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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Arthur Alan Wolk,

Complainant,

vs.

San Diego Gas & Electric Company
(U902E),

Defendant.

Case 11-07-007
(Filed July 12, 2011)

**ADMINISTRATIVE LAW JUDGE'S RULING CONFIRMING
ELECTRONIC MAIL RULING DENYING COMPLAINANT'S
MOTION RESPOND TO THE SEPTEMBER 22, 2011 REPLY OF
SAN DIEGO GAS & ELECTRIC COMPANY TO COMPLAINANT'S RESPONSE
TO SAN DIEGO GAS & ELECTRIC COMPANY'S MOTION FOR SUMMARY
JUDGMENT**

Summary

This ruling confirms the September 30, 2011 electronic mail (email) ruling (September 30 Email Ruling) denying Complainant's request to respond to the September 22, 2011 Reply of San Diego Gas & Electric Company (SDG&E) to Complainant's Response to Defendant SDG&E's Motion for Summary Judgment.

Background

On September 29, 2011, I issued a ruling denying SDG&E's August 26, 2011 Motion for Summary Judgment. The ruling was filed and served on parties to this proceeding.

On September 30, 2011, Complainant sent an email to the Administrative Law Judge (ALJ), including an attachment containing (1) a cover letter requesting permission to file a response to the Reply of SDG&E filed on September 22, 2011 to Complainant's Response to SDG&E's Motion for Summary Judgment, and (2) a pleading entitled "Complainant's Sur-Response to San Diego Gas and Electric Company Motion For Summary Judgment."¹ The service list for this proceeding was not included in Complainant's September 30 email request to the ALJ, and was apparently not served with the Motion and attached pleading.

Pursuant to Rule 11.1(a) of the Commission's Rules of Practice and Procedure (Rules), I treated Complainant's September 30 request as a motion (Motion) to respond to the September 22, 2011 Reply of SDG&E to Complainant's Response to Defendant SDG&E's Motion for Summary Judgment. I denied the Motion, stating that I have already ruled on SDG&E's Motion for Summary Judgment, and that ruling was served on parties on September 29, 2011. This ruling confirms my September 30 Email Ruling denying the Motion.

In addition, the September 30 Email Ruling informed Complainant that the Motion must be filed and served on parties, pursuant to Rule 11.1(c).² Parties requesting the Commission or the Administrative Law Judge to take a specific action related to this proceeding must, when the request is made, ensure that all other parties to the proceeding are aware of the request and that the request is filed with the Commission's Docket Office.

¹ The attachment to the September 30, 2011 email is attached to this ruling.

² The September 30 Email Ruling included the materials attached to Complainant's September 30 Motion, and was sent to the service list.

Because the Motion and attached pleading were not filed with the Docket Office or served on parties, it appears to be an ex parte communication (i.e., a written communication that (1) concerns a substantive issue in a formal proceeding, (2) takes place between an interested person and a decisionmaker, and (3) does not occur in a public hearing, workshop, or other public forum noticed by ruling or order in the proceeding, or on the record of the proceeding). Rule 8.1(c). Ex parte communications are prohibited in adjudicatory proceedings. Rule 8.3(b).

The Commission may impose penalties and sanctions for violation of the ex parte rules, or make any other order, as it deems appropriate to ensure the integrity of the record and to protect the public interest. Rule 8.3(j).

Because Complainant appears to be unfamiliar with the Commission's Rules, some leniency may be warranted in this instance. However, Complainant must ensure that future requests to the Commission comply with the Commission's Rules.³ The Commission's Rules of Practice and Procedure may be found at: <http://www.cpuc.ca.gov/PUC/documents/codelawspolicies.htm>.

IT IS RULED that Complainant's motion requesting permission to respond to the September 22, 2011 Reply of SDG&E to Complainant's Response to SDG&E's Motion for Summary Judgment is denied.

³ In response to SDG&E's Motion for Summary Judgment, Complainant states, among other things, he is a licensed attorney. Separate Statement of Complainant.

Dated October 3, 2011, at San Francisco, California.

/s/ RICHARD SMITH
Richard Smith
Administrative Law Judge