

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

Application of Southern California Edison Company (U338E) for Applying the Market Index Formula and As-Available Capacity Prices adopted in D.07-09-040 to Calculate Short-Run Avoided Cost for Payments to Qualifying Facilities beginning July 2003 and Associated Relief.

Application 08-11-001
(Filed November 4, 2008)

And Related Matters.

Rulemaking 06-02-013
Rulemaking 04-04-003
Rulemaking 04-04-025
Rulemaking 99-11-022

**Energy Producers and Users Coalition
Reply and Conditional Agreement for a Limited Extension of Time for
Response to the July 15, 2014 Ruling Soliciting Further Information**

On July 15, 2014, Administrative Law Judge Hallie Yacknin issued a two-page ruling seeking comment on four limited questions concerning a long-pending petition seeking clarification of PURPA jurisdictional issues. On the same day, counsel for Southern California Edison Company (SCE) sought an extension of time to reply to the ALJ request from July 25, 2014 to August 14, 2014, a twenty calendar day (20-day) period.

EPUC wants to be cooperative and respectful of SCE's need for an extension in this matter, however a few considerations are worthy of note.

- First, EPUC filed its petition in February 2014 – a period approaching six months' time for a fully briefed jurisdictional clarification of the CPUC's authority.
- Second, SCE sought and received an extension of time to address the initial filing and, in concert with its sister Investor Owned Utilities, presented a twenty-five page response in opposition to EPUC's filing. Typically, the Commission does not grant a party multiple extensions of time.

- Third, after filing written opposition, the IOUs conducted ex parte meetings with the Commission seeking rejection of the EPUC petition taking additional opportunities to address open issues.¹
- Finally, the relatively narrow questions posed by ALJ Yacknin do not warrant extensive time to address in light of the contract rights and issues apparent between the parties; indeed, these questions are more focused upon the CHP Seller than the IOU Buyer.

EPUC should receive the Commission's consideration to address promptly the requested clarification, particularly given the pre-petition history regarding this matter. Time is of the essence in this and related matters concerning the implementation of the CPUC's Combined Heat and Power Program. Any delay is a material concern to CHP parties who are subject to uncertain and unresolved issues regarding obligations under contracts executed under the Commission's authority as granted by PURPA.

Sensitivity over timing and delay is not a new issue relative to this matter. As noted in the February 6, 2014 EPUC Petition:

More than a year has passed since the effective date of D.10-12-035. This Petition has been deferred until now for two reasons. First, interested parties began discussing this issue nearly two years ago, with the supervision of the Commission's Legal Division, and hoped to reach a common understanding. No common understanding was reached. In addition, an answer to this question has become more pressing because parties have now executed contracts that will be directly affected by the Commission's determination.²

EPUC appreciates SCE's outreach to parties, albeit belatedly, to elicit responses of support or opposition to the requested delay. Upon reflection, EPUC is willing to

¹ *Ex parte* filed by Southern California Edison Company on 04/09/2014 Conf# 73706.
² EPUC Petition, p. 1-2.

support a brief and limited extension of time in order to try and be accommodating, although there is real concern about any additional delay.

EPUC recommends that ALJ Yacknin approve an extension of time for a period no later than Thursday, July 31, 2014 for responses to the July 15, 2014 ruling.

July 16, 2014

Respectfully submitted,

A handwritten signature in black ink that reads "Donald Brookhyser". The signature is written in a cursive style and is positioned above the typed name and contact information.

Donald Brookhyser
Alcantar & Kahl LLP
33 New Montgomery
Suite 1850
San Francisco CA 94105
503.402.8702 direct
503.402.8882 fax
deb@a-klaw.com

Counsel for the
Energy Producers and Users Coalition