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

Application of Pacific Gas and Electric
Company for Approval and Recovery of Costs
Associated with its Fuel Cell Project (U 39 E)

A.09-02-013
(Filed March 2, 2009)

Application of Southern California Edison
Company (U338E) for Authority to Implement
and Recover in Rates the Cost of its Proposed
Fuel Cell Installation Program for State
Universities.

A.09-04-018
(Filed April 17, 2009)

NOTICE OF EX PARTE COMMUNICATION

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March 26, 2010

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OF THE STATE OF CALIFORNIA**

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NOTICE OF EX PARTE COMMUNICATION

Pursuant to Rule 8.3 of the California Public Utilities Commission's Rules of Practice and Procedure, the Energy Producers and Users Coalition (EPUC)¹, hereby gives notice of the following ex parte communication.

On March 23, 2010 Nora Sheriff, counsel to EPUC, met with Curtis Seymour, temporary advisor to Commissioner Ryan, at approximately 11:00 and spoke for 7 minutes regarding the above proceeding. On the same day Ms. Sheriff also met with Paul Phillips, advisor to Commissioner Simon, from approximately 1:35 to 1:55 addressing the above proceeding. The meetings were held at the Commission's office in San Francisco and initiated by EPUC.

¹ EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, BP America Inc. (including Atlantic Richfield Company), Chevron U.S.A. Inc., Shell Oil Products US, Exxon Mobil Corporation, THUMS Long Beach Company, and Occidental Elk Hills, Inc.

During the meetings Ms. Sheriff discussed the exemption from nonbypassable charges associated with new generation granted to customer generation departing load in Decision 08-09-012; Ms. Sheriff also noted how SCE's proposed fuel cell program fit the Commission's definition for new generation established by D.08-09-12. Ms. Sheriff recommended retention of the Alternate Proposed Decision's clear rejection of SCE's proposal for a new nonbypassable charge applicable to customer generation departing load for its fuel cell program in the Commission's final decision.

The handout provided at both meetings is attached.

To obtain a copy of this Notice, please contact Karen Terranova at 415-403-5542.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'E. Sheriff', is centered on the page.

Evelyn Kahl
Nora Sheriff

Counsel to the
Energy Producers and Users Coalition

March 26, 2010

SCE Fuel Cell A.09-04-018

- D. 08-09-012 exempts CGDL from NBCs for “new generation”
 - *“from both fossil fueled and renewable resources”*
 - *“contracted for or constructed by the investor-owned utilities”*
 - *“subsequent to January 1, 2003”*
- SCE sought to apply NBCs to CGDL for its proposed fuel cells program, despite the program’s
 - use of fossil fuels,
 - utility ownership and
 - post January 1, 2003 operation to serve bundled load.
- SCE claims the fuel cells are not “new generation” because they are “intended” as a demonstration project

APD Rejects SCE's Proposed New "Demonstration" NBC In A.09-04-018

- Logically recognizes that fuel cells are "new generation"
 - *"The Fuel Cell Projects are new generation resources as defined in D.08-09-012, even if the utilities' major reason for pursuing the project is for demonstrative and educational purposes." (APD, at 26-27)*
- *"We will not deviate from D.08-09-012 and create a new category of "demonstration project" that would allow SCE to charge stranded costs from this project on municipal departing load and other customers exempt from NBCs according to D.08-09-012. "*
 - *"the Commission is clear that customer generation departing load and municipal departing load customers are excluded from paying D.04-12-048 and D.06-07-029 NBCs. "*

PD Fails to Address the Issue

- *“Given that this decision rejects both applications, these issues are moot and we do not need to discuss or make findings on these issues.”*
- SCE’s actions since passage of D.08-09-012 compel reiteration of Commission’s established, comprehensive policy

Final Decision Should Include APD's Clear Language on NBCs

- Incessant re-litigation of CGDL NBCs
 - burdens CHP, a GHG reduction measure,
 - heightens uncertainty for CHP development, and
 - wastes scarce Commission and stakeholder resources

CERTIFICATE OF SERVICE

I, Karen Terranova hereby certify that I have on this date caused the attached **Notice of Ex Parte Communication** in A.09-02-013/A.09-04-018 to be served to all known parties by either United States mail or electronic mail, to each party named in the official attached service list obtained from the Commission's website, attached hereto, and pursuant to the Commission's Rules of Practice and Procedure.

Dated March 26, 2010, at San Francisco, California.

A handwritten signature in black ink that reads "Karen Terranova". The signature is written in a cursive style with a long horizontal flourish at the end.

Karen Terranova

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