

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



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Application of San Diego Gas & Electric Company
(U 902-E) for Authority, Among Other Things, to
Increase Rates and Charges for Electric and Gas
Service Effective on January 1, 2012

Application No. 10-12-005

Application of Southern California Gas Company
(U 904 G) for authority to update its gas revenue
requirement and base rates effective on January 1,
2012.

Application No. 10-12-006

**RESPONSE OF SAN DIEGO GAS & ELECTRIC COMPANY
TO MOTION
OF THE MUSSEY GRADE ROAD ALLIANCE TO REQUEST PARTY STATUS**

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Dated: July 28, 2011

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

Application of San Diego Gas & Electric Company (U 902-E) for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2012

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Application of Southern California Gas Company (U 904 G) for authority to update its gas revenue requirement and base rates effective on January 1, 2012.

Application No. 10-12-006

**RESPONSE OF SAN DIEGO GAS & ELECTRIC COMPANY
TO MOTION
OF THE MUSSEY GRADE ROAD ALLIANCE TO REQUEST PARTY STATUS**

On July 22, 2011, the Mussey Grade Road Alliance (“MGRA”) filed a Motion¹ seeking party status in the above-entitled proceeding, i.e., the Test Year 2012 General Rate Case (“GRC”) application of San Diego Gas & Electric Company (“SDG&E”). Pursuant to Rule 11.1, SDG&E herein files its Response to the Motion of MGRA seeking to become a party to SDGE’s GRC application, A.10-12-005. SDG&E does not wholly oppose the portion of MGRA’s motion seeking to become a party, however SDG&E does not agree with the apparent scope of the proposed intervention.

MGRA’s Motion states:

“Presently, the Alliance is involved in other proceedings at the Commission regarding power line fire safety issues, which affect the quality of life and environment of rural San Diego. These proceedings are also in connection with activities of San Diego Gas and Electric (SDG&E).

Similarly, the Alliance is requesting the opportunity to present testimony before the Commission in this general rate case proceeding that would analyze the impact of proposed SDG&E fire safety programs on fire safety in their service

¹ “MUSSEY GRADE ROAD ALLIANCE MOTION TO REQUEST PARTY STATUS IN THIS PROCEEDING”

area. We note that the application filed by San Diego Gas and Electric Company (SDG&E) requests funding for numerous fire safety initiatives in connection with their transmission/distribution system.”

First, SDG&E notes that this Motion for Intervention comes relatively late in the GRC proceeding², and appears to seek to broaden its scope. MGRA is a party to several other CPUC proceedings, yet does not understand that electric transmission revenue requirements are not litigated in utility GRC proceedings. More importantly, the Motion does not appear to limit MGRA’s intended issues to those normally litigated in utility GRCs, but rather seems focused on the “effectiveness of fire safety measures” which is already being litigated in other CPUC proceedings. SDG&E recognizes that it has included funding requests for fire-related operational activities and investments, and of course fire safety is a critical concern. However, MGRA’s proposed intervention appears to at least potentially address a broader set of issues, many of which are already being covered in other Commission proceedings. It is difficult to state exactly what MGRA’s intervention is intending to accomplish, because their Motion is lacking in detail. Rule 1.4 (b)(2) requires MGRA to “state the factual and legal contentions that the person intends to make and show that the contentions will be reasonably pertinent to the issues already presented.” Rule 1.4 (b)(2), emphasis added. Even at best, MGRA’s Motion only barely attempts to comply with Rule 1.4(b)(2) – there are no legal contentions expressed at all, and only the most minimal attempt at describing factual contentions or issues. Arguably MGRA’s Motion ignores Rule 1.4(b)(2) altogether. By MGRA’s own assertions, it is a party to several CPUC proceedings³, and as such is clearly aware of the CPUC’s Rules of Practice and Procedure. Thus SDG&E cannot determine exactly what contentions MGRA intends to make

² MGRA did not file a protest, did not appear at the prehearing conference, and in fact has undertaken no discovery to date, despite the fact that the Application was filed in December, 2010, or over seven months ago (and the NOI was filed five months prior, in August 2010).

³ SDG&E notes that in the WEBA proceeding, MGRA has consistently asked for delays in the procedural schedule.

(nor can the Commission), and there is correspondingly no showing that those (unknown) contentions are “reasonably pertinent” to the issues.

Furthermore, the Scoping Memo in this proceeding was issued in March, 2011 – four months ago. It does not specify that the impact or effectiveness of fire safety programs are within the scope of the GRC proceeding, and the Commission has long held that:

“...a party that does not bother to participate in the scoping process...will run the risk that the hearings held (if any) and the issues considered in the proceeding will differ from what the party expected. WE WILL NOT INDULGE BELATED REQUESTS FROM SUCH A PARTY TO ADD HEARINGS OR ISSUES.”

D.97-11-021, mimeo p. 14 (emphasis added).

Notably, the Scoping Memo issued in A. 10-12-005 already has specifically excluded some issues from the proceeding, including commodity costs and cost allocation. This was done because some parties expressed apparent uncertainty as to whether or not such issues were within the scope of the GRC. Had MGRA participated in the scoping process, the extent to which “the impact of proposed SDG&E fire safety programs on fire safety” would have been discussed, and the Scoping Memo may have provided some guidance on what would be resolved in other pending proceedings (such as the fire safety rulemaking, R.08-11-005, which is in Phase 2) and (in contrast) to what extent GRC-type issues (such as cost forecasting and revenue requirement impacts) would be resolved here. However, that discussion did not occur. As D.97-11-021 clearly expresses, if a party (or in this case a party-to-be) does not participate in the scoping process, belated requests to add issues are not to be indulged.

In a similar circumstance, the Scoping Memo (at page 12) resolved an intervenor request to address gas pipeline safety issues in the GRC by noting that the Commission has an OIR in place and that such safety concerns would be more appropriately addressed in that proceeding. That reasoning is equally applicable here.

SDG&E is also currently responding to a very heavy volume of discovery, as the many other active parties to the GRC are concluding an unusually protracted discovery process. For example, DRA's latest data request to SDG&E is number 120 and in the past week has sent a new set every day; UCAN has submitted 38 sets of data requests and has sent five new sets (constituting dozens of questions) in the past week alone. Similarly the Federal Executive Agencies this week sent 62 follow up questions to its own prior discovery. To the extent MGRA intends to undertake any INITIAL discovery at this late date, it is untimely and will be burdensome, and may cause SDG&E's responses to other intervenors to be delayed.

If MGRA is allowed party status in this proceeding, it must "take the record as it finds it"; including the Scoping Memo and the fact that the time period for discovery is nearly over (intervenor testimony is due in less than 60 days). The fact that MGRA has undertaken no discovery in the past 7 months, but wants to now add issues to the scope of the proceeding is troubling. If MGRA's motion is granted SDG&E urges the ALJ to clarify that fire safety "effectiveness" issues are to be litigated in this proceeding only to the extent that they a) are not being addressed in any other CPUC proceeding and b) affect the proposed revenue requirement. There are a great number of issues already to be addressed in this proceeding, and now is not the time to be adding new ones.

Respectfully submitted,

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