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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U-902-E) for Adoption of an Advanced Metering Infrastructure Deployment Scenario and Associated Cost Recovery and Rate Design.

Application 05-03-015
(Filed March 15, 2005)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW
JUDGE'S RULING REGARDING PARTICIPATION OF
THE CALIFORNIA ENERGY COMMISSION**

On June 14, 2006, Administrative Law Judge (ALJ) David Gamson issued a Ruling requesting the California Energy Commission (CEC) to notify the assigned ALJ if it wished to participate further in this proceeding, and thus become a party, by June 30, 2006. Representatives of the CEC contacted Assigned Commissioner Dian Grueneich and ALJ Gamson and informed them that the CEC did not wish to be a party to this proceeding.

As noted in the June 14, 2006 ALJ Ruling, the CEC has facts and issues it would like the Commission to consider in this Advanced Metering Infrastructure (AMI) proceeding. In this Ruling, we define the role of the CEC as a non-party.

The California Energy Commission (CEC) has participated in various proceedings at the California Public Utilities Commission (CPUC or Commission). Over time, its participation has taken two forms. At times, the CEC has been a formal party in proceedings. At other times, the

CEC has worked with CPUC staff to advise the Commission. As the CEC does not wish to be a party to this proceeding, we will proceed with the latter approach and allow collaboration between CPUC and CEC staff as outlined below.

Our main goals are to develop a robust record in this proceeding to allow for a fully-considered Commission decision, and to do so in a timely manner. To further these goals, we have developed guidelines to apply to the collaboration between this Commission and the CEC in this proceeding. (So designated CEC staff are herein referred to as “AMI Collaborative Staff.”)

David Hungerford from the CEC has agreed to assist the Commission in this proceeding with expertise and consultation as AMI Collaborative Staff. Should the CEC wish to add or subtract AMI Collaborative Staff members, it should electronically notify all parties to this proceeding. Any proposed changes are automatically effective five days after the notice is sent.

The CEC’s AMI Collaborative Staff will function like the Commission’s own advisory staff for purposes of this proceeding. As part of the collaborative process, the AMI Collaborative Staff may become aware of confidential or privileged information. The Commission has not waived any confidentiality or privilege by such disclosure, and (just like the Commission’s advisory staff) the AMI Collaborative Staff should maintain the confidentiality of such information and all of the Commission’s applicable privileges. To facilitate this requirement, all CPUC documents containing confidential or privileged information that may be shared with the AMI Collaborative Staff shall be clearly marked or

labeled to indicate their confidential or privileged nature, to the extent possible. In addition, the CEC shall ensure that these confidential or privileged documents are exempt from public disclosure under its regulations for confidential designation (20 CCR section 2501, et seq.).

The AMI Collaborative Staff members are neither decision makers nor parties to this proceeding, and accordingly are not subject to the Commission's *ex parte* rules. The AMI Collaborative Staff may communicate with decision makers at both the CPUC and CEC, and with parties to the proceeding.

While the AMI Collaborative Staff is free to communicate with decision makers and CEC staff, AMI Collaborative Staff shall not provide CEC litigation staff (or any other party) with information obtained from the collaborative process that could possibly provide a litigation advantage in another proceeding. Also, members of the AMI Collaborative Staff may not litigate or assist in litigation before the Commission on issues closely related to the issues on which they are working in this proceeding.

The obligations to maintain the Commission's privileges and to avoid providing an unfair advantage to a party in a Commission proceeding do not terminate with the end of this proceeding or the end of an individual member's tenure as AMI Collaborative Staff. Accordingly, the above restrictions continue to apply even after the conclusion of this proceeding, and to former members of the AMI Collaborative Staff. To safeguard against the inadvertent disclosure of confidential and privileged information, CEC members of the AMI Collaborative Staff will return or destroy all confidential or privileged records they have received from the CPUC as part of the collaborative process at the conclusion of this

proceeding, or upon their removal from the AMI Collaborative Staff, whichever occurs first.

The passage of time will eventually make the information obtained in the collaborative process less significant, although privileges do not generally expire. If former CEC members of the AMI Collaborative Staff desire to disclose privileged or confidential information obtained as part of the collaborative process after the conclusion of this proceeding, a written request must be submitted to the Commission's General Counsel to obtain authorization for such disclosure. The limitation on AMI Collaborative Staff litigating or assisting in litigation before the Commission expires two years after the conclusion of this proceeding.¹

Members of the AMI Collaborative Staff may contact the Commission's Legal Division with any questions relating to these guidelines. The Commission's Executive Director may work with the CEC's Executive Director to review and refine the terms of the collaboration and the staff involved in it.

¹ Prior to the end of the two-year period, AMI Collaborative Staff may seek relief from this restriction by filing and serving a motion in this proceeding (if still open) and the proceeding in which they wish to participate. In ruling on such a motion, the criteria are to be one of fairness to other parties in the applicable proceeding. If the motion is denied on the basis that the CEC staff possess "inside" information, that staff may participate as appropriate as AMI Collaborative Staff in the applicable proceeding.

IT IS RULED that The California Energy Commission may participate in this proceeding as a non-party. The Guidelines for CEC collaborative work discussed herein shall be applied in these proceedings.

Dated August 14, 2006, at San Francisco, California.

/s/ DIAN M. GRUENEICH
Dian M. Grueneich
Assigned Commissioner

/s/ DAVID GAMSON
David Gamson
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is current as of today's date.

Dated August 14, 2006, at San Francisco, California.

/s/ ELIZABETH LEWIS
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