

ATTACHMENT A

**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
(Filed March 22, 2012)

**DECLARATION OF DAVID PEFFER IN SUPPORT OF MOTION FOR COMMISSION
RECONSIDERATION**

David A. Peffer, Esq.
PROTECT OUR COMMUNITIES
FOUNDATION
4452 Park Boulevard, Suite 209
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July 7, 2014

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RECONSIDERATION**

I, David A. Peffer, declare and state that the following is based on my own personal knowledge, and if called upon as a witness I could and would competently testify thereto:

1. The Protect Our Communities Foundation (“POC”) is a small public interest organization based in San Diego, California. I am the attorney for POC in the above-entitled action before the Commission.

2. Because of the significant cost and burden of traveling to the Commission in San Francisco, POC practices before the Commission by electronic means as much as possible, and is not often physically present at the Commission. POC instead relies on its statutory right as a party listed on the service list to receive service of filings and Decisions.

3. POC has been a party to the Commission's 2012 Long Term Procurement Plan proceeding, R.12-03-014, since August 4, 2013. POC has been on the R.12-03-014 service list since at least that date. POC's contact information on the service list is correct and up to date.

4. Prior to D.14-03-004, POC received official email service of filings and Commission Decisions in R.12-03-014 without any problems. On March 4, 2014 POC received notice of the Decision for Track 3 of the 2012 LTPP proceeding in the form of an email from the ALJ Star Division titled "Official Email Service" and containing a link to the Decision.

5. POC did not receive any form of service or notice of D.14-03-004 from the Commission at any time prior to April 24, 2014. POC was not aware that the Decision had been issued until April 22, 2014, when I inadvertently came across the Decision while searching the R.12-03-014 online docket card for another document. POC did not receive any form of service or notice of the Decision from the Commission until April 24, 2014, when in response to an email inquiry from POC, an employee with the Commission's ALJ Star Division emailed POC a link to the Decision.

6. Concurrently with its Motion to Set Issuance Date of April 2014 for D.13-03-004 (and within 30 days of learning of the decision's issuance), POC attempted to file an Application for Rehearing of Decision 14-03-004. However, the Commission's docketing office refused to accept POC's Application for Rehearing for filing on the ground that the Petition was untimely (i.e., not filed within 30 days of March 14, 2014).

7. On June 18, 2014 I sent an email to the ALJ for the Commission's Central Files Division asking whether a Proof of Service exists for the Notice of Availability of D.14-03-004. The same day, the Central Files ALJ responded that no such document exists.

8. At no point prior to April 24, 2014, did POC receive a hard copy of D.14-03-004 in the mail from the Commission. POC did eventually receive a hard copy of the Decision and Proof of Service of D.14-03-004 in response to a June 9, 2014 request for the Decision and Proof of Service that POC made to the Commission's Central Files office.

9. POC has contacted CEJA, Vote Solar, and CEERT, and received confirmation from each that they did not receive a full copy of D.14-03-004 in the mail from the Commission, despite the fact that the Proof of Service that POC received in response to its June 9, 2014 request states that a full copy of the decision was mailed to the service list on March 14, 2014. .

10. In my experience it is not the normal practice of the Commission to serve full copies of its decisions by regular mail. The Commission typically serves its decisions by email and only mails a Notice of Availability by regular mail. While POC has regularly received email service of Commission Decisions, POC has never received notice and service of a Commission Decision by way of a full copy of the Decision in the mail.

11. On March 12, 2014, the day before the Commission approved D.14-03-004, POC emailed ALJ Gamson to ask how POC would go about correcting its Reply Comments, which had accidentally been filed without the inclusion of an attachment referenced therein. The same day,

ALJ Gamson responded: “You would need to file a Motion to Late-file Amended Reply Comments, since the filing deadline has passed.”

12. On March 24, 2014, 11 days after the Decision had been approved by the Commission, POC (not knowing of the Commission’s action) followed ALJ Gamson’s advice and filed a Motion to Late-File Corrected Reply Comments. The Docket Office accepted this filing, and neither the ALJ nor any Commission employee responded to that filing that the Decision was already voted out and final.

13. POC did not receive the Agenda for the Commission’s March 13, 2014 meeting by mail or email. POC has never received a copy of a Commission meeting agenda by mail or email.

14. POC did not attend or monitor the Commission’s March 13, 2014 meeting. POC had not received any notice that the Track 4 Decision would be voted on at that meeting.

15. Because POC did not receive any notice that the Track 4 Decision had been issued, POC did not check the Commission’s website for the Decision. POC first became aware of the Decision when I accidentally came across it on the Commission’s website while looking for something else. POC does not have the resources to regularly survey the Commission’s website to check for new decisions and filings. POC instead relies on its statutory right as a party listed on the service list to receive service of filings and Decisions.

16. POC filed its Motion to Set Issuance date on May 22, 2014. This original filing included POC’s Application for Rehearing of D. 14-03-004 as an Attachment. On May 23, 2014, the

ATTACHMENT B

R.12-03-014

DECISION: 14-03-004
MAIL DATE: 3/14/14

Copy of “DECISION AUTHORIZING LONG-TERM
PROCUREMENT FOR LOCAL CAPACITY REQUIREMENTS
DUE TO PERMANENT RETIREMENT OF THE SAN ONOFRE
NUCLEAR GENERATIONS STATIONS” mailed to the following:

SEE ATTACHED LIST FOR APPEARANCES, STATE SERVICE

3-13-14
AMT

Count

ATTACHMENT C

PROOF OF SERVICE BY MAIL

I, JUAN BAVTISTA, declare:

I am over the age of 18 years, not a party to this proceeding, and am employed by the California Public Utilities Commission at 505 Van Ness Avenue, San Francisco, California.

On 3/14/14, I deposited in the mail at San Francisco, California, a copy of:

D.14-03-004

(Decision Number or Type of Hearing)

3/13/14

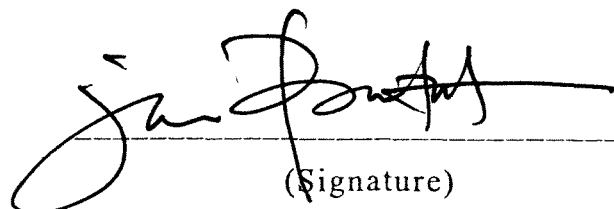
(Date of Hearing)

R.12-03-04

(Application/Case/OII/OIR Number)

in a sealed envelope, with postage prepaid, addressed to the last known address of each of the addressees in the attached list.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on 3/14/14, at San Francisco, California.


(Signature)

ATTACHMENT D



David Peffer <david.a.peffer@gmail.com>

[CORRECTED EMAIL] FW: 0000075004 - California Public Utilities Commission Rejection of Filing - R1203014

Chinn-Gambale, Patricia <patricia.chinn-gambale@cpuc.ca.gov>
To: "david.a.peffer@gmail.com" <david.a.peffer@gmail.com>
Cc: ALJ Docket Office <ALJ_Docket_Office@cpuc.ca.gov>

Fri, May 23, 2014 at 8:52 AM

CORRECTED EMAIL

Please see correction highlighted in red below.

-----Original Message-----

From: CPUC Electronic Filing System [mailto:CPUCElectronicFiling@cpuc.ca.gov]

Sent: Friday, May 23, 2014 8:44 AM

To: david.a.peffer@gmail.com

Subject: 0000075004 - California Public Utilities Commission Rejection of Filing - R1203014

Your filing, submitted on 5/22/2014 with confirmation number 0000075004, has been rejected by the California Public Utilities Commission for the following reasons:

5/23/14

Trans. 75004 - MOTION TO ESTABLISH AN ISSUANCE DATE OF APRIL 24, 2014 FOR DECISION 14-03-004 (Application for Rehearing attached as Attachment B.)

1. IMPORTANT: The Application for Rehearing must be filed with the Docket Office as a separate efile. It cannot be attached to this Motion. (Rule 1.7(a))

2. Attachment A and B are not PDF/A compliant. Error message says "Font not Embedded." (Rule 1.13(b)(1)(i))

Attachment B should be removed from this e filing since Attachment B is the Application for Rehearing. As mentioned above, the Application for Rehearing needs to filed with the Docket Office as a separate e filing.

3. The certificate of service page must now be in a title page form. (See Rule 1.9(e) and Rule 1.6.)

Here is an EXAMPLE of the title page on a certificate of service:

<http://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=All&DocID=90303330>

4. Please make the corrections and re-file the document(s) as soon as you are able. If the document deficiencies are cured within seven days, the document will be filed as of the original date it was tendered for filing (Rule 1.14(d)).

5. When you re-file, check the box on Tab 1 labeled Resubmission, and enter the receipt number of the original filing that was rejected. If your filing has been rejected multiple times, list all receipt numbers in Tab 5 in the box for Filer Notes.

6. Please Re-serve the document(s) on the Service List with the recommended changes. The date of the document should remain the same, but the date on the Certificate of Service should reflect the date of re-service. * * * * *

Unless noted otherwise, all references to "RULES" or "RULES OF PRACTICE AND PROCEDURE" are to the CPUC RULES OF PRACTICE AND PROCEDURE:

[RULES EFFECTIVE APRIL 1, 2014]

<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=89380172>

Regards,

Patricia Chinn-Gambale
Legal Analyst

Docket Office - Room 2001
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Telephone (415) 703-3952 (Direct)
Telephone (415) 703-1929/1927 (Office)

Email: pcg@cpuc.ca.gov

Website: www.cpuc.ca.gov

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If you have questions about this rejection, please contact the CPUC Docket Office at the address listed below.

Docket Office
California Public Utilities Commission
505 Van Ness Avenue, Room 2001

San Francisco, CA 94102

Voice: (415) 703-2121

Fax: (415) 703-2446

Email: efile-help@cpuc.ca.gov

ATTACHMENT E



David Peffer <david.a.peffer@gmail.com>

0000075050 - California Public Utilities Commission Rejection of Filing - R1203014

CPUC Electronic Filing System <CPUCElectronicFiling@cpuc.ca.gov>

Tue, May 27, 2014 at 10:30 AM

To: david.a.peffer@gmail.com

Your filing, submitted on 5/23/2014 with confirmation number 0000075050, has been rejected by the California Public Utilities Commission for the following reasons:

5/27/14

Trans. 75050 - APPLICATION BY THE PROTECT OUR COMMUNITIES FOUNDATION FOR REHEARING OF DECISION 14-03-004 in R.12-03-014

The Protect Our Communities Foundation's Application for Rehearing of Decision 14-03-004 was tendered on May 23, 2014. Decision 14-03-004 was issued on March 14, 2014, which makes the tendered Application for Rehearing over two months late. An Application for Rehearing must be filed within 30 days from the date a decision is issued.

Therefore, Docket Office needs to reject this Application for Rehearing. (See Rule 16.1(a).)

* * * * *

Unless noted otherwise, all references to "RULES" or "RULES OF PRACTICE AND PROCEDURE" are to the CPUC RULES OF PRACTICE AND PROCEDURE:

[RULES EFFECTIVE APRIL 1, 2014]

<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=89380172>

Regards,

Patricia Chinn-Gambale
Legal Analyst

Docket Office - Room 2001
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Telephone (415) 703-3952 (Direct)
Telephone (415) 703-1929/1927 (Office)

Email: pcg@cpuc.ca.gov

Website: www.cpuc.ca.gov

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