

Attachment A



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA

Order Instituting Investigation Into the )  
Gas Market Activities of Southern )  
California Gas Company, San Diego Gas )  
and Electric, Southwest Gas, Pacific Gas )  
and Electric, and Southern California )  
Edison and Their Impact on the Gas Price )  
Spikes Experienced at the California )  
Border from March 2000 through May )  
2001. )

Investigation 02-11-040

AFFIDAVIT OF WALKER A. MATTHEWS, III SUPPORTING THE  
ISSUANCE OF SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E)  
SUBPOENA DUCES TECUM TO RISK CAPITAL MANAGEMENT  
PARTNERS LLC/RISK CAPITAL LLC (DATA REQUEST NO. SCE-RCM-1)

I, Walker A. Matthews, III, declare:

1. I am an attorney licensed to practice in the State of California and before this Commission. I am one of the attorneys of record in this Order Instituting Investigation 02-11-040 proceeding (hereinafter referred to as the "OII"), on behalf of Southern California Edison Company ("SCE"). I have personal knowledge of the following facts, and could testify competently thereto if called.
2. On November 21, 2002, the Commission issued an OII to examine the California natural gas market and activities of certain participants in that market during the period March, 2000 to May, 2001 ("Subject Period"), and determine whether those activities caused or contributed to price spikes at the California border. The Commission named Southern California Gas Company ("SoCalGas") and San Diego Gas & Electric Company ("SDG&E") as respondents for Phase I of the investigation.

3. The Commission also stated in the OII that it expected cooperation in the investigation from other non-jurisdictional entities, especially from the affiliate trading entities of the respondent utilities.

4. In its April 16, 2003 Scoping Memo, the Commission expressly identified a number of issues concerning SoCalGas' and SDG&E's parent and affiliates (collectively referred to as the "Sempra companies") to be investigated, including whether the Sempra companies played a role in causing the increase in border prices, and whether concerns about the financial position of their parent company or affiliates caused SoCalGas or SDG&E to take actions that may have increased gas costs. (Scoping Memo Issue Number 2)

5. The Scoping Memo also identified several sub-issues, but expressly stated that these sub-issues were illustrative in nature, and not intended to limit the overall scope of the investigation of the Sempra companies' activities, as described in the Scoping Memo.

6. These issues and sub-issues shall be examined in Phase I.B of this investigation pursuant to the ruling of Administrative Law Judge TerKeurst on March 20, 2004.

7. On October 30, 2003, Administrative Law Judge Sarah Thomas ruled that the Commission possessed the authority, pursuant to statute, to subpoena SoCalGas' and SDG&E's affiliates in connection with the OII.

8. As further described below, the information requested in the attached subpoena (see Phase I.B Data Request No. SCE-RCM-1 attached hereto) is relevant to or reasonably calculated to lead to the discovery of evidence relevant to Scoping Memo Issue No. 2 and related sub-issues.

9. Question Nos. 1 - 18 seek information relevant or reasonably calculated to lead to the discovery of information relevant to, at a minimum, Scoping Memo Issue No. 2e, which asks whether and to what extent the Sempra companies shared information. SCE has learned that during the Subject Period, SET purchased a

forty-nine percent ownership stake in Risk Capital Management Partners, LLC/Risk Capital, LLC ("RCM"), a risk management consulting company. SCE has further learned through discovery that RCM provided risk management and consulting for Sempra Energy and its regulated and unregulated subsidiaries, and, thus, was in a position to serve as a conduit to share information among the Sempra companies. SCE seeks the information requested in these requests to determine whether RCM did, indeed, act as a conduit.

10. In addition to the foregoing, all of the information requested is necessary for SCE to respond to the specific issues raised by the Commission in the Scoping Memo. To that end, SCE will use the information produced to identify evidence probative of the issues being investigated, and use the evidence in testimony and at hearings. SCE will also use the information produced to assess the direct testimony that witnesses for SoCalGas, SDG&E, and Sempra Energy have already prepared, and prepare for the cross-examination of those witnesses.

11. The information requested is under the possession, custody or control of RCM.

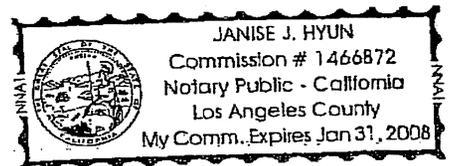
I declare under penalty of perjury under the laws of the State of California that the foregoing facts are within my personal knowledge and, if called and sworn as a witness, I could testify competently thereto.

Executed this 17<sup>th</sup> day of February, 2005 at Rosemead, California.

W. A. Matthews III  
Walker A. Matthews, III  
Affiant

Subscribed and sworn to me this 17<sup>th</sup> day of February, 2005 in Rosemead, California.

Janise J. Hyun  
Notary Public in and for the County  
of Los Angeles, State of California



SOUTHERN CALIFORNIA EDISON COMPANY  
ORDER INSTITUTING INVESTIGATION

I.02-11-040

Phase I.B Data Request No. SCE-RCM-1

Dated: 2/17/05

DATA REQUESTS

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Question No. 1:

Please provide all documents (including e-mails) related to Sempra Energy Trading's purchase of an ownership stake in RCM during the first quarter of 2001.

Question No. 2:

Please provide all documents (including e-mails) that relate to or refer to RCM's work on behalf of Sempra Energy in western gas and electricity markets during the Discovery Period.

Question No. 3:

Please provide all documents (including e-mails) that relate to or refer to RCM's work on behalf of Sempra Energy Trading in western gas and electricity markets during the Discovery Period.

Question No. 4:

Please provide all documents (including e-mails) that relate to or refer to RCM's work on behalf of Sempra Energy Resources in western gas and electricity markets during the Discovery Period.

Question No. 5:

Please provide all documents (including e-mails) that relate to or refer to RCM's work on behalf of SoCalGas during the Discovery Period.

Question No. 6:

Please provide all documents (including e-mails) that relate to or refer to RCM's work on behalf of SDG&E during the Discovery Period.

Question No. 7:

Please provide all communications and all documents (including e-mails) that relate to or refer to communication about western gas and electricity markets between RCM and Sempra Energy during the Discovery Period.

Question No. 8:

Please provide all communications and all documents (including e-mails) that relate to or refer to communication about western gas and electricity markets between RMC and Sempra Energy Trading during the Discovery Period.

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Phase I.B Data Request No. SCE-RCM-1

Dated: 2/17/05

- 1 Question No. 9:  
2 Please provide all communications and all documents (including e-mails) that relate to or  
3 refer to communication about western gas and electricity markets between RCM and  
4 Sempra Energy Resources during the Discovery Period.  
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- 6 Question No. 10:  
7 Please provide all communications and all documents (including e-mails) that relate to or  
8 refer to communication between SoCalGas and RCM during the Discovery Period.  
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- 10 Question No. 11:  
11 Please provide all communications and all documents (including e-mails) that relate to or  
12 refer to communication between SDG&E and RCM during the Discovery Period.  
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- 14 Question No. 12:  
15 Please provide all documents (including e-mails) that relate to or refer to non-public  
16 SoCalGas information provided to RCM during the Discovery Period.  
17
- 18 Question No. 13:  
19 Please provide all documents (including e-mails) that relate to or refer to non-public  
20 SDG&E information provided to RCM during the Discovery Period.  
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- 22 Question No. 14:  
23 Please describe in detail RCM's policies and procedures for retaining employee e-mail.  
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- 25 Question No. 15:  
26 Does RCM possess back-up tapes or other electronic archives of employee e-mail sent  
27 and received during any part of the Discovery Period?  
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- 29 Question No. 16:  
30 Please refer to documents with Bates numbers OIISE-BH-000852 to OIISE-BH-000873  
31 (Attachment A) provided to SCE by Sempra Energy in this proceeding.  
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- 33 a. Please provide all drafts of this model.  
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35 b. Please provide all documents (including e-mails) that discuss or refer to  
36 this model.  
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38 c. Please provide all communication with Sempra Energy and SoCalGas  
39 related to this model.  
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41 d. Please provide all data or other information provided to Sempra Energy  
42 and SoCalGas related to the development or use of this model.

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Question No. 17:

Please provide all contracts and invoices between RCM and any member of the Sempra corporate family (including but not limited to Sempra Energy, SoCalGas, SDG&E, Sempra Energy Trading and Sempra Energy Resources) dated during the Subject Period.

Question No. 18:

Please provide all materials that RCM provided to Larkin & Associates as part of the audit that Larkin performed for the California Public Utilities Commission in 1999-2000, pursuant to decision D.98-03-073.

DEFINITIONS

- A. The name "RCM," as used herein, refers to Risk Capital Management Partners, Risk Capital LLC, or any other risk management company headquartered at 1790 Broadway, 15<sup>th</sup> Floor, New York, New York, 10019, and all divisions, predecessors-in-interest, successors-in-interest, assigns, agents, employees, officers, directors, consultants, attorneys or any other person or entity acting on their behalf.
- B. The name "SCE," as used herein, refers to Southern California Edison Company.
- C. The terms "you" and "your," as used herein, refer individually and collectively to RCM.
- D. The term "Border Price Oil," as used herein, refers to that certain proceeding currently pending before the California Public Utilities Commission captioned "Order Instituting Investigation Into the Gas Market Activities of Southern California Gas Company, San Diego Gas & Electric, Southwest Gas, Pacific Gas and Electric, and Southern California Edison and Their Impact on the Gas Price Spikes Experienced at the California Border from March 2000 through May 2001," Docket No. I.02-11-040 (consolidated with I.03-02-033).
- E. The term "Subject Period," as used herein, refers to the period March 1, 2000 through and including May 31, 2001.
- F. The term "Discovery Period," as used herein, refers to the period April 1, 1998 through and including May 31, 2002.
- G. The term "document," as used herein, has the same meaning as is set forth in California Evidence Code Section 250, and includes, without limitation, all data

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Phase I.B Data Request No. SCE-RCM-1

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maintained in Pinnacle or other data bases.

- H. The term "communication," as used herein, refers to any expression of information in any form, including, without limitation, a document, as defined herein.
- I. The term "concerning," as used herein, means, without limitation, "constituting, comprising, containing, describing, analyzing, evidencing, summarizing, incorporating and/or referring to."
- J. The term "all," as used herein, means "any and all."
- K. Western gas markets comprises wholesale physical and forward gas markets within the State of California, at the California border (the delivery points at Topock, Needles, Ehrenberg/Blythe, Daggett, and Kern River Station) and in the producing basins that deliver gas to the California border (the San Juan, Permian, Anadarko, and Rocky Mountain basins). Western electricity markets comprises wholesale physical and forward electricity markets within the State of California and in trading hubs that import to or export from California (the Palo Verde, Mead, Four Corners, California-Oregon border, Malin, and Mid-Columbia trading hubs).
- L. The term "SoCalGas" refers to Southern California Gas Company, and all divisions, predecessors-in-interest, successors-in-interest, assigns, agents, employees, officers, directors, consultants, attorneys or any other person or entity acting on their behalf.
- M. The term "SDG&E" refers to San Diego Gas & Electric Company, and all divisions, predecessors-in-interest, successors-in-interest, assigns, agents, employees, officers, directors, consultants, attorneys or any other person or entity acting on their behalf.
- N. The term "Sempra Energy" refers to Sempra Energy Corporation, and all divisions, predecessors-in-interest, successors-in-interest, assigns, agents, employees, officers, directors, consultants, attorneys or any other person or entity acting on their behalf.

INSTRUCTIONS

- A. These data requests shall be deemed to seek the production of documents and/or information within your possession, or subject to your custody or control, including

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Phase I.B Data Request No. SCE-RCM-1

Dated: 2/17/05

- 1 documents and information held by you or by any past and present directors,  
2 officers, agents representatives, employees, investigators, attorneys, and  
3 accountants, or in the possession of your or their consultants, investigators,  
4 advisors, agents or associates.
- 5
- 6 B. For any document withheld from production by you based upon any claim of  
7 privilege, please state information sufficient to allow SCE to evaluate the privilege  
8 asserted including: the type of document (*i.e.*, letter, memorandum, notes, report,  
9 etc.); the date, title and subject matter of the document; the name of the author(s)  
10 and signatory(ies); the name(s) of the addressee(s), persons copied with the  
11 document and all other recipients of the document; the physical location of the  
12 document; a description of any enclosures referred to or included with the  
13 document; and the type and basis of the privilege asserted.
- 14
- 15 C. If you object that a term or phrase is vague, ambiguous or indefinite, you are  
16 requested to provide your understanding of the term or phrase, or what you believe  
17 to be a reasonable interpretation of the term or phrase, and respond in accordance  
18 with that understanding or interpretation. If you object that a request is overbroad  
19 or to any extent beyond the scope of discovery, you are requested to explain the  
20 manner and extent to which it is overbroad or beyond the scope of discovery. If  
21 you object that a request is unduly burdensome, you are requested to explain the  
22 manner and extent to which it is unduly burdensome and to state whether you will  
23 make documents or other information responsive to the request available to SCE for  
24 inspection and/or photocopying in order to avoid the claimed burden. If you object  
25 to only a portion of a request, you are requested to respond and produce documents  
26 with respect to that portion of the data request to which you do not object. For  
27 example, if a request were to ask for production of certain "photographs and  
28 pictures," and you were to object to the term "pictures" is ambiguous, you are  
29 requested in that instance to nonetheless produce all documents that are responsive  
30 with respect to the term "photographs."
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- 32 D. If a request calls for the production of a document which has been destroyed, placed  
33 beyond your possession, custody or control, or otherwise disposed of, you are  
34 requested to set forth with respect to each such document, a brief, but complete,  
35 identification and description of the document, including: i) the identity of all  
36 individuals to whom the substance of the document was transmitted, who saw such  
37 document, or otherwise know any of its contents, and under what circumstances  
38 such person(s) became aware of the document; ii) the present location of the  
39 document if the document has not been destroyed; and iii) the name, title, home and  
40 business address, and home and business telephone number of the person(s)  
41 currently having possession, custody or control of the document; iv) if the  
42 document has been destroyed, the date and circumstances under which document

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Phase I.B Data Request No. SCE-RCM-1

Dated: 2/17/05

- 1 was destroyed.
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- 3 E. If, after you have conducted a reasonable investigation, a complete answer or  
4 production of documents cannot be provided with respect to any request herein, you  
5 are requested to state that such is the case and to respond to the fullest extent  
6 possible, stating what responsive documents or information are available, what  
7 documents or information cannot be provided, why such documents or information  
8 are unavailable, and what efforts were made to obtain the unavailable documents or  
9 information.
- 10
- 11 F. Documents should be produced for inspection as they are kept in the usual course of  
12 business, or organized and labeled to correspond to the categories in the requests. If  
13 a document is maintained in the ordinary course of your business in electronic  
14 format, the document should be produced in electronic format. Documents from  
15 any single file should be produced in the same order as they were found in such file.
- 16
- 17 G. Unless otherwise stated, these data requests only seek information and documents  
18 that i) were prepared or generated during the Discovery Period; or ii) refer to  
19 events, activities and/or occurrences during the Discovery Period. Thus, by way of  
20 example only, a document dated June 30, 2002 that refers to an event that occurred  
21 during the Discovery Period would be responsive to these data requests, whereas a  
22 monthly report containing only data for the month of June 2002 would not be  
23 responsive to these data requests.

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Prepared By: Leon Bass, Jr.  
Title: Senior Attorney  
Southern California Edison Company

(END OF ATTACHMENT A)