

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4231
May 21, 2009

R E S O L U T I O N

Resolution E-4231. Southern California Edison Company [SCE] requests approval of Amendment 2 of both the Qualified and Nonqualified Decommissioning Trust Agreements pursuant to Section 2.12 of the Qualified Trust Agreement and Section 2.10 of the Nonqualified Trust Agreement. The amendments reflect the new lower trustee fee schedules.

Request granted.

By Advice Letter [AL] 2301-E filed on December 22, 2008.

SUMMARY

SCE's request for approval of an amended trustee fee schedule is granted.

This Resolution grants SCE's request for approval of Amendment No. 2 of both the Qualified and Nonqualified Decommissioning Trust Agreements pursuant to Section 2.12 of the Qualified Trust Agreement and Section 2.10 of the Nonqualified Trust Agreement. SCE's request is on behalf of its Nuclear Facilities Decommissioning Master Trust Committee [Committee]. It revises the fee schedules by *lowering* the fees charged by the Bank of New York Mellon for services as Trustee under the decommissioning trust agreements. The Commission's Executive Director or his designee is authorized to sign the modified agreements on behalf of the Commission.

BACKGROUND

Externally managed trusts act as the medium for accruing nuclear decommissioning funds.

In its Order Instituting Investigation No 86, dated January 21, 1981, the Commission conducted an extensive investigation into the alternative methods of financing the cost of decommissioning nuclear power plants owned by the California utilities. In Decision [D.] 87-05-062, the Commission adopted externally managed trust funds as the investment vehicles for accruing funds for

the ultimate decommissioning of the nuclear power plants owned by California utilities. In that decision, the Commission also established guidelines for preparing these trust agreements.

In response to D.87-05-062, SCE established two trust funds; one to hold contributions that *qualify* for an income tax deduction under Section 468A of the Internal Revenue Code [qualified trust], and another to hold the remaining funds [non-qualified trust]. On November 25, 1987, the Commission approved SCE's trust agreements in Resolution E-3057. The Trust Agreements have been amended and restated from time to time thereafter with the Commission's approval.

Amendments to the Trust Agreements must be approved by the Commission. The Commission has set forth its limitations on the nuclear utilities' trust funds in a series of decisions. Ordering paragraph 6 of D.95-07-055 provides for the agreements to be approved through the Commission's advice letter process. Sections 2.12 and 2.10 of qualified and non-qualified trust agreements, respectively, require Commission approval of amendments to the trust agreements.

By AL 2301-E, SCE is requesting Commission approval of the proposed amendments to the agreements, attached to Exhibit A of the advice letter. The amendments revise the current fee schedules by lowering the fees charged by the Bank of New York Mellon for its services as Trustee under the SCE Trust Agreements. The amendments were approved at the December 12, 2008 meeting of SCE's Nuclear Facilities Decommissioning Master Trust Committee. The amendments would apply to both San Onofre and Palo Verde nuclear generation stations.

NOTICE

Notice of AL 2301-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of the Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

PROTESTS

AL 2301-E was not protested.

DISCUSSION

SCE has negotiated lower fee payments to the trustee.

Amendment 1, the predecessor to the current request, was the subject of AL 1716-E dated June 20, 2003 where changes required by the Nuclear Regulatory Commission were approved by Resolution E-3840. Amendment 2, the subject of current request in AL 2301-E, reflects changes in schedule of fees charged by the Bank of New York Mellon for its services as Trustee.

SCE has negotiated reduced fees of approximately \$280,000 per year for a five-year contract term with the Bank of New York Mellon. The revised fee schedules will be effective retroactively to July 1, 2008. The new fee schedules are attached to the amendments which form as Exhibit A to the advice letter. The schedules were approved at the December 12, 2008 Committee meeting.

The Energy Division has reviewed AL 2301-E and the proposed amendments to the trust agreements and determined that they are in compliance with the applicable Commission requirements as ordered in D.87-05-062 and D.95-07-055. Accordingly, the Energy Division recommends approval of SCE's request.

COMMENTS

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU Code 311(g) (2), the otherwise applicable 30-day period for public review and comment is being waived.

FINDINGS

1. Southern California Edison Company [SCE] filed Advice Letter 2301-E on December 22, 2008, requesting approval of amendments to its nuclear decommissioning trust agreements. The amendments reflect new lower trustee fee schedules.
2. Decision 87-05-062 requires externally managed trust funds to finance the decommissioning of nuclear power plants.
3. Decision 95-07-055 requires that all trust investment management agreements be approved by the Commission through the advice letter process.

4. In its December 12, 2008 meeting, SCE's Nuclear Facilities Decommissioning Master Trust Committee approved the proposed amendments to the trust agreements.
5. The amendments to the agreements as proposed in AL 2301-E are in compliance with applicable Commission requirements and should be approved.

THEREFORE IT IS ORDERED THAT:

1. The request of Southern California Edison Company in Advice Letter 2301-E is approved.
2. The Commission's Executive Director is authorized to sign the Master Trust Amendments on behalf of the Commission.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on May 21, 2009; the following Commissioners voting favorably thereon:

/s/ Paul Clanon

Paul Clanon
Executive Director

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