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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

California Stat Laboratories,

Complainant,

vs.

Southern California Edison Company
(U338E),

Defendant.

Case 16-05-003
(Filed May 9, 2016)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND JOINT
RULING WITH ADMINISTRATIVE LAW JUDGE**

Summary

Pursuant to Rule 7.3 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure (Rules),¹ this Scoping Memo and Ruling sets forth the procedural schedule, assigns the presiding officer, and addresses the scope of this proceeding and other procedural matters following the prehearing conference (PHC) held on July 22, 2016.

¹ All references to rules are to the Commission's Rules of Practice and Procedure unless noted otherwise.

1. Background

On May 9, 2016, California Stat Laboratories (California Stat), Complainant, filed Case (C.) 16-05-003 with the California Public Utilities Commission (Commission) against Defendant Southern California Edison Company (SCE)² (U338E). A prehearing conference (PHC) was set for June 10, 2016. SCE appeared at the initial PHC, but California Stat did not.³ A second PHC was conducted on July 22, 2016, in Los Angeles to establish the service list, discuss the scope, and develop a procedural timetable for the management of this proceeding.

In the complaint, California Stat alleges that it was overbilled⁴ due to either a faulty meter or faulty internal wiring and that SCE failed to follow proper procedures when California Stat was transitioned from TOU-GS-1 rates to TOU-GS-2 rates. At the PHC California Stat stated it was seeking a total of \$200,000 in damages from SCE.

SCE denies that the meter was not working properly; denies any responsibility for internal wiring; contends it followed all SCE Tariff Rules prior to disconnecting service; and states that the Commission lacks authority to award California Stat general damages.

2. Category, Need for Hearings, and *Ex Parte* Rules

The Commission in the Instruction to Answer, issued on May 18, 2016, determined the category of this complaint proceeding as adjudicatory. The Commission also determined in the Instruction to Answer that hearings are

² California Stat and SCE are collectively referred to as the parties.

³ California Stat contends that it never received notice of the initial PHC.

⁴ The approximate total of overdue bills in dispute is \$13,114.84.

necessary in this proceeding. Neither party objected to the categorization or need for hearings. This ruling confirms the categorization and that evidentiary hearings are needed.

As noted in the schedule below and in accordance with Rule 7.3(a), today's scoping memo adopts a procedural schedule that includes hearings. In an adjudicatory proceeding, as set forth in Rule 8.3(b), *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors and the Administrative Law Judge (ALJ) are prohibited.

3. Discovery

If parties have discovery disputes they are unable to resolve by meeting and conferring, they should raise these disputes with the presiding officer, pursuant to Rule 11.3.

4. Scope of Proceeding

As set forth in the Complaint and pursuant to discussions during the PHC, this proceeding will address the following:

1. Examine whether the meter in question was accurately measuring usage prescribed by the Commission's guidelines for accuracy as found in SCE Tariff Rule 17;
2. Examine whether the Defendant's Tariff Form 14-666 provided adequate notice that Complainant's bill was overdue;
3. Examine whether the Defendant properly followed SCE Tariff Rules 8.A and 11.B prior to disconnecting service;
4. Examine whether Defendant is responsible for the maintenance and repair of internal wiring beyond the Service Delivery Point, pursuant to SCE Tariff Rule 16.D.1.b;

5. Examine whether an employee of Defendant intentionally engaged in the destruction of Complainant's internal wiring beyond the Service Delivery Point;
6. Examine whether the Defendant properly transitioned Complainant from TOU-GS-1 rates to TOU-GS-2 rates;
7. Examine whether the Commission has authority to award general damages, in excess of actual damages sustained by Complainant; and
8. Examine whether there are any safety considerations pursuant to Pub. Util. Code. § 451.

The parties should be prepared to address any issues within the scope of this proceeding on which factual information may be helpful to explain or support their positions.

5. Proceeding Schedule

With the above in mind, and based on the complaint and answer and discussion at the PHC, the following schedule is adopted:⁵

EVENT	DATE
Last Day to Serve Discovery	September 5, 2016
Witness List⁶	September 29, 2016

⁵ At the PHC the parties stipulated that they will not submit direct or rebuttal testimony. Additionally, the parties stipulated that they will not submit opening or reply briefs.

⁶ Parties shall submit via an e-mail no later than September 29, 2016, to the service list, a list of witnesses they intend to present at the hearing. Additionally, California Stat shall provide SCE a list of witnesses that California Stat wishes SCE to produce at the hearing.

Evidentiary Hearings	October 6, 2016, at 10 a.m. Commission Hearing Room at: Junipero Serra State Office Building 320 West 4 th Street, Suite 500 Los Angeles, CA 90013
Matter Submitted	October 6, 2016
Presiding Officer's Decision⁷	January 2017

This schedule may be altered by the assigned Commissioner or Administrative Law Judge (ALJ). While unlikely, if there are any workshops in this proceeding, notices of such workshops will be posted on the Commission's Daily Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices. This case will be submitted upon conclusion of evidentiary hearings, unless the ALJ directs further evidence or argument. In any event it is anticipated that this proceeding will conclude within 12 months from the filing date, as required in adjudicatory proceedings.

6. Principal Hearing Officer

Pursuant to Rule 7.3, I designate ALJ Gerald F. Kelly as the Presiding Officer.

⁷ If evidentiary hearings are conducted, the assigned ALJ will issue a Presiding Officer's Decision (POD). Pursuant to Rule 14.4(a) of the Commission's Rules of Practice and Procedure, a party may file an appeal of a POD within 30 days, with responses filed within 15 days pursuant to Rule 14.4(d).

7. Filing, Service, Service List and Public Advisor

In this proceeding, there are several different types of documents participants may prepare. Each type of document carries with it different obligations with respect to filing and service.

Parties must file certain documents as required by the Commission Rules or in response to rulings by either the assigned Commissioner or the assigned ALJ. All formally filed documents must be filed with the Commission's Docket Office and served on the service list for the proceeding. Article 1 of the Rules contains all of the Commission's filing requirements. Parties must file and serve all pleadings and serve all testimony, as set forth in Article 1 of the Commission's Rules. Parties are encouraged to file and serve electronically, whenever possible, as it speeds processing of the filings and allows them to be posted on the Commission's website. More information about electronic filing is available at <http://www.cpuc.ca.gov/puc/efiling>.

This proceeding will follow the electronic service protocols adopted by the Commission in Rule 1.10 for all documents, whether formally filed or just served. This Rule provides for electronic service of documents, in a searchable format, unless the party or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by U.S. mail. Concurrent e-mail service to ALL persons on the service list for whom an e-mail address is available, including those listed under "Information Only," is required. Parties are expected to provide paper copies of served documents upon request.

E-mail communication about this case should include, at a minimum, the following information on the subject line of the e-mail: C.16-05-003 and the subject matter of the e-mail. In addition, the party sending the e-mail should

briefly describe the attached communication; for example, *witness list*. Both an electronic and a hard copy should be served on the ALJ.

The official service list for this proceeding (the list) is available on the Commission's web page. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process Office. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission's website meets that definition. The service list for this proceeding may be found at:

https://ia.cpuc.ca.gov/servicelists/C1605003_83653.htm

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to public.advisor@cpuc.ca.gov.

IT IS RULED that:

1. The scope and schedule are as set forth in the body of this ruling unless amended by a subsequent ruling of the assigned Commissioner or Presiding Officer.
2. This proceeding is categorized as adjudicatory.
3. This proceeding requires evidentiary hearings.
4. *Ex parte* communications are prohibited in this proceeding pursuant to Rule 8.3(b) of the Commission's Rules of Practice and Procedure.

5. Pursuant to Rule 13.2 of the Commission's Rules of Practice and Procedure, Administrative Law Judge Gerald F. Kelly is the Presiding Officer.

Dated August 3, 2016, at San Francisco, California.

/s/ MICHAEL PICKER

Michael Picker
Assigned Commissioner

/s/ GERALD F. KELLY

Gerald F. Kelly
Administrative Law Judge