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9-17-14
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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company Proposing Cost of Service and Rates for Gas Transmission and Storage Services for the Period 2015 - 2017 (U39G).

Application 13-12-012
(Filed December 19, 2013)

And Related Matter.

Investigation 14-06-016

LAW AND MOTION JUDGE'S RULING ORDERING PACIFIC GAS AND ELECTRIC COMPANY TO APPEAR AND SHOW CAUSE

Pacific Gas and Electric Company (PG&E) is hereby ordered to appear and to show cause why it should not be held in contempt and punished for violating Rules 1.1 and 8.3(f) of the Rules of Practice and Procedure of this Commission.

On September 15, 2014, PG&E filed its "Notice of Improper Ex Parte Communications" (PG&E Notice) in this proceeding. The PG&E Notice states in pertinent part:

"Pacific Gas and Electric Company ('PG&E') hereby provides notification that PG&E has become aware of *ex parte* communications between PG&E and Commission personnel concerning this proceeding. PG&E believes that these communications violated the Commission's Rules of Practice and Procedure governing *ex parte* communications.

"The written communications at issue are dated from January 9, 2014 to January 29, 2014. The subject matter of the communications is the assignment of this proceeding to particular Administrative Law Judges and Commissioners. Written *ex parte* communications on this subject matter of

which PG&E is currently aware are included in Attachment A of this notice. PG&E believes that oral ex parte communications concerning the same topic occurred during this same time period.

“PG&E cautions that its evaluation of the facts and circumstances surrounding these communications is ongoing. PG&E will provide notice in the event additional ex parte communications are identified.”

The Attachment to the PG&E Notice contains e-mails between PG&E’s Senior Vice-President of Regulatory Affairs Brian Cherry and President Peevey’s chief of staff Carol Brown, between Cherry and Commissioner Florio, and between Cherry and President Peevey regarding the tentative assignment of this proceeding to particular Administrative Law Judges and pressing for the assignment of this proceeding to Judge John S. Wong. In several of the e-mails, Cherry objects to one judge because “I’m not sure we could get someone worse,” to a second judge for being a “Hobson’s choice” alternative to the first, and to a third judge for having “a history of being very hard on us” and having “screwed us royally.” Rule 8.3(f) expressly provides, “*Ex parte* communications regarding the assignment of a proceeding to a particular Administrative Law Judge, or reassignment of a proceeding to another Administrative Law Judge, are prohibited.” Rule 1.1 requires, in part, that any person who transacts business with the Commission agrees to maintain the respect due to the Commission’s Administrative Law Judges.

PG&E is ordered to appear, at a law and motion hearing hereby set for 9:00 a.m. on Tuesday, October 7, 2014, in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California, and show cause why it should not be held in contempt of the Commission and sanctioned for violating Rules 1.1 and 8.3(f). (*See* Pub. Util. Code § 2113.) Such sanctions may

include monetary penalties, restrictions on future *ex parte* communications, and other appropriate sanctions as may be identified at the hearing. Any such showing should take into consideration PG&E's past violations of the *ex parte* rules as determined by Decision 08-01-021.

PG&E and any other party may file a written response to this order to show cause, with supporting declarations, by no later than October 2, 2014.

After consultation with the Acting Chief Judge, and to avoid any appearance of impropriety in its handling, Judge Wong has referred this matter to me as Law and Motion Judge. (*See* Rule 11.17.)

Although this proceeding is categorized as "ratesetting," this order to show cause is "adjudicatory" in nature as that term is defined in Rule 1.3(a). Accordingly, consistent with Rule 8.3(b) and pursuant to my authority under Rule 9.1, I hereby impose a ban on *ex parte* communications regarding this order to show cause.

IT IS SO RULED.

Dated September 17, 2014, at San Francisco, California.

/s/ HALLIE YACKNIN

Hallie Yacknin
Law and Motion Judge