



FILED

02-24-10

09:49 AM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Peter Solomon, dba Regency Homes,

Complainant,

vs.

Southern California Edison Company (U338E),

Defendant.

Case 09-11-009
(Filed November 10, 2009)

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

1. Summary

Pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules),¹ this Scoping Memo and Ruling sets forth the procedural schedule, assigns the presiding officer, and addresses the scope of this proceeding and other procedural matters following the prehearing conference held on January 20, 2010.

2. Background

On November 10, 2009, Peter Solomon, dba Regency Homes (Regency Homes) filed the above-captioned complaint against Southern California Edison

¹ All references to rules are to the Commission's Rules of Practice and Procedure, which are available on the Commission's website at:

http://docs.cpuc.ca.gov/word_pdf/RULES_PRAC_PROC/70731.pdf.

Company (SCE). This proceeding was preliminarily determined to be adjudicatory and that hearings would be necessary.

Instructions to Answer were sent to SCE by the Chief Administrative Law Judge on November 20, 2009, to which SCE filed an answer on December 18, 2009.

On December 31, 2009, an *Administrative Law Judge's Ruling Setting a Prehearing Conference* (Ruling) was mailed. In addition to setting a prehearing conference, the Ruling set out issues for discussion, a preliminary schedule, and a request for Prehearing Conference Statements. On January 15, 2010, the Parties each filed Prehearing Conference Statements.

On January 20, 2010, a prehearing conference took place in Los Angeles to establish the service list for the proceeding, to discuss the scope of the proceeding, and to develop a procedural timetable for the management of the proceeding. At the prehearing conference, the parties were directed to file a Joint Statement and List of Authorities, which was filed on February 12, 2010.

3. Proceeding Category, Need for Hearing, and *Ex Parte* Rules

As noted above, the Commission preliminarily categorized this Application as adjudicatory as defined in Rule 1.3(a) and anticipated that this proceeding would require evidentiary hearings. The parties both agreed with the Commission's preliminary categorization and the need for hearings. This ruling affirms the preliminary categorization of this proceeding as adjudicatory, and the need for hearings. In an adjudicatory proceeding, *ex parte* communications are prohibited under Rule 8.2(b). The provisions of § 1701.2(a) apply.

4. Discovery

If parties have discovery disputes they are unable to resolve by meeting and conferring, they should raise these disputes with the Commission pursuant to Rule 11.3.

5. Scope of Proceeding

Through the Complaint, Defendant's Answer, Prehearing Conference Statements of both parties, and discussions during the prehearing conference, parties conducted an exchange that has helped to refine the scope of the Application.

This proceeding will examine whether, pursuant to 19 contracts for Extension of Electric Distribution (Rule 15 Contracts), SCE has correctly computed the amount of refundable construction costs it was obligated to pay Regency Homes or whether Regency Homes is owed additional refunds. This proceeding will also examine whether or not Regency Homes is obligated by the Rule 15 Contracts to pay Monthly Ownership Charges to SCE.

Overall, though, there was no disagreement regarding the issues that need to be addressed in this proceeding. The above scope incorporates all of the issues raised by the parties in their Prehearing Conference Statements and at the prehearing conference.

6. Proceeding Schedule

After discussion at the prehearing conference, the parties determined that the following schedule best accommodates the diverse interests and prior commitments of the parties and their representatives:

EVENT	DATE
Discovery Completed	April 9, 2010
Complainant Testimony Served	April 9, 2010
Defendant Testimony Served	May 7, 2010
Hearings	May 24 - 25, 2010 at 10 am Junipero Serra State Office Building 320 West 4 th Street, Suite 500 Los Angeles, CA 90013
Opening Briefs Filed	June 18, 2010
Reply Briefs Filed; Case Submitted	July 2, 2010
<i>Proposed Issuance of Presiding Officer's Decision (60 days after submission)</i>	<i>No later than 60 days after submission, currently July 2, 2010.</i>

Consistent with Pub. Util. Code § 1701.2(d), the Commission anticipates that this proceeding will be completed within 12 months of the initiation of this proceeding, which is November 10, 2010.

7. Presiding Officer

Pursuant to Rule 13.2(a), I designate Administrative Law Judge Katherine Kwan MacDonald as the Presiding Officer.

8. Filing, Service, and Service List

In this proceeding, there are several different types of documents participants may prepare. Each type of document carries with it different obligations with respect to filing and service.

Parties must file certain documents as required by the Rules or in response to rulings by either the assigned Commissioner or the assigned ALJ. All formally

filed documents must be filed with the Commission's Docket Office and served on the service list for the proceeding. Article 1 of the Rules contains all of the Commission's filing requirements. Parties must file and serve all pleadings as set forth in Article 1 of the Rules. Parties are encouraged to file and serve electronically, whenever possible, as it speeds processing of the filings and allows them to be posted on the Commission's website. More information about electronic filing is available at <http://www.cpuc.ca.gov/puc/efiling>. Prepared testimony is only served but not filed.

This proceeding will follow the electronic service protocols adopted by the Commission in Rule 1.10 for all documents, whether formally filed or just served. This Rule provides for electronic service of documents, in a searchable format, unless the appearance or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by U.S. mail. Concurrent e-mail service to ALL persons on the service list for whom an e-mail address is available, including those listed under "Information Only," is required. Parties are expected to provide paper copies of served documents upon request.

E-mail communication about this case should include, at a minimum, the following information on the subject line of the e-mail: C.09-11-009 – Regency Homes vs. SCE. In addition, the party sending the e-mail should briefly describe the attached communication; for example, *Comments*.

The official service list for this proceeding is available on the Commission's web page. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process Office, the service list, and the ALJ. Prior to serving any document, each party must ensure

that it is using the most up-to-date service list. The list on the Commission's website meets that definition.

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to public.advisor@cpuc.ca.gov.

IT IS RULED that:

1. *Ex parte* communications are prohibited in adjudicatory proceedings, in accordance with Public Utilities Code Section 1701.2(b).
2. The issues and schedule are set forth in the body of this ruling unless amended by a subsequent ruling or order of the Presiding Officer.
3. Pursuant to Rule 13.2(a), Administrative Law Judge Katherine Kwan MacDonald is the Presiding Officer.
4. The preliminary categorization of this proceeding as adjudicatory and the need for evidentiary hearings are affirmed.

Dated February 24, 2010, at San Francisco, California.

/s/ DIAN M. GRUENEICH

Dian M. Grueneich
Assigned Commissioner

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated February 24, 2010, at San Francisco, California.

/s/ CRISTINE FERNANDEZ
Cristine Fernandez

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.