
3. A second Phase 1 prehearing conference (PHC) is scheduled for Monday, June 6, 2005 at 1:30 p.m. Evidentiary hearings for Phase 1 will begin at 9 a.m. on June 7, 2005. The PHC and evidentiary hearings will be held in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.
4. Public participation hearings (PPHs) shall be held, as set forth in Appendix B to this ruling.
5. Southern California Edison Company (SCE) shall provide notice of the PPHs to its customers, not later than 10 days prior to the earliest PPH. Notices shall be provided either as an insert with a regular bill or may be mailed separately if necessary to reach customers at least 10 days before the first PPH.
6. The PPH notices shall be reviewed and approved by the Commission's Public Advisor's Office prior to mailing. Also, SCE shall provide to the Public Advisor's Office, not later than five days prior to the first PPH, a letter certifying that it has complied with the requirement of Paragraph 5 above. The compliance letter shall state the date(s) notices were sent to customers and the approximate number of customers so notified and attach one copy of the actual notice used.
7. For the purpose of Article 2.5, this ruling confirms that this proceeding is a ratesetting proceeding and that hearings are necessary.

8. Parties shall observe and comply with the applicable ex parte communications rules set forth in Rules 7 and 7.1 of the Commissions Rules of Practice and Procedure.

9. Administrative Law Judge (ALJ) Fukutome is the principal hearing officer for this proceeding.

10. Any party requesting final oral argument before the Commission shall make such request by letter to the ALJ on the date set for filing of opening briefs.

11. Electronic service of documents shall conform to the Rules adopted in Decision 04-12-057.

Dated March 15, 2005, at San Francisco, California.

/s/ GEOFFREY F. BROWN

Geoffrey F. Brown
Assigned Commissioner

APPENDIX A
PHASE 1 PROCEDURAL SCHEDULE

| Event | Date |
|--|-------------------------------|
| ORA testimony served | 04/15/05 |
| Intervenor testimony served | 05/06/05 |
| Public participation hearings begin | 05/09/05 |
| Public participation hearings end | 05/19/05 |
| Rebuttal testimony served* | 05/25/05 |
| Estimates of cross-examination time and proposed order of witnesses served | 06/02/05 |
| Second Prehearing conference | 06/06/05 |
| Evidentiary hearings begin | 06/07/05 |
| Evidentiary hearings end | 07/19/05 |
| Comparison exhibit | 08/01/05 |
| Opening briefs filed and served; Request for oral argument before the Commission submitted to ALJ | 08/12/05 |
| Reply briefs filed and served | 09/02/05 |
| Update materials served* | 09/26/05 |
| Update hearings begin | 10/11/05 |
| Update hearings end; projected submission date | 10/14/05 |
| Proposed decision issued | 12/02/05 |
| Comments on proposed decision filed and served | 12/22/05 |
| Reply comments on proposed decision filed and served | 12/27/05 |
| Final Commission decision | First January Meeting in 2006 |

(End of Appendix A)

* * Limitations on the scope of rebuttal and update testimony and related requirements set forth in the Rate Case Plan (D.89-01-040 as modified by D.93-07-030) are applicable.

**APPENDIX B
PUBLIC PARTICPATION HEARINGS**

| | |
|--|---|
| May 9, 2005 2:00 pm and 7:00 pm | Rosemead, CA Garvey Community Center 9108 Garvey Avenue Rosemead, CA 91770 |
| May 10, 2005 2:00 pm and 7:00 pm | Fullerton, CA The Chase Suite Hotel 2932 E. Nutwood Avenue, Royal Room Fullerton, CA 92831 |
| May 11, 2005 2:00 pm and 7:00 pm | San Bernardino, CA San Bernardino Public Library Bing Wong Auditorium 555 West 6 th Street San Bernardino, CA 92410 |
| May 12, 2005 2:00 pm and 7:00 pm | Palm Springs, CA Palm Springs City Hall Council Chamber 3200 Tahquitz Canyon Way Palm Springs, CA 92263-2743 |
| May 19, 2005 2:00 pm and 7:00 pm | Visalia, CA Visalia Convention Center Charter Oak Ballroom C 303 E. Acequia Avenue Visalia, CA 93291 |

(End of Appendix B)

APPENDIX C
PROCEDURAL GROUND RULES

Exhibit Format

See Rule 70 of the Rules of Practice and Procedure. Parties often fail to include a blank space two inches high by four inches wide to accommodate the ALJ's exhibit stamp. If necessary, add a cover sheet to the front of the exhibit. The common practice of pre-printing the docket number, a blank line for the exhibit number, and witness names(s) is acceptable, but it is not a substitute for the required two by four inch blank space to accommodate the exhibit stamp.

Exhibits should be bound on the left side or upper left-hand corner. Rubber bands and paper clips are unacceptable.

Excerpts from lengthy documents should include the title page and, if necessary for context, the table of contents of the document.

While Rule 2 permits a type size of no smaller than 10 points in filed documents, parties are asked to use a type face of no smaller than 12 points wherever practicable.

Exhibit Copies

See Rule 71. The original and one copy of each exhibit shall be furnished to the presiding officer and a copy shall be furnished to the reporter and to each party. The copy furnished to the presiding officer may be the mailed copy. Except for exhibits that are served prior to the hearing, parties are responsible for having sufficient copies available in the hearing room for the court reporter and each party in attendance.

Cross-Examination Exhibits

Allowing witnesses time to review new or unfamiliar documents can waste hearing time. The general rule is that a party who intends to introduce an exhibit in the course of cross-examination should provide a copy to the witness and the witness' counsel before the witness takes the stand on the day the exhibit is to be introduced. Documents in excess of two pages should be provided the day before. Generally, parties need not provide advance copies of documents to be used for impeachment or to obtain the witness' spontaneous reaction (although this practice is not encouraged).

Corrections

The practice of making extensive oral corrections to exhibits on the witness stand, requiring lengthy dictation exercises, causes delays. To the extent possible, corrections to testimony should be in the form of errata exhibits.

Hearing Hours

Hearings will generally run from 9:00 a.m. to 12:00 a.m. with two morning breaks and from 1:30 p.m. to 3:30 p.m. with one afternoon break. Upon request, and if circumstances permit, hearings may run from 9:00 a.m. to 1:00 p.m. on Fridays.

Cross Examination Time

Parties are placed on notice that it may be necessary to limit and allocate cross-examination time as well as time for redirect and recross-examination.

Rebuttal Testimony

Prepared rebuttal testimony should include appropriate references to the testimony being rebutted. It is inappropriate, and a potential grounds for striking, for any party to hold back direct presentations for introduction in rebuttal testimony.

Court Reporters

Common courtesy should always be extended to the reporters. Counsel should wait for witnesses to finish their answers, and witnesses should likewise wait for the whole question to be asked before answering. Counsel shall refrain from simultaneous arguments on motions and objections. Conversations at the counsel table or in the audience can be distracting to the reporter and other participants. Such distractions should be avoided.

(End of Appendix C)

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties for whom an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Assigned Commissioner's Ruling Establishing Scope, Schedule, and Procedures for Proceeding on all parties of record in this proceeding or their attorneys of record.

Dated March 15, 2005, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

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.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.