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Sent: 3/25/2011 10:15:07 AM
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Bcc:

Subject: Re: R.07-05-025: CCSF Cross-Examination Estimates for PG&E and SCE Witnesses

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Jeanne.Sole@sfgov.org X-OriginalArrivalTime: 25 Mar 2011 17:15:08.0255 (UTC)
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Judge Pulsifer:

I agree with Mr. Middlekauff that it would be helpful for you to address this issue as a preliminary matter on Monday.

As Mr. Long pointed out in the cite in Mr. Middlekauff's email, PG&E and SCE have argued that the Settlement Agreement for the CCA bond is an appropriate model for the bond for ESPs. CCSF disagrees with this position because there are fundamental problems with this model. Moreover, just as in this docket PG&E and SCE are arguing that the model bond proposed for CCAs should be used for ESPs, they may argue that any bond adopted in this proceeding for ESPs should apply to CCAs in another proceeding. In fact, when PG&E informally objected to our cross of their witness, Mr. Long asked whether PG&E and SCE would stipulate that they would not argue that the outcome on the ESP bond should apply to a CCA bond, and did not receive a response.

We are a party to this proceeding and have an interest in the determination of the type of bond to be

used for ESPs. We should have the opportunity to cross examine relevant witnesses on the matter. It has never been a requirement for cross examination to have introduced one's own witness on a matter. We understand that consistent with our motion to strike, the issue in this proceeding is the appropriate bond for ESPs, and our cross will address this question. I note also that Mr. Long who is taking the lead on this issue for CCSF, is not available until this afternoon, but we will be prepared to address the matter Monday morning.

We appreciate your consideration of this issue.

Jeanne

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Subject: R.07-05-025: CCSF Cross-Examination Estimates for PG&E and SCE
Witnesses

ALJ Pulsifer:

PG&E and SCE wanted to raise an issue in advance of the hearing on Monday, March 28, 2001 in R.07-05-025 regarding the City and County of San Francisco's ("CCSF") cross-examination of PG&E and SCE witnesses regarding financial security requirements. The parties tried to address this matter informally, but were unable to resolve the issue.

PG&E witness Shahrokh Hessami has submitted testimony regarding the appropriate financial security requirements for Electric Service Providers ("ESPs"). SCE witness Ranbir Singh has submitted testimony also addressing this issue. At the prehearing conference and subsequent workshops, CCSF repeatedly indicated that its involvement in this proceeding is limited to Community Choice Aggregation ("CCA") issues related to the calculation of the Power Charge Indifference Amount ("PCIA"). CCSF has not submitted any testimony regarding ESP financial security requirements and, in fact, filed a motion to strike on March 10 seeking to strike references to CCAs in PG&E's testimony regarding financial security requirements. PG&E did not oppose this motion and voluntarily agreed to withdraw this portion of its testimony.

Although CCSF has asserted that it is only interested in CCA issues and has moved to strike any testimony regarding financial security requirements for CCAs, CCSF has indicated that it intends to cross-examine both PG&E and SCE witnesses on financial security issues. For example, CCSF has indicated that it intends to cross-examine PG&E witness Hessami for 45 minutes, even though the only subject he is addressing is ESP financial security requirements.

In response to a request to withdraw its cross-examination of witnesses on ESP financial security requirements, CCSF's attorney Tom Long explained:

"PG&E and SCE take the position in their respective testimony that the settlement negotiated in R.03-10-003 should apply to ESPs. CCSF strongly opposes the settlement and is concerned that, if the Commission adopts the settlement in this case, there is a higher likelihood that the settlement will be applied to CCAs. (In fact, we fully expect the utilities to argue that adoption of the settlement in one proceeding is a reason to adopt it in the other and doubt PG&E and SCE would be willing to stipulate that they will not make such an argument.) Thus, CCSF's cross related to bond issues in this proceeding will be for the purpose of exposing flaws in the settlement and thereby to support arguments in brief that the settlement should not be applied to ESPs. Consistent with our motion to strike and the June 15, 2011 Scoping Ruling, our participation will not be for the purpose of determining whether or not the settlement should be adopted for CCAs, or for the purpose of advocating any other security requirements that should or should not apply to CCAs.

Accordingly, we see no reason why we should not proceed with cross examination of PG&E and SCE witnesses on issues related to whether the bond settlement provisions should be adopted for ESPs."

PG&E and SCE believe that given CCSF's motion to strike and its repeated statements

regarding the scope of its involvement in this proceeding, that it is inappropriate for CCSF to cross-examine witnesses on ESP financial security requirements. Indeed, it appears that CCSF is seeking to conduct cross-examination so that it can use testimony obtained in this proceeding in a separate Commission proceeding regarding CCA issues.

PG&E and SCE wanted to raise this issue with Your Honor in advance of the hearing as SCE's witnesses are scheduled for the first day of hearing. PG&E and SCE respectfully request that this issue be addressed at the outset of the hearing.

Thank you for your consideration.

Janet Combs and Charles Middlekauff