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Subject: [spam] [dkim-failure] R.12-03-014 - Discovery Dispute and Request for Continuance

ALJ Gamson,

On September 6, 2013, the Protect our Communities Foundation ("POC") submitted POC Data Requests 1-14 to SDG&E, and asked that SDG&E provide responses to these requests by September 13, 2013.

On September 6, SDG&E's counsel sent POC an email refusing to comply with POC's deadline, stating:

"Given the numerous questions included in your data request, the fact that SDG&E is simultaneously preparing responses to several other data requests and that it must prepare supplemental testimony addressing multiple issues identified by the ALJ in the PHC held on the 4th, it will likely not be possible to meet this expedited deadline. We will provide further information regarding likely completion dates after further review of the questions included in your data request."

POC objects to SDG&E's refusal to comply with the requested September 13 deadline on the following grounds:

1. POCs data requests were submitted in a timely fashion. POC submitted its requests on September 6, 2013, within two days of being granted party status at the September 4, 2013 Prehearing Conference.
2. POC's requested September 13 deadline is reasonable in light of this proceeding's highly expedited schedule. POCs requested deadline is only six business days before POC's opening testimony is due. This is the minimum time POC needs to review SDG&E's responses and incorporate them into its testimony.
3. POC's Data Requests are reasonable (SDG&E has not objected to the requests on their substance) and are necessary to POC's testimony. If POC does not receive SDG&E's responses by the 13th, its ability to complete its opening testimony by the September 23 deadline will be significantly impeded.
4. Even without additional delay by SDG&E, the current schedule provides insufficient time for discovery and drafting testimony. The schedule provides for only fourteen business days from the Prehearing Conference, where POC was granted party status, and the date Opening Testimony is due. The prejudicial impact of an expedited schedule falls disproportionately on small intervenors, who lack the legal resources of large utilities.
5. SDG&E should not be allowed to use the expedited schedule that it has pushed for as an excuse not to comply with reasonable discovery deadlines.
6. If SDG&E is, as it claims, unable to keep up with its data request responses and supplemental testimony, the appropriate course of action is to seek a continuance, rather than prejudicing parties by not producing discovery in a timely fashion.

In light of this discovery dispute and SDG&E's claimed inability to respond to POC's discovery requests in time for POC to include them in its opening testimony, POC respectfully requests that an eight week continuance be granted. This will allow SDG&E to get caught up on its data request responses and supplemental testimony, and will provide the parties with a more reasonable amount of time to conduct discovery and draft opening testimony.

Respectfully Submitted,

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