

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

San Diego Gas & Electric Company ) Docket Nos. ER19-221-000,  
ER19-221-001

**EXPLANATORY STATEMENT**

Pursuant to Rule 602 of the Commission’s Rules of Practice and Procedure,<sup>1</sup> San Diego Gas & Electric Company (“SDG&E”) hereby submits this Explanatory Statement describing the terms and conditions of the Offer of Settlement (“Settlement”) in the above-captioned proceeding. If approved, this Settlement will resolve all issues set for hearing and settlement judge procedures in the *Order Accepting and Suspending Proposed Formula Rate Filing and Establishing Hearing and Settlement Judge Procedures* (“Hearing Order”).<sup>2</sup> The Settlement is the result of formal and informal settlement discussions among the participants in this case and is intended to resolve all issues set for hearing in this proceeding. All Parties have indicated that they either support or do not oppose the Settlement.<sup>3</sup> Accordingly, the Settling Parties respectfully request that the Commission expeditiously approve the Settlement on its terms, without condition or material modification.

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<sup>1</sup> 18 C.F.R. § 385.602 (2018).

<sup>2</sup> *San Diego Gas & Electric Co.*, 165 FERC ¶ 61,276 (2018).

<sup>3</sup> The parties to this proceeding are: SDG&E; the California Public Utilities Commission (“CPUC”); Pacific Gas & Electric Company; Southern California Edison Company; GridLiance West LLC; Modesto Irrigation District; State Water Contractors; the City of Santa Clara, California and the M-S-R Public Power Agency; the Northern California Power Agency; the California Department of Water Resources State Water Project; the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California; the Transmission Agency of Northern California (TANC); and Citizens Energy Corporation (collectively referred to as “Parties” and singularly as “Party”) (collectively with Commission Trial Staff, “Participants”).

## I. BACKGROUND

On October 30, 2018, pursuant to Section 205 of the Federal Power Act (“FPA”),<sup>4</sup> SDG&E filed revisions to its Transmission Owner (“TO”) Tariff.<sup>5</sup> The primary revision was to adopt a new formula rate tariff, the TO5 Formula (“TO5” or “TO5 Formula”), as the successor to its then currently effective TO4 Formula,<sup>6</sup> to become effective on January 1, 2019. As with the TO4 Formula, the TO5 Formula proposed to include annual informational filings made under the formula (referred to as “Cycles”), with the first such filing consisting of TO5 Cycle 1.

As SDG&E explained, the TO5 Cycle 1 Filing, among other things, (1) proposed a new TO5 Formula and Appendix VIII<sup>7</sup> to SDG&E’s TO Tariff to succeed the TO4 Formula; and (2) revised SDG&E’s Base Transmission Revenue Requirements<sup>8</sup> (“BTRR”) and transmission rates for retail End Use customers and California Independent System Operator (“CAISO”) Wholesale customers for the Rate Effective Period (“REP”) under the terms of the proposed TO5 Formula.

Several of the Parties protested various aspects of SDG&E’s October 30, 2018 filing, as noted in the Hearing Order. The Hearing Order accepted SDG&E’s proposed TO5 Formula and related 2019 BTRR, suspended it for five months, to become effective June 1, 2019, subject to refund, and established hearing and settlement judge procedures.<sup>9</sup> On January 7, 2019, the Chief

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<sup>4</sup> 16 U.S.C. § 824d.

<sup>5</sup> See “San Diego Gas & Electric Company, Transmission Owner Tariff, Volume 11.”

<sup>6</sup> The TO4 Formula was embodied in an Offer of Settlement and Settlement Agreement (“TO4 Settlement”) submitted on February 4, 2014, which the Commission approved on May 27, 2014. *San Diego Gas & Electric Company*, 147 FERC ¶ 61,150 (2014). The TO4 Formula was due to expire on its own terms on December 31, 2018.

<sup>7</sup> Appendix VIII to SDG&E’s TO Tariff – which includes the Formula Rate Protocols as Attachment 1 and the Formula Rate Spreadsheet as Attachment 2 – constitutes the TO5 Formula.

<sup>8</sup> Unless otherwise defined in this letter and accompanying volumes referenced herein, capitalized terms are intended to have the meanings ascribed to them in SDG&E’s TO Tariff.

<sup>9</sup> 165 FERC ¶ 61,276 at P 1.

Judge issued an order appointing Judge Steven L. Sterner as settlement judge. On July 10, 2019, after the Participants reached an impasse in their settlement negotiations, the Chief Judge issued an order appointing Judge Andrea McBarnette as the hearing judge. On July 22, 2019, Judge McBarnette designated Joshua Hurwitz as dispute resolution facilitator to assist the Participants, as needed.

The Parties and Commission Trial Staff have engaged in numerous settlement conferences and exchanged settlement materials in the course of both the formal settlement procedures and subsequent to their termination. The Participants have been able to reach a negotiated resolution of disputed issues, culminating in this Settlement.<sup>10</sup> The TO5 Formula, consisting of Appendix VIII, the Formula Rate Protocols (“Protocols”) (Attachment 1 to Appendix VIII) and a Formula Rate Spreadsheet (Attachment 2 to Appendix VIII), has been developed in accordance with this Settlement.

## **II. DESCRIPTION OF THE SETTLEMENT**

The following is a summary of the terms of the Settlement. This description is provided for the convenience of the Commission in reviewing the Settlement and is not intended to alter the terms of the Settlement in any way.

### **A. Article I – Settlement Rates**

Effective June 1, 2019, and during the term of the TO5 Formula, SDG&E’s wholesale and retail BTRR shall be determined by the TO5 Formula, consistent with the terms of this Settlement.

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<sup>10</sup> On September 18, 2019, Chief Judge Cintron issued an order waiving the answer period and suspending the procedural schedule.

When SDG&E makes its annual Informational Filing, if any party protests any cost reflected in charges derived under TO5 Formula Appendix VIII, SDG&E shall bear the burden of demonstrating the justness and reasonableness of its implementation of the TO5 Formula, consistent with Commission precedent and Sections C.4.d. and C.4.g. of the Protocols.

## **1.1 BTRR**

The TO5 Cycle 1 BTRR for the Rate Effective Period, beginning June 1, 2019 through December 31, 2019, consists of (1) Base Period revenues and (2) Forecast Period revenues.

1.1.1 Effective June 1, 2019, the TO5, Cycle 1 Wholesale BTRR shall be \$819.971 million, as determined in accordance with the TO5 Formula.

1.1.2 Effective June 1, 2019, the TO5, Cycle 1 Retail BTRR shall be \$823.744 million, as determined in accordance with the TO5 Formula.

## **1.2 Term**

This section describes the term of the TO5 Formula. The TO5 Formula shall be in effect from June 1, 2019 and each year thereafter, unless the Commission modifies or replaces the TO5 Formula, subject to the following. Each Party to SDG&E's TO5 Formula rate filing proceeding at FERC, whether the Cycle 1 filing or subsequent annual Informational Filings, and SDG&E, shall each have a right to terminate the TO5 Formula, to be exercised on an annual basis beginning with the 2022 annual cycle (TO5 Cycle 4), by providing notice to SDG&E and to each Party no later than June 30, 2021 or any year thereafter ("Notice of Termination"). Following the Notice of Termination, SDG&E shall file a successor rate pursuant to Section 205, which shall include a request for an effective date that is January 1 of the upcoming year. All Parties retain their right to oppose the filing.

After termination of the TO5 Formula, SDG&E shall calculate a Final True-Up Adjustment. The existing rates in effect at the time the TO5 Formula terminates shall remain in

effect until superseded by subsequent Commission-approved rates, consistent with Section 2.4(e) of the Commission's Regulations.<sup>11</sup>

### **1.3 Miscellaneous Rate Matters**

This section addresses issues relating to: (1) an adjustment to reflect the correction of errors related to SDG&E's calculation of its Accumulated Deferred Income Taxes ("ADIT"); (2) a rate base reduction to reflect certain categories of unfunded reserves; (3) SDG&E's use of Net Transmission Plant in the calculation of the Annual Fixed Charge Rate; and (4) the exclusion of 40% of Executive Incentive Compensation from the BTRR.

### **1.4 Depreciation Rates**

The TO5 Formula provides for stated Transmission Plant depreciation rates for each account upon which the annual depreciation expenses shall be calculated. The composite depreciation rate will be 2.97%, based on plant balances as of December 31, 2017. Stated depreciation rates and/or amortization periods are also provided for General Plant, Common Plant and Intangible Plant, as applicable. These rates may not be changed absent a FPA Section 205 or 206 filing.

SDG&E may make a single-issue Section 205 filing to change the depreciation rates and/or amortization periods for General Plant, Common Plant and Intangible Plant, as applicable, upon approval by the CPUC of revised depreciation rates for these plant categories. All persons retain their full rights to oppose such filing. However, the Commission is not bound by this provision and may at its discretion broaden the scope of the filing.

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<sup>11</sup> 18 C.F.R. § 2.4(e)(2018).

## **1.5 Return on Equity**

SDG&E's ROE will be 10.60%, consisting of a base ROE of 10.10% and a 50 basis point adder for CAISO participation. SDG&E will refund the CAISO 50 basis point adder as of the refund effective date (June 1, 2019) in this proceeding if the Commission issues an order ruling that California investor-owned utilities are no longer eligible for the CAISO adder.

For each cycle under the TO5 Formula, SDG&E will use its actual equity, debt and preferred ratios as of December 31 of the Base Period to derive the capital structure for the Rate Effective Period applicable to that cycle.

There shall be a moratorium on SDG&E and Parties that prohibits Section 205 or Section 206 filings seeking to change the ROE component (both the Return on Common Equity on Statement AV, page 1, line 45, and the Incentive Return on Common Equity, on Statement AV, page 2, line 1), with the exception of the 50-basis point adder for CAISO participation, of the TO5 Formula through June 30, 2021. This moratorium is described in the Term provision in Section B of the Protocols.

## **1.6 Wholesale and Retail True-Up Mechanisms**

The TO5 Formula reflects a single true-up adjustment for retail and wholesale customers. The details of the True-Up Adjustment are set forth in Section E of the Protocols.

## **1.7 Reservation of Rights**

SDG&E has modified the Protocols to include a provision reserving the Parties' rights to unilaterally file a complaint under Section 206 of the Federal Power Act.

## **B. Article II – Evaluation of SDG&E's Forecast Period Capital Additions**

### **2.1 SDG&E Support of Review of Its Forecast Period Capital Additions**

SDG&E will support interested Parties' review of its Forecast Period Capital Additions – a component of the Base Transmission Revenue Requirements within the TO5 Formula by (1)

providing data on all planned electric transmission capital projects for the next five-year period, as well as transmission capital additions made in the prior five years; (2) providing interested Parties with all strategy documents used to identify electric transmission capital projects that are not reviewed by the CAISO; (3) responding to questions from interested Parties regarding deployment of transmission technologies, and any other questions regarding the data; (4) responding to interested Parties' questions regarding project-specific information; (5) holding one meeting annually among interested Parties to discuss the information identified in response to (1)-(4) above, at which it will provide demonstration(s) of the modeling/analysis and model validation process that was conducted for select projects in (1) including input data and identification of the data sources; and (6) making available a total of \$300,000 to be spent annually on CPUC's participation in the CAISO Transmission Planning Process, an engineering review on behalf of the CPUC in each TO5 Formula Cycle, and FERC litigation.

**C. Article III – Refunds**

The Settlement sets forth the methodology by which SDG&E will make Wholesale and Retail End Use refunds resulting from the Settlement. All such refunds will reflect interest calculated pursuant to 18 C.F.R. § 35.19a.

**D. Article IV – General Provisions**

**4.1 Resolution of All Issues**

This Settlement resolves all issues set for hearing and settlement judge procedures in this proceeding.

**4.2 Non-Precedential Effect of Settlement of All Issues**

This Settlement contains language relating to the non-precedential nature of the Settlement and Parties' rights to enforce their respective rights and obligations under the Settlement in other proceedings.

#### **4.3 No Admission or Settled Practice for All Issues Set for Hearing**

This provision states that agreement to or acquiescence in the Settlement shall not constitute an admission, nor shall the Commission's approval of the Settlement be deemed a settled practice.

#### **4.4 Approval of Settlement and Privileged Nature of Settlement**

This Settlement specifies that Rule 602 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602, is applicable to all settlement communications in this proceeding.

#### **4.5 Settlement Effectiveness**

This provision specifies the conditions under which the Settlement will become effective.

#### **4.6 Integration**

This provision addresses the non-severability of the Settlement's terms and specifies the process for addressing any modifications to the Settlement that the Commission may direct.

#### **4.7 Entirety of Offer of Settlement**

This provision states that the Settlement supersedes all previous representations, understandings, negotiations, and agreements, whether written or oral, between the participants in this proceeding or their representatives, and constitutes the entire offer of settlement with respect to the matters set for hearing and settlement judge procedures in this proceeding.

#### **4.8 Standard of Review**

The provisions of this Settlement shall not be subject to change under Sections 205 and 206 of the FPA absent the written agreement of the Parties to this proceeding, and the standard of review for changes unilaterally proposed by a Party to this proceeding shall be the "public interest" standard of review. The standard of review for any changes proposed by entities that



were not parties to this Settlement or by the Commission acting *sua sponte* shall be the just and reasonable standard.

### **III. REQUIRED INFORMATION**

In accordance with the Chief Administrative Law Judge’s Notice to the Public, *Information to Be Provided with Settlement Agreements*, dated October 23, 2003, as amended on December 15, 2016, the following addresses the policy and other issues arising under the Settlement.

#### **A. Does the Settlement Affect Other Pending Cases?**

SDG&E believes that this Settlement affects the Commission’s tax-related order to show cause in *San Diego Gas & Electric Co.*, Docket No. EL18-67-000. As noted by the Commission’s November 15, 2018 “Order on Section 206 Proceeding,”<sup>12</sup> SDG&E submitted a response to the Commission’s show cause order, indicating that it would reflect the revised federal corporate income tax rate in this TO5 Formula rate proceeding.<sup>13</sup> The Commission indicated it would hold the Section 206 proceeding in abeyance pending the final outcome of this Section 205 proceeding. SDG&E has reflected the revised federal corporate income tax rate in its TO5 Formula, as embodied in this Settlement – as described in its May 14, 2018 response to the show cause order – and thus believes that the Commission may close the Section 206 proceeding in Docket No. EL18-67-000.

#### **B. Does the Settlement Involve Issues of First Impression?**

SDG&E is not aware of any issues of first impression raised by the Settlement.

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<sup>12</sup> *San Diego Gas & Electric Co.*, 165 FERC ¶ 61,095 (2018).

<sup>13</sup> See “Answer of San Diego Gas & Electric Company to Order to Show Cause,” Docket No. EL18-67-000 (May 14, 2018).

**C. Does the Settlement Depart from Commission Precedent (if so, identify by case name(s) and docket numbers (s))?**

SDG&E is not aware of any departures from Commission precedent involved in the Settlement.

**D. Does the Settlement Seek to Impose a Standard of Review Other Than the Ordinary Just and Reasonable Standard with Respect to any Changes to the Settlement That Might Be Sought by Either a Third Party or the Commission Acting *Sua Sponte*?**

The Settlement provides that the standard for modifications to the Settlement by the Parties to the proceeding is the public interest standard. The standard of review for any changes proposed by entities that were not parties to this Settlement or by the Commission acting *sua sponte* shall be the just and reasonable standard.

**IV. CONCLUSION**

The Settlement fully resolves all issues set for hearing in this proceeding. Accordingly, SDG&E requests the Commission to find that the Settlement is in the public interest and to approve it without modification.

Respectfully submitted,

/s/ Christopher M. Lyons

Christopher M. Lyons  
Ross R. Fulton  
Senior Counsel  
San Diego Gas & Electric Company  
8330 Century Park Court, CP32D  
San Diego, CA 92123  
Phone: 858-654-1559  
Fax: 619-699-5027  
E-mail: clyons@semprautilities.com

*Attorneys for San Diego Gas & Electric Company*

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