

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement the
Commission's Procurement Incentive Framework
and to Examine the Integration of Greenhouse Gas
Emissions Standards into Procurement Policies.

Rulemaking 06-04-009
(Filed April 13, 2006)

**REPLY COMMENTS OF THE NATURAL RESOURCES DEFENSE COUNCIL ON
THE PROPOSED "DECISION GRANTING IN PART PETITION OF SOUTHERN
CALIFORNIA EDISON COMPANY TO MODIFY D.07-01-039"
BY COMMISSIONER PEEVEY**

June 21, 2009

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I. Introduction

The Natural Resources Defense Council (NRDC) respectfully submits these reply comments, in accordance with Rules 14.3, 1.9, and 1.10 of the California Public Utilities Commission's (CPUC or Commission) Rules of Practice and Procedure, on party comments to the May 27, 2010 proposed decision of President Peevey, "Decision Granting In Part Petition of Southern California Edison Company to Modify D.07-01-039" (Proposed Decision or PD). On June 18, 2010, comments were submitted by the Division of Ratepayer Advocates (DRA), Southern California Edison (SCE) and NRDC. Reply comments are due June 21, 2010. NRDC is a non-profit membership organization with 124,000 members in California and a longstanding interest in minimizing the societal costs of the reliable energy services that Californians demand.

In these comments we reiterate our view that the PD should be modified to include more detailed criteria for the evaluation of SCE's expenditures at Four Corners. Furthermore, we disagree with several of the modifications requested by SCE that would inappropriately limit the Commission's implementation of the California Emissions Performance Standard (SB 1368). Our reply is summarized below:

- NRDC disagrees with SCE that review should be limited to capital expenditures for projects initiated between 2009 and 2011.
- NRDC disagrees with SCE that SCE should measure life extension in five-year increments beginning in 2016.

- NRDC disagrees with SCE’s proposals regarding the timing and use of its study of continued ownership of Four Corners.
- NRDC disagrees with SCE that the PD’s restriction on new agreements concerning SCE’s ownership in four corners is overbroad and should be clarified.

II. Discussion

1. **NRDC disagrees with SCE that reasonableness review should be limited to capital expenditures for projects initiated between 2009 and 2011.**

SCE requests that the PD be “clarified” to only require review of expenditures that have not yet been requested in a General Rate Case (GRC), claiming “forecast capital expenditures prior to 2009, which had been included in SCE’s \$178.6 million request, were approved in the 2009 GRC Decision and if the capital project was estimated to be in-service during 2009 or before, the capital additions were included in rate base and therefore, the GRC revenue requirement.” (SCE, p. 3). However, as SCE notes, that GRC decision, D. 09-03-025, appropriately left open the possibility of reexamination of those expenses after a final decision in this proceeding. (SCE, p. 4, *citing* D. 09-03-025, “Alternate Decision of President Peevey On Test Year 2009 General Rate Case for Southern California Edison Company,” pp. 185-186.). In our opening Comments we recommended criteria for evaluation of expenses at “retained generation”¹ that would allow for certain required investments. However, even if the Commission adopts the PD without the NRDC recommended criteria, all investments made at Four Corners should be subject to review in the upcoming GRC, to ensure that those investments are reasonable in light of the SB 1368 limit on new ownership investment. The tentative approval of investments in D. 09-03-025 does not require any deference, as that decision explicitly noted the necessity of a decision in this proceeding before any final decision relating to those expenditures.

2. **NRDC disagrees that for capital projects costing \$5 million or more, SCE should measure life extension in five-year increments beginning in 2016.**

NRDC disagrees with SCE that the PD should be modified to limit the timeframe of analysis for life-extending investments at Four Corners. (SCE, pp. 4-6). For the Commission

¹ A power plant that does not meet the emissions performance standard (EPS) at which a California utility already has an ownership interest. See, D.07-01-039, “Interim Opinion On Phase 1 Issues: Greenhouse Gas Emissions Performance Standard,” pp.40-54.

to be fully informed of the impact of investments, it should have information on the life-extension impacts of all projects. SCE's request to only indicate life extension for those projects that extend the life of the plant to 2021 or beyond would undermine the ability of the Commission to protect customers from imprudent and potentially illegal investments. As the PD indicates, investments in retained generation of non-EPS compliant power plants is relevant to both SB 1368, which outlawed new ownership investments, and AB 32, as customer investment in such resources will make compliance increasingly difficult. For this reason, SCE should be required to file information on the life extending impacts of all investments commencing at the date of projected project completion.

3. NRDC disagrees with SCE's proposals regarding the timing and use of its study of continued ownership of Four Corners.

a) The Commission should not provide a separate process from the 2012 GRC for the Four Corners ownership analysis.

SCE requests the Commission provide a separate process for the presentation of the study required by the PD of analysis of customer impact and risks of continued SCE ownership at Four Corners. (SCE p. 7). SCE contends that the "complicated" nature of such an analysis may undermine the schedule for the 2012 GRC. (SCE, p. 7). This request ignores the fact that the determination of whether to invest nearly \$200,000,000 customer funds (plus SCE's rate of return) is also "complicated" and should not move ahead without information crucial to the Commission decision-making. Investments in a coal fired power plant that does not meet the EPS and potentially very damaging to California's AB 32 emissions reductions requirements should be made only after a full investigation of the risks to customers of continued ownership. If SCE ownership beyond 2011 is not in the customer's interest, then the investment of nearly \$200,000,000 of customer funds is likely less prudent. The Commission should not bifurcate these interrelated issues. However, if the Commission decides to provide an alternate forum or process for review of the SCE analysis, it should not allow recovery of Four Corners expenditures until the review of SCE's analysis, as required by the PD, is complete.

b) The Commission should not contemplate re-opening the opportunity for further investments in Four Corners.

SCE further requests that, subject to the outcome of its analysis, the Commission consider allowing investment in Four Corners beyond 2012:

consistent with SCE's request that all expenditures for capital projects initiated between 2009 and 2011 be eligible for recovery subject to a reasonableness review in the 2012 GRC, all expenditures for capital projects that begin beyond December 31, 2011 should be eligible for recovery subject to the outcome of the feasibility study.

(SCE, p.7). NRDC disagrees in the strongest terms. While we understand and support the Commission's decision to allow certain limited investments in Four Corners, subject to the criteria we outlined in those comments, the Commission must create a bright-line rule that ends new investments in non-EPS retained generation, or risk undermining SB 1368 entirely. SCE's proposal would potentially allow ongoing investments subject to a "reasonableness" finding indefinitely, thus rendering the emissions performance standard meaningless with regard to retained generation.

4. NRDC disagrees that the PD's restriction on new agreements concerning SCE's ownership in four corners is overbroad and should be clarified.

SCE requests reduced Commission oversight of its continued ownership and operation of Four Corners, citing its public announcement of intent for divestment in the plant and listing a variety of potential agreements that it would prefer to not report to the Commission. (SCE, pp. 9-10). While NRDC has no comment on the Rule 1.1 issues raised in this proceeding by SCE's filings, we believe that a heightened level of scrutiny with regard to SCE's continued ownership and operation of Four Corners is appropriate. Indeed, elsewhere in its comments SCE notes that it will be undergoing various remedial activities. NRDC recommends that the most important way for SCE to show good faith would be to proactively inform the Commission and interested parties of its activities, agreements and plans at Four Corners. As such, we recommend Ordering Paragraph Four be approved with NRDC's suggested modifications and without SCE's modifications. (NRDC, p. 8).

III. Conclusion

NRDC appreciates the opportunity to submit these reply comments on the Proposed Decision. We encourage the Commission to adopt the PD with the modification recommended in our opening comments.

Dated: June 21, 2009

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the **Reply comments of the Natural Resources Defense Council on the Proposed “Decision Granting in Part Petition of Southern California Edison Company to Modify D.07-01-039” by Commissioner Peevey**” to all known parties of record in this proceeding by delivering a copy via email or by mailing a copy properly addressed with first class postage prepaid.

Executed on June 21, 2009 at San Francisco, California.



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Attachment A – NRDC Recommended Modifications to Proposed Decision

Proposed Modifications to the Conclusions of Law

NRDC recommends the following modifications and additions to the PD’s Conclusions of Law:

81. It is reasonable to require the utilities to periodically notify Energy Division of all modifications to approved funding levels, ~~and to require an Advice Letter for shifts of more than 10% in any category for the entire portfolio cycle.~~

Proposed Modifications to the Ordering Paragraph

NRDC recommends the following modifications and additions to the PD’s Ordering Paragraph:

47. Section II, Rule 11 of the Energy Efficiency Policy Manual, regarding fund shifting rules, shall be updated so that:
 - ~~b. Each utility shall file an Advice Letter for shifts of funds of more than 10% within and between any of the twelve statewide programs, third party programs, or governmental programs for the entire portfolio cycle. Energy Division may allow exceptions to this requirement.~~