BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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National Community Renaissance, Complainant, vs. Southern California Edison Company (U 338-E) and San Diego Gas and Electric Company (U902E), Defendants.	C.25-09-011

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) MOTION TO DISMISS COMPLAINT OF NATIONAL COMMUNITY RENAISSANCE OR, IN THE ALTERNATIVE, DISMISS OR STRIKE REQUEST FOR DAMAGES

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Pursuant to Rules 11.1 and 11.2 of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC or Commission), Southern California Edison Company (SCE) respectfully moves to dismiss the Complaint of National Community Renaissance (Complainant or National CORE) or, at a minimum, to dismiss or strike Complainant's request for compensatory damages. Dismissal is appropriate because the Commission is without jurisdiction to award the requested financial damages.

I.

DISCUSSION

A. Factual and Procedural Background

National CORE filed its Complaint on September 11, 2025, alleging generally that SCE improperly delayed in granting permission to operate (PTO) for three solar photovoltaic (PV) projects submitted pursuant to SCE's Electric Rule 21 under various Virtual Net Energy Metering (NEM) or Net Billing Tariff (NBT) programs (the SCE Projects).[1] National CORE sought quasi-legislative relief, an order requiring SCE to grant PTO for the SCE Projects, and monetary damages for "the difference between what was paid to Defendants and what would have been paid had the PV systems been timely operating."[2] SCE timely answered the Complaint on November 14, 2025, disputing National CORE's allegations and asserting several affirmative defenses. SCE also stated that National CORE's requests for relief were either moot or improper, including on the grounds that the Commission does not have jurisdiction to award compensatory damages as sought in the Complaint.

A prehearing conference was held on December 17, 2025. At the prehearing conference, SCE asked the Commission to address the proper scope of relief, including as to National CORE's request for compensatory damages, as a threshold issue either within the scoping memo itself or via motion.[3] Following the prehearing conference, ALJ DeAngelis issued an email ruling (Email Ruling) directing the parties to file a joint stipulation addressing, among other issues, the status of the projects at issue, the scope of relief sought in light of the ongoing Rule 21 Rulemaking (R.) 25-08-004, and the need for hearings. The Email Ruling also provided "to the extent further specificity is appropriate to reflect the Commission's authority to award, for

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1 *See* Complaint, Attachment 2.
2 Complaint, Section H.
3 Prehearing Conference Transcript, pp. 11:19-12:20.

example, damages, the Complainant is directed to make such changes and memorialize any changes in the Joint Stipulation."[4]

On January 21, 2026, the parties filed the Joint Stipulation clarifying the scope of the proceeding as directed by the Email Ruling. In the Joint Stipulation, National CORE withdrew its requests for quasi-legislative relief and for an order compelling SCE to grant PTO as to the SCE Projects.[5] Complainant's requests for relief as to SCE were therefore limited to (1) "[f]indings that SCE violated Rule 21 and improperly delayed in issuing PTO for the SCE Projects" and (2) "[a] determination and/or refund of all excess payments made to SCE by Complainant and/or its tenants (i.e., for the difference between rates paid to SCE and what would have been paid had PTO been issued when it should have and had the PV systems been timely operating and offsetting such payments)."[6] As to the latter, SCE "maintain[ed] that this request for relief constitutes a request for consequential damages, which SCE asserts is not within the Commission's jurisdiction and should be excluded from the Scoping Memo and Ruling."[7]

On February 23, 2026, the Assigned Commissioner issued a scoping memo and ruling (Scoping Memo). In the Scoping Memo, the Assigned Commissioner accepted the amendments in the Joint Stipulation as modifying the Complaint.[8] The Scoping Memo also outlined the Commission's authority to award damages, citing Commission precedent distinguishing reparations (which the Commission can award) from compensatory damages (which the Commission cannot award).[9] The Scoping Memo recognized SCE's request that the issue of consequential damages be removed from the proceeding, but noted that this issue would "be addressed in a procedural manner for the Commission, as a whole, to address."[10]

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4 Email Ruling, p. 3.
5 Joint Stipulation, pp. 3-4.
6 Joint Stipulation, p. 4.
7 Joint Stipulation, pp. 4-5.
8 Scoping Memo, p. 5. Section 3 of the Scoping Memo states that the issues in scope for SCE include "whether the Commission should award the relief sought by National CORE, including the type of financial damages, a cease and desist, and quasi-legislative relief." However, the Joint Stipulation makes clear that Complainant has withdrawn its requests for a cease and desist and quasi-legislative relief.
9 Scoping Memo, p. 8.
10 Scoping Memo, p. 4.

B. Standard of Review

A motion to dismiss "requires the Commission to determine whether the party bringing the motion prevails based solely on undisputed facts and matters of law."[11] The Commission "treats such motions as a court would treat motions for summary judgment in civil practice."[12] "A motion for summary judgment is appropriate where the evidence presented indicates there are no triable issues as to any material fact, and that based on the undisputed facts, the moving party is entitled to judgment as a matter of law."[13] In addition, a complaint should be dismissed if, "taking the well-pleaded factual allegations of the complaint as true, the defendant is entitled to prevail as a matter of law."[14]

The Commission has recognized that motions to dismiss "promote[ ] and protect[ ] the administration of justice and expedite[ ] litigation by the elimination of needless trials."[15] Thus, "where appropriate, the Commission regularly grants motions for summary judgment or summary adjudication."[16]

C. Complainant's Request for Compensatory Damages Must Be Dismissed as a Matter of Law as the Commission Lacks Jurisdiction to Award Damages

National CORE's request for relief seeking a "determination and/or refund of all excess payments made to SCE by Complainant and/or its tenants (i.e., for the difference between rates paid to SCE and what would have been paid had PTO been issued when it should have and had the PV systems been timely operating and offsetting such payments)"[17] must be dismissed on the grounds that the Commission is without jurisdiction to award compensatory damages.

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11 D.14-03-032, p. 4 (*quoting* D.03-05-023, p. 3).
12 D.14-03-032, p. 4 (*quoting* D.03-05-023, p. 3).
13 D.14-03-032, p. 4 (*citing* Cal. Code Civ. Proc. § 437(c); Weil & Brown, *Civil Procedure Before Trial*, 10:26-27).
14 D.12-03-037, p. 7 (*quoting* D.99-11-023).
15 D.14-03-032, p. 5 (*quoting Westcom Long Distance, Inc. v. Pac. Bell et al.*, D.94-04-082, 54 CPUC 2d 244, 249).
16 D.14-03-032, p. 5.
17 Joint Stipulation, p. 4.

The Commission "can only hear claims that are within its jurisdiction."[18] If the Commission is not able to grant the relief sought, "the case must be dismissed for failure to state a cause of action on which relief may be granted."[19] The Commission's jurisdiction to award reparations is set forth in Public Utilities Code section 734, which provides that if the Commission determines a utility has charged an unreasonable, excessive, or discriminatory amount, it "may order that the public utility make due reparation to the complainant therefor, with interest from the date of collection if no discrimination will result from that reparation."[20] The Commission defines reparations as "a rate refund or rate adjustment of all or part of a utility's rate charges for the service related to the dispute."[21] The Commission is without jurisdiction, however, to award consequential damages, and has recognized that "only a court has the power to award consequential damages as opposed to reparations."[22] The Commission therefore routinely dismisses complaints seeking damages.[23]

In the interconnection context, the Commission has specifically held that the difference between what a customer paid and what they would have paid had their generating facility been interconnected earlier constitutes damages, not reparations. Specifically, in *Davis v. SCE*, the complainant alleged numerous Rule 21 "timeframe" issues, including that SCE purportedly delayed in notifying the customer its interconnection applications were incomplete, performing engineering studies, and interconnecting the projects.[24] The complainant sought an order for SCE

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18 D.16-04-028, p. 59.

19 D.16-04-028, p. 59.

20 Scoping Memo, pp. 7-8 (*quoting* Pub. Util. Code § 734).

21 Scoping Memo, p. 8 (*citing* D.91-10-008, *3). For example, the Commission has explained that "if a customer was incorrectly charged because of inaccurate meter readings, or because [a utility] applied the wrong tariff, the Commission can order a bill credit." D.16-04-028, p. 62.

22 D.11-09-027, p. 3; D.16-04-028, p. 62; D.20-02-032, p. 14 ("This Commission has repeatedly ruled that only the Superior Court has the power to award consequential damages as opposed to reparations."); Cal. Pub. Util. Code § 2106 ("An action to recover for . . . loss, damage, or injury may be brought in any court of competent jurisdiction by any corporation or person").

23 *See, e.g.*, D.20-02-032, p. 16 (dismissing complaint seeking costs incurred due to malfunctioning device on the grounds that "the Commission lacks authority to award compensatory damages to [complainant]"); D.16-04-028, pp. 62-63 (dismissing claim for damages incurred due to alleged interconnection delay because "Complainant has described consequential damages which are not within the Commission's jurisdiction"); D.14-03-032, p. 9 (granting motion to dismiss because "the only compensation [complainants] are seeking is compensatory damages").

24 C.13-11-002 Second Amended Complaint, pp. 21-28.

to "refund charges for electricity which [the complainant] was forced to purchase because of SCE's delays in granting permission to operate."[25] The Commission held that "[b]ecause Complainant *seeks compensation for electricity he actually used*, the requested relief constitutes monetary damages[,] not a refund."[26] The Commission therefore dismissed the claims for monetary relief with prejudice.[27]

Here, as in *Davis*, Complainant has not alleged that it or its tenants did not use the electricity at issue, or that SCE failed to credit it for any *actual* generation. Indeed, National CORE explicitly alleged that its "solar PV systems cannot generate a single watt unless and until the relevant utility provider grants [PTO] pursuant to Electric Rule 21."[28] Rather, Complainant seeks compensation for the difference between "what electricity costs were paid to Defendants" and "what *would* have been paid had the PV systems been timely operating."[29] Complainant's request is therefore plainly for compensatory damages, which the Commission is without jurisdiction to award.[30]

As set forth in its Answer, SCE maintains that it exercised Reasonable Efforts (as defined in Rule 21) to interconnect the SCE Projects and that Complainant's actions contributed to any delays. However, even accepting Complainant's allegations as true, the Commission is without jurisdiction to award the purported damages at issue. Accordingly, the request for damages must be dismissed as a matter of law.

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25 C.13-11-002 Second Amended Complaint, p. 43.

26 D.16-04-028, p. 58 (emphasis added); *see also*, pp. 62-63 ("The only argument to support Complainant's claim is that he would not have needed to use SCE's electricity *but for* the fact he had not yet installed solar PV. Complainant has described consequential damages which are not within the Commission's jurisdiction.").

27 D.16-04-028, p. 65. Although the Commission noted the "limited precedential value" of its findings in that decision, that language appears to apply to its interpretation of the NEM tariff. *See* D.16-04-028, p. 65 ("In particular, this decision shall not be used as the basis for denying use of a fast charger by a residential customer or excluding a fast charger from a load study performed to establish maximum eligible size under NEM.").

28 Complaint, Section F.

29 Complaint, Sections G and H (emphasis added).

30 Complainant also seeks an "accounting" of all "excess" payments made by National CORE and its tenants. However, because Complainant does not allege that the SCE Projects were delivering energy to the grid during the period at issue, there are no "excess" payments or allocated credits that would have reduced the amount of energy billed.

Because National CORE has withdrawn its requests for quasi-legislative relief and for an order directing SCE to issue PTO to the SCE Projects (as they all now have PTO), it is appropriate to dismiss the Complaint in its entirety.[31] At a minimum, the Commission should dismiss or strike Complainant's request for compensatory damages to narrow the issues in dispute and ensure the efficient use of Commission and party resources.

II.

CONCLUSION

It is undisputed that Complainant seeks the recovery of damages to compensate it for the difference between what it paid to SCE for its electricity use and what it would have paid had the SCE Projects achieved PTO sooner. Consistent with Commission precedent, this relief constitutes a request for compensatory damages, which the Commission is without jurisdiction to award. Accordingly, SCE respectfully requests that the Commission dismiss the Complaint, or, alternatively, dismiss or strike Complainant's request for damages to narrow the scope of issues in this proceeding.

Respectfully submitted,

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[31] *See, e.g.*, D.16-04-028, p. 65 (holding that a complaint must allege a claim "on which the Commission can grant relief"); D.14-03-032, pp. 14-15, Conclusions of Law 1-4 (dismissing complaint that only sought the recovery of compensatory damages "for failure to state a cause of action upon which relief may be granted").