

**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) REPLY BRIEF



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I. INTRODUCTION

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”) files this Reply Brief in the above-captioned proceeding.

II. INTERIM (ACCELERATED) RATE RELIEF, AN EXTREME REMEDY, REMAINS UNREASONABLE

A. SDG&E Fails to Show Extraordinary Causes to Justify the Extreme Remedy of Interim Rate Relief.

As UCAN opined in its Opening Brief, an application for interim rate relief should be viewed as an extreme remedy.¹ TURN, in its Opening Brief, also laid out the reasoning and rationale for granting such relief only in extraordinary situations. “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.”²

UCAN echoes TURN’s observation, pursuant to the regulatory framework that is consistent with recent Commission decisions, that “interim rate increases will be as infrequent” and only in uncommon circumstances.³ Accordingly, UCAN asserts SDG&E should be directed to explore options available in its upcoming GRC, rather than afforded interim rate recovery of such costs here. We find that, inasmuch that SDG&E tacitly acknowledges, AB 1054 and SB 901 included the expectation of regulatory lag between when SDG&E expended funds on

¹ UTILITY CONSUMERS’ ACTION NETWORK (UCAN) OPENING BRIEF (“UCAN”), at p. 2.

² OPENING BRIEF OF THE UTILITY REFORM NETWORK (“TURN”), at p. 8.

³ Id., at p. 11.

wildfire mitigation activities, and when SDG&E would have an opportunity to include in rates the reasonable portion of its above-authorized spending amounts.⁴

UCAN previously belied the point that SDG&E ratepayers could unreasonably suffer increased and unjust costs with the imposition of the interim rate relief mechanism.⁵ Now, more than ever, it would appear that unreasonable costs would significantly impact SDG&E's customers. Recent stories highlight ratepayers are suffering as SDG&E rolled out higher rates in January with many customers have seen their statements jump more than 10 percent compared with even one month ago.⁶ In a very real and painful way, SDG&E customers are suffering as the average electric rate for residential customers rose 7.8 percent.⁷

SDG&E attempts to portray its interim relief proposal meets the criteria established by the Commission, "on the basis of fairness and because interim recovery will help smooth customer rates."⁸ But even Senior SDG&E Officials recognize and admit "There really is no ideal time to increase rates, especially when given the inflationary pressures that are raising the cost of other goods and services."⁹

Like earlier, in the context of wildfire mitigation expenditures, UCAN again recognizes that California has addressed and provided a framework for accountability and tracking to deal with Investor-Owned Utilities ("IOUs") expense.¹⁰

B. Interim Rate Relief, per Moody's Report, Will Not Materially Impact SDG&E's Credit Outlook.

UCAN reminds the Commission 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

⁴ And see, TURN, at pp. 10-11.

⁵ UCAN, at p. 2.

⁶ *SDG&E Bills See Large Jump In New Year*, San Diego Union-Tribune, January 17, 2022: http://enewspaper.sandiegouniontribune.com/infinity/article_share.aspx?guid=a660b9ce-fef5-48b4-9247-aad2cc29a180.)

⁷ Id.

⁸ OPENING BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY ("SDG&E"), at p. 11.

⁹ *SDG&E Bills See Large Jump In New Year*, San Diego Union-Tribune, January 17, 2022: http://enewspaper.sandiegouniontribune.com/infinity/article_share.aspx?guid=a660b9ce-fef5-48b4-9247-aad2cc29a180.

¹⁰ UCAN, at pp. 2-3.

generate robust credit metrics.”¹¹ UCAN previously described 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.

TURN, in its Opening Brief, provides a further review and rehash of Moody’s Credit Opinion. UCAN concurs with its pronouncement. As TURN observes, SDG&E acknowledges 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. Instead, the Legislature adopted a cost recovery approach that allowed for “the potential for regulatory lag between expending substantial costs on wildfire mitigation activities and the timing of cost recovery.” 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.¹²

Moreover, TURN concludes 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.¹³

Despite SDG&E’s contention that adopting its interim rate relief proposal would, essentially, enhance the rating agencies’ perception of California’s regulatory framework,¹⁴ nothing in the Moody’s Credit Outlook report suggests the Commission needs to be concerned with its particular impact to the perception of the rating agencies. Instead, 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.”¹⁵

¹¹ UCAN, at p. 3.

¹² TURN, at pp. 14-15.

¹³ Id., at p. 19.

¹⁴ See, SDG&E, at p. 12.

¹⁵ TURN, at pp. 20-21.

UCAN remains steadfast in its admonition that the Commission should not be swayed 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.”¹⁶

C. SDG&E’S Request is Not Supported by Prior Commission Action.

From the onset, UCAN expressed a mechanism for interim rate relief should be viewed as an extreme remedy; accelerated relief should be a measure of last resort, not a convenience.¹⁷ 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.

UCAN finds persuasive TURN’s analysis of subsequent commission decisions that are pertinent here. TURN notes 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. The forecasted amounts make up the vast majority of the costs SDG&E asks the Commission to deem eligible for interim recovery, with the 2022 and 2023 incremental revenue requirements that SDG&E forecasts representing fully two-thirds of the utility’s \$735 million total figure.¹⁸ To be consistent, therefore, the Commission’s treatment of costs forecasted for 2021, 2022 and 2023 should be consistent with the approach taken in D.20-10-026.¹⁹

As TURN laid out, 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.²⁰

¹⁶ UCAN, at p. 3.

¹⁷ Id.

¹⁸ TURN, at pp. 12-13. (And, overall, see TURN, at pp. 2-8.)

¹⁹ Id., at p. 14.

²⁰ Id., at p. 13.

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. 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.²¹

And while the Commission has the authority to authorize cost recovery under certain circumstances – we do not dispute - UCAN asserts the agency must still require IOUs to first demonstrate that such extraordinary circumstances exist. 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.²²

TURN highlights, 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.²³

UCAN continues to hold that 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.²⁴ And as TURN finds too, SDG&E's application for such "interim rate recovery" is an extraordinary measure that should only be authorized under extraordinary circumstances; the Commission has so found in recent decisions and actions in response to other utilities' requests for interim rate recovery of the costs of wildfire-related activities. Basically, SDG&E's approach would effectively ask the Commission to treat interim rate recovery as if it were a far more "ordinary" element of ratemaking.²⁵

²¹ Id., at p. 8.

²² UCAN, at p. 5.

²³ TURN, at p. 2.

²⁴ UCAN, at p. 3.

²⁵ TURN, at p. 1.

TURN and the Public Advocates Office both offer suggestions on amended terms (conditions) should the Commission decide to authorize some amount of interim rate recovery.

TURN believes the Commission should correct a clear error in SDG&E's approach to calculating the amounts that would be eligible for recovery each year. 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.²⁶ UCAN joins in that suggestion.

The Public Advocates Office recommends, among two suggestions, that SDG&E be allowed interim recovery of only electric-related costs and no interim recovery of gas-related costs given the relatively small amount of costs allocated to gas. And any allocation of the WMPMA costs to gas customers be addressed in a GRC proceeding or other proceedings related to recovery of the wildfire mitigation costs, such as through a section 8386.4(b)(2) application.²⁷ UCAN concurs.

III. CONCLUSION

UCAN appreciates the opportunity to participate in this proceeding and respectfully submits this Reply Brief.

Respectfully submitted,
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²⁶ Id., at pp. 21-22.

²⁷ OPENING BRIEF OF THE PUBLIC ADVOCATES OFFICE ON APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY FOR ESTABLISHMENT OF AN INTERIM RATE RELIEF MECHANISM FOR WILDFIRE MITIGATION COSTS, at p. 4.