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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U 902-M), Southern California Edison Company (U 338-E), Southern California Gas Company (U 904-G) and Pacific Gas and Electric Company (U 39-M) for Authority to Establish a Wildfire Expense Balancing Account to Record for Future Recovery Wildfire-Related Costs

Application No. 09-08-020
(Filed August 31, 2009)

MUSSEY GRADE ROAD ALLIANCE RESPONSE TO JOINT MOTION OF CENTER FOR ACCESSIBLE TECHNOLOGY, CONSUMER PROTECTION AND SAFETY DIVISION, DIVISION OF RATEPAYER ADVOCATES AND THE UTILITY REFORM NETWORK TO LIFT STAY, AND TO SAN DIEGO GAS AND ELECTRIC COMPANY'S REQUEST FOR RELIEF

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February 13, 2012

MUSSEY GRADE ROAD ALLIANCE MUSSEY GRADE ROAD ALLIANCE RESPONSE TO JOINT MOTION OF CENTER FOR ACCESSIBLE TECHNOLOGY, CONSUMER PROTECTION AND SAFETY DIVISION, DIVISION OF RATEPAYER ADVOCATES AND THE UTILITY REFORM NETWORK TO LIFT STAY, AND TO SAN DIEGO GAS AND ELECTRIC COMPANY'S REQUEST FOR RELIEF

Pursuant to Rule 11.1(e) of the CPUC Rules of Practice and Procedure, Mussey Grade Road Alliance (Alliance) files this response to the February 6th motion to lift stay authored by the Center for Accessible Technology (CforAT), Consumer Protection and Safety Division (CPSD), Division of Ratepayer Advocates (DRA) and The Utility Reform Network (TURN) (collectively the "Moving Parties"). Under the same rule, the Alliance also is responding to portions of the February 8th response to said motion by San Diego Gas and Electric Company and Southern California Gas Company (collectively "SDG&E") that request immediate relief from the Commission, and therefore in themselves constitute motions before the Commission.

I. HISTORY

The Alliance generally concurs with the procedural history entailed in the original motion by the moving parties.[1] Since the filing of this motion there have been two salient developments. First, SDG&E filed its response on February 8, 2012.[2] Contained in this response were pleas for immediate relief from the Commission, including a stay on further motions and the immediate halt to discovery. Secondly, the Assigned Commissioner called an all-party meeting for February 23rd.

II. DISCUSSION OF THE MOTION

The Alliance supports this motion to lift the March 14, 2011 stay, and generally concur with the moving parties' arguments. We note, though, that the removal of the stay would not automatically trigger a dismissal of this application, but rather trigger the clause requiring the

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[1] A.09-08-020; JOINT MOTION OF CENTER FOR ACCESSIBLE TECHNOLOGY, CONSUMER PROTECTION AND SAFETY DIVISION, DIVISION OF RATEPAYER ADVOCATES AND THE UTILITY REFORM NETWORK TO LIFT STAY GRANTED ON MARCH 14, 2011; pp. 1-2. (Motion)

[2] A.09-08-020; RESPONSE OF SAN DIEGO GAS & ELECTRIC COMPANY (U902M) AND SOUTHERN CALIFORNIA GAS COMPANY (U904G) TO JOINT MOTION OF CENTER FOR ACCESSIBLE TECHNOLOGY, CONSUMER PROTECTION AND SAFETY DIVISION, DIVISION OF RATEPAYER ADVOCATES AND THE UTILITY REFORM NETWORK TO LIFT STAY GRANTED ON MARCH 14, 2011; February 8, 2012. (SDG&E Response).

applicants (now the applicant) to show cause why this application should *not* be dismissed.[3] The Alliance believes, however, that it is implicit in the arguments made in the motion by the moving parties, which discuss in great detail the multiple shortcomings of this application with respect to the original justifications for the ruling to show cause,[4] that SDG&E has already made its showing and has utterly failed to demonstrate why this application should *not* be dismissed. With the record in its current, more developed state there is little new information that SDG&E could possibly add that would meet the burden of proof set forth in the February 18th ruling. The Alliance concurs with the moving parties and believes that the Commission would be fully justified in an immediate dismissal of this application.

The Alliance also concurs with the joint parties' request for suspension of the briefing schedule. We believe there is significant justification for this, and will discuss our reasons in more detail in the next section.

III. DISCUSSION OF SDG&E'S PLEA FOR RELIEF

In its February 8th response to the motion, SDG&E included several requests for immediate relief. From a procedural standpoint, these requests should have been pled as separate motions. A formal escalation process (objections, re-submittal of the pleas as motions, responses, reply) would be time-consuming and not add any particular value to the proceeding. Instead, the Alliance responds to the specific portions of the SDG&E response where relief is requested and justification provided, with the argument that these are for all intents and purposes motions in their own rights. We will not comment on any other portion of the SDG&E response, since this would be outside of the procedures formulated in Rule 11.1.

SDG&E's requests for relief are the following:

1) An end to post-hearing data requests.

2) A moratorium on further motions (including the motions referenced in ALJ Bushey's discovery ruling) until reply briefs are submitted.[5]

3) Extension of the briefing deadline until February 21st.[6]

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[3] A.09-08-020; RULING OF THE ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE REQUIRING APPLICANTS TO SHOW CAUSE WHY APPLICATION SHOULD NOT BE DISMISSED; February 18, 2011; p. 5.

[4] Motion; pp. 3-7.

[5] SDG&E Response, p. 10.

SDG&E's claimed justification for this relief is that it is overburdened, and the data requests and motions are interfering with or will interfere with its ability to prepare its opening and reply briefs in a timely manner. Specifically it states that "SDG&E has also been required to respond to two separate post-hearing motions (both of which can and should have been brought well in advance of hearings)."[7] They warn that "With a good deal of night and weekend work ahead, SDG&E and SoCalGas are still in a position to submit their opening brief on February 17. But that will not be the case if more discovery or motions are sent our way."[8] SDG&E also complains that it is currently out-gunned on this particular proceeding: "On one side is the undersigned; on the other are eight experienced attorneys, all of whom have the ability to completely preoccupy the undersigned with filings such as the present Motion, should they so choose."[9]

The question here is not whether SDG&E has or has not committed sufficient staff to deal with this application at this time (which is its own choice), but rather whether the issues being raised by motion and by data request are important to the record of this proceeding. The Alliance fully and deeply understands the time pressures and sacrifices requiring night and weekend work in order to provide value to these Commission proceedings.[10] However, with the new information revealed in the evidentiary hearings, and with the importance of some of the motions pending before the ALJ and Assigned Commissioner (such as the Alliance motion for a PPH), we believe that relevant information is still coming into this proceeding and that it would be improper to shut off the tap prematurely.

We would not object to delaying the due date for opening briefs to February 21st as requested by SDG&E (we are fully prepared to file on the 17th as currently required). However, we have a much better idea. SDG&E's concerns would be completely alleviated if the Commission would accept the moving parties' suggestion of a suspension of the briefing schedule until some of the important issues currently pending are decided. Among these are the motion currently pending,

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[6] Id.; p. 11.
[7] Id.; p. 9.
[8] Id.; p. 10.
[9] Id.; We are not sure which eight attorneys Mr. Thorp is referring to. However, for the record we point out again that Ms. Conklin is not an attorney. She has a law degree but does not practice.
[10] Welcome to *our* world.

mentioned earlier, by the Alliance for a Public Participation Hearing, to be held *before* the due date for briefs so that relevant public input can be included in briefing.[11]

The Alliance therefore proposes that the briefing schedule be immediately suspended, with future schedule to be discussed at Commissioner Simon's February 23rd all-party meeting. This would be consistent with the request by the moving parties, allow the ALJ and Assigned Commissioner sufficient time to weigh some of the important motions now pending before them, and would allow SDG&E to fully respond to any current or upcoming issues as well as commit full attention to its brief. We know of no issue in this proceeding that is time-critical or requires a hasty decision or conclusion, particularly when one considers that it has been two and a half years that this application has dragged on. Now is not the time to rush. This proposal seems to us to be a win-win for all parties as well as the Commission, and we urge its immediate approval.

Respectfully submitted this 13th day of February, 2012,

By: __*/S/*____***Diane Conklin***_____

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[11] A.09-08-020; Mussey Grade Road Alliance; MOTION TO REQUEST A PUBLIC PARTICPATION HEARING IN SAN DIEGO, CALIFORNIA AND A SCHEDULE REVISION; January 17, 2012.