

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

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

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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.

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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, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits its opening brief on the cost recovery issues identified in sections 2-B-i and 2-C-i in the Scoping Memo.¹

Issue 2-B-i questions whether the Commission has “authority to charge SCE’s water utility service costs to SCE’s electric utility customers who do not receive said water service,” with respect to SCE’s proposal to recover \$29 million dollars in water utility costs from its electric utility customers.² Issue 2-C-i asks what cost recovery approach(es) the Commission should consider “other than SCE’s proposal to recover water utility costs from Catalina Island water utility customers and SCE’s electric utility customers....”³ The crux of both issues is whether SCE has reasonably shown that its cost recovery proposal is justified and consistent with established rate design principles, particularly cost causation.⁴ SCE’s application, testimony (including supplemental testimony served on February 26, 2021), and responses to data requests,

¹ A.20-10-018, *Assigned Commissioner’s Scoping Memo* (January 29, 2021) (Scoping Memo), pp. 2-3.

² Scoping Memo, p. 2.

³ Scoping Memo, p. 3.

⁴ See *Decision* (D.) 15-07-001 on *Residential Rate Reform for Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company and Transition to Time-of-Use Rates* (July 13, 2015), p. 2 (noting significance of cost-causation in determining whether rates are just and reasonable).

to date, have not established an adequate nexus or link between cost recovery from SCE's electric customers⁵ and the impact of southern California tourists on the Catalina Island water system.

I. BACKGROUND

SCE Catalina Water's last General Rate Case (GRC) was filed in 2010 and was resolved through an all-party settlement approved by the Commission in Decision (D.) 14-10-048. As part of that settlement, the Commission approved a "one-time transfer of \$8.895 million of Catalina Water rate base to SCE's electric customers," along with a shareholder disallowance of \$2.485 million.⁶ In approving the settlement, the Commission specifically noted the unique and non-precedential nature of the settlement, stating that:

SCE must not presume in any subsequent application that the Commission would deem the outcome adopted herein to be presumed reasonable and it must, therefore, fully justify every request and ratemaking proposal without reference to, or reliance on, the adoption of the settlement.⁷

Despite this proscriptive language, SCE cites D.14-10-048 to support its current cost-sharing proposal, with a disclaimer that it cites D.14-10-048, and other decisions involving merging of SCE's Catalina electric rates with mainland rates, "not as binding precedent, but only to emphasize the long-history and persistence of rate-affordability issues on Catalina."⁸

⁵ The proposed electric rate increase would apply to SCE electric customers system-wide, including mainland and Catalina customers (see SCE-08, *Supplemental Testimony*, p. 1:7).

⁶ See 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 16, 2014), p. 1

⁷ D.14-10-048, p. 10; see also Rule 12.5 (limiting future applicability and establishing non-precedential nature of settlements).

⁸ See SCE-01, *Testimony Supporting Southern California Edison Company's Application for Authority to Increase Rates for its Class C Catalina Water Utility and Recover Costs from Water and Electric Customers – Policy* (SCE-01-Policy), pp. 28:10, 29:18-31 (including reference to D.82-03-059, in which the Commission authorized costs of service of SCEs' Catalina electric operations to be included in SCE's mainland retail base-rate cost of service, to avoid a proposed 130% increase of existing Catalina base electric rates).

SCE's favored cost recovery proposal, in short, would impose approximately \$29 million of water utility revenue requirement, including exceptional drought and emergent environmental costs, on SCE electric customers over a five-year period.²

Whether the Commission has authority to approve SCE's cost recovery proposal, or any other rate increase proposal, ultimately depends on whether the proposal meets statutory requirements and is consistent with the Commission's established rate design principles. Based on the evidence available to-date, SCE has failed to provide a sound justification for its cost-shifting proposal.¹⁰

II. ARGUMENT

A. The Commission Has Broad Authority to Approve Just and Reasonable Rates that are Consistent with Statutory Requirements and Established Principles of Rate Design.

Subject to certain statutory constraints, the Commission has broad authority to establish rates for public utilities within its jurisdiction.¹¹ For rates to be lawful, however, the Commission must determine that they are just and reasonable.¹² The requirement of Public Utilities Code § 451¹³ that "all charges demanded for services or commodities furnished shall be just and reasonable" implies that charges must have some nexus to a service or commodity. The link between rates and services is reinforced by section 454(a), which requires utilities to show that a proposed rate change is justified.¹⁴

² Application, p. 10; SCE-01-Policy, p. 15:5-8; SCE-08, *Supplemental Testimony*, pp. 9-11.

¹⁰ Pub. Util. Code § 454(a) (requiring utility to make a showing and Commission to find that a rate increase is justified).

¹¹ CA Constitution, Article XII, Sec. 6.

¹² Pub. Util. Code § 451

¹³ All references to statute hereafter refer to sections of the Public Utilities Code, unless otherwise specified.

¹⁴ *See* § 454(a).

1. SCE’s Current Cost Recovery Proposal Violates the Rate Design Principle of Cost-Causation.

The Commission has recognized and established principles of rate design that provide a framework for evaluating the reasonableness of proposed rates.¹⁵ The Commission’s Rate Design Principles (RDP), established for electric investor-owned utilities in D.15-07-001, reflect long established ratemaking standards as well as the need for rate design to support new and developing policy goals.¹⁶ Key among the Commission’s RDP is the principle of cost-causation, meaning that rates should reflect costs actually caused by the customers who must pay them,¹⁷ and the related principle that rates “should generally avoid cross-subsidies, unless the cross-subsidies appropriately support explicit state policy goals.”¹⁸

In D.15-07-001, the Commission emphasizes the historical importance of cost-causation to the determination of ‘just and reasonable.’¹⁹ The cost-causation principle has also been characterized as “[avoidance] of undue discrimination in rate relationships so as to be, if possible, compensatory (i.e., subsidy free with no intercustomer [*sic*] burdens.”²⁰

SCE has previously asserted the importance of cost-causation in other proceedings before the Commission as well as the Federal Energy Regulatory Commission.²¹ In Phase 2 of SCE’s 2018 electric GRC, for example, SCE discussed how its proposed rate design provided “economically efficient price signals that are based on cost causation and that limit inter-class

¹⁵ See, e.g., (D.) 15-07-001 (decision on rulemaking establishing Rate Design Principles for investor-owned electric utilities).

¹⁶ *Decision* (D.) 15-07-001. pp. 27-28.

¹⁷ D.15-07-001, p. 28.

¹⁸ D.15-07-001, p. 28 (listing the 10 RDP identified by parties over the course of R.12-06-013 and established in the final decision).

¹⁹ See D.15-07-001, p. 2.

²⁰ See James Bonbright et al., *Principles of Public Utility Rates*, Second Edition, Public Utilities Reports, Inc. Arlington, Virginia (1988), p. 384.

²¹ See, e.g., A.17-06-030, SCE-01, Phase 2 of 2018 General Rate Case – Policy, p. 13; A.19-07-020, *Southern California Edison Company’s Motion for Partial Interim Rate Recovery* (July 31, 2019), p. 1 (asserting that an interim rate recovery proposal will “promote fidelity to cost causation principles”); FERC Docket No. ER12-50-000, *Southern California Edison Company’s Motion to Intervene and Comments on the California Independent System Operator’s (CAISO) Tariff Amendment to Implement Flexible Ramping Constraint* (October 28, 2011), pp. 6-7 (arguing that the CAISO’s proposed cost allocation mechanism violates cost-causation principles and should be rejected by the FERC).

and intra-class cost-shifting.”²² Indeed, SCE asserts in the present application that its cost recovery proposal maintains consistency with standard rate design practices, implying that shifting water service costs to electric customers does not violate cost-causation principles.²³ This assertion is incorrect because it relies on the faulty premise that the two types of service are interchangeable. Moreover, even if SCE’s assertion had any merit, which it does not, only a very small percentage of SCE’s mainland customers have potentially benefitted from Catalina Water. Thus, the large majority of SCE electric customers could not reasonably have contributed to Catalina Water’s costs.

2. SCE’s Justification for the Cost Transfer Relies on Logical Fallacy and is Not Supported by Evidence.

SCE has failed to demonstrate a cost-causation relationship between Catalina Water service costs and the rates it proposes to impose on SCE electric customers. In the dissent to the Commission’s decision approving the settlement in SCE Catalina Water’s last GRC, Commissioner Sandoval reiterated the principle that the burden of paying for the water system must be borne by those benefiting from the water system, noting a “lack of nexus between the electric ratepayers...and the rates imposed on those ratepayers.”²⁴ In the present GRC, SCE’s justification for the cost transfer relies heavily on a deductive fallacy, or a conclusion that is not supported by its premise.

To support the assertion that all SCE electric customers share in the cost of water utility operations, SCE relies on a 2017 Catalina Island Chamber of Commerce and Visitor’s Bureau report on 2016 visitor statistics for Catalina island, and basic information about SCE’s electric customer base.²⁵ According to the Visitor’s Bureau report, approximately 70 percent—i.e., 700,000—of nearly one million visitors to Catalina in 2016 originated “from areas across

²² A.17-06-030, SCE-01, Phase 2 of 2018 General Rate Case – Policy, p. 13.

²³ See A.20-10-018, p. 7 (stating that “utility rate designs should be equitable, support public policy goals, and maintain consistency with standard rate design practices for efficient review by other parties, including regulators. SCE ratemaking proposals meet these objectives”).

²⁴ D.14-10-048, Dissent of Commissioner Catherine J.K. Sandoval, p. 3.

²⁵ See SCE-01-Policy, p. 23:6-10.

southern California, largely overlapping with SCE's electric service territory...."²⁶ SCE notes that visitors to Catalina represent a significant portion of the demand on the Catalina Water system, which is sized to meet the demand of the one million annual visitors rather than just the demand of approximately 2,000 Catalina Water customers.²⁷ Based on these facts, SCE presumes that a large percentage of Catalina visitors are SCE electric customers; that in visiting Catalina, these electric customers benefit from water utility services and generate costs to the water system; and accordingly, it is reasonable for these customers to bear some of the burden of the water system costs.²⁸

The above conclusions would indicate a nexus between the source of costs and those who should be required to pay for the costs. The conclusion that visitors to Catalina from southern California are a significant driver of costs for the Catalina water system indicates a nexus between the costs and those visitors. From that limited conclusion, SCE leaps to the more general, unsupported conclusion that it is reasonable to transfer Catalina water costs to *all* of SCE's electric customers.

System-wide, SCE estimates that it serves roughly five million electric customer accounts, and the five million accounts represent approximately 15 million people.²⁹ Thus, the 700,000 visitors to Catalina who might be SCE electric customers represent *less than five percent of SCE's electric customer population*.³⁰ As currently presented, SCE's proposal for

²⁶ See SCE-07, *Testimony Supporting Southern California Edison Company's Application for Authority to Increase Rates for its Class C Catalina Water Utility and Recover Costs from Water and Electric Customers – Rates* (SCE-07-Rates), p. 2:10-12.

²⁷ SCE-01-Policy, p. 23:12-14.

²⁸ See SCE-01-Policy, 23:6-20.

²⁹ See SCE-01-Policy, 23:15-16 (estimating that SCE provides electric service to 15 million people through 5 million customer accounts); *see also* SCE-08, *Supplemental Testimony*, p. 9:11 (stating that Catalina water costs would be recovered "from all of SCE's roughly 5.1 million customers").

³⁰ 700,000 annual southern California visitors to Catalina divided by 15 million individuals served through SCE electric customer accounts equals .04667, or just under 5% of the 15 million people. The logical fallacy in SCE's argument can be outlined in several ways. For example:

1. SCE electric customers live in southern California.
2. Many visitors to Catalina Island are from southern California.

Therefore, many SCE electric customers are visitors to Catalina Island.

(continued on next page)

cost recovery would impose Catalina Water service costs on an overwhelming majority of electric customers who may not have visited the island, and may never visit. No evidence links SCE electric customers at large to Catalina Island water usage.

The Commission's constitutional authority to set rates, while broad, is subject to statutory constraints. Absent showing a reasonable cost-causation nexus and demonstrating that the proposed cross-subsidy supports an explicit state policy goal, SCE cannot justify imposing Catalina water utility costs on all electric customers in the form of a rate increase, as is required by Public Utility Code § 454(a). Applying established rate design principles to the proposed electric rate increase suggests that the proposal cannot be determined just and reasonable, as required by section 451.

B. SCE's Application and Testimony Alone Provides Insufficient Information to Permit Recommendation of Other Cost Recovery Approaches.

Absent further analysis and service of intervenors' testimony, specific recommendations as to other recovery approaches that should be considered cannot be meaningfully presented in this brief. SCE summarily addresses cost recovery approaches other than its preferred option of recovering water utility costs from electric utility customers.³¹ Cal Advocates' analysis of the options SCE has identified is ongoing and will be discussed in forthcoming testimony per the proceeding schedule, along with any other cost recovery recommendations.³²

Or,

1. SCE electric customers live in southern California.
2. Tourists from Southern California benefit from the Catalina water system and contribute to system costs.

Therefore, all SCE electric customers benefit from the Catalina water system and contribute to system costs.

In the first example, the correct conclusion is that many visitors to Catalina are potentially SCE electric customers; the reverse, however, is false and cannot justify a system-wide transfer of water costs to electric customers. In the second example, the correct conclusion is that SCE electric customers *who are tourists to Catalina* benefit from the Catalina water system and contribute to system costs.

³¹ See SCE-01-Policy, pp. 23-27 (discussing and generally dismissing five alternative cost recovery approaches, plus the alternative of acquisition of Catalina Water by a Class A water utility).

³² See Scoping Memo, p. 4 (setting date for intervenor testimony to be served on July 9, 2021).

The Scoping Memo also directed SCE to serve supplemental testimony with an “additional cost recovery proposal.”³³ SCE’s Supplemental Testimony served on February 26, 2021 addressed an “alternate ratemaking proposal [seeking] to recover revenue requirement increases above the amount authorized in the 2011 Water GRC solely from Catalina water customers.”³⁴ SCE’s testimony states this alternate proposal would result in a 181% increase from the current authorized base revenue requirement of \$4.130 million to a test year base revenue requirement of \$9.303 million, to be phased in over a five-year period.³⁵

This alternative ratemaking proposal requires further discovery and analysis, as Cal Advocates’ future testimony will reflect. The Commission relies on established rate design principles to assess whether proposed rates are just and reasonable; accordingly, any approach ultimately approved by the Commission should reflect cost-causation and minimize cross-subsidies in addition to supporting state water policy goals.

III. CONCLUSION

Cal Advocates appreciates this opportunity to address the issues presented for briefing, and requests that the Commission reject any cost recovery proposal in this proceeding that may violate or weaken established rate design principles and standards.

Respectfully submitted,

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³³ Scoping Memo, p. 4.

³⁴ SCE-08-Supplemental Testimony, p. 11:23-24.

³⁵ SCE-08-Supplemental Testimony, p. 12:4-8.