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APR 24 1998

Decision 98-04-054 April 23, 1998

ORIGINAL
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, 1995 And To Reflect This Increase In Rates.

Application 93-12-025
(Filed December 27, 1993)

Order Instituting Investigation Into The Rates, Charges, And Practices Of SOUTHERN CALIFORNIA EDISON COMPANY, Establishment Of The Utility's Revenue Requirement, And Attrition Request.

Investigation 94-02-002
(Filed February 4, 1994)

FINAL OPINION

By this decision, we approve a Settlement Agreement regarding The Utility Reform Network's (TURN) Rate Design Window proposal in this proceeding, and close this docket. The parties proposing the Settlement Agreement are TURN, Southern California Edison Company (Edison), California Industrial Users (CIU), California Large Energy Consumers Association (CLECA), and California Manufacturing Association (CMA). The Settlement Agreement is presented in Appendix A.

Under the Settlement Agreement we approve today, Edison will provide its interruptible service program customers official notice that, after March 31, 2002, it will no longer provide a discount for interruptible service under existing tariffs. We adopt tariff language revisions to reflect these termination provisions, as presented in Appendix B. Today's decision does not preclude the

development, adoption, and implementation of a different interruptible service program applicable to customers after March 31, 2002.

Background

The Rate Case Plan allows all parties to Edison's last general rate case to propose rate changes in the Rate Design Window.¹ On December 20, 1996, TURN filed a Rate Design Window proposal in this proceeding. In its proposal, TURN requested that the Commission direct Edison to provide its interruptible service program customers official notice that after March 31, 2002 it will no longer provide a discount for interruptible service under the existing tariffs. March 31, 2002 is the expiration of the period prescribed in Section 743.1 of the California Public Utilities Code during which the level of the existing interruptible credit for heavy industrial customers cannot be altered.

On January 21, 1997, Edison filed a response to TURN's proposal. Edison stated that it disagreed with TURN's interpretation of the interruptible service program tariffs and contract termination provisions. Nevertheless, given the expected changes in the electric utility industry, Edison stated it would be prudent to advise its interruptible service program customers that their interruptible service could be modified or terminated following the period mandated by Section 743.1. Accordingly, Edison stated that it would file an advice letter inserting a provision regarding the potential modification or termination of its interruptible tariff schedules, and send each of its interruptible service program customers a letter regarding the potential modification or termination. Edison argued that this would eliminate the need for a Rate Design

¹ Edison did not identify any rate design issues to be considered in the 1996 Rate Design Window and, by letter dated June 20, 1996, requested that it be indefinitely deferred.

Window proceeding and avoid consuming the Commission's and the parties' resources in litigating the issue.

On January 31, 1997, Edison filed Advice No. 1217-E inserting the provisions regarding the potential termination in all of its interruptible tariff schedules. However, TURN filed a reply to Edison's response on February 5, 1997, challenging the language Edison inserted in its interruptible tariff schedules.² TURN argued that the use of the words "may be terminated" as opposed to "will be terminated" were ambiguous and did not adequately address TURN's concerns. Edison used the words "may be terminated" to provide sufficient notice to Edison's interruptible service program customers without requiring the Commission to issue a decision authorizing the termination. Edison cannot unilaterally terminate the program without a specific Commission decision.

Given TURN's protest of Edison's language, Edison withdrew Advice No. 1217-E and did not send the above-referenced letter to its interruptible service program customers. Subsequently, TURN and Edison discussed the matter further and agreed that they could jointly stipulate to a Notice of Termination statement that would be provided to Edison's interruptible service program customers. This was communicated to the assigned Administrative Law Judge (ALJ) in a letter from Edison, dated May 1, 1997. To facilitate the settlement process, the assigned ALJ convened a prehearing conference on

² TURN also sent a letter protesting Edison's filing of Advice No. 1217-E on February 6, 1997.

June 5, 1997, at which time, CIU, CLECA, and CMA also expressed an interest in participating in the settlement.

Pursuant to Rule 51.1(b), a notice of settlement conference was served on June 20, 1997 and a settlement conference was held via telephone at 9:00 a.m. on Friday, June 27, 1997 at Edison's San Francisco offices. The Settlement Agreement was executed by the TURN, Edison, CIU, CLECA, and CMA, collectively referred to as "the Parties," in early July.

After execution of the Settlement Agreement, the Parties agreed that it appeared that the issues resolved by the Settlement Agreement were already being addressed in Edison's Unbundling/Ratesetting proceeding, Application (A.) 96-12-019. However, the final tariff changes implemented as a result of that proceeding did not contain the changes provided for in the Settlement Agreement. Therefore, on February 13, 1998, the Parties filed a Motion For Adoption of the Settlement Agreement Regarding The Utility Reform Network's December 20, 1996 Rate Design Window Proposal (Motion). No comments or protests were filed in response to the Motion.

Summary of Motion and Settlement Agreement

Edison offers five interruptible service program tariff schedules for its customers: Schedule I-6, TOU-8-SOP-I, RTP-2-I, AP-I, and TOU-PA-SOP-I. Customers on these tariff schedules receive a discount for electricity in exchange for Edison's right to call upon them to reduce load when necessary to prevent a system outage. Pursuant to Section 743.1 of the California Public Utilities Code,

the level of the discount provided to heavy industrial customers cannot be changed until March 31, 2002.³

Under the Settlement Agreement, Edison will send a notice to each interruptible service customer that, after March 31, 2002, Edison will no longer provide its interruptible customers service under the same terms and conditions as it currently does. The notice reads as follows:

**NOTICE OF TERMINATION OF
EXISTING INTERRUPTIBLE SERVICE PROGRAMS**

Section 743.1 of the California Public Utilities Code mandates that the level of the credit on Edison's interruptible tariff schedules shall not be changed until March 31, 2002. The California legislature and the California Public Utilities Commission are in the process of restructuring California's electric utility industry. This process will dramatically affect the need and type of interruptible service programs offered to consumers. As a result, when the period for providing interruptible service mandated in Section 743.1 expires, Edison will no longer provide its interruptible customers service under the same terms and conditions as it currently does. Therefore,

³ On November 20, 1997, Edison filed Advice No. 1263-B which will govern the operation of the program through March 31, 2002. By letter dated March 12, 1998 from the Commission's Energy Division, the tariff revisions requested by Edison were approved. These revisions will: (1) transfer responsibility for determining when an interruption should be initiated from Edison to the Independent System Operator ("ISO"); (2) provide interruptible service program customers the opportunity to cancel their interruptible service contracts and return to firm service; (3) provide that interruptible service program customers electing direct access service must notify their Energy Service Provider and Scheduling Coordinator that they are subject to interruption; and (4) prohibit interruptible service program customers from bidding curtailable demand into the ISO as an ancillary service. These changes are to be effective with the commencement of ISO's operation and are expected to remain in place until March 31, 2002.

the Contracts for Interruptible Service in effect today will be terminated as of that date. Edison anticipates another interruptible service program designed to accommodate the needs of the electric utility industry may be available at that time to replace the current program, and that Edison's current interruptible service program customers may be given the opportunity to participate in that program. Since the Contracts for Interruptible Service in effect today will be terminated as of March 31, 2002, customers currently receiving service under those contracts will not need to provide five years written notice of termination as required by their contract and/or interruptible tariff schedules.

Prior Commission authorization is necessary before this notice is delivered to Edison's interruptible service program customers. Schedules AP-I and TOU-PA-SOP-I require Edison to provide five years' written notice prior to terminating interruptible service. Accordingly, the Parties request that the Commission exercise its right, pursuant to General Order 96-A and Section 11 of the "Contract for Interruptible Service, Agricultural and Pumping," to modify the terms and conditions of Schedules AP-I and TOU-PA-SOP-I so that they may be terminated by Edison on less than five years' notice. With respect to Schedules 1-6, TOU-8-SOP-I, and RTP-2-I, Parties request that the Commission simply authorize their termination after March 31, 2002, since these schedules are silent with respect to Edison's right to terminate. As part of the Motion, Parties propose tariff language additions to reflect the termination provisions discussed above. (See Appendix B.)

Discussion

Rule 51.1(e) of the Commission's Rules of Practice and Procedure provides that the Commission should not approve a settlement, whether contested or uncontested, unless the settlement is: (1) in the public interest; (2) reasonable in light of the whole record; and (3) consistent with the law. As discussed below, we find that the Settlement Agreement satisfies these three criteria.

First, the public interest is served by providing for a reasonable transition from Edison's existing interruptible service program designed under a utility monopoly structure to a program that meets the needs of the emerging competitive electric market. The Settlement Agreement provides a reasonable transition in two respects. First, it reflects the intent of the Legislature to maintain the existing interruptible service program and current interruptible service program incentives through March 31, 2002 pursuant to Section 743.1. Second, the Settlement Agreement allows for the design of interruptible service beyond March 31, 2002 to meet the specific needs of the Independent System Operator ("ISO"), which will be responsible for determining when an interruption is needed.

Although evidentiary hearings have not been held in this proceeding, TURN's Rate Design Window proposal, Edison's comments on the proposal, TURN's reply to those comments, and the Settlement Agreement constitute the record for our consideration of Rule 51.1(e).⁴ These documents demonstrate that the Settlement Agreement appropriately balances the need to comply with current law while providing the flexibility to construct future load curtailment programs that meet the needs of the industry after March 31, 2002. We find that the Settlement Agreement is reasonable in light of the whole record.

In addition, the Settlement Agreement is consistent with Section 743.1 and the Commission's efforts to restructure California's electric utility industry, and

⁴By this decision, we incorporate these documents into the record of this proceeding. Similarly, consistent with the Rate Case Plan (D.93-07-030, dated July 21, 1993, pp. B18-B19), the Commission issued a decision in San Diego Gas & Electric Company's Rate Design Window proceeding based upon the proposals and comments on the proposals in that proceeding. (D.94-03-021, dated March 9, 1994.)

does not violate any statute or Commission general order, resolution, or decision. In addition, the Settlement Agreement reasonably balances the risks associated with continued litigation of the issues surrounding the proposed termination language. Moreover, the Settlement Agreement constitutes a more efficient and optimal use of the Parties' resources in comparison with traditional litigation.

For the reasons stated above, we approve the Settlement Agreement presented in Appendix A. We also adopt tariff language to reflect the termination provisions of the Settlement Agreement, as presented in Appendix B. This language is to be added to the Applicability Section of Edison's Schedule I-6, TOU-8-SOP-I, RTP-2-I, AP-I, and TOU-PA-SOP-I. We note that Advice Letter No. 1245-E proposes other tariff revisions to these schedules. The language adopted today should be added to Edison's current version of these schedules, effective immediately. This language should also be incorporated into any future revisions that result from our consideration of Advice Letter No. 1245-E or other pending Advice Letters that request revisions to Edison's tariff sheets for the schedules listed above.

There being no further issues to address in this proceeding, we close A.93-12-025 and Investigation (I.) 94-02-002.

Findings of Fact

1. The Settlement Agreement reflects the intent of the Legislature to maintain the existing interruptible service program and current interruptible service program incentives through March 31, 2002 pursuant to Section 743.1.
2. The Settlement Agreement allows for the design of interruptible service beyond March 31, 2002 to meet the specific needs of the Independent System Operator, which will be responsible for determining when an interruption is needed.

3. The Settlement Agreement is reasonable in light of the whole record in this proceeding.

4. The Settlement Agreement is consistent with Section 743.1 and the Commission's efforts to restructure California's electric utility industry, and does not violate any statute or Commission general order, resolution, or decision.

5. The Settlement Agreement reasonably balances the risks associated with continued litigation of the issues surrounding the proposed termination language.

6. The Settlement Agreement constitutes a more efficient and optimal use of the Parties' resources in comparison with traditional litigation.

7. There are no further issues to address in this proceeding.

Conclusions of Law

1. The Settlement Agreement meets all three criteria of Rule 51.1(e) and should be adopted.

2. Revisions to the tariff language of Edison's Schedule I-6, TOU-8-SOP-I, RTP-2-I, AP-I, and TOU-PA-SOP-I should be made to reflect the adopted Settlement Agreement.

3. In order to implement the tariff language changes as expeditiously as possible, this order should be effective today.

4. This docket should be closed.

FINAL ORDER

IT IS ORDERED that:

1. The Settlement Agreement Regarding The Utility Reform Network's December 20, 1996 Rate Design Window Proposal, presented in Appendix A, is adopted.

2. The language presented in Appendix B shall be added to the Applicability Section of Southern California Edison Company's (Edison) Schedule I-6, TOU-8-SOP-I, RTP-2-I, AP-I, and TOU-PA-SOP-I, effective immediately. Unless otherwise ordered by this Commission by decision or resolution, the language presented in Appendix B shall be incorporated into any subsequent revisions to Edison's tariff sheets for the schedules listed above. Within 15 days from the effective date of this decision, Edison shall file an Advice Letter containing revised tariff sheets for Schedule I-6, TOU-8-SOP-I, RTP-2-I, AP-I, and TOU-PA-SOP-I that reflect the language additions presented in Appendix B.

3. Application 93-12-025 and Investigation 94-02-002 are closed.

This order is effective today.

Dated April 23, 1998, at Sacramento, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

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**SETTLEMENT AGREEMENT REGARDING
THE UTILITY REFORM NETWORK'S
DECEMBER 20, 1996 RATE DESIGN WINDOW PROPOSAL,
IN APPLICATION NO. 93-12-025**

PREAMBLE

1. The Parties to this Settlement Agreement are California Industrial Users ("CIU"), California Large Energy Consumers Association ("CLECA"), California Manufacturing Association ("CMA"), The Utility Reform Network ("TURN"), and Southern California Edison Company ("Edison"), hereinafter collectively referred to as Parties.
2. Edison has five optional interruptible tariff schedules available to eligible customers: Schedules I-6, TOU-8-SOP-I, RTP-2-I, AP-I, and TOU-PA-SOP-I. Customers taking service on one of these schedules may be asked to reduce load, within thirty minutes of a notice of interruption, to an agreed-upon firm service level. This notice is provided when a shortage of capacity exists. In exchange for the ability to interrupt service, the customers receive a discount, otherwise known as the interruptible credit. Pursuant to Section 743.1 of the California Public Utilities Code, the level of this interruptible credit cannot be altered until March 31, 2002.
3. Given the restructuring of the electric utility industry in California, it is unlikely that the existing interruptible service programs will continue in the same capacity as they do today. The nature and operation of future interruptible service programs are currently being considered in the workshops associated with the consolidated utility ratesetting proceeding, Application No. 96-12-009, 96-12-011, and 96-12-019.
4. On December 20, 1996, TURN filed a Rate Design Window proposal in Application No. 93-12-025 requesting that the California Public Utilities Commission ("Commission") direct Edison to provide its interruptible service program customers official notice that after March 31, 2002 it will no longer provide a discount for interruptible service under the existing tariffs.
5. On January 21, 1997, Edison filed a response to TURN's proposal. Edison disagreed with TURN's interpretation of Edison's interruptible service

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program tariff and contract termination provisions. Nevertheless, given the expected changes in the electric utility industry, Edison stated that it was prudent to advise its interruptible service program customers that their interruptible service may be modified or terminated following the period mandated in Section 743.1. Accordingly, Edison stated that it would file an advice letter inserting a provision regarding the potential termination in its interruptible tariff schedules, and send each of its interruptible service program customers a letter regarding the potential modification or termination.

6. On January 31, 1997, Edison filed Advice No. 1217-E inserting the provision regarding the potential termination in all of its interruptible tariff schedules.
7. On February 5, 1997, TURN filed a reply to Edison's response contesting the language Edison inserted in its interruptible tariff schedules. On February 6, 1997, TURN also sent a letter protesting Edison's filing of Advice No. 1217-E. TURN argued that the use of the words "may be terminated" as opposed to "will be terminated" were ambiguous and did not adequately address TURN's concerns. Edison used the words "may be terminated" to provide sufficient notice to Edison's interruptible service program customers without requiring the Commission to issue a decision authorizing the termination. Edison cannot unilaterally terminate the program without a specific Commission decision.
8. Given TURN's protest of Edison's language, Edison has withdrawn Advice No. 1217-E and has not sent the above-referenced letter to its interruptible service program customers.
9. CIU, CLECA, CMA, TURN, and Edison have discussed this matter further and can now jointly recommend a statement that can be provided to Edison's interruptible service program customers regarding the termination of the program.
10. The Parties wish to avoid time-consuming and costly litigation of this issue in this Rate Design Window proceeding. The Parties also recognize that the Commission will be considering proposals relating to the nature and operation of future interruptible service programs in the workshops associated with the consolidated utility ratesetting proceeding, and in other proceedings the Commission may convene.

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I.

RECOMMENDATION

The Parties to this Settlement Agreement hereby recommend to the Commission:

- A. The following statement should be inserted in Edison's interruptible tariff schedules and provided to interruptible service program customers in correspondence sent to each interruptible service program customer's billing address:

**NOTICE OF TERMINATION OF
EXISTING INTERRUPTIBLE SERVICE PROGRAMS**

Section 743.1 of the California Public Utilities Code mandates that the level of the credit on Edison's interruptible tariff schedules shall not be changed until March 31, 2002. As you know, the California legislature and the California Public Utilities Commission are in the process of restructuring California's electric utility industry. This process will dramatically affect the need and type of interruptible service programs offered to consumers. As a result, when the period for providing interruptible service mandated in Section 743.1 expires, Edison will no longer provide its interruptible customers service under the same terms and conditions as it currently does. Therefore, the Contracts for Interruptible Service in effect today will be terminated as of that date. Edison anticipates another interruptible service program designed to accommodate the needs of the electric utility industry may be available at that time to replace the current program, and that Edison's current interruptible service program customers may be given the opportunity to participate in that program. Since the Contracts for Interruptible Service in effect today will be terminated as of March 31, 2002, customers currently receiving service under those contracts will not need to provide five years written notice of termination as required by their contract and/or interruptible tariff schedules.

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- B. Because this language will actually terminate the Contracts for Interruptible Service after March 31, 2002, a Commission order is necessary before it is delivered to Edison's interruptible service program customers.
- C. Special Condition 8 of Schedules AP-I and TOU-PA-SOP-I requires Edison to provide customers on these schedules five years' written notice of termination. Therefore, the Commission must modify these termination provisions pursuant to Section 11 of the "Contract for Interruptible Service, Agricultural and Pumping" to allow for less than five years' written notice. Schedules I-6, TOU-8-SOP-I, and RTP-2-I do not require Edison to provide five years' written notice prior to terminating interruptible service.
- D. The Parties believe this Settlement Agreement is reasonable, consistent with the law, and in the public interest.
- B. Should this Settlement Agreement not be adopted by the Commission, the recommendations contained herein should not be construed as the position of any Party hereto.

II.

SCOPE, LIMITATIONS, AND CONDITIONS

The Parties to this Settlement Agreement agree it should be subject to the following scope, limitations, and conditions:

- A. The Parties will not contest in Application No. 93-12-025, either in hearings or in any other manner before the Commission, or in any other forum, the recommendations contained herein, and will exercise good faith in supporting the adoption of this Settlement Agreement by the Commission as an entire document and agreement of the Parties.
- B. The Parties understand and agree that this Settlement Agreement is subject to each and every condition set forth herein, including its acceptance by the Commission in its entirety and without change or condition. The Parties agree to extend their best efforts to ensure the adoption of these recommendations by the Commission.

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- C. The Parties will defend this Settlement Agreement and develop a mutually acceptable defense if its approval is opposed by non-parties to this Settlement Agreement.
- D. The Parties acknowledge that there are ongoing efforts to revise Edison's tariffs, including those associated with its interruptible service program. The Parties understand that the adoption of the proposed termination language shall not preclude the development, adoption and implementation of a different interruptible service program applicable to customers after March 31, 2002.
- E. The Parties understand that the Commission shall have exclusive jurisdiction over any issues related to this Settlement Agreement, and that no other court, regulatory agency, or other governing body shall have jurisdiction over any issue related to the interpretation of this Settlement Agreement, the enforcement of the Settlement Agreement, or the rights of the Parties to the Settlement Agreement (with the exception of the California Supreme Court in connection with review of any Commission decision). All rights and remedies are limited to those available before the Commission.

(END OF APPENDIX A)

APPENDIX B
REVISED TARIFF LANGUAGE

The following language (and accompanying footnote) should be added to the Applicability Section of Edison's existing Schedule I-6, TOU-8-SOP-I, RTP-2-I, AP-I, and TOU-PA-SOP-I:

"Service under this Schedule will expire March 31, 2002 whether or not a written notice of termination has been received from the customer. 1]

1] Section 743.1 of the California Public Utilities Code mandates that the level of the credit on Edison's interruptible tariff schedules shall not be changed until March 31, 2002. The California legislature and the California Public Utilities Commission are in the process of restructuring California's electric utility industry. This process will dramatically affect the need and type of interruptible service programs offered to consumers. As a result, when the period for providing interruptible service mandated in Section 743.1 expires, Edison will no longer provide its interruptible customers service under the same terms and conditions as it currently does. Therefore, the Contracts for Interruptible Service in effect today will be terminated as of that date. Edison anticipates another interruptible service program designed to accommodate the needs of the electric utility industry may be available at that time to replace the current program, and Edison's current interruptible service program customers may be given the opportunity to participate in that program.

(END OF APPENDIX B)