

ORIGINAL OPEN MEETING AGENDA ITEM

E-01461A-15-0057

Debra Scordato

From: Court Rich <crich@roselawgroup.com>
Sent: Friday, May 01, 2015 9:24 AM
To: Tom Forese
Subject: question concerning procedure



Dear Commissioner Forese,

Seeing as there have now been procedural orders issued in Trico, TEP, UNS, and APS's requests to implement solar charges or eliminate net metering and that each of said orders invokes the ex parte prohibition I wanted to ask a clarifying question of you to clarify your office's understanding of this invocation of ex parte. R14-3-113 indicates that ex parte rules prohibit communications "concerning the substantive merits of a contested proceeding." The preliminary question being considered in each of the above referenced matters is whether or not the issues raised in the applications should be considered in the utilities' next rate cases or in a different forum. Does your office consider this issue a procedural issue, thereby permitting discussion with you without invoking the ex parte prohibitions, or do you view this issue as "concerning the substantive merits of a contested proceeding" whereby communication would be prohibited under R14-3-113? In my mind I would tend to view this issue, under the circumstances, as "substantive" but could see it being considered procedural as well. I am not advocating for you to interpret this one way or the other but am asking to gain clarity. If, for example, you viewed this as procedural and are meeting with other parties on the issue then I would similarly like to request a meeting. I apologize for the perhaps overly formal nature of this communication but wanted to make sure to ask this question in the appropriate way and under the circumstances, and given the nature of the question itself, I thought communicating in writing was the best way. Thank you very much for your consideration of this question.

NOTE

It is not my intent that this email raise any issues concerning the substantive merits of a contested proceeding and believe this communication to be seeking feedback on purely procedural questions well outside the ex parte restrictions in any interpretation. If, however, you disagree, I certainly have no problem with this email being docketed for public review wherever you deem it appropriate. Please also note that I will be asking other offices for their interpretation as well via a similar request.

Court S. Rich



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