167 FERC ¶ 61,214
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

Southern California Edison Company — Docket No. ER19-1553-000

ORDER ACCEPTING AND SUSPENDING PROPOSED FORMULA RATE FILING, AND ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued June 11, 2019)

1. On April 11, 2019, Southern California Edison Company (SoCal Edison) filed, pursuant to section 205 of the Federal Power Act (FPA),[1] revisions to its Transmission Owner Tariff (TO Tariff) to amend its formula rate (Second Revised Formula Rate) for the costs associated with its transmission facilities. SoCal Edison is also including a proposed 2019 base Transmission Revenue Requirement (TRR) and associated retail and wholesale transmission rates based on the Second Revised Formula Rate. In this order, the Commission accepts SoCal Edison's Second Revised Formula Rate and related 2019 TRR, suspends it for five months, to become effective November 12, 2019, subject to refund, and establishes hearing and settlement judge procedures.

I. Background

2. SoCal Edison recovers its TRR, as a participating transmission owner in the California Independent System Operator Corporation (CAISO), through the use of a transmission formula rate. SoCal Edison's transmission formula rate consists of two components: (1) the Formula Rate Protocols; and (2) the Formula Rate Spreadsheet. The Formula Rate Protocols set forth process-related items, such as the Annual Update filing timeline, as well as various requirements that SoCal Edison must meet in Annual Update informational filings while the Formula Rate is in effect. The Formula Rate Spreadsheet is the set of calculations that SoCal Edison must follow in calculating its base TRR.[2]

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[1] 16 U.S.C. § 824d (2012).

[2] SoCal Edison Transmittal at 4-5.

3. SoCal Edison's current formula rate structure was accepted by the Commission on December 29, 2017 (First Revised Formula Rate). In that case, the Commission issued an order accepting SoCal Edison's First Revised Formula Rate and associated 2018 TRR, suspended it for a nominal period, to be effective January 1, 2018, subject to refund, and established hearing and settlement judge procedures.[3] The First Revised Formula Rate is currently in settlement judge procedures.

II. Instant Filing

4. SoCal Edison states that its proposed Second Revised Formula Rate is primarily due to dramatic material changes to its regulatory and financial conditions that have occurred since SoCal Edison filed its currently effective First Revised Formula Rate. Specifically, SoCal Edison asserts that there are significant wildfire-related factors outside of its control that create a persistent risk of wildfire liability. SoCal Edison claims that there has been a dramatic change in financial risk to California utilities caused by the California courts' application of inverse condemnation laws[4] combined with the California Public Utilities Commission's (CPUC) recent decision denying wildfire-associated cost recovery for San Diego Gas & Electric Company.[5] Therefore, SoCal Edison states that it is submitting this Second Revised Formula Rate to account for this risk and ensure it can encourage investment sufficient to attract the capital necessary to provide safe and reliable service.[6]

5. Under the proposed Second Revised Formula Rate, SoCal Edison's proposed base TRR for 2019 will be $1,328,294,741 compared to the current base TRR of $1,038,486,906, as filed by SoCal Edison in 2018 in its TO2019 Annual Update.[7]

[3] *S. Cal. Edison Co.*, 161 FERC ¶ 61,309 (2017).

[4] Inverse condemnation laws provide that an electric utility will be held strictly liable for property damages and legal fees if its facilities are the substantial cause of a fire regardless of fault and even if the utility was fully compliant with all applicable rules and regulations, and acted reasonably. SoCal Edison Transmittal at 2, SCE-24 at 17-20.

[5] SoCal Edison Transmittal at 7 (citing CPUC Decision (D.)17-11-033, *Decision Denying Application* (issued December 6, 2017), *reh'g denied*, D.18-07-025 *Order Denying Rehearing of D.17-11-033* (July 12, 2018)).

[6] *Id.*

[7] Pursuant to Section 3 of its formula rate protocols, SoCal Edison filed its TO2019 Update on November 29, 2018 revising its Base TRR and associated rates to be effective on January 1, 2019.

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Consistent with the currently effective Formula Rate Protocols, the Second Revised Formula Rate will remain in effect without termination unless and until SoCal Edison files pursuant to Section 205 of the FPA to replace the Second Revised Formula Rate with a successor transmission rate mechanism and the Commission accepts such successor transmission rate mechanism.[8]

A. Return on Equity

6. SoCal Edison proposes a return on equity (ROE) of 17.62 percent, comprised of a base ROE of 11.12 percent plus (1) a 600 basis point adder to account for extraordinary wildfire liability; and (2) a 50 basis point incentive ROE adder for CAISO participation as previously approved by the Commission.

7. SoCal Edison states that its proposed 11.12 percent base ROE recommendation is based on the Commission's most recent guidance, including the multi-model methodology set by the Commission in the Coakley Briefing Order[9] and Opinion No. 531.[10] When establishing the proxy group, SoCal Edison explains that it did not eliminate from the group any company that was more than one notch above or below SoCal Edison's corporate credit rating as determined in the Coakley Briefing Order. SoCal Edison states that such a restriction would lead to a sample that is too small and that SoCal Edison's credit rating has been evolving over the past year and may continue to do so. Therefore, SoCal Edison included all electric utilities that are considered investment grade. SoCal Edison then evaluated the ROE utilizing the four financial models adopted in the Coakley Briefing Order: (1) the Discounted Cash Flow (DCF) model; (2) the Capital Asset Pricing Model (CAPM); (3) the Expected Earnings model; and (4) the Risk Premium model. SoCal Edison then developed a composite zone of reasonableness produced by the four models and identified the central tendency for average and above-average risk utilities based upon the Coakley Briefing Order. Under its analysis, SoCal Edison notes that the composite zone of reasonableness is from 6.7 percent to 12.5 percent with a midpoint of 9.6 percent. However, SoCal Edison

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[8] *See* Southern California Edison Company, Transmission Owner Tariff, Attachment 1 to App. IX – Formula Rate Protocols (5.0.0), § 2.

[9] *Coakley v. Bangor Hydro-Elec. Co.*, 165 FERC ¶ 61,030 (2018) (Coakley Briefing Order).

[10] *Coakley v. Bangor Hydro-Elec. Co*., Opinion No. 531, 147 FERC ¶ 61,234, *order on paper hearing*, Opinion No. 531-A, 149 FERC ¶ 61,032, (2014), *order on reh'g*, Opinion No. 531-B, 150 FERC ¶ 61,165 (2015), *vacated and remanded sub nom. Emera Maine v. FERC*, 854 F.3d 9 (D.C. Cir. 2017).

concludes that it is a utility with above-average risk and should receive an ROE of 11.12 percent, the midpoint of the upper half of the range.[11]

8. Additionally, SoCal Edison argues that its conventional base ROE does not reflect the extraordinary wildfire liability risks that it faces. SoCal Edison provides testimony that concludes that an ROE allowance of 600 basis points added to SoCal Edison's base ROE would be commensurate with the size and insurance cost of the wildfire problem. SoCal Edison states that authorizing such an amount on top of the base ROE would provide additional investor returns needed to account for the severe wildfire risk SoCal Edison faces.[12]

9. In the context of the proposed 600 basis point ROE adder for wildfire risk, SoCal Edison contends that solely utilizing a conventional application of the Commission's construct for determining a zone of reasonableness is not sufficient to satisfy the capital attraction standard that is the foundation of that construct. SoCal Edison states that the impact of wildfire risk requires additional analysis of ROEs that are required to attract equity capital for companies (in other industries) that face risks as significant as the wildfire risk that SoCal Edison faces. SoCal Edison notes that non-electric utilities with risks more comparable to those faced by SoCal Edison have ROEs significantly higher than its requested 17.12 percent. Therefore, SoCal Edison utilizes a proxy group analysis that includes capital-intensive network industries, which it states face risks more comparable to those confronted by SoCal Edison. As such, SoCal Edison identifies a zone of reasonableness based on this alternative proxy group of 6.3 percent to at least 18.2 percent.[13]

10. SoCal Edison also states that it continues to be a member of CAISO, and consistent with Commission policy, should continue to receive the 50 basis point adder for CAISO participation. Additionally, SoCal Edison asserts that its participation has resulted in tangible benefits, such as implementing numerous policies and practices that benefit the CAISO grid and its customers.[14] Finally, SoCal Edison states that it should continue to receive the three transmission project-specific incentive ROE adders previously approved

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[11] SoCal Edison Transmittal at 11-13, Ex. SCE-25 (Testimony of Bente Villadsen) at 40-43 (Villadsen Test.).

[12] *Id.*, Ex. SCE-22 (Testimony of Frank Graves) at 4.

[13] *Id.* at 14-15, Villadsen Test. at 43-51.

[14] *Id.* at 16, Villadsen Test.at 17 (citing Ex. SCE-21 (Testimony of Gary Stern) at 35-36).

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by the Commission.[15] SoCal Edison notes that while the total ROEs for the Tehachapi (12.87 percent) and Devers-Colorado River (12.62 percent) projects are above the upper end of the proposed multi-model reasonable range of 12.5 percent, there are companies in the full range with an estimated ROE above 12.87 percent.[16]

B. Cost of Capital

11. SoCal Edison states that it incurred a 2018 accrual of a fourth quarter non-cash charge of $1.8 billion against earnings due to potential damage claims and other costs associated with wildfire and mudslide events of 2017 and 2018 in SoCal Edison's territory (Wildfire Reserve). SoCal Edison states that it lacks sufficient information regarding cost recovery of wildfire-related liability at the CPUC to record an offsetting "regulatory asset" at this time. As such, SoCal Edison explains that the impact of taking the Wildfire Reserve without sufficient offsets has been to lower its equity ratio under its proposed Second Revised Formula Rate even though no equity has in fact been adjusted. SoCal Edison also asserts that this non-cash net charge is due to the same unsettled legal and regulatory approach and negatively impacts investor expectations. Therefore, in order to reflect a just and reasonable rate of return, SoCal Edison concludes that wildfire related non-cash charges, including this Wildfire Reserve, should be excluded when determining SoCal Edison's total proprietary capital as part of its capital structure.[17]

12. SoCal Edison also states that long-term debt issues or identified portions of a debt issue that do not finance rate base should not be included in the calculation of the long-term debt component of its capital structure. For example, SoCal states that Series 2014C bonds were issued for the purpose of financing SoCal Edison's fuel inventories, which are not part of SoCal Edison's Commission-jurisdictional rate base. Therefore, SoCal Edison claims that since it is not permitted to use the proceeds from these bonds to finance operating expenses or capital additions, the Series 2014C bonds should be excluded from any capital structure calculation in the formula. Additionally, SoCal Edison notes that, due to the unique wildfire risk that it faces in light of inverse condemnation policies, SoCal Edison may find it necessary to issue debt in the future to specifically pay for wildfire-related liability. SoCal Edison states that such debt, or

[15] The Commission previously authorized the following transmission project-specific ROE adders for SoCal Edison: (1) 75 basis points for the Rancho Vista Substation; (2) 100 basis points for the Devers-Colorado River Project; and (3) 125 basis points for Tehachapi Project.

[16] SoCal Edison Transmittal, Villadsen Test. at 18.

[17] *Id.* at 17.

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specified portions thereof, would not finance rate base and thus would not be included in the calculation of the capital structure.[18]

C. Other Revisions to Formula Rate and Formula Rate Protocols

13. SoCal Edison states that it has identified certain refinements to the Formula Rate and Formula Rate Protocols to provide for a more efficient process, ensure compliance with evolving rules, and improve the treatment of certain costs. These revisions include, among other things: (1) an adjustment to gross load for calculation of wholesale rates; (2) a more refined allocation of certain O&M costs to CAISO-related transmission service; (3) certain clarifications to schedule 17 – Depreciation Expense of the formula; (4) a revised definition of "Material Accounting Changes"; and (5) numerous other ministerial changes.[19]

D. Effective Date

14. SoCal Edison requests an effective date of June 12, 2019. SoCal Edison also states that if the Commission suspends the effective date for five months, it requests an effective date of November 12, 2019. However, in the event of a five month suspension, SoCal Edison requests that, for administrative and customer clarity considerations, the associated transmission rates be updated on January 1, 2020.[20]

III. Notice of Filing and Responsive Pleadings

15. Notice of SoCal Edison's filing was published in the *Federal Register*, 84 Fed. Reg. 16,007 (2019), with interventions and protests due on or before May 2, 2019. CPUC filed a timely notice of intervention, protest, request for hearing, and request for five month suspension. Timely motions to intervene were filed by San Diego Gas & Electric Company (SDG&E), Pacific Gas and Electric Company (PG&E), GridLiance West LLC, Golden State Water Company, Energy Producers & Users Coalition, and Imperial Irrigation District. Timely motions to intervene and protests were filed by the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (Six Cities), Public Citizen, Inc. and The Utility Reform Network (Public Citizen/TURN), the City of Santa Clara, California and M-S-R Public Power Agency

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[18] *Id.*, Ex. SCE-17 (Testimony of Sergio Deana) at 6-7.

[19] *Id*. at 24-26, Ex. SCE-5, Ex. SCE-6 (Testimony of Berton J. Hanson).

[20] *Id.* at 9-10. SoCal Edison notes that the formula rate will true-up any potential mismatch between the approved formula rate and the rates charged to customers from November 12, 2019 through December 31, 2019 as part of the normal 2019 true-up TRR process. *Id.* at 10 n.14.

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(M-S-R/SVP), Northern California Power Agency (NCPA), the California Department of Water Resources State Water Project (SWP), the City and County of San Francisco (San Francisco), the Modesto Irrigation District (Modesto), the Transmission Agency of Northern California (TANC), the City of Los Angeles Department of Water and Power (LADWP), and the State Water Contractors. On May 17, 2019, SoCal Edison filed an answer to protests.

A. Protests

16. Protesters generally argue that SoCal Edison's proposed rate increase is unjust, unreasonable, and substantially excessive, and presents numerous issues that require formal discovery. Accordingly, protesters assert that the Commission should suspend SoCal Edison's proposed rates for the maximum five-month period, subject to refund, and establish hearing and settlement judge procedures.[21] M-S-R/SVP asserts that the Commission should summarily reject SoCal Edison's proposed 600 basis point wildfire adder, irrespective of any action it may take on the remaining portions of the proposal.[22]

17. Protesters assert that SoCal Edison's proposed 11.12 percent base ROE is unjust and unreasonable for a number of reasons. CPUC, Six Cities, M-S-R/SVP, and SWP contend that SoCal Edison's cost of equity analysis using the four methods adopted by the Commission in the Coakley Briefing Order[23] produces inflated and unreasonable results. Specifically, they express concerns regarding: (1) SoCal Edison's proposed proxy group, (2) its use of the midpoint for only the upper half of the zone of reasonableness calculated from this proxy group, (3) flaws in its CAPM, Expected Earnings, and Risk Premium analyses; and (4) its proposal to add a new study using a non-electric utility proxy group to expand the top end of the zone of reasonableness to

[21] CPUC Protest at 37-38; Six Cities Protest at 37-40; M-S-R/SVP Protest at 33-38; NCPA Protest at 9; SWP Protest at 5-6; San Francisco Protest at 3-4; Modesto Protest at 7; TANC Protest at 6-7; State Water Contractors Protest at 16-17; LADWP Protest at 5-6.

[22] M-S-R/SVP Protest at 27-29.

[23] 165 FERC ¶ 61,030.

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approximately 18 percent.[24] Protesters also contend that SoCal Edison's Formula Rate Protocols lack sufficient transparency and are inconsistent with Commission precedent.[25]

18. Protesters also object to SoCal Edison's proposal to include a 600 basis point adder for wildfire risk. Protesters argue that the wildfire adder violates the zone of reasonableness cap and is therefore excessive and must be rejected.[26] While CPUC states that it does not object to SoCal Edison raising this issue, it does object to the magnitude of the proposed risk premium. CPUC explains that the wildfire liability issues in California, including state law on inverse condemnation, are complex, and do create atypical utility risk, but contends that the 600 basis point adder is unreasonably large. CPUC contends that ROE adders may not be a good or effective way to address wildfire liability risks so utilities can continue to operate successfully and meet the capital attraction standard. Protesters contend that this issue is presently being addressed in California in various forums,[27] and any recovery of wildfire costs should be through retail rates.[28] Protesters raise concerns that allowing recovery in the Commission-jurisdictional rate could result in double-recovery.[29]

19. Protesters also assert that existing ratemaking principles already address SoCal Edison's wildfire risk. CPUC asserts that a normal utility authorized ROE of, for example, 10 percent already includes a large risk premium over the risk free rate of about three percent (i.e., the current 30-year Treasury yield) of about 700 basis points. Thus, protesters assert, at least some, if not most, of the wildfire liability risk already would be reflected in the measured cost of equity using the Commission's four methods. In particular, protesters assert that SoCal Edison's risks are accounted for through the Commission's credit rating screen, which reflects SoCal Edison's recent credit rating

[24] CPUC Protest at 6-20; Six Cities Protest at 3-16; M-S-R/SVP Protest at 10-12, 29; SWP Protest at 6-17; State Water Contractors Protest at 7-11; LADWP Protest at 7-14.

[25] M-S-R/SVP Protest at 30-32; State Water Contractors Protest at 15-16; LADWP Protest at 26-31.

[26] CPUC Protest at 2-5; Six Cities Protest at 16-19; State Water Contractors Protest at 10; LADWP Protest at 15-17.

[27] Public Citizen/TURN Protest at 3-5; NCPA Protest at 4; SWP Protest at 18; San Francisco Protest at 5.

[28] M-S-R/SVP Protest at 24-27.

[29] State Water Contractors Protest at 11-12.

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downgrade, and which was largely a result of wildfire risk. In addition, protesters contend that SoCal Edison's wildfire liability will be mitigated through other mechanisms, including insurance and the use of a regulatory asset in the form of an unfunded reserve.[30] Public Citizen/TURN and M-S-R/SVP assert that SoCal Edison overstates its risk, because it is not at risk under inverse condemnation absent imprudence,[31] and that the Commission should not increase SoCal Edison's ROE to protect it against its own imprudence.[32] Public Citizen/TURN also notes that SoCal Edison has requested CPUC funding for its wildfire risk mitigation plan, which will reduce its risks going forward.[33] CPUC also contends that SoCal Edison overstates non-wildfire-related procurement and regulatory risk and decontextualizes facts about the electric utility regulatory sphere in California.[34]

20. CPUC, NCPA, SWP, San Francisco, and LADWP also take issue with SoCal Edison's proposal for a 50 basis point adder for CAISO participation.[35] Protesters assert that SoCal Edison's CAISO participation is required by California law and not voluntary, and thus it is not entitled to the adder. Protesters assert that the Commission should reject this adder, or alternatively, SoCal Edison's eligibility for this adder should be determined in the pending litigation regarding PG&E's equivalent 50 basis point adder for CAISO participation, which is on remand from the Ninth Circuit.[36] Protesters suggest that the Commission use that proceeding to determine the outcome of this issue.[37] CPUC further contends that, even if the Commission determines that SoCal Edison is eligible for the

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[30] CPUC Protest at 21-24; Six Cities Protest at 19-21; M-S-R/SVP Protest at 23-24; NCPA Protest at 5-6; SWP Protest at 18; San Francisco Protest at 5; State Water Contractors Protest at 10, 12; LADWP Protest at 15-16.

[31] Public Citizen/TURN Protest at 1-3; M-S-R/SVP Protest at 14-21.

[32] Public Citizen/TURN Protest at 5-6; M-S-R/SVP Protest at 22-23.

[33] Public Citizen/TURN Protest at 6.

[34] CPUC Protest at 24-29.

[35] *Id.* at 31-33; NCPA Protest at 6-7; SWP Protest at 19-20; San Francisco Protest at 6; LADWP Protest at 18-19.

[36] CPUC Protest at 31-32 (citing *Pac. Gas & Elec. Co.*, 164 FERC ¶ 61,121 (2018) (setting the issue of PG&E's eligibility for a 50 basis point adder for further briefing)).

[37] NCPA Protest at 6-7; SWP Protest at 19-20; San Francisco Protest at 6; LADWP Protest at 18.

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50 basis point adder, the authorized ROE cannot exceed the top of the zone of reasonableness. Protesters contend that SoCal Edison's proposed 18.4 percent ROE, which includes the 50 basis point adder, is outside the top of the zone of reasonableness.[38]

21. Protesters also assert that SoCal Edison's proposed capital structure is not justified. In particular, protesters object to: (1) SoCal Edison's statement that if in the future it issues debt to pay for wildfire liabilities, such debt, or portions thereof, would not finance rate base and thus would not be included in the calculation of the capital structure; (2) its proposal to reverse any equity write-off taken for wildfire liabilities, including the $1.8 billion taken in 2018;[39] and (3) its exclusion from its long-term debt cost rate and capital structure of debt related to fuel inventories, and to a number of cost deductions to debt in SoCal Edison's proposed capital structure.[40]

22. Moreover, CPUC asserts that SoCal Edison's capital forecast is inadequate to allow customers to review the reasonableness of proposed capital additions. According to CPUC, SoCal Edison's proposed capital additions represent a significant portion of the company's rates, but CPUC is unable to tell whether or not the forecast is reasonable and whether or not SoCal Edison's formula template is sufficiently transparent. CPUC also expresses concerns about SoCal Edison's inclusion of costs for projects that will require a Certificate of Public Convenience and Necessity from the CPUC, asserting that it is unclear why SoCal Edison would forecast extensive costs for projects that might never get constructed.[41]

23. Protesters also take issue with other aspects of SoCal Edison's proposal. In particular, protesters express concerns regarding SoCal Edison's: (1) continuation in this proposal of the unlimited rate term it proposed in the First Revised Formula Rate;[42] (2) proposed revisions to the calculation of O&M expenses, allocation of administrative and general expenses, and ISO transmission plant;[43] (3) proposed inclusion in the

[38] CPUC Protest at 32-33; LADWP Protest at 18-19.

[39] CPUC Protest at 29-31; Six Cities Protest at 23-24; SWP Protest at 25.

[40] Six Cities Protest at 21-23; M-S-R/SVP Protest at 7-10; SWP Protest at 24-25; State Water Contractors Protest at 14-15; LADWP Protest at 19-21.

[41] CPUC Protest at 33.

[42] *Id.* at 36-37; SWP Protest at 25-26.

[43] SWP Protest at 22; LADWP Protest at 23-25.

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proposed formula of incentive compensation and retirement programs that protesters assert have not been shown to benefit ratepayers;[44] (4) continuation of the depreciation rates it proposed in the First Revised Formula Rate;[45] (5) implementation of the effects of the Tax Cuts and Jobs Act of 2017, which protesters assert should be subject to the outcome of the Commission's rulemaking proceeding in Docket No. RM19-5-000; (6) methodology to calculate its Post-Retirement Benefits Other than Pensions;[46] and (7) proposed treatment of accumulated deferred income taxes and accumulated depreciation associated with its existing plant in service.[47]

B. SoCal Edison Answer

24. While SoCal Edison disagrees with many of the assertions raised by protesters, it does not oppose the requests to set the matter for hearing and settlement judge procedures.[48] However, SoCal Edison argues that the Commission should deny the protesters' request to summarily reject the 600 basis point ROE adder for wildfire risk. SoCal Edison states that its risk profile is unique among electric utilities due to the increasing risk of catastrophic wildfires, California's inverse condemnation doctrine and the manner in which the CPUC applies prudency standards to wildfire cost recovery. SoCal Edison asserts that these factors create significant risks that directly affect equity investors' required return from SoCal Edison, and that applying conventional ROE financial models to a conventional proxy group of electric utilities would not adequately capture these risks, particularly for equity holders.[49]

25. With respect to the 50 basis point ROE incentive adder for participation in CAISO, SoCal Edison disagrees with protesters' assertions that eligibility for that adder should be determined in the pending PG&E litigation.[50] SoCal Edison contends that the issue of eligibility for this adder should be independently determined in this proceeding as the

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[44] CPUC Protest at 34-36; Six Cities Protest at 30-32; LADWP Protest at 25-26.

[45] CPUC Protest at 37; Six Cities Protest at 24-29; NCPA Protest at 7-9; SWP Protest at 20-21; San Francisco Protest at 7-8; State Water Contractors Protest at 13; LADWP Protest at 21-22.

[46] Six Cities Protest at 32-33; LADWP Protest at 25.

[47] Six Cities Protest at 34; SWP Protest at 23-24.

[48] SoCal Edison Answer at 2.

[49] *Id.*

[50] *Id.* at 37.

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Commission may choose to recognize that SoCal Edison has shown that benefits flow from membership and support SoCal Edison's receipt of the adder. SoCal Edison concludes that while it does not oppose setting this issue for hearing and settlement procedures, there is no basis for tying the result to the pending PG&E litigation.[51]

IV. Discussion

A. Procedural Matters

26. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), CPUC's notice of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

27. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2018), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept SoCal Edison's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

28. Our preliminary analysis indicates that SoCal Edison's Second Revised Formula Rate and proposed 2019 TRR have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. SoCal Edison's filing raises issues of material fact that cannot be resolved based on the record before us and that are more appropriately addressed in the hearing and settlement judge procedures ordered below.

29. In *West Texas Utilities Co.*, the Commission explained that, when its preliminary analysis indicates that proposed rates may be unjust and unreasonable, and may be substantially excessive, the Commission will generally impose a maximum suspension (i.e., five months).[52] Based on our preliminary analysis, we find that SoCal Edison's proposed rates may yield substantially excessive revenues. Therefore, we accept SoCal Edison's proposed Second Revised Formula Rate and resulting proposed 2019 TRR for filing, suspend it for five months to become effective November 12, 2019, subject to refund, and set all issues for hearing and settlement judge procedures.

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[51] *Id*. at 37-38.

[52] *W. Tex. Utils. Co.*, 18 FERC ¶ 61,189, at 61,374-75 (1982).

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We also grant SoCal Edison's request to allow the transmission rates to be updated on January 1, 2020, which aligns with SoCal Edison's regular rate cycle and will eliminate the need to update the rates twice within two months.

30. While we are setting this matter for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.[53] If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding. The Chief Judge, however, may not be able to designate the requested settlement judge based on workload requirements which determine judges' availability.[54] The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assignment of the case to a presiding judge.

<u>The Commission orders</u>:

(A) SoCal Edison's proposed Second Revised Formula Rate and proposed 2019 TRR are hereby accepted for filing and suspended for five months to become effective November 12, 2019, subject to refund, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R. Chapter I), a public hearing shall be held in Docket No. ER19-1553-000 concerning the justness and reasonableness of SoCal Edison's proposed Second Revised Formula Rate and proposed 2019 TRR, as discussed in the body of this order. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (C) and (D) below.

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[53] 18 C.F.R. § 385.603 (2018).

[54] If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five (5) days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (http://www.ferc.gov/legal/adr/avail-judge.asp).

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(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2018), the Chief Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates a settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(D) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(E) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Document Content(s)