BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) To Establish Marginal Costs, Allocate Revenues, And Design Rates	A.08-03-002 (Filed March 4, 2008)
In The Matter of the Application of Southern California Edison Company (U338-E) for Authority to Make Various Electric Rate Design Changes.	Application 07-12-020 (Filed December 21, 2007)

<u>NOTICE OF EX PARTE COMMUNICATION OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)</u>

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Dated: **September 17, 2008**

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Pursuant to Rule 8 of the Rules of Practice and Procedure of the California Public Utilities Commission, Southern California Edison (SCE) submits this notice. This notice describes the following ex parte communication in the above referenced proceeding.

On September 12, 2008, Bruce Foster, SCE Senior Vice President, Mike Hoover, SCE Director, and Colin Cushnie, SCE Director (collectively "SCE"), met with Matthew Deal, advisor to President Peevey at 10:00 a.m. in the Commission's San Francisco offices. The meeting was for one hour, and SCE discussed the proceedings listed in the attached matrix. The meeting was initiated by SCE.

SCE briefly reviewed each of the identified proceedings in the attached matrix and discussed how each proceeding was in conflict or potentially inconsistent with the Commission's apparent movement toward competitive retail markets, least-cost/best fit procurement objective, and/or previous Commission determinations. SCE requested that the Commission be mindful of how individual proceedings interact with other Commission decisions and objectives.

To request a copy of this notice, please contact: Henry Romero at (626) 302-4124 or email address Henry.Romero@sce.com.

Respectfully submitted,

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Dated: **September 17, 2008**

1566793

MATTERS WHERE THE CPUC IS TAKING INCONSISTENT POSITIONS

MATTER OR PROCEEDING	DESCRIPTION OF INCONSISTENCY
DA OIR (R.07-05-025) A.07-01-047 (SDG&E Rate Design Proceeding) CCA – Community Choice Aggregation (SCE 2009 GRC Phase 2)	In the DA OIR, the Commission is looking to accelerate the reopening of DA by facilitating the novation/assignment of all of the DWR contracts. This would presumably trigger the end of the Direct Access (DA) suspension pursuant to AB 1X because DWR would no longer be supplying power to retail customers. At the same time, ALJ Wong recently issued a proposed decision in SDG&E's Rate Case finding that the AB 1X cap on residential Tier 1 and Tier 2 rates cannot be lifted until the DWR bonds have been repaid, asserting that is when the DWR will have "recovered its power costs" pursuant to AB1X. Thus, any revenue increases for residential customers must be reflected in residential rates for Tier 3 and above (higher usage customers) until the Commission confirms that the Tier 1 and Tier 2 residential rates can be raised. This creates a situation where high usage residential customers are being charged rates significantly higher than cost-of-service from the utilities, which will lead to uneconomic bypass of SCE's bundled customer portfolio and the creation of stranded costs that must still be recovered. SCE has a proposal pending before the Commission in Phase 2 of its 2009 GRC to redesign residential rates to address this issue.
2008 LTPP Proceeding DA OIR (R.07-05-025)	The Commission's scoping memo for the 2008 LTPP proceeding places a lot of emphasis on integrated resource planning and new generation needs for system requirements. Both concepts are applicable for a vertically integrated utility, but are inconsistent with a retail competition model. The Commission must decide which model it prefers; (1) reliance on competitive wholesale and retail markets to produce efficient results in compliance with state policy requirements, or (2) a centrally-planned outcome designed to achieve the state's policy objectives that does not accommodate retail competition.

Resource Adequacy (R.05-12-013 and R.08-01-025)	The Commission is considering the appropriate long-term framework for the Resource Adequacy (RA) program in "Track 2" of R.05-12-013. In that proceeding, the Energy Division has issued two proposals: one that incorporates a capacity market framework and one for a bilateral-only framework. The capacity market design proposed by the Energy Division includes a "Preliminary Capacity Showing" (PCS), in which only the IOUs would have to demonstrate that they have acquired, 6 months prior to each annual capacity market auction, at least 90% of their forecast peak demand. Such a mandatory IOU-only hedging requirement is not consistent with the implementation of a competitive capacity market and would not place IOUs on a level playing field with other LSEs, especially in the face of the potential reopening of DA. In addition, differential RA requirements for IOUs versus ESPs is inconsistent with the mandate of AB 380 that RA requirements be implemented in a nondiscriminatory fashion for all LSEs. The second Energy Division option – continuation of the bilateral-only RA construct for the long-term – is not sustainable in the long-term, as it relies on the IOUs to acquire needed new system resources and does not protect against future Commission's allowing departing customers to avoid costs incurred on their behalf.
Non-Bypassable Charges (NBC) Proceeding (Phase III of R.06-02-013)	Despite previous representations that all customers benefit from new generation developed by IOUs for system requirements, the Commission's D.08-09-012 would allow municipal departing load (MDL) and customer generation departing load (CGDL) to avoid an IOU's new generation uplift charges; Direct Access and Community Choice Aggregation customers would still remain responsible. If adopted, the change in policy would upset a fundamental understanding of the sanctity of cost recovery for system reliability procurement that the Commission requires the IOUs to perform, and will call into question the ability of the IOUs to recover similar system costs from all customers.

Community Choice Aggregation (R.03-10-003)	The Commission's recent decisions would allow a CCA community to avoid liability for their energy supplier's default, and pass the default procurement risk to all bundled customers. If the Commission is interested in facilitating meaningful, sustainable retail competition, it must require all departing load to be fully responsible for its procurement actions and risks, and not allow significant default risk associated with departing load to reside with the remaining bundled customers.
Debt Equivalence 2006 LTPP Decision	The CPUC has designed IOU bundled customer procurement policy to favor shorter-term commitments to ensure IOUs don't "crowd-out" preferred resources such as Energy Efficiency (EE), Demand Response (DR), and renewable. Additionally, this prevents IOUs from "crowding out" direct access and retail competition by minimizing stranded costs. A second Commission objective has been to procure "least-cost" resources. In contrast, the Commission made a "last minute" change to its 2006 LTPP Decision to preclude the use of debt equivalence bid adders by the IOUs in analyzing bids. By eliminating the use of DE bid adders in PPA valuations, the Commission has prevented the IOUs from accurately assessing the cost of bids and is perversely favoring longer-term and higher cost contracts. There is currently a PFM seeking to correct this inconsistency, but unless the Commission acts favorably on it, the prohibition of using DE bid adders is counter to Commission policy to engage in least cost/best fit procurement.
Adjustments to the MPR Methodology (R.06-02-012)	In the RPS OIR (Phase II), the Commission has made adjustments to the MPR methodology that have resulted in increases to the MPR. Such adjustments include decreasing the capacity factor of the MPR proxy plant and including a GHG adder. The Commission is considering more adjustments that would further raise the MPR for 2008. At the same time, the Commission has expressed increasing concern over the ever rising cost of renewable energy, especially in the context of RPS contract approvals. It makes little sense to exert pressure on the IOUs to procure low-cost renewable energy, while simultaneously increasing a regulatory price referent that has been widely accepted as a price target by the renewable industry.

Misalignment of Shareholder and Customer Interest (R.06-05-027)	In the RPS OIR, the Commission has established an interim penalty structure that misaligns the interest of the IOUs' customer from the IOUs' shareholders. The penalty mechanism creates an incentive for the IOUs to pay for renewables at any cost in order to avoid the potential for shareholder penalty. At the same time, the Commission has expressed increasing concern over the ever rising cost of renewable energy. It makes little sense to exert pressure on the IOUs to procure low-cost renewable energy, while simultaneously maintaining the threat of punitive action against the IOUs for failure to meet specified levels of renewable energy.
Increased Barriers to Meeting RPS Goals (R.06-05-027)	In the RPS OIR, the Commission's handling of RPS contract approvals and the establishment of rules implementing the RPS legislation are creating barriers to the development of renewable resources. These barriers come at a time when pressure to meet 20% renewables is mounting. Such barriers include the restrictive criteria proposed by the Commission and continued uncertainty of IOU requirements related to procurement of above-MPR RPS contracts, the increasing amount of information the Energy Division requires for such contract approvals, delays in processing transmission proceedings, the delay in the approval of tradable RECs, and, at times, protracted RPS contract approvals.
Approval of Short-Term RPS Contracts (R.06-02-012)	The Commission has given the IOUs and other LSEs the authority to enter into short-term RPS contracts provided they are at least one month in duration. However, the IOUs are required to submit short-term RPS contracts for Commission approval via advice letter. Other LSEs do not have such a pre-approval requirement. Given the time it takes to obtain approval via advice letter, the IOUs will often not be able to obtain approval of a short-term RPS contract before the contract needs to take effect. This creates a barrier to short-term IOU RPS procurement that other RPS-obligated LSEs do not face. Additionally, the Commission's decision on short-term RPS contracts has been delayed.

Implementation of AB 1969 (R.06-05-027)	In D.07-07-027, the Commission took extraordinary steps to promote feed-in tariffs for renewable generators. The Commission ignored the statutory limits under AB 1969 in favor of a Commission-designed feed-in tariff program. The Commission's program is essentially a standard-offer program for renewables. The Commission is presently looking to expand this program to generators up to 20 MWs. Spending resources to develop these programs will not solve the fundamental barrier to renewable project implementation – transmission interconnection.
QF Matters (R.04-04-025)	In D.07-09-040, the Commission elected to establish standard offer contracts of up to five years for as-available resources, and up to ten years for firm capacity resources. In doing so, the Commission acknowledged that (1) it was under no PURPA obligation to require long-term standard offers; (2) there is no mandated minimum term for PURPA required purchases; and (3) FERC has approved the use of open solicitations for complying with PURPA. The PUC's actions in adopting mandatory standard offer contracts is inconsistent with the "least-cost-best-fit" procurement model and pending market changes as a result of MRTU. It also does not make sense to force the utilities to offer long-term standard-offer contracts in the face of the reopening of DA and an uncertain customer base. Additionally, the QFs are receiving preferential contracts and are not required to compete against other power producers in utility RFOs.
Demand Response Rulemaking (R.07-01-041)	The Commission is appropriately considering the operation of emergency-triggered DR programs in future wholesale electricity markets. However, the Commission is also reluctant to consider new emergency-trigged DR programs in conflict with the Preferred Loading Order while it undertakes this consideration. The Preferred Loading Order is clear that cost effective energy efficiency and demand response should be optimized before considering conventional generation resources.

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of the **NOTICE OF EX PARTE COMMUNICATION OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)** on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

> Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this 17th day of September, 2008, at Rosemead, California.

/S/HENRY ROMERO

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CALIFORNIA PUBLIC UTILITIES COMMISSION
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FILER: SOUTHERN CALIFORNIA EDISON COMPANY
LIST NAME: LIST
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