

ORIGINALDecision No. 75874

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application
 of SOUTHERN CALIFORNIA EDISON
 COMPANY for an order of the Public
 Utilities Commission of the State
 of California authorizing Applicant
 to increase rates charged by it for
 electric service.

Application No. 50363
 (Filed July 1, 1968)

(Appearances are listed in Appendix A)

OPINION ON MOTION FOR PRELIMINARY ORDER

On July 1, 1968, Southern California Edison Company (Edison) filed the application herein for general rate relief. Forty-eight days of hearing beginning September 25, 1968, were held in Los Angeles, Visalia and San Bernardino before Commissioner Symons and/or Examiner Cline. On April 25, 1969, the forty-seventh day of hearing, the matter was taken under submission subject to the filing of concurrent opening briefs on or before May 26, 1969, concurrent answering briefs on or before June 23, 1969, and a closing brief by Edison on or before July 3, 1969.

On April 17, 1969, after forty-three days of hearing Edison filed a motion for preliminary order requesting the Commission to find and thereupon issue its preliminary order:

1. That the increases in revenues and rates at least to the extent supported by the Commission staff evidence as indicated in Exhibits Nos. 66-B, 74 and 77 in this proceeding are justified and should be made effective on minimum notice;
2. That Edison's present rates to the extent that they are inconsistent with said rates are unjust and unreasonable;

3. That the disputed issues herein be considered by the Commission and disposed of by further order in this proceeding after submission on the record and after briefing by the parties;

4. For such further relief as to the Commission seems proper.

Oral argument on the motion was held in Los Angeles before Examiner Cline with Commissioner Morrissey in attendance on May 7, 1969, and at the conclusion of the oral argument the motion was taken under submission.

The rates proposed by Edison as set forth in its application herein would, for the test year 1969 under the staff's estimates, produce \$60,585,000 in additional revenue, and a 7.68% rate of return on a jurisdictional rate base of \$2,290,759,000. The staff recommended rates would, for the same test year under the staff's estimate, produce \$32,688,000 in additional revenue, and a 7.15% rate of return on a jurisdictional rate base of \$2,290,759,000. The 7.15% is the midpoint of the staff recommended range of 7.0% to 7.3% rate of return.

The additional revenue requirement to produce a rate of return of 7.0% on the staff jurisdictional rate base would be \$24,800,000 as compared to the \$32,688,000 required to produce a 7.15% rate of return which Edison is seeking in its motion for a preliminary order.

Exhibit No. 66-B shows that present rates during the test year 1969 would produce (1) according to Edison's estimates, net revenue of \$154,748,000, and a rate of return of 6.36% on a rate base of \$2,432,000,000, and (2) according to the staff estimates, net revenue of \$156,000,000, and a rate of return of 6.42% on a rate base of \$2,430,700,000.

Counsel for Edison in his oral argument on the motion for a preliminary order pointed out that the record is complete except for the filing of briefs. For purposes of the preliminary order Edison is willing to have the issues which have been raised in this proceeding resolved unfavorably to it so that the minimum relief to which it is entitled can be provided without the further regulatory delay which is necessary to enable the parties to consider and the Commission to resolve all of the issues which have been raised in this complex proceeding.

Counsel for the California Manufacturers Association stated that his client is sympathetic to Edison's request for whatever rate relief can be granted promptly by the Commission through a preliminary order without undue delay. He pointed out that under the staff rate spread the additional revenue would come approximately 15 percent from the A-7 schedule customers, 50 percent from the domestic customers and 18 percent from the customers on the smaller general service schedules A-1 through A-6. The bulk of the increase for the A-7 customers would come from those customers who transfer from the A-1 to A-6 schedules and would result because of the increase in the minimum demand charge. He further stated that the California Manufacturers Association does not oppose the staff rate spread with the revenue requirement proposed by the staff or a smaller revenue requirement and it does not oppose Edison's motion. It was his opinion that the suggestion that an emergency must be shown before any rate relief be granted is not appropriate where all the evidence is in and that the only question the Commission should consider is the extent to which, if at all, it can decide the case without the briefs.

One of the staff representatives stated that the position of the Utilities Division and the Finance and Accounts Division is that the disposition of the motion is a policy matter which the Commission has heretofore not been called upon to resolve. No previous decision of the Commission furnishes a precedent for granting or denying the motion. In any case this staff representative urged that Edison should be granted prompt rate relief based upon the staff's showing.

Staff counsel vigorously opposed the motion and urged that the motion be dismissed or denied by the Commission. He pointed out that in previous proceedings the Commission has held that interim rate relief should be granted only if the Commission is persuaded that the time involved in the usual disposition of the case would cause irreparable financial harm to the applicant, and that the concept of the "emergency" nature of such relief is of the essence. He submitted that none of the following emergency conditions warranting immediate relief has been shown by Edison to exist in this proceeding: (1) the inability to make necessary improvements; (2) the inability to provide adequate service to its customers; (3) the inability to meet debts or other minimum financial obligations when due; (4) a rate of return below that last found to be reasonable; and (5) a state of depressed earnings which adversely affects the borrowing power and stock market ability of the utility.

Staff counsel further pointed out that the established precedents of this Commission were established with an awareness that every major rate proceeding may become a bifurcated proceeding. A preliminary rate increase based on a resolution of all the issues preliminarily against Edison will probably result in a second rate

increase being granted in the proceeding after the filing of the briefs and the deliberate resolution of all the issues in the final decision to be issued by this Commission.

Counsel for the City of Long Beach also opposed the granting of the motion for a preliminary order because Edison does not purport to set forth any emergency as to earnings, financing or any other facet of its operations, which in his opinion is required by the precedents of the Commission before it grants such a motion. He further pointed out that the Commission is not bound to establish a rate of return for Edison which is no lower than the lowest rate of return in the record but it has the discretion to establish an even lower rate of return if it sees fit to do so. He urged that a preliminary order granting a rate increase would in effect be a retroactive rate increase so far as the final order of the Commission is concerned and that the Commission may not authorize retroactive increases in rates.

Part of the delay in the issuance of the final decision will result because at Edison's request the presiding Examiner, being fully aware of the heavy burden of proof which rests upon Edison and the complexity of the issues which have been raised in this proceeding, granted the parties an opportunity fully to brief the matter by filing concurrent opening briefs and concurrent answering briefs with a closing brief by Edison.

The Commission has carefully considered Edison's motion for preliminary order and based upon such consideration and the record herein finds as follows:

1. No emergency conditions exist as to Edison which will justify the granting of the immediate relief requested by Edison.

2. The additional burden imposed upon the Commission in the preparation of a preliminary order as well as a final order in a rate proceeding such as this could result in greater rather than less regulatory lag.

Based upon the foregoing findings we conclude that the motion of Edison for a preliminary order authorizing an increase in rates prior to the final resolution of the issues in this proceeding should be denied.

ORDER DENYING MOTION FOR PRELIMINARY ORDER

IT IS ORDERED that the motion for a preliminary order authorizing Southern California Edison Company to increase its rates prior to final resolution of the issues, filed herein and heard on May 7, 1969, is denied.

The effective date of this order shall be ten days after the date hereof.

Dated at San Francisco, California, this 1st
day of JULY, 1969.

I dissent.
William Symons, Jr.

President

Commissioners

APPENDIX A

LIST OF APPEARANCES

APPLICANT: Rollin E. Woodbury, H. W. Sturges, Jr., and William E. Marx, for Southern California Edison Company.

PROTESTANT: James F. Sorrenson, for Friant Water Users Association.

INTERESTED PARTIES: Lawler, Felix & Hall, by Richard D. DeLuce, for Air Products and Chemicals, Inc.; William Knecht and Ralph Hubbard, for California Farm Bureau Federation; Henry F. Lippitt, 2nd, for California Gas Producers Association; Erobeck, Phleger and Harrison, by Gordon E. Davis, and Robert E. Burt, for California Manufacturers Association; Clayson, Stark, Rothrock and Mann, by George G. Grover, for California Mutual Water Companies Association; Gordon W. Hoyt, Utilities Director, for City of Anaheim; Paul D. Foxworthy, City Administrator, for City of Azusa; Keith F. Mulrooney, City Manager, for City of Claremont; Louis Possner and Arthur Y. Honda, Deputy City Attorney, for City of Long Beach; Roger Arnebergh, City Attorney, and Robert W. Russell, Chief Engineer and General Manager, Department of Public Utilities and Transportation, by Kenneth E. Cude, and K. D. Walpert, Department of Public Utilities and Transportation, for City of Los Angeles; Lloyd B. Adams, for City of Los Angeles Department of Water and Power; Victor E. Barton, for City of Monrovia; Verne H. Tindell, for City of Santa Ana; Robert W. Hutton, for City of Santa Barbara; Charles H. McGovern, for City of Vernon; W. C. Avery, Sr., for County Service Area #8, San Bernardino County; Kenneth M. Robinson and John W. Feist, for Kaiser Steel Corporation; Henry E. Walker, for Perfectaire Manufacturing Company; H. L. Goth, John Ormasa, K. R. Edsall and Lionel E. Goff, Jr., for Southern California Gas Company, Southern Counties Gas Company and Pacific Lighting Service & Supply Company; Overton, Lyman & Prince, by Donald H. Ford, for Southwestern Portland Cement Company; Ronald M. Kolda, for Traffic Department, Division of Highways, State of California; J. K. Cummings, Chief, by Robert P. Hamilton, for Power Office, Department of Water Resources, State of California; George A. Tucker, in his own behalf; Victor V. Bowker, for Tulare County National Farmers Organization; Robert F. Smith and Walter C. Leist, for Union Carbide Corporation; Harold Gold, Manuel Briskin and Stuart Foutz, for Department of Defense and other executive agencies of the United States of America; William E. Rhodes, for United States Naval Facilities Engineering Command Southwest Division; and Fred A. Strauss for Vandalia Irrigation District, Tea Pot Dome Water District.

COMMISSION STAFF: Cyril M. Saroyan, Counsel, Manley W. Edwards, General Division Engineer, and Raymond E. Heytens.