UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:	)	Chapter 11
EDISON MISSION ENERGY, et al.,[1]	)	Case No. 12-49219 (JPC)
Debtors.	)	(Jointly Administered)

DECLARATION OF MARIA RIGATTI IN SUPPORT OF DEBTORS' SIXTH OMNIBUS OBJECTION TO CERTAIN PROOFS OF CLAIM (NO LIABILITY CLAIMS) AND DEBTORS' MOTION TO ESTIMATE DISPUTED CLAIMS

I, Maria Rigatti, declare as follows:

1. I am a Senior Vice President and Chief Financial Officer of Edison Mission Energy ("EME"),[2] one of the above-captioned debtors and debtors in possession (collectively, with EME, the "Debtors"). I have served in this position since December 2010, and I am generally familiar with the day-to-day operations, business and financial affairs, and books and records of EME and our Debtor and non-Debtor subsidiaries.

2. Due to my role at EME, I am familiar with the tax allocation agreements in place among EME and certain affiliates of Edison International ("EIX"), including EIX, Southern California Edison ("SCE"), Mission Energy Holding Company ("MEHC"), and Edison Mission

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Edison Mission Energy (1807); Camino Energy Company (2601); Chestnut Ridge Energy Company (6590); Edison Mission Energy Fuel Services, LLC (4630); Edison Mission Finance Co. (9202); Edison Mission Fuel Resources, Inc. (3014); Edison Mission Fuel Transportation, Inc. (3012); Edison Mission Holdings Co. (6940); Edison Mission Midwest Holdings Co. (6553); EME Homer City Generation, L.P. (6938); Homer City Property Holdings, Inc. (1685); Midwest Finance Corp. (9350); Midwest Generation EME, LLC (1760); Midwest Generation, LLC (8558); Midwest Generation Procurement Services, LLC (2634); Midwest Peaker Holdings, Inc. (5282); Mission Energy Westside, Inc. (0657); San Joaquin Energy Company (1346); Southern Sierra Energy Company (6754); and Western Sierra Energy Company (1447). The location of parent Debtor Edison Mission Energy's corporate headquarters and the Debtors' service address is: 3 MacArthur Place, Suite 100, Santa Ana, California 92707.

[2] All capitalized terms used but otherwise not defined herein shall have the meanings set forth in the Objection.

Group ("EMG"), and other non-debtor, non-EME affiliates of EIX (together with EIX, SCE, EMG, and MEHC, the "EIX Affiliates"). I am also familiar with IRS audits of EIX and its subsidiaries, EME's role in the audits, and audit resolutions with the IRS. I am over 18 years of age and am competent to testify.

3. I am authorized to submit this declaration (this "Declaration") in support of the *Debtors' Sixth Omnibus Objection to Certain Proofs of Claim (No Liability Claims)* (the "Objection") and the *Debtors' Motion to Estimate Disputed Claims* (the "Motion").

4. Except where specifically noted, the statements in this Declaration are based on my personal knowledge of the Debtors' operations and finances, information learned from my review of relevant documents, and information I have received from other members of the Debtors' management team or the Debtors' advisors. If I were called upon to testify, I could and would testify competently to the facts set forth herein.

Background

5. I joined EME in 1999 and have subsequently served in numerous leadership roles within the company. Prior to becoming CFO, I was elected Vice President in 2007, and became Treasurer in 2008. I am currently a member of EME's executive Managing Committee. Before joining EME, I was a director with PIRA Energy Group, an energy consulting firm, and a vice president with Gas Energy Inc., an unregulated affiliate of KeySpan Corp.

6. I graduated from Manhattan College with a bachelor's degree in Finance, and earned a Masters of Business Administration with a specialization in finance from New York University.

Debtors' Tax Allocation and History

7. As part of my review of the Objection and Motion, I understand that EIX (and certain of its affiliates) and the IRS have filed claims related to the pre-petition tax liabilities of

the EIX consolidated group. I will discuss the facts about the Debtors' taxes most relevant to these claims in four parts: (a) the tax allocation agreements among EME and the EIX Affiliates; (b) a closed audit for tax years 1986–1992; (c) an open audit for tax years 2003–2006; and (d) the Debtors' analysis with respect to its outstanding tax liabilities on a hypothetical standalone basis.

I. The Tax Sharing Agreements

8. The "EIX Group," consisting of EIX and certain of its subsidiaries, files a consolidated federal income tax return that enables the group to be taxed as a group rather than as separate entities. Many of the Debtors, including EME, are members of the EIX Group.[3]

9. Several tax sharing agreements (the "TSAs") govern the payments by and among EIX and its subsidiaries with respect to tax liabilities and the use of losses and credits ("Tax Attributes"). For purposes of the TSAs, the taxable income and Tax Attributes of each subsidiary are generally calculated on a standalone basis. Subsidiaries that generate taxable income are generally required to make payments to EIX in the amount of their standalone income tax liability. Conversely, subsidiaries that generate tax losses are compensated by EIX to the extent their Tax Attributes are used to shelter taxable income of other members.

10. At the top of the TSA hierarchy is an Agreement for the Allocation of Income Tax Liabilities and Benefits (the "Master TSA") between EIX, SCE, and EMG. Under the Master TSA, EIX — as the common parent of the EIX Group — is the party that makes all payments to the IRS with respect to audit adjustments irrespective of whether such adjustments are attributable to items of other members. (*See* Master TSA § 6 at 4.) EME, MEHC, and Capistrano Wind Holdings, Inc. are party to the Mission Energy Holding Company Amended

[3] Midwest Generation Procurement Services LLC, for example, is considered a disregarded entity, and is not consolidated with the EIX Group for tax purposes under federal law.

and Restated Tax Allocation Agreement (the "MEHC TSA"), which provides, in part, for payments by EME to MEHC, or MEHC to EME, as the case may be, for EME's tax liabilities and tax benefits calculated on a standalone basis.

11. The EIX Group has historically been subject to rolling IRS audits, typically in cycles covering two to three years. Pursuant to the Administrative Agreement and Master TSA, EME has historically negotiated on its own behalf with respect to audit items attributable to EME and its subsidiaries, and EIX negotiates with the IRS on behalf of the remaining members in the EIX Group.

12. In the time since I became Treasurer of EME and subsequently CFO, EIX has always made payments to the IRS in respect of the income tax liability of the EIX Group regardless of which members generated the taxable income that gave rise to such tax liability. And the IRS has never directly sought payments from any EIX subsidiary, including EME. Moreover, EIX has never refused to pay sums due and owing from the resolution of any IRS audit cycle. Instead, EIX has promptly made such payments in full after such resolutions.

II. 1986–1992 Global Settlement

13. In 2009, EIX entered into a Global Settlement of federal income taxes with the IRS for the tax years 1986 through 1992. EIX fully satisfied all amounts due to the IRS from the Global Settlement.

14. The tax adjustments in the Global Settlement resulted in an increase in tax liability attributable to EME — in other words, a "Separate Tax Liability" as defined in the Master TSA — of $143,500,000. This liability gave rise to a tax payment obligation of $143,500,000 from EME to MEHC under the MEHC TSA. However, the tax adjustments made in the Global Tax Settlement for EME were expected to reverse, resulting in a tax benefit attributable to EME — in other words, a "Separate Tax Benefit" as defined in the Master TSA —

of $125,300,000. The members of the EIX Group expected EME to realize the Separate Tax Benefit when the next audit cycle covering tax years through 2003 and 2006 would be completed and those tax years would be considered closed.

15. Accordingly, EME settled its TSA obligation to MEHC via an Assignment Agreement executed by and among EME, MEHC, EMG, and EIX, dated May 27, 2009 (the "Assignment Agreement"). The Assignment Agreement completed two transactions to satisfy EME's $143,500,000 tax payment obligation to MEHC (with which MEHC could settle its obligations to EMG), defined in the Assignment Agreement as the "EME Obligation."

16. First, EME paid $18,200,000 in cash to MEHC. Second, EME assigned "all of EME's rights, title and interest to the Separate Tax Benefits." The Separate Tax Benefits were defined functionally, and included (a) "the reduction of gain" or "increase in loss" due to certain tax year 2004 attributes; and (b) the "utilization of capital loss carryforwards" with respect to specific items in tax years 2003 and 2004. (Because it is not germane to the issues at stake here, I will not go into details about the particulars of the benefits.) In exchange, MEHC agreed "that the assignment of the Separate Tax Benefits, together with a cash payment of $18,200,000, shall discharge and satisfy the EME Obligation."

17. In sum, EME paid MEHC $18,200,000 in cash and assigned to MEHC the amounts EME would have realized under the MEHC TSA resulting from specific, favorable adjustments in tax years 2003 and 2004 (the "Assigned Tax Benefits"). The Assignment Agreement does not entitle MEHC or any other party to a defined sum of future cash or credits to be realized from such attributes. Moreover, the Assignment Agreement does not contemplate any future performance by EME in the event MEHC did not receive its anticipated benefits. Nor does the Assignment Agreement indemnify MEHC, EMG, or EIX in the event that the tax

benefits realized from the identified attributes for those years are less than EIX anticipated. The Debtors are under no obligation to assist EIX in recovering any refund or benefit. EME does not owe MEHC or any other entity any money under the Assignment Agreement.

III. The Open Tax Years

18. The EIX Group's tax liability, if any, for tax years 1984, 1994, 1995, and 2003–2009 (the "Open Tax Years") is currently unsettled. EME, consistent with its historical practice, has taken the primary role contesting disputed items in the Open Tax Years that relate to EME and its subsidiaries and communicating with the IRS on these items. EIX acts on behalf of the remaining subsidiaries in negotiations for the Open Tax Years.

19. The IRS has issued proposed adjustments for the Open Tax Years that would cause the EIX Group's tax liability to total approximately $1.3 billion (which amount includes interest). However, the EIX Group has proposed counter-adjustments and maintains appeal rights that could substantially reduce this number. The parties have not yet reached a final resolution.

20. Among the unsettled items are attributes related to the 2004 sale of many of EME's international assets, also known as "TAUPO." The IRS has contended in negotiations that the Debtors owe taxes and interest with respect to TAUPO, but the Debtors dispute the IRS' position. The settlement of these items may impact EIX's federal and state tax liability. As TAUPO and other EIX Group items from the 2003–2006 audit are still open (for example, adjustments related to SCE's tax liability), the EIX Group has not yet realized the Assigned Tax Benefits.

IV. The Debtors' Pre-Petition Tax Liability

21. The Debtors have analyzed the IRS Claims to determine what portion of the $1.3 billion claimed by the IRS is attributable to EME and its subsidiaries. The Debtors concluded

that EME's portion of the IRS Claim relates solely to the 2003–2009 audit cycles and represents only a small portion, if any, of the IRS Claim while the vast majority of the claim is attributable to SCE and other EIX Affiliates.

22. After taking into account favorable adjustments, the Debtors have determined that EME's exposure to the IRS on a standalone basis for years covered by the IRS Claims could be as low as $0. The Debtors further estimated that EME's maximum liability on a standalone basis for years covered by the IRS Claims is $38.3 million (not including interest).[4] But as the IRS, the EIX Group, and EME have not historically resolved audits such that all of the IRS's proposed adjustments and penalties were imposed and all of the EIX Group's favorable adjustments were rejected, the likely amount of EME's eventual share is likely to be substantially lower.

23. Even if the Debtors assumed they would be required to pay 50% interest on the $38.3 million maximum, EME's share for the EIX Group's tax liabilities — calculated as if EME were deconsolidated from EIX — would be $57.45 million, only 4.42% of the $1.3 billion claimed by the IRS.

Review of Claims

24. The Debtors and its advisors have analyzed the proofs of claim asserted by EIX and its non-Debtor affiliates against the Debtors, including supporting documentation, if any,

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[4] To reach this conclusion, the Debtors determined EME's maximum share of the EIX Groups' tax liability for the Open Tax Years *vis-à-vis* the IRS, calculated as if EME hypothetically filed as a standalone entity. This $38.3 million maximum amount generally represents (A) the increase in EME's tax liability for the Open Tax Years that would result if EME made all of the IRS's proposed adjustments related to TAUPO plus all applicable penalties; **net of** (B) the decrease in EME's tax liability for the Open Tax Years that would result if EME made the undisputed favorable adjustments for these periods, including those that are the subject of the Assignment Agreement.

For the avoidance of doubt, the Debtors dispute the IRS's proposed adjustments and application of any penalties, and EME has proposed other favorable adjustments that could further reduce or eliminate EME's standalone tax liability to the IRS for the years covered by the IRS Claims. Thus, the Debtors believe that EME's standalone hypothetical share is in fact substantially less than the $38.3 million maximum.

filed together with any proof of claim (collectively, the "Claims"), and reconciled the proofs of claim with the Debtors' books and records to determine the validity of the proofs of claim.

25. In connection with preparation of the Objection and the Motion, I: (a) oversaw the review of (i) the Claims, during which time individuals under my supervision, including the Debtors' advisors, identified Claims that should be disallowed and expunged or required estimation and (ii) the books and records with respect to the Claims described in the Objection and Motion; (b) approved the inclusion of the Claims in the Objection and Motion; (c) reviewed the Objection and the proposed form of order attached thereto as **Exhibit A**; (d) reviewed and approved the information contained on **Schedule 1** to **Exhibit A** attached to the Objection and the justifications set forth therein; (e) reviewed the Motion and the proposed form of order attached thereto as **Exhibit A**; and (f) reviewed and approved the information contained on **Schedule 1** and **Schedule 2** to **Exhibit A** attached to the Motion and the justifications set forth therein. Accordingly, I am familiar with the information contained in the Objection and the Motion.

The No Liability Claims

26. To the best of my knowledge, information, and belief, I have determined that the No Liability Claims identified on **Schedule 1** to **Exhibit A** to the Objection are not liabilities that are due and owing by the Debtors and, other than as required by generally accepted accounting practices, are not reflected in the Debtors' books and records. Failure to disallow and expunge the No Liability Claims could result in the applicable claimants receiving an unwarranted recovery against the Debtors, to the detriment of other similarly-situated creditors.

27. In particular, I have identified that the following claims filed by EIX, the Debtors' ultimate corporate parent, and the EIX Affiliates are No Liability Claims: (a) Claims Nos. 1485–92; 1495; 1496; and 1977–79 (the "Litigation Claims"); (b) Claims Nos. 1493–94, 1497–99,

1500, 1501, 1507–16, and 1526 (the "IP/Contract Claims"); (c) Claims Nos. 1477–84, 1527–36, and 1973–75, (the "EIX Tax Claims"); and (d) Claim No. 1525 (the "Power Purchase Claims").

28. In addition, Claims Nos. 1521–23 and 1976 (the "Shared Services Claims"), relating to certain management, administrative, corporate, and support services provided to the Debtors by the EIX Affiliates, are No Liability Claims.

29. On May 25, 2012, EIX revised its policies relating to the funding or reimbursement of certain shared services ("Shared Services") provided by EIX and non-debtor EIX affiliates (the "Intercompany Billing Policies"). Pursuant to the Intercompany Billing Policies, the EIX Affiliates would provide certain Debtors with these Shared Services, which included management, administrative, corporate, and support services. The Intercompany Billing Policies required Debtors to pay for many of these Shared Services in advance, including payroll, insurance premiums, and other monthly intercompany invoices. Additionally, the Intercompany Billing Policies required the Debtors to provide EIX with a $4 million retainer. EIX was entitled to draw on the retainer to satisfy any monthly intercompany invoice or estimate that was not timely paid by the Debtors. The Debtors provided EIX with the $4 million retainer, but EIX has never drawn on this retainer.

30. To the best of my knowledge, information, and belief, the Debtors have not defaulted on any Shared Services payments to date, and, to the extent the Debtors potentially may fail to make future payments, EIX has been provided with a $4 million retainer from which to draw any payments owed.

31. To the best of my knowledge, information, and belief, Debtors have consistently paid any invoices or estimates for Shared Services in a timely manner. The only arguable exception of which I am aware is a tax sharing payment where the EIX Affiliates subsequently

offset the amount the Debtors were billed against later payments the EIX Affiliates owed to the Debtors. Because the EIX Affiliates offset the amount from a payment owed to the Debtors, the Debtors do not currently owe any debt in relation to that tax sharing payment.

32. Accordingly, I believe that the Court should enter an order expunging and disallowing the No Liability Claims identified on **Schedule 1** to **Exhibit A** to the Objection in their entirety.

Disputed Claims

33. To the best of my knowledge, information, and belief, I have determined that the Disputed Claims identified on **Schedule 1** and **Schedule 2** to **Exhibit A** to the Motion, to the extent they are not disallowed, should be estimated at $0.

34. Specifically, I have identified that Claims Nos. 1502–06; 1517–19; and 1980–85 filed by EIX and the EIX Affiliates are Disputed Claims that should be estimated at $0.

35. I have specifically identified that Claims Nos. 1029–37 filed by the Pension Benefit Guaranty Corporation are Disputed Claims that should be estimated at $0.

36. I have specifically identified that Claims Nos. 1846-A and 2012–14 filed by the Internal Revenue Service are Disputed Claims that should be estimated at $0.

[*Remainder of page intentionally left blank*]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: January 2, 2014

Maria Rigatti
Senior Vice President and Chief Financial Officer
Edison Mission Energy