

McCracken & Byers LLP

1920 Leslie Street
San Mateo, CA 94403-1325
Telephone: (650) 377-4890
Facsimile: (650) 377-4895

Michael D. McCracken
David J. Byers

Of Counsel
Patrick M. K. Richardson
Paralegal: Jill Briggs

April 8, 2008

VIA EMAIL

(inj@cpuc.ca.gov and mas@cpuc.ca.gov)

Energy Division
California Public Utilities Commission
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102

Re: Protest to Advice Letter 2225-E filed by Southern California Edison on March 24, 2008

Dear Sir or Madam:

This office represents the California City-County Streetlight Association (“CAL-SLA”), an organization of all Cities and Counties within the State of California who pay for streetlighting and traffic control service from the three investor-owned utilities (“IOUs”). CAL-SLA has been active in representing the Cities and Counties throughout the State of California since 1981 in every general rate case that has been filed by one of the three IOUs. CAL-SLA, by this letter, is filing a Protest to Advice Letter 2225-E. In Advice Letter 2225-E, Southern California Edison (“SCE” or “Edison”) seeks to revise its tariff schedules in accordance with Decision (D.) 08-03-019 (2008 Energy Resource Recovery Account (“ERRA”) revenue requirement). In Table 3 of the Advice filing, Edison shows the overall System Average Percentage Change (SAPC) to be a rate decrease of -1.2%. However, for street lighting the percentage change is an increase of 14.5% and for traffic control signals (TC-1) is an increase of 9.9%. CAL-SLA protests the changes requested for streetlighting and traffic control signals.

I. THE ADVICE LETTER PROCEDURE IS THE WRONG PROCESS FOR REQUESTING A 14.5% RATE INCREASE IN STREETLIGHT RATES AND A 9.9% INCREASE IN TRAFFIC CONTROL SIGNAL RATES.

While CAL-SLA has been involved in cases of this nature for 27 years, it has never seen a situation where one of the three IOUs is using the streamlined advice-letter process for trying to obtain a 14.5% rate increase for streetlights and a 9.9% rate increase for traffic control signals. Such a procedure clearly violates Section 454 of the California Public Utilities Code. The process selected by SCE has already been determined by the California Court of Appeals to be violative of Section 454. Pacific Bell v. Public Utilities Commission, (2000) 79 Cal.App.4th 269. In that case, Pacific Bell tried to use the advice letter process to obtain a rate increase. In Pacific Bell, the Court of Appeal ruled that the Public Utilities Commission was correct in rejecting the advice letter process for a proposed increase.

It is amazing, given the clear ruling of this decision, that SCE chose to use the advice letter process. Public Resources Code § 454 abundantly makes clear the process for requesting such a rate increase. The streamlined process that SCE is attempting to employ here does not meet the significant due process requirements envisioned by Section 454. In the seminal case California Mutual Water Company Assoc. v. Public Utilities Commission of the State of California; Southern California Edison, (1955) 45 Cal. 2d 152 the Supreme Court ruled that in an absence of an evidentiary showing required by Section 454, the Public Utilities Commission is without power to authorize an increase in rates. Clearly, this Supreme Court decision would prevent a 14.5% rate increase for streetlights and a 9.9% increase in traffic control signals without the necessary evidentiary showing as is typical in a general rate case.

II. DECISION 08-03-019 DOES NOT AUTHORIZE SCE TO INCREASE RATES BY THE ADVICE LETTER PROCESS.

Decision 08-03-019 in Application 07-08-007 is silent in authorizing a rate increase of 14.5% for streetlights and 9.9% for traffic control signals. In Application A. 07-08-004, the utility's ERRA proceeding, Table I - 1 (page 2 of the application) shows a streetlight rate increase of 5.3%, which is less than the SAPC of 13.9%. Now, however, in their Advice Letter, without authorization from D 08-03-019, SCE is requesting in Table 3 a 14.5% increase for streetlighting, when the SAPC, is actually decreasing -1.2%. There is no evidentiary showing as to why streetlighting is the only customer class to receive a double digit rate increase. Actually, most of the rate classes are receiving decreases.

III. CAL-SLA DOES NOT HAVE THE EVIDENCE AND WORK PAPERS NECESSARY TO REVIEW THE PROPOSED ADVICE LETTER.

One of the problems with employing the advice letter process is that the normal discovery process available to an interested party in a general rate case does not exist. Normally, in a general rate CAL-SLA, like other interested parties, would have the availability of SCE's workpapers to review to see if such a rate increase is justified. Through the advice letter process, there is no procedure for this review. This is just another reason why the advice letter process should not be used for such a large increase to one particular customer group.

IV. THERE HAS NEVER BEEN A CHANGE OF STREETLIGHT FACILITY CHARGE RATES BETWEEN GENERAL RATE CASES.

In Appendix B to the Advice Letter 2225-E, at page 22 of 28, there is an increase of facilities charges, also known as "other charges", of 10.4%, for the various categories of streetlights. There has never been an increase in facilities charges in the interim period between general rate cases. The very nature of determining the facilities charge, requires the procedure of the general rate case where evidence is given and can be reviewed. It is the only method to determine if such a charge is reasonable which is required by Public Utilities Code § 454.

V. SCE REQUESTS AN SIGNIFICANT INCREASE IN ENERGY CHARGES IN THE ADVICE LETTER PROCESS

Beyond requesting charges that have never been requested before through an advice letter process, SCE requests an increase in the energy charge for streetlights of 39.3% Advice Letter Appendix B, page 22 of 28. Again, there is insufficient evidence for such an increase.

VI. THERE IS NO JUSTIFICATION FOR THE INCREASE IN TRAFFIC CONTROL SIGNALS

There is no evidence to support the calculation for the increase in traffic control signals. In Advice Letter Appendix B, page 24 of 28, traffic control signals would increase between 10.4 % and 13.8 %. In SCE's Advice Letter, there is an increase of 9.9%. It is unclear what the evidentiary basis is for this 9.9% increase. Again, the advice letter process does not provide CAL-SLA with an adequate review of the evidentiary showing by SCE.

For the reasons stated, CAL-SLA strongly recommends that the Advice Letter be denied. If SCE wants such a rate increase, this should be part of their general rate case that is ongoing at the present time, Application No. 08-03-002. Clearly, given the mandate of Public Utilities Code § 454, the advice letter process is inappropriate for such a significant rate increase. In lieu of denying the letter outright, the filing could be suspended while the Energy Division has the time to review this highly significant and highly unusual proposal. Another option is for the CPUC to authorize the SAPC change of -1.2% to the streetlight and traffic control classes.

Respectfully submitted,

McCRACKEN & BYERS LLP

DAVID J. BYERS, ESQ.
Attorneys for CAL-SLA

cc: Director, Energy Division
CPUC,
505 Van Ness Avenue
San Francisco, CA 94102
(Via U.S. Mail)

Akbar Jazayeri
Vice President of Regulatory Operations
Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770
(Via facsimile: (626) 302-4829 &
Email: AdviceTariffManager@sce.com)

Bruce Foster
Senior Vice President, Regulatory Affairs
c/o Karyn Gansecki
Southern California Edison Co.
601 Van Ness Avenue, Ste. 2040
San Francisco, CA 94102
(Via facsimile: (415) 673-1116 &
Email: Karyn.Gansecki@ce.com)