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

Application of Sacramento Natural Gas)
Storage, LLC, for a Certificate of Public) Application No. 07-04-013
Convenience and Necessity for Construction) (Filed April 9, 2007)
and Operation of Gas Storage Facilities and)
Requests for Related Determinations)
_____)

**AVONDALE GLEN ELDER NEIGHBORHOOD ASSOCIATION'S
MOTION TO AMEND ALJ ORDER DATED APRIL 29, 2011 AND FOR LEAVE TO
RESPOND TO ANY DOCUMENTS SUBMITTED BY SNGS IN RESPONSE TO ALJ
ORDER DATED APRIL 29, 2011**

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For: Avondale Glen Elder Neighborhood Association

Dated: May 5, 2011

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

| | | |
|---|---|---------------------------|
| Application of Sacramento Natural Gas |) | |
| Storage, LLC, for a Certificate of Public |) | Application No. 07-04-013 |
| Convenience and Necessity for Construction |) | (Filed April 9, 2007) |
| and Operation of Gas Storage Facilities and |) | |
| Requests for Related Determinations |) | |
| _____ |) | |

**AVONDALE GLEN ELDER NEIGHBORHOOD ASSOCIATION’S
MOTION TO AMEND ALJ RULING DATED APRIL 29, 2011 AND FOR LEAVE
TO RESPOND TO ANY DOCUMENTS SUBMITTED BY SNGS IN RESPONSE TO ALJ
RULING DATED APRIL 29, 2011**

On April 29, 2011, the Administrative Law Judge (ALJ) in this proceeding (A.07-04-13) issued a Ruling Setting Aside Submission; Identifying, Marking and Admitting into the Record Reference Exhibit C; and Directing Sacramento Natural Gas Storage, LLC (SNGS) to Prepare Reference Exhibits (“Ruling”). The Ruling directs SNGS to prepare and submit the information requested in the Ruling as three new reference exhibits (Exhibits D, E, and F to the SNGS Response to the September 10, 2010 ALJ Ruling) on the record for this proceeding no later than May 13, 2011, at which time the proceeding will stand resubmitted. (Ruling at pp. 1, 7.) The Ruling indicates that “[r]equests for confidential treatment of any information provided in connection with this ruling must be made pursuant to General Order 66-C.” (Ruling at. p. 4.)¹ The Ruling

¹ The Ruling is silent on whether SNGS must serve parties to this proceeding with any of the responsive information. Counsel for AGENA conferred with counsel for SNGS prior to filing this motion and counsel for SNGS agreed to serve the public version of the information requested in the Ruling on the parties and, in addition, to provide AGENA the unredacted version of that information in conformance with the prior practice of SNGS and AGENA of entering into a non-disclosure agreement.

states that “[n]o comments or responses to the SNGS filing of the reference exhibits are permitted.” (Ruling at pp. 2, 7.)

The Avondale Glen Elder Neighborhood Association (AGENA) hereby moves for amendment of the ALJ’s April 29, 2011 order to require that all parties, including AGENA, be given the opportunity to respond to any documents submitted in response to the April 29, 2011 order and provide leave to file such responses.

I. PARTIES SHOULD BE ALLOWED THE OPPORTUNITY TO COMMENT ON DOCUMENTS SUBMITTED IN RESPONSE TO THE ALJ’S APRIL 29, 2011 RULING

The April 29, 2011 order expressly prohibits parties from commenting on evidence that is submitted. This inability to comment on or respond to evidence which may be critical to a contested issue in the case (evaluation of alternatives) violates any notion of fundamental fairness and due process. (*See e.g. Ohio Bell Telephone v. Public Utilities Commission* (1937) 301 U.S. 292, 294-306; *Ralphy v. Bell* (D.C. Cir. 1977) 569 F.2d 607, 628.) As explained in *English v. City of Long Beach* (1950) 35 Cal.2d 155, 158:

The action of such an administrative board exercising adjudicatory functions when based upon information of which the parties were not apprised and which they had no opportunity to controvert amounts to a denial of a hearing . . . Administrative tribunals which are required to make a determination after a hearing cannot act upon their own information . . . A contrary conclusion would be tantamount to requiring a hearing in form but not in substance, for the right of a hearing before an administrative tribunal would be meaningless if the tribunal were permitted to base its termination upon information received without the knowledge of the parties. A hearing requires that the party be apprised of the evidence against him so that he may have an opportunity to refute, test, and explain it, and the requirement of a

hearing necessarily contemplates a decision in light of the evidence there introduced. [citations omitted]

In order to preserve fairness in this proceeding, AGENA and all other parties must be give the opportunity to respond to all evidence submitted. The ALJ's April 29, 2011 Ruling should be amended to give an opportunity to respond to any evidence submitted in response to that order and leave should be given to the parties to file such responses.

CONCLUSION

For the foregoing reasons, AGENA respectfully requests that the April 29, 2011 ALJ Ruling be amended to give AGENA and all other parties an opportunity to comment on that new information on the record for this proceeding and provide leave to the parties to file such responses.

Dated: May 5, 2011

Respectfully submitted,

Legal Services of Northern California

By: _____/s/
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For: Avondale Glen Elder Neighborhood Association

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL OR U.S. MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of Sacramento; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is 455 Capital Mall, Suite 210, Sacramento, CA 95814.

I am readily familiar with the business practice of the City of Sacramento for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing. On the May 5, 2011, I served a true copy of:

**AVONDALE GLEN ELDER NEIGHBORHOOD ASSOCIATION'S
MOTION TO AMEND ALJ ORDER DATED APRIL 29, 2011 AND FOR LEAVE TO
RESPOND TO ANY DOCUMENTS SUBMITTED BY SNGS IN RESPONSE TO ALJ ORDER
DATED APRIL 29, 2011**

[XX] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for A.07-04-013 with an e-mail address.

[XX] By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of the City of Sacramento, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service list for A.07-04-013 without an e-mail address.

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

Executed on this May 5, 2011 at Sacramento, California.

/s/

RACHEL N. JACKSON

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Service Lists by Mail

PROCEEDING: A0704013
LAST CHANGED: FEBRUARY 24, 2011

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