BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3	)	I.12-10-013 (Filed October 25, 2012)
And Related Matters.	)	A.13-01-016 A.13-03-005 A.13-03-013 A.13-03-014

ALLIANCE FOR NUCLEAR RESPONSIBILITY'S RESPONSE TO MOTION OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) FOR AN ORDER AUTHORIZING A CHANGE TO SCE'S PRELIMINARY STATEMENT, PART YY, BASE REVENUE REQUIREMENT BALANCING ACCOUNT AND PART ZZ, ENERGY RESOURCE RECOVERY ACCOUNT

JOHN L. GEESMAN

DICKSON GEESMAN LLP
1999 Harrison Street, Suite 2000
Oakland, CA 94612
Telephone: (510) 899-4670
Facsimile: (510) 899-4671
E-Mail: john@dicksongeesman.com

Attorney for
ALLIANCE FOR NUCLEAR RESPONSIBILITY

Date: July 31, 2013

I. INTRODUCTION.

Pursuant to Rule 11.1(e) of the California Public Utilities Commission ("Commission" or "CPUC") Rules of Practice and Procedure, and the July 26, 2013 email of ALJs Darling and Dudney specifying an August 2, 2013 deadline for responses, the Alliance for Nuclear Responsibility ("A4NR") offers its response to the July 22, 2013 motion of Southern California Edison Company ("Edison" or "SCE") for an order authorizing a change to Edison's Preliminary Statement, Part YY, Base Revenue Requirement Balancing Account ("BRRBA") and Part ZZ, Energy Resource Recovery Account ("ERRA"). A4NR opposes the Edison motion as an unjust and unreasonable attempt to perpetuate SONGS-related overcollections, frustrate the Commission's established regulatory process, and convert inappropriately collected ratepayer funds to Edison's own cash flow timing advantage. The Edison motion should be denied.

II. THE COMMISSION'S STATELY PACE HAS EMBOLDENED EDISON.

It was perhaps inevitable that the extreme restraint the Commission has displayed – far beyond the requirements of due process[1] – in forcing the disgorgement of Edison's (and

[1] "The [United States Supreme Court] has long made clear that within the regulatory context due process is a flexible concept, permitting expert administrative agencies broad latitude in adapting the specific regulatory needs of their jurisdictions…'The Constitution does not bind rate-making bodies to the service of any single formula or combination of formulas. Agencies to whom this legislative power has been delegated are free, within the ambit of their statutory authority, to make the pragmatic adjustments which may be called for by particular circumstances. Once a fair hearing has been given, proper findings made and other statutory requirements satisfied, the courts cannot intervene in the absence of a clear showing that the limits of due process have been overstepped. If the commission's order, as applied to the facts before it and viewed in its entirety, produces no arbitrary result, our inquiry is at an end.' " *City of Los Angeles v. Public Utilities Com.*(1975) 15 Cal.3d 680, 698, citing *Power Comm'n v. Pipeline Co.* (1942) 315 U.S. 575, 586; accord, *R. R. Comm'n. v. Pacific Gas Co.* (1938) 302 U.S. 388; *West Ohio Gas Co. v. Public Utilities Com'n.* [No. 1] (1935) 294 U.S. 63, 70; *Market Street R. Co. v. Comm'n.* (1945) 324 U.S. 548, 562; and *Norwegian Nitrogen Co. v. United States* (1933) 288 U.S. 294, 317, 319.

SDG&E's[2]) overcollections for an inoperable electric generating asset would have the perverse effect of encouraging Edison to fantasize about keeping the money. With the brash assertion that only a Commission finding of "SCE's imprudence"[3] can pry these ill-gotten revenues from its grasp, Edison manages to conveniently ignore the fundamental purpose of the yet-to-be-decided Phase 1: to "establish a just and reasonable revenue requirement for 2012 SONGS-related expenses."[4] Specifying the 2012 SONGS-related revenue requirement may not necessarily turn on Edison's "imprudence" in 2012,[5] but on whether SONGS ceased to be used and useful as an electricity generating asset in 2012 such that Cal. Pub. Util. Code §§ 451 and 728 require an adjustment in the amount tentatively allowed – subject to refund -- by D.12-11-051.

Irrespective of what SONGS revenue requirement the Commission's Phase 1 decision establishes for 2012, the Edison motion specifically relates to what the utility can lawfully continue to collect from its customers for an electric generating asset for which it surrendered the operating license effective June 7, 2013. What collections are just and reasonable for an abandoned asset?

A measure of Edison's overreach in presuming its ability to redirect the current overcollections to address its own cash flow timing needs is its disdainful response to Assigned Commissioner Florio's remarks at the July 12, 2013 prehearing conference. Dismissing his

[2] A4NR addresses SDG&E's related motion of July 24, 2013 in a separate response filed this same day.
[3] Edison motion, p. 1.
[4] The phrasing is ALJ Darling's (Transcript, p. 241), reiterating Phase 1's focus on the deferred first reasonableness review of the SONGS-related expenses sought in A.10-11-015, Edison's 2012 general rate case. See also Ruling on Legal Questions, pp. 15 – 16 and Scoping Memo, pp. 3 – 4.
[5] As explained in its Phase 1 opening and reply briefs, A4NR believes that Edison failed to meet its burden of proof that its 2012 response to the outages was not imprudent.

concerns with a highhanded "SCE respectfully disagrees with this position as a matter of law," Edison glosses over what Assigned Commissioner Florio actually said: "So I would strongly encourage both utilities to talk to your management and see what you can do to avoid putting the Commission in the position of what many people would view as double charging for San Onofre and for replacing San Onofre."[6] Compare this to what Edison International CFO James Scilacci said about "double charging" in the June 7, 2013 plant closure teleconference with investment analysts:

> *We have the OII process, and for all intents and purposes, unless we're able to achieve something outside of that, that's the process we will use. And just -- so bear in mind here on the principle, so the fact -- you don't want a situation where we're paying -- our customers are paying twice for power and paying for the investment. And so there's a current [ph] principle, if you're not -- if you shut down a plant, there's going to be replacement power. And you have a plant that's operating, you just have to make sure you don't include it in any kind of projections that there's some exposure for double recovery.*[7]

And so, for a third time since the Phase 1 evidentiary hearings concluded,[8] an abrupt chasm emerges between what Edison is willing to officially put forward in I.12-10-013 and the more candid admissions it makes to the financial markets. A4NR has no hesitance in finding greater credibility in these communications to the markets, where Edison clearly recognizes there are penalties for prevarication. The Commission should strive to close this gap.

---

[6] Transcript, p. 131.

[7] http://seekingalpha.com/article/1487902-edison-internationals-ceo-hosts-san-onofre-nuclear-generating-station-conference-transcript?page=6&p=qanda&l=last

[8] The first was Edison International CEO Ted Craver's June 7, 2013 revelation of the existence of cost/benefit analyses, despite Edison's sworn testimony in Phase 1 to the contrary. The second was the stark contradiction of Edison's Phase 1 testimony in its July 18, 2013 Notice of Dispute served on Mitsubishi Heavy Industries, Ltd. and Mitsubishi Nuclear Energy Systems.

III. EDISON'S JULY 22 TESTIMONY (SCE-36) AND JULY 25 ADVICE LETTER 2926-E ARE NECESSARY ELEMENTS FOR CAPTURING THE MOTION'S FULL AROMA.

Edison's motion succinctly describes the plumbing adjustment it seeks to create as of September 1, 2013 between the BRRBA and the ERRA, but it is significantly more ambiguous in explaining what is expected to flow through this plumbing. The motion insists that "SCE cannot now predict with precision"[9] the expected level of SONGS O&M reduction (i.e., the amount of overcollections that will be used to forestall the threatened ERRA rate increase), but SCE-36 -- served the same day as the Edison motion-- displays the classic Edison both-sides-of-the-mouth technique by flaunting an "expected" annual reduction of $280 million by the time of Edison's 2015 GRC.[10] Of course, SCE-36 makes it abundantly clear that the volume and pace of such O&M reductions (and the consequent ERRA credits) will be left entirely to Edison's discretion but Edison promises to include "support" for the amount of O&M saving in its annual ERRA proceedings.[11] And, of course, there's always the hypothetical prospect of reasonableness review during those ERRA proceedings.

Unless it deems the Edison motion absurd on its face, the Commission should reflect upon the fact that SCE-36 is yet to be tested by cross-examination and is consequently unfit to serve as the basis for Edison's plumbing proposal. What volume of O&M reductions could reasonably be expected if left to Edison's sole discretion? In ruminating on how to fill in some of SCE-36's more gaping ambiguities, the Commission should recall that after the SONGS outage in 2012, Edison's concerted efforts to reduce Base O&M resulted in savings of only $25 million

[9] Edison motion, p. 2.
[10] SCE-36, p. 20.
[11] *Id.,* pp. 19 – 20.

from an "authorized" $389 million,[12] a less than impressive 6.4% trimmed from an inoperative plant!

Advice Letter 2926-E, filed July 25, 2013 (three days after Edison's motion), provides some insight into the ERRA situation:

- Because D.12-12-033 precludes Edison from recovering its greenhouse gas ("GHG") costs in rates until it begins to return its GHG cap-and-trade revenues to customers, as of June 30, 2013 there was an **overcollection** of $238 million in Edison's GHG revenue balancing account ("GHGRBA"). As Advice Letter 2926-E admits, "When considering both the recorded ERRA under-collection and the GHGRBA over-collection, the combined net under-collection is only $130 million ($368 million - $238 million)."[13]
- Edison's primary ERRA stratagem is a separate motion, also filed on July 22, 2013, in A.12-08-001 to "turn-off" its required amortized refund of the recorded December 31, 2011 ERRA **overcollected** balance of $426 million; increase ERRA rates by $432 million; and reduce "other rates (e.g., distribution and public purpose programs)" by $221 million.
- By comparison, the unquantifiable SONGS plumbing proposal appears to be a financial fig leaf, but Advice Letter 2926-E manages, without citation, to tie it to still another interpretation of the apparently inscrutable Assigned Commissioner Florio:

[12] SCE-4, p. 12. Both Edison's motion (at p. 3) and SCE-36 (at p. 18) state, "Currently, the authorized GRC revenue requirement recovered through the BRRBA includes approximately $300 million of SONGS-related O&M expenses annually." A4NR assumes "approximately $300 million" refers to Edison's 78.21% share, while SCE-4's $389 million is the full 100% authorized Base O&M for 2012. If so, the exercise of the same unfettered managerial discretion proposed in Edison's motion achieved some $19.6 million of Base O&M savings in 2012.

[13] Edison Advice Letter 2926-E, p. 2. The Advice Letter notes that these are separate accounts whose respective revenues must be collected and returned to separate groups of customers, but does not describe what degree of overlap exists between the two groups.

Commissioner Florio has expressed concerns about increasing ERRA rates and that SCE should address the ERRA under-collection before addressing the issue of a potential reduction in SCE's base rates related to the San Onofre Nuclear Generating Station.[14]

IV. EDISON'S MOTION SHOULD BE DENIED, DRA'S SHOULD BE GRANTED.

The Commission can easily recognize Edison's motion as the subterfuge which it is. By no stretch of the imagination can it be considered responsive to the double recovery injustice of continuing collections for an abandoned electric generating asset. By Edison's own testimony, only $176 million of the $739 million 2012 "TOTAL SONGS 2&3 Revenue Requirement" is "unrelated to the production of electricity,"[15] meaning that $563 million cannot be justifiably charged to Edison customers after the June 7, 2013 effectiveness date of the surrender of the SONGS operating license. This amount should be trued up to reflect the 2013 escalation in revenue requirement,[16] converted to 2013 dollars, and removed from rates. With the small adjustments A4NR has previously suggested,[17] the motion to accomplish this filed by the Division of Ratepayer Advocates on June 25, 2003 should be granted forthwith.

V. CONCLUSION.

For the reasons stated herein, Edison's motion should be denied.

[14] *Id.,* p. 3.
[15] SCE-1, pp. 6 – 7. These amounts are expressed in 2009 dollars.
[16] Edison's base rates were allowed to increase by 6.5% between 2012 and 2013.
[17] A4NR, "Response to Motion of Division of Ratepayer Advocates to Amend the Scoping Memo and for Summary Disposition to Immediately Remove Specified SONGS Units 2 and 3 Revenue Requirement from Rates," July 10, 2013.

Respectfully submitted,

By: /s/ John L. Geesman

JOHN L. GEESMAN
DICKSON GEESMAN LLP

Date: July 31, 2013

Attorney for
ALLIANCE FOR NUCLEAR RESPONSIBILITY