



BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

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Application of Southern California Edison Company (U338E) for Authority to Increase its Authorized Revenues for Electric Service in 2021, among other things, and to Reflect that Increase in Rates.

A.19-08-013

**REPLY BRIEF OF THE  
ENERGY PRODUCERS AND USERS COALITION**

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The Energy Producers and Users Coalition (EPUC)<sup>1</sup> respectfully submits this reply brief pursuant to Rule 13.11 of the California Public Utilities Commission Rules of Practice and Procedure and Commissioner Shiroma's Scoping Memo of November 25, 2019.<sup>2</sup>

**I. INTRODUCTION**

Throughout its testimony and opening brief, Southern California Edison Company (SCE) attempts to confuse and deflect the Added Facilities issue at hand. First, it misstates EPUC's intentions as those that wish to challenge the Added Facilities tariff. Second, SCE blames the Added Facilities customers that availed themselves to the utility-financed option for being continuously charged investment costs far beyond what is necessary. Third, SCE deflects its own inadequacies at monitoring and maintaining Added Facilities rates by stating EPUC's proposal is "inconsistent" with ratemaking

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<sup>1</sup> EPUC represents the following companies in this proceeding: Aera Energy LLC; California Resources Corporation; Chevron U.S.A., Inc.; PBF Energy LLC; and Phillips 66 Company.

<sup>2</sup> *Assigned Commissioner's Scoping Memo and Ruling* (November 25, 2019) at 9.

principles. Finally, SCE makes a last-ditch effort of feigning burden by being required to develop and institute individual rates for each unique Added Facility asset.

EPUC entered this General Rate Case with the purpose of requesting the Commission to identify the Added Facilities overcollection each Added Facilities customer experiences and deem them inappropriate. EPUC does not seek to change the Added Facilities tariff at hand but asks that SCE merely abide by the terms and conditions of that tariff by ceasing the collection of those investment costs that have already been realized by the millions.

**II. EPUC IS NOT REQUESTING A MODIFICATION TO THE ADDED FACILITIES TARIFF, BUT ASKING THE COMMISSION TO CEASE SCE'S OVERCOLLECTION ON GROSS INVESTMENT AND DEPRECIATION CHARGES**

Repeatedly, SCE misstates EPUC's intentions and actual recommendations in this proceeding regarding needed modifications to the Added Facilities tariff.<sup>3</sup> EPUC does not seek to undermine or eliminate the tariff. What EPUC seeks is the establishment of "just and reasonable rates and tariffs...to preclude over-collection, and no other nefarious objective."<sup>4</sup> EPUC merely requests that the Commission require SCE to abide by the Added Facilities tariff to cease the collection of return on investment and depreciation charges once applicable costs have been fully recouped.

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<sup>3</sup> SCE Opening Brief at 317 ("EPUC never explains why the Commission should make tariff changes...."); *id.* at 319 ("EPUC's proposals effectively seek to revise SCE's Added Facilities tariff...."); *id.* 319-320 ("Such a change to the tariff is not properly addressed in SCE's GRC"); *id.* at 320 ("EPUC should not be permitted to litigate its members' apparent objections to SCE's tariff in this GRC....").

<sup>4</sup> EPUC Opening Brief at iii.

In other words, once a utility has accumulated a reserve for depreciation, equal to the gross investment, wherein the rate base turns negative, the utility should cease collection of return on the gross investment.

Additionally, the Commission should halt all collections of depreciation as the accumulated reserve for depreciation gets to the point where depreciation equals the sum of gross investment, plus cost of removal. Such “continued collection must not be permitted for already-recovered, fully depreciated capital costs.”<sup>5</sup>

EPUC does not contest that Added Facilities customers should continue to pay reasonable operation and maintenance costs, elected or defined costs of removal, as well as taxes and other ongoing costs as detailed in the Added Facilities tariff. However, it is inappropriate for SCE to continue charging customers after all depreciation charges have been collected and the capital cost rate base becomes negative, because the utility has recouped its full investment from a customer at that point.

### **III. ENTERING INTO A UTILITY-FINANCED ADDED FACILITIES CONTRACT DOES NOT MEAN THAT SCE CAN CONTINUOUSLY COLLECT ON FULLY RECOVERED AND REALIZED COSTS**

SCE accurately points out in its opening brief that Added Facilities customers have the option to choose an “SCE-financed option over the customer-financed option.”<sup>6</sup> SCE is also correct that EPUC members “have the wherewithal to analyze and weigh the financial impact of choosing the SCE-financed option over the customer-financed option with full knowledge of SCE’s Added Facilities rates.”<sup>7</sup> However, as

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<sup>5</sup> EPUC Opening Brief at 3.

<sup>6</sup> SCE Opening Brief at 317.

<sup>7</sup> SCE Opening Brief at 317.

detailed in EPUC's opening brief, "because many of the Added Facilities customers are not in the utility business, they elect to exercise the utility option to finance these facilities."<sup>8</sup> Even though an Added Facilities customer may have the financial means to choose the customer-financed option, they do not have the "wherewithal" to effectively and efficiently develop, construct, operate and maintain an electric service operations facility to the degree of a utility. EPUC witness Maurice Brubaker said it best: these customers "prefer to have the utility actually own the asset and they compensate the utility for managing it, maintaining it, and so forth."<sup>9</sup>

The financing of an Added Facility is but one aspect as to why a potential Added Facilities customer would choose to enter into a utility-financed contract. And should that Added Facilities customer avail themselves to such a contract, they should not be continuously punished for doing so through SCE's ongoing overcollection of fully depreciated and recovered costs. Commission inaction to allow such charges fails to properly limit and regulate the utility's reasonable charges to its customers.

#### **IV. CONTRARY TO SCE'S ATTESTATIONS, EPUC'S PROPOSALS ARE CONSISTENT WITH COST OF SERVICE RATEMAKING PRINCIPLES**

SCE states that EPUC's proposals are inconsistent with cost of service ratemaking because "[w]hen individual Added Facilities assets fail prior to their expected service life, the Added Facilities customer is not obligated to pay for the unrecovered portion of the capital investment on the individual asset."<sup>10</sup> This would mean that any under-recovery for an Added Facility would be "funded by all

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<sup>8</sup> EPUC Opening Brief at 2.

<sup>9</sup> 10 Tr. 1066:16-19 (EPUC/Brubaker).

<sup>10</sup> SCE Opening Brief at 318.

customers.”<sup>11</sup> However, as detailed in EPUC’s opening brief, this argument “leaves out a critical fact.”<sup>12</sup>

SCE continuously reviews and adjusts the depreciation rates as part of each GRC proceeding.<sup>13</sup> If an asset “fails” prior to the recoupment of all capital investment, including costs of removal, “the periodic reviews of the depreciation practices should identify the ‘survivorship characteristics of the assets that are in place at any time and adjust...the depreciation rates, if appropriate to capture it.’”<sup>14</sup> Therefore, such a review should incorporate “depreciation rates to assets that survive would take into account the impact of some early retirements.”<sup>15</sup>

Cost of service principles and prudent ratemaking standards may entitle a regulated utility to recoup reasonable costs incurred by the utility to provide services, including added facilities. But these same principles and standards do not permit over recovery of these costs. It is the obvious over recovery in SCE’s administration of the tariff that must be eliminated.

**V. EPUC IS NOT REQUESTING AN INDIVIDUAL RATE FOR EACH ASSET, BUT THE ADDITION OF A CONTRACTUAL TERM THAT WOULD ALLOW ADDED FACILITIES CUSTOMERS TO PAY OFF AN ASSET OVER A SPECIFIED NUMBER OF YEARS**

Again, SCE misinterprets EPUC’s request as one that would necessitate the application of “individual rates to each unique asset across a portfolio of Added Facilities Agreements....”<sup>16</sup> EPUC is not seeking the development of individual rates for

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<sup>11</sup> SCE Opening Brief at 319.

<sup>12</sup> EPUC Opening Brief at 7.

<sup>13</sup> 10 Tr. 1071:4-6 (EPUC/Brubaker); see also EPUC Opening Brief at 7.

<sup>14</sup> EPUC Opening Brief at 7-8 (quoting 10 Tr. 1070:28-1071:1-3 (EPUC/Brubaker)).

<sup>15</sup> EPUC Opening Brief at 8.

<sup>16</sup> SCE Opening Brief at 319.

each unique asset; rather, EPUC is requesting that the Commission establish an additional option wherein the utility must negotiate existing and future Added Facilities contracts to provide the customer with the option to pay off the facilities over a specified number of years.

As detailed in EPUC's opening brief, “[t]his additional payment option could be designed similarly to that of Entergy Louisiana, LLC's (ELL) rate schedule” included as Schedule MEB-4.<sup>17</sup> To reiterate, the ELL rate schedule allows the “customer to select the period of time over which the capital investment will be paid off” between ‘one and ten years,’ with the customer taking the replacement cost risk in the event of equipment failure.”<sup>18</sup> This request will not necessitate SCE to apply individual rates to each unique asset, just those assets where the Added Facilities customer chooses to assume the risk of paying off the investment by a certain time.

What EPUC is requesting of SCE and the Commission with this option is evident. EPUC is asking that the Commission expressly allow the negotiation of an additional contractual term to provide existing and future Added Facilities customers with the option of paying off a facility over a specified number of years similar to that of ELL's rate schedule.

## **VI. CONCLUSION**

This Added Facilities issue presents the Commission the opportunity to cease the unjust and improper collection of Added Facilities investment costs in perpetuity. These overcollections do not just affect EPUC members, but every Added Facilities customer that has been, and still is, in an Added Facilities utility-financed contract with

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<sup>17</sup> EPUC Opening Brief at 5 (referencing Ex. EPUC-1-E, Schedule MEB-4).

<sup>18</sup> EPUC Opening Brief at 5 (quoting Ex. EPUC-1-E at 10-11).

SCE. The collection of investment costs far beyond the limit of a negative rate base is unfair and unjust and needs to end.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Alcantar".

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