



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

**FILED**

12-09-10  
04:59 PM

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 )	Application 08-11-001
Short-Run Avoided Cost for Payments to )	(Filed November 4, 2008)
Qualifying Facilities beginning July 2003 )	
and Associated Relief. )	
)	
And Related Matters. )	Rulemaking 06-02-013
)	Rulemaking 04-04-003
)	Rulemaking 04-04-025
)	Rulemaking 99-11-022

**NOTICE OF EX PARTE COMMUNICATIONS  
OF THE CITY AND COUNTY OF SAN FRANCISCO, THE MARIN  
ENERGY AUTHORITY AND CONSTELLATION ENERGY**

December 9, 2010

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**NOTICE OF EX PARTE COMMUNICATIONS  
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AUTHORITY AND CONSTELLATION ENERGY**

Pursuant to Rule 8.3 of the Commission's Rules of Practice and Procedure (Rules), the City and County of San Francisco, the Marin Energy Authority and Constellation Energy respectfully file this notice of ex parte communications.<sup>1</sup> This notice reports on three ex parte meetings held on Monday, December 6, 2010, at the CPUC's offices at 505 Van Ness Avenue, in San Francisco, CA. All three meetings involved oral communications only and were scheduled at the request of the parties who attended. The meetings were as follows:

- 1) 10:30 AM to 11:00 AM meeting with J. Jason Reiger, advisor to Commissioner Ryan. Attendees: Jeanne M. Solé, for the City and County of San Francisco, Mary Lynch, for Constellation Energy, Elizabeth Rasmussen and Dawn Weisz, for the Marin Energy Authority.
- 2) 11:00 AM to 11:30 AM meeting with Karl Meeusen advisor to Commissioner Peevey and Robert Kinosian advisor to Commissioner Bohn. Attendees: Jeanne M. Solé, for the City and County of San Francisco, Mary Lynch, for Constellation Energy, Elizabeth Rasmussen and Dawn Weisz, for the Marin Energy Authority.
- 3) 1:30 PM to 2:00 PM meeting with Matt Tisdale advisor to Commissioner Grueneich. Attendees: Jeanne M. Solé, for the City and County of San Francisco, Elizabeth Rasmussen and Dawn Weisz, for the Marin Energy Authority.

In all three meetings, the attendees explained concerns with aspects of the Settlement Agreement submitted in this case, and the Proposed Decision of Judge Wetzell (PD). The

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<sup>1</sup> Marin Energy Authority and Constellation Energy have authorized the City and County of San Francisco to file this Ex Parte Notice on behalf of these organizations.

attendees stressed that they understand the Settlement Agreement resolves many long standing issues between the combined heat and power (CHP) owners, and the investor owned utilities (IOUs). The attendees stressed that their concerns are limited to those aspects of the Settlement Agreement and the PD that affect community choice aggregators (CCAs) and energy service providers (ESPs). In particular, the attendees expressed concern about the aspects of the Settlement Agreement that 1) create an obligation on ESPs and CCAs to procure CHP and related reporting requirements; and 2) modify and expand the stranded cost recovery for IOU purchases pursuant to the Settlement Agreement beyond the stranded cost recovery already provided for in existing Commission decisions. The attendees also expressed concern about the PD to the extent it approves the problematic aspects of the Settlement Agreement and then expands stranded cost-recovery beyond even the cost recovery provided for in the Settlement Agreement.

The attendees explained that these aspects of the Settlement Agreement and the PD are contrary to the law and public policy and unfair to CCAs and ESPs. The attendees explained also that the procedures that resulted in the Settlement Agreement and the PD were unfair as they did not afford non-settling parties any opportunity to represent their interests during the settlement process; to gain a full understanding of the complex provisions of the Settlement Agreement; to seek changes to the Settlement Agreement before it was filed; or to prepare their comments. The parties also stressed that they had no notice that issues affecting them would be addressed as part of the settlement discussions and they were not invited to participate until after the Settlement Agreement was concluded.



**CERTIFICATE OF SERVICE**

I, **PAULA FERNANDEZ**, declare that:

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen years and not a party to the within action. My business address is City Attorney's Office, City Hall, Room 234, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102; telephone (415) 554-4623.

On December 9, 2010, I served **NOTICE OF EX PARTE COMMUNICATIONS OF THE CITY AND COUNTY OF SAN FRANCISCO, THE MARIN ENERGY AUTHORITY AND CONSTELLATION ENERGY** by electronic mail on the attached Service List, Proceeding No. A-08-11-001 consolidated with related dockets: R.06-02-013, R.04-04-003, R.04-04-025 and R.99-11-022.

The following addressees without an email address were served:

**BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

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Sacramento, CA 95812

I declare under penalty of perjury pursuant to the laws of the State of California  
that the foregoing is true and correct.

Executed December 9, 2010, at San Francisco, California.

/s/

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PAULA FERNANDEZ