



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

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Order Instituting Investigation on the
Commission's Own Motion into the Rates,
Operations, Practices, Services and Facilities of
Southern California Edison Company and San
Diego Gas and Electric Company Associated
with the San Onofre Nuclear Generating Station
Units 2 and 3.

Investigation 12-10-013
(Filed October 25, 2012)

And Related Matters.

Application 13-01-016
Application 13-03-005
Application 13-03-013
Application 13-03-014

**JOINT MOTION BY SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) AND
SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E) TO FILE REPLY TO ORA
PROTEST OF ADVICE LETTERS 2919-E AND 3430-E**

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Dated: **August 08, 2016**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.

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**JOINT MOTION BY SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) AND
SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E) TO FILE REPLY TO ORA
PROTEST OF ADVICE LETTERS 2919-E AND 3430-E**

Pursuant to Rule 11.1(a) of the Commission's Rules of Practice and Procedure, Southern California Edison Company ("SCE") and San Diego Gas & Electric Company ("SDG&E"; collectively, "the Utilities") respectfully submit this *JOINT MOTION BY SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) AND SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E) TO FILE REPLY TO ORA PROTEST OF ADVICE LETTERS 2919-E AND 3430-E* ("Motion"). This Joint Motion respectfully requests that the Commission consider the attached Reply as timely and properly filed.

The Utilities' jointly filed Advice Letter 2919-E (SDG&E) and Advice Letter 3430-E (SCE) (collectively, the "Advice Letters") regarding the Utilities' proposed University of California Greenhouse Gas Research and Reduction Program Implementation Plan ("Program").

The Advice Letters were consolidated into this proceeding as a result of the May 9, 2016 Joint Ruling and the subsequent July 13, 2016 Joint Utility Compliance filing.¹

On August 1, 2016, ORA filed its *Motion Of The Office Of Ratepayer Advocates To File Protest Or Otherwise Comment On Advice Letters 2919-E And 3430-E* (“ORA Motion”), with an attached *Protest of the Office of Ratepayer Advocates (ORA) of San Diego Gas & Electric Company (SDG&E) Advice Letter 2919-E and Southern California Edison Company (SCE) Advice Letter 3430-E: Utility-administered University of California Greenhouse Gas Research and Reduction Program Implementation Plan* (“ORA Protest”). The ORA Motion asserts that it is unclear from the May 9 Ruling which regulatory mechanism (i.e., advice letter protests or motions) parties should use to protest the Advice Letters. Therefore, the ORA Motion requests “clarification on the proper procedure to respond to AL 2919-E and AL 3430-E.”² ORA also requests that the Commission consider the ORA Protest as timely filed.³

The Utilities neither oppose ORA’s Motion, nor object to ORA’s request to find the ORA Protest as timely filed. Therefore, the Utilities are not filing an opposition to ORA’s Motion under Rule 11.1(e).

The Utilities oppose ORA’s Protest, however, and seek leave to file the attached Joint Reply to ORA’s Protest. At the time of this filing, the Commission has not yet provided clarification regarding the proper procedures for the Advice Letters or granted ORA’s request to find its Protest to be timely filed. Therefore, because the deadline to file a reply to advice letter protests is only five days from the last day to protest,⁴ the Utilities seek leave in this Joint Motion to file the attached Joint Reply to the ORA Protest. The Utilities also respectfully request that the Commission consider the attached Joint Reply as timely filed.

¹ Southern California Edison Company's (U 338-E) And San Diego Gas & Electric Company's (U 902-E) Joint Compliance Filing, I.12-10-013, July 13, 2016.

² ORA Motion at 2.

³ ORA Motion at 3.

⁴ General Order 96-B, Rule 7.4.3

Respectfully submitted,

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Dated: August 08, 2016

Appendix A

3430-E et al. SCE and SDG&E JOINT REPLY TO ORA PROTEST

August 8, 2016

Energy Division
Attention: Mr. Edward Randolph
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

SUBJECT: Joint Reply Of Southern California Edison Company And
San Diego Gas & Electric Company To The Office Of
Ratepayer Advocate's Protest Of Advice Letter 3430-E
(SCE)/2919-E (SDG&E)

Dear Mr. Ed Randolph:

Pursuant to General Rule 7.4.3 of the California Public Utilities Commission's ("Commission") General Order 96-B, Southern California Edison Company ("SCE") and San Diego Gas & Electric Company ("SDG&E"; collectively the "Utilities") hereby submit their Joint Reply to the Protest of the Office of Ratepayer Advocates ("ORA") to SCE Advice 3430-E and SDG&E Advice 2919-E (collectively the "Advice Letters").

BACKGROUND

Decision (D.) 14-11-040 approved the Settlement Agreement between the Utilities and four other settling parties, resolving Investigation (I.) 12-10-013 ("SONGS OII"). Section 4.16 of the Settlement Agreement and Ordering Paragraph ("OP") 5 of D.14-11-040 directed SCE and SDG&E to develop the Utility-administered University of California ("UC") Greenhouse Gas Research and Reduction Program ("Program"). Under the terms of the Settlement Agreement and the approving Decision, the Utilities' shareholders are required to donate \$25 million cumulatively (\$20 million by SCE shareholders; \$5 million by SDG&E shareholders) to fund the Program.

In compliance with OP 5, SCE and SDG&E filed Advice 3207-E and Advice 2727-E, respectively, detailing the proposed Program. On March 11, 2016, the Energy Division's Disposition Letter rejected the advice letters because the Utilities failed to: (1) explain that the Utilities' administration of the Program will not be funded with customer funds, and (2) address how the Utilities intend to negotiate proceeds from intellectual property ("IP") that might arise from the directed research. The Energy Division directed the Utilities to file new advice letters within 120 days (i.e., July 11, 2016).

On May 9, 2016, the Assigned Commissioner and Administrative Law Judge in the SONGS OII issued a Ruling (“May 9 Ruling”) that re-opened the record in the proceeding to determine, in part, whether the Program-related terms of the Settlement Agreement meets the Commission’s standards for settlement agreements under Rule 12.1. The May 9 Ruling directed the Utilities to file the new advice letters in the SONGS OII docket through a compliance filing, and provided that upon filing, the new advice letters would be consolidated into I.12-10-013.

On July 11, 2016, the Utilities submitted SCE Advice 3430-E and SDG&E Advice 2919-E specifically addressing the Energy Division’s two concerns. On July 13, 2016, the Utilities filed the Joint Compliance filing in this proceeding to finalize the consolidation of the Advice Letters in the SONGS OII.

PROTEST AND DISCUSSION

On August 1, 2016, ORA filed by Motion¹ its Protest of the Advice Letters. The majority of the ORA Protest concerns the consolidation of the Advice Letters into I.12-10-013 and recommends that the Commission “provide guidance” on how parties can address the substantive aspects of the Advice Letters.² The only objection in the ORA Protest to the substance of the Advice Letters concerns accounting details for administrative costs.

For the reasons explained below, the ORA Protest should be denied.

No other party protested the Advice Letters.

I. The ORA Protest Is a Merely a Motion in Disguise

The ORA Protest should be denied because it is simply a more detailed version of the ORA Motion. The vast majority of the ORA Protest is concerned with the perceived shortcomings of the May 9 Ruling. For example, the ORA Protest states that the May 9 Ruling “does not provide parties, or the Commission, a procedural pathway to resolve the administrative cost issue or IP issue.”³ The ORA Protest also complains that “the Ruling also did not set forth a schedule allowing parties to protest (or otherwise address the substantive merits of the GHG R&D Plan) in I.12-10-013.”⁴

None of these issues concern the substance of the Advice Letters. These are issues that are best addressed through a Motion, and indeed, the ORA Motion addresses

¹ At the time of this filing, ORA’s Motion requesting that the Commission consider its attached ORA Protest as timely filed is still pending.

² ORA Protest at 4-5.

³ ORA Protest at 5.

⁴ ORA Protest at 5.

these exact topics. Furthermore, ORA's arguments are not appropriate grounds for protest under G.O. 96-B.⁵ Therefore, these issues should not have been included in the ORA Protest and should be disregarded.

II. The ORA Protest Unfairly Attempts to Re-Litigate Issues Outside the Scope of the Advice Letters

The ORA Protest incorrectly asserts that the substantive merits of the Advice Letters and their proposed Program should be part of the Commission's Rule 12.1 evaluation of GHG Program settlement terms. ORA's attempt at mixing apples and oranges should be rejected. Parties to the SONGS OII already had the opportunity to submit their comments on whether the GHG Program terms in the Settlement Agreement meet the requirements of settlement agreements under Rule 12.1.⁶ ORA submitted both an initial and reply brief specifically addressing the Program in light of Rule 12.1.⁷ No proposed decision has yet been issued.

The purpose of the Advice Letters is to explain how the Utilities plan on executing the Program in accordance with the settlement agreement's terms. Any protest should only focus on whether the Program, as outlined in the Advice Letters, satisfies the requirements outlined in D.14-11-040, the Settlement Agreement and the Disposition Letter. Whether certain terms of the Settlement Agreement fulfill Commission Rule 12.1 is an issue outside the scope of the Advice Letters and any related protests.

⁵ Rule 7.4.2 of General Order 96-B states in full:

An advice letter may be protested on one or more of the following grounds:

- (1) The utility did not properly serve or give notice of the advice letter;
- (2) The relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies;
- (3) The analysis, calculations, or data in the advice letter contain material errors or omissions;
- (4) The relief requested in the advice letter is pending before the Commission in a formal proceeding;
- (5) The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process; or
- (6) The relief requested in the advice letter is unjust, unreasonable, or discriminatory, provided that such a protest may not be made where it would require relitigating a prior order of the Commission.

⁶ May 9 Ruling at 6.

⁷ Opening Brief Of The Office Of Ratepayer Advocates, I.12-10-013, at 9 (July 7, 2016); Reply Brief Of The Office Of Ratepayer Advocates, I.12-10-013, at 3 (July 21, 2016).

III. The Advice Letters Provide Sufficient Information about Administrative Costs

The only objection to the substance of the Advice Letters in the ORA Protest is limited to a single sentence, which alleges that the Advice Letters do “not identify an accounting or other method(s) to show the Utilities’ shareholders will encumber the administrative costs of the GHG R&D Plan.”⁸ This singular statement fails to provide a sufficient reason to uphold the ORA Protest. The Utilities were not required to provide detailed accounting methods in support of their commitments to not use customer funds for Program administration costs.

Furthermore, contrary to the ORA Protest, the Advice Letters sufficiently address this topic. The Disposition Letter directs the Utilities to re-file their advice letters and explain that payments of administrative costs will be incurred by utility shareholders, and not by ratepayers.⁹ In response to this directive, the Utilities’ new Advice Letters state that “the Utilities’ administrative costs necessary to implement the Program (i.e., project selection and annual reporting) will be absorbed by the Utilities. The Utilities’ absorption of these administrative costs will not result in a rate increase and the Utilities will not request funds in a GRC or other application proceeding to pay for these costs.”¹⁰ In other words, by acting as administrators of the Program, the Utilities are taking on additional work (and associated costs) without receiving additional funding through rates, or raising rates to cover these new costs. While these costs are expected to be nominal, the fact remains that the Utilities are taking on additional work without additional funding, which results in a shareholder subsidy for the work. This approach was specifically discussed with stakeholders and Energy Division staff in attendance at the public meeting on February 18, 2015, which was designed to receive input to develop the Program. This approach is entirely consistent with D.14-11-040 and the Disposition Letter. Importantly, this approach allows the entire \$25 million donation to be used for the UC’s project work. This approach allows the Utilities to fully meet their obligation under the terms of the Settlement Agreement to fund the Program with shareholder funds.

The other option would be for the Utilities to charge their administrative expenditures to the shareholder philanthropic budgets as donations to the Program, and then donate the remaining funds, up to the agreed-upon \$5 million total per year, to the UCs for project expenditures. This would also be consistent with D.14-11-040 and the Disposition Letter because the Utility shareholders would still be paying for the administrative costs, and the Utilities would still be making a \$25 million donation to the

⁸ ORA Protest at 5.

⁹ Energy Division Disposition Letter, dated March 11, 2016; see also May 9 Ruling at 6.

¹⁰ Advice Letters at 1 & 5.

Program. However, because this approach would reduce the funds available to the UCs for project expenditures, the Utilities decided against this approach.

CONCLUSION

SCE and SDG&E request that the Commission reject the ORA Protest and approve SCE's Advice Letter 3430-E and SDG&E's Advice Letter 2919-E through a Commission decision in I.12-10-013.¹¹

Sincerely,

/s/ Russell G. Worden
Russell G. Worden

RGW:wm/jm:cm

cc: James Loewen, CPUC Energy Division
Eric Greene, CPUC Energy Division
ALJ Maribeth Bushey
Diana L. Lee, ORA Attorney
Energy Division Tariff Unit, CPUC Energy Division
I.12-10-013 Service List

¹¹ May 9 Ruling at Ruling 5.