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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas & Electric Company (U902E) for a Certificate of Public Convenience and Necessity for the South Orange County Reliability Enhancement Project.

Application 12-05-020
(Filed May 18, 2012))

ADMINISTRATIVE LAW JUDGE'S RULING DENYING SOUTHERN CALIFORNIA EDISON COMPANY MOTION FOR PARTY STATUS

Background

Southern California Edison Company (SCE) is an investor-owned public utility engaged in the business of generating, transmitting, and distributing electric energy in portions of central and southern California. In conducting its business, SCE operates an interconnected and integrated electric utility system. By motion filed June 2, 2016, SCE requests party status in this proceeding. For the reasons set forth below, today's Ruling denies the requests for party status filed by SCE.

1. Southern California Edison Company's Request is Not Timely

Southern California Edison Company's (SCE) June 2, 2016, request for party status comes several months after testimony was submitted, the hearing was concluded, the proceeding was submitted, and briefs were served. Having failed to participate in the now concluded evidentiary portion of the proceeding, SCE explains that "it did not seek Party status earlier due to the fact that SCE did not expect the Final Environmental Impact Report (FEIR) to find

Alternative J to be environmentally superior to the South Orange County Reliability Enhancement (SOCRE) Project as proposed, and in fact SCE expected that Alternative J would be found infeasible given, among other things, SCE's comments."¹ In effect, SCE argues that its motion is timely because the recently-released FEIR did not reach the conclusions advocated by SCE about Alternative J.²

As an initial matter, we note that SCE's claimed surprise that its recommendation was not followed is neither novel nor persuasive. Having opted to "stand-pat" after its argument in the California Environmental Quality Act (CEQA) portion of this proceeding and not participate in evidentiary hearings, SCE is not now entitled to another round to shore-up its losing hand. Moreover, the fact that the Draft Environmental Impact Report (DEIR) was recirculated specifically to allow parties the opportunity to comment on Alternative J should have put SCE on notice that Alternative J was being seriously considered and is at odds with SCE's claimed surprise. Finally, SCE's explanation fails to address the fact that the FEIR in this proceeding issued in April of 2016, more than a month before SCE sought party status.

SCE's claim that its request is timely must be rejected in light of the considerations above.

¹ SCE Motion at 4.

² "Having learned that the recently-released FEIR did not reach the same conclusions advocated by SCE, SCE now feels compelled to seek Party status to ensure that the record accurately reflects SCE's concerns about the potential infeasibility of Alternative J." See SCE Motion at 4.

2. Due Process Considerations

SCE's request raises two important due process issues. First, beyond the fact that its comments in the CEQA portion of this proceeding were not persuasive, SCE fails to explain why, or even allege that, the opportunity it was afforded to comment on Alternative J in the Recirculated Draft EIR was insufficient. While we cannot discern whether SCE seeks an opportunity to present new criticisms of Alternate J or a second airing of its prior criticisms, by its own admission, SCE was previously provided notice and the opportunity to be heard on this issue. Having afforded SCE both notice and the opportunity to be heard on this issue, there is no due process imperative supporting SCE's motion.

Second, in the absence of a due process imperative, SCE's request for party status may nonetheless be granted, provided that doing so does not create a hardship for, or deprive due process to, other parties. Here SCE asserts that it "seeks Party status to review and comment on any Proposed Decision that is issued, as well as to participate in any future activities in this proceeding, to ensure that all of the obstacles, challenges and feasibility constraints associated with Alternative J have been appropriately considered." SCE goes on to assert that the contentions it "would make are limited to the impacts of Alternative J on SCE and its system and SCE would not seek to revisit any of the past evidentiary proceedings already held in this matter," Thus it appears that SCE intends to introduce through comments, new information that no party has had the opportunity to test by cross-examination. As The Office of Ratepayer Advocates (ORA) notes, "[t]his would deprive ORA and other interested parties the opportunity to conduct discovery on the basis of SCE's contentions, to cross-examine SCE's sponsoring witnesses, and to present responsive

supplemental testimony.”³ While SCE asserts that granting its Motion would not prejudice any existing Party to this proceeding, it is difficult to imagine a greater prejudice than allowing SCE to introduce information into the record going to the potential infeasibility of Alternative J without allowing other parties to fully investigate and test SCE’s contentions.

3. Conclusion

SCE’s request for party status is neither timely nor required to ensure that SCE has been afforded due process. While SCE’s request for party status may be granted in the absence of a due process imperative, doing so here would create a hardship for, and/or deprive other parties of due process.

SCE’s request should therefore be denied.

IT IS RULED that the June 2, 2016, motion for party status filed by the Southern California Edison Company is denied.

Dated July 20, 2016, at San Francisco, California.

/s/ DARWIN E. FARRAR
Darwin E. Farrar
Administrative Law Judge

³ Response of the Office of Ratepayer Advocates to Southern California Edison Company’s Motion for Party Status at 2-3.