

## PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION R-3482  
FEBRUARY 19, 1997R E S O L U T I O N

RESOLUTION R-3482. SOUTHERN CALIFORNIA EDISON COMPANY (EDISON) HAS REMOVED ITS AGREEMENT WITH UNION OIL COMPANY (UNOCAL) OF CALIFORNIA FROM THE OPTIONAL PRICING ADJUSTMENT CLAUSE.

BY ADVICE LETTER 1204-E, FILED ON DECEMBER 13, 1996.

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SUMMARY

1. This Resolution rejects, without prejudice, Edison's Advice Letter 1204-E. Edison is advised that its request to remove the UNOCAL contract from the Optional Pricing Adjustment Clause constitutes a request to modify Decision (D.) 95-06-055. Thus, the proper procedural vehicle for Edison's request is a petition for modification of that decision.
2. The Energy Division is directed to return Advice Letter 1204-E to Edison stamped "Rejected."

BACKGROUND

1. In D.95-06-055, the Commission approved a self-generation deferral agreement between UNOCAL and Edison. This decision allowed Edison to offer UNOCAL a discounted rate contract, contingent upon Edison's acceptance of shareholder responsibility for 25% of any revenue shortfall arising from the difference between the contract rate and the otherwise applicable tariff. Edison accepted this condition and established an Optional Pricing Adjustment Clause as part of its tariffs. This tariff language established the accounting procedures by which the 25% shareholder responsibility would stay with shareholders, and not be transferred to ratepayers.
2. On December 13, 1996, Edison submitted Advice Letter 1204-E to remove the UNOCAL contract from the Optional Pricing Adjustment Clause tariff. This tariff change would result in ratepayers being responsible for the full revenue shortfall resulting from the UNOCAL contract. Edison has asserted that this Advice Letter is effective on the date filed.
3. Assembly Bill 1890 (Ch. 854, Stats. 1996) contains Public Utilities Code Section 372(b)(3) which states that the Commission shall provide that the ratemaking treatment for self-generation or cogeneration deferral agreements executed prior

to December 20, 1995, or executed consistent with a letter of intent that had been executed prior to December 20, 1995, shall be consistent with the ratemaking treatment for the contracts approved before January 1995.

4. Edison states that all self-generation deferral contracts between Edison and its customers entered into prior to January 1995 did not include provisions for ratepayer sharing.

5. In D.94-11-023, the Commission approved a self-generation deferral contract for Pacific Gas and Electric Company (PG&E) that required PG&E's shareholders to fund 25% of the discount from otherwise applicable tariffs received by USS-POSCO Industries.

6. General Order (GO) 96-A governs when a utility advice letter filing can be made effective. GO 96-A requires Commission authorization for tariff changes to go into effect on less than regular notice (40 days).

7. On December 12, 1996, the Energy Division sent a letter to Peter Goeddel, Edison's Manager of Pricing Design and Tariffs, reminding Edison that "[i]f the effective date [of a compliance filing] is not specified in the Ordering Paragraph of the decision, then the tariffs are deemed effective on regular notice of 40 days, in accordance with General Order 96-A."

#### NOTICE

1. The Advice Letter was noticed in accordance with Section III of General Order 96-A by publication in the Commission Calendar and distribution to Edison's advice filing service list.

#### PROTESTS

1. On December 31, 1996, ORA filed a protest regarding Edison's removal of the UNOCAL contract from Edison's Optional Pricing Adjustment Clause. ORA recommended that Advice Letter 1204-E be rejected because there are examples of self-generation deferral contracts executed prior to January 1995 that contain sharing. ORA argues that because there was at least one contract that required sharing prior to January 1995, at the same amount as the UNOCAL contract, no change in ratemaking treatment is required by AB 1890 for the UNOCAL contract.

2. On January 14, 1997, Edison responded to ORA's protest. Edison has provided their interpretation of the legislation, along with statutory construction arguments, to support their position that the ratemaking treatment of the UNOCAL contract must be revised.

DISCUSSION

1. In this Advice Letter, Edison seeks to revise a tariff provision that was filed as a result of a Commission decision. Without addressing the merits of modifying the ratemaking treatment, removing the UNOCAL contract from the provisions of the Optional Pricing Adjustment Clause would put Edison in the position of non-compliance with D.95-06-055. Essentially, Edison is proposing to modify D.95-06-055 through an advice letter filing. This is not a proper procedural vehicle for modifying a Commission decision.
2. Both Edison and ORA have presented arguments regarding the applicability of Section 372(b)(3) to the UNOCAL contract. These arguments are properly considered in the context of a petition to modify D.95-06-055.
3. In the context of a petition to modify D.95-06-055, the Commission may consider any necessary tariff revisions, such as those set forth in Advice Letter 1204-E, required to implement its decision on the petition to modify.
4. To the extent ORA recommends rejection of Edison's Advice Letter 1204-E, the Energy Division recommends that ORA's protest be granted. Energy Division recommends, however, that Edison's request be rejected without prejudice so that the arguments raised in the context of the Advice Letter, protest, and response can be fully considered in the context of a petition to modify D.95-06-055.
5. Edison has been advised by letter that compliance Advice Letters may not be made effective on less than regular notice unless specified by the Commission in the ordering paragraphs of its decision. The Energy Division must review Advice Letters for compliance with decisions but does not have discretion to shorten the notice period. Edison is cautioned to submit future Advice Letters containing requested effective dates, consistent with GO 96-A.

FINDINGS

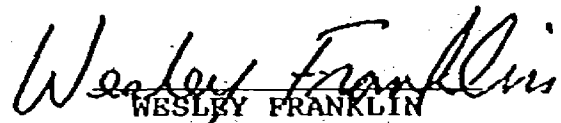
1. On December 13, 1996, Southern California Edison Company submitted Advice Letter 1204-E to remove the UNOCAL contract from the Optional Pricing Adjustment Clause tariff.
2. This tariff change would result in ratepayers being responsible for the full revenue shortfall resulting from the UNOCAL contract, and is inconsistent with D.95-06-055, which conditioned approval of the UNOCAL contract upon Edison's acceptance of shareholder responsibility for 25% of revenue shortfall arising from the difference between the contract rate and the otherwise applicable rate.
3. Edison's Advice Letter 1204-E should be rejected without prejudice.
4. The proper procedural vehicle to consider Edison's request to remove the UNOCAL contract from the Optional Pricing Adjustment Clause tariff, which encompasses the consideration of the interpretation of Public Utilities Code Section 372(b)(3), is a petition for modification of D.95-06-055.
5. Edison should submit future Advice Letters containing requested effective dates, consistent with GO 96-A.
6. To the extent the Office of Ratepayer Advocates (ORA) recommends rejection of Edison's Advice Letter 1204-E, ORA's protest should be granted.
7. Edison's request should be rejected without prejudice so that the arguments raised in the context of the Advice Letter, protest, and response can be fully considered in the context of a petition to modify D.95-06-055.

February 19, 1997

THEREFORE, IT IS ORDERED THAT:

1. Southern California Edison Company's (Edison) Advice Letter 1204-E shall be rejected without prejudice.
2. To the extent the Office of Ratepayer Advocates (ORA) recommends rejection of Edison's Advice Letter 1204-E, ORA's protest shall be granted.
3. The merits of ORA's protest shall be determined in Edison's Petition for Modification of D.95-06-055.
4. The Energy Division shall return Advice Letter 1204-E to Southern California Edison Company stamped "Rejected."
5. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on February 19, 1997. The Following Commissioners approved it:

  
WESLEY FRANKLIN  
Executive Director

P. Gregory Conlon, President  
Jessie J. Knight, Jr.  
Henry M. Duque  
Josiah L. Neeper  
Richard A. Bilas  
Commissioners