

Decision **PROPOSED DECISION OF ALJ COOKE** (Mailed 10/29/2002)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company (U 338-E) for a Finding of Reasonableness for the Ratepayer Expenditures for the ENVEST Pilot Program.

Application 99-03-063
(Filed March 31, 1999)

Frank J. Cooley, Attorney at Law, for Southern California Edison Company, applicant.

Norman J. Furuta, Attorney at Law, for Department of Navy.

Robert C. Cagen, Attorney at Law, for Office of Ratepayer Advocates.

O P I N I O N

Summary

This decision approves the “Joint Recommendation of the Office of Ratepayer Advocates (ORA) and Southern California Edison Company (SCE) to Terminate the ENVEST Pilot Program” (Joint Recommendation), attached as Appendix A. The ENVEST Pilot Program (ENVEST) will remain open only to existing participants until the final payments have been made, estimated to be in 2010. Ratepayers will now receive a refund of \$2 million plus interest credited to SCE’s Electric Deferred Refund Account (EDRA). SCE will assume all future credit risks and risk of collections associated with the ENVEST contracts and program. SCE will not seek recovery of the amount it spent for program administration costs in excess of the \$8 million provided by ratepayers.

Background and Procedural History

By Resolution E-3337, dated October 6, 1993, the Commission authorized SCE's proposed ENVEST to demonstrate and evaluate the feasibility of a new approach to extend the benefits of energy efficiency to large, non-residential customers. The Commission authorized ratepayer funding of up to \$23 million for ENVEST, while SCE was to commit \$75 million in shareholder funds. SCE was allowed to earn up to its authorized rate of return on its shareholder investment. The program was open to new participants until December 31, 1995, when it closed, thereafter remaining open only to existing customers.

The Commission determined that a reasonableness review was needed to review SCE's use of ratepayer expenditures, and in Decision (D.) 97-08-057 directed SCE to file an application by July 1, 1998 seeking a finding of reasonableness. The Commission approved SCE's request for an extension of time until July 17, 1998 to file this application.

On July 17, 1998, SCE filed Application (A.) 98-07-036 in compliance with D.97-08-057. However, SCE noted that only 21 of the 33 total ENVEST projects were completed at that time. ORA filed a protest to the application arguing that a partial reasonableness review of ENVEST would be inefficient, recommending that the Commission review all the projects and close the proceeding in one reasonableness review. SCE responded in support of ORA's protest, proposing that it notify ORA after the last remaining project is completed and within 90 days of that event, file an amended reasonableness report.

By D.98-10-047 dated October 22, 1998 in A.98-07-036, the Commission dismissed the application without prejudice and ordered SCE to file a new application with an updated reasonableness report within 90 days of the completion of the last ENVEST project.

In compliance with D.98-10-017, SCE filed this application on March 31, 1999, seeking a Commission finding that ratepayer funding for ENVEST was reasonable. A prehearing conference was held on June 15, 1999. On June 23, 1999, the Scoping Memo and Ruling of Assigned Commissioner was issued, which among other things set evidentiary hearing dates of September 20 through 24, 1999, as needed. Due to subsequent requests from ORA, the hearings were first rescheduled and then removed from the Commission calendar to allow time for ORA and SCE to discuss possible settlement of the issues.

The Joint Recommendation dated March 6, 2000 was filed jointly by ORA and SCE. At the evidentiary hearing, SCE presented Exhibit 1 entitled “Reasonableness Report and Final Portfolio Level Report on the ENVEST Pilot Program” dated March 31, 1999, along with associated workpapers of the same date in Exhibit 7 as its evidence of the reasonableness of ENVEST. ORA presented Exhibit 5 entitled “Report on Reasonableness of the ENVEST Program” dated September 1999. Witnesses from both ORA and SCE testified regarding the reasonableness of both ENVEST and of the Joint Recommendation.

The Joint Recommendation provides in substantial part, as follows:

- The ENVEST tariff will remain open to existing customers until the last ENVEST payment has been made, (estimated to be in 2010) then closed;
- SCE will not seek additional ratepayer funding for program administration costs of approximately \$2.5 million in excess of the \$8 million already funded by ratepayers;
- SCE will refund the \$2 million of ratepayer-funded credit-loss reserve, plus interest as a credit to SCE’s EDRA; and

- SCE will assume all future credit risks and risk of collections associated with ENVEST contracts and program.

The proceeding was submitted for decision on June 5, 2000.

Discussion

There is no opposition to the Joint Recommendation. The Department of the Navy, the only other entity with party status, does not oppose it.

ORA's witness Logan testified that he has been involved with ENVEST beginning in the early 1990s. Once the program was adopted, he participated in a regulatory monitoring group which met regularly with the SCE chief of ENVEST operation. Logan reviewed the elements of setting up and running the program, issuing Request for Proposals, and listing contractors under the various work categories.

In his reasonableness review of ENVEST, Logan reviewed SCE's workpapers, initiated data requests, and had access to volumes of ENVEST program documents. He also visited the project sites, and reviewed the charges SCE recorded to them. Logan found no instances of mischarging to the projects, and no instances of unreasonable expenditures associated with ENVEST.

Based on the above, ORA concludes that it has adequately reviewed the reasonableness of ENVEST and sees no need for further reasonableness reviews since all ENVEST programs are in place. Essentially all that remains is for the payments from the ENVEST customers to be completed and recorded. ORA is satisfied that ENVEST has been handled adequately by SCE.

ORA contends that the Joint Recommendation is beneficial to ratepayers, who will receive a refund of more than \$2 million from the credit-loss reserve. ORA believes that this is more beneficial and equitable to ratepayers than waiting until 2010 for the refund, because many of those customers who paid to

establish the credit-loss reserve will now receive the benefit of the refund. With accrued interest, the refund will be even greater.

ORA and SCE also recommend that the ENVEST Pilot Program Adjustment Account (EPPAA) be terminated now instead of waiting until 2010. The risk to ratepayers in early termination is that if SCE were to earn above its allowable rate of return, ratepayers would not be refunded that excess amount. On the other hand, we agree it is preferable for today's ratepayers to realize the benefit rather than wait ten years, at which time many of the ratepayers who funded the account may no longer be SCE customers and thus would not benefit from the refund. There is no accurate means of estimating the likelihood of SCE earning above or below its authorized rate of return for ENVEST. SCE states that it believes the likelihood of earning above is the same as the likelihood of earning below that level.

There appears little risk of default due to the type customers on the ENVEST programs, i.e., school districts and other governmental entities. SCE expects to recover at least a portion if not all of the \$2.5 million it expended in addition to the ratepayer funded \$8 million for program administration. This would result from cost savings due to the premium SCE incorporated in the pricing for credit issues. No credit issues have arisen to date and if none arise in the future, SCE will realize some savings, and indicates some potential for savings in other areas as well, such as for warranty expenses. SCE also recommends that no further reasonableness review be done despite the fact that the ENVEST program will not be finalized until 2010. We are somewhat troubled by this recommendation, since there remains approximately eight years of ENVEST activity. However, we are satisfied that the ratepayers are not at risk, since SCE will assume the risk of credit problems and possible defaults. Thus,

we agree that a reasonableness review in 2010 would not be a particularly useful effort by our staff.

We conclude that it is reasonable to refund the credit-loss reserve amount now and close the EPPAA. However, we observe that the refund is not a windfall to ratepayers; rather it is merely a return to ratepayers of the money they advanced to establish the account. This refund is available because the need to use the account never arose since there have been no credit losses to date. It is in the public interest to ensure that these funds are available to ratepayers now. We conclude that the Joint Recommendation is consistent with the criteria for settlements stated in Rule 51.1(e). It is consistent with the law, in the public interest, and reasonable in light of the whole record.

Comments on Proposed Decision

The proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(d) and Rule 77.1 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

Assignment of Proceeding

Loretta Lynch is the Assigned Commissioner and Michelle Cooke is the assigned ALJ in this proceeding.

Findings of Fact

1. The Joint Recommendation is sponsored by ORA and SCE.
2. All ENVEST Pilot Programs are in place.
3. The ENVEST Pilot Program remains open only to existing participants and only until the final payments have been made by the participants, estimated to be in 2010.

4. SCE agrees to not seek recovery of program administration costs incurred in excess of the \$8 million already provided by ratepayers.

5. The credit-loss revenue balance is \$2 million plus accrued interest.

6. SCE agrees to assume all future credit risks and risk of collections associated with ENVEST Pilot Program contracts.

7. The refund of the credit-loss revenue to current ratepayers returns the funds advanced by ratepayers to establish this account.

Conclusions of Law

1. The Joint Recommendation benefits ratepayers by refunding the credit-loss reserve balance charges EDRA balance to current ratepayers, many of whom have advanced fund to establish the account.

2. The Joint Recommendation benefits SCE by removing uncertainty regarding later review of the ENVEST Pilot Program.

3. It is reasonable to refund the credit-reserve amount now and to close the EPAA.

4. The Joint Recommendation is unopposed, consistent with the law, reasonable in light of the whole record, and in the public interest.

5. The Joint Recommendation should be approved.

O R D E R

IT IS ORDERED that:

1. The Joint Recommendation of the Office of Ratepayer Advocates and Southern California Edison Company (SCE) to Terminate the ENVEST Pilot Program is approved.

2. Within 45 days of the effective date of this decision, SCE shall credit the Electric Deferred Refund Account with \$2 million plus interest from the date of

creation of the ratepayer funded credit-loss reserve at the rate earned on prime, three-month commercial paper, as reported in the Federal Reserve Statistical Release H.15.

3. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX A