

137 FERC ¶ 61,173  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
and Cheryl A. LaFleur

Southern California Edison Company

Docket No. ER11-3697-001

ORDER ON COMPLIANCE FILING

(Issued November 30, 2011)

1. On September 1, 2011, Southern California Edison Company (SoCal Edison) submitted a compliance filing revising its Transmission Owner Tariff (TO Tariff) to comply with the Commission's August 2, 2011 order.<sup>1</sup> As discussed below, the Commission accepts for filing the compliance tariff revisions, effective January 1, 2012, subject to the outcome of the pending hearing and settlement judge proceedings in this docket.

**I. Background**

2. Since 1998, when SoCal Edison unbundled its retail transmission rates and transferred operational control of its network transmission facilities to the California Independent System Operator (CAISO), SoCal Edison has recovered its transmission revenue requirement (TRR) through stated rates. Additionally, in 2008, the structure of SoCal Edison's stated rates was modified to include 100 percent of Construction Work in Progress (CWIP) in rate base for certain authorized transmission projects. As such, since 2008, SoCal Edison's total Base TRR had been composed of the stated Base TRR, which includes the cost of all in-service transmission facilities, as well as the CWIP revenue requirement, which recovers a return for certain specified projects on a formulary basis.

3. On June 3, 2011, SoCal Edison proposed to recover its TRR through a formula rate. The proposed formula rate combined the Base TRR with the existing CWIP TRR into a single cost recovery mechanism. In the August 2, 2011 Order, the Commission found that SoCal Edison's proposed revisions to its TO Tariff raised issues of material fact that could not be resolved based on the record and that these issues should more

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<sup>1</sup> *Southern California Edison Co.* 136 FERC ¶ 61,074 (2011) (August 2, 2011 Order).

appropriately be addressed in hearing and settlement judge procedures. Therefore, the Commission accepted SoCal Edison's proposed revisions to implement a formula rate for recovery of its revenue requirement, suspended those proposed revisions, to be effective January 1, 2012, subject to refund, and set all issues, except the median/midpoint issue, for hearing and settlement judge procedures.<sup>2</sup>

4. With respect to SoCal Edison's proposed Base ROE, the Commission noted that SoCal Edison's DCF analysis used the midpoint rather than the median when establishing its Base ROE. As the Commission explained in the Paper Hearing Order,<sup>3</sup> and subsequently in *Potomac-Appalachian Transmission Highline, L.L.C.*,<sup>4</sup> the Commission's precedent requires the use of median inasmuch as median is the most accurate measure of central tendency for a single utility of average risk, such as SoCal Edison. Therefore, the Commission directed SoCal Edison to use the median to establish the Base ROE, and directed SoCal Edison to submit a compliance filing to revise its Base ROE to reflect the use of median.

## **II. September 1, 2011 Compliance Filing**

5. On September 1, 2011, SoCal Edison submitted a compliance filing in response to the directive in the August 2, 2011 Order. Specifically, SoCal Edison submitted revisions to its TO Tariff reflecting a base ROE of 9.93 percent, which SoCal Edison states is developed using the median of its ROE analysis.

## **III. Notice of Filing and Responsive Pleadings**

6. Notice of SoCal Edison's September 1, 2011 compliance filing was published in the *Federal Register*, 76 Fed. Reg. 56,192 (2011), with interventions and comments due on or before September 22, 2011. A timely motion to intervene and protest was filed by the M-S-R Public Power Agency (M-S-R). SoCal Edison filed a motion for leave to

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<sup>2</sup> The August 2, 2011 Order also granted SoCal Edison's request for waiver of the Commission's cost support regulations under 18 C.F.R. § 35.13, which included waiver of the full Period I and Period II data requirements, and accepted SoCal Edison's use of a 50 basis point incentive adder for its participation in the CAISO, as previously granted by the Commission. See *Southern California Edison Co.*, 121 FERC ¶ 61,168 (2007).

<sup>3</sup> *Southern California Edison Co.*, 131 FERC ¶ 61,020 (2010) (Paper Hearing Order), *order on reh'g*, 137 FERC ¶ 61,016 (2011) (denying rehearing on the use of the midpoint).

<sup>4</sup> 133 FERC ¶ 61,152, at P 65 (2010).

respond and an answer to the protest. M-S-R filed a motion in opposition to SoCal Edison's motion for leave to respond, and submitted its own response to SoCal Edison's answer.

#### **IV. M-S-R's Arguments**

7. M-S-R's protest concerns the calculation of the appropriate Base ROE in the compliance filing. M-S-R acknowledges that SoCal Edison's filing is technically in compliance with the directive of the August 2, 2011 Order insofar as the filing uses the median rather than the midpoint to develop its Base ROE. However, M-S-R protests the filing both to highlight its concern that SoCal Edison's 9.93 percent Base ROE still does not fully comport with Commission precedent and to preserve these additional issues for the hearing and settlement judge proceedings ordered by the Commission. First, M-S-R asserts that SoCal Edison has deviated from Commission policy by failing to use data from the most recent six-month period.<sup>5</sup> Second, M-S-R argues that SoCal Edison's ROE analysis failed to properly apply Commission-approved screening criteria, resulting in several errors in SoCal Edison's proxy group. M-S-R asserts that these refinements would further reduce the Base ROE, which would result in an additional reduction in SoCal Edison's transmission revenue requirement.<sup>6</sup> Third, M-S-R argues that the Commission has found it appropriate to lower a utility's proposed ROE below even the median when the utility eliminates the risk of non-recovery by transitioning from a stated rate to a formula rate, and argues that such a reduction would be appropriate here.<sup>7</sup>

#### **V. Discussion**

##### **A. Procedural Matters**

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motion to intervene serve to make the entity that filed it a party to this proceeding.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest or a response to an answer unless otherwise ordered by the decisional authority. We are not persuaded to accept SoCal Edison's answer or M-S-R's response to SoCal Edison's answer and will, therefore, reject them.

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<sup>5</sup> M-S-R Protest at 5.

<sup>6</sup> *Id.* at 5-6.

<sup>7</sup> *Id.* at 6

**B. Commission Determination**

10. The Commission's August 2, 2011 Order determined that, in accordance with Commission precedent, SoCal Edison was to use the median, rather than the midpoint, for establishing its Base ROE, and directed SoCal Edison to make a compliance filing utilizing the median to set the Base ROE. However, the August 2, 2011 Order did not determine what the actual median should be, but rather only that the Base ROE must be derived using the median rather than the midpoint of data inputs. Other than the requirement to use the median of the data, the Commission's intent was that the ordered hearing and settlement procedures address all other disputed issues arising from the filing, including those related to the actual calculation of the median consistent with Commission policy. Therefore, the determination of the ultimate median Base ROE, which SoCal Edison has determined on a preliminary basis to be 9.93 percent, remains subject to the outcome of the pending hearing and settlement judge procedures, and was not definitively set by the August 2, 2011 Order. Accordingly, we accept SoCal Edison's compliance TO Tariff revisions, to be effective January 1, 2012, subject to the outcome of the hearing and settlement judge procedures established by the August 2, 2011 Order.

**The Commission orders:**

SoCal Edison's revised tariff sections are hereby accepted for filing to be effective on January 1, 2012, subject to the outcome of the pending hearing and settlement procedures in Docket No. ER11-3697-000, as discussed in this order.

By the Commission. Commissioner Spitzer is not participating.

( S E A L )

Kimberly D. Bose,  
Secretary.