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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Lost Creek Canyon Ranch Certified
Organics,

Complainant,

vs.

Southern California Edison Company
(U338E),

Defendant.

Case 12-01-011
(Filed January 18, 2012)

**ASSIGNED COMMISSIONER AND
ADMINISTRATIVE LAW JUDGE'S SCOPING MEMO AND RULING**

1. Summary

This complaint relates to alleged overbilling from 2007 through 2011 by Southern California Edison Company (SCE) at a 600-acre ranch where Lost Creek Canyon Ranch Organics, Inc. had installed a solar photovoltaic system in 2008. Pursuant to Rule 7.3 of the California Public Utilities Commission's Rules of Practice and Procedure,¹ this Scoping Memo and Ruling sets forth the procedural schedule including evidentiary hearings, designates the presiding officer, and

¹ All references to Rules are to the Commission's Rules of Practice and Procedure.

addresses the scope of this proceeding following the prehearing conference held on April 12, 2012.

2. The Parties

Dr. Jane C. Smith is the owner and president of Lost Creek Canyon Ranch Organics, Inc. (Lost Creek or Complainant) and she established electricity service at 12000 Rushmore Avenue, White Water, California in Lost Creek's name. Dr. Smith currently resides at that address. Complainant is a customer of SCE (Defendant). SCE is an investor-owned utility providing electricity service under the jurisdiction of the California Public Utilities Commission (Commission).

3. Factual and Procedural Background

On October 6, 2011, Lost Creek filed an informal complaint (Ref. No. 186648) against SCE with the Commission. The parties were unable to resolve the complaint through the informal process.

On January 18, 2012, Lost Creek filed its formal complaint against SCE and on February 9, 2012, Lost Creek filed an amended complaint to add several attachments to the original complaint.

In its complaint, Lost Creek alleged that SCE had overcharged Lost Creek for 75,291 kWh of electricity between 2007 and 2011. Lost Creek also alleged that SCE failed to respond to its concerns about safety and excessive energy use. Lost Creek seeks refund of the alleged overcharges.

On March 12, 2012, SCE filed its answer denying the claims set forth in the complaint.

The parties filed a joint prehearing conference statement on April 10, 2012, setting forth (1) a joint list of issues to be decided, (2) a second issues list requested by Lost Creek, (3) a list of undisputed material facts, and (4) a proposed schedule. The parties also stated that neither settlement

discussions nor alternative dispute resolution (ADR) would be beneficial at this time. (Joint Prehearing Conference Statement at 6.)

According to Lost Creek, the electricity meter at the service location showed excessive electricity use beginning in 2007. In 2008, Lost Creek installed a solar photovoltaic system and entered into a Net Energy Metering and Generating Facility Interconnection Agreement (Interconnection Agreement). The meter continued to show high electricity usage. In April 2011, at Lost Creek's request, SCE inspected the meter. Beginning that month, the meter showed much lower usage than in previous months.

Lost Creek contends that the meter did not work properly. SCE contends that the meter worked properly and that improper installation of the solar photovoltaic system caused the continued high meter reads. SCE asserts that under its tariff SCE is not responsible for the solar installation.

Lost Creek also asserts that SCE failed to properly respond to Lost Creek's safety and consumer concerns, causing Lost Creek to delay investigation of the high meter reads from 2007 until 2011. According to SCE, SCE has no records of Complainant contacting SCE to dispute billed meter readings prior to 2011.

4. Scope of Issues

In determining the scope of this proceeding, we have considered the complaint, the answer, the joint prehearing conference statement and the prehearing conference conducted on April 12, 2012.

By statute and rule, complaints may be made by any person "setting forth any act or thing done or omitted to be done by any public utility [...] in violation or claimed to be in violation, of any provision of law or of any order or rule of the commission" (Pub. Util. Code 1702) and "... shall be so drawn as to completely advise the defendant and the Commission of the facts constituting

the grounds of the complaint, the injury complained of, and the exact relief which is desired.” (Rule 4.2).

In their joint prehearing conference statement, the parties agreed on four factual and legal issues. Complainant requested an additional 11 issues. At the prehearing conference, Lost Creek’s additional issues were discussed, and the parties agreed that the majority of the issues listed by Lost Creek were already addressed in the joint issues list. We have modified the original list of four, and added two additional issues from Lost Creek’s list.

Accordingly, the issues to be determined in this proceeding are:

1. Has SCE overbilled Lost Creek for 75,291 kWh since 2007?
If SCE has overbilled Lost Creek, how should the dollar amount of the overbilling be calculated?
2. Has SCE billed Lost Creek accurately in accordance with SCE’s Tariff Rule 21 and SCE’s Tariff Schedule NEM, Net Energy Metering?
3. Is SCE responsible for the design, installation, operation, maintenance, safety, and reliability of Lost Creek’s solar photovoltaic equipment which is owned by Lost Creek and which was installed by a third party contractor?
4. Did SCE violate any tariff, Commission Rule or order, or provision of law with respect to Lost Creek’s electric service? Did SCE breach the Interconnection Agreement between SCE and Lost Creek? Did SCE fail to provide Lost Creek with the opportunity to participate in any programs offered to customers, such as energy efficiency audits?
5. Did SCE refuse to allow Lost Creek to be present to oversee work done by SCE at Lost Creek’s service address?
6. As part of the process for an installer or owner to claim tax credits or other governmental rebates or benefits for a solar installation similar to Lost Creek’s, does SCE have an obligation to certify that the system has been connected or

otherwise provide a certification to the installer or any other party?

Parties will brief these questions with specific citation to the California Public Utilities Code, applicable Commission decisions and case law.

5. Discovery

The assigned Administrative Law Judge (ALJ) informed the parties at the prehearing conference that they could immediately engage in discovery. Discovery will be conducted according to Article 11 of the Commission Rules of Practice and Procedure. (Rules). If the parties have discovery disputes they are unable to resolve through meet and confer sessions, they must raise these disputes under the Commission’s Law and Motion procedure as soon as possible to avoid unnecessary delay in the proceeding. (See Rule 11.3)

6. Schedule

Event	Date
Prehearing Conference	April 12, 2012
Discovery Cutoff	June 14, 2012
Direct Testimony	July 16, 2012
Rebuttal Testimony	July 25, 2012
Evidentiary Hearings	August 6, 2012, 10:00 a.m. – 2:30 p.m. Palm Springs City Hall Council Chambers 3200 E. Tahquitz Canyon Way Palm Springs, CA 92262
Opening Briefs	August 20, 2012
Reply Briefs	August 30, 2012
Presiding Officer’s Decision	October 2012

The evidentiary hearings will take place at Palm Springs City Hall Council Chambers, 3200 E. Tahquitz Canyon Way, Palm Springs, CA 92262 from 10:00 a.m. to 2:30 p.m.

The schedule may be modified by the ALJ as required to promote the efficient and fair resolution of the complaint. The proceeding should be resolved by no later than January 17, 2013, as provided by Pub. Util. Code § 1701.2(d).

7. Filings and Service of Documents

All documents required to be filed in the proceeding shall be filed with the Commission's Docket Office in accordance with the Rules. Article 1 of the Rules contains all of the Commission's filing requirements. Prepared testimony is only served, not filed. The parties must serve all prepared testimony and other documents required to be filed in this proceeding on each other, with a copy to the assigned ALJ, by the deadlines stated in this ruling. Service must be via personal delivery, facsimile, overnight mail or by e-mail. The parties must comply with Rule 1.10 regarding the service of documents via e-mail. As previously noted, prepared testimony should not be filed with the Docket Office but is to be served on the opposing party and all members of the service list and submitted to the assigned ALJ. Parties are encouraged to file and serve electronically, whenever possible, as it speeds processing of the filings and allows them to be posted on the Commission's website. When service or filing is done electronically, the party shall not provide a paper copy to the assigned Commissioner.

E-mail communication about this case should include, at a minimum, the following information on the subject line of the e-mail: C.12-01-011, Lost Creek v. SCE. In addition, the party sending the e-mail should briefly describe the nature of the attached communication; for example, *Comments*. The official service list for this proceeding is available on the Commission's web page. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process Office, the service list,

and the ALJ. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The service list on the Commission's website meets that definition. Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to public.advisor@cpuc.ca.gov.

8. Exhibits

The parties must comply with Rule 13.7 regarding exhibits.

9. Proceeding Category and Need for Hearing

The instructions to answer categorized this proceeding as adjudicatory. No party appealed that categorization.

10. Alternative Dispute Resolution (ADR)

The parties are encouraged to avail themselves of the Commission's ADR program. ADR should shorten, not prolong, the proceedings, but even if a negotiated settlement takes longer, the result may be more beneficial to both parties. The ADR process requires confidentiality so that the parties' fundamental interests can be explored. Parties may jointly request ADR by e-mail or any party may file (and serve on the other party) a written request for ADR. This should also be served on ALJ Jean Vieth (ADR Coordinator). The parties may call ALJ Vieth (415-703-2194) or send her an e-mail at xjv@cpuc.ca.gov. Please include your name, telephone number, e-mail address, the proceeding number and a brief description of the dispute.

11. Ex Parte Requirements

This matter has been categorized as adjudicatory. Accordingly, *ex parte* communications are prohibited pursuant to Rule 8.3(b).

12. Assignment of Proceeding

Commissioner Mark J. Ferron is the assigned Commissioner and ALJ Jeanne M. McKinney is the Presiding Officer.

Therefore, **IT IS RULED** that:

1. *Ex Parte* communications are prohibited in adjudicatory proceedings, in accordance with Public Utilities Code Section 1701.2(b) and Rule 8.3(b).
2. The scope, issues, and schedule are set forth in the body of this ruling unless amended by a subsequent ruling or order of the Presiding Officer.
3. Pursuant to Rule 13.2(a), the presiding officer is Administrative Law Judge Jeanne M. McKinney.
4. This is an adjudicatory proceeding and hearings are necessary.

Dated May 11, 2012, at San Francisco, California.

 /s/ MARK J. FERRON
Mark J. Ferron
Assigned Commissioner

 /s/ JEANNE M. MCKINNEY
Jeanne M. McKinney
Administrative Law Judge