Decision 06-01-020 January 12, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) For Authority to, Among Other Things, Increase Its Authorized Revenues For Electric Service in 2006, And to Reflect That Increase in Rates.	Application 04-12-014 (Filed December 21, 2004)
Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of Southern California Edison Company.	Investigation 05-05-024 (Filed May 26, 2005)

OPINION ON MOTIONS FOR MEMORANDUM ACCOUNTS

Summary

Southern California Edison Company (SCE) is authorized to establish a memorandum account to track the change in revenue requirement adopted in this proceeding during the period between January 12, 2006 and the effective date of the final decision. Likewise, San Diego Gas & Electric Company (SDG&E) is authorized to establish a memorandum account to track the change in revenue requirement related to its interest in the San Onofre Nuclear Generating Station (SONGS) adopted in this proceeding during the period between January 12, 2006 and the effective date of the final decision.

Background

SCE filed its application for a test year 2006 general rate case (GRC) on December 21, 2004. The Commission's Rate Case Plan, Decision (D.) 89-01-040,

imposes various substantive and procedural requirements for energy utility general rate cases, including a timeline for processing the filing. Based on SCE's application filing date and the Rate Case Plan schedule, a final decision on this matter would be issued by January 9, 2006. The Assigned Commissioner's Ruling and Scoping Memo, dated March 15, 2005, anticipated a final decision on the date of the first Commission Meeting in January 2006.[1]

Recognizing that unforeseen events might delay the procedural schedule and preclude the Commission from issuing a timely final decision, SCE filed a motion on August 2, 2005, for authority to establish a memorandum account to track the change in the revenue requirement adopted in this GRC for the period of January 9, 2006, or the first Commission Meeting in 2006, whichever is earlier, to the effective date of the final decision.

According to SCE, a memorandum account would protect both ratepayers and shareholders from adverse consequences resulting from procedural delays and allow sufficient time for the parties and decisionmakers to make any necessary corrections of errors or omissions in the calculation of the Results of Operations in any proposed decision. SCE also noted that the total adjustments to SCE's request proposed by parties to this GRC would result in a decrease to SCE's currently-authorized rates. If the Commission were to adopt these adjustments after January 9, 2006, the reduction would likewise be retroactive, if the memorandum account had been previously authorized. By its motion, SCE is not asking the Commission to prejudge the reasonableness of any balance recorded in the memorandum account.

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[1] That meeting was subsequently scheduled for January 12, 2006.

Also, the Commission has consistently used the general rate case applications of SCE to determine the authorized revenue requirement that SDG&E may charge its customers related to its share of SONGS costs billed by SCE (exclusive of fuel costs). Because of the potential that a delay in issuance of a decision in this proceeding could cause SDG&E to under-collect what the Commission eventually finds in this application is SDG&E's reasonable 2006 SONGS-related revenue requirement, SDG&E filed a motion on September 30, 2005, for authority to establish a memorandum account to track the change in the revenue requirement related to its interest in SONGS adopted in this GRC for the period of January 1, 2006 to the effective date of the final decision.

SDG&E states that it has done nothing in this application that would cause any delay in issuing a decision past January 1, 2006. It did not request any particular schedule, accepted the schedule as set by the Commission, and met all deadlines without requesting any extensions. SDG&E estimates that if the Commission sets its SONGS-related revenue requirement on a traditional basis (as distinguished from adoption of SDG&E's proposed Cost Control Incentive Mechanism), the lost revenues to its shareholders from a delay in issuing SCE's GRC decision may be as much as $1.6 million per month.[2] SDG&E argues that there is no justification for its shareholders to bear such a loss if there is a delay.

There were no formal responses to either SCE's or SDG&E's motion.

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[2] SDG&E indicates that lost revenues would be as much as $2.5 million per month if the Commission rejects SDG&E's position in a decision on rehearing in Application (A.) 02-12-028.

Discussion

The Commission has a clearly established practice of establishing memorandum accounts to allow GRC case decisions delayed past the start of the test year to be effective as if the decisions had not been delayed, notwithstanding the general rule against retroactive ratemaking. Such memorandum accounts were implemented in the last GRC for each of the major California energy utilities. In D.02-12-073, the Commission authorized a memorandum account to leave shareholders and ratepayers essentially indifferent to the actual future date of the delayed GRC decision that would authorize Pacific Gas and Electric Company's (PG&E) TY 2003 revenue requirement. In SCE's last GRC, the Commission issued D.03-05-076, granting a memorandum account to track the eventual decision that had been delayed in that proceeding. Finally, in SDG&E's and Southern California Gas Company's last consolidated GRC, A.02-12-027/A.02-12-028, the Commission issued D.03-12-057, which authorized a memorandum account to track the eventual outcome of the final decision (subsequently issued in December 2004) back to the start of the test year, January 1, 2004.

In each of these cases, memorandum accounts were established when it was clear that a final decision would not be issued in a timely manner consistent with the Commission's Rate Case Plan. In SCE's current GRC proceeding, it was anticipated that the Commission would issue a final decision at the January 12, 2006 Commission Meeting. It is now clear that will not happen. While we expect a final decision to be issued shortly, in the meantime, we will authorize both SCE and SDG&E to establish memorandum accounts as requested. Such authorization advances our previously stated policy objectives of holding utility shareholders and ratepayers harmless for any required

procedural delays, removing incentives for any party to seek or promote delay, and providing parties and decision makers with sufficient time to review and analyze the record.[3]

The effective date for implementation of the memorandum accounts is today, January 12, 2006. While both SCE and SDG&E requested earlier effective dates, because the timing of this decision, such action would constitute retroactive ratemaking.

The disposition of the memorandum accounts will be addressed in the final decision.

Comments on Draft Decision

A 30-day public review and comment process, as required by Pub. Util. Code § 311(g), will not allow the implementation of the memorandum account requests of SCE and SDG&E by January 12, 2006, as intended by this draft decision. Timely implementation of the memorandum accounts is in the public interest, in that it will leave both ratepayers and shareholders essentially indifferent to the precise date of the final decision, remove incentives for any party to seek or promote delay, and allow sufficient time for review and critical analysis of the record in a fair and reasonable manner. This outweighs the public interest in having the full 30-day period for review and comment. Therefore, due to public necessity and pursuant to Rule 77.7(f)(9) of the Commission Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment was reduced. The draft decision was mailed for comment on December 29, 2005. Comments were due and received by January 6, 2006.

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[3] For instance, see D.03-05-076, *mimeo.*, pages 7-8.

In its comments, while accepting an effective date of January 12, 2006 for the establishment of the memorandum account, SCE requested that the sentence in the draft decision that asserts than an earlier effective date for the implementation of the memorandum account would constitute retroactive ratemaking be deleted, because it constitutes legal error.

We have considered SCE's request and decline to delete the indicated sentence. The citations provided by SCE to support its position are inapposite. Southern California Edison Company v. Public Utilities Commission (2000) (85 Cal. App. 4th, 1086) and Resolution E-3960 both relate to the establishment of memorandum accounts by operation of law under Pub. Util. Code § 455 and General Order 96-A.

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and David K. Fukutome is the assigned Administrative Law Judge in these proceedings.

Findings of Fact

1. By the Assigned Commissioner's Ruling and Scoping Memo, dated March 15, 2005, a final decision in this proceeding was anticipated to be issued on January 12, 2006.

2. For reasons not caused by the actions of either SCE or SDG&E, a final decision will not be issued on January 12, 2006.

3. SCE requests authority to establish a memorandum account to offset the financial consequences of the difference between the date the Commission adopts its final decision in this proceeding and January 9, 2006, the date that the decision would have been expected under the Rate Case Plan.

4. SDG&E requests authority to establish a SONGS-related memorandum account to offset the financial consequences of the difference between the date the Commission adopts its final decision in this proceeding and January 1, 2006.

5. The requests of both SCE and SDG&E are unopposed.

6. The proposed memorandum accounts are consistent with previously stated Commission objectives to leave both ratepayers and shareholders essentially indifferent to the precise date of the final decision, to remove incentives for any party to seek or promote delay, and to allow sufficient time for review and critical analysis of the record.

7. Due to retroactive ratemaking considerations, the proposed memorandum accounts cannot become effective prior to the date of this decision.

Conclusions of Law

1. The motions of SCE and SDG&E to establish memorandum accounts should be granted to the extent set forth in the following orders.

2. The authorized memorandum accounts for both SCE and SDG&E should be effective as of January 12, 2006.

O R D E R

IT IS ORDERED that:

1. Southern California Edison Company is authorized to establish a memorandum account to track the change in the revenue requirement adopted in this general rate case during the period between January 12, 2006 and the effective date of the final decision.

2. San Diego Gas & Electric Company is authorized to establish a memorandum account to track the change in the revenue requirement related to its interest in the San Onofre Nuclear Generating Station adopted in this general rate case during the period between January 12, 2006 and the effective date of the final decision.

This order is effective today.

Dated January 12, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners