



FILED
02/06/18
02:55 PM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission’s Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.

Investigation 12-10-013

And Related Matters.

Application 13-01-016
Application 13-03-005
Application 13-03-013
Application 13-03-014

JOINT RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE GRANTING IN PART AND DENYING IN PART THE JOINT MOTION OF THE ALLIANCE FOR NUCLEAR RESPONSIBILITY, THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION, CALIFORNIA STATE UNIVERSITY, CITIZENS OVERSIGHT, THE COALITION OF CALIFORNIA UTILITY EMPLOYEES, THE DIRECT ACCESS CUSTOMER COALITION, RUTH HENRICKS, THE OFFICE OF RATEPAYER ADVOCATES, SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E), SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), THE UTILITY REFORM NETWORK, AND WOMEN’S ENERGY MATTERS TO STAY PROCEEDINGS IN INVESTIGATION 12-10-013 ET AL.

On February 1, 2018, the Alliance for Nuclear Responsibility (A4NR), the California Large Energy Consumers Association (CLECA), California State University (CSU), Citizens Oversight, the Coalition of California Utility Employees (CCUE), Ruth Henricks, the Office of Ratepayer Advocates (ORA), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE) (collectively the “Utilities”), The Utility Reform Network

(TURN), and Women's Energy Matters (WEM) [collectively the Joint Parties] served and filed a Motion to stay this proceeding (the Joint Motion).

The Joint Parties assert that if the Commission approves the proposed Settlement Agreement submitted by the Joint Parties as attachment A to the Joint Motion for Adoption of Settlement Agreement (filed January 30, 2018) all issues in the Order Instituting Investigation (OII) will be resolved, and therefore the Commission should stay all further proceedings. The Joint Parties specifically request the following:¹

1. Suspend the schedule of hearings and deadlines in the scoping ruling dated January 8, 2018;
2. Take off calendar the status conference, public participation hearings, evidentiary hearings, and oral argument scheduled in the Scoping Memo;
3. Relieve the Joint Parties of any obligation to file any summaries, testimony, motions, stipulations, and briefs directed in the scoping ruling; and
4. Relieve the Joint Parties of any obligation to propound or respond to discovery requests in the OII.²

The Joint Parties do not request a change in the current *ex parte* ban in the proceeding. The Joint Parties assert that the proposed Settlement Agreement resolves all issues in this OII. We are in the process of reviewing the proposed Settlement Agreement, and will require additional information from the parties. Initially we request parties to provide information described in this ruling. We will also issue another ruling with further direction for the parties after a

¹ See Joint Motion dated February 1, 2018 at 1.

² The Joint Motion notes that ORA cannot waive its statutory discovery rights over any entity regulated by the Commission as provided by the Public Utilities Code. See Joint Motion at 1-2.

complete review of the proposed Settlement Agreement and the information that the parties are directed to provide as set forth herein.

Commission Rule 12 – Evaluation of Proposed Settlements

Any proposed settlement adopted by the Commission will need to comply with Rule 12 of the Commission Rules of Practice and Procedure.³ The Commission as decision maker is not a party to any settlement discussions or any proposed settlements that may be reached among the parties to proceedings before the Commission. Settlement discussions are confidential and the information exchanged among the parties during these discussions is not part of the record in this proceeding consistent with Rule 12.6.

The motion requesting adoption of the Settlement Agreement “must contain a statement of the factual and legal considerations adequate to advise the Commission of the scope of the settlement and of the grounds on which adoption is urged.”⁴ The motion also must be supported by a comparison exhibit indicating the impact of the settlement in relation to the parties’ positions. The Joint Motion does not include such a comparison exhibit.⁵

Parties will be able to file comments on the proposed Settlement Agreement within 30 days from the submission of the Joint Motion (January 30, 2018), and a hearing may be set consistent with Rule 12.2 and Rule 12.3. The Commission may also reject a proposed settlement if it determines that it is not in the public interest. In rejecting a settlement the

³ All references to Rules are to the Commission Rules of Practice and Procedure unless otherwise noted.

⁴ Rule 12.1(a).

⁵ A comparison exhibit was provided with the motion requesting adoption of the initial settlement agreement that led to D.14-11-040 and with party briefings in the summer of 2016.

Commission may hold hearings (the parties to the settlement may offer joint testimony), allow the parties time to further negotiate, or propose alternative terms to the proposed settlement consistent with Rule 12.4. Any settlement adopted by the Commission must comply with the requirements of Rule 12.

The January 30, 2018 Proposed Settlement

The proposed Settlement Agreement states at section 3.10, “[e]xcept as expressly provided in this Agreement, the terms and conditions of the 2014 Agreement remain in full force and effect.” The Joint Parties are to provide a revised underline/strike out version of the Settlement Agreement adopted in D.14-11-040 identifying the exact terms and conditions the Joint Parties intend to modify through adoption of the proposed Settlement Agreement. To ensure our record is complete and to avoid any confusion in the record, and potential implementation of a settlement among the parties, the terms and conditions that will remain in effect, and the terms and conditions that are altered must be specifically provided and entered into the record.

The Joint Parties are directed to provide the following information no later than February 23, 2018:

1. Provide a comparison exhibit that includes the a) terms of Settlement Agreement adopted in D.14-11-040; b) litigation positions of each of the Joint Parties prior to entering into the Settlement Agreement; and c) the proposed Settlement Agreement submitted on January 30, 2018;
2. Review the Joint Motion, to the extent additional factual or legal considerations should be included to advise the Commission of the scope of the settlement and the grounds upon which the Joint Parties urge adoption, this information should be provided in the filing that includes the comparison exhibit; and

3. Provide a revised underline/strike out version of the Settlement Agreement adopted in D.14-11-040 reflecting the modifications proposed by the Joint Parties in the Attachment A to the Joint Motion.

Other Agreements

The Joint Motion at 9 identifies two “other agreements” that relate to this proceeding but were not included with the Joint Motion. The first “other agreement” is an agreement among “SCE, Citizens Oversight, Ruth Henricks et al., dated January 30, 2018, to effectuate the dismissal with prejudice and conclusively resolve the actions styled as *Citizens Oversight, Inc. et al. v. CPUC, et al.*, No 15-55762 (9th Cir. 2015) and *Citizens Oversight, Inc. et al. v. California Public Utilities Commission, et al.*, No. 3:14-cv-02703 (S.D. Cal. 2014)” (Federal Court Agreement). The second identified in the Joint Motion is an “agreement between SCE and SDG&E (and their respective parent companies), dated January 10, 2018, which allocates responsibility for the financial provisions of the proposed Settlement Agreement between the SCE shareholders and SDG&E shareholders” (the Shareholder Agreement).

Both of these “other agreements” are referenced and defined within the proposed Settlement Agreement. The Joint Motion states that the agreement between SCE and SDG&E will be provided to the service list for “information purposes.” The Utilities did file a motion on February 1, 2018 to enter the Shareholder Agreement into the record as a reference document. The Joint Motion states that the Federal Court Agreement (also specifically referenced in the proposed Settlement Agreement) “is not being submitted to the Commission pursuant to the instant motion...” Rule 12.1 requires a proposed settlement to “contain a statement of the factual and legal considerations adequate to advise the Commission of the scope of the settlement and of the ground on which

adoption is urged.” Both of these “other agreements” are referenced specifically in the Settlement Agreement and therefore to fully review the proposed Settlement Agreement both documents will need to be submitted into the record for review and consideration. The Joint Parties are directed to file and serve a motion to enter both agreements into the evidentiary record to ensure that we have a full and complete record when assessing whether the Settlement Agreement meets the requirements of Rule 12. The following information is to be provided no later than February 15, 2018:

1. The Utilities are to serve and file a motion to enter the Utility Shareholder Agreement into the evidentiary record of the proceeding; and
2. SCE, Ruth Henricks, and Citizens Oversight are to serve and file a motion to enter the Federal Court Agreement into the evidentiary record of the proceeding.

Pursuant to Rule 12.1(d), the Commission as decision maker in this proceeding is required to carefully review any proposed settlement (in its entirety) and to independently determine whether the settlement is reasonable in light of the entire record, consistent with the law, and in the public interest. The Joint Parties are to identify any other agreements that they entered into individually or collectively, or of which they individually or collectively have knowledge, that relate to their or any other Joint Party’s entering into of the proposed Settlement Agreement. If there are no other agreements entered into by the Joint Parties (individually, collectively, or a sub-set of) that relate to the settlement discussions or the Joint Parties’ proposed Settlement Agreement, then each party is to provide a declaration attesting to the fact that no such agreements exist among the parties, any sub-set of the parties, or with any of the individual Joint Parties (collectively or individually) with third parties pursuant to Rule 1.1. Each of the Joint Parties is to individually file and serve on the

service list in this proceeding such declaration no later than February 15, 2018 the following:

1. A filing identifying any other agreements that any party has entered into with or among the Joint Parties, a sub-set of the Joint Parties or third parties that relates to the proceeding, the proposed Settlement Agreement in the proceeding or is contingent upon the Commission adopting the proposed Settlement Agreement, or any other agreements of which the declaring Party has knowledge; and
2. A declaration pursuant to Rule 12 that any agreements identified in 1 above are the only such agreements that party has entered into, or that the party has entered into no such agreements. The declaration is to be provided pursuant to Rule 1.1.

Service of Testimony and Reply Testimony

The assigned Commissioner and assigned Administrative Law Judge issued a proceeding schedule in the January 8, 2018 joint ruling that required parties to serve concurrent testimony no later than February 23, 2018 and concurrent reply testimony no later than March 16, 2018. The Joint Parties submitted a Motion for Adoption of Settlement Agreement on January 30, 2018. Our initial review of the proposed Settlement Agreement indicates we will need additional information from the Joint Parties to determine whether the proposed Settlement Agreement meets the requirements of Rule 12. In order to afford the parties in the proceeding an opportunity to direct their attention to addressing any questions or additional information we require as it relates to the proposed Settlement Agreement we will relieve the parties of any obligation to serve testimony, and reply testimony at this time. However, parties should be prepared to submit testimony either jointly or individually if required by March 26, 2018 as we intend to maintain the April 30-May 4, 2018 evidentiary

hearing dates in the event additional testimony and/or cross examination of witnesses are needed to complete the record in the proceeding.

Schedule

Again, we relieve the parties of their obligation to serve testimony and reply testimony at this time. We will not take off calendar the status conference, public participation hearings, or the first week of evidentiary hearings.⁶ To the extent that we may need a more complete factual record in support of the proposed settlement the parties may serve and file a stipulation of undisputed facts or additional testimony from the Joint Parties may be directed to support the Settlement Agreement. The proceeding schedule shall be as set forth below:

Event	Date
Utilities file an updated settlement implementation summary (initial implementation summary served and filed June 2, 2016)	January 31, 2018
Joint Parties to file testimony in support in of Settlement Agreement and/or Stipulation of Undisputed Facts; Joint Case Management Statement.	March 26, 2018
Status Conference (Los Angeles)	April 4, 2018 10:00 a.m.
Public Participation Hearing (Community Center Costa Mesa)	April 4, 2018 6:00 p.m.
Evidentiary Hearings (Los Angeles) [TBD]	April 30-May 4, 2018 10:00 a.m. -3:30pm (parties to arrive at 9:30 a.m. to address off the record administrative and logistical matters. Parties are

⁶ In the event we require hearings on the proposed Settlement Agreement we will leave the week of April 30- May 4, 2018 on calendar in order to ensure that the proceeding moves forward in a timely manner.

Event	Date
	to be prepared to begin hearings- go on the record- at 10:00 a.m.).
Concurrent Closing Briefs Filed [TBD]	June 15, 2018
Concurrent Reply Briefs Filed [TBD]	June 29, 2018
Public Participation Hearing (Community Center Costa Mesa) [TBD]	July 18, 2018
Proposed Decision	TBD

Upon a complete review of the proposed Settlement Agreement and the additional information to be provided by the parties consistent with this ruling we will be better able to assess whether the proposed Settlement Agreement meets the requirements of Rule 12, requires additional information from the Joint Parties, evidentiary hearings, and/or briefing. We do intend to hold public participation hearings as to the proposed Settlement Agreement and at least one additional status conference in this proceeding. We will provide further direction on the proceeding schedule after a review of the information requested in this ruling has been completed.

IT IS RULED that:

1. The Joint Motion the Alliance for Nuclear Responsibility (A4NR), the California Large Energy Consumers Association (CLECA), California State University (CSU), Citizens Oversight, the Coalition of California Utility Employees (CCUE), Ruth Henricks, the Office of Ratepayer Advocates (ORA), San Diego Gas & Electric (SDG&E), Southern California Edison (SCE) (collectively the “Utilities”), The Utility Reform Network (TURN), and Women’s Energy Matters (WEM) [collectively the Joint Parties] to stay Proceedings in Investigation 12-10-013 et al. is granted in part and denied in part.

2. Southern California Edison Company (U 338-E) and San Diego Gas & Electric Company (U 902-E) shall file and serve a motion to enter the Utility Shareholder Agreement into the evidentiary record of this proceeding no later than the end of the day on February 15, 2018.

3. Southern California Edison Company (U 338-E), Ruth Hendricks, and Citizens Oversight shall serve and file a motion to enter the federal court agreement into the evidentiary record of this proceeding no later than the end of the day on February 15, 2018.

4. The Joint Parties shall serve and file the following information consistent with this ruling no later than the end of the day on February 23, 2018:

- a. Comparison Exhibit; and
- b. Redlined Settlement Agreement showing modifications proposed in the Settlement Agreement submitted on January 30, 2018 with the Settlement Agreement adopted in Decision 14-11-040.

5. The Joint Parties shall file the declarations requested in the section of this ruling entitled "Other Agreements" no later than February 15, 2018.

6. The parties are relieved at this time of serving concurrent testimony and concurrent reply testimony.

7. The May 14-18, 2018 evidentiary hearing dates are hereby taken off calendar. The April 30-May 4, 2018 evidentiary hearing dates shall remain on calendar.

8. The schedule set out in the January 8, 2018 ruling shall remain in effect, except as otherwise ordered in this ruling.

Dated February 6, 2018, at San Francisco, California.

/s/ MICHAEL PICKER
Michael Picker
Assigned Commissioner

/s/ DARCIE L. HOUCK
Darcie L. Houck
Administrative Law Judge