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 (Filed October 30, 2020)

REPLY COMMENTS OF THE UTILITY REFORM NETWORK ON THE PROPOSED DECISION OF ALJ GARRETT TOY

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SUBJECT INDEX

REPLY COMMENTS OF THE UTILITY REFORM NETWORK ON THE PROPOSED DECISION OF ALJ GARRETT TOY

Pursuant to Rule 14.3(d) of the Commission's Rules of Practice and Procedure, The Utility Reform Network (TURN) submits these reply comments regarding the Proposed Decision of Administrative Law Judge Garrett Toy (Proposed Decision) for the general rate case application of Southern California Edison Company (SCE) regarding the provision of water utility service to customers on Catalina Island. TURN replies solely to SCE's opening comments.

I. The PD Correctly Rejects SCE's Subsidy Arguments as Lacking Record or Legal Support.

SCE's opening comments revive nearly all of the arguments that the Proposed Decision correctly rejects regarding the utility's proposal to have its electric utility customers subsidize the costs of SCE's water utility operations on Catalina Island. The arguments have not improved with age or retelling.

SCE must not be permitted to treat its subsidy request as a "straightforward, sensible proposal" that merely asks its electric utility customers to "shoulder a portion" of the costs of providing water utility service to Catalina customers.[1] SCE has not and, TURN submits, cannot overcome the principal element that makes such a subsidy inappropriate and likely prohibited by law – the underlying costs of providing water utility service to Catalina customers have nothing to do with SCE providing electric utility service to its electric utility customers. Nowhere in SCE's opening comments does the utility attempt to meaningfully address, much less dispute this fundamental fact associated with its proposal.

Instead, SCE attempts to downplay the fact, suggesting that "adopting a cross-subsidy where one set of utility customer subsidizes the costs of another set of utility customers is atypical and disfavored under normal circumstances," and merely a "bias" that the Commission should overcome.[2] There is no "bias," but rather a statutorily-based prohibition the Commission has previously recognized and complied with.[3] The only decision SCE can cite as having adopted such a cross-service subsidy includes plain language applicable should SCE choose to propose such a subsidy in the future, as it has here: the utility must "fully justify every request and ratemaking proposal without reference to, or

[1] SCE Opening Comments, Subject Index, and pp. 1-3.

[2] SCE Opening Comments, pp. 8 and 10 [emphasis added].

[3] TURN Limited Opening Brief (3/5/21), pp. 2-4; *see also*, Proposed Decision, p. 72 ["As discussed in the Cross-subsidy Ruling, no Commission policy or statute supports the proposed cross-subsidy, and SCE has not provided sufficient justification to authorize the cross-subsidy."] TURN's Limited Opening Brief may be accessed at https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M369/K252/369252040.PDF

reliance on, the adoption of the settlement."[4] In its opening comments, as it has throughout this proceeding, SCE violates the letter and the spirit of D.14-10-048.

SCE's attempts to draw a connection between SCE electric utility customers and providing water utility service on Catalina Island are still in error, just as they were when SCE made them in its earlier briefs. The record evidence fails to establish a meaningful nexus between SCE electric utility service customers and its Catalina Island water utility customers. SCE repeats the debunked assertion that seventy percent of visitors to Catalina Island come from Southern California, then quotes from its own witness's statement regarding the number of such visitors.[5] But the quoted material omits the most relevant statement: "at least some of the visitors to Catalina Island on an annual basis are SCE electric customers. It's probably not the fully 70 percent…. But it is not zero; it is something above that."[6] "Something above zero" is not a basis upon which a cross-subsidy should be adopted.

Finally, SCE continues to approach the underlying math all wrong. There are approximately 15 million people who receive electric utility service from SCE.[7] Thus, even if all of the 1 million annual visitors to Catalina Island were from SCE's service territory, they would represent approximately 7 percent of the number receiving SCE electric utility service. But SCE proposes to recover the proposed subsidy from all of SCE's electric customers, despite the fact that the vast majority of them are reasonably not expected to visit Catalina Island, even under the most favorable assumption. The far better approach is the one most consistent with cost causation – the Commission should encourage if not direct SCE to work with Catalina-based interests to develop and implement a "boat fee" or other mechanisms that would recover a substantial portion of "the costs of water and the related infrastructure necessary to support over ***one million*** visitors a year"[8] from those visitors, rather than entirely from Catalina's residents and local businesses.

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[4] D.14-10-048, p. 10; *see also* TURN Limited Reply Brief (3/19/21), pp. 4-5. TURN's Limited Reply Brief may be accessed at https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M373/K419/373419413.PDF

[5] SCE Opening Comments, pp. 9-10, and fn. 21. TURN's Limited Opening Brief explained that the 70% figure is vastly exaggerated due to miscalculations and faulty assumptions such as all Southern Californian residents receive electric service from SCE. TURN Limited Opening Brief, p. 10, fn. 19.

[6] SCE, Fox, Tr. Vol. 5 at p. 509, ll. 3-9.

[7] TURN Limited Opening Brief, p. 9, citing Ex. SCE-01, p. 23.

[8] SCE Opening Comments, p. 9 [emphasis in original].

II. The Commission Should Decline SCE's Invitation to Unnecessarily Test the Extent of its Authority Under Section 451, and Reject the Suggestion that TURN Agrees Even In Part With The Utility's Theories.

SCE's opening comments include an argument that TURN's counsel does not recall ever seeing in a pleading filed with the Commission – the utility seems to be asking the Commission to take a step of dubious legality under Section 451, based in part on the logic that it is unlikely to be overturned on judicial review. In seeking to assure the Commission that SCE's proposed subsidy would withstand legal challenge if adopted, the utility states:

> The California Supreme Court has long afforded strong deference to the Commission's interpretation of the Public Utilities Code, and courts would not disturb the Commission's decision to approve the proposed cross-subsidy pursuant to its interpretation of Section 451.[9]

The Commission should choose not to rely on SCE's prediction of how the California Supreme Court would respond to adoption of the utility's proposed cross-subsidy. Strong deference is not boundless deference. And SCE fails to analyze how the Court might react to a decision permitting such a subsidy in light of the Commission's prior decision that cited Section 451 as a reason compelling it to deny a subsidy proposed to be funded by electric utility customers:

> A utility cannot charge ratepayers costs that are unrelated to the provision of any product or commodity or service, and the Commission cannot lawfully order such charges.[10]

The Commission should also ignore SCE's baseless claim that "[a]ll parties fundamentally agree… that the Commission has the authority to approve SCE's proposed cross-subsidy if it is "just and reasonable" under Section 451."[11] This is a tortured reading of TURN's position as stated in the brief cited by SCE for this claim:

> Costs associated with providing water utility service on Santa Catalina Island <u>cannot be part of a "just and reasonable" charge</u> to an SCE electric utility customer, very nearly all of whom do not live on Santa Catalina Island.[12]

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[9] SCE Opening Comments, pp. 12-13.

[10] D.97-05-088 (1997 Cal. PUC LEXIS 453, *99; 72 CPUC 2d 560, 602), as cited in TURN Limited Opening Brief (3/5/21), p. 3.

[11] SCE Opening Comments, p. 12, fn. 31.

[12] TURN Limited Opening Brief (3/5/21), p. 3 [emphasis added].

SCE's logic seems to be that if the Commission were to ignore all of the fundamental differences between the parties' positions, the parties would all "fundamentally agree." Even if this were logic that made sense, it is not logic the Commission should embrace.

III. SCE Cannot Be Taken At Its Word On The "Precedential Effect" of its Proposals.

SCE bases its subsidy arguments in part on the assertion, "the cross-subsidy would have no precedential effect outside of Catalina and could only be implemented for Catalina given its unique circumstances."[13] TURN submits that given SCE's track record here in terms of generally ignoring "no precedential effect" commitments from the prior GRC, the Commission should disregard the utility's assurance as lacking credibility.

Again, in arguing for its desired subsidy of Catalina Water utility customers by its electric customers, SCE asserts, "this exact kind of subsidy for Catalina Water has been successfully implemented before without issue [cite to D.14-10-048] and could easily be done again."[14] As noted earlier, this exact kind of argument is what the Commission specifically directed SCE to <u>not</u> make when it adopted D.14-10-048.[15]

SCE promises that its proposed cross-subsidy "would have no precedential effect outside of Catalina."[16] But the Commission has seen here how willing SCE is to refer to and rely on a prior GRC decision that was to have no precedential effect, whether inside or outside of Catalina. So when SCE says reassuringly that the Commission can adopt a subsidy here without creating any "precedential effect," the Commission should weigh the utility's statement promising better behavior going forward against the demonstrated disregard for similar language SCE has displayed in this proceeding.

IV. The Commission Should Not Adopt SCE's Proposed Changes To The Memorandum Accounts Amortization Period or Authorized Interest Rate.

SCE argues that the Commission should either reject the substantial amortization periods the Proposed Decision would adopt in favor of a 12-month amortization, or adopt a higher interest rate for

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[13] SCE Opening Comments, p. 13.

[14] SCE Opening Comments, p. 12.

[15] D.14-10-048 (SCE Catalina GRC), p. 10 [emphasis added]. [We specifically note, therefore, 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 <u>without reference to, or reliance on, the adoption of the settlement.</u>]

[16] SCE Opening Comments, p. 13.

the balances that would remain in the various memorandum accounts during the amortization period.[17] It argues, without supporting citation, that the "traditional amortization period for memorandum account balances is 12 months."[18] The Commission has often adopted longer amortization periods as necessary to mitigate the impacts of substantial rate increases. For example, in SCE's most recent GRC for its electric operations, the Commission adopted a 27 month amortization period for the revenue requirement increase associated with a nine-month period, to lessen bill impacts where the associated rate increases were 7.63%, 5.54% and 6.00% in a three-year period.[19] Here, the amortization period should be longer to help mitigate the impact of the far greater rate increases Catalina Water customers will experience during 2024-2028.[20] The amortizations under the Proposed Decision should be adopted.

The Commission should ignore the utility's arguments regarding how the memorandum account interest rate would "implicitly penalize SCE shareholders" or even "shake credit rating agency and investor confidence in SCE."[21] Given that the same SCE shareholders stand to benefit from expected net operating revenue of approximately $2.7 billion in 2024 from SCE's electric utility operations,[22] a reduction of the amount SCE complains of would not seem material from a shareholder perspective. Similarly, SCE has not presented any analysis that might establish that maintaining the memorandum account interest rate for its water utility operations presents a threat to its credit metrics or threaten SCE's ability to maintain its authorized capital structure.[23] Section III of SCE's comments is particularly citation-free, contrary to Rule 14.3(c).[24] SCE's arguments should be accorded no weight.

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[17] SCE Opening Comments, p. 2.

[18] *Id.*, p. 2, fn. 9.

[19] D.21-08-036 (SCE 2021 TY Electric GRC), p. 2.

[20] Proposed Decision, Table 4.

[21] SCE Opening Comments, pp. 3-4.

[22] SCE Advice Letter 5149-A, p. 10, Table 4 (Updated 2024 Authorized Base Revenue Requirement figures).

[23] SCE Opening Comments, pp. 4-6.

[24] Rule 14.3(c) states, in part, "Comments shall focus on factual, legal or technical errors in the proposed or alternate decision and in citing such errors **shall make specific references to the record or applicable law**. Comments which fail to do so will be accorded no weight." [Emphasis added.]

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Respectfully submitted,

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