

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Integrate and Refine
Procurement Policies and Consider Long-Term
Procurement Plans.

R. 12-03-014
(Filed March 22, 2012)

**RESPONSE OF SOUTH SAN JOAQUIN IRRIGATION DISTRICT TO SOUTHERN
CALIFORNIA EDISON MOTION TO STRIKE REPLY TESTIMONY OF SOUTH SAN
JOAQUIN IRRIGATION DISTRICT**

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Pursuant to Rules 11.1 of the California Public Utilities Commission’s Rules of Practice and Procedure, the South San Joaquin Irrigation District¹ (“SSJID”) submits this response to the “Motion of Southern California Edison Company (U 338-E) to Strike The Reply Testimony Submitted By South San Joaquin Irrigation District” concerning Long Term Procurement Plan Track 1 local reliability issues.

Southern California Edison Company (“SCE”) seeks to have SSJID’s Reply Testimony stricken on two grounds. It first claims that SSJID’s Reply Testimony is beyond the scope of this proceeding as set forth in OIR R.12-03-014 and the Assigned Commissioner’s and Administrative Law Judge’s Scoping Memo for Track 1 on Local Reliability dated May 17, 2012 (“Scoping Memo”).² Second, it claims that SSJID’s Reply Testimony is not responsive to opening direct testimony filed by any party to this proceeding.³ Finally, in the event the Commission is not persuaded to grant its motion to strike, SCE requests leave to serve surrebuttal testimony in response to SSJID’s Reply Testimony.⁴

For the reasons set forth below, SCE’s claims regarding SSJID’s Reply Testimony are incorrect and provide no lawful basis for striking it. Contrary to SCE’s claims, SSJID has a right

¹ On July 18, 2012, SSJID filed a Motion for Party Status that is currently pending before the Commission.

² SCE Motion at 1-2.

³ SCE Motion at 1-2.

⁴ SCE Motion at 3.

to be heard on the issues set forth in the Scoping Memo in this proceeding if the Commission intends to consider these issues in such a manner as to potentially affect SSJID's rights in regard to the allocation of cost allocation mechanism ("CAM") costs. If, however, the Commission will not consider such issues in this proceeding, and clearly rules that the potential allocation of any CAM costs to SSJID is outside the scope of this proceeding and will not be considered in this proceeding, then SSJID will voluntarily withdraw its Reply Testimony and reserve its right to address the issues discussed therein in such future proceeding as the Commission may designate.

I. SSJID'S REPLY TESTIMONY ADDRESSES ISSUES WITHIN THE SCOPE OF THIS PROCEEDING

SCE first argues that SSJID's Reply Testimony is beyond the scope of this proceeding as set forth in the OIR and Scoping Memo. SCE is wrong. The OIR sets forth several broad policy issues for consideration in this proceeding. These issues include:

2. Procurement Rules to Comply with SB 695 on the Cost Allocation Methodology – Senate Bill (SB) 695 codified aspects of the cost allocation rules established in D.06-07-029 and D.07-09-044. D.11-05-005 narrowly reconciled differences between SB 695 and our prior procurement rules. This proceeding will consider any necessary modifications to fully implement the RA provisions of SB 695.⁵

The scope of this proceeding was further refined in the Commission's Scoping Memo. The Scoping Memo includes three broad issues regarding local reliability and CAM costs. These issues are set forth in the Scoping Memo as follows:

8. How the costs of any additional local reliability needs should be allocated among LSEs in light of the Commission's adopted cost allocation mechanism (CAM) per Senate Bill (SB) 695, SB 7906, D.11-05-005 and any relevant previous decisions;

9. Whether the CAM should be modified at this time;

⁵ OIR at 9 (footnote in original omitted).

10. Whether LSEs should be able to opt-out of the CAM, and, if so, what the requirements should be to allow such opt-out.⁶

SSJID's Reply testimony addresses the manner in which local reliability capacity costs should be allocated among load-serving entities ("LSE's") in light of the CAM. SSJID's Reply Testimony thus appears to fit squarely within the scope of the proceeding as set forth in the Commission's Scoping Memo.

II. SSJID'S REPLY TESTIMONY IS RESPONSIVE TO OPENING TESTIMONY IN THE PROCEEDING

Second, SCE argues that SSJID's Reply Testimony is not responsive to the opening testimony of any party in this proceeding. SCE is wrong in this regard as well.

In its own opening testimony, SCE advocates that the Commission should "fairly allocate" local reliability procurement costs to all LSEs that benefit, including publicly owned utilities.⁷ In its own opening testimony, SCE thus advocates a result that could affect SSJID and could potentially result in the allocation of local reliability CAM costs to SSJID when SSJID commences providing retail electric service as it intends to soon do. SSJID's Reply Testimony directly addresses this testimony of SCE.

San Diego Gas and Electric Company's ("SDG&E") opening testimony in this proceeding also advocates allocating local reliability CAM costs broadly and in such a manner as could affect SSJID.⁸ SSJID's Reply Testimony addresses this testimony of SDG&E as well.

III. SSJID HAS A RIGHT TO BE HEARD IF THE COMMISSION INTENDS TO ADDRESS ISSUES AFFECTING ITS RIGHTS IN THIS PROCEEDING

Even if SSJID's testimony were not specifically responsive to the opening testimony of other parties in this proceeding, SSJID would nevertheless have a right to appear and be heard if the Commission intends to address issues affecting its rights regarding local reliability CAM

⁶ Scoping Memo at 6 (footnotes in original omitted).

⁷ Prepared Track 1 Testimony of Southern California Edison at 1-2 and 25-27.

⁸ Prepared Track 1 Testimony of San Diego Gas and Electric Company at 11.

issues in this proceeding. Under long established Commission policy and practice, intervention in Commission proceedings is liberally granted to parties that have an interest in and may be affected by Commission decisions on matters coming before it. The Commission permits parties that seek late-intervention to fully participate in proceedings before the Commission so long as they do not unduly broaden the scope of the proceeding. SSJID has moved to intervene, consistent with Commission rules, and has timely-served reply testimony that is responsive to opening testimony of other parties in the proceeding and does not unduly broaden the issues in the proceeding.

The courts have made it abundantly clear in recent decisions that the Commission cannot play fast and loose with its own procedural rules and must provide a fair opportunity for parties affected by its decisions to participate and to have their concerns heard.⁹ As a result, SSJID has a right to appear and be heard if the Commission intends to address issues affecting its rights regarding local reliability CAM issues in this proceeding.

IV. CONCLUSION

For the reasons set forth herein, the Commission should deny SCE's motion to strike SSJID's Reply Testimony. If however, the Commission does not intend to consider in this proceeding any of the issues set forth in the Commission's Scoping Memo in such a manner as to potentially affect SSJID's rights in regard to the allocation of CAM costs, and clearly rules that the potential allocation of any CAM costs to SSJID is outside the scope of this proceeding and

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⁹ See *Southern California Edison Company v. Pub. Util. Commission*, 85 Cal. App. 4th 1086 (Court of Appeal, 2nd Appellate Dist. 2000); and *TURN v. Pub. Util. Commission*, Court of Appeal, 1st Appellate District, Div. 5, No. A132439 (2012) (unreported).

will not be considered in this proceeding, then SSJID will voluntarily withdraw its Reply
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as the Commission may designate.

Respectfully submitted,

/s/

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