



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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<p>Vivian Gorla and George Gorla,</p> <p style="text-align: right;">Complainants,</p> <p style="text-align: center;">vs.</p> <p>San Diego Gas & Electric Company (U902E),</p> <p style="text-align: right;">Defendant.</p>		<p>Case 16-05-005 (Filed May 9, 2016)</p>
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SCOPING MEMORANDUM AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE

Summary

Pursuant to Rule 7.3 of the Commission’s Rules of Practice and Procedure (Rules)¹, this Scoping Memo and Ruling sets forth the procedural schedule, assigns the presiding officer, addresses the scope of this proceeding, and other procedural matters following the prehearing conferences held on June 17 and August 9, 2016.

1. Background

a. The Parties’ Dispute

In its Complaint filed May 9, 2016, Complainants claim that San Diego Gas & Electric Company (SDG&E) improperly transferred charges incurred at premises where service was started by Lilian Gorla (for Steve Gorla), to the account of Vivian and George Gorla, whose service was maintained at a different address. Complainants question whether SDG&E had the authority, under its

¹ California Code of Regulations, Title 20, Division 1, Chapter 1; hereinafter, Rule or Rules.

Tariffs: 1) to transfer charges (which SDG&E contends Lilian owes) from the premises she occupied with Steve, to Vivian and George, and 2) to discontinue electric service at Vivian and George's premises for nonpayment of the transferred charges.²

SDG&E answered the Complaint on June 16, 2016 by contending: 1) that Lilian misled them when she applied for service at the premises where she and Steve resided, 2) that Lilian later resided at Vivian and George's premises, 3) that services at the residence where Steve resided were unlawfully bypassed and that Lilian is financially liable for the bypass charges, 4) that Vivian assisted Lilian to thwart collection efforts for the bypass charges, and 5) that SDG&E was entitled to transfer the bypass charges to Vivian and George's account and to interrupt service for nonpayment under its Tariffs.

SDG&E contends that, because Lilian resided with Vivian and George after leaving the premises where Lilian and Steve incurred charges, the charges could be transferred, and services at George and Vivian's residence could be discontinued for nonpayment under its Tariff 11.A³. SDG&E further contends that Lilian assisted Steve to mislead SDG&E when service was established at premises where Steve lived, and that Vivian assisted Lilian to mislead SDG&E by withholding details concerning Lilian's whereabouts to thwart collection efforts.

² Complainants filed a civil action for damages against SDG&E on August 15, 2014 in San Diego Superior Court (Case 37-2014-00027445-CU-PO-CTL). The parties indicate that the Court case has been stayed pending Commission determination regarding the interpretation and applicability of the pertinent SDG&E Tariffs.

³ SDG&E argues that Tariff 11.A provides that a customer's electric service may be discontinued for non-payment of a bill for service of the same class rendered to the customer at a previous location served by the utility.

This, SDG&E contends, was a violation of its Tariff 3A.⁴ Finally, there are also tariff issues related to SDG&E's calculation of charges incurred at Lilian and Steve's premises upon learning that a bypass was set up to divert electricity away from the meter. Tariff Rule 18 governs those issues.⁵

b. Procedural Summary

A prehearing conference (PHC) was held June 17, 2016 in San Diego. By ruling dated June 2, 2016, the Administrative Law Judge (ALJ) directed the parties to meet and confer prior to the PHC to file a joint PHC statement identifying non-disputed facts. SDG&E filed its PHC statement on June 14, 2016.⁶ Counsel for the Gorias did not join in the PHC statement. Mr. Joel Selik appeared at the PHC for the complainants, but explained that he was only making a special appearance on behalf of the counsel of record, Mr. Andrew Dunk, who had obtained new employment. Mr. Selik was not sure whether he would assume permanent representation of Complainants.

At the close of the PHC, Mr. Selik was asked to confer with Mr. Dunk and to confirm to the ALJ whether he would be assuming permanent representation of Complainants. He was also directed to review the statement filed by SDG&E in order to file a brief summarizing the areas of disagreement with SDG&E's

⁴ SDG&E argues that Tariff 3A prohibits a customer from knowingly providing SDG&E with false, incomplete, misleading, and inaccurate information and that SDG&E may discontinue service to a customer on this basis.

⁵ SDG&E argues that Rule 18 prohibits meter tampering and unauthorized connection or reconnection and permits SDG&E to estimate the value of unauthorized energy use.

⁶ The PHC statement filed by SDG&E indicates that Complainant's counsel, Andrew Dunk, was unavailable to confer regarding the PHC statement prior to its submission. At the PHC, attorney Joel Selik appeared for the Complainants and informed the ALJ that Mr. Dunk assumed new employment and is no longer in private practice.

PHC statement describing the circumstances in dispute and to stipulate to any non-disputed facts. Neither a brief nor correspondence concerning representation were received.

Accordingly, the ALJ set a July 27 telephonic conference to determine who would be representing the Complainants. When neither of Complainant's counsel (Mr. Dunk or Mr. Selik) joined the call, the ALJ set another PHC on August 9⁷ in Los Angeles. Mr. Dunk appeared and confirmed that he will continue to represent the Complainants.

At the PHC, the parties discussed need for evidentiary hearing. It appears likely that evidentiary hearings will not be necessary because the parties believe that deposition testimony and testimony provided under oath in the Superior Court case may provide sufficient factual evidence to permit the Commission to determine whether SDG&E has properly interpreted and applied its Tariffs. However, parties are unable to conclusively state that they do not desire evidentiary hearings until discovery is complete and testimony has been filed. For this reason, the procedural schedule presently includes tentative dates for evidentiary hearing.

2. Categorization and Need for Hearing

In its Instructions to Answer and Hearing Notice dated May 16, 2016, the Commission categorized this proceeding as adjudicatory and preliminarily determined that hearings were necessary.

This scoping memorandum confirms the need for hearing.

⁷ The second PHC was held in Los Angeles, in part because Mr. Dunk had relocated to the Los Angeles area to accept employment, and in part to conserve Commission resources because a PHC on another matter was already scheduled in the Los Angeles office.

3. Ex Parte Communications

Ex Parte communications are prohibited in adjudicatory proceedings pursuant to Pub. Util. Code § 1701.2(b) and Rule 8.3(b).

4. Scope

Based on the complaint, the PHC statement and discussions by the parties at the PHCs, the following issues shall be included within the scope of this proceeding:

1. What does SDG&E’s Tariff Rule 3 require to establish financial responsibility for electric service?
 - a. Should Lilian Gorja have financial responsibility for electric service if she applied for service on behalf of Steve Gorja?
 - b. Should Lilian Gorja have financial responsibility for electric service bypass charges at the premises where Steve Gorja resided?
 - c. Does Vivian Gorja have financial responsibility under Tariff Rule 3 for Lilian Gorja’s electric service charges if she thwarted SDG&E’s efforts to locate Lilian Gorja’s whereabouts?
2. Does SDG&E’s Tariff Rule 11 permit transfer of charges that Lilian Gorja did not pay, to the account of Vivian and George Gorja?

5. Proceeding Schedule

As required by Rule 7.3(a), the schedule for this proceeding shall be as follows:

EVENT	DATE
Complaint Filed	May 9, 2016
Answer Filed	June 16, 2016
Prehearing Conferences	June 17, 2016 and August 9, 2016
Parties Discovery Cut Off	October 30, 2016

EVENT	DATE
Complainant's Prepared Testimony Served	November 30, 2016
SDGE's Response Testimony Served	December 30, 2016
Evidentiary Hearing (if required)	January 23 - 24, 2017 @ 10:30 a.m. Commission Courtroom State Office Building 320 W. 4 th Street, 5 th Floor Los Angeles, CA 90013
Concurrent Final Briefing and submission of case	February 27, 2017
Deadline for Requesting Final Oral Argument	February 27, 2017
Presiding Officer's Decision Issued	By April 28, 2017

This schedule may be altered by ruling from the assigned Commissioner or ALJ. The schedule anticipates that this proceeding should conclude no later than 12 months from the date that the complaint was filed. This deadline may be extended by order of the Commission (§ 1701.2(e).)

The proceeding will stand submitted for decision by the Commission upon the filing of concurrent closing briefs, unless oral argument is scheduled or the ALJ or assigned Commissioner directs further evidence or argument. If oral argument is scheduled, the proceeding will stand submitted upon conclusion of oral argument.

6. Presiding Officer

Pursuant to § 1701.2 and Rule 13.2, Administrative Law Judge Patricia B. Miles is designated as the Presiding Officer in this proceeding.

7. Filing, Service and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocols in Rule 1.10, which are set forth in Section 8. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded, when serving copies of documents, the document format must be consistent with the requirements set forth in Rules 1.5 and 1.6. Additionally, Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents.

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. Parties can find information about electronic filing of documents at the Commission's Docket Office at www.cpuc.ca.gov/PUC/efiling. All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f).

Discovery may be conducted by the parties consistent with Article 10 of the Commission's Rules. Any party issuing or responding to a discovery request shall serve a copy of the request or response simultaneously on all parties. Electronic service under Rule 1.10 is sufficient, except Rule 1.10 does not apply to the service of discovery and discovery shall not be served on the Administrative Law Judge. Deadlines for responses may be determined by the parties. Motions to compel or limit discovery shall comply with Rule 11.3.

8. Electronic Submission and Format of Supporting Documents

The Commission's web site now allows electronic submittal of supporting documents (such as testimony and work papers).

Parties shall submit their testimony or workpapers in this proceeding through the Commission's electronic filing system.⁸ Parties must adhere to the following:

- The Instructions for Using the "Supporting Documents" Feature, (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546>) and
- The Naming Convention for Electronic Submission of Supporting Documents (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=100902765>).
- The Supporting Document feature does not change or replace the Commission's Rules of Practice and Procedure.

⁸ These instructions are for submitting supporting documents such as testimony and work papers in formal proceedings through the Commission's electronic filing system. Parties must follow all other rules regarding serving testimony. Any document that needs to be formally filed such as motions, briefs, comments, etc., should be submitted using Tabs 1 through 4 in the electronic filing screen.

Parties must continue to adhere to all rules and guidelines in the Commission's Rules of Practice and Procedures including but not limited to rules for participating in a formal proceeding, filing and serving formal documents and rules for written and oral communications with Commissioners and advisors (i.e. "ex parte communications") or other matters related to a proceeding.

- The Supporting Document feature is intended to be solely for the purpose of parties submitting electronic public copies of testimony, work papers and workshop reports (unless instructed otherwise by the Administrative Law Judge), and does not replace the requirement to serve documents to other parties in a proceeding.
- Unauthorized or improper use of the Supporting Document feature will result in the removal of the submitted document by the Commission.
- Supporting Documents should not be construed as the formal files of the proceeding. The documents submitted through the Supporting Document feature are for information only and are not part of the formal file (i.e. "record") unless accepted into the record by the Administrative Law Judge.

All documents submitted through the "Supporting Documents" Feature shall be in PDF/A format. The reasons for requiring PDF/A format are:

- Security - PDF/A prohibits the use of programming or links to external executable files. Therefore, it does not allow malicious codes in the document.
- Retention - The Commission is required by Resolution L-204, dated September 20, 1978, to retain documents in formal proceedings for 30 years. PDF/A is an independent standard and the Commission staff anticipates that programs will remain available in 30 years to read PDF/A.

- Accessibility – PDF/A requires text behind the PDF graphics so the files can be read by devices designed for those with limited sight. PDF/A is also searchable.

Until further notice, the “Supporting Documents” do not appear on the “Docket Card”. In order to find the supporting documents that are submitted electronically, go to:

- Online documents, choose: “E-filed Documents”.
- Select “Supporting Document” as the document type, (do not choose testimony).
- Type in the proceeding number and hit search.
- Please refer all technical questions regarding submitting supporting documents to:
- Kale Williams (kale.williams@cpuc.ca.gov) 415 703- 3251 and
- Ryan Cayabyab (ryan.cayabyab@cpuc.ca.gov) 415 703-5999

9. Public Advisor

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 is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao> or contact the commission’s Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

10. Settlement and Alternative Dispute Resolution

While the schedule does not include specific dates for settlement conferences, it does not preclude parties from meeting at other times provided notice is given consistent with our Rules.

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR

services is voluntary, confidential, and at no cost to the parties. Trained ALJs serve as neutrals. Should the parties feel that ADR would be beneficial to them before proceeding to evidentiary hearing, they may jointly request ADR by email, or any party may file (and serve on the other party) a written request for ADR. The parties are encouraged to visit the Commission's ADR webpage at <http://www.cpuc.ca.gov/adr> or to send the Commission's ADR Coordinator an e-mail at KHY@cpuc.ca.gov. ADR processes require confidentiality and the assigned ALJ will not be informed of discussions that occur during ADR.

11. Final Oral Argument

Pursuant to Rule 13.12, any request for final oral argument before the Commission must be filed and served at the same time as shall be filed and served with concurrent final briefing. The motion shall state the request, subjects to be addressed, amount of time requested, recommended procedure and order of presentations, and anything else relevant to the motion. The motion shall contain all the information necessary for the Commission to make an informed ruling on the motion. If more than one party plans to file such a motion, parties shall use their best efforts to present a joint motion, including a joint recommendation on procedure, order or presentation and anything else relevant to the motion.

IT IS RULED that:

1. Administrative Law Judge Patricia B. Miles is designated as the Presiding Officer.
2. The scope of the issues for this proceeding is set forth in Section 4 of this ruling.
3. This is an adjudicatory proceeding. The preliminary determination that there is a need for evidentiary hearings is affirmed.

4. The schedule for the proceeding is set forth in Section 5 of this ruling. The assigned Commissioner or Presiding Officer may adjust this schedule as necessary for efficient management and fair resolution of this proceeding.

5. *Ex parte* communications are prohibited in this proceeding.

6. Motions for final oral argument shall be filed and served concurrently with final briefing.

7. Parties shall adhere to the instructions provided in Section 8 of this ruling for submitting supporting documents, including testimony.

Dated August 31, 2016, at San Francisco, California.

/s/ LIANE M. RANDOLPH

Liane M. Randolph
Assigned Commissioner

/s/ PATRICIA B. MILES

Patricia B. Miles
Administrative Law Judge