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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Authority to Increase Rates for its Class C Catalina Water Utility and Recover Costs from Water and Electric Customers.	**Application No. A.20-10-018** (Filed October 30, 2020)

REPLY BRIEF OF CATALINA PARTIES

RE SCOPING ISSUES 2-B-i and 2-C-i

CATALINA PARTIES:

CITY OF AVALON
CATALINA ISLAND CHAMBER OF COMMERCE
SANTA CATALINA ISLAND COMPANY
SANTA CATALINA ISLAND CONSERVANCY
GUIDED DISCOVERIES
HAMILTON COVE HOMEOWNERS ASSOCIATION

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March 19, 2021

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INTRODUCTION

> **The primary purpose of the Public Utilities Act, Gen.Laws, Act 6386, is to insure the public adequate service at reasonable rates without discrimination.** (Emphasis added) (*Pacific Telephone & Telegraph Co. v Public Utilities Commission of State* (1950) 34 Cal. 2d 822 at 827)

"[A]dequate service at reasonable rates without discrimination" -- this is what the Catalina Parties are trying to achieve for the water ratepayers on Catalina Island. Isn't that the number one principle of ratemaking? Shouldn't that be the goal of all of the parties? Is achieving that goal solely the responsibility of the Commission? TURN states "that SCE has placed the Commission in a difficult position" and notes that if all of the costs are put on water ratepayers "the rate impacts would be eye-popping." Hasn't SCE put all parties, not just the Commission, is a difficult position?

No one's position is more difficult than that of the Catalina Island water ratepayers, represented by the Catalina Parties. They cannot come up with solutions. They are already paying some of the highest rates in California. Who can they look to? The Water Division according to the Commission's website "is responsible for ensuring that California's investor-owned water utilities deliver clean, safe, and reliable water to their customers at reasonable rates." TURN and Cal Advocates claim to represent the interests of ratepayers. Does that include water ratepayers on Catalina Island?

Catalina Parties believe that SCE's water utility is a tiny sideline operation of a giant electric company. It is not a stand-alone water company; it has not been operated as a stand-alone water company and it should not be treated as one.

There are six large electric companies in California regulated by the Commission. Ratemaking rules have been developed **for those electric companies**. As will be shown below, TURN and Cal Advocates want to apply those rules to this tiny water company. SCE's water company is an anomaly. It is hard to apply rules to an anomaly.

Some of SCE's mainland electric ratepayers visit Catalina Island and benefit from the availability of water. TURN and Cal Advocates treat this fact as the sole justification being offered for the transfer. It is one fact to be considered, not the sole justification.

TURN and Cal Advocates state that they do not like the solutions SCE has proposed and demand that SCE come up with different solutions. Catalina Parties see only one solution - recognize this tiny water operation for what it is - a tiny part of SCE's electric operation. Then, assure that it is properly run and that the costs approved and rates charged are just and reasonable.

ARGUMENT

1. THE CURRENT COST OF WATER ON CATALINA ISLAND IS EYEPOPPING

Catalina Parties' expert compared the Annual Operating Revenue Per Customer of 10 of the 19 Class C water companies as reflected in their 2019 Annual Reports:

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CPUC Class C Water Companies 2019 Annual Reporting (largest 10 of 19)			
Company	**Operating Revenue**	**Active Services/Meters**	**Annual Operating Revenue/Customer**
Catalina (SCE)	**$3,629,454**	**1992**	**$1,822**
Bass Lake	**$888,828**	**964**	**$922**
Erskine Creek	**$938,376**	**1271**	**$738**
Fulton	**$858,462**	**955**	**$899**
Graeagle	**$604,324**	**1166**	**$518**
Lukins Bros	**$1,073,065**	**982**	**$1093**
North Gualala	**$1,389,746**	**1030**	**$1349**
Rogina	**$877,929**	**1052**	**$834**
Searles	**$586,765**	**1245**	**$471**
Sea Ranch	**$2,376,504**	**1868**	**$1272**

Ten Company Sample:

Average Annual Revenue per customer: $992 (or $83/month)

Catalina (SCE) as a percentage of sample average: 184%

Catalina (SCE) as a percentage of next highest cost company (N. Gualala): 135 %[1]

SCE's Annual Operating Revenue Per Customer is much higher than that of other Class C water companies by a huge factor, and it is also higher than Class A and Class B water companies.[2] **A 600% increase as proposed by SCE in its Supplemental Testimony would increase its Annual Operating Revenue Per Customer from $1,822 to $10,932.**[3] Calling such an increase eyepopping is an understatement. For water ratepayers on Catalina Island, it would be catastrophic.

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[1] Brian J, Brady Testimony, Appendix A.
[2] *Id.*
[3] SCE 08, p. 18.

2. RATEMAKING RULES DEVELOPED FOR LARGE ELECTRIC COMPANIES ARE NOT DETERMINATIVE OF WHAT IS JUST AND REASONABLE FOR A TINY WATER UTILITY

Cal Advocates relies on a single decision of the Commission, D.15-07-001, as its basis for opposing any transfer of water utility costs to SCE mainland ratepayers. D.15-07-001 has nothing to do with water utilities. It was "a three-year long examination of proposed rate reforms for the three major investor-owned [electric] utilities in California."[4] Every nuance of electric ratemaking was considered. There was no consideration of water utility ratemaking, let alone the challenges facing a tiny water utility on an island off the coast of California. The Decision recognized that "[h]istorically, the determination of just and reasonable has emphasized cost-causation,"[5] but the Decision goes on to recognize that even this is not a hard and fast rule, adopting the following rule:

> 7. Rates should generally avoid cross-subsidies, **unless the cross-subsidies appropriately support explicit state policy goals. (Emphasis)** [6]

It is an explicit state policy goal that public utilities provide "the public adequate service at reasonable rates without discrimination." Sometimes it takes cross-subsidies to achieve this explicit state policy.

Cal Advocates urges that ratepayers should not have to pay for costs they did not cause. There are two sides to the cost-causation argument. SCE seeks the following:

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[4] D.15-07-001, p. 1.
[5] *Id*. at p. 2.
[6] *Id*. at p. 28.

Table II-3[7]

Catalina Water Drought Related Memorandum Accounts Revenue Requirements Estimated as of December 31, 2021 Summary of Request

Description	Amount	Interest	FF&U	Total
Catalina Water Lost Revenue Memo Account	5,915,029	532,013	76,984	6,524,026
Catalina Water Rationing Memo Account	4,562,640	452,028	59,880	5,074,548
Total	10,477,669	984,042	136,863	11,598,574

These costs were caused by the drought. **Water ratepayers on Catalina Island did not cause the drought.** In support of an explicit state policy to conserve water, water ratepayers rose to the challenge and reduced consumption by 40%.[8] As a result, SCE did not receive revenue it anticipated, including Franchise Fees and Uncollectable Expenses, totaling approximately $6,000,000. In other words, water ratepayers are being asked to pay **for water they did not use in accordance with an explicit state policy, together with interest, brought about by a condition they did not cause**. When water ratepayers understand this, they may want to resort to torches and pitchforks. They would have been better off using the water. They would have had the benefit of the water and not have to pay $532,013 in interest.

TURN also relies on Commission Decisions involving electric utilities as supporting its opposition to passing any costs to SCE's mainland electric ratepayers. D.97-05-088 involved the shutdown of the Diablo Canyon nuclear plant, about as far as you can get from a tiny water utility on an island. This resulted in a reduction in property taxes and the local county wanted PG&E to make up the loss, even though the loss was completely unrelated to the production of electricity. Not surprisingly, the Commission rejected charging electric ratepayers for this unrelated loss:

[7] SCE 06, p. 28.
[8] SCE 01, p. 20.

> A utility cannot charge ratepayers costs that are unrelated to the provision of any product or commodity or service, and the Commission cannot lawfully order such charges.[9]

The costs SCE seeks to pass on to its mainland electric ratepayers are not unrelated to any commodity or service. They are related to the provision of water by a tiny operation on an island by a giant electric utility.

D.09-03-025 relied on by TURN involved SCE and its affiliate companies. Not surprisingly, the Commission held that an affiliate's costs should be paid by the affiliate, not the parent's electric ratepayers. SCE's water operation on Catalina Island is not an "affiliate." It is an operation of the parent by thirteen employees of the parent who are compensated just the same as other employees of the parent.

D.08-11-032 relied on by TURN involved a combined electric and gas company seeking approval to contract for out-of-state gas capacity to benefit its electric generation operation and to increase the supply available to its gas customers. The Commission held, not surprisingly, that the cost for the extra capacity should not be paid by only one of the operations but that each operation should pay for its share of the cost.

What is common to the decisions relied on by Cal Advocates and TURN is that each was decided by the Commission based upon the facts presented and the reasonable inferences drawn from the facts. They were not decided without considering the evidence, which is what Catalina Parties urged from the beginning and which TURN now wants to do.[10]

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[9] D.97-05-088 (1997 Cal. PUC LEXIS 453, *99; 72 CPUC2d 560, 602)

[10] TURN's Opening Brief, pp. 17-18.

3. THAT SOME OF SCE'S MAINLAND ELECTRIC RATEPAYERS GO TO CATALINA ISLAND IS A FACT TO BE CONSIDERED, NOT THE SOLE JUSTIFICATION FOR THE TRANSFER OF COSTS

Some of SCE's mainland electric ratepayers visit Catalina Island as tourists and benefit from the water provided by SCE. Children from SCE's electric service area go to the eight campgrounds. Some of those same children attend USC's extensive education programs on the Island. Additionally, some may go to the Island to work on conservation projects. These are all facts that everyone can agree upon. However, nowhere, as asserted by TURN and Cal Advocates, does SCE claim that simply because of these facts, its mainland electric ratepayers should bear a substantial portion of its water operation costs. They are facts the Commission can consider.

Cal Advocates likes to create unrealistic syllogisms with undistributed middles to denigrate an assertion that SCE never made - just because some SCE mainland electric ratepayers are tourists to Catalina Island, all of SCE's mainland electric ratepayers should pay some of the costs of providing water on the Island.[11] A more realistic syllogism reflecting Cal Advocates' position is as follows:

1. Some of SCE's mainland electric ratepayers go to Catalina as tourists.
2. Unless all of SCE's mainland ratepayers go to Catalina Island as tourists, no costs for providing water can be charged to them.

Therefore, Catalina Island water ratepayers should pay eyepopping rates in order to provide water for tourists.

OR

1. Unless alternative sources are found, Catalina Island ratepayers will pay eyepopping rates.

[11] Cal Advocates' Opening Brief, p. 6, Footnote 30.

2. The purpose of the Public Utility Code is "to insure the public adequate service at reasonable rates," but not on Catalina Island.

Therefore, Catalina Island ratepayers should pay eyepopping rates.

4. RECOGNIZE SCE'S WATER OPERATION AS PART OF SCE'S ELECTRIC OPERATION

The Commission, all parties to this proceeding, and the Catalina Island water ratepayers are all faced with multiple past and ongoing problems. The money SCE seeks from its mainland electric ratepayers is for **past** problems. It does nothing to solve future ongoing problems or past problems such as the proposed $28,000 million SCE will seek "for certain environmental remediation activities that SCE will be taking in connection with the Catalina water system, including assessment, removal, and disposal of decommissioned pipeline, both below and above-ground"[12] Requiring SCE's shareholders to pay for these past costs as well as a substantial portion of ongoing costs is not a solution. What then is SCE's motivation to provide "adequate service"? People on Catalina Island have been frustrated for years because they cannot obtain approval for new water connections - for example, for much needed housing for summertime employees.

Unreasonable rates will simply drive ratepayers to use less and less water as they have in the past, exacerbating the problems. Raising rates to recover lost income leads to more lost income.

SCE has proposed various solutions that were basically rejected by Cal Advocates and TURN. No one has addressed whether the Commission, **in this proceeding**, can add a fee to the cost of a ferry ticket. The ferry service is not a party. Catalina Parties have been unable to find any precedent for such an outcome.

[12] A-116-W filed January 28, 2020, subsequently withdrawn.

Cal Advocates rejects SCE's proposals but does not suggest any alternative solutions, urging that it is solely up to SCE to come up with solutions. TURN proposes some additional solutions. Some kick the can down the road. Some proposed solutions, such as grant funds, third-party contributions and a lodging tax, are outside of the control of the Commission. TURN refences third party contributions referred to by SCE as a source. The third-party contributions SCE referred to are from the Department of Water Resources and governmental entities for desalination, some of which must be repaid. The Gates Foundation is not going to pay for the ongoing costs of water on Catalina Island.

Catalina Parties have been looking for solutions ever since rates were raised in 2007 without any input from water ratepayers who had been lulled to sleep because SCE went 22 years without raising rates. What was not done in that 22-year period is what underlies many of the current problems.

Catalina Parties raised all of the issues now facing the Commission in the Previous GRC. As should be evident from the current GRC, the All Parties Settlement in the Previous GRC did not solve the fundamental problem: SCE's water operation is a tiny water company run as a sideline by a giant electric company that provides water for a small number of customers on an island. It is an anomaly. Anomalies do not fit the rules.

Catalina Parties see only one solution - recognize SCE's water operation as part of SCE's electric operation and regulate it within that context. And yes, mainland electric ratepayers and SCE's shareholders will have to pay some of the costs. Sometimes a *de minimis* charge borne by many is the only solution.

CONCLUSION

Solving a problem begins by accurately defining the problem. The problem is not just who, if anyone, will pay the $30 million in past costs SCE seeks. The problems also include who is going to pay the anticipated extraordinary expenses already disclosed by SCE, and how can a small number of ratepayers pay SCE's costs of operation which greatly exceed those of comparable Class C water companies?

Solving these problems will not be easy.

Respectfully submitted,

BISHTON • GUBERNICK

By: _*/s/ Norris J. Bishton, Jr.*
Norris J. Bishton, Jr.
Attorneys for Protestants

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APPENDIX A

ADDITIONAL TESTIMONY OF BRIAN J. BRADY, P.E., RE ALTERNATIVE COST RECOVERY APPROACHES

I have over 35 years of engineering and management experience in both the public and private sectors of Western electric and water utilities. My qualifications are described in detail in Exhibit 1 to Catalina Parties' Opening Brief.

1. I have reviewed the Operating Revenue as against the Active Service/Meters for the water utilities regulated by the California Public Utility Commission as reported in their 2019 Annual Reports. Based upon that review, I made the following determinations.

a) Southern California Edison Company's (SCE) current revenue per customer is higher than that of any Class A or Class B water company.

b) The following is a comparison of SCE current Annual Operating Revenue/Customer with other Class C water companies:

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CPUC Class C Water Companies 2019 Annual Reporting (largest 10 of 19)			
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c) Small Class D companies are not comparable because most are individually run by owner-managers with an entirely different cost structure.