

Decision 84-09-028 September 6, 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Revised
Rate Case Plan. }

Application 83-01-42
(Filed January 20, 1983)

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for Southern California Edison Company, applicant.
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Law, for Southern California Gas Company and
Pacific Lighting Gas Supply Company; William L.
Reed, Randall W. Childress, and Jeffrey Lee
Guttero, Attorneys at Law, for San Diego Gas &
Electric Company; Peter W. Hanschen and William H.
Edwards, Attorneys at Law, for Pacific Gas and
Electric Company; Daniel J. McCarthy and
Randall E. Cape, Attorneys at Law, for Pacific
Bell; Jon F. Elliott and Michel Peter Florio,
Attorneys at Law, for Toward Utility Rate
Normalization; and Brobeck, Phleger & Harrison, by
Gordon E. Davis, William H. Booth, and Richard C.
Harper, Attorneys at Law, for California
Manufacturers Association; interested parties.
Thomas Corr, Attorney at Law, and Ida Coalwin, for
the Commission staff.

INTERIM OPINION

Southern California Edison Company (Edison) seeks an order modifying Resolution ALJ-149, as amended by Decision (D.) 82-12-072 and D.83-01-001. Resolution ALJ-149 adopted a revised version of the rate case plan for major utility general rate cases (RCP). D.82-12-072 amended Resolution ALJ-149; and D.83-01-001 corrected some errors in D.82-12-072.

The modifications to the RCP that Edison proposes are as follows:

1. Minor updating or amendment of testimony by all parties should be allowed ten days prior to hearings on such testimony.

2. Conservation testimony should be submitted by staff and interested parties ten days earlier than the current schedule calls for.
3. The nature of the rebuttal showings should be clarified and the administrative law judge (ALJ) should be given additional flexibility to set rebuttal testimony submittal dates.
4. The ALJ should have discretion at the prehearing conference to limit and set the amount of rebuttal testimony that will be allowed.
5. Minor notice of intent (NOI) deficiencies should not delay processing of the general rate cases.
6. Work papers of staff and interested parties should be made available on the dates testimony is to be submitted.
7. Relitigation of policy issues should not necessary be constrained by the availability of remaining hearing dates.
8. A tentative rate case schedule that reflects all relevant procedural dates should be served on all parties early in the RCP process.

On April 6, 1984, a prehearing conference was held before ALJ Baer. The parties agreed that the proceeding could be submitted upon the filing of opening comments (due May 7, 1984) and closing comments (due May 21, 1984). Accordingly, Pacific Bell, Pacific Gas and Electric Company (PG&E), Commission staff (Legal Division), San Diego Gas & Electric Company (SDG&E), and Toward Utility Rate Normalization (TURN) filed opening comments and SDG&E and Edison filed closing comments.

Minor Amendments or Corrections
of Final Exhibits

The RCP requires that final exhibits, prepared testimony, and other evidence be submitted by various parties on Days 0, 77, 84, 117, 140, 150, and 170. The RCP generally prohibits major updating of the exhibits, prepared testimony, or other evidence submitted on

Days 0, 77, 117, and 170. No statement is made regarding updating in the RCP at Days 84, 140, and 150. At Days 0 and 77, the RCP states:

"No bulk or major updating amendments or recorded data to amend the final exhibits, prepared testimony, or other evidence shall be allowed thereafter, except as provided in Appendix D and Day 265."¹

At Day 117 the RCP states:

"No bulk or major updating amendments or recorded data to amend the final exhibits, prepared testimony, or other evidence shall be allowed thereafter, either by prepared testimony, oral testimony, or exhibits, except as provided in Appendix D and Day 265."

At Day 170 the RCP states:

"No bulk or major updating amendments or recorded data shall be allowed in rebuttal evidence."

Edison proposes to add the following sentence to the text of the RCP under Days 0, 77, 84, 117, 140, 150, and 170:

"Minor written amendments or corrections to exhibits, and additional direct testimony will be allowed provided the material is submitted to the ALJ and copies are served on all parties ten days before the witness is to testify."

Edison's purpose in proposing the above additions to the RCP is to clarify that the allowance for updating major categories on Day 265 does not preclude parties from making the minor additions and changes to their showings that are commonly required because these documents are normally filed far in advance of hearings. The proposed modifications would also minimize hearing time taken to correct minor clerical errors. Edison believes that the requirement that parties submit their changes ten days in advance of the date

¹ At Day 265 the RCP allows parties to distribute prepared testimony containing recent data on cost of capital, cost of labor, changes in nonlabor escalation factors, and changes due to governmental action.

when the witness would be heard will provide parties adequate time to review the changes before cross-examination.

Pacific Bell, TURN, and staff oppose Edison's proposal, while PG&E and SDG&E support it. We believe it is not necessary to make the change Edison proposes. The current language of the RCP confers sufficient discretion upon the ALJ to allow minor changes and exclude major ones, as several parties observed. Pacific Bell contended that to require minor changes to be made in advance in writing would be more cumbersome than allowing the witness to make them during testimony. We agree. This proposal would inject an unnecessary formalism into general rate proceedings and would not solve any significant problem.

Scheduling of Conservation
Exhibits and Testimony

Edison has withdrawn its request for a change in the scheduling of conservation exhibits and testimony. Accordingly, it is not necessary to discuss this item.

Scheduling of Rebuttal
Testimony

Edison proposes a change to the RCP at Day 170, dealing with rebuttal testimony. Edison's proposed additions are underscored:

"All rebuttal testimony and evidence by applicant, staff, and other parties shall have been distributed to all parties by this date. Rebuttal shall be limited to refuting the presentations of other parties and shall not consist of rearguing or reasserting a party's direct showing. No bulk or major updating amendments or recorded data shall be allowed in rebuttal evidence. Every attempt shall be made to minimize unproductive, cumulative testimony, and cross-examinations. The additional witnesses shall be kept to a minimum.

"Rebuttal testimony shall be clearly referenced to an exhibit number or transcript page to

indicate what direct evidence of which party is being rebutted.

"Rebuttal testimony shall be filed ten days after cross-examination of the witness whose testimony is being rebutted, and at least ten days prior to the oral testimony of the rebuttal witness. Copies shall be served on all parties. In the event some parties have not yet testified on their direct showings prior to Day 170, the ALJ shall schedule a later date for submitting rebuttal testimony that follows hearings on that subject matter."

"If oral argument before the Commission en banc is to be held, the ALJ shall announce the date and time."

Edison believes that the RCP is not clear whether rebuttal evidence will be admitted throughout hearings before Day 170, or whether a single rebuttal showing should be filed on or before Day 170. Edison proposes that the ten-day rule concerning the filing of rebuttal testimony that existed under the regulatory lag plan (Resolution M-4706) be added to clarify that hearings concerning rebuttal evidence may occur at any time before Day 170. Edison also proposes to allow the ALJ the flexibility to schedule other rebuttal testimony on dates after Day 170 if some matters have not been heard by that time.

PG&E supports Edison's proposal in part. PG&E observes that it makes no sense to require rebuttal evidence to be filed before a witness has testified because that evidence might be obviated by cross-examination. PG&E contends that witnesses often testify after Day 170, and that, therefore, Day 170 should not be the absolute cut-off date for rebuttal evidence.

PG&E does not support the proposal that rebuttal testimony shall be filed ten days after cross-examination of the witness to be rebutted. The RCP currently calls for rebuttal testimony by Day 170. Under Edison's proposal rebuttal testimony could be due as

early as Day 101.² PG&E believes that the early stages of the hearing process should not be cluttered up by rebuttal testimony.

SDG&E, without argument, supports this proposal. Pacific Bell does not support this proposal because it believes it is not needed and that, as applied in practice, the RCP already gives ALJs the flexibility they need. TURN supports the proposal in total, except that it would not require the ALJ to schedule a date after Day 170 for the submission of rebuttal testimony. It suggests that the language be made permissive, rather than mandatory. Staff supports Edison's proposal because it "is aware of the logical inconsistencies in the [RCP] with regard to scheduling of rebuttal testimony," (Staff Comments, p. 2) and also because it "follows both the letter and the spirit of the ten day rule." (Id. p. 3.)

Edison's proposed modification of the RCP at Day 170 is two pronged: (1) it would state that all rebuttal testimony is to be distributed within ten days after cross-examination of the witness to be rebutted and at least ten days before the date the rebuttal witness is called, and (2) it would require the ALJ to set dates for the distribution of rebuttal testimony after Day 170 if the witness to be rebutted has not been called before that date.

The current language of the RCP³ does not preclude the distribution of rebuttal evidence nor the calling of rebuttal witnesses before Day 170. Edison's proposal, however, by imposing rigid time limits might actually encourage more rebuttal evidence to be filed, a result we do not wish to foster. Accordingly, we will not adopt the first part of Edison's proposal. However, we note in passing that, if the ALJ allows rebuttal witnesses before Day 170, Rule 68 (Prepared Testimony) should be observed.

² Evidentiary hearings commence on Day 91.

³ "Day 170. All rebuttal testimony and evidence...shall have been distributed to all parties by this date."

The proposal to allow the distribution of rebuttal evidence after Day 170, when parties have not testified on direct before Day 170, could obviate the need for some rebuttal testimony when opposing parties are able to make their points through cross-examination of the other party's witness. We will, therefore, adopt the second part of Edison's proposal with TURN's suggested change. Accordingly, the ALJ may set dates later than Day 170 for the submission of rebuttal evidence where the direct witness did not testify before Day 170. The adopted language appears in the Appendix. Other changes to the text of the RCP at Day 170, including the correction of the typographical error, have been made as well. However, these are editorial changes and do not have any substantive effect.

ALJ Discretion Regarding
Rebuttal Testimony

Edison believes that the ALJ should have discretion to limit the amount of rebuttal testimony that will be allowed. However, in its reply brief Edison conceded that the ALJ already enjoys the discretion to limit rebuttal testimony. It has withdrawn its proposal. No further discussion is required.

NOI Deficiencies

Edison proposes to change the procedure for the acceptance of the NOI by adding the following underscored language to the RCP under Day -60:

"...applicant will be notified of deficiencies in the NOI tender within 25 days of the tender date. The NOI will not be accepted for filing until the deficiencies are corrected, but may be conditionally accepted by a written agreement between the utility and the staff project manager that sets out a schedule for correcting all deficiencies prior to or concurrent with the filing of the application."

Edison states that following tender of the NOI, the staff identifies any deficiencies that exist in the NOI, but some deficiencies may be time-consuming to correct. Edison argues that the existence of such deficiencies often does not damage the quality of the NOI sufficiently to warrant delaying the processing of the rate case. Edison states that its proposed modification will only formalize what has, in practice, been agreed upon by utilities and the Commission's staff in the past.

PG&E does not support the proposal of Edison, but it did propose another change that Edison later accepted. PG&E's suggestion is that the RCP be modified at Day -60 to read:

" . . . Applicant will be notified of deficiencies in the NOI tender within 25 days of the tender date. The formal acceptance of the NOI shall be based on the issue of whether the utility has substantially complied with the requirements set forth in the Rate Case Plan. Time consuming and/or inconsequential deficiencies will be corrected according to a time schedule agreed upon both by the Commission staff and the utility." (PG&E's Comments, p. 4.)

PG&E argues that a NOI will never satisfy all staff witnesses' requirements for data. By forcing a timely decision whether the utility has substantially complied with the RCP, the PG&E proposal will require the staff to evaluate the relative importance of the perceived deficiencies. If there is a substantial deficiency, then the NOI should not be accepted until the deficiency is resolved. However, time-consuming, data-related deficiencies or inconsequential problems should not be allowed to interrupt the RCP schedule. SDG&E also supports PG&E's proposal.

Staff does not support Edison's original proposal; and since it did not file reply comments, it took no position on PG&E's counterproposal. TURN similarly opposed Edison's proposal, but took

no position on PG&E's alternative because it filed no reply comments. Pacific Bell took no position on this item.

PG&E's proposal has merit. The staff remains in control, because it must determine which deficiencies are so substantial that they should be corrected before the NOI is accepted. Other deficiencies may be corrected after acceptance in the manner and on the schedule to which both staff and utility agree. We believe that this change will expedite the handling of the NOI and for this reason we will adopt it. We have made certain editorial changes to the language proposed by PG&E (see Appendix).

Availability of Staff and
Interested Party Work Papers

The RCP now requires at Day 0 and Day 117 that work papers be made available by applicant and other parties, respectively, on the same date that testimony and exhibits are filed. The text of the RCP on other days either does not make a statement regarding work papers (Days 84, 140, and 150) or states that work papers shall be available within five days of this date (Day 77) or states that all work papers shall be available on this date (Day 117).

Edison proposes to amend the RCP at Days 77, 84, 117, 140, and 150, to make the requirement for making work papers available consistent throughout and for all parties. Edison's proposed language to be added to the text under the five days above-mentioned is as follows:

"All work papers supporting such testimony and exhibits shall be made available on this date."

PG&E, SDG&E, and TURN support Edison's proposal. Pacific Bell took no position. The staff opposed this item.

Staff opposition is based upon the administrative difficulty of publishing many exhibits and also copying work papers all on the same day. Staff argues that the five-day lag is designed

to permit the work papers to be reproduced and forwarded in a timely manner but in a way that will not interfere with the production and copying of staff reports, exhibits, and testimony.

The modest delay does not produce any demonstrable prejudice. Where the RCP makes no statement about work papers we will add the following language:

At Days 84 and 140 add: "All staff work papers shall be available within five days of this date."

At Day 150 add: "Also, all work papers shall be available on this date."

Since the staff has the greater burden, it is reasonable to allow the staff five days to make its work papers available. Applicant and other parties should make their work papers available on the day the RCP requires their exhibits or testimony to be submitted or mailed.

Relitigation of Policy Issues

Edison proposes to amend the RCP under Day -60. In the following text the underscored material indicates new language and the language to be deleted is indicated by slashes:

"The NOI may contain material such as previously relitigated policy issues on which the Commission has taken a position. This material must be clearly identified and contain a complete justification for any policy change. Showings on such material will be presented at the end of the hearings schedule, ~~but only if requested by the~~ unless otherwise scheduled by the ALJ."

The RCP now provides that previously litigated issues may be presented only if time is available at the end of the hearing schedule. Edison reasons that changed circumstances may require a review of a policy. However, if no hearing time remains to consider policy issues, then the Commission could be denied a fair opportunity

to take evidence and decide such policy issues. Edison argues that the proposed modification would allow the Commission greater flexibility to respond to the relitigation of policy issues and would remove any incentive to waste hearing time to avoid the relitigation of previous Commission policies. Edison believes the ALJ should have the discretion to take evidence on such policy issues.

SDG&E and PG&E support this proposal without additional discussion. TURN and staff oppose the modification. Pacific Bell took no position.

As staff and TURN point out, Edison's proposal is stated only in the abstract. No facts are cited to support the proposal and no instance of unfairness has been mentioned.

We agree that the relitigation of policy issues could take an inordinate amount of time. For this reason the RCP now allows such evidence only if unused hearing time is available. However, circumstances, laws, and Commissioners do change and policy issues need to be relitigated from time to time to determine if such policies should be continued in the future. Thus, we believe that the ALJ should have the discretion to set hearing days at other times to take evidence on policy issues, but they should do so only after consulting with the assigned Commissioner. We will adopt Edison's proposal as modified.

Tentative Rate Case Schedule

At Day 175 the RCP now requires the ALJ and assigned Commissioner to provide the Commission with a status report that includes a schedule of important remaining hearing dates, expected submission dates, and other benchmark dates. Edison believes that a rate case schedule similar to that required on Day 175 that reflects important rate case procedural days would be a useful tool to all parties especially if it were developed and made available early in the rate case process.

Edison proposes to insert a requirement at Day 60 that applicant develop a tentative rate case schedule 20 days after the prehearing conference that sets the procedural dates for the case. After the ALJ verifies the schedule, it would be served on all parties. Edison's proposal is as follows:

"Day 60

A tentative rate case schedule that reflects all benchmark dates set forth in the rate case plan as actual calendar dates, and all firm or tentative dates established at the prehearing conference by the ALJ shall be drafted by the applicant and proffered to the ALJ for verification. The ALJ shall serve the approved rate case schedule upon all parties."

SDG&E, PG&E, and TURN support this proposal. Pacific Bell took no position. Staff opposes the proposal, stating that the staff provides a tentative schedule with the NOI acceptance letter; that both the staff and applicant use that schedule for planning purposes in the informal conferences preceding hearings; and that the ALJ provides copies of the tentative RCP schedule at prehearing conferences or with prehearing conference orders.

In practice the schedule that Edison advocates is already being produced by the staff. It is appropriate that the staff continue to draft this schedule and to make it available to the parties. If the utility or any other party takes exception to it, the ALJ may consider the matter at the prehearing conference.

Edison's proposal is not necessary and will not be adopted.

Editorial Changes
Suggested by Staff

The RCP calls for public witness hearings to occur between Days 150 and 160 and hearings are to be completed no later than Day 200, except for hearing scheduled for Day 275. However, the text of the RCP at Day 230 states:

"Concurrent briefs may be filed 30 days after the completion of public witness hearings."

It is obvious that the words "public witness" in the quoted material should be deleted and we will make this change while reissuing the RCP pursuant to Edison's application.

In addition, nonsubstantive editorial changes have been made to the RCP on Page 1, and at Days 0 and 265 in order to improve the language or to correct typographical errors. These changes are reflected in the revised RCP attached hereto.

En Banc Hearings

Since the filing of Edison's application, the Commission has initiated an en banc hearing procedure in Edison's Test Year 1985 general rate case. The procedural guidelines for these hearings, as distributed to all parties in the case, are presented below:

"During the evidentiary hearings on SCE's general rate case, the Commission will hold three en banc hearings, as described below. The objectives of these hearings are to:

Facilitate involvement of Commissioners at an early stage of the proceeding in the identification of issues.

Aid parties in focusing their participation (including direct/cross-examination time) on the issues of primary importance to the Commission and develop a full record on those issues.

Enable parties to present positions on issues and answer Commissioners' questions at intermediate stages during the hearing process.

1. En Banc Hearing #1: April 11, 1984 in Los Angeles

The purpose of this en banc hearing is to enable parties to identify and discuss issues before the Commissioners, much in the style of a verbal "scoping memo". The issues presented should represent those that the parties consider of major importance in this proceeding, with particular emphasis on:

Issues where recent Commission decisions have indicated a resolution--but they are raised again in the utility's filing.

Issues where circumstances may warrant a change or reconsideration of past/current Commission policies.

Issues that are unique to SCE in this particular filing and require resolution.

Issues that were left unresolved in past decisions, and where clear policy guidance will be needed in this proceeding.

This first en banc hearing is an opportunity for parties and the Commissioners to interact on what issues they believe require the most development, evaluation and consideration in this proceeding.

Involvement of Commission Staff. The Commission staff will make a presentation of the issues they have identified.

Other Formal Appearances to this proceeding may also participate in an oral presentation of the issues in this case.

Other Procedures. For the first en banc hearing:

The hearing will be recorded by a court reporter, and transcripts will be made available.

Commissioners and the ALJ will be the only persons allowed to question individual parties.

Questions will be limited to clarification of the issues and policy questions raised by the parties, and not the position of the parties on any issue.

Each party's oral presentation is limited to 20 minutes for Commission staff and for the utility, 10 minutes for other parties making formal appearances.

Within 14 days after the en banc hearing, President Grimes will forward to all parties a list of issues the Commission desires to have addressed in the case which were not identified by the parties and/or are the ones about which the Commissioners are most concerned. This list will reflect any issue any Commissioner wishes to include.

2. En Banc Hearing #2: May 22, 1984 in San Francisco

The purpose of this en banc hearing is to enable parties to present positions on the issues addressed thus far in the evidentiary proceedings, namely, rate of return, marginal cost, avoided cost, rate design, and RD&D.

The second and third en banc hearings (see below) are different from traditional oral arguments in that:

They will not be preceded by written briefs.

For the Commission staff, the staff attorneys, project manager and, as required, technical and policy witnesses will present positions and answer questions.

They will be on the record, but nonevidentiary in nature.

All Parties which have filed formal appearances in the proceeding may develop and present an oral summary of their positions.

Other Procedures. For the second (and third) en banc hearing:

The hearing will be recorded by a court reporter and transcripts will be made available.

Commissioners and the ALJ will be the only persons allowed to question individual parties.

Each party's oral presentation will be limited in time. The ALJ will inform parties of those limits after the prehearing meeting.

3. En Banc Hearing #3: July 12, 1984 in San Francisco

The purpose of this en banc hearing is to enable parties to present positions on the issues addressed in the evidentiary hearings subsequent to en banc hearing #2 (e.g.: cogeneration, results of operations, conservation, and load management).

In every other way it will be conducted similar to en banc hearing #2, as described above.

4. Oral Arguments: November 2, 1984 in Los Angeles

The oral arguments will occur after briefs are filed and approximately 2 weeks from submission of the ALJ advance draft to the

Commission (Day 300). The purpose of the oral arguments will be for all parties to briefly summarize their positions on major issues in the case. This hearing will be conducted in a manner similar to traditional oral arguments in previous rate cases."

We believe that these en banc hearings should be a scheduled part of the Rate Case Plan. Therefore, we direct our staff to develop a modification of the Rate Case Plan which would incorporate an en banc and oral argument schedule similar to the one adopted for Edison's TY1985 general rate case. The dates and number of en banc hearings should be left to the discretion of the lead Commissioner, but at least one "issue scoping" en banc would be held early on in the rate case schedule. One or two additional en banc hearings could also be scheduled during the proceeding for parties' positions to be discussed. A final oral argument, preceded by the ALJ's advance draft of the decision, should be incorporated into the plan.

Within 45 days from the effective date of this interim decision, staff is directed to circulate to all parties in this proceeding and to file with the Office of Administrative Law proposed modifications to the Rate Case Plan, incorporating the changes adopted in this interim decision and the en banc hearings described above. A second round of comments will be scheduled to hear parties' positions on the en banc modifications. The comments will be limited in scope to those changes resulting from incorporating an en banc hearing schedule into the Rate Case Plan.

Conclusions of Law

1. An application or petition for modification of a Commission order is addressed to the Commission's discretion.
2. The RCP should be amended to require substantial compliance with the RCP before acceptance of the NOI; and time consuming or inconsequential deficiencies should be corrected according to a schedule agreed upon by the staff and the applicant.

3. The ALJ should be authorized to schedule the distribution of rebuttal evidence later than Day 170 when a witness has not testified on direct examination before Day 170.

4. The staff should be required to make its work papers available within five days of the distribution of its reports, testimony, or exhibits.

5. The applicant and other parties should make their work papers available the day their testimony or exhibits are distributed.

6. Evidence on policy issues may be taken at times other than at the end of the hearing schedule, if the ALJ, with the advice and consent of the assigned Commissioner, so directs.

7. Other changes to the RCP of an editorial and nonsubstantive nature should be made on page 1, and at Days 0, 170, 230, and 265 to improve or correct the language.

8. All substantive and nonsubstantive changes to the RCP adopted in this interim order are reflected in the Appendix.

9. Except as indicated in Conclusions 2 through 6, the application should be denied.

10. Further modifications to the Rate Case Plan should be made, reflecting the en banc hearings and oral arguments schedule adopted in Edison's test year 1985 general rate case.

11. The total number of en banc hearings should be left to the discretion of the lead Commissioner; however, at least one issue-scoping hearing should be held early on in the rate case schedule.

12. One or two additional en banc hearings should be scheduled during the proceeding for parties' positions to be discussed.

13. The ALJ's advance draft decision should be available to the Commissioners prior to the final oral argument.

INTERIM ORDER

IT IS ORDERED that:

1. The Rate Case Plan (RCP) is amended at page 1, and at Days -60, 0, 84, 140, 150, 170, 230, and 265 as set forth in the appendix.
2. In all other respects the application is denied.
3. Within 45 days from the effective date of this interim order, staff is to circulate to all parties in this proceeding modifications to the Rate Case Plan, incorporating the changes adopted and the en banc hearings described in this interim order.
4. A second round of comments will be scheduled; the scope is limited to the changes resulting from incorporating an en banc hearing schedule into the Rate Case Plan.

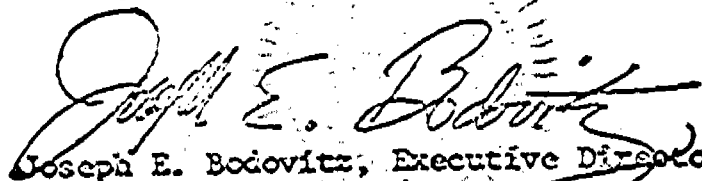
This order is effective today.

Dated September 6, 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

PUBLIC UTILITIES COMMISSION OF CALIFORNIA

San Francisco, California
Date: October 20, 1982
Resolution: ALJ-149, as
amended by Decision 82-12-072
in Application 82-11-36 and
by D.84-09-028, in
A.83-01-42.

R E S O L U T I O N

Subject: Revised Rate Case Plan

Recognizing that regulatory lag was a substantial problem confronting the regulatory process, the Commission adopted the Regulatory Lag Plan for Major Utility General Rate Cases by Resolution A-4693, dated July 6, 1977, which was modified by Resolution M-4706, dated June 5, 1979. That Plan superseded any conflicting provisions of the Commission's Rules of Practice and Procedure under Rule 87 of those Rules.

Having gained experience with the processing of rate increase applications by the major utilities subject to the Plan, the Commission has, from time to time, made modifications to the Plan to make it more workable and to better ensure that regulatory delay is minimized, while providing an administrative forum that affords fairness to all.

A public meeting was held May 7, 1981 and interested parties presented suggested modification to the Plan. In addition numerous written comments and recommendations were filed by the utilities, the Commission staff, and interested parties who participate in the regulatory process.

The most significant modification to the current Plan is the provision for filing of and hearing on certain updated material late in the schedule to complete a record based on the most current information available consistent with rapid processing of complex and lengthy applications.

The Plan has been renamed the Rate Case Plan to more accurately reflect its purpose. Copies of the tendered NOI will be made available to interested parties on request. Numerous changes have been made within the framework of the Plan to provide for additional hearing days each month, to provide extended time for staff reports, and for the staggered filing of staff reports on rate

design and conservation. The second prehearing conference has been eliminated and public witness hearings have been rescheduled to take place near the end of the evidentiary presentations of all parties. All of the changes are designed to facilitate the processing of general rate applications of major utilities.

The revised Plan applies to all Notices of Intent accepted for filing after the effective date of this resolution.

Wherefore, under Rule 87 of the Commission's Rules of Practice and Procedure, the Commission concludes that the attached Rate Case Plan should be adopted, on an experimental basis, effective immediately and superseding the Plan adopted by Resolution M-4706 dated June 5, 1979. The attached adopted Plan shall apply to the utilities prospectively.

IT IS RESOLVED that the attached Rate Case Plan for Major Utility General Rate Cases is adopted, on an experimental basis, to apply prospectively to Notices of Intent accepted for filing after the effective date of this resolution, until further order or resolution of the Commission. The adopted Plan shall supersede the existing Rules of Practice and Procedure wherever in conflict with those Rules. A copy of this Resolution shall be served on the utilities listed in Appendix A, and the ALJ Division shall send a copy to the parties who frequently appear in the general rate proceedings of those utilities.

This resolution is effective today.

I certify that this resolution was adopted at the Commission's regular conference held on October 20, 1982. The following Commissioners approved:

RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
Commissioners

I will file a dissent.

/s/ JOHN E. BRYSON
Commissioner

I will file a concurrence.

/s/ RICHARD D. GRAVELLE
Commissioner

/s/ JOSEPH E. BODOVITZ
Executive Director
Public Utilities Commission
State of California

RATE CASE PLAN¹

Before Day -60 the Notice of Intent (NOI) with all workpapers is tendered to the Docket Office and Commission staff for review. The Executive Director notifies the Docket Office when the NOI has been accepted by the staff, whereupon the Docket Office files the NOI. However, the requirements for the tendered NOI are listed under Day -60.

Day -60 (Accepted NOI is filed)

An original and 12 copies of an NOI is accepted by the Executive Director and then filed by the Docket Office. The NOI shall contain a brief statement of the amount of increase sought and the reasons for the proposed increase. An original and 12 copies of all documentation, prepared testimony, draft exhibits including complete explanations, and summaries supporting the increase shall comply with the standard requirement list² of the Public Staff and shall be tendered at the same time that the NOI is tendered. Three sets of applicant's workpapers shall accompany the tendered NOI. If figures are changed later, supporting workpapers shall accompany the tendered NOI. If figures are changed later, supporting workpapers shall show the new totals and a reconciliation with the workpapers provided with the tendered NOI. ✓

Applicant shall furnish a copy of the tendered NOI material to any interested party upon request.

The NOI shall state that the test period adopted by applicant is acceptable to staff. However, in no event shall the proposed test period be less than two years inclusive from the last adopted test year used by the Commission in setting applicant's existing rates. For example, if 1979 was the last adopted test year, the next test year to be submitted in an NOI would have been no earlier than 1981.

The required supporting material shall contain a results of operations study for the test year based upon the adjustments adopted by the Commission in applicant's last general rate case and subsequent policy decisions of the Commission. If applicant requests an attrition allowance, it shall include in its required supporting materials evidence supporting the requested attrition allowance. The NOI shall not be filed until all of the above requirements are met.

¹ Appendix A contains a list of the major utilities to which the RCP applies.

² See Appendix B.

ALJ/jt

Applicant will be notified of deficiencies in the NOI within 25 days of the tender date. The acceptance of the NOI will be based upon whether the applicant has substantially complied with the requirements of the RCP. Time consuming and/or inconsequential deficiencies may be corrected according to a schedule agreed upon by the staff and the applicant.

The NOI may contain material such as previously litigated policy issues on which the Commission has taken a position. This material must be clearly identified and contain a complete justification for any policy change. Showings on such material will be presented at the end of the hearing schedule, unless otherwise scheduled by the administrative law judge (ALJ) with the advice and consent of the assigned Commissioner.

Within five days after the NOI has been accepted, applicant shall serve a copy of the NOI on all appearances in its last general rate case, and file a certificate of service. Thereafter, all filed material shall be furnished by applicant to interested parties on written request. Applicant's workpapers shall be made available on request after the NOI has been accepted.

The application may be filed 60 days after the NOI is accepted.

Day -53

A project team, staff counsel, and an ALJ and a Commissioner shall be assigned.

Day -52 through +35

Informal conference(s) may be held with applicant, staff, and any interested parties, at which minor revenue requirement matters will be adjusted, the issues formulated, and the policy positions of the Commission identified. The staff project manager and staff counsel shall act as cochairmen and shall set the time, place, and agenda of such conference(s).

Day -35

The ALJ in concurrence with the assigned Commissioner shall set the day, time, and place for the prehearing conference and shall inform applicant and all parties to the last general rate case. If the Commission staff holds informal public meetings in conjunction with its investigation of the adequacy of utility service, applicant may be required to send notice of the date and location of the public meetings.

Day 0

1. The application may be filed and served in conformity with the Rules of Practice and Procedure.

2. The application shall include final exhibits, prepared testimony, and other evidence, and shall be served on all parties to the last general rate case. No bulk or major updating amendments or recorded data to amend the final exhibits, prepared testimony, or other evidence shall be allowed, except as provided in Appendix D and on Day 265.
3. Applicant shall file a comparison exhibit showing changes that have occurred between the draft exhibits submitted with the NOI and the final exhibits submitted with the application. All the changes or revisions shown shall have been agreed to by staff in an informal conference before filing the application. All changes in figures between the NOI and the application shall be supported by workpapers which show the new figures and a reconciliation with the workpapers previously tendered.
4. After Day 0 two copies of all exhibits, prepared testimony, and other evidence of applicant, staff, and interested parties shall be sent to the ALJ and copies served on all parties and the Reporting Branch. Prepared testimony should not be filed in the Docket Office; only briefs and other pleadings are to be filed.
5. A copy of the decision in applicant's last general rate case shall be furnished by applicant upon written request.

Day 40

A prehearing conference is held:

- a. To take appearances.
- b. To raise and resolve any procedural matters.
- c. To schedule hearings and specific areas of participation if known, and specific dates for testimony if necessary to expedite the hearing procedure.
- d. To set day, time, and place for public witness testimony. Applicant shall notify its customers by bill insert notice beginning on Day 100 using the format shown in Appendix C.

Day 77

Staff shall submit all final exhibits, prepared testimony, and evidence, except concerning rate spread and conservation, and shall serve copies on all parties. No bulk or major updating amendments or recorded data to amend the final exhibits, prepared testimony, or other evidence shall be allowed thereafter, except as provided in Appendix D and Day 265. All staff workpapers shall be available within five days of this date.

Day 84

Staff final rate spread exhibits and testimony shall be filed and served. All staff workpapers shall be available within five days of this date.

Day 91

1. Hearings begin with the following preliminary matters:
 - a. Specific issues upon which evidence and cross-examination shall be heard are designated.
 - b. Specific areas of agreement are placed on the record, together with the original position of applicant, staff, and interested parties. Applicant shall provide an exhibit indicating which portion, if any, of staff's presentation it is prepared to accept. The exhibit should show the effect of such acceptance on the utility's request for increased rates.
2. Applicant's presentation commences.
 - a. Hearings shall ordinarily be held not less than 15 days a month.
 - b. Where an agreement between applicant and staff is disputed by other parties, those parties shall have the right to cross-examine applicant and staff in that order. The examination will be closely controlled to prevent an undue consumption of time.

Day 94

Each party requesting compensation under PURPA § 122(a)(2) and the procedures established in Article 18.5 of the Commission's Rules of Practice and Procedure (Rules) shall submit its Request for Finding of Eligibility for Compensation and serve copies on all parties. This petition shall conform to Rule 76.03 of the Rules.

Day 100

Applicant shall notice the date, time, and place of the public witness hearings beginning with the next billing cycle. The notice shall follow the format in Appendix C.

Day 104

Staff and any other party shall submit their comments on any Rules and shall serve copies on all parties (References: Rule 76.04 of Rules).

Day 117

Parties other than staff and applicant shall submit their exhibits, prepared testimony, and evidence, except on conservation, and shall serve copies on all parties. These documents shall reflect the rulings and agreements made at the prehearing conferences. No bulk or major updating amendments or recorded data to amend the final exhibits, prepared testimony, or other evidence shall be allowed thereafter, either by prepared testimony, oral testimony, or exhibits, except as provided in Appendix D and Day 265. Also, all workpapers shall be available on this date.

Day 140

Staff shall submit final conservation exhibits and testimony and shall serve copies on all parties. All staff workpapers shall be available within five days of this date.

Day 150

Parties other than staff and applicant shall submit final conservation exhibits and testimony and shall serve copies on all parties. Also, all workpapers shall be available on this date.

Day 150-160

Public witness hearings will be held concurrently with evidentiary hearings if necessary to complete the hearings according to this plan.

Day 170

1. All rebuttal evidence shall have been distributed by Day 170. Rebuttal evidence shall refute the evidence of other parties and shall not reassert or reargue a party's direct evidence. No bulk or major updating amendments or recorded data shall be allowed in rebuttal evidence. Additional witnesses, cumulative testimony, and unproductive cross-examination shall be minimized.

ALJ/jt

2. Rebuttal evidence shall clearly reference by number the exhibit or transcript page of the direct evidence of the party rebutted.
3. When witness has not testified on direct examination before Day 170, the ALJ may set a later date for distributing rebuttal evidence as to that witness.
4. If oral argument before the Commission en banc is to be held, the ALJ shall announce the date and time.

Day 175

The ALJ and the assigned Commissioner shall provide the Commission with a status report on the proceeding setting forth major issues and the positions of parties on each and the dollars involved. The status report shall include a schedule for the remainder of the hearings, the expected date of submission, and other benchmark dates set forth in this Plan.

Day 200

Hearings are to be completed no later than this date, except for hearings scheduled for Day 275. The ALJ may require the applicant and/or staff to submit a comparison exhibit setting forth the reasons for differences.

Day 230

Concurrent briefs may be filed 30 days after the completion of hearings. The ALJ shall outline any specific issues to be briefed. Briefing of additional issues is optional.

Day 255

The Executive Director and appropriate division directors shall recommend to the assigned Commissioner whether to consider granting a partial general rate increase or decrease.

Day 265

Applicant, staff, or any interested party may distribute in prepared testimony form, and serve on all parties, showings containing the most recent data for the factors described in the Standard Updated Filing Requirements list, attached as Appendix D. This is the only updating which will be permitted.

ALJ/jt

Day 275

Abbreviated hearings begin to review the showing provided concerning the data described in Day 265. No more than three days of hearings shall be set for this review. An Updated Comparison exhibit may be required by the ALJ.

Day 280

Last day of evidentiary hearing.

Day 300

The draft decision shall be in the Chief ALJ's office.

Day 365

A final Commission decision is expected by this date.

APPENDIX A

LIST OF MAJOR UTILITIES*

1. General Telephone Company of California
2. Pacific Gas and Electric Company
3. Pacific Telephone and Telegraph Company
4. San Diego Gas & Electric Company
5. Southern California Edison Company
6. Southern California Gas Company

*Smaller energy and telephone utility rate applications, including those utilities previously listed in Appendix A, are processed on an expedited basis generally being completed within a year from the filing of the NOI assuming adequate Commission staffing.

(END OF APPENDIX A)

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Page 1

CALIFORNIA PUBLIC UTILITIES COMMISSION

STANDARD REQUIREMENT LIST
OF DOCUMENTATION SUPPORTING AN NOI

1. Brief statement of amount, reason for, and summary supporting, the increase.
2. Draft exhibits and prepared testimony (similar to those presented in final application form) shall conform to the requirements of Rule 23, except that the provisions of Rules 4 through 8 and 16 are not applicable.
3. In addition to the requirements of 2 above, the following draft exhibits shall be submitted:
 - A. All studies required by the Commission in prior rate decisions and subsequent policy statements or decisions.
 - B. Recorded data, in results of operations format, shall be provided for the latest recorded year available at the time of tendering the NOI. The format shall be satisfactory to staff and when requested by staff, more than one recorded year shall be shown.

The NOI may contain material (such as test year dollars for policy issues previously litigated but not allowed by the Commission) which is not acceptable to staff. Such material must be clearly identified together with the reasons for staff objection. Showings on such material will be presented at the end of the hearing schedule if unused hearing time is available.
 - C. When estimates are made by account or subaccount, those estimated amounts shall be included in the direct showing.
 - D. When controlling affiliates provide guidelines or directions to the company's presentation, these shall be set forth in the direct showing or available in the workpapers.

APPENDIX B
Page 2

E. For Electric Utilities:

- (1) Cost allocation studies by classes of service.
- (2) Marginal cost data in sufficient detail to allow the development of rates for each customer class. If the method used by the utility to calculate marginal cost differs from the method specified by staff, both should be presented.
- (3) A full and complete set of bill frequency analyses shall be provided for each existing tariff schedule.
- (4) Alternative rate designs:
 - a. Prepared by applicant in developing NOI.
 - b. Requested previously by staff, e.g. multitier inverted residential rates, T.O.D. rates based on specific consideration of marginal cost data, solar incentive rates, conservation oriented rates.
 - c. Rates based on marginal costs using method to determine marginal costs approved by staff.
 - d. A computer tape with detailed customer bill frequency data compatible with the Commission's computer should be provided for the latest available recorded year and for the estimated test year(s) of the rate case. All billing determinants for each tariff schedule must be included. Adequate documentation should be provided to allow the staff to use this tape to develop alternative rate designs.
- (5) Conservation effectiveness, including data and/or studies recommended by staff and the status of outstanding compliance reports or studies.
- (6) Data described in Subparts C and D of the FERC regulations implementing § 133 of PURPA, with additional data described in OII 67, Appendix B, Chapter 4.

APPENDIX B

Page 3

- (7) Load management program.
 - a. Complete program descriptions.
 - b. Program Funding - Annual revenue requirement, showing personnel and other costs.
 - c. Program Impacts - Energy savings and customers affected.
 - d. Estimated Program Cost-Effectiveness and how it is derived.

- (8) The Utility's current Resource Plan.

F. For Gas Utilities:

- (1) Marginal cost data.
- (2) Alternative rate designs.
 - a. Prepared by applicant in developing NOI.
 - b. Requested previously by staff, e.g. multitier inverted residential rates, T.O.D. rates based on specific consideration of marginal cost data, solar incentive rates, conservation oriented rates.
- (3) Conservation effectiveness and compliance with past Commission decisions.
- (4) Alternate fuel use.
 - a. Information on alternate fuels used in the utility's service area. In the case of oil, this information shall include, but not be limited to, the delivered price per barrel, lot size, and Btu content.
 - b. The alternate fuel capability of its customers and the volumes (therms) associated with each alternate fuel.

G. For Communication Utilities:

- (1) Separated results of operations by class of service. Total company, interstate, intrastate, state message toll, state private line, and exchange in total and by exchange grouping. Settlement revenue effects of all adjustments shall be shown.

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Page 4

- (2) Rate spread exhibits containing detailed cost studies supporting proposed rate increases. Cost studies shall include appropriate Commission ratefixing adjustments. Rate spread exhibits shall also contain settlement revenue effects on the utility and on the other California telephone utilities.
 - (3) When a combination of "bottoms-up" and "top-down" estimated results of operations is used, an adequate sampling shall be included in the workpapers to show typical bottoms-up estimate, including use of overall guidelines.
 - (4) Alternate rate designs when requested by staff.
4. Complete explanation of exhibits and special studies furnished.
 5. Workpapers (3 sets) showing calculations of documentation to support the utility's draft exhibits and special studies. In order to meet NOI criteria, workpapers must:
 - A. Be arranged in an orderly sequence and be dated and initialed by the preparer.
 - B. Show the derivation of each individual estimate.
 - (1) Contain all the assumptions necessary for the derivation of each individual estimate.
 - (2) Show how each assumption was used in each estimate.
 - (3) Where judgment is involved in setting an estimate level explain why that particular level was adopted.
 - (4) Furnish base year historical and estimated data and subsequent years with evaluation of changes up to and including test year.
 - (5) If there was no precise basis for certain estimates and the derivation was purely subjective, the workpapers should so state.
 - (6) Show management's review criteria including the factors considered by the utility's management in approving various expenditures levels. For example, what weight was given to the availability of capital.

APPENDIX B
Page 5

- (7) Supporting material must have a clear tieback to base data from the stated expenditure.
- C. Be appropriately indexed and legible.
 - D. Computer printouts must be accompanied by a detailed description of the program. The recorded data used should be identified and the various assumptions of variables used should be clearly stated.
 - E. Show the development of adjustments, including affiliate, based on the Commission's latest decision involving such adjustments.

(END OF APPENDIX B)

APPENDIX C

Page 1

NOTE: Applicant public utility shall use this notice format with information filled in as necessary for publication, posting, and mailing notice.

N O T I C E

The California Public Utilities Commission will hold public hearings as listed below on the request of _____ (utility) to increase its rates by \$ _____ per year. If the entire amount is approved by the Commission, the impact on customers will be as follows:

(Brief description of which rates the utility proposed to raise -or lower- and the \$ and % amount. The effect on the average residential customer's monthly bill shall be shown. The effect on rates of all customer classes shall be shown. A statement of the reasons for the rate increase shall also be included.)

The hearing dates listed below give you an opportunity to express your views to the Commission. You may submit written comments or make a brief oral statement at the hearing.

DATES AND LOCATIONS OF PUBLIC WITNESS HEARINGS
IN APPLICATION (OR NOI) _____ (No.) BEFORE
THE CALIFORNIA PUBLIC UTILITIES COMMISSION

(List dates, locations, and times of specifically designated public witness hearings.)

The Commission welcomes your comments. If you cannot attend these hearings, you may submit written comments to the Commission at one of the addresses listed below. Simply state that you are writing about Application (or NOI) _____ (No.) of _____ (utility).

A copy of _____ (utility's) application (or NOI) may be inspected in its local business office or at its headquarters.

APPENDIX C
Page 2

Additional hearing days will be devoted to analyzing the need for the requested rate increase and ways of allocating any approved increase among residential, commercial, and industrial customers. At these hearings the Commission will receive the testimony of _____ (utility) _____, and the testimony of other interested parties, and the Commission staff. The Commission staff consists of engineers, accountants, economists, and attorneys who independently evaluate the proposals of utilities for rate increases and present their analyses and recommendations to the Commission at public hearings.

Further information may be obtained from _____ (utility) _____ at its headquarters at _____, its local business offices, or from the California Public Utilities Commission offices:

350 McAllister Street
San Francisco, CA 94102

107 South Broadway
Los Angeles, CA 90012

NOTE: If the utility is located in only northern or southern California list only the appropriate Commission office; if statewide list both and if in central California list both.

(END OF APPENDIX C)

APPENDIX D

STANDARD UPDATE EXHIBIT
FILING REQUIREMENTS LIST

Any update testimony or exhibits filed by applicant, staff, or interested party shall be limited to:

- a. Changes in cost of capital reflecting issuance of new debt or equity since the NOI was accepted.
- b. Known changes in cost of labor based on contract negotiations completed since the tender of the NOI.
- c. Changes in nonlabor escalation factors based on the same indexes the party used in its original presentation during hearing.
- d. Known changes due to governmental action such as changes in tax rates, postage rates, or assessed valuation.

The update exhibit may include decreases as well as increases in the above categories. All testimony and exhibits for updating shall be in fully prepared form and served on all appearances 10 days before hearing.

(END OF APPENDIX D)

Decision 84 C9 028

SEP 6 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Revised
Rate Case Plan.

Application 83-01-42
(Filed January 20, 1983)

James M. Lehrer and Finn Jespersen, Attorneys at Law,
for Southern California Edison Company, applicant.
David B. Pollett and Frederick E. John, Attorneys at
Law, for Southern California Gas Company and
Pacific Lighting Gas Supply Company; William L.
Reed, Randall W. Childress, and Jeffrey Lee
Guttero, Attorneys at Law, for San Diego Gas &
Electric Company; Peter W. Hanschen and William H.
Edwards, Attorneys at Law, for Pacific Gas and
Electric Company; Daniel J. McCarthy and
Randall E. Cape, Attorneys at Law, for Pacific
Bell; Jon F. Elliott and Michel Peter Florio,
Attorneys at Law, for Toward Utility Rate
Normalization; and Brobeck, Phleger & Harrison, by
Gordon E. Davis, William H. Booth, and Richard C.
Harper, Attorneys at Law, for California
Manufacturers Association; interested parties.
Thomas Corr, Attorney at Law, and Ida Goalwin, for
the Commission staff.

INTERIM OPINION

Southern California Edison Company (Edison) seeks an order modifying Resolution ALJ-149, as amended by Decision (D.) 82-12-072 and D.83-01-001. Resolution ALJ-149 adopted a revised version of the rate case plan for major utility general rate cases (RCP). D.82-12-072 amended Resolution ALJ-149; and D.83-01-001 corrected some errors in D.82-12-072.

The modifications to the RCP that Edison proposes are as follows:

1. Minor updating or amendment of testimony by all parties should be allowed ten days prior to hearings on such testimony.

"Concurrent briefs may be filed 30 days after the completion of public witness hearings."

It is obvious that the words "public witness" in the quoted material should be deleted and we will make this change while reissuing the RCP pursuant to Edison's application.

In addition, nonsubstantive editorial changes have been made to the RCP on Page 1, and at Days 0 and 265 in order to improve the language or to correct typographical errors. These changes are reflected in the revised RCP attached hereto.

En Banc Hearings

Since the filing of Edison's application, the Commission has initiated an en banc hearing procedure in Edison's Test Year 1985 general rate case. The procedural guidelines for these hearings, as distributed to all parties in the case, are presented below:

"During the evidentiary hearings on SCE's general rate case, the Commission will hold three en banc hearings, as described below. The objectives of these hearings are to:

- o Facilitate involvement of Commissioners at an early stage of the proceeding in the identification of issues.
- o Aid parties in focusing their participation (including direct/cross examination time) on the issues of primary importance to the Commission and develop a full record on those issues.
- o Enable parties to present positions on issues and answer Commissioners' questions at intermediate stages during the hearing process.

1. En Banc Hearings #1: April 11, 1984 in Los Angeles

The purpose of this en banc hearing is to enable parties to identify and discuss issues before the Commissioners, much in the style of a verbal "scoping memo". The issues presented should represent those that the parties consider of major importance in this proceeding, with particular emphasis on:

- o Issues where recent Commission decisions have indicated a resolution--but they are raised again in the utility's filing.
- o Issues where circumstances may warrant a change or reconsideration of past/current Commission policies.
- o Issues that are unique to SCE in this particular filing and require resolution.
- o Issues that were left unresolved in past decisions, and where clear policy guidance will be needed in this proceeding.

This first en banc hearing is an opportunity for parties and the Commissioners to interact on what issues they believe require the most development, evaluation and consideration in this proceeding.

Involvement of Commission Staff. The Commission staff will make a presentation of the issues they have identified.

Other Formal Appearances to this proceeding may also participate in an oral presentation of the issues in this case.

Other Procedures. For the first en banc hearing:

- .The hearing will record by a court reporter, and transcripts will be made available.
- .Commissioners and the ALJ will be the only persons allowed to question individual parties.
- .Questions will be limited to clarification of the issues and policy questions raised by the parties, and not the position of the parties on any issue.
- .Each party's oral presentation is limited to 20 minutes for Commission staff and for the utility, 10 minutes for other parties making formal appearances.
- .Within 14 days after the en banc hearing, President Grimes will forward to all parties a list of issues the Commission desires to have addressed in the case which were not identified by the parties and/or are the ones about which the Commissioners are most concerned. This list will reflect any issue any Commissioner wishes to include.

2. En Banc Hearing #2: May 22, 1984 in San Francisco

The purpose of this en banc hearing is to enable parties to present positions on the issues addressed thus far in the evidentiary proceedings, namely, rate of return, marginal cost, avoided cost, rate design, and RD&D.

The second and third en banc hearings (see below) are different from traditional oral arguments in that:

- .They will not be preceded by written briefs.
- .For the Commission staff, the staff attorneys, project manager and, as required, technical and policy witnesses will present positions and answer questions.
- .They will be on the record, but nonevidentiary in nature.

All Parties which have filed formal appearances in the proceeding may develop and present an oral summary of their positions.

Other Procedures. For the second (and third) en banc hearing:

- .The hearing will be recorded by a court reporter and transcripts will be made available.
- .Commissioners and the ALJ will be the only persons allowed to question individual parties.
- .Each party's oral presentation will be limited in time. The ALJ will inform parties of those limits after the prehearing meeting.

3. En Banc Hearing #2: July 12, 1984 in San Francisco

The purpose of this en banc hearing is to enable parties to present positions on the issues addressed in the evidentiary hearings subsequent to en banc hearing #2 (e.g.: cogeneration, results of operations, conservation, and load management).

In every other way it will be conducted similar to en banc hearing #2, as described above.

4. Oral Arguments: November 2, 1984 in Los Angeles

The oral arguments will occur after briefs are filed and approximately 2 weeks from submission of the ALJ advance draft to the Commission (Day 300). The purpose of the oral arguments will be for all parties to briefly summarize their positions on major issues in the case. This hearing will be conducted in a manner similar to traditional oral arguments in previous rate cases."

We believe that these en banc hearings should be a scheduled part of the Rate Case Plan. Therefore, we direct our staff to develop a modification of the Rate Case Plan which would incorporate an en banc and oral argument schedule similar to the one adopted for Edison's TY1985 general rate case. The ~~final dates and~~ ^{should} number of en banc hearings ~~would~~ be left to the discretion of the lead Commissioner, but at least one "issue scoping" en banc would be held early on in the rate case schedule. One or two additional en banc hearings ~~should~~ ^{could also} be scheduled during the proceeding for parties' positions to be discussed. A final oral argument, preceded by the ALJ's advance draft of the decision, should be incorporated into the plan. ✓

Within 45 days from the effective date of this interim decision, staff is directed to circulate to all parties in this proceeding modifications to the Rate Case Plan, incorporating the changes adopted in this interim decision and the en banc hearings described above. A second prehearing conference will be scheduled to hear parties' positions on the en banc modifications. The prehearing conference will be limited in scope to those changes resulting from incorporating an en banc hearing schedule into the Rate Case Plan.

Conclusions of Law

1. An application or petition for modification of a Commission order is addressed to the Commission's discretion.

2. The RCP should be amended to require substantial compliance with the RCP before acceptance of the NOI; and time consuming or inconsequential deficiencies should be corrected according to a schedule agreed upon by the staff and the applicant.

3. The ALJ should be authorized to schedule the distribution of rebuttal evidence later than Day 170 when a witness has not testified on direct examination before Day 170.

4. The staff should be required to make its work papers available within five days of the distribution of its reports, testimony, or exhibits.

5. The applicant and other parties should make their work papers available the day their testimony or exhibits are distributed.

6. Evidence on policy issues may be taken at times other than at the end of the hearing schedule, if the ALJ, with the advice and consent of the assigned Commissioner, so directs.

7. Other changes to the RCP of an editorial and nonsubstantive nature should be made on page 1, and at Days 0, 170, 230, and 265 to improve or correct the language.

8. All substantive and nonsubstantive changes to the RCP adopted in this interim order are reflected in the Appendix.

9. Except as indicated in Conclusions 2 through 6, the application should be denied.

10. Further modifications to the Rate Case Plan should be made, reflecting the en banc hearings and oral arguments schedule adopted in Edison's test year 1985 general rate case.

11. The total number of en banc hearings should be left to the discretion of the lead Commissioner; however, at least one issue-scoping hearing should be held early on in the rate case schedule.

12. One or two additional en banc hearings should be scheduled during the proceeding for parties' positions to be discussed.

13. The ALJ's advance draft decision should be available to the Commissioners prior to the final oral argument.

I N T E R I M O R D E R

IT IS ORDERED that:

1. The Rate Case Plan (RCP) is amended at page 1, and at Days -60, 0, 84, 140, 150, 170, 230, and 265 as set forth in the Appendix.
2. In all other respects the application is denied.
3. Within 45 days from the effective date of this interim order, staff is to circulate to all parties in this proceeding modifications to the Rate Case Plan, incorporating the changes adopted and the en banc hearings described in this interim order.
4. A second prehearing conference will be scheduled; its scope is limited to the changes resulting from incorporating an en banc hearing schedule into the Rate Case Plan.

This order becomes effective today.

Dated SEP 6 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

PUBLIC UTILITIES COMMISSION OF CALIFORNIA

San Francisco, California
Date: October 20, 1982
Resolution: ALJ-149, as
amended by Decision 82-12-072
in Application 82-11-36 and
by D. _____, in
A.83-01-42.

R E S O L U T I O N

Subject: Revised Rate Case Plan

Recognizing that regulatory lag was a substantial problem confronting the regulatory process, the Commission adopted the Regulatory Lag Plan for Major Utility General Rate Cases by Resolution A-4693, dated July 6, 1977, which was modified by Resolution M-4706, dated June 5, 1979. That Plan superseded any conflicting provisions of the Commission's Rules of Practice and Procedure under Rule 87 of those Rules.

Having gained experience with the processing of rate increase applications by the major utilities subject to the Plan, the Commission has, from time to time, made modifications to the Plan to make it more workable and to better ensure that regulatory delay is minimized, while providing an administrative forum that affords fairness to all.

A public meeting was held May 7, 1981 and interested parties presented suggested modification to the Plan. In addition numerous written comments and recommendations were filed by the utilities, the Commission staff, and interested parties who participate in the regulatory process.

The most significant modification to the current Plan is the provision for filing of and hearing on certain updated material late in the schedule to complete a record based on the most current information available consistent with rapid processing of complex and lengthy applications.

The Plan has been renamed the Rate Case Plan to more accurately reflect its purpose. Copies of the tendered NOI will be made available to interested parties on request. Numerous changes have been made within the framework of the Plan to provide for additional hearing days each month, to provide extended time for staff reports, and for the staggered filing of staff reports on rate

RATE CASE PLAN¹

Before Day -60 the Notice of Intent (NOI) with all workpapers is tendered to the Docket Office and Commission staff for review. The Executive Director notifies the Docket Office when the NOI has been accepted by the staff, whereupon the Docket Office files the NOI. However, the requirements for the tendered NOI are listed under Day -60.

Day -60 (Accepted NOI is filed)

An original and 12 copies of an NOI is accepted by the Executive Director and then filed by the Docket Office. The NOI shall contain a brief statement of the amount of increase sought and the reasons for the proposed increase. An original and 12 copies of all documentation, prepared testimony, draft exhibits including complete explanations, and summaries supporting the increase shall comply with the standard requirement list² of the Revenue Requirements, Utilities, and Communications Divisions and shall be tendered at the same time that the NOI is tendered. Three sets of applicant's workpapers shall accompany the tendered NOI. If figures are changed later, supporting workpapers shall accompany the tendered NOI. If figures are changed later, supporting workpapers shall show the new totals and a reconciliation with the workpapers provided with the tendered NOI.

Applicant shall furnish a copy of the tendered NOI material to any interested party upon request.

The NOI shall state that the test period adopted by applicant is acceptable to staff. However, in no event shall the proposed test period be less than two years inclusive from the last adopted test year used by the Commission in setting applicant's existing rates. For example, if 1979 was the last adopted test year, the next test year to be submitted in an NOI would have been no earlier than 1981.

The required supporting material shall contain a results of operations study for the test year based upon the adjustments adopted by the Commission in applicant's last general rate case and subsequent policy decisions of the Commission. If applicant requests an attrition allowance, it shall include in its required supporting materials evidence supporting the requested attrition allowance. The NOI shall not be filed until all of the above requirements are met.

¹ Appendix A contains a list of the major utilities to which the RCP applies.

² See Appendix B.