

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

In the Matter of the Application of SAN  
DIEGO GAS & ELECTRIC COMPANY  
(U902E) for Authorization to Recover Costs  
Related to the 2007 Southern California  
Wildfires Recorded in the Wildfire Expense  
Memorandum Account (WEMA).

Application 15-09-010  
(Filed September 25, 2015)

**SAN DIEGO GAS & ELECTRIC COMPANY (U902E)  
NOTICE OF EX PARTE COMMUNICATION**

Dated: September 8, 2017

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In accordance with Rule 8.4 of the Commission's Rules of Practice and Procedure, San Diego Gas & Electric Company ("SDG&E") hereby gives notice of the five individual *Ex Parte* communications in the above proceeding. The SDG&E representatives were Lee Schavrien, Senior Vice President for Regulatory Affairs for San Diego Gas and Electric ("SDG&E"), Dave Geier, Senior Vice President for Electric Operations, Chris Lyons, Senior Counsel and Brian Prusnek, Director of Regulatory Affairs. The meetings took place at 505 Van Ness Ave in San Francisco, California, and lasted approximately 30 minutes. The communications were oral and a handout was provided (see Attachment A) at each meeting. The discussions tracked the handout.

The following meetings occurred as follows:

- 1) On September 5<sup>th</sup>, 2017, at 1:00 p.m., the listed representatives from San Diego Gas & Electric Company (“SDG&E”) met with Sean Simon, Interim Chief of Staff and Travis Foss, Legal Advisor, for Commissioner Clifford Rechtschaffen.
- 2) On September 5<sup>th</sup>, 2017, at 1:30 p.m., the listed representatives from SDG&E met with Dave Peck, Advisor to President Picker.
- 3) On September 5<sup>th</sup>, 2017 at 2:00 p.m., the listed representatives from SDG&E met with Dave Gamson, Advisor to Commissioner Martha Guzman Aceves.
- 4) On September 6<sup>th</sup>, 2017 at 11:30 a.m., the listed representatives from SDG&E met with Rachel Peterson, Chief of Staff to Commissioner Liane Randolph.
- 5) On September 6<sup>th</sup>, 2017 @ 2:15 p.m., the listed representatives from SDG&E met with Ehren Seybert, and Shannon O’Rourke, Advisors to Commissioner Carla Peterman.

During the given meetings, Mr. Lyons began the meeting by asking the Proposed Decision not be adopted by the Commission because it commits legal error by failing to address the critical legal issue of the relationship between inverse condemnation and cost recovery, does not correctly apply the reasonableness standard, and contains factual errors in its review of and conclusions regarding the record evidence, particularly with respect to the wind and weather conditions in October 2007. Mr. Lyons then provided an overview of SDG&E’s request in this proceeding, stating that the company requested

recovery of approximately \$379 million that resulted from claims in excess of coverage that were filed against SDG&E as the result of the 2007 wildfires in its service territory.

Mr. Lyons summarized the inverse condemnation doctrine that is a component of this proceeding and stated that it is an action instituted by a property owner against a public entity for property damage linked to a public improvement. He explained that the public entity may be held strictly liable, irrespective of fault, where a public improvement constitutes a substantial cause of the plaintiff's damages even if only one of several concurrent causes. California courts have applied inverse condemnation in order to spread the costs associated with a public good as widely as possible on the premise that public entities (including IOUs) may spread costs through rates. The courts found that inverse condemnation applied to SDG&E after the 2007 wildfires. Mr. Lyons requested that the Commission should permit SDG&E to spread the Wildfire Expense Memorandum Account ("WEMA") Costs through rates in compliance with California law.

Mr. Schavrien then explained the costs associated with the application and also how the Federal Energy Regulatory Commission ("FERC") has treated these costs. FERC assessed the reasonableness and prudence of the FERC-jurisdictional portion of the Wildfire Costs for which SDG&E has sought recovery, and it approved SDG&E's request. By the end of 2017, SDG&E will have recovered all of the costs allocated to FERC rates. Mr. Schavrien went on to reference the FERC decision which granted the recovery of these costs and stated that the decision said, "the record indicates that SDG&E behaved as a reasonable, prudent utility in the maintenance of its lines prior to the wildfires and in its settling of the claims of injured third-party homeowners ... [and]

under California law SDG&E would likely have been held responsible for such costs irrespective of fault.”

Mr. Schavrien next explained how FERC Account 925 operates and that utilities are generally permitted to recover for liabilities and settlement payments in rates established through General Rate Cases through FERC Account 925. He also explained how the 2007 wildfires created a situation in which for the first time, the utility had liability in excess of coverage.

Finally, Mr. Schavrien explained the components of the WEMA Costs. Mr. Schavrien noted that the costs were reduced through liability insurance proceeds, settlement payments to SDG&E, and that SDG&E also applied a 90/10 sharing of the costs as contained in the Commission’s hazardous materials decision before it filed the application in this proceeding.

Mr. Geier described the wind and weather conditions at the time of the 2007 wildfires. He discussed how there were more than a dozen fires in southern California during this time period and the significant evacuations that were taking place. He described the work that was done between the Forest Service and UCLA in back-casting data related to wind speeds, moisture and other factors in how they developed the results shown on pages seven and eight in Attachment A. Mr. Geier questioned the Proposed Decision’s reliance on data that showed wind speeds that were in the range of 40 miles per hour. Furthermore, Mr. Geier took issue with the Proposed Decision’s description of the weather and wind in October 2007 as something typical of Santa Ana winds. Finally, Mr. Geier walked through some of the quotes on slide 10 and pointed to the reports that were part of the record that properly described the facts surrounding the fires

and discussed how the Proposed Decision largely ignores these credible sources of information.

Mr. Lyons then walked through each of the three fires at issue. In summary, he stated that the Proposed Decision did not appropriately use the Commission's long held reasonableness review standard. Furthermore, he explained that the Proposed Decision did not focus on what actually caused the fires but instead focused on technical violations associated with the fires. Mr. Lyons walked through each fire as explained on slide 11.

Mr. Prusnek concluded by requesting that the Proposed Decision in its current form not be adopted, that the item be held from an upcoming Commission meeting and that there be an oral argument and/or alternate proposed decision authored that correctly weighs the evidence in this case.

Respectfully submitted,

By: /s/ Brian Prusnek

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Dated: September 8, 2017

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