

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION *

**RESOLUTION E-3637
OCTOBER 7, 1999**

RESOLUTION

Resolution E-3637. Southern California Edison (SCE) Requests Approval of a New Memorandum Account, The Block-Forward Market Memorandum Account (BFMMA). Approved With Conditions.

By Advice Letter 1393-E, Filed on July 16, 1999.

SUMMARY

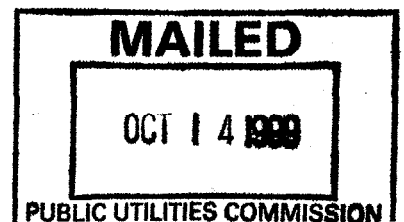
Advice Letter 1393-E requests revisions to SCE's Preliminary Statement, Part N, Memorandum Accounts, to reflect the establishment of a new account called the Block-Forward Market Memorandum Account (BFMMA). This resolution approves SCE's request with conditions.

The purpose of the BFMMA account is to track costs associated with satisfying the PX Block Forward Market's (BFM) credit and collateral requirements. We authorize SCE to establish this account with the requirement that the costs tracked in the BFMMA may only include costs directly resulting from PX requirements to participate in the block-forward market. Cost recovery of BFMMA balances will be reviewed in the Revenue Adjustment Proceeding (RAP). Any costs approved for recovery must be included in the PX credit calculation.

BACKGROUND

Resolution E-3618 dated July 8, 1999, authorizes SCE to participate in the Block-Forward Market and approves the inclusion of BFM supply costs and administrative fees in SCE's PX rates. In its comments to Resolution E-3618, SCE expanded the list of block-forward market costs that should be eligible for recovery. The Resolution authorized limited cost recovery and directed the UDCs to look to a future proceeding for recovery of additional BFM costs.

Advice Letter 1393-E requests authority to establish a new memorandum account to track block-forward market costs that are not directly billed to SCE by the PX or ISO. These costs result because the PX requires each participant in the BFM to post collateral security for all trades. The collateral must be in one or more of the following forms; 1) a



letter of credit; 2) a cash deposit in a PX designated collateral account; or 3) a surety bond.

In addition to the costs that result from the collateral security requirement, SCE states that financing costs result from the interest rate it must pay for short-term borrowing to finance the collateral requirement. SCE states that since the interest earnings on the cash collateral account are less than the financing cost, there is a net financing cost associated with the collateral account. Further costs include fees for cash collateral account transactions. In addition to the specific costs named above, SCE proposes to track other costs related to credit and collateral requirements of the PX.

SCE characterizes its Advice Letter as "compliance" with Resolution E-3618.

NOTICE

In accordance with Section III, Paragraph G, of General Order No. 96-A, SCE mailed copies of this Advice Letter to other utilities and interested parties. Public notice of this filing has been made by publication in the Commission's daily calendar.

PROTESTS

Timely protests were filed by Commonwealth Energy Corporation (Commonwealth) and Alliance for Retail Markets (ARM). Both parties request that the Commission direct SCE to include the costs tracked in the Block-Forward Market Memorandum Account in its PX energy costs and energy credit. In addition, ARM submits that the RAP is the appropriate proceeding for SCE to seek recovery of balances in the BFMMA.

In response to Commonwealth's protest, SCE states that amounts in the BFMMA, approved for recovery, will be included in the PX credit calculation. In response to ARM's protest, SCE agrees with ARM that the RAP is the appropriate proceeding to review the BFMMA.

Commonwealth and ARM withdrew their protests following SCE's clarification regarding the treatment of costs in the Block-Forward Market Memorandum Account

DISCUSSION

Although, SCE characterizes its Advice Letter as "compliance" with Resolution E-3618, that Resolution does not require SCE to establish the BFMMA. SCE's Advice Letter 1393-E is discretionary.

We conclude that SCE's proposed establishment of a new memorandum account, the Block-Forward Market Account, is reasonable. SCE should be allowed to track costs associated with participation in the Block-Forward Market in order to have the opportunity to seek recovery of such costs in the Revenue Adjustment Proceeding (RAP).

SCE may track costs associated with participation in the block-forward market which are not billed by or paid to the PX or ISO. The costs to be tracked may include the specific costs associated with the PX collateral account requirement and the associated financing costs and transacting fees.

However, we are concerned about SCE's proposal to track unspecified "other costs". In response to Energy Division's Data Request asking for an explanation of such "other costs", SCE responded "SCE does not know of any costs at this time, however, such costs may arise in the future" (Response to Data Request No. 1g). We believe, however, that the costs entered into the BFMMA should be specified from the start to avoid misunderstandings and future disputes. Therefore, the costs tracked in the BFMMA may only include costs **directly** resulting from PX requirements to participate in the block-forward market. Costs may not include discretionary costs such as legal counsel, advisers, or consultants.

We authorize SCE to establish a Block-Forward Market Memorandum Account with the requirement that cost recovery of BFMMA balances be reviewed in the RAP. Any costs in the BFMMA approved for recovery must be included in the PX credit calculation as the costs are associated with procuring energy for resale to retail customers. SCE has conceded to including these costs in the PX credit calculation in its response to Commonwealth's and ARM's protest.

SCE shall be at risk for balances in the BFMMA pending review in a future proceeding. Authorization of this account does not guarantee cost recovery.

Edison's Advice letter should be approved with the conditions set forth herein.

COMMENTS

The Energy Division mailed the draft resolution in this matter to parties in accordance with PU Code Section 311(g). SCE filed comments on September 17, 1999.

SCE believes that Advice Letter 1393-E establishing the BFM Memorandum Account is in compliance with Resolution E-3618. Resolution E-3618 directs the UDC's to "look to the ATCP or the RAP, or other appropriate venue, to seek recovery of costs which are not billed to the UDCs by the PX or the ISO" (Resolution E-3618 p. 9). SCE argues that the Memorandum Account is required to comply with the Commission's order in Resolution E-3618 to review these costs in a future proceeding.

SCE objects to the Memorandum Account's effective date of October 7, 1999, the date SCE anticipates the Commission will adopt the Draft Resolution. SCE argues that pursuant to the 40 day filing provision of G.O. 96-A, the draft Resolution should be modified to provide SCE the opportunity to recover costs beginning August 25, 1999.

In its Advice Letter filing, SCE stated its desire for interim approval of the Memorandum Account beginning August 25, 1999. On August 24, 1999, Energy Division requested

that SCE refrain from booking any costs to this account prior to a Commission order (i.e., via a resolution) allowing SCE to establish the Memorandum Account. SCE did not raise procedural objections at that time.

In its comments SCE highlights that there is no opposition to the establishment of the BFM Memorandum Account. Both protests have been withdrawn subsequent to SCE's concessions and clarifications regarding the appropriate venue to review cost recovery and the inclusion of such costs in the PX credit calculation. However, SCE did not revise its proposed tariffs to reflect the clarifications and concessions made in response to protests.

General Order 96-A, Sec. III-I states that: "An advice letter supplement may be filed for relatively minor changes to the original advice letter, such as modifications to respond to a protest...The Commission staff has the responsibility to either accept the Advice Letter supplement, or where significant changes are proposed, to require the utility to file an entirely new advice letter."

Although Edison proposed substantive modifications to its Advice Letter filing in response to protests from ARM and Commonwealth, Edison did not file supplemental tariff sheets. SCE has not filed tariff sheets that the Commission can make effective. In the interest of expediting the processing of Edison's request, rather than reject Edison's advice letter outright, we will approve Edison's current Advice Letter filing effective the date of this Resolution and have Edison make its tariff changes as part of a subsequent compliance filing.

Effective Date of the Memorandum Account

Edison's account should be effective on the date that the Commission adopts this Resolution. The Commission has repeatedly stated that:

It is a well established tenet of the Commission that ratemaking is done on a prospective basis. The Commission's practice is not to authorize increased utility rates to account for previously incurred expenses, unless, before the utility incurs those expenses, the Commission has authorized the utility to book those expenses into a memorandum or balancing account for possible future recovery in rates. This practice is consistent with the rule against retroactive ratemaking. (Emphasis in original.)¹

As noted in D.92-03-094, this policy is consistent with the requirements of Public Utilities Code Section 728 and Supreme Court precedents in interpreting that Section. The Commission has routinely and consistently applied this policy,² most

¹ Southern California Water Co. Headquarters case, D.92-03-094 (March 31, 1992) 43 Cal. P.U.C. 2d 596, 600.

² A partial listing of cases wherein the Commission addressed the applicability of prospective ratemaking includes D.84-12-060, D.88-03-017, D.88-09-020, D.88-09-064, D.89-03-045, D.89-05-069, D.89-06-053, D.91-04-028, D. 92-03-094, D.93-03-043, D.93-07-047, D.97-11-074, D.99-06-089.

recently at its August 2, 1999 meeting where it determined that SCE could not book costs to its Fuel Oil Inventory Memorandum Account prior to the creation of the account.³

The Commission has established two instances in which memorandum accounts may become effective prior to the date of the Resolution approving them. First, when the Resolution is a compliance filing in response to a previously approved Commission decision that authorized either the tracking or recovery of incurred costs.⁴ Secondly, if there is a specific legislative direction that specifies an earlier effective date.⁵ Neither of these situations are applicable in the current situation.

Although SCE has stated its belief that Advice Letter 1393-E proposing the Memorandum Account is filed to comply with Resolution E-3816, the Advice letter is, in fact, discretionary. Resolution E-3816 does not order the UDCs to establish a memorandum account to track BFM costs not billed directly by the PX or ISO. At most Resolution E-3816 simply authorizes the UDC to propose treatment of these costs in the future. Resolution E-3816 did not specify whether these BFM costs were intended to be treated on a prospective basis in a future proceedings or in a memorandum account. SCE has chosen to seek memorandum account treatment for BFM costs not authorized in Resolution E-3816.

Edison's account should be effective as of the date the Commission adopts this Resolution.

FINDINGS

1. SCE filed Advice Letter 1393-E on July 16, 1999. SCE requests approval to establish a new memorandum account to track costs associated with participation in the Block-Forward Market. The Block-Forward Market Account will tracks costs incurred because of PX credit and collateral requirements which are not billed to or paid by the PX or ISO.
2. Protests were filed by Commonwealth and ARM requesting that SCE include amounts in the Block-Forward Market Memorandum Account in the calculation of the PX credit calculation. ARM further submits that the RAP is the appropriate proceeding to review the BFMMA.
3. SCE states that amounts in the BFMMA approved for recovery will be included in the PX credit calculation. In response to ARM's protest, SCE agrees with ARM that the RAP is the appropriate proceeding to review the BFMMA.

³ Resolution E-3606. This Resolution also contains an extensive discussion of the policy issues concerning prospective ratemaking.

⁴ Because a prior Commission order previously authorized the booking of those expenditures, there is no conflict with the above stated policy regarding prospective ratemaking.

⁵ In which case the specific statutory provision would take precedence over any contrary requirements contained in Public Utilities Code Section 728.

4. Commonwealth and ARM withdrew their protests following SCE's clarification regarding the treatment of costs in the BFMMA.
5. SCE failed to file supplemental tariffs to reflect the concessions and clarifications made in response to protests.
6. The RAP is the appropriate proceeding to review whether SCE may recover costs tracked in the BFMMA.
7. The costs to be tracked may include the specific costs associated with the PX collateral account requirement and the associated financing costs and transacting fees.
8. The costs tracked in the BFMMA may only include costs directly resulting from PX block-forward market requirements. Costs may not include discretionary costs such as legal council, advisers, or consultants.
9. SCE must include in the PX credit calculation any costs approved for recovery that are tracked in the BFMMA.
10. SCE is at risk for the balances in the BFMMA pending review in a future proceeding.
11. Authorization of this account does not guarantee cost recovery.
12. SCE's Advice Letter 1393-E was not required to comply with a Commission order.
13. The tariffs implementing the BFMMA should be effective as of the date of this Resolution consistent with Commission policy on prospective ratemaking.
14. SCE should be allowed to track costs associated with participation in the Block-Forward Market which are not billed by or paid to the PX or ISO in order to have the opportunity to seek recovery of such costs in the RAP. Therefore, SCE's proposal for a Block-Forward Memorandum Account is reasonable as conditioned herein.

THEREFORE, IT IS ORDERED THAT:

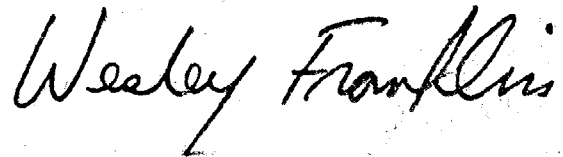
1. SCE Advice Letter 1393-E is approved with conditions. The tariff changes authorized by the Resolution will be effective on October 7, 1999. If SCE accepts the conditions required by this Resolution, it shall supplement its Advice Letter within 10 days of the effective date of this Resolution to modify its proposed tariff language as follows:
 - i) Preliminary Statement, Part N.55a (6) shall be modified to read "plus other costs directly resulting from PX requirements to participate in the Block-Forward Market. These shall not include any costs associated with legal counsel, consultants, or advisors".

- ii) Preliminary Statement, Part N.55b shall be deleted.
- iii) Preliminary Statement, Part N.55 shall be modified to reflect that the RAP is the appropriate proceeding to review costs in the BFMMA.
- iv) Preliminary Statement, Part N.55 shall be modified to reflect that any costs in the BFMMA approved for recovery in the RAP will be included in the PX credit calculation.

This supplemental Advice Letter shall be effective upon filing subject to Energy Division determining that it is compliant with this Resolution.

2. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 7, 1999. The following Commissioner's voted favorably thereon:



WESLEY M. FRANKLIN
Executive Director

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