

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



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Application of San Diego Gas & Electric
Company (U 902 M) for Establishment of an
Interim Rate Relief Mechanism for its
Wildfire Mitigation Plan Costs.

A.21-07-017
(Filed: July 30, 2021)

UTILITY CONSUMERS' ACTION NETWORK (UCAN) OPENING BRIEF



January 10, 2022

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Decisions of the California Public Utility Commission

D.20-01-002 Decision Modifying the Commission’s Rate Case Plan for Energy Utilities (January 16, 2020)

D. 20-10-026 Decision Approving Interim Rate Recovery (October 22, 2020)

D.21-11-009- Decision Addressing Phase 1, Track 1 and Phase 2 Issues (November 4, 2021)

A.20-02-003 (Application of Pacific Gas and Electric Company for Wildfire Mitigation and Catastrophic Events Interim Rates (U39E))

A.20-09-019 (Application of Pacific Gas and Electric Company (U39M) for recovery of recorded expenditures related to wildfire mitigation and catastrophic events, as well as other recorded costs)

R.20-07-013 (Order Instituting Rulemaking to Further Develop a Risk-Based Decision-Making Framework for Electric and Gas Utilities)

State Legislature

Pub. Util. Code Section 8386.4.

Pub. Util. Code Section 8386.4(b)(2).

Other Sources

Moody’s Investor Service Rating Action: “Moody’s upgrades San Diego Gas and Electric to A3 from Baa1; outlook stable.”

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I. INTRODUCTION & PROCEDURAL BACKGROUND.

Pursuant to the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), and the Assigned Commissioner's Scoping Memo and Ruling in the instant matter, the Utility Consumers' Action Network ("UCAN") offers this Opening Brief and these comments concerning the issues in the above-captioned proceeding.¹

In this Application, San Diego Gas & Electric ("SDG&E") seeks to establish an interim rate relief mechanism for wildfire mitigation expenditures recorded in SDG&E's Wildfire Mitigation Plan memorandum accounts. Under the proposed mechanism, SDG&E requests authorization to recover 50 percent of the recorded wildfire mitigation expenditures, which are incremental to those authorized for recovery in SDG&E's general rate case and other wildfire-related regulatory account, subject to a later reasonableness review and refund with interest if appropriate. SDG&E's request covers the period from 2019 to 2023. SDG&E does not request a reasonableness review. By virtue of the application SDG&E seeks to accelerate rate recovery of costs.

According to the application, as of the end of the first quarter 2021, SDG&E has an under-collected balance of approximately \$107.2 million recorded to its WMPMAs, incremental to authorized amounts, and SDG&E expects this balance to grow. SDG&E proposes that WMPMA costs incurred between 2019 and 2021 be amortized over 20 months, and subsequent expenditures be amortized over an annual period. SDG&E claims that the typical residential electric customer would see a bill increase of approximately 1.4 percent, or \$1.92 in 2022; the

¹ UCAN, jointly with The Utility Reform Network, filed a protest on September 3, 2021. UCAN participated in the Pre-Hearing Conference on October 13, 2021.

typical gas customer would see a bill increase of approximately 0.1 percent, or \$0.06 in 2022, if SDG&E's proposal is adopted.

The Assigned Commissioner's Scoping Memo and Ruling identified several issues to be reviewed and considered.²

1. Whether the Commission should grant SDG&E's request to establish an interim rate relief mechanism for wildfire mitigation expenditures recorded in SDG&E's WMPMAs during the 2019-2023 period.
 - A. Whether SDG&E sufficiently demonstrated a need for an interim rate relief.
 - B. Whether SDG&E's proposal promotes fairness, minimizes costs, and provides better rate stability for SDG&E customers.
2. Whether the Commission should adopt SDG&E's proposal to update the recorded balances for 2019-2023 and amortize them in rates through SDG&E's annual regulatory account balance update process.
 - A. Whether SDG&E's proposal to amortize 50 percent of the incremental WMPMA expenditures incurred in the 2019-2021 period over 20 months and subsequent incremental expenditures for the 2022-2023 period over 12 months is reasonable; or what alternative method and/or proposal, if any, should be adopted.
 - B. What, if any, additional reporting requirements the Commission should adopt.

II. SDG&E'S REQUEST FOR INTERIM RATE RELIEF IS UNREASONABLE AND UNJUSTIFIED.

A. SDG&E Fails to Demonstrate that Interim Rate Relief, an Extreme Remedy, Should be Adopted.

An application for interim rate relief should be viewed as an extreme remedy. Via its adoption and imposition, SDG&E ratepayers could unreasonably suffer increased and unjust costs. Particularly, in the context of wildfire mitigation expenditures, California has addressed and provided a framework for accountability and tracking. Given the catastrophic and tragic damages and costs incurred in recent wildfires, the State enacted emergency legislation to deal with Investor-Owned Utilities ("IOUs") expenses. As the California Farm Bureau cautioned:

The legislative intent behind SB 901 and AB 1054 was to acknowledge that wildfire is a real threat to California and utilities should be doing everything possible to limit their contributions to these catastrophic events. The precise reason for establishing a balancing account subject to a reasonableness review was to allow for accountability and tracking. The statute makes no promise the utilities will recover any portion of their expenditures.³

² Assigned Commissioner's Scoping Memo and Ruling, at p. 3.

³ See, PROTEST OF THE CALIFORNIA FARM BUREAU FEDERATION TO THE APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY FOR ESTABLISHMENT OF AN INTERIM RATE RELIEF MECHANISM FOR ITS WILDFIRE MITIGATION PLAN COSTS, at p. 3.

UCAN previously asserted SDG&E's testimony does not provide sufficient detail for the Commission to conclude that the arguments and underlying calculations demonstrate conditions that warrant interim rate recovery.⁴ No additional testimony has been introduced that controverts this contention.

In fact, it remains unchanged that SDG&E's financial outlook, even indeed the view about its wildfire mitigation practices, holds steady and with robust projections. As found earlier – less than 6 months ago - Moody's upgraded SDG&E from Baa1 to A3 in March of this year, and expressing that the upgrade reflects Moody's "expectation that the utility will continue to generate robust credit metrics."⁵ In large part, this Rating action from Moody's reflected "SDG&E's track record of effective wildfire risk mitigation practices and the credit support of [AB 1054]," along with attrition revenue increase and the 2019 general rate case outcome. The Commission, here, should presume that Moody's was fully aware of SDG&E's forecasts of future wildfire mitigation spending when it performed its analysis. Accordingly, the Commission should not be swayed SDG&E's argument assertion that, absent the Commission's approval of the interim funding scheme SDG&E proposes, somehow SDG&E's credit rating (and the State's overall regulatory framework) could be viewed in a more negative light."⁶

B. Other Regulatory Remedies are Available to Allow Cost Recovery.

As opined above, UCAN believes a mechanism for interim rate relief should be viewed as an extreme remedy. As parties have expressed - interim relief should be a measure of last resort, not a convenience.⁷ SDG&E, in its Application and accompanying testimony, recognizes and tacitly admits there are other regulatory mechanisms already established that could review and address a request to recover costs. And SDG&E's request for interim recovery of costs is contrary to recent commission decisions rejecting utility proposals for such automatic rate adjustments associated with wildfire-related spending.

The California Farm Bureau explored the mechanisms and remedies on hand that could be utilized

⁴ PROTEST OF THE UTILITY REFORM NETWORK AND UTILITY CONSUMERS' ACTION NETWORK, at p. 6.

⁵ Id.

⁶ Id.

⁷ PROTEST OF THE CALIFORNIA FARM BUREAU FEDERATION TO THE APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY FOR ESTABLISHMENT OF AN INTERIM RATE RELIEF MECHANISM FOR ITS WILDFIRE MITIGATION PLAN COSTS, at p. 2.

For example, AB 1054 established a mechanism for recovery following the completion of a Wildfire Mitigation Plan. The [SDG&E] plan in question ends in 2022. We are currently near the end of 2021. SDG&E has provided no valid reason for the Commission to provide the extreme remedy of interim rate relief when SDG&E has an available method for cost recovery on the horizon. Allowing SDG&E to recover costs through an application following completion of their Wildfire Mitigation Plan provides the appropriate checks and balances the Legislature intended. SDG&E further states if relief is not granted they will apply for relief in a securitization proceeding.⁸

Moreover, while the Commission has the authority to authorize cost recovery under certain circumstances, UCAN asserts the agency must still require IOUs to first demonstrate that such extraordinary circumstances exist. SDG&E's application and supporting testimony do not provide an adequate demonstration.

As previously proffered, SDG&E's Application does not present a compelling case for relief.⁹ The utility has not adequately demonstrated that such an amount could lead to "rate shock" of such magnitude that interim recovery is warranted in order to avoid even the potential for such an outcome. UCAN and TURN found SDG&E's Application and testimony suggested the utility has calculated a combined revenue requirement of \$93.1 million for the incremental amounts associated with 2019 and 2020 spending. But there is no persuasive testimony and evidence that this amount may constitute or generate an inordinate rate shock to justify the requested mechanism. Furthermore, there may be alternatives that are equally effective for mitigating the potential for rate shock, such as amortizing rate recovery over a several year period after the Commission has conducted a reasonableness review of the recorded costs. SDG&E's contention regarding possible rate shock, should accumulated wildfire mitigation cost balances be implemented into rates at one time rate-shock will occur¹⁰ ignores the benefits of lower rates until these added costs are included under the current 2024 GRC plan.

UCAN lacks an understanding of why SDG&E believes the instant application to accelerate rate treatment "promotes fairness, minimizes costs, and provides better rate stability for SDG&E customers."¹¹ Rather, the proposed accelerated rate treatment seems to do none of

⁸ Id., at p. 4.

⁹ PROTEST OF THE UTILITY REFORM NETWORK AND UTILITY CONSUMERS' ACTION NETWORK, at p. 4.

¹⁰ APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) FOR ESTABLISHMENT OF AN INTERIM RATE RELIEF MECHANISM FOR ITS WILDFIRE MITIGATION PLAN COSTS, at pg. 2.

¹¹ Id., at p. 9.

these things. SDG&E will be unjustly enriched with accelerated rate treatment of this magnitude. Critically, important regulatory incentives and proposed reforms, e.g., such as the Risk Based Ratemaking (R.21-07-013)¹² proceeding, will be of diminished importance to SDG&E if the Commission allows accelerated rate treatment. SDG&E's proposed accelerated rate relief will directly impact the outcome of Risk-Spend-Efficiency (RSE) calculations that then determine the revenue requirement in the 2024 General Rate Case. UCAN suggests, in its Application here, SDG&E has failed to identify and assess these linkages. The relationship between these proceedings, thus, should not be ignored but acknowledged and explained.

Additionally, and specifically to the consideration for relief attributed to future costs, UCAN propounds the utility's request has, essentially, already been denied by the Commission. For the costs from 2021 through 2023, SDG&E's request here is not materially different than the approach the Commission recently rejected in a Pacific Gas and Electric Company (PG&E) application (A.20-02-003). There, PG&E requested interim recovery of not only a portion of the amounts it had already recorded, but establishment of a mechanism that would provide for recovery of a percentage of the balance whenever the balance exceeded a proposed established threshold of \$100 million. In its Decision (D.20-10-026), the Commission rejected this element of PG&E's application.¹³ Here, we suggest, SDG&E's proposal only appears to merely eliminate the \$100 million threshold, and would permit interim rate recovery of any otherwise eligible amount recorded in 2021 through 2023.

With no further evidence presented, UCAN's position is consistent; nothing in the SDG&E's testimony sets forth a factual basis for such a different outcome to very similar requests.¹⁴

Consequently, and consistent with the previous holding in PG&E's proceeding (D.20-10-026) the Commission in the instant matter should reject this element of SDG&E's proposal. A rationale expressed by the California Farm Bureau is pertinent and applicable here. Providing such relief to SDG&E would, essentially dis-incentivize IOU controlled spending, and

¹² UCAN respectfully asks the Commission to recognize relevant issues in this proceeding that stem from related contemporaneous proceedings, e.g., R.21-07-013 and the SDG&E RAMP proceeding which lead up to the 2024 General Rate Case (GRC) for SDG&E. UCAN contends, in short, the SDG&E application for interim (accelerated) rate relief is directly related to the ongoing R.20-07-013 proceeding, which leads to direct technical input to determine rate results in the 2024 GRC.

¹³ See, D.20-10-026.

¹⁴ PROTEST OF THE UTILITY REFORM NETWORK AND UTILITY CONSUMERS' ACTION NETWORK, at p. 3.

effectively shifting the burden to ratepayers to prove the wildfire mitigation expenditure collection is unreasonable. Nothing in California law or Commission regulation creates a presumption that any portion of such IOU expenditures are reasonable.¹⁵ The Commission affords established mechanisms for recovering costs that allow IOUs to petition for the reasonableness of their expenditures. Reasonableness must be considered and weighed as part of a request like in the instant proceeding to ensure customer impacts are properly examined.

C. SDG&E Does Not Explain Why a Reasonableness Review Would Not Suffice Under the Circumstances.

SDG&E's Application unreasonably asks for accelerated rate treatment. Specifically, the application states "[i]nterim rate relief, as proposed herein, is justified for several reasons. Such interim relief will permit SDG&E to begin collecting needed revenues more promptly than would otherwise occur – especially given that revenues associated with SDG&E's next General Rate Case will not be implemented until 2024."¹⁶ SDG&E's logic and reasoning to support its proposition for "needed revenues" is one-sided. The timing of the next GRC (that the Commission has now extended GRCs to every four years as compared to the previous cycle of every three years) has major positive incentive benefits, such as the ability for a utility to be more efficient or take advantage of declining costs, which SDG&E appeared to acknowledge when the decision on GRC timing was made.

SDG&E's proposed interim rate relief appears to achieve and directly accelerate rate-based earnings (undepreciated capital spending authorized times allowed rate-of-return), though nothing about SDG&E's actions appears to warrant the benefits of accelerated earnings. SDG&E's request for accelerated rate treatment would, however, more quickly increase ratepayer costs, compared to more traditional recovery of these costs in the upcoming 2024 GRC.

SDG&E appears to have limited its analysis of ratemaking options to approval if interim recovery is afforded and having "to wait until after its next General Rate Case" or - at best - implementation of cost recovery as part of the next General Rate Case. But as the IOU

¹⁵ PROTEST OF THE CALIFORNIA FARM BUREAU FEDERATION TO THE APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY FOR ESTABLISHMENT OF AN INTERIM RATE RELIEF MECHANISM FOR ITS WILDFIRE MITIGATION PLAN COSTS, at p. 3.

¹⁶ APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) FOR ESTABLISHMENT OF AN INTERIM RATE RELIEF MECHANISM FOR ITS WILDFIRE MITIGATION PLAN COSTS, at pg. 2.

acknowledges, it has the option of a separate application for a reasonableness review and, to the extent it can demonstrate the reasonableness of its recorded spending, rate recovery of the recorded costs.¹⁷ And SDG&E seems to contend there are benefits in using an Advice Letter process, claiming it limits “the need for filing and processing cost recovery applications, which require significant expenditures of resources by all stakeholders and the Commission.”¹⁸ But SDG&E ignores the fact that all of these costs must go through a GRC process if not a reasonableness review. This means the added transaction costs of SDG&E’s proposed Advice Letter process will be more burdensome and costly than the status quo process that will occur if this accelerated rate proposal is rejected.

D. The Interim Rate Relief Request Does Not Align with Current, Related Proceedings.

UCAN believes the core of SDG&E’s application creates a set of distractions that take away from resolve in the SDG&E RAMP report, the evolving Risk-Based Decision Framework (R.21-07-013) and upcoming 2024 SDG&E GRC process. As set forth in the ongoing R.21-07-013 proceeding, SDG&E is to file amendments to its 2024 GRC application to incorporate RAMP feedback into TY 2024 GRC filing. UCAN has commented that SDG&E is not complying with the Commission’s authorized previous settlement under the R.20-07-013 proceeding. There, UCAN agrees with the Safety Policy Division (SPD) recommendations that SDG&E fails to comply with the prior settlement terms, specifically to ensure that appropriate detail (granularity) in risk analysis is accompanied by recommendations about the ranking of investment priorities, which through the RAMP report to the GRC.¹⁹

R.21-07-013 has raised central questions related to funding in the upcoming GRC. If, in fact, RAMP report analytics and recommendations are not properly grounded – as they do not provide sufficient granularity to justify capital spending – a number of important proposed IOU investments in the GRC cannot be authorized. This is because related capital cost (spending) requested seem likely to fail the test for just and reasonable rates – based on increased safety and reliability – as such demonstrations will have failed. SPD has requested that parties work

¹⁷ PROTEST OF THE UTILITY REFORM NETWORK AND UTILITY CONSUMERS’ ACTION NETWORK, at p. 8.

¹⁸ APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) FOR ESTABLISHMENT OF AN INTERIM RATE RELIEF MECHANISM FOR ITS WILDFIRE MITIGATION PLAN COSTS, at pg. 3.

¹⁹ See, R.21-07-013 and its resulting Decision (D.21-11-009).

together in R.20-07-013 to provide feedback on critical issues. SDG&E has yet to address the critical issue of the need for greater granularity in safety-risk spending. Wildfire costs and risks, for which SDG&E here asks for accelerated funding, certainly require greater scrutiny, granularity in differentiation, and full justification.

Accelerated rate treatment in the instant proceeding will provide further disincentive for SDG&E to comply with key directives in the Risk Based Decision Framework and RAMP processes, and the upcoming 2024 GRC process as well. Accordingly, SDG&E should be focused on its RAMP report, Risk-Spend-Efficiency calculations, and the need for greater granularity and justification of costs, instead of mere accelerated cost recovery.

Moreover, there, the Risk-Spend-Efficiency calculation process may be a foregone “detail” that SDG&E seeks to avoid in order to recover 100% of its proposed costs that would be in effect pre-authorized with the accelerated rate treatment proposed here. Obviously, SDG&E seeks rapid capitalization of what are otherwise traditional GRC costs, which if authorized as “rate base” will immediately and inappropriately increase SDG&E’s earnings.

UCAN is concerned the regulatory focus and framework associated with the GRC process be respected. We believe the Commission needs to preserve the regulatory incentives that exist in the current processes leading up to the GRC including issues and topics being developed in R.21-07-013. The new Risk Based Incentive Framework first requires that a set of quasi-collaborative workshops and stakeholder discussions be successful, which include “controls and mitigations,” “treatment of foundational programs and activities,” “actions on best practices for modeling” (wildfire risk), “wildfire risks,” and “transparency in RAMP filings.” Thus, a full set of metrics are under development that will culminate in specific “Risk-Spend-Efficiency” measures that will then ratio amounts of spending that will be authorized in the upcoming 2024 GRC.²⁰

In this proceeding, if accelerated relief is granted to SDG&E, the Commission will increase the likelihood that this entire, newly forming RBDF process will be compromised. By taking major wildfire costs out of the RBDF process, through interim rate relief, the impacts of the RBDF and GRC processes will be diminished. Moreover, SDG&E will have used a major loop-hole to avoid the impacts of successful resolution of the RBDF and GRC processes. Hence, the extensive efforts of the many stakeholders and experts in the RBDF will have diminished

²⁰ D.21-11-09, pp. 4-8, 15-34.

impacts, in a process to date which has been very complex, difficult to staff and manage, and very time consuming.

Relatedly, UCAN views SDG&E's request (rapidly) adds costs to ratepayer bills at a time when the CPUC has adopted longer (4-year) GRC proceedings. UCAN believes SDG&E's accelerated rate proposal to be a request for special treatment, at a time (global warming) when storms, heat and cold waves, droughts, and other extraordinary events seem to only increase. Monopoly utilities are ensured to retain cost recovery, including costs with interest, and are ensured to be able to finance such costs through their capital structure. UCAN's perspective is that it seems that SDG&E is sidestepping the developing RBDF and Risk-Spend-Efficiency process it has worked to develop.

E. SDG&E'S Proposal to Amortize 50 Percent of the Incremental WMPMA Expenditures is Unreasonable.

UCAN observes the GRC cycle has been extended and, therefore, counters SDG&E's proposed "interim" change in mechanism and policy. UCAN supports the current rate treatment and, viewed in this light, UCAN believes the Commission would be ill-advised to initiate further changes to policies leading up to the 2024 GRC.²¹ SDG&E asks for exceptional treatment, a 50% amortization amount and two amortization times - 20 months and 12 months - all of which are arbitrary, leaves the Commission and stakeholders "holding up their thumbs in the wind" to decide matters that do not require decision. UCAN cannot find principles or analytics to support these arbitrary ideas, and SDG&E has failed to fill in any of the gaps around these numbers.

UCAN suggests the Commission should not adopt additional reporting requirements in this proceeding but, instead, reject SDG&E's proposed accelerated rate relief and make SDG&E fulfill its responsibilities in the RBDF proceeding, in the RAMP report, and in its upcoming GRC. Only this action will avoid distorting what is evolving into a complex, comprehensive framework. Ultimately, cost recovery should be connected to the GRC, as SDG&E itself acknowledges:

²¹ APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) FOR ESTABLISHMENT OF AN INTERIM RATE RELIEF MECHANISM FOR ITS WILDFIRE MITIGATION PLAN COSTS, at p. 6: "The Commission also approved D.20-01-002 extending the current GRC cycle of SDG&E by adding two additional attrition years 2022 and 2023 (now from 2019 through 2023) and ordering SDG&E to file a Petition for Modification of its 2019 GRC Decision to set revenue requirement for the newly established attrition years. In May 2021, the Commission approved SDG&E's Petition for Modification and extends SDG&E's wildfire mitigation-related revenue requirement through 2023."

In the 2019 Guidance Decision, the Commission made clear that it would not review costs or permit cost recovery in the context of WMP proceedings. The Commission interpreted SB 901 to mean that it ‘should consider cost recovery related to WMPs in GRCs, not in this [WMP] proceeding.’²²

III. CONCLUSION

SDG&E’s request for interim rate relief fails to provide a demonstrable case to grant.

UCAN recommends the Commission deny SDG&E’s request as:

- A financial need for interim (accelerated) relief is not shown, and even per the Moody’s Report, SDG&E does not actually need;
- Absent is justification for an accelerated rate treatment beyond what is normally used for rate relief in a GRC proceeding, and for a separate reasonableness review;
- The Application lacks a reasoned explanation as to why the Commission should turn their attention to SDG&E’s need for accelerated rate relief, given the many other Commission issues and concerns that are current and pressing such as SDG&E’s need to comport with R.21-07-013 directions with respect to granularity in its filing;
- The instant application would provide even less incentive for SDG&E to more clearly justify needed rules and metrics in those two related proceedings; and
- With accelerated rate treatment to recover over fifty percent of the wildfire related costs, utility incentives to achieve regulatory compliance seem certain to be further diminished in the complicated Risk Based Decision Framework proceeding.

UCAN appreciates the opportunity to participate in this proceeding and respectfully submits these comments.

Respectfully submitted,
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²² Id., pg. 4.