

Decision 19-01-019 January 10, 2019

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

Application of Southern California Edison Company (U338E) for Approval of Its Grid Safety and Resiliency Program.

Application 18-09-002

**DECISION APPROVING AN EFFECTIVE DATE FOR AN INTERIM MEMORANDUM ACCOUNT**

**Summary**

This Decision authorizes Southern California Edison Company to establish the Grid Safety and Resiliency Program Memorandum Account effective September 10, 2018 as requested in a Motion filed on September 10, 2018 and in Application 18-09-002. The Decision also establishes reporting requirements to monitor the costs booked to the Grid Safety and Resiliency Program Memorandum Account over the course of this proceeding. This Decision does not allow SCE to recover costs recorded in the Grid Safety and Resiliency Program Memorandum Account. Whether, how, and to what extent SCE may recover the costs tracked in the Grid Safety and Resiliency Program Memorandum Account will be determined after the application has been fully reviewed by the Commission and determined in a subsequent decision.

## **Discussion**

### **Southern California Edison's Request for the Memorandum Account**

On September 10, 2018, Southern California Edison Company (SCE) filed a Motion requesting an expedited order adopting the interim Grid Safety and Resiliency Program Memorandum Account (GSRPMA) proposed in SCE's concurrently filed Application 18-09-002 (Application) effective as of the date of its filing, September 10, 2018.

SCE seeks Commission approval to make the GSRPMA effective as of the filing date of the Application so that SCE may begin tracking Grid Safety and Resiliency Program (GSRP) costs expeditiously while the Commission resolves the concurrent Application and associated request for a two-way balancing account. As SCE notes, granting SCE's request for this memorandum account would not prejudice whether, how, and to what extent SCE may recover the costs tracked in the GSRPMA. Rather, it simply preserves SCE's ability to request further Commission consideration of the recoverability of such costs, without objection that might otherwise be asserted based on the retroactive ratemaking doctrine. Granting a memo account does not guarantee recovery of any costs booked into the memo account, because they will be reviewed at a later date.

SCE asserts that good cause exists to approve the interim GSRPMA as SCE is taking prompt action to address increasing wildfire risk in furtherance of state policy and is already incurring incremental costs.

SCE claims approval of the GSRPMA is appropriate in light of recent legislation that explicitly provides for utilities to establish memorandum accounts to track incremental wildfire mitigation costs not currently authorized

in rates or, in SCE's case, requested in a general rate case (GRC).<sup>1</sup> Because of the serious nature of the wildfire issue, SCE filed this application expeditiously, not waiting for proposed legislation (SB 901) to become law and be implemented by the Commission. Instead, SCE filed its Application on September 10, 2018, prior to SB 901 being signed into law and requested an interim account to track its ongoing GSRP costs during the pendency of this proceeding.

SCE also claims the Commission has a longstanding practice of establishing memorandum accounts to avoid retroactive ratemaking, and that allowing the interim GSRPMA would be consistent with that practice.<sup>2</sup>

### **Agreement Resolving Opposition of Intervening Parties**

The Public Advocates Office at the California Public Utilities Commission (Public Advocates) filed a Response opposing SCE's Motion on September 25, 2018. Public Advocates stated the issue does not need to be addressed before a determination is made by the Commission on the full application, and

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<sup>1</sup> Specifically, Senate Bill (SB) 901 provides that utilities be able to establish "a memorandum account to track costs incurred for fire risk mitigation that are not otherwise covered in the electrical corporation's revenue requirements." Stats. 2018, Ch. 626, *codified* at Pub. Util. Code § 8386(j). SCE also cited Assembly Bill (AB) 2346 to support its motion (AB 2346 would have enabled utilities, upon request to the Commission, to be able to record incremental grid hardening, vegetation management, and other wildfire mitigation costs in the Wildfire Expense Memorandum Account). AB 2346 was vetoed by Governor Brown.

<sup>2</sup> SCE Motion at 5-7, *citing*, Decision (D.) 03-05-076 at 6; Resolution E-3761 at 3 (Nov. 29, 2001); D.16-03-009, Decision Granting Pacific Gas and Electric Company's Request for a January 1, 2017 Final Decision Effective Date; D.14-06-012, Decision Granting January 1, 2015 Effective Date for Pacific Gas and Electric Company's Test Year 2015 Revenue Requirement at 3-5; D.18-06-029, Alternate Decision Authorizing Establishment of the Wildfire Expense Memorandum Account at 15.

recommended the Commission deny SCE's motion, and/or hold the motion in abeyance until the decision on the merits of the application.

Public Advocates argued that the request in the motion is duplicated in the Application itself, and thus there is no need to rule on the motion before the application is decided. Public Advocates also claims that granting the motion would be inconsistent with the Commission's policy requiring that memorandum accounts be established on a prospective basis only.<sup>3</sup> Public Advocates claims that the cases cited by SCE to support its motion represent narrow exceptions to the general rule against retroactive ratemaking and deal with a previously defined set of costs, or establish memorandum accounts on a prospective basis.

On October 5, 2018, SCE submitted a Reply to the Response of the Public Advocates Office. SCE argues that it would not be premature to approve the memorandum account before the final decision on the merits of the application. SCE claims it is already incurring costs and waiting to approve the memorandum account could result in those costs being disallowed on a retroactive ratemaking basis. Approving the memorandum account now would remove that claim and ensure that any costs the Commission does ultimately approve would be tracked and available for recovery from ratepayers. SCE also argues that while the Commission usually makes memorandum accounts effective prospectively, the Commission has authority to make exceptions to that general policy under appropriate circumstances. SCE claims that the current proposal falls within such an exception, an urgent situations in which the

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<sup>3</sup> Response of the Public Advocates Office at 3, *citing*, D.03-05-076 at n. 5, and D.99-11-057.

applicant utility expects to incur substantial incremental costs prior to a final Commission decision on the merits. SCE states that in such situations, the Commission has granted memorandum account relief for the purposes of tracking ongoing costs. SCE also acknowledges that granting interim relief and creating this account does not prejudice the appropriateness of any recovery of costs so recorded in the GSRPMA.

The Utility Reform Network (TURN) also expressed reservations about approving the GSRPMA until SCE clarifies whether there is any overlap with the treatment of the memorandum account that would be implemented as part of Rulemaking 18-10-007.<sup>4</sup>

At the Prehearing Conference on November 15, 2018, SCE, Public Advocates and TURN announced that they had reached an agreement on two issues on which they had differing views with respect to the next steps in this proceeding, specifically approval of SCE's motion seeking a September 10, 2018, effective date for the GSRPMA, and the overall schedule of the proceeding. Public Advocates and TURN both agreed to withdraw their objections to implementation of SCE's GSRPMA and SCE in turn agreed to support the schedule for the proceeding put forth by Public Advocates and TURN.

This agreement removes opposition to SCE's Motion and allows the Commission to consider it on an unopposed basis.<sup>5</sup> The agreement also

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<sup>4</sup> Joint Prehearing Conference Statement dated November 13, 2018, at 8. (Rulemaking 18-10-007 was adopted on October 25, 2018 to implement the provisions of Senate Bill 901 related to electric utility wildfire mitigation plans.)

<sup>5</sup> See, RT at 31 (the Small Business Utility Advocates stated it does not oppose creation of the memorandum account, and no party raised any new objection at the PHC).

establishes a schedule for the proceeding that will be memorialized in the forthcoming Scoping Memo that will result in intervenor testimony being served in April 2019.

### **Approval of the Memorandum Account**

Approval of the GSRPMA, effective September 10, 2018, the date this application was filed, is in the public interest. SCE is proposing to undertake significant and incremental steps to improve its systems and infrastructure to mitigate wildfire risks. While there are important questions to ask about the actions SCE is undertaking, SCE is taking these actions without any guarantee the Commission will approve recovery of the costs from ratepayers. We agree that the subject of SCE's application is an urgent situation where SCE expects to incur substantial incremental costs prior to a final Commission decision on the merits of the Application. Thus, while SCE is incurring these costs, it is not only appropriate, but also in the public interest that it keeps track of these costs.

Public Advocates is correct that we do not need to approve the memorandum account before we reach a final decision on the merits of the application. However, we agree with SCE that allowing it to record the costs it is incurring related to this application in a memorandum account will avoid retroactive ratemaking objections should those costs ultimately be approved. In addition, establishing a memorandum account effective at the initiation of this application provides the Commission an opportunity to establish reporting and financial controls at the onset of this proceeding.

Wildfire risk has been a problem for many years and the requests made in this proceeding would typically be included in a GRC. SCE's 2018 Test Year GRC application, Application (A.) 16-09-001 has not yet concluded, and since the application's filing in 2016, wildfire mitigation issues have become more urgent

and been identified as a high priority for utility and Commission attention. As its GRC has not been decided, SCE is in a unique position with respect to the wildfire mitigation measures proposed in this application. Such a situation is not likely to be replicated in the future for SCE or other utilities. A GRC is the preferred venue where these types of investments should be brought forward in the future.

Establishing the memorandum account does not provide an approval of the proposed costs. The ultimate resolution of the reasonableness of the proposed costs will be determined after the application has been fully reviewed by the Commission and includes allowing intervening parties the opportunity to litigate the merits of the application. Given the unique nature of this application we will closely scrutinize the proposed costs to ensure the proposed costs are truly incremental, and not recovered in another way such as in a GRC. For example, if SCE had forecast certain wildfire mitigation costs in a GRC, resulting in those costs being included in rates, they would not be incremental, and SCE could not record those same costs in the GSRPMA and subsequently seek rate recovery. Incrementality is a complicated, fact-specific issue that will be examined during the course of this proceeding to ensure costs currently authorized in rates or requested in A.16-09-001 are not also recovered as a result of this proceeding. SCE bears the burden of proof in this proceeding to show that the costs proposed are incremental and that appropriate adjustments are made where the proposed actions will reduce the usefulness of existing plant in operation. Once a decision on the activities and costs proposed in SCE's GSRP application is issued, costs recorded in the GSRPMA must be reviewed to determine whether the costs of activities recorded in the interim account adopted

here are reasonable and consistent with the terms of the Commission's ultimate decision.

### **Reporting and Other Transparency Measures**

While we have approved memorandum accounts with effective dates prior to the final decision on the merits of the proposed costs, typically, we have done so for relatively routine and ongoing matters. SCE is asking for the memorandum account to be effective on the date the application was filed so that it can begin tracking costs as of that date. In approving SCE's request, we expect to achieve a level of transparency in SCE's implementation of its proposed GSRP. Accordingly, SCE will be required to serve monthly reports providing a full and complete accounting of its activities. These reports will include all expenditures for capital costs as of the date for the monthly report and any additional information reasonably required by Commission staff. SCE shall work with the Commission's Energy Division staff to develop the format and content of these monthly reports.

SCE forecasts that nearly two-thirds of the forecast revenue requirement and sixty percent of the capital expenditures will occur in 2020. We expect to conclude our review of this application in 2019. For 2018 and 2019 SCE forecasts more than \$77 million in added revenue requirement and more than \$166 million in capital expenses. Thus, in addition to the monthly report of what has been spent, in order to ensure the projected expenditures occur when planned, we will require SCE to serve, 30 days in advance of its planned expenditures for each quarter of its projected 2018 and 2019 forecast costs. Therefore, a report will be served for each \$19,460 million in revenue requirement, and for each \$41,627 million in capital expenditures. As we have noted, the timing and nature of this application is unique, and while we agree with SCE that it

should be allowed to begin tracking its costs related to the activities in the application, we will require SCE to be transparent throughout this process. These reporting requirements will provide the Commission a systemic tool to help monitor the costs being recorded in the GSRPMA.

### **Waiver of Comment Period**

As explained above, Public Advocates and TURN both agreed to withdraw their objections to SCE's Motion to Approve the Grid Safety and Resiliency Memorandum Account. SCE's request is unopposed.

Under Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment in an uncontested matter where the decision grants the relief requested. We waive the period for public review and comment pursuant to this rule.

### **Assignment of Proceeding**

Michael Picker is the assigned Commissioner and Robert W. Haga is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. SCE has proposed incurring costs related to additional wildfire mitigation measures above and beyond costs requested and pending in its current test year 2018 GRC.
2. Granting a memo account does not guarantee recovery of any costs booked into the memo account, because they will be reviewed at a later date.
3. The subject of SCE's application is an urgent situation where SCE expects to incur substantial incremental costs prior to a final Commission decision on the merits.

4. Approval of an interim GSRPMA preserves SCE's ability to request further Commission consideration of the recoverability of such costs.

5. Approval of an interim GSRPMA, effective September 10, 2018, the date this application was filed, is in the public interest.

6. SCE's tariff language should clearly indicate that only incremental costs may be recorded in the GSRPMA.

7. SCE forecasts that nearly two-thirds of the forecast revenue requirement and sixty percent of the capital expenditures will occur in 2020.

### **Conclusions of Law**

1. SCE's request for an interim GSRPMA should be approved.

2. Establishing the memorandum account does not provide an approval of the proposed costs.

3. The Commission may make the GSRPMA effective as of the date of SCE's application.

4. Only incremental costs above and beyond costs authorized in SCE's test year 2018 GRC should be recorded in GSRPMA.

5. Approving the GSRPMA preserves the ability of SCE to request further Commission consideration of the recoverability of such costs, without objection that might otherwise be asserted based on the retroactive ratemaking doctrine.

## **O R D E R**

### **IT IS ORDERED** that:

1. Southern California Edison Company is authorized to establish an interim Grid Safety and Resiliency Program Memorandum Account, effective September 10, 2018.

2. Southern California Edison Company is directed to file its tariff implementing the interim Grid Safety and Resiliency Program Memorandum Account via Tier 2 Advice Letter no later than 30 days from the date of this decision. The Advice Letter shall also include a proposal for the format to be used in monthly reporting.

3. The Grid Safety and Resiliency Program Memorandum Account tariff language must specify that only incremental costs above and beyond those authorized in SCE's test year 2018 General Rate Case may be recorded in the account.

4. Southern California Edison Company's Grid Safety and Resiliency Program Memorandum Account tariff language should be consistent with this decision.

5. Southern California Edison Company shall serve monthly reports providing a full and complete accounting of amounts recorded in the Grid Safety and Resiliency Program Memorandum Account.

6. Southern California Edison Company shall include in its monthly reports the amounts expended pursuant to the activities included in the Grid Safety and Resiliency Application, including all expenditures for capital costs as of the date of the monthly report, any other information that Commission Energy Division staff reasonably requires, and any other further information reasonably necessary for a full and complete reporting to the Commission.

7. Southern California Edison Company shall consult with Commission Energy Division staff at least one week prior to the submission of each monthly report to determine if any changes are required to the format submitted with the Advice Letter implementing the interim Grid Safety and Resiliency Program Memorandum Account.

8. Southern California Edison Company shall serve a notice 30 days in advance of when it projects it will have spent each quarter of its projected 2018 and 2019 forecast costs (combined). A separate notice shall be served for each \$19,460 million in revenue requirement, and \$41,627 million in capital expenditures.

9. The specific criteria for rate recovery of costs recorded in the Grid Safety and Resiliency Program Memorandum Account will be addressed through the prosecution of this proceeding.

This order is effective today.

Dated January 10, 2019, at San Francisco, California.

MICHAEL PICKER  
President  
LIANE M. RANDOLPH  
MARTHA GUZMAN ACEVES  
CLIFFORD RECHTSCHAFFEN  
Commissioners