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Decision 91-07-051 July 24, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 SOUTHERN CALIFORNIA EDISON COMPANY )  
 (U-338-E) for Authority to Increase )  
 its Authorized Level of Base Rate )  
 Revenue Under the Electric Revenue )  
 Adjustment Mechanism for Service )  
 Rendered Beginning January 1, 1992 )  
 and to Reflect this Increase in )  
 Rates. )

**ORIGINAL**

Application 90-12-018  
(Filed December 7, 1990)

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And Related Matters. )

I.89-12-025  
(Filed December 18, 1989)

I.91-02-079  
(Filed February 21, 1991)

THIRD INTERIM OPINION

1. Summary of Decision

The "Petition of Southern California Edison Company (U 338-E) for Modification of Order Instituting Investigation No. 89-12-025 and for Other Appropriate Relief" (Petition) is granted in part and denied in part. Southern California Edison Company (Edison) is authorized to end the "subject to refund" condition on its rates related to Units 1 and 3 of the Palo Verde Nuclear Generating Station (Palo Verde 1 and Palo Verde 3), and to end the recording of associated costs in a memorandum account. However, the modifications are made effective only after the units have completed 100 hours of continuous operation at the full power level following return to service.

2. General Background

2.1 Commercial Operation Date

For ratemaking purposes the Commission considers a new electric generating station to be completed on its commercial

operation date (COD). At that time the utility's allowance for funds used during construction (AFUDC) ceases and the plant asset begins earning a rate of return, either by entry into rate base or through the Major Additions Adjustment Clause (MAAC). The Commission adopts COD criteria on a case-by-case basis.

For Palo Verde 1 the COD criteria were adopted in Decision (D.) 85-10-012. Identical COD criteria for Palo Verde 3 were adopted in D.86-10-023. The criteria are: (a) completion of all initial startup testing required by the Nuclear Regulatory Commission (NRC) at the full power level; (b) completion of 100 hours of operation at the full power level during or after the NRC-required initial startup testing at the full power level; and (c) return to the full power level after any outage resulting from, or causally related to, the NRC-required initial startup testing. For COD purposes, "full power level" is defined as operation at or above 95% of the licensed thermal output of the plant unit, and operation of the turbine-generator at a level consistent with prevailing conditions.

## 2.2 Palo Verde Outages

Public Utilities (PU) Code § 455.5 requires utilities to notify the Commission when any portion of a major facility has been out of service for nine consecutive months. On December 6, 1989 Edison provided such notice regarding Palo Verde 1 and Palo Verde 3. Palo Verde 1 went out of service on March 5, 1989, due to an automatic shutdown; a refueling outage for Palo Verde 1 had been scheduled later for April 7, 1989. Palo Verde 3 went out of service on March 3, 1989, also due to an automatic shutdown, shortly before a refueling outage scheduled for March 7, 1989.

In response to Edison's notice, on December 18, 1989 the Commission opened Investigation (I.) 89-12-025, which is now consolidated with Edison's test year 1992 general rate case (GRC). I.89-12-025 made all rates associated with Palo Verde 1 and Palo Verde 3 subject to refund and ordered that Edison track all costs

associated with the two units in an interest-bearing memorandum account, effective December 18, 1989.

PU Code § 455.5(d) allows the Commission to consider reinstating a major facility in rates after the facility has been restored to service and has achieved at least 100 hours of continuous operation.

### 3. Procedural Background

On April 12, 1991 Edison filed the Petition, seeking to modify I.89-12-025 such that: (1) the "subject to refund" condition for Palo Verde 1 rates be terminated effective July 5, 1990, the date the unit was restored to service; (2) the "subject to refund" condition for Palo Verde 3 be terminated effective December 30, 1989, the date the unit was restored to service; (3) Palo Verde 1 memorandum account expense entries cease effective July 5, 1990; and (4) Palo Verde 3 memorandum account expense entries cease effective December 30, 1989. Edison also requested that the Commission make findings of fact relating to the dates that Palo Verde 1 and Palo Verde 3 were returned to service.

On May 3, 1991 the Commission's Division of Ratepayer Advocates (DRA) protested the Petition.

On May 29, 1991 Edison filed a reply to DRA's protest. The reply was authorized by the oral ruling of Administrative Law Judge James Weil at a GRC hearing on May 22, 1991.

### 4. Position of Edison

Edison believes that I.89-12-025 should be modified because Palo Verde 1 and Palo Verde 3 are again operational. The "subject to refund" conditions and recording of expenses in the memorandum account are not necessary in periods when the plant units are operating and providing ratepayer benefits. According to Edison, I.89-12-025 is broader in scope than statutorily required by PU Code § 455.5. This overbreadth causes harm to Edison which was neither intended by the Commission nor required by the public policy underlying § 455.5.

The harm to Edison is that the balance in the memorandum account must be disclosed on Edison's financial statements as a contingent liability, which adversely affects Edison's financial standing.

Edison claims that in the context of this proceeding the term "restored to service" which appears in PU Code § 455.5 means that the plant unit's turbine-generator was synchronized to the electrical grid. Edison opposes DRA's definition of "restored to service," characterizing it as a recommendation for a new "warranty run."

#### 5. Position of DRA

DRA does not object to terminating Edison's obligations to record Palo Verde 1 and Palo Verde 3 expenses in the memorandum account, but DRA protests the specific dates that Edison proposes. DRA recommends that the memorandum account entries and rate refund periods should be closed no earlier than the dates that Palo Verde 1 and Palo Verde 3 achieved 100 hours of continuous operation following return to service. DRA also opposes the requested findings of fact until evidentiary hearings are completed.

DRA believes that Edison's definition of "restored to service" would cause the memorandum account and rate refund periods to be limited as narrowly as possible prior to the evidentiary . . . hearings on the outages. DRA's definition requires a higher standard of plant operation.

#### 6. Discussion

It is reasonable to terminate the memorandum account expense entries and rate refund periods once Palo Verde 1 and Palo Verde 3 are returned to full service, as DRA concedes. The issue before us is precisely when full rate recovery for Palo Verde 1 and Palo Verde 3 should resume.

Until evidentiary hearings are completed, interim revisions to the terms of I.89-12-025 should provide maximum reasonable ratepayer protections, not maximum relief to Edison.

Ordering paragraph 1.d. explicitly reserves computation of "time out of service" as an issue for the investigation. Granting Edison all of its requested relief would prematurely dispose of that issue.

Edison's argument that I.89-12-025 is overly broad is incorrect. The Commission's duties are not limited to the strictest terms of PU Code § 455.5. The PU Code defines only the minimum requirements for allowing major facilities back into rates. The exact terms for restoring full rate recovery for facilities that have been out of service are clearly at the Commission's discretion. We will provide Edison with limited relief because it is reasonable to do so while adequately protecting ratepayers, not because PU Code § 455.5 requires that the relief be granted.

To determine the appropriate interim definition of "restored to service" we should return to the adopted COD criteria. Startup tests required by the NRC are no longer relevant, but the remaining terms of the adopted COD criteria should be applied to restart following an extended outage. "Restored to service" in this dispute should mean attainment of full power operation with assurance that full power operation will continue. Return to the electric grid at any power level is an inadequate definition.

The "subject to refund" conditions and memorandum account entries for Palo Verde 1 and Palo Verde 3 should end only when the units have completed 100 continuous hours of operation at the full power level, and upon return to the full power level after any outage resulting from or causally related to operations during the 100 hour period. The interim definition of "full power level" should be the same as the definition used in the adopted COD criteria, based on 95% of licensed thermal output. These interim definitions may or may not be applied later in this proceeding or for any other regulatory purpose.

We reject Edison's proposed definition of "restored to service" because it does not adequately protect ratepayers. We

recognize that Edison's proposed definition is used in its tariffs for other purposes. We also recognize that our adopted restart criterion is more stringent than a narrow interpretation of PU Code § 455.5, specifically by addition of the term "at the full power level" to the requirement for 100 hours of continuous operation. The more rigorous definitions adopted herein are necessary to protect ratepayers until hearings are completed and a decision is reached on the Palo Verde outages.

Because we are rejecting Edison's definition of "restored to service," we must also reject as premature Edison's proposed findings of fact.

#### Findings of Fact

1. Edison has requested that the Commission modify I.89-12-025 such that the "subject to refund" conditions on rates associated with Palo Verde 1 and Palo Verde 3 be terminated, and that memorandum account entries for related expenses cease. Edison has also requested findings of fact relating to the dates that Palo Verde 1 and Palo Verde 3 were "restored to service."

2. DRA does not object to terminating Edison's obligations, but protests the specific dates that Edison proposes. DRA opposes the requested findings of fact.

3. Revisions to the terms of I.89-12-025 should provide maximum reasonable ratepayer protection, not maximum relief to Edison.

4. Palo Verde 1 and Palo Verde 3 have apparently been restored to service, but the proper computation of "time out of service" under PU Code § 455.5 cannot be determined from the present record.

5. It is reasonable to terminate the rate refund periods and memorandum account expense entries for Palo Verde 1 and Palo Verde 3.

6. "Restored to service" should mean attainment of full power operation with assurance that full power operation will continue.

7. Return to the electric grid at any level of power is an inadequate definition of "restored to service."

8. Edison's proposed definition of "restored to service" should be rejected.

9. Until a further record is developed, the "subject to refund" conditions and memorandum account expense entries for Palo Verde 1 and Palo Verde 3 should end only when the units have completed 100 continuous hours of operation at the full power level, and upon return to the full power level after any outage resulting from or causally related to operations during the 100 hour period..

10. The interim definition of "full power level" should be the same as the definition used in the adopted COD criteria, based on 95% of licensed thermal output.

11. Edison's proposed findings of fact should not be adopted.

#### Conclusions of Law

1. PU Code § 455.5 gives the Commission discretion in allowing full rate recovery for major facilities that are returned to service following outages of nine or more consecutive months.

2. I.89-12-025 is not overly broad.

#### THIRD INTERIM ORDER

1. The terms of Order Instituting Investigation 89-12-025 relating to Southern California Edison Company's share of Unit 1 and Unit 3 of Palo Verde Nuclear Generating Station are modified as follows:

- a. The "subject to refund" provision of Ordering Paragraph 2 shall end for each plant unit when the unit has completed 100 hours of continuous operation at the full power level, and upon return to the

full power level after any outage resulting from or causally related to operations during the 100 hour period.

- b. The tracking of all costs in the memorandum account established in Ordering Paragraph 2 shall end for each plant unit when the unit has completed 100 hours of continuous operation at the full power level, and upon return to the full power level after any outage resulting from or causally related to operations during the 100 hour period. Previous account entries shall remain in place, and the account shall continue to accrue interest.

2. In all other respects the "Petition of Southern California Edison Company (U 338-E) for Modification of Order Instituting Investigation No. 89-12-025 and for Other Appropriate Relief" is denied.

This order becomes effective 30 days from today.

Dated July 24, 1991, at San Francisco, California.

PATRICIA M. ECKERT  
President  
G. MITCHELL WILK  
JOHN B. OHANIAN  
DANIEL Wm. FESSLER  
NORMAN D. SHUMWAY  
Commissioners

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

  
NEAL J. SHULMAN, Executive Director