

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Authorization to Recover Costs Incurred in 2004 and Recorded in the Bark Beetle Catastrophic Event Memorandum Account.

Application 05-12-018
(Filed December 16, 2005)

**SCOPING MEMO AND RULING
OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE**

Pursuant to Article 2.5 of the Commission's Rules of Practice and Procedure (Rules),¹ this Scoping Memo and Ruling addresses issues, schedule, and other matters necessary to scope this proceeding.

1. Background

By Notice dated February 2, 2006, the Commission set a prehearing conference, held on February 14, 2006, to determine parties, create the service list, identify issues, consider the schedule, and address other matters as necessary to proceed with the application. Southern California Edison Company (Edison) requests that the Commission:

- 1, Find reasonable the \$129.5 million of incremental Operations and Maintenance (O&M) expenses recorded in Edison's Bark Beetle Catastrophic Event Memorandum Account (Bark Beetle

¹ The Commission's Rules are available on the Commission's website, (<http://www.cpuc.ca.gov/>), click on "Laws, Rules, Procedures."

Account) for the period January 1, 2004 through December 31, 2004; and

2. Authorize the transfer of the December 31, 2004 balance in the Bark Beetle Account O&M Cost Subaccount of \$130.5 million, including interest, to the Distribution Subaccount of the Base Revenue Requirement Balancing Account (BRRBA) for recovery in rates, effective January 1, 2007.

2. Categorization

Edison proposed that the proceeding be categorized as ratesetting. The Commission preliminarily categorized these matters as ratesetting in Resolution ALJ 176-3165. The categorization of this proceeding is determined herein to be ratesetting. This is the Assigned Commissioner's Ruling on category, and appeals, if any, and must be filed and served within 10 days. (*See* Rule 6.4.)

3. Hearing and Record; Restrictions on Ex Parte Communications

Edison proposed that this proceeding might include a hearing. The Commission preliminarily determined that this matter would require hearings. (*See* Resolution ALJ 176-3165.) This Scoping Memo adopts a schedule that includes formal hearings. (*See* Rules 6(a)(3) and 6.1(a).) In a ratesetting proceeding involving hearings, ex parte communications are permitted only if consistent with certain restrictions, and are subject to reporting requirements. (*See* Rules 7(c) and 7.1.)

The record will be composed of all documents filed and served on parties. It will also include testimony and exhibits received at hearing.

Parties shall use the procedures contained in Resolution ALJ-164 to seek resolution of discovery disputes.²

4. Compliance with Prior Decisions

Edison is responsible for ensuring that the application is in compliance with all prior Commission decisions which may affect the Bark Beetle Memorandum Account activities within the scope of this proceeding. Accordingly, as discussed in the section on Scope and Issues, Edison is required to demonstrate that it is in compliance with all relevant decisions, and more specifically decisions or rulings involving catastrophic event memorandum accounts or the Bark Beetle infestation.

5. Scope and Issues

The purpose of this proceeding is to establish just and reasonable rates to adequately compensate Edison for costs reasonably incurred to ensure that all dead, dying and diseased trees and vegetation are completely cleared from the utility right-of-ways to mitigate the potential of fire danger. We will determine whether Edison has demonstrated that it exercised reasonable care to minimize all of its costs, adequately controlled the work performed by contractors, and complied with the Commission's requirements for catastrophic event memorandum accounts.

6. Standard of Review

Edison alone bears the burden of proof to show that the rates it requests are just and reasonable and the related ratemaking mechanisms are fair.

² This Resolution may be accessed via the following link:
http://www.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/2538.doc.

For the purposes of this proceeding and as used in the scope above, we define reasonableness for catastrophic event expenditures consistent with prior Commission findings, i.e., that the reasonableness of a particular management action depends on what the utility knew or should have known at the time that the managerial decision was made.

In order for the Commission to consider any possible proposed settlement in this proceeding as being in the public interest, the Commission must be convinced that the parties had a sound and thorough understanding of the application and all of the underlying assumptions and data included in the record. This level of understanding of the application and development of an adequate record is necessary to meet our requirements for considering any settlement.³

7. Schedule

In addition to the usual events on a procedural schedule, all active parties in this proceeding must participate in two mandatory settlement conferences as described herein.⁴ Edison shall arrange these settlement conferences, which may be telephonic. Every party who serves written testimony, or who intends to cross examine witnesses at the evidentiary hearing shall jointly prepare a Case Management Statement and Settlement Conference Report. Edison shall file and

³ (Rule 51.1) *Proposal of Settlements or Stipulations* part (e): “The Commission will not approve stipulations or settlements, whether contested or uncontested, unless the stipulation or settlement is reasonable in light of the whole record, consistent with law, and in the public interest.”

⁴ We acknowledge there was no discussion of this requirement at the prehearing conference; however it is within the discretion of the assigned commissioner to include a mandatory settlement process in the procedural schedule.

serve this report on behalf of all parties after the second conference. The contents shall include:

- (a) A list identifying any issue the parties have settled or otherwise stipulated for this proceeding. This must include relevant citations to the parties' prepared testimony.
- (b) A list identifying all remaining contested issues.
- (c) Any other relevant matters.

The first mandatory settlement conference must be held no later than April 14, 2006, before service of intervenor testimony. The purpose of this conference is to conserve parties' resources by reducing the number of contested issues. Though parties will not have the benefit of pre-served intervenor testimony, we believe that serious negotiations are possibly based on the disclosure of the intervenors' preliminary findings and recommendations. The second mandatory settlement conference must occur no later than May 30, 2006, before evidentiary hearings begin on June 5, 2006. We believe this second conference may be able to expand on the progress of the first session. Its purpose is to further limit the scope of contested issues in any evidentiary hearing after the parties have reviewed prepared rebuttal testimony. Edison shall file and serve the Case Management Statement and Settlement Conference Report on June 2, 2006, after the second settlement conference and before evidentiary hearings.

Parties may request a trained mediation Administrative Law Judge (ALJ) to assist in the settlement conferences.

Applications Filed	December 16, 2005
Protests	January 20, 2006

Prehearing Conference	Tuesday, February 14, 2006
Scoping Memo	Friday, March 3, 2006
First Mandatory Settlement Conference	On or before April 14, 2006
Interested Parties Serve Testimony	Friday, April 28, 2006
Parties Serve Rebuttal	Friday, May 19, 2006
Second Mandatory Settlement Conference	On or Before May 30, 2006
Case Management Statement and Settlement Conference Report	June 2, 2006
Evidentiary Hearings	June 5 – June 8, 2006 Commission Courtroom State Office Building 505 Van Ness Avenue San Francisco, CA 94102
Concurrent Opening Briefs	June 30, 2006
Concurrent Reply Briefs and Projected Submission Date	July 21, 2006

8. Summary of Recommendations

All Interested Parties serving testimony in this proceeding shall include a table summarizing all proposed recommendations with citation(s) to the proposed exhibit(s) and work papers. All recommendations shall be listed in descending order of monetary impact. Parties should show in separate columns:

- (a) Sequential number of recommendation;
- (b) Short caption of recommendation;

- (c) Monetary impact, e.g., total value of an adjustment or cost reallocation;
- (d) Exhibit(s) page citation(s) for the primary discussion of the recommendation; and
- (e) Exhibit(s) page citation(s) for the primary presentation of the monetary impact.

9. Briefs

To the fullest extent reasonably possible, parties shall use the same outline for briefs. This practice promotes understandability, consistency, and completeness. Parties should agree on a common outline for briefs before the conclusion of hearings, and shall bring any unresolved disputes to the attention of the Principal Hearing Officer before the end of hearings. Parties can also assist the Commission by preparing and submitting an up-dated summary of recommendations at the conclusion of hearing as an attachment to the opening brief. This up-date should add: a summary of the party's position on each issue, further references as appropriate (e.g., to exhibits, transcript pages), and any other information the party determines to be necessary and useful to present its position.

10. Final Oral Argument

A party in a ratesetting proceeding has the right to make a Final Oral Argument before the Commission if the Final Oral Argument is requested within the time and manner specified in the Scoping Memo or later ruling.

(See Rule 8(d).)

Any party seeking to present a Final Oral Argument shall file and serve a motion with sufficient time for Commission consideration of the motion before

the proposed Final Oral Argument.⁵ The motion shall state the request, subject(s) to be addressed, amount of time requested, recommended procedure and order of presentations, and anything else relevant to the motion. The motion shall contain all the information necessary for the Commission to make an informed ruling on the motion, providing for an efficient, fair, equitable, and reasonable Final Oral Argument. If more than one party wishes the opportunity for Final Oral Argument, parties shall use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentations, and anything else relevant to the motion. A response to the motion may be filed.

If a final determination is subsequently made that no hearing is required, Rule 8(d) shall cease to apply, along with a party's right to make a Final Oral Argument.

11. Intervenor Compensation

The prehearing conference was held on February 14, 2006. A customer who intends to seek an award of compensation should file and serve a notice of intent to claim compensation no later than 30 days after this hearing. (See Pub. Util. Code § 1804(a)(1).)

12. Service and Service List

The official service list was created at the February 14, 2006 prehearing conference, and is now on the Commission's Web page. Electronic Service is now the standard in the recently modified *Rule 2.3 Service*, and the new *Rule 2.3.1 Service by Electronic Mail*. These rules were effective on March 24, 2005. All parties to these proceedings shall serve documents and pleadings using

⁵ A specific date may or may not be set by a later ruling.

electronic mail whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. These rules govern service of documents only, and do not change the rules regarding the tendering of documents for filing. Documents for filing must be tendered in paper form, as described in Rules 2, et seq. Additionally, all filings shall be served in hard copy (as well as e-mail) on the assigned ALJ.

13. Principal Hearing Officer

ALJ Douglas M. Long is the Principal Hearing Officer. (*See* Rule 5(l).)

IT IS RULED that:

1. The final categorization of these proceedings is ratesetting and hearings are required for the purpose of Article 2.5 of the Commission's Rules of Practice and Procedure (Rules).
2. Ex parte communications are permitted with restrictions, and are subject to reporting requirements. (*See* Rules 7(c) and 7.1.)
3. The record shall be composed of all filed and served documents, plus testimony and exhibits received at hearing.
4. The issues and schedule are as set forth in the body of this ruling unless amended by a subsequent ruling or order of the Principal Hearing Officer.
5. Parties should begin discovery immediately.
6. Intervenors, including Division of Ratepayer Advocates, shall include in any testimony served in these proceedings a Summary of Recommendations as described in this ruling.
7. Parties shall use the same outline for briefs.
8. Parties shall follow the procedure stated in the body of this ruling in making any request for Final Oral Argument. (*See* Rule 8(d).)
9. An electronic Service Protocol is in effect. (*See* Rules 2.3 and 2.3.1.)

10. Administrative Law Judge Douglas M. Long is the Principal Hearing Officer. (*See* Rule 5(l).)

Dated March 3, 2006, at San Francisco, California.

 /s/ JOHN A. BOHN
John Bohn
Assigned Commissioner

 /s/ DOUGLAS M. LONG
Douglas M. Long
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge on all parties of record in this proceeding or their attorneys of record.

Dated March 3, 2006, 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.