

Decision 14-02-023 February 27, 2014

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

Trigger Application of Southern California Edison Company (U338E) Requesting a Commission Decision Authorizing Recovery of a \$368.6 million under-collection in its Energy Resource Recovery Account.

Application 13-08-022  
(Filed August 28, 2013)

**DECISION DENYING THE TRIGGER APPLICATION  
OF SOUTHERN CALIFORNIA EDISON COMPANY**

**1. Summary**

The Commission denies Southern California Edison Company's request to authorize recovery of a claimed \$386.6 million under-collection in its Energy Resource Recovery Account. This proceeding is closed.

**2. Background**

**2.1. Historical**

Pursuant to Assembly Bill (AB) 57 (Stats. 2002, Ch. 835), the Commission established the Energy Resource Recovery Account (ERRA) balancing account in 2002 in order to record the Investor-owned Utilities' (IOUs) fuel and purchased power revenues against actual recorded costs, excluding revenues collected for the California Department of Water Resources (CDWR).<sup>1</sup> AB 57 also mandated a trigger threshold for the balance in the ERRA of five percent of the electric utility's actual recorded generation revenues for the prior calendar year:

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<sup>1</sup> Public Utilities (Pub. Util.) Code § 454.5(d)(3), enacted by AB 57.

The commission shall review the power procurement balancing accounts, not less than semi-annually, and shall adjust rates or order refunds, as necessary, to promptly amortize a balancing account, according to a schedule determined by the commission. Until January 1, 2006, the commission shall ensure that any overcollection or undercollection in the power procurement balancing account does not exceed five percent of the electrical corporation's actual recorded generation revenues for the prior calendar year excluding revenues collected for the Department of Water Resources. The commission shall determine the schedule for amortizing the overcollection or undercollection in the balancing account to ensure that the five percent threshold is not exceeded. After January 1, 2006, this adjustment shall occur when deemed appropriate by the commission, consistent with the objectives of this section.

Decision (D.) 02-10-062 implemented AB 57. Regarding Pub. Util. Code § 454.5(d)(3), the Commission directed the following:<sup>2</sup>

We direct PG&E [Pacific Gas & Electric Company], SDG&E [San Diego Gas & Electric Company] and SCE [Southern California Edison Company] to file expedited applications for approval in 60 days from the filing date when the new ERRA balance reaches four percent. The application will include a projected account balance in 60 days or more from the date of filing depending on when the balance will reach the five percent threshold. The application will also propose an amortization period for the five percent of not less than 90 days to ensure timely recovery of the projected ERRA balance. It should also include allocation of the over-and-under collection among customers for rate adjustment based on existing allocation methodology recognized by the Commission. Customer notice should be sent as soon as the application is filed for a rate increase or decrease.

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<sup>2</sup> D.02-10-062 at 65.

In D.04-12-048, the Commission extended the trigger mechanism to remain in effect during the term of long-term contracts entered into by the IOUs, or ten years, whichever is longer.<sup>3</sup>

In order to determine the trigger amount and threshold, pursuant to D.04-01-050, Southern California Edison Company (SCE) is required to file an advice letter by April 1 of each year to establish the current year's trigger amount.

Pursuant to D.13-10-052, the Commission approved SCE's full revenue requirement for 2013, less the difference between normal San Onofre Nuclear Generation Station (SONGS) costs typically included in ERRA forecast applications and SONGS replacement power costs included in the ERRA forecast application because of the unexpected outage and permanent closure of the plant, an increment defined in the decision as "net SONGS costs." The Commission also ordered that these net SONGS costs be removed from the calculation of SCE's under-collection within this ERRA Trigger Application.<sup>4</sup>

## **2.2. Procedural**

On August 28, 2013, SCE filed the current application, in which it requests authority to collect what it identifies as an under-collected balance in its ERRA.<sup>5</sup> On October 4, 2013, the Office of Ratepayer Advocates (ORA) filed a motion requesting authority to file a late protest. The motion was granted by the

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<sup>3</sup> D.04-12-048 at 213.

<sup>4</sup> D.13-10-052, Ordering Paragraph 8 at 32.

<sup>5</sup> In AL 2868-E, filed March 25, 2013, SCE reported a trigger point and trigger threshold for 2013 of \$223.563 million and \$279.454 million, respectively.

assigned Administrative Law Judge (ALJ) through an electronic mail ruling on October 28, 2013. In its protest, ORA asserts that SCE should recalculate its request with net SONGS costs removed. On October 14, 2013, SCE replied, stating that removal of net SONGS costs is inconsistent with the Investigation 12-10-013 and the Commission's actions in a 2012 San Diego Gas & Electric Company (SDG&E) trigger application.<sup>6</sup>

On November 21, 2013, pursuant to D.13-10-052, the assigned Commissioner and ALJ issued a joint ruling requesting updated information regarding the replacement power costs resulting from the shut-down of the SONGS that are included in SCE's calculation of the under-collection in its ERRA Trigger application. The purpose of this request was to "ensure that net SONGS costs are appropriately recorded in the SONGSOMA and treated within the SONGS OIL, and not presented prematurely to the Commission for ratemaking treatment."<sup>7</sup> SCE responded to this request on December 6, 2013, and ORA replied on December 13, 2013.

All rulings of the assigned Commissioner and ALJ are affirmed herein.

### **3. Requested Relief**

SCE filed its expedited application on August 28, 2013. In its application, SCE seeks expedited authorization to: 1) Include a projected account balance 60 days or more from the date of filing depending upon when the balance will reach the five percent threshold; 2) Propose an amortization period of not less than 90 days to ensure timely recovery of the projected ERRA balance; and

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<sup>6</sup> Application (A.) 12-10-017.

<sup>7</sup> See November 21, 2013 *Assigned Commissioner and Administrative Law Judge's Ruling Requesting Response Selected Inquiries* at 3-4, in A.13-08-022.

3) Include an allocation of the over and under-collection among customers for rate adjustments based upon an existing allocation methodology recognized by the Commission.

SCE posits that the primary cause of the under-collection is the Commission's inaction in implementing its requested 2013 ERRA revenue requirement application, A.12-08-001.<sup>8</sup>

Pursuant to D.04-01-050, SCE is required to file an advice letter by April 1 of each year to establish the current year's trigger amount. In AL 2868-E, SCE reported its trigger point and trigger threshold for 2013 of \$223.563 million and \$279.454 million, respectively. By the end of July 2013, SCE reports that its recorded under-collection in its ERRA balancing account had grown to \$508 million, exceeding both the trigger point and trigger threshold.

In determining its requested revenue requirement increase in the current application, SCE adjusted its July 2013 under-collection balance of \$508 million by: 1) reducing the balance by \$143 million to account for Greenhouse Gas (GHG) allowances; and 2) increasing the balance by \$4 million to account for Mohave SO<sub>2</sub><sup>9</sup> allowances. The GHG and Mohave SO<sub>2</sub> allowances are made pursuant to D.12-12-033 and D.13-02-004, respectively.

As of the date of filing this trigger application, SCE also noted that its then current rates, in place since August 2012, reflected the amortization of an over-collected ERRA balance of \$432.612 million. Until a decision in SCE's 2013 ERRA forecast proceeding was issued (A.12-08-001), it continued to return

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<sup>8</sup> A.13-08-022 at 3.

<sup>9</sup> SO<sub>2</sub> - sulfur dioxide.

the over-collection to ratepayers. With a decision in this proceeding, SCE asserted that return of funds to ratepayers would end.

Therefore, SCE requests an increase in rates of \$368.6 million (\$508 million minus \$143 million and plus \$4 million). When the requested under-collection and removal of the refund are considered, the total rate change would be an \$805 million increase.

#### **4. Response and Reply to ALJ Request**

##### **4.1. SCE**

Throughout this proceeding, SCE has maintained that removing net SONGS costs from the Trigger calculation is contrary to AB 57, Pub. Util. Code § 454.5, Commission precedent addressing ERRA, and the ratemaking structure set up in the SONGS OII.<sup>10</sup> SCE also posits that removal of net SONGS costs is unsupported and constitutes bad public policy. SCE posits that the concept of SONGS “replacement power” is non-existent after June 7, 2013, when it announced the permanent closure of the SONGS plant.<sup>11</sup>

In response to the assigned Commissioner and ALJ ruling dated November 21, 2013, and although it contests the legality of removing net SONGS costs from any ERRA forecast or trigger calculation, SCE provided the net SONGS costs for the following three periods of time, where net SONGS costs are

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<sup>10</sup> December 6, 2013, *Southern California Edison Company's (U338E) Response to November 21, 2013 Assigned Commissioner and Administrative Law Judge's Ruling Requesting Response to Selected Inquiries* at 1, A.13-08-022.

<sup>11</sup> December 6, 2013, *Southern California Edison Company's (U338E) Response to November 21, 2013 Assigned Commissioner and Administrative Law Judge's Ruling Requesting Response to Selected Inquiries* at 2, A.13-08-022.

the difference in fuel and purchased power costs between (i) SONGS operating at 100%, and (ii) SONGS operating at 0%:

1. January 1, 2012 – December 31, 2012;
2. January 1, 2013 – June 7, 2013; and
3. January 1, 2013 to the date of response to this data request (October 31, 2013).<sup>12</sup>

The net SONGS costs estimated by SCE are \$338.154 million, \$210.696 million, and \$406.568 million, respectively.<sup>13</sup> SCE contends that its trigger request of \$368.6 million should not be adjusted to exclude net SONGS costs.

In its opening comments to the proposed decision, SCE provided an updated figure for net SONGS costs for Item 3 above. As this update would not change the results of the proposed decision SCE does not propose any changes to the text of the proposed decision.

#### **4.2. ORA**

In its protest, ORA posits that SCE should remove net SONGS costs from its trigger and recalculate to determine if it has surpassed the applicable trigger points. ORA also asserts that other factors may have contributed to the

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<sup>12</sup> The assigned Commissioner and ALJ ruling dated November 21, 2013, requested data including but not limited to the period of January 1, 2013 to the date of response to this data request. This information was meant to provide an estimate of the total net SONGS costs for calendar year 2013, given that the year had not yet ended. SDG&E provided information in response to this request through December 2, 2013.

<sup>13</sup> December 6, 2013, *Southern California Edison Company's (U 338-E) Response to November 21, 2013 Assigned Commissioner and Administrative Law Judge's Ruling Requesting Response to Selected Inquiries* at Appendix A and B, A.13-08-022. In response to the request for data from January 1, 2013 to the date of response to the ruling, SCE provided recorded data through October 31, 2013.

under-collection leading to this trigger application by SCE, including but not limited to the financial impact of forecast versus actual prices, and differences between volumes of power and the forecast methodology used by SCE.<sup>14</sup>

In its reply dated December 13, 2013, ORA states that: 1) SCE is unresponsive to the Commission's requests of November 21, 2013; 2) SCE expands the scope of the request providing unrequested information; and 3) SCE's responses are not in compliance with D.13-10-052, in particular with regards to the Commission's definition of net SONGS costs and the time period over which such costs occurred.

## **5. Discussion and Conclusion**

Based on the requirements of D.13-10-052, available information, SCE's application, supporting testimony, responses to requests for information, as well as protests and replies to responses by ORA, for purposes of this trigger application only, the Commission finds herein that SCE has properly calculated its request and responses to rulings. For purposes of this trigger application only, SCE's request and its responses to rulings are also in compliance with all applicable Public Utilities Code Sections and Commission decisions. This finding of compliance is not binding on any other proceeding.

With regards to the net SONGS cost adjustment, the Commission finds that the appropriate and reasonable adjustment is for the period of January 1, 2013 through December 2013. Whether closed temporarily or permanently, a determining factor herein is the unanticipated nature of these events. Therefore, it is reasonable to adjust for net SONGS costs, as defined in

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<sup>14</sup> October 3, 2013 Protest of the Office of Ratepayer Advocates at 6, in A.13-08-022.



D.13-10-052, included in SCE's calculation of this trigger at any time in 2013. On that basis, the Commission adjusts SCE's request by \$406.568 million, the net SONGS costs recorded by SCE for the period January 1, 2013 through December 2013.

The Commission's actions in the current proceeding are not counter to but in compliance with applicable law. In particular, Pub. Util. Code § 454.5(d)(3) addresses the trigger mechanism and states in part, "After January 1, 2006, this [trigger] adjustment shall occur when deemed appropriate by the Commission consistent with the objectives of this section." In this proceeding, we have considered whether including certain costs related to the unexpected outage and permanent closure of SONGS in today's rates is "appropriate," an authority and responsibility clearly invested in this Commission by Pub. Util. Code § 454.5(d)(3).

The Commission's actions in the current proceeding are also in compliance with D.13-10-052, which requires the removal of net SONGS costs from consideration in the ERRA Trigger proceeding.

Because the Commission finds that net SONGS costs continued to accrue throughout 2013, we also find that ERRA under-collections continued to accrue as well. Therefore, instead of removing the net SONGS costs through October 2013 (\$406.568 million) from SCE's original requested under-collected balance as of July 2013 (\$508 million), the Commission removes the net SONGS costs from the under-collected ERRA balance as of October 31, 2013 (\$819 million), resulting in a remaining under-collected balance on that date of \$412.432 million. After adjustment for GHG and Mohave SO<sub>2</sub> allowances (recorded by SCE as of October 31, 2013 as minus \$224 million and plus \$4 million, respectively), the resulting under-collection is \$192.432 million

(\$412.432 million - \$224 million + \$4 million).<sup>15</sup> Since this figure is less than SCE's 2013 ERRA trigger point and trigger threshold of \$223.563 million and \$279.454 million; the Commission denies SCE's recovery of a trigger amount.

Because a decision has been issued in A.12-08-001 (D.13-10-052), the removal of the over-collection amortization has already occurred and been recognized in rates. Therefore, no further rate change in the current proceeding is necessary.

A determination of the reasonableness of net SONGS costs removed herein is deferred without prejudice to the SONGS OIL.

## **6. Procedural Issues**

### **6.1. Categorization and Need for Hearings**

In Resolution ALJ-176-3321 dated September 5, 2013, the Commission preliminarily categorized this application as rate-setting and that evidentiary hearings were necessary. No hearings were held and therefore the Commission makes a final determination here that the category is rate-setting, and a public hearing is not necessary.

### **6.2. Admittance of Testimony and Exhibits into Record**

Because hearings were not held in the current proceeding, there was no opportunity to enter testimony and exhibits into the record. In order for us to assess the proposals put forth by the parties, it is necessary to include all testimony and exhibits submitted by SCE into the record.

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<sup>15</sup> December 6, 2013, *Southern California Edison Company's (U 338-E) Response to November 21, 2013 Assigned Commissioner and Administrative Law Judge's Ruling Requesting Response to Selected Inquiries* at Appendix C, A.13-08-022.

### **6.2.1. SCE Motion to Receive its Testimony and Exhibits into the Record**

Pursuant to Rule 13.8(d) of the Commission's Rules of Practice and Procedure,<sup>16</sup> SCE filed a motion on January 21, 2014, requesting that its testimony be received into the record. Rule 13.8(d) allows for testimony to be offered into evidence when hearings are not held.

The Commission receives SCE's testimony (Exhibit SCE-1) into the record of the current proceeding.

### **7. Comments on Proposed Decision**

The proposed decision of the ALJ in this matter was mailed to the parties on January 28, 2014, in accordance with Section 311(g)(1) of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Opening comments were filed on February 18, 2014 by SCE and ORA; and reply comments were filed on February 24, 2014 by SCE and ORA. Parties comments have been considered herein.

### **8. Assignment of Proceeding**

Michel Peter Florio is the assigned Commissioner and Seaneen M. Wilson is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. Pursuant to AB 57 (Stats. 2002, Ch. 835), the Commission established the ERRA balancing account in 2002 in order to record the IOUs fuel and purchased power revenues against actual recorded costs, excluding revenues collected for the CDWR. AB 57 also mandated a trigger threshold for the balance in the ERRA

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<sup>16</sup> For the remainder of this decision all reference to Rules refer to the Commission's Rules of Practice and Procedure.

of five percent of the electric utility's actual recorded generation revenues for the prior calendar year.

2. In D.04-12-048, the Commission extended the trigger mechanism to remain in effect during the term of long-term contracts entered into by the IOUs, or ten years, whichever is longer.

3. In order to determine the trigger and threshold amounts pursuant to D.04-01-050, SCE is required to file an advice letter by April 1 of each year to establish the current year's trigger amount.

4. Pursuant to D. 13-10-052, the Commission approved SCE's full revenue requirement for 2013, "less the difference between normal costs typically included in the ERRA forecast applications and SONGS replacement power costs included in the ERRA forecast application, because of the unexpected outage and permanent closure of the plant, an increment defined in the decision as net SONGS costs.

5. On August 28, 2013, SCE filed the current application, in which it requests authority to collect what it identifies as an under-collected balance in its ERRA. SCE filed its expedited application on August 28, 2013. In its application, SCE seeks expedited authorization to: 1) include a projected account balance 60 days or more from the date of filing depending upon when the balance will reach the five percent threshold; 2) propose an amortization period of not less than 90 days to ensure timely recovery of the projected ERRA balance; and 3) include an allocation of the over and under-collection among customers for rate adjustments based upon an existing allocation methodology recognized by the Commission.

6. In AL 2868-E, SCE reported its current trigger and threshold amounts for 2013 of \$223.563 million and \$279.454 million, respectively. By the end of

July 2013, SCE's recorded under-collection in its ERRA balancing account had grown to \$508 million before adjustment.

7. In determining its requested increase in revenue requirement in the current application, SCE adjusted its July 2013 under-collection balance of \$508 million by: 1) reducing it by \$143 million to account for GHG allowances, pursuant to D.12-12-033; and 2) increasing it by \$4 million to account for Mohave SO<sub>2</sub> allowances, pursuant to D.13-02-004.

8. As of the date of filing this application, SCE's then current rates, in place since August 2012, reflect the amortization of an over-collected ERRA balance of \$432.612 million. By D.13-10-052, SCE's 2013 ERRA forecast proceeding was concluded, and thereby removed the over-collection amortization that had been in rates.

9. On November 21, 2013, the assigned Commissioner and ALJ issued a joint ruling requesting updated information regarding the replacement power costs resulting from the shut-down of the SONGS that are included in SCE's calculation of the under-collection in its ERRA Trigger application. SCE responded to this request on December 6, 2013, and ORA replied on December 13, 2013.

10. SCE responded to questions which requested what the estimates of net SONGS costs adjustment would be for specific periods of time as follows:

1. January 1, 2012 - December 31, 2012 - \$338.154 million;
2. January 1, 2013 - June 7, 2013 - \$210.696 million; and
3. January 1, 2013 to the date of response to this data request (provided by SCE as recorded data through October 31, 2013) - \$406.568 million.

11. In its opening comments to the proposed decision, SCE provided an updated figure for net SONGS costs for Item 10.3 above. As this update would

not change the results of the proposed decision SCE does not propose any changes to the text of the proposed decision.

12. The assigned Commissioner and ALJ ruling dated November 21, 2013, requested data including but not limited to the period of January 1, 2013 to the date of response to this data request. This information was meant to provide an estimate of the total net SONGS costs for calendar year 2013, given that the year had not yet ended. SCE provided information in response to this request through October 2013.

13. In Resolution ALJ 176-3321, dated September 5, 2013 the Commission preliminarily categorized this application as rate-setting, and preliminarily determined that hearings were necessary.

14. Pursuant to Rule 13.8(d) of the Commission's Rules of Practice and Procedure, SCE filed a motion on January 21, 2014, requesting that its testimony be received into the record. Rule 13.8(d) allows for testimony to be offered into evidence when hearings are not held.

### **Conclusions of Law**

1. Pub. Util. Code § 454.5(d)(3), invests in this Commission the authority and responsibility to determine whether procurement costs requested by investor-owned utilities through the trigger mechanism are "appropriate."

2. D.13-10-052, requires the removal of net SONGS costs from consideration in the ERRA Trigger proceeding.

3. The unanticipated nature of the outage and permanent closure of SONGS means that any costs incurred by SCE at any time to replace what SONGS would have provided if operating at 100% is a net SONGS cost as defined in D.13-10-052. Therefore, it is reasonable to adjust for net SONGS costs, as defined in D.13-10-052, included in SCE's calculation of this trigger at any time in 2013.

4. The net SONGS cost adjustment to SCE's trigger request should therefore be \$406.568 million, which is for the period of January 1, 2013 through October 31, 2013.

5. Because the net SONGS costs continued to accrue throughout 2013, SCE's ERRA under-collections continued to accrue as well.

6. Therefore, the 2013 net SONGS costs through October 31, 2013 (\$406.568 million) are removed from the under-collected ERRA balance as of October 2013 (\$819 million), resulting in a remaining under-collected ERRA balance of \$412.432 million.

7. After adjustment for GHG and Mohave SO<sub>2</sub> allowances, pursuant to D.12-12-033 and D.13-02-004, the resulting under-collection is \$192.432 million.

8. Because SCE's under-collection as of October 31, 2013, adjusted for GHG and Mohave SO<sub>2</sub> allowances is less than SCE's 2013 ERRA trigger point and trigger threshold of \$223.563 million and \$279.454 million, respectively, SCE's request does not qualify for recovery. Therefore, SCE's request should be denied.

9. A determination of the reasonableness of net SONGS costs removed herein is deferred without prejudice to the SONGS OIL.

10. Because no hearings were held, the Commission makes a final determination here that the category is ratesetting, and a public hearing is not necessary.

11. The Commission should receive SCE's testimony (Exhibit SCE-1) into the record of the current proceeding.

**O R D E R**

**IT IS ORDERED** that:

1. Southern California Edison Company's request to recover an under-collection in its Energy Resource Recovery Account is denied.
2. Exhibit SCE-1 is received into the record of Application 13-08-022.
3. Application 13-08-022 is closed.

This order is effective today.

Dated February 27, 2014, at San Francisco, California.

MICHAEL R. PEEVEY

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

MICHAEL PICKER

Commissioners