



FILED
02-07-12
09:57 AM

JSW/acr 2/7/2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U902M) for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2012.

Application 10-12-005
(Filed December 15, 2010)

And Related Matter.

Application 10-12-006

ADMINISTRATIVE LAW JUDGE'S RULING CONFIRMING THE JANUARY 26, 2012 ORAL RULING DENYING THE JOINT PARTIES' MOTION TO ACCEPT SUPPLEMENTAL TESTIMONY

Today's written ruling memorializes and confirms the January 26, 2012 oral ruling denying the November 21, 2011 "Motion of the Joint Parties to Accept Supplemental Testimony of the Joint Parties and Michael Phillips Into Evidence" (November 21, 2011 motion), and denying the admission into evidence of exhibits 20 and 21.

During the evidentiary hearing on January 26, 2012, the assigned Administrative Law Judge (ALJ) denied the November 21, 2011 motion of the National Asian American Coalition, the Latino Business Chamber of Greater Los Angeles, and the Black Economic Council, referred to collectively as the "Joint Parties." As a result of that oral ruling, the documents that were identified at the evidentiary hearing as Exhibits 20 and 21 were not admitted into evidence. (See 33 R.T. 4486-4487.) Exhibit 20 is the supplemental testimony of the

Joint Parties, and Exhibit 21 is the supplemental testimony of Michael Phillips. Both exhibits are the subject of the Joint Parties' November 21, 2011 motion. (See 11 R.T. 959, 33 R.T. 4486-4487.)

The November 21, 2011 motion "requests that the supplemental testimony of the Joint Parties (JP-4) and their expert Michael Phillips (JP-5) is accepted into evidence..." (Motion at 2.) The reasons set forth by the Joint Parties as to why they should be allowed to update their testimony is set forth at pages 3 and 4 of the November 21, 2011 motion.

A response in opposition to the November 21, 2011 motion was filed on November 29, 2011 by San Diego Gas & Electric Company and Southern California Gas Company, collectively referred to as the "Applicants."

The arguments made by the Joint Parties and the Applicants have been reviewed and considered. The reasons for denying the November 21, 2011 motion, and denying admission of exhibits 20 and 21 into these consolidated proceedings, are for the following reasons.

First, the November 21, 2011 motion is essentially requesting that the Joint Parties be allowed to late submit two additional pieces of testimony that were served on the parties to this proceeding outside of the time schedule established in the March 2, 2011 scoping memo and ruling (scoping ruling). Under the schedule established by the scoping ruling, the intervenor testimony was to be served by September 22, 2011, and the rebuttal testimony was to be served by October 24, 2011. Through its motion, the Joint Parties seek permission to include two pieces of additional testimony into these proceedings, even though the deadline for serving rebuttal testimony had passed. Rule 13.8 of the Commission's Rules of Practice and Procedure provides that "Prepared testimony may be identified and accepted in evidence ... provided that copies

shall have been served upon all parties prior to hearing and pursuant to the schedule adopted in the proceeding.” The November 21, 2011 motion does not comply with Rule 13.8 since the Joint Parties seek to serve the supplemental testimony outside of the previously established schedule set forth in the scoping ruling. In addition, allowing the Joint Parties to late-serve additional testimony prejudices the Applicants because of the lack of opportunity to conduct discovery on the additional testimony.

Second, the Joint Parties make several arguments in their November 21, 2011 motion as to why the supplemental testimony should be allowed. However, the Joint Parties were provided the opportunity during the evidentiary hearings in November and December of 2011, and in January 2012, to cross-examine the Applicants’ witnesses on the issues raised in their November 21, 2011 motion. In addition, the Joint Parties also filed a motion on November 28, 2011 requesting that a person from Deloitte & Touche be compelled to testify in these proceedings, which is related to one of the arguments made in its November 21, 2011 motion. The November 28, 2011 motion to compel the person from Deloitte & Touche to testify was denied in an e-mail ruling on January 12, 2012. Two of the reasons for denying the November 28, 2011 motion, and which are relevant to the denial of the November 21, 2011 motion, are that there were not any allegations of fact in the November 28, 2011 motion to establish that the Public Company Accounting Oversight Board’s (PCAOB) report was relevant to the forecasts of the 2012 test year revenue requirements for the Applicants, and that the November 28, 2011 motion failed “to establish a relevant nexus that of the audits the PCAOB reviewed, that these audits involved the Applicants.” (January 20, 2012 ALJ Ruling.)

Therefore, **IT IS RULED** that the January 26, 2012 oral ruling of the Administrative Law Judge denying the November 21, 2011 “Motion of the Joint Parties to Accept Supplemental Testimony of the Joint Parties and Michael Phillips Into Evidence,” and denying admission of Exhibits 20 and 21 into evidence in these proceedings, is confirmed through this written ruling.

Dated February 7, 2012, at San Francisco, California.

 /s/ JOHN S. WONG
John S. Wong
Administrative Law Judge