

147 FERC ¶ 61,020  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;  
Philip D. Moeller, John R. Norris,  
and Tony Clark.

Michael Canales,  
Complainant,

v.

Docket No. EL14-11-000

Edison International, EIX and  
Southern California Edison Company,  
Respondents

ORDER ON COMPLAINT

(Issued April 7, 2014)

1. On November 12, 2013, Michael Canales filed a complaint against Edison International, EIX and Southern California Edison Company (collectively, SoCal Edison) under section 206 of the Federal Power Act (FPA).<sup>1</sup> Mr. Canales alleges that, since 2009, SoCal Edison has been fraudulently misrepresenting its finances to the detriment of shareholders and also manipulating the energy market. This order finds that Mr. Canales has failed to present a *prima facie* case in support of his allegations and denies the complaint.

**I. Background and Complaint**

2. Mr. Canales represents that he is an accounting supervisor at SoCal Edison. He claims that, since 2009, SoCal Edison has been fraudulently misrepresenting its finances to the detriment of shareholders and also manipulating the energy market to cause unjust market rates for electricity in southern California. Mr. Canales contends that SoCal Edison knowingly violated federal statutes and regulations amounting to fraud against shareholders and market manipulation. Mr. Canales indicates that the issues presented in the complaint are pending “with the California Public Utilities Commission related to

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<sup>1</sup> 16 U.S.C. § 824e (2012).

electricity Construction Field Forces, Substation Construction (Alhambra Combined Facility), and Distribution that the State of California has jurisdiction over.”<sup>2</sup>

3. Mr. Canales alleges that SoCal Edison is circumventing 18 C.F.R. Part 101, the Uniform System of Accounts (USofA), through certain practices, actions, and inactions. Specifically, Mr. Canales claims that: (1) “Tens of thousands upon thousands of assets have been reported missing (via notifications from field personnel), while they remain on the books as financial assets for months or years”;<sup>3</sup> (2) material value is not correctly stated and automated “functionality in SAP computer software can be overridden by accountants to change percentages of material and labor that are charged in a work order”;<sup>4</sup> (3) inventory items in the material management system are not correctly conveyed and recorded in the SAP accounting system;<sup>5</sup> (4) assets are not safeguarded;<sup>6</sup> (5) reporting of material events is untimely;<sup>7</sup> and (6) independent audit committees have not been utilized.<sup>8</sup>

4. Mr. Canales contends that, because SoCal Edison is not adhering to the USofA, SoCal Edison cannot accurately certify its quarterly financial reporting in the FERC Annual Report Form Nos. 1, 1-F, 2, 2-A and 6.<sup>9</sup> In addition, Mr. Canales claims that without reliable financial information prepared in accordance with the USofA: (1) the Commission is unable to accurately determine the costs that relate to a particular time period, service, or line of business; (2) it is difficult to determine whether an entity has previously been given the opportunity to recover its costs through rates; and (3) it is difficult to compare how the financial performance and results of operations of one regulated entity relates to that of another.<sup>10</sup>

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<sup>2</sup> Complaint at 10.

<sup>3</sup> *Id.* at 3.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 4.

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

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 5.

5. Mr. Canales claims that SoCal Edison violates various other statutes. For example, he states that “Records and accounts are not being kept in accordance with 16 U.S.C. § 825.”<sup>11</sup> He further alleges that SoCal Edison’s “actions/inactions violate federal statutes, the Commodity Exchange Act (CEA), the Energy Policy Act of 2005 (EPA 2005), and the Energy Independence and Security Act of 2007 (EISA) all prohibit manipulation of various energy commodities in order to prevent fraud against shareholders and investors.”<sup>12</sup>

6. Mr. Canales claims that he (as both an investor and a ratepayer), shareholders, and all California ratepayers “are now shouldering the burden from Edison’s deception in the form of higher electrical bills, and inflated market value.”<sup>13</sup> Mr. Canales explains that “[d]eceiving shareholders and investors about the valuation, inflates stock value and price movements.”<sup>14</sup> According to Mr. Canales, “[b]y not presenting completely accurate financials, markets can be manipulated due to distortions in valuation, O&M, expense, write off/down affecting price per share of Edison International (EIX) stock.”<sup>15</sup> He further claims that “[s]hareholders may prematurely sell or purchase electricity futures at prices higher than the prevailing price.”<sup>16</sup> Further, according to Mr. Canales, “by distorting market prices, this manipulation interferes with the price discovery of derivatives markets: rather than serving as beacons of competitive supply and demand conditions, manipulated prices reflect unethical behavior.”<sup>17</sup>

7. Mr. Canales alleges that the financial impact of SoCal Edison’s actions and inactions are quantifiable as a \$4.7 billion dollar increase in market capitalization. He claims that this is the increase in the total value of the issued shares of company stock from 2011 to 2013.<sup>18</sup> In addition, Mr. Canales indicates that a “\$272 million dollar, unjustified market increase in rates, will burden me and 11 million people via 4.3 million customer accounts within a 50,000-square-mile area within central, coastal and Southern

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<sup>11</sup> *Id.* at 6.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 7.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 7-8.

<sup>17</sup> *Id.* at 8.

<sup>18</sup> *Id.*

California.”<sup>19</sup> He further claims that the amount will be “more if Southern California Edison’s current 2013-2015 General Rate Case is approved” by the California Public Utilities Commission.<sup>20</sup>

8. Mr. Canales explains that the remedy sought is as follows: (1) “Notify the shareholders, and the public, the state of accounting deficiencies regarding policies and procedures of the company”; (2) “Issue refunds to the California rate payer, if applicable, and insure that the California ratepayer is not burdened with any of the costs associated with these suggested remedies”; (3) “Restate financials; notify Internal Revenue Service, Securities Exchange Commission, and EEI”; (4) employ an outside forensic accounting firm to review the adequacy of SAP accounting systems<sup>21</sup> for purposes of supplying information to the Commission”; (5) determine whether the company acted in good faith and had proper standards in place to prohibit retaliation from whistleblowers; and (6) review criteria for financial certification policies and procedures for submittal of financials to the Commission.<sup>22</sup>

9. Mr. Canales indicates that the Commission’s Enforcement Hotline was utilized to express his allegations. He also represents that, in his opinion, alternative dispute resolution procedures would not be successful because of the historical demonstration of bad faith by SoCal Edison.<sup>23</sup>

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

10. Notice of the complaint was published in the *Federal Register*, 78 Fed. Reg. 69,661 (2013) with answers, interventions and protests due on or before December 2, 2013. On November 21, 2013 and January 3, 2014, SoCal Edison filed unopposed motions for extension of time. On November 27, 2013, the Commission issued a notice extending the time for all parties to submit answers to January 10, 2014

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> SAP refers to systems applications and products, which is an integrated software program SoCal Edison purchased from a private company and customized for its business. The general ledger, which captures all financial transactions recorded throughout the life of a company, is a focal point of the SAP system and interfaces with other systems, such as PowerPlant, a sub-ledger that supports all fixed asset accounting activities.

<sup>22</sup> *See* Complaint at 10-11.

<sup>23</sup> *Id.* at 12-13.

and on January 9, 2014, the Commission issued a notice further extending the time for all parties to submit answers to January 24, 2014.

11. Timely motions to intervene were filed by San Diego Gas & Electric Company, M-S-R Public Power Agency, the Los Angeles Department of Water and Power, and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California. The California Public Utilities Commission (CPUC) filed a motion to intervene out of time.

12. On January 24, 2014, SoCal Edison filed an answer to the complaint.

### **III. SoCal Edison's Answer**

13. SoCal Edison argues that Mr. Canales' complaint fails both procedurally and legally. Notwithstanding, SoCal Edison contends that Mr. Canales' allegations are false.<sup>24</sup> SoCal Edison states in its answer how it is committed to regulatory and ethical compliance in all respects.<sup>25</sup>

14. SoCal Edison argues that the complaint should be rejected due to procedural deficiencies. First, SoCal Edison points out that Mr. Canales did not sign the complaint as required by 18 C.F.R. § 385.2005(a)(1). SoCal Edison also contends that the complaint fails to address the requirements of 18 C.F.R. § 385.206(b)(5), specifically, the requirements for a good faith quantification of the financial impact or burden for the complainant, operational or non-financial impacts as a result of the action or inaction, and a statement whether the issues are pending in another proceeding.

15. In addition, SoCal Edison claims that Mr. Canales has failed to support his case, and there is no legal support for the claims Mr. Canales has made. SoCal Edison asserts that Mr. Canales makes conclusory allegations of fraud and manipulation and does not explain these claims or provide any comprehensible connection between these allegations and the rest of his complaint. SoCal Edison also argues that Mr. Canales fails to meet the Commission's standards for a *prima facie* complaint—i.e., he does not explain how the actions or inactions he identifies in the areas of accounting for work orders, assets, materials, and inventory violate applicable standards.<sup>26</sup>

16. SoCal Edison asserts that contrary to Commission requirements, the complaint does not clearly articulate the standards that it alleges have been violated or identify the actions or inactions that violate those standards. Specifically, SoCal Edison argues that Mr. Canales does not explain what particular accounting standards he believes

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<sup>24</sup> SoCal Edison Answer at 1.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 37.

SoCal Edison has violated.<sup>27</sup> Furthermore, according to SoCal Edison, the complaint does not identify any specific rate or any specific tariff, regulation, rule, practice or contract affecting any rate as unjust, unreasonable or unduly discriminatory and consequently, the complaint fails to meet the most minimal of burdens under FPA section 206. Finally, SoCal Edison asserts that Mr. Canales offers no facts, law, or analysis relating to the three elements of a market manipulation claim: (1) a scheme or artifice to defraud; (2) made with scienter; and (3) in connection with a transaction subject to the Commission's jurisdiction.

17. In addition to the procedural failures, SoCal Edison contends that Mr. Canales' allegations are false and lack factual support.<sup>28</sup> According to SoCal Edison, although Mr. Canales alleges fraud, intentional misreporting, inflated rates, and market manipulation, the portion of the complaint in which Mr. Canales identifies "the action or inaction which is alleged to violate applicable statutory standards or regulatory requirements" presents a list of particular claims relating to SoCal Edison's accounting policies in the areas of work order processing and the management of assets, materials, and inventory. SoCal Edison argues that the factual claims of the complaint relate to these particular accounting issues, rather than allegations of excessive rates and fraudulent market manipulation.

18. SoCal Edison contends that Mr. Canales' claims fall into two categories: (1) SoCal Edison's closing of certain work orders in the SAP system; or (2) SoCal Edison's policies for managing assets, materials and inventory. Regardless of the category, SoCal Edison argues that Mr. Canales fails to show that Edison's policies in either category are inappropriate. SoCal Edison argues that the complaint fails to describe how the particular issues Mr. Canales raises relate to SoCal Edison's overall processes for work orders and inventory. SoCal Edison instead claims that its processes for both capital-related work orders and for managing assets, materials and inventory are appropriate.<sup>29</sup> SoCal Edison asserts that it contracted with KPMG to act as an "objective third party" in an investigation into the claims contained in the complaint.<sup>30</sup> The scope of KPMG's work focused on the processes and associated internal controls relating to Mr. Canales' claims. SoCal Edison states that KPMG did not find any evidence to support Mr. Canales' allegations of fraud and manipulation or any other "inappropriate"

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<sup>27</sup> *Id.* at 38.

<sup>28</sup> *Id.* at 1, 19-20.

<sup>29</sup> *Id.* at 20-34.

<sup>30</sup> KPMG is an audit, tax and advisory firm engaged by SoCal Edison's Office of General Counsel to conduct the investigation. KPMG is not engaged to serve as SoCal Edison's external auditor of its financial statements.

behavior and provided a report from KPMG documenting the results of the investigation.<sup>31</sup>

19. SoCal Edison explains that it employs dozens of controls with respect to capital related work orders and management of assets, materials and inventory. According to SoCal Edison hundreds of employees process thousands of work orders each day, each involving numerous documents and forms.<sup>32</sup>

20. SoCal Edison states that a process involving so many people, transactions and documents will be subject to both human and computer errors. SoCal Edison explains that it has a multi-step process to track capital related work orders that builds in several layers of controls designed to ensure that its books and records reflect the cost of completing each work order and describes the processes.<sup>33</sup>

21. SoCal Edison asserts that the claims contained in the complaint are misleading. According to SoCal Edison, the most specific criticism of its processes involves the closing of work orders with missing requirements. SoCal Edison argues that Mr. Canales mischaracterizes its process for closing work orders and that the work orders questioned by Mr. Canales are following an established and appropriate protocol for closing backlogged work orders from 2010 and 2011 that persisted after changing accounting systems to an SAP system. According to SoCal Edison, the complaint does not identify a “real problem” or prove that any assets are missing.<sup>34</sup>

22. SoCal Edison further states that it maintains a strong culture of compliance throughout its organization including its employees, managers and officers. SoCal Edison states that it has five key groups that oversee and foster a commitment of the entire company to ethics and compliance. According to SoCal Edison, the centerpiece of its Ethics and Compliance Program is a code that requires all employees to act in compliance with applicable laws, regulations, and company policies.<sup>35</sup>

23. SoCal Edison asserts that, in addition to its internal commitment to compliance, it is subject to and subjects itself to external reviews of its compliance efforts. For example, SoCal Edison states that it uses independent auditors to continuously evaluate

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<sup>31</sup> See SoCal Edison Answer, Attachment A.

<sup>32</sup> *Id.* at 21.

<sup>33</sup> *Id.* at 22-27.

<sup>34</sup> *Id.* at 28-33.

<sup>35</sup> *Id.* at 9-10.

its financial reporting.<sup>36</sup> SoCal Edison further asserts that it solicits external reviews of its ethics and compliance program on a regular basis.<sup>37</sup> Further, SoCal Edison indicates that the Commission audited SoCal Edison in 2012, which audit included testing and verification of whether SoCal Edison's accounting conformed to the Commission's USofA.<sup>38</sup>

#### IV. Discussion

##### A. Procedural Matters

24. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>39</sup> the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will grant CPUC's late-filed motion to intervene, given CPUC's interest in the proceeding, the early stage of the proceeding and the absence of undue prejudice or delay.

25. We find that Mr. Canales has substantially complied with the procedural requirements for filing a complaint, such that the complaint does not warrant rejection on procedural grounds.

##### B. Substantive Matters

26. To prevail in a proceeding under section 206 of the FPA, a complainant must first demonstrate that an existing practice is unjust, unreasonable, unduly discriminatory or preferential.<sup>40</sup> A complaint must present a *prima facie* case demonstrating the unjustness,

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<sup>36</sup> *Id.* at 16.

<sup>37</sup> *Id.* at 16.

<sup>38</sup> *Id.* at 16-17; *See So. Cal. Edison Co.*, Letter Order, Docket No. PA12-16-000 (Apr. 24, 2013).

<sup>39</sup> 18 C.F.R. § 385.214 (2013).

<sup>40</sup> 16 U.S.C. § 824e(b) (2012).

unreasonableness, or discriminatory nature of the existing practice before the Commission will grant relief under FPA section 206.<sup>41</sup>

27. Mr. Canales has not met the burden of presenting a *prima facie* case to support his complaint and we will, accordingly, deny the complaint. The denial is without prejudice to Mr. Canales developing additional facts that would support the broad allegations made in this complaint and presenting them in a new complaint for the Commission's consideration.

28. The information provided by Mr. Canales suggests that SoCal Edison was having difficulty in closing out certain transmission and distribution construction work orders due to incomplete or inaccurate information.<sup>42</sup> According to KPMG's report, SoCal Edison acknowledges that converting to a new accounting system in 2008 resulted in a number of system conversion issues which led to a backlog of primarily distribution work orders. In many instances when SoCal Edison attempted to close out the work orders there was incomplete information. The problem persisted until August 2011.<sup>43</sup>

In August 2011 SoCal Edison addressed the backlog by expensing certain low dollar, inactive and incomplete work orders based on a decision that the level of effort to research those work orders did not justify the capitalization of those work orders and related rate base efforts.

Additionally, protocols were established that addressed work orders that only had some of the information missing when the work orders were closed.<sup>44</sup> KPMG concluded the following based upon its review of the procedures performed by SoCal Edison: Based upon our work performed including the interview with Mr. Canales, KPMG did not note anything inappropriate about the Missing Requirement protocol since it appeared to

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<sup>41</sup> As set forth in the Commission's regulations, a complainant establishes a *prima facie* case if the complainant: (1) clearly identifies the action or inaction which is alleged to violate applicable statutory standards or regulatory requirements; and (2) the complainant explains how the action or inaction violates the applicable statutory standards or regulatory requirements. *See* 18 C.F.R. § 385.206(b)(1)-(2) (2013). To that effect, the Commission requires that the complainant provide the Commission with evidentiary materials, including documents that support the facts in the complaint. *See* 18 C.F.R. § 385.206(b)(8) (2013). *Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California v. Trans Bay Cable L.L.C.*, 146 FERC ¶ 61,100, at n.25 (2014).

<sup>42</sup> *See, e.g.*, Complaint, Enclosure 13.

<sup>43</sup> *See* SoCal Edison Answer, Attachment A at 2,

<sup>44</sup> *Id.*

be a practical solution to an operational change (i.e. work order backlogs) that SoCal Edison was facing. KPMG also did not identify any evidence that there was any attempt to hide the protocol.<sup>45</sup>

29. The complaint does not provide a sufficient factual basis to find that the deficiencies alleged violates any applicable statutory standards or regulatory requirements. Additionally, Mr. Canales does not provide support for the notion that the deficiencies alleged have impacted stock prices, or that they constitute the sole cause of increases in market capitalization of SoCal Edison over a multi-year period.<sup>46</sup> Accordingly, we find that Mr. Canales' complaint should be denied as having failed to provide quantifiable evidence that SoCal Edison's rates are unjust and unreasonable.<sup>47</sup>

30. Specifically, and on a more granular level, Mr. Canales has failed to describe how the various enclosures in the complaint (consisting of emails, spreadsheet data, memos, etc.) support the broad accusations made in the narrative portion of the complaint. For example, the Table of Contents of the complaint indicates that Enclosure 2 contains "missing requirements devices used – not in compliance with the USofA." However, Enclosure 2 appears to contain memos relating to closing work orders, but these memos contain no discernable mention of the USofA, or dollars linked to USofA account numbers, nor is there any type of narrative statement by Mr. Canales that clearly links the memos to a particular USofA account or violation thereof. As such, it is unclear what Enclosure 2 represents in the context of the broader complaint.

31. Similarly, the Table of Contents of the complaint indicates that Enclosure 3 contains information related to the corporate finance department justifying "100k write-offs" for a 2014-2016 rate case increase to California. However, Enclosure 3 appears to contain emails that relate to a \$464,000 write-off for a cancelled order and screenshots of internal software systems with numerical data, and Mr. Canales provides no narrative explanation of what this enclosure is intended to convey and how it ties to his broad accusations outlined of the complaint.

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<sup>45</sup> See *id.* at 4.

<sup>46</sup> See *People of the State of California, ex. rel. Edmund G. Brown, Jr. Attorney General v. Powerex Corp. (f/k/a British Columbia Power Exchange Corp.)*, 139 FERC ¶ 61,210, at P 30 (2012). "The Complaint described some wrongdoings of Enron and others at length – but alleged *virtually no specific links between the specific respondents and specific bad acts affecting specific bilateral contracts.*" (emphasis in original). Mr. Canales' complaint similarly suffers from inadequate linkage between the general allegations of wrongdoing and the harms alleged.

<sup>47</sup> See *Californians for Renewable Energy, Inc. v. California Public Utilities Commission*, 120 FERC ¶ 61,272, at P 46 (2007).

32. Additionally, the Table of Contents of the complaint indicates that Enclosure 9 contains information related to material write-offs by service center storage locations. However, the enclosure simply contains a spreadsheet with data. The enclosure contains no narrative explanation of what the data means in the context of a Commission-jurisdictional service or how it relates to the broad accusations levied by Mr. Canales in the narrative portion of the complaint.

33. We encourage any interested person to inform the Commission of utility practices that are unjust, unreasonable, or unduly discriminatory or preferential, and to present a *prima facie* case. However, we find that Mr. Canales has failed to meet his burden of demonstrating that any existing practice is unjust, unreasonable, unduly discriminatory or preferential. The complaint fails to state a *prima facie* case for relief and will be denied.

The Commission orders:

The complaint is hereby denied, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.