



ALJ/SR6/mef 1/26/2023

FILED

01/26/23

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

11:03 PM

A2210021

Application of San Diego Gas &
Electric Company (U902M) for
Authorization to Recover Costs of
Several Catastrophic Events Recorded
in its Catastrophic Expense
Memorandum Account (CEMA).

Application 22-10-021

**E-MAIL RULING REQUIRING MEET AND CONFER AND
DIRECTING SAN DIEGO GAS & ELECTRIC COMPANY TO FILE AND
SERVE BRIEF CITING LEGAL AUTHORITY FOR LIMITING DISCOVERY**

Dated January 26, 2023, at San Francisco, California.

/s/ SHANNON O'ROURKE

Shannon O'Rourke
Administrative Law Judge

From: O'Rourke, Shannon <Shannon.O'Rourke@cpuc.ca.gov>

Sent: Thursday, January 26, 2023 11:07 AM

To: Tey, Joshua <Joshua.Tey@cpuc.ca.gov>; PSzymanski@sdge.com; regrelcpuccases@pge.com; mrw@mrwassoc.com; Douglass@EnergyAttorney.com; julia@protectourcommunities.org; MStrutner@sdge.com; CentralFiles@SemptraUtilities.com; KGill@sdge.com; Yip-Kikugawa, Amy C. <amy.yip-kikugawa@cpuc.ca.gov>; Dugowson, Andrew <Andrew.Dugowson@cpuc.ca.gov>; Chitadje, Charlotte <charlotte.chitadje@cpuc.ca.gov>; Thomas, Sarah R. <sarah.thomas@cpuc.ca.gov>; O'Rourke, Shannon <Shannon.O'Rourke@cpuc.ca.gov>

Cc: ALJ_Support ID <alj_supportid@cpuc.ca.gov>; ALJ Docket Office <ALJ_Docket_Office@cpuc.ca.gov>; ALJ Process <alj_process@cpuc.ca.gov>

Subject: A.22-10-021: Email Ruling Requiring Meet and Confer and Directing SDG&E to File and Serve Brief Citing Legal Authority for Limiting Discovery

To the service list of Application 22-10-021:

This ruling directs parties to meet and confer to determine whether they can agree on the procedural schedule and need for hearings in this proceeding and directs San Diego Gas & Electric Company (SDG&E) to file and serve a brief citing legal authority for limiting discovery by the Public Advocates Office at the California Public Utilities Commission (Cal Advocates).

Meet and Confer

Parties shall meet and confer to determine whether they can agree on the procedural schedule and need for hearings and file a joint meet and confer report no later than **February 2, 2023**. The joint meet and confer report shall address the following:

- A proposed procedural schedule that would include time for an independent third-party audit. If parties cannot agree on a schedule, each party shall provide its own proposed schedule;
- A proposed procedural schedule that would not include an independent third-party audit. If parties cannot agree on a schedule, each party shall provide its own proposed schedule; and
- Need for evidentiary hearing, and grounds upon which this determination was made.

SDG&E Legal Brief

As the Commission has found in several decisions,* Cal Advocates has plenary authority to participate in Commission proceedings and conduct discovery under Public Utilities Code Sections 309.5 and 314:

309.5(a) There is within the commission an independent Public Advocate's Office of the Public Utilities Commission to represent and advocate on behalf of the interests of public utility customers and subscribers within the jurisdiction of the commission. The goal of the office shall be to obtain the lowest possible rate for service consistent with reliable and safe service levels. For revenue allocation and rate design matters, the office shall primarily consider the interests of residential and small commercial customers.

314(a) The commission, each commissioner, and each officer and person employed by the commission may, at any time, inspect the accounts, books, papers, and documents of any public utility. The commission, each commissioner, and any officer of the commission or any employee authorized to administer oaths may examine under oath any officer, agent, or employee of a public utility in relation to its business and affairs. Any person, other than a commissioner or an officer of the commission, demanding to make any inspection shall produce, under the hand and seal of the commission, authorization to make the inspection. A written record of the testimony or statement so given under oath shall be made and filed with the commission.

(b) Subdivision (a) also applies to inspections of the accounts, books, papers, and documents of any business that is a subsidiary or affiliate of, or a corporation that holds a controlling interest in, an electrical, gas, or telephone corporation, or a water corporation that has 2,000 or more service connections, with respect to any transaction between the water, electrical, gas, or telephone corporation and the subsidiary, affiliate, or holding corporation on any matter that might adversely affect the interests of the ratepayers of the water, electrical, gas, or telephone corporation.

* See, e.g., Decision (D.) 04-09-061, 2004 Cal. PUC LEXIS 477, Section VI, *reh. denied* D.05-05-017; D.01-08-062, 2001 Cal. PUC LEXIS 513, at *8; D.97-04-069, 1997 Cal. PUC LEXIS 343, Section 5.

In order to limit Cal Advocates' powers, SDG&E must provide specific legal authority in support of its position in a brief it files and serves no later than **February 6, 2023**. Parties may file and serve responses to SDG&E's brief no later than **seven days** following the date of SDG&E's filing.

Cal Advocates is not required to respond to SDG&E's questions in its January 25, 2023 communication about Cal Advocates' proposed participation until after SDG&E has submitted the information required and I have ruled on the matter.

I also use this ruling to clarify that I did not direct parties to provide supplemental information following the prehearing conference, as was referenced in communications sent by parties on January 24, 2023 and January 25, 2023. I consider any supplemental information provided by parties following the prehearing conference to have been offered of their own accord and not pursuant to direction from me.

IT IS SO RULED.

THE DOCKET OFFICE SHALL FORMALLY FILE THIS RULING.

--

Shannon O'Rourke (she/her)
Administrative Law Judge
California Public Utilities Commission
shannon.o'rourke@cpuc.ca.gov
415-703-5574

Notice: This communication may contain confidential and/or legally privileged information for the use of the intended recipient(s). Unauthorized use or disclosure is prohibited. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

From: Szymanski, Paul <PSzymanski@sdge.com>

Sent: Wednesday, January 25, 2023 12:03 PM

To: Tey, Joshua <Joshua.Tey@cpuc.ca.gov>; regrelcpuccases@pge.com; mrw@mrwassoc.com; Douglass@EnergyAttorney.com; Julia Severson <julia@protectourcommunities.org>; Strutner, Maddy <MStrutner@sdge.com>; Central Files <CentralFiles@semprautilities.com>; Gill, Kellen <KGill@sdge.com>; Yip-Kikugawa, Amy C. <amy.yip-kikugawa@cpuc.ca.gov>; Dugowson, Andrew <Andrew.Dugowson@cpuc.ca.gov>; Chitadje, Charlotte <charlotte.chitadje@cpuc.ca.gov>; Thomas, Sarah R. <sarah.thomas@cpuc.ca.gov>; O'Rourke, Shannon <Shannon.O'Rourke@cpuc.ca.gov>

Subject: [EXTERNAL] RE: SDG&E CEMA A.22-10-021; Cal Advocates' Supplemental Information per Prehearing Conference

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear ALJ O'Rourke and Parties:

SDG&E sends this response to Cal Advocates' email, dated yesterday, which was required at the request of ALJ O'Rourke at the January 20, 2023 Prehearing Conference. SDG&E finds that Cal Advocates' email raises more concerns and questions, indicated below, and based on Cal Advocates' engagement so far, SDG&E respectfully requests that Assigned Commissioner Shiroma and ALJ O'Rourke determine that the best, most effective and efficient prosecution of this case be based upon a professional independent audit conducted by a premier, independent auditing firm with experience in performing CEMA audits. Cal Advocate's request that it conduct an audit should be rejected, and its proposed, protracted schedule for filing testimony, should be rejected.

SDG&E's overriding concern with Cal Advocates' proposal is that the validity of any audit that would be entered into the record of this proceeding should and must be an **independent audit**. That necessarily means that the audit cannot be prepared or influenced by any party advocate in this proceeding, including SDG&E and Cal Advocates. For this reason, SDG&E strongly objects to Cal Advocates' proposal for Cal Advocates to conduct its own audit of SDG&E's submission.

That serious concern should resolve the matter. However, SDG&E has additional questions to the extent the Commission still considers an audit conducted by Cal Advocates to be a fair and viable option:

How many auditors would Cal Advocates assign to do this audit;

How much time in weeks would Cal Advocates take to perform the audit; and

What experience does Cal Advocates have in preparing a CEMA audit?

In addition, SDG&E has the following questions that arose at the Prehearing Conference but were not answered (and remain unanswered):

On what grounds would hearings be necessary? Why should the procedural schedule provide for evidentiary hearings when no disputed facts have been identified?

What reason(s) does Cal Advocates offer to support its scheduling request for more than 6 months to prepare an audit, and why would it not agree to have a premier, independent accounting firm with experience in CEMA audits prepare the audit?

Last, SDG&E wishes to make clear its proposal for the audit in this proceeding, particularly with respect to the scope of the audit:

SDG&E agrees that an independent review of SDG&E's CEMA costs by either a third party or the Commission's Utility Audits Branch would provide additional validation that those

costs included for recovery are incremental and appropriate based upon the CEMA preliminary statement criteria.

SDG&E wishes to set a schedule that will allow for the Commission to render a decision on this Application before the end of 2023. SDG&E notes that Pacific Gas & Electric Company retained Ernst & Young to conduct a similar cost analysis for its Wildfire Mitigation and CEMA Application 21-09-008, filed November 18, 2021. Similarly, SDG&E could engage Ernst & Young or Price Waterhouse Coopers to perform an independent third-party cost review on an expedited basis.

ALJ O'Rourke: these procedural issues are normally raised and debated during the Prehearing Conference, not afterwards. The reality that there is still little or no support or justification for some of Cal Advocates' positions gives SDG&E further concern that this proceeding will suffer by a lack of dispatch and efficiency if Cal Advocates' recommendations regarding conducting its own audit and timing of testimony are adopted.

Thank you for considering these comments.

Paul A. Szymanski

From: Tey, Joshua <Joshua.Tey@cpuc.ca.gov>

Sent: Tuesday, January 24, 2023 10:57 AM

To: Tey, Joshua <Joshua.Tey@cpuc.ca.gov>; Szymanski, Paul <PSzymanski@sdge.com>; regrelcpuccases@pge.com; mrw@mrwassoc.com; Tey, Joshua <Joshua.Tey@cpuc.ca.gov>; Douglass@EnergyAttorney.com; Julia Severson <julia@protectourcommunities.org>; Strutner, Maddy <MStrutner@sdge.com>; Central Files <CentralFiles@semprautilities.com>; Gill, Kellen <KGill@sdge.com>; Yip-Kikugawa, Amy C. <amy.yip-kikugawa@cpuc.ca.gov>; Dugowson, Andrew <Andrew.Dugowson@cpuc.ca.gov>; Chitadje, Charlotte <charlotte.chitadje@cpuc.ca.gov>; Thomas, Sarah R. <sarah.thomas@cpuc.ca.gov>; O'Rourke, Shannon <Shannon.O'Rourke@cpuc.ca.gov>
Subject: [EXTERNAL] SDG&E CEMA A.22-10-021; Cal Advocates' Supplemental Information per Prehearing Conference

CAUTION! EXTERNAL SENDER STOP, ASSESS, AND VERIFY

Do you know this person? Were you expecting this email, any links or attachments? Does the content make sense? If suspicious, do not click links, open attachments, or provide credentials. Don't delete it. **Report it by using the REPORT SPAM option!**

To the Honorable Judge O'Rourke,

This email is being sent simultaneously to all parties on the service list to provide notice and transparency of the instant communication.

This email serves to provide supplemental information requested at the Prehearing Conference in the San Diego Gas & Electric Company's (SDG&E's) CEMA Application (A.)22-10-021. More specifically, Your Honor directed the Public Advocates Office (Cal Advocates) to provide more information as to the scope of a prospective audit and as to the scheduling of intervenor testimony.

As to the scope of the audit, Cal Advocates will examine SDG&E's methodology for recording costs to its CEMA, conduct transactional testing, evaluate the line-item detail of costs to determine reasonableness and whether the costs are incremental, including whether the recovery of the costs is compliant with relevant Commission orders, and will present its recommendations.

As to the schedule of Intervenor Testimony, Cal Advocates requests that the Commission adopt a schedule that provides all parties adequate time to evaluate SDG&E's requests, conduct discovery, and develop their own recommendations on the issues raised by SDG&E's Application. Cal Advocates reiterates its strong opposition to the March 9, 2023 date SDG&E proposed for intervenors to serve prepared testimony. Cal Advocates has only begun its initial review of the Application. SDG&E's proposed date does not provide Cal Advocates with a reasonable amount of time to fully review and investigate the reasonableness of the expenses, propound any needed discovery, and to perform its CEMA audit, and write testimony. Thus, Cal Advocates proposes a date of July 28, 2023 for Intervenor Testimony.

Additionally, after further review of SDG&E's Application and supporting testimony, evidentiary hearings may be necessary. Therefore, Cal Advocates recommends that the Commission include evidentiary hearings in the proceeding schedule.

Respectfully submitted,

Joshua Tey

Attorney, Legal Division

CALIFORNIA PUBLIC UTILITIES COMMISSION

320 W 4th St, Ste 500, Los Angeles, CA 90013-2352

T: 213-576-7074



This email originated outside of Sempra. Be cautious of attachments, web links, or requests for information.