

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA**

Application of Southern California Edison	)	
Company (U 338-E) for Authorized Cost of	)	A.07-05-003
Capital for Utility Operations for 2008	)	(Filed May 8, 2007)
_____	)	
	)	
And Related Proceedings.	)	A.07-05-007
_____	)	A.07-05-008

**REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)  
REGARDING THE PROPOSED DECISION OF  
ADMINISTRATIVE LAW JUDGE GALVIN**

MICHAEL D. MONTOYA  
LAURA I. GENAO

Attorneys for  
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue  
Post Office Box 800  
Rosemead, California 91770  
Telephone: (626) 302-6842  
Facsimile: (626) 302-1935  
E-mail: [laura.genao@sce.com](mailto:laura.genao@sce.com)

Dated: **May 27, 2008**

**REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)**

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As explained more fully below, many proposals advanced by intervenors in their opening comments should be rejected. The CPUC should adopt the PD with the modifications suggested by SCE in its opening comments.<sup>2</sup>

## II.

### **THE CPUC SHOULD IGNORE DRA’S ATTEMPT TO RELITIGATE THE ADOPTED COST OF CAPITAL FOR 2008**

DRA criticizes the PD for ignoring its suggestion, in briefing, that a multi-year mechanism is fundamentally inconsistent with Decision No. 07-12-049, because DRA believes that decision adopted returns on equity (“ROE”) levels which are not based on record evidence. The CPUC should reject DRA’s continued attempt to relitigate Phase I in this second phase of Application No. 07-05-003, et al.

DRA’s attempt to relitigate Phase I is clear. DRA’s pleading asserts that in Phase I “the Commission approved Returns on Equity (‘ROEs’) for all three California utilities that were adjusted over 100 basis points upwards above what the model results determined to be reasonable ROEs, based on business and regulatory ‘risks’ that were never determined with any specificity by any record evidence and were explicitly recognized to be temporary in nature.”<sup>3</sup> DRA’s statement demonstrates its continued attempt to impugn the CPUC’s Phase I decision, even though DRA failed to avail itself of the opportunity to raise this “record evidence” concern in an application for rehearing of Decision No. 07-12-049.<sup>4</sup>

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<sup>2</sup> SCE’s suggested changes are summarized in Appendix A to its opening comments, which lists SCE’s proposed changes to the Findings of Fact and Conclusions of Law found in the PD.

<sup>3</sup> Comments of the Division of Ratepayer Advocates on Proposed Phase Two Decision of ALJ Galvin, dated May 19, 2008 (“DRA Comments”), pp. 1-2.

<sup>4</sup> Rule 16.1 of the CPUC’s Rules of Practice and Procedure require a party challenging the legal or factual basis for a CPUC decision to file an application for rehearing within 30 days of the challenged decision. DRA did not avail itself of this opportunity with regard to Decision No. 07-12-049.

Further, although DRA attempts to tie its assertion to Phase II by stating that the Phase II PD “never addressed the fundamental issue of whether it is reasonable to set an ROE that has been explicitly adjusted upward so dramatically for subjective reasons, such as business risks and regulatory risks, as the starting point for an automatic adjustment mechanism supposedly based on objective factors, such as changes to interest rates,” there is no “fundamental” inconsistency in adopting the mechanism the PD has set out. DRA and all other parties were aware that this proceeding would have two phases and that the first one would set an ROE that could serve as the basis for a multi-year mechanism.<sup>5</sup> Accordingly, DRA’s claim that the PD somehow ignores a “fundamental” Phase II argument must be rejected as inappropriate relitigation of a matter already decided by the CPUC.<sup>6</sup>

### III.

#### **CONTRARY TO DRA AND AGLET/TURN/UCAN, THE CPUC SHOULD NOT ADOPT THE MECHANISM CURRENTLY SET FORTH AS APPENDIX A TO THE PD**

DRA and Aglet/TURN/UCAN urge the CPUC to adopt the ROE adjustment mechanism described in the three scenarios contained in Appendix A to the PD.<sup>7</sup> For the reasons provided in SCE’s opening comments, the CPUC should not do this; instead the CPUC should adopt an ROE adjustment mechanism with the modifications that SCE has proposed.<sup>8</sup>

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<sup>5</sup> Assigned Commissioner’s Scoping Memo and Ruling, dated June 21, 2007, p. 2 (“The second phase of this proceeding will address cost of capital mechanisms that could replace annual cost of capital proceedings . . .”).

<sup>6</sup> Decision No. 07-12-049 clearly contemplated that Phase II would examine multi-year mechanisms that could replace the annual cost of capital proceedings. D.07-12-049, p. 49, Ordering Paragraph 7, p. 59.

<sup>7</sup> DRA Opening Comments, pp. 2-3; Comments of Aglet/TURN/UCAN on Phase 2 Proposed Decision of ALJ Galvin, filed May 19, 2008 (“Aglet/TURN/UCAN Opening Comments”), pp. 3-4.

<sup>8</sup> Opening Comments of Southern California Edison Company on Proposed Decision of Administrative Law Judge Galvin, dated May 19, 2008, pp. 3-4.

#### IV.

### **AGLET/TURN/UCAN'S PROPOSAL TO ALLOW INTERVENORS TO PETITION THE CPUC REGARDING COST OF CAPITAL IS UNNECESSARY**

Aglet/TURN/UCAN seeks the right to petition the CPUC if circumstances become such that authorized ROEs are too high.<sup>9</sup> This suggestion should be rejected as irrelevant under the CPUC's Rules of Practice and Procedure and the California Public Utilities Code. First, Rule 4.1 of the CPUC's Rules of Practice and Procedure specifically sets out a procedure for filing a complaint by any person which sets forth "any act or thing done or omitted to be done by any public utility including any rule or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission."<sup>10</sup> Although additional provisions apply to challenges as to the reasonableness of an adopted rate, it is clear that Aglet/TURN/UCAN's suggestion need not result in any changes to the PD—a procedure already exists for intervenors to challenge the CPUC's finding in interim years during the multi-year mechanism.

Second, Aglet/TURN/UCAN ignore that the CPUC can also "at any time, upon notice to the parties, and with opportunity to be heard . . . rescind, alter, or amend any order or decision made by it."<sup>11</sup>

These two provisions of existing law and rule govern CPUC proceedings and make the changes sought by Aglet/TURN/UCAN unnecessary.<sup>12</sup>

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<sup>9</sup> Aglet/TURN/UCAN Comments, p. 4.

<sup>10</sup> CPUC Rules of Practice and Procedure, Rule 4.1.

<sup>11</sup> Cal. Pub. Utilities Code §734.

<sup>12</sup> Additionally, even if California law and CPUC rules did not already cover the request, Aglet/TURN/UCAN's request should be rejected as untimely as the suggestion was not raised at any point during litigation of Phase 2 of this proceeding.

## V.

### **PG&E'S PROPOSAL TO UPDATE EMBEDDED COSTS ANNUALLY IS A REASONABLE PROPOSAL**

PG&E's comments discuss its proposal to update the embedded costs of debt and preferred stock on an annual basis.<sup>13</sup> Updating these costs on an annual basis is a reasonable alternative to only updating when the ROE adjustment mechanism is triggered.<sup>14</sup>

## VI.

### **CONCLUSION**

The PD proposes a well-designed mechanism with many favorable features. It should be adopted with SCE's proposed modifications as specified in SCE's opening comments and in these reply comments.

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<sup>13</sup> Opening Comments of Pacific Gas and Electric Company on Phase II Proposed Decision of Administrative Law Judge Michael J. Galvin, filed May 19, 2008, pp. 2-3.

<sup>14</sup> PD, Ordering Paragraph 2.b. However, SCE believes that even if embedded costs are updated on an annual basis, the provision in Ordering Paragraph 2.b including "forecasted interest rates for variable long-term debt and new long-term debt and preferred stock scheduled to be issued" should be retained.

Respectfully submitted,

MICHAEL D. MONTOYA  
LAURA I. GENAO

/s/ Laura I. Genao

---

By: Laura I. Genao

Attorneys for  
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue  
Post Office Box 800  
Rosemead, California 91770  
Telephone: (626) 302-6842  
Facsimile: (626) 302-1935  
E-mail: [laura.genao@sce.com](mailto:laura.genao@sce.com)

May 27, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) REGARDING THE PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE GALVIN on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **27th day of May, 2008**, at Rosemead, California.

/s/Cecilia R. Jones

Cecilia R. Jones

Project Analyst

SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue  
Post Office Box 800  
Rosemead, California 91770



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### Parties

---

FRANK J. COOLEY  
 SOUTHERN CALIFORNIA EDISON COMPANY  
 PO BOX 800, 2244 WALNUT GROVE AVE.  
 ROSEMEAD, CA 91770  
 FOR: REPRESENTING SOUTHERN CALIFORNIA  
 EDISON CO.

LAURA GENAO  
 SOUTHERN CALIFORNIA EDISON COMPANY  
 PO BOX 800, 2244 WALNUT GROVE AVENUE  
 ROSEMEAD, CA 91770  
 FOR: SOUTHERN CALIFORNIA EDISON COMPANY

CARLOS F. PENA  
 SEMPRA ENERGY LAW DEPARTMENT  
 101 ASH STREET  
 SAN DIEGO, CA 92101  
 FOR: REPRESENTATING SAN DIEGO GAS AND  
 ELECTRIC

KIM F. HASSAN  
 ATTORNEY AT LAW  
 SAN DIEGO GAS & ELECTRIC COMPANY  
 101 ASH STREET, HQ-12  
 SAN DIEGO, CA 92101  
 FOR: SAN DIEGO GAS & ELECTRIC COMPANY

MICHAEL SHAMES  
 ATTORNEY AT LAW  
 UTILITY CONSUMERS' ACTION NETWORK  
 3100 FIFTH AVENUE, SUITE B  
 SAN DIEGO, CA 92103  
 FOR: UCAN

HAYLEY GOODSON  
 ATTORNEY AT LAW  
 THE UTILITY REFORM NETWORK  
 711 VAN NESS AVENUE, SUITE 350  
 SAN FRANCISCO, CA 94102  
 FOR: TURN

JONATHAN BROMSON  
 CALIF PUBLIC UTILITIES COMMISSION  
 LEGAL DIVISION  
 ROOM 4107  
 505 VAN NESS AVENUE  
 SAN FRANCISCO, CA 94102-3214  
 FOR: DRA

NORMAN J. FURUTA  
 ATTORNEY AT LAW  
 FEDERAL EXECUTIVE AGENCIES  
 1455 MARKET ST., SUITE 1744  
 SAN FRANCISCO, CA 94103-1399  
 FOR: FEDERAL EXECUTIVE AGENCIES

SHIRLEY A. WOO  
 LAW DEPARTMENT

PETER VAN MIEGHEM  
 PACIFIC GAS & ELECTRIC COMPANY

PACIFIC GAS AND ELECTRIC COMPANY  
 PO BOX 7442  
 SAN FRANCISCO, CA 94106  
 FOR: PACIFIC GAS AND ELECTRIC

LAW DEPT. PG&E  
 PO BOX 7442  
 SAN FRANCISCO, CA 94120  
 FOR: REPRESENTING PACIFIC GAS AND  
 ELECTRIC

JAMES WEIL  
 DIRECTOR  
 AGLET CONSUMER ALLIANCE  
 PO BOX 37  
 COOL, CA 95614  
 FOR: AGLET CONSUMER ALLIANCE

## Information Only

---

ADAR ZANGO  
 ZIMMER LUCAS PARTNERS  
 45 BROADWAY, 28TH FLOOR  
 NEW YORK, NY 10006

J. RANDALL WOOLRIDGE  
 THE PENNSYLVANIA STATE UNIVERSITY  
 302 BUSINESS BUILDING  
 UNIVERSITY PARK, PA 16802

KAY DAVOODI  
 NAVY UTILITY RATES AND STUDIES OFFICE  
 1322 PATTERSON AVE., SE - BLDG. 33  
 WASHINGTON NAVY YARD, DC 20374-5018

STEPHEN G. HILL  
 HILL ASSOCIATES  
 PO BOX 587  
 HURRICANE, WV 25526

STEPHEN D. BAKER  
 SR. REG. ANALYST, FELLOW-MCCORD AND ASS.  
 CONSTELLATION NEW ENERGY-GAS DIVISION  
 9960 CORPORATE CAMPUS DRIVE, STE. 2000  
 LOUISVILLE, KY 40223

RASHA PRINCE  
 SAN DIEGO GAS & ELECTRIC  
 555 WEST 5TH STREET, GT14D6  
 LOS ANGELES, CA 90013

ANDREW E. STEINBERG  
 REGULATORY CASE MANAGER  
 SOUTHERN CALIFORNIA GAS CO.  
 555 W. FIFTH STREET, GT14D6  
 LOS ANGELES, CA 90013-1034  
 FOR: SOUTHERN CALIFORNIA GAS CO.

CASE ADMINISTRATION  
 SOUTHERN CALIFORNIA EDISON COMPANY  
 LAW DEPARTMENT, ROOM 370  
 2244 WALNUT GROVE AVENUE  
 ROSEMEAD, CA 91770

MICHAEL D. MONTOYA  
 ATTORNEY AT LAW  
 SOUTHERN CALIFORNIA EDISON COMPANY  
 2244 WALNUT GROVE AVENUE  
 ROSEMEAD, CA 91770  
 FOR: SOUTHERN CALIFORNIA EDISON COMPANY

PAUL T. HUNT  
 SOUTHERN CALIFORNIA EDISON COMPANY  
 PO BOX 800  
 2244 WALNUT GROVE AVENUE  
 ROSEMEAD, CA 91770

DON WOOD  
 PACIFIC ENERGY POLICY CENTER  
 4539 LEE AVENUE  
 LA MESA, CA 91941

CENTRAL FILES  
 SAN DIEGO GAS & ELECTRIC  
 8330 CENTURY PARK COURT, CP31E  
 SAN DIEGO, CA 92123

SAN DIEGO GAS & ELECTRIC COMPANY  
 CENTRAL FILES  
 8330 CENTURY PART CT. - CP31E  
 SAN DIEGO, CA 92123

CAROL MANSON  
 REGULATORY AFFAIRS  
 SAN DIEGO GAS & ELECTRIC CO.  
 8330 CENTURY PARK COURT CP32D  
 SAN DIEGO, CA 92123-1530  
 FOR: SAN DIEGO GAS & ELECTRIC CO.

LAD LORENZ  
 V.P. REGULATORY AFFAIRS  
 SEMPRA UTILITIES  
 601 VAN NESS AVENUE, SUITE 2060  
 SAN FRANCISCO, CA 94102  
 FOR: SAN DIEGO GAS AND ELECTRIC CO. AND

NINA SUETAKE  
 ATTORNEY AT LAW  
 THE UTILITY REFORM NETWORK  
 711 VAN NESS AVE., STE. 350  
 SAN FRANCISCO, CA 94102

SOUTHERN CALIFORNIA GAS CO.

MAYBELLINE DIZON  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE STREET, MC B10A  
SAN FRANCISCO, CA 94105

RICHARD A. PATTERSON  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE STREET, ROOM 2782  
SAN FRANCISCO, CA 94105

STELLA ZAHARIUDAKIS  
REGULATORY CASE COORDINATOR  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE STREET, MCB9A  
SAN FRANCISCO, CA 94105

FILE ROOM  
PACIFIC GAS AND ELECTRIC COMPANY  
LAW LIBRARY  
PO BOX 7442  
SAN FRANCISCO, CA 94120-7442

KEVIN DUGGAN  
ATTORNEY AT LAW  
CALPINE COPORATION  
3875 HOPYARD ROAD, SUITE 345  
PLEASANTON, CA 94588

J.A. SAVAGE  
CALIFORNIA ENERGY CIRCUIT  
3006 SHEFFIELD AVE  
OAKLAND, CA 94602

MRW AND ASSOCIATES, INC.  
1814 FRANKLIN STREET, SUITE 720  
OAKLAND, CA 94612

## State Service

---

DONALD J. LAFRENZ  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY DIVISION  
AREA 4-A  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214  
FOR: ENERGY

EDWARD HOWARD  
CALIF PUBLIC UTILITIES COMMISSION  
POLICY & PLANNING DIVISION  
ROOM 5119  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

FELIX ROBLES  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY DIVISION  
AREA 4-A  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

JAMES R. WUEHLER  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY COST OF SERVICE & NATURAL GAS BRA  
ROOM 4208  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214  
FOR: DRA

JAMES SIMMONS  
CALIF PUBLIC UTILITIES COMMISSION  
COMMUNICATIONS POLICY BRANCH  
ROOM 4209  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214  
FOR: DRA

JOHN BOHN  
CALIF PUBLIC UTILITIES COMMISSION  
EXECUTIVE DIVISION  
ROOM 5200  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

MICHAEL J. GALVIN  
CALIF PUBLIC UTILITIES COMMISSION  
DIVISION OF ADMINISTRATIVE LAW JUDGES  
ROOM 5015  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

ROBERT M. POCTA  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY COST OF SERVICE & NATURAL GAS BRA  
ROOM 4205  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

STEPHEN ST. MARIE  
CALIF PUBLIC UTILITIES COMMISSION  
EXECUTIVE DIVISION  
ROOM 5202  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

THOMAS A. DOUB  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY COST OF SERVICE & NATURAL GAS BRA  
ROOM 4205  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214  
FOR: DRA

THOMAS M. RENAGHAN  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY COST OF SERVICE & NATURAL GAS BRA  
ROOM 4205  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214  
FOR: DRA

---

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