



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

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Application of Southern California Edison
Company (U 338-E) to Establish a
Memorandum Account to Record and Track
System-Wide Pipeline Assessment Costs for
the Catalina Water Utility.

A.20-04-010

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) OPENING BRIEF

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SUMMARY OF RECOMMENDATIONS

Southern California Edison Company (SCE) respectfully recommends that the Commission:

- (1) Determine that SCE has met the requirements set forth in Standard Practice U-27-W for establishing a memorandum account;
- (2) Authorize SCE to establish a Catalina Water Pipeline Assessment Memorandum Account (CWPAMA) to record and track costs associated with SCE's completion of a system-wide assessment of the Santa Catalina Island (Catalina) water infrastructure; and
- (3) Set January 28, 2020 as the effective date for the CWPAMA.

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

Application of Southern California Edison Company (U 338-E) to Establish a Memorandum Account to Record and Track System-Wide Pipeline Assessment Costs for the Catalina Water Utility.

A.20-04-010

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) OPENING BRIEF

Pursuant to Rule 13.11 of the California Public Utilities Commission’s (Commission) Rules of Practice and Procedure and the June 19, 2020 “Assigned Commissioner’s Scoping Memo and Ruling” (Scoping Memo) setting the procedural schedule for this proceeding, Southern California Edison Company (SCE) respectfully submits this Opening Brief. In Application (A.) 20-04-010, SCE is requesting that the Commission authorize SCE to establish a Catalina Water Pipeline Assessment Memorandum Account (CWPAMA) to record and track costs associated with SCE’s completion of a system-wide assessment of the Santa Catalina Island (Catalina) water infrastructure.

I.

INTRODUCTION

A. Issues

As set forth in the Scoping Memo, this proceeding is addressing the following issues:

1. Should the Commission authorize SCE to establish the memorandum account?
 - a. Does SCE meet the requirements for establishing a memorandum account under Standard Practice (SP) U-27-W?

2. If the Commission authorizes the memorandum account, should it set January 28, 2020 as the effective date?

B. Background

SCE provided detailed background information in testimony, workpapers, and data request responses, supporting its request that the Commission authorize the CWPAMA to record and track costs to perform the system-wide assessment.¹ As indicated in the Joint Status Report submitted by SCE and Cal Advocates on August 21, 2020, the issues in the proceeding are primarily legal in nature and there are no disputes regarding the material facts in this proceeding.² For convenience, SCE summarizes the pertinent facts here:³

1. SCE acquired the Catalina water utility in 1962 and is the sole domestic water purveyor on Catalina Island. The Catalina water utility is a Class C utility serving approximately 2,000 customer accounts across the island.
2. SCE installed most major components of the water distribution system in the late 1960s. In particular, in 1967, SCE installed the million-gallon tank (MGT) and the Two Harbors Pipeline, which supplies drinking water from groundwater wells over nine miles to the western part of the island via the MGT.
3. The Two Harbors Pipeline is constructed of steel with an interior coal tar enamel lining and an external coal tar wrap. At the time of installation, these coal tar materials were commonly used in water systems to prevent corrosion of steel and iron. When used as an external coating, the coal tar was often reinforced with fibrous wraps, often consisting of asbestos felt material.
4. Although the use of coal tar was common industry practice and deemed safe at the time Catalina's water infrastructure was installed, these materials are now known to possibly contain non-liquid polychlorinated biphenyls (PCBs) in concentrations that

¹ On September 2, 2020, SCE and Cal Advocates filed a joint motion to submit these materials into the evidentiary record.

² Joint Status Report, p. 2.

³ Exhibit SCE-01, pp. 1-2.

have since become regulated by the U.S. Environmental Protection Agency (EPA) under the Toxic Substances Control Act (TSCA).⁴

5. TSCA was passed in 1976 to, among other things, regulate the manufacture, distribution, use, storage, and disposal of PCBs. Under TSCA, certain materials containing PCBs that were once approved for use have since become prohibited.
6. Once such materials are removed from use, TSCA and EPA's regulations implementing TSCA establish requirements and restrictions related to the storage and disposal of PCB wastes.
7. SCE's water infrastructure includes approximately 47 miles of distribution pipeline, discrete segments of which were taken out of service over the years as part of routine repairs and maintenance.
8. In some cases, the decommissioned pipe included coal tar materials in the interior lining and/or exterior wrap. At times, when the individual segments of decommissioned pipe were taken out of service, they were left in-place (either above-ground or below-ground) at various locations across Catalina, including near the Two Harbors Pipeline.
9. In December 2019, SCE identified and self-disclosed a potential TSCA violation due to the possible presence of PCBs in coal tar materials on segments of decommissioned pipe.⁵ Subsequent sampling confirmed the presence of PCBs above 50 parts per million (ppm) in certain segments of above-ground decommissioned pipe.
10. SCE then initiated efforts to fully identify, assess, and properly dispose of all decommissioned pipe segments and to remediate any potential soil contamination in compliance with all state and federal environmental regulations.
11. Due to the rugged, mountainous terrain on Catalina, SCE has not been able to confirm the full extent of below-ground decommissioned pipe on the island.
12. As part of SCE's corrective actions to achieve compliance, a comprehensive assessment of the water infrastructure on Catalina must be completed. One objective

⁴ 50 parts per million is the threshold concentration for PCB regulation under TSCA. Exhibit SCE-01, p. 4, lines 4-8 and p. 5, lines 19-21.

⁵ Exhibit SCE-03, p. A-94.

of the system-wide assessment is to identify all decommissioned pipe containing PCBs on the island.⁶

13. The information obtained from the assessment is necessary to determine what additional corrective actions are required for SCE to achieve full compliance with TSCA PCB regulations.

C. Summary Of Argument

1. SCE Justified The Commission's Approval Of The CWPAMA With An Effective Date Of January 28, 2020

SCE submitted ample evidence supporting the Commission's approval of the CWPAMA, with an effective date of January 28, 2020.

As summarized above, Exhibit SCE-01 discussed the scope and purpose of the planned system-wide assessment of Catalina water infrastructure, including the pending environmental and regulatory issues involved and the time-sensitive nature of the work.⁷ Specifically, SCE must complete the system-wide assessment by year-end 2020 in order to meet regulatory commitments to the EPA to identify and characterize decommissioned pipe on the island for the presence of certain hazardous materials regulated under TSCA.⁸

In addition, SCE addressed SP U-27-W's requirements for establishing a memorandum account.⁹ Briefly summarized here, SCE meets these requirements because the costs that will be tracked and recorded in the CWPAMA are due to events of an exceptional nature that:

- **Are not under SCE's control** – SCE must comply with regulatory requirements.
- **Could not have been reasonably foreseen in SCE's last Catalina Water general rate case (GRC)** – SCE discovered the potential TSCA violations in late 2019, several years after its last GRC application in 2010.

⁶ The system-wide assessment also includes in-service pipeline, as discussed in Exhibit SCE-01, Section II.B.

⁷ Exhibit SCE-01, pp. 1-2.

⁸ Exhibit SCE-01, p. 4, line 22 – p. 5, line 3; Exhibit SCE-02, p. 3, lines 10-13 and p. 5, lines 9-15; Exhibit SCE-03, pp. A.79 – A.85 (February 28, 2020 letter requesting EPA grant an extension to December 11, 2020), pp. A.86 – A.89 (June 4, 2020 letter confirming SCE's extension request to December 11, 2020).

⁹ Exhibit SCE-01, pp. 8-11.

- **Will occur before SCE’s next GRC** – SCE must complete the study by December 2020 before the next GRC application will be filed and decided.
- **Are of a substantial nature such that the amount of money involved is worth the effort of processing a memorandum account** – The estimated costs for the system-wide assessment are approximately 22% of the Catalina authorized revenue requirement.
- **Have ratepayer benefits** – The system-wide assessment will allow SCE to properly catalogue the Catalina water system infrastructure utilizing new technology, methods, and information unavailable in prior decades. SCE will also be able to accurately and efficiently characterize waste, thereby potentially allowing SCE to reduce remediation costs.

SCE discusses SP U-27-W requirements in further detail below.

Further, in regard to the requested effective date, SCE explained that it first requested a memorandum account via Advice 116-W (submitted on January 28, 2020) and subsequently narrowed the scope of the request in this proceeding, following guidance provided by Water Division. Because SCE has followed the guidance provided by Water Division and reasonably narrowed its request, SCE should not lose the benefit of the effective date of January 28, 2020, as originally requested in Advice 116-W.

2. Cal Advocates’ Objections To Establishing The Account Are Without Merit

It is important to recognize that Cal Advocates does not object to SCE’s system-wide assessment, including most notably, the need for and timing of SCE’s completion of the assessment by the end of 2020.¹⁰ Indeed, Cal Advocates states that it has “made no determination as to the reasonableness or necessity of SCE’s specific activities.”¹¹ This demonstrates that there are no material factual disputes and that Cal Advocates fundamentally does not challenge SCE’s principal justification for seeking the memorandum account in this proceeding, which is that SCE must complete the assessment before the Commission has an opportunity to review and

¹⁰ Exhibit SCE-07 (Data Request Responses of Public Advocates Office to Southern California Edison), Cal Advocates responses to SCE’s Data), Responses to Questions 2-8.

¹¹ Exhibit SCE-07 (Data Request Responses of Public Advocates Office to Southern California Edison), Cal Advocates responses to SCE’s Data), Responses to Question 2-8.

approve the project in a Commission cost-recovery proceeding. Cal Advocates also acknowledges that SCE must timely comply with state and federal environmental regulatory requirements.¹²

Instead, Cal Advocates' principal objections to the memorandum account are legal challenges that SCE's request does not meet SP U-27-W requirements and, alternatively, if the Commission does approve the request, the memorandum account's effective date should be the filing date of SCE's application, April 13, 2020. Cal Advocates also raises other arguments that the Commission should deny approval of the CWPAMA because SCE can record costs as a capital project without the need for a memorandum account. Finally, Cal Advocates argues that approval of the CWPAMA would reduce SCE's incentive to control costs and that Catalina cost issues (including the requested memorandum account) should not be raised outside of the GRC process.¹³

As explained further below, the Commission should reject Cal Advocates' arguments as legally defective and incorrect under SP U-27-W and Commission precedent. An additional deficiency of its argument, Cal Advocates has no foundational basis to argue against establishing the CWPAMA, given that it "has made no determination as to the reasonableness or necessity of SCE's specific activities" in connection with SCE's system-wide assessment.¹⁴ Absent this determination, Cal Advocates does not have a foundational basis to assert, for example, whether the "memorandum account is worth the effort of processing" or "has ratepayer benefits" – two requirements under SP U-27-W.

D. Legal Standard For Memorandum Accounts

The requirements for establishing a memorandum account are provided in SP U-27-W. Under Commission precedent, the Commission ordinarily does not consider the reasonableness of the costs to be tracked and recorded in memorandum account prior to authorizing one to be

¹² Exhibit SCE-07 (Data Request Responses of Public Advocates Office to Southern California Edison), Cal Advocates responses to SCE's Data), Responses to Questions 2-8.

¹³ Exhibit Cal Advs-01, p. 12.

¹⁴ Exhibit SCE-07 (Data Request Responses of Public Advocates Office to Southern California Edison), Cal Advocates responses to SCE's Data), Responses to Questions 2-8.

established.¹⁵ Rather, the costs recorded in a memorandum account, once approved, would be subject to a final reasonableness review by the Commission in a subsequent proceeding designated by the Commission. The review and approval of a memorandum account is consistent with the Commission's long-standing policy objectives of avoiding retroactive ratemaking and ensuring that affected parties are financially indifferent to the timing of the Commission's final reasonableness review decision.¹⁶

The Commission's granting of the relief sought in this Application would be consistent with these ratemaking practices.

II.

ARGUMENT

A. The Commission Should Authorize The CWPAMA

1. SCE's Request Satisfies The Requirements Of SP U-27-W

Standard Practice U-27-W provides that to qualify for memorandum account treatment, costs must be due to events of an exceptional nature that:

1. Are not under the utility's control,
2. Could not have been reasonably foreseen in the utility's last general rate case,
3. And that will occur before the utility's next scheduled general rate case,
4. Are of a substantial nature such that the amount of money involved is worth the effort of processing a memorandum account, and
5. Have ratepayer benefits.

SCE's request to establish the CWPAMA satisfies these five requirements.

a) The Need To Incur The Costs Is Not Under SCE's Control

The first requirement is met because the activities and associated costs that will be recorded in the CWPAMA are necessary for SCE to meet its commitments to the EPA and

¹⁵ D.03-05-076, pp. 6-7, n. 5 ("Memorandum accounts were designed to allow utilities the opportunity to record costs incurred prior to the Commission's review of the costs for reasonableness.") (citing D.99-11-057).

¹⁶ D.03-05-076, p.6.

comply with regulatory requirements, and are not activities and costs SCE can ignore, avoid, or defer.

As explained in Exhibit SCE-01, TSCA and the EPA's implementing regulations establish requirements and restrictions related to the storage and disposal of PCB wastes.¹⁷ In particular, once PCB waste is generated, it must be handled in a manner that complies with EPA regulations.¹⁸ PCB waste generally must be disposed of within one year of the date it became waste, which occurs "on the date of removal from service."¹⁹ Because SCE identified in December, 2019 a potential TSCA violation related to the decommissioned pipe segments, SCE self-disclosed the issue to EPA and must now complete the system-wide assessment this year in order to disposition the waste in compliance with applicable laws and regulations.²⁰

SCE further explained that the EPA's Audit Policy encourages regulated entities such as SCE to voluntarily discover, promptly disclose, and expeditiously correct violations of Federal environmental requirements.²¹ Entities that make disclosures and expeditiously begin to take corrective action under the terms of the Audit Policy benefit from reductions in the amount of potential civil penalties.²² Accordingly, on December 13, 2019, SCE submitted to the EPA a disclosure related to the potential violation of TSCA regulations resulting from its handling of decommissioned pipe containing PCB materials.²³ The EPA further expects a regulated entity to "do its utmost to achieve or return to compliance as expeditiously as possible."²⁴ Consistent with this directive, following submittal of its disclosure, SCE immediately began takings steps to identify and properly dispose of the decommissioned pipe on Catalina.²⁵ Although it was initially required to achieve full compliance by February 11, 2020, SCE requested from the EPA an extension until December 11, 2020 to perform additional corrective actions.²⁶

¹⁷ Exhibit SCE-01, p. 2, lines 16-18.

¹⁸ Exhibit SCE-01, p. 4, lines 6-8.

¹⁹ Exhibit SCE-01, p. 8, lines 20-22; 40 C.F.R. § 761.65.

²⁰ Exhibit SCE-01, p. 8, line 22 – p. 9, line 2.

²¹ Exhibit SCE-01, p. 9, lines 4-5.

²² Exhibit SCE-01, p. 9 lines 5-7.

²³ Exhibit SCE-01, p. 9, lines 7-9.

²⁴ Exhibit SCE-01, p. 9, lines 10-11; 65 FR 19618, 19622 (April 11, 2000).

²⁵ Exhibit SCE-01, p. 9, lines 11-13.

²⁶ Exhibit SCE-03 (WPS-SCE-01), pp. 31-37 for SCE's February 28, 2020 letter describing the additional corrective actions.

These regulations and polices demonstrate that SCE has no discretion to ignore, avoid, or defer the system-wide assessment. As such, the Commission should determine that the costs for the system-wide assessment are not under SCE's control.

b) The Costs Could Not Have Been Reasonably Foreseen In SCE's Last General Rate Case

The second requirement is met based on the timeline of events leading to the present request. SCE filed its last Catalina Water general rate case (GRC) application in November 2010, with a proposed 2011 test year (2011 Water GRC).²⁷ This filing was made nearly a decade before SCE identified the present issue regarding the potential violation of TSCA regulations resulting from its handling of PCB-containing decommissioned pipe on Catalina. While it is common for utilities to include a five-year forecast of expenditures in a GRC application, SCE's 2011 Water GRC did not include a five-year forecast or an attrition mechanism, only a test year 2011 forecast.²⁸ However, even if SCE had included a five-year forecast of expenditures, SCE could not have reasonably foreseen the immediate issue regarding PCB-containing pipe, because it was not identified until December 2019.²⁹ Therefore, it is evident that the costs for the system-wide assessment could not have been reasonably foreseen in the 2011 Water GRC.

c) The Costs Will Occur Before SCE's Next General Rate Case

The third requirement is met because SCE will incur costs before its next GRC application is filed and a decision authorizing the work can be issued. As a Class C water utility, SCE is not subject to a rate case plan nor a predetermined GRC filing schedule. SCE is currently planning to file its next Catalina Water GRC in 2020, with the precise timing of that application still being evaluated. SCE's 2011 Water GRC took nearly four years to resolve.³⁰ Given the time-sensitive, ongoing nature of the system-wide assessment and the expected length of a GRC, SCE must incur costs before filing its next GRC application so that it will be able to complete the system-wide assessment and satisfy the EPA compliance deadline of December 11, 2020.³¹

²⁷ A.10-11-009 was filed on November 15, 2010.

²⁸ Exhibit SCE-01, p. 9, lines 21-23.

²⁹ Exhibit SCE-01, p. 9, line 23 – p. 10, line 1.

³⁰ D.14-10-048 was issued on October 20, 2014.

³¹ Exhibit SCE-01, p. 10, lines 6-12.

Furthermore, costs incurred in 2020 (in advance of the GRC) are necessary to inform remediation requirements and their associated costs.³²

d) The Costs Are Of A Substantial Nature

The fourth requirement is met given the magnitude of the estimated costs for the system-wide assessment in comparison to the authorized revenue requirement for the Catalina water utility. As explained in Exhibit SCE-01, SCE estimates the cost to perform the system-wide assessment at \$0.9 million.³³ The current authorized revenue requirement for the Catalina water utility is \$4.130 million,³⁴ meaning the \$0.9 million estimate is approximately 22 percent of the current authorized revenue requirement.³⁵ While a relatively small amount compared to expenses routinely incurred for SCE's electric utility, the estimated costs to perform the system-wide assessment are significant when viewed in the context of SCE's Catalina water utility. Cal Advocates does not dispute this point.³⁶

e) The Proposed Memorandum Account Benefits Customers

Finally, the fifth requirement is met because the system-wide assessment benefits customers. SCE explained in Exhibit SCE-01 that the system-wide assessment will allow SCE to properly catalogue the Catalina water system infrastructure by identifying in-service distribution pipeline and decommissioned pipe locations, lengths, diameters, and composition (including any hazardous materials), utilizing new technology, methods, and information unavailable in prior decades.³⁷ The system-wide assessment also will enable SCE to accurately and efficiently characterize waste, thereby potentially avoiding the higher removal and disposal costs that would be incurred by merely assuming all pipe contains hazardous materials.³⁸

In addition, the desktop review and field verification of existing drawings will improve SCE's water facilities documentation and mapping data.³⁹ GIS layering benefits the entire water

³² Exhibit SCE-01, p. 10, lines 13-14.

³³ Exhibit SCE-01, p. 11, Table III-1.

³⁴ D.14-10-048, Appendix A.

³⁵ Exhibit SCE-01, p. 11, lines 6-8; Exhibit SCE-02, p. 9, lines 1-3.

³⁶ Exhibit Cal Advs-01, p. 7, lines 6-8.

³⁷ Exhibit SCE-01, p. 11, lines 10-13.

³⁸ Exhibit SCE-01, p. 11, lines 13-15.

³⁹ Exhibit SCE-01, p. 11, lines 16-17.

system as the data is combined with other terrestrial layering including environmentally sensitive areas, location boundaries, and property ownership to improve recordkeeping.⁴⁰ The updated map data and improved facilities documentation will support asset management programs and improved efficiency of utility operations requiring pipeline location and identification (such as repair and maintenance activities).⁴¹

2. Cal Advocates' Objections Are Without Merit

Cal Advocates argues that SCE has not met SP U-27-W's requirements, except for the fourth requirement that costs are of a substantial nature. In support, Cal Advocates asserts the costs that SCE will incur: (1) are under SCE's control and could have been included in prior GRCs because SCE knew or should have known that it would have to remove PCB-containing pipe as early as the 1970s; (2) relate to ordinary mapping and record-keeping activities required under General Order 103-A; and (3) do not benefit customers.⁴² Raising two other additional arguments that have nothing to do with SP U-27-W, Cal Advocates also argues: (1) it is not necessary for SCE to track capital costs in a memorandum account; and (2) the approval of the memorandum account would reduce SCE's discipline to control costs. The Commission should reject these arguments as contrary to SP U-27-W and Commission precedent. SCE addresses each of these arguments in further detail below.

a) SCE's Knowledge That Pipe Utilized PCB-Containing Materials Has No Bearing On Whether The Commission Should Authorize The CWPAMA

According to Cal Advocates, SCE's prior knowledge regarding PCB-containing materials in the Two Harbors Pipeline and other water infrastructure shows that the costs SCE will incur to complete the system-wide assessment are not beyond SCE's control and could have been included in prior GRC.⁴³ This argument does not make sense and is plainly wrong for several reasons.

⁴⁰ Exhibit SCE-01, p. 11, lines 17-19.

⁴¹ Exhibit SCE-01, p. 11, lines 19-21.

⁴² Exhibit Cal Adv-01, pp. 7-11.

⁴³ Exhibit Cal Adv-01, pp. 7, 9.

First, SCE certainly had no control over the enactment of TSCA in 1976, which regulated PCB-containing materials that had previously been authorized for use in water distribution systems such as Catalina's (consistent with the construction of water pipelines at that time⁴⁴). SCE also had no control in determining how PCB waste must be disposed under TSCA.

Second, SCE identified the need to perform the system-wide assessment upon learning of a potential violation of TSCA regulations in December 2019.⁴⁵ Therefore, SCE could not have included costs for that assessment in the 2011 GRC or earlier.

Cal Advocates is dismissive of this timing, arguing that SCE could have discovered the potential violation sooner.⁴⁶ But that argument conflates SCE's knowledge of PCB-containing pipe with whether SCE should have reasonably known about the costs associated with corrective actions that could be included in a GRC. SCE did not (and could not have known) the costs associated with corrective actions for decommissioned pipe prior to the 2011 GRC.⁴⁷ Indeed, SCE must complete the assessment to determine how to disposition the waste under TSCA and the costs associated with that removal, including determining whether costs may be avoided by being able to leave certain pipe in place.⁴⁸ Consequently, SCE did not know and could not have known what pipe needed to be removed nor the costs associated with that removal for inclusion in the 2011 GRC.

On a related note, under Commission precedent, a utility's prior knowledge of regulatory requirements is not a valid basis for denying a memorandum account to track costs for activities associated with those requirements. Cal Advocates ignores Commission precedent in this regard. In D.16-06-056, Pacific Gas & Electric Company (PG&E) sought recovery of forecasted costs for updating/standardizing gas infrastructure records in connection with PG&E's Gas Transmission and Storage (GT&Es) proceeding.⁴⁹ The Office of Ratepayer Advocates (now referred to as Cal Advocates) argued that the forecasted costs for the records project should be disallowed because "standardizing critical documents is a longstanding requirement" and "it

⁴⁴ Exhibit SCE-01, p. 2, lines 6-7, 10-11.

⁴⁵ Exhibit SCE-01, p. 2, lines 24-25.

⁴⁶ Exhibit Cal Advs-01, p. 9, lines 7-17.

⁴⁷ Exhibit SCE-02, p. 11, lines 9-10.

⁴⁸ Exhibit SCE-01, p. 3, lines 6-8 and p. 11, lines 13-15; Exhibit SCE-02, p. 11, lines 10-12.

⁴⁹ D.16-06-056, pp. 136-139.

‘should have been conducted by PG&E as part of the safe operations of its system.’”⁵⁰ The Commission rejected the Office of Ratepayer Advocates’ argument, finding that the records should be updated/standardized, subject to the Commission’s reasonableness review in a subsequent proceeding.⁵¹ Accordingly, the Commission authorized PG&E to establish a memorandum account to record costs associated with the records project, allowing PG&E the opportunity to seek recovery of recorded costs in a subsequent application.

The Commission should reach the same conclusion here and authorize SCE to establish the CWPAMA to record and track costs for the Catalina system-wide assessment. The fact that SCE knew or should have known of regulatory requirements related to PCB-containing materials should not change this conclusion.

b) Cal Advocates Misconstrues The Scope Of The Pipeline Assessment

Cal Advocates asserts that SCE’s planned system-wide assessment constitutes the type of activity a water utility is expected to fulfill under the mapping requirements of General Order 103-A, not an exceptional activity warranting a memorandum account.⁵² This is both incorrect and irrelevant.

(1) The Assessment Involves More Than Mapping The Catalina Pipeline System

Cal Advocates’ characterization of SCE’s system-wide assessment as a system-mapping project is oversimplified and incomplete. As described in the draft Preliminary Statement for the CWPAMA proposed in A.20-04-010, the purpose of the CWPAMA is to “track and record costs associated with SCE’s completion of an island-wide assessment of SCE’s Catalina water distribution system, including both in-service and decommissioned pipelines, for the presence of

⁵⁰ D.16-06-056, p. 137.

⁵¹ D.16-06-056, p. 139.

⁵² Exhibit Cal Advs-01, p. 8. Cal Advocates also suggests that SCE has not explained why it has not previously completed an assessment and mapping of the Catalina water system, given that General Order 103-A requires a water utility to maintain updated plant records, maps, and documents. *Id.*, p. 9. Cal Advocates misunderstands SCE’s description of the status of the records, maps, and documents that SCE maintains for the Catalina water system. As explained in Exhibit SCE-02, SCE meets General Order 103-A requirements. Exhibit SCE-02, p. 15, lines 5-7, 19-20; *see also* Exhibit SCE-06, A-210 – A-212. The system-wide assessment provides an opportunity for SCE to also update Catalina maps and records utilizing modern practices and new information. Exhibit SCE-02, p. 15, lines 15-16.

certain hazardous materials (polychlorinated biphenyls (PCBs) and asbestos) regulated under the Toxic Substances Control Act (TSCA) and South Coast Air Quality Management District [SCAQMD regulations].”⁵³ The assessment involves more than merely assessing and mapping the Catalina system. More pertinent, the assessment involves determining, for both in-service and decommissioned pipelines, the full extent of hazardous materials regulated under TSCA and SCAQMD regulations.⁵⁴ Therefore, the assessment is central to SCE’s compliance with regulatory requirements.⁵⁵

It is reasonable for the Commission to conclude that a regulatory compliance issue constitutes an exceptional activity warranting the establishing of a memorandum account so that SCE can timely meet regulatory requirements while preserving cost-recovery for reasonable costs.

(2) General Order 103-A Does Not Govern The Establishing Of Memorandum Accounts, Nor Should It

In addition, Cal Advocates’ discussion of General Order 103-A is a red herring that has no bearing on the criteria for establishing a memorandum account nor the reasonableness of SCE’s request in A.20-04-10. In referencing General Order 103-A, Cal Advocates essentially reasons that because SCE’s system-wide assessment involves activities required under General Order 103-A, a memorandum account is unwarranted. This reasoning does not make sense. Indeed, under Cal Advocates’ reasoning, the Commission essentially would never approve a memorandum account, because any costs to be included in such an account would necessarily pertain to a “design, construction, location, maintenance and operation” activities required under General Order 103-A. Otherwise, a water utility would have no valid reason to complete the activity. Standard Practice U-27-W (not General 103-A) addresses the requirements for establishing a memorandum account. SCE has already shown how its requested memorandum account meets these requirements.

⁵³ A.20-04-010, Appendix A, Preliminary Statement, Part S, Section 1.

⁵⁴ Exhibit SCE-02, p. 5, lines 15-17.

⁵⁵ Exhibit SCE-02, p. 5, lines 17-18.

c) **Cal Advocates Ignores The Benefits The System-Assessment Will Provide Customers**

Cal Advocates' assertion that customers do not benefit from memorandum account treatment to track system-wide assessment costs is plainly wrong as explained above.⁵⁶ Cal Advocates offers no evidence refuting the benefits identified by SCE. What is more, it is unclear how Cal Advocates can claim there is no customer benefit when it admitted in a data request response to SCE that "it has made no determination as to the reasonableness or necessity of SCE's specific activities" in connection with SCE's system-wide assessment.⁵⁷ Absent this determination, Cal Advocates has no foundational basis to assert that there is no customer benefit. The assertion essentially amounts to an improper lay opinion Cal Advocates is not qualified to make given its decision to not determine the reasonableness or necessity of SCE's actions. Therefore, the Commission should reject Cal Advocates' conclusory assertion that there is no customer benefit.

Furthermore, the costs to comply with regulations, if not foreseen in a prior GRC and if they will be incurred before the next GRC, are appropriate for memorandum account treatment. The Commission has similarly authorized accounts to track costs associated with complying with regulations, such as Water Quality Memorandum Accounts, including for SCE.⁵⁸

d) **Cal Advocates Misunderstands Capital Cost Treatment Under A Memorandum Account**

Cal Advocates asserts that to the extent SCE's system-wide assessment may involve capital costs, a memorandum account is not necessary and that only expenses are appropriate for memorandum account treatment.⁵⁹ This is incorrect.

Standard Practice U-27-W provides that capital carrying costs and depreciation on capital investments are appropriate for memorandum account treatment.⁶⁰ Capital carrying costs and depreciation expense incurred prior to adding plant improvements into authorized rate base, if

⁵⁶ Exhibit Cal Advs-01, pp. 10-11.

⁵⁷ Exhibit SCE-07 (Data Request Responses of Public Advocates Office to Southern California Edison), Cal Advocates responses to SCE's Data), Responses to Questions 2-8.

⁵⁸ Resolution W-3784 (Original) and Resolution W-4698.

⁵⁹ Exhibit Cal Advs-01, p. 5.

⁶⁰ Standard Practice U-27-W, No. 26.

not tracked for recovery in a memorandum account, are unrecoverable due to the retroactive ratemaking prohibition. Additionally, the Commission has previously authorized utilities to track capital-related costs in memorandum accounts. Resolution E-3238, which authorizes all utilities to establish Catastrophic Event Memorandum Accounts (CEMAs), states that “[i]n addition to direct expenses, utilities could also book capital-related costs such as the depreciation and return on capitalized additions.”⁶¹ Commission policy clearly provides that capital-related costs are appropriate for memorandum account treatment. Cal Advocates’ assertion that only expenses are appropriate for memorandum account treatment is incorrect and unsupported by Commission policy.

In any event, Cal Advocates discussion about capital costs is largely irrelevant because the system-wide assessment is not considered a capital project in itself, as it is not associated with the retirement, removal, or replacement of any water utility plant.⁶² While certain system-wide assessment costs may be capitalizable if the assessment results in a discrete capital project, it is inappropriate to presume the entirety of the costs to be capital, thus obviating the need for a memorandum account.⁶³ Should the system-wide assessment result in discrete capital projects, SCE will account for project costs accordingly. If there are no discrete capital projects as a result of the system-wide assessment, the costs would be considered expense. Regardless of the determination, the system-wide assessment costs are appropriate for memorandum account tracking.

e) **Cal Advocates’ Argument That A Memorandum Account Reduces Discipline Disregards The Commission’s Regulatory Process**

(1) **SCE Has An Incentive To Control Costs Because The Costs Would Be Subject To A Reasonableness Review**

Cal Advocates asserts that memorandum account treatment reduces discipline to control costs.⁶⁴ This assertion is invalid and inconsistent with the foundational principles of California utility regulation and cost-of-service ratemaking. What SCE seeks in requesting the CWPAMA

⁶¹ Resolution E-3238, p. 2.

⁶² Exhibit SCE-02, p. 12, lines 4-5.

⁶³ Exhibit SCE-02, p. 12, lines 9-11.

⁶⁴ Exhibit Cal Advs-01, pp. 5-6.

is the opportunity to record and track costs justly and reasonably incurred in serving Catalina water customers. Authorizing a memorandum account does not afford a utility license to incur costs in an uncontrolled or undisciplined manner. Costs recorded in a memorandum account are subject to a reasonableness review by the Commission prior to recovery. This provides an appropriate incentive for SCE to exercise discipline in controlling costs. Not authorizing a memorandum account on the unfounded assertion that it reduces discipline to control costs denies SCE the opportunity to recover costs for unforeseen events in operating the Catalina water utility. Further, Cal Advocates fails to acknowledge that absent a memorandum account, there is absolutely no recovery of costs, even if justly and reasonably incurred. Any reduction in cost-recovery uncertainty resulting from being able to record costs in a memorandum account is related only to the ability to request recovery of costs recorded in the memorandum account, which by no means is a guarantee of recovery.

In addition, the Commission has explicitly recognized the regulatory protections provided to customers by memorandum account treatment. Resolution E-3238, which authorized utilities to establish a CEMA, states that “[t]he costs recorded in the account should only be recoverable in rates following a request by the affected utility, a showing of their reasonableness, and approval by the Commission.”⁶⁵ Furthermore, in D.02-08-054 discussing California Water Service’s (Cal Water’s) request for a memorandum account to track costs associated with treating four well sites for contamination, the Commission stated that “ratepayers will benefit from creating this memorandum account because the account will only allow Cal Water to record these costs, and the costs will be subject to ratemaking review by the Commission.”⁶⁶ Cal Advocates has not disputed the need to perform the system-wide assessment or SCE’s justification for doing so to support compliance with environmental regulations. Authorizing the establishment of a CWPAMA to track and record costs to perform a system-wide assessment is equitable in providing SCE an opportunity to seek recovery of costs justly and reasonably incurred in performing the assessment, while providing appropriate customer protections in requiring a showing of reasonableness and Commission approval prior to cost recovery.

⁶⁵ Resolution E-3238, Finding of Fact No. 7.

⁶⁶ D.02-08-054, p. 3.

(2) Memorandum Accounts Are A Well-Established Ratemaking Mechanism

Cal Advocates also asserts without justification that memorandum accounts reduce transparency and SCE's request outside of the GRC process reduces customers' opportunity to review the filing, participate, and intervene.⁶⁷ As a threshold matter, Cal Advocates' objection to SCE's request for a memorandum account ignores established Commission policy for this ratemaking mechanism. Indeed, Cal Advocates' assertion that the use of memorandum accounts somehow harms customers inappropriately challenges the rationale and justification for memorandum accounts. In California, Commission-regulated electric, gas, and water utilities generally are under cost-of-service ratemaking, in which customer rates are typically set during a utility's GRC process based on a forecast test year. As with electric and gas utilities, operating a water utility is an inherently complex and challenging endeavor. Many disparate circumstances beyond a utility's control may result in additional costs to serve customers not identified during the GRC process. As SCE has explained in this proceeding, this includes the discovery of system conditions (e.g. the need to disposition decommissioned pipe) that must be corrected to meet regulatory requirements.⁶⁸ A memorandum account is the appropriate ratemaking mechanism that provides a utility a path for cost-recovery in such scenarios.

In addition, Cal Advocates ignores the Commission's approved procedures for seeking memorandum accounts outside the GRC process. Commission policy regarding the appropriateness of memorandum accounts outside of a GRC is well-established and the Commission's review process is robust, contrary to Cal Advocates' suggestion otherwise. In fact, Commission policy, as stated in General Order (GO) 96-B⁶⁹ and Standard Practice U-27-W,⁷⁰ provides that both requesting and amortizing a memorandum account is a matter appropriate to an advice letter process (which is necessarily outside of a GRC process). If a request for a memorandum account can be made through an advice letter, it certainly can be made through a separate application, and there is no requirement that the request be considered in connection with a GRC. For Cal Advocates to assert that memorandum accounts reduce transparency and

⁶⁷ Exhibit Cal Advs-01, p. 11.

⁶⁸ Exhibit SCE-02, p. 13, lines 20-22.

⁶⁹ General Order 96-B, Water Industry Rule 7.3.3(7).

⁷⁰ Standard Practice U-27-W, No. 54.

reduce a customer's opportunity to review, participate, and intervene disregards the adequacy of the Commission's review process, including the review of the requested memorandum account prior to approval and subsequent reasonableness reviews of costs recorded in it once approved. The Commission has determined that its review of memorandum requests appropriately provides due process to customers.⁷¹

B. The Commission Should Approve January 28, 2020 As The Effective Date For The CWPAMA

1. SCE's Original Requested Effective Date Is Consistent With Commission Policy

General Order 96-B, Water Industry Rule 7.2(2) states: "Upon request and justification by the Utility, Staff may allow a Tier 2 advice letter to be made effective, subject to refund, in less than 30 days." SCE submitted Tier 2 Advice 116-W on January 28, 2020, requesting that the advice letter be effective upon submittal, subject to a 30-day review by Water Division pursuant to Water Industry Rule 7.2(2).⁷² Additionally, Public Utilities Code Section 1731(a) states that "The [C]ommission shall set an effective date when issuing an order or decision. The [C]ommission may set the effective date of an order or decision before the date of issuance of the order or decision." There are several examples of the Commission citing this provision when setting an effective date pre-dating its final decision.⁷³

The Commission's approval of an effective date before the final decision is particularly warranted when a utility must incur costs to meet regulatory requirements prior to the Commission's final decision on cost recovery of those costs. In D.19-09-026, for example, the Commission authorized SCE, PG&E, San Diego Gas & Electric Company, and Southern California Gas Company to establish memorandum accounts to track and record costs associated with complying with consumer privacy protections under the newly enacted California Consumer Privacy Act of 2018, with an effective date prior to the Commission's final decision

⁷¹ D.12-05-004, p. 13 (noting that the Commission's review of a memorandum account provided due process to customers).

⁷² Exhibit SCE-03, pp. A-51 – A-57.

⁷³ D.19-09-026, p. 10; D.18-11-051, p. 8; D.18-06-029, pp. 11-15; D.19-01-019, pp. 6-8, 10.

approving the memorandum account.⁷⁴ The same type of situation exists here, as SCE must perform the system-wide assessment and incur costs prior to a final decision in this proceeding, so that SCE can timely proceed with any required environmental remediation activities and comply with regulatory requirements.

2. SCE Followed Guidance From Water Division In Filing The Application

SCE should not lose the benefit of its original advice letter submittal and requested effective date of January 28, 2020. As described in Advice 116-W (submitted on January 28, 2020), SCE originally requested a memorandum account to track and record costs to identify, assess, remove and dispose of above- and below-ground decommissioned pipe on Catalina.⁷⁵ Advice 116-W requested a Catalina Water Utility Hazardous Substances Memorandum Account to track and record costs to fully identify, assess, remove, and dispose of decommissioned pipe containing PCBs and to remediate any associated soil contamination.⁷⁶ The removal and disposal costs in the original request significantly increased the estimated costs to be recorded in the proposed memorandum account. As noted above, performing the current system-wide assessment may allow SCE to determine that certain decommissioned pipe segments are non-hazardous, potentially decreasing the estimated project costs.⁷⁷

On February 26, 2020, Water Division issued a Suspension Notice for Advice 116-W.⁷⁸ In the email from Water Division accompanying the Suspension Notice, Water Division recommended that “the project and memorandum account request be reviewed through a formal application.”⁷⁹ Water Division further recommended that the proposed environmental remediation project (including removal and disposal) and memorandum account request be

⁷⁴ D.19-09-026, p. 10 (authorizing SCE, Pacific Gas & Electric Company, San Diego Gas & Electric Company, and Southern California Gas Company to establish memorandum accounts to track and record costs associated with complying consumer privacy protections under the newly enacted California Consumer Privacy Act of 2018, with an effective date prior to the Commission’s final decision on cost recovery).

⁷⁵ Exhibit SCE-03 (WPS-SCE-01), pp. 1-18 for Advice Letter 116-W.

⁷⁶ Exhibit SCE-03, pp. A-51 – A-57.

⁷⁷ Exhibit SCE-01, p. 13, lines 9-11.

⁷⁸ Exhibit Cal Advs-01, Attachment C.

⁷⁹ Exhibit SCE-03 (WPS-SCE-01), p. A-67 (Water Division Email Suspending Advice 116-W).

included in SCE's upcoming general rate case filing.⁸⁰ While Water Division's recommendation pointed to a general rate case based on SCE's plan to file in 2020, the principal thrust of its guidance was for SCE to request the memorandum account through a formal application, GRC or other mechanism. In response to the feedback received from Water Division, SCE narrowed the scope of the memorandum account request in this proceeding to include only system-wide assessment related activities required to be performed in 2020 to meet the EPA compliance deadline. Indeed, the system-wide assessment activities described in this proceeding are a subset of the scope for which a memorandum account was originally sought in Advice 116-W. SCE plans to file a general rate case in 2020; however, the time-sensitive nature of the system-wide assessment work led SCE to file the separate application. Because SCE has followed the guidance provided by Water Division and reasonably narrowed its requests, SCE should not lose the benefit of the effective date of January 28, 2020, as requested in Advice 116-W.

3. The Commission Should Reject Cal Advocates' Argument For A Later Effective Date

Cal Advocates argues that if the Commission authorizes the CWPAMA, the effective date should be April 13, 2020, which was the filing date of SCE's application.⁸¹ Cal Advocates' argument is premised on its assertion that the scope of activities included in A.20-04-010 was not included in Advice 116-W. But, as explained above, this premise is incorrect. To reiterate, SCE carved out the removal and disposal activities that were included in Advice 116-W and limited the memorandum account requested in this proceeding only to identification and assessment activities. That is, the activities included in the system-wide assessment discussed in A.20-04-010 are a subset of the "identify and assess" activities originally described in Advice 116-W. The Commission should reject Cal Advocates' argument for an effective date of April 13, 2020

⁸⁰ Exhibit SCE-03 (WPS-SCE-01), p. A-67 (Water Division Email Suspending Advice 116-W). It is important to note that Water Division suspended the advice letter due to the "significant costs associated with the project" related to removal and disposal activities, which SCE has since removed from the scope of the requested memorandum account and will address in a separate application. *Id.* This shows that Water Division's initial view that SCE's request did not meet SP U-27-W requirements was based on the fact that SCE's advice letter included removal and disposal activities that conceivably could be addressed in a future application. SCE's substantially narrower request in this proceeding meets SP U-27-W requirements, as explained in this brief.

⁸¹ Exhibit Cal Advs-01, p. 11.

because it based on an incorrect premise that the scope of work in A.20.04-013 was not included in Advice 116-W.

III.
CONCLUSION

For the reasons explained above, the Commission should approve SCE's request to establish the CWPAMA, with an effective date of January 28, 2020.

Respectfully submitted,

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