Decision 08-06-030 June 26, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Tesoro Refining and Marketing Company, Complainant, vs. Southern California Edison Company (U338E), Defendant.	Case 07-12-008 (Filed December 11, 2007)

DECISION ORDERING SOUTHERN CALIFORNIA EDISON COMPANY TO PERFORM RETAIL SERVICE STUDY AND TO PROVIDE ADDITIONAL ELECTRIC SERVICE, IF REQUESTED

1. Summary

We determine that Southern California Edison Company (SCE) must perform, if requested, a retail service study for the Los Angeles Refinery (interchangeably, the Refinery or the LAR) owned and operated by Tesoro Refining and Marketing Company (Tesoro).

Likewise, if requested to provide the Refinery's full requirements for electric power, SCE must do so. Both SCE and the Los Angeles Department of Public Works (LADWP) presently serve the Refinery, which is located on property that spans the border between their service territories. Tesoro wishes to modernize the Refinery's existing electrical system and related facilities and possibly expand its self-generation capacity. These plans require that electric

service be integrated under one utility, since SCE and LADWP provide electric power at different voltage levels.

2. Nature of the Dispute

2.1. Parties

Tesoro and SCE are the only parties to this case. Tesoro is a wholly-owned subsidiary of Tesoro Corporation, an independent refinery and marketer of petroleum products headquartered in San Antonio, Texas. The Refinery obtains retail electric service from both SCE and LADWP. SCE is a public utility subject to this Commission's regulatory jurisdiction. LADWP, a municipal utility, is not a party and the Commission lacks regulatory jurisdiction to compel LADWP to participate here.

2.2. Relief Requested

Tesoro asks this Commission to find that SCE must provide the Refinery's full requirement for electric service, if requested to do so, and that prior to such request being made, SCE must perform, at Tesoro's expense, a retail service study, referred to as a Method of Service (MOS) study.

2.3. Underlying Factual Scenario

In May 2007, Tesoro acquired the Refinery, a 100,000 barrels-per-day petroleum refinery located in Southern California at a point where the cities of Carson, Wilmington and Los Angeles converge. The Refinery is said to "straddle" the utility service territories of SCE and LADWP, since the service territory border runs through and virtually bisects the real property on which the plant is located. The utilities do not provide service at the same voltage level and so the Refinery operates two separate electrical systems. The parties disagree about the precise breakdown, but SCE serves somewhere between 4% and 12%

of the Refinery's retail electric load and LADWP serves the rest. Tesoro states, and SCE does not dispute, that LADWP currently provides power to most of the core refinery load, some of it physically located in SCE's service territory. SCE serves sulfur recovery facilities and other smaller operations and receives revenues of more than $1 million per year from this large industrial load.

Since the spring or summer of 2007, Tesoro has been developing plans for "expansion, upgrades, modernization and environmental compliance" which will include a major overhaul and integration of the Refinery's internal electrical infrastructure, including full replacement of existing boilers and cogeneration facilities.[1] Tesoro alleges that the planned changes, anticipated to require a $1 billion investment over five years, will affect Refinery operations for the ensuing 20 or 30 years. Further, these changes "will improve internal efficiencies and reliability, increase capacities, support production unit expansions, enhance safety, and allow the refinery to meet environmental requirements."[2] Tesoro also is considering expansion of the Refinery's power generation capacity to meet the refinery's full demand, from the current peak of approximately 63 megawatts (MW) to approximately 80 MW. Tesoro states:

> When the reconfiguration is completed, LAR's physical electrical layout and service requirements will be substantially different than what exists today. The new cogeneration plant should provide all of the power and steam needed to the entire LAR and much of the electrical system will be reconfigured. With this new cogeneration plant, LAR should require only standby service from a utility that

[1] Complaint at 4.

[2] *Id.*

> meets the needs of the LAR for those periods when the cogeneration plant is idled for maintenance or repairs.[3]

According to Tesoro, "partial integrated service or dual connections to both LADWP and SCE are not practicable" and the reconfigured Refinery "will be wholly integrated and will therefore necessarily be at one voltage level."[4]

Tesoro alleges that it has asked both SCE and LADWP to prepare, at Tesoro's expense, the necessary retail service studies so that Tesoro can better assess its options, including assumption by one utility of the entirety of the Refinery's current, existing load. SCE has refused to prepare a MOS study and the status of the request to LADWP is unclear (but immaterial to the issues before us.) The answer states that SCE has declined to do the MOS study because "it would be a waste of resources to perform studies investigating the feasibility of an alternative service that is legally impermissible."[5] The answer then states:

> After discussion with Tesoro regarding their service requirement, SCE learned that LADWP had rejected Tesoro's request to allow SCE's performance of MOS studies for areas within LADWP's service territory. By letter dated November 5, 2007, SCE informed Tesoro that SCE would not perform MOS studies for any current or future load within LADWP's service territory without LADWP's consent.[6]

The complaint contends that LADWP's service to the Refinery has been unreliable and describes a rather strained customer/utility relationship over the

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[3] Tesoro Opening Brief at 3.

[4] Tesoro Opening Brief at 4, 5.

[5] Answer at 2.

[6] *Id.*

past year or so. Shortly after Tesoro filed this complaint at the Commission, LADWP filed a complaint for declaratory and injunctive relief against Tesoro in Superior Court.[7]

A Commission-sponsored mediation conference attended by SCE and Tesoro, as well as LADWP, did not result in settlement.

3. Issues for Resolution

The complaint raises two legal issues, set forth in the assigned Commissioner's scoping memo as follows:[8]

1. Should the Commission order SCE to perform the MOS study, for which Tesoro agrees to pay?
2. May a straddle customer like Tesoro, which is served by both an investor-owned electric utility subject to the jurisdiction of this Commission and a municipal electric utility, choose to integrate its electrical service under the investor-owned utility?

We discuss these issues, in reverse order, below.

4. Discussion

This case appears to present an issue of first impression for the Commission, as review of existing case law reveals no clear precedent. The analytical starting point must be jurisdictional – what authority does this

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[7] *See City of Los Angeles v. Tesoro Refining and Marketing Company*, Case No. BC 382649, Superior Court of the State of California, County of Los Angeles, Complaint filed Dec. 20, 2007, First Amended Complaint filed Jan. 16, 2008. Among other things, the superior court action seeks declarations that the portion of the Refinery located within LADWP's service territory may not receive retail electric service from SCE, that Tesoro may not reduce load in that portion of the Refinery, and that the law firm representing Tesoro in both that action and in this CPUC complaint has a conflict of interest stemming from its representation of the City in another matter.

[8] *Scoping Memo and Ruling of Assigned Commissioner*, Feb. 27, 2008, at 3.

Commission hold in the given situation, which concerns a straddle customer served by both SCE, which the Commission regulates, and LADWP, which it does not?

4.1. Party Positions

Neither party disputes the Commission's regulatory authority over SCE or lack of jurisdiction over LADWP. Tesoro argues that because the Refinery is an existing customer of SCE, the Commission must direct SCE to increase its service to the Refinery, if Tesoro determines to integrate and/or expand operations at SCE's voltage level. Tesoro argues it makes no sense to require continued operation of the Refinery as two disparate facilities served by two different electric utilities which provide electric power at two different voltage levels, rather than as one contiguous facility.

In contrast, SCE focuses on Tesoro's existing relationship with LADWP. SCE argues that "[t]he Commission does not have the authority to take LADWP's customer away from LADWP over LADWP's objection" and concludes, therefore, that the Commission cannot order SCE to serve Tesoro's full requirements.[9] SCE advances three theories in support of its position. One, the instant matter is a service territory dispute between a municipal utility and its customer and Commission intercession not only would deprive LADWP "of its right to have its interests represented in a dispute with its own customer" but also would provide Tesoro a "windfall" in the form of "sanctioned utility shopping" – an unfair advantage which no other retail customer enjoys, and

[9] SCE Opening Brief at 3.

which risks poor relations between neighboring electric distribution utilities.[10] Two, SCE cannot serve Tesoro's full requirements without triggering the reciprocity provisions of Pub. Util. Code § 9601(c),[11] potentially opening SCE's service territory to retail competition from LADWP. Three, both law and policy in California prohibit retail customers located wholly within a single service territory from choosing their distribution and transmission suppliers and therefore, giving straddle customers such choice would provide them with a unique "bargaining chip" resulting in "the creation of unnecessary border conflicts between neighboring utilities, discriminatory treatment of customers, unstable service territory boundaries, higher rates and deterioration of service for other customers, and harm to the public welfare as a whole."[12] This last argument largely repeats the first.

Regarding SCE's concern that LADWP is not a party to the complaint pending at the Commission, we acknowledge only that LADWP, as is its right, has declined to participate. That, alone, is no basis for us to decline to exercise our jurisdiction over the dispute between SCE and its customer. Below, we review pertinent case law and statute.

4.2. Existing Law

Universal Studios, Inc. v. Southern California Edison (*Universal Studios*),[13] the primary decision on which Tesoro relies, provides certain factual parallels but no clear precedent. The Commission determined that a customer, Universal

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[10] *Id*. at 6, 7.

[11] Footnote 28, *infra*, sets out the text of § 9601(c).

[12] *Id*. at 11.

[13] D.99-03-023, 85 CPUC2d 290 (1990), 1999 Cal. PUC LEXIS 406.

Studios, whose property and operations straddled SCE and LADWP service territories and who received service from both utilities, could not avoid Assembly Bill (AB) 1890's Competition Transition Charge (CTC) by shifting all electric load to LADWP.[14] Universal Studios operated a number of "distinct but interrelated businesses" on 415 contiguous acres.[15] It argued that reconfiguring its internal electric distribution system to take full requirements from LADWP would constitute a departure from SCE's service territory, qualifying for a statutory exemption from the CTC under the terms of the governing statute, Pub. Util. Code § 371. The Commission determined that Universal Studios was already two customers (a customer of each utility) and that because an internal reconfiguration did not constitute a physical departure from SCE's territory within the terms of § 371, such a change would not exempt Universal Studios from CTC responsibility for the portion of the load SCE wished to shift to LADWP.

The Commission was not asked to determine whether Universal Studios *could* undertake the internal reconfiguration and related load shift. No hearings were held; instead, the parties filed a Statement of Facts as part of a Joint Status Report and later filed concurrent legal briefs.[16] The recitation of fact in *Universal*

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[14] AB 1890, the California electric restructuring legislation, was enacted as Stats.1996, c. 854.

[15] 85 CPUC2d at 292.

[16] We have retrieved from state archives the Commission's formal file for C.98-04-037, the complaint case that resulted in *Universal Studios.* The parties' Joint Status Report and the Statement of Facts attached thereto were filed November 6, 1998. The Statement of Facts, which consists of 21 separately numbered points, includes the disclaimer that SCE and LADWP stipulate to them "solely for the purposes of this C.98-04-037, and for no other or proceeding." Today's decision does not expand upon

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Studios, subtitled "Stipulated Facts," summarizes the parties' joint Statement of Fact and several of the decision's Findings repeat, unchanged, specific portions of the Statement of Fact. Finding 2, for example, acknowledges that LADWP, whom Universal Studios wanted to have serve its entire electric load (post-reconfiguration), was providing a minority of the pre-reconfiguration requirement, about 23%, while SCE was providing about 77%. Thus, similar to the pending case, the customer wished to move its full demand to the utility supplying the minority portion of the existing load but unlike the pending case, the customer wished to consolidate service under the municipal utility.

Finding 6 indicates that such load shifting had occurred frequently in the past:

> Since December 20, 1995, as a normal consequence of its operations, Universal has shifted, and continues to shift, electrical demand between Edison and LADWP by relocating various operational units to different physical locations and by expanding, remodeling, or constructing additional facilitates.[17]

Tesoro argues that "by deciding the *consequences* of Universal Studio's decision to reconfigure its system, the Commission impliedly affirmed that Universal Studio was permitted to make this decision."[18] However, Tesoro overlooks other language in *Universal Studios* that suggests a more limited Commission focus and correspondingly, a narrower conclusion: "Absent any legal or regulatory restrictions, Universal can physically reconfigure its internally

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that context, but merely reviews portions of the Statement of Facts within the confines of *Universal Studios*.

[17] 85 CPUC2d at 294.

[18] Tesoro Opening Brief at 20, emphasis in original.

owned and operated distribution facilities and serve its entire property with electric service provided by either Edison or LADWP."[19] This language, found in the decision's Stipulated Facts section, comes directly from the parties' joint Statement of Facts, though it is not made an express Finding. Moreover, the Commission addresses the applicability of the CTC only; it does not discuss whether any other regulatory or legal restrictions exist, or suggest what they might be.

SCE challenges Tesoro's reading of *Universal Studios* and points to several cases, spanning several decades, in which the Commission has adjudicated service territory disputes between investor-owned utilities or between one investor-owned utility and a customer or potential customer located near the utility's service territory border.[20] Though these highly fact-dependent decisions

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[19] 85 CPUC2d at 292.

[20] SCE references the following decisions, which we list in chronological order and summarize:

1. *Clara Street Water Co. v. Park Water Co.*, D.41682, 48 CPUC 154 (1948), affirmed D.04-09-028, and ordered that Park Water Co. cease and desist from extending service into the certificated territory of Clara Street Water Co., even though a customer requested such service, though Clara Street Water was not actually serving there, and though Clara Street Water had not opposed a publicly-owned water company's invasion of a different area that was awkward for Clara Street Water to serve. A certificate does not give a utility an exclusive right to serve but does protect certificated service territory "to the extent that good service is provided at reasonable rates" and furthermore, permitting "unlimited and unauthorized invasion of certificated territory by other utilities merely for the reason that the lands are contiguous and not being then actually and physically served, would result in curtailment of investments in utility properties, confusion and uncertainty in design of facilities, would retard expansion or utility systems into new territory and result in the supplying of inferior service." (*Id*. at 158.)

2. *Application of Cal. Water Service*, D.83-01-054, 10 CPUC2d 690 (1983), denied the request of Cal. Water Service to serve a proposed residential development near its main

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create no bright line for resolving future cases, they represent the Commission's historical affirmation that service territory boundaries should be honored absent an unwillingness or inability to serve. That principle provides little guidance here, however, where a municipal utility and an investor-owned utility share a common service territory border and where both presently serve the same customer through different connections on the customer's property.

More pertinent are several cases involving straddle customers of investor-owned utilities. Like the cases just discussed, all are heavily fact-dependent. In *San Gabriel Valley Water Co. v. Suburban Water Co.*,[21] the Commission expressly recognized a straddle customer's right to choose one of two potential suppliers. In that case, the service territory boundary between those two utilities bisected property owned by Challenge-Cook Bros., Inc. and each utility was certificated to serve the portion of the property within its service area. At the time the dispute arose, only San Gabriel Valley had supplied water to Challenge, first for agricultural purposes and subsequently for construction of manufacturing

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but located within the service territory of Wesmilton Water System, though the developer could obtain service from Cal. Water Service at 1/4 to 1/5 of the cost and Wesmilton would need to drill a new well. Decision findings state that allowing customers to choose among utilities creates problems for utility planning and undermines a utility's economic viability to the detriment of existing customers, that the Commission has a duty to protect service territory boundaries absent a "strong and clear showing" that a utility is unable to serve. (*Id*. at 709.)

3. *Re Southwest Gas Corp*., D.88-12-090, 30 CPUC2d 361 (1988), resolved competing requests to serve uncertificated territory and also reapportioned certain previously certificated territory based on assessment of various factors, including efficiencies, reiterating that the standard for taking customers and certificated areas away from a public utility to give them to another should be "based upon failure to adequately serve." (*Id*. at 390.)

[21] D.70837, 65 CPUC 653 (1966).

facilities on the property. Challenge negotiated with both utilities for service to the manufacturing site and on the advice of its engineers and fire insurance underwriters, selected Suburban. As the connection point for the site's new distribution system was located on the portion of the Challenge property within San Gabriel Valley's service territory, to effectuate service from Suburban Challenge had to run approximately 135 feet of water lines across its property to a point in Suburban's service territory. San Gabriel Valley filed a complaint to prohibit Suburban from serving Challenge.

The Commission dismissed San Gabriel Valley's complaint, stating:

> San Gabriel has not acquired the right ... to prevent a consumer from taking service from another utility lawfully authorized to render service in the area in which the consumer is located. Suburban has the duty to serve, to the reasonable limit of its facilities, all those who request service in its certificated area. (Citation omitted.) There is no legal action that can be taken by a public utility or by the Commission to force a consumer to continue to accept service from a public utility without his consent and after he has no use for the service. (Citations omitted.) These principles, applied to this case, give Challenge the right to demand service from Suburban, and Suburban has the duty to provide such service. This will result in Suburban's serving water to property located in San Gabriel's certificated area; but this result is unavoidable. No one suggests that we require Challenge to construct two independent water systems on its property.[22]

A few months earlier, the Commission had issued *Alisal Water Corp.*,[23] which determined that Alisal Water, the smaller and lower-cost of two adjacent investor-owned water utilities, should serve the entirety of a proposed new

[22] 65 CPUC at 656.

[23] D.70197, 65 CPUC 197 (1966).

development that would span both service territories. The Commission reasoned service by Alisal offered a number of benefits: it avoided construction of duplicative facilities, provide lower rates to customers, and cured Alisal's low pressure problem by adding infrastructure.

In a later case, *Prometheus Development Co. Inc., et al. v. California Water Service Company (Prometheus 2)*,[24] the Commission limited a straddle customer's right to choose between two providers. Prometheus Development planned to build a hotel and park on a portion of an undeveloped 22-acre site bisected by the border between the San Jose Water Company and California Water Service Company service territories. Though the new development would be located almost exclusively (more than 99%) within California Water's territory, Prometheus wanted San Jose Water as its water provider. The Commission denied Prometheus' request, concluding that service by San Jose Water would constitute to an "indirect invasion" of California Water's service area since all of the construction except a small portion of an underground garage and some paved parking in the park would be built within that service area.[25] In the decision denying rehearing of *Prometheus 2*, the Commission observed that because a prior Commission had considered and resolved, ten years earlier, certain service issues raised by the proposed new development (in *Prometheus 1*[26]), those issues were moot, but that even if *Prometheus 1* were set

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[24] D.93-02-035, 48 CPUC2d 187 (1993), 1993 Cal. PUC LEXIS 95, rehearing denied by D.93-09-046, 50 CPUC2d 729 (1993), 1993 Cal. PUC LEXIS 638.

[25] 1993 Cal. PUC LEXIS 638 *2.

[26] *See* 1993 Cal. PUC LEXIS 638 discussing D.86-05-021 (1986), referred to as *Prometheus 1*, and a related advice letter, AL-922.

aside, "unique circumstances" continued to support *Prometheus 2* and to distinguish it from *San Gabriel Valley Water Co.* and *Alisal Water Corp.*[27] The pending case is factually distinguishable as well. Unlike the proposed development in the *Prometheus* cases, Tesoro's facilities have been in existence for years. They are not confined to one side of the service territory border, but span the entire property.

Finally, we turn to Pub. Util. Code § 9601(c), which requires reciprocity between utilities such as SCE and LADWP before they may make retail sales of electric power, known as direct access sales, to one another's customers.[28] SCE links the statute to *Universal Studios.* As we have seen, *Universal Studios* determined that a straddle customer, who altered its internal electrical system in order to take power from one of two existing suppliers in an effort to avoid the CTC, could not escape those charges. SCE argues that *Universal Studios* therefore necessarily stands for the proposition that if a customer actually switches suppliers, that customer triggers the reciprocity provisions of § 9601(c). The danger, according to SCE, is that if SCE should become the sole supplier to Tesoro without LADWP's consent, in future LADWP might have carte blanche to invade SCE's territory.

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[27] 1993 Cal. PUC LEXIS 638 *10.

[28] The statute provides, in relevant part:

> No local publicly owned electric utility or electrical corporation shall sell electric power to the retail customers of another local publicly owned electric utility or electrical corporation unless the first utility has agreed to allow the second utility to make sales of electric power to the retail customers of the first utility. (§ 9601(c).)

We find no support for this argument. We note that *Universal Studios* mentions § 9601 only once and then, in the context of an ancillary issue.[29] The statute appears to have no relevance to the facts presented in *Universal Studios*, and even less here, where a straddle customer wishes to modernize, increase the efficiency of its internal operations, and possibly expand them. Under the interpretation of § 9601(c) that SCE suggests, no such modernization could occur, and we are aware of no authority that lends credence to such a result, which effectively would place unique limits on a straddle customer's business decisions. Finally, we also observe that California's direct access program has been suspended. Thus, unlike the case before us, new retail electric sales by one utility to customers wholly within the service territory of another utility are not possible at this time.

4.3. Tesoro's Rights and Obligations as a Straddle Customer

We conclude that SCE may serve Tesoro's full requirements following an internal retrofit of Tesoro's facilities and an accompanying reconfiguration of its electrical system. If asked to serve the resulting changed demand, SCE must do

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[29] The reference states:

> In addition, Universal's claims to inferior status as an LADWP customer relative to Universal's status as an Edison customer have no merit. The law provides for the appropriate regulatory body to determine the applicable transition costs and corresponding charges. The fact that the Los Angeles City Council has not yet undertaken such a task does not imply that Universal's position as a customer of LADWP is inferior to its position as a customer of Edison. Sections 9601, 9602, and 9603 provide that both publicly-owned and investor-owned utilities are protected in terms of transition cost collection, once publicly-owned utilities conform to certain requirements. LADWP has not yet proceeded with those requirements. (85 CPUC2d at 293.)

so. It is beyond our jurisdiction to assess whether, under LADWP's tariffs at the time of such a shift, some kind of exit fee might apply to Tesoro's departing load. We note that Tesoro's complaint suggests that post-redevelopment, Tesoro's electric needs may change substantially. Tesoro largely may be self-sufficient electrically and may require only stand-by power. Thus, if the proposed development materializes, Tesoro may become a very different kind of customer than it is today.

Regardless, we find that Commission precedent and sound policy support the result we reach today. As we discuss above, the most relevant Commission decisions point to this outcome or can be distinguished, based on the unique circumstances present. From a public policy standpoint, it makes no sense to hold that because historically both SCE and LADWP have served portions of the Refinery load, Tesoro must forever operate two different electrical systems there. Tesoro, like any other customer, should be able to make a business decision to modernize its plant to maximize efficiencies and improve air quality (presuming all necessary permits or other approvals).

4.4. MOS Study

Tesoro contends that SCE's own tariffs (Rule 15 re: distribution line extensions and Rule 16 re: service extensions) require it to do an MOS study for an existing customer like the Refinery. Under those tariffs, SCE must plan, design and engineer service extensions within its own service territory. As previously noted, Tesoro recognizes that the new service delivery point must be within SCE's service territory. Tesoro also acknowledges that a customer must fund such a study and it agrees to pay.

At the prehearing conference (PHC), the Administrative Law Judge (ALJ) directed SCE to provide her with a letter from a knowledgeable employee or

officer confirming that SCE had declined to do the MOS study and setting out SCE's rationale for refusal. The ALJ advised that the first paragraph of the letter should state that the letter was being submitted in response to the ALJ's PHC request and that a copy should be sent to the assigned Commissioner and to Tesoro. SCE complied. The February 20, 2008 letter from Lisa D. Cagnolatti, Vice President, Business Customer Division, reiterates SCE's refusal to do the MOS study. The letter provides no additional insight but repeats the objections noted previously.

Because we conclude that SCE may serve Tesoro's full requirements, and must do so if asked, we direct SCE to perform the MOS study. If LADWP should agree to perform such a study also and Tesoro wants to pay for both studies in order to better assess its options, that is a business decision for Tesoro to make.

5. Procedural History and Need for Hearing

SCE filed an answer to the complaint on January 28, 2008. The assigned ALJ held a PHC on February 13. That same date, Tesoro filed a motion for leave to file a response to the answer and tendered the response. The ALJ authorized the response and it was filed, effective February 13. On February 20, in response to the ALJ's PHC request, SCE submitted and served a letter confirming SCE's refusal to perform the requested MOS study; that letter has been placed in the formal file. The scoping memo, filed February 27, determined that this case presented no need for hearings and adopted the parties' proposed briefing schedule. Tesoro and SCE filed concurrent opening briefs on March 7. On March 12, at the request of both parties and LADWP, the Commission held a mediation conference in Los Angeles. Both parties and LADWP were represented but no settlement was reached. Thereafter, on March 21, Tesoro and SCE filed concurrent reply briefs.

This matter was categorized as an adjudicatory proceeding. While the instructions to answer indicated that hearings likely would be held, the scoping memo determined that no hearing were required. We confirm that determination.

6. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311 and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure.
On June 10, 2008, Tesoro and SCE filed joint comments. No reply comments were filed.

The parties ask only that the MOS study be referred to throughout this decision as a "retail service study" rather than a "interconnection and service study." We have made this change.

7. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Jean Vieth is the assigned ALJ in this proceeding.

Findings of Fact

1. The SCE/LADWP service territory border essentially bisects the Refinery property.
2. The Refinery has existed for years and its developed facilities span the entire property.
3. SCE and LADWP both serve the Refinery at present but they provide electric power at different voltages.
4. SCE currently receives revenues of over $1 million per year from the Refinery.
5. Tesoro intends to embark on capital investment, estimated at $1 billion over five years, to modernize the Refinery's internal electrical system and related facilities. The redevelopment plans require reconfiguration of the internal electrical system at a single voltage level, which necessitates a single electric supplier.
6. It would be poor policy to require the Refinery to continue to operate two distinct electrical systems into the future and thereby prevent operating efficiencies and air emissions improvements.

Conclusions of Law

1. The Commission has regulatory jurisdiction over SCE and SCE's provision of service to its customers; the Commission's lack of regulatory jurisdiction over LADWP does not prevent adjudication of this complaint case.

2. In resolving the instant dispute, the Commission should consider all unique factual circumstances.

3. Pub. Util. Code § 9601(c) does not apply to the instant factual situation and does not bar SCE from serving the Refinery's full electric requirements.

4. No hearings are necessary.

5. To give timely guidance to the parties, this order should be effective today.

O R D E R

IT IS ORDERED that:

1. If requested by Tesoro Refining and Marketing Company (Tesoro), Southern California Edison Company (SCE) shall perform a Method of Service study for electric service by SCE to Tesoro's Los Angeles Refinery (the Refinery) up to the Refinery's full requirements.

2. If requested by Tesoro, SCE shall provide the Refinery's full requirements for electricity, in accordance with all applicable SCE tariffs.

3. Case 07-12-008 is closed.

This order is effective today.

Dated June 26, 2008, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners