



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA**

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In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) for a Certificate of Public Convenience and Necessity Concerning the Tehachapi Renewable Transmission Project (Segments 4 through 11).

Application 07-06-031

**SOUTHERN CALIFORNIA EDISON COMPANY'S (U-388-E) COMMENTS**  
**REGARDING PENDING PETITION FOR**  
**MODIFICATION OF DECISIONS 09-12-044, 13-07-018, AND 14-01-005**

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Dated: **November 15, 2018**

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Pursuant to Administrative Law Judge Kim’s November 6, 2018 Ruling Seeking Comments Regarding Pending Petition For Modification Filed by Southern California Edison Company (SCE), SCE files the following comments.

**I.**

**INTRODUCTION**

On January 18, 2017, in accordance with Ordering Paragraph 2 of D.14-01-005, SCE filed a Petition for Modification of D.09-12-044, as modified by D.13-07-018, and D.14-01-005 (Cost PFM), to adjust the finding of maximum cost for the Tehachapi Renewable Transmission Project 4-11 (TRTP 4-11 or Project).

On February 17, 2017, TURN filed its response to the Cost PFM, which reiterated Federal Energy Regulatory Commission (FERC) jurisdiction in determining reasonableness of transmission costs and questioned the timing and rationale for filing the Cost PFM. TURN concluded that the Commission should deny the Cost PFM in part because it is an “academic” exercise considering the Commission’s limited jurisdiction, or, in the alternative, hold the

decision in abeyance until the Commission acts on the pending San Diego Gas & Electric (SDG&E) Sunrise Cost PFM, where the Commission was determining similar issues regarding the appropriate degree of Commission involvement in adjusting CPCN costs.<sup>1</sup> TURN was the only party that filed a response to SCE's Cost PFM.

SCE filed its reply to TURN's response on February 27, 2017. SCE noted in its reply that SCE filed the Cost PFM in compliance with Commission order and had previously informed the Commission, in testimony and in regular meetings with Energy Division Staff, of the increased cost projections. Further, SCE also acknowledged, as did TURN, the limited jurisdictional role of the Commission regarding TRTP 4-11 transmission costs and stated that SCE was amenable to the Commission dismissing the Cost PFM as moot or, in the alternative, holding a decision in abeyance pending the outcome of the SDG&E Cost PFM. On June 15, 2017, the Commission issued D.17-06-009, dismissing the SDG&E Cost PFM as moot given that the project was completed and recovery of transmission costs were subject solely to FERC jurisdiction.

For the reasons set out in the PFM, SCE requests that the Commission grant the Cost PFM to modify the findings of maximum cost originally set out in D.09-12-044, D.13-07-018, and D.14-01-005 to the adjusted maximum cost of TRTP 4-11 to \$2,709 million (2016\$). In the alternative, because the pending TRTP Cost PFM has similar issues as the SDG&E Cost PFM, and because the TRTP Cost PFM has been pending at the Commission for approximately 22 months, SCE requests the Commission dismiss the TRTP Cost PFM as moot.

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<sup>1</sup> TURN Response to PFM at 5-7.

## II.

### DISCUSSION

#### **A. The TRTP Cost PFM Complies with Ordering Paragraph 2 of D.14-01-005 and Should be Granted.**

Ordering Paragraph 2 of D.14-01-005 memorialized SCE's voluntary agreement to file a PFM, rather than an advice letter as originally contemplated in the 2009 CPCN Decision, to seek an adjustment of the finding of maximum cost for the Project.<sup>2</sup> SCE filed the Cost PFM to comply with that Commission Order. The Commission was aware of the increasing costs prior to the Cost PFM filing, and no further review is necessary or appropriate, as transmission costs are solely within FERC's jurisdiction.

Prior to filing the Cost PFM, SCE communicated the cost increases to the Commission multiple times. In the 2013 Underground Proceeding, SCE communicated to the Commission that the costs of the overhead portion of TRTP 4-11 had significantly increased, in part so that the Commission could make an informed decision whether to impose incremental costs for underground construction in the context of the much higher total cost projection, and whether the entire project as a whole still remained economically rational at the significantly increased cost level.<sup>3</sup> As SCE noted in its Cost PFM, in February 2013, SCE provided refined underground testimony and included a cost update for the overhead facilities.<sup>4</sup> That update showed that costs had increased up to \$2,082 million (2013\$). When escalated to 2016 constant dollars, that amounts to \$2,179 (2016\$). SCE noted that it was not at that time seeking a formal update to the entire project's cost finding because those cost estimates were not final and because it was not

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<sup>2</sup> D.09-12-044, Ordering Paragraph 4; the 2009 Commission Decision granting a CPCN for TRTP 4-11, D.09-12-044, originally contemplated an advice letter as the appropriate filing for an adjustment of the finding of maximum cost for the Project.

<sup>3</sup> SCE Refined Underground Testimony, February 28, 2013, at p. 75.

<sup>4</sup> SCE Refined Underground Testimony at p. 75, stating the potential overhead facilities cost estimate of approximately \$2,082 million (2013\$), due to multiple uncertainties.

within scope for the Underground Proceeding. However, SCE provided the update so the Commission could evaluate whether it was in the public’s interest to impose additional costs for undergrounding on top of the total increased cost projection for the entire Project. Thus, the magnitude of increased cost projections were explicitly evaluated and were recognized by other parties and the Commission well in advance of SCE’s Cost PFM.<sup>5</sup>

Table 1 below, filed as part of the Cost PFM, illustrates SCE’s original estimates, the cost findings included in CPUC Decisions,<sup>6</sup> SCE’s interim updated cost estimates for the entire Project that were included in its 2013 Refined Underground Testimony (Interim Cost Update) to inform the Commission of the cost increases at that time,<sup>7</sup> and the updated costs included in the Cost PFM. Due to the different vintages of costs, the Project Cost Summary table presented all costs in constant 2016 dollars.

Table 1: Project Cost Summary  
(Constant 2016 \$millions)

TRTP 4-11	SCE's Original Estimates	CPUC Decisions	Interim Cost Update	Cost PFM Update
Overhead Facilities	\$ 1,972	\$ 1,751	\$ 2,179	\$ 2,341
Underground Facilities	\$ 390	\$ 259	\$ 390	\$ 368
Total	\$ 2,362	\$ 2,010	\$ 2,569	\$ 2,709

<sup>5</sup> For example, as a party to the Underground Proceeding, TURN also acknowledged in its opening brief the significant cost increases referenced by SCE in testimony, stating: “[w]hile there is a wide disparity in the parties’ cost estimates, the undisputed fact is that undergrounding the line through Chino Hills will cost ratepayers significantly more than the overhead configuration of Segment 8 originally approved in D.09-12-044. The total cost of the 173-mile long TRTP, as approved in D.09-12-044 was \$1.78 billion (in 2009 dollars), and with SCE’s recent refinements to its costs estimates and inflation, this figure has increased to approximately \$1.932 billion (in 2013 dollars). Adding an additional \$140 to \$726 million on top of an almost 2 billion dollar project in order to underground 3.5 miles of the line for a single community is patently unreasonable.” Opening Brief of The Utility Reform Network on the Proposed Undergrounding of TRTP (May 6, 2013) at 4-5.

<sup>6</sup> See, D.09-12-044, D.13-07-018, and D.14-01-005.

<sup>7</sup> SCE Refined Underground Testimony, February 28, 2013 at p. 75, stating the potential overhead facilities cost estimate of approximately \$2,082 million (2013\$), due to multiple uncertainties.

The Commission acknowledged the approximate \$2 billion cost (2013\$) for the overhead facilities portion of TRTP 4-11 in both D.13-02-035 and D.13-07-018.<sup>8</sup> In the Underground Decision, the Commission concluded that it was in the public interest to underground Segment 8A even with the understanding that costs for the Overhead Facilities portion of TRTP 4-11 had increased significantly to as much as \$2.1 billion (2013\$).<sup>9</sup> Thus, although the Commission did not formally true up the cost findings at that time (given that the request to adjust the cost findings was not pending), the Commission did review the increased cost projection for the total Project and explicitly determined not only that it was still in the public interest to continue with TRTP 4-11 at the higher cost, but that in fact it was in the public interest to add even more costs associated with undergrounding the segment traversing Chino Hills.

In addition to notification included in the above-referenced testimony, briefing, and decisions, there were additional updates to Commission Staff as to the forecast cost and timing of the PFM. SCE met regularly with Energy Division Staff to, among other things, update the CPUC on SCE's overall transmission project portfolio. As part of those regular meetings, SCE provided updated cost estimates and also discussed the timing for filing the Cost PFM. Of note, cost updates provided to staff since February 2015 contained a TRTP 4-11 cost estimate update of \$2,719 (2014\$), which is greater than the PFM's final estimate of \$2,709 (2016\$). Due to the many uncertainties and potential for increased costs related to first-of-a-kind 500 kV underground transmission line construction, SCE informed Energy Division Staff of its plans to file the Cost PFM once testing and commissioning of the line was completed due to the potential for increased cost if a major failure were to happen. SCE also discussed the major risks that could lead to cost increases with Energy Division Staff during each regular meeting.

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<sup>8</sup> D.13-02-035, Finding of Fact Paragraph 9 at 15, referencing "...the approximate \$2 billion cost of the TRTP..."; and D.13-07-018 at 48, which states "...the record here reflects that costs have increased, perhaps to as much [as] \$1.7-2.1 billion...."

<sup>9</sup> D.13-07-018 at 48.

Further, California Public Utilities Code Section 1005.5(b)'s standard for updating a cost finding only requires a finding that (i) the costs have increased and (ii) whether the project remains in the public's interest at the higher cost level.<sup>10</sup> This exercise does not invite or permit an after-the-fact reasonableness review as to whether the actual costs are reasonable and prudent, which for transmission costs, lies solely within FERC's jurisdiction.<sup>11</sup> The Cost PFM makes clear that it does not seek cost recovery or a reasonableness determination from the Commission, but rather was filed to comply with the Commission's directive to update the costs once a final estimate had been prepared. As such, the Cost PFM complies with Commission order and should be granted.

**B. In the Alternative, Consistent with D.17-06-009, the TRTP Cost PFM Should be Dismissed as Moot.**

As the Commission noted in D.17-06-009, which dismissed SDG&E's Cost PFM as moot:

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<sup>10</sup> Importantly, the Commission's determination to add the incremental costs for underground construction on top of the acknowledged significant increase in cost on the overheard construction makes clear that the Commission has already found TRTP to remain in the public interest and be economically rational at a much higher cost than the original 2009 cost finding.

<sup>11</sup> The Federal Energy Regulatory Commission (FERC) has exclusive jurisdiction to ensure and establish just and reasonable rates, terms, and conditions of transmission service in interstate commerce, which represents the vast majority of TRTP costs. Section 205 of the Federal Power Act and the regulations promulgated by FERC to carry out that section provide a utility the right to file for its rates at FERC for those costs that are FERC jurisdictional. *See Mirant Delta, LLC*, 100 FERC 61,271, 62,035 (2002) (confirming FERC has "exclusive authority to ensure just and reasonable rates and prevent unduly discriminatory practices as well as with the statutory framework of the [Federal Power Act], which, as noted, allows public utilities the ability to make rate filings and which requires them to comply with [FERC's] regulations and directives regarding matters within [FERC's] exclusive jurisdiction."); *see also S. Cal. Edison Co. v. Pub. Util. Comm'n*, 121 Cal. App. 4th 1303 (2004), *modified and reh'g denied*, 2004 Cal. App. LEXIS 1609 (Cal. App. 2d Dist. Sept. 27, 2004), *review denied by So Cal. Edison Co. v. PUC*, 2005 Cal. LEXIS 592 (Cal. Jan. 19, 2005) (finding that an attempt by the Commission to control or limit what costs SCE may seek to recover at FERC is preempted by federal law).

[a] case is moot when the result would have no practical significance. [The Commission] may apply the doctrine of mootness when there is no longer any actual controversy for which a Commission decision would have practical significance.<sup>12</sup>

In its analysis, the Commission interpreted Section 1005.5's procedure for updating costs to apply prior to completion of a project.<sup>13</sup> The Commission also acknowledged that "...recovery of [transmission] costs, including determination of the reasonableness of rates, is under FERC jurisdiction."<sup>14</sup> The Commission further reiterated that a finding of mootness was supported by the fact that (1) construction of the project was complete, (2) the amount in dispute was less than 5% of the adjusted estimated total cost, (3) Section 1005.5 contemplates maximum cost in the context of a new or ongoing construction project, and (4) SDG&E was required to file its request.<sup>15</sup>

The facts regarding the TRTP Cost PFM are analogous to those concerning the SDG&E Cost PFM, which resulted in the Commission's determination of mootness and dismissal. TRTP 4-11 has been in service since December 2016. The recovery of transmission costs for TRTP 4-11 are within the sole jurisdiction of FERC. SCE was ordered to file its Cost PFM, and the cost increases, although greater than 5% of the Commission's estimate, is approximately 5% of the Interim Cost Update that the CPUC recognized in D.13-07-018 and less than the estimate provided to Energy Division Staff. As even TURN noted in its response to the Cost PFM, "it is not at all clear that the determination whether or not to increase the maximum cost would have an impact on anything that matters."<sup>16</sup> SCE agrees that given these reasons, the exercise for the Commission to determine whether it is in the public's convenience and necessity to continue

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<sup>12</sup> D.17-06-009 at 8.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Id.* at 9.

<sup>15</sup> *Id.* at 10.

<sup>16</sup> TURN Response at 6.

with the project at the increased cost is not essential, and the Cost PFM, if not granted, should be dismissed as moot.

### III.

#### CONCLUSION

TRTP 4-11 was fully put into service in December 2016. SCE filed its Cost PFM, as ordered by the Commission, approximately 22 months ago. The Cost PFM memorialized the cost increases experienced by the Project, the vast majority of which were FERC jurisdictional and had been previously communicated to the Commission. For these reasons, and those stated above, it is SCE's position that the TRTP Cost PFM should be granted as being in compliance with Commission order, or, in the alternative, dismissed as moot.

Respectfully submitted,

*/s/ Angela Whatley*

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