

Application of San Diego Gas & Electric
Company(U 902 E) for Approval of Energy
Storage and Energy Efficiency Contracts Arising
from the Track IV Local Capacity Requirement
All Source Request for Offers

Application 16-03-xxx
Exhibit No.: (SDG&E- ____)

**PREPARED DIRECT TESTIMONY OF
GEORGE M. KATSUFRAKIS
ON BEHALF OF SAN DIEGO GAS & ELECTRIC COMPANY**

****PUBLIC REDACTED VERSION****

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

March 30, 2016



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**Attachment A - Energy Efficiency Contract with Willdan
(Entire Document Is Considered Confidential)**

1 **PREPARED DIRECT TESTIMONY OF**
2 **GEORGE M. KATSUFRAKIS**
3 **ON BEHALF OF SDG&E**

4 **I. PURPOSE**

5 The purpose of my testimony is to provide a summary of the energy efficiency (“EE”) contract selected and executed in San Diego Gas & Electric Company’s (“SDG&E”) 2014 Track IV All Source Request For Offer (“Track IV All Source RFO”), how the contract met the necessary RFO Conformance Requirements, reasons for selection, and safety considerations.

9 **II. EE RFO PRODUCT TYPE**

10 In accordance with the direction included in the Commission Decision (“D.”) 14-03-004 (“Track IV Decision”), SDG&E issued its All Source RFO on September 5, 2014, seeking local capacity requirement (“LCR”) resources within the following product types: 1) energy efficiency, 2) demand response, 3) renewable resources, 4) combined heat and power, 5) distributed generation, 6) energy storage, and 7) conventional resources. An overview of the Track IV All Source RFO process, schedules, and a summary of all requirements of the RFO can be found in Mr. Pat Charles’ Direct Testimony. My Direct Testimony builds on that of Mr. Charles and specifically addresses the EE product type for SDG&E, how the conformance requirements were met and the reasons for selection.

19 The EE product-type referenced above must deliver long-term energy and capacity savings. SDG&E preferred that EE programs begin delivering as early as 2017 (subject to California Public Utilities Commission [“CPUC”] approval), but some portion of the delivery period must encompass calendar year 2022 to meet the Track IV Decision requirements.

24 **III. 2014 EE RFO CONFORMANCE REQUIREMENTS**

25 The following were the key conformance requirements associated with the EE product type from SDG&E’s Track IV All Source RFO issued on September 5, 2014, all of which were met by the Willdan Energy Solutions (“Willdan”) offer:

- 28 1. Customers to be enrolled in the EE programs and/or who will provide proposed EE resource(s) must be located within SDG&E’s service territory.
- 30 2. Some portion of the program’s term must include the entire calendar year of 2022.

- 1 3. Minimum resource capacity of 0.5 MW¹ delivered by the program during the delivery
2 period, as detailed in the Energy Efficiency Resource Purchase Agreement.
- 3 4. The EE resource must meet the requirements of the current RA counting rules.
- 4 5. The EE resource must be demonstrably incremental to the assumptions used in the
5 California ISO studies.² Sellers are required to explain and/or show how their
6 proposed EE resource is incremental. Sellers are encouraged to reference (1)
7 SDG&E's current 2012-2014 EE program portfolio;³ (2) SDG&E's proposed 2015-
8 2016 EE program portfolio;⁴ and / or (3) 2013 Integrated Energy Policy Report
9 ("IEPR") EE forecast.⁵ Incremental resources that are similar to existing EE resources
10 must demonstrate to SDG&E's satisfaction that the resource is "incremental" and
11 provide creative products that are not part of existing or planned programs.
- 12 6. The Respondent must state any affiliate relationship with Sempra Energy, if one
13 exists.

14 **IV. INCREMENTAL RESOURCE CONFORMANCE REQUIREMENT**

15 Of key importance in this procurement is ensuring that the EE resources provided are
16 demonstrably incremental to the assumptions used in the California Independent System
17 Operator ("CAISO") studies.⁶ Sellers were required to explain and/or show how their proposed
18 EE resource is incremental. Sellers were encouraged to reference (1) SDG&E's current 2013-

¹ Note SDG&E considered the administrative burden/feasibility of negotiating a high volume of agreements when selecting its shortlist.

² See D.14-03-004, Ordering Paragraph ("OP") 6, referring to D.13-02-015, OP 4. Subparagraph b states "the resource must be demonstrably incremental to the assumptions used in the California ISO studies, to ensure that a given resource is not double counted."

³ SDG&E's current EE programs (see <http://www.sdge.com/save-money/upgrade-and-save> -- gives information on SDG&E's EE rebate programs; CPUC Decision approving SDG&E's current programs:

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M034/K299/34299795.PDF> ; and reporting on SDG&E's current EE programs at <http://eestats.cpuc.ca.gov/Views/Documents.aspx>

⁴ See <http://www.sdge.com/regulatory-filing/10501/2015-energy-efficiency-program-portfolio-changes-phase1-rulemaking-13-11-005> for information about SDG&E's proposed 2015 EE program portfolio.

⁵ See "Energy Efficiency Adjustments for a Managed Forecast: Estimates of Incremental Uncommitted Energy Savings Relative to the California Energy Demand Forecast 2012-2022" dated September 14, 2012 at http://www.energy.ca.gov/2012_energypolicy/documents/demand-forecast/IUEE-CED2011_results_summary.xls ; See the 'mid savings elec' tab -- as discussed and directed in the Track 4 Decision.

⁶ See D.14-03-004, OP 6, referring to D.13-02-015, OP 4. Subparagraph b states "the resource must be demonstrably incremental to the assumptions used in the California ISO studies, to ensure that a given resource is not double counted."

1 2014 EE program portfolio;⁷ and (2) SDG&E’s proposed 2015 EE program portfolio.⁸
2 Incremental resources that are similar to existing EE resources were required to demonstrate to
3 SDG&E’s satisfaction that the resource is “incremental” to those already assumed in the CAISO
4 and California Energy Commission (“CEC”) estimates of EE in the proposed years.

5 While the selected bidders met the incremental criteria, SDG&E will work internally to
6 ensure that the programs are administered by EE program managers and that the projects and
7 programs submitted continue to be incremental. This will be accomplished through the use of
8 internal databases and technical systems (such as the Energy Efficiency Collaboration Platform
9 [“EECP”]) that will be used in tracking the EE programs and reporting on installations to ensure
10 there is not overlap or ‘double-dipping’.

11 **V. CONTRACT NEGOTIATION**

12 Contract negotiations with the shortlisted respondents began following the formal
13 shortlist notification on June 5, 2015. Each successful bidder also posted a “Shortlist Acceptance
14 Fee” and negotiations then started.

15 **VI. SAFETY CONSIDERATIONS**

16 Safety is important for all areas of SDG&E’s RFO process. The Direct Testimony of
17 Messrs. Charles and Rolfe provides a review of the overall safety considerations during the
18 evaluation. Moreover, these concerns were addressed directly in the contract with an obligation
19 for Willdan to require the customer to adhere to applicable safety standards, and with an
20 indemnity which makes Willdan liable for unsafe construction, operation and maintenance of the
21 implemented measures.

22 **VII. EE AGREEMENT**

23 **A. Overview**

24 SDG&E executed one EE agreement as a result of the Track IV 2014 All Source RFO
25 with Willdan Energy Solutions (“Willdan”). The terms and conditions of this agreement are
26 reasonable and of good value for SDG&E’s customers.

⁷ See <http://www.sdge.com/save-money> for information about SDG&E’s current 2013-2014 EE program portfolio.

⁸ See <http://www.cpuc.ca.gov/PUC/energy/Energy+Efficiency/2015+Energy+Efficiency+Portfolios.htm> for information about SDG&E’s proposed 2015 EE program portfolio.

1 **B. Willdan**

2 SDG&E executed the Willdan contract on March 29, 2016. The agreement
3 provides for a six year delivery term ramping up to 18.5 MW of load modification at the
4 end of the term. [REDACTED]

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED] The

12 delivery term is anticipated to start in early 2018 (start date dependent on Commission
13 approval). The agreement also provides a formal Measurement and Verification Plan
14 and an annual inspection report which must be delivered end-of-year to detail annual
15 peak capacity savings. The annual inspection report is used to (1) confirm whether the
16 projected savings for the year were met for the entire year (and if not, a true-up payment
17 would be required to be made) and (2) set the contract price payments during the
18 following year. The annual inspection report includes a description of the type of
19 measures, the site and the end-use customer for that site, as well as the annual peak
20 capacity savings attributable to each measure and the project at that time.

21 The evaluation and contracting teams worked to ensure that terms and conditions
22 supported the good value that SDG&E sought with this agreement, which is to provide energy
23 and capacity savings over the term of the agreement. The Willdan agreement provides for low
24 risk to SDG&E with a “performance assurance” security deposit (which is maintained for the
25 term of the agreement), pay-for-performance terms, and a performance guarantee that ensures a
26 minimum of peak capacity savings is delivered annually. Details can be found in the full copies
27 of the agreement which are included as Confidential Attachment A. The value to SDG&E
28 ratepayers lies in the delivered EE and reduced procurement of RA.

29 The confidential version of the report of the Independent Evaluator (“IE”) (the IE report
30 is being served in conjunction with the filing of this Application, as a separate exhibit along with
31 the supporting Direct Testimony of SDG&E’s witnesses) also addresses the reasonableness of

1 the terms and conditions of the agreements as well as the attractiveness of the value proposition
2 represented by each agreement.

3 This concludes my prepared direct testimony.

4 **VIII. WITNESS QUALIFICATIONS**

5 My name is George Katsuftrakis. My business address is 8335 Century Park
6 Court, San Diego, California 92123. I am employed by SDG&E as Manager – Program
7 Operations for Customer Programs. My responsibilities include the design and
8 implementations of energy efficiency and demand response programs for SDG&E. I
9 have been employed by Sempra Energy Utilities since 1996.

10 I graduated from University of California, Berkeley with a Bachelor’s of Science
11 degree in Mechanical Engineering and I am a registered professional engineer in
12 California.

13 I have testified before the California Public Utilities Commission.
14

ENTIRE DOCUMENT IS CONSIDERED CONFIDENTIAL

Attachment A

ENERGY EFFICIENCY CONTRACT WITH WILLDAN

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

**DECLARATION OF GEORGE KATSUFRAKIS
REGARDING CONFIDENTIALITY OF CERTAIN DATA**

I, GEORGE KATSUFRAKIS, do declare as follows:

1. I am the Manager - Program Operations in the Customer Programs Department for San Diego Gas & Electric Company (“SDG&E”). I have reviewed my direct testimony submitted in support of SDG&E’s Application for Approval of Energy Storage and Energy Efficiency Contracts Arising from the Track IV Local Capacity Requirement All Source Request for Offers (A.16-03-xxx) submitted concurrently herewith (the “the Track IV Testimony”). In addition, I am personally familiar with the facts and representations in this Declaration and, if called upon to testify, I could and would testify to the following based upon my personal knowledge and/or belief.

2. I hereby provide this Declaration in accordance with D.06-06-066, *et seq.*, to demonstrate that the confidential information (“Protected Information”) provided in the Track IV Testimony submitted concurrently herewith (described below) falls within the scope of data protected as confidential pursuant to the IOU Matrix attached to the Commission’s confidentiality decision, D.06-06-066 (the “IOU Matrix”) and/or under relevant statutory provisions.^{1/}

^{1/} The Matrix is derived from the statutory protections extended to non-public market sensitive and trade secret information. (See D.06-06-066). The Commission is obligated to act in a manner consistent with applicable law. The analysis of protection afforded under the Matrix must always produce a result that is consistent with the relevant underlying statutes; if information is eligible for statutory protection, it must be protected under the Matrix. (See *Southern California Edison Co. v. Public Utilities Comm.* 2000 Cal. App. LEXIS 995, *38-39) Thus, by claiming applicability of the Matrix, SDG&E relies upon and simultaneously claims the protection of applicable statutory provisions including, but not limited to, Public Utilities Code §§ 454.5(g) and 583, Govt. Code § 6254(k) and General Order 66-C.

3. In D.06-06-066, the Commission adopted rules governing confidentiality of certain categories of electric procurement data submitted to the Commission by investor owned utilities (“IOUs”) and energy service providers (“ESPs”). The Commission established two matrices – one applicable to IOUs, the other to ESPs – setting forth categories and sub-categories of data and providing a confidentiality designation for each.^{2/}

4. To the extent information matches a Matrix category, it is entitled to the protection the Matrix provides for that category of information. In addition, the Commission has made clear that information must be protected where “it matches a Matrix category exactly . . . or consists of information from which that information may be easily derived.”^{3/} In order to claim the protection afforded by the relevant Matrix, the party seeking confidential treatment must establish:

- 1) That the material it is submitting constitutes a particular type of data listed in the Matrix,
- 2) Which category or categories in the Matrix the data correspond to,
- 3) That it is complying with the limitations on confidentiality specified in the Matrix for that type of data,
- 4) That the information is not already public, and
- 5) That the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.^{4/}

^{2/} See, D.06-06-066, as amended by D.07-05-032, *mimeo*, Appendices 1 and 2.

^{3/} See, *Administrative Law Judge’s Ruling on San Diego Gas & Electric Company’s April 3, 2007 Motion to File Data Under Seal*, issued May 4, 2007 in R.06-05-027, p. 2 (emphasis added).

^{4/} D.06-06-066, as amended by D.07-05-032, *mimeo*, p. 81, Ordering Paragraph 2.

5. SDG&E’s Protected Information: The Protected Information, consisting of the information described below, is protected pursuant to the following Matrix categories:

Data at Issue	Matrix Requirements	How Moving Party Meets Requirements
Highlighted / or shaded portions of my Track IV Testimony on the following pages / Line numbers: GMK-4; lines 4 - 11 AND The entirety of Attachment A, the Energy Efficiency Resource Purchase Agreement (the “Willdan Contract”)	Demonstrate that the material submitted constitutes a particular type of data listed in the IOU Matrix	The redacted data includes information specifically describing certain contract terms included in the Willdan Contract
	Identify the Matrix category or categories to which the data corresponds	Matrix categories: VII B
	Affirm that the IOU is complying with the limitations on confidentiality specified in the Matrix for that type of data	In accordance with the limitations on confidentiality set forth in the IOU Matrix, SDG&E requests that the information be kept confidential for a period of three (3) years from the date contract states deliveries to begin; or until one year following expiration, whichever comes first.
	Affirm that the information is not already public	SDG&E has not publicly disclosed this information and is not aware that it has been disclosed by any other party.
	Affirm that the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.	The information is provided in the format that accurately and fully describes the Willdan Contract for Commission evaluation. The data cannot be further aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.

6. SDG&E intends to comply with the limitations on confidentiality specified in the Matrix for the type of data that is provided herewith.

7. I am not aware of any instance of public disclosure of the Protected Information.

8. The Protected Information cannot be provided in a form that is further aggregated, redacted, or summarized and still provide the level of detail requested and expected by the Commission.

9. As an alternative basis for requesting confidential treatment, SDG&E submits that the project status information provided in the Track IV Testimony is material, market sensitive, electric procurement-related information protected under §§ 454.5(g) and 583, as well as trade secret information protected under Govt. Code § 6254(k), and that the disclosure of this information would place SDG&E at an unfair business disadvantage, thus triggering the protection of G.O. 66-C.^{5/}

10. Public Utilities Code § 583 establishes a right to confidential treatment of information otherwise protected by law.^{6/}

11. Public Utilities Code § 454.5(g) provides:

The commission shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information submitted in an electrical corporation's proposed procurement plan or resulting from or related to its approved procurement plan, including, but not limited to, proposed or executed power purchase agreements, data request responses, or consultant reports, or any combination, provided that the Office of Ratepayer Advocates and other consumer groups that are nonmarket participants shall be provided access to this information under confidentiality procedures authorized by the commission.

12. Under the Public Records Act, Govt. Code § 6254(k), records subject to the privileges established in the Evidence Code are not required to be disclosed.^{7/} Evidence Code § 1060 provides a privilege for trade secrets, which Civil Code § 3426.1 defines, in pertinent part, as information that derives independent economic value from not being generally known to the public or to other persons who could obtain value from its disclosure.

13. In addition, Commission General Order 66-C protects “[r]eports, records and information requested or required by the Commission which, if revealed, would place the regulated company at an unfair business disadvantage.”

^{5/} This argument is offered in the alternative, not as a supplement to the claim that the data is protected under the IOU Matrix. California law supports the offering of arguments in the alternative. *See, Brandolino v. Lindsay*, 269 Cal. App. 2d 319, 324 (1969) (concluding that a plaintiff may plead inconsistent, mutually exclusive remedies, such as breach of contract and specific performance, in the same complaint); *Tanforan v. Tanforan*, 173 Cal. 270, 274 (1916) (“Since . . . inconsistent causes of action may be pleaded, it is not proper for the judge to force upon the plaintiff an election between those causes which he has a right to plead.”)

^{6/} *See*, D.06-06-066, *mimeo*, pp. 26-28.

^{7/} *See also* Govt. Code § 6254.7(d).


14. If disclosed, the Protected Information could provide parties with whom SDG&E is currently negotiating insight into SDG&E's procurement needs, which would unfairly undermine SDG&E's negotiation position and could ultimately result in increased cost to ratepayers. In addition, if developers mistakenly perceive that SDG&E is not committed to assisting their projects or keeping the Protected Information secure, disclosure of the Protected Information could act as a disincentive to developers for offering proposals and projects into SDG&E's request for offers or negotiate higher prices based on knowledge of the Protected Information. Accordingly, pursuant to P.U. Code § 583, SDG&E seeks confidential treatment of this data, which falls within the scope of P.U. Code § 454.5(g), Govt. Code § 6254(k) and General Order 66-C.

15. Developers' Protected Information: The protected information provided in the Track IV may also constitute confidential trade secret information of the listed projected developers that SDG&E is obligated to protect. The project status information set forth in the Track IV Testimony relates directly the pricing and contractual terms of the Willdan Contract. Disclosure of this extremely sensitive information could harm developers' ability to negotiate necessary contracts and/or could invite interference with project development by competitors.

16. In accordance with the statutory provisions described herein, SDG&E hereby requests that the information set forth in the Track IV Testimony be protected from public disclosure.

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

Executed this 28th day of March, 2016, at San Diego, California.


George Katsufakis
Manager – Program Operations