

**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
(Filed October 25, 2012)

And Related Matters.

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

JOINT RESPONSE 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 MOTION FOR PARTY STATUS OF PUBLIC WATCHDOGS

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Dated: March 12, 2018

Pursuant to Rule 11.1(e) of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), 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 respond to the Motion for Party Status of Public Watchdogs, filed February 28, 2018 (“Motion for Party Status”). The Motion for Party Status should be denied.

Rule 1.4(c) of the Commission’s Rules of Practice and Procedure gives the Administrative Law Judge (ALJ) discretion to grant or deny party status. Rule 1.4(c) states:

The assigned Administrative Law Judge may, where circumstances warrant, deny party status or limit the degree to which a party may participate in the proceeding.

As observed in a recent ruling in this proceeding:

The Commission has denied the right to intervene where a party joins very late in the proceeding, raises issues covered by other parties, or raises new issues. *See, e.g.*, Decision (D.) 08-11-031 n.166, 2008 Cal. PUC LEXIS 571 (denying motion to intervene to party that did not participate early in the proceeding and addressed issues amply covered by other commenters); D.98-12-004, 1998 Cal. PUC LEXIS 876 (interpreting prior Rule; denying party status where party attempted to join late in proceeding and raised new issues).¹

Public Watchdogs has not met its burden of justifying its Motion for Party Status under these standards. First, Public Watchdogs’ motion comes very late in the proceeding. This proceeding was initiated more than five years ago; the original settlement was approved more

¹ Administrative Law Judge’s Ruling Denying the Motion of the University of California for Party Status (Feb. 13, 2018) (“UC Ruling”), at 1.

than three years ago;² and the record was reopened nearly two years ago.³ Nearly one year ago, the ALJ denied a motion for party status of AVP Arora International, Inc., citing, among other factors, its failure to seek party status at an earlier stage of the proceeding.⁴ On February 6, 2018, University of California (“UC”) filed a motion for party status;⁵ the ALJ denied this motion on February 13, 2018, citing the UC’s lack of justification for not intervening earlier.⁶ Public Watchdogs has waited even longer to seek party status, and its motion should similarly be denied. And, like Arora and UC, Public Watchdogs was fully aware of this proceeding.⁷ Public Watchdogs states that it “has observed the proceedings,”⁸ yet it chose not to seek party status until now.

Second, Public Watchdogs raises issues that have been thoroughly addressed by other parties.⁹ Similarly, other parties adequately represent the interests that Public Watchdogs seeks

² Decision Approving Settlement Agreement as Amended and Restated by Settling Parties (D.14-11-040) (Nov. 20, 2014).

³ Joint Ruling of Assigned Commissioner and Administrative Law Judge Reopening Record, Imposing *Ex Parte* Contact Ban, Consolidating Advice Letters, and Setting Briefing Schedule (May 9, 2016).

⁴ Administrative Law Judge’s Ruling Denying the Motion of AVP Arora International, Inc. for Party Status (Apr. 17, 2017) (“Arora Ruling”), at 2.

⁵ Motion for Party Status of University of California (Feb. 6, 2018).

⁶ UC Ruling, at 3.

⁷ *See* Arora Ruling, at 2 (“AVP Arora appears to have been fully aware of these proceedings, yet failed to seek timely-party status in the proceeding.”); *see also* UC Ruling, at 3 (“The UC has clearly been following this proceeding. . . . The UC chose not to seek party status until the eleventh hour . . .”).

⁸ Motion for Party Status, at 3.

⁹ *Compare id.* at 4-6 (identifying issues Public Watchdogs would raise) *with* (1) Opening Brief of The Utility Reform Network Addressing Whether the Adopted Settlement Satisfies Commission Standards (July 7, 2016), at 12-13 (base plant could be disallowed under the used and useful standard); (2) Alliance for Nuclear Responsibility’s Summary of Position and Procedural Recommendation (Aug. 15, 2017), at 3-4, 7 (SCE should show that its choices met the prudent manager standard); (3) Ruth Henricks’ and The Coalition to Decommission San Onofre’s (CDSO) Motion to Stay Collection of Rates Based on San Onofre Revenue Requirements (June 19, 2017)

to represent.¹⁰ The proposed settlement is the product of over a year of hard-fought negotiations among parties representing a wide range of interests, including numerous sophisticated and knowledgeable parties representing the interest of consumers. Public Watchdogs does not represent any different interest. In fact, Public Watchdogs states that it believed that the interests of customers “were adequately protected by consumer organizations with experienced and aggressive counsel”¹¹ Public Watchdogs asserts that it disagrees with the terms of the proposed settlement. The terms of the settlement, however, were negotiated with parties that represent precisely the same interests as Public Watchdogs claims to represent. Public Watchdogs apparently has a different point of view than the other consumer representatives, but that does not mean it represents a different “interest.” Had Public Watchdogs wished to ensure that its “unique” perspective was taken into consideration in the settlement negotiations, it should have sought to intervene at a far earlier stage and to participate in the meet-and-confer process.¹² Having chosen not to do so, it should not now be permitted to become a party at the eleventh

(“Henricks-CDSO June 2017 Brief”), at 4-8 (SCE’s design requirements caused the replacement steam generators to fail); (4) Ruth Henricks’ Response to Joint Ruling Reopening Record: Settlement Agreement Does Not Meet Commission Standards, nor Standards of Due Process, for Approving Settlements (July 7, 2016), at 22-23 (SCE must prove the reasonableness of rates it wishes to pass on to consumers); (5) Ruth Henricks’ Phase 2 Opening Brief (Nov. 22, 2013), at 3-4 (charging of rates for San Onofre amounted to an unconstitutional taking); (6) Ruth Henricks’ and The Coalition to Decommission San Onofre’s Status Conference Issues Statement (Oct. 30, 2017), at 2-5 (settlement was product of collusion and conspiracy); (7) Henricks-CDSO June 2017 Brief, at 11-12 (settlement was reached in denial of due process); *and* (8) Ruth Henricks’ and the Coalition to Decommission San Onofre’s (CDSO) Application for Rehearing Decision D.14-11-040 (20 November 2014, Issued 25 November 2014) (Dec. 18, 2014), at 5-9 (Commission acted outside its authority).

¹⁰ See Arora Ruling, at 3.

¹¹ Motion for Party Status, at 3.

¹² See Joint Ruling of Assigned Commissioner and Assigned Administrative Law Judge Directing Parties to Provide Additional Recommendations for Further Procedural Action and Substantive Modifications to Decision 14-11-040 (Dec. 13, 2016), at 39 (encouraging “all parties” to participate in meet-and-confer sessions).

hour. Allowing Public Watchdogs to intervene would “prejudice other parties that have fully participated in the Commission process.”¹³

Under Rule 1.4(c), the Administrative Law Judge should exercise discretion to deny Public Watchdogs’ Motion for Party Status. As the Administrative Law Judge explained earlier to UC, Public Watchdogs has an opportunity to state its position as public comment at the public participation hearing in Southern California, and also may submit written comments that will become part of the official record of the proceeding.

Date: March 12, 2018

Respectfully Submitted,

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¹³ Arora Ruling, at 3.

¹⁴ Pursuant to Rule 1.8(d) of the Commission’s Rules of Practice and Procedure, I certify that I am authorized by the parties listed below to sign and tender this document on their behalf.

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