



SOUTHERN CALIFORNIA
EDISON

An EDISON INTERNATIONAL Company

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April 1, 2005

Docket Clerk
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

RE: R. 02-11-039

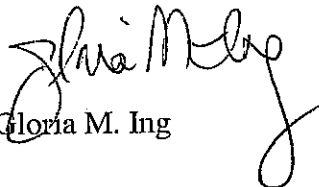
Dear Docket Clerk:

Enclosed for filing with the Commission are the original and five copies of the **COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) ON REMAINING ISSUES IN R. 02-11-039** (in the above-referenced proceeding.

We request that a copy of this document be filed and returned for our records. A self-addressed, stamped envelope is enclosed for your convenience.

Your courtesy in this matter is appreciated.

Very truly yours,


Gloria M. Ing

Enclosures

cc: All parties on service list.

(U 338-E)

LW050910009

BEFORE THE CALIFORNIA PUBLIC UTILITIES COMMISSION

Rulemaking to implement the provisions of)
Public Utilities Code Section 761.3 enacted)
by Chapter 19 of the 2001-02 Second)
Extraordinary Legislative Session.)
_____)

R.02-11-039

COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) ON
REMAINING ISSUES IN R. 02-11-039

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Dated: April 1, 2005

BEFORE THE CALIFORNIA PUBLIC UTILITIES COMMISSION

Rulemaking to implement the provisions of)
Public Utilities Code Section 761.3 enacted) R.02-11-039
by Chapter 19 of the 2001-02 Second)
Extraordinary Legislative Session.)

COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) ON
REMAINING ISSUES IN R. 02-11-039

On March 17, 2005, the Assigned Commissioner and Administrative Law Judge issued a ruling in the above-referenced proceeding requesting comments on whether there are any outstanding issues in R. 02-11-039 and whether technical modifications are necessary to General Order (“GO”) 167.¹ Pursuant to the procedural schedule set forth in the ruling,² Southern California Edison Company (“SCE”) provides the following comments on remaining issues in R. 02-11-039. SCE is aware of one additional issue relating to the reporting obligations set forth in Public Utilities Code Section 761.3(d) for nuclear powered generating facilities and qualifying facilities (“QFs”), which the Commission still needs to address in General Order (“GO”) 167 as part of its implementation of the statute. SCE and PG&E have already brought to the Commission’s Consumer Protection and Safety Division’s (“CPSD”) attention these reporting obligations, and the utilities understand that the CPSD is in agreement with the utilities’ proposed methods for implementing

¹ See March 17, 2005 Assigned Commissioner and Administrative Law Judge Ruling (A) Regarding Remaining Issues and Technical Modifications to GO 167 and (B) Setting PHC.
² Pursuant to the Ruling, comments are due 14 days after the date of the Ruling, which would be March 31, 2005. However, due to the Commission’s holiday on March 31, 2005, comments are due on April 1, 2005.

these obligations.³ SCE discusses the reporting obligations for these facilities below and the utilities' recommendation on the implementation of this portion of the statute.

Nuclear Facilities: In GO 167, the Commission has primarily focused on the development of maintenance standards, operation standards, and logbook standards for generating facilities. While nuclear facilities are generally exempted from the standards and requirements adopted in GO 167,⁴ Section 761.3(d) places certain reporting requirements on the owner or operator of these exempted facilities. Specifically, Section 761.3(d)(1) provides that the owner or operator of the nuclear facility is to report to the Oversight Board and Commission information relating to the maintenance schedule and planned and unplanned outages of the facility. The owner or operator is also required to report the operational status and availability of the nuclear facility to the Oversight Board and Independent System Operator ("ISO"):

"The owner or operator of a nuclear powered generating facility shall file with the Oversight Board and the commission an annual schedule of maintenance, including repairs and upgrades, updated quarterly, for each generating facility. The owner or operator of a nuclear powered generating facility shall make good faith efforts to conduct its maintenance in compliance with its filed plan and shall report to the Oversight Board and the Independent System Operator any significant variations from its filed plan."⁵

The owner or operator of a nuclear powered generating facility shall report on a monthly basis to the Oversight Board and the commission all actual planned and unplanned outages of each facility during the preceding month. The owner or operator of a nuclear powered generating facility shall report on a daily basis to the Oversight Board and the Independent System Operator the daily operational status and availability of each facility."⁶

³ See Attachment A.

⁴ See Public Utilities Code Sections 761.3(d)(1)(A).

⁵ Public Utilities Code Section 761.3(d)(1)(B).

⁶ Public Utilities Code Section 761.3(d)(1)(C).

With its implementation of the maintenance standards, operation standards, and logbook standards in GO 167, the Commission has set specific and clear deadlines for the submission of compliance certificates and other filings.⁷ In contrast, to date, the Commission has not provided instructions to the utilities on the implementation of the reporting requirements for nuclear facilities. For example, the Commission has never specified the date upon which the utilities are required to submit the maintenance report.

In August 2004, PG&E, on behalf of itself and SCE, informed the Commission's CPSD that the utilities believe that they are already providing the information called for in Section 761.3(d) in reports to the ISO pursuant to the ISO's Outage Coordination Protocol. For example, pursuant to Section 2.2.2 of the Outage Coordination Protocol, SCE submits maintenance and outage information to the ISO, which is updated quarterly. In this regard, the Oversight Board, which oversees the ISO and which has the authority to inspect records and documents of the ISO,⁸ already has access to the information called for in Section 761.3(d). Developing separate reports for the CPUC from those already provided to the ISO would be duplicative and would not provide the Commission with information that could not be easily obtained by the Commission directly from the ISO.

Therefore, SCE recommends that the Commission implement Section 761.3(d) by requesting the information directly from the ISO.⁹ This option is consistent with Section 10.2 of GO 167, which allows for the exchange of

⁷ See, for example, Decision No. 04-12-039, which adopted the operation standards and specified the deadline for the filing of the compliance certificate for these standards.

⁸ See Public Utilities Code Sections 335 and 341.6.

⁹ In the alternative, the Commission could permit the utilities to fulfill the obligations of Section 761.3(d) by providing copies of the relevant reports to the Commission when filed by the utilities with the ISO.

information between the Commission and other governmental agencies.¹⁰ SCE's understanding is that the CPSD agreed with this procedure and would pursue obtaining this information from the ISO and Oversight Board.¹¹ The Commission should therefore issue a decision indicating that the utilities' obligation under Section 761.3(d) is satisfied and that the utilities do not need to provide the information directly to the Commission.

Qualifying Facilities: Like nuclear facilities, QF facilities are generally exempted from GO 167,¹² with the exception of certain reporting obligations set forth in Section 761.3(d). Section 761.3(d)(2)(B) defines the QF reporting obligation based on whether or not the contracts between the utilities and QFs require the QFs to provide the information to the utilities. If the utilities are entitled to the information by contract, then the utilities are required to report the information to the Oversight Board and the Commission. If the utilities are not entitled to the information by contract, then QFs are required to report the information to the Oversight Board and the ISO:

“An electrical corporation that has a contract with a qualifying small power production facility, or a qualifying cogeneration facility, with a name plate rating of 10 megawatts or greater, shall report to the Oversight Board and the commission maintenance schedules for each facility, including all actual planned and unplanned outages of the facility and the daily operational status and availability of the facility. Each facility with a name plate rating of ten megawatts or greater shall be responsible for directly reporting to the Oversight Board and the Independent System Operator maintenance

¹⁰ Section 10.2 of GO 167 provides that upon CPSD's request, a Generating Asset Owner can authorize governmental agencies to release and provide directly to CPSD any information that the agency possesses regarding the operation or maintenance of that generating asset owner's generating facility. SCE notes that some of the information provided to the ISO, in particular, prospective maintenance information, is confidential and should remain confidential.

¹¹ Given the utilities' understanding that CPSD would pursue obtaining the nuclear information directly from the ISO and Oversight Board, CPSD was advised that unless PG&E and SCE received notice otherwise, PG&E and SCE would not plan on providing this information directly to the CPUC. See Attachment A.

¹² Public Utilities Code Section 761.3(d)(2)(A).

schedules for each facility, including all actual planned and unplanned outages of the facility and the daily operational status and availability of the facility, if that information is not provided to the electrical corporation pursuant to a contract.”¹³

Unfortunately, the information that the QFs and electric utilities are required to report may not be divided along the same lines as the reporting requirements of Section 761.3(d). Greater clarity is necessary concerning the nature and type of information required, the reporting requirements for both the QFs and the utilities, and the frequency of reporting. SCE therefore recommends that the CPUC convene a workshop with the utilities and QFs to sort out the procedures for complying with Section 761.3(d). The workshop should cover, among other things, the identification of information that the utilities are or are not entitled to under contract and the schedule by which this information should be provided. SCE’s understanding is that the Commission’s CPSD agrees that holding a workshop has merit and that the Commission would schedule such a workshop in the near future.¹⁴

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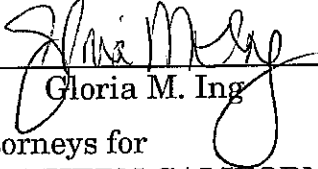
¹³ Public Utilities Code Section 761.3(d)(B).

¹⁴ See Attachment A.

In summary, for the above reasons, SCE recommends that the Commission implement the reporting requirements in Public Utilities Code Section 761.3(d) by (a) obtaining the information on the nuclear facilities directly from the ISO, and (b) holding a workshop on the information relating to the QFs.

Respectfully submitted,

DOUGLAS K. PORTER
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By: Gloria M. Ing

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April 1, 2005

ATTACHMENT A

-----Original Message-----

From: Eisenman, Eric
Sent: Thursday, August 12, 2004 2:50 PM
To: 'maz@cpuc.ca.gov'
Subject: Nuclear and QF Reporting Obligations

Mark,

Thank you for your time yesterday to discuss the reporting obligations for nuclear and QF facilities pursuant to General Order 167 and Pub. Util. Code sec. 761.3(d). In this note, I would like to confirm what we discussed, and summarize the idea about holding a workshop on reporting QF facility information. As you know, nuclear facilities and QFs are generally exempt from General Order 167, with the exception of certain reporting obligations set forth in Section 761.3(d). General Order 167 does not contain any specific procedures regarding how the utilities and QFs should implement these reporting obligations. PG&E and Edison have discussed potential methods of implementation and recommend the following:

Nuclear facilities: PG&E and Edison believe that the information regarding nuclear facilities required to be reported under Section 761.3(d) is already being reported to the ISO pursuant to the ISO's Outage Coordination Protocol. PG&E and Edison recommend that the CPUC implement Section 761.3(d) by obtaining the information from the ISO, consistent with Section 10.2 of General Order 167. I understand that you agree with this proposal and will plan to pursue obtaining this information from the ISO (or the EOB). Accordingly, unless we receive notice from you to the contrary, PG&E and Edison will not plan on providing this information directly to the CPUC. One additional matter----some of the information provided to the ISO, particularly prospective maintenance schedules, is highly sensitive and confidential and could result in market manipulation if publicly released. Accordingly, the CPUC would need to maintain its confidentiality. Please let me know if you need PG&E and Edison to submit a formal request for confidentiality.

QFs: As we discussed, Section 761.3(d) defines the QF reporting obligation based on whether or not the contracts between the utilities and the QFs require the QFs to provide the information to the utilities. If the utilities are entitled to the information by contract, then the utilities are required to report the information. If the utilities are not entitled to the information by contract, then the QFs are required to report the information. Unfortunately, there is not a clean fit between the QF contracts and the information required to be reported under Section 761.3(d), and it is unclear which entity should be reporting which information. Accordingly, PG&E and Edison

recommend that the CPUC convene a workshop with the utilities and QFs to sort out the procedures for complying with Section 761.3(d). I understand that you felt that this proposal has some merit and will likely schedule a workshop with the utilities and QFs in the next few months.

Thanks again for discussing these implementation issues. PG&E and Edison would be happy to meet with you to discuss these proposals further or answer any questions.

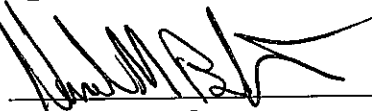
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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) ON REMAINING ISSUES IN R. 02-11-039 on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

- Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.
- Placing the copies in sealed envelopes and causing such envelopes to be delivered by hand or by overnight courier to the offices of the Commission or other addressee(s).
- Placing copies in properly addressed sealed envelopes and depositing such copies in the United States mail with first-class postage prepaid to all parties.
- Directing Prographics to place the copies in properly addressed sealed envelopes and to deposit such envelopes in the United States mail with first-class postage prepaid to all parties.

Executed this **1st day of April, 2005**, at Rosemead, California.



Nicole Broadwater
Project Analyst

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