

**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.

Application 21-07-017
(Filed July 30, 2021)

**PROTEST OF THE UTILITY REFORM NETWORK AND
UTILITY CONSUMERS' ACTION NETWORK**

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PROTEST OF THE UTILITY REFORM NETWORK AND UTILITY CONSUMERS' ACTION NETWORK

I. Introduction

On July 30, 2021 San Diego Gas & Electric Company (SDG&E) filed an application seeking authorization to establish an interim rate relief mechanism for wildfire mitigation expenditures recorded in the utility's Wildfire Mitigation Plan Memorandum Accounts (WMPMAs). SDG&E seeks an interim rate relief mechanism that it characterizes as permitting recovery of 50 percent of wildfire mitigation expenditures incremental to those authorized in its General Rate Case (GRC). For the WMPMA costs incurred in the 2019-2021 period, SDG&E proposes amortization of its 50 percent recovery over 20 months. Going forward, recorded incremental expenses would be amortized over a 12-month period. The costs would be subject to reasonableness review in a later proceeding, with refunds of the amounts recovered under the interim rate relief mechanism, if appropriate.

Pursuant to Rule 2.6 of the Commission's Rules of Practice and Procedure, The Utility Reform Network (TURN) and Utility Consumers' Action Network (UCAN) jointly submit this protest to the SDG&E application.¹ In the sections that follow, TURN and UCAN briefly describe the issues identified to date, and address the proposed category, need for hearing, and proposed schedule.

UCAN is a 501(c)(3) non-profit public benefit corporation dedicated to protecting and representing the interests of residential and small business customers in the San Diego Gas &

¹ Pursuant to Rule 2.6(a), this protest must be filed within 30 days of the date the notice of the filing of the application first appears in the Commission's Daily Calendar. The notice of filing first appeared on August 4, 2021. Therefore, this protest is timely.

Electric service territory. UCAN has a 36-year history of intervening in CPUC proceedings on behalf of SDG&E customers. In its Intervenor role, UCAN has participated in numerous proceedings, all representing and advocating the interests of utility ratepayers, that help the Commission receive, address and develop the record and inform the decision of proceedings. (E.g., UCAN participates in General Rates cases and Cost of Capital proceedings.) And UCAN participates in more specific and narrow proceedings ranging from review of new/continued fund mechanisms (e.g., Wildfire Fund) to rulemaking to review the current customer climate credits (e.g., Climate Credit). UCAN serves ratepayers interests in advocating for reasonable rates and costs; we offer a distinct, experienced perspective and voice on these and other issues and our participation will benefit the Commission in its development of a record to consider in this rulemaking.

TURN is a non-profit consumer advocacy organization, and has a long history of representing the interests of residential and small commercial customers of California's utility companies before this Commission. TURN's articles of incorporation specifically authorize our representation of the interests of residential customers. The instant application impacts the interests of SDG&E's residential and small commercial ratepayers by seeking to accelerate rate recovery of costs. In matters involving SDG&E, TURN has regularly worked closely with UCAN to coordinate the groups' efforts on behalf of SDG&E's ratepayers.

II, Grounds of the Protest And Issues To Be Considered

1. SDG&E's Request to Provide For Interim Recovery of 2021-2023 Costs Is Contrary To Recent Commission Decisions Rejecting Utility Proposals For Such Automatic Rate Adjustments Associated With Wildfire-Related Spending.

SDG&E seeks interim rate recovery not just for costs it has recorded to date but that the Commission has not yet found reasonable, but also costs it anticipates recording in the future.

The utility illustrates the potential revenue requirement impacts of its wildfire mitigation program spending by citing recorded costs from 2019 and 2020, costs forecasted in its Wildfire Mitigation Plan for 2021 and 2022, and a “proxy” figure for 2023.²

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). PG&E had sought 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 D.20-10-026 (in A.20-02-003), the Commission rejected this element of PG&E’s application.³ SDG&E’s proposal here appears to merely eliminate the \$100 million threshold, and would permit interim rate recovery of any otherwise eligible amount recorded in 2021 through 2023. Nothing in the utility’s testimony sets forth a factual basis for such a different outcome to very similar requests. Consistent with the approach taken in D.20-10-026, the Commission should reject this element of SDG&E’s proposal.

2. SDG&E’s Request for Interim Recovery of 2019-2020 Costs Is Not Sufficiently Justified Under The Circumstances Here.

SDG&E seeks interim rate recovery of amounts it has spent in 2019 and 2020 that the Commission has not yet determined to be reasonable. While TURN and UCAN do not dispute that the Commission has the authority to authorize such recovery under certain circumstances, the agency must still require the utility to first demonstrate that such extraordinary circumstances

² Ex. SDG&E-03, Table 3-3.

³ D.20-10-026, pp. 34-36 and Conclusion of Law 9.

exist. SDG&E's application and supporting testimony do not provide an adequate demonstration.

SDG&E's application and testimony indicate the utility has calculated a combined revenue requirement of \$93.1 million for the incremental amounts associated with 2019 and 2020 spending.⁴ 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. 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.

Similarly, the application and testimony do not present a sufficient showing that the absence of interim recovery would create an undue risk of financial hardship from the utility's perspective. And SDG&E's discussion of the possibility the utility may issue long-term debt to offset the balance of as-yet uncollected wildfire mitigation spending is based in part on spending forecasted for 2021 and 2022, and the utility's "proxy" for 2023 levels,⁵ amounts that should not be subject to an interim recovery mechanism for the reasons described above. The 2019 and 2020 spending levels do not appear likely to trigger such a response from the utility.

SDG&E presents a "Pro Forma Financial Impact" comparing "2020 Actual" with figures that purportedly represent an outcome "Without Interim Rate Relief" in an attempt to demonstrate that its Funds From Operation (FFO) would decline without interim relief.⁶ Even with its assumptions, SDG&E's resulting FFO/debt ratio would be 21.2%, still above the 20%

⁴ Ex. SDG&E-03, Table 3-3.

⁵ *Id.*, pp. CB-7.

⁶ *Id.*, p. CB-10, Table 3-5.

threshold cited as cause for concern in the Moody's document SDG&E cites as support in its testimony.⁷ The FFO/Debt ratio (versus an absolute measure of the dollar amount of funds from operations) is the metric that matters for credit rating agencies seeking to evaluate risks to debtholders. In addition, SDG&E's FFO figures don't make sense on their face – for example, SDG&E suggests its FFO would decline by \$20 million in the unspecified future period as compared to 2020 absent interim recovery, which seems inconsistent with certainty of increased revenues after 2020, starting with the GRC-provided attrition increase estimated at \$134.2 million SDG&E was slated to receive for 2021.⁸

Furthermore, SDG&E's suggestion that a weakening in its FFO/debt metric alone “could result in Moody's downgrading the Company's current Outlook from Stable”⁹ is unsupported. As SDG&E points out, 50% of Moody's credit rating methodology is based on the quality of regulation.¹⁰ Since 2000, California has had authorized returns on equity for all three IOUs that were on average in excess of 50 basis points more than the US national average for electric utilities.¹¹ Return on rate base “which primarily reflects the opportunity for the IOU to earn a profit” (a key component of FFO) has been increasing at an average annual rate of about 5% for

⁷ Ex. SDG&E-03, pp. CB-9 to -10 and Table 3-5.

⁸ D.19-09-051 (Semptra Utilities Test Year 2019 GRC), p. 3.

⁹ Ex. SDG&E-03, pp. CB-10

¹⁰ *Id.*

¹¹ California Public Utilities Commission, *Utility Costs and Affordability of the Grid of the Future, Overview of White Paper Observations*, CPUC En Banc Hearing, February 24, 2021: California IOUs' Authorized Return on Equity (ROE) Has Been Well Above the National Average, Slide #7.

SDG&E in recent years.¹² From the perspective of ratings agencies, such ratemaking outcomes constitute a very favorable “quality of regulation.”

Finally, Moody’s actually just upgraded SDG&E from Baa1 to A3 in March of this year, (that is, less than 6 months ago), stating in the process that the upgrade reflects Moody’s “expectation that the utility will continue to generate robust credit metrics.”¹³ The Rating Action from Moody’s also cites “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 should presume that Moody’s was fully aware of SDG&E’s forecasts of future wildfire mitigation spending when it performed its analysis. All of this undercuts SDG&E’s assertion that “SDG&E’s credit rating and overall regulatory framework could be viewed in a more negative light”¹⁴ absent the Commission’s approval of the interim funding scheme SDG&E proposes.

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. TURN and UCAN have not yet seen workpapers or other material from the utility that might further support its arguments or calculations.

¹² *Id.*, Rate Based and Return on Rate Base, Slide #5.

¹³ Moody’s Investor Service Rating Action: “Moody’s upgrades San Diego Gas and Electric to A3 from Baa1; outlook stable.” (https://www.moody.com/research/Moodys-upgrades-San-Diego-Gas-Electric-to-A3-from-Baa1--PR_443599)

¹⁴ Ex. SDG&E-03, pp. CB-11.

3. SDG&E Is Proposing Interim Recovery of Substantially More Than 50% of Its Recorded Spending.

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.”¹⁵ 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 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%** for 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%**.

SDG&E cites the recovery mechanism it implemented in response to D.16-08-003 as the basis for the structure of its mechanism here. The Ordering Paragraphs of that decision are written in a less-than-perfectly-clear manner, and it seems at least SDG&E has read them to provide for annual recovery of 50% of whatever remains in the relevant ratemaking account (that is, interim recovery on a cumulative basis), rather than recovery limited to 50% of the amount

¹⁵ SDG&E Application, p. 3.

the utility recorded. Whatever the explanation, if the Commission decides to provide interim recovery of any amount as a result of this application, it should be calculated as a percentage of the amount SDG&E spent in any given year, rather than as a percentage of the amount remaining in its WMPMA at the end of a year.

4. SDG&E Does Not Explain Why a Reasonableness Review of Recorded Spending Would Not Suffice Under The Circumstances.

SDG&E appears to have limited its analysis of ratemaking options to approval if interim recovery, and having “to wait until after its next General Rate Case”¹⁶ or, at best, implementation of cost recovery as part of the next General Rate Case.¹⁷ But as the utility 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.¹⁸ The Commission is in the midst of one such reasonableness review application for PG&E that includes recorded costs from that utility’s Wildfire Mitigation Plan Memorandum Account (WMPMA).¹⁹ The utility should be required to demonstrate why the extraordinary relief represented by its request for interim rate recovery is necessary when it has the opportunity to seek more traditional authorization for rate recovery of recorded amounts actually found reasonable.

¹⁶ SDG&E Application, p. 10.

¹⁷ *Id.*, p. 13; Ex. SDG&E-03, p. CB-6.

¹⁸ SDG&E Application, pp. 2, 5, 7 and 9.

¹⁹ A.20-09-019 (PG&E Wildfire Mitigation and Catastrophic Events (WMCE) application).

II. Need for Supplemental Testimony

The burden of proof is squarely upon SDG&E for each element of its application and the requested relief:

As the applicant, [the utility] has the burden of affirmatively establishing the reasonableness of all aspects of its application, including that it is entitled to the relief it is seeking in this proceeding. Other parties do not have the burden of proving the unreasonableness of [the utility's] showing.²⁰

As described earlier, SDG&E has failed to present sufficient evidence to affirmatively establish the reasonableness of a number of key aspects of its application. The Commission should direct the utility to submit supplemental testimony that meets its burden in the first instance. Any approach that relies upon intervenors to fill in the gaps through discovery on the application and testimony as originally submitted would serve to place upon them the burden of establishing the unreasonableness of the utility's request, contrary to the Commission's longstanding recognition of the inappropriateness of such an approach.

III. Proposed Categorization, Need for Evidentiary Hearings, and Proposed Schedule

SDG&E proposes that this application be categorized as ratesetting.²¹ TURN and UCAN agree that this is the appropriate category.

On the need for evidentiary hearings, SDG&E contends that no hearings are required because it has "provided ample supporting testimony analysis and documentation that provide the Commission with a sufficient record upon which to grant the requested relief."²² TURN and

²⁰ D.12-11-051 (SCE 2012 GRC), p. 8; *see also* D.09-03-025 (SCE 2009 GRC), p. 8, and D.06-05-016 (SCE 2006 GRC), p. 7.

²¹ SDG&E Application, p. 14.

²² *Id.*, pp. 14-15.

UCAN disagree, and submit that SDG&E's statement reflects an overly casual approach to the establishment of a memorandum account, suggesting that in the utility's view such accounts should be there for the asking. A central question for the Commission here is whether the memorandum account itself, and the extraordinary rate recovery opportunity it would provide, is reasonable under the circumstances. The parties may not be creating or evaluating a record on the reasonableness of actual incurred costs, but they certainly will be creating and evaluating a record on the reasonableness of the requested ratemaking treatment. And that record will rely at least somewhat on disputed facts regarding, among other things, the issues and questions identified earlier in this protest. Therefore, TURN and UCAN recommend that the Commission conclude that evidentiary hearings may well be needed here. Should the proceeding go forward in a manner that establishes there are no factual disputes, or that any such disputes may be adequately illustrated through documentary evidence, the Commission could revisit the need for hearings as appropriate.

The utility-proposed schedule does not provide even for intervenor testimony in this matter.²³ TURN and UCAN submit that the assumption that there would be no need for testimony is, at best, premature at this juncture. Instead, the Commission should adopt a schedule that provides for intervenor testimony to be served no earlier than two months from the issuance of the Scoping Memo, followed by rebuttal testimony due approximately three weeks later, and at least a placeholder for evidentiary hearing dates should such hearings prove to be warranted. TURN and UCAN have not yet put together a complete proposed schedule, but hope to do so prior to the prehearing conference. Accordingly, TURN and UCAN reserve the right to revisit the schedule as proposed currently.

²³ *Id.*, pp. 15-16.

IV. Conclusion

TURN and UCAN look forward to further discussing these matters at an upcoming prehearing conference.

September 3, 2021

Respectfully submitted,

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