

Decision \_\_\_\_\_

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

David Davis,

Complainant,

vs.

Southern California Edison Company (U338E),

Defendant.

Case 12-08-015  
(Filed August 23, 2012)

And Related Matter.

Case 13-11-002

**ORDER EXTENDING STATUTORY DEADLINE**

**Summary**

This decision extends the statutory deadline in Case (C.) 13-11-002 to June 19, 2016. The first complaint, C.12-08-015, filed by David Davis (Complainant or Davis) against Southern California Edison Company (Defendant or SCE), was closed on April 4, 2013, and reopened on May 2, 2013, due to a request for rehearing of Decision (D.) 13-04-002.

The rehearing request was granted in October 2013 and these proceedings are consolidated because they involve related questions of law and fact.

## **1. Background**

Public Utilities (Pub. Util.) Code Section 1701.2(e) provides that adjudicatory cases shall be resolved within 12 months of the date that they are initiated unless the Commission makes findings as to why that deadline cannot be met and issues an order extending that deadline. Case (C.) 13-11-002 is categorized as adjudicatory and the 12-month deadline for its resolution was November 12, 2014. The Commission extended the statutory deadline and this decision further extends the statutory deadline to June 19, 2016.

On August 23, 2012, Davis filed C.12-08-015 against SCE alleging that SCE wrongly refuses to make net energy metering available to Davis for the purpose of interconnecting enough solar generating capacity to meet the electrical requirements of an electric vehicle charging station.

On April 4, 2013, D.13-04-002 granted Defendant's motion to dismiss the instant complaint with prejudice on the grounds that the complaint is contrary to statutory provisions and Commission decisions governing net energy metering (NEM). On May 2, 2013, Davis filed a rehearing request of that decision and D.13-10-044 granted the rehearing.

On November 12, 2013, Davis filed a second complaint against SCE. In C.13-11-002, Davis claims that his proposed solar photovoltaic installations are correctly sized to qualify for California's programs under the provisions of electric Rule 21 applicable to NEM customers. Davis alleges that SCE has violated Pub. Util. Code § 2827(c)(1)<sup>1</sup> by refusing to allow some of Davis's projects to interconnect under SCE's NEM tariff and by refusing to pay

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<sup>1</sup> Unless otherwise specified, all further section references are to the California Public Utilities Code.

California Solar Initiative program incentives for some of the projects. SCE asserts that the projects are sized too large to qualify for the programs.

Both complaints are now consolidated because they involve related questions of law and fact.

On June 19, 2014, Davis filed an amended complaint that included new claims related to the same questions of law and fact. These new claims also formed the basis of Davis' civil claim. Davis' civil claim was dismissed by the superior court, but was appealed. On May 5, 2015 the Court of Appeal published its decision affirming the dismissal.

In light of the civil court decision, on October 6, 2015, the assigned Commissioner and assigned Administrative Law Judge (ALJ) issued an amended scoping memo reopening the record and asking parties to brief legal issues related to the June 2014 claims.

The case now stands submitted on October 19, 2015. We expect to issue a presiding officer's decision within 60 days of submission. However, to allow time for Commission consideration of possible appeals or requests for review of the presiding officer's decision, an extension of the 12-month deadline in this matter to June 19, 2016 is prudent.

## **2. Waiver of Comment Period**

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of proposed decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to this rule, the otherwise applicable period for public review and comment is waived.

### **3. Assignment of Proceeding**

Liane M. Randolph is the assigned Commissioner and Jeanne McKinney is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. C.12-08-015 was initiated on August 23, 2012, closed on April 4, 2013, and reopened on May 2, 2013, due to a request for rehearing of D.13-04-002 which rehearing was granted by D.13-10-044.
2. C.13-11-002 was initiated on November 12, 2013. The complaint was amended on January 31, 2014 and amended again on June 19, 2014.
3. C.12-08-015 and C.13-11-012 are consolidated because they involve related questions of law and fact.
4. The case was submitted on October 19, 2015.
5. An additional extension of the 12-month deadline, based on the date of the amended complaint, is necessary in order to have sufficient time to address all issues raised in the amended complaint and allow time for possible appeals or requests for review of a presiding officer's decision.

### **Conclusions of Law**

1. The 12-month statutory deadline imposed by Pub. Util. § 1701.2(e) should be extended to June 19, 2016.
2. This order should be effective immediately.

**IT IS ORDERED** that the 12-month statutory deadline for Case 13-11-002 is extended to June 19, 2016.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.