

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation Into Southern California Edison Company's Electric Line Construction, Operation and Maintenance Practices.

Investigation 01-08-029
(Filed August 23, 2001)

Respondent.

**SCOPING MEMO AND RULING OF ASSIGNED
COMMISSIONER AND ADMINISTRATIVE LAW JUDGE**

1. Summary

This ruling sets forth the procedural schedule, confirms the assignment of the presiding officer, confirms the scope of the proceeding, and addresses other procedural matters following discussion at the October 17, 2001 prehearing conference (PHC) in the above-captioned investigation.

2. Category of Proceeding

The Commission's Order Instituting Investigation (OII) categorized it as an adjudicatory proceeding and set the matter for evidentiary hearings. The OII indicated that the categorization could be appealed under the procedures in Rule 6.4 of the Commission's Rules of Practice and Procedure. No party has filed a timely appeal, so the categorization is confirmed. Based on the PHC, hearings are currently necessary.

3. Presiding Officer

Pursuant to Rule 6(c), Assigned Commissioner Duque designates Administrative Law Judge (ALJ) Econome as the presiding officer.

4. Schedule

We adopt the following schedule for the proceeding, which is revised from the proposed schedule discussed at the PHC based on the parties' comments.

Event	Date
CSD and intervenors serve proposed testimony	Wednesday, November 14, 2001
Respondent Edison serves proposed testimony	Friday, January 4, 2002
CSD and intervenors serve proposed rebuttal testimony	Wednesday, January 30, 2002
Cross-examination estimates served on the ALJ and parties	Friday, February 8, 2002 (sent in such a manner that the ALJ and parties receive the cross-examination estimates no later than close of business on February 8.) ALJ Econome's fax number is 415/703-1494 and e-mail address is jjj@cpuc.ca.gov .
Prehearing Conference	Wednesday, February 13, 2002 at 10 a.m. in San Francisco, California
Evidentiary Hearings	Tuesday, February 19 through March 6, 2002 in San Francisco, commencing at 10 a.m. on February 19, February 25 and March 4 and at 9:00 a.m. on the remaining days.
Parties file concurrent opening briefs	Wednesday, March 27, 2002

Parties file concurrent reply case briefs/ case submitted	Friday, April 12, 2002
Presiding Officer's decision due	No later than Tuesday, June 11, 2002

Our goal is to resolve this proceeding as soon as possible, and we currently anticipate that the resolution will not exceed 12 months from the date of issuing the OII, pursuant to Pub. Util. Code § 1701.2(d).

5. Scope of the Proceeding

The scope of the proceeding is set out in the OII. At the PHC, the parties discussed the extent to which the hearings might focus on the 37 accidents set forth in the OII. Consumer Services Division (CSD) stated that it is not attempting to find a causal link between a violation and an accident occurring.

This ruling clarifies the scope of the proceeding as it relates to the 37 accidents listed in the OII. Ordering Paragraph 2 of the OII places Southern California Edison Company (Edison) on notice that it is alleged to have violated the listed General Orders and Rule 1 as detailed earlier in the OII, and that each instance of noncompliance is a separate and distinct violation. Therefore, inquiry regarding the 37 accidents is appropriate on the issue of whether Edison violated the Commission's General Orders listed in the OII or Rule 1 and, if so, the appropriate amount of the penalty.

At the PHC, CSD mentioned off of the record that it might be able to provide a prehearing brief or statement setting forth the amount of penalties it would be seeking in this OII. To the extent CSD does so before filing its opening brief, it would be useful if CSD filed such a statement together with serving its supplemental testimony on November 14.

6. Discovery

If the parties are unable to resolve a discovery dispute after meeting and conferring, they should file a written motion pursuant to Resolution ALJ-164.

7. Service List

We established a new service list for the proceeding at the PHC. The service list is attached to this ruling as Appendix A. Parties are required to serve the appearances and state service list with their filings, whereas the Commission serves the entire service list (including information only) with its documents. At the PHC, the parties agreed to serve the entire service list (including the information only list) electronically, and to serve the appearances and state service lists with hard copies as well.

8. Communications With Decisionmakers (Ex Parte Communications) Prohibited

Pursuant to Pub. Util. Code § 1701.2(b), ex parte communications are prohibited in this proceeding. For example, this means that not only a party, but also any other person who has a financial interest in this proceeding or is representative of a formally organized association intending to influence a decisionmaker, even if the person is not a party, is prohibited from speaking with a decisionmaker on a substantive issue in this case. See Pub. Util. Code §§ 1701.1, 1701.2 and Rules 5 and 7 of the Commission's Rules of Practice and Procedure for the specific rules regarding who is prohibited from making ex parte communications and what types of communications are prohibited.

9. Handling Exhibits in the Hearing Room

Parties should also follow the requirements set forth in Appendix B regarding service, correction and identification of, and cross-examination with, exhibits in the hearing room.

IT IS RULED that:

1. This investigation shall be processed as adjudicatory, per the Order Instituting Investigation.
2. The schedule and scope of this proceeding are set forth in Sections 4 and 5 of the foregoing ruling.
3. ALJ Econome is the presiding officer in this investigation.
4. Any discovery disputes which the parties cannot resolve by meeting and conferring should be brought to the Commission as set forth in Section 6.
5. The service list for this proceeding is attached as Appendix A.
6. Parties shall comply with the requirements of Appendix B regarding exhibits.
7. Pursuant to Pub. Util. Code § 1701.2(b), ex parte communications in this proceeding are prohibited.

Dated October 24, 2001, at San Francisco, California.

/s/ HENRY M. DUQUE
Henry M. Duque
Assigned Commissioner

/s/ JANET A. ECONOME
Janet A. Econome
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judges on all parties of record in this proceeding or their attorneys of record.

Dated October 24, 2001, at San Francisco, California.

/s/ JEANNIE CHANG
Jeannie Chang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

Appendix A
Service List
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***** APPEARANCES *****

Gayatri Schilberg
JBS ENERGY
311 D STREET, SUITE A
WEST SACRAMENTO CA 95605
(916) 372-0534
gayatri@jbsenergy.com
For: THE UTILITY REFORM NETWORK (TURN)

Elizabeth L Leavengood
Legal Division
RM. 4107
505 VAN NESS AVE
San Francisco CA 94102
(415) 703-1960
ell@cpuc.ca.gov
For: CPUC CONSUMER SERVICES DIVISION (CSD)

James M. Lehrer
ANN P. COHN, CHARLES C. READ
Attorney At Law
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD CA 91770
(626) 302-3252
james.lehrer@sce.com
For: SOUTHERN CALIFORNIA EDISON CO. (SCE)

Bob Finkelstein
Attorney At Law
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO CA 94102
(415) 929-8876
bfinkelstein@turn.org
For: THE UTILITY REFORM NETWORK (TURN)

***** STATE EMPLOYEE *****

Janet A. Econome
Administrative Law Judge Division
RM. 5113
505 VAN NESS AVE
San Francisco CA 94102
(415) 703-1494
jjj@cpuc.ca.gov

Raffy Stepanian
Consumer Services Division
RM. 500
320 WEST 4TH STREET SUITE 500
Los Angeles CA 90013
(213) 576-7019
rst@cpuc.ca.gov
For: CPUC CONSUMER SERVICES DIVISION (CSD)

Maria E. Stevens
Executive Division
RM. 500
320 WEST 4TH STREET SUITE 500
Los Angeles CA 90013
(213) 576-7012
mer@cpuc.ca.gov

***** INFORMATION ONLY *****

Marc D. Joseph
MARK WOLFE
Attorney At Law
ADAMS BROADWELL JOSEPH & CARDOZO
651 GATEWAY BOULEVARD, SUITE 900
SOUTH SAN FRANCISCO CA 94080
(650) 589-1660
mdjoseph@adamsbroadwell.com
For: COALITION OF CALIFORNIA UTILITY EMPLOYEES

William P. Adams
ADAMS ELECTRICAL SAFETY CONSULTING
716 BRETT AVENUE
ROHNERT PARK CA 94928-4012
(707) 795-7549

Lulu Weinzimer
CALIFORNIA ENERGY MARKETS
9 ROSCOE STREET
SAN FRANCISCO CA 94110-5521
(415) 824-3222
luluw@newsdata.com
For: CALIFORNIA ENERGY MARKETS

Lise H. Jordan
Attorney At Law
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET
SAN FRANCISCO CA 94105
(415) 973-6965
lhj2@pge.com
For: PACIFIC GAS AND ELECTRIC COMPANY (PG&E)

Appendix A
Service List
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Lynne McGhee
Executive Division
RM. 5306
505 VAN NESS AVE
San Francisco CA 94102
(415) 703-1721
lmc@cpuc.ca.gov

Michael Shames
Attorney At Law
UTILITY CONSUMERS' ACTION NETWORK
3100 FIFTH AVE., SUITE B
SAN DIEGO CA 92103
(619) 696-6966
mshames@ucan.org

Margaret E. Moore
SAN DIEGO GAS & ELECTRIC
101 ASH ST., HQ14B
SAN DIEGO CA 92101-3017
(619) 696-4323
mmoore@sempra.com
For: SEMPRA ENERGY

Frank Marsman
SAN DIEGO GAS & ELECTRIC COMPANY
8316 CENTURY PARK COURT, CP52D
SAN DIEGO CA 92123-1582
(858) 654-8207
fmarsman@sdge.com
For: SAN DIEGO GAS & ELECTRIC COMPANY (SDG&E)

Celeste Easton
Attorney At Law
SEMPRA ENERGY
555 W. 5TH STREET, 14TH FLOOR
LOS ANGELES CA 90013
(213) 244-2942
ceaston@sempra.com
For: SAN DIEGO GAS & ELECTRIC COMPANY (SDG&E)

Bryant Danner, Sr.
Vice Pres./Gen Counsel
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD CA 91770

Regina Costa
Telecommunications Research Director
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO CA 94102
(415) 929-1137
rcosta@turn.org

End of Appendix A

Appendix B

EXHIBITS

Service of Exhibits

All prepared written testimony shall be served on all appearances and state service on the service list, as well as on the Assigned Commissioner's office and on the Assigned ALJ. Do NOT file prepared written testimony with the Commission's Docket Office. (Such testimony becomes part of the record only after it is admitted into evidence.)

Identification of Exhibits in the Hearing Room

Each party sponsoring an exhibit shall, in the hearing room, provide **two copies to the ALJ and one to the court reporter**, and have at least 5 copies available for distribution to parties present in the hearing room. **The upper right hand corner of the exhibit cover sheet shall be blank for the ALJ's exhibit stamp.** Please note that this directive applies to cross-examination exhibits as well. If there is not sufficient room in the upper right hand corner for an exhibit stamp, please prepare a cover sheet for the cross-examination exhibit.

Cross-examination With Exhibits

As a general rule, if a party intends to introduce an exhibit in the course of cross-examination, the party should provide a copy of the exhibit to the witness and the witness' counsel before the witness takes the stand on the day the exhibit is to be introduced. Generally, a party is not required to give the witness an advance copy of the document if it is to be used for purposes of impeachment or to obtain the witness' spontaneous reaction. An exception might exist if parties have otherwise agreed to prior disclosure, such as in the case of confidential documents.

Corrections to Exhibits

Generally, corrections to an exhibit should be made in advance and not orally from the witness stand. Corrections should be made in a timely manner by providing new exhibit pages on which corrections appear. The

original text to be deleted should be lined out with the substitute or added text shown above or inserted. Each correction page should be marked with the word “revised” and the revision date.

Exhibit corrections will receive the same number as the original exhibit plus a letter to identify the correction. Corrections of exhibits with multiple sponsors will also be identified by chapter number. For example, Exhibit 5-3-B is the second correction made to Chapter 3 of Exhibit 5.

End of Appendix B