

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

Application of San Diego Gas & Electric )  
Company (U 902-M), Southern California Edison )  
Company (U 338-E), Southern California Gas )  
Company (U 904-G) and Pacific Gas and Electric )  
Company (U 39-M) for Authority to Establish a )  
Wildfire Expense Balancing Account to Record )  
for Future Recovery Wildfire-Related Costs )

A.09-08-020  
(Filed August 31, 2009)

**JOINT AMENDED APPLICATION OF SOUTHERN CALIFORNIA EDISON  
COMPANY (U 338-E), PACIFIC GAS AND ELECTRIC COMPANY (U 39-M), SAN  
DIEGO GAS & ELECTRIC COMPANY (U 902-M), AND SOUTHERN CALIFORNIA  
GAS COMPANY (U 904-G)**

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Dated: **August 10, 2010**

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**I.**

**INTRODUCTION**

San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas), and Pacific Gas and Electric Company (PG&E) (collectively, the Utilities, and individually, a Utility) apply to the California Public Utilities Commission (Commission) for authority to (1) establish a Wildfire Expense Balancing Account (WEBA) to record wildfire-related costs, and (2) recover WEBA balances in retail rates. This Amended Application is filed pursuant to California Public Utilities Code sections 399.2, 451, 454, 491, 701, 728, and 729.

This Amended Application amends and supersedes the Joint Application for Authority to Establish a Wildfire Expense Balancing Account to Record for Future Recovery Wildfire-Related Costs, A.09-08-020, filed on August 31, 2009 (2009 Application), in order to address

concerns raised in the Ruling of the Assigned Commissioner and Administrative Law Judge Directing Applicants to Amend Application (ACR), issued on December 21, 2009. The Utilities are concurrently serving Amended and Restated Testimony in Support of Joint Amended Application for Authority to Establish a Wildfire Expense Balancing Account to Record for Future Recovery Wildfire-Related Costs (Amended Testimony) in support of this Amended Application, which supersedes the testimony filed in support of the 2009 Application.

## II.

### **SUMMARY OF APPLICATION**

#### **A. Uninsured Wildfire Costs Expose The Utilities To Significant Financial Risk**

This Amended Application is prompted by the Utilities' inability to obtain sufficient insurance at a reasonable cost for third-party claims arising from catastrophic wildfires, as well as uncertainty surrounding the Utilities' ability to continue purchasing current levels of insurance in the future. Since 2009, insurance carriers have become increasingly concerned about wildfire coverage. Insurance carriers have cited the recent history of large wildfire claims against California utilities and their adverse perception of California's "inverse condemnation" doctrine,<sup>1</sup> among other factors, as reasons for their concerns.<sup>2</sup> As a result, in 2009, insurers offered substantially less wildfire coverage, at a substantially higher cost. SDG&E/SoCalGas and PG&E recently completed their renewals for 2010-2011. SDG&E and SoCalGas were able to purchase \$400 million in wildfire coverage, and SDG&E was able to obtain an additional

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<sup>1</sup> The inverse condemnation doctrine is discussed in Chapter 1, Section E of the Amended Testimony.

<sup>2</sup> Insurance carriers define the term "wildfire" broadly. For example, the 2009 policy of AEGIS Insurance Services Inc., the leading utility insurer, defines "wildfire" to include "any wild fire, wildland fire, forest fire, brush fire, vegetation fire, grass fire, peat fire, bushfire, hill fire, or any other uncontrolled fire which can also consume houses, buildings or other structures and agricultural resources in each occurring over an area that is larger than one acre (exclusive of the Insured's premises)." This definition encompasses large urban fires as well as fires in rural and semi-rural areas. Because the Utilities seek authority to recover in rates all uninsured costs arising from a "wildfire," the extent of the recovery sought is directly linked to the insurers' definition of "wildfire." Accordingly, the term "wildfire," as used in this Amended Application, has the meaning set forth in the Utilities' respective AEGIS policies.

\$600 million of wildfire property damage reinsurance coverage through an insurance product that has not been available prior to this year. But the cost of wildfire coverage for SDG&E and SoCalGas remains far higher than in past years. PG&E was able to procure \$992 million of wildfire coverage for the 2010-2011 period. SCE's renewal is underway, and it expects to purchase no more than \$1 billion in wildfire insurance. At the same time, evidence of increasing risk of wildfire claims, especially in Southern California, suggests that \$1 billion in insurance coverage may not be adequate for a large wildfire. Although the 2009 fire season was less damaging than previous years in terms of acres burned,<sup>3</sup> the threat of catastrophic fire is unabated. A large wildfire could easily result in claims far in excess of \$1 billion, and the Utilities must in effect self-insure against such claims. Moreover, the fact that insurance is available now is no guarantee that insurance will be available in the future. Because of insurers' heightened perception of wildfire risk, this market is unstable and insurance availability can change quickly. In fact, if there is a utility-related wildfire in the future, insurance companies may refuse to offer the Utilities any coverage for third-party wildfire claims. Although the Utilities have more insurance now than when they filed the 2009 Application last summer, the need for protection from the risk of devastating fire losses is unchanged.

The Utilities therefore request prompt Commission action authorizing recovery through retail rates of the costs arising from wildfires for which they are at risk due to the limited availability of liability insurance.<sup>4</sup> Rather than attempt to accumulate reserves in advance for future payouts, the Utilities propose to pay uninsured costs as they are incurred and subsequently recover the costs in rates. This balancing account approach is an effective way to protect the Utilities against the risk created by the lack of sufficient insurance, while also protecting customers from the additional costs that would result from forecasting wildfires, which are

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<sup>3</sup> According to the California Department of Forestry and Fire Prevention, 93,296 acres burned in 2009, compared to 390,615 acres in 2008. The five-year average has been 270,351 acres per year. *See* [http://cdfdata.fire.ca.gov/incidents/incidents\\_stats?year=2009](http://cdfdata.fire.ca.gov/incidents/incidents_stats?year=2009).

<sup>4</sup> The categories of costs that the Utilities seek to recover are identified in Chapter II, Section C of the Amended Testimony.

unpredictable both in their occurrences and in their costs. The Commission has recognized this advantage of balancing accounts in other, analogous situations in which costs are volatile and difficult to predict, such as energy costs and natural disasters. A similar approach is appropriate in the wildfire context as well.

Although wildfire liability is more commonly associated with electric facilities than gas, this application seeks cost recovery for gas utility operations as well. While less frequent, gas facilities can contribute to the ignition or propagation of a wildfire. The gas and electric operations of PG&E and SDG&E are covered by the same policies, so the limited availability of insurance to cover wildfire liabilities affects gas and electric operations equally, and SoCalGas owns some electric distribution facilities, and is covered by the same policy as SDG&E.

**B. The Commission Should Authorize Recovery of Uninsured Costs Resulting From Wildfires**

The Commission should authorize rate recovery for the uninsured costs resulting from wildfires as proposed herein for multiple reasons. First, such recovery is consistent with the ratemaking treatment the Commission has traditionally applied to the costs of insurance. The Commission has long recognized that insurance premiums and deductibles are ordinary costs of doing business and allowed recovery of those costs in rates.<sup>5</sup> The Commission has also allowed utilities to recover the costs of self-insurance.<sup>6</sup> Instead of seeking to recover large uninsured

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<sup>5</sup> See, e.g., D.07-03-044, p. 167 (“PG&E requested \$27.4 million for property insurance, directors and officers liability insurance, and general liability insurance. No party objected.”); D.91-12-076, 42 Cal.P.U.C.2d 645, 1991 Cal. PUC LEXIS 911, \*72 (“Along with conventional liability and property insurance, Edison purchases replacement generation insurance. . . . We will allow these expenses . . .”); D.04-07-022, p. 247 (liability insurance appropriately included in lead-lag study); D.89-12-021, 34 Cal.P.U.C.2d 109, 1989 Cal. PUC LEXIS 673, \*25 (noting that “insurance is a legitimate and necessary business expense”); D.07-04-046, p. 20 (allowing recovery for “umbrella liability insurance” that included “general liability, automobile liability, and property damage”). Because insurance policies typically require a deductible before paying for claims, general rate case revenues usually cover forecast claims up to the deductible amount. See, e.g., D.09-03-025, pp. 153-154, 165-166 (SCE’s most recent General Rate Case (GRC) decision).

<sup>6</sup> D.93-01-025, 47 Cal.P.U.C.2d 580, 1993 Cal. PUC LEXIS 24, \*57 (authorizing recovery of cost of maintaining insurance reserves for its insurance deductible, as well as liability in excess of the policy limit); D.89711, 84 Cal. P.U.C. 733, 1978 Cal. PUC LEXIS 1507, \*79-80 (SCE’s “Property Insurance, Injuries, and Damages” rate component included “self-insurance reserves for property damage, injuries, and damages”); D.96-01-011, 1996

Continued on the next page

wildfire costs on a forecast basis, the Utilities propose to recover such costs after-the-fact, subject to the limitations described below. This proposal carries forward the principle underlying the Commission’s precedents—that costs associated with third-party claims (whether in the form of insurance premiums or self-insurance) should be recovered in rates.

Second, rate recovery is consistent with the Commission’s constitutional and statutory obligation to allow the Utilities a reasonable opportunity to recover their costs of providing public utility service. Third-party liability, including liability for wildfires, is an unavoidable cost of doing business. Unlike insurance carriers, who can limit their risks by choosing to limit coverage, the Utilities have an obligation to serve all customers in their service territories, and thus cannot withdraw from fire-prone areas. Nor can the Utilities realistically operate their systems in a way that would eliminate all risk of fire. As the Commission recognized in a related context, it is “not realistic” to expect “100% compliance” with all safety rules.<sup>7</sup> Even if a Utility is in perfect compliance with the Commission’s rules, its facilities may nevertheless contribute to a fire. Costs resulting from wildfires are an inherent cost of fulfilling the Utilities’ duty to serve, and as such the Utilities are entitled to the opportunity to recover such costs.

Third, rate recovery of the uninsured costs of wildfires parallels the rate treatment of the costs of other natural disasters, such as earthquakes, tornadoes, or major storms. Like these other natural disasters, fire damage is unpredictable. Fires that start similarly can lead to vastly different results because of factors having nothing to do with the initial ignition. Factors beyond the Utilities’ control, such as weather, geography, demography, and local fire fighting resources determine whether any particular fire will turn into a disaster. Just as the Commission has authorized recovery of costs of natural disasters, and just as the Florida Commission and Legislature authorized Florida utilities to recover costs resulting from hurricanes after insurers

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Cal. PUC LEXIS 23, [part 3 of 6] at \*41 (including \$10.404 million in self-insured workers’ compensation expenses for the test year).

<sup>7</sup> D.04-04-065, p. 31.

withdrew from that market,<sup>8</sup> so too should the Commission authorize the Utilities to recover the costs resulting from wildfires not covered by insurance.

Fourth, assurance of rate recovery is needed to protect the Utilities' financial integrity. The Commission's actions in recent years have provided important financial support to the Utilities and have led credit rating agencies to upgrade the ratings on Utility debt, reducing costs for customers. In the event of a catastrophic wildfire, the unavailability of sufficient insurance threatens to undermine the Commission's actions by exposing the Utilities to potentially substantial liabilities arising from the Utilities' provision of public service. The Commission should act promptly to prevent the inability of the Utilities to obtain sufficient insurance from undermining the Utilities' financial integrity.

Finally, this rate recovery proposal maintains appropriate Utility incentives to decrease wildfire risk, obtain all wildfire insurance coverage that is available at a reasonable price, and reduce wildfire claims costs. The Utilities propose to retain a portion of the risk for wildfire costs, including a portion of costs in excess of insurance coverage. Thus, the Utilities must continue to properly manage the risk of fire and the costs associated with defending wildfire claims in order to maximize what insurance is available and minimize the financial impact on shareholders. This proposal creates strong incentives that supplement those that already exist by virtue of the threat of Commission penalties, the threat to Utilities' infrastructure and customer service, and the reputational damage that could result from a catastrophic fire.

This proposal is intended to be a comprehensive approach for addressing the financial risk presented by wildfires. Its components are integrated and cannot be separated. This proposal is not intended to address specific operational measures for fire risk management, which are best considered in other proceedings.

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<sup>8</sup> See Amended Testimony, Chapter I, Section F.

## **PROPOSED COST RECOVERY MECHANISM**

In response to the 2009 Application, the ACR requested that the Utilities amend their application to address concerns raised in various protests that rate recovery would remove the Utilities’ “financial motivation to defend” third-party claims for wildfire damages and that “[f]inancial incentives for prudent risk management and safety regulation compliance are substantially undermined by the presumption of recovery from ratepayers.”<sup>9</sup> The Utilities believe they currently administer strong programs to mitigate the risk of fire and to minimize the cost of third-party claims, and that the confirmation of their ability to recover the cost of wildfire claims will not weaken their commitment to take such actions. Nevertheless, to address the concerns raised in the ACR and by other parties, the Utilities submit this amended request for authority to establish a Wildfire WEBA to record and recover wildfire costs not covered by insurance. This proposed recovery mechanism (Amended Proposal), summarized below, is described in full in the Utilities’ Amended Testimony.

### **C. Recovery Of Eligible Wildfire Costs**

Each Utility will create a WEBA to record all Wildfire Costs, defined to include all uninsured Claims and Defense costs<sup>10</sup> paid by a Utility that are not authorized for recovery in that Utility’s base rates and the cost of financing WEBA balances. In the event of a wildfire, each Utility will first record all Claims and Defense costs as they are paid in a subaccount of the Wildfire Expense Memorandum Account (WEMA).<sup>11</sup> Once the Claims and Defense Costs for a

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<sup>9</sup> ACR, p. 7

<sup>10</sup> “Claims Costs” are payments to satisfy wildfire-related claims including, without limitation, damage claims by third parties and their insurers, claims by governmental entities for the reimbursement of wildfire suppression costs, and other governmental claims against the Utilities arising from a wildfire. “Defense Costs” are outside legal expenses incurred by a utility arising out of a wildfire.

<sup>11</sup> As explained in Resolution E-4311 (July 29, 2010), the WEMA will allow the Utilities to record the same wildfire costs that would be recorded and recovered in the WEBA, prior to the establishment of the WEBA, with the exception of certain financing costs. *See* Res. E-4311, p. 3. For further discussion of WEMA, *see* Chapter V, Section B of the Amended Testimony.

given fire exceed \$10 million, the Utility may transfer the WEMA subaccount balance for that Wildfire to the WEBA for potential recovery. The Utility may then record in the WEBA all additional Claims and Defense costs for that fire, as well as the costs of financing WEBA balances.<sup>12</sup> The Utilities will forecast Claims and Defense costs for wildfires when the Claims and Defense costs total \$10 million or less in their GRCs. Claims and Defense costs for such wildfires, as well as any other costs already authorized for recovery in a GRC, Z-Factor or other proceeding, would not be eligible for recovery through the WEBA.

In addition, because recent experience demonstrates that the cost of wildfire insurance is volatile and unpredictable, the Utilities propose balancing account treatment for insurance premiums as well. Specifically, each Utility may record all increases or decreases from the amounts authorized in the Utility's GRC in insurance premiums attributable to coverage for Wildfire-related claims in a Wildfire Insurance Premium Balancing Account (WIPBA).

The WEBA will be credited by amounts the Utility receives from insurance carriers to reimburse it for Claims and Defense costs. In addition, the WEBA will be adjusted in the event that the Utilities are able to reduce their liability for Claims and Defense costs by amounts paid by third parties, for example vegetation management contractors or others whose acts or omissions may have caused or contributed to a fire. The Utilities would retain 90% of third-party recoveries (net of legal costs relating to the recovery) until the Utility has been fully reimbursed for Wildfire Costs it has absorbed (as described below). Thereafter, 90% of Third Party Recoveries will be credited to utility customers, via a credit to the WEBA, and 10% will be retained by the utility.

Recording of Wildfire Costs in a WEBA does not create a presumption of recoverability. Rather, recovery will depend on a Commission determination regarding both the total Wildfire Costs and the degree of Utility conduct. The details of these determinations are set forth in the Utilities' Amended Testimony.<sup>13</sup> In summary, if the Wildfire Costs result from claims based on

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<sup>12</sup> As described in Chapter V, Chapter F of the Amended Testimony.

<sup>13</sup> See Amended Testimony, Chapter II, Section B.

inverse condemnation and/or strict liability where the Utility was not at fault or the wildfire was due to conditions beyond the Utility's control, the Utility would be able to recover its costs in full. On the other hand, if the Wildfire Costs are the result of intentional or reckless misconduct by Utility management,<sup>14</sup> the Utility would not be allowed to recover its costs through the mechanism proposed by this Amended Application. For all other Wildfire Costs, the Utility would recover its full Wildfire Costs up to \$1.2 billion, except that for each wildfire incident, the Utility would absorb \$5 million (up to a maximum of \$10 million per year). For Wildfire Costs in excess of \$1.2 billion, the Utility would recover 95% of the Wildfire Costs, with the Utility absorbing the remaining 5% up to a cap. To compensate the Utility for the retained risk of self-insurance, the Utilities would receive an annual revenue requirement based on their actual wildfire insurance premium rates.

Because the WIPBA is intended to protect both the Utilities and customers from fluctuations in the insurance market, and to reinforce Utility incentives to maintain the highest level of insurance coverage that can be obtained at reasonable cost, WIPBA balances will be consolidated and disposed of annually, in accordance with established procedures for the recovery of similar balancing accounts, such as the Medical Program Balancing Accounts, and Post-Retirement Other than Pension (PBOP) Balancing Accounts.

The financing costs recorded in the WEBA will depend on the size of the WEBA balance and the time over which that balance will be recovered. The default rate will be the commercial paper rate consistent with that of other balancing accounts, based on the presumption that balances will be recovered within one year. If a Utility finances balances with long-term debt, and/or a mix of long-term debt and equity, the Utility may ask the Commission for authority to record its higher financing costs in the WEBA.

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<sup>14</sup> *Id.*

### III.

#### **PROPOSED PROCEDURAL MECHANISM FOR COST RECOVERY**

##### **A. Recovery Of WEBA Balances**

To moderate the impact on rates, the Utilities propose that the time frame for recovery of WEBA balances vary depending on the amount of the under-collection. The Utilities propose to inform the Commission of their plan for amortizing WEBA under-collections after analyzing the magnitude of all pending revenue requirements and rate changes for the subsequent year, and prior to implementing the under-collection in rates. The Utilities propose to provide this information in their annual rate consolidation proceedings (the annual ERRRA Forecast proceeding for SCE, the Annual Electric True-up (AET) and Annual Gas True-up (AGT) for PG&E, and the Regulatory Account Balance Update for SDG&E/SoCalGas). Each Utility will allocate and recover the WEBA balance in rates in the same manner as other liability insurance expenses.

##### **B. Financing Wildfire Liabilities**

Modest WEBA balances can be financed within the Utilities' existing short-term debt program. In the event of a severe wildfire for which a Utility incurs substantial liability, however, the affected Utility may need authority to issue new short-term and long-term debt in order to meet its obligations. The affected Utility may require such authority more quickly than a traditional application process would permit, given the potential need to meet large financial obligations rapidly.

If the Utility believes that its under-collection financing will require additional authority to issue debt or equity, it will file an application with the Commission seeking the necessary

approvals. Depending on the circumstances, such an application may require expedited approval.<sup>15</sup>

Because the WEBA balance is not a permanent asset of the Utility, the resulting financing should not be treated as part of the Utility's long-term capital structure. Consistent with ratemaking treatment of other debt used to finance balancing accounts, the Utilities will exclude long-term debt used to finance a temporary WEBA balance from their capital structures in measuring compliance with the Capital Structure Condition. In addition, the Utilities will exclude such debt from the embedded cost of debt used to calculate their ratemaking return on rate base, and exclude WEBA-related short-term and long-term debt financings from calculations that accrue Allowance for Funds Used During Construction (AFUDC) on assets held in Construction Work in Progress (CWIP).

The Utilities could reduce the cost of financing large WEBA under-collections by issuing securitized debt. Because issuance of securitized debt requires facilitating legislation, the Utilities ask the Commission to support legislation to effectuate financing large WEBA balances with debt secured by a dedicated rate component. If securitization receives legislative authorization, the Utilities would file an application to approve the creation of a dedicated rate component and to provide specific authority to finance WEBA under-collections with securitized debt.

#### IV.

#### **WILDFIRE PROGRAM ADVICE FILINGS**

The Utilities may (but are not required to) submit Wildfire Program Advice Filings to update the Commission on decisions pertaining to wildfire mitigation. The Commission would have the opportunity to direct the Utility to act in a different manner. The Utilities propose that, if the Commission does not do so and the Utility acts in a manner consistent with the applicable

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<sup>15</sup> See D.06-12-029, Appendix A-3, Affiliate Transaction Rules Applicable to Large California Energy Utilities, Rule IX.B, pp. 31-32.

Wildfire Program Advice Filing, Utility management cannot later be found to have engaged in intentional or reckless misconduct with respect to the conduct described in the Advice Filing for purposes of determining the eligibility of WEBA balances for recovery in rates pursuant to the mechanism proposed herein.

## V.

### **INSURANCE PROCUREMENT**

In order to ensure that the Utilities have the input of customer representatives in the decisions to procure wildfire insurance coverage, the Utilities propose to consult with customer representatives during the annual procurement process.<sup>16</sup> The Utilities ask the Commission to direct the Division of Ratepayer Advocates and Energy Division, and invite other stakeholder groups, to participate in this process.

## VI.

### **CIVIL LIABILITY LIMITATIONS**

The Utilities agree with the ACR that a proper fire risk management program should be comprehensive and address “all facets of risk reduction,” including “[c]reating limitations on liability through contracts, tariffs or other means... to limit [the Utilities’] potential financial exposure.”<sup>17</sup> The Utilities support a proceeding to evaluate what action the Commission should take to limit the Utilities’ (and consequently customers’) civil liability. But in order to avoid undue delay in addressing the current risk posed by the Utilities’ inability to procure sufficient insurance, and in order to give other regulated entities an opportunity to participate in the proceedings, the Utilities recommend that the Commission consider this issue in a second phase of this proceeding after resolution of cost recovery issues.

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<sup>16</sup> See Amended Testimony, p. 103.

<sup>17</sup> ACR, pp. 7-8

## VII.

### **STATUTORY AND PROCEDURAL REQUIREMENTS**

#### **A. Statutory And Procedural Authority**

This Amended Application is made pursuant to the Commission's Rules of Practice and Procedure and the California Public Utilities Code. The Utilities' authority for this request is Sections 399.2, 451, 454, 491, 701, 728, and 729 of the Public Utilities Code of the State of California. In addition, this Amended Application complies with Article 2 of the Commission's Rules of Practice and Procedure, and prior decisions, orders and resolutions of this Commission.

#### **B. Rule 2.1: Categorization, Issues Considered And Schedule**

The Commission has categorized this proceeding as ratesetting under Rule 1.3(e).<sup>18</sup> The issues to be considered in this proceeding are whether the Commission should provide the relief requested by the Utilities in this Amended Application. The Utilities believe this Amended Application raises only policy issues that can be decided on the basis of written testimony and briefs and, therefore, hearings will not be required. The Utilities urge the Commission to expedite this proceeding.

#### **C. Legal Name And Correspondence**

SCE is an electric public utility organized and existing under the laws of the State of California. The location of SCE's principal place of business is 2244 Walnut Grove Avenue, Rosemead, California 91770. Correspondence or communications regarding this Amended Application should be addressed to:

Deana M. Ng  
Southern California Edison Company  
2244 Walnut Grove Avenue  
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<sup>18</sup> Res. ALJ 176-3240 (September 10, 2009).

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PG&E is a gas and electric public utility organized and existing under the laws of the State of California. The location of PG&E's principal place of business is 77 Beale Street, 32nd Floor, San Francisco, California 94105. Correspondence or communications regarding this Amended Application should be addressed to:

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SDG&E is a gas and electric public utility organized and existing under the laws of the State of California. The location of SDG&E's principal place of business is 101 Ash Street, San Diego, CA 92101. SoCalGas is a gas public utility organized and existing under the laws of the State of California. The location of SoCalGas' principal place of business is 8330 Century Park

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**D. Rule 2.2: Articles of Incorporation**

A copy of SCE's Restated Articles of Incorporation, effective March 2, 2006 and presently in effect, and certified by the California Secretary of State, was filed with the Commission on March 14, 2006, in connection with Application Number (A.) 06-03-020<sup>19</sup> and is incorporated herein by reference pursuant to Commission Rule 2.2. A certified copy of PG&E's Restated Articles of Incorporation, effective April 12, 2004, was filed with the Commission on May 3, 2004 with PG&E's A.04-05-005. These Articles are incorporated herein by reference.

SoCalGas previously filed a certified copy of its Restated Articles of Incorporation with A.98-10-012, and these Articles are incorporated herein by reference. On August 31, 2009, SDG&E filed a certified copy of its current Amended Articles of Incorporation with A.09-08-019, and these Articles are incorporated herein by reference.

**E. California Environmental Quality Act (CEQA) Compliance**

It is long established that the act of ratemaking by the Commission is exempt from CEQA review. As stated in the California Public Resources Code, the "establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by

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<sup>19</sup> A.06-03-020, filed March 14, 2006, for approval of early transfer of Anaheim's share of SONGS 2 & 3 to SCE.

public agencies” including “obtaining funds for capital projects necessary to maintain service within existing service areas” is exempt from CEQA.<sup>20</sup>

**F. Rule 3.2: Authority To Increase Rates**

Rule 3.2 requires that applications for authority to increase rates, or to implement changes that would result in increased rates, contain the following data.

1. Rule 3.2(a)(1): Balance Sheet and Income Statement

Appendix A to the 2009 Application contains copies of the Utilities’ balance sheets as of June 30, 2009, and income statements for the period ended June 30, 2009, which are incorporated herein by reference.

2. Rules 3.2(a)(2) and (a)(3): Present and Proposed Rates

This Amended Application requests authorization to implement changes that would result in increased rates under Rule 3.2 if certain events occur in the future. This Amended Application does not request authorization to increase rates by any specific amount. Thus, Rules 3.2(a)(2) and (a)(3) do not apply to this Amended Application.

3. Rule 3.2(a)(4): Description of Utility System

Because this submittal is not a general rate application, this requirement is not applicable.

4. Rule 3.2(a)(5): Summary of Earnings

Rule 3.2(a)(5) requires “[a] summary of earnings (rate of return summary) on a depreciated rate base for the test period or periods upon which applicant bases its justification for an increase.” The Utilities’ Summaries of Earnings are attached as Appendix B to the 2009 Application and are incorporated herein by reference.

5. Rule 3.2(a)(7): Depreciation

Because this submittal is not a general rate application, this requirement is not applicable.

6. Rule 3.2(a)(8): Capital Stock and Proxy Statement

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<sup>20</sup> Cal. Pub. Resources Code section 21080(b)(8).

Because this submittal is not a general rate application, this requirement is not applicable.

7. Rule 3.2(a)(10) Statement

Rule 3.2(a)(10) requires the applicant to state whether “the increase” is limited to passing through to customers “only increased costs to the corporation for the services or commodities furnished by it.” Although this Amended Application does not seek a specific increase in rates, any future increase would be due only to passing through to customers of costs to the Utilities of providing service.

8. Rules 3.2(b), (c), and (d): Service of Notice

A list of the cities and counties that would be affected by the changes requested in this Application that could lead to increased rates was attached as Appendix C to the 2009 Application. The State of California is also a customer of the Utilities. As provided in Rule 3.2(b)–(d), notice of filing of the 2009 Application was: (1) mailed to the appropriate officials of the state and the counties and cities listed in Appendix C; (2) published in a newspaper of general circulation in each county in each Utility’s service territory; and (3) mailed to all customers affected by the proposed changes.

**G. Service List**

The Utilities are serving this Amended Application on the service list for this proceeding.

**VIII.**

**CONCLUSION AND PRAYER FOR RELIEF**

Uncertainty in the wildfire liability insurance market and the unavailability of sufficient insurance coverage for third-party claims potentially arising from catastrophic wildfires requires the adoption of a mechanism that will ensure that the Utilities are able to recover the costs resulting from wildfires. The Utilities request the Commission to take the following actions as soon as possible:

1. Authorize each Utility to make the interim WEMA tariffs approved by Resolution E-4311 permanent, to continue to record in their WEMAs Claims and Defense Costs as they are

paid by the Utilities, and credits (insurance reimbursements and Third Party Recoveries) as they are received by the Utilities, and to transfer the balance from the WEMA to the WEBA once the costs for a given wildfire exceed \$10 million. Increases or decreases in wildfire insurance premiums from amounts adopted in the utilities' GRCs should no longer be recorded by a Utility in its WEMA.

2. Authorize each Utility to establish a WEBA to record for future recovery Claims and Defense Costs in excess of insurance coverage, including: 1) Claims and Defense Costs, once they exceed \$10 million for a given wildfire; and 2) the cost of financing WEBA balances. Insurance reimbursements and Third Party Recoveries will be credited to the WEBA as they are received. The WEBA balance will be adjusted by both insurance reimbursements and Third Party Recoveries, subject to the Third Party Recovery sharing mechanism proposed by the Utilities. Recovery of the WEBA balance will reflect the Commission's categorization of the wildfire, as well as the amount of total Claims and Defense Costs eligible for recovery. In no event will any Wildfire Costs recorded in the WEBA result in double recovery by the Utilities, i.e., the Utilities may not recover costs that have already been authorized for recovery in a GRC or other proceeding, including Claims and Defense costs associated with wildfires for which the total Claims and Defense costs are \$10 million or less, or Claims and Defense costs recovered through revenues authorized by FERC. Shareholders will receive annual compensation for the retained risk of self-insurance.

3. Authorize each Utility to file a WEBA Application seeking a Commission determination regarding the appropriate cost recovery categorization of past and future costs relating to a wildfire or wildfires at any time after net costs relating to a particular wildfire exceed \$10 million. The wildfire cost categorization determination made by the Commission in response to a WEBA Application should apply to all future costs and recoveries relating to the wildfire(s) covered by that application.

4. Authorize each Utility to file advice letters to obtain recovery of additional Claims and Defense costs relating to a wildfire, net of any additional insurance recoveries or

Third Party Recoveries recoveries relating to the wildfire, that were not included in an original WEBA Application so long as the WEBA Application results in a Commission determination that the costs from the wildfire are in either Category A or Category B.

5. Authorize each Utility to recover approved WEBA balances in full in retail rates in the same manner as other liability insurance expenses over a time period that the Commission deems appropriate. Utilities should propose the rate recovery of authorized WEBA balances in their annual rate or regulatory account consolidation filings (the annual Energy Resource Recovery Account (ERRA) Forecast proceeding for SCE, the Annual Electric True-up (AET) and Annual Gas True-up (AGT) for PG&E, and the Regulatory Account Balance Update for SDG&E and SoCalGas).

6. Authorize each Utility to establish a WIPBA to record increases or decreases in premiums attributable to coverage for wildfire-related claims from amounts authorized in the Utility's GRCs, and to consolidate and recover the balance annually consistent with established procedures for the recovery of similar balancing accounts.

7. Authorize a Utility that uses long-term debt and/or equity to finance a WEBA balance to file an application to record the higher financing costs in its WEBA.

8. Authorize a Utility to file an application for approval if it requires additional Commission authority to issue debt or other securities to finance a WEBA balance. The Utilities should be further authorized to exclude long-term debt used to finance a WEBA balance from their capital structures in measuring compliance with the Capital Structure Condition, to exclude such debt from the embedded cost of debt used to calculate their ratemaking return on rate base, and to exclude WEBA-related short-term and long-term debt financings from calculations that accrue AFUDC on assets held in CWIP.

9. Approve the proposed voluntary Wildfire Program Advice Filing procedure to update the Commission on decisions pertaining to wildfire mitigation, as described in the Utilities' Amended Testimony.

10. Approve the proposed consultative process to allow stakeholder participation in the Utilities' insurance procurement process, as described in the Utilities' Amended Testimony.

11. Commence a second phase of this proceeding to consider Commission action to limit the Utilities' civil liability exposure for wildfires.

Respectfully submitted on behalf of all Joint Applicants  
pursuant to Rule 1.8(d),

J. ERIC ISKEN  
DEANA MICHELLE NG  
ROBERT F. LEMOINE

/s/DEANA MICHELLE NG

By: Deana Michelle Ng

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August 10, 2010



## VERIFICATION

I am an officer of PACIFIC GAS AND ELECTRIC COMPANY, a party to this action, and am authorized to make this verification for and on behalf of said corporation, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the document described above are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this **6th day of August, 2010**, at San Francisco, California.

/s/ JANE YURA  
Jane Yura  
Vice President, Regulation and Rates  
PACIFIC GAS AND ELECTRIC COMPANY

77 Beale Street  
San Francisco, California 94105



**CERTIFICATE OF SERVICE**

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of **JOINT AMENDED APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), PACIFIC GAS AND ELECTRIC COMPANY (U 39-M), SAN DIEGO GAS & ELECTRIC COMPANY (U 902-M), AND SOUTHERN CALIFORNIA GAS COMPANY (U 904-G)** on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **10th day of August, 2010**, at Rosemead, California.

/s/RAQUEL IPPOLITI  
RAQUEL IPPOLITI  
Case Administration Analyst  
SOUTHERN CALIFORNIA EDISON COMPANY

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## California Public Utilities Commission

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### CALIFORNIA PUBLIC UTILITIES COMMISSION

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**LIST NAME: LIST**

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