

Decision 11-07-038 July 28, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Authorization to Recover Costs Related to the 2007 Southern California Wind and Firestorms Recorded in the Catastrophic Event Memorandum Account (CEMA).

Application 10-04-026
(Filed April 22, 2010)

DECISION APPROVING SETTLEMENT AGREEMENT

1. Summary of the Decision

This decision approves the Settlement Agreement between Southern California Edison Company (Edison) and the Division of Ratepayer Advocates on the 2007 Wind and Firestorm Catastrophic Events Memorandum Account.¹ The amount to be included in Edison's revenue requirement for recovery from ratepayers provided in the Settlement Agreement reflects a 22% reduction in Edison's initial request.

2. Summary of the Application

On June 2, 2010, Southern California Edison Company (Edison) filed its amended application seeking Commission authorization to include in distribution rates the costs associated with 2007 wind and firestorms. Specifically, Edison sought Commission determinations that \$6.837 million of incremental operations and maintenance costs and \$9.487 million of incremental

¹ The Settlement Agreement is Attachment A to today's decision.

capital expenditures, which it had recorded in subaccounts of its Catastrophic Events Memorandum Account (CEMA), were reasonable, and should be moved to distribution revenue requirement accounts for recovery in rates.² Edison stated that in October and November of 2007, 14 separate fires, along with severe Santa Ana winds, burned over 148,000 acres of Edison's service territory resulting in both state and federal disaster declarations.

3. Protest to the Application

On July 8, 2010, the Division of Ratepayer Advocates (DRA) protested the application. DRA stated that Pub. Util. Code § 454.9(b) requires that the Commission conduct a reasonableness review of all recorded CEMA costs prior to authorizing recovery in rates. DRA explained that the Commission is currently investigating the role of Edison's facilities in the Malibu Canyon fire, and that other fires are the subject of pending governmental investigations and lawsuits which include allegations regarding Edison's facilities having a role in the cause of the fires.³ DRA recommended that the costs associated with Malibu Canyon fire be disallowed or held in abeyance pending resolution of the Commission's investigation. DRA also stated that the outcome of the other investigations and lawsuits may bear on the reasonableness of costs for which Edison is seeking recovery. DRA also stated that it would audit the application and may raise additional issues from the audit.

² Amended Application at 1 – 2.

³ DRA Protest at 2 – 3.

4. Prehearing Conference and Scoping Memo

The assigned Administrative Law Judge (ALJ) convened a prehearing conference on November 8, 2010, where a procedural schedule was adopted which included briefing the issue of the scope of this proceeding.

On January 20, 2011, the assigned Commissioner issued his scoping memo which set forth the procedural schedule, assigned the presiding officer, and determined the scope of the proceeding. The schedule provided for evidentiary hearings, but encouraged the parties to pursue alternative dispute resolution mechanisms on an informal basis.

5. Description of Settlement Agreement

On March 15, 2011, Edison and DRA filed the Settlement Agreement along with a motion requesting Commission approval.

In their motion, the parties explained that Edison's amended application sought Commission approval for \$6.837 million in increased operations and maintenance (O&M) expense, and \$9.487 million in increased capital expenditures, which was reduced slightly by a December 17, 2010 Errata changing these figures to \$6.792 million for operations and maintenance expense, and \$9.428 million in capital expenditures. The parties summarized the annual revenue requirements impact of the final request as \$10.390 million.

The parties stated that the Settlement Agreement reduces Edison's total annual revenue requirement by \$2.317 million. This reduction reflects the following adjustments for Edison's final requested amount: (a) removal of \$1.099 million in incremental O&M expenses (reflecting the removal of the entire \$0.681 million in incremental O&M expenses related to the Canyon/Malibu fire and the entire \$0.418 million in incremental O&M expenses related to the Grass Valley fire); (b) removal of \$0.872 million in capital-related revenue

requirement estimated to be recorded in the account through December 31, 2011 associated with \$1.928 million in capital expenditures; and (c) removal of \$0.346 million in interest expense estimated to be recorded in the account through December 31, 2011.

The parties concluded that after the adjustments, Edison would recover approximately \$8.073 million, or 78% of its requested revenue requirement of \$10.390 million recorded and estimated to be recorded in the 2007 Wind and Firestorm CEMA through December 31, 2011.

The parties contend that this amount is a fair compromise of strongly held views, and the Settlement Agreement will spare the Commission and the parties the effort required to litigate disputed issues. DRA stated that its audit of Edison's filing is complete and that along with discovery responses, the data and information provided have allowed DRA to gauge the strengths and weaknesses of Edison's request. Both parties agreed that the record of the proceeding has allowed them a fair opportunity to settle their differences and resolve all of the major issues within the scope of the proceeding. The parties concluded that the application sought authorization to recover costs incurred for restoring utility service and making repairs in response to a declared disaster, and that the Settlement Agreement provides for rate recovery of a level of costs acceptable to both Edison and DRA.

6. Discussion

In this application, Edison bears the burden of proof to show its requests are just and reasonable and the related ratemaking mechanisms are fair. In order for the Commission to approve any proposed settlement, the Commission must be convinced that the parties have a sound and thorough understanding of the application, the underlying assumptions, and the data included in the record.

This level of understanding of the application and development of an adequate record is necessary to meet our requirements for considering any settlement.

These requirements are set forth in Rule 12.1, which states, in pertinent part:

The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

As discussed below, we find the Settlement Agreement consistent with Rule 12.1.

**6.1. Reasonable in Light of
the Record as a Whole**

As reflected in the application and protest, the parties held both similar and different positions on the various issues involved in this proceeding. The parties reviewed testimony, errata, audit of expenses and capital costs recorded in the account, and data request responses. The parties conducted settlement negotiations after discussion of the issues and consideration of all testimony and information over several months. The parties fully considered the facts and law relevant to this case before reaching a reasonable compromise on the issues raised in Edison's application. In agreeing to a settlement, the parties used their collective experience to produce appropriate, well-founded recommendations. The parties believe the Settlement Agreement balances the various interests affected in this proceeding, reflects appropriate compromises of the parties' litigation positions, and is reasonable. The Commission agrees.

6.2. Consistent With Law and Prior Commission Decisions

The parties state that they are aware of no statutory provisions or prior Commission decisions that would be contravened or comprised by the Commission's adoption of the Settlement Agreement. The issues resolved in the Settlement Agreement are within the scope of the proceeding. If adopted, the Settlement Agreement would result in reasonable rates for Edison's customers.

The Settlement Agreement is also consistent with Pub. Util. Code § 454.9, which requires the Commission to hold expedited hearings on requests to recover costs recorded in Catastrophic Event Memorandum Accounts.

6.3. The Public Interest

We find that the rate changes proposed by the Settlement Agreement are reasonable and provide adequate funding to Edison for the costs incurred to restore utility service after the 2007 wind and firestorms. The Settlement Agreement reflects a downward adjustment of 22% from Edison's original request, so the Settlement Agreement represents a favorable outcome for ratepayers.

Numerous Commission decisions endorse settlements and support the public policy favoring settlements that are fair and reasonable in light of the whole record.⁴ The Commission's support of this public policy furthers many worthwhile goals, including reducing the expense of litigation, conserving the scarce resources of the Commission, and allowing parties to reduce the risk that litigation will produce unacceptable results.⁵ Furthermore, the provisions of the

⁴ D.88-12-083 and D.91-05-029.

⁵ D.92-12-019.

Settlement Agreement are sufficiently clear and comprehensive as to minimize the possibility of later dispute over the intent of the settlement and its regulatory consequences. Thus, from reviewing the Settlement Agreement and the process used to arrive at these mutually acceptable outcomes, the Commission concludes that the requirements of Rule 12.1 and Pub. Util. Code § 451 have been met.

**7. Categorization, Need for Hearing,
Documents for Record**

In Resolution ALJ 176-323 dated May 6, 2010, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were necessary. With the filing of the Settlement Agreement and supporting motion, no hearings are necessary. The categorization remains ratesetting.

The Settlement Agreement provides that the following documents be made part of the evidentiary record in this proceeding, without the need for cross-examination of sponsoring witnesses, solely for the purpose of evaluating the reasonableness of the settlement:

- (a) Amended Catastrophic Event Memorandum Account Testimony- 2007 Wind and Firestorms, dated June 2, 2010;
- (b) Errata to Amended Catastrophic Event Memorandum Account Testimony-2007 Wind and Firestorms, dated June 16, 2010; and
- (c) Errata and Update to Reflect Most Recent Recorded Information to Amended Catastrophic Event Memorandum Account Testimony- 2007 Wind and Firestorms, dated December 17, 2010.

These documents are admitted to the record pursuant to the Settlement Agreement.

8. Comments of Proposed Decision

The proposed decision of ALJ Bushey in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code, and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. No comments were filed.

9. Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in this proceeding.

Findings of Fact

1. DRA protested this application and performed an audit of Edison's accounting in support of the application.
2. The parties filed and served a Settlement Agreement which is Attachment A to today's decision.
3. The Settlement Agreement reflects a downward adjustment of 22% from Edison's requested amount.
4. The Settlement Agreement is reasonable in light of the record, consistent with the law, and in the public interest.

Conclusions of Law

1. The Settlement Agreement fully resolves and settles all disputed issues between Edison and DRA in this proceeding.
2. The Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest.
3. The Settlement Agreement should be approved.
4. No hearings are necessary.
5. The following documents should be made part of the evidentiary record in this proceeding, without the need for cross-examination of sponsoring witnesses, solely for the purpose of evaluating the reasonableness of the settlement:

- (a) Amended Catastrophic Event Memorandum Account Testimony- 2007. Wind and Firestorms, dated June 2, 2010;
- (b) Errata to Amended Catastrophic Event Memorandum Account Testimony-2007 Wind and Firestorms, dated June 16, 2010; and
- (c) Errata and Update to Reflect Most Recent Recorded Information to Amended Catastrophic Event Memorandum Account Testimony- 2007 Wind and Firestorms, dated December 17, 2010.

6. This decision should be effective today so that the Settlement Agreement may be implemented expeditiously.

7. Application 10-04-026 should be closed.

O R D E R

IT IS ORDERED that:

- 1. The March 15, 2011, motion by Southern California Edison Company and the Division of Ratepayer Advocates for approval of Settlement Agreement is granted.
- 2. The Settlement Agreement is Attachment A to today's decision and is approved.
- 3. Southern California Edison Company is authorized to include in distribution rates \$8.073 million from the 2007 Wind and Firestorm Catastrophic Events Memorandum Account.
- 4. The following documents are made part of the evidentiary record in this proceeding, without the need for cross-examination of sponsoring witnesses, solely for the purpose of evaluating the reasonableness of the settlement:
 - (a) Amended Catastrophic Event Memorandum Account Testimony- 2007 Wind and Firestorms, dated June 2, 2010;

- (b) Errata to Amended Catastrophic Event Memorandum Account Testimony-2007 Wind and Firestorms, dated June 16, 2010; and
 - (c) Errata and Update to Reflect Most Recent Recorded Information to Amended Catastrophic Event Memorandum Account Testimony- 2007 Wind and Firestorms, dated December 17, 2010.
- 5. No evidentiary hearings are necessary.
 - 6. Application 10-04-026 is closed.

This order is effective today.

Dated July 28, 2011, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners

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