

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



FILED
10-05-10
04:59 PM

In the Matter of the Application of San Diego)
Gas & Electric Company for Review of its) Application: 08-12-021
Proactive De-Energization Measures and) (Filed December 22, 2008)
Approval of Proposed Tariff Revisions (U902E).)
_____)

**COUNTY OF SAN DIEGO RESPONSE IN SUPPORT OF
DISABILITY RIGHTS ADVOCATES' PETITION FOR MODIFICATION OF
DECISION NO. 09-09-030**

JOHN J. SANSONE, County Counsel
KAREN F. LANDERS, Sr. Deputy County Counsel

Attorneys for
COUNTY OF SAN DIEGO
1600 Pacific Highway, Room 355
San Diego, CA 92101-2469
Telephone: (619) 531-5214
Facsimile: (619) 531-6005
E-mail: karen.landern@sdcounty.ca.gov

Dated: October 5, 2010

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

In the Matter of the Application of San Diego)	Application: 08-12-021
Gas & Electric Company for Review of its)	(Filed December 22, 2008)
Proactive De-Energization Measures and)	
Approval of Proposed Tariff Revisions (U902E).)	
<hr/>		

**COUNTY OF SAN DIEGO RESPONSE IN SUPPORT OF
DISABILITY RIGHTS ADVOCATES’ PETITION FOR MODIFICATION OF
DECISION NO. 09-09-030**

Pursuant to Commission Rule 16.4(f), the County of San Diego (“County”) submits the following response in support of the Petition for Modification of Decision No. 09-09-030 filed by Disability Rights Advocates on September 7, 2010:

A. The Proposed Modification is Necessary to Protect Public Safety

San Diego Gas & Electric (“SDG&E”) has an obligation to operate its system safely. (Pub. Util. Code §§ 330, 399, 451, 761, 762, 768 and 770.) SDG&E also has an obligation to provide reliable electricity: “[r]eliable electric service is of utmost importance to the safety, health, and welfare of the state’s citizenry and economy.” (Pub. Util. Code § 330(g).)

SDG&E contends that its Statutory Shut Off Plan complies with its authority under Public Utilities Code sections 399.2 and 451 to shut off power in emergency situations when necessary to protect public safety. The Statutory Shut Off Plan is designed to establish a basis for determining that, based on the weather and other field conditions, SDG&E’s equipment poses an immediate risk of fire to the community, therefore requiring it to be shut down. Whether a given outage under the Statutory Shut Off Plan meets this standard will depend on a review, conducted after the shut off occurs, of the conditions and the information available to SDG&E at

the time it ordered a specific circuit shut down. Implementation of the Statutory Shut Off Plan, therefore, will grant considerable discretion to SDG&E when shutting off power to one or more circuits serving customers in San Diego County. Once power is shut off, power will generally not be restored until the weather and field conditions subside and the affected lines have been visually inspected. This could result in an outage lasting hours or days.

SDG&E's discretion in imposing an outage, with a goal of protecting public safety, must also include an obligation to provide mitigation measures to protect public safety caused by an outage of this nature. This is especially important since the Statutory Shut Off Plan is untested. The plan is unprecedented in San Diego County. County is not aware of a similar plan in other regions. SDG&E developed the Statutory Shut Off Plan on its own – it was not part of the Fire Safety Stakeholder Collaboration process.

An evaluation of whether SDG&E is meeting its statutory obligations to provide reliable electric service and to operate its system safely requires a plan that meets both goals. Therefore, if public safety requires a forced power outage, then SDG&E should arrange for and provide reasonable measures to mitigate the harm caused by the lack of power. Because of the untested nature of the Statutory Shut Off Plan, the nature and extent of the mitigation measures may evolve over time, as the plan is implemented and the impact of the plan is better understood and anticipated.

If SDG&E is not required to implement reasonable mitigation measures as part of its Statutory Shut Off Plan, it will be violating its obligation to consider the public safety risks caused by an outage. Requiring mitigation with the Statutory Shut Off Plan will also provide a balance to SDG&E's discretionary decision making: a decision to shut off power to avoid a fire risk must be balanced against the amount of harm that will be caused by the outage. If a power

shut off is necessary, then SDG&E should be required to implement additional measures to ease the burden of the outage on its customers. Leaving mitigation measures solely to SDG&E's voluntary implementation, without any threat of Commission oversight, provides no incentive to SDG&E in agreeing to reasonable mitigation requests from stakeholders.

B. The Proposed Modification Balances the Needs of SDG&E and Stakeholders

Disability Rights Advocates' proposed modification appropriately leaves the required mitigation measures to the reasonable discretion of SDG&E and the stakeholders. Under the proposed language, SDG&E would have to reasonably consider implementing mitigation measures requested by stakeholders. Stakeholders would be required to affirmatively request a specific mitigation measure, and it would have to be reasonable and feasible under the circumstances. This standard keeps both sides to a fair and reasonable standard. It is also general enough to recognize that required mitigation measures may evolve as the Statutory Shut Off Plan is implemented and the effects of those outages are evaluated and better understood by SDG&E and the stakeholders.

C. The Proposed Modification is Necessary for Any Tariff Rule 14 Proceeding

While protecting the public from utility-ignited fires and extended power outages is (and should be) the primary focus of a shut off evaluation, there is another, equally significant motive behind SDG&E's Statutory Shut Off Plan: avoiding liability for fires AND outages. Any decision by SDG&E to shut off power under its existing authority may be reviewed by the Commission for compliance with statute and to decide if the shut off "was reasonable and qualifies for an exemption from liability under Tariff Rule 14." (Decision No. 09-09-030, p. 62.) An exemption from liability under Tariff Rule 14 will allow SDG&E to escape liability for damages caused by the power outage. If a Commission decision under Tariff Rule 14 does not

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **COUNTY OF SAN DIEGO RESPONSE IN SUPPORT OF DISABILITY RIGHTS ADVOCATES' PETITION FOR MODIFICATION OF DECISION NO. 09-09-030 in A.08-12-021**, by using the following service:

E-Mail Service: sending the entire document as an attachment to an e-mail message to all known parties of record to this proceeding who provided electronic mail addresses.

U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

I have also sent hard copies by overnight mail to the Assigned Administrative Law Judge and Assigned Commissioner.

Executed on October 5, 2010 at San Diego, California.

/s/
Karen Landers

SERVICE LIST FOR A.08-12-021

robert.f.lemoine@sce.com
dj0conklin@earthlink.net
Jennifer.Haley@bbklaw.com
karen.landiers@sdcounty.ca.gov
KMelville@SempraUtilities.com
sophie.akins@bbklaw.com
mshames@ucan.org
LUrick@SempraUtilities.com
cwl@cpuc.ca.gov
nms@cpuc.ca.gov
DavidJMiller@att.com
pacasciato@gmail.com
jarmstrong@goodinmacbride.com
edwardoneill@dwt.com
robin.harrington@fire.ca.gov
pucservice@dralegal.org
jerome@calcable.org
kmills@cfbf.com
tciardella@nvenergy.com
mrw@mrwassoc.com
jordan.white@pacificorp.com
kchrisman@blwlawfirm.com
chilen@NVEnergy.com
jacque.lopez@verizon.com
jesus.g.roman@verizon.com
case.admin@sce.com

ddowney@nctimes.com
publisher@juliannews.com
jwmitchell@mbartek.com
maureen@ramonasentinel.com
ATrial@SempraUtilities.com
esther.northrup@cox.com
mmendoza@gcrlegal.com
schristianson@tosdalsmith.com
onell.soto@uniontrib.com
cbrewer@sdcwa.org
KO'Beirne@SempraUtilities.com
RGiles@SempraUtilities.com
CentralFiles@SempraUtilities.com
michael.urquhart@sdcounty.ca.gov

bruce.foster@sce.com
rcosta@turn.org
bhc4@pge.com
RegRelCPUCCases@pge.com
ELK3@pge.com
fassil.t.fenikile@att.com
ghw3@pge.com
gwen.johnson@att.com
keith.krom@att.com
kristin.jacobson@sprint.com
lhj2@pge.com
thomas.selhorst@att.com
cpuccases@pge.com
info@tobiaslo.com
joshdavidson@dwt.com
mariecarbone@dwt.com
cem@newsdata.com
cem@newsdata.com
lmb@wblaw.net
gayatri@jbsenergy.com
californiadockets@pacificorp.com
heide.caswell@pacificorp.com
rgf@cpuc.ca.gov
OES@sdcounty.ca.gov
ayo@cpuc.ca.gov
bds@cpuc.ca.gov
dkl@cpuc.ca.gov
edm@cpuc.ca.gov
hym@cpuc.ca.gov
nlr@cpuc.ca.gov
jpn@cpuc.ca.gov
rmm@cpuc.ca.gov
rae@cpuc.ca.gov
rim@cpuc.ca.gov
rsm@cpuc.ca.gov
tim@cpuc.ca.gov
Melodie.Durham@fire.ca.gov

--	--