ALJ/MEG/sid *

Mailed 9/17/99

Decision 99-09-065 September 16, 1999

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)

ORDER ADDRESSING PETITION TO MODIFY DECISION 96-08-025

Summary

Because of the substantive concerns and factual disputes raised by Southern California Edison Company's (SCE's) request to modify and extend the availability of its flexible pricing options, we deny SCE's Petition for Modification of D.96-08-025 (Petition).

However, we afford SCE the opportunity to resubmit its proposals in the global post-transition rate design proceeding. SCE has informed this Commission that it intends to initiate this proceeding by filing an application to address revenue allocation and rate design issues in December, 1999. Accordingly, we extend the availability of SCE's existing simplified self-

generation deferral rate, expansion, attraction and retention economic development rates, environmental pricing credit and the agricultural bypass deferral rate until March 31, 2000. If SCE does not request an extension in the availability of these pricing options to new customers for the remaining transition period, then they will sunset on that date.

Should, however, SCE request the continued availability of these pricing options, with or without modifications, we will further extend their availability until the Commission issues a decision addressing SCE's request in the post-transition rate design proceeding.

With regard to SCE's incremental sales rate, spot-pricing amendment and real-time pricing rate schedules, we find that Pub. Util. Code §§ 368 and 378 effectively override the sunset date established by D.96-08-025.[1] Consistent with our interpretation of those sections, we extend SCE's existing incremental sales rate, spot-pricing amendment and real-time pricing rate schedules until the end of the rate freeze period. However, nothing in this decision precludes the Commission from closing these schedules by subsequent order, should it determine that (1) there is convincing evidence to warrant closing these schedules and (2) SCE has available a schedule that offers customers the same rates and substantially equivalent service to the schedules that were in effect on June 10, 1996. Interested parties may address this issue, as well as potential modifications to these schedules, in SCE's global post-transition rate design proceeding.

---

[1] All statutory references are to the Pub. Util. Code, unless otherwise noted.

Background

In D.96-08-025, issued August 2, 1996, the Commission approved a number of new optional rate schedules known as flexible pricing options and the associated ratemaking treatment for those rate options. Specifically, these rate options are designed, through discounts of the otherwise applicable tariff rate, to (1) attract new manufacturing customers to the service territory (or encourage expanded sales from existing manufacturers), (2) induce potential self-generators to defer the construction of uneconomic self-generation projects and (3) promote the installation of new environmental technologies that substitute gas or diesel with electro-technologies. The approved customer choice options add real-time pricing and demand aggregation options to currently available tariff schedules. In D.96-08-025, the Commission authorized SCE to enter into flexible pricing agreements with eligible customers through December 31, 1999. We describe some of the specific pricing options in greater detail below.

Two rate options were adopted which would encourage incremental sales: the spot pricing amendment and the incremental sales rate. Spot pricing gives qualifying customers an opportunity to purchase incremental on-peak energy at a discount during periods when SCE has sufficient excess capacity to serve this load. The incremental sales rate gives qualifying customers a discount on energy consumed above their historic consumption levels. In this way, large power customers are encouraged to expand their electric usage. In addition SCE introduced a real-time pricing option that had similar pricing for incremental sales.

The Commission also approved a new environmental pricing credit that would be offered to new electric load. Specifically, customers who installed and operated eligible electro technologies designed to reduce on-site environmental emissions or waste would be given a one-time, up-front credit on their bill.

SCE was authorized to offer rate discounts for a five-year term to defer the construction of uneconomic self-generation projects ranging from 200 kiloWatts (kW) to 10,000 kW. In addition, SCE offered discounts to encourage existing self-generation projects of any size to shut down any uneconomic bypass projects and purchase power from SCE. These simplified self-generation deferral rates were established via a Commission-approved rate formula.

SCE was also authorized to continue its agricultural bypass deferral rate, which had previously been approved on an experimental basis. This rate is designed to defer uneconomic bypass of electric motor driven pumps by either diesel or natural gas engines.

The Commission approved SCE's request to expand its existing economic development rates. The expanded rates provide a declining discount over a five-year period to qualifying large power and general service customers to expand, attract, or retain electric load in SCE's service territory.

Finally, the Commission authorized an expedited review process for considering discounts that deviate from those authorized, subject to a cap of 200 megawatts (MW). In terms of ratemaking treatment, the Commission allocated to ratepayers the risks of downward sales fluctuations, consistent with then current practices. However, the net revenue benefits of retained and expanded sales resulting from the flexible pricing options were split evenly between shareholders and ratepayers, 50%-50%.

On January 13, 1999, SCE filed a Petition for modification of D.96-08-025. In its Petition, SCE requests that the Commission authorize it to continue executing new flexible pricing option agreements until the end of the rate freeze period, i.e., until the earlier of March 31, 2002, or the date when SCE has recovered its generation-related transition costs.

SCE also requests several related modifications to D.96-08-025 to enable SCE to offer flexible pricing options on a more expedited basis to more customers. In particular, SCE requests that:

(1) the MW cap for the expedited advice letter process for negotiated flexible pricing options be increased from 200 MW to 400 MW;

(2) the MW cap for Economic Development Rate options be increased from 100 MW to 200 MW;

(3) contract modifications be authorized to reduce the initial discount and the term of service under the Economic Development Rate options for those customers executing these contracts after December 31, 1999;

(4) eligibility for the Incremental Sales Rate Option be expanded to business and agricultural customers who have a minimum of 50 kW of load; and

(5) the term of service for the Environmental Pricing Credit option be limited to five years for those agreements executed after December 31, 1999.

On January 22, 1999, SCE served its Petition on the service list for electric industry restructuring, pursuant to directions provided by the assigned Administrative Law Judge (ALJ). Parties were provided 30 days from that date to respond to SCE's Petition.

Responses were filed by the Office of Ratepayer Advocates (ORA), the California Farm Bureau Federation (CFBF), The Utility Reform Network (TURN), and by Enron Corp. (Enron).

Positions of the Parties

SCE argues that an extension in the availability of flexible pricing options is warranted because these agreements are of continued value to all customers.

SCE contends that there is no apparent justification to end the availability of these options to new customers on December 31, 1999. To date, SCE has executed 277 agreements and customers continue to execute these agreements. In SCE's view, this is a clear sign that such agreements are meeting the needs of customers. Moreover, SCE argues that the execution of these agreements benefits other customers. This is because the expanded and retained load results in additional contribution to transmission and distribution revenues, accelerates the collection of transition costs and spreads the fixed costs associated with collection of public purpose programs and nuclear decommissioning costs over a larger sales base.

SCE argues that the end of the rate freeze, rather than December 31, 1999, is a more appropriate date to close the availability of flexible pricing options because SCE will either begin to implement, or will have implemented, new rate structures at that time. Therefore, in SCE's view, it may no longer be necessary to offer the rate discounts or incentives to new customers.

ORA objects to SCE's Petition on both procedural and substantive grounds. First, ORA argues that SCE's Petition should be summarily denied because it does not meet the requirements of Rule 47(d). In particular, ORA contends that SCE has not justified the late-filed submission beyond the one-year deadline contained in that rule. TURN argues that SCE's Petition fails to comply with the requirements of Rule 47 because it does not support its factual contentions with specific citations to the record in the proceeding, or to matters that may be officially noticed, as required by that rule. TURN also contends that SCE does not present new or changed facts that would warrant the modification, pursuant to Rule 47.

From a substantive standpoint, ORA, CFBF and Enron argue that the deadline established in D.96-08-025 was reasonably arrived at based on the

record in that proceeding and is supported both by the decision language and competitive industry developments since that decision. In addition, Enron argues that the flexible pricing options represent an effective circumvention of the Commission's prohibition against utility distribution companies entering into direct access transactions. Both Enron and ORA also raise concerns about the potential discriminatory aspects of SCE's flexible pricing options.

CFBF argues that most of SCE's Petition is far too broad for a petition for modification, with one exception. CFBF believes that Pub. Util. Code § 371, enacted subsequent to D.96-08-025, warrants continuation of the agricultural bypass deferral rate through the rate freeze period. It is CFBF's position that the other flexible pricing options should not be extended or expanded without additional consideration of the efficacy of the existing programs and their applicability in a restructured industry.

Discussion

With respect to Rule 47(d), we find that SCE has provided an adequate justification for failing to meet the one-year filing deadline set forth in that rule. First, there was a lag-time between the issuance of D.96-08-025 and the signing of flexible pricing option agreements by customers. In addition, SCE's first annual report on these options was not issued until April, 1998. Moreover, direct access did not commence until that time. It seems reasonable to us that SCE needed time to assess the reaction of customers to the flexible pricing option agreements in the context of the restructured electric industry before developing a proposal for the expansion of those agreements.

However, we find that SCE's Petition is problematic on substantive grounds. The premise of SCE's filing is that since the utility is unaware of any good reason to continue to enforce certain MW limits and the sunset date

adopted in D.96-08-025, the Commission should eliminate those limitations. We believe that this premise is seriously flawed.

SCE contends that D.96-08-025 did not explain why December 31, 1999 was selected as a cut-off date. On the contrary, the final decision is quite clear about (1) the Commission's concerns regarding the allocation of risks and benefits between shareholders and ratepayers associated with SCE's proposals, (2) the potential for gaming, and (3) whether these pricing options will mesh appropriately with future service unbundling, performance-based ratemaking and other aspects of the emerging competitive industry.[2] In response to these concerns, the Commission deliberately modified SCE's original proposal by, among other things, allocating more of the net revenue benefits to ratepayers, than SCE had originally proposed, and by limiting the availability of the options until December 31, 1999. In sum, the Commission established reasonable parameters to SCE's proposal that would resolve regulatory concerns associated with the flexible pricing options.[3]

SCE's Petition ignores this deliberation, and argues that we should modify D.96-08-025 simply because there may be demand for the flexible pricing options

---

[2] See D.96-08-025, 67 CPUC2d 297, 316-323, 328; Conclusions of Law 4, 5, 6, 7, 8, 9, 10, 11, 26.

[3] In its reply to responses, SCE implies that there was no careful consideration of risks and benefits associated with the establishment of the December 31, 1999 deadline because the sunset date "first surfaced in an alternate to the ALJ's proposed decision." (Reply, p. 7.) What SCE fails to acknowledge is that the ALJ's proposed decision proposed a very different allocation of risks and benefits for the flexible pricing options (all risks, costs and benefits allocated to shareholders) rather than the allocation finally adopted. Clearly, in considering a different allocation than proposed by the ALJ, the Commission carefully considered the relative risks and benefits to ratepayers and adopted reasonable parameters accordingly.

beyond the established sunset date, and beyond the MW limits adopted. We note that SCE did not even attempt to document the basis of its contention that such demand is likely to materialize. In fact, TURN notes that SCE seeks to increase the expedited advice letter cap of 200 MW to 400 MW even though only 104 MW of load has fallen into that category as of mid-January, 1999. Similarly, it appears that SCE would double the economic development rate cap of 100 MW to 200 MW, even as current enrollment stands at 50.7 MW. (TURN Response, p. 4.)

SCE proposes to reduce ten-fold the load limit applicable to its incremental sales rate option and to double the maximum total load that may be served under a number of the adopted flexible pricing options. At a minimum, we would have expected SCE to present an analysis of how the flexible pricing options have fared to date in terms of ratepayer and shareholder costs and benefits—the issues of clear concern to the Commission during the 11 days of evidentiary hearings and workshops on SCE's original proposal.

SCE presents no such analysis, and further argues that the issue of risks and rewards between shareholders and ratepayers is not relevant because the Commission "concluded that the ratepayer and shareholder risks were aligned and reasonably balanced by the ratemaking treatment it adopted in the [flexible pricing options] decision."[4] (SCE Comments on Draft Decision, p. 7.)

---

[4] In its comments on the draft decision, SCE states that it has submitted this analysis annually in its reports on flexible pricing options. However, those reports do not assess the benefits to ratepayers and shareholders arising from the flexible pricing options. They present only historical data and up-front cost data, such as the credits provided to customers who install qualified electro-technologies.

This argument is without merit for two reasons. First, it presumes that the overall size of the program was irrelevent to the Commission's decision regarding ratemaking treatment. This presumption is contradicted by the language of D.96-08-025. In that decision, the Commission adopted a ratemaking treatment only after conducting a comprehensive assessment of the risks and rewards associated with the flexible pricing options as proposed, at the original MW limits. Estimates of shareholder benefits (in the form of incremental sales revenues) as well as ratepayer benefits (in the form of shared rate discounts) were calculated, compared and discussed on the record and in the Commission's final decision.[5] These estimates were based on the pricing options, as proposed, and would have been different if calculated using the eligibility limits proposed in SCE's Petition. This difference could have led to a different ratemaking outcome, a possibility that SCE chooses to ignore.

Second, SCE's argument ignores the fact that the Commission discussed remaining risks to ratepayers under the adopted ratemaking treatment, risks that would need to be addressed if the December 31, 1999 deadline were extended. In particular, the Commission expressed ongoing concerns about "free riders" taking advantage of the sales attraction and expansion options, even under the adopted ratemaking treatment:[6]

> "We are concerned about the free rider issues discussed above. Customers generally prefer lower rates, and the ratemaking

---

[5] Id., pp. 316-319.

[6] In this instance, free riders refers to customers that would otherwise have located or expanded sales in SCE's service territory, purchased electro-technologies to address their environmental problems or shut down their self-generation facilities and returned to SCE's service territory without the incentive.

> treatment adopted here will benefit Edison to a greater degree than would be otherwise possible. Edison and potential discount customers therefore have mutual interest in negotiating what may become a considerable number of discount contracts. Ratepayers, on the other hand, might be worse off under our adopted ratemaking were we to assume free ridership exists in all or a majority of the cases because the discount would not truly be critical to the customer's decisionmaking. Quantifying and forecasting issues of potential customers' intentions is an extremely difficult exercise." (67 CPUC2d 297, 325.)

The Commission went on to discuss adopted safeguards designed to mitigate this issue with respect to business retention or attraction pricing options. However, the Commission explicitly conditioned the availability of the environmental pricing option beyond the December 31, 1999, as follows:

> "Although we lack a ready mitigation solution for the free rider problems associated with the environmental pricing credit, we adopt a longer term view of these types of options which should ultimately be shifted to an unregulated business unit *if extended beyond the year authorized here.* In the meantime, we will be collecting an accurate accounting of the costs of this option to assist in its eventual transfer." (Id., emphasis added.)

SCE's Petition simply does not address the concerns that the Commission expressed with regard to ratepayer risks under the current ratemaking treatment and sunset date—risks that would be continued or would increase under SCE's proposal to expand the size of flexible pricing options.

SCE's Petition also raises questions concerning the impact of flexible pricing options on the restructured, competitive market if their availability is extended beyond the sunset date established in D.96-08-025. When SCE's flexible pricing options were approved in 1996, California was at the advent of electric restructuring. This Commission did not know, and could not have known, all

the implications of such restructuring and how such would interact with SCE's flexible pricing options.

SCE responds to parties' concerns with the argument that executing such an agreement does not detrimentally affect a customer's ability or incentive to negotiate a separate contract with an energy service provider. However, there are other potential implications on competition raised in parties' comments. These potential implications cannot be adequately addressed without further examination of certain facts.

For example, Enron contends that flexible pricing options effect a circumvention of the Commission's current prohibition against utility distribution companies entering into direct access transactions. (Enron Reply Comments, p. 2.) Enron argues that the discount results in a negotiated energy rate, whereas SCE contends that the discount is provided by means of a reduction to the unbundled transmission and distribution component of customers' rates. (SCE Reply to Responses, p. 13.) Hence, there is a factual dispute over the manner by which the flexible pricing option discount is provided, and the resulting implications for the competitive environment we have established since the issuance of D.96-08-025.

ORA contends that customers may perceive flexible pricing options as being tied to SCE bundled service. ORA calculates that only one out of 48 economic development rate customers, one out of 17 incremental sales rate customers, three out of 62 agricultural bypass deferral customers and five out of 25 spot pricing amendment customers have taken direct access. (ORA Response, p. 5.) In its reply comments, SCE presents calculations that it believes indicate no significant difference between the percentages of director customer accounts in general and the percentage of direct customer accounts under flexible pricing options. (SCE Reply to Responses, p. 11, footnote 32.)

Finally, there is a factual dispute over SCE's contention that it has no direct financial incentive involved in providing generation services to flexible pricing option customers, a contention SCE makes in support of its position that these options do not have competitive implications. (SCE Comments on Draft Decision, p. 10.) Enron asserts that this may not be true if performance-based ratemaking for electric commodity is adopted in the post-transition ratemaking proceeding, given the fact that flexible pricing options are multi-year contracts (five to seven years).

In sum, we find that SCE's Petition raises important issues of fact regarding the competitive implications of extending the current sunset date until the end of the rate freeze period. These issues cannot be adequately addressed via a Petition for Modification, as SCE requests.

CFBF argues that Section 371, adopted after the issuance of D.96-08-025, warrants extending the agricultural bypass deferral rate until the end of the rate freeze. In particular, CFBF contends that this code section addresses the Commission's concerns over offering such a rate in the first place. In fact, all that Section 371 establishes is that the competition transition charge will not be applied to fuel switching changes in usage by a particular customer. This does clarify an issue we were uncertain of at the time we issued D.96-08-025, namely, whether ratepayers would receive contribution to margin benefits associated with the agricultural bypass deferral rates. However, it by no means addresses our concerns over the relative level of risks allocated to ratepayers in exchange for these potential benefits.

In particular, the existence of Section 371 does not allay our concerns that ratepayers are at risk of being made worse off under this pricing option due to free riders. Nor does it address other reservations we have articulated concerning fuel substitution programs, namely concerns over the impact of these

programs on source British thermal unit (Btu) consumption and environmental degredation. (Id., p. 305.) In sum, we are not persuaded by CFBF's arguments that an exception is warranted for the agricultural bypass deferral rate.

In SCE's comments on the draft decision, SCE argues that because the the incremental sales rate, spot-pricing amendment and real-time pricing rate schedules were available as of June 10, 1996, it would be illegal close them based on the Commission's own interpretation of Pub. Util. Code §§ 368 and 378.[7] In SCE's view, the Commission has ruled that it could not close rate schedules to additionally, similarly-situated customers during the rate freeze when such schedules had been available on June 10, 1996.

ORA, on the other hand, argues that the Commission never precluded the closing of rate schedules when circumstances warrant. In ORA's view, circumstances in this case do warrant the closing of the incremental sales rate, spot-pricing amendment and real-time pricing rate schedules based on the concerns that the Commission articulated in D.96-08-025. Specifically, the Commission approved these schedules subject to changes when the power exchange became operational. This was done to avoid potential conflicts between these rate schedules and the price signals and customer responses established by the market clearing price of the power exchange. (Id., pp. 328-329.)

In considering this issue, we turn to the plain language of D.97-12-044, as modified by D.98-07-101:

---

[7] These sections were added by Assembly Bill 1890 after D.96-08-025 was issued.

> "We conclude that all customers should be able to choose service from schedules that contain the rate levels and that offer substantially the same quality and value of service that were available to similarly situated customers on June 10, 1996. As noted above, use of the word "optional" in § 378 also suggests that schedules in effect on June 10, 1996 should remain open to all customers during the rate freeze. This conclusion does not mean that schedules may not be closed to additional customers under any circumstances. At a minimum, however, before a utility may close a schedule, it must have available a schedule that offers customers the same rates and substantially equivalent service to the schedules that were in effect on June 10, 1996. (D.97-12-044, as modified by D.98-07-101, mimeo., pp. 19-20.)

Closing the incremental sales rate, spot-pricing amendment and real-time pricing rate schedules would not meet this minimum requirement. Moreover, in terms of the substantive concerns we raised in D.96-08-025, we note that SCE has made incremental changes to these schedules that are designed to improve their conformance to the new market structure. This occurred in the unbundling proceeding, A.96-08-025, where the Commission adopted SCE's uncontested proposals regarding these modifications. (See D.97-08-056, mimeo., p. 42.)[8]

Further modifications to these schedules may be appropriate and they, along with potential modifications to all of SCE's existing rate schedules, should be considered in SCE's December 1999 global post-transition rate design application (see below). In that proceeding, parties are not foreclosed from proposing closing of the incremental sales rate, spot-pricing amendment and real-time pricing rate schedules if they can persuade us, with convincing

---

[8] These proposals are described in SCE's Prepared Testimony in that proceeding, SCE-1, pp. 54-55.

evidence, that the closures of these schedules are warranted and that the minimum requirement set forth above has been met.

In view of the above, we will not close the incremental sales rate, spot-pricing amendment and real-time pricing rate schedules at the end of 1999, as directed in D.96-08-025. At the same time, however, we do not adopt SCE's requested modifications to them. The issues raised by the parties in this case should be examined in a more appropriate forum. It appears that such a forum will present itself very shortly. SCE has informed the Commission that it intends to file its global post-transition rate design application in December, 1999. [9]

With regard to the other flexible pricing options for which SCE seeks modification and extension of the sunset date, SCE's request is denied. As discussed above, there are too many unanswered questions concerning the impact of these options on ratepayer risks as well as petition to allow these pricing options to be expanded and continued through the rate freeze period without further scrutiny. However, we believe it is reasonable to afford SCE and other parties an opportunity to explore the reasonableness of these pricing options in the context of SCE's post-transition rate design proposals. The sunset dates established in D.96-08-025 were not intended to preclude us from reexamining special rate discounts (and associated ratemaking treatment) as restructuring unfolds. (Id., Conclusion of Law 26.)

Therefore, for a very limited time and purpose, we will also extend the sunset date established in D.96-08-025 for the simplified self-generation deferral rate, the expansion, attraction and retention economic development rates, the

---

[9] See: SCE's Comments on the Draft Decision, p. 14. Also, see the August 13, 1999 Draft of the 1999-2000 CPUC Business Plan, ALJ Division Section, p. 4.

environmental pricing credit and the agricultural bypass deferral rate. We extend the availability of these options until March 31, 2000, but do not approve any of the modifications requested by SCE in its Petition. We expect that SCE will file its global post-transition rate design application well within that period. If SCE does not request any extension of these flexible pricing options for the remaining transition period in that application, then they their availability to new customers will sunset on March 31, 2000.[10]

However, if SCE does request further extension of the availability of these options (as is, or with modifications) in its global post-transition rate application, then these rate options will continue to be made available to new customers until the Commission has issued a decision addressing SCE's request. In making its request, SCE is directed to present an analysis of how the flexible pricing options have fared to date in terms of ratepayer and shareholder costs and benefits. Moreover, SCE should address the free rider risks, competitive impacts and other concerns raised in D.96-08-025 and discussed in this decision.

Because this order addresses all issues raised in SCE's Petition, this proceeding should be closed. As SCE notes in its comments on the draft decision, it is still required pursuant to D.96-08-025 to file an annual public report on specific activities associated with flexible pricing options. SCE should continue to serve the annual public report on all parties of record in this proceeding, but should not file the report in the Commission's Docket Office. Instead, SCE should provide a copy of the public report to the Commission's

---

[10] We recognize that this request would cover the transition period rather than the post-position period, therefore, we will consider bifurcating the proceeding to address this issue on a more expedited schedule.

Energy Division, along with the Confidential Annual Report it already submits to the Energy Division. Any individual or organization who is not a party of record and wishes to obtain a copy of the annual public report may do so by submitting a request in writing to SCE.

Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g) and Rule 77.1 of the Rules of Practice and Procedure. SCE and CFBF filed comments filed on July 20, 1999 and reply comments were filed on June 26, 1999 by ORA, TURN and Enron.

Findings of Fact

1. Certain factors contributed to SCE's delay in filing its Petition within a year from the issuance of D.96-08-025. There was a lag-time between the issuance of D.96-08-025 and the signing of flexible pricing option agreements by SCE's customers. SCE's first annual report on these options was not issued until April, 1998. Because direct access did not commence until April, 1998, SCE could not have assessed the reaction of customers to the flexible pricing option agreements in the context of the restructured electric industry before then.

2. In D.96-08-025, the Commission established reasonable parameters to SCE's flexible pricing proposal, include a sunset date, that would resolve regulatory concerns associated with the flexible pricing options.

3. SCE's Petition does not present information that would enable this Commission to determine how the benefits and costs associated with flexible pricing options have been allocated to date.

4. SCE's Petition does not document the basis of its contention that demand for flexible pricing options beyond December 31, 1999 is likely to materialize at the levels reflected in its recommendations to modify existing MW limits.

5. The overall size of the flexible pricing program was relevant to the Commission's assessment of risks and rewards in D.96-08-025.

6. In D.96-08-025, the Commission specifically identified ongoing concerns over free rider risks to ratepayers, even under the adopted ratemaking treatment and sunset date.

7. SCE's Petition raises disputed factual issues concerning the impact of flexible pricing options on the restructured, competitive environment if their availability is extended beyond the sunset date.

8. Pub. Util. Code § 371 does not address this Commission's concerns over the ratepayer risks and other reservations associated with the agricultural bypass deferral rate.

9. In interpreting Pub. Util. Code § 378, the Commission has not precluded consideration of closing schedules to new customers, but has required at a minimum that the utility have available a schedule that offers customers the same rates and substantially equivalent service before doing so. Closing the incremental sales rate, spot-pricing amendment and real-time pricing rate schedules would not meet this minimum requirement.

10. In the unbundling proceeding (A.96-08-025), SCE made incremental changes to the incremental sales rate, spot-pricing amendment and real-time pricing rate schedules designed to improve their conformance to the new market structure. Further modifications to these schedules may be appropriate.

11. SCE's global post-transition rate design application will provide an appropriate forum for considering potential modifications and further extensions to the flexible pricing options within the context of the new market structure.

Conclusions of Law

1. SCE has provided an adequate justification for failing to meet the one-year filing deadline set forth in Rule 47(d).

2. Because of the substantive problems with SCE's requests, as discussed in this decision, SCE's Petition should be denied.

3. For a very limited time and purpose, as set forth in this decision, SCE's simplified self-generation deferral rate, expansion, attraction and retention economic development rates, environmental pricing credit and agricultural bypass deferral rate adopted in D.96-08-025 should be made available to new customers beyond the December 31, 1999 sunset date.

4. SCE's incremental sales rate, spot-pricing amendment and real-time pricing rate schedules should be extended until the end of the rate freeze period, unless the Commission determines in SCE's global post-transition rate design proceeding that (1) there is convincing evidence to warrant closing these schedules and (2) SCE has available a schedule that offers customers the same rates and substantially equivalent service to the schedules that were in effect on June 10, 1996.

5. In order to clarify the availability of flexible pricing options as soon as possible, this order should be effective today.

6. Because this order addresses all issues raised in SCE's Petition, this proceeding should be closed.

IT IS ORDERED that:

1. Southern California Edison Company's (SCE) January 13, 1999 Petition for Modification of Decision 96-08-025 is denied.

2. The availability of SCE's incremental sales rate, spot-pricing amendment and real-time pricing rate schedules to new customers shall be extended until the end of the rate freeze period, unless the Commission determines by further order

that (1) there is convincing evidence to warrant closing these schedules and (2) SCE has available a schedule that offers customers the same rates and substantially equivalent service to the schedules that were in effect on June 10, 1996.

3. The availability of SCE's existing simplified self-generation deferral rate, expansion, attraction and retention economic development rates, environmental pricing credit and agricultural bypass deferral rate shall be available to new customers until March 31, 2000. If SCE requests further extension of the availability of these options (with or without modifications) in its global post-transition rate application, then these rate options shall continue to be made available to new customers until the Commission has issued a decision addressing SCE's request. In making such a request, SCE shall present an analysis of how the flexible pricing options have fared to date in terms of ratepayer and shareholder costs and benefits, and shall address the free rider risks, competitive impacts and other concerns raised in D.96-08-025 and discussed in this decision. If SCE does not request further extension of these options for the remaining transition period by March 31, 2000, then these schedules shall be closed to new customers as of that date.

4. SCE shall no longer file the annual public report required by D.96-08-025 at the Commission's Docket Office. SCE shall continue to serve the annual public report on all parties of record in this proceeding, and shall also provide a copy of the public annual report to any individual or organization, upon written request. SCE shall submit a copy of the public report to the Commission's Energy Division, along with the Confidential Annual Report it already submits to the Energy Division pursuant to D.96-08-025.

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

This order is effective today.

Dated September 16, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners