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

California Cable & Telecommunications
Association,

Complainant,

v.

San Diego Gas & Electric Company
(U902E),

Defendant.

Case 17-11-002
(Filed November 6, 2017)

REQUEST FOR REVIEW

Pursuant to Rule 14.4(b) of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, I hereby request review of the Presiding Officer's Decision Determining Pole Attachment Fee (POD), mailed on April 11, 2019 in this docket. The specific grounds on which I request review are as follows:

The POD affirms the administrative law judge's (ALJ) discovery rulings, denying the California Cable & Telecommunications Association (CCTA) discovery into the documentation underlying San Diego Gas & Electric Company's (SDG&E) accounting of the cost of ownership of its utility poles. *See* POD, p. 17. The Commission should consider allowing CCTA to conduct discovery into the documentation underlying accounting of the cost of ownership of its utility poles, and then allowing CCTA to present any evidence it obtained in discovery to support its claims regarding the appropriate pole attachment rates for SDG&E's utility poles.

CCTA filed a complaint against SDG&E seeking Commission resolution of their dispute regarding pole attachment rates. The Commission sets pole attachment rates according to a formula provided in Pub. Util. Code § 767.5, which includes the "annual costs of ownership" of the poles as an input. The annual cost of ownership of the poles does not include costs for any property not necessary for pole attachments.¹ Property on the pole not

¹ *See* Pub. Util. § 767.5(a)(9).

necessary for pole attachments is known as “appurtenance[s].” The Commission adopted the 15% appurtenance adjustment factor for utility poles established by the Federal Communications Commission (FCC), which established this presumption interpreting accounting figures found in Federal Energy Regulatory Commission (FERC) accounts.² The FCC established that the 15% appurtenance adjustment is a rebuttable presumption.³ To exclude pole appurtenance costs as required by Pub. Util. Code § 767.5(a)(9), the Commission found that costs of pole ownership should be determined by amounts reported in FERC Account 364, applying the 15% appurtenance adjustment factor established by the FCC.⁴

Generally, the Commission provides parties participating in Commission proceedings access to broad discovery from any other party regarding any matter, not privileged, that is relevant to the subject matter involved in the proceeding.⁵ Discovery may be denied if it is unduly burdensome and not likely to lead to discovery of admissible evidence.

SDG&E’s final accounting of its costs of pole ownership is reported in FERC Account 364. Information underlying SDG&E’s accounting of the cost of ownership of its poles, including costs attributable to appurtenances as opposed to other pole costs, is relevant to CCTA’s assertion that the 15% appurtenance adjustment factor is inappropriate. The Commission should consider allowing CCTA the opportunity to rebut the 15% appurtenance adjustment factor through discovery into SDG&E’s cost of ownership of poles and appurtenances.

/s/ **CLIFFORD RECHTSCHAFFEN**
CLIFFORD RECHTSCHAFFEN
Commissioner

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

May 10, 2019

² See Decision (D.)03-05-055, FOF 10, COL 4.

³ See *Amendment of Rules and Policies Governing Pole Attachments, Consolidated Partial Order on Reconsideration*, 16 FCC Rcd. 12103, 12123 at n.138 (2001) (“These adjustment factors are rebuttable.”)

⁴ See Decision (D.)03-05-055, FOF 10, COL 4.

⁵ See Commission Rule of Practice and Procedure 10.1