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APPENDIX A

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JSW/gd2 1/20/2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U902M) for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2012.	Application 10-12-005 (Filed December 15, 2010)
And Related Matter.	Application 10-12-006

ADMINISTRATIVE LAW JUDGE'S RULING REGARDING JOINT PARTIES' MOTION TO COMPEL TESTIMONY OF DELOITTE & TOUCHE

1. Summary

This ruling addresses the November 28, 2011 motion filed by the Black Economic Council, Latino Business Chamber of Greater Los Angeles, and the National Asian American Coalition (referred to as the "Joint Parties") for the issuance of a ruling to compel the testimony of K. Alan Lonbom, an auditing engagement partner of Deloitte & Touche.

Based on the reasons set forth below, the Joint Parties' motion to compel the testimony of K. Alan Lonbom is denied.[1]

[1] An e-mail ruling was issued on January 12, 2012, informing the service list that based on the reasons set forth in this ruling, that the November 28, 2011 motion filed by the Joint Parties was denied.

2. Background

The Joint Parties' motion requests that K. Alan Lonbom, the Deloitte & Touche audit engagement partner who works with San Diego Gas & Electric Company and Southern California Gas Company (referred to as the "Applicants"), be called as a witness in these consolidated proceedings. The Joint Parties "believe that Sempra must put forth a witness to speak to the growing scrutiny of financial practices at Deloitte & Touche." (Motion at 6.)

A response in opposition to the Joint Parties' motion was filed on December 6, 2011 by the Applicants.

3. Discussion

The Joint Parties' motion to compel the testimony of the Deloitte & Touche audit engagement partner is based on several arguments. First, that the Public Company Accounting Oversight Board (PCAOB) "released a critical report on the 2007 inspection of Deloitte & Touche LLP," which was reported by the New York Times on October 17 and 20, 2011, and by the Wall Street Journal on October 18, 2011. (Motion at 3.)[2] Second, according to a data response by SDG&E and SoCalGas, over the last six years Deloitte & Touche has "received $85 million, or an average of $14 million a year, for auditing and other services," and that Sempra Energy, SoCalGas, and SDG&E "all use Deloitte & Touche for various accounting functions." (Motion at 2-3.) Third, that Deloitte & Touche "is

[2] The Joint Parties' motion provides quotations from the three newspaper articles. These articles are also contained in Exhibit 16, which was marked for identification in these proceedings. During the cross examination of Bruce Folkmann on December 21, 2011, he was also asked about a December 21, 2011 article from the Wall Street Journal, which reported about the PCAOB's review of audits conducted in 2010 by various accounting companies.

the only major CPA firm singled out for severe criticism in its auditing practices and the reliability of its methods" by the PCAOB. (Motion at 3.) Fourth, the Joint Parties contend "that Sempra must put forth a witness to speak to the growing scrutiny of financial practices at Deloitte & Touche" in light of the PCAOB's "critical report" of problems in 27 of 61 audits, and the "payments of $85 million of ratepayer money to Deloitte & Touche from 2005 to 2010." (Motion at 6.) The Joint Parties also contend that the testimony of the Deloitte & Touche witness should be compelled because the data responses by SDG&E and SoCalGas defend their relationship with Deloitte & Touche.

The Applicants contend that there have been a series of rulings in different Commission proceedings which have ruled "that Applicants, not intervenors, have the right to choose the witnesses who will testify in support of requested regulatory relief." (Applicants' Response at 2.) The Applicants also point out that counsel for the Joint Parties, Robert Gnaizda, was the same counsel who filed similar unsuccessful motions on behalf of other parties in those other Commission proceedings.

The Applicants further contend there is no reasonable basis to compel the appearance of Lonbom, who is not an employee of the Applicants. Also, a showing has not been made that the Joint Parties' due process rights will be violated if Lonbom does not testify. The Applicants further contend that the Joint Parties have not established that Lonbom has any "unique or superior knowledge about any issues relevant to this proceeding," and that Michael Niggli and Anne Smith, for SDG&E and SoCalGas, respectively, have already "answered questions about the validity of Applicants' choice of auditors." (Applicants' Response at 4.)

The Applicants also contend that the Joint Parties' motion is untimely and prejudicial because the witnesses for these proceedings have been known since the Notices of Intent were filed on August 1, 2010, and that the Joint Parties' motion was not filed until November 28, 2011, two days before the start of the evidentiary hearings. The Applicants further contend that the motion does not comply with due process because Lonbom was not served with the motion, nor did he prepare any testimony or respond to any discovery in this proceeding. Also, the basis for the motion is the newspaper articles which contain hearsay, and the motion fails to attach any affidavits or declarations in support of the Joint Parties' motion. The Applicants point out that Rule 11.1(d) of the Commission's Rules of Practice and Procedure require that a motion "must concisely state the facts and law supporting the motion." (Motion at 5.)

The Joint Parties' motion is denied for a number of different reasons. First, the motion is predicated on the newspaper articles referenced in the motion. The Joint Parties failed to include in its motion any affidavit or declaration regarding first hand knowledge of any of the irregularities that the PCAOB included in its report, nor is there any allegations of facts contained within the motion to establish that the PCAOB's report is relevant to the forecasts of the 2012 test year revenue requirements. Second, the Joint Parties' motion fails to establish a relevant nexus that of the audits the PCAOB reviewed, that these audits involved the Applicants.[3] Third, the joint motion fails to allege any facts that Lonbom or

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[3] During the testimony of Folkmann on December 21, 2011, he stated that Deloitte & Touche has a duty to inform a client if the audit work performed for a client has been selected for review by the PCAOB. Folkmann stated that he learned "Sempra Energy has been selected for review two times." However, only the revenue requirements of

Footnote continued on next page

any other employee of Deloitte & Touche, prepared or created any of the data used by the Applicants to create the forecasts upon which the Applicants' 2012 test year forecasts are based upon. (See 24 R.T. at 3083-3084, 3108-3109.) Fourth, although Deloitte & Touche have been used by the Applicants and their corporate parent, the Joint Parties fail to allege any facts to establish this relationship was improper in any way or resulted in any erroneous or misleading information used by the Applicants in this proceeding. Fifth, the Applicants' witnesses and the testimony they are sponsoring have been known to the Joint Parties since the applications were filed, the Joint Parties have had ample opportunity to conduct discovery within that timeframe, and the scoping memorandum and ruling of March 2, 2011 established the dates when all of the testimony in this proceeding was to be served by. By choosing to file the motion on November 28, 2011, two days before the evidentiary hearings began, makes the motion procedurally untimely because it is past the due date for parties to submit testimony in this proceeding. In addition, the Joint Parties' motion failed to "concisely state the facts and law supporting the motion." (Rule 11.1(d).) And sixth, since the Applicants have the burden of proof in applications involving rate relief,[4] that burden includes allowing the Applicants to select which witnesses have the requisite knowledge and experience to sponsor testimony and

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SDG&E and SoCalGas, who are regulated entities subject to the Commission's jurisdiction, are being reviewed in these proceedings. (24 R.T. at 3106-3109, 3111-3112.)

[4] See Decision (D.) 87-12-067 [27 CPUC2d 1 at 21]; D.86-10-069 [22 CPUC2d 124 at 149-150].

to testify at the evidentiary hearings.[5] Unless another party establishes compelling reasons as to why another person should be called to testify, which the Joint Parties have failed to do, such a request should be denied.

IT IS RULED that the November 28, 2011 "Motion of the Joint Parties to Compel Testimony of Auditing Engagement Partner of Deloitte & Touche, Mr. K. Alan Lonbom," is denied for the reasons stated above.

Dated January 20, 2012, at San Francisco, California.

/s/ JOHN S. WONG
John S. Wong
Administrative Law Judge

[5] Public Utilities Code §454(a) provides in pertinent part that before a public utility can change any rate, there must be "a showing before the commission and a finding by the commission that the new rate is justified."

APPENDIX B

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U 902-M) for Authority, Amount Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2012	Application 10-12-005 (Filed December 15, 2010)
Application of Southern California Gas Company (U 904 G) for authority to updates its gas revenue requirement and base rates effective on January 1, 2012.	Application 10-12-006

MOTION OF THE JOINT PARTIES TO COMPEL TESTIMONY OF AUDITING ENGAGMENT PARTNER OF DELOITTE & TOUCHE, MR. K. ALAN LONBOM

Faith Bautista, President
National Asian American Coalition

Jorge Corralejo, Chairman and President
Latino Business Chamber of Greater Los Angeles

Len Canty, Chairman,
Black Economic Council

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November 28, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U 902-M) for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2012	Application 10-12-005 (Filed December 15, 2010)
Application of Southern California Gas Company (U 904 G) for authority to updates its gas revenue requirement and base rates effective on January 1, 2012.	Application 10-12-006

MOTION OF THE JOINT PARTIES TO COMPEL TESTIMONY OF AUDITING ENGAGMENT PARTNER OF DELOITTE & TOUCHE, MR. K. ALAN LONBOM

Pursuant to Rule 10.2 of the California Public Utilities Commission's (CPUC's) Rules of Practice and Procedure, the Black Economic Council, Latino Business Chamber of Greater Los Angeles and the National Asian American Coalition (cumulatively "Joint Parties") hereby respectfully request the issuance of a ruling to compel the testimony of Mr. K. Alan Lonbom for the purpose of cross examination by all the intervening parties during the evidentiary hearings beginning on November 30th in this proceeding.

Over the last six years, Deloitte & Touche has, according to Sempra, received $85 million, or an average of $14 million a year, for auditing and other services.[1] Deloitte & Touche

[1] GNAIZDA-SEMPRA-DR-20, Question 1, also see Attachment A.

is the only major CPA firm singled out for severe criticism in its auditing practices and the reliability of its methods by the Public Company Accounting Oversight Board (PCAOB).[2]

I. Growing Concerns About Auditing Practices at Deloitte & Touche Require Examination.

Sempra Energy, Southern California Gas Company (SoCal Gas) and San Diego Gas & Electric (SDG&E) all use Deloitte & Touche for various accounting functions.[3] On October 17, 2011, the Public Company Accounting Oversight Board (PCAOB) released a critical report on the 2007 inspection of Deloitte & Touche LLP. The New York Times has examined the PCAOB's published criticisms of Deloitte's practices:[4]

> "In too many instances," the [Public Company Accounting Oversight Board] report stated, inspectors from the board "observed that the engagement team's support for significant areas of the audit consisted of managements' views or the results of inquiries of management."
>
> In some cases, Deloitte auditors did not bother to even consider whether accounting decisions made by companies were consistent with accounting rules. Instead, auditors accepted management assertions that the accounting was proper, the board's report said.
>
> … Until now, the accounting oversight board, which was created by the Sarbanes-Oxley law in 2002 in the wake of failures at Enron and WorldCom, *had never released such a report on a major firm.* [emphasis added]
>
> …The report pointed to "a firm culture that allows, or tolerates, audit approaches that do not consistently emphasize the need for an appropriate level of critical analysis and collection of objective evidence, and that rely largely on management representations.
>
> … In addition to conducting inspections, the [PCAOB] has the power to take disciplinary action against firms and individual partners, with penalties up to barring a person or firm from participating in future audits. But the Sarbanes-Oxley law requires that such enforcement proceedings be kept confidential until

[2] *See* Michael Rapaport, *Audit Watchdog Criticized Deloitte Quality Controls in '08*, Wall St. J., Oct. 18, 2011; Floyd Norris, *Accounting Board Criticizes Deloitte's Auditing System*, N.Y. Times, Oct. 17, 2011; and Floyd Norris, *Audit Flaws Revealed, At Long Last*, N.Y. Times, Oct. 20, 2011.
[3] Public Company Audit Clients of Deloitte & Touche LLP available at: http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Content/Articles/AERS/us_aers_Client%20List%20Jan%201%202011.pdf
[4] Floyd Norris, *Accounting Board Criticizes Deloitte's Auditing System*, N.Y. Times, Oct. 17, 2011.

> they are finally resolved, which can take years, so there is no way to know if the board has taken action against Deloitte or any of its partners.

The New York Times[5] also noted Deloitte's response to the report:

> Deloitte responded [to the report] by denying almost everything. It did not like the "second guessing" shown by the regulators. It said, "we strongly take exception" to the observation about its culture, which it said was simply wrong.
>
> In any case, the firm concluded, "there were only a limited number of instances," not nearly enough to justify questioning Deloitte's quality controls.
>
> The board inspectors found problems in 27 of the 61 Deloitte audits.

The New York Times also noted that there is a general level of resentment among chief executives of some auditing firms, whose attitude is: "How dare some government bureaucrats question their judgment?"[6] The article concludes, "Secrecy about who does the work seems to be a way of life at the Big Four [Accounting Firms]."[7]

The fact that this report was released years after its internal publication is explained by the Wall Street Journal:[8]

> The [Public Company Accounting Oversight] board inspects accounting firms regularly to evaluate their audit performance and compliance with professional standards, and it issues a public report on the inspection. But part of the board's report, on the firm's quality controls, is sealed, to give the firm a chance to address any criticisms.
>
> Only if a firm doesn't address quality-control criticisms to the board's satisfaction within a year does the accounting regulator release that section of the report publicly….
>
> The Deloitte criticisms are only being released now, three years after the report, because after the firm has a year to address the problems, the board has to evaluate and test those efforts, and that process can be time-consuming for large, complex firms like Deloitte.

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[5] Floyd Norris, *Audit Flaws Revealed, At Long Last*, N.Y. Times, Oct. 20, 2011.
[6] *Id.*
[7] *Id.*
[8] Michael Rapaport, *Audit Watchdog Criticized Deloitte Quality Controls in '08*, Wall St. J., Oct. 18, 2011.

Thus, the concerns of the PCAOB have not been satisfactorily resolved in the years following the internal report, and the publication of the report at this stage indicates a pattern of the offending behavior.

II. Sempra's Defense of its Relationship with Deloitte & Touche Indicates a Need for Further Scrutiny Through Cross-Examination.

From 2005 – 2010, Sempra companies paid Deloitte & Touche almost $85 million dollars.[9] Deloitte & Touche and its predecessor company have provided auditing services to SDG&E and SoCal Gas for more than 50 years.[10] In 2010, Sempra companies paid Deloitte & Touche $12.2 million dollars for audit, audit-related and tax fees.[11]

Although Sempra indicated it was aware of the PCAOB report that chastised a Deloitte culture that placed too much faith in the officials of the companies being audited,[12] when asked if it was considering or planning to consider using another accounting firm, Sempra attorneys merely described the process of choosing an accounting firm and indicated the appointment of the public accounting firm was subject to ratification by shareholders on an annual basis.[13] Given that Sempra did not answer the question directly, the Joint Parties are unclear as to whether there has been any serious consideration given to this matter by Sempra companies.

Sempra also indicated that it felt that Deloitte & Touche provided an appropriate level of critical analysis and collection of objective evidence.[14] Sempra also indicated that it did not have any concerns about Deloitte & Touche in any of the following areas: the design, adequacy, clarity, communication, and implementation of Deloitte & Touche's audit methodology and

[9] GNAIZDA-SEMPRA-DR-20, Question 1, also see Attachment A.
[10] GNAIZDA-SEMPRA-DR-17, Question 1.
[11] GNAIZDA-SEMPRA-DR-17, Question 2.
[12] GNAIZDA-SEMPRA-DR-17, Question 5.
[13] GNAIZDA-SEMPRA-DR-17, Question 7.
[14] GNAIZDA-SEMPRA-DR-17, Question 10.

other audit policies, including a possible need to require more thorough auditing of material transactions and management's estimates; the sufficiency of Deloitte & Touche's emphasis on the critical need to exercise due care and professional skepticism when performing audits; Deloitte & Touche's supervision and review activities to ensure that the audit is performed thoroughly and with due care; the enforcement, through appropriate monitoring and disciplinary activities, of compliance with Deloitte & Touche's policies and procedures; and the quality, delivery, relevance, and timeliness of Deloitte & Touche's training programs for audit personnel.[15]

When questioned by the Joint Parties, Sempra indicated a new audit engagement partner from Deloitte & Touche was assigned beginning with the first quarter of 2009.[16] Sempra has indicated that Mr. K. Alan Lonbom has been the Deloitte & Touche audit engagement partner since 2009, but neither SDG&E nor SoCal Gas designated Mr. Lonbom as a witness in this proceeding, thus, he would not be made available for cross-examination.[17]

The Joint Parties believe that Sempra must put forth a witness to speak to the growing scrutiny of financial practices at Deloitte & Touche. Given the concerns of the PCAOB of the culture of Deloitte & Touche, the unprecedented publication of a critical report of one of the "big four" accounting firms, the publication of the report after years of scrutiny, the defensive response of Deloitte & Touche, Sempra's steadfast support of Deloitte & Touche, and payments of $85 million of ratepayer money to Deloitte & Touche from 2005 to 2010, the Joint Parties therefore respectfully request that Mr. Lonbom is compelled to appear before this Commission for cross-examination by all parties on these issues.

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[15] GNAIZDA-SEMPRA-DR-17, Question 11.
[16] GNAIZDA-SEMPRA-DR-17, Question 1.
[17] GNAIZDA-SEMPRA-DR-20, Question 4.

III. Conclusion: The Commission Should Grant the Joint Parties Motion to Compel Testimony from Mr. Lonbom.

The Joint Parties recognize that filing this motion in close proximity to the beginning of evidentiary hearings may cause some logistical difficulties for the Commission. However, please note that the Joint Parties have a limited capacity and only received the identifying information for Mr. Lonbom on November 21, 2011, during the midst of cross-examination preparation and the Thanksgiving holiday. However, the Joint Parties believe that this Commission and the other parties must be aware of the concerns of regarding Deloitte & Touche and have the opportunity to examine these concerns within this proceeding. For the reasons stated above, the Joint Parties respectfully request that the Commission grant this motion to compel the testimony of Deloitte & Touche audit engagement partner Mr. K Alan Lonbom.

Dated: November 28, 2011

Respectfully submitted,

/s/ Len Canty
Len Canty, Chairman
Black Economic Council

/s/ Faith Bautista
Faith Bautista, President and CEO
National Asian American Coalition

/s/ Jorge Corralejo
Jorge Corralejo, Chairman
Latino Business Chamber of Greater Los Angeles

/s/Robert Gnaizda
Robert Gnaizda, Of Counsel

/s/ Shalini Swaroop
Shalini Swaroop, Senior Staff Attorney

ATTACHMENT A

GNAIZDA DATA REQUEST
GNAIZDA-SDG&E/SOCALGAS-DR-20
SDG&E/SOCALGAS 2012 GRC – A.10-12-005/A.10-12-006
UTILITY RESPONSE
DATE RECEIVED: NOVEMBER 7, 2011
DATE RESPONDED: NOVEMBER 21, 2011

1. Please provide the amount paid to Deloitte & Touche by (a) SDG&E, (b) SoCal Gas and (c) Sempra Energy separately for each of the years of 2005-2010.

UTILITY Response:

Following are the fees SDG&E, SoCalGas and Sempra Energy paid Deloitte & Touche for each of the years of 2005-2010. The fees shown for Sempra Energy include fees paid to Deloitte & Touche for all of the Sempra Energy companies including SDG&E and SoCalGas.

Year	SDG&E	SoCalGas	Sempra
2010	$2,163,000	$2,143,000	$7,895,000
2009	$2,151,000	$2,143,000	$7,646,000
2008	$1,961,000	$1,835,000	$8,106,000
2007	$2,575,000	$2,421,000	$10,849,000
2006	$2,820,000	$2,494,000	$11,176,000
2005	$2,554,000	$2,580,000	$11,483,000