**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of San Diego Gas & Electric Company (U 902 M) for Establishment of an Interim Rate Relief Mechanism for its Wildfire Mitigation Plan Costs.	Application 21-07-017 (Filed July 30, 2021)

OPENING BRIEF OF THE UTILITY REFORM NETWORK

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OPENING BRIEF OF THE UTILITY REFORM NETWORK

Pursuant to the schedule set forth in the *Assigned Commissioner's Scoping Memo and Ruling* ("Scoping Memo") issued October 28, 2021, The Utility Reform Network ("TURN") submits this opening brief on issues associated with the application of San Diego Gas & Electric Company ("SDG&E") seeking interim rate recovery of costs recorded in the utility's Wildfire Mitigation Plan Memorandum Accounts.

I. Introduction and Summary

SDG&E's application asks the Commission to permit it to recover in rates costs that it has incurred for wildfire-related activities, but that have not been reviewed yet for reasonableness. TURN urges the Commission to reject SDG&E's request in its entirety. Such "interim rate recovery" is an extraordinary measure that should only be authorized under extraordinary circumstances, as has been reaffirmed in a series of recent decisions and actions in response to other utilities' requests for interim rate recovery of the costs of wildfire-related activities. SDG&E has failed to demonstrate that it faces such circumstances at this time, or that interim rate recovery now is necessary to avoid such circumstances in the future. Instead, the utility's approach would effectively ask the Commission to treat interim rate recovery as if it were a far more "ordinary" element of ratemaking.

II. Ratemaking Developments That Have Occurred Since The Commission Issued D.16-08-003 Weigh In Favor Of Denying SDG&E's Request Here.

A. SDG&E's Present Request For Interim Rate Recovery Should Be Considered In Light Of The Factors Identified and Addressed In The Commission's Responses To Other Utilities' Requests for Interim Rate Recovery of Wildfire-Related Costs.

SDG&E's application and supporting testimony rely substantially on the premise that the utility seeks relief largely identical to the relief the Commission granted in D.16-08-003. There, the Commission authorized interim rate recovery for the Sempra Utilities' Pipeline Safety Enhancement Program (PSEP), stating that such recovery "reasonably balances the objective of mitigating sharp rate increases with the need of Commission review of utility costs prior to collection from ratepayers."[1] But since issuing that decision, the Commission has been presented with a number of requests for interim rate recovery of costs of wildfire-related programs and insurance. While the Commission has twice authorized interim recovery of wildfire-related costs for PG&E, in both instances it cited the utility's precarious financial position as it headed into and emerged from bankruptcy. In every other instance, the agency either explicitly denied the request, or rendered it moot by not acting on it prior to issuing a final decision on the merits of the associated application. The Commission's post-D.16-08-003 treatment of interim rate recovery specific to wildfire-related costs is the more relevant and appropriate guidance for the outcome here, and should lead the Commission to conclude that SDG&E has failed to establish that interim rate recovery is appropriate or warranted here.

1. Sempra Utilities PSEP Memo Account Application (A.15-06-013 and D.16-08-003)

In D.16-08-003, the Commission addressed a "compromise" outcome developed by Energy Division staff. Instead of authorizing annual reasonableness reviews of PSEP costs, as the Sempra Utilities had proposed, the staff proposal reduced the number of reasonableness review while providing some interim rate recovery.[2] While the Commission noted that the interim recovery element arose from staff's concern for the potential of "rate shock" and

[1] SDG&E Application, p. 3; Ex. SDG&E-02, p. ED-3; and Ex. SDG&E-03, p. CB-8.

[2] D.16-08-003, p. 9.

"reasonably balances the objective of mitigating sharp rate increases,"[3] the decision includes no analysis of actual rate impacts or the utility's financial condition with or without interim recovery.

2. PG&E 2018 CEMA Application (A.18-03-015 and D.19-04-039)

PG&E's 2018 CEMA application sought recovery for $588.3 million of recorded costs associated with nine wildfires and other catastrophic events occurring in 2016 and 2017, as well as tree mortality and fire risk reduction costs forecasted for 2018 and 2019. In the early stages of the proceeding, PG&E filed a motion seeking interim recovery of 75% of the recorded costs from 2016 and 2017. The motion was originally denied in late 2018 by an ALJ Ruling which stated, in part:

> The limited authority for PG&E's Motion is reserved for more exceptional circumstances than are found in this matter. PG&E has failed to demonstrate the requisite harm to meet the demonstration for interim rate relief.[4]

A month later, PG&E renewed its motion, citing "worsening financial conditions at PG&E since the Ruling and Original Motion."[5] Shortly thereafter, PG&E filed a voluntary bankruptcy petition.[6] In D.19-04-039, the Commission's discussion of PG&E's renewed request began by reaffirming the ALJs' determination that the utility's original request had lacked adequate support, specifically in failing to demonstrate a nexus between the relief sought and any

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[3] *Id.*, pp. 9-10, and Finding of Fact 4.

[4] *Administrative Law Judges' Ruling Denying Pacific Gas and Electric Motion for Interim Rate Relief* (November 2, 2018), p. 2. The ruling is available on the Commission's web site at https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M236/K010/236010080.PDF.

[5] D.19-04-039, p. 2.

[6] D.20-05-023, p. 2.

real impact on PG&E's financial condition.[7] However, the Commission determined that the subsequent further deterioration of PG&E's financial condition warranted a different response, based on its consideration of "the extremely rare and unique facts that apply to PG&E's financial condition and this Commission's authority to grant interim rate relief."[8] While the decision cites rate impact smoothing and intergenerational equity as benefits supporting the requested interim rate recovery, these benefits were equally present in the original PG&E request that had been denied. What was different in the renewed motion was "PG&E's financial condition and the perception of that condition represented by rating agency reports." And in light of the totality of circumstances of the renewed motion, the Commission determined "interim recovery is warranted to promote fairness, minimize costs to ratepayers, and promote rate stability."[9]

3. PG&E 2020 Interim Recovery Application (A.20-02-003 and D.20-10-026)

In an early 2020 application, PG&E identified $1.6 billion of wildfire-related costs recorded through the end of 2019 in its Fire Hazard Prevention Memorandum Account, Fire Risk Mitigation Memorandum Account, and Wildfire Mitigation Plan Memorandum Account, as well as its Catastrophic Event Memorandum Account, through the end of 2019.[10] The utility sought two forms of relief – interim rate recovery of $891 million (representing 85% of the revenue requirement amounts associated with the already recorded costs), and authorization for similar

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[7] D.19-04-039, pp. 4-5.

[8] *Id.*, p. 5.

[9] *Id.*, p. 6.

[10] PG&E anticipated filing a reasonableness review for these costs later in 2020. D.20-10-026, p. 3. The later reasonableness review application was A.20-09-019, and covered costs recorded through 2019 in PG&E's Fire Hazard Prevention Memorandum Account, Fire Risk Mitigation Memorandum Account, and Wildfire Mitigation Plan Memorandum Account, among others. https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M347/K810/347810121.PDF

interim rate recovery whenever a wildfire-related memorandum account (among others) accumulates more than $100 million of recorded revenue requirements associated with recorded wildfire program costs.[11] The Commission authorized interim rate recovery of $447 million for the already-recorded costs, but denied PG&E's request to extend such treatment to costs that were forecasted but not yet incurred.[12] The Commission noted that PG&E was seeking interim recovery as it emerged from bankruptcy, which meant approval would provide immediate and long-term benefits to ratepayers through lower financing costs.[13] Even as it granted PG&E's interim rate recovery request for the second time in two years, the Commission described such action as "not common"[14] and stated its expectation that taking such action would remain a rare occurrence:

> [T]he most recent cases [seeking interim rate recovery] are similar to this one and concern the financial health of PG&E as it works through and past the bankruptcy process. Our expectation is that interim rate requests will be as infrequent as they were before PG&E's recent bankruptcy.[15]

It is important to note that the Commission rejected PG&E's proposal for interim rate recovery whenever the recorded balance in certain memorandum accounts exceeded $100 million. After acknowledging that such an approach might permit rate recovery to start closer to the time when costs were incurred, thereby promoting intergenerational equity, the Commission explained that such an approach is unacceptable for several reasons. First, each request for

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[11] D.20-10-026, pp. 2-7.

[12] *Id.*, p. 2.

[13] *Id.*, p. 6.

[14] *Id.*, p. 25.

[15] *Id.*, p. 34, fn. 63.

interim recovery is reviewed on its merits in light of the then-current circumstances; second, the burden of establishing the appropriateness of interim recovery falls on the utility, and is a burden that has not always been met; third, PG&E did not establish that such an automatic interim rate recovery policy would be consistent with "our precedent and process;" and fourth, the numerous implications of such a proposal and how it would work, and the risk of different approaches for different utilities, are not best addressed in a narrow single-utility proceeding.[16]

4. SCE WEMA Application (A.19-07-020 and D.20-09-024)

SCE's application for the reasonableness review of approximately $500 million of already-incurred above-authorized wildfire liability insurance expenses was accompanied by the utility's motion seeking interim rate recovery of 50% of the associated revenue requirement beginning on October 1, 2019. The Commission never acted upon the proposal, rendering it moot as indicated in the final decision.[17] The Commission did, however, adopt an extended amortization period (two-years rather than the one-year period SCE had sought) to mitigate the rate impacts on SCE's customers when the amounts found reasonable were added to the utility's authorized revenue requirement.[18]

5. SCE GRC, Track 2 (A.19-08-013)

In SCE's test year 2021 general rate case (GRC), the adopted procedural schedule included three tracks, with "Track 2" created for the review of 2019 recorded costs in the Wildfire Mitigation Plan Memorandum Account and the Fire Risk Mitigation Memorandum

[16] *Id.*, pp. 35-36, *see also* Conclusions of Law 9 and 10.

[17] D.20-09-024, p. 54.

[18] *Id.*, p. 57 and Finding of Fact 62.

Account, and 2018-19 recorded costs in the Fire Hazard Prevention Memorandum Account.[19] In March 2020, shortly after serving its Track 2 testimony, SCE filed a motion seeking interim rate recovery of the recorded costs included in this track. The motion was denied by ALJ ruling on May 22, 2020, based on the determination that interim rate recovery is not in the public interest, and that SCE failed to demonstrate that such recovery is necessary to maintain its financial integrity.[20]

SCE's motion had sought interim recovery beginning June 1, 2020, and contended that such recovery would promote rate stability and achieve an outcome more consistent with cost causation.[21] SCE also argued that the requested relief would address the current financial pressures the utility faced, with its credit ratings below historical norms, growing cash flow pressures due to the level of under-collected balances in the wildfire-related memorandum accounts, and the potential for credit rating downgrades, which would make its long-term financing options more expensive.[22] The ALJs' ruling found SCE's positions unpersuasive, and denied the request based on SCE's failure to meet its burden of persuasion.[23] The ruling noted that "rate stability" is tied not just to the amount of a particular increase, but also when it would go into effect, with an increase to summer rates being particularly problematic.[24] It also found unconvincing SCE's arguments based on preserving its financial integrity, and noted that the

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[19] D.21-01-012, p. 3.

[20] *Administrative Law Judges' Ruling Denying Southern California Edison Company's Motion for Interim Rate Recovery* (May 22, 2020). The ruling is available on the Commission's web site at https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M338/K276/338276824.PDF.

[21] *Id.*, pp. 1-2.

[22] *Id.*, pp. 2-3.

[23] *Id.*, p. 9.

[24] *Id.*, pp. 9-10.

established timing for determination of reasonableness and eligibility for rate recovery left little basis for any perception of "regulatory uncertainty" regarding the timing of cost recovery.[25]

6. Conclusion

The Commission's decisions and rulings in response to recent utility requests for interim recovery of costs of wildfire-related programs reveal a clear pattern. It is not enough to rely on general assertions of the rate smoothing effects such recovery might provide. The Commission has focused on whether there is a clear and material impact on the utility's financial condition. Two of PG&E's three requests (one made as the utility was at the brink of bankruptcy, and the other in the aftermath of its voluntary bankruptcy petition) were found to have demonstrated such impact. Neither of SCE's requests contained such a showing regarding the impact on the utility's financial condition, and both were denied, notwithstanding the utility's general allegations of growing cash flow pressures due to growing balances in wildfire-related memorandum accounts and the potential for credit rating downgrades.

TURN understands that the Commission has said that "any one of the factors may be sufficient" for the Commission to grant interim rate recovery of costs not yet determined to be reasonable.[26] However, its recent decisions make clear that the mere presence of factors such as reducing the potential for rate shock or smoothing rate impacts for customers is not always sufficient. The extraordinary relief of interim rate recovery for wildfire-related costs has been reserved for circumstances where the utility demonstrates that its financial condition is so precarious as to warrant such relief. As discussed In Section III.C.2, below, that is not the case for SDG&E.

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[25] *Id.*, p. 11.

[26] D.20-10-026 (PG&E Application A.20-02-003), p. 26.

B. In GRCs Filed After The Enactment of AB 1054, The Commission Has Adopted New Procedural Mechanisms In Order To Achieve More Timely Review of The Substantial Amounts of Recorded Costs in Wildfire Mitigation Plan Memorandum Accounts.

Since the enactment of AB 1054, the Commission has undertaken two GRCs for California's major energy utilities. In each, the initial scope and phasing of the proceeding was established to accommodate not only the establishment of forecasted revenue requirements for the test year and the attrition years to follow, but also to conduct the reasonableness review of recorded costs incurred under the utility's Wildfire Mitigation Plan (WMP) in the years leading up to the test year.

- SCE's test year 2021 GRC application (A.19-08-013) was filed almost immediately after AB 1054 was enacted. The adopted procedural schedule addressed the test year and attrition year revenue requirements in "Track 1," with "Track 2" and "Track 3" serving as the vehicles for the reasonableness review of the wildfire mitigation memorandum account figures. Track 2 addressed 2019 recorded costs in SCE's Wildfire Mitigation Plan Memorandum Account (WMPMA) and Fire Risk Mitigation Memorandum Account (FRMMA), as well as 2018-2019 costs recorded in the Fire Hazard Prevention Memorandum Account (FHPMA), and was the subject of additional testimony SCE served in March 2020.[27] Track 3 covered review of 2018-2020 costs recorded in the Grid Safety and Resiliency Memorandum Account, as well as 2020 costs recorded in the WMPMA, the FRMMA, and the FHPMA.[28] The Track 2 costs were addressed in D.21-01-012 (resolving Track 2 issues via an all-party settlement). Track 3 is, at present, fully-briefed with a proposed decision expected in the first quarter of 2022.[29]

- PG&E's test year 2023 GRC (A.21-06-021) is also on a "tracked" procedural schedule. The Scoping Memo established a Track 2 that would address "the reasonableness of the 2019-2021 actual costs recorded in the named [wildfire mitigation-related] memorandum accounts and balancing accounts," with the utility serving supplemental Track 2

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[27] D.21-01-012, p. 3.

[28] *Assigned Commissioner's Scoping Memo and Ruling* (November 25, 2019), pp. 9-10. The ruling is available on the Commission's web site at https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M320/K316/320316868.PDF.

[29] *E-mail Ruling Granting the Public Advocates Office Request for Modifications to the Track 3 Schedule* (June 15, 2021). The ruling is available on the Commission's web site at https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M387/K823/387823362.PDF.

> testimony in July 2022, and a Track 2 decision anticipated in the third quarter of 2023.[30] The review of 2022 actual recorded costs from these same memorandum and balancing accounts will be the subject of an Amended Scoping Memo, if needed.[31]

If the Commission were to apply a similar approach in SDG&E's upcoming GRC, it could reasonably expect there would be a Track 2 that would serve as the vehicle for reviewing the wildfire mitigation-related recorded costs from 2019-2022, with supplemental testimony from the utility served in the first half of 2023 and a decision permitting recovery of reasonable costs issued in the third quarter of 2024. Similarly, if necessary, the review of 2023 recorded costs could be the subject of a Track 3, with testimony served in early 2024 and a decision by the end of the first quarter of 2025. Per SDG&E's forecasts, the vast majority of the incremental revenue requirement amounts will be recorded in 2021, 2022 and 2023.[32] The degree of delay in starting rate recovery of the recorded costs found reasonable in those years would not be significantly different than is the case for the other two major electric utilities. And as SDG&E acknowledges, the structure of AB 1054 and its predecessor Senate Bill 901 included the expectation of regulatory lag between when SDG&E expended funds on wildfire mitigation activities, and when SDG&E would have an opportunity to include in rates the reasonable portion of its above-authorized spending amounts.[33]

In light of these developments in the Commission's approach to reviewing recorded WMP-related costs in post-AB 1054 GRCs, SDG&E should be directed to explore options that

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[30] *Assigned Commissioner's Scoping Memo and Ruling* (October 1, 2021), pp. 12-15. The ruling is available on the Commission's web site at https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M411/K463/411463161.PDF.

[31] *Id.*, p. 12.

[32] Ex. SDG&E-03, p. CB-5. Table 3-4 indicates $93.1 million total for 2019 and 2020, and $642.2 million for 2021, 2022 and 2023.

[33] *Id.*, p. CB-6.

will likely be available to the utility in its upcoming GRC, rather than afforded interim rate recovery of such costs here.

III. SDG&E's Showing Fails To Meet The Utility's Burden of Demonstrating It Is Entitled To The Extraordinary Relief of Interim Rate Recovery.

A. The Extraordinary Relief of Interim Rate Recovery Should Remain Extraordinary.

The Commission should reject SDG&E's request as being contrary to the continuing treatment of interim rate recovery as a measure appropriately implemented in response to "rare and unique facts" and that therefore remains "not common."[34] Indeed, in its most recent decision authorizing interim rate recovery, the Commission stated its expectation that, going forward, "interim rate increases will be as infrequent as they were before PG&E's recent bankruptcy."[35]

SDG&E's approach would make interim recovery far less extraordinary. SDG&E is a utility in sound financial shape. Its investment grade rating was upgraded to A3 by Moody's in May of 2021.[36] In its testimony describing the potential impact that its wildfire spending through 2023 might have on that rating, SDG&E was able to calculate that one of the metrics considered in setting the credit rating might decline slightly as a result. But even with the decline, the metric would remain consistent with a credit rating of A3.[37] Furthermore, under more ordinary ratemaking practices and review schedules, SDG&E can reasonably expect to achieve rate recovery within a relatively few years after 2022 and 2023, the years when it anticipates

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[34] D.19-04-039, p. 5; and D.20-10-026, pp. 25-26.

[35] D.20-10-026, p. 34, fn. 63.

[36] Ex. 04 – "Credit Opinion: San Diego Gas & Electric Company," Moody's Investor Service (May 10, 2021), p. 1.

[37] Ex. 03 – SDG&E Prepared Direct Testimony of Casey Butler, pp. CB-9 to CB-10, and Table 3-5.

incurring the substantial majority of the wildfire-related costs.[38] None of this cries out for an extraordinary response on the part of the Commission.

Worse, elements of SDG&E's proposal would render interim rate recovery not only ordinary but automatic, at least as to the 2022 and 2023 costs the utility has not yet recorded. Under the utility's proposal, 50% of the revenue requirement associated with whatever amount of costs are recorded in 2022 and 2023 would be recovered in interim rates without the need for any further action.

In order to maintain interim rate recovery as an extraordinary measure deployed by the Commission only in the face of extraordinary circumstances, it must reject SDG&E's proposal to transform it into a much more ordinary element of ratemaking.

B. SDG&E's Request For Interim Rate Recovery of Costs Not Yet Incurred Must Be Denied as Inappropriate, Consistent With The Outcome Adopted in D.20-10-026.

SDG&E's request for interim rate recovery includes costs the utility has incurred and recorded in 2019-2020, as well as forecasted amounts for 2021 through 2023.[39] The forecasted amounts make up the vast majority of the costs SDG&E asks the Commission to deem eligible

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[38] As described in the preceding section, establishing reasonableness review tracks in SDG&E's upcoming GRC could likely result in a decision in 2024 for costs recorded through 2022, and a decision in early 2025 based on the review of costs recorded in 2023. Of the "total incremental WMP revenue requirement" of $735 million calculated by the utility in support of its request, approximately 66% ($494.4 million) represents the forecasted amounts for 2022 and 2023. Ex. 03 – SDG&E Prepared Direct Testimony of Casey Butler, p. CB-5, Table 3-4.

[39] SDG&E Application, p. 11, Table 1; Ex. SDG&E-03, pp. CB-3 to CB-5, Tables 3-3 and 3-4.

for interim recovery,[40] with the 2022 and 2023 incremental revenue requirements that SDG&E forecasts representing fully two-thirds of the utility's $735 million total figure.[41]

SDG&E's proposal to achieve interim rate recovery of future recorded costs based on the current forecast of those costs is not materially different than the proposal PG&E had included in its interim request recovery. In D.20-10-026, the Commission denied PG&E interim rate recovery for costs that the utility had not yet incurred or recorded. It concluded that PG&E had failed to establish that "such a broad policy shift" would be consistent with the agency's established "precedent and process" to provide for such interim recovery without further consideration of the actual recorded costs and circumstances as they existed at the time those costs were incurred. It further noted that a policy determination of the magnitude of further extending interim rate recovery opportunities is more appropriate for consideration in a broad, multi-utility proceeding.[42] Notably, SDG&E's proposal here lacks the $100 million threshold PG&E had included in its approach and in this way seeks even broader relief than PG&E had sought in its interim rate recovery request denied in D.20-10-026. There is no basis in the record for adopting a different approach to SDG&E's request for interim rate recovery of as-yet unrecorded wildfire-related costs than was adopted in the PG&E application.

The Commission must severely discount any argument suggesting that the approach adopted in D.16-08-003 should control the outcome here. In that PSEP-related decision, the

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[40] Of the "total incremental WMP revenue requirement" of $735 million calculated by the utility in support of its request, approximately $640 million (87%) consists of the revenue requirement associated with forecasted spending in 2021, 2022 and 2023. The revenue requirement for incremental spending in 2019 and 2020 is reported as $20.8 million and $72.3 million, respectively. Ex. SDG&E-03, p. CB-5, Table 3-4. $735.3 million minus $93.1 million equals $642.2 million.

[41] $93.1 million for 2019 and 2020 plus $147.8 million for 2021 equals $240.9 million. $240.9 million is approximately 33% of $735.3 million.

[42] D.20-10-026, pp. 35-36 and Conclusions of Law 9 and 10.

Commission adopted interim cost recovery that applied not only to costs already recorded, but upcoming costs of similar projects. However, it is not clear that the Commission considered the distinction between already recorded costs and costs that were forecasted but not yet recorded, as D.16-08-003 does not directly acknowledge such a distinction, much less specifically address the appropriateness of permitting interim cost recovery of costs that were not yet recorded. Since then, the Commission has squarely addressed the issue in the context of costs associated with wildfire prevention and mitigation programs, and concluded that interim rate recovery is to be limited to costs recorded as of the time of the request for interim rate recovery. The Commission's treatment of costs forecasted for 2021, 2022 and 2023 should be consistent with the approach taken in D.20-10-026, and SDG&E's request to make such costs automatically eligible for interim rate recovery denied.

C. SDG&E's Testimony Does Not Establish That The Circumstances The Utility Faces Warrants The Commission Adopting the Extraordinary Relief of Interim Rate Recovery.

SDG&E's testimony includes two sections addressing the purported justification for the interim rate recovery the utility seeks in this application. The first is entitled "Impacts of Interim Rate Relief" and generally addresses at a very high level the impacts on its cost recovery and potential rate impacts. The second, entitled "Other Potential Impacts," addresses potential impacts on the utility's credit rating. In neither section does SDG&E present a sufficient showing to meet its burden of demonstrating the need for the relief it seeks in this application.

1. "Impacts of Interim Rate Relief" Arguments

SDG&E begins the "Impacts of Interim Rate Relief" section of its arguments with an important acknowledgement – both Senate Bill 901 and Assembly Bill (AB) 1054 included provisions that would require the utility to spend additional amounts on wildfire risk mitigation programs and activities, but neither provided for any sort of expedited recovery that might permit rate recovery at some point before the recorded spending amounts were found reasonable.[43] Instead, the Legislature adopted a cost recovery approach that had built into it "the potential for regulatory lag between expending substantial costs on wildfire mitigation activities and the timing of cost recovery."[44] Given the magnitude of the undertaking called for by these statutes, the Commission can reasonably infer that the Legislature understood that this cost recovery structure meant there would be periods during which a utility would have recorded a substantial amount of wildfire-related costs, but not yet been authorized rate recovery for those costs. Yet the Legislature saw fit to rely on the existing cost recovery mechanisms of reasonableness reviews, either as part of a utility's general rate case or in a separate application.[45]

SDG&E goes on to assert that under the cost recovery approach described in the legislation, cost recovery of the final overall balance of recorded wildfire mitigation costs would occur as "a large, lump-sum increase for customers resulting in potential rate shock."[46] The utility ignores the ratemaking approaches the Commission has adopted since AB 1054 to mitigate the very impact it describes in its testimony. As discussed above, the Commission has of late adopted an amortization period of greater than 12 months to mitigate the impacts of adding large amounts to rates as a "large, lump sum increase."[47] SDG&E's proposal effectively

[43] Ex. 03 – SDG&E Prepared Direct Testimony of Casey Butler, pp. CB-5 to CB-6.

[44] *Id.*, p. CB-6.

[45] PU Code Sections 8386.4(a) and (b).

[46] Ex. 03 – SDG&E Prepared Direct Testimony of Casey Butler, p. CB-6.

[47] See discussion of D.20-09-024, above. In addition, in D.21-10-025, addressing an SCE proposal to securitize certain recorded wildfire mitigation costs, the Commission strongly encouraged the utility to rely on a 3-year amortization period rather than securitization to

seeks to amortize the cost recovery for 2022 and 2023 costs over the 2023-2025 period, but with the 2023 and 2024 recovery occurring before the recorded costs have been determined to be reasonable.[48] Very similar benefits in terms of mitigating any "rate shock" due to increasing rates to recover these costs could be achieved by adopting a similar 36-month amortization period for rate recovery <u>after</u> the reasonableness review required by statute. And such an approach would be consistent with recent Commission decisions relying on such amortization periods. By limiting its analysis to a comparison of its interim rate recovery proposal to an alternative of "increasing rates by the entire, cumulative balance (from 2019 through 2023) at once,"[49] SDG&E has failed to demonstrate that its approach is more reasonable than other alternatives the Commission has used of late.

SDG&E then claims that its proposal would promote intergenerational equity by ensuring that "the same customers who benefit from the investments in wildfire mitigation will pay for those investments at the time they are made."[50] The utility provides no analysis or further explanation that might support its assertion. Again, SDG&E forecasts the substantial majority of its spending to occur in the 2022-2023 time frame. Under its proposal, the rate recovery of incremental revenue requirements associated with the 2022-2023 spending would occur over the 2023-2025 period. If instead the reasonableness review of 2022-2023 costs occurs in SDG&E's upcoming GRC, with decisions issued in late 2024 and early 2025, the rate recovery could

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mitigate the near-term rate impacts of recovering approximately $401 million that had been found reasonable.

[48] Ex. 02 – SDG&E Prepared Direct Testimony of Eric Dalton, p. ED-8, Table 2-2, lines 11-12. The amortization of rate recovery of costs recorded in 2022 and 2023 would occur over the period from 2023 through 2025.

[49] Ex. 03 – SDG&E Prepared Direct Testimony of Casey Butler, p. CB-7.

[50] *Id.*, p. CB-6.

reasonably be expected to begin in 2025 and extend through 2027 (assuming the same three-year amortization period reflected in SDG&E's proposal). TURN submits that the Commission should find the relatively minor difference between these two rate recovery periods to not be material in terms of finding that one is superior in terms of achieving intergenerational equity.

Finally, SDG&E contends that its customers will benefit from reduced interest expense under its proposal.[51] The utility's position is premised on its assumption that, absent interim rate recovery, the entire projected undercollection will be funded with long-term debt rather than commercial paper, a change that will increase the associated interest expense. SDG&E's testimony merely asserts there would be higher financing costs under its assumption, without calculating the amount of such costs or the associated rate impacts. The utility has not given the Commission a basis for finding that the possibility that such changed financing could occur in the future is such a significant factor that it would warrant granting the extraordinary relief of interim rate recovery in order to avoid the unspecified higher cost that might result from such financing.

2. "Other Potential Impacts" Arguments

SDG&E presents several arguments that are variations on the theme that issuing long-term debt to fund the balance in its Wildfire Mitigation Plan Memorandum Account would increase financial risk in the eyes of the credit rating agencies, potentially leading to a downgrade of SDG&E's credit rating, with increased financing costs to follow. The Commission should find these arguments to be inadequately supported in the evidentiary record.

[51] *Id.*, p. CB-7.

The only factual support SDG&E cites for its warnings of a potential downgrade to its credit rating is a "Credit Opinion" issued by Moody's Investor Service on May 10, 2021.[52] The Commission should consider the entirety of the Moody's Credit Opinion. It is styled as an update to the firm's credit analysis for SDG&E following the then-recent <u>upgrade</u> to a credit rating of A3.[53] Moody's specifically cites the "credit support provided by wildfire legislation enacted … in July 2019," referring to AB 1054.[54] Under the heading "Credit Strengths," it includes the "good cost recovery mechanisms" then in effect for SDG&E as cause to expect continuing "robust credit metrics."[55] The "stable" rating outlook reflects the credit rating agency's assumption that SDG&E's "key credit metrics will remain strong despite incremental debt being incurred to fund its material capital investments."[56] The Credit Opinion notes that SDG&E's "significant $9.6 billion investment program during the 2021-2025 period" will be subject to a regulatory environment in California that includes "some regulatory lag" between cost incurrence and rate recovery.[57] In sum, based on existing cost recovery processes, the Credit Opinion presents a favorable picture of SDG&E's current and upcoming financial condition, as one would expect for a utility whose credit rating had just been upgraded.

The Moody's Credit Opinion makes clear that the credit rating agency is very familiar with the terms of AB 1054 and, in particular, the increased costs that would be incurred cost

[52] Ex. 03 – SDG&E Prepared Direct Testimony of Casey Butler, pp. CB-8 to CB-10.

[53] Ex. 04 – "Credit Opinion: San Diego Gas & Electric Company," Moody's Investor Service (May 10, 2021), p. 1.

[54] *Id.*, pp. 1 and 5.

[55] *Id.*, p. 2.

[56] *Id.*

[57] *Id.*, p. 8.

under the new statute and the rate recovery processes that would apply to those costs. It specifically refers to the increased level of investment SDG&E faces going forward, yet raises no concern about the utility's ability to fund such investment through existing sources, and in ways that would maintain the upgraded credit rating. The Commission can and should reasonably assume that Moody's was fully aware of SDG&E's plans for increased spending on wildfire mitigation activities and programs in 2021-2023, and of the ratemaking practices under AB 1054 that would result in the incremental costs being subject to memorandum account recording and deferred rate recovery. Yet Moody's does not express any concern due to the potential for regulatory lag associated with SDG&E's recovery for this increased spending. The Commission may reasonably infer that such regulatory lag was considered in the process that produced the upgrade to the A3 credit rating.

The Commission should also find unpersuasive SDG&E's attempt to create the appearance of cause for concern, relying on calculations of the type that underlie the Moody's Credit Report. SDG&E focuses on the "Funds From Operations" [FFO] to debt ratio that it describes as one of the "key metrics to quantify financial risk." The utility points out that it is at risk of a downgrade by Moody's if its ratio "falls below 20% for a sustained period of time."[58] But as SDG&E reports, the current metric, based on 2020 actual recorded figures, is 23.9%. And even assuming the entire amount recorded in the Wildfire Mitigation Plan through the end of 2023 is financed with long-term debt (and in the absence of any interim rate recovery), the FFO/debt metric would decline to 21.2%, still above the 20% benchmark figure.[59] In other

[58] Ex. 03 – SDG&E Prepared Direct Testimony of Casey Butler, p. CB-9.

[59] *Id.*, p. CB-10, Table 3-5.

words, even in the worst-case scenario underpinning SDG&E's testimony, the FFO/debt metric would remain above the level that might trigger a downgrade to the Moody's credit rating.

SDG&E also fails to address what it would take for Moody's to see the decline in the FFO/debt metric as "sustained over a longer-term," the second element of the Moody's assessment described in the Credit Opinion.[60] SDG&E's scenario of funding the entirety of its WMP Memorandum Account balance through long-term debt suggests financing that would need to remain in place for a relatively few years.[61] Even if SDG&E's FFO/debt metric would decline to below 20% for some period of time, as SDG&E calculates in its testimony,[62] the utility has not made any effort to demonstrate that such impact is reasonably expected to meet the "sustained over a longer-term" element that seems to be equally important to the Moody's analysis.

Finally, SDG&E states that adopting its interim rate relief proposal "would also serve to enhance the rating agencies' perception of California's regulatory framework."[63] There is nothing in the Moody's Credit Outlook report to suggest that the Commission needs to be concerned with the perception of the rating agencies at this time. Instead, Moody's describes the "[c]redit supportive general rate case outcome and financial parameters with some regulatory lag" in the "regulatory environment in California," and cites the "constructive" relationship that

[60] *Id.*, p. CB-10, citing Ex. 04, p. 3.

[61] Under SDG&E's assumptions, the financing would cover the period between when the costs are incurred (2022 and 2023 for two-thirds of SDG&E's forecasted total) and when rate recovery occurs (likely in 2025 under SDG&E's assumption of a single reasonableness review occurring based on a 2024 application).

[62] Ex. 03 – SDG&E Prepared Direct Testimony of Casey Butler, p. CB-9 to CB-10.

[63] *Id.*, p. CB-10.

already exists between SDG&E and the Commission.[64] And it was in the context of the rating agencies' perception of California's current regulatory framework that Moody's stated its expectation that SDG&E's credit metrics will remain "strong and stable despite … its material investment program."[65] SDG&E has failed to demonstrate that there is any reason for the Commission to be concerned with how the credit ratings agencies perceive California's existing regulatory framework, or that permitting interim rate recovery of wildfire-related costs would be an appropriate fix, even if there were cause for the Commission to be concerned.

IV. The Commission Should Deny Interim Rate Recovery Here. If It Authorizes Interim Recovery of Any Amount, It Must Be Calculated Based On The Amount Spent In A Given Year, Not The Amount Remaining In The Wildfire Mitigation Plan Memorandum Account.

For the reasons set forth in the preceding sections, the Commission should deny outright SDG&E's request for interim rate recovery. If the Commission decides to authorize some amount of interim rate recovery over TURN's objections, it should correct a clear error in SDG&E's approach to calculating the amounts that would be eligible for recovery each year.

SDG&E describes its proposed interim recovery mechanism as providing the utility the benefit of "getting 50 percent of the wildfire mitigation expenditures it has already spent."[66] But the illustration of how the proposed mechanism would work makes clear that SCE would be getting interim recovery of far more than 50% of what it spent; rather, the utility would recover 50% of the balance that is in the memorandum account at the end of any given year. That is, for expenditures recorded in 2022, SDG&E would recover 50% in 2023, and then in 2024 would

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[64] Ex. 04 – "Credit Opinion: San Diego Gas & Electric Company," Moody's Investor Service (May 10, 2021), pp. 8-9.

[65] *Id.*

[66] SDG&E Application, p. 3.

recover 50% of the remaining balance, meaning interim recovery of 75% of the 2022 recorded costs in the 2023-2024 period. This cumulative recovery approach is illustrated in Table 2-2 at page ED-8 of SDG&E-02. The utility posits $735.3 million of "net activity" that would be recorded in the WMPMA by the end of 2023, and a "Total Cumulative Amortization" of $514.4 million through the end of 2024. This represents "interim recovery" of **70%**. The percentage recovered would be **87.5%** of the costs recorded in 2019-2021 ($240.9 million recorded as of the end of 2021; $210.8 million "amortized;" resulting "interim recovery" is 87.5%). Similarly, for the costs recorded in 2022 (forecasted to be $225.4 million), the interim recovery would be $169.1 million, or **75%**.

TURN is confident that the Commission will render these concerns moot by correctly rejecting in total SDG&E's request for relief here. However, in the event that it determines to provide any amount of interim rate recovery, it must reject SDG&E's proposed calculation method. Instead, the amount eligible for interim recovery should either be established as a firm dollar amount or, or as a percentage of the costs added to the balance of the account in a given year. Under a percentage method, applying the percentage to continuing balances from spending in earlier years results in interim recovery of greater than the authorized percentage overall, as illustrated above.

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Respectfully submitted,

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