UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

San Diego Gas & Electric Company Docket No. ER21-2193

**Protest of Public Citizen, Inc.**

We protest Sempra Energy’s San Diego Gas & Electric’s subsidiary June 23 Application to recover $12.8 million in natural gas fuel costs, and request that the Commission schedule an evidentiary hearing.

Sempra’s application seeks after-the-fact natural gas fuel recovery costs of $12.8 million for two power plants operating during the February 2021 winter storm Uri. Sempra owns the 480MW Desert Star Energy Center in Boulder City, Nevada, and is responsible for fuel costs through a long-term power agreement with Berkshire Hathaway’s 53MW Yuma Cogen facility in Arizona.

As the California Independent System Operator pointed out in a similar cost-recovery effort involving another Sempra affiliate,[[1]](#footnote-1) allowing Sempra to recover fuel costs after it submitted minimum cost bids for generation resources creates a market gaming opportunity for Sempra:

*Allowing scheduling coordinators to seek after-the fact cost recovery when bidding below the cap for minimum load costs would create an inappropriate incentive to submit artificially low bids and then seek after the fact cost recovery. The Commission should not accept Sempra’s filing without allowing parties time to validate Sempra submitted minimum load costs bids at the cap calculated for the resource based on prevailing gas prices.*[[2]](#footnote-2)

Furthermore, it does not appear that the gas price indices upon which Sempra relies are structurally competitive, and so any reference in the tariff and any cost passed on to consumers associated with these spot indices cannot be just and reasonable.

The June 23 application states that Sempra “entered into more than two dozen other transactions with various counterparties to procure spot supplies necessary to fuel [Desert Star] DSEC beyond the quantities purchased as baseload volumes.”[[3]](#footnote-3)

Natural gas spot index prices derive from voluntarily-reported trades within specific geographical boundaries. Key spot indices serving the Nevada and Arizona markets experienced massive price spikes based upon voluntarily-reported transactions. Spot natural gas price indices are structurally uncompetitive, and the voluntary nature of reporting trades renders them susceptible to market manipulation. Prices at the Kern River hub increased nearly 2,500% from February 11 to February 17, with similar price spikes at the SoCal Gas hub, and at the El Paso South Mainline hub, where only 8 trades established El Paso’s $105.49/MMBtu price on February 17.

Federal law requires the Commission to ensure that spot natural gas price indices feature adequate price discovery and market transparency[[4]](#footnote-4), and the Commission’s failure to do so renders any attempt to pass through such costs to consumers to be a violation of just and reasonable rates.

Finally, the July 1 Amendment filed by Applicants constitutes a material change to the June 23 Application that should have been noticed by the Commission. The Commission may be curious as to the reason Applicants filed the July 1 Amendment. Let us explain. The original Application was filed June 23, with FERC noticing it June 24. Public Citizen intervened on Friday June 25. On Monday, June 28 we emailed Sempra’s counsel the executed protective order in Exhibit A and requested access to the non-public portion of the application. Sempra’s counsel informed us on Wednesday June 30 that Attachment A of the June 23 Application was merely a *proposed* protective order, and that although we had executed and delivered the protective order on June 28, they could not provide Public Citizen access to the privileged materials until a FERC Administrative Law Judge reviewed and approved the proposed protective order. We informed Sempra’s counsel that if they did not provide the requested privileged material in five days, then we would file a motion requesting an extension of time. Only after that email did Sempra’s counsel amend their Application on Thursday, July 1 at 4:26pm EST—just before a long federal holiday weekend. We informed counsel that we no longer wanted to access the privileged material because of our vacation that began Friday July 2 through Monday July 12.

Respectfully submitted,

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1. FERC Docket No. ER21-2192. [↑](#footnote-ref-1)
2. July 9, 2021 CAISO protest in FERC Docket No. ER21-2192, at page 4. [↑](#footnote-ref-2)
3. At page 9. [↑](#footnote-ref-3)
4. 15 USC § 717t–2(a)(4). See Public Citizen’s June 1, 2021 Comments in FERC Docket No. RM20-7. [↑](#footnote-ref-4)