

June 7, 2006

Docket Clerk
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

RE: R.04-03-017

Dear Docket Clerk:

Enclosed for filing with the Commission are the original and five copies of the **RESPONSE OF SOUTHERN CALIFORNIA EDISON COMPANY TO THE REQUEST FOR AWARD OF INTERVENOR COMPENSATION BY THE VOTE SOLAR INITIATIVE IN RULEMAKING 04-03-017** in the above-referenced proceeding.

We request that a copy of this document be file-stamped and returned for our records. A self-addressed, stamped envelope is enclosed for your convenience.

Your courtesy in this matter is appreciated.

Very truly yours,

Amber E. Dean

AD:as:LAW-#1282315

Enclosures

cc:

All Parties of Record R.04-03-017
All Parties of Record R.06-03-004
(U 338-E)

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

Order Instituting Rulemaking Regarding Policies,)	
Procedures and Incentives for Distributed)	Rulemaking 04-03-017
Generation and Distributed Energy Resources.)	(Filed March 16, 2004)
_____)	

**RESPONSE OF SOUTHERN CALIFORNIA EDISON COMPANY TO THE REQUEST
FOR AWARD OF INTERVENOR COMPENSATION BY THE VOTE SOLAR
INITIATIVE IN RULEMAKING 04-03-017**

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Dated: **June 7, 2006**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
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Order Instituting Rulemaking Regarding Policies,)	
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I.

INTRODUCTION

Pursuant to California Public Utilities Code Section 1804(c), Southern California Edison Company (“SCE”) hereby responds to The Vote Solar Initiative’s (“Vote Solar”) Request for Award of Intervenor Compensation in Rulemaking (R.) 04-03-017 (the “Request”).

Vote Solar seeks \$22,809 for its “substantial contribution” to Decisions (D.) 04-12-045,¹ (D.) 05-12-044² and (D.) 06-01-024³ in proceeding R.04-03-017, *Order Instituting Rulemaking Regarding Policies, Procedures and Incentives for Distributed Generation and Distributed Energy Resources*. Vote Solar, however, has failed to make the requisite showing of “significant financial hardship,” and as such, Vote Solar’s Request should be denied.

If the California Public Utilities Commission (“Commission”) grants Vote Solar an additional opportunity to demonstrate significant financial hardship, or otherwise determines that

¹ *Order to Modify the Self Generation Incentive Program and Implement Assembly Bill 1685*, dated December 16, 2004.

² *Interim Order Adopting Policies and Funding for the California Solar Initiative*, dated December 15, 2005.

³ *Interim Order Adopting Policies and Funding for the California Solar Initiative*, dated January 12, 2006.

Vote Solar has met the significant financial hardship standard, SCE urges the Commission to carefully scrutinize Vote Solar's Request. In particular, SCE is concerned by the growing efforts of parties who represent interests that have a clear financial stake in the outcome of a proceeding to improperly use the intervenor compensation statute to finance their participation in the proceeding. SCE questions whether Vote Solar's interests arise solely from its interests as a customer and not the financial interests of its members or constituents. Finally, SCE asks the Commission to be mindful of whether Vote Solar made a substantial contribution to the adoption of D.04-12-045, D.05-12-044 and D.06-01-024, and whether its participation was productive and necessary without being duplicative of the presentations of other parties, as the costs of compensation awards ultimately fall on ratepayers.⁴

II.

VOTE SOLAR HAS NOT DEMONSTRATED "SIGNIFICANT FINANCIAL HARDSHIP"

Vote Solar has failed to make the requisite showing that participation in R.04-03-017 imposed a "significant financial hardship," as required by Public Utilities Code Section 1803(b).⁵ In this proceeding, Vote Solar received "customer" status as a "representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interest of residential customers."⁶ Pursuant to Public Utilities Code Section 1802(g), to

⁴ See Public Utilities Code § 1807.

⁵ Public Utilities Code Section 1803 sets forth the prerequisites for an award of reasonable fees and costs: "The Commission shall award reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs or preparation for and participation in a hearing or proceeding to any customer who complies with Section 1804 and satisfies both of the following requirements:

(a) The customer's presentation makes a substantial contribution to the adoption, in whole or in part, of the commission's order or decision.

(b) **Participation or intervention without an award of fees or costs imposes a significant financial hardship.**"

(emphasis added).

⁶ Public Utilities Code § 1802(b)(1)(C). See also ALJ Kim Malcom's *Administrative Law Judge's Ruling Regarding Notices of Intent to Claim Compensation*, dated August 2, 2005 ("Vote Solar meets the third definition of customer, as set forth in §1802(b), because it is an organization whose official mission is to represent the interests of utility customers.") SCE disagrees that Vote Solar's official mission is to represent the interests of utility customers. Indeed, Vote Solar's website states that "The Vote Solar Initiative's mission is to

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demonstrate “significant financial hardship” as a group or organization, Vote Solar must show that “the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.” Vote Solar declined to make this showing in its Notice of Intent to Claim Compensation (“NOI”),⁷ and fails to make this showing in its Request.

Instead, Vote Solar now points to a ruling in a different proceeding that involves an entirely different definition of “customer” and standard of “significant financial hardship.”⁸ In its Request, Vote Solar asks that the finding of significant financial hardship in a September 16, 2005 Ruling regarding A.05-05-023 be applied, or in the alternative, that the “facts and evidence of financial hardship” submitted in support of its claim for intervenor compensation in connection with A.05-05-023 be incorporated by reference.⁹ Neither the September 16, 2005 Ruling nor the financial information submitted in connection with A.05-05-023 is sufficient to demonstrate significant financial hardship in this matter.

In contrast to the present matter, in the September 16, 2005 Ruling, Administrative Law Judge Bruce DeBerry found that Vote Solar met the definition of “customer” because it was authorized by one or more customers to represent them in the proceeding. Carolyn Schmidt, an SCE customer, authorized Vote Solar to represent her in connection with A.05-05-023, and as a result, Vote Solar was required to demonstrate that the represented customer – Ms. Schmidt – could not afford, without undue hardship, to pay the costs of effective participation.¹⁰ The “facts and evidence of financial hardship” Vote Solar submitted to demonstrate significant financial hardship in connection with A.05-05-023, was Ms. Schmidt’s personal financial information.¹¹

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promote a national transition to clean energy by empowering city governments to implement large-scale, cost-effective solar projects.” <http://www.votesolar.org/index.html>.

⁷ See *The Vote Solar Initiative’s Notice of Intent to Claim Intervenor Compensation*, dated July 28, 2004.

⁸ The standard of “significant financial hardship” must correspond with the applicable definition of customer. See e.g., ALJ Kim Malcom’s *Administrative Law Judge’s Ruling Regarding Notices of Intent to Claim Compensation*, dated August 2, 2005 (“Once the applicable definition of customer is identified, the correct standard of ‘significant financial hardship’ can be applied.”)

⁹ Vote Solar’s Request, Section III.

¹⁰ See Public Utilities Code §§ 1802(b)(1)(B), 1802(g).

¹¹ See *The Vote Solar Initiative’s Notice of Intent to Claim Intervenor Compensation*, dated August 17, 2005; ALJ Bruce DeBerry’s *Administrative Law Judge’s Ruling on Notices of Intent to Claim Compensation for the Utility*

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The personal financial information of this individual customer is in no way sufficient to meet the significant financial hardship standard for groups or organizations – that “the economic interest of the individual members of [Vote Solar] is small in comparison to the costs of effective participation in the proceeding.” To permit Vote Solar to piggyback on a previous finding of significant financial hardship relying on inapplicable standard would render the several meanings of “significant financial hardship” in the intervenor compensation statute meaningless. The Request should be denied on this ground.

III.

SCE URGES THE COMMISSION TO CAREFULLY SCRUTINIZE VOTE SOLAR’S REQUEST

If the Commission somehow determines that Vote Solar has demonstrated significant financial hardship, SCE urges the Commission to carefully scrutinize Vote Solar’s Request, as SCE questions whether Vote Solar’s interests arise solely from its interests as a customer and not the financial interests of its members or constituents. In particular, SCE is concerned by the growing efforts of parties who represent interests that have a clear financial stake in the outcome of a proceeding to improperly use the intervenor compensation statute to finance their participation in the proceeding. SCE asks that the Commission be mindful of this when reviewing Vote Solar’s Request.

In this proceeding, Vote Solar received “customer” status as a “representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interest of residential customers.” The Commission has held that the definition of “customer” in Public Utilities Code Section 1802 reflects the Legislature’s desire to award compensation “only to parties (or their representatives) whose self interests and participation in the proceeding arise directly from their interests as customers.”¹² In assessing whether a participant is a “customer”

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Reform Network, The Vote Solar Initiative, and Agricultural Energy Consumers Association, dated September 16, 2005.

¹² *Order Instituting Rulemaking of the Commission’s Proposed Policies Governing Restructuring California’s Electric Service Industry and Reforming Regulation*, D. 96-09-040.

for purposes of intervenor compensation, it is not sufficient for the participant's private interests to merely "overlap significantly with the interest of ratepayers as a group."¹³ Otherwise, any participant in a Commission proceeding, "regardless of the genesis of its self-interest, could claim that its position 'represents' the interests of customers".¹⁴

Here, SCE disputes that Vote Solar's interests arise directly from its interests as a customer. Rather, it appears that Vote Solar's interest is to promote the solar industry and increase the number of solar installations.¹⁵ In fact, Vote Solar's website states that its "mission is to promote a national transition to clean energy by empowering city governments to implement large-scale, cost-effective solar projects."¹⁶ Vote Solar's Request also states that its "goal" is to "bring[] solar into the mainstream"; that it "receives the majority of its funding from environmental and educational foundations who share the goals of [Vote Solar]"; and that "Vote Solar works closely with the solar industry, both manufacturers and installers, but is not an association representing any businesses in the industry."¹⁷ This is more akin to industry advocacy groups, such as the Energy Producers and Users Coalition (EPUC), that do not receive intervenor compensation.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Indeed, Edward Smeloff, for whose work Vote Solar is seeking compensation, is on Vote Solar's Board of Advisors, and is currently the Senior Manager for Project Sales for the Solar Energy Solutions Group, Sharp Electronics Corporation. Mr. Smeloff's resume, attached to Vote Solar's Request, explains that, among other things, Mr. Smeloff "[c]oordinate[s] internal sales cycle, logistics and produce[s] flow for large-scale solar projects" and "[s]upported development of market opportunities for concentrating PV and new thin film products".

¹⁶ <http://www.votesolar.org/index.html>. See also *Response of The Vote Solar Initiative to the Order to Modify the Self Generation Incentive Program and Implement Assembly Bill 1685*, November 8, 2004 ("... The Vote Solar Initiative focuses on solar technologies ..."); *Vote Solar Reply Comments on Staff Solar Report*, July 21, 2005 ("Vote Solar's mission is to help municipal governments implement large-scale and cost effective solar projects and bring solar into the mainstream."); *Opening Comments of The Vote Solar Initiative on the Interim Order Adopting Policies and Funding for the California Solar Initiative*, December 5, 2005 ("Vote Solar's mission is to help state and local governments implement large-scale and cost-effective solar projects and bring solar energy into the mainstream.")

¹⁷ Vote Solar's Request, Section I.

IV.

CONCLUSION

For the foregoing reasons, Vote Solar's request should be denied for its failure to demonstrate "significant financial hardship." However, if the Commission determines that Vote Solar has somehow met the significant financial hardship standard, SCE urges the Commission to carefully scrutinize Vote Solar's Request, and ensure that compensation is only awarded for substantial contributions.

Respectfully submitted,

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June 7, 2006

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 RESPONSE OF SOUTHERN CALIFORNIA EDISON COMPANY TO THE REQUEST FOR AWARD OF INTERVENOR COMPENSATION BY THE VOTE SOLAR INITIATIVE IN RULEMAKING 04-03-017 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.
- Placing the copies in sealed envelopes and causing such envelopes to be delivered by hand or by overnight courier to the offices of the Commission or other addressee(s).
- Placing copies in properly addressed sealed envelopes and depositing such copies in the United States mail with first-class postage prepaid to all parties.
- Directing Prographics to place the copies in properly addressed sealed envelopes and to deposit such envelopes in the United States mail with first-class postage prepaid to all parties.

Executed this **7th day of June, 2006**, at Rosemead, California.

Sara Carrillo
Project Analyst
SOUTHERN CALIFORNIA EDISON COMPANY

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