

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



**FILED**

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In the Matter of the Application of San Diego Gas  
& Electric Company (U 902 E) for Authorization to  
Recover Unforeseen Liability Insurance Premium and  
Deductible Expense Increases as a Z-Factor  
Event.

Application 09-08-019  
(Filed August 31, 2009)

**SAN DIEGO GAS & ELECTRIC COMPANY  
RESPONSE TO REQUEST FOR ORAL ARGUMENT**

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April 15, 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 Unforeseen Liability Insurance Premium and Deductible Expense Increases as a Z-Factor Event.

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**SAN DIEGO GAS & ELECTRIC COMPANY  
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In accordance with Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (the “Commission”),<sup>1/</sup> and the direction provided by ALJ Bushey during the evidentiary hearing held in the above-captioned matter,<sup>2/</sup> San Diego Gas & Electric Company (“SDG&E”) hereby responds to the motion by Ruth Henricks<sup>3/</sup> for oral argument in the instant proceeding (the “Motion”).<sup>4/</sup> While SDG&E will comply with the Commission’s direction in the event the Commission elects to grant the Motion, it questions the need for this extraordinary measure and submits that the proposed oral argument would serve little purpose, would impose unnecessary delay and would unduly burden Commission resources.

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<sup>1/</sup> All references to “Rules” set forth herein are to the Commission’s Rules of Practice and Procedure, unless otherwise noted.

<sup>2/</sup> Tr. Vol. 3, p. 326.

<sup>3/</sup> Ms. Henricks has also been referred to by her counsel as Ruth “Hendricks” in various documents – *see, e.g.* Protest filed September 17, 2009; direct testimony of Kevin Christensen submitted February 19, 2010, etc.

<sup>4/</sup> The motion filed by Ms. Henricks is entitled “Motion of Ruth Henricks for Commission Hearing in This Proceeding,” but sets forth a request for oral argument rather than for an evidentiary hearing. An evidentiary hearing was held in the instant proceeding April 5-7, 2010.

In the Motion, Ms. Henricks fails to provide any explanation as to why oral argument by the parties is necessary or would be in the public interest in the instant case. Oral arguments are rarely deemed to be necessary in Commission ratesetting proceedings, given the ample opportunity for parties to develop a full record through the Commission's discovery procedures, submission of written testimony and conducting of evidentiary hearings. Indeed, the scoping memo in the instant proceeding did not mention oral argument or appear to contemplate that it would be necessary to include oral arguments in the procedural schedule. As a practical matter, post-hearing briefing by parties in administrative proceedings has essentially obviated the need for closing oral arguments, such as those typically offered in civil proceedings. Given the complicated and often nuanced nature of the issues involved in the administrative proceedings conducted by the Commission, written briefing, which allows parties to provide a more thorough and well-organized explanation of the relevant issues, is a superior vehicle for articulating complex arguments for the Commission's consideration.

Ms. Henricks suggests that the Commission is precluded from exercising its discretion regarding whether to permit parties to offer oral argument. The Commission's rules make clear, however, that it retains the discretion to liberally construe its rules "to secure just, speedy, and inexpensive determination of the issues presented,"<sup>5/</sup> Thus, the Commission is not required to perform a particular action merely because a party to a proceeding demands that it does so, particularly where it is clear that grant of a party's demand will likely cause delay and will impose burden and expense on the Commission and parties.

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<sup>5/</sup> See Rule 1.2 (emphasis added).

It is clear in the instant case that the record has been fully developed and that oral argument would add little or no value. Parties conducted extensive discovery – Ms. Henricks deposed all three SDG&E witnesses and multiple data requests were propounded by the parties; SDG&E responded to at least 120 individual questions and produced hundreds of documents to parties. All parties submitted written testimony and three days of hearings were held. Briefing of the issues is underway, with opening briefs due May 10 and reply briefs due May 28, under the current procedural schedule. Oral arguments held prior to May 28 would significantly interfere with parties’ ability to meet briefing deadlines and should not be considered; oral argument held after May 28 would offer the Commission little more than a restatement in summary fashion of the arguments contained in parties’ briefs and could delay consideration of the proposed decision by the Commission.

Thus, oral argument in the instant proceeding would appear to offer minimal value when compared against the attendant burden imposed on the Commission and parties and the potential delay in resolving SDG&E’s application. Accordingly, SDG&E urges the Commission to deny Ms. Henricks’ request for oral argument. Should the Commission nevertheless elect to grant the request, SDG&E requests that oral argument be scheduled to occur after May 28, and preferably after issuance of the proposed decision in the proceeding.

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Dated this 15th day of March, 2010 in San Diego, California

Respectfully Submitted,

/s/ Aimee M. Smith

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of **SAN DIEGO GAS & ELECTRIC COMPANY RESPONSE TO REQUEST FOR ORAL ARGUMENT** has been electronically mailed to each party of record of the service list in A.09-08-019. Any party on the service list who has not provided an electronic mail address was served by placing copies in properly addressed and sealed envelopes and by depositing such envelopes in the United States Mail with first-class postage prepaid.

Copies were also sent via Federal Express to Administrative Law Judge Maribeth A. Bushey and Commissioner Timothy Alan Simon.

Executed this 15<sup>th</sup> day of April, 2010 at San Diego, California.

          /s/ JENIFER E. NICOLA            
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