

136 FERC ¶ 61,074
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southern California Edison Company

Docket No. ER11-3697-000

ORDER ACCEPTING AND SUSPENDING PROPOSED FORMULA RATE FILING
AND ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued August 2, 2011)

1. On June 3, 2011, Southern California Edison Company (SoCal Edison) filed revisions to its Transmission Owner Tariff (TO Tariff) to implement a formula rate for the costs associated with its transmission facilities. In this order, we conditionally accept for filing the revised TO Tariff, and suspend it, to become effective January 1, 2012, subject to refund, and establish hearing and settlement judge procedures. Also, we direct SoCal Edison to submit a compliance filing, as discussed below.

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 current 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 has 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.

II. SoCal Edison's Filing

3. SoCal Edison proposes to replace the approach it currently uses to recover its revenue requirement with a formula rate. The formula rate will combine the Base TRR with the existing CWIP TRR into a single cost recovery mechanism. The proposed formula rate produces a projected retail Base TRR of \$770,753,658 for the twelve month period beginning October 1, 2011, which amounts to an approximate 21 percent increase to the currently-effective Base TRR of \$635,970,000. Although it made its filing with a

proposed August 1, 2011 effective date, SoCal Edison requests that the Commission accept its formula rate filing, but suspend it for five months, or until January 1, 2012. SoCal Edison requests a five month suspension to eliminate the need for a complicated partial true-up and to minimize the number of retail rate changes it would be required to make inasmuch as those rates also become effective January 1, 2012.

4. SoCal Edison states the main reasons for implementing a formula rate structure at this time are that (1) given its extensive transmission construction program, SoCal Edison is concerned that the stated rate approach will not provide it with a reasonable opportunity to recover the actual costs of owning and operating its transmission system; and (2) a formula rate approach is likely to reduce SoCal Edison's and other parties' litigation costs compared to annual stated rate filings. More specifically, SoCal Edison states that it is entering a multi-year period of exceptional growth in its transmission investments that is driven in large part by renewable energy goals set by the State of California. Over the next five years, SoCal Edison anticipates that it will invest over \$5 billion in new transmission projects, which will significantly increase its Base TRR over the next several years, and would require SoCal Edison to file successive rate cases if it maintains stated rates. SoCal Edison states that a formula rate, in contrast, will better enable it to recover its costs as well as ensuring that SoCal Edison's transmission rates will not over-recover its costs. In addition, SoCal Edison states that because the proposed formula rate proposal encompasses both the Base TRR and CWIP rates, it will eliminate the need to file separately for CWIP recovery.

5. SoCal Edison states that the proposed formula rate calculates its costs to own, operate, and maintain its transmission facilities using traditional cost components, and produces a Base TRR that includes a return on equity (ROE), income and other taxes, operation and maintenance expenses (including an allocation of administration and general expense), depreciation and amortization expenses. The proposed formula rate requires that SoCal Edison systematically adjust its rates, in order to reflect changes in transmission costs and loads over time. The rates calculated under the proposed formula rate will be based on SoCal Edison's projection of its costs for the upcoming October through September twelve-month period, and will be subject to a true-up based on SoCal Edison's actual costs.

6. SoCal Edison notes that unlike most transmission owners, only a portion of its facilities that are classified as transmission under the Commission's Uniform System of Accounts (USOA) are considered to be network transmission facilities, and, therefore, are under the Operational Control of the CAISO. As a result, only slightly more than half of the plant costs that are booked as transmission under the USOA are costs recovered in SoCal Edison's Base TRR. Similarly, SoCal Edison's transmission operation and maintenance accounts include expenses that are a combination of CAISO-related and CPUC-related (non-CAISO) expenses. Therefore, SoCal Edison states that it has built into its formula rate specific methodologies that ensure that each cost element, including

both operation and maintenance expenses and plant in service, only include costs related to network facilities that have been operationally turned over to the CAISO.

7. SoCal Edison states that several rate inputs shall be stated values to be used in the formula rate until changed pursuant to a section 205 filing approved by the Commission. Specifically, SoCal Edison requests authorization for single-issue rate filings for these items, among others: (1) return on equity (ROE); (2) depreciation expenses; (3) post-retirement benefits other than pensions; and (4) other regulatory assets/liabilities and regulatory debits. SoCal Edison states that such a section 205 single-issue filing shall not include or allow for consideration of any other aspect of the formula rate, or other issues associated with the formula rate.

8. SoCal Edison states that it is seeking single issue treatment for the ROE included in its formula rate because it recognizes that the ROE must be specified in the formula, in contrast to other costs that change pursuant to the formula. In this filing, SoCal Edison is proposing a Base ROE of 11.5 percent, plus the 50 basis point adder that SoCal Edison was granted previously for CAISO participation. In support of its request for an 11.5 percent Base ROE, SoCal Edison relies upon the midpoint of the range. SoCal Edison acknowledges that in Docket No. ER08-375-000 the Commission directed it to use the median of the range of reasonable returns when setting its ROE in that proceeding. However, SoCal Edison filed a request for rehearing in Docket No. ER08-375-004 that is still pending before the Commission. Therefore, SoCal Edison states that it is using the midpoint to calculate the ROE included in this formula rate filing to preserve its rights with respect to the contested issue of midpoint versus median in the calculation of ROE.¹

9. SoCal Edison states that the Base TRR produced by the formula will be recalculated annually, with that recalculation to become effective each October 1, the beginning of the Rate Effective Period. SoCal Edison states that the annual recalculation will reflect inputs from its most recent FERC Form No. 1 and its books and records, actual and forecasted CWIP, and new transmission plant that have gone, or are expected to go, into service in the Rate Effective Period.

10. SoCal Edison has structured its proposed formula rate to include three components of the Base TRR: (1) the Prior Year TRR, which represents the costs that SoCal Edison incurs in the most recent calendar year prior to the year in which the Base TRR recalculation becomes effective on October 1; (2) the Incremental Forecast Period TRR, which represents the expected incremental amount of transmission costs that SoCal Edison will incur during the period the rate is actually in effect; and (3) the True Up Adjustment, which is included to true-up SoCal Edison's charges to its actual costs.

¹ SoCal Edison notes that the application of the median to SoCal Edison's discounted cash flow (DCF) analysis results in a base ROE of 9.93 percent.

Additionally, SoCal Edison may, under certain circumstances, include a fourth component in the determination of the Base TRR. This fourth component, a Forecast Adjustment, will occur in the event that SoCal Edison can reasonably forecast a discrete cost item during the Rate Effective Period that differs from that included in the Prior Year TRR. SoCal Edison states that the protocols under the formula rate permit SoCal Edison to adjust the forecast to reflect this difference so long as the cost difference is a deviation of at least three percent above or below its Base TRR. SoCal Edison states that the purpose of this Forecast Adjustment is to better align its Base TRR with its costs, and to minimize the True Up Adjustment.

11. By June 15 of each year, SoCal Edison will make available to its customers a draft information filing showing the calculation of the Base TRR for the upcoming Rate Effective Period. Interested parties will then have 45 days to submit reasonable data requests to SoCal Edison regarding the draft filing. SoCal Edison commits to respond to all data requests within ten business days. Thereafter, SoCal Edison will update its Base TRR in an annual informational filing with the Commission on September 15th, with an effective date of October 1. In the event disagreements remain after SoCal Edison's informational filing, interested parties may seek resolution from the Commission. The Rate Effective Period is designed to coincide with the retail customer rate changes, which also begins October 1 of each year.

12. Finally, SoCal Edison requests, to the extent necessary, waiver of the Commission's cost support regulations under 18 C.F.R. §35.13, including waiver of the full Period I and Period II data requirements. SoCal Edison asserts that good cause exists for such waiver because the statements, testimony and exhibits accompanying the filing, together with SoCal Edison's publicly-available FERC Form No. 1 information, provide ample support for the reasonableness of the proposed formula rates.

II. Notice of Filing and Responsive Pleadings

13. Notice of SoCal Edison's June 3, 2011 Filing was published in the *Federal Register*, 76 Fed. Reg. 36,530 (2011), with interventions and comments due on or before June 24, 2011. Timely motions to intervene were filed by Pacific Gas and Electric Co., Golden State Water Co., the Arizona Electric Power Cooperative, Inc., San Diego Gas and Electric Co. Late motions to intervene were filed by Energy Producers and Users Coalition, and Atlantic Path 15, LLC. Notice of intervention and protest was filed by the Public Utilities Commission of the State of California (CPUC). Timely motions to intervene and protest were filed by the California Department of Water Resources State Water Project (SWP), the City of Los Angeles Department of Water and Power (LADWP), M-S-R Public Power Agency (M-S-R), the Northern California Power Agency (NCPA), the State Water Contractors (SWC), the Cities of Anaheim, Azusa, Banning Colton, Pasadena and Riverside, California (Six Cities), the City of Santa Clara

and the City of Redding, California, Modesto Irrigation District (Modesto), and Transmission Agency of Northern California (TANC).² SoCal Edison filed a motion for leave to respond and an answer to the protests. 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.

III. Intervenors' Arguments

14. M-S-R asserts that the Commission should reject SoCal Edison's formula rate filing because the proposal lacks sufficient specificity and transparency, and allows SoCal Edison excessive discretion, all of which is potentially harmful to customers.³ SWP also requests that the Commission reject SoCal Edison's proposal because its design does not conform to formula rates approved by the Commission. Instead, SWP asserts that SoCal Edison's proposal is a hybrid rate structure that is fatally flawed.⁴

15. All of the protestors assert that SoCal Edison has not demonstrated that its proposed formula rate mechanism is just and reasonable.⁵ They argue that the ROE proposed by SoCal Edison is excessive and that its reliance upon the midpoint for establishing a Base ROE is inconsistent with Commission policy and precedent.⁶

16. Six Cities, CPUC, and M-S-R also assert that SoCal Edison's proposed implementation protocols lack transparency, are not understandable, and improperly curtail parties' rights under the Federal Power Act to review and challenge the transmission rates produced by the formula.⁷ For example, these protestors assert that the Commission's formula rate policies require a utility to maintain FERC Account recordkeeping and FERC Form No. 1 data, and that these procedures provide the

² The City of Santa Clara, California and the City of Redding, California, Modesto and TANC join in the arguments and requests for relief submitted by M-S-R.

³ M-S-R Protest at 12-16.

⁴ SWP Protest at 14-24.

⁵ The CPUC and M-S-R cite to *San Diego Gas & Electric Co.*, 119 FERC ¶ 61,169 (2007), as an example of a formula rate that offers ratepayer protections and other provisions that distinguish it from SoCal Edison's proposal. CPUC Protest at 18-21; M-S-R Protest at 52-54.

⁶ CPUC Protest at 3; LADWP Protest at 3-4; SWC Protest at 9; Six Cities Protest at 5; M-S-R Protest at 56-70; NCPA Protest at 4-6.

⁷ Six Cities protest at 19; CPUC Protest at 5-7; M-S-R Protest at 14, 18-19.

opportunity for customers to verify the data used in the formula rates. However, they argue that SoCal Edison is proposing to use many inputs into its formula rate that do not conform to these requirements and relies upon data that is not publicly available or verifiable.⁸

17. Further, Six Cities, LADWP, M-S-R, and SWP allege that SoCal Edison's proposed formula uses calculations for transmission rates, long-term debt cost rates, capital structure and other costs that do not comply with Commission precedent.⁹ SWP also argues that the data input that will be used to update SoCal Edison's costs assumes that all of SoCal Edison's costs will increase each year proportionally to its capital additions, which could greatly overstate incremental costs.¹⁰

18. Protestors raise many concerns about the informational filing component of the proposal. First, M-S-R argues that Commission formula rate protocols require that there be an established process for informational exchange and that this process afford customers with the ability to review and challenge the inputs to the formula. M-S-R argues that SoCal Edison's protocols do not conform to the Commission protocols and, instead, are impermissibly vague and unduly restrictive.¹¹ M-S-R asserts that, as proposed, SoCal Edison's protocols fail to provide any notice of important events in the formula review and challenge process. Further, Six Cities, LADWP, and NCPA argue that the 45 days SoCal Edison is proposing for pre-informational filing review is inadequate,¹² and that the protocols lack procedures for the exchange of confidential information or for the amending or correction of informational filings.¹³ Also, Six Cities argue that the protocols do not provide any mechanism for resolving disputes prior to

⁸ CPUC Protest at 6; M-S-R Protest at 18-32; Six Cities Protest at 20-22; SWP Protest at 18-22. The CPUC also raises concerns about SoCal Edison's ability to distinguish those recorded costs that are CPUC-jurisdictional. CPUC Protest at 6. M-S-R challenges SoCal Edison's categorization of its "ISO" and "non-ISO" plant in service costs, which forms the basis of the rates to be charged to transmission customers. M-S-R Protest at 19-26.

⁹ Six Cities at 9-18; LADWP at 5-9; M-S-R Protest at 72-90; SWP at 18-22.

¹⁰ SWP at 22-27.

¹¹ M-S-R Protest at 33-36, (citing *Commonwealth Edison Co.*, 122 FERC ¶ 61,030 (2008)).

¹² Six Cities Protest at 27-28; LADWP Protest at 10; NCPA Protest at 7-9.

¹³ Six Cities Protest 26-31; LADWP Protest at 10-11.

SoCal Edison submitting the informational filing to the Commission and, overall, do not provide procedures for a meaningful pre-filing review period.¹⁴

19. The CPUC, Six Cities, LADWP, M-S-R, and NCPA argue that once the informational filing is submitted to the Commission, SoCal Edison's proposal improperly restricts the rights of affected customers to contest the informational filing by limiting any challenges to whether data from a specific account was properly included in the correct schedule of its formula.¹⁵ M-S-R and NCPA also argue that SoCal Edison's protocols unreasonably limit protests to only those issues previously identified in the pre-filing review period.¹⁶ Finally, M-S-R argues that the protocols should require that the informational filing be subject to an independent review of forecasted costs, quarterly reports should be required prior to posting draft informational filings, and summary reports for each year should be provided showing the major projects in the filing.¹⁷

20. The CPUC, Six Cities, and NCPA argue that SoCal Edison's proposal regarding single issue filings is contrary to the Commission's general policy that all costs should be reviewed whenever a rate increase is sought, and gives SoCal Edison unfettered discretion to change a formula rate component without allowing the Commission or a customer the opportunity for determining how a proposed single issue change may affect other aspects of the rate.¹⁸

21. In response to SoCal Edison's proposal that it make adjustments to its formula to reflect a forecasted cost change that is in magnitude at least three percent of SoCal Edison's Base TRR, Six Cities, M-S-R and SWP challenge its necessity in view of the true up mechanism, and they question how this proposed adjustment will be calculated into the formula. Moreover, Six Cities and M-S-R argue that because it appears that this proposed adjustment is to be made solely at SoCal Edison's discretion, limitations should be applied to provide transparency to the process.¹⁹ SWP asserts that this adjustment

¹⁴ Six Cities at 29; *see also* CPUC Protest at 19.

¹⁵ CPUC Protest at 4-5; Six Cities Protest at 25; LADWP Protest at 11; M-S-R Protest at 46-47, NCPA Protest at 9-12.

¹⁶ M-S-R Protest at 46-47, NCPA Protest at 10, (citing *Am. Elec. Power Serv. Corp.*, 124 FERC ¶ 61,306, at P 31 (2008)).

¹⁷ M-S-R Protest at 52.

¹⁸ CPUC Protest at 10-11; Six Cities Protest at 32-36; NCPA at 6-7.

¹⁹ Six Cities Protest at 21-22; M-S-R Protest at 51-52.

provision, in combination with the single issue rate filing provisions, undercuts the integrity of a formula rate design.²⁰

22. Six Cities assert that SoCal Edison's request that its formula rate have an effective period of October through September has not been justified. Six Cities argues that other formula rates conform to calendar or fiscal years and that even SoCal Edison uses a calendar year for its Transmission Revenue Balancing Account Adjustment.²¹

23. The CPUC and M-S-R contest SoCal Edison's requested waiver of cost support pursuant to section 35.13 of the Commission's regulations. The CPUC asserts that this waiver would make SoCal Edison's formula rate less transparent and understandable.²² M-S-R argues the waiver request should be denied because SoCal Edison has not made the request with sufficient specificity to enable the Commission and intervenors to know which provisions of these cost support regulations SoCal Edison is seeking to have waived.²³ Further, M-S-R argues that although SoCal Edison must demonstrate good cause to justify this requested waiver, it has failed to do so.²⁴

24. Finally, none of the protestors contest SoCal Edison's request for a five month suspension, but they argue that the rates should be subject to refund, not a true-up.²⁵

IV. Discussion

A. Procedural Matters

25. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Further, pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d)(2011), the Commission will grant late motions to intervene filed by Energy

²⁰ SWP Protest at 16-17.

²¹ Six Cities Protest at 24-25.

²² CPUC Protest at 7.

²³ M-S-R Protest at 6-11.

²⁴ *Id.*, (citing *NorthWestern Corp.*, 133 FERC ¶ 61,046, at P 24 (2010)).

²⁵ CPUC Protest at 2; M-S-R Protest at 91; NCPA Protest at 12; in its answer, SoCal Edison concurs with the protestors that the rates should be subject to refund. SoCal Edison Answer at 12-13.

Producers and Users Coalition, and Atlantic Path 15 given their interests in the proceeding, the early stage of the proceeding and the absence of undue prejudice or delay.

26. 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 unless otherwise ordered by the decisional authority. We will accept the answers filed by SoCal Edison and M-S-R because they have assisted us in our decision-making process.

B. Hearing and Settlement Judge Procedures

27. Our preliminary analysis indicates that SoCal Edison's formula rate proposal has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Intervenors have raised several concerns regarding SoCal Edison's proposed formula rate, including the incorporation of a number of rate inputs that are stated values that can be modified outside the formula rate through single issue rate filings, the Base ROE level, the inclusion of a forecast adjustment to reflect any deviation that is at least three percent above or below the Base TRR, the proposed time frame and procedural mechanisms for resolving disputes, and possible limitations on the issues a party may protest to the Commission. SoCal Edison's proposed revisions to its TO Tariff raise issues of material fact that cannot be resolved based on the record before us and that are more appropriately addressed in the hearing and settlement judge procedures. Therefore, we are setting these matters for a trial-type evidentiary hearing. Accordingly, we will accept SoCal Edison's proposed revisions to implement a formula rate for recovery of its revenue requirement, suspend these proposed revisions, to be effective January 1, 2012, subject to refund, and set all issues, except those decided below, for hearing and settlement judge procedures.

28. We encourage the parties to make every effort to settle their disputes before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedures.²⁶ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.²⁷ The

²⁶ 18 C.F.R. § 385.603 (2011).

²⁷ If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

settlement judge shall report to the Chief Judge and the Commission within 60 days of the date of this order concerning the status of settlement discussion. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

C. Other Issues

29. We will grant SoCal Edison's request for waiver of the requirements under section 35.13 regarding the filing of a full Period I and Period II study, consistent with our prior approval of formula rates.²⁸ SoCal Edison's instant proposal is to establish a formula rate using a combination of sources of data including Company Plant Records and FERC Form No. 1 data. Therefore, we find that full Period I and Period II data are not needed for an evaluation of the justness and reasonableness of SoCal Edison's proposed formula rate. However, this finding does not preclude parties at the hearing from demonstrating the need for additional specific information to allow for a full evaluation of SoCal Edison's proposal.

30. With respect to SoCal Edison's proposed Base ROE, we note that SoCal Edison's DCF analysis uses the midpoint rather than the median when establishing its Base ROE. As we explained in the Paper Hearing Order,²⁹ and subsequently in *Potomac-Appalachian Transmission Highline, L.L.C. (PATH)*,³⁰ 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 directs SoCal Edison to use the median to establish the Base ROE.³¹ Consequently, we direct SoCal Edison to submit a compliance filing, to revise its Base ROE to reflect the use of median.

²⁸ See e.g., *Xcel Energy Services, Inc.* 122 FERC ¶ 61,098, at P 75 (2008); *American Electric Power Service Corp.*, 120 FERC ¶ 61,205, at P 40-41 (2007); *Trans-Allegheny*, 119 FERC ¶ 61,219, at P 57 (2007); *Allegheny Power System Operating Cos.*, 111 FERC ¶ 61,308, at P 55-56 (2005), *order on reh'g*, 115 FERC ¶ 61,156 (2006); *Commonwealth Edison*, 119 FERC ¶ 61,238, at P 93-94 (2007).

²⁹ *Southern California Edison Co.*, 131 FERC ¶ 61,020 (2010) (Paper Hearing Order).

³⁰ *PATH*, 133 FERC ¶ 61,152, at P 65 (2010).

³¹ SoCal Edison is seeking rehearing of this issue in Docket Nos. ER08-375-004 and ER11-1952-002.

31. Additionally, consistent with previous Commission orders, the Commission summarily accepts SoCal Edison's use of a 50 basis-point incentive adder for participation in the CAISO.³²

The Commission orders:

(A) SoCal Edison's revised tariff sections are hereby accepted for filing and suspended, to be effective on January 1, 2012, subject to refund, and hearing and settlement procedures, as discussed in this order.

(B) SoCal Edison is directed to submit a compliance filing within 30 days of the issuance of this order, as discussed in the body of this order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held concerning SoCal Edison's formula rate proposal. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2011), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(E) Within thirty (30) days of the date of this order, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

³² *Southern California Edison Co.*, 121 FERC ¶ 61,168 (2007).

(F) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rule of Practice and Procedure.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.