

## Malcolm, Kim

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**From:** Case.Admin@sce.com  
**Sent:** Thursday, December 27, 2007 4:33 PM  
**To:** Malcolm, Kim  
**Subject:** C.07-11-012 Schimmel vs SCE: 2007-12-27 Southern California Edison Company's (U 338-E) Answer to Complaint

**Importance:** High

**Attachments:** C.07-11-012 Schimmel vs SCE - SCE Answer to Complaint.pdf



C.07-11-012  
Schimmel vs SCE - ..

To all parties on the e-mail service list for C.07-11-012:

Attached below in PDF searchable format is "Southern California Edison Company's (U 338-E) Answer to Complaint", which is being served electronically via this e-mail. This document was e-filed today, December 27, 2007.

(See attached file: C.07-11-012 Schimmel vs SCE - SCE Answer to Complaint.pdf)

Hard copies have been sent today to ALJ Kim Malcolm and Commissioner Timothy Alan Simon via UPS Next Day Air.

Regards,

Case Administration  
Southern California Edison Company  
Telephone (626) 302-6838  
Fax (626) 302-3119  
Case.Admin@SCE.com

## Malcolm, Kim

---

**From:** David.Coher@sce.com  
**Sent:** Friday, December 28, 2007 10:05 AM  
**To:** Malcolm, Kim  
**Subject:** Re: Schimmel v SCE, CPUC Docket C.0711012

Judge Malcolm,

A telephonic pre-hearing conference on January 29th would be quite acceptable to Southern California Edison. Please let me know what time would be most convenient for yourself and Mr. & Mrs. Schimmel.

Best wishes for the remainder of the holiday season to you as well.

David B. Coher  
Attorney, Law Department  
Southern California Edison  
2244 Walnut Grove Avenue  
Rosemead, California 91770  
Telephone - (626) 302-6060  
Facsimile - (626) 302-3990

"Malcolm, Kim" <KIM@cpuc.ca.gov>

To <stephen@stephenschimmel.com>, <Stacie.Schaffer@sce.com>,  
<david.coher@sce.com>

12/28/2007 09:30 AM

cc  
Subject Schimmel v SCE, CPUC Docket C.0711012

Hello Parties,

I am writing in reference to the complaint of Mr. and Ms. Stephen Schimmel against SCE for alleged electricity overbillings. I understand that the complainants are out of the country until January 21 and that they asked the Commission to conduct a prehearing conference in early December. I did not schedule a prehearing conference earlier because I wanted to read SCE's reply to the complaint, which SCE filed yesterday according to Commission rules.

I suggest we conduct a prehearing conference the week of January 28. I am available any day that week. At the prehearing conference, we will discuss the scope of issues, whether evidentiary hearings are required and a schedule for the proceeding. I prefer to conduct the prehearing conference over the telephone but I can fly to the Los Angeles area if either party feels strongly that the prehearing conference should be in-person and reported. Because the Schimmels may not be picking up their emails and to keep the proceeding moving, I will go ahead and schedule the prehearing conference for January 29 if I don't hear from the parties by January 12. If January 29 turns out to be inconvenient for anyone, I will reschedule it after hearing from the parties.

Thank you for your cooperation and I hope you are enjoying the holiday season.

Kim Malcolm  
Administrative Law Judge  
California Public Utilities Commission

4/2/2008

## Malcolm, Kim

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**From:** David.Coher@sce.com  
**Sent:** Wednesday, January 02, 2008 11:35 AM  
**To:** Malcolm, Kim  
**Cc:** Nixon, Marcus; Stephen H. Schimmel  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012

Judge Malcolm,

To confirm, a complete copy of the response documents were mailed to Mr. & Mrs. Schimmel's home (8 Archipelago Drive, Newport Beach, California 92657) on December 27, 2007.

Southern California Edison remains available for a pre-hearing conference at 1:00 p.m. on January 29, 2008 and amenable to the hearing being conducted by conference call. Thank you.

David B. Coher  
Attorney, Law Department  
Southern California Edison  
2244 Walnut Grove Avenue  
Rosemead, California 91770  
Telephone - (626) 302-6060  
Facsimile - (626) 302-3990

"Malcolm, Kim" <KIM@cpuc.ca.gov>

To "Stephen H. Schimmel" <stephen@stephenschimmel.com>

01/02/2008 11:04 AM

CC <david.coher@sce.com>, "Nixon, Marcus" <MRX@cpuc.ca.gov>  
Subject RE: Schimmel v SCE, CPUC Docket C.0711012

Mr. Schimmel, I have annotated your note below to respond to your questions. Please copy Mr. Coher, SCE's attorney, on all correspondence to me.

Please let me know the following:

Whether a prehearing conference for January 29 at 1pm is convenient for you.

Whether you believe I should come to Los Angeles for the prehearing conference or whether a conference call is adequate.

If you would like me to travel to your area to conduct the prehearing conference, please let me know of a local community that is convenient for you and I will have our calendar clerk reserve a conference room or hearing room, for example, at a public library or city hall.

Thank you  
Kim Malcolm  
Administrative Law Judge

4/2/2008

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**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]  
**Sent:** Saturday, December 29, 2007 10:16 AM  
**To:** Malcolm, Kim  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012

Dear Judge Malcolm,

We are writing from France and truly appreciate your reply.

We are most delighted to have your preconference during week of the 28th of January,

We are scheduled to return by the 20th of January.

We would appreciate knowing the DETAILS of the following:

(a) What DATE exactly, so we can plan our schedules to comply -- I will schedule it for January 29th at 1pm unless that is inconvenient for either party.

(b) What time exactly, so we can plan our schedules to comply. If we start at 2pm, we should be done by 2pm, perhaps a little later.

(c) Where and how is the communications going to be conducted? If we have a conference call, I will let you know in advance of a call-in number. If you prefer that I come to Los Angeles, I will have our Calendar Clerk find a room for us in a location that is convenient for you.

(d) What is to be accomplished in such proceedings, how are they conducted? Normally in a case like this we discuss the issues, whether the parties plan to conduct discovery (that is, get additional information from each other and from other sources), the need for an evidentiary hearing (which we conduct where there are disputed facts, such as here) and the schedule/location for that hearing. If we determine we need an evidentiary hearing, we may want to discuss who would testify. You don't need an attorney for any of this -- we will keep it simple for you and our Public Advisor in Los Angeles, Marcus Nixon, can also advise you.

(e) In view of any preparation needed on our part, we would need a copy of the total reply made by the defendant SCE should have sent you its reply by now. Mr. Coher can confirm that.

(f) Where does the proceedings go subsequent to this hearing and what additional assistance can we get from the commission in effectuating our rights in the course of this suit. Again, after the prehearing conference, we will probably have a short day in an evidentiary hearing unless the parties stipulate to the facts (which seems unlikely in this case). The hearing can be in Los Angeles for your convenience and on a date that is convenient for you. Then you will have an opportunity to file a brief if you like, which summarizes the evidence and law in your favor. Then I will write a written decision. Marcus Nixon can send you some materials that explain our procedures and he is available to answer your questions. I have copied him on this email.

Thank you kindly Judge Malcolm

The Schimmels

---

**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Fri 12/28/2007 9:30 AM  
**To:** Stephen H. Schimmel; Stacie.Schaffer@sce.com; david.coher@sce.com  
**Subject:** Schimmel v SCE, CPUC Docket C.0711012

4/2/2008

Hello Parties,

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I suggest we conduct a prehearing conference the week of January 28. I am available any day that week. At the prehearing conference, we will discuss the scope of issues, whether evidentiary hearings are required and a schedule for the proceeding. I prefer to conduct the prehearing conference over the telephone but I can fly to the Los Angeles area if either party feels strongly that the prehearing conference should be in-person and reported. Because the Schimmels may not be picking up their emails and to keep the proceeding moving, I will go ahead and schedule the prehearing conference for January 29 if I don't hear from the parties by January 12. If January 29 turns out to be inconvenient for anyone, I will reschedule it after hearing from the parties.

Thank you for your cooperation and I hope you are enjoying the holiday season.

Kim Malcolm  
Administrative Law Judge  
California Public Utilities Commission

## Malcolm, Kim

---

**From:** Case.Admin@sce.com  
**Sent:** Wednesday, January 02, 2008 4:22 PM  
**To:** Malcolm, Kim  
**Subject:** C.07-11-012 Schimmel vs SCE: 2007-12-27 RESUBMITTED Southern California Edison Company's (U 338-E) Answer to Complaint

**Importance:** High

**Attachments:** C.07-11-012 Schimmel vs SCE - SCE Answer to Complaint.pdf



C.07-11-012  
Schimmel vs SCE - ..

To all parties on the e-mail service list for C.07-11-012:

Attached below in PDF searchable format is "Southern California Edison Company's (U 338-E) Answer to Complaint", which is being reserved electronically via this e-mail. This document was originally filed December 27, 2007, but was resubmitted due to procedural rules.

(See attached file: C.07-11-012 Schimmel vs SCE - SCE Answer to  
Complaint.pdf)

Hard copies have been sent today to ALJ Kim Malcolm and Commissioner Timothy Alan Simon via UPS Next Day Air.

Regards,

Case Administration  
Southern California Edison Company  
Telephone (626) 302-6838  
Fax (626) 302-3119  
Case.Admin@SCE.com

**Malcolm, Kim**

---

**From:** Malcolm, Kim  
**Sent:** Monday, January 14, 2008 11:23 AM  
**To:** Stephen H. Schimmel; 'David.Coher@sce.com'  
**Subject:** Schimmel v SCE, CPUC Docket C.0711012 -- CALL IN INFORMATION

Hello Mr. Schimmel and Mr. Coher,  
Here is the information for our telephonic prehearing conference on January 29 at 1pm.

USA Toll Free Number = 877-418-5002

Participant PASSCODE: = 487101

If you have never been a party to such a phone call, you only need to dial the toll free number and then wait for instructions regarding the passcode.

If the date or time cause any inconvenience for you, please let me know. Otherwise, I will confirm all of this information on the day of the call.

Thank you,  
Kim Malcolm  
Administrative Law Judge  
California Public Utilities Commission

## Malcolm, Kim

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**From:** Malcolm, Kim  
**Sent:** Thursday, January 03, 2008 9:49 AM  
**To:** 'Stephen H. Schimmel'  
**Cc:** 'David.Coher@sce.com'  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012

I know our process seems daunting but you will do fine.  
Thanks and I'll contact you toward the end of the month with more information about the conference call.  
Best wishes,  
Kim Malcolm, ALJ

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**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]  
**Sent:** Thursday, January 03, 2008 9:16 AM  
**To:** Malcolm, Kim  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012

Dear Judge Malcolm:

Thank you again for your promptness to reply and do so as we requested.

Knowing purpose and plan of this pre-hearing, we believe it practical for all parties at this stage to make this a pre-arranged conference call for the time of 1:00 pm on the 29th of January. We would appreciate being advised of any agenda or format you might be following, so we can prepared as much as possible, as well as know when to comment, when not to comment, exc.

Finally, we truly appreciate being able to contact Mr. Carter or Mr. Nixon, who might assist us to articulate our matter in the proper fashion to such a hearing. Any mistakes we make, we ask for your forgiveness in advance and will do our best to make the system work as it was designed to do.

We assume that you will arrange for the conference call and call our number at the scheduled time.

Thank you Kindly,

Mr. Schimmel

CC: SCE Attorney of record via email, David Coher

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**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Wed 1/2/2008 1:59 PM  
**To:** Stephen H. Schimmel  
**Cc:** David.Coher@sce.com; Carter, Norman H.; Nixon, Marcus  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012

Hello Mr. Schimmel,  
Again, I've annotated your questions below.  
I hope you enjoy your time in France and Happy New Year.  
Thank you  
Kim Malcolm

4/2/2008

ALJ

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**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]  
**Sent:** Wednesday, January 02, 2008 1:18 PM  
**To:** Malcolm, Kim  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012

Dear Judge Malcom,

Thank you for your quick response.

So that I might reply intelligently to your email, I would appreciate getting clarification on two issues I raised from our previous email as follows:

(1) In as much as we have not been contacted by CPUC staff to prepare us on the stages of this matter, we would appreciate knowing what is the meaning and purposes of what is called a "pre-hearing" and what are the

stages for this type of litigation? A prehearing conference is a meeting for the purpose of planning the conduct of your complaint. At that time, we can talk more about the stages of litigation and we will make sure you feel informed along the way. We will also try to keep the proceeding as simple as possible. In the meantime, I have included here the link to our consumer guide, which may answer most of your questions.  
<http://docs.cpuc.ca.gov/published/Report/42839.htm>

(2) Are we going to receive any further guidance from the CPUC staff, and if so, how and when? The Commission's staff will not contact you independently. You should contact Marcus Nixon ([mrn@cpuc.ca.gov](mailto:mrn@cpuc.ca.gov)) or Norman Carter ([nhc@cpuc.ca.gov](mailto:nhc@cpuc.ca.gov)) of our Public Advisor's office in LA when you know the kinds of questions you would like answered. I will also provide you some guidance during the hearing. No PUC staff member including myself, however, can help you with litigation *strategies* and it is ultimately your responsibility to understand the process and to comply with Commission rules. (Again, we will make it as easy as we can -- I just need to make the disclaimer).

(3) We will not going to use an attorney and notice the SCE's need to have one. The cost to us does not justify this us and that is why we have worked very hard to articulate our grievance in the complete manner we have. You don't need an attorney, although both parties are entitled to use attorneys.

In as much as we are out of the country, we are unable review the SCE response until we return on January 20th, but are able to respond by email where possible.

We would appreciate further clarification so that might answer properly.

Thank you kindly

Mr, Schimmel

CC: SCE Attorney of record via email, David Coher

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**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Wed 1/2/2008 11:04 AM  
**To:** Stephen H. Schimmel  
**Cc:** david.coher@sce.com; Nixon, Marcus  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012

Mr. Schimmel, I have annotated your note below to respond to your questions. Please copy Mr. Coher, SCE's attorney, on all correspondence to me.

Please let me know the following:

4/2/2008

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Whether you believe I should come to Los Angeles for the prehearing conference or whether a conference call is adequate.

If you would like me to travel to your area to conduct the prehearing conference, please let me know of a local community that is convenient for you and I will have our calendar clerk reserve a conference room or hearing room, for example, at a public library or city hall.

Thank you  
Kim Malcolm  
Administrative Law Judge

**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]

**Sent:** Saturday, December 29, 2007 10:16 AM

**To:** Malcolm, Kim

**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012

Dear Judge Malcolm,

We are writing from France and truly appreciate your reply.

We are most delighted to have your preconference during week of the 28th of January,

We are scheduled to return by the 20th of January.

We would appreciate knowing the DETAILS of the following:

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(e) In view of any preparation needed on our part, we would need a copy of the total reply made by the defendant SCE should have sent you its reply by now. Mr. Coher can confirm that.

(f) Where does the proceedings go subsequent to this hearing and what additional assistance can we get from the commission in effectuating our rights in the course of this suit. Again, after the prehearing conference, we will probably have a short day in an evidentiary hearing unless the parties stipulate to the facts (which seems unlikely in this case). The hearing can be in Los Angeles for your convenience and on a date that is convenient for you. Then you will have an opportunity to file a brief if you like, which summarizes the evidence and law in your favor. Then I will write a written decision. Marcus Nixon can send you some materials that explain our procedures and he is available to answer your questions. I have copied him on this email.

Thank you kindly Judge Malcolm

The Schimmels

---

**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Fri 12/28/2007 9:30 AM  
**To:** Stephen H. Schimmel; Stacie.Schaffer@sce.com; david.coher@sce.com  
**Subject:** Schimmel v SCE, CPUC Docket C.0711012

Hello Parties,

I am writing in reference to the complaint of Mr. and Ms. Stephen Schimmel against SCE for alleged electricity overbillings. I understand that the complainants are out of the country until January 21 and that they asked the Commission to conduct a prehearing conference in early December. I did not schedule a prehearing conference earlier because I wanted to read SCE's reply to the complaint, which SCE filed yesterday according to Commission rules.

I suggest we conduct a prehearing conference the week of January 28. I am available any day that week. At the prehearing conference, we will discuss the scope of issues, whether evidentiary hearings are required and a schedule for the proceeding. I prefer to conduct the prehearing conference over the telephone but I can fly to the Los Angeles area if either party feels strongly that the prehearing conference should be in-person and reported. Because the Schimmels may not be picking up their emails and to keep the proceeding moving, I will go ahead and schedule the prehearing conference for January 29 if I don't hear from the parties by January 12. If January 29 turns out to be inconvenient for anyone, I will reschedule it after hearing from the parties.

Thank you for your cooperation and I hope you are enjoying the holiday season.

Kim Malcolm  
Administrative Law Judge  
California Public Utilities Commission

## Malcolm, Kim

---

**From:** Stephen H. Schimmel [stephen@stephenschimmel.com]  
**Sent:** Thursday, January 24, 2008 12:57 PM  
**To:** Malcolm, Kim  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012

Dear Judge Malcolm:

Before sending you this recent email, we tried to make real sure that we were reading Mr. Coher's email correctly. Please note what in fact this prior email says, even referring to the address, which clearly means a mail or other delivery shipment other than an email, which we claim he never sent to us until after our communications from you .

End of Statement and for the record.

**From:** David.Coher@sce.com [mailto:David.Coher@sce.com]  
**Sent:** Wednesday, January 02, 2008 11:35 AM  
**To:** Malcolm, Kim  
**Cc:** Nixon, Marcus; Stephen H. Schimmel  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012

Judge Malcolm,

To confirm, a complete copy of the response documents were mailed to Mr. & Mrs. Schimmel's home (8 Archipelago Drive, Newport Beach, California 92657) on December 27, 2007.

Southern California Edison remains available for a pre-hearing conference at 1:00 p.m. on January 29, 2008 and amenable to the hearing being conducted by conference call. Thank you.

David B. Coher  
Attorney, Law Department  
Southern California Edison  
2244 Walnut Grove Avenue  
Rosemead, California 91770  
Telephone - (626) 302-6060  
Facsimile - (626) 302-3990

---

**From:** David.Coher@sce.com [mailto:David.Coher@sce.com]  
**Sent:** Thursday, January 24, 2008 11:56 AM  
**To:** KIM@cpuc.ca.gov  
**Cc:** Stephen H. Schimmel  
**Subject:** Fw: Schimmel v SCE, CPUC Docket C.0711012

Judge Malcolm,

After investigation, I must apologize as Mr. Schimmel was provided with the pleading in question on December 27, 2007 by electronic mail, per his election, and not postal mail as I had previously stated. This was done per

4/2/2008

Mr. Schimmel's request, as acknowledged in his January 23, 2008 electronic mail message, which is included below for your reference. If Mr. Schimmel now desires to be provided with a paper copy of this pleading and all others, I will personally ensure that he is provided with such.

The simple fact remains that Mr. Schimmel, by his own admission, is in the possession of the 11 page pleading at issue. Further, Mr. Schimmel has been in possession of this pleading for several weeks. Nonetheless, so as to avoid any further questions about this matter, I am taking the liberty of attaching a copy of the pleading in question, as was sent by electronic mail to Mr. Schimmel previously. I will presume, unless I hear otherwise, that this will resolve this matter satisfactorily for all parties. Thank you, your honor, for your time.

David B. Coher  
Attorney, Law Department  
Southern California Edison  
2244 Walnut Grove Avenue  
Rosemead, California 91770  
Telephone - (626) 302-6060  
Facsimile - (626) 302-3990

----- Forwarded by David Coher/SCE/EIX on 01/24/2008 11:47 AM -----

"Stephen H. Schimmel"  
<stephen@stephenschimmel.com>

To <David.Coher@sce.com>

cc

Subject FW: Schimmel v SCE, CPUC Docket C.0711012

01/23/2008 02:47 PM

**From:** Stephen H. Schimmel  
**Sent:** Wednesday, January 23, 2008 2:46 PM  
**To:** 'KIM@cpuc.ca.gov'  
**Subject:** Schimmel v SCE, CPUC Docket C.0711012

Dear Judge Malcolm:

For purposes of the record in this case, please note that no such SCE mailing was in fact delivered nor received to our address as claimed in this email, consistent with other representations made by this defendant over the period discussed in our complaint.

Thanks to the system at CPUC with a provision in the complaint for email communications, a copy of was in fact emailed to us from the CPUC directly.

We look forward to your 2:00pm meeting on the 29<sup>th</sup> of January.

Thank you Kindly,

Mr. Schimmel

CC: David.Coher@sce.com

4/2/2008

**Malcolm, Kim**

---

**From:** Stephen H. Schimmel [stephen@stephenschimmel.com]  
**Sent:** Thursday, January 24, 2008 8:38 AM  
**To:** Malcolm, Kim  
**Subject:** Schimmel v SCE, CPUC Docket C.0711012

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Mr. Schimmel

CC: David.Coher@sce.com

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Rosemead, California 91770  
Telephone - (626) 302-6060  
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"Malcolm, Kim" <KIM@cpuc.ca.gov>

To "Stephen H. Schimmel" <stephen@stephenschimmel.com>  
cc

4/2/2008

01/02/2008 11:04 AM

<david.coher@sce.com>, "Nixon, Marcus" <MRX@cpuc.ca.gov>  
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Administrative Law Judge

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4/2/2008

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The Schimmels

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**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]

**Sent:** Fri 12/28/2007 9:30 AM

**To:** Stephen H. Schimmel; Stacie.Schaffer@sce.com; david.coher@sce.com

**Subject:** Schimmel v SCE, CPUC Docket C.0711012

Hello Parties,

I am writing in reference to the complaint of Mr. and Ms. Stephen Schimmel against SCE for alleged electricity overbillings. I understand that the complainants are out of the country until January 21 and that they asked the Commission to conduct a prehearing conference in early December. I did not schedule a prehearing conference earlier because I wanted to read SCE's reply to the complaint, which SCE filed yesterday according to Commission rules.

I suggest we conduct a prehearing conference the week of January 28. I am available any day that week. At the prehearing conference, we will discuss the scope of issues, whether evidentiary hearings are required and a schedule for the proceeding. I prefer to conduct the prehearing conference over the telephone but I can fly to the Los Angeles area if either party feels strongly that the prehearing conference should be in-person and reported. Because the Schimmels may not be picking up their emails and to keep the proceeding moving, I will go ahead and schedule the prehearing conference for January 29 if I don't hear from the parties by January 12. If January 29 turns out to be inconvenient for anyone, I will reschedule it after hearing from the parties.

Thank you for your cooperation and I hope you are enjoying the holiday season.

Kim Malcolm

Administrative Law Judge

California Public Utilities Commission

**Malcolm, Kim**

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**From:** Malcolm, Kim  
**Sent:** Friday, January 25, 2008 10:09 AM  
**To:** 'David.Coher@sce.com'  
**Cc:** stephen@stephenschimmel.com  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012

Mr. Schimmel and Mr. Coher,

I have read all your recent emails and it looks like this is resolved. I'm sure neither party wishes to complicate this case unnecessarily with a minor procedural problem so let's just keep communicating.

Thanks

Kim Malcolm, ALJ

---

**From:** David.Coher@sce.com [mailto:David.Coher@sce.com]  
**Sent:** Thursday, January 24, 2008 11:56 AM  
**To:** Malcolm, Kim  
**Cc:** stephen@stephenschimmel.com  
**Subject:** Fw: Schimmel v SCE, CPUC Docket C.0711012

Judge Malcolm,

After investigation, I must apologize as Mr. Schimmel was provided with the pleading in question on December 27, 2007 by electronic mail, per his election, and not postal mail as I had previously stated. This was done per Mr. Schimmel's request, as acknowledged in his January 23, 2008 electronic mail message, which is included below for your reference. If Mr. Schimmel now desires to be provided with a paper copy of this pleading and all others, I will personally ensure that he is provided with such.

The simple fact remains that Mr. Schimmel, by his own admission, is in the possession of the 11 page pleading at issue. Further, Mr. Schimmel has been in possession of this pleading for several weeks. Nonetheless, so as to avoid any further questions about this matter, I am taking the liberty of attaching a copy of the pleading in question, as was sent by electronic mail to Mr. Schimmel previously. I will presume, unless I hear otherwise, that this will resolve this matter satisfactorily for all parties. Thank you, your honor, for your time.

David B. Coher  
 Attorney, Law Department  
 Southern California Edison  
 2244 Walnut Grove Avenue  
 Rosemead, California 91770  
 Telephone - (626) 302-6060  
 Facsimile - (626) 302-3990

----- Forwarded by David Coher/SCE/EIX on 01/24/2008 11:47 AM -----

"Stephen H. Schimmel"  
 <stephen@stephenschimmel.com>

To <David.Coher@sce.com>

cc

Subject FW: Schimmel v SCE, CPUC Docket C.0711012

01/23/2008 02:47 PM

4/2/2008

**From:** Stephen H. Schimmel  
**Sent:** Wednesday, January 23, 2008 2:46 PM  
**To:** 'KIM@cpuc.ca.gov'  
**Subject:** Schimmel v SCE, CPUC Docket C.0711012

Dear Judge Malcolm:

For purposes of the record in this case, please note that no such SCE mailing was in fact delivered nor received to our address as claimed in this email, consistent with other representations made by this defendant over the period discussed in our complaint.

Thanks to the system at CPUC with a provision in the complaint for email communications, a copy of was in fact emailed to us from the CPUC directly.

We look forward to your 2:00pm meeting on the 29<sup>th</sup> of January.

Thank you Kindly,

Mr. Schimmel

CC: David.Coher@sce.com

## Malcolm, Kim

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**From:** Case.Admin@sce.com  
**Sent:** Thursday, February 28, 2008 10:19 AM  
**To:** Malcolm, Kim  
**Subject:** C.07-11-012 Schimmel vs SCE: 2008-02-28 Prepared Testimony of Southern California Edison Company (U 338-E)

**Importance:** High

**Attachments:** C.07-11-012 Schimmel vs SCE - SCE Prepared Testimony.pdf



C.07-11-012  
Schimmel vs SCE - ..

To all parties on the official service list for C.07-11-012:

Attached below in PDF searchable format is "Prepared Testimony of Southern California Edison Company (U 338-E)", which is being served electronically via this e-mail.

(See attached file: C.07-11-012 Schimmel vs SCE - SCE Prepared  
Testimony.pdf)

Hard copies have been sent via UPS Next Day Air to Commissioner Timothy Alan Simon, ALJ Kim Malcolm, and ALJ Jean Vieth.

**E-mail List:**

david.coher@sce.com  
stephen@stephenschimmel.com  
case.admin@sce.com  
leon.bass@sce.com  
stacie.schaffer@sce.com  
xjv@cpuc.ca.gov  
kim@cpuc.ca.gov  
tas@cpuc.ca.gov

Regards,

Case Administration  
Southern California Edison Company  
Telephone (626) 302-6838  
Fax (626) 302-3119  
Case.Admin@SCE.com

**Malcolm, Kim**

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**From:** Stephen H. Schimmel [stephen@stephenschimmel.com]  
**Sent:** Wednesday, March 05, 2008 10:34 AM  
**To:** Malcolm, Kim  
**Subject:** FW: Schimmel v SCE, CPUC Docket C.0711012 CORRECTED REPLY

Dear Judge Malcolm:

We Want to assure you Judge Malcolm that we tried in genuine good faith to work a resolution as promised to you and to Judge Vieh. We are equally saddened by what we regard as the others sides unreasonable demeanor.

We hope that we can stick to the issues in this hearing and not carried off into irrelevant no productive territory as has been suggested by certain events.

We wish to keep any cross examination to a minimum and relevant to the remedies being sought by the consumer or complaintant in this matter.

In as much as we don't know the procedures used by you or modus operandi d of such a hearing, we are at a serious disadvantage coming into this hearing other than what we have written and included in great detail in our complaint. We would appreciate from your end how you plan to conduct this hearing, the procedures and steps.

We also wish to know what room number at the Harbor Court house is being assigned for this hearing.

Thank you Kindly,

Stephen Schimmel

---

**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Wednesday, March 05, 2008 9:50 AM  
**To:** Stephen H. Schimmel  
**Cc:** David.Coher@sce.com  
**Subject:** Schimmel v SCE, CPUC Docket C.0711012 -- Hearing next week

Mr. Schimmel and Mr. Coher,  
 Sorry to hear your mediation didn't work out. You did get one of our best mediators. I've attached the information from our Daily Calendar about the time and place of our hearing as you request Mr. Schimmel.

I would like to know in advance how much cross-examination of each other's witnesses you may plan to conduct. Can each of you provide that by tomorrow close of business please?

Thanks  
 Kim Malcolm  
 Assigned ALJ

**3/12/08**  
 10:00 a.m.  
 ALJ Malcolm  
 Comr Simon

**C.07-11-012 (EH) - Mr. & Mrs. Stephen H. Schimmel, Complainant, vs. Southern California Edison Company (U338E), Defendant,  
 Orange County Superior Court, Harbor Justice Center - Newport Beach, 4601 Jamboree Road, Newport Beach, CA**

4/2/2008

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**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]  
**Sent:** Tuesday, March 04, 2008 4:49 PM  
**To:** Malcolm, Kim  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 -- UPDATE

Dear Judge Malcolm:

First of all we want to thank you for picking such a competent Mediator as Judge Vieth to assist us to resolve our matter with the SCE.

Unfortunately, issues could not be resolved as we all had hoped.

So therefore, we would appreciate knowing what address and time we are to show up for next Wednesday's hearing.

Thank you kindly,

The Schimmels

CC: David Coher

---

**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Monday, February 04, 2008 10:37 AM  
**To:** Stephen H. Schimmel  
**Cc:** David.Coher@sce.com  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 -- UPDATE

Hello Again,  
I apologize for my error. I have rescheduled the hearing for March 12. You will get a notice from our Calendar Clerk. Let me know if you have any questions or concerns.  
Thanks  
Kim Malcolm,  
Administrative Law Judge

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**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]  
**Sent:** Monday, February 04, 2008 10:04 AM  
**To:** Malcolm, Kim  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 -- UPDATE

Dear Judge Malcolm:

We would appreciate the date we agreed to. We have tried to exercise great patience in allowing this defense to take another month from what we had hoped could be done much earlier. It is our opinion that the defense has already had plenty of time to prepare. As you can tell from our complaint and attachments, many hours went into our preparation and we are ready to go.

We appreciate your kindness and consideration.

Mr. Schimmel

4/2/2008

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**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Monday, February 04, 2008 9:43 AM  
**To:** Stephen H. Schimmel  
**Cc:** David.Coher@sce.com  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 -- UPDATE

Yes, you are right. My apologies. Are you available on March 14? I can probably get the courts to change the date if March 14 is inconvenient for you.

---

**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]  
**Sent:** Friday, February 01, 2008 2:43 PM  
**To:** Malcolm, Kim  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 -- UPDATE

Dear Judge Malcolm:

Did we not agree on March 12<sup>th</sup> despite Mr. Coher first suggestion for the 14<sup>th</sup> of March?

Please advise?

Thank you Kindly,

Mr. Schimmel

---

**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Friday, February 01, 2008 10:29 AM  
**To:** David.Coher@sce.com; Stephen H. Schimmel  
**Cc:** Koss, Kenneth L.  
**Subject:** Schimmel v SCE, CPUC Docket C.0711012 -- UPDATE

Mr. Schimmel and Mr. Coher,

Thank you for a productive prehearing conference. This note follows up on our discussion.

You should be hearing from Judge Ken Koss in the next couple of days. He will have the name and bio of a mediator for you. As we discussed on the conference call, you may reject the mediator if you see something in the bio that concerns you -- or for any reason. Mediation works best when everyone is comfortable with the mediator. The mediation will be conducted in Newport Beach on March 3,4 or 5, which you can decide when the mediator is confirmed. The mediator will contact you both in advance to describe the process of mediation and let you know the location, which will probably be a conference room in a public building, such as a library or city hall.

In the case the mediation is not successful, I have reserved a court room for an evidentiary hearing at the Harbor Justice Center. As we discussed, the hearing would be scheduled for March 14.

Thank you,  
Kim Malcolm  
Administrative Law Judge  
California Public Utilities Commission

4/2/2008

## Malcolm, Kim

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**From:** Stephen H. Schimmel [stephen@stephenschimmel.com]  
**Sent:** Wednesday, March 05, 2008 5:14 PM  
**To:** Malcolm, Kim  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --

Thank you kindly; we believe you and trust you will give a fair shot at a Goliath.

---

**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Wednesday, March 05, 2008 5:08 PM  
**To:** Stephen H. Schimmel  
**Cc:** David.Coher@sce.com  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --

Don't worry about any of this. We'll discuss at the hearing.

---

**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]  
**Sent:** Wednesday, March 05, 2008 5:06 PM  
**To:** Malcolm, Kim  
**Subject:** FW: Schimmel v SCE, CPUC Docket C.0711012 --

Dear Judge Malcolm:

Thank you for your information. Please see our comments below regarding issues you raised.

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**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Wednesday, March 05, 2008 1:30 PM  
**To:** Stephen H. Schimmel  
**Cc:** David.Coher@sce.com; Carter, Norman H.; Nixon, Marcus  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --

Hello Mr. Schimmel,  
It is normally up to the parties to understand what to expect and to work with our public advisor to that end.  
However, I will give you a little background.

First, you will need to bring at least 3 copies of any relevant documents that you wish to use during the hearing. You do not need to bring documents that are already attached to your complaint. Any documents that are used in the hearing must be marked as exhibits and entered into the record of the proceeding, which is my job.

You should read SCE's testimony in advance. If you plan to cross-examine SCE witnesses about what they say in their testimony, please estimate how much time you will need for each so we can plan the hearing day accordingly and so that Mr. Coher makes sure the witnesses attend the hearing. You may go longer than your time estimate as long as your cross-examination is productive. You should let Mr. Coher and me know your estimates of time as soon as possible.

At 10am, I will open the hearing and inquire as to whether there are procedural matters to address. There will probably not be any in this case. After that, you will take the witness stand and I will swear you in. Your wife may also testify. After you are sworn in, you may -- but do not need to -- give a very brief summary of your case. Then SCE's attorney is entitled to conduct cross-examination about the facts and your allegations. Your responses should be succinct and direct. Because you don't have an attorney, I will give you an opportunity to clarify your answers on "re-direct."

4/2/2008

Not sure what procedural matters means, such as modifications of what is in the complaint or newly presented evidence, is this what you mean? When are such matters mentioned???

Then Mr. Coher will put on his witnesses, who you may cross-examine. "Cross-examination" means asking questions that are within the scope of the complaint and written testimony. Questions should emphasize factual issues and should not assume facts not in evidence. (An example of the latter might be "are you still overbilling me?" when in fact the question of whether you have been overbilled is not resolved. Instead you might ask "do you assert that my current bills reflect my energy usage?"). You may wish to write down your questions in advance for your reference at the hearing. At the end of your cross-examination of SCE's witnesses, Mr. Coher may ask his witnesses clarifying questions on re-direct.

During the testimony, I may ask you or the SCE questions as well. After the testimony is complete, I will explain the process for the Commission making a decision. You and Mr. Coher may wish to have the opportunity to file briefs and we'll set a schedule for that. Briefs allow you to summarize and argue the facts of the case. I do not expect the hearing to go past 3pm.

The briefs issue is troublesome to say the least. We are not lawyers and have tried to prepare for this well in advance without requiring us to hire lawyers or file briefs like lawyers. Perhaps we should have chosen the expedited process to avoid lawyers and briefs, exc. Not sure if this can still be done. But the damages to us is what motivated us to go the route we did.. Please do not expect us to file briefs. What we have filed with you or may give you at the hearing should give you the evidence to determine your decision, much of which is in the complaint, the Rules enumerated and stated included therein. We would hope to get a decision within a reasonable period thereafter without any further hearings. As I mentioned to you in the beginning, we are not lawyers, and you assured me that that would not be a problem for us and that you would take that into consideration.

We are making our best effort to get the system to work to get us justice finally from what we regard as an out of control entity that has no accountability to the public other than 5 commissioners sitting in San Francisco.

To avoid much of this, our desire to be reasonable made us agree to mediation, but unfortunately it takes two sides to mediate. We acted in good faith, but do not believe the other had the real intention to mediate.

Hopefully, your honor, behavior will become a factor of credibility in this case.

Thank you Kindly,

Mr. Schimmel

There is not much more you need to know in advance. I will inform you of procedural matters as we go along. Let me know if you have questions that I haven't addressed here -- and please feel free to contact our public advisor for more information. I have copied Norm Carter and Marcus Nixon on this note, who Are our Los Angeles area public advisors.

Thank you  
Kim Malcolm  
Assigned ALJ

---

**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]

4/2/2008

**Sent:** Wednesday, March 05, 2008 11:41 AM  
**To:** Malcolm, Kim  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --

Dear Judge Malcolm:

Thank you for responding promptly.

We greatly appreciate your articulating this information in an email first and seeing whether this will help familiarize ourselves with the information we requested. As you have learned from your own experience in life, there is nothing like experience to rid one of concerns for preparation. However, we are leaning on you to make this as non-intimidating, user friendly, and focused as possible, so that the advantages of the other side will not prejudice our ability to a fair hearing.

Please give us your best shot and we will do our best to respond promptly should there be any further clarification requested. Our comments about keeping the issues a focus and preventing distractions is a side request to you as Judge, so that the valuable time of all will not be compromised by irrelevancies and PR.

Look forward to your email and once again, many thanks for your offer.

Stephen Schimmel

Copy to David Coher

---

**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Wednesday, March 05, 2008 11:18 AM  
**To:** Stephen H. Schimmel  
**Cc:** David.Coher@sce.com  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --

Mr. Schimmel,  
If you would prefer email to a phone conversation, that's fine with me. Please let me know what questions you have or give our public advisor a call.

The hearing is still on for Wednesday.

If we have a call in advance of the hearing, Mr Coher is not available this afternoon so I suggest 11am tomorrow morning. I will call each of you. Please let me know where to call you Mr. Schimmel. I have Mr. Coher's phone number from his previous email.

Thanks  
Kim Malcolm

---

**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]  
**Sent:** Wednesday, March 05, 2008 11:10 AM  
**To:** Malcolm, Kim  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --

Dear Judge Malcolm:

Not sure why this cannot be explained in an email. But as you can imagine, this is unfamiliar territory for the consumer, but very much known by the defense.

4/2/2008

We have articulated our concerns and requests for the record. Today is better for us if this needs to be done by phone. We will make ourselves available at 3:00pm but want this hearing to go on for sure by next Wednesday as scheduled and to get a adjudicated resolution of this matter shortly thereafter, making the system work as it was designed.

Are you going to call us or how do we proceed to connect should a phone call me in place of email.

Thank you kindly,

Stephen Schimmel

Copy to David Coher

---

**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Wednesday, March 05, 2008 10:44 AM  
**To:** Stephen H. Schimmel; David.Coher@sce.com  
**Subject:** Schimmel v SCE, CPUC Docket C.0711012 --

Because Mr. Schimmel expresses concerns about the PUC's hearing procedures, I would like to have a brief conference call this afternoon at 3pm. I can use the conference call function on my phone if I make the call. Or SCE can set up a conference call for us. If I don't hear from you in the next hour or so, I will assume you aren't available today. Alternatives would be tomorrow morning or Friday morning.

Thank you  
Kim Malcolm  
Assigned ALJ

**Malcolm, Kim**

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**From:** Malcolm, Kim  
**Sent:** Friday, March 07, 2008 1:45 PM  
**To:** 'Stephen H. Schimmel'  
**Cc:** 'David.Coher@sce.com'  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --REPLY TO LATEST EMAIL

---

**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]  
**Sent:** Friday, March 07, 2008 1:26 PM  
**To:** Malcolm, Kim  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --REPLY TO LATEST EMAIL

Dear Judge Malcolm:

My email system will not allow me to put his name in the CC area, because of some software operational error. So we have been forced to put his name on the email; but we have absolute proof that we sent it to him and can provide this without any problem. Just let us know of any one you are concerned with.

Hope this helps,

Mr. Schimmel

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**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Friday, March 07, 2008 1:18 PM  
**To:** Stephen H. Schimmel  
**Cc:** David.Coher@sce.com  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --REPLY TO LATEST EMAIL

Mr. Schimmel,  
Your subsequent communications with me need to show Mr. Coher's email in the "cc" or "To" field so that I know your communication is proper.  
Thank you  
Kim Malcolm

---

**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]  
**Sent:** Friday, March 07, 2008 12:48 PM  
**To:** Malcolm, Kim  
**Subject:** Schimmel v SCE, CPUC Docket C.0711012 --REPLY TO LATEST EMAIL

**Dear Judge Malcolm:**

**As you can see from a copy below your email, Mr. Coher was in fact copied on my correspondence. So This rule was not violated whatsoever. It is also inappropriate that Mr. Coher did not point this error out to you immediately but just let it go, creating the impression that he did not in fact get the copy.**

**We are also greatly troubled by a material violation of confidence or break of confidentiality that**

was shared and agreed to by the mediator you recommended, such breach having elicited a great deal of anxiety for the defense and potentially prejudicing our strategy to bring out the truth of this matter. Very disturbing indeed.

As we are not sure what new evidence you are talking about, we have always been allowed to bring any additional documentation we can find to counter the expressed intention of the defense to make us the problem rather than the victims, having been stated twice by Mr. Coher. We are still in the process of getting those documents and not sure if they will be needed or will be needed.

It is interesting to note that the damage done by the Mediator and follow up your latest email mentions nothing about our asking Mr. Coher for additional materials. What is giving to you is what is given to you and you As Judge are in the privileged position to evaluate its merits. We are certainly not worried what Mr. Coher brings as we are secure with what we have. We are prepared however for anticipated misrepresentations, diminishment and falsehoods.

Judge Malcolm, we intend that Wednesday is going to be it. We are not prepared to go beyond this period, because of the time consumption and other factors in our life that are much more important and need more attention. We are simply seeking Justice in a non-bias and fair manner, protecting us from the system allow us to be abused in the process.

So any consideration on your part to keep this matter going will force us to file a motion to dismiss without prejudice and consider refiling an amended complaint at a later time, this time for an expedited one.

We trust that any questioning by either side will be relevant and only relevant and kept to a minimum.

Thank you

Mr. Schimmel

Copy to David Coher

**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Thursday, March 06, 2008 1:52 PM  
**To:** Stephen H. Schimmel  
**Cc:** David.Coher@sce.com  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --

Mr. Schimmel,

I remind you that you may not have private communications with me. Public Utilities Code Section 1701.2 prohibits ex parte communications in cases like this one and I'm sure you do not wish to be in violation of state law. Accordingly, I have copied Mr. Coher on your note.

As to the substance of your communication, I would like to focus this litigation on the facts and avoid speculation about a party's motivations. The fact that a dispute does not settle is not evidence of a party's lacking good faith and I would not interpret any of SCE's communications as an attempt to deny you a fair hearing.

If you have additional evidence you would like to introduce at the hearing, you must present it to SCE in advance of the hearing. I suggest you provide Mr. Coher electronic copies of the materials today or, if the materials cannot be delivered electronically, you should make sure they reach Mr. Coher no later than noon on Monday. If SCE does not receive the additional evidence by noon on Monday, SCE will be entitled to challenge your introduction of the material at hearing or seek a postponement of the hearing.

4/2/2008

Mr. Coher, I apologize about the 11am conference call. I assumed we did not need one but if you would like a conference call before the hearing, I suggest either today at 3pm or tomorrow at 10am. If there are additional matters to discuss, a conference call would be preferable to more emails at this point.

Thank you,  
Kim Malcolm  
Assigned Administrative Law Judge

---

**From:** Stephen H. Schimmel  
**Sent:** Thursday, March 06, 2008 12:15 PM  
**To:** 'David.Coher@sce.com'  
**Subject:** FW: Schimmel v SCE, CPUC Docket C.0711012 --

Copy to David Coher

---

**From:** Stephen H. Schimmel  
**Sent:** Thursday, March 06, 2008 12:13 PM  
**To:** 'Malcolm, Kim'  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --

Dear Judge Malcolm:

We had no need for a telephone call because you adequately explained what to expect at the hearing. I think Mr. Coher has other motives for this email.

Just from the tone of this email and the threats therein, you can see already the route that they are continuing to take against us and we resent this kind of tone, their threats and their desire to diminish any opportunity to give our matter a fair hearing. It has a tone of the bully mentality mentioned in the first part of the complaint.

We know that they did not act in good faith at the mediation just by their unwillingness to settle.

We ask that you insure that their bully tactics will not get us off track and make intimidation become the vehicle of their prevailing and we not getting justice.

Thank you

Mr. Schimmel

---

**From:** David.Coher@sce.com [mailto:David.Coher@sce.com]  
**Sent:** Thursday, March 06, 2008 11:35 AM  
**To:** Malcolm, Kim  
**Cc:** Stephen H. Schimmel  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --

Judge Malcolm,

I was under the impression that we would be holding a telephonic conference call this morning at 11:00 a.m. As that was not the case, there are several issues I would like to raise prior to the March 12 evidentiary hearing.

4/2/2008

First, with respect to your inquiry about cross-examination, I intend to spend approximately one hour cross-examining Mr. Schimmel and approximately 20 minutes cross-examining Mrs. Schimmel.

Second, without venturing into details learned at the mediation, SCE is surprised to learn that Mr. Schimmel intends to bring further evidence to bear on this matter. As you may recall, on January 29, during the telephonic Pre-hearing Conference, Mr. Schimmel indicated that he and his wife would be resting their case upon the evidence contained in their Complaint and would not be presenting any further evidence. While SCE appreciates that the Schimmels may now desire to present further evidence, SCE believes it would be unduly prejudicial to not have an opportunity to review such evidence prior to the March 12 hearing. Especially, as SCE now understands that the Schimmels intend to present a significant volume of additional evidence, contrary to the representations made on January 29. SCE has taken pains to present all relevant evidence prior to the hearing. This is not a matter of procedure but of fairness. SCE desires that all parties have an ample and fair opportunity to submit and respond to all relevant evidence. Therefore, in the interest of avoiding the need for an additional evidentiary hearing, SCE requests an instruction that any party wishing to present evidence into the record of the case provide a copy to all parties on a date certain, prior to the March 12 hearing. This will provide all parties sufficient time to review and respond to any opposing evidence.

Third, in response to several comments in electronic mail messages since the mediation, SCE hopes that your honor will accept SCE's representation that it did mediate in good faith and made every reasonable effort to reach a justifiable solution. SCE is confident that any discussion with Judge Vieth on the topic, no matter how limited, would reveal as much. SCE vows to continue to maintain a professional and respectful manner throughout this proceeding and to avoid pejorative comments or any other actions that would be caustic upon this proceeding.

Thank you, your honor, for your time, and I look forward to meeting you on March 12.

David B. Coher  
 Attorney, Law Department  
 Southern California Edison  
 2244 Walnut Grove Avenue  
 Rosemead, California 91770  
 Telephone - (626) 302-6060  
 Facsimile - (626) 302-3990

"Malcolm, Kim" <KIM@cpuc.ca.gov>

To "Stephen H. Schimmel" <stephen@stephenschimmel.com>

03/05/2008 05:07 PM

cc <David.Coher@sce.com>

Subject RE: Schimmel v SCE, CPUC Docket C.0711012 --

Don't worry about any of this. We'll discuss at the hearing.

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**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]  
**Sent:** Wednesday, March 05, 2008 5:06 PM  
**To:** Malcolm, Kim  
**Subject:** FW: Schimmel v SCE, CPUC Docket C.0711012 --

Dear Judge Malcolm:

Thank you for your information. Please see our comments below regarding issues you raised.

**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]  
**Sent:** Wednesday, March 05, 2008 1:30 PM  
**To:** Stephen H. Schimmel

4/2/2008

**Cc:** David.Coher@sce.com; Carter, Norman H.; Nixon, Marcus  
**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --

Hello Mr. Schimmel,

It is normally up to the parties to understand what to expect and to work with our public advisor to that end. However, I will give you a little background.

First, you will need to bring at least 3 copies of any relevant documents that you wish to use during the hearing. You do not need to bring documents that are already attached to your complaint. Any documents that are used in the hearing must be marked as exhibits and entered into the record of the proceeding, which is my job.

You should read SCE's testimony in advance. If you plan to cross-examine SCE witnesses about what they say in their testimony, please estimate how much time you will need for each so we can plan the hearing day accordingly and so that Mr. Coher makes sure the witnesses attend the hearing. You may go longer than your time estimate as long as your cross-examination is productive. You should let Mr. Coher and me know your estimates of time as soon as possible.

At 10am, I will open the hearing and inquire as to whether there are procedural matters to address. There will probably not be any in this case. After that, you will take the witness stand and I will swear you in. Your wife may also testify. After you are sworn in, you may -- but do not need to -- give a very brief summary of your case.

Then SCE's attorney is entitled to conduct cross-examination about the facts and your allegations. Your responses should be succinct and direct. Because you don't have an attorney, I will give you an opportunity to clarify your answers on "re-direct."

Not sure what procedural matters means, such as modifications of what is in the complaint or newly presented evidence, is this what you mean? When are such matters mentioned???

Then Mr. Coher will put on his witnesses, who you may cross-examine. "Cross-examination" means asking questions that are within the scope of the complaint and written testimony. Questions should emphasize factual issues and should not assume facts not in evidence. (An example of the latter might be "are you still overbilling me?" when in fact the question of whether you have been overbilled is not resolved. Instead you might ask "do you assert that my current bills reflect my energy usage?"). You may wish to write down your questions in advance for your reference at the hearing. At the end of your cross-examination of SCE's witnesses, Mr. Coher may ask his witnesses clarifying questions on re-direct.

During the testimony, I may ask you or the SCE questions as well.

After the testimony is complete, I will explain the process for the Commission making a decision. You and Mr. Coher may wish to have the opportunity to file briefs and we'll set a schedule for that. Briefs allow you to summarize and argue the facts of the case. I do not expect the hearing to go past 3pm.

The briefs issue is troublesome to say the least. We are not lawyers and have tried to prepare for this well in advance without requiring us to hire lawyers or file briefs like lawyers. Perhaps we should have chosen the expedited process to avoid lawyers and briefs, exc. Not sure if this can still be done. But the damages to us is what motivated us to go the route we did.. Please do not expect us to file briefs. What we have filed with you or may give you at the hearing should give you the evidence to determine your decision, much of which is in the complaint, the Rules enumerated and stated included therein. We would hope to get a decision within a reasonable period thereafter without any further hearings. As I mentioned to you in the beginning, we are not lawyers, and you assured me that that would not be a problem for us and that you would take that into consideration.

We are making our best effort to get the system to work to get us justice finally from what we regard as an out of control entity that has no accountability to the public other than 5 commissioners sitting in San Francisco.

To avoid much of this, our desire to be reasonable made us agree to mediation, but unfortunately it takes two sides to mediate. We acted in good faith, but do not believe the other had the real intention to mediate.

Hopefully, your honor, behavior will become a factor of credibility in this case.

4/2/2008

Thank you Kindly,

Mr. Schimmel

There is not much more you need to know in advance. I will inform you of procedural matters as we go along. Let me know if you have questions that I haven't addressed here -- and please feel free to contact our public advisor for more information. I have copied Norm Carter and Marcus Nixon on this note, who are our Los Angeles area public advisors.

Thank you

Kim Malcolm

Assigned ALJ

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**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]

**Sent:** Wednesday, March 05, 2008 11:41 AM

**To:** Malcolm, Kim

**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --

Dear Judge Malcolm:

Thank you for responding promptly.

We greatly appreciate your articulating this information in an email first and seeing whether this will help familiarize ourselves with the information we requested. As you have learned from your own experience in life, there is nothing like experience to rid one of concerns for preparation. However, we are leaning on you to make this as non-intimidating, user friendly, and focused as possible, so that the advantages of the other side will not prejudice our ability to a fair hearing.

Please give us your best shot and we will do our best to respond promptly should there be any further clarification requested. Our comments about keeping the issues a focus and preventing distractions is a side request to you as Judge, so that the valuable time of all will not be compromised by irrelevancies and PR.

Look forward to your email and once again, many thanks for your offer.

Stephen Schimmel

Copy to David Coher

**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]

**Sent:** Wednesday, March 05, 2008 11:18 AM

**To:** Stephen H. Schimmel

**Cc:** David.Coher@sce.com

**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --

Mr. Schimmel,

If you would prefer email to a phone conversation, that's fine with me. Please let me know what questions you have or give our public advisor a call.

4/2/2008

The hearing is still on for Wednesday.

If we have a call in advance of the hearing, Mr Coher is not available this afternoon so I suggest 11am tomorrow morning. I will call each of you. Please let me know where to call you Mr. Schimmel. I have Mr. Coher's phone number from his previous email.

Thanks

Kim Malcolm

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**From:** Stephen H. Schimmel [mailto:stephen@stephenschimmel.com]

**Sent:** Wednesday, March 05, 2008 11:10 AM

**To:** Malcolm, Kim

**Subject:** RE: Schimmel v SCE, CPUC Docket C.0711012 --

Dear Judge Malcolm:

Not sure why this cannot be explained in an email. But as you can imagine, this is unfamiliar territory for the consumer, but very much known by the defense.

We have articulated our concerns and requests for the record. Today is better for us if this needs to be done by phone. We will make ourselves available at 3:00pm but want this hearing to go on for sure by next Wednesday as scheduled and to get a adjudicated resolution of this matter shortly thereafter, making the system work as it was designed.

Are you going to call us or how do we proceed to connect should a phone call me in place of email.

Thank you kindly,

Stephen Schimmel

Copy to David Coher

**From:** Malcolm, Kim [mailto:KIM@cpuc.ca.gov]

**Sent:** Wednesday, March 05, 2008 10:44 AM

**To:** Stephen H. Schimmel; David.Coher@sce.com

**Subject:** Schimmel v SCE, CPUC Docket C.0711012 --

Because Mr. Schimmel expresses concerns about the PUC's hearing procedures, I would like to have a brief conference call this afternoon at 3pm. I can use the conference call function on my phone if I make the call. Or SCE can set up a conference call for us. If I don't hear from you in the next hour or so, I will assume you aren't available today. Alternatives would be tomorrow morning or Friday morning.

Thank you

Kim Malcolm

Assigned ALJ