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Duke, Daphne

From: Butler, David
Sent: Monday, October 15, 2018 1:37 PM
To: 'Bob Guild' <Bguild@mindspring.com>; K. Chad Burgess <chad.burgess@scana.com>
Cc: fknapp@knappagency.com; Matthew Gissendanner <matthew.gissendanner@scana.com>; Nelson, Jeff <jnelson@regstaff.sc.gov>; Pittman, Jenny <jpittman@regstaff.sc.gov>; Mitch Willoughby <mwilloughby@willoughbyhoefer.com>; belton.zeigler@wbd-us.com; alex@shissiaslawfirm.com; David Black <dblack@nexsenpruet.com>; sroberts@spilmanlaw.com; lbrandfass@spilmanlaw.com; dwilliamson@spilmanlaw.com; emily.w.medlyn.civ@mail.mil; TeagueLynn@gmail.com; mike.couick@ecsc.org; chris.koon@ecsc.org; jtiencken@tienckenlaw.com; cmcdonald@tienckenlaw.com; jfwwalsh@bellsouth.net; james.horwood@spiegelmcd.com; peter.hopkins@spiegelmcd.com; steve.pearson@spiegelmcd.com; jessica.bell@spiegelmcd.com; Bholman@selcsc.org; ejones@selcsc.org; eryan@mcguirewoods.com; eruff@mcguirewoods.com; jreid@mcguirewoods.com; lisa.s.booth@dominionenergy.com; wcleveland@selcva.org; sberk@scjustice.org; john@johncoffman.net; wlightsey@wyche.com; mrichardson@wyche.com; Scott Elliott <selliott@elliottlaw.us>; rtyson@sowellgray.com; michaelanzelmo@schouse.gov; Richard Whitt <rlwhitt@austinrogerspa.com>; bcook@scag.gov; esmith@scag.gov; William Hubbard <william.hubbard@nelsonmullins.com>; rush.smith@nelsonmullins.com; matt.bogan@nelsonmullins.com; carmen.thomas@nelsonmullins.com; Weston Adams <weston.adams@nelsonmullins.com>; Bateman, Andrew <abateman@regstaff.sc.gov>; Edwards, Nanette <nsedwar@regstaff.sc.gov>; adam@scjustice.org; DEX@smxblaw.com; Dino.Teppara@gmail.com; tfrogers@austinrogerspa.com; fellerbe@robinsongray.com; kbell@robinsongray.com; dbalser@kslaw.com; jchally@kslaw.com; jbarrett@kslaw.com; enewton@kslaw.com; bkeel@kslaw.com; jcox@wyche.com; Hamm, Steven <shamm@regstaff.sc.gov>; Belton Zeigler <belton.zeigler@wcsr.com>; JDG8750@gmail.com; bhatch@mcquirewoods.com; bschmalzbach@mcguirewoods.com; bpumphrey@mcguirewoods.com; Boyd, Jocelyn <Jocelyn.Boyd@psc.sc.gov>; Melchers, Joseph <Joseph.Melchers@psc.sc.gov>; Wheat, Jo <Jo.Wheat@psc.sc.gov>; Duke, Daphne <Daphne.Duke@psc.sc.gov>
Subject: RE: : Request for Conduct of a Discovery Conference Docket Nos. 2017-370-E, 2017-207-E, and 2017-305-E

To Chad Burgess:
I would request that SCE&G respond to Bob Guild's e-mail below by 10:30 AM on Tuesday, October 16, 2018.
Thanks,
David Butler
Hearing Officer

From: Bob Guild [mailto:Bguild@mindspring.com]
Sent: Monday, October 15, 2018 12:57 PM
To: Butler, David <David.Butler@psc.sc.gov>; K. Chad Burgess <chad.burgess@scana.com>
Cc: fknapp@knappagency.com; Matthew Gissendanner <matthew.gissendanner@scana.com>; Nelson, Jeff <jnelson@regstaff.sc.gov>; Pittman, Jenny <jpittman@regstaff.sc.gov>; Mitch Willoughby <mwilloughby@willoughbyhoefer.com>; belton.zeigler@wbd-us.com; alex@shissiaslawfirm.com; David Black <dblack@nexsenpruet.com>; sroberts@spilmanlaw.com; lbrandfass@spilmanlaw.com; dwilliamson@spilmanlaw.com; emily.w.medlyn.civ@mail.mil; TeagueLynn@gmail.com; mike.couick@ecsc.org; chris.koon@ecsc.org; jtiencken@tienckenlaw.com; cmcdonald@tienckenlaw.com; jfwwalsh@bellsouth.net; james.horwood@spiegelmcd.com; peter.hopkins@spiegelmcd.com; steve.pearson@spiegelmcd.com; jessica.bell@spiegelmcd.com; Bholman@selcsc.org; ejones@selcsc.org; eryan@mcguirewoods.com; eruff@mcguirewoods.com; jreid@mcguirewoods.com; lisa.s.booth@dominionenergy.com; wcleveland@selcva.org; sberk@scjustice.org; john@johncoffman.net; wlightsey@wyche.com; mrichardson@wyche.com; Scott Elliott <selliott@elliottlaw.us>; rtyson@sowellgray.com;

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michaelanzelmo@schouse.gov; Richard Whitt <rlwhitt@austinrogerspa.com>; bcook@scag.gov; esmith@scag.gov; William Hubbard <william.hubbard@nelsonmullins.com>; rush.smith@nelsonmullins.com; matt.bogan@nelsonmullins.com; carmen.thomas@nelsonmullins.com; Weston Adams <weston.adams@nelsonmullins.com>; Bateman, Andrew <abateman@regstaff.sc.gov>; Edwards, Nanette <nsedwar@regstaff.sc.gov>; adam@scjustice.org; DEX@smxblaw.com; Dino.Teppara@gmail.com; tfrogers@austinrogerspa.com; fellerbe@robinsongray.com; kbell@robinsongray.com; dbalser@kslaw.com; jchally@kslaw.com; jbarrett@kslaw.com; enewton@kslaw.com; bkeel@kslaw.com; jcox@wyche.com; Hamm, Steven <shamm@regstaff.sc.gov>; Belton Zeigler <belton.zeigler@wcsr.com>; JDG8750@gmail.com; bhatch@mcguirewoods.com; bschmalzbach@mcguirewoods.com; bpumphrey@mcguirewoods.com; Boyd, Jocelyn <Jocelyn.Boyd@psc.sc.gov>; Melchers, Joseph <Joseph.Melchers@psc.sc.gov>; Wheat, Jo <Jo.Wheat@psc.sc.gov>; Duke, Daphne <Daphne.Duke@psc.sc.gov>
Subject: Re: : Request for Conduct of a Discovery Conference Docket Nos. 2017-370-E, 2017-207-E, and 2017-305-E

Dear David:
While I appreciate Chad's response, nothing he says which may be forthcoming by October 22, 2018, appears to include the critical disputed materials which are the subject of our outstanding discovery requests and motions to compel, especially the Bechtel Report progeny, which may prove crucial to the disputed claims for recovery of the abandoned nuclear project costs. Needless to say, with hearings beginning in a matter of days, the production of such critically relevant discovery material, sought a year ago now in October 2017, is long overdue and its continued withholding is prejudicial to my clients' interests as well as to a fair adjudication of these claims. I respectfully request that you direct SCE&G to provide all such outstanding responsive materials, either to my clients or to you for your in camera review, on or before October 22, 2018; in order that any such remaining disputed materials may be promptly reviewed for production in a discovery conference scheduled thereafter.
Sincerely,
Bob Guild

On 10/12/2018 6:52 PM, Butler, David wrote:
Chad and Bob:
I have to agree with Chad that Bob's request for a discovery conference is premature until after SCE&G has produced its latest round of documents under my last directive on October 22, 2018, since the production of those documents may address his discovery requests. If necessary, I will consider holding a discovery conference after October 22, 2018 if requested.
Thank you.
David Butler
Hearing Officer

Sent from my iPhone

On Oct 12, 2018, at 4:18 PM, BURGESS, KENNETH CHAD <chad.burgess@scana.com> wrote:

Dear David,

In a continued effort to comply with its obligations before this Commission, and to comply with the Hearing Officer's Directive issued earlier this week, SCE&G currently is in the process of re-evaluating confidentiality designations on a significant number of documents previously produced in this docket. SCE&G will produce documents to Mr. Guild that it concludes can be produced without a confidentiality designation per that Directive, and SCE&G anticipates that this production should constitute a significant portion of the material that Mr. Guild has requested.

In light of that ongoing and soon-to-be-completed effort, Mr. Guild's request for a discovery conference is premature. As you stated in your email to Mr. Guild, SCE&G has until October 22, 2018 to make determinations as

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to the confidentiality of the documents in question. A discovery conference is not necessary until Mr. Guild concludes that the material SCE&G plans to produce is not sufficient to address his requests. We are hopeful that Mr. Guild will not reach that conclusion, of course, and we believe that our expected production will address this issue.

SCE&G has produced over 1 million pages of responsive documents to Mr. Guild, expending considerable time and money to review and produce these document within the format specified by Mr. Guild. Mr. Guild, however, has outright refused to accept these documents. SCE&G has upheld its discovery obligations in this matter thus far, and will continue to comply with the Hearing Officer's Directives to produce documents responsive to Mr. Guild's discovery demands. I ask that you allow SCE&G to review and produce documents for confidentiality purposes before considering Mr. Guild's request for a discovery conference.

Thank you,

Chad

-----Original Message-----
From: Butler, David <David.Butler@psc.sc.gov>
Sent: Thursday, October 11, 2018 6:24 PM
To: Bob Guild <Bguild@mindspring.com>
Cc: fknapp@knappagency.com; GISSENDANNER, MATTHEW W <MATTHEW.GISSENDANNER@scana.com>; Nelson, Jeff <jnelson@regstaff.sc.gov>; Pittman, Jenny <jpittman@regstaff.sc.gov>; BURGESS, KENNETH CHAD <chad.burgess@scana.com>; Mitch Willoughby <mwilloughby@willoughbyhoefer.com>; belton.zeigler@wbd-us.com; alex@shissiaslawfirm.com; David Black <dblack@nexsenpruet.com>; sroberts@spilmanlaw.com; lbrandfass@spilmanlaw.com; dwilliamson@spilmanlaw.com; emily.w.medlyn.civ@mail.mil; TeagueLynn@gmail.com; mike.couick@ecsc.org; chris.koon@ecsc.org; jtiencken@tienckenlaw.com; cmcdonald@tienckenlaw.com; jfwwalsh@bellsouth.net; james.horwood@spiegelmcd.com; peter.hopkins@spiegelmcd.com; steve.pearson@spiegelmcd.com; jessica.bell@spiegelmcd.com; Bholman@selcsc.org; ejones@selcsc.org; eryan@mcguirewoods.com; eruff@mcguirewoods.com; jreid@mcguirewoods.com; lisa.s.booth@dominionenergy.com; wcleveland@selcva.org; sberk@scjustice.org; john@johncoffman.net; wlightsey@wyche.com; mrichardson@wyche.com; Scott Elliott <selliott@elliottlaw.us>; rtyson@sowellgray.com; michaelanzelmo@schouse.gov; Richard Whitt <rlwhitt@austinrogerspa.com>; bcook@scag.gov; esmith@scag.gov; William Hubbard <william.hubbard@nelsonmullins.com>; rush.smith@nelsonmullins.com; matt.bogan@nelsonmullins.com; carmen.thomas@nelsonmullins.com; Weston Adams <weston.adams@nelsonmullins.com>; Bateman, Andrew <abateman@regstaff.sc.gov>; Edwards, Nanette <nsedwar@regstaff.sc.gov>; adam@scjustice.org; DEX@smxblaw.com; Dino.Teppara@gmail.com; tfrogers@austinrogerspa.com; fellerbe@robinsongray.com; kbell@robinsongray.com; dbalser@kslaw.com; jchally@kslaw.com; jbarrett@kslaw.com; enewton@kslaw.com; bkeel@kslaw.com; jcox@wyche.com; Hamm, Steven <shamm@regstaff.sc.gov>; Belton Zeigler <belton.zeigler@wcsr.com>; JDG8750@gmail.com; bhatch@mcguirewoods.com; bschmalzbach@mcguirewoods.com; bpumphrey@mcguirewoods.com; Boyd, Jocelyn <Jocelyn.Boyd@psc.sc.gov>; Melchers, Joseph <Joseph.Melchers@psc.sc.gov>; Wheat, Jo <Jo.Wheat@psc.sc.gov>
Subject: Re: : Request for Conduct of a Discovery Conference Docket Nos. 2017-370-E, 2017-207-E, and 2017-305-E

***This is an EXTERNAL email from "Butler, David" <David.Butler@psc.sc.gov>. Please do not click on a link or open any attachments unless you are confident it is from a trusted source.

Bob:
I am in receipt of your request for a discovery conference. I would ask that SCE&G respond to your request by close of business on Friday, October 12, 2018.
Thanks,

David Butler
Hearing Officer

Sent from my iPhone

On Oct 11, 2018, at 6:13 PM, Bob Guild <Bguild@mindspring.com> wrote:

David:

Thanks for your response. I have reviewed the materials from SCE&G now made public as a result of your recent Directive. Unfortunately, few, if any of them, appear to be responsive to our outstanding discovery, which, among other subjects, sought numerous records cited specifically as reviewed and relied upon by the Bechtel team in their assessment of the Summer nuclear project. In light of SCE&G's reconsideration of its confidentiality claims and your prior Directives, and in the absence of prompt production by SCE&G of these critical and long-outstanding discovery requests, I renew my request for the conduct of a discovery conference at your earliest convenience.

Regards,

Bob Guild

On 10/10/2018 4:43 PM, Butler, David wrote:
To Bob Guild:
Bob:
I am in receipt of your e-mail request for a discovery conference, which is attached below. I have just issued a Hearing Officer's Directive with regard to confidentiality of SCE&G documents, and have given SCE&G until October 22, 2018 to make determinations on the public nature of up to a total of 10,000 documents. I have also decided that a number of documents from SCE&G are already of a public nature. I would ask that you examine the material released by SCE&G as the result of my Directive, and make a determination as to whether or not you would still like a discovery conference. If so, please let me know, and we can certainly discuss it.
Thank you for your consideration in this matter.
Regards,
David Butler
Hearing Officer

-----Original Message-----
From: Bob Guild [mailto:Bguild@mindspring.com]
Sent: Monday, October 08, 2018 3:32 PM
To: Butler, David <David.Butler@psc.sc.gov>; fknapp@knappagency.com; Matthew Gissendanner <matthew.gissendanner@scana.com>; Nelson, Jeff <jnelson@regstaff.sc.gov>; Pittman, Jenny <jpittman@regstaff.sc.gov>; K. Chad Burgess <chad.burgess@scana.com>; Mitch Willoughby <mwilloughby@willoughbyhoefer.com>; belton.zeigler@wbd-us.com; alex@shissiaslawfirm.com; David Black <dblack@nexsenpruet.com>; sroberts@spilmanlaw.com; lbrandfass@spilmanlaw.com; dwilliamson@spilmanlaw.com; emily.w.medlyn.civ@mail.mil; TeagueLynn@gmail.com; mike.couick@ecsc.org; chris.koon@ecsc.org; jtiencken@tienckenlaw.com; cmcdonald@tienckenlaw.com; jfwwalsh@bellsouth.net; james.horwood@spiegelmcd.com; peter.hopkins@spiegelmcd.com; steve.pearson@spiegelmcd.com; jessica.bell@spiegelmcd.com; Bholman@selcsc.org; ejones@selcsc.org; eryan@mcguirewoods.com; eruff@mcguirewoods.com; jreid@mcguirewoods.com; lisa.s.booth@dominionenergy.com; wcleveland@selcva.org; sberk@scjustice.org; john@johncoffman.net; wlightsey@wyche.com;

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mrichardson@wyche.com; Scott Elliott <selliott@elliottlaw.us>; rtyson@sowellgray.com; michaelanzelmo@schouse.gov; Richard Whitt <rlwhitt@austinrogerspa.com>; bcook@scag.gov; esmith@scag.gov; William Hubbard <william.hubbard@nelsonmullins.com>; rush.smith@nelsonmullins.com; matt.bogan@nelsonmullins.com; carmen.thomas@nelsonmullins.com; Weston Adams <weston.adams@nelsonmullins.com>; Bateman, Andrew <abateman@regstaff.sc.gov>; Edwards, Nanette <nsedwar@regstaff.sc.gov>; adam@scjustice.org; DEX@smxblaw.com; Dino.Teppara@gmail.com; tfrogers@austinrogerspa.com; fellerbe@robinsongray.com; kbell@robinsongray.com; dbalser@kslaw.com; jchally@kslaw.com; jbarrett@kslaw.com; enewton@kslaw.com; bkeel@kslaw.com; jcox@wyche.com; Hamm, Steven <shamm@regstaff.sc.gov>; Belton Zeigler <belton.zeigler@wcsr.com>; JDG8750@gmail.com; bhatch@mcguirewoods.com; bschmalzbach@mcguirewoods.com; bpumphrey@mcguirewoods.com
Cc: Melchers, Joseph <Joseph.Melchers@psc.sc.gov>; Boyd, Jocelyn <Jocelyn.Boyd@psc.sc.gov>; Wheat, Jo <Jo.Wheat@psc.sc.gov>
Subject: Request for Conduct of a Discovery Conference Docket Nos. 2017-370-E, 2017-207-E, and 2017-305-E

October 8, 2018

In Re: Friends of the Earth and Sierra Club v. SCE&G, etc.
Docket Nos. 2017-207--E, 2017-305-E and 2017-370-E

Dear David:
On behalf of Friends of the Earth and Sierra Club I respectfully request that you conduct a discovery conference at your earliest convenience to address unresolved disputes between my clients and SCE&G regarding continued refusals by SCE&G to produce relevant documents, notwithstanding our Motions to Compel and your Hearing Officer Directive; and excessive and unwarranted designation of discovery materials as confidential; and, therefore, unavailable for viewing and use by my clients in preparation for the impending hearings. I have attempted repeatedly but unsuccessfully to resolve these disputed matters with counsel for SCE&G. I note that in SCE&G's recent response to the Motion to Compel Removal of Confidentiality Designation by ORS, SCE&G withdraws its confidential designation from numerous specific documents and commits to a further review of many others.
Thank you for your consideration.
Sincerely.
Robert Guild
Attorney for Friends of the Earth and Sierra Club

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