

ALJ/RAB/avs**

Mailed 2/18/99

Decision 99-02-057 February 18, 1999

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 Adjust Recovery of Nuclear Plant Investment by an Additional Capital Recovery Amount and Related Substantive and Procedural Relief.

Application 93-02-010
(Filed February 2, 1993;
Petition for Modification
filed September 6, 1996)

OPINION

On September 6, 1996, the Division of Ratepayer Advocates (the predecessor to the Office of Ratepayer Advocates) petitioned for modification of Decision (D.) 94-05-068 in order to eliminate what it considered to be Southern California Edison Company's (Edison) ability to profit from D.96-01-011, the decision adopting the joint proposal of Edison and San Diego Gas & Electric Company for ratemaking treatment for the San Onofre Nuclear Generating Station Units 2&3 (SONGS 2&3).

On November 8, 1996, the presiding Administrative Law Judge (ALJ) denied the petition. The ALJ's ruling is Appendix A to this opinion. We have reviewed that ruling and, for the reasons stated therein, affirm.

The draft decision of ALJ Barnett in this matter was mailed to the parties in accordance with Public Utilities Code § 311(g)(1) and Rule 77.1 of the Rules of Practice and Procedure. No comments have been received.

Findings of Fact

1. The Division of Ratepayer Advocates filed a petition to modify D.94-05-068 on September 6, 1996.

A.93-02-010 RAB/avs

2. The ALJ's Ruling of November 8, 1996, denied the Division of Ratepayer Advocates' petition.

Conclusions of Law

1. The ALJ's Ruling of November 8, 1996, should be affirmed.
2. Application 93-02-010 should be closed.

O R D E R

IT IS ORDERED that:

1. The Division of Ratepayer Advocates' Petition for Modification of Decision 94-05-068 is denied.
2. Application 93-02-010 is closed.

This order is effective today.

Dated February 18, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

A.93-02-010 ALJ/RAB/ avs

APPENDIX A

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 Adjust Recovery of Nuclear Plant Investment by an Additional Capital Recovery Amount and Related Substantive and Procedural Relief.

Application 93-02-010
(Filed February 2, 1993)

**ADMINISTRATIVE LAW JUDGE'S RULING
RE DIVISION OF RATEPAYER ADVOCATES'
PETITION FOR MODIFICATION OF DECISION 94-05-068**

The Division of Ratepayer Advocates (DRA) petitions for modification of Decision (D.) 94-05-068 in order to eliminate Southern California Edison Company's (Edison) ability to profit from D.96-01-011, the decision adopting the joint proposal of Edison and San Diego Gas & Electric Company (SDG&E) for ratemaking treatment for the San Onofre Nuclear Generating Station Units 2&3 (SONGS 2&3).

In Application (A.) 93-02-010, Edison requested authority to accelerate the recovery of \$75 million of its investment in its nuclear plant (additional capital recovery amount, or ACRA), with a corresponding offsetting deceleration of the annual recovery of \$75 million of transmission and distribution plant (reduced capital recovery amount, or RCRA). The Commission supported Edison's proposal to reduce its uneconomic nuclear generating assets, but noted that Edison's proposal would result in windfall profits for the company. The Commission therefore conditioned approval of the ACRA/RCRA program on Edison's eliminating its ability to profit from its design. (Re *Southern California Edison Company* (D.94-05-068) 54 CPUC2d 572, 586-587.)

Two years later, in A.98-12-025/Investigation 94-02-002, Edison and SDG&E jointly proposed, among other things, to accelerate the recovery of their remaining investment in SONGS 2&3¹ with a reduced rate of return on equity equal to 90% of their embedded cost of debt (SONGS 2&3 settlement). The Commission conceptually supported the SONGS 2&3 settlement in D.96-01-011, and adopted it with modifications in D.96-04-059.

¹ As of January 10, 1996, Edison's remaining investment in SONGS 2&3 was about \$2.7 billion, and SDG&E's was about \$761 million. (D.96-01-011, mimeo. p. 14.)

DRA claims that as long as the rates of return for nuclear rate base and transmission rate base are identical, ACRA/RCRA as currently implemented would not create significant windfall profits for Edison. However, ACRA/RCRA now essentially substitutes a higher earning transmission and distribution rate base for a nuclear rate base that, under the SONGS 2&3 settlement, is much less profitable. As a result, Edison will end up with greater overall profits due to the design of the ACRA/RCRA mechanism. The following example demonstrates how this will occur:

	<u>Nuclear</u>	<u>T&D</u>
Annual change in unamortized rate base	(\$75 million)	+\$75 million
Rate of return	7.34%	9.55%
Change in return	(\$5.5 million)	+\$7.2 million
Net change in return		+\$1.7 million

DRA asserts that in order to comply with the Commission's requirement that ACRA/RCRA not result in higher utility earnings than would be achieved in the absence of ACRA/RCRA, the Commission should modify D.94-05-06S to reduce the rate of return on equity for T&D rate base deferred through RCRA to 90% of Edison's embedded cost of debt, comparable to the rate of return on equity for nuclear rate base adopted in D.96-01-011. Toward Utility Rate Normalization supports DRA's petition.

Edison, in response, says that DRA's position is without merit; it is based on a misunderstanding of D.94-05-06S and is inconsistent with the SONGS 2&3 rate mechanism. Edison argues that the Commission-adopted SONGS 2&3 rate mechanism did not increase Edison's rate base above levels that would be experienced in the absence of the rate mechanism. The SONGS 2&3 rate mechanism decreases rate base below levels that would otherwise be experienced. The SONGS 2&3 rate mechanism reduced utility earnings, it did not increase them. Therefore, there is no need to adjust the return on equity of the RCRA portion of Edison's T&D rate base. Edison has already contributed once to a lower return, and DRA's proposal inequitably seeks to increase Edison's losses.

Edison explains that ACRA increases the rate of nuclear asset recovery, by increasing depreciation \$75 million per year. The SONGS 2&3 rate mechanism further increases asset recovery, and as a consequence of the resulting lower risk, the Commission reduced Edison's return on SONGS 2&3 sunk investment. That is, in return for paying off SONGS 2&3 sunk investment, through higher near-term rates,

customers pay a lower return on that investment. Reducing T&D rate base was not a part of SONGS 2&3.

I agree with Edison. RCRA, by lowering T&D depreciation, was designed to offset the higher rates that would have resulted from ACRA. RCRA increased Edison's T&D rate base. RCRA reduced rates, effectively deferring T&D asset recovery until a later period. In adopting the SONGS 2&3 rate mechanism, the Commission made no change to the offsetting RCRA mechanism or the return on the T&D rate base deferred as a result of RCRA. Nor did the Commission in SONGS 2&3 defer T&D recovery to balance the accelerated cost recovery of nuclear plant. To reduce the return on a portion of T&D rate base as DRA seeks would go further than that which the Commission approved in SONGS 2&3 as it would, in effect, further lower the return on nuclear assets. Consequently, reducing the return on the RCRA portion of the T&D rate base is inconsistent with the SONGS 2&3 rate mechanism and should not be adopted.

IT IS RULED that DRA's Petition for Modification is denied.

Dated November 8, 1996, at San Francisco, California.

/s/ ROBERT BARNETT
Robert Barnett
Administrative Law Judge