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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joshua A. Stewart Complainant, vs. Southern California Edison Company (U338-E) Defendant.	C. 26-07-017

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) MOTION TO DISMISS

JANET S. COMBS
REBECCA MEIERS-DE PASTINO

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-6016
E-mail: Rebecca.Meiers.Depastino@sce.com

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Pursuant to Rule 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 with prejudice the formal Complaint of Mr. Joshua A. Stewart, filed on July 28, 2026 (Complaint). As demonstrated herein, SCE is entitled to prevail as a matter of law.

I.

INTRODUCTION

The gravamen of Complainant's formal and informal Complaints is that SCE wrongfully denied him an extension of time to complete the installation of his behind-the-met solar generating system to qualify for service under Schedule NEM-ST, otherwise known as NEM 2.0, because he suffered permitting delays that were "outside either party's control." Taking these allegation as true, SCE is entitled to prevail as a matter of law because SCE's tariff prohibits it from granting an extension for any reason other than utility caused delay, which Complainant does not, and given the record, cannot allege. Because Complainant's allegations demonstrate that SCE followed the law, the Commission should dismiss the Complaint with prejudice.

II.

SUMMARY OF RELEVANT FACTS[1]

In compliance with Decision (D.) 22-12-056, which directed SCE to sunset the NEM 2.0 program and establish a transition process to the new Net Billing Tariff (NBT) from which SCE would no discretion to deviate absent SCE-caused delay, SCE implemented a two-part process in Schedule NEM-ST by which applicants could secure service on NEM 2.0. First, Schedule NEM-ST required all applicants to submit complete application free of major defects by April 14, 2023. Then, Schedule NEM-ST gave all applicants three years, until April 14, 2026, to complete installation, sign their interconnection agreement, and obtain the final building permit sign off and clearing by the authority having jurisdiction, in this case the City of Santa Clarita. D. 22-12-056 and Schedule NEM-ST do not authorize SCE to give applicants any relief from these deadlines absent SCE-caused delay.[2]

Complainant submitted his application on April 4, 2023.[3] Complainant submitted an untimely extension request, which SCE denied.[4] Complainant seeks reinstatement over SCE's alleged failure to notify him or his contractor about the extension period,[5] but as the allegations and legal framework show, SCE could not have lawfully granted the extension request even if it had been timely submitted because Complainant did not require an extension due to an SCE-caused delay. On the contrary, Complainant alleges he required an extension because "Permitting was delayed through no fault of either party (City of Santa Clarita's outside reviewer, JAS

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1 SCE's Answer to the Complaint provides a comprehensive factual discussion but this Motion solely refers to facts from the formal and informal Complaints and of which the Commission may take official notice.

2 D.22-12-056 OP 12; Schedule NEM-ST, Special Condition 2.a., 10.

3 Complaint, p. 2.

4 *Id*.

5 *Id*.

Pacific, was backlogged from the January 2025 fires)."[6] Complainant, however, admits that he did not hire his contractor, SolarTech Energy Systems, Inc., until October 12, 2025, two and a half years after the deadline for submitting a complete and defect-free application and only six months before the deadline for completing installation, signing the interconnection agreement, and obtaining Santa Clarita's final building permit sign off.[7] Likewise, Complainant's informal admits that he "started the permit process on 1-14-26 and are within a week to a week a half to getting the permit pulled."[8] Records from the City of Santa Clarita, of which the Commission may take official notice, show that Complainant pulled permits on January 22 and February 12, 2026, respectively, leaving less than three months to meet the April 14, 2026 deadline.

In sum, Mr. Stewart submitted his application on April 4, 2023 and had more than three years to complete the process. The alleged facts fail to demonstrate his failure to meet the April 14, 2026 NEM 2.0 deadline was due to any SCE-caused delay. On the contrary, the record shows that the delay was solely caused by Mr. Stewart and/or his contractor. Thus, under the circumstances, SCE could not have lawfully given Mr. Stewart any relief from the deadline under the Commission's regulations. Mr. Stewart therefore fails to plead any facts that state a claim, much less entitle him to any relief.

III.

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."[9] A complaint should be dismissed if, "taking the well-pleaded factual allegations of the complaint as true, the

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[6] *Id.*; *see also* Complaint, Attachment 1

[7] Complaint, Attachment 1, Full Statement of Details.

[8] April 8, 2026 Informal Complaint

[9] D.14-03-032, p. 4 (citations omitted).

defendant is entitled to prevail as a matter of law."[10] [11] In determining if the complaint's allegations are "well pleaded" the Commission is "guided by the standards set forth in Public Utilities Code § 1702, which provides that the complainant must allege that a regulated utility has engaged in an act or failed to perform an act ***in violation of any law or commission order or rule***."[12]

In addition, the Commission may properly take official notice of, and consider, the files and records of court and Commission proceedings in ruling on a motion to dismiss.[13] By assuming that the facts as alleged in the complaint are true for the purpose of deciding whether to grant a motion to dismiss, the Commission assumes the Complainant will be able to prove everything alleged in its complaint. The Commission does not accept as true the ultimate facts, or conclusions, that Complainant alleges – for instance, that the utility has violated its tariffs. After accepting the facts as stated, the Commission examines them in the light of applicable law and policy.[14]

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[10] D.12-03-037, p. 7 (quoting D.99-11-023).

[11] *See* D.12-07-005, p. 7, explaining "[t[he legal standard against which the Commission measures the sufficiency of the complaint is whether, taking the well-pleaded factual allegations of the complaint as true, the defendant is entitled to prevail as a matter of law", citing D.99-11-023 and *MCI Telecommunications Corp. v. Pacific Bell*, D.95-05-020, 59 Cal. PUC 2d 665, 1995 Cal. PUC. LEXIS 458, at *29-*30, citing *Burke v. Yellow Cab Co.* (1973) 76 Cal. PUC 166.

[12] D.12-07-005, p. 7 (emphasis added). *See also* P.U. Code Section 1702, stating that a complaint allege an "act or thing done or omitted to be done by any public utility including any rule or charge heretofore established or fixed by or for 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."

[13] *See id.*, citing D.99-11-023 and *Upper Kern Island Water Assn. v. Kern Delta Water District*, D.91-05-019, 40 Cal. PUC 2d 65, 1991 Cal. PUC LEXIS 244, at *14; *City of El Monte v. San Gabriel Valley Water Co.*, D.87-09-065, 25 Cal. PUC 2d 393, 1987 Cal. PUC LEXIS 238.)

[14] *See* D.12-07-005, p. 7.

IV.

SCE IS ENTITLED TO DISMISSAL AS A MATTER OF LAW

The Commission should dismiss the Complaint with prejudice because Complainant's allegations, taken as true, fail to state a claim and his admissions render amendment futile. SCE is therefore entitled to prevail as a matter of law.

A. Under the Commission's Decision and Tariff, it is Unlawful for SCE to Grant an Extension Not Necessitated by a SCE-Caused Delay

On December 15, 2022, in compliance with the legislative directive in Public Utilities Code section 2827.1 to address the cost shift caused by the outdated Net Energy Metering (NEM) subsidy and reform the NEM program, the CPUC issued D.22-12-056, which directed the Investor-Owned Utilities (IOUs) to sunset the NEM program,[15] known as NEM 2.0, and commence the transition to a new successor tariff, known as the Net Billing Tariff (NBT), which reduces the NEM subsidy and resulting cost shift to nonparticipating customers.[16]

Specifically, the Commission instructed the IOUs to implement a NEM 2.0 sunset after which time "no additional customers will be permitted to take service under the NEM 2.0 tariff"[17] and ordered the IOUs to establish transition procedures, including a sunset date for NEM 2.0 eligibility. D.22-12-056 permits the IOUs discretion to give applications extensions to

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[15] D.22-12-056 OP 12 ("NEM 2.0 Sunset Period begins with the adoption of this decision. Customers submitting a completed interconnection application prior to the end of the Sunset Period will be considered applicable for the current NEM 2.0 tariff. . .. ¶ [The IOUs] will implement a tariff sunset on the prior net energy metering tariff, known as NEM 2.0, after which time, no additional customers will be permitted to take service under the NEM 2.0 tariff. . .. The interconnection application date for [all] customers is defined as the submission date of an application that is free of major deficiencies and includes a complete application, a signed contract, a single line diagram, a complete California Contractors State License Board Solar Energy System Disclosure Document, a signed California Solar Consumer Protection Guide, and an oversizing attestation (if applicable) . . .. ¶ Joint Utilities are granted the discretion to give NEM 2.0 tariff eligibility to a customer if a delay in meeting the Sunset Date is caused by the utility.")

[16] Although, perhaps unbeknownst to Mr. Stewart, the NBT is not significantly less lucrative than NEM 2.0 if the customer has a paired energy storage system, as Mr. Stewart planned to install.

[17] *Id*.

comply with the sunset date *only* for delays caused by the IOU.[18] Consistent with D.22-12-056, SCE implemented[19] a two-step process for retaining eligibility for NEM 2.0. First, customers must submit a complete NEM 2.0 application that is free of major deficiencies by April 15, 2023. [20] Second, the tariff then generously gives customers three years to sign their interconnection agreement and obtain the final building permit sign off and clearing by the authority having jurisdiction, in this case the City of Santa Clarita, by April 14, 2026.[21]

Finally, Schedule NEM-ST memorializes the decision's grant of discretion to give a customer an extension if SCE caused the delay in either meeting the April 14, 2023 sunset date or in installing, interconnecting, and submitting final building permit sign off and electrical clearing by the authority having jurisdiction within three years by April 14, 2026.[22] It is important to emphasize that neither the decision nor the Commission-approved Schedule NEM-ST (1) authorize SCE to grant an extension from these deadlines for any reason other than SCE-

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[18] *See* D.22-12-056, OP 12(d), stating "Joint Utilities are granted the discretion to give NEM 2.0 tariff eligibility to a customer if a delay in meeting the Sunset Date is caused by the utility. Joint Utilities shall work collaboratively to address challenging situations in deeming applications complete."

[19] Advice 4963-E/ E-A, submitted January 30, 2023, supplemented on March 27, 2023; CPUC April 23, 2023 Disposition Letter (approving tariff changes, including sunset provisions, effective March 1, 2023).

[20] Schedule NEM-ST, Special Condition 2.a ("To retain eligibility under this Schedule, . . . must have submitted an interconnection request free of major deficiencies prior to April 15, 2023. . .. This submittal shall include an online Net Energy Metering (NEM) Generating Facility Interconnection Application (Form 14-957), along with any applicable fees as specified in SCE's Electric Rule 21, and a single-line diagram. Supplemental forms may be required depending on (1) the type of Generating Facility being installed and (2) the requirements of any specific provisions of this Schedule under which the Customer is electing to be served. . .. Additionally, to retain eligibility under this Schedule, within three years from April 14, 2023, . . . Customers must submit an executed CPUC jurisdictional NEM Interconnection Agreement and a final building permit sign off and electrical clearing by the authority having jurisdiction."); see also Special Condition 10 ("NEM-ST Sunset Date. The NEM-ST Sunset Period begins on December 15, 2022 and ends on April 15, 2023. . .. Pursuant to D.22-12-056, Customers who prior to April 15, 2023 submit all necessary documentation (i.e., a completed interconnection application free of major deficiencies) may receive service on this Schedule. Consistent with the intent of D.22-12-056, all Customers will have three years from April 14, 2023 to interconnect and submit final building permit sign off and electrical clearing by the authority having jurisdiction to remain eligible for this Schedule and the provisions contained within.")

[21] *Id*.

[22] *Id*., Special Condition 10.

caused delay nor (2) mandate that SCE grant an extension even if the delay is caused by SCE. Stated differently, granting the customer relief is permissive and purely discretionary but only if SCE caused the customer to miss either deadline.

The Commission may take official notice that Schedule NEM-ST and Rule 21 are publicly available on SCE.com, as are FAQs devoted to the process and procedure for obtaining service under NEM 2.0 prior to the sunset date.[23]

B. SCE Could Not Grant Complainant an Extension or Reinstate the Application Under NEM 2.0

Taking the well-pleaded factual allegations and admissions of the Complaint as true, SCE is entitled to prevail as a matter of law. There is no dispute that Complainant failed to meet the April 14, 2026 deadline. Likewise, the allegations and admissions in the formal and informal Complaints demonstrate the delay was caused by Complainant or his contractor, not SCE. Under these facts, Mr. Stewart's application was not eligible for an extension and remains ineligible for the requested relief of reinstatement under NEM 2.0. Complainant has demonstrated that SCE acted in compliance with D.22-12-056 and Schedule NEM-ST.

Complainant has never alleged an SCE caused delay. Indeed, Mr. Stewart's complaint admits that the delay is attributed not to SCE, but to "a permitting delay ***outside either party's control***."[24] Setting aside that permitting delays are not an SCE-caused delay that would authorize SCE to grant Mr. Stewart an extension, such delays also do not explain Mr. Stewart's failure to satisfy the tariffed deadlines. Mr. Stewart admitted in the informal complaint he filed with the CPUC that he "started the permit process on 1-14-26 and are within a week to a week a half to getting the permit pulled."[25] Mr. Stewart admits he submitted his application for NEM

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[23] *See* SCE Tariff Books, Rates and Pricing, and other Schedules, available athttps://www.sce.com/regulatory/regulatory-information/tariff-books/rates-pricing-choices; *see also* https://www.sce.com/customer-service-center/help-center/solar/net-energy-metering/faq

[24] Complaint, Attachment 1, Full Statement of Details, ¶ 3 (emphasis added).

[25] April 8, 2026 Informal Complaint

2.0 on April 4, 2023, nearly two years before the Los Angeles area fires occurred, but admits he did not seek a permit until January 2026, less than three months before the April 14, 2026 deadline for final inspections of the fully installed system.

In sum, Mr. Stewart submitted his application on April 4, 2023 and had more than three years to complete the process. The alleged facts fail to demonstrate his failure to meet the April 14, 2026 NEM 2.0 deadline was due to any SCE-caused delay. On the contrary, Complainant's allegations and admissions demonstrate Mr. Stewart and/or his contractor were the sole cause of delay. Thus, under the circumstances, SCE could not have lawfully given Mr. Stewart any relief from the deadline under the Commission's regulations. Mr. Stewart therefore fails to plead any facts that state a claim.

V.

CONCLUSION

Based on the foregoing, SCE respectfully requests that the Commission dismiss the Complaint with prejudice.

Respectfully submitted,

JANET S. COMBS
REBECCA MEIERS-DE PASTINO

/s/ Rebecca Meiers-De Pastino
By: Rebecca Meiers-De Pastino

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-6016
Email: Rebecca.Meiers.Depastino@sce.com

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