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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U 902 M) 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)

## **STATUS REPORT OF THE DIVISION OF RATEPAYER ADVOCATES**

### **I. INTRODUCTION**

Pursuant to the Administrative Law Judge's (ALJ) Ruling (Ruling), dated August 17, 2009, the Division of Ratepayer Advocates (DRA) was ordered to serve and file a Report on certain identified developments related to the Application of San Diego Gas & Electric Company (SDG&E) for Authorization to Recover Costs Related to the 2007 Southern California Fires Recorded in the Catastrophic Event Memorandum Account (CEMA) (Application).<sup>1</sup> On September 15, 2009, DRA requested a one-week extension to serve and file that Report, in light of settlement discussions. SDG&E did not oppose DRA's request. On September 16, 2009, ALJ Farrar granted DRA's request by stating in an email:

“The Division of Ratepayer Advocate's (DRA) request for an extension of time to file its Report in A.09-03-011 is granted. San Diego Gas & Electric shall serve and file its response, if any, to DRA's Report within two weeks of the DRA Report being served and filed. Both parties shall reference this extension in their respective filings.”<sup>2</sup>

<sup>1</sup> SDG&E filed this Application on March 6, 2009.

<sup>2</sup> See ALJ Farrar's email to the service list of A.09-03-011, dated: September 16, 2009.

Thus, DRA has been ordered to do the following in this Report:

- 1) Clarify whether the costs of the fires at issue in I.08-11-006 and I.08-11-007 can be disaggregated from the total fire costs at issue in the CEMA proceeding;
- 2) Identify any unresolved discovery issues that have arisen in the proceeding; and
- 3) Identify any new activities in I.08-11-006 and/or I.08-11-007, including potential settlements that reasonably relate to this proceeding.

## II. DISCUSSION

### A. Clarify whether the costs of the fires at issue in I.08-11-006 and I.08-11-007 can be disaggregated from the total fire costs at issue in the CEMA proceeding

DRA has actively pursued this issue in its discovery of SDG&E's records.

Through the course of that process, DRA has significantly increased its understanding of how the costs included in SDG&E's CEMA Application could be reasonably linked to each fire. This is particularly important with respect to the Witch, Rice and Guejito Fires, given the nature of the allegations contained in I.08-11-006 and I.08-11-007.

In its scrutiny, DRA also ensured that not all of the costs that have been linked to the Witch, Rice and Guejito Fires are being sought in this Application. This was done to confirm that only costs that SDG&E asserts are incremental have been sought.<sup>3</sup> Looking at these costs, DRA has been able to arrive at a fair estimate of the proportion of the purportedly incremental costs that could be linked to the Witch, Rice and Guejito Fires. DRA has further been able to subdivide those purportedly incremental costs per fire. Parallel assessments have been done on the requested Operations and Maintenance costs, as well as the requested Capital costs.

In any case, as indicated above, DRA and SDG&E have made significant progress on this issue, and it should be noted that the disaggregation of the OII-linked costs has been helpful in the ongoing settlement discussions.

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<sup>3</sup> Ensuring that the requested costs are incremental is part of the CEMA analysis, included within the broader context of assessing the reasonableness of the costs.

**B. Identify any unresolved discovery issues that have arisen in the proceeding.**

In the unlikely event that settlement discussions break down, DRA will need to engage in additional discovery, including depositions of certain individuals, in order to fully assess the reasonableness of SDG&E's requested costs. DRA will also seek to bring in certain evidence from other proceedings, such as the OIIs. Otherwise, there are currently no unresolved discovery issues in this proceeding that DRA believes cannot be managed between the parties.<sup>4</sup> In any case, DRA reserves the right to raise discovery issues in this matter at a later date.

**C. Identify any new activities in I.08-11-006 and/or I.08-11-007, including potential settlements that reasonably relate to this proceeding.**

DRA notes that CPSD has been continuing to work on the language of a potential settlement agreement with SDG&E in regards to I.08-11-006 and I.08-11-007. These talks are being engaged in within the context of related proceedings. DRA and CPSD believe that finalizing settlement language is a high priority, and should be viewed as such by all parties, particularly due to the significant amount of time that has elapsed since the announcements of settlements in principle in the OIIs. The Commissioners, and the public, have a right to know the terms of the settlement.

DRA further notes that CPSD and Cox Communications have finalized a written settlement agreement<sup>5</sup> in regards to I.08-11-007. The written settlement agreement between CPSD and Cox Communications shall be presented to the Commission, along with the requisite motion, when either one of the following events occurs:

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<sup>4</sup> This statement does not reflect the status of discovery in I.08-11-006 or I.08-11-007.

<sup>5</sup> The written settlement agreement is currently unsigned in accordance with Rule 12.1(b). Parties intend to sign the document as soon as the requirements of Rule 12.1(b) have been met.

- a) CPSD has finalized settlement language with SDG&E<sup>6</sup>, or
- b) CPSD has determined that settlement language with SDG&E cannot be finalized, and a hearing regarding SDG&E's alleged violations will thus need to be scheduled.<sup>7</sup>

Respectfully submitted,

/s/ EDWARD MOLDAVSKY

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<sup>6</sup> In the likely event that settlement language will be finalized with SDG&E, CPSD contemplates a process whereby the requisite Rule 12.1(b) settlement conference will be attended by parties in reference to both settlement agreements.

<sup>7</sup> In the unlikely event that settlement language cannot be finalized with SDG&E, CPSD contemplates a process whereby the requisite Rule 12.1(b) settlement conference will be attended by parties in reference to the CPSD/Cox settlement agreement.

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of “**STATUS REPORT OF THE DIVISION OF RATEPAYER ADVOCATES**” in **A.09-03-011; I.08-11-006** and **I.08-11-007** 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.

Executed on September 23, 2009 at San Francisco, California.

/s/ HALINA MARCINKOWSKI

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Halina Marcinkowski

**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 and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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**Service Lists**  
**A.09-03-011; I.08-11-006 and I.08-11-007**

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