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Easterling, Deborah

274972

POSTED 3-8-18 de

SA✓

From: Butler, David
Sent: Thursday, March 08, 2018 4:01 PM
To: Easterling, Deborah
Cc: Schmieding, Janice
Subject: FW: Docket 2018-2-E - Extension of Time to File Responsive Testimony

Deb: Please put this memo in Docket File. Janice, this is a memo relating to the agenda item under Docket No. 2018-2-E.
Thanks,
David B.

RECEIVED
MAR 08 2018
PSC SC
MAIL / DMS

From: Carrie Schurg [mailto:caschurg@AustinRogersPA.com]
Sent: Thursday, March 08, 2018 3:41 PM
To: Butler, David <David.Butler@psc.sc.gov>
Cc: Benjamin Mustian <bmustian@willoughbyhoefer.com>; Bateman, Andrew <abateman@regstaff.sc.gov>; Pittman, Jenny <jpittman@regstaff.sc.gov>; alex@shissiaslawfirm.com; Scott Elliott <selliott@elliottlaw.us>; Bholman@selcsc.org; Tim Rogers <tfrogers@AustinRogersPA.com>; Matthew Gissendanner <matthew.gissendanner@scana.com>; ejones@selcsc.org; Richard Whitt <rlwhitt@austinrogerspa.com>; K. Chad Burgess <chad.burgess@scana.com>
Subject: Docket 2018-2-E - Extension of Time to File Responsive Testimony

This email was dictated by Richard Whitt:

David:

This Reply addresses the Company's response to SCSBA's and Southern Current's request for modification of filing timelines in Docket 2018-2-E. SCSBA and Southern Current's reply follows, *seriatim:*

Procedural Posture of Case Relates to the Company's Waiver Request.

A prior Order of this Commission required the Company to update its PR-2 Rate during the month of December, 2017. The Company filed a Waiver Request of that filing on December 22, 2017.

The Company is well aware that its last December PR-2 Rate update filing (December, 2016), lead to intervention and the Company's ultimate abandonment of the Company's proposed December, 2016 PR-2 Rate update. Obviously, had the Company made its December, 2017 PR-2 Rate update filing, as required by a previous Order of this Commission, there would have been intervention and scrutiny of its PR-2 Rate. By the Company moving the PR-2 Rate update into its Fuel case, the Company avoided stand-alone intervention in the PR-2 Rate update filing, as occurred in the Company's December, 2016 PR-2 Rate update.

As is set forth below, the Company's inclusion of the PR-2 Rate update and the Company's changes to its avoided costs methodology, along with the normal fuel case issues, make the thirty day response time for Intervenors unworkable, unfair and constitutes a lack of due process.

Facts Concerning Intervenors' Time to Respond.

- The Company's filing of Direct Testimony and Exhibits included the **Testimony and Exhibits of seven Witnesses running 172 pages in length**.

- The Company did not file and serve its Direct Testimony and Exhibits on Intervenors, which was due to be filed with this Commission on February 23, 2018, **until after 5 p.m.,** on that Friday. [Therefore Intervenors were not in receipt of the Company's Direct Testimony and Exhibits until after the close of business on February 23, 2018. With the weekend days following the after business hours filing by the Company on Friday, as a practical matter, **Intervenors did not have access to the 172 pages of Company's Direct Testimony and Exhibits until, sometime**

on Monday, February 26, 2018. The filing of the Company's Direct Testimony and Exhibits after the close of business on Friday, precluded Intervenors from having time to review the Company's Direct Testimony and Exhibits on Friday and over the weekend, **thereby depriving the intervenors of three days of response time.**

- With the Intervenors not having access to the Company's Direct Testimony and Exhibits, until Monday, February 26, 2018, Intervenors would have had to draft and serve their Discovery by the close of business on Friday, **March 2, 2018, which is four days after the date of the Intervenors receipt of the Company's Direct Testimony and Exhibits**.

- In four days' time after the Intervenors date of receipt of the Company's Direct Testimony and Exhibits, the Intervenors could not reasonably receive and review 172 pages of Direct Testimony and Exhibits and secure the services of an Expert Witness to review the lengthy Direct Testimony and Exhibits of the Company. My client's retained an Expert on March 7, 2018. The short period of time allowed Intervenors for review and response to (i) the Company's voluminous rate case filing (ii) the Company's "...changes to certain aspects of [the Company's] avoided cost calculation." and (iii) the Company's delayed PR-2 Rate update, is insufficient for due process and an Intervenors' reasonable response.

The Company's Reference to Suspending its PR-2 Rate.

The Company's reference to suspension of the PR-2 Rate would negatively affect solar development in South Carolina and is clearly a punitive suggestion because the Company wishes to have this Commission to decide (i) the Company's fuel case (ii) changes to the Company's avoided costs methodology and (iii) the company's required PR-2 Rate update from December, 2017, without adequate time for Intervenors review and response to the same.

Our Request for Relief.

In the spirit of cooperation, we modify our request for an extension of time to respond to the Company's Direct Testimony and Exhibits, of thirty days extension to the original response date of March 22, 2018, or in the alternative, we request leave to file supplemental Testimony, after we receive responses to our First Request for Production, which will be e-filed and served in the morning.

Regards,
Richard Whitt.

From: Richard Whitt
Sent: Thursday, March 08, 2018 7:32 AM
To: BURGESS, KENNETH CHAD <chad.burgess@scana.com>
Cc: F. David Butler (david.butler@psc.sc.gov) <david.butler@psc.sc.gov>; bmustian@willoughbyhoefer.com; abateman@regstaff.sc.gov; jpittman@regstaff.sc.gov; alex@shissiaslawfirm.com; selliott@elliottlaw.us; Bholman@selcsc.org; Tim Rogers <tfrogers@AustinRogersPA.com>; Carrie Schurg <caschurg@AustinRogersPA.com>; GISSENDANNER, MATTHEW W <MATTHEW.GISSENDANNER@scana.com>
Subject: Re: Docket 2018-2-E - Extension of Time to File Responsive Testimony

David:

We plan to respond by COB today.

Regards,
Richard Whitt.

Sent from my iPhone - Richard L. Whitt

On Mar 7, 2018, at 5:34 PM, BURGESS, KENNETH CHAD <chad.burgess@scana.com> wrote:

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Dear David –

SCE&G is in receipt of the South Carolina Solar Business Alliance, Inc. and Southern Current LLC's (together "Solar Entities") request for a 90 day extension of time to submit its pre-filed direct testimony in the above-referenced docket. For the reasons below, this request should be denied.

As the Commission is aware, the Solar Entities have been past participants in prior fuel dockets, and as past participants they are fully aware of the issues to be addressed in a fuel proceeding. To claim that SCE&G's request for a waiver to adjust its avoided costs in December 2017, is the mechanism by which the Company is injecting "additional issues" in this proceeding is inaccurate. The Commission initiated Docket No. 2018-2-E on October 4, 2017, and in doing so, issued a Notice of Hearing and Prefile Testimony Deadlines ("Notice of Hearing"). By December 15, 2017, SCE&G had timely provided the Commission's Notice of Hearing to all its electric customers and had also caused the Notice of Hearing to be published in newspapers throughout SCE&G's electric service territory. The Notice of Hearing explicitly states that the avoided costs incurred by the Company will be addressed in the fuel proceeding, and the Solar Entities have known for years that SCE&G's avoided costs are set forth in its "Rate Schedule PR-2." And, they have likewise known that SCE&G updates its PR-2 Rate each year during the fuel proceeding. See Dockets No. 2016-2-E and 2017-2-E. Those prior dockets demonstrate that "[t]he issues of the fuel case, plus the PR-2 rate update and avoided costs" are <u>not</u> "too complicated for the existing time frame."

Contrary to the Solar Entities' belief otherwise, the inclusion of avoided costs in this docket is not the result of SCE&G requesting a waiver to update its avoided costs; it is South Carolina law and specifically, Act 236, which requires that avoided costs be addressed in SCE&G's fuel proceeding. The Solar Entities have known since June 2014, that avoided costs will be addressed in SCE&G's annual fuel proceeding. Setting the statute aside, on January 5, 2018, the South Carolina Solar Business Alliance, Inc. opposed SCE&G's December 2017 request for a waiver to update its avoided cost, and on January 24, 2018, the Commission directly addressed SCE&G's request, and the Solar Entities' opposition in Order No. 2018-55. In that order, the Commission ruled that "[c]urrent uncertainties with SCE&G make it appropriate to address [SCE&G's request for a waiver] in the context of the fuel case in April." Moreover, the Solar Entities ignore the fact that the Commission agreed with the suggestion of the Coastal Conservation League, who also opposed SCE&G's waiver request, that SCE&G be required to address its proposed avoided costs in its prefiled testimony in the fuel proceeding. Ironically, the Coastal Conservation League, who strongly supports the Solar Entities' request for more time, appear to have forgotten that the Commission agreed with their suggestion.

With regard to the Solar Entities' claim that they need time to conduct discovery, this argument should be rejected. The Commission informed the public that any person who wishes to participate in this docket had until January 25, 2018, to file a Petition to Intervene. Southern Current, LLC filed its Petition to Intervene on January 22, 2018, and the South Carolina Business Alliance, Inc. filed its Petition to Intervene on January 23, 2018; they obviously had read and understood the Notice of Hearing. Moreover, the South Carolina Solar Business

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Alliance (whose membership includes Southern Current) knew by way of Commission Order No. 2018-55 issued on January 25, 2018, that SCE&G would include its updated avoided cost rate in its prefiled testimony. Since that time, the Solar Entities have made no attempt whatsoever to conduct any discovery in this docket. It is their absolute right to not be active in this docket, but to wait until March 7, 2018, and then claim that they need time for discovery when they have made no attempt to conduct discovery is untenable. The Coastal Conservation League's "strong[ ] support" for the Solar Entities' request appears to be nothing more than their attempt to cure their poor planning in the service of discovery. More specifically, the Coastal Conservation League waited until March 6, 2018, to serve discovery upon SCE&G. By regulation, SCE&G's responses are due March 26, 2018, which is 4 days after the other parties' direct testimony is due. That the Solar Entities and the Coastal Conservation League have either not yet filed discovery or waited until this late date to file discovery is no fault of SCE&G and is not a sufficient basis to support a request for an extension of time.

Lastly, an extension of 90 days would push this proceeding well beyond the date by which SCE&G seeks to have its fuel rates implemented. For years, SCE&G has implemented it new fuel rates beginning with its first billing cycle in May. Again, as past participants, the Solar Entities know that their request is disruptive, and they have not provided an adequate basis for their disruption. Based on the foregoing, SCE&G objects to the Solar Entities' request. But in the event that the Solar Entities' request is granted, then SCE&G respectfully requests that the Commission immediately suspend its existing PR-2 rate and instruct SCE&G to not execute any additional purchase power agreements with solar developers until the Commission issues an order setting SCE&G's avoided costs at an appropriate level.

If you have any questions, please advise.

Chad

From: Carrie Schurg [mailto:caschurg@AustinRogersPA.com]
Sent: Wednesday, March 7, 2018 1:37 PM
To: F. David Butler (david.butler@psc.sc.gov) <david.butler@psc.sc.gov>
Cc: BURGESS, KENNETH CHAD <chad.burgess@scana.com>; bmustian@willoughbyhoefer.com; abateman@regstaff.sc.gov; jpittman@regstaff.sc.gov; alex@shissiaslawfirm.com; Richard Whitt <rlwhitt@AustinRogersPA.com>; selliott@elliottlaw.us; Bholman@selcsc.org; Tim Rogers <tfrogers@AustinRogersPA.com>
Subject: Docket 2018-2-E - Extension of Time to File Responsive Testimony

***This is an EXTERNAL email from Carrie Schurg (caschurg@austinrogerspa.com). Please do not click on a link or open any attachments unless you are confident it is from a trusted source.

This email was dictated by Richard Whitt:

David:

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1. We represent the South Carolina Solar Business Alliance, Inc., and Southern Current LLC, in Docket 2018-2-E. I am addressing this request to you, because you have previously issued a Standing Hearing Officer Directive in this Docket.

2. As you know, SCE&G filed its Testimony on February 23, 2018, in Docket 2018-2-E, addressing not only the fuel case, but including the issues of PR-2 rate update and avoided costs. **The inclusion of these two additional issues** were as a result of SCE&G's request for a waiver, filed with this Commission on December 22, 2017.

3. Because these two additional, important issues were included in the Testimony, we are requesting that our March 22, 2018 Testimony deadline to be extended 90 days, or in the alternative, be held in abeyance until the parties have ample time to complete discovery requests and report back to you.

4. The issues of the fuel case, plus the PR-2 rate update and avoided costs, are too complicated for the existing time frame. Also, we need time for discovery requests to the Company, before we file Testimony.

5. All parties are copied hereon. Please advise, and this request is,

Respectfully Submitted,
Richard Whitt,
Timothy F. Rogers,
As Counsel for South Carolina Solar Business Alliance, Inc., and
Southern Current LLC.

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