

**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.	Rulemaking 12-03-014
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**COMMUNITY ENVIRONMENTAL COUNCIL RESPONSE TO SCE MOTION TO  
STRIKE**

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November 6, 2012

## COMMUNITY ENVIRONMENTAL COUNCIL RESPONSE TO SCE MOTION TO STRIKE

The Community Environmental Council (“Council”) respectfully submits this response to the October 22, 2012 *Motion of Southern California Edison Company (U 338-E) to Strike Portions Comments Submitted by Community Environmental Council and Vote Solar Initiative*, pursuant to Rule 11. The Council requests that the Commission deny the motion.

The Council is a member-supported environmental non-profit organization formed in Santa Barbara in 1970 and is the leading environmental organization in the Central Coast region of California. In 2004, the Council shifted its primary focus to energy and transportation issues and is spearheading a regional effort to wean our communities from fossil fuels, on a net basis, during the next two decades. The Council is almost unique in combining on-the-ground work on a number of energy and climate change-related issues with concurrent work on state and federal policy issues. The Council’s state policy work is directly informed by experience with what has worked, or is likely to work, at the local level. More information on the Council and its energy programs may be found at [www.cecsb.org](http://www.cecsb.org).

### I. Discussion

SCE objects strenuously, in *Motion of Southern California Edison Company (U 338-E) to Strike Portions Comments Submitted by Community Environmental Council and Vote Solar Initiative*, submitted Oct. 22, 2012, to the Council’s proposed Local Capacity Requirements Renewable Adjusting Market Tariff (LCR Re-MAT), submitted by the Council in post-workshop comments on October 5, 2012.

SCE argues that the Council’s comments are (SCE Motion, p. 1) “(1) improper because

the Commission already struck that content from this proceeding, (2) prejudicial, and (3) irrelevant because they are (a) outside the established scope of this proceeding, and (b) not responsive to the question presented by the ALJ's Ruling."

A. The Council's comments are not improper

Judge Gamson struck the Council's reply testimony on the earlier version of the LCR Re-MAT (labeled, as SCE notes, the "Solar/ES LCR FIT" in its earlier incarnation) due to his conclusion that "this is a complex, illustrative, still complex idea which should have been presented in the first round [of testimony]." Nevertheless, in subsequent communications with Judge Gamson, he informed the Council that the post-workshop comments would be the appropriate vehicle to submit the LCR Re-MAT proposal into the record, rather than Track I briefs. The email communication follows:

Sept. 21, 2012

Judge Gamson, I'm unclear on the scope of allowable issues in Track I with respect to the briefs due on Monday. In particular, in the evidentiary hearings you struck our and other parties' testimony that was deemed too late with respect to alternatives to an all-source RFO. However, workshops since the hearings that are part of Track I or related to Track I have explicitly included discussion of alternatives to an all-source RFO and how to correctly consider preferred resources. As such, could you let me know whether alternatives to an all-source RFO, such as our proposed LCR FIT (or a newer version that modifies the new Re-MAT) may be included in our brief?

Tam Hunt, J.D.  
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Check out our new "Solar Broker" service

Judge Gamson's reply:

**Gamson, David M.**  
to Tam

Sep 21

The briefs pertain to issues in the testimony and hearings only. There is a separate opportunity to comment on recent workshop issues, per the Ruling I issued within the last week.

Accordingly, there is no basis for SCE's motion to strike the Council's LCR Re-MAT proposal as "improper" because Judge Gamson directed the Council to file its proposal in post-workshop comments.

Moreover, the Commission itself requested party comments on the merits of "adjusting existing procurement mechanism, such as the Renewable Auction Mechanism," in the ALJ Ruling from Sept. 14, 2012 (p. 3), the same ruling Judge Gamson cited in his email above. The Ruling states, in full (pp. 2-3, emphasis added):

What are the pros and cons of the following procurement methods with regard to: 1) local procurement considered in Track 1 of LTPP, and 2) operational flexibility and general system procurement considered in Track 2 of LTPP?

...

E. Adjusting existing procurement mechanisms, such as the Renewable Auction Mechanism, to focus on the physical locations with needs that can be met by that programmatic resource.

The Council's LCR Re-MAT proposal squarely addresses the question by proposing an adjusted "existing procurement mechanism." The Re-MAT is a new procurement mechanism created by the Commission pursuant to SB 32, in D.12-05-035.

A more clear case for the propriety of the Council's comments would be difficult to make.

B. The Council's comments are not prejudicial

SCE argues that the Council's LCR Re-MAT proposal should be stricken because it is prejudicial due to the inability to request discovery at this point in the proceeding. To the contrary, SCE's own actions have rebutted this charge due to SCE already filing a response to the Council's proposal: REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) TO PARTIES' COMMENTS ON THE JOINT LTPP/STORAGE WORKSHOP, on Oct. 23, 2012. SCE addressed the Council's proposal, albeit briefly, and made no mention of the need for discovery to obtain further information from the Council about its proposal.

C. The Council's comments are not irrelevant

As demonstrated in Part A above, the Commission specifically requested comments from parties on the merits of "adjusting existing procurement mechanisms" to meet LCR. This is exactly what the Council's proposal did because it suggested adjusting the existing Re-MAT procurement mechanism for the LCR context.

II. Conclusion

In sum, SCE's arguments have no merit and we urge the Commission to admonish SCE for submitting frivolous motions to strike. Such motions, even if lacking any merit, will surely have a chilling effect on some parties who fear wasting time and effort on comments and proposals only to have an overly aggressive and hyper-sensitive SCE make frivolous motions to strike.

November 6, 2012

Respectfully submitted,

By: The Community Environmental Council

A handwritten signature in black ink, appearing to be 'TH' followed by a long horizontal stroke.

Tam Hunt, Attorney