124 FERC ¶ 61,308
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Southern California Edison Company | Docket Nos. ER08-1343-000
ER08-1353-000
(consolidated)

ORDER ACCEPTING AND SUSPENDING PROPOSED RATES, CONSOLIDATING PROCEEDINGS, AND ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued September 30, 2008)

1. In this order, the Commission accepts for filing Southern California Edison Company's (SoCal Edison) proposed transmission rates in Docket No. ER08-1343-000 and suspends them for five months, to become effective on March 1, 2009, subject to refund. In addition, the Commission accepts for filing SoCal Edison's proposed revisions in Docket No. ER08-1353-000 to certain path-specific Existing Transmission Contracts (ETCs) to reflect a transition to a postage stamp method of rate determination and suspends them for five months, to become effective on March 1, 2009, subject to refund. Finally, the Commission consolidates these two proceedings and establishes hearing and settlement judge procedures.

I. Background

2. In March 1997, SoCal Edison filed its original Transmission Owner Tariff (TO Tariff) for utility-specific rates for transmission service on its facilities under the operational control of the California Independent System Operator Corporation (CAISO). In December of that year, the Commission accepted SoCal Edison's TO Tariff for filing, suspended it, and permitted it to become effective, subject to refund, on the date the CAISO began operation (which occurred on April 1, 1998).[1] In January 2002, SoCal

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[1] *See Pacific Gas & Elec. Co.*, 81 FERC ¶ 61,323 (1997), *order on reh'g*, 82 FERC ¶ 61,324 (1998).

Edison filed its first proposed revisions to its TO Tariff. The revisions were accepted for filing, suspended, subject to refund, and set for hearing and settlement judge procedures.[2] In November 2005, SoCal Edison again filed revisions to its TO Tariff. Those revisions were accepted for filing, suspended, subject to refund, and set for hearing and settlement judge procedures.[3]

II. SoCal Edison TRR Filing in Docket No. ER08-1343-000

3. On August 1, 2008, SoCal Edison filed proposed revisions to its TO Tariff, reflecting changes to its transmission revenue requirement (TRR)[4] and transmission rates for customers taking service, pursuant to the CAISO's Open Access Transmission Tariff (CAISO Tariff) and SoCal Edison's TO Tariff, over SoCal Edison's transmission facilities. Specifically, SoCal Edison proposes to revise its TO Tariff to reflect, among other things: (1) an increase in the TRR and associated transmission rate levels applicable to retail and wholesale transmission customers taking service under SoCal Edison's TO Tariff and the CAISO Tariff; (2) an increase in the rates of certain ETCs that are currently subject to the High Voltage Existing Contracts Access Charge as set forth in the TO Tariff; and (3) modifications to the TO Tariff and the Transmission Revenue Balancing Account Adjustment (TRBAA) to flow through to transmission customers' transmission service revenues associated with ETCs and to eliminate the ETC Cost Differentials Surcharge for retail and wholesale customers.

4. SoCal Edison proposes to increase its 2009 TRR from $277 million to $453 million for wholesale customers, which is an increase of 63 percent. SoCal Edison also proposes to increase its 2009 retail TRR from $334 million to $463 million, which is an increase of 39 percent. In addition, SoCal Edison proposes to modify its TO Tariff to reflect ETC revenues as a credit to the TRBAA, rather than a credit offsetting the base TRR. SoCal Edison proposes to reduce the TRBAA rate to eliminate the ETC Cost

[2] *See Southern California Edison Co.*, 99 FERC ¶ 61,032 (2002). The Commission approved SoCal Edison's uncontested Offer of Settlement by Letter Order on December 24, 2002.

[3] *See Southern California Edison Co.*, 114 FERC ¶ 61,108 (2006). The Commission approved SoCal Edison's uncontested Offer of Settlement by Letter Order on July 6, 2006.

[4] "The TRR is the total annual authorized revenue requirements associated with transmission facilities and Entitlements turned over to the Operational Control of the ISO by the Participating TO." SoCal Edison TO Tariff, section 3.107.

Differentials Surcharge for retail and wholesale transmission customers effective on October 1, 2008, pursuant to TO Tariff section 5.5.1.

5. Finally, SoCal Edison proposes to flow through to Commission-jurisdictional transmission customers a share of the non-tariff products and services revenues allocated by the California Public Utilities Commission (CPUC) to rate payers associated with SoCal Edison's CPUC-adopted gross revenue sharing mechanism.

6. SoCal Edison states that the primary reason for its transmission rate increase is the increase in capital-related costs associated with the large amount of new capital investment SoCal Edison is expecting to place into service and increases in transmission operating and maintenance expenses. SoCal Edison requests that the Commission authorize a return on equity (ROE) of 12.70 percent. According to SoCal Edison, that amount is composed of (1) a base ROE of 12.0 percent, which reflects SoCal Edison's estimated cost of securing equity capital; (2) an adder to the ROE of 0.5 percent (i.e., a 50 basis point adder) in order to compensate SoCal Edison for participation in the CAISO; and (3) a 0.2 percent adder associated with certain transmission facilities to be placed into service in 2009 that were granted incentive ROE adders in Docket No. EL07-62-000.[5]

7. SoCal Edison requests that the Commission accept the proposed transmission rates to become effective on October 1, 2008, without further investigation or hearing. In the event that the Commission determines that the filing requires further investigation and should be set for hearing, SoCal Edison asks that the Commission suspend the proposed rates for a nominal period, rather than the maximum five-month period. SoCal Edison recognizes the principles set forth in *West Texas Utilities Company*.[6] But SoCal Edison notes that the Commission will not impose the maximum suspension when such suspension will lead to "harsh and inequitable results" and that the Commission retains flexibility in making suspension decisions and may take judgmental figures into account. Thus, SoCal Edison argues that the implementation of regional transmission organizations and independent system operators has significantly reduced the amount of flexibility and control utilities have over their capital and operation and maintenance (O&M) expenditures and that the Commission's focus on removing obstacles to the construction of new transmission capacity and providing incentives for that construction render a five-month suspension inappropriate and punitive. SoCal Edison states that, in

[5] Southern California Edison Co., 121 FERC ¶ 61,168 (2007)

[6] 18 FERC ¶ 61,189 (1982) (*West Texas*).

this present case, a five month suspension would effectively eliminate the ROE incentive adder for its participation in the CAISO and the project incentives for the Rancho Vista project[7] and a portion of the Tehachapi project[8] entering service in 2009. Therefore, SoCal Edison argues that, even if the Commission finds that its proposed rates may be substantially excessive, a five-month suspension is inappropriate because such a ruling will lead to "harsh and inequitable results" by decreasing SoCal Edison's ROE below a just and reasonable level.

III. SoCal Edison ETC Filing in Docket No. ER08-1353-000

8. On August 4, 2008, SoCal Edison filed revisions to its TO Tariff and to certain ETCs to reflect a proposed transition of seven ETCs from path-specific pricing[9] to a postage stamp rate methodology.[10] The proposed postage stamp rate is based on SoCal

[7] The Rancho Vista project includes a proposed new 500 kV substation, expected to go into service in June of 2009. The Rancho Vista project will provide increased capability for SoCal Edison to interconnect and deliver to load centers renewable generation proposed to be constructed in California and Nevada. *See* SoCal Edison May 18, 2007 Transmittal Letter, Docket No. EL07-62-000 at 3, 19. The Rancho Vista project was granted incentive adders by the Commission in 2007 in Docket No. EL07-62-000. *See Southern California Edison Co.*, 121 FERC 61,168 (2007).

[8] The Tehachapi project is an integrated transmission development project that will make possible interconnection of 4,500 MW of generating resources expected to be located in the wind-rich Tehachapi region. *See* SoCal Edison May 18, 2007 Transmittal Letter, Docket No. EL07-62-000 at 2. The Tehachapi project was granted incentive adders by the Commission in 2007 in Docket No. EL07-62-000. *See Southern California Edison Co.*, 121 FERC 61,168 (2007).

[9] SoCal Edison's path-specific pricing was determined based on the costs of specific transmission facilities along a contractually-defined transmission path as stated in each ETC. Path-specific pricing considered the cost of transmission facilities located within SoCal Edison's transmission hub (the Los Angeles Basin), as well as the cost of the individual transmission facilities extending beyond the basin that comprised the actual contract path.

[10] SoCal Edison states that it currently has five ETC customers with a total of seven ETCs that use a path-specific rate. SoCal Edison proposes to revise two ETCs with the City of Vernon, California (Vernon), two with the State of California Department of Water Resources (CDWR), one with Arizona Electric Power Cooperative Inc. and Southwest Transmission Cooperative Inc. (AEPCO/Southwest Transmission), one with

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Edison's updated TRR, as filed with the Commission on August 1, 2008, in Docket No. ER08-1343-000. SoCal Edison requests an effective date of October 1, 2008 for transition of the ETCs.[11]

9. SoCal Edison contends that the transition of these seven ETCs from a path-based rate to a postage stamp rate is reasonable for several reasons. Specifically, SoCal Edison argues that the Commission has historically supported use of postage stamp rates and that the CAISO currently relies on a postage stamp rate methodology. SoCal Edison adds that its proposed postage stamp rate is structured in a similar manner. SoCal Edison notes that it has previously negotiated the transition of several other ETCs from path-specific to postage stamp rates. SoCal Edison contends that its proposal here is a continuation of that transition process.

10. SoCal Edison states that the ETCs it proposes to revise were signed prior to 1998 and the establishment of the CAISO. SoCal Edison adds that, in conjunction with the establishment of the CAISO, SoCal Edison became a Participating Transmission Owner (PTO) and turned over operational control of its transmission facilities to the CAISO. Therefore, SoCal Edison explains that the CAISO has been the control area operator for SoCal Edison's transmission system and has scheduled the transmission service taken by customers since that time.

11. According to SoCal Edison, the CAISO prices its transmission services through the Transmission Access Charge, which is a postage stamp rate. Under the Transmission Access Charge, each PTO in the CAISO splits its total TRR into a High Voltage TRR

Imperial Irrigation District (Imperial), and one with M-S-R Public Power Agency (M-S-R). SoCal Edison states that the ETC path-specific rates were based on the costs of specific transmission facilities along the contractually-defined transmission path stated in the ETC. SoCal Edison further states that a postage stamp rate recognizes that all network transmission customers benefit from the existence of the transmission network as a whole, and therefore should share in the network costs.

[11] SoCal Edison requests an effective date of October 1, 2008 for its proposed TRR and the ETC revisions. It appears from the date of the transmittal letter that SoCal Edison intended to file its proposed ETC revisions on the same date that it filed its updated TRR (i.e, August 1, 2008). However, the ETC filing was not filed with the Commission until August 4, 2008.

component and a Low Voltage TRR component.[12] According to SoCal Edison, the CAISO uses the High Voltage TRR components of all of its PTOs to determine its high voltage access rate charges. SoCal Edison adds that each CAISO PTO collects the Low Voltage TRR components from its own customers. SoCal Edison states that it has implemented the postage stamp rates for other ETCs by including in its TO Tariff two separate rates: (1) the High Voltage Existing Contracts Access Charge, and (2) the Low Voltage Existing Contracts Access Charge.[13] SoCal Edison argues that these rates are similar to the CAISO transmission methodology because SoCal Edison's ETC rates are (1) based on the aggregated costs of its network transmission facilities, and (2) disaggregated into high and low voltage rate components to assure that ETC customers that do not use low voltage facilities are not required to pay the costs of these facilities.

12. SoCal Edison further states that, in addition to conforming to Commission policy, alignment of its ETC rate methodology with the CAISO's transmission pricing structure will ensure that ETC customers and CAISO transmission customers pay for similar transmission services on a comparable basis. In support of its position, SoCal Edison contends that ETC and non-ETC customers share similar curtailment conditions on the CAISO transmission system, and the CAISO sets aside transmission capacity to accommodate the rights of the ETC customers. SoCal Edison argues that this is a substantial benefit that non-ETC customers do not receive from the CAISO. Therefore, SoCal Edison claims that principles of comparability and fairness support the adoption of postage stamp rates for the seven ETCs at issue in this filing.

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[12] The High Voltage TRR component is the cost of transmission facilities that operate with a voltage of greater than 200 kV. The Low Voltage TRR component is the cost of transmission facilities that operate with a voltage less than 200 kV.

[13] The High Voltage Existing Contracts Access Charge is calculated by dividing SoCal Edison's High Voltage TRR component by the sum of twelve monthly peak loads for SoCal Edison's retail transmission customers. Similarly, the Low Voltage Existing Contracts Access Charge is determined by dividing SoCal Edison's Low Voltage TRR component by the sum of twelve monthly peak loads for SoCal Edison's retail transmission customers. ETCs that are strictly high voltage pay only the High Voltage Existing Contracts Access Charge rate; ETCs that are high and low voltage pay both the High Voltage Existing Contracts Access Charge and the Low Voltage Existing Contracts Access Charge rates. These rates are applied to the contracted kW of demand stated in the ETC. SoCal Edison proposes to apply the High Voltage Existing Contracts Access Charge to the seven ETCs affected by this filing.

IV. Notice of Filing and Responsive Pleadings

A. ER08-1343-000

13. Notice of SoCal Edison's Transmission Rate Filing in Docket No. ER08-1343-000 was published in the *Federal Register*, 73 Fed. Reg. 46,622 (2008), with comments, protests, and interventions due on or before August 22, 2008. On August 22, 2008, the Commission extended the date for interventions and protests to August 29, 2008.

14. Timely, unopposed motions to intervene were filed by Atlantic Path 15 LLC; San Diego Gas & Electric Company; Imperial; Pacific Gas and Electric Company (PG&E); Vernon; and Energy Producers & Users Coalition. Timely, unopposed motions to intervene and protests were filed by the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (Six Cities); CDWR; the City of Los Angeles Department of Water and Power (LADWP); M-S-R; Golden State Water Company (Golden); Transmission Agency of Northern California (TANC); AEPCO/Southwest Transmission; the State Water Contractors (SWC); Metropolitan Water District of Southern California (Metropolitan); the City of Santa Clara, California (Santa Clara) and the City of Redding, California (Redding); Modesto Irrigation District (Modesto); and Northern California Power Agency (NCPA).[14] The CPUC filed a notice of intervention and protest. On September 8, 2008, SoCal Edison filed an answer to these protests. On September 22, 2008, M-S-R filed an answer to SoCal Edison's answer. On September 23, 2008, Six Cities filed its Motion to Reject section III.A of SoCal Edison's answer, or in the alternative, its response to SoCal Edison's answer. SoCal Edison filed an answer to M-S-R's and Six Cities' answers on September 25, 2008.

Comments and Protests

15. The protestors object to various aspects of SoCal Edison's proposal. Among other things, they state that the following proposed revisions to SoCal Edison's TO Tariff appear to be unjust and unreasonable: the 12 percent base ROE; the projected transmission capital additions; the increase in SoCal Edison's O&M expenses; the increase in SoCal Edison's depreciation rates; the increase in SoCal Edison's administrative and general expenses; the transmission labor allocator; the increase in land

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[14] SWC and Metropolitan adopt and concur with CDWR's protest. Santa Clara, Redding and Modesto adopt and concur with M-S-R's protest. NCPA adopts and concurs with the protests of TANC, M-S-R and Six Cities.

held for future use; and the treatment of ETC revenues as a credit to the TRBAA, rather than as a credit offsetting the base TRR.

16. Since the protestors state that SoCal Edison's proposed revisions to its TO Tariff have not been shown to be just and reasonable, they request that the Commission suspend SoCal Edison's proposed revisions and establish hearing procedures to review SoCal Edison's proposed revisions. In addition, the protestors maintain that, because SoCal Edison's proposed rate increases are likely to be substantially excessive, the Commission should impose the maximum five-month suspension period.

B. ER08-1353-000

17. Notice of SoCal Edison's ETC filing in Docket No. ER08-1353-000 was published in the *Federal Register*, 73 Fed. Reg. 49,179 (2008), with comments, protests, and interventions due on or before August 25, 2008. On August 28, 2008, the Commission extended the date for interventions and protests to September 3, 2008.

18. Timely, unopposed motions to intervene in the ETC filing were filed by PG&E, the CPUC, LADPW, and Six Cities. Timely, unopposed motions to intervene and protests were filed by SWC, CDWR, Metropolitan, M-S-R, AEPCO/Southwest Transmission, TANC, Modesto, Santa Clara and Redding, and Vernon.[15] Answers were filed by SoCal Edison and M-S-R. On September 25, 2008, SoCal Edison filed an answer to M-S-R's answer.

Comments and Protests

19. Several protestors filed motions to reject SoCal Edison's ETC filing, arguing that it is a unilateral rate filing that is not permitted by the underlying contracts or otherwise abrogates the terms of the ETCs; the adverse rate and financial impacts as a result of SoCal Edison's proposal would be substantial, while the ETC customers would receive no additional or improved service consequent to the ETC filing; it is unjust and unreasonable for SoCal Edison to charge postage stamp rates for contracts that do not provide network service; it is unjust and unreasonable for SoCal Edison to impose a demand charge on service that is not firm, reserved transmission; it is unjust and unreasonable for SoCal Edison to double-charge ETC customers (once for CAISO

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[15] SWC adopts and incorporate` CDWR's protest. TANC, Modesto, Santa Clara and Redding adopt and incorporate the protest of M-S-R.

transmission service in the SoCal Edison area, and a second time for limited point-to-point ETC service).

20. In addition, several protestors argue that the ETCs are related to the use of specific paths and facilities and that it was agreed by the parties that the rates should only reflect the costs of those facilities, plus an appropriate rate of return. They also contend, among other things, that SoCal Edison's filing contains no plausible rationale for its proposed ETC changes and it is unjust and unreasonable for SoCal Edison to unilaterally impose on ETC customers charges other than those bargained for. Protestors further argue that SoCal Edison has not met the public interest standard set forth under *Mobile-Sierra*[16] and, therefore, claim that SoCal Edison cannot propose unilateral changes to the ETCs. Numerous parties request that the Commission reject SoCal Edison's ETC filing, or, in the alternative, consolidate the ETC filing with the TRR filing for purposes of suspension, hearing and settlement.

V. Discussion

A. Procedural Matters

21. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make those submitting them parties to this proceeding.

22. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits answers to protests and answers to answers unless otherwise ordered by the decisional authority. We are not persuaded to accept answers submitted by SoCal Edison, Six Cities, or M-S-R and will, therefore, reject them.

23. Because of the common issues of fact and law in the transmission rate and the ETC proceedings, we will grant the parties' motions to consolidate those proceedings. In addition, because the rates that SoCal Edison proposes to apply to the ETCs are dependent upon evidence in the transmission rate proceeding, consolidation of these two proceedings is administratively efficient and will avoid duplicative litigation.

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[16] *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 322 (1956); *FPC v. Sierra Pacific Power Co.*, 350 U.S. 348 (1965).

B. Hearing and Settlement Judge Procedures

24. SoCal Edison's proposed modifications to its TO Tariff and ETCs 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 ordered below. At the hearing, the presiding judge shall consider the justness and reasonableness of all issues arising out of SoCal Edison's proposed TRR as well as its proposal to revise certain path-specific ETCs to reflect a transition to a postage stamp method of rate determination.

25. 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.[17] Our preliminary analysis indicates that SoCal Edison's proposed changes to its TO Tariff and ETCs, as well as other modifications it proposes, have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. In addition, our preliminary analysis indicates that SoCal Edison's proposed rate increase may be substantially excessive. In *West Texas*, the Commission explained that when our preliminary analysis indicates that proposed rates may be unjust and unreasonable and substantially excessive, the Commission will generally impose a maximum suspension (i.e., five months).[18] Our preliminary analysis further indicates that SoCal Edison has failed to demonstrate that a five-month suspension in this case will produce harsh and inequitable results. We note that SoCal Edison is in control of when it files to change rates and the magnitude of its proposed rate increase pursuant to FPA section 205. Therefore, we will accept SoCal Edison's proposed changes for filing, suspend them for the maximum five-month period, make them effective March 1, 2009, subject to refund, and set them for hearing and settlement judge procedures.

26. While we are setting these matters for a trial-type evidentiary hearing, 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

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[17] *See Southern California Edison Company*, 121 FERC ¶ 61,168 (2007) (Incentive Order).

[18] 18 FERC ¶ 61,189, at 61,374-75 (explaining that the Commission will suspend a proposed rate for the maximum period, five months, if the proposed rate increase is found to be "substantially excessive"); *accord Tucson Elec. Co.*, 76 FERC ¶ 61,235, at 62,147, n.25-26 (1996).

of the Commission's Rules of Practice and Procedure.[19] 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.[20] The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. 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.

The Commission orders:

(A) SoCal Edison's proposed transmission rates are hereby accepted for filing and suspended for five months, to become effective on March 1, 2009, subject to refund, as discussed in the body of this order.

(B) SoCal Edison's proposed revisions to certain path-specific ETCs are hereby accepted for filing and suspended, also to become effective on March 1, 2009, subject to refund, as discussed in the body of this order.

(C) Docket Nos. ER08-1343-000 and ER08-1353-000 are hereby consolidated for purposes of settlement, hearing, and decision, as discussed in the body of this order.

(D) 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 proposed transmission rates and proposed revisions to certain path-specific ETCs. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Paragraphs (E) and (F) below.

[19] 18 C.F.R. § 385.603 (2008).

[20] 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 and a summary of their background and experience (www.ferc.gov – click on Office of Administrative Law Judges.

(E) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2008), 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 the 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 the request to the Chief Judge within five (5) days of the date of this order.

(F) Within thirty (30) days of the appointment of the settlement judge, 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.

(G) 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 this proceeding in a hearing room of the Commission, 888 First Street, NE, Washington D.C. 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 Rules of Practice and Procedure.

By the Commission. Commissioner Moeller dissent in part with a separate statement to be issued at a later date.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.