

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Qui and Ai Chau Do,

Complainants,

vs.

San Diego Gas & Electric Company,

Defendant.

Case 01-08-040
(Filed August 29, 2001)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

Pursuant to Rules 6(b)(3) and 6.3 of the Commission's Rules of Practice and Procedure, this ruling sets forth a procedural schedule, assigns a presiding officer and addresses the scope of the proceeding following a telephone prehearing conference (PHC) held on November 5, 2001, by Administrative Law Judge (ALJ) Sullivan.

Background

Qui and Ai Chau Do (the Do's), complainants, and San Diego Gas and Electric Company (SDG&E), defendant, have a dispute concerning the extension of an electric power line and the installation of new electric service at 1504 Taza Road, Fallbrook, California. The Do's allege (among other things) that SDG&E

had failed to design the electric service that the Do's require and that SDG&E's request for additional payment is unlawful.

In response, SDG&E, alleges (among other things) that the failure to design the electric service that the Do's requirement grew from communications failures on the part of the Do's that will require additional costs to correct. SDG&E further alleges that it has done nothing wrong. In addition, SDG&E has moved to dismiss the complaint.

On October 26, 2001, ALJ Sullivan issued a Ruling soliciting information to clarify issues in the dispute. At the telephonic PHC, before Assigned Commissioner Duque and Sullivan, parties discussed the dispute and developed a plan to manage this proceeding. We discuss this plan below.

Scope of Proceeding

Based on the pleadings to date and the representations of the parties at the PHC, the dispute is whether SDG&E has provided line extension service consistent with its tariffs, the representations of its employees, and the requests of the Do's. There are many facts in dispute concerning the exact service ordered, who said what to whom, and the time of specific communications. These facts in dispute bear upon the ultimate question of whether SDG&E acted consistent with its tariffs.

Parties should limit their testimony at the evidentiary hearings to matters involving disputed issues of fact. Testimony that presents legal or policy argument may be stricken. Parties will have an opportunity to address matters of law and policy in briefs.

Discovery

Discovery continues through January 30, 2002. Parties may make reasonable discovery requests and recipients should strive to comply with them,

both in a timely fashion. Any discovery disputes which the parties cannot resolve between themselves, after good faith efforts to meet and confer, may be brought to ALJ Sullivan, who may rule himself or refer the dispute to the Commission's Law and Motion ALJ. The Commission generally looks to the Code of Civil Procedure for guidance in resolving discovery disputes.

Schedule

The schedule for this proceeding is as follows:

November 5, 2001 through January 25, 2002	Discovery
January 16, 2002	Opening Testimony (served)
January 30, 2002	Reply Testimony (served)
February 22, 2002	Evidentiary Hearings (in San Diego – exact location will be announced subsequently)
....	Concurrent briefs filed and served 20 days after conclusion of evidentiary hearings
....	Concurrent reply briefs filed and served 10 days after initial briefs, whereupon the case is submitted
....	Presiding officers decision filed within 60 days of submission
....	Presiding officer's decision becomes effective 30 days after mailing (unless appeal filed per Pub. Util. Code § 1701.2(a) and Rule 8.2.)

Please note that the hearings are now set for February 22, 2002 instead of the February 19 date discussed at the PHC. A subsequent notice will set the

hours and place of the February 22, 2002 evidentiary hearings. The parties may make short opening remarks at the opening of the evidentiary hearing, focusing on the critical facts that the upcoming testimony will demonstrate. Prepared written testimony shall be served on parties and on the ALJ.

The exact briefing schedule will be set at the evidentiary hearings. This proceeding shall be resolved within the twelve-month timeframe set for the resolution of adjudicatory proceedings.

Pre-Hearing Meet and Confer

No later than 10:00 a.m. on February 19, 2002, the parties are to meet by phone or otherwise to discuss the following:

1. Issues to be addressed in the hearing, and specifically, whether any issues have been narrowed or amended since the filing of the complaint
2. Proposed witness schedule;
3. Cross-examination time estimates; and
4. Exhibit Lists. Each exhibit list shall contain the name of the offering party and/or sponsoring witness. Each party is to exchange its exhibit list with the other party participating in the hearing. The exhibit list for the hearing should also include the nature of any objection to admission of an exhibit by any part or the statement of "no objection." An annotated exhibit list should be included in summary filing described below.

All exhibits shall be pre-marked for identification. SDG&E will use 1-99 and the Do's 100-199. Further requirements with respect to exhibits are set forth in Appendix B.

Following the February 11 meeting, SDG&E shall prepare a joint filing summarizing the above information. Both parties shall sign and make the filing

by noon February 21, 2002. In addition, SDG&E shall e-mail a copy to ALJ Sullivan [tjs@cpuc.ca.gov] by noon on February 21, 2002

Category of Proceeding and need for Hearing

This ruling confirms this case as an adjudication scheduled for hearing, as preliminarily determined in the Instructions to Answer.

Assignment of Presiding Officer

ALJ Timothy J. Sullivan will be the presiding officer.

Ex Parte Rules

Ex parte communications are prohibited in adjudicatory proceedings under Pub. Util. Codes § 1701.2(b) and Rule 7.

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule for this proceeding is as set forth herein.
3. The presiding officer will be Administrative Law Judge (ALJ)

Timothy J. Sullivan.

4. This ruling confirms that this proceeding is an adjudication scheduled for hearing.

5. Ex parte communications are prohibited under Pub. Util. Code § 1701.2(b) and Rule 7 of the Commission's Rules of Practice and Procedure.

6. The official service list as of this date is attached to this ruling as Appendix A. All submission shall be served on those on the current service list as well as on the Assigned Commissioner and Assigned ALJ. Submission to the assigned ALJ and to the service list shall be provided by either electronic mail or hard copy.

Appendix B contains directions concerning the preparation and identification of exhibits. Parties shall follow these directions.

Dated January 8, 2002, at San Francisco, California.

/s/ HENRY M. DUQUE

Henry M. Duque
Assigned Commissioner

APPENDIX A

SERVICE LIST

<p>***** APPEARANCES *****</p> <p>Qui Chau Do AI CHAU DO 1504 TAZA ROAD FALLBROOK CA 92028 (760) 731-3134 ado@fdic.gov For: Self</p>	<p>Timothy J. Sullivan Administrative Law Judge Division RM. 5007 505 VAN NESS AVE San Francisco CA 94102 (415) 703-1463 tjs@cpuc.ca.gov</p>
<p>Celeste Easton Attorney At Law SEMPRA ENERGY 555 W. 5TH STREET, 14TH FLOOR LOS ANGELES CA 90013 (213) 244-2942 ceaston@sempra.com For: SDG&E</p>	<p>***** INFORMATION ONLY *****</p> <p>SAN DIEGO GAS & ELECTRIC 1623 WEST MISSION ROAD ESCONDIDO CA 92029-1109</p>
<p>***** STATE EMPLOYEE *****</p> <p>Peter G. Fairchild Legal Division RM. 5038 505 VAN NESS AVE San Francisco CA 94102 (415) 703-2049 pgf@cpuc.ca.gov</p>	<p>Monica Wiggins SAN DIEGO GAS & ELECTRIC COMPANY PO BOX 1831 101 ASH ST., HQ 14-A SAN DIEGO CA 92112 (619) 696-4056 mwiggins@sdge.com</p>
<p>Maria E. Stevens Executive Division RM. 500 320 WEST 4TH STREET SUITE 500 Los Angeles CA 90013 (213) 576-7012 mer@cpuc.ca.gov</p>	<p>Lynn G. Van Wagenen SEMPRA ENERGY 101 ASH STREET SAN DIEGO CA 92101 (619) 696-4055 lvanwagenen@sempra.com</p>

(END OF APPENDIX A)

APPENDIX B

DIRECTIONS IN THE PREPARATION AND IDENTIFICATION OF EXHIBITS

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.

APPENDIX B
(Continued)

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)

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 on all parties of record in this proceeding or their attorneys of record.

Dated January 8, 2002, 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.