

103 FERC ¶ 61,303

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

Southern California Edison Company

Docket No. ER03-338-002

ORDER GRANTING AND DENYING CLARIFICATION

(Issued June 6, 2003)

1. In this order, we address Southern California Edison Company's (Edison) request for clarification of our February 21 Order.¹ In that order, the Commission accepted revisions to Edison's Transmission Owner Tariff (TO Tariff), including its annual update to its Transmission Revenue Balancing Account Adjustment (TRBAA), for the calendar year 2003. This order is in the public interest because it ensures that the terms and conditions of Edison's TO Tariff are just and reasonable and that Edison's TO Tariff customers are not subject to inappropriate costs.

I. Background: Opinion Nos. 458 and 458-A and the February 21 Order

2. On March 31, 1997, Edison filed its original TO Tariff, which specifies a Participating TO's rates and charges for transmission access over the California Independent System Operator's (CAISO) Controlled Grid.² An Initial Decision on the litigated issues related to the non-rate terms and conditions of that filing was issued on September 1, 1999.³ The Commission affirmed, on August 5, 2002, the Initial Decision

¹Southern California Edison Co., 102 FERC ¶ 61,187 (2003) (February 21 Order).

²Docket No. ER97-2355-000.

³Pacific Gas and Elec. Co., 88 FERC ¶ 63,007 (1999).

in Opinion No. 458⁴ and, on November 1, 2002, denied the requests for rehearing of that order in Opinion No. 458-A⁵ (collectively, 458 Proceedings).

3. Among other things, the 458 Proceedings involved the treatment of costs imposed on Edison and other Participating TOs by the CAISO's Tariff for transmission loss and ancillary service costs. Although those costs arose in connection with service under Existing Transmission Contracts (ETCs), Participating TOs did not seek to recover them from their ETC customers. Rather, they filed to recover those costs, by means of the TRBAA mechanism contained in the TO Tariffs, from customers who take service under the TO Tariffs. In the 458 Proceedings, the Commission affirmed the presiding judge's decision that those various cost differentials between a Participating TO's ETCs and the CAISO's Tariff (*i.e.*, ETC-related costs) cannot be collected from TO Tariff customers. In addition, the Commission required Edison and other Participating TOs to submit a refund report for ETC-related costs that were collected from TO Tariff customers within 30 days after the issuance of Order 458-A.⁶

4. The Commission explained in the February 21 Order, which addressed (among other things) Edison's annual update to its TO Tariff (TO Tariff Filing), that the Commission granted an extension of time (to and including March 3, 2003) for Edison to comply with the Commission's directive in the 458 Proceedings to submit such a refund report.⁷ In addition, the Commission in the February 21 Order required Edison to make a compliance filing (TO Tariff Compliance) that revises its definition of Transmission Revenue Credits in its TO Tariff.

⁴Pacific Gas and Elec. Co., *et al.*, 100 FERC ¶ 61,156 (2002) (Opinion No. 458).

⁵Pacific Gas and Elec. Co., *et al.*, 101 FERC ¶ 61,151 (2002) (Opinion No. 458-A).

⁶Specifically, ordering paragraph (B) of Opinion No. 458 required that a refund report be filed within 30 days of disposition of any request for rehearing. *See* Order No. 458, 100 FERC ¶ 61,156 at 61,574.

⁷*See* February 21 Order, 102 FERC ¶ 61,187 at P 25 n.25 (citing Notice of Extension of Time, Pacific Gas and Elec. Co., *et al.*, Docket Nos. ER97-2358-002, *et al.* (2002)).

II. Edison's Request for Clarification

5. Edison seeks clarification that it has met all of its TO Tariff Compliance obligations (as required by the February 21 Order) and its compliance obligations in the 458 Proceedings. According to Edison, in order to meet its compliance obligations under the 458 Proceedings, it filed two compliance tariffs: the TO Tariff Filing and its Wholesale Distribution Access Tariff filing.⁸ Furthermore, Edison states that (as it previously explained in its transmittal letter to the TO Tariff Filing) it has not included ETC-related costs in its TRBAA calculations for the calendar year 2003.⁹ Edison also notes (as it stated in its answer to the Public Utilities Commission of the State of California's (CPUC) comments in the TO Tariff Filing proceeding) that it did not include any of those costs in prior TRBAA update filings. Therefore, Edison maintains that it does not owe refunds to its TO Tariff customers. Because it has no refunds to report to the Commission, Edison states that it should not be required to file a refund report, as directed by the 458 Proceedings.

6. In addition, Edison maintains that the Commission's statement in the February 21 Order that "the Commission granted an extension of time (to and including March 3, 2003) for Edison to comply with the Commission's directive to submit a refund report"¹⁰ could be construed to mean that Edison is under an obligation to file a refund report with the Commission relating to the ETC-related costs. Edison states that it has never sought nor received that extension. Rather, Edison points out that on November 22, 2002 it sought an extension of time until December 31, 2002 to file its refund report and that on November 26, 2002 the Commission granted that request.

⁸See Docket Nos. ER97-2355-008, *et al.* (2003) (accepting revisions to the Wholesale Distribution Access Tariff, which specifies the rates, terms, and conditions for wholesale use of Edison's distribution system).

⁹In particular, Edison claims that it has not cross-subsidized its ETC customers by recovering, through the TRBAA and the associated rates (*i.e.*, transmission rates) that are proposed for 2003 in the TO Tariff Filing, any ETC-related costs from its TO Tariff customers and, therefore, these rates are at a level that is consistent with Opinion Nos. 458 and 458-A.

¹⁰February 21 Order, 102 FERC ¶ 61,187 at P 29.

III. Commission's Response

7. We grant Edison's request for clarification that it has met all of its TO Tariff Compliance obligations, as required in the February 21 Order. In this regard, we note that the Commission is issued a delegated order on June 5, 2003 that accepted Edison's TO Tariff Compliance.¹¹

8. Edison states that because it does not have any refund liability with regard to ETC-related costs, it has satisfied the requirements of the 458 Proceedings and, therefore, the Commission should clarify that it is not required to file a refund report. We deny Edison's request.

9. In the February 21 Order, the Commission stated that:

"With regard to the CPUC request that the TRBA balance be increased by a refund to customers of amounts improperly withheld in the past by Edison, we believe that this proceeding (which concerns revisions and updates to Edison's TO Tariff) is not the proper forum to address that matter. Opinion Nos. 458 and 458-A involve the issue of previously recovered ETC-related costs by Edison; therefore, that proceeding is the proper forum for the CPUC to pursue its argument that such ETC-related costs should be refunded to customers of Edison's TO Tariff."¹²

We still continue to believe that the refund report must be filed in the 458 Proceedings. Accordingly, we reiterate that Edison must file its refund report with supporting documentation so that the Commission can review its position that it has no refund liability and to afford interested parties in the 458 Proceedings an opportunity to comment on that position.¹³

¹¹Docket No. ER03-338-001.

¹²February 21 Order, 102 FERC ¶ 61,187 at P 29 n.25.

¹³In addition, we agree with Edison that it was not granted an extension until March 3, 2003 to submit a refund report regarding ETC-related costs it collected from TO Tariff customers. However, we note that Edison was granted such an extension until December 31, 2002 to file its refund report.

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The Commission orders:

Edison's requests for clarification are granted and denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.