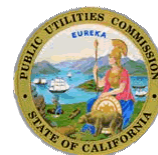


BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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Application of Southern California Edison  
Company (U338E) for Authority to  
Increase Rates for its Class C Catalina  
Water Utility and Recover Costs from  
Water and Electric Customers.

Application 20-10-018

**REPLY BRIEF OF THE PUBLIC ADVOCATES OFFICE  
ON COST RECOVERY ISSUES**

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Pursuant to Rule 13.11 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure (Rules), and consistent with the schedule established in the January 29, 2021 Assigned Commissioner's Scoping Memo (Scoping Memo),<sup>1</sup> the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits its reply to the Limited Opening Brief of Southern California Edison Company (SCE) on Issues 2.b.i. and 2.c.i. of the Assigned Commissioner's Scoping Memo and Ruling (SCE's Opening Brief), in SCE's *Application for Authority to Increase Rates for [SCE's] Class C Catalina Water Utility and Recover Costs from Water and Electric Customers*.<sup>2</sup>

**I. INTRODUCTION**

SCE acknowledges that the Commission's ratesetting authority is tied to whether the rate is just and reasonable.<sup>3</sup> As Cal Advocates discussed in its opening brief, however, SCE's proposal that electric customers subsidize Catalina Water utility costs is not reasonable due to the lack of a cost-causation nexus between SCE electric customers and Catalina water costs. Therefore, the Commission should insist that SCE develop a viable cost recovery proposal—one that neither shifts costs indiscriminately to electric customers, nor functions like a poison pill to

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<sup>1</sup> Application (A.).20-10-018, *Assigned Commissioner's Scoping Memo* (January 29, 2021) (Scoping Memo), pp. 2-3.

<sup>2</sup> A.20-10-018 (October 30, 2020).

<sup>3</sup> See *Limited Opening Brief of Southern California Edison Company on Issues 2-B-i and 2-C-i of Assigned Commissioner's Scoping Memo and Ruling* (March 5, 2021) (SCE Opening Brief), p. 2.

bolster SCE’s cross-subsidy proposal by threatening an untenable rate increase for Catalina water customers.

## **II. SCE FAILS TO ESTABLISH A LEGAL OR FACTUAL BASIS FOR THE COMMISSION TO DETERMINE THAT THE CROSS-SUBSIDY PROPOSAL IS JUST AND REASONABLE**

As Cal Advocates previously noted,<sup>4</sup> the Commission has broad authority to establish rates for public utilities within its jurisdiction.<sup>5</sup> In addressing issue 2.b.i. of the Scoping Memo—whether the Commission has authority to charge SCE’s water utility service costs to SCE’s electric customers—SCE states that the Commission’s authority depends entirely on whether the cross-subsidy “is just and reasonable under the circumstances.”<sup>6</sup> For the Commission to determine that a proposed rate is reasonable, however, the rate must be consistent with statutory requirements and Commission-established ratemaking principles. As Cal Advocates explained in its Opening Brief, there is no basis to find that SCE’s proposed cross subsidy is just and reasonable.<sup>7</sup> SCE continues to fail to offer adequate factual or legal support that would establish a cost causation nexus between Catalina water utility services and SCE electric customers.<sup>8</sup> Excluding the settlement approved in the last Catalina GRC, discussed below in section II.B., none of SCE’s proffered examples of so-called cross-subsidies approved by the Commission involve the subsidy of one utility service by a different service.<sup>9</sup> SCE’s opening brief claims that a “strong nexus” between Catalina water service and SCE electric customers exists, without facts that indicate any cost-causation nexus specific to SCE electric

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<sup>4</sup> *Opening Brief of the Public Advocates Office on Cost Recovery Issues* (March 5, 2021) (Cal Advocates Opening Brief), p. 3.

<sup>5</sup> See CA Constitution, Article XII, Sec. 6; Pub. Util. Code § 451.

<sup>6</sup> SCE Opening Brief, p. 2 (claiming that no law, statute, or other precedent precludes the Commission from approving the subsidy).

<sup>7</sup> See Cal Advocates Opening Brief, pp. 1-2.

<sup>8</sup> See SCE Opening Brief, pp. 4-5 (listing examples of public interest-based subsidies that exist between categories of customers, but that are homogenous by type of utility service, whether electric, gas, or telecommunications).

<sup>9</sup> See *Concurrent Limited Opening Brief of The Utility Reform Network* (March 5, 2021) (TURN Opening Brief), p. 5 (noting that “[where] the Commission has permitted a regulated utility to charge rates based on costs covering a multi-district service territory, the regulated utility in question always provided the same service across that service territory”).

customers at all.<sup>10</sup> Accordingly, SCE's cross-subsidy proposal for Catalina water utility cost recovery does not meet the Commission's standards for just and reasonable rates.

**A. SCE Fails to Establish a Nexus Between Electric Customers and Catalina Water Utility Costs**

In its opening brief, SCE's lengthy discussion of alleged public benefits flowing from Catalina water utility service to SCE electric customers fails to identify any valid, specific, cost causation relationship between Catalina Water service costs and SCE's general population of electric customers.<sup>11</sup> SCE asserts that it is "...reasonable to recover a portion of Catalina water costs from SCE electric customers who directly benefit from this water service," but has offered no evidence that a significant percentage of SCE electric customers fall within this "direct benefit" category. As to the number of SCE electric customers who may be visitors and tourists to Catalina, even SCE's assertion that "hundreds of thousands of SCE electric customers" visit Catalina annually is purely hypothetical, inferred from Catalina Island Chamber of Commerce consultant data (Visitors Report) indicating that 70% of visitors to Catalina in 2016 were from Southern California.<sup>12</sup> As observed in TURN's opening brief, nothing in the Visitors Report data supports an assumption that the Southern California visitors were predominantly SCE customers.<sup>13</sup>

Aside from SCE's flawed tourism argument, the benefits SCE describes are, by its own account, largely "akin to public policy benefits that inure to the public at large,"<sup>14</sup> and are not specific or limited to SCE customers, nor even limited to California residents. Among these attenuated benefits to electric customers are youth education and scouting trips to Catalina campgrounds, oceanic and climate change research, and wildlife habitat conservation.<sup>15</sup>

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<sup>10</sup> See SCE Opening Brief, pp. 7-10.

<sup>11</sup> See SCE Opening Brief, pp. 7-10.

<sup>12</sup> See SCE Opening Brief, p. 8.

<sup>13</sup> See TURN Opening Brief, p. 10, FN 19 (pointing out gaps in SCE's reasoning that the southern California visitors to Catalina are substantially SCE electric customers, such as the inclusion of LADWP's service area in the southern California regions covered in the visitors' report).

<sup>14</sup> SCE Opening Brief, p. 7.

<sup>15</sup> SCE Opening Brief, pp. 8-10.

**B. SCE Offers No Legal Authority Supporting the Reasonableness of its Cross-Subsidy Cost Recovery Proposal**

None of the Commission decisions SCE cites in its opening brief support its claim that a cross-subsidy between different utilities is just and reasonable.<sup>16</sup> In the previous Catalina water utility GRC Decision (D.)14-10-048, approving an all-party settlement, the Commission flatly prohibited SCE's reliance in any subsequent ratemaking application on the "outcome adopted" stating that SCE "must...fully justify every (subsequent) request and ratemaking proposal without reference to, or reliance on, the adoption of the settlement."<sup>17</sup> The Commission stated that its adoption of the settlement with a cross-subsidy did not permit SCE "to presume in any subsequent application that the Commission would deem the outcome adopted [in D.14-10-048] to be presumed reasonable, indicating that the Commission's basis for finding that settlement reasonable would be inapplicable for purposes of evaluating reasonableness in any other proceeding."<sup>18</sup>

Despite the Commission's admonitions in D.14-10-048 and its statement that the cross-subsidy was a "one-time transfer" of nearly \$9 million of Catalina Water rate base to SCE electric customers,<sup>19</sup> and despite the provisions of Rule 12.5,<sup>20</sup> SCE relies on D.14-10-048 for the principle that the cross-subsidy was deemed just and reasonable then and should be deemed so again.<sup>21</sup> This reliance is misplaced.

The Commission expressly stated that D.14-10-048 had no precedential value and specifically directed SCE not to rely on the approval of a one-time rate base transfer between two

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<sup>16</sup> See SCE Opening Brief, pp. 6-7 (citing the Commission's decisions consolidating Catalina electric rates with mainland rates) and 12-13 (discussing the Commission's approval of the settlement with a cost-shifting component in the last Catalina Water general rate case).

<sup>17</sup> Decision (D.)14-10-048 *Adopting the All-Party Settlement on Revenue Requirement and Rate Design Issues for Southern California Edison Company's Santa Catalina Island Water Operations* (October 20, 2014), p. 10.

<sup>18</sup> See D.14-10-048, p. 10.

<sup>19</sup> D.14-10-048, p. 1 (noting that, in addition to the electric customer rate base transfer, SCE's shareholders would incur a capital disallowance of nearly \$2.5 million).

<sup>20</sup> Rule 12.5 states, first, that Commission adoption of a settlement is binding on the parties to the proceeding in which the settlement is proposed, and second, that adoption of the settlement is not precedential for any principal or issue in any future proceeding.

<sup>21</sup> See SCE Opening Brief, p. 12.

different utilities to justify future ratemaking proposals.<sup>22</sup> Therefore, SCE’s current, much larger proposed cross-subsidy must be evaluated strictly on its own merits or lack thereof. The Commission should afford no weight to SCE’s discussion of D.14-10-048 and should exclude that decision from consideration of whether SCE’s current, much larger cross-subsidy proposal is just and reasonable.

**C. SCE’s Claims of Public Benefits Resulting from Catalina Water Service Would Make Cross-Subsidy Unfairly Discriminatory to SCE Electric Customers Under Public Utilities Code § 453.**

SCE’s attempts to establish a cost-causation nexus undermine its claim that the cross-subsidy is not unfairly discriminatory under Pub. Util. Code § 453(a).<sup>23</sup> SCE proposes to require its electric customers to subsidize Catalina water services based on a list of benefits that SCE recognizes are “akin to public policy benefits that inure to the public at large.”<sup>24</sup> Accordingly, SCE seeks to require its electric customers to pay for benefits that all non-SCE customers—those who have visited Catalina, or may someday visit, or whose children have visited,<sup>25</sup> or who simply appreciate ocean and climate research,<sup>26</sup> may experience without the burden of an added utility bill charge.

**III. THE COMMISSION SHOULD HOLD SCE RESPONSIBLE FOR DEVELOPING OTHER COST RECOVERY PROPOSALS MEETING JUST AND REASONABLE STANDARDS.**

SCE states that the Commission “should remain flexible and open to considering cost recovery proposals that act in the public interest and promote a pathway to safe, clean, and affordable water service on Catalina,” due to “a history of rate-affordability issues” and the

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<sup>22</sup> See D.14-10-048, p. 10.

<sup>23</sup> See SCE Opening Brief, pp 10-12.

<sup>24</sup> SCE Opening Brief, p. 7.

<sup>25</sup> See SCE Opening Brief, p. 9 (asserting that SCE electric customers “who do not visit the island themselves...benefit [from Catalina water service] because SCE electric customers are parents of students who visit the island, and furthermore, because education promotes societal benefits such as economic growth and reduced poverty....”).

<sup>26</sup> See SCE Opening Brief, p. 9 (stating that SCE electric customers benefit from oceanic research facilities on Catalina, and therefore benefit from the water serving the research facilities).



assertion that Catalina is “unique.”<sup>27</sup> Given the scope of historic and current water availability, affordability, use, and management challenges throughout the state of California, however, Catalina’s water service is truly unique only in that it is operated by SCE.<sup>28</sup> Accordingly, the Commission should require SCE to develop a cost recovery proposal that is consistent with established ratemaking standards for reasonableness, reflecting a legitimate cost-causation nexus between water system costs and cost recovery. Similarly, in evaluating SCE’s cost recovery proposals, the Commission should apply and rely on established ratemaking standards for reasonableness and cost-causation.

**A. SCE Presents a False Choice Between Cost Recovery Methods to Bolster its Cross-Subsidy Proposal**

In response to the Scoping Memo directive that SCE provide supplemental testimony with an alternative proposal not dependent on electric customers, SCE offered what could be described as a poison pill, claiming that “without any subsidization from SCE’s broader customer base, Catalina customers could potentially incur rate increases in the magnitude of 400% or greater.”<sup>29</sup> This tactic presents the Commission with a false choice: the legally unprecedented shifting of water costs to SCE electric customers generally, in the absence of any evidence of a legitimate cost-causation nexus, versus what the Catalina Parties vividly describe in their opening brief as a “disaster”—the result if SCE were “to seek all of the costs it seeks in its application from its water customers.”<sup>30</sup>

One important reason why framing the ratemaking options as limited to SCE’s cross-subsidy or the Catalina disaster scenario presents a false dichotomy is that the costs sought in a

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<sup>27</sup> SCE Opening Brief, p. 15.

<sup>28</sup> Catalina is not unique as a tourism-dependent economy facing serious water affordability and supply issues. *See, e.g.,* <https://www.kqed.org/news/11372839/why-this-california-towns-water-costs-3-times-the-national-average> (discussing water affordability crisis in Lucerne, California). Water affordability is a crisis statewide, as indicated in the COVID-19 Drinking Water Financial Impacts Survey finding that 1.6 million California households (12% of households in the state) collectively owed an estimated \$1 billion in unpaid water bills as of January 2021. *See* [https://www.waterboards.ca.gov/drinking\\_water/programs/documents/ddwem/faqs\\_covid\\_survey\\_final.pdf](https://www.waterboards.ca.gov/drinking_water/programs/documents/ddwem/faqs_covid_survey_final.pdf).

<sup>29</sup> SCE Opening Brief, p. 5.

<sup>30</sup> *See Opening Brief of Catalina Parties Re Scoping Issues 2-B-i and 2-C-i* (March 5, 2021) (Catalina Parties Opening Brief), p. 10.

GRC application, and the costs that the Commission ultimately approves, are rarely the same.<sup>31</sup> Cal Advocates' forthcoming testimony will identify numerous opportunities for cost savings that may facilitate more reasonable recovery alternatives.<sup>32</sup> The Commission should ensure, however, that responsibility for development of feasible alternatives rests on SCE. SCE's failure, as yet, to adequately identify and consider other options is not evidence that other options do not exist.

**B. A Combined SCE Water, Electric, and Gas Rate Base/Rate Case Raises Practical and Regulatory Issues Beyond the Scope of this GRC**

SCE claims that “a consolidated rate base and rate case,” merging Catalina Water and SCE's electrical and gas operations, “would be consistent with existing operational realities.”<sup>33</sup> This may reflect SCE's operation of the water, electric, and gas utility services for Catalina at a high level, but given the separate utility infrastructures, regulatory frameworks, billing, distribution, safety issues, and other considerations, serious evaluation of this option would be completely beyond the scope of the present proceeding. Further, SCE's combined rate case proposal suggests that it considers operation of the Catalina Water utility as substantially identical to electric utility operation. This position is difficult to reconcile with SCE's numerous statements that providing Catalina customers with affordable water services is uniquely challenging.<sup>34</sup>

**C. SCE Recognizes the Need for a Legitimate Cost-Causation Nexus in Supporting the Visitor Boat Fee**

In expressing reserved support for a visitor boat fee alternative, SCE states that the boat fee would reflect “a close nexus between costs of water service and benefits received by tourists

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<sup>31</sup> The previous Catalina GRC illustrates this difference. SCE's requested revenue requirement was \$7.118 million, an 85% increase over its previous revenue requirement. In contrast, the final revenue requirement in the settlement approved by the Commission was \$4.13 million, or a 7.5% increase. See D.14-10-048, p. 3.

<sup>32</sup> TURN offers a list of potential alternative cost recovery approaches that SCE identified in testimony and other materials but did not adequately evaluate, in addition to proposing that SCE shareholders absorb some portion of costs. See TURN Opening Brief, p. 16.

<sup>33</sup> SCE provides water, gas, and electric utility service on Catalina. See SCE Opening Brief, p. 16.

<sup>34</sup> See, e.g., SCE Opening Brief, pp. 2, 5, 12, 16 (discussing unique challenges of operating Catalina Water system).

who use the water during their visits to Catalina.”<sup>35</sup> SCE characterizes the nexus between Catalina water service and SCE’s electric customers at large as “strong,” but not close, suggesting that SCE recognizes the lack of a cost-causation nexus in its cross-subsidy proposal.<sup>36</sup> SCE asserts that the Commission has authority to impose a boat fee, but that the boat fee “would fail to act in the public interest” and should not be the sole means of cost recovery.<sup>37</sup> SCE has offered no evidence supporting its claim that a visitor boat fee would be contrary to the public interest.<sup>38</sup> The viability, reasonableness, and potential impacts of the visitor boat fee as a possible cost recovery mechanism have not yet been adequately evaluated. Given SCE’s willingness to consider that a boat fee could at least supplement other cost recovery method(s), however, the Commission should encourage good-faith evaluation of a visitor boat fee option by SCE and intervenor parties.<sup>39</sup>

#### **IV. CONCLUSION**

The determining whether SCE’s cross-subsidy proposal is just and reasonable, the Commission must exclude any consideration of the outcome adopted in the decision approving settlement of the previous Catalina Water GRC. Cal Advocates respectfully requests that the Commission direct SCE to develop an alternative ratemaking proposal based on a legitimate cost-causation nexus between the sources of Catalina Water costs and who is required to pay or contribute to payment of those costs.

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<sup>35</sup> See SCE Opening Brief, p. 16.

<sup>36</sup> See SCE Opening Brief, p. 7.

<sup>37</sup> See SCE Opening Brief, pp. 16-17.

<sup>38</sup> As TURN notes, SCE was unable to provide specific details supporting its claims that in a series of stakeholder meetings in 2018, “residents and businesses...expressed concerns that a boat fee increase could dissuade potential visitors to the island and harm the island’s economy.” See TURN Opening Brief, Attachment 12, p. 16 (SCE’s response to a data request from TURN seeking verification of stakeholder comments).

<sup>39</sup> See SCE Opening Brief, p. 16 (stating that a visitor boat fee is not viable by itself but could work as a partial solution).

Respectfully submitted,

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