

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



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In the Matter of the Application of San Diego Gas & Electric Company (U 902 E) for Authorization to Recover Costs Related to the 2007 Southern California Fires Recorded in the Catastrophic Event Memorandum Account (CEMA).

A.09-03-011  
(Filed March 6, 2009)

**MOTION OF RUTH HENRICKS FOR PARTY STATUS IN  
THIS PROCEEDING**

Michael J. Aguirre, Esq.  
[maguirre@amslawyers.com](mailto:maguirre@amslawyers.com)  
Maria C. Severson, Esq.  
[mseverson@amslawyers.com](mailto:mseverson@amslawyers.com)  
AGUIRRE, MORRIS & SEVERSON LLP  
444 West C Street, Suite 210  
San Diego, CA 92101  
Telephone: (619) 876-5364  
Facsimile: (619) 876-5368

June 14, 2010

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

In the Matter of the Application of San Diego Gas & Electric Company (U 902 E) for Authorization to Recover Costs Related to the 2007 Southern California Fires Recorded in the Catastrophic Event Memorandum Account (CEMA).

A.09-03-011  
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**MOTION OF RUTH HENRICKS FOR PARTY STATUS IN  
THIS PROCEEDING**

**I.**

**INTRODUCTION**

Pursuant to Rule 1.4 of the Commission's Rules of Practice and Procedure, Ruth Henricks respectfully submits this motion for party status in the instant proceeding.

**II.**

**DESCRIPTION OF PARTY AND INTEREST IN PROCEEDING**

The subject application was filed by SDG&E in March 2009. Related Applications were filed by SDG&E five months later on August 31, 2009 in Proceedings A.09-08-019<sup>1</sup> and A.09-08-020 (hereinafter "Related Proceedings"). Because a Commission determination in this proceeding could affect determinations on the related proceedings, Ms. Henricks seeks party

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<sup>1</sup> In A.09-08-020 on 31 August 2009 by San Diego Gas & Electric Company (SDG&E), Pacific Gas and Electric Company (PG&E), Southern California Edison Company (Edison), and Southern California Gas Company (SoCal Gas), filed an application requesting Commission authorization to establish a balancing account to allow each utility to recover from ratepayers amounts the Utilities allegedly paid by arising from wildfires. The applicants seek permission to create balancing accounts to purportedly record and subsequently recover from ratepayers: (1) Payments to third parties for damage or loss claims associated with wildfires; (2) Outside legal expenses associated with any third-party claim, including governmental claims; and (3) Payments to government authorities for fire suppression costs.

status to oppose the proposed settlement because it is not supported by an adequate record and is not in the public interest.

Ms. Henricks is an active participant in the Related Proceedings. Ms. Henricks brings this motion within two days of learning of the proposed settlement in the instant matter and on the first work day after learning of the proposed settlement. Although Ms. Henricks was aware of the proceedings, there was no apparent action in the case: no hearings were held on the merits. Related case A.09-08-019, although filed five months *after* this application, has already gone through a hearing and final briefs have been submitted. It awaits argument before the Commission.

There is no other party in this proceeding who opposes the settlement; allowing Ms. Henricks to intervene will benefit the Commission's process by insuring the ratepayers of a contested proceeding. Ms. Henricks was of the mistaken belief that the matter already submitted would be resolved before this proceeding and it was to avoid duplicative work and conservation of Commission resources that Ms. Henricks did not seek party status.

## II.

### **MOVANT HAS A DEMONSTRATED INTEREST IN THE SUBJECT MATTER OF THESE PROCEEDINGS**

Ms. Henricks has a demonstrated interest in protecting small business and non-profit ratepayers who face rate increases if the Utilities' application is granted. Ms. Henricks also understands the need for reaching a resolution of the outstanding issues. Ms. Henricks seeks party status in this proceeding in order to advance and protect the interests of small business owners and non-profits whose interests are implicated in this proceeding. The small business and non-profit customers clearly have an interest in the cost and quality of the services that they receive from the energy utilities that are the subject of this proceeding. Ms. Henricks has

demonstrated her diligent commitment to protecting the small business and non-profit ratepayer in the related proceeding and in earlier proceedings in which she intervened in proceeding before the Commission to protect ratepayers from higher rates caused by Enron and other manipulators of California's electricity prices.

Intervenor Henricks operates Special Delivery San Diego, a non-profit food preparation and food delivery service to any clients living with a life threatening illness (including HIV and AIDS patients) and/or those needing emergency nutritional assistance and who are financially unable to meet those needs. Ms. Henricks must operate the non-profit foundation on a restricted budget.

As a proprietor of a non-profit organization, Ruth Henricks does not accept fees from its clients and receives no government funding. Ms. Henricks relies primarily upon donations from private individuals, private foundations and corporate contributions as its sources of income. However, no funds from any of these sources have been obtained to directly support Ms. Henricks' participation in these proceedings.<sup>2</sup>

Intervenor Ms. Henricks' also represents an interest that would otherwise be unrepresented.

Accordingly, Ms. Henricks requests the Commission grant her party status in this Application. Ms. Henricks further requests that her formal appearance be entered in this proceeding as follows and requests she be added to the service list as a party.

Under Rule 1.4 of the Commission's Rules of Practice, Ms. Henricks respectfully submits her motion for party status in the instant proceeding. Ms. Henricks would like to

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<sup>2</sup> More detailed information about Ruth Henricks' financial position can be provided when Ruth Henricks submits her actual request for compensation. However, it should be noted that the test for significant financial hardship looks to the economic interests of the individual members of the groups being represented in comparison of the costs of the effective participation, not the resources of the organization representing the interested group.

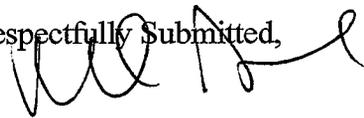
participate in the proceeding which raise issues related to those raised in proceeding A.09-08-019 and A.09-08-020, in which she is a party. Ms. Henricks requests the Commission grant her party status in Application A.09-03-011. Ms. Henricks further requests that her formal appearance be entered in this proceeding and request that she be added to the service list as a party,

Michael J. Aguirre  
Maria C. Severson  
Counsel for Ruth Henricks  
444 W. C Street Suite 210  
San Diego, CA 92101  
Phone: (619) 876-5364  
Fax: (619) 876-5368  
Email: [maguirre@amslawyers.com](mailto:maguirre@amslawyers.com)  
[mseverson@amslawyers.com](mailto:mseverson@amslawyers.com)

Ms. Henricks also requests that the attached document titled “[Proposed] Response of Petitioner Ruth Henricks in Opposition to Joint Motion of San Diego Gas & Electric Company (U 902 E) and the Division of Ratepayer Advocates for Approval of Settlement Agreement.”<sup>3</sup>

For the foregoing reasons, Ms. Henricks respectfully requests to be granted party status in this proceeding.

Respectfully Submitted,



Dated: June 14, 2010

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Michael J. Aguirre, Esq.  
[maguirre@amslawyers.com](mailto:maguirre@amslawyers.com)  
Maria C. Severson, Esq.  
[mseverson@amslawyers.com](mailto:mseverson@amslawyers.com)  
AGUIRRE, MORRIS & SEVERSON LLP  
444 West C Street, Suite 210  
San Diego, CA 92101  
Telephone: (619) 876-5364  
Facsimile: (619) 876-5368  
Attorneys for:  
PROTESTOR HENRICKS

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<sup>3</sup> See Exhibit A.

## **Exhibit A**

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

In the Matter of the Application of San Diego Gas & Electric Company (U 902 E) for Authorization to Recover Costs Related to the 2007 Southern California Fires Recorded in the Catastrophic Event Memorandum Account (CEMA).

A.09-03-011  
(Filed March 6, 2009)

**[PROPOSED] RESPONSE OF PETITIONER RUTH HENRICKS IN OPPOSITION TO  
JOINT MOTION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) AND  
THE DIVISION OF RATEPAYER ADVOCATES FOR APPROVAL  
OF SETTLEMENT AGREEMENT**

Michael J. Aguirre, Esq.  
[maguirre@amslawyers.com](mailto:maguirre@amslawyers.com)  
Maria C. Severson, Esq.  
[mseverson@amslawyers.com](mailto:mseverson@amslawyers.com)  
AGUIRRE, MORRIS & SEVERSON LLP  
444 West C Street, Suite 210  
San Diego, CA 92101  
Telephone: (619) 876-5364  
Facsimile: (619) 876-5368

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THE DIVISION OF RATEPAYER ADVOCATES FOR APPROVAL  
OF SETTLEMENT AGREEMENT**

**I.**

**INTRODUCTION**

Pursuant to Rule 11.3 of the Commission's Rules of Practice and Procedure, Petitioner Ruth Henricks hereby files this Response in Opposition to the Joint Motion of San Diego Gas & Electric Company (U 902 E) and the Division of Ratepayer Advocates for Approval of Settlement Agreement.

**II.**

**BACKGROUND AND PROCEDURAL HISTORY**

On 21 October 2007 SDG&E power lines caused devastating fires in the SDG&E service territory. SDG&E power lines and equipment connected to the fires were not in a safe and sound condition. The SDG&E started fires that caused an environmental disaster, with extensive impact on homes, businesses and wildlife habitats in the SDG&E service territory. SDG&E's response has been to deny responsibility, blame others and make others pay.

A series of cases have been filed arising out of the fire: (1) A.09-03-011; (2) A.09-08-019; and (3) A.09-08-020. In those cases SDG&E seeks orders from the Commission requiring ratepayers to pay the uninsured claims (A.09-08-020), increased insurance premiums based on Z-factor criteria (A.09-08-019), and in this case equipment losses (A.09-03-011). Resolution of this case will establish an important precedent that will carry over to the other cases involving issues about whether ratepayers will have to pay fire insurance and uninsured claims arising out of the SDG&E-caused fires.<sup>1</sup>

The fundamental question presented is: What part of the damages do SDG&E management and SDG&E shareholders have to pay for the environmental disaster SDG&E caused by failing to keep its power line equipment in a safe and sound condition? The significance and relevance of this question has been brought into bright relief with the national attention focused on the environmental disaster caused by the British Petroleum Deepwater Horizon, Macondo blowout in the Gulf of Mexico. The question of who pays cannot be separated from who was at fault, and the related question of how to reduce the risk of catastrophic environmental disasters in the future. The Commission is being asked to make this decision three times in this and two related proceedings (A.09-08-019 and A.09-08-020). The decision should not be made in isolation, but in the full context of the *entire* relief sought by SDG&E in the three proceedings.

This is the second time in four years SDG&E sought reimbursement from ratepayers to pay for SDG&E equipment destroyed by fires in the SDG&E territory. In 2003, SDG&E's application to recover the costs of destroyed SDG&E equipment was granted by the

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<sup>1</sup> The Joint Motion notes the possible impact of the settlement on the related proceedings: "This Settlement Agreement should also not be considered precedent with respect to other proceedings related to the 2007 fires, such as the Z-Factor proceeding (A.09-8-019)."

Commission. *2005 Cal. PUC LEXIS 562 \*1-3* The firestorm of 2003 was the largest disaster of this type ever to occur in SDG&E's service territory. Nearly 400,000 acres were burned, 16 lives were lost and more than 2,400 homes were destroyed in SDG&E's service area in the 2003 fire. *2005 Cal. PUC LEXIS 562 \*1-3*

The Joint Motion of SDG&E and the Division of Ratepayer Advocates (DRA) notes that a prehearing Conference (PHC) was held on 12 June 2009. The Joint Motion states that DRA and SDG&E offered opposing arguments about the degree of linkage between SDG&E's equipment damage and SDG&E's alleged safety violations. However, as the Joint Motion states, no Scoping Memo has been issued in this matter. DRA represents it has conducted an audit of the expenses and capital costs that SDG&E included in its Application and has conducted some follow-up discovery. However, no statement is made about the findings of the audit nor is the discovery identified or described. There is no rationale offered for the compromise amount proposed in the settlement. Moreover, there is no principled discussion of the rationale of the settlement.

Before the Commission can consider any possible proposed settlement in this proceeding as being in the public interest, the Commission must be convinced that the parties had a sound and thorough understanding of the Application, and all of the underlying assumptions and data included in the record. This level of understanding of the Application and development of an adequate record is necessary to meet the Commission's requirements for considering any settlement. (SDGE General Rate Case 2008 Cal. PUC LEXIS 281)

Rather than giving a rubber stamp approval to a makeshift Joint Motion, Ms. Henricks respectfully requests the following from the Commission: (1) return the matter to the Administrative Law Judge to conduct a second PHC; and (2) direct the parties to develop a more

detailed record. The foregoing relief is sought to ensure that any possible proposed settlement in this proceeding be in the public interest, that the Commission be convinced that the parties had a sound and thorough understanding of the Application, and all of the underlying assumptions and data included in the record.

Respectfully Submitted,

Dated: \_\_\_\_\_

\_\_\_\_\_  
Michael J. Aguirre, Esq.  
[maguirre@amslawyers.com](mailto:maguirre@amslawyers.com)  
Maria C. Severson, Esq.  
[mseverson@amslawyers.com](mailto:mseverson@amslawyers.com)  
AGUIRRE, MORRIS & SEVERSON LLP  
444 West C Street, Suite 210  
San Diego, CA 92101  
Telephone: (619) 876-5364  
Facsimile: (619) 876-5368

Attorneys for:  
PROTESTOR HENRICKS

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing **MOTION OF RUTH HENRICKS FOR PARTY STATUS IN THIS PROCEEDING** by electronic mail to each party listed in the attached CPUC Service List for Proceeding A.09-03-011.

Dated this 14<sup>th</sup> day of June, 2010, at San Diego, California.

  
\_\_\_\_\_  
Kevin Christensen



## California Public Utilities Commission

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### CALIFORNIA PUBLIC UTILITIES COMMISSION

#### Service Lists

PROCEEDING: A0903011 - SDG&E - FOR AUTHORIT

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LIST NAME: LIST

LAST CHANGED: MAY 12, 2010

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#### Parties

ALLEN K. TRIAL  
SAN DIEGO GAS & ELECTRIC COMPANY  
101 ASH STREET, HQ-12B  
SAN DIEGO, CA 92101  
FOR: SAN DIEGO GAS & ELECTRIC COMPANY

ED MOLDAVSKY  
CALIF PUBLIC UTILITIES COMMISSION  
LEGAL DIVISION  
ROOM 5037  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214  
FOR: DRA

#### Information Only

MRW & ASSOCIATES, LLC  
EMAIL ONLY  
EMAIL ONLY, CA 00000

GREGORY HEALY  
SEMPRA UTILITIES  
555 WEST FIFTH STREET, 14TH FLR. -GT14D6  
LOS ANGELES, CA 90013

CASE ADMINISTRATION  
SOUTHERN CALIFORNIA EDISON COMPANY  
2244 WALNUT GROVE AVE  
ROSEMEAD, CA 91770

JANE LEE COLE, ESQ.  
SOUTHERN CALIFORNIA EDISON COMPANY  
PO BOX 800 / 2244 WALNUT GROVE AVENUE  
ROSEMEAD, CA 91770

MARY BETH QUINLAN  
PROJECT MANAGER  
SOUTHERN CALIFORNIA EDISON COMPANY  
2244 WALNUT GROVE AVENUE  
ROSEMEAD, CA 91770

ROBERT F. LEMOINE  
ATTORNEY  
SOUTHERN CALIFORNIA EDISON COMPANY  
2244 WALNUT GROVE AVENUE  
ROSEMEAD, CA 91770

SHAWN CAINE  
LAW OFFICE OF SHAWN CAINE  
1125 CAMINO DEL MAR, SUITE D  
DEL MAR, CA 92014

DIANE CONKLIN  
MUSSEY GRADE ROAD ALLIANCE  
PO BOX 683  
RAMONA, CA 92065

JOSEPH W. MITCHELL, PH. D.  
M-BAR TECHNOLOGIES AND CONSULTING, LLC  
19412 KIMBALL VALLEY RD  
RAMONA, CA 92065

ONELL SOTO  
SAN DIEGO UNION-TRIBUNE  
PO BOX 120191  
SAN DIEGO, CA 92112-0191

BRUCE FOSTER  
SOUTHERN CALIFORNIA EDISON COMPANY  
601 VAN NESS AVENUE, STE. 2040  
SAN FRANCISCO, CA 94102

ERROL KISSINGER  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE STREET; MC B10A  
SAN FRANCISCO, CA 94105

FRANCES YEE  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE STREET, MC B10A  
SAN FRANCISCO, CA 94105

LARRY NIXON  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE ST., MC B9A  
SAN FRANCISCO, CA 94105

CASSANDRA SWEET  
DOW JONES NEWSWIRES  
201 CALIFORNIA ST., 13TH FLOOR  
SAN FRANCISCO, CA 94111

HILARY CORRIGAN  
CALIFORNIA ENERGY MARKETS  
425 DIVISADERO ST., SUITE 303  
SAN FRANCISCO, CA 94117-2242

CASE COORDINATION  
PACIFIC GAS AND ELECTRIC COMPANY  
77 BEALE ST., PO BOX 770000 MC B9A  
SAN FRANCISCO, CA 94177

## State Service

---

LAURA LEI STRAIN  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY DIVISION  
320 WEST 4TH STREET SUITE 500  
LOS ANGELES, CA 90013

DARWIN FARRAR  
CALIF PUBLIC UTILITIES COMMISSION  
DIVISION OF ADMINISTRATIVE LAW JUDGES  
ROOM 5041  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

DONALD J. LAFRENZ  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY DIVISION  
AREA 4-A  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

JAMES R. WUEHLER  
CALIF PUBLIC UTILITIES COMMISSION  
ENERGY COST OF SERVICE & NATURAL GAS BRA  
ROOM 4208  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214  
FOR: DRA

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