



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

**FILED**

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Application of Southern California Edison  
Company (U 338-E) for Authority to Increase  
Rates for its Class C Catalina Water Utility  
and Recover Costs from Water and Electric  
Customers.

**Application No. A.20-10-018**  
(Filed October 30, 2020)

**OPENING BRIEF OF INTERVENORS CATALINA PARTIES**

**INTERVENORS: City of Avalon, Catalina Island Chamber of  
Commerce, Santa Catalina Island Company, Santa Catalina Island  
Conservancy, Guided Discoveries, and Hamilton Cove Homeowners  
Association (Catalina Parties)**

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**May 13, 2022**

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## **SUMMARY OF CATALINA PARTIES' RECOMMENDATIONS**

1. Instead of a preponderance of the evidence burden of proof standard, hold SCE to a clear and convincing standard.

2. Deny SCE any increase in the following O&M Accounts for failure to meet the burden of proof:

- a) Account 618, Other Volume Related Expenses;
- b) Account 630, Employee Labor;
- c) Account 640, Materials;
- d) Account 650, Contract Work; and
- e) Account 660, Transportation Costs

or accept Cal Advocates' recommendation of \$1,866 million for all O&M Accounts.

3. Deny SCE any increase in the following A&G Accounts for failure to meet the burden of proof:

- a) Account 670, Office Salaries;
- b) Account 678, Office Services and Rentals; and
- c) Account 689, General Expenses

4. Deny SCE any amount for Account A&G for failure to again comply with USOA guidelines.

5. Deny SCE any funds for Desalination in accordance with Cal Advocates' Report and Recommendations.

6. Deny SCE any funds for Water Meter Replacement in accordance with Cal Advocates' Report and Recommendations.

7. Deny SCE any funds for Water Valve Replacement in accordance with Cal Advocates' Report and Recommendations.

8. Deny SCE any funds for Wildfire Mitigation in accordance with Cal Advocates' Report and Recommendations.

9. Deny SCE any recovery of any amount recorded in its Drought-Related Memorandum Accounts.
10. Require SCE to take steps to bring the amount of produced water lost during distribution to no more than 7% as set by Commission guidelines.
11. Deny SCE any funds for any aspect of the Howlands Landing Well in accordance with Cal Advocates' Report and Recommendations.
12. Deny SCE any funds in any way related to the Million Gallon Tank rehabilitation.
13. Deny SCE any funds for upgrading the SCADA system.
14. Require SCE to revise Schedule 14.1 to reflect the availability of SCE's two desalination plants.
15. Require SCE to revise Rule 3 to eliminate the ability to deny service requests for any reason whatsoever.
16. Deny SCE any recovery of costs from mainland electric ratepayers.
17. Allow SCE to consolidate rates with its electric ratepayers -- Rate Base Consolidation.
18. Assure that the Catalina ratepayers have adequate service at reasonable rates as is required by law.
19. Accept Cal Advocates' forecast of Water Sales for TY 2022.
20. Require SCE to include Fire Protection connections and determine that SCE is a Class B water utility.
21. Require SCE to not distort the effect of proposed rates for residential ratepayers by using unrealistic consumption numbers.
22. Require SCE to set its fixed service charge at a 50/50 fixed-to-volumetric ratio.

23. Require SCE to use a residential to nonresidential ratio of 31% residential and 69% nonresidential, or 37% residential and 63% nonresidential.
24. Require SCE to eliminate seasonal rates.
25. Require SCE to use the following Tier Breakpoints -- Tier 1 breakpoint set at 0-3,000 gallons, Tier 2 at 3,000-6,000 gallons, and Tier 3 at 6,000+ gallons -- as recommended by Cal Advocates.
26. Deny SCE any change in the CARE rates.
27. Delay any decision to implement a Monterey-Style, Incremental Cost Balancing Account (ICBA).
28. Again require SCE to use USOA guidelines.

## **I. Introduction.**

### **a. The Challenge.**

Intervenors City of Avalon, Catalina Chamber of Commerce, Santa Catalina Island Company (“SCICO”), Santa Catalina Island Conservancy (“Conservancy”), Guided Discoveries, Inc., and Hamilton Cove Homeowners Association (“HCHOA”) (“Catalina Parties or CP”) represent the interests of all of Southern California Edison Company’s (“SCE”) 1,475 residential ratepayers, 346 commercial ratepayers, 66 irrigation ratepayers, and 112 dedicated fire protection ratepayers. **Catalina Parties do not seek differential rates that would cause one class of ratepayers to bear a disproportionate share of the water costs.** What Catalina Parties seek is what has been mandated by the Public Utility Act, as interpreted by the California Supreme Court – **“adequate water service at reasonable rates.”** Catalina Parties recognize that Catalina Island presents unique challenges to providing adequate water service at reasonable rates. But meeting this challenge is the overriding policy of the State of California and should be the goal of this proceeding.

**An adequate fresh water supply is the life blood of Catalina Island.** Other than service businesses supporting the approximate 4,000 permanent residents, the **sole** business activity providing revenue and employment for the residents is tourism. Without fresh water, the tourism business dies, and without tourism, the Island dies. Water ratepayers have no control over their water supply. That is solely in the hands of SCE. SCE holds the life of the Island in its hands. How SCE has met this responsibility in the past and how it will meet it in the future are the fundamental questions raised by this GRC.

Excluding the 112 Fire Protection ratepayers, there are 1,887 water ratepayers. From this minuscule number of ratepayers, SCE wants to extract:



- An increase to its Rate Base of **\$10,984,766** for capital expenditures already incurred.
- An additional \$15,500,674 increase in its Rate Base for amounts to be expended between 2020 and 2024, less contributions totaling \$10,300,000 from the Department of Water Resources (the “DWR”), or a net of **\$5,200,674**.
- A **225%** increase in SCE’s Revenue Requirement to **\$9,303,000**, which is currently \$4,130,000.
- An increase in the CARE discount percentage from 20% to 32.5% to support low-income ratepayer assistance and affordability. One hundred forty-four or 7.6% of SCE’s 1,887 customers use CARE.

The list does not include **\$28,987,000** in costs SCE seeks to shift to its electric ratepayers. Although SCE is not seeking to recover this amount from water ratepayers in this proceeding, will SCE later attempt to collect these costs from water ratepayers if denied recovery from electric ratepayers? That issue should be laid to rest in this proceeding.

Just listing what SCE is seeking should raise an immediate question in the mind of the reader -- **How can that be “just and reasonable,” the three words that override every aspect of this proceeding?**

**b. SCE’s Water Utility Operations.**

SCE goes to great lengths to describe its Catalina Water Utility Operations. Not mentioned is the fact that SCE owns the rights to nearly all of the groundwater on the Island. In 1962, at a time when the Island (with the exception of some lots in Avalon) was owned by SCICO, SCICO entered into an agreement with SCE granting SCE the water rights to the

entire Island, with few exceptions (the “1962 Water Rights Agreement”). The Conservancy, as an example, cannot dig a well to supply water for any of its far-flung activities.<sup>1</sup>

SCE’s water utility is not a system. It is five independent systems, only one of which, the largest according to SCE, accounting for 85% of the water usage, is served by desalinated water. This number is not correct. HCHOA, representing 190 or 13% of SCE’s residential accounts and 30 or 6% of SCE’s non-residential connections, is **not** served by the desalination plants. Additionally, because the systems are independent, if the source of water for a particular system goes down, there is no backup supply. Hence, the failure of the Howlands Landing Well, discussed below, was an unmitigated disaster.<sup>2</sup>

SCE’s description of Storage Volume is also misleading. SCE includes “one raw water reservoir” (“Thompson Reservoir”) as part of its storage volume. **SCE draws no water from the Thompson Reservoir and has no treatment facility that would permit it to sell water from the reservoir.** The Thompson Reservoir, located in Middle Canyon, feeds the aquifer from which the Middle Ranch Wells draw groundwater. Additionally, there is no description as to the availability of storage to a particular system. The lack of storage hampers the effective use of the two desalination plants, as will be discussed below.<sup>3</sup>

SCE emphasizes the challenges it faces, and Catalina Parties do not downplay those challenges. **However, the challenges SCE face are the same challenges that existed in 1962 when SCE obtained its Certificate of Public Convenience and Necessity allowing it to be the**

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<sup>1</sup> Catalina Parties (“CP”)-01, p.7; CP Protest, Exhibit 2.

<sup>2</sup> CP 01, p 7.

<sup>3</sup> *Id.*

**sole provider of fresh water on Catalina Island.** The basic issue between Catalina Parties and SCE is how SCE has met or failed to meet those challenges over the last 60 years.<sup>4</sup>

There has been no growth on Catalina Island since the previous GRC (the “Previous GRC”).<sup>5</sup> There cannot be growth if the water provider cannot or does not issue permits for additional connections, which has been the case since the Previous GRC. SCICO, the principal employer on the Island for its tourist related businesses, is particularly frustrated as it has been unable to build the housing it needs for its employees. It is the responsibility of a water utility to supply the reasonable needs of the residents and businesses in the area where it holds a monopoly over the sale and distribution of water.<sup>6</sup>

SCE’s water utility is an anomaly.<sup>7</sup> It is a tiny water utility run as barely a department by a giant electric generating and distribution company. It is operated by thirteen part time employees who also work for its electric and gas utilities. It has no monthly financial statements, no operating budget, no chief financial officer or controller.<sup>8</sup> With the exception of one SCE employee who lists on-the-job experience working for SCE on Catalina Island, none of the witnesses who provided testimony for SCE reference any formal training or work experience operating a water utility. Their education and training uniformly related to the electricity business. On top of that, to Catalina Parties’ knowledge, the SCE water utility is the only water utility regulated by the CPUC operating desalination plants. SCE uses electric industry data instead of water industry data to project cost escalations.<sup>9</sup>

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<sup>4</sup> *Id.* at p. 8.

<sup>5</sup> A.10-11-009.

<sup>6</sup> *Id.*

<sup>7</sup> Evidence Hearing Testimony 2/24/22, 2/25/22, 2/28/22, 3/2/22 and 3/7/22 (“EHT”), pp. 561-562.

<sup>8</sup> *Id.* at pp 229-231.

<sup>9</sup> Cal Advocates’ Report and Recommendations (“CA Report”), pp. 2-3-2-4.

SCE has been the primary provider of utility services (including water distribution, electricity and gas) since 1962.<sup>10</sup> From 1985 to 2002, SCE not only recovered its revenue requirement, but also made a profit of \$5,420,852.<sup>11</sup>

Over the 60-year period SCE has operated the water utility, it has been authorized to increase its water rates only four times. In 1980, 18 years after acquiring the water utility, the Commission authorized a small increase due to an increase in operating expenses.<sup>12</sup> In 1985, five years later, the Commission authorized a second increase.<sup>13</sup> **Twenty-two years later**, in 2007, SCE obtained a large increase through an Advice Letter with no input from the community or ratepayers.<sup>14</sup> The huge increase in their water bills woke up the ratepayers. When SCE again tried to raise rates by means of an Advice Letter in 2010, ratepayers protested, the Water Division took notice and SCE was required to proceed by means of a the Previous GRC, which was resolved in 2014 by the All-Party Settlement.<sup>15</sup>

**SCE does not deserve credit for seeking to increase its Revenue Requirement only four times in a span of 60 years.** It is impossible for an any water utility, and particularly a Class C water utility, to maintain and upgrade its distribution system, meet ever changing regulations and meet service needs while seeking to increase its Revenue Requirement only four times in 60 years. By not seeking rate increases on a regular basis, a utility, particularly a Class C Water Utility, avoids the scrutiny of the Water Division. The Water Division has only recently learned that SCE never complied with General Order 103-A, Section VII,

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<sup>10</sup> D.64420 authorized SCE to purchase all the water, gas, and electric service facilities in Catalina.

<sup>11</sup> CP-01, p. 10.

<sup>12</sup> D.91561

<sup>13</sup> D.83-10-045

<sup>14</sup> Resolution W-4665

<sup>15</sup> D.14-10-048

Paragraph 4.A., and that it has a serious environmental problem involving PCB contaminated pipe because SCE finally came forward and told the Water Division what was going on.<sup>16</sup>

One way to make a profit is to not maintain and upgrade the utility's system on an ongoing basis. The current needs of the system are a result of SCE's failure, starting in 1962, to maintain and upgrade the system on an ongoing basis. Current ratepayers should not be required to pay the costs of this failure. That is not fair, equitable or reasonable.

## **II. Evidentiary Standards and Burden of Proof.**

As the applicant, SCE bears the burden of proving that it is entitled to the revenue requirement and other relief it seeks, and it must affirmatively establish the reasonableness of each and every proposal within its Application. **Intervenors do not have the burden of proving the unreasonableness of SCE's showing.** As will be discussed in detail below, SCE has rarely met this burden, typically asserting that simply because it asks for the money, it must be "just and reasonable", or, in the case of expenditures, just because it spent the money, it must have been "just and reasonable."

In the Matter of the Application of Apple Valley Ranchos Water Company (U346W) for Authority to Increase Rates Charged for Water Service, D.05-12-020, decided 12/5/2005, the Commission held:

### **B. Burden of Proof**

There is a natural litigation advantage enjoyed by utilities in that we must rely in significant part on their evidence and experts; this advantage reinforces the importance of placing the burden of proof in ratemaking applications on the applicant utilities. Apple Valley has the sole obligation to provide a convincing and sufficient showing to meet the burden of proof, and any active participation of other parties can never change that obligation. This was described in D.87-12-0672 as follows:

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<sup>16</sup> CP-01, pp. 9-10.

The inescapable fact is that the ultimate burden of proof of reasonableness, whether it be in the context of test year estimates, prudence reviews outside a particular test year, or the like, never shifts from the utility seeking to pass its costs of operations onto ratepayers on the basis of the reasonableness of those costs. (Decision 05-12-020, at p.5.)

In Application of Southern California Edison Company (U338E) for Authority to Increase its Authorized Revenues for Electric Service in 2021, among other things, and to Reflect that Increase in Rates, D.19-08-013, decided 8/19/2021, the Commission held:

Public Utilities Code Section 451 provides that “all charges demanded or received by any public utility ... shall be just and reasonable.” Pursuant to Section 454(a):

a public utility shall not change any rate or so alter any classification, contract, practice, or rule as to result in any new rate, except upon a showing before the commission and a finding by the commission that the new rate is justified.

It is well-established that, as the applicant, SCE must meet the burden of proving that it is entitled to the relief it is seeking in this proceeding. SCE has the burden of affirmatively establishing the reasonableness of all aspects of its application. The Commission has held that the standard of proof the applicant must meet in rate cases is that of a preponderance of the evidence. Preponderance of the evidence usually is defined “in terms of probability of truth, *e.g.*, ‘such evidence as, when weighed with that opposed to it, has more convincing force and the greater probability of truth.’

Although the utility bears the ultimate burden to prove the reasonableness of the relief they seek and the costs they seek to recover, the Commission has held that when other parties propose a different result, they too have a “burden of going forward” to produce evidence to support their position and raise a reasonable doubt as to the utility’s request. (Decision 19-08-013, pp. 9-10)

In the instant case, SCE has “the sole obligation to provide a convincing and sufficient showing to meet the burden of proof, and any active participation of other parties can never change that obligation.” SCE has the burden of affirmatively establishing the reasonableness of

all aspects of its application. Intervenors do not have the burden of proving the unreasonableness of [the utility's] showing." SCE must meet this burden "by a preponderance of the evidence."

Although it appears that the standard of proof currently is "preponderance of evidence," in various rate cases and other proceedings the Commission has applied a "clear and convincing" standard. The history of the Commission applying the "clear and convincing" standard was detailed by Cal Advocates' predecessor, Office of Ratepayers Advocates ("ORA"), in its Opening Comments in Order Instituting Investigation Rulemaking to Develop a Risk-Based Decision-Making Framework to Evaluate Safety and Reliability Improvements and Revise the General Rate Case Plan for Energy Utilities, Rulemaking 12-11-006, Filed 11/14/2013, Appendix A. ORA concluded that "[h]olding the utilities to the clear and convincing standard of proof would be one way to achieve [the Commission's] goals." (Appendix A, p. 4)

When Intervenors raise issues as to whatever the utility seeks, this does not automatically shift the burden of going forward to Intervenors. If the amount spent by the utility is unreasonable, it is not up to the Intervenors to prove what amount would have been reasonable. If the utility fails to provide a basis for money spent or for revenue it seeks, it is not up to Intervenors to provide the missing evidence. As noted above, the utility controls the evidence and Intervenors are at a distinct disadvantage as a result. Shifting the burden of going forward to Intervenors should be the exception, not the rule.

### **III. Revenue Requirement.**

#### **a. Forecast for Operation & Maintenance and Administration & General Expenses.**

##### **i. O&M.**

Catalina Parties agree with and support Cal Advocates' evaluation and analysis with regard to the amounts SCE seeks for O&M for TY 2022.<sup>17</sup>

The current Revenue Requirement includes \$2.995 million for Operating and Maintenance Expenses ("O&M").<sup>18</sup> SCE seeks to more than double this amount to \$6.171 million.<sup>19</sup> Since the Previous GRC, for the years 2015 to 2019 O&M has averaged \$4.107 million. The proposed increase is 1.55 times higher than the five-year average. Costs have gone up, but no way near what SCE seeks.

SCE calculated the amounts it seeks for O&E based upon its 2019 expenses. As pointed out by Cal Advocates, SCE should use five-year averages as the basis for its calculations.<sup>20</sup>

Even using SCE's 2019 expenses as a base, the increases it seeks are unwarranted. The following Table compares SCE's 2019 O&M expenses with what SCE forecast for TY 2022:

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<sup>17</sup> CA Report, pp. 2-1 to 2-19.

<sup>18</sup> SCE-02, p. 5.

<sup>19</sup> SCE Application, p. 2; SCE 02, p. 4. There is conflict in the amounts between the Application and SCE-02.

<sup>20</sup> CA Report, p. 2-5.



**TABLE 1**  
**O&M Comparison 2022 Forecast Versus 2019<sup>21</sup>**

ACCT	ACCOUNT NAME	2022 FORECAST	2019	FORECAST AS (%) OF 2019
	<b>Operations &amp; Maintenance Expense</b>			
<b>615</b>	<b>Power for Pumping</b>	<b>267</b>	<b>267</b>	<b>100%</b>
<b>618</b>	<b>Other Volume Related Expense</b>	<b>144</b>	<b>94</b>	<b>153%</b>
<b>630</b>	<b>Employee Labor</b>	<b>1,801</b>	<b>1,677</b>	<b>107%</b>
<b>640</b>	<b>Materials</b>	<b>208</b>	<b>108</b>	<b>193%</b>
<b>650</b>	<b>Contract Work</b>	<b>1,650</b>	<b>503</b>	<b>328%</b>
<b>660</b>	<b>Transportation Expense</b>	<b>161</b>	<b>161</b>	<b>100%</b>
	<b>Total</b>	<b>4,231</b>	<b>2,810</b>	<b>151%</b>

The differences are startling. SCE seeks \$144,000 for **Acct 618, Other Volume Related Expense**, which is 1.53 times more than was spent in 2019. In the Previous GRC, these expenses were included in **Acct 640, Materials**. SCE made this change to conform to USOA guidelines.<sup>22</sup> Because of the change, the two accounts have to be considered together. The amount of \$261,000 was authorized for **Acct 640, Materials**, which included Other Volume Related Expense. SCE seeks \$352,000 for these two accounts, which is 1.35 times more than what was authorized. However, when the two accounts are compared to 2019, the increase is larger:

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<sup>21</sup> CP-01, p. 13.

<sup>22</sup> SCE-02, p. 8.

**TABLE 2**  
**Accounts 618 and 640 Combined Comparison**

	<b>2022 FORECAST</b>	<b>2019</b>	<b>FORECAST AS (%) OF 2019</b>
Other Volume Related Expense	144	94	<b>153%</b>
Materials	208	108	<b>193%</b>
	352	202	<b>174%</b>

It is difficult to analyze **Account 630, Employee Labor**. SCE water utility has only part time employees. Anyone working for the water utility is also working for the electric utility, the gas utility or all three utilities. SCE's Organization Chart<sup>23</sup> shows thirteen part time employees. SCE's Response to a Cal Advocates Data Request also indicates thirteen part time employees.<sup>24</sup> However, there are other part time employees included in various other Accounts that should be reported in Account 630.<sup>25</sup> Ron Hite, SCE's General Manager ("Hite"), testified that there are other part time employees that may be reported in Account 630 or may be reported in another Account or accounts.<sup>26</sup> No record is maintained by SCE as to how much time each part time employee actually spends working for the water utility. It is impossible that the thirteen part time employees reflected on the Organizational Chart each spent 85% of their time working for the water utility.<sup>27</sup> SCE just estimates how much time these part time employees spend working for the water utility.

The amount of \$870,000 is currently authorized for Acct 630. SCE seeks to increase this to \$1.801 million, or 2.07 times higher. Part time employees assigned to

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<sup>23</sup> CP-17.

<sup>24</sup> CA Report, pp. 2-9 to 2-10.

<sup>25</sup> CA Report, pp. 2-8 to 2.11.

<sup>26</sup> EHT, pp. 375 to 377.

<sup>27</sup> CA Report, pp. 2-9 to 2-10.

the water utility are paid electric utility employee union rates, which are much higher than their water compatriots on the mainland.<sup>28</sup> Compared to the residents of the Island, SCE's employees are by far the highest paid employees on the Island at every level. Also unjustified is the 328% increase sought for **Acct 650, Contract Work**, from what was spent in 2019. It would seem that as Contract Work goes up, Employee Labor should go down. Not the case.

The amount of \$51,000 is authorized for **Account 660, Transportation Costs**. SCE seeks to increase this to \$110,000, or 2.16 times higher. SCE estimates that the water utility accounts for 40% of its Transportation Costs. SCE provides no justification for this increase.

SCE has presented many pages of testimony and workpapers in its attempt to more than double the amount currently authorized for O&M. SCE has the burden of proof. That burden cannot be met by unsupported numbers, electrical industry forecasting tools and misclassification of expenses as systematically pointed out by Cal Advocates and above.

SCE is currently authorized \$2,995 million for O&M.<sup>29</sup> Cal Advocates recommends \$2,748 million<sup>30</sup> and a further 32.1% reduction in this amount to \$1,866 million due to "SCE's unreasonable 39.1% water loss rate."<sup>31</sup> The Commission should send SCE back to the drawing board or at a minimum accept Cal Advocates' recommendations.

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<sup>28</sup> CP-01, p. 14.

<sup>29</sup> SCE-02, p. 5.

<sup>30</sup> CA Report, p. 2-2.

<sup>31</sup> *Id.*

ii. **A&G.**

Catalina Parties agree with and support Cal Advocates' evaluation and analysis with regard to the amounts SCE seeks for A&G for TY 2022.<sup>32</sup>

The following chart reflects SCE's actual 2019 A&G expenses with the amounts it seeks for TY 2022:

**TABLE 3**  
**A&G Comparison 2022 Forecast Versus 2019**

	<b>Administrative &amp; General Expense</b>	<b>2022 FORECAST</b>	<b>2019</b>	<b>FORECAST AS (%) OF 2019</b>
<b>670</b>	<b>Office Salaries</b>	<b>396</b>	<b>90</b>	<b>440%</b>
<b>671</b>	<b>Management Salaries</b>	<b>154</b>	<b>154</b>	<b>100%</b>
<b>676</b>	<b>Uncollectible Accounts Expense</b>	<b>17</b>	<b>8</b>	<b>213%</b>
<b>678</b>	<b>Office Service and Rentals</b>	<b>48</b>	<b>1</b>	<b>4800%</b>
<b>681</b>	<b>Office Supplies and Expenses</b>	<b>97</b>	<b>97</b>	<b>100%</b>
<b>682</b>	<b>Professional Services</b>	<b>361</b>	<b>361</b>	<b>100%</b>
<b>689</b>	<b>General Expenses</b>	<b>464</b>	<b>434</b>	<b>107%</b>
<b>A&amp;G</b>	<b>A&amp;G Expenses</b>	<b>1,081</b>	<b>1,081</b>	<b>100%</b>
<b>800</b>	<b>Capitalized Expenses</b>	<b>-770</b>	<b>-533</b>	<b>144%</b>
<b>689</b>	<b>Franchise Fees</b>	<b>93</b>	<b>30</b>	<b>310%</b>
	<b>Total</b>	<b>1,940</b>	<b>1,723</b>	<b>113%</b>

The evidence SCE presented to justify a 440% increase in **Account 670, Office Salaries**, is at best confusing, and fails to meet SCE's burden of proof. Hite testifies that Account 670 includes "one full-time administrative clerk supporting the water and gas utility, with two additional administrative clerks providing supplementary support as needed."<sup>33</sup> Hite then testifies:

Catalina water utility operations is a department within SCE's Generation organization. Within Generation, there are numerous general office functions that support the water utility, including

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<sup>32</sup> *Id.* at pp. 3-1 to 3-13.

<sup>33</sup> SCE-02, p. 23.

Utility Regulatory Services, Major Projects & Engineering, and Asset Management & Generation Strategy. **There are seven employees within these departments who dedicate a portion of their time to water related activities.**<sup>34</sup>

Does Account 670 include three part time employees or seven part time employees or ten part time employees, and how is the amount of time they spend on water utility matters determined? None of these seven part time employees are indicated on SCE's Organization Chart as employees of the water utility.<sup>35</sup> Since SCE fails to meet its burden of proof, the amount sought should be disallowed.

SCE seeks to increase **Account 678, Office Services and Rentals**, 4800% from what it spent in 2019. Currently nothing is authorized for Account 678. What is not clear from the evidence is what portion of the Pebbly Beach Generation Station is used by employees working part time for the water utility. SCE has failed to meet its burden of proof as to any amount.

**Account A&G** is authorized at \$660,000. SCE seeks to double it, to \$1.280 million. Apparently, this account continues to include Employee Pensions and Benefits because SCE has again failed to follow USOA guidelines, as it was directed to do, and use Acct 674, which exists for that purpose. This is a 194% increase from what was authorized eight years ago. Assuming the water utility is being assessed the same percentage of SCE's total A&G, that amount has almost doubled.

SCE seeks to increase **Account 689, General Expenses**, from an authorized \$33,000 to \$464,000, an increase of 1305%. We know little about this account:

Most general expenses charged to this account related to the travel and lodging expenses for Catalina employees attending

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<sup>34</sup> *Id.* at p. 25.

<sup>35</sup> CP-17.

meetings and training on the mainland and other SCE employees temporary stay on the island to assist with water utility operations.<sup>36</sup>

Without a breakdown of these expenses, it is impossible for the Commission to judge their reasonableness. SCE has failed to meet its burden of proof.

SCE has closed the office it had on the Island that served water ratepayers. Water ratepayers now must handle all matters, including bill paying, with SCE employees on the mainland. Despite this change, SCE seeks a 241% increase in **Acct 670, Office Salaries**, from what was previously authorized, and an 870% increase in Office Supplies and Expenses from what was previously authorized. SCE also seeks \$361,000 for **Acct 678, Office Services and Rentals**, for which nothing was previously authorized. In the Previous GRC, the cost for the space occupied by water utility employees in SCE's offices on the Island was included in A&G. SCE now wants rent for that space but the same percentage A&G.

Catalina Parties agree with Cal Advocates' recommendations regarding the A&G Accounts<sup>37</sup> with the following exceptions where SCE failed to meet its burden of proof:

- a) Account 670—Office Salaries--\$0
- b) Account 678—Office Services and Rentals--\$0
- c) Account 689-General Expenses--\$0

**b. Proposed Additions to Plant.**

**i. Desalination.**

- Desalination Enhancements – Phase 1
- Desalination Communication Line Replacement
- Desalination Building Upgrade

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<sup>36</sup> SCE-02 P 35.

<sup>37</sup> CA Report, p. 3.2.

The total cost for the above items is \$13.310 million, of which \$10.300 million is to be provided by DWR and \$3.010 million by ratepayers. Ten million is to be provided by the California Department of Water Resources (“DWR”). The source of the remaining \$300,000 is not identified.<sup>38</sup> As discussed above, desalination is the long-term salvation of the Island. The project will provide much needed storage by utilizing the existing covered Wrigley Reservoir.<sup>39</sup> This, in turn, will bring desalinated water to Hamilton Cove. However, the rest of the Island will not benefit from the project.

SCE currently operates two desalination plants without adequate storage, which greatly reduces their ability to mitigate the effects of drought. The desalination plants are at sea level. The proposed storage, the Wrigley Reservoir, is considerably uphill and at a substantial distance from the desalination plants. Pumping desalinated water that far will consume substantial electricity and add to the cost.

Most importantly, what is the plan for desalination during non-drought periods? Groundwater is far cheaper than desalinated water. The only treatment required for groundwater is chlorination. According to SCE, between 2009 and 2019 drought conditions existed 54% of the time. During non-drought periods, it will be very tempting to resort to ground water and abandon desalination because it will be much cheaper to do so.

SCE was given Desal Plant No. 1 by the developers of Hamilton Cove at the commencement of an extended non-drought period. SCE stopped using the desalination plant and lost its permits and licenses.<sup>40</sup> Catalina Parties do not want to go through that cycle again. Catalina Parties seek a commitment from SCE as to how it will use desalination in non-drought periods.

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<sup>38</sup> SCE 03, pp. 53, 59-60.

<sup>39</sup> The Wrigley Reservoir is an underutilized asset. It holds 9,000,000 gallons.

<sup>40</sup> CP-01, p. 17.

The Conservancy owns 88% of the Island. Much of the groundwater used by SCE comes from wells and aquifers located on the Conservancy's land. Drawing water from the ground is not without consequences to the flora and fauna on the surface that the Conservancy is charged to preserve and improve. This is another reason to use desalinated water in non-drought periods.

A great amount of money has been spent on desalination and SCE wants to spend another large amount. Only if desalination is done correctly, with adequate intake wells and adequate storage, will desalination solve the problem of inevitable droughts.

Cal Advocates has provided a detailed analysis of SCE's requests regarding desalination and has made recommendations.<sup>41</sup> Catalina Parties agree with the analysis and the recommendations.

**ii. Water Meter Replacement Program.**

Now is not the time to replace the vast majority of meters on the Island. SCE has considerable water loss, defined as the difference between water produced and water paid for. SCE has not demonstrated that the loss is necessarily generated by inaccurate meters. The principal cause of water loss is the failure to timely replace and maintain the pipeline systems. SCE has not performed any actual tests of meters to make certain its assumptions are correct. SCE has not provided any information as to the replacement meters. If they are so-called "Smart Meters," it raises issues. Also, is this part of a program to replace electric meters? Will the new meters reduce manpower? If the replacement meters are not Smart Meters, the cost of \$275 per meter is very high.<sup>42</sup> As pointed out by SCE, "GO 103-A allows water utilities to request an extension of the maximum service periods via advice letter based on

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<sup>41</sup> CA Report, Chapter 6.

<sup>42</sup> SCE-03, p. 64.



relevant economic factors and meter accuracy.”<sup>43</sup>

Cal Advocates has analyzed SCE’s request and made recommendations.<sup>44</sup>

Catalina Parties agree with the analysis and support the recommendations.

### **iii. Water Valve Replacement.**

The Water Valve Replacement and Water System Control Valve Replacement projects are long overdue. Catalina Parties are not aware of any program to replace valves that was detailed in earlier SCE requests to raise rates. This concentrated effort to replace valves seems to be the result of neglect over the prior 60 years. Valves need to be replaced and upgraded periodically. Delayed maintenance is more costly than maintenance done on a continual and ongoing basis. This raises the issue of who should pay the cost of delayed maintenance. More importantly, the cost of replacing 14 valves, which cost a few hundred dollars, was a whopping \$31,600 apiece.<sup>45</sup>

The Wrigley Road Terrace Water Main Relocation and the Vieudelou Water Main Relocation involved replacing 367 feet of 1-inch, 2-inch and 4-inch of distribution line for \$124,000, or \$338 per foot. That does not seem reasonable.

SCE has not met its burden of proof as to these requests. Cal Advocates has analyzed SCE’s requests and made recommendations.<sup>46</sup> Catalina Parties agree with the analysis and support the recommendations.

### **iv. Wildfire Mitigation.**

The proposed Wildfire Mitigation project raises the following question: Is this project water related or electric related? The threat of wildfire is from an electric spark. And

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<sup>43</sup> GO 103-A IV.6A(2)

<sup>44</sup> CA Report, pp. 6-19 to 6-21.

<sup>45</sup> CP-01, pp 34-35; SCE-03 p 36.

<sup>46</sup> CA Report, pp. 6-21 to 6-23.

to the extent parts of the water system operate with electricity, well pumps as an example, they need to be properly wired. It would seem that the real threat of a wildfire comes from the wires bringing electricity to the locations where water equipment is located, rather than the water equipment powered by electricity. The material provided by SCE does not answer this basic question. Without more information, SCE has not met its burden of proof and this request should be denied.

Cal Advocates has analyzed SCE's request and made recommendations.<sup>47</sup>

Catalina Parties agree with the analysis and support the recommendations.

**c. Forecast of Rate Base.**

Without a decision from the Commission as to the many issues detailed above, it is impossible to forecast a rate base.

**d. Drought-Related Memorandum Accounts.**

SCE has accumulated drought-related memorandum accounts. SCE now seeks to recover the accumulated costs from its electric ratepayers and, if unsuccessful, may attempt to recover the costs from its water ratepayers. In other words, electric and water ratepayers should suffer the effects of drought but SCE should not. An understanding of the history of SCE and desalination clearly demonstrates that SCE does not deserve to be made whole from the effects of drought.

**Drought is not a new condition on Catalina Island.** The Island is in a permanent state of drought with occasional periods of severe drought. It is a desert island where plants and animals have adapted to the low freshwater state of affairs. Humans have not adapted as well and the way SCE has met or not met the drought challenges it describes, **which have not changed since 1962**, is part of the problem.

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<sup>47</sup> CA Report, pp. 6-23 to 6-24.

The recent drought was not a surprise to SCE. In 1977, SCE adopted a Staged Mandatory Conservation and Rationing Plan (the “Water Rationing Plan”).<sup>48</sup> This is a plan to force ratepayers to use less and less of the available ground water causing SCE to lose revenue, not a plan to solve the problem that droughts represent.

SCE is seeking an astronomical sum of money related to drought from electrical ratepayers on the mainland -- **\$11.599** million in the drought related memorandum account balances and **\$10.364** million in deferred and under-collected revenues.<sup>49</sup> These amounts could have been greatly reduced if not eliminated had SCE taken steps during the 60 years it has operated the water system to anticipate recurring periods of drought, a fact of life on the Island which SCE recognizes.<sup>50</sup> Had even a fraction of the sums sought by SCE been spent over the 60 years to develop and distribute desalinated water, ratepayers on the Island would have weathered the drought without a problem.

During the most recent drought, ratepayers reduced their water use by **40%, double the mandated reduction of 20%.**<sup>51</sup> Ratepayers are not profligate water users. What is the reward for conserving water? SCE seeks **\$10.364** million in lost revenue resulting from the fact that ratepayers greatly reduced the amount of water they used.

Catalina Island is surrounded by water. The real solution to drought has always been desalination. Hamilton Cove represents the largest growth in connections that has occurred in 60 years, approximately 210 connections. Development of Hamilton Cove commenced in 1971. Construction began in the early 1980s and the last of the 185 condominiums was completed in 1991. Since 1991, six additional single-family residences have been built and an

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<sup>48</sup> Advice 16-W.

<sup>49</sup> SCE-01, p. 6.

<sup>50</sup> SCE Application, p. 5.

<sup>51</sup> SCE-01, p. 20.

additional 88 may be built in the future if water permits are obtained. The developers of Hamilton Cove were required to build and turn over a desalination plant built to SCE's specifications **free of charge**. SCE used the plant intermittently and by 1992, SCE had let its licenses to operate expire. Later, when it was obvious that desalination was desperately needed, SCE had to upgrade the plant and go through the permitting process for a second time. It took until 2003 to complete the relicensing process. The cost was added to SCE's Rate Base by Resolution No. 4665.<sup>52</sup>

In 2016, SCE built a second desalination plant at a cost of \$3,623,932. SCE received a grant of \$2,100,000, leaving \$1,523,932, which SCE seeks in this GRC. **What SCE did not build were adequate intake wells and storage for the water generated by the two desalination plants.**<sup>53</sup>

Desalination plants are not something you can readily turn on and off. If the water being generated exceeds demand, storage for the excess water is needed. Because of the lack of storage, desalinated water has had to be returned to the ocean.

A related subject must also be carefully examined in this proceeding -- water loss, or the difference between water produced and water sold. There is no issue. A substantial amount of water is being lost to the detriment of ratepayers who are paying for the production of the lost water. Nothing seems to be being done about the loss. SCE reports that for the last five years it has "repaired an average of 95 leaks per year or approximately one leak every four days."<sup>54</sup>

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<sup>52</sup> CP-01, p 17.

<sup>53</sup> *Id.* at p. 18.

<sup>54</sup> SCE-01, Appendix B, p. 6


SCE provides information regarding water produced and water sold to the Commission in its Annual Report each year (“Lost Water”). Exhibit 16 E 2 is a spreadsheet reflecting SCE’s Lost Water based upon the information provided by SCE in its Annual Reports for the years 2004 through 2020. In 2013, SCE lost 47% of the water it produced. In 2019, SCE lost 39% of the water it produced, and in 2020, SCE lost 42% of the water it produced. Over this 17-year period, according to its own numbers reported to the Commission, SCE lost an average of 38% of the water it produced.

Additionally, there is no consistency in SCE’s Annual Reports. From 2004 to 2014, SCE reported water produced and sold in millions of gallons. From 2015 to 2019, SCE reported water produced and sold in acre feet, although in 2014 and 2015 SCE reported water produced in acre feet and water sold in millions of gallons. Many of the figures are suspect. The exact same numbers were provided for the exact same sources for multiple years.<sup>55</sup>

The American Water Works Association (“AWWA”) recommends:

### What is an Acceptable Water Loss?

1. It is a compromise between the cost of reducing water loss and maintenance of distribution system and the cost (of water) saved.
2. AWWA Leak detection and Accountability Committee (1996) recommended 10% as a benchmark for UFW.
3. UFW levels and action needed
  - < 10% Acceptable, monitoring and control
  - 10-25% Intermediate, could be reduced
  - > 25% Matter of concern, reduction needed

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<sup>55</sup> CP-162E.

SCE goes to great lengths to explain how its water loss is not what it seems, relying on its own audits using AWWA technology.<sup>56</sup> The audit reports generated by the AWWA technology do just the opposite. The reports show that from 2015 to 2019, water loss increased from 59-acre feet to 164 acre feet, an increase of 178%.<sup>57</sup> Eliminating the 2015 and 2016 data and focusing on 2017 to 2019, the reports show a steady increase in non-revenue water:

**TABLE 4**  
**Water Loss**

	<b>REVENUE WATER</b>	<b>NON- REVENUE WATER</b>	<b>TOTAL</b>	<b>WATER LOSS</b>
<b>2017</b>	<b>241.248</b>	<b>91.272</b>	<b>332.520</b>	<b>27%</b>
<b>2018</b>	<b>263.820</b>	<b>122.620</b>	<b>386.440</b>	<b>32%</b>
<b>2019</b>	<b>256.870</b>	<b>164.710</b>	<b>421.580</b>	<b>39%</b>

Cal Advocates received additional data regarding water loss and the AWWA Reports from SCE for the year 2019.<sup>58</sup> The data shows the following:

2019 year-end water balance:

- Total produced water: 421.54 acre-feet
- Total usage (metered, unmetered, estimated): 259.09 acre-feet
- Total change in 2019 distribution storage: +0.243 acre-feet
- System leakage:  $421.54 - (259.09 + .243) / 421.54 = .385$  or 38.5%

SCE's Distribution System Analysis ("DSL") contains numerous flaws:

1. Performing a year-end water balance calculation as set out above produces an accurate estimate of system water loss. The method used by SCE is incorrect.

<sup>56</sup> CP-12.

<sup>57</sup> SCE's 2015 and 2016 data are suspect. The data entries are almost identical for revenue and non-revenue water. The 59-acre feet loss is very low and probably inaccurate.

<sup>58</sup> CA-03.

2. In contrast to SCE's calculations, it is literally impossible for an operating retail water system to have month-to-month swings in system losses from positive 67% (losing most of the system's water) to negative 95% (creating system water) (April to May 2019). [In May 2019, SCE produced 4,447,800 gallons of water and sold 8,231,500 gallons of water. An amazing feat.] These nonsensical values are the result of SCE overlooking water going into and coming out of distribution storage on a monthly basis, and therefore, not reflecting storage changes in their calculations.

3. Consequently, simply averaging the percentage DSL by month on SCE's worksheet (bottom row of numbers on Cal Advocates Exhibit-03-Page 2) to arrive at a 28% annual loss is misleading and incorrect.

4. System water losses are primarily a function of the number and nature of weak, leaking points in the system and system pressure. System demand has a measurable, but minor impact. Therefore, applying a system loss percentage to system demands (i.e., Max Day) overstates system losses.

SCE has the burden of proving that its water loss is within acceptable limits. It has totally failed to meet that burden. The Commission recommends a 7% or less water loss.<sup>59</sup> SCE is not even close to the Commission's recommendation. As a consequence, Cal Advocates recommends that the following should occur:

a) SCE's revenue requirement should exclude costs for lost water that provides no customer benefit; and

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<sup>59</sup> CA Report, p. 10-10.

b) In any memorandum account where SCE seeks recovery for lost water or lost revenue the amount sought should be discounted for water lost in any year the account was active less the Commission's recommended 7%.<sup>60</sup>

Catalina Parties agree.

**i. The Catalina Water Rationing Memorandum Account.**

In 2010, SCE proposed and was authorized to open the Catalina Water Rationing Memorandum Account ("CWRMA"). The CWRMA was authorized to record (1) fines imposed upon customers for violating mandatory usage restrictions, and (2) incremental costs for implementing customer rationing plans. As described in detail by Cal Advocates, SCE has recorded costs to this account that were not authorized by the Commission.<sup>61</sup> In addition, as will be discussed below, SCE kept ratepayers in Stage 1 Mandatory Rationing long after it had authority to do so. SCE has offered no justification why either the electric or water ratepayers should bear the effects of the drought, and they should not be required to do so. SCE has not met its burden of proof as to the justification to pass on these costs. Catalina Parties recommend that the Commission deny any recovery of any amount recorded to this account.

**ii. The Catalina Water Lost Revenue Memorandum Account.**

The Catalina Water Lost Revenue Memorandum Account ("CWLRLMA") was approved by the Commission in August 2014 in response to SCE's Advice Letter 92-W. It was intended to track lost revenues associated with reduced sales as a result of activating either voluntary or mandatory conservation and rationing through Rule 14.1 and Schedule 14.1. SCE

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<sup>60</sup> *Id.* at p. 10-10.

<sup>61</sup> CA Report, pp. 10-14 to 10-17.



began recording balances in this account beginning August 11, 2014, and continued to do so until February 15, 2019, when Stage 1 mandatory water conservation measures were lifted.<sup>62</sup>

Schedule 14.1 requires SCE to file a Tier 2 advice letter with the Commission “to activate any of the Stages of Mandatory Conservation and Rationing, as listed in this Schedule.”<sup>63</sup> It is clear that the Commission makes the final decisions regarding rationing.

SCE can seek to activate Stage 1 as follows:

Stage 1: Mandatory Water Conservation is declared by SCE or the Commission when water levels in the Middle Ranch Reservoir fall below 600 acre feet.<sup>64</sup>

Nowhere in Schedule 14.1 does it give SCE the authority to continue Stage 1 when the water level in the Middle Ranch Reservoir rises **above** 600-acre feet, nor did SCE seek permission from the Commission to do so.

On April 6, 2017, the water level in the MRR exceeded 600 acre-feet before climbing to a level of 736 acre-feet or 69 percent of total capacity on August 9, 2017.<sup>65</sup>

Even though it had no authority to do so, SCE kept Stage 1 in place until the MRR reached full capacity at 1,045-acre feet,<sup>66</sup> long after the level of the MRR exceeded 600 feet. In other words, SCE kept Mandatory Rationing in place for a period of 674 days or one year and ten months without authority to do so. **By remaining in Stage 1 without authority to do so, SCE was able to keep adding to the drought related memorandum accounts.**

When the Commission allowed SCE to set up the CWLRMA, it made no finding that SCE was entitled to recover any amount SCE chose to record in the account. Catalina water

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<sup>62</sup> *Id.* at p. 10-2.

<sup>63</sup> CP-23.

<sup>64</sup> *Id.*

<sup>65</sup> WPSCE-05 Part-01, Advice 109, p. 2.

<sup>66</sup> *Id.*

ratepayers also suffered from the effects of the drought. They reduced water usage by 40%. SCE offers no justification why it should be sheltered from the effects of the drought and why either electrical or water ratepayers should bear its costs.

Because SCE kept water ratepayers in Stage 1 long after it had no authority to do so and because it has not met its burden of proof to justify recovering the amounts it recorded in the drought-related memorandum accounts, the Commission should deny any recovery for amounts in the accounts.

**e. Historical Water Capital Expenditures.**

**i. Howlands Landing Well 3 and Pipeline, the Howlands Landing Well 3 Treatment System, and the Howlands Landing Well 3 Replacement and Pump Modification.**

The Commission should deny the inclusion of any costs for environmental remediation that should have been undertaken by SCE years ago and at considerably less cost. Current ratepayers should not be required to pay for past failures. In particular, the Commission should deny any recovery of costs related to the Howlands Landing Well, including: 1) the Howlands Landing Well 3 and Pipeline; 2) the Howlands Landing Well 3 Treatment System; and 3) the Howlands Landing Well 3 Replacement and Pump Modification. The Howlands Landing Well was a hand dug beach well constructed in the 1930s.<sup>67</sup> The unprecedented cost related to the Howlands Landing Well arose from a failure to timely anticipate a deteriorating well and from not having had a backup well many years ago.

SCE states that the Howlands Landing Well, the main source of groundwater for the West End of the Island, failed in June 2014 because of the prolonged drought conditions.<sup>68</sup>

If that is the real reason the well failed, should a second well have been dug as a backup to

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<sup>67</sup> WPSCE-03, p.8

<sup>68</sup> SCE-03 p.3.

“the main source of ground water for the West End of Catalina” long before the Howlands Landing Well failed? Was the amount of water drawn over time from the Howlands Landing Well the real cause of the well’s failure? Was it reasonable for SCE to rely on a single well dug in the 1930s, 85 years ago, to serve nine percent of its customers? Catalina Parties also question whether this 85-year-old well was adequate for the West End and should have been replaced long ago.<sup>69</sup>

Prior to being replaced, the well produced the following, according to SCE’s Annual Reports:

**TABLE 5**  
**Howlands Well Production**

<b>HOWLANDS LANDING WELL PRODUCTION--ACRE FEET</b>			
<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>8.8</b>	<b>8.8</b>	<b>10.6</b>	<b>10.6</b>

In 2019, the new well produced 23.4 acre-feet.<sup>70</sup>

The failure of the Howlands Landing Well was a disaster. Prior to the well’s failure, SCE had spent a minuscule amount of money digging new wells. SCE seeks \$1,653,457 for the Howlands Landing Well 3 Well and Pipeline and \$1,574,450 for Howlands Landing Well 3 Treatment System, for a total of **\$3,227.457**. The failure of the well with no backup necessitated a costly temporary water supply and delivery system for the entire West End. That alone cost another **\$3,222,988**, which SCE seeks to transfer to its electric customers as part of its Catalina Water Rationing Memo Account.<sup>71</sup> The total cost of replacing an 85-year-old well servicing nine percent of SCE’s customers was **\$6,450,895**.

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<sup>69</sup> CP-01 p19.

<sup>70</sup> CP-16E2.

<sup>71</sup> SCE-05, p 26.

And it is not a particularly large well. It is only a 4-inch, 126 feet deep well, producing 40 gpm.<sup>72</sup>

SCE has not met its burden of proof with regard to the money it seeks related to the Howlands Landing Well. Catalina Parties recommend that the Commission deny all of the sums requested.

**ii. Million Gallon Tank (MGT) Renovation and Rebuild.**

SCE seeks \$2.451 million, net of a reimbursement of \$2.166 million from the University of Southern California (“USC”), for removing the PCB lining and otherwise rehabilitating the Million Gallon Tank (“MGT”) **that it constructed in 1967**. Coal Tar containing PCBs was long used to line tanks and to coat the inside and outside of pipes before it was banned in 1977.<sup>73</sup>

The MGT primarily exists to provide 900,000 gallons of water for fire suppression at USC’s facilities. One-tenth of its capacity is allegedly intended to provide storage for use by customers on the West End.<sup>74</sup> The MGT is rarely, if ever, filled to capacity. As a consequence, its sole function is fire suppression for the USC facilities. It does not benefit ratepayers on the West End of the Island, other than USC.

The \$2.451 million is sought from water ratepayers. SCE seeks an additional \$7.024 million from electric ratepayers for emergency environmental capital expenditures.<sup>75</sup>

SCE has sought to set up memorandum accounts, first to record what it estimated would be \$28 million to remove nine miles of PCB lined and coated pipe reaching from just

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<sup>72</sup> CP-01, p 20.

<sup>73</sup> *Id.*

<sup>74</sup> SCE-03, p. 28.

<sup>75</sup> SCE-01, p. 6.

below the Thompson Dam in the Middle Ranch area to the MGT.<sup>76</sup> SCE also sought to set up a memorandum account just to evaluate what pipe needs to be removed.<sup>77</sup> The removal could cost \$29 million. Cal Advocates opposed both requests.

Cal Advocates summed up the problem as follows:

Since the 1970's, SCE has known, or should reasonably have known, that pipe containing PCBs may be in the Catalina Water system, having installed the Million Gallon Tank and Two Harbors Pipeline using coal tar-lined components in 1967. SCE notes that coal-tar lined and/or wrapped pipe was the industry standard prior to TSCA, so the need for replacement and disposal of this product in accordance with EPA regulations is unexceptional. By SCE's own account, when it has replaced various components of the Catalina Water system since TSCA took effect in 1976, it has done so using non-PCB components.<sup>78</sup>

Pipe removal is not an issue in this proceeding, but the above demonstrates that SCE's problems with PCBs are much greater than its MGT problem and that SCE created the problem in the first place. How the Commission handles the MGT issue in this proceeding will set a precedent for much more to come.

When did SCE first learn of its PCB problem? The following are what SCE claims in this proceeding:

During the completion of the MGT project in 2015, SCE identified similar environmental conditions in the Two Harbors Pipeline supplying the MGT.<sup>79</sup>

In September 2013, an internal inspection of the MGT showed delamination of the internal protective coating resulted in significant corrosion on the tank floor. An external inspection conducted in June 2014 revealed up to 70 percent thinning of the tank floor material in some areas.<sup>80</sup>

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<sup>76</sup> SCE Application, p 6; AL 116-W.

<sup>77</sup> A.20-04-010.

<sup>78</sup> A 20-04-010; Public Advocates Office Report, pp. 1-7 - 1-8.

<sup>79</sup> SCE Application, p. 6; SCE 01, p. 11.

<sup>80</sup> SCE 03, p. 28.

In 2019, SCE identified an issue associated with the existence of above-and below ground (i.e., partially buried and buried) PCB and/or asbestos-containing water pipes near the Two Harbors Pipeline and other areas on the island that had been decommissioned but not removed.<sup>81</sup>

**To begin with, SCE has always known that the MGT was lined with Coal Tar containing PBBs. SCE installed the MGT in 1967.** It is not something it inherited when it acquired the water utility in 1962. However, the saga is much worse than that.

The PCB problem was repeatedly brought to SCE's attention as early as 1998. Vicki L. Rogers was employed by SCE on the Island from 1983 until she was terminated in 2012. Starting in 2004, Ms. Rogers was the SCE employee charged with dealing with Hazardous Material and Hazardous Waste Management. On January 16, 2014, Ms. Rogers filed a statutory 60-Day Notice of Violation, which was served on SCE, the Los Angeles District Attorney, the City Attorney of Avalon, California, and three offices of the United States Environmental Protection Agency (the "60-Day Notice").<sup>82</sup> In the 60-Day Notice, Ms. Rogers detailed SCE's failures to properly deal with Hazardous Materials and Hazardous Waste. With regard to the MGT, Ms. Rogers detailed how it has been necessary ever since the MGT was installed to remove epoxy material which flaked off the interior walls and settled to the floor. In November 1998, a dive inspection determined that problems existed with the interior coating of the MGT. In 2005, Aquatic Inspections, Inc. confirmed that the interior lining was in poor condition, and that it was blistering and laminating. Details of the inspection are contained in the 60-Day Notice.<sup>83</sup>

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<sup>81</sup> SCE 01, p. 11.

<sup>82</sup> CP-01, p. 22; CP-02.

<sup>83</sup> *Id.*

In 2005, Ms. Rogers discovered three 55-gallon drums in the storage yard at SCE's Pebbly Beach facility containing waste from the floor of the MGT. Ms. Rogers obtained permission to have the waste tested so it could properly be disposed of. The test results demonstrated that the waste contained PCBs. In the 60-Day Notice, Ms. Rogers identified 13 SCE employees, including top management, who were informed of the test results. Ms. Rogers detailed what then occurred. Not only was the testing information concealed, but samples were also doctored and sent to labs to determine whether water from the MGT contained PCBs. Ms. Rogers witnessed SCE employees picking chips out of samples to be sent to labs. Ms. Rogers independently retained samples of the material from the floor of the MGT. After Ms. Rogers was terminated, the samples were tested. **The 2005 MGT Sediment Sample contained 18,900 ppm of PCB (Arochlor 1254).**<sup>84</sup>

In 2008, Ms. Rogers was ordered to falsely label 55-gallon drums of sediment on their way to being disposed of. Ms. Rogers took a sample that was also tested after she was terminated. **The sample contained 19,700 ppm of PCB (Arochlor 1254).**<sup>85</sup>

Also in 2008, SCE prepared an Engineering Assessment of the MGT, which is detailed in the 60-Day Notice. The Engineering Assessment failed to note the prior test reports that had found that the interior lining of the MGT contained PCBs.<sup>86</sup>

During the eight years Ms. Rogers was in charge of Hazardous Material and Hazardous Waste, she supervised the shipping of such materials off the Island. She does not believe that all of the sediment taken from the floor of the MGT was shipped off of the

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<sup>84</sup> CP-01 p 23.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.* at p 23.

Island. She believes such material was spread on the ground somewhere on the Island. Catalina Parties have never been able to locate where that may have occurred.<sup>87</sup>

The 60-Day Notice did not only deal with the MGT. Ms. Rogers detailed other problems, including the existence and disposal of asbestos coated pipes, which SCE may seek \$29 million to dispose of.<sup>88</sup>

SCE knew it has a PCB problem on the West End of the Island since at least 1998. SCE did nothing about the problem until recently when it rehabbed the MGT. Since 1998 up to the present, SCE continued and continues to use pipes lined inside and out with PCBs, endangering ratepayers. There was a reason PCBs were banned in 1976. **SCE has not denied any of the evidence detailed above. No SCE witness has come forward to claim the information detailed above is not true.**

In light of the history detailed above, current ratepayers, electric or water, should not pay any of the amounts SCE seeks. Furthermore, current and future ratepayers, water or electric, should not pay the \$29 million SCE may seek for identifying and removing pipe that is lined and coated with PCBs. if and when SCE seeks that amount.

### **iii. Water SCADA Upgrade.**

SCE seeks \$1,413,362 to refurbish its SCADA Systems. In the Previous GRC, SCE sought \$2,327,000 for the SCADA system it had already installed. Catalina Parties, ORA and TURN objected. After detailing at great length the evidence presented by all parties, which evidence is equally valuable in this GRC, the assigned ALJ disallowed all but

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<sup>87</sup> *Id.* at p 23-24.

<sup>88</sup> *Id.*



\$500,000 of the request in the Draft Proposed Decision that underlies the All-Party Settlement that ended the Previous GRC.<sup>89</sup>

In our opinion the SCADA system is too expensive for this small water company. Therefore, we will allow only \$500,000 of capital expenditure for the SCADA system. It is a system that cost \$2,327,000 for a company whose water revenue in 2009 was \$3,843,870, a cost of almost \$1,200 per customer. The SCADA system may be convenient but it is not necessary. However, it is useful and for that reason we will allow \$500,000. Merely because SCE spent \$2,327,000 does not make the expenditure reasonable. That is why we have reasonableness review hearings. SCE must demonstrate that the expenditure is reasonable: in our opinion, the conflicting evidence shows that \$500,000 is a reasonable expense for the SCADA system.<sup>90</sup>

Nothing has changed to justify the proposed expenditure of \$1,413,362 to upgrade a system “too expensive for this small water company,” even if it is useful. The “upgrade” is 61% as expensive as the original installation. The original system was poorly designed, never properly functioned, and the “upgrade” is intended to try to make the system functional.

SCE has failed to meet its burden of proof with regard to spending any more money on a SCADA system. Cal Advocates recommend that the request be denied<sup>91</sup> and Catalina parties join in that recommendation.

**f. Other Costs and Issues to Be Addressed.**

**i. Revision of Schedule 14.1.**

SCE’s Schedule 14.1 and Rule 3 are outdated and need to be revised. Both originate to a time when SCE’s sole source of water was groundwater. Schedule 14.1 governs when SCE can impose mandatory rationing and Rule 3 governs the allocation of water to customers desiring service. Groundwater from the Middle Canyon wells used to be the principal

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<sup>89</sup> CP-10.

<sup>90</sup> *Id.* at p 36.

<sup>91</sup> CA Report, p. 6-15.

source of water for SCE's customers located in Avalon. That is no longer the case. Currently, the principal source of water for 85% of SCE's customers, those who live in Avalon or adjacent to Avalon, are two desalination plants situated to serve them. Schedule FWY was recently revised to increase the Safe Annual Yield.<sup>92</sup> Schedule 14.1 and Rule 3 need to be revised to reflect the effect of the two desalination plants on the need for mandatory rationing and as to when customers are entitled to water allocations.

Schedule 14.1 currently allows SCE to seek approval from the Commission for mandatory rationing based upon the level of water in the Thompson Reservoir located in Middle Canyon. SCE draws no water from the Thompson Reservoir. Water from the Thompson Reservoir feeds the aquifer from which the Middle Canyon wells draw water. The level of the Thompson Reservoir, at best, gives an indication of the water in the Middle Canyon aquifer but tells nothing about the water available from the other aquifers from which SCE draws water. Mandatory rationing is imposed on areas of the Island outside of Avalon without any data available as to the water in a particular aquifer and the water needed to serve the ratepayers dependent on a particular aquifer. The Commission should require SCE, by an Advice Letter, to propose a more realistic Schedule 14.1 which would give ratepayers an opportunity to be heard regarding mandatory rationing.

**ii. Denial of Service.**

There has been no growth on Catalina Island since the Previous GRC. There cannot be growth if the water provider cannot or does not issue permits for additional connections, which has largely been the case since the Previous GRC. SCICO, the principal employer on the Island for its tourist related businesses, is particularly frustrated as it has been

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<sup>92</sup> CP-15.

unable to build the housing it needs for its employees. It is the responsibility of a water utility to supply the reasonable needs of the residents and businesses in the area where it holds a monopoly over the sale and distribution of water. SCE has not approved a request for a water allocation since 2014, almost all of which were for the Avalon area. SCE's SAY until recently for the Middle Ranch Toyon System was 515-acre feet. It was recently increased to 547.8-acre feet.<sup>93</sup> SCE's water produced from 2004 to 2020 has always been much less than 515 or 547.8-acre feet.<sup>94</sup>

Cal Advocates has thoroughly examined SCE's history of denying service even when water is available.<sup>95</sup> Cal Advocates recommends:

The Commission should require SCE to file a Tier 2 advice letter, within 30 days of a final decision in this proceeding, to modify its tariff language so that the company will no longer be allowed to indiscriminately deny permits. Additionally, the Commission should review the results of SCE's tariff modifications periodically before SCE's next GRC filing to ensure that SCE is no longer unjustly denying water service to Catalina Island residents and businesses.<sup>96</sup>

Catalina Parties fully support and agree with Cal Advocates recommendation.

Rule 3 has some language that is particularly troublesome.

When fresh water is not available from the Company because demand for fresh water exceeds the limit of the safe annual yield, or **for any other reason.** (Emphasis added)<sup>97</sup>

SCE should not be allowed to deny applications "for any other reason."

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<sup>93</sup> *Id.*

<sup>94</sup> CP-16E2.

<sup>95</sup> CA Report, pp. 1.2 to 1.7.

<sup>96</sup> *Id.*

<sup>97</sup> CP-15.

Additionally, Rule 3 provides:

The Company shall maintain, and hold open for public inspection at the Company's Santa Catalina Island Office, a first-come, first-served Fresh Water Allocation List and shall provide fresh water service on a first-come, first-served basis, within the respective subsystem, and up to or within the limit of the safe annual yield, set forth in Schedule FWY, as authorized by the California Public Utilities Commission.<sup>98</sup>

The first-come, first-served approach, while it initially seems fair, allows SCE to deny small allocations on the basis that there is a very large allocation ahead of them in line. A more equitable approach is required. Also, allocations are allowed which are drawn on over time. The list should also include unused allocations which bear on the availability of water.

Lastly, Rule 3, which was adopted in 1990, contains assumed use factors for anticipated connections. These factors help determine whether an allocation request is accepted or rejected. The factors do not seem realistic. SCE has current data as to actual use and should update the use factors based upon that data.

The Commission should require SCE, by an Advice Letter, to propose a more realistic Rule 3 with clear reasons for declining a request for service, not “for any other reason.” This would give ratepayers an opportunity to be heard regarding the rules used to determine allocations. Cal Advocates makes the same recommendation.<sup>99</sup>

#### **IV. Recovery from Electric Customers.**

##### **a. Commission Authority.**

The Commission’s authority in setting rates and in determining which ratepayers will pay for what costs is defined by three words, “just and reasonable,” or their opposite “unjust and

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<sup>98</sup> *Id.*

<sup>99</sup> CA Report, p. 1-6.

unreasonable,” which appear throughout the Public Utilities Code. These three words are used in Public Utilities Code Section 451, as the basis of the Commission’s authority:

All charges . . . shall be **just and reasonable**. Every **unjust or unreasonable** charge . . . is unlawful.

Every public utility shall furnish and maintain such adequate, efficient, **just, and reasonable** service, instrumentalities, equipment, and facilities, . . . to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

All rules . . . shall be **just and reasonable**. (Emphasis added)

The concept of “just and reasonable” is the largest grant of authority in the law. It appears throughout the law, and it is the most elusive concept to pin down. There is no agreed upon definition. In an effort to define reasonable, the word itself is often used. For example, “reasonable” is defined as what a **reasonable** person would do. The one definition everyone seems to agree upon is dutifully recited in case after case - what is reasonable is a question of fact. “Just and reasonable” has to be determined on a case-by-case basis and one case is not necessarily precedent for another.

TURN takes a very restrictive view of the authority granted to the Commission. The courts, however, do not share TURN’s restrictive view.

The PUC, respondent herein, is the state agency charged with regulating public utilities pursuant to article XII of the California Constitution and the Public Utilities Act (§ 201 et seq.). (*Clean Energy Fuels Corp. v. Public Utilities Com.* (2014) 227 Cal.App.4th 641, 648, 174 Cal.Rptr.3d 297 (*Clean Energy*)). **Statutorily, the PUC is authorized to supervise and regulate public utilities and to “do all things ... which are necessary and convenient in the exercise of such power and jurisdiction”** (§ 701); this includes the authority to determine and fix ‘just, reasonable [and] sufficient rates’ (§ 728) to be charged by the utilities.” (*Southern California Edison Co. v. Peevey* (2003) 31 Cal.4th 781, 792, 3 Cal.Rptr.3d 703, 74 P.3d 795.) **Its power to fix rates and establish rules has been liberally construed.**

(*Ibid.*) (Emphasis added) (*Ponderosa Telephone Co. v. CPUC* (2010) 36 Cal.App. 5<sup>th</sup> 999 at 204.)

*In Toward Utility Rate Normalization v. Public Utilities Commission* (1978) 22

Cal.3d 529, TURN urged that it was unjust and unreasonable on its face to allow contiguous telephone companies to have different rates. The Supreme Court held:

Clearly, the Commission in the present case has done far more than describe its bare-bones conclusory findings in the manner which we held insufficient in *Greyhound Lines, Inc. v. Public Utilities Com.* (1967) 65 Cal.2d 811, 56 Cal.Rptr. 484, 423 P.2d 556, and *California Motor Transport Co. v. Public Utilities Com.* (1963) 59 Cal.2d 270, 28 Cal.Rptr. 868, 379 P.2d 324. **On the contrary, in the present case we have been apprised of the reasoning behind and the basis for the Commission's decision to order implementation of SMRT.** We conclude that the Commission's decision was well founded in practicality, being based upon the reasonable policy that those most heavily using the telephone network should pay proportionately more for their service, a principle that is almost uniformly applied in the rate designs for gas, electricity, and water service. (Emphasis added) *Id.* at 541.

A determination that a Commission decision is within its authority, in other words, that it is “just and reasonable,” is made based upon “the reasoning behind and the basis for the Commission's decision.”

The California Supreme Court has made it eminently clear what the primary purpose of the Public Utilities Code is:

**The primary purpose of the Public Utilities Act, Gen.Laws, Act 6386, is to insure the public adequate service at reasonable rates without discrimination.** *Pacific Telephone & Telegraph Co. v. Eshleman*, 166 Cal. 640, 663, 137 P. 1119, 50 L.R.A., *Pacific Telephone & Telegraph Co. v. Eshleman*, 166 Cal. 640, 663, 137 P. 1119, 50 L.R.A., N.S., 652, Ann.Cas.1915C, 882; *Atchison, T. & S. F. Ry. Co. v. Railroad Comm.*, 173 Cal. 577, 582, 160 P. 828, 2 A.L.R. 975; *Southern Pac. Co. v. Railroad Comm.*, 16 Cal.2d 89, 118, 87 P.2d 1055. **The Act grants to the commission broad regulatory**

**powers, which may conveniently be divided into two classes. The commission has been given broad powers to regulate the relationship of the utility to the consumer; thus it can determine the services that must be provided by the utility and the rates therefor. It has also been given certain specific powers to regulate the manner in which the utility provides the required services to safeguard the utility's ability to serve the public efficiently at reasonable rates\*\*\*.** (Emphasis added) (*Pacific Telephone & Telegraph Co. v. Public Utilities Commission of State of California* (1950) 34 Cal. 2d 822 at 827-8)

**“Adequate service at reasonable rates.”** In the past, TURN has urged that the Public Utilities Code requires that people only pay for what they use, and that since only some of SCE’s electric customers ever visit Catalina Island, it is unreasonable to charge all of SCE’s electric customers for any of SCE’s costs to provide water service. “Only pay for what you need” is a Liberty Mutual Insurance Company slogan, not a policy of government or a policy applied to public utilities. Taxpayers pay for roads they never travel, for schools they never attend and for services they never utilize. The roads, the schools, the public services are there for them **if they ever choose to use them.**

The Commission is required to “insure the public adequate service at reasonable rates,” not adequate service **if** it can be provided at reasonable rates. Nor can the Commission approve **inadequate** service because that is all reasonable rates can pay for. It is clearly a difficult challenge facing the Commission in the instant GRC considering the conditions that exist on Catalina Island.

To meet its obligation, the Commission needs every tool available to it, particularly in the case of SCE’s water operation on Catalina Island. Prejudging that a tool is not available without determining the facts and the reasonable inferences to be drawn from the facts is not the way to achieve adequate water service on Catalina Island at reasonable rates.

There are myriad facts and reasonable inferences that can be drawn from them that the Commission should consider before deciding as to any alternative sources other than a direct charge to the ratepayers involved:

a) SCE's water utility is an anomaly. There is no similar situation in California. **No other public utility provides electricity and water to the same geographical area.**<sup>100</sup> The only precedent set by charging some of SCE's costs to its electric ratepayers is that the Commission will use whatever tools are available to it to assure "adequate service at reasonable rates." No other electrical/water utility serving the same geographical area will come forward demanding the same treatment.

b) SCE's water utility is tiny compared to its electric operation. It provides 0.000294% of SCE's revenue. It is not even a department. SCE claims it has just 13 part time employees **who cover both water and gas.**<sup>101</sup> It has no office to serve water customers on the Island. While day-to-day water matters are handled by SCE's electrical generation and distribution office on the Island, decisions of consequence regarding the water operation are made at SCE's headquarters in Rosemead, California, by people trained in electric generation and distribution not in water generation and distribution.

c) SCE's water utility is run like an electric utility, not a water utility. Read the qualifications of the SCE employees who have provided testimony in this proceeding. They cite education and training with regard to the business of an electric utility. No one cites any education or training with regard to operating a water utility. Additionally, SCE's water utility is operated by members of the International Brotherhood of **Electrical** Workers (IBEW). Rates paid on Catalina Island are the rates negotiated for the operation of SCE's electric utility on the

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<sup>100</sup> CP-01, p. 11.

<sup>101</sup> SCE-02, p. 6; CP-17.



mainland (supplemented for having to work on the Island). Class B and Class C water utilities are typically operated by much less expensive non-union workers.<sup>102</sup>

d) To plan and forecast expenses, SCE uses the IHS Markit Power Planner “which provides nationwide projections of wage increases for **electric power generation workers, transmission and distribution workers, managers and administrators, and professional and technical workers.**”<sup>103</sup>

e) If SCE were to seek all of the costs it seeks in its Application from its water customers, it would be a disaster. SCE details the result in its Supplemental Testimony filed February 26, 2021. One thousand five hundred and eighty-one (1,581) out of one thousand eight hundred eighty-eight (1,888) customers, or 84%, have 5/8<sup>th</sup> inch connections.<sup>104</sup> The monthly service fee for 5/8<sup>th</sup> inch connections, which are primarily residential, would increase from \$43.21 to \$227.90 over five years, or an increase of 427%, and the volumetric rates would increase as follows: Tier 1 - 603%; Tier 2 - 599% and Tier 3 - 597%.<sup>105</sup> In SCE-08: Supplemental Testimony filed on February 26, 2021, SCE proposes recovering its full revenue requirement from Catalina water customers and sets out the rates required to do so in Section V. B. 1, Table V-10.<sup>106</sup> Noteworthy is the fact that SCE does not provide a Table reflecting the impact on the average bill. Eighty-four percent (84%) of SCE’s 5/8<sup>th</sup> inch connections are primarily residential. Assume a residential customer uses 2,000 gallons of water a month or about 67 gallons a day, enough to fill a bathtub. The customer’s current bill as reflected in Table V-10 would be \$92.03 per month in the summer months. In Year One, it would be \$144.51 per

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<sup>102</sup> CP-01, p. 28.

<sup>103</sup> WPSCE 06, p. 13.

<sup>104</sup> SCE 2019 Annual Report, p. 35, Fire protection connections excluded.

<sup>105</sup> SCE 08, p. 18.

<sup>106</sup> *Id.* at p. 21.

month and in Year Five, \$568.92 per month. Catalina Parties' expert is unaware of any such costs for 2,000 gallons of water anywhere in California.

f) Who are SCE's water customers who would be required to pay the proposed rates? SCE analyzed the household income of its CARE and non-CARE customers. "Based on this analysis, residential-CARE customers have a weighted average household income of \$46,532 per year, and residential non-CARE customers have a weighted average household income of \$61,655 per [year]."<sup>107</sup> According to the Census ACS 1-year survey, the median household income for California was \$80,440 in 2019.

These are all facts and reasonable inferences that the Commission can consider in determining what are "just and reasonable" rates to be paid by Catalina ratepayers for "adequate service." It is obvious that some source other than Catalina ratepayers must be found to pay the "just and reasonable" costs incurred by SCE in providing "adequate service." That source may be SCE's shareholders who were required to cover some of the costs in the Previous GRC. Equally challenging is determining what are "just and reasonable" costs incurred by SCE to be paid by any source.

**b. Should the Commission Allow Recovery from Electric Customers?**

SCE seeks to transfer substantial costs to its electric ratepayers:

SCE proposes transferring the combined balances of the drought-related memorandum accounts, estimated to be \$11.599 million as of December 31, 2021, historical Catalina water capital expenditures, estimated to be \$7.024 million in as of December 31, 2019, and the balance of the DRRTA, estimated to be \$10.364 million over the five-year phase-in period, to the distribution sub-account of the Base Revenue Requirement Balancing Account (BRRBA) for recovery in electric rates.<sup>108</sup>

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<sup>107</sup> SCE-07, p. 27.

<sup>108</sup> SCE Application, p. 2.

In the previous GRC, SCE made a similar proposal but offered no testimony or evidence to support it. The only evidence supporting the proposal was presented by Catalina Parties. This time around, SCE offers evidence to support its proposal which is similar to what Catalina Parties offered in the Previous GRC.<sup>109</sup> While Catalina Island is a tourist destination, it is largely a tourist destination for people who live in Southern California and the areas in which SCE provides electricity.

If the \$28 million in costs SCE seeks from electric ratepayers is denied or if only a portion is approved by the Commission, would SCE subsequently seek the unapproved amount from water ratepayers? Any denial by the Commission should preclude such an eventuality.

There are 1,887 water ratepayers, of which 346 are commercial accounts. The water systems do not just support the 1,887 ratepayers or the 4,000 residents. There are 1,000,000 visitors from the mainland every year, principally from the areas where SCE provides electricity. There are 50,000 or more young people who come to the campgrounds every year, spending an average of four days. There are over 5,000 people, more than the population of the Island, who come to USC's facilities on the Island. The water system must support all of these people and activities. **There is no way the 1,887 ratepayers can pay for a water system to support all of the people who come to the Island.**

Needless to say, it is tempting for Catalina Parties to look the other way so long as someone else is paying the bill. Catalina ratepayers are entitled to adequate service at reasonable rates. Shifting some costs to electric ratepayers is one of the tools available to the Commission to achieve that result.

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<sup>109</sup> SCE-01, p. 23.

All of the costs that make up the \$29 million SCE seeks to shift to electric ratepayers are not necessarily properly incurred costs as detailed herein and in Cal Advocates' Report. For example, as discussed above, had SCE taken proper steps years ago to deal with reoccurring droughts, such as desalination with sufficient storage instead of forced conservation which, by its very nature, causes revenue loss, many of the costs making up the \$28.987 million would not have been incurred.

Passing on water costs to SCE's electric ratepayers was the sticking point that held up the settlement of the Previous GRC. Catalina Parties participated in what seemed like endless meetings before the issue was resolved in favor of transferring some costs to SCE's electric ratepayers but disallowing \$2.485 million in capital costs. Catalina Parties are well aware that in approving the settlement, the Commission stated that "[t]his one-time transfer is part of the adopted all-party Settlement, and therefore not precedential in other proceedings."<sup>110</sup>

SCE is an anomaly. The Commission does not regulate any other water utility providing water and electricity in the same geographical area. However, Catalina Parties maintain that the circumstances in this particular GRC are without precedent, and allowing a transfer is not somehow setting a general precedent applicable to any other situation.

**c. Deferred Revenue Requirement Tracking Account.**

In the final analysis, Catalina Parties expect the decision of the Commission in this GRC will not require a deferred revenue tracking account.

**V. Cost Recovery.**

**a. Alternative Cost Recovery Approaches.**

SCE is an investor-owned utility. As such, the potential for shifting water costs to governmental entities is limited. Catalina Parties, in conjunction with SCE, have reached out to

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<sup>110</sup> A.10-11-009 Final Decision, p 2.

both the County of Los Angeles and various other governmental organizations seeking help. Only a small area of the Island is governed by the City of Avalon. The County of Los Angeles governs most of the Island. Los Angeles County Supervisor Janet Hahn, whose area includes Catalina Island, has been made aware of the problem.

Acquisition by a Multi-District (Class A) Water Utility is not a feasible solution. It would only transfer the problems to the acquiring utility. SCE has shopped its water utility to other water utilities and even to a non-water utility that supplies it with certain meters, without success. A Class A Water Utility would not touch SCE's water utility with a 100-foot pole.

As documented by SCE, the DWR has granted funds for desalination, which apparently have not yet been received. The County of Los Angeles and the City of Avalon advanced \$500,000 each in anticipation of the grant, but that money is to be returned.<sup>111</sup> DWR and the California State Water Resources Control Board issue grants, but not for the ongoing costs of providing water.

There are other public entities controlled by the Commission servicing Catalina Island, including the ferry service, the freight service, and the telephone services. Requiring any of them to include a charge for water would be a radical departure and not within the Commission's jurisdiction in this proceeding.

A boat fee has been proposed. An increase in the cost of taking a boat to the Island would be detrimental to tourism. Catalina Island is not a luxury resort. The number of hotel rooms available for overnight stay is very limited. Many of the tourists come over just for the day. The relatively small cost of doing so is one of the Island's attractions.

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<sup>111</sup> SCE 08, pp. 4-5

Catalina Parties are at a loss to identify any potential source to cover SCE's ongoing costs to provide water service other than SCE mainland electric ratepayers.

**b. What Cost Recovery Approach Should the Commission Adopt?**

One cost recovery alternative proposed by SCE, other than a transfer to its mainland electric ratepayers, seems to Catalina Parties to have particular merit - Rate Base Consolidation.<sup>112</sup> As described above, SCE's electric service on the Island is "end of the line service." Because desalination is so dependent on electricity, SCE's water utility is really part of that "end of the line service." SCE does not have a clear distinction between electric employees and water employees. There are not separate pay rates for electric employees and water employees. There is a single union, which is determinative of the compensation paid to most of the employees. As a result, water employees are paid considerably more than comparable employees on the mainland. In a real sense, SCE's water utility is part of its electric utility. In other words, SCE operates its water utility in the same manner it operates its gigantic electric utility. Joining them makes sense. However, Rate Base Consolidation will only make sense if it results in reasonable water rates for the Island's ratepayers who already pay some of the highest rates in the state.

**VI. Proposed Rates for Test Year and Escalation Years.**

Water ratepayers on Catalina Island currently pay the highest rates in California. A review of Operating Revenue as against the Active Service/Meters for SCE and other water utilities regulated by the California Public Utility Commission as reported in their 2019 Annual Reports shows the following:

- a) SCE's current revenue per customer is higher than that of any Class A or Class B water company.

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<sup>112</sup> SCE-01, pp. 26-27.

b) The following is a comparison of SCE current Annual Operating Revenue/Customer with other Class C water companies:

**TABLE 6**  
**CPUC Class C Water Companies 2019 Annual Reporting (largest 10 of 19)**

CPUC Class C Water Companies 2019 Annual Reporting (largest 10 of 19) <sup>113</sup>			
Company	Operating Revenue	Active Services/Meters	Annual Operating Revenue/Customer
Catalina (SCE)	\$3,629,454	1992	\$1,822
Bass Lake	\$888,828	964	\$922
Erskine Creek	\$938,376	1271	\$738
Fulton	\$858,462	955	\$899
Graeagle	\$604,324	1166	\$518
Lukins Bros	\$1,073,065	982	\$1093
North Gualala	\$1,389,746	1030	\$1349
Rogina	\$877,929	1052	\$834
Searles	\$586,765	1245	\$471
Sea Ranch	\$2,376,504	1868	\$1272

As shown above, the Average Annual Revenue per customer of the ten Class C water utilities is \$992 (\$83 per month). SCE's Average Annual Revenue per customer is \$1,882 (\$157 per month) or 184% of the average for other Class C water utilities. SCE's Average Annual Revenue per customer is 135% of the next highest utility (N. Gualala).<sup>114</sup>

Any rates going forward must be fair and reasonable. The rates currently being paid by Catalina ratepayers when compared to other California water utilities are unfair and

<sup>113</sup> The remaining Class C water companies are too small to be relevant.

<sup>114</sup> CP-01, pp. 1-2.

unreasonable. A differential may be warranted because of the challenges faced to provide water service on an island. However, such a differential already exists.

**a. Forecast for Water Sales.**

As discussed above, SCE has kept the number of customers down by denying requested service to all comers since 2014. Assuming the Commission requires SCE to serve those customers seeking service up to the SAY that accurately incorporates the production capacities of the two desalination plants as such production is now and as it will become if SCE completes the enhancements it proposes, the number of customers will grow. Additionally, customer count should include Fire Protection customers as recommended by Cal Advocates. As more customers receive water allocations and construct living units, the number of customers will grow but that will take time. Test Year 2022 will show some growth, but there will be greater growth in subsequent years. Consequently, Cal Advocates' forecast of 2,026 customers for TY 2022 is reasonable.<sup>115</sup> If achieved, this will move SCE's water utility into Class B, which is recommended by Cal Advocates and which SCE has studiously avoided by not counting Fire Protection connections.<sup>116</sup> The Water Division will be better able to supervise SCE as a Class B water utility.

**b. Rate Design.**

**i. Distorted Presentations.**

SCE's presentation of the effect of its proposed rate increases on average residential bills is misleading. It does not accurately reflect the effect of the proposed rate increases on full time residents. **Many residential ratepayers are not year-round residents.** Of the 192 Units at Hamilton Cove, only 20 are occupied full time. The rest of the Units are

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<sup>115</sup> CA Report, p. 1-10.

<sup>116</sup> *Id.* at p 7-7.



second homes used primarily in the summer season. The same is true in the rest of Avalon. A substantial portion of the residential units are second homes used in the summer season. SCE ignores this fact in calculating average residential usage. SCE simply divides the total amount of water used by residential ratepayers by the number of residential connections. This results in a distortion that understates the water used by full time residential ratepayers and overstates the water used by part time residential ratepayers. SCE has the data that would permit it to determine the water used by each type of residential ratepayer. By not determining this differential, SCE is misleading the Commission and the public with regard to the effect of proposed rate increases.

SCE states that the average residential monthly bill for a ratepayer with a 5/8<sup>th</sup> inch meter is \$72.45.<sup>117</sup> Currently, \$72.45 would buy 1,067 gallons of water, meaning that the average residential household would use 35 gallons a day. **Note that this is per household, not per person.** Many of the households in Avalon contain four or more persons. **Thirty-five gallons per day for a four-person household translates into 16 gallons per person per day.**

The average person in California uses 51 gallons a water a day.<sup>118</sup> If Avalon residents were typical, using 51 gallons per day per person, a four-person household would use 204 gallons a day not 35.

The Commission should require SCE to correctly inform ratepayers as to the effect of any proposed rate increase utilizing data that actually reflects conditions on Catalina Island.

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<sup>117</sup> SCE Application, p.16.

<sup>118</sup> Heather Cooley, research director at the Pacific Institute, estimates that Californians currently are using about 51 gallons, per person, each day. Sacramento Bee, 1/08/2020. Other estimates vary between 81-100 gallons per day per person.

ii. **SCE's Proposed Rates.**

To demonstrate what SCE is proposing, using the service fees and volumetric rates set out in SCE-08, pp 19-21, and assuming a residential ratepayer uses 2,000 gallons a month (65 gallons a day per household, not per person), this is what SCE's proposal looks like:

**TABLE 7**  
**5/8<sup>th</sup> Inch Residential Ratepayer Using 2,000 Gallons a Month**

<b>RESIDENCE USING 2000 GALLONS A MONTH (65 GALLONS A DAY)</b>										
	<b>CURRENT</b>		<b>PLAN A YEAR 1</b>		<b>PLAN A YEAR 5</b>		<b>PLAN B YEAR 1</b>		<b>PLAN B YEAR 5</b>	
	<b>SUMMER</b>	<b>WINTER</b>	<b>SUMMER</b>	<b>WINTER</b>	<b>SUMMER</b>	<b>WINTER</b>	<b>SUMMER</b>	<b>WINTER</b>	<b>SUMMER</b>	<b>WINTER</b>
<b>SERVICE FEE</b>	\$43.21	\$43.21	\$55.05	\$55.05	\$104.11	\$104.11	\$59.78	\$59.78	\$227.50	\$227.50
<b>2000 GALLONS</b>	\$48.82	\$24.54	\$82.36	\$41.70	\$155.78	\$78.84	\$89.46	\$45.28	\$341.02	\$172.62
<b>MO TOTAL</b>	\$92.03	\$67.75	\$137.41	\$96.75	\$259.89	\$182.95	\$149.24	\$105.06	\$568.52	\$400.12
	<b>4 MO</b>	<b>8MO</b>	<b>4 MO</b>	<b>8MO</b>	<b>4 MO</b>	<b>8MO</b>	<b>4 MO</b>	<b>8MO</b>	<b>4 MO</b>	<b>8MO</b>
	\$368.12	\$542.00	\$549.64	\$774.00	\$1,039.56	\$1,463.60	\$596.96	\$840.48	\$2,274.08	\$3,200.96
<b>ANNUAL TOTAL</b>		\$910.12		\$1,323.64		\$2,503.16		\$1,437.44		\$5,475.04
<b>AVG MONTHLY BILL</b>		\$75.84		\$110.30		\$208.60		\$119.79		\$456.25
<b>PERCENT OF CURRENT</b>				145%		275%		158%		602%

Plan A reflects what SCE seeks in this GRC. Plan B reflects what SCE would seek if it included the costs it seeks from electric ratepayers. Under Plan A, the average residential ratepayer would be paying an average of \$110.30 per month in Year One and \$208.60 per month in Year Five for 65 gallons of water per day. Under Plan B, in five years the average monthly residential bill for

65 gallons per day would grow to \$456.25 or 23 cents per gallon. Such rates are unconscionable, particularly when you consider they greatly underestimate the amount of water used by a four-person household.

**iii. Fixed Service Charge.**

As pointed out by Cal Advocates, SCE's proposed Fixed Service Charges do not comply with Commission Standard Practice U-7-W, in most cases being substantially lower than recommended.<sup>119</sup> SCE's service charges also do not comply with AWWA ratios which mirror the Commission's ratios. Catalina Parties urge the Commission to require SCE to set Fixed Service Charges in accordance with Standard Practice U-7-W, with a fixed-to volumetric ratio of 50/50. Doing so will result in some equity between full time residential ratepayers and part time residential ratepayers as the latter group picks up more of the costs incurred so that they have water when they decide to use their residences.

Catalina Parties support Cal Advocates' recommendation that the fixed to volumetric ratio be set at 50/50 and not the current 30/70.<sup>120</sup>

**iv. Residential and Non-Residential Cost Allocations.**

In reaching a settlement in the Previous GRC, the parties resolved the issue of residential and non-residential cost allocation by looking at the amount of water used by each class. At that time, each class was using approximately 50% of the water sold and that was the basis used. Catalina Parties represent ratepayers in both classes, and it is not Catalina Parties' role to represent one class as against another. Catalina's economy depends on non-residential ratepayers, businesses who serve the tourism and employ many of Catalina's residents. As a consequence, Catalina's residential ratepayers are dependent on the success of Catalina's non-

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<sup>119</sup> CA Report, pp. 13-2 to 13-3.

<sup>120</sup> *Id.* at p. 13-1.

residential ratepayers who in turn have to compete with other tourist destinations. Not an easy balancing problem.

SCE asserts that:

since each gallon of water used by customers within different customer classes incurs the same costs for SCE to produce and distribute, the proposed revenue allocation recovers the same average cost per gallon from each class of customer.<sup>121</sup>

This is a fallacy. Certainly, the cost of desalinated water, which is only provided in Avalon, and the cost of water from wells elsewhere on the Island is not the same. Nor is the cost of distribution within the 2.6 square miles of Avalon the same as the cost of distribution outside of Avalon. For simplicity, Catalina Parties accepts SCE's fallacy. Attempting to design rates based on actual costs would be a nightmare.

SCE represents that current usage is 37% residential and 63% non-residential.<sup>122</sup> Current usage is greatly influenced by the recent drought period where ratepayers reduced usage by 40%. SCE does not provide any information as to the amount of reduction by each class.

SCE proposes to ignore the current usage ratios and adopt a 31% residential and 69% non-residential ration intending thereby to pass more costs to tourists. This favors full time and part time residential ratepayers. Either the 37/63 ratio or the 31/69 ratio is acceptable to Catalina Parties.

#### **v. Seasonal Rates.**

Cal Advocates recommends that SCE discontinue seasonal rates and Catalina Parties agree.<sup>123</sup> Seasonal rates are meant to be a conservation signal. Catalina residents and

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<sup>121</sup> SCE-07, p. 2.

<sup>122</sup> SCE-07, p. 1.

<sup>123</sup> CA Report, p. 13.

businesses do not need a conservation signal. Living on Catalina Island is itself a constant conservation signal. The people who need a conservation signal are tourists, 1,000,000 of them every year. Water rates are meaningless to tourists.

**c. Tier-1 Breakpoint.**

SCE proposes to continue the present tier break points -- Tier 1 breakpoint set at 0-2,000 gallons, Tier 2 at 2,000-6,500 gallons, and Tier 3 at 6,500+ gallons. As pointed out above, SCE's calculation that the average residential household uses 1,067 gallons a month is false by not factoring in part time residential ratepayers. Further, as shown above, 2,000 gallons a month translate into 65 gallons a day, or 16 gallons a day per person in a four-person household. The current tiers punish full time residential ratepayers and favor part time residential ratepayers.

Cal Advocates recommends that the tier breakpoints be increased as follows: Tier 1 breakpoint set at 0-3,000 gallons, Tier 2 at 3,000-6,000 gallons, and Tier 3 at 6,000+ gallons.<sup>124</sup> Catalina Parties accepts Cal Advocates' reasoning with a cautionary comment. Rate design is not easy. Change one aspect and all other aspects are affected. Basically, the Commission should accept all of Cal Advocates' rate design recommendations. Change one aspect and it becomes necessary to start all over again.

Cal Advocates' recommendations regarding pricing are acceptable to Catalina Parties.<sup>125</sup>

An increase in the fixed charge for fire protection is warranted and long overdue. Cal Advocates' recommendation is acceptable to Catalina Parties.<sup>126</sup> Cal Advocates also recommends that the discount offered to SCE's employees should not be charged to Catalina water ratepayers. Catalina Parties agree.<sup>127</sup>

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<sup>124</sup> *Id.* at p. 13-7.

<sup>125</sup> *Id.* at pp. 13-10 to 13-11.

<sup>126</sup> *Id.* at pp. 12-12 to 13-13.

<sup>127</sup> *Id.* at pp. 13-14 to 13.15.

On an overall basis, Cal Advocates' rate design recommendations achieve Catalina Parties goal -- equity for all ratepayers and relief to both full time and low-income residential ratepayers.

**d. California Alternate Rate for Energy (CARE) Discount Increase.**

Cal Advocates has included proposals that will benefit CARE customers in its Rate Design proposals. These would be of sufficient benefit to the 7% of residential ratepayers covered by the CARE program.

**VII. Transition from Water Revenue Adjustment Mechanism (WRAM) to Monterey-Style, Incremental Cost Balancing Account (ICBA).**

The Commission eliminated full decoupling WRAM/MCBA for water utilities on August 27, 2020. WRAM was justified because of the wide swings in the amount of water used on Catalina due to the limited supply of ground water and the use of mandatory rationing making sales forecasting particularly challenging. Catalina ratepayers reduced usage 40% during the recent drought, a major swing. SCE now has substantial desalination production which should mitigate against the wide swings in usage. Catalina Parties recommend that any transition to a Monterey-style Water Revenue Adjustment/Incremental Cost Balancing Account until this GRC is decided and there is experience with the effects of the decision.

**VIII. Any Other Issues Relevant to Commission's Review and Disposition.**

**a. Compliance With USOA Guidelines.**

In Resolution No. 4665 dated November 1, 2007, SCE was ordered to use the Uniform System of Accounts ("USOA").<sup>128</sup> SCE did not comply with that order in the period leading up to the Previous GRC or in the Previous GRC's Application, Testimony and Workpapers. In the

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<sup>128</sup> Ordering Paragraph 14. "Southern California Edison Company, Catalina Island Water System, shall follow the USOA in its annual reports submitted to the Commission."

Proposed Decision that underlies the All-Party Settlement, the ALJ held:

If the Commission approves this re-allocation, SCE will in the future report the allocated components in its water annual reports in the appropriate accounts, in compliance with USOA guidelines. This will apply to Accounts 618 [Other Volume Related Expenses], 674 [Employee Pension and Benefits] and 676 [Uncollected Accounts Expense].<sup>129</sup>

In approving the settlement in the Previous GRC, the Commission ordered:

The parties agree that for future Catalina water service annual reports and rate request proceedings, SCE will present its application or advice letter in a format consistent with the USOA for water utilities that does not contain references to Federal Energy Regulatory Commission.<sup>130</sup>

SCE still has yet to fully comply with the order in Resolution No. 4665, what the ALJ held in the Proposed Decision underlying the All-Party Settlement and the Commission's Decision approving the settlement. This made dealing with SCE's testimony in the current GRC even more difficult. The Commission should reject any evidence offered by SCE where it failed to comply with USOA guidelines as not meeting its burden of proof.

It may not make a difference, it has not in the past, but the Commission should again order SCE to comply with USOA guidelines.

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<sup>129</sup> CP-10, p. 22.

<sup>130</sup> A 10-11-009, Final Decision, p. 7.

## **IX. Conclusion.**

Catalina Parties acknowledge that the issues raised in this proceeding do not have easy solutions, particularly because the Commission is bound by law to achieve “adequate service at reasonable rates” for Catalina ratepayers. Catalina Parties appreciate the Commission’s concerns for the interests of Catalina ratepayers.

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Respectfully submitted,

BISHTON • GUBERNICK

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