

Company: Southern California Gas Company (U 904 G) / San Diego Gas & Electric  
Company (U 902 M)  
Proceeding: 2024 General Rate Case  
Application: A.22-05-015/-016 (cons.)  
Exhibit: SCG-224 / SDG&E-228

**REBUTTAL TESTIMONY**  
**OF DENNIS J. GAUGHAN**  
**(CORPORATE CENTER - INSURANCE)**

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



**May 2023**

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**REBUTTAL TESTIMONY OF  
DENNIS J. GAUGHAN  
(CORPORATE CENTER - INSURANCE)**

**I. SUMMARY OF DIFFERENCES**

<b>TOTAL O&amp;M – Constant 2021 (\$000)</b>			
	<b>Base Year 2021</b>	<b>Test Year 2024</b>	<b>Change from Total O&amp;M Test Year Request</b>
SOCALGAS/SDG&E	325,269	399,409	
CAL ADVOCATES	325,269	400,200 <sup>1</sup>	791
TURN	325,269	298,351	(101,058)
UCAN	325,269	348,218	(51,191)
FEA	325,269	398,614	(795)

<b>TOTAL SoCalGas O&amp;M – Constant 2021 (\$000)</b>			
	<b>Base Year 2021</b>	<b>Test Year 2024</b>	<b>Change from SCG/SDG&amp;E Test Year Request</b>
SOCALGAS	63,310	83,237	
CAL ADVOCATES	63,310	83,237	
TURN	63,310	81,264	(1,973)
UCAN	63,310	83,237	
FEA	63,310	83,237	

<b>TOTAL SDG&amp;E O&amp;M – Constant 2021 (\$000)</b>			
	<b>Base Year 2021</b>	<b>Test Year 2024</b>	<b>Change from SCG/SDG&amp;E Test Year Request</b>
SDG&E	259,959	316,172	
CAL ADVOCATES	259,959	316,172	
TURN	259,959	217,087	(99,085)
UCAN	259,959	264,981	(51,191)
FEA	259,959	315,377	(795)

<sup>1</sup> The Public Advocates Office of the California Public Utilities Commission (Cal Advocates) mistakenly references a total of \$400.2 million as the Companies' total forecast. Ex. CA-12 (Chumack) at 2. The error relates to the \$27.494 million that Cal Advocates identifies as the Companies' forecast for Property Insurance. *Id.* The number should be \$26.727 million. Using the correct \$26.727 million figure for the Companies' Property Insurance forecast results in a corrected total of \$399.4 million.

1 **II. INTRODUCTION**

2 This prepared rebuttal testimony regarding Southern California Gas Company’s  
3 (SoCalGas) and San Diego Gas & Electric Company’s (SDG&E) (collectively, the Companies)  
4 requested insurance costs addresses and responds to the following testimony from other Parties:

- 5 • Cal Advocates, as submitted by Mr. Leo Chumack (Exhibit (Ex.) CA-12),  
6 dated March 27, 2023.
- 7 • The Utility Reform Network (TURN), as submitted by Mr. Robert  
8 Finkelstein and Mr. Mark Ellis (Ex. TURN-11) and as submitted by Mr.  
9 Robert Finkelstein (Ex. TURN-15), dated March 27, 2023.
- 10 • The Utility Consumers’ Action Network (UCAN), as submitted by  
11 Mr. Jason Zeller (Ex. UCAN), dated March 27, 2023.
- 12 • The Federal Executive Agencies (FEA), as submitted by Mr. Ralph C.  
13 Smith (Ex. FEA-01), dated March 27, 2023.

14 As a preliminary matter, the absence of a response to any particular issue in this rebuttal  
15 testimony does not imply or constitute agreement by the Companies with the proposal or  
16 contention made by these or other parties. The forecasts contained in the Companies’ direct  
17 testimony are based on sound estimates of their revenue requirements at the time of testimony  
18 preparation.

19 Forecasting insurance premiums continues to be challenging in California. Given current  
20 insurance market conditions, the Sempra Energy (Sempra) corporate insurance business unit  
21 (Corporate Center - Insurance) continues to expect insurance cost volatility because premiums  
22 are calculated using several factors, many of which are outside the Companies’ control or are  
23 difficult to foresee, including: worldwide catastrophic losses incurred by global insurers arising  
24 from wildfires, hurricanes, and floods; rising inflation associated with rising asset values; rising  
25 litigation settlements and judgments; and rapid increases in the cost of capital.

26 The Companies’ general excess, wildfire liability and workers’ compensation insurance  
27 programs renew on June 26, 2023, and are typically on a one-year renewal cycle. Corporate  
28 Center – Insurance is currently engaged in renewal negotiations with commercial and  
29 reinsurance insurers. These negotiations have been concentrated in recent months with  
30 numerous global insurance companies. Insurers remain complimentary of the Companies’ risk  
31 management programs and efforts; and, although insurers consider the Companies’ wildfire risk

1 management program to be best-in-class, they remain focused on California catastrophic risks  
2 and the high claims costs in California. Disruptions in the reinsurance market in January 2023<sup>2</sup>  
3 have added uncertainty to the Companies' 2023 renewal.

4 Parties do not oppose the vast majority of the Companies' property and liability insurance  
5 forecasts; instead, they focus their recommendations on wildfire liability<sup>3</sup> and directors and  
6 officers (D&O) insurance in ways that can be generally categorized as: (1) limiting wildfire  
7 liability insurance coverage to \$1 billion; (2) implementing a limited amount of self-insurance  
8 now with an eye towards expanding the scope of self-insurance going forward; and (3) reducing  
9 the Companies' forecasted revenues for wildfire liability insurance, D&O insurance, or both.  
10 The Companies disagree with the intervenors' recommendations, as discussed in more detail  
11 below.

12 **A. Cal Advocates**

13 The following is a summary of Cal Advocates' position(s) on insurance costs:<sup>4</sup>

- 14 • Cal Advocates does not oppose the Companies' forecast of  
15 \$399.4 million<sup>5</sup> in test year (TY) 2024 insurance costs.
- 16 • Cal Advocates recommends that the Commission cap ratepayer funding of  
17 wildfire liability insurance coverage at \$1 billion.
- 18 • Cal Advocates recommends that the Companies should strongly consider a  
19 self-insurance program if wildfire liability insurance costs reach \$250  
20 million.

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<sup>2</sup> Guy Carpenter, Challenging Jan 1 Renewals Reflect a Market Seeking New Equilibrium (December 30, 2022), *available at* <https://www.guycarp.com/company/news-and-events/news/press-releases/challenging-jan-1-renewals.html>.

<sup>3</sup> *See infra* at DJG-18 – DJG-19 regarding UCAN's recommendations. To resolve uncertainty regarding UCAN's intent, the Companies have assumed that UCAN's recommendations are focused on wildfire liability insurance and not on both wildfire and non-wildfire liability coverages.

<sup>4</sup> Public Advocates Office Report on the Results of Operations for San Diego Gas & Electric Company, Southern California Gas Company Test Year 2024 General Rate Case, Corporate Center – General Administration and Insurance (Leo Chumack) (March 27, 2023) (Ex. CA-12 (Chumack)).

<sup>5</sup> *See supra* at n.1, noting that Cal Advocates mistakenly references a total of \$400.2 million as the Companies' total forecast. Ex. CA-12 (Chumack) at 2.

- 1 • Cal Advocates recommends that the Companies' Liability Insurance  
2 Premium Balancing Accounts (LIPBAs) be re-authorized, subject to  
3 modifications for wildfire liability insurance costs above \$250 million.

4 **B. TURN**

5 The following is a summary of TURN's position(s) on insurance costs:<sup>6</sup>

- 6 • TURN recommends that the Commission cap the Companies' authorized  
7 wildfire coverage at \$1 billion, require the Companies to self-insure the  
8 first \$50 million of wildfire liability claims, and reduce test year forecasts  
9 for wildfire liability insurance costs to \$140 million to capture estimated  
10 cost savings from the cap and self-insurance.
- 11 • TURN recommends that the Commission direct the Companies to perform  
12 a more robust analysis of self-insurance as an option to replace greater  
13 portions of the Companies' wildfire liability insurance coverage before the  
14 TY 2028 GRC.
- 15 • TURN recommends that the Commission modify the Companies' LIPBAs  
16 so that any request for recovery of above-authorized costs be presented  
17 either in an application, where there is reason to believe the increased  
18 costs are the result of the utility's loss history, or a Tier 3 advice letter  
19 (AL).
- 20 • TURN recommends that the Commission refuse entirely the Companies'  
21 request for Directors' and Officers' (D&O) liability insurance costs.

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<sup>6</sup> Prepared Testimony of Robert Finkelstein and Mark Ellis Addressing Wildfire Liability Insurance-Related Issues and the Liability Insurance Premium Balancing Account, on behalf of The Utility Reform Network (TURN) (March 27, 2023) (Ex. TURN-11 (Finkelstein/Ellis)); Prepared Testimony of Robert Finkelstein Addressing Burden of Proof, EEI Dues, Directors and Officers Insurance, and Balancing and Memorandum Accounts, on behalf of TURN) (March 27, 2023) (Ex. TURN-15 (Finkelstein)); Confidential Prepared Testimony of Robert Finkelstein and Mark Ellis Addressing Wildfire Liability Insurance-Related Issues and the Liability Insurance Premium Balancing Account, on behalf of TURN) (March 27, 2023) (Ex. TURN-11-C (Finkelstein/Ellis)). Lastly, I am simultaneously submitting confidential rebuttal testimony responsive to Ex. TURN-11-C (Finkelstein/Ellis). See Confidential Prepared Rebuttal Testimony of Dennis J. Gaughan (Corporate Center – Insurance) (May 2023) (Ex. SCG-224/SDG&E-228-C (Gaughan)).

1           **C.     UCAN**

2           The following is a summary of UCAN’s position(s) on insurance costs:<sup>7</sup>

- 3           •       UCAN recommends that the Commission order SDG&E to self-insure  
4           liability coverage at the \$250,000,000 level.
- 5           •       UCAN recommends that SDG&E’s TY 2024 forecast for liability  
6           insurance costs be reduced by \$51,191,000, to \$248,000,000.
- 7           •       UCAN does not oppose any other portion of the Companies’ revenue  
8           requests.

9           **D.     FEA**

10          The following is a summary of FEA’s position(s) on insurance costs:<sup>8</sup>

- 11          •       FEA recommends that the Commission remove 50% of the TY 2024 D&O  
12          insurance cost request of \$1.589 million allocated to SDG&E, resulting in  
13          a reduction of \$795,000.
- 14          •       FEA does not oppose any other portion of the Companies’ revenue  
15          requests.

16   **III.    REBUTTAL TO PARTIES’ PROPOSALS<sup>9</sup>**

<b>TOTAL O&amp;M – Constant 2021 (\$000)</b>			
	<b>Base Year 2021</b>	<b>Test Year 2024</b>	<b>Change</b>
SOCALGAS/SDG&E	325,269	399,409	
CAL ADVOCATES	325,269	399,409	
TURN	325,269	298,051	(101,358)
UCAN	325,269	348,218	(51,191)
FEA	325,269	398,614	(795)

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<sup>7</sup> Prepared Direct Testimony of Jason Zeller on behalf of the Utility Consumers’ Action Network for Test Year 2024 Administrative and General Expenses of San Diego Gas & Electric (UCAN) (March 27, 2023) (Ex. UCAN (Zeller)).

<sup>8</sup> Direct Testimony and Exhibits of Ralph C. Smith, CPA, on behalf of the Federal Executive Agencies (FEA) (March 27, 2023) (Ex. FEA-01 (Smith)).

<sup>9</sup> Corporate Center – Insurance procures insurance on behalf of the Companies and then allocates the costs as shared services O&M pursuant to an allocation hierarchy, as explained in my direct testimony. Direct Testimony of Dennis J. Gaughan (Corporate Center – Insurance) (May 16, 2022) at DJG-1 – DJG-2 (Ex. SCG-24/SDG&E-28/Gaughan). No other category of costs is included as part of my sponsored testimony.

1           **A.     Costs Authorized for Wildfire Liability Insurance**

2                   **1.     TURN**

3           TURN recommends that the Commission reduce the Companies' test year 2024 revenue  
4 forecast for wildfire liability insurance costs to \$140.3 million,<sup>10</sup> representing a \$97.6 million  
5 reduction in the Companies' test year wildfire liability insurance forecast of \$237.9 million.

6           The Companies disagree with TURN's recommendation to revise their forecast for  
7 wildfire liability insurance costs to \$140 million, which is TURN's estimate of the cost of  
8 \$1 billion of wildfire coverage with a \$50 million self-insured retention.<sup>11</sup> TURN reaches its  
9 \$140 million figure by: (1) assuming no escalation of wildfire liability costs between base year  
10 and test year, (2) calculating an assumed savings from capping coverage at \$1 billion, (3)  
11 calculating an assumed savings by requiring self-insurance for the first \$50 million of  
12 coverage,<sup>12</sup> and (4) assuming no third-party wildfire claims, where even a small fire could  
13 consume the entire \$50 million self-insurance layer, which would immediately increase the cost  
14 of TURN's recommendation to at least \$190 million. By never addressing the issue, TURN also  
15 assumes, implicitly, that alternative risk transfer agreements already in place would not impact  
16 the ease and timing of its recommended restructuring. The result is that TURN's  
17 recommendation is built on a series of assumptions that, when scrutinized, reinforces the  
18 continued uncertainty around forecasting the future costs of the Companies' wildfire liability  
19 program, which supports the Companies' request for reauthorization of their LIPBAs.<sup>13</sup>

20           The Companies' wildfire liability insurance program has evolved to include several  
21 alternative risk transfer components, buttressed by the support and urging of both intervenors and

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<sup>10</sup> Ex. TURN-11 (Finkelstein/Ellis) at 9. TURN also refers to both \$144 million and \$140 million as its recommended forecast figure, without explanation. *Id.* at 2 and 9.

<sup>11</sup> Ex. TURN11-C (Finkelstein/Ellis) at 4.

<sup>12</sup> *See* Confidential Ex. SCG-224/SDG&E-228-C (Gaughan) at DJG-2 for a discussion of TURN's calculations and assumptions.

<sup>13</sup> The Companies remain committed to negotiating aggressively to achieve the most cost-efficient wildfire liability insurance program. If, at the end of a reporting period, there are funds in their LIPBAs' under-limits sub-accounts, those funds get returned to ratepayers. Ex. SCG-24/SDG&E-28 (Gaughan) at DJG-22.



1 the Commission in the TY 2019 GRC proceeding.<sup>14</sup> My direct testimony describes steps that  
2 the Companies have taken to adopt alternative options, including expanding the total number of  
3 long-term agreements in their wildfire and general excess liability programs and issuing two  
4 ILS-CAT bonds since the TY 2019 GRC decision.<sup>15,16</sup>

5 TURN's recommendation to reduce authorized revenue to \$140 million would, as a  
6 result, simply restructure the Companies' wildfire insurance below \$50 million and above  
7 \$1 billion, notwithstanding the review and approval by the Commission's Energy Division  
8 (Energy Division) of the coverage when it accepted the Companies' 2020 Tier 2 Advice  
9 Letters.<sup>17</sup> The Commission has firmly established that wildfire liability insurance is primarily  
10 designed to benefit ratepayers and that the associated premium costs are a normal cost of doing  
11 business for which ratepayer recovery is allowed.<sup>18</sup>

## 12 2. UCAN

13 UCAN recommends that the Commission reduce SDG&E's TY 2024 forecast for  
14 liability insurance by \$51,191,000,<sup>19</sup> representing the total escalation currently requested for  
15 liability insurance from base year to test year.

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<sup>14</sup> The Companies explained in their respective Tier 2 advice letters that the Companies submitted in 2020 for coverage not requested as part of their TY 2019 GRC, "Additionally, the Utility Consumers' Action Network's (UCAN) testimony recommends that companies consider the use of Insurance Linked Securities or CAT bonds as alternative forms of wildfire insurance. Consistent with SDG&E's TY 2019 GRC rebuttal testimony guidance and UCAN's suggestion, Sempra issued a new \$135 million CAT bond that provides wildfire insurance coverage from October 2018 to 2021." *See* SoCalGas AL 5725-G, approved December 15, 2020 and effective December 9, 2020 and SDG&E AL 3638-E/2922-G, approved February 2, 2021 and effective December 9, 2020 (Companies' 2020 Tier 2 Advice Letters) at 4.

<sup>15</sup> Ex. SCG-24/SDG&E-28/Gaughan at DJG-20.

<sup>16</sup> An error was discovered in the number of structured agreements identified in my prepared direct testimony for the 2021-2022 policy year. Ex. SCG-24/SDG&E-28 at DJG-20, n.23. The correct number is three (3) and not four (4). Structured agreements are a subset of long-term agreements, and the discrepancy is due to Sempra and its broker classifying a single long-term agreement differently.

<sup>17</sup> *See supra* n.14.

<sup>18</sup> Decision (D.) 20-09-024 at 49 (approving Southern California Edison Company's (SCE's) application for authorization to recover costs related to wildfire insurance premiums recorded in its Wildfire Expense Management Account (WEMA)) (stating, "[W]ildfire liability insurance is primarily designed to benefit ratepayers and not shareholders."); *see also* D.21-08-036 at FOF 484 at 615 (addressing SCE's TY 2021 GRC) (noting, "Liability insurance is a standard cost of doing business that is primarily designed to benefit ratepayers.").

<sup>19</sup> Ex. UCAN (Zeller) at 9 – 11.

1 The Companies disagree with UCAN’s recommendation. In support of its  
2 recommendation, UCAN focuses on the costs incurred to harden SDG&E’s electric transmission  
3 and distribution infrastructure<sup>20</sup> without providing the context necessary to establish the  
4 connection between SDG&E’s hardening efforts and insurance costs. The ability of SDG&E to  
5 remain free of third-party wildfire claims and to keep its wildfire liability insurance costs at  
6 levels substantially below the costs incurred by the other IOUs is directly related to the success  
7 of its hardening efforts.<sup>21</sup>

8 The Companies’ hardening efforts are, moreover, statutorily mandated.<sup>22</sup> The legislative  
9 findings to Assembly Bill (AB) 1054 include: “The state’s electrical corporations must invest in  
10 hardening of the state’s electrical infrastructure and vegetation management to reduce the risk of  
11 catastrophic wildfire.”<sup>23</sup> Each IOU is also required by statute to “construct, maintain, and  
12 operate its electrical lines and equipment in a manner that will minimize the risk of wildfire  
13 posed by those electrical lines and equipment.”<sup>24</sup>

14 The Companies have emphasized that “[t]he ability of Sempra to mitigate insurance costs  
15 is linked to the success of the Companies’ risk management programs.”<sup>25</sup> The Companies’  
16 record of no third-party wildfire claims since 2008 is a measure of the success of those hardening  
17 efforts. The Companies disagree that it is just and reasonable to reduce forecasted O&M  
18 insurance costs based on the magnitude of capital expenditures that successfully hardened  
19 infrastructure.

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<sup>20</sup> *Id.*

<sup>21</sup> Ex. SCG-24/SDG&E-28 (Gaughan) at DJG-18.

<sup>22</sup> *See generally* Second Revised Prepared Direct Testimony of Jonathan T. Woldemariam (Wildfire Mitigation and Vegetation Management) (October 2022) (Ex. Ex. SDG&E-13-R) and Second Revised Workpapers to Prepared Direct Testimony of Jonathan Woldemariam on Behalf of San Diego Gas & Electric Company (October 2022) (Ex. SDG&E-13-WP-2R) for detail on SDG&E’s wildfire risk mitigation efforts.

<sup>23</sup> AB 1054, Stats. 2019-2020, Ch. 79 (Cal. 2019) at Sec. 2(b).

<sup>24</sup> Pub. Util. Code Sec. (§) 8387(a).

<sup>25</sup> Ex. SCG-24/SDG&E-28 (Gaughan) at DJG-18.

1           **B.     Liability Insurance Balancing Account**

2                   **1.     Cal Advocates**

3           Cal Advocates recommends that the Companies’ request for reauthorization of the  
4 LIPBAs be granted on the condition that the LIPBAs receive additional regulatory review for  
5 any wildfire liability insurance costs above \$250 million and would require (a) a Tier 2 advice  
6 letter for additional wildfire insurance costs between \$250 million and \$333 million, and (b) a  
7 Tier 3 advice letter for costs above \$333 million.<sup>26, 27</sup>

8           The Companies acknowledge Cal Advocates’ focus on additional review, but disagree  
9 that additional regulatory review is necessary. The Companies remain concerned that any  
10 additional delays tied to adding layers of regulatory review would inhibit the quick decision-  
11 making that is necessary to make insurance purchases and allocate capital efficiently. Such  
12 delays would disfavor ratepayers in the form of higher insurance costs due to missed  
13 opportunities. The Commission noted that the LIPBA allows the Companies to address these  
14 uncertainties in a timely manner and at the same time ensure that there is adequate insurance  
15 coverage for known risks.<sup>28</sup> Further, the Commission previously acknowledged and addressed  
16 Cal Advocates,’ formerly the Office of Ratepayer Advocates (ORA), similar concern in the last  
17 GRC, and ultimately determined that the Tier 2 advice letter process was appropriate to balance  
18 the concerns for greater Commission review, and the Companies’ concern about exposure to  
19 additional risk for a significant period.<sup>29</sup> As such, the Companies believe it is just and reasonable

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<sup>26</sup> Ex. CA-12 (Chumack) at 12. Cal Advocates’ LIPBA recommendation would convert the Companies’ LIPBAs from a two-way balancing account to a one-way balancing account at \$250 million.

<sup>27</sup> Parties have focused on Wildfire Liability Insurance Costs, 99.8% of which are allocated to SDG&E. The Companies have weighted each of their regulatory testimony responses commensurately. SDG&E’s Regulatory Accounts Witness Jason Kupfersmid explains how the Companies have followed the TY 2019 GRC Decision in administering the LIPBAs. *See generally* Revised Prepared Direct Testimony of Jason Kupfersmid (Regulatory Accounts) (August 2022) (Ex. SDG&E-43-R) at JK-12 – JK-13 and Prepared Rebuttal Testimony of Jason Kupfersmid (Regulatory Accounts) (May 2023) (Ex. SDG&E-243) at JK-11 – JK-13. Similarly, SoCalGas’s Regulatory Witness Rae Marie Yu discusses the LIPBAs in her prepared direct and rebuttal testimonies at a high level. *See generally* Revised Prepared Direct Testimony of Rae Marie Yu (Regulatory Accounts) (August 2022) (Ex. SCG-38-R) at RMY-16 and Prepared Rebuttal Testimony of Rae Marie Yu (Regulatory Accounts) (May 2023) (Ex. SCG-238) at RMY-1 and RMY-10.

<sup>28</sup> D.19-09-051 at FOF 227 at 751.

<sup>29</sup> D.19-09-051 at 535 (stating, “With respect to the modifications proposed by ORA and UCAN, we agree with ORA that there should be some mechanism within which to review additional insurance

1 to continue with the level of review that the Commission established in its TY 2019 GRC  
2 Decision.<sup>30</sup>

## 3 2. TURN

4 TURN recommends that the Commission modify the LIPBAs to authorize recovery of  
5 “above authorized costs”<sup>31</sup> with “either an application (where there is reason to believe the  
6 increased costs are the result of the utility’s loss history) or a Tier 3 advice letter;”<sup>32</sup> provided,  
7 however that “given SDG&E’s recent history of having paid no claims, the current practice of  
8 relying on a Tier 2 advice letter could continue so long as there continue to be no wildfire  
9 claims.”<sup>33</sup> For the same reasons stated above, the Companies disagree with TURN’s  
10 recommendations. The Companies followed the Tier 2 Process that the Commission set forth in  
11 its TY 2019 GRC Decision. As noted in my direct testimony, “The process worked as it was  
12 intended and allowed the Energy Division to review and consider the reasonableness of  
13 additional insurance that the Companies purchased and recorded in their LIPBAs.”<sup>34</sup> There is no  
14 basis for TURN’s recommendation, and, as stated above, the Commission previously addressed  
15 Cal Advocates’ and UCAN’s similar concern for additional regulatory review in the last GRC  
16 and ultimately determined that the Tier 2 advice letter process balanced these concerns.<sup>35</sup> The  
17 Companies request that the already-working Tier 2 process that the Commission established with  
18 its TY 2019 GRC Decision should continue without modification, even if the Companies were to  
19 develop a different claims and loss history.

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expenditure that was not requested in these GRCs . . . However, we also recognize Applicants’ concern about being exposed to increased risk for a significant period while waiting for approval of an application in cases where it finds a need to purchase other and additional liability insurance coverage. Thus, we find that Applicants should be required to file a Tier 2 advice letter when they seek recovery of costs for additional liability insurance coverage that were not requested in these GRCs.”).

<sup>30</sup> *Id.* at 535 – 536 (as part of the Companies’ TY 2019 GRC, granting the Companies’ request for LIPBAs, subject to the requirement that they submit a Tier 2 Advice Letter for authorization of any coverage not requested in their TY 2019 GRC applications).

<sup>31</sup> Ex. TURN-11 (Finkelstein/Ellis) at 12.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 14.

<sup>34</sup> Ex. SCG-24/SDG&E-28 (Gaughan) at DJG-25.

<sup>35</sup> *See supra* at n.29.

1           **C.     Cap on Authorized Wildfire Liability Insurance Coverage**

2           Cal Advocates and TURN each recommend that the Commission cap the Companies’  
3 authorized wildfire coverage at \$1 billion on the grounds that the California Wildfire Fund  
4 provides coverage above \$1 billion.<sup>36</sup>

5           The Companies disagree with Cal Advocates’ and TURN’s recommendation. AB 1054  
6 created the California Wildfire Fund<sup>37</sup> and directed the California Catastrophe Response Council  
7 to appoint the Wildfire Fund Administrator.<sup>38</sup> Since AB 1054’s enactment, the Wildfire Fund  
8 Administrator has been the California Earthquake Authority (CEA).<sup>39</sup>

9           AB 1054 addresses insurance requirements as follows:

10                   A participating electrical corporation shall maintain reasonable insurance  
11                   coverage. The administrator shall periodically review and make a  
12                   recommendation as to the appropriate amount of insurance coverage  
13                   required . . .

14           Pub. Util. Code Section 3293 (Section 3293) (emphasis added.) Section 3293 establishes that  
15 participating electrical corporations are required to maintain a reasonable amount of insurance.  
16 The statute does not establish a specific amount of insurance as being “reasonable.” Instead, the  
17 statute requires the Wildfire Fund Administrator to periodically review and recommend the  
18 appropriate levels of insurance, which establishes the level of insurance that will meet  
19 AB 1054’s insurance requirement.

20           The \$1 billion figure cited by Cal Advocates and TURN is found in a separate section of  
21 the statute that governs the eligibility to submit a claim to the Wildfire Fund:

22                   “Eligible claims” means claims for third-party damages against an  
23                   electrical corporation resulting from covered wildfires exceeding the  
24                   greater of (1) one billion dollars (\$1,000,000,000) in the aggregate in any  
25                   calendar year, or (2) the amount of insurance coverage required to be in  
26                   place for the electrical corporation pursuant to Section 3293, measured by  
27                   the amount of that excess.<sup>40</sup>

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<sup>36</sup> Ex. CA-12 (Chumack) at 12; Ex. TURN-11 (Finkelstein/Ellis) at 7.

<sup>37</sup> Pub. Util. Code § 3284.

<sup>38</sup> Pub. Util. Code § 3280(a); Government Code § 8899.72.

<sup>39</sup> *Id.*

<sup>40</sup> Pub. Util. Code § 3280(f) (emphasis added).

1 In its capacity as Wildfire Fund Administrator, and pursuant to its Section 3293 review  
2 process,<sup>41</sup> the CEA has determined that, to date, \$1 billion is the minimum level of insurance  
3 coverage required of each of the three utilities participating in the Wildfire Fund<sup>42</sup> to qualify for  
4 access to the fund under Section 3280(f).<sup>43</sup> The CEA’s determination under Section 3293 is  
5 memorialized in a Memorandum of Coverage that the CEA has provided to SDG&E and the  
6 other participating IOUs to “set forth the terms on which a Participating Utility may apply for  
7 and receive reimbursement for Eligible Claims from the Wildfire Fund, as well as the methods of  
8 determining what amounts, if any, a Participating Utility must reimburse the Wildfire Fund.”<sup>44</sup> If  
9 adopted, Cal Advocates’ and TURN’s recommendations that the Commission impose a \$1  
10 billion cap on the amount of the Companies’ authorized coverage would interfere with the  
11 CEA’s statutory authority as administrator of the Wildfire Fund to establish a “reasonable”  
12 amount of coverage for an electrical corporation above \$1 billion.

13 SDG&E’s Memorandum of Coverage establishes that the Wildfire Fund will not make  
14 any payment to a participating utility unless and until the aggregate amount of eligible claims  
15 exceed a “Threshold Amount,” defined as the greater of \$1 billion or the amount the CEA  
16 determines is required under Section 3293.<sup>45</sup> Both Section 3293 and SDG&E’s Memorandum of  
17 Coverage establish that \$1 billion is merely the current (2023) minimum level of required  
18 insurance; that level may be adjusted above \$1 billion in any future review.<sup>46</sup>

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<sup>41</sup> The CEA’s periodic reviews began in 2021.

<sup>42</sup> Pacific Gas & Electric Company (PG&E), SCE, and SDG&E are the three participating utilities in the Wildfire Fund. SoCalGas is not a participating utility in the Wildfire Fund.

<sup>43</sup> Wildfire Fund Administrator, Annual Report to the California Catastrophe Response Council and Legislature on Wildfire Fund Operations, Report Period: July 12, 2021 – July 11, 2022 (Jul. 28, 2022) at 20.

<sup>44</sup> See Memorandum of Coverage Wildfire Fund, issued to SDG&E as a Participating Utility for 2022-2023 coverage year (SDG&E’s Memorandum of Coverage), a copy of which is attached in Appendix B, Sec. 1 at 2.

<sup>45</sup> “‘Threshold Amount’ means, as to each Participating Utility, an amount of Eligible Claims that, in the aggregate in any coverage year, is equal to the greater of (1) \$1,000,000,000 or (2) the amount of insurance coverage required to be in place for the Participating Utility pursuant to section 3293 of the Public Utilities Code. . . .” SDG&E’s Memorandum of Coverage, Sec. II.Q. at 4.

<sup>46</sup> Pub. Util. Code § 3293 makes clear that the Wildfire Fund Administrators’ reviews and recommendations are to be conducted for each participating electrical corporation based on the facts, circumstances, loss histories and “other factors deemed appropriate by the administrator.” Though the CEA has thus far set the same minimal levels of insurance for PG&E, SCE, and SDG&E, it

1           Although the CEA has established \$1 billion as the lower boundary of the minimum  
2 required insurance coverage, there is precedent for maintaining coverage above the minimum  
3 requirement as a reasonable practice.<sup>47</sup> The Companies have procured more than \$1 billion of  
4 wildfire liability coverage since 2012,<sup>48</sup> establishing a track record of protecting ratepayers from  
5 various claims, which, if uninsured or underinsured, would expose ratepayers to unnecessary  
6 risk.<sup>49</sup> The Companies’ wildfire liability insurance cost forecasts are supported by the level of  
7 wildfire liability insurance coverage authorized by the Energy Division in the Companies’ 2020  
8 Tier 2 Advice Letters,<sup>50</sup> which includes the costs of a CAT bond and wildfire damage  
9 reinsurance providing coverage in excess of \$1 billion.

10           The Companies’ forecasted costs are also supported as just and reasonable given the  
11 uncertainty around the frequency and severity of past and future wildfire losses of PG&E and  
12 SCE and the potential impact on the Wildfire Fund. In its decision approving PG&E’s  
13 bankruptcy reorganization plan, the Commission observed: “PG&E’s plan provides for payment  
14 of \$25.5 billion in settlement of Fire Claims, defined as any past, present or future claims related  
15 to specified wildfires that occurred in Northern California in 2015 through 2018...”<sup>51</sup> In SCE’s  
16 public filings with the Securities Exchange Commission for 2022, it states that “Through  
17 December 31, 2022, SCE has accrued estimated losses of \$8.8 billion” for the 2018/2018  
18 Wildfire/Mudslide Events.<sup>52</sup>

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possesses the statutory authority to set different levels for each participating investor-owned utility (IOU).

<sup>47</sup> Conversely, the record refutes TURN’s contention that “the Wildfire Fund established under AB 1054 creates an upper bound on the amount insurance coverage needed. . . .” *See* Ex. TURN-11 (Finkelstein/Ellis) at 10.

<sup>48</sup> *See also* D.20-09-024 at 45 (noting, “SCE has maintained \$1 billion dollars in wildfire insurance since 2013 or for at least seven years so this business practice is nothing new.”). *See also* D.20-12-005 at 255 (stating, “PG&E originally sought to obtain \$2 billion worth of General Liability insurance and \$1.4 billion of coverage represents a fair compromise with the proposals from other parties.”).

<sup>49</sup> D.21-08-036 at 395 (noting, “The Commission generally permits rate recovery for costs related to wildfire liability claims absent a finding of utility imprudence, and therefore, it is ratepayers that face the most risk in the event of uninsured claims.”).

<sup>50</sup> *See supra* at n.14.

<sup>51</sup> D.20-05-053 at 12.

<sup>52</sup> Edison International and Southern California Edison (2023) Form 10-K for 2022 at 11, *available at* <https://app.quotemedia.com/data/downloadFiling?webmasterId=102175&ref=117277716&type=PDF>

1 The Companies’ own experiences with their 2007 wildfires provide further support for  
2 procuring wildfire insurance coverage in excess of \$1 billion. In its decision denying SDG&E’s  
3 application to recover costs recorded in its Wildfire Expense Management Account from the  
4 2007 fires, the Commission referenced a “total \$2.4 billion in costs and legal fees incurred by  
5 SDG&E to resolve third-party damage claims arising from the Witch, Guejito and Rice  
6 Wildfires.”<sup>53</sup> In sum, the collective experience of PG&E, SCE, and SDG&E with wildfire losses,  
7 combined with the uncertainty around claims management of the four-year old Wildfire Fund,  
8 provides substantial additional support for the just and reasonableness of the Companies  
9 forecasted costs.

#### 10 **D. Intervenor’s Self-Insurance Proposals**

##### 11 **1. Cal Advocates**

12 Cal Advocates recommends that the Companies strongly consider self-insurance if  
13 wildfire liability insurance costs reach \$250 million;<sup>54</sup> it does not oppose the Companies’ request  
14 of \$237.913 million for wildfire liability insurance.<sup>55</sup>

15 In response, the Companies acknowledge that if their wildfire liability insurance costs  
16 were to increase to \$250 million, the facts, circumstances, market conditions, and their own loss  
17 histories could present a scenario where the Companies would be compelled to discuss and  
18 consider self-insurance.

##### 19 **2. TURN**

#### 20 Self-Insure the First \$50 Million of Wildfire Liability Insurance Coverage

21 TURN recommends requiring the Companies to self-insure the first \$50 million of their  
22 wildfire liability insurance program.<sup>56</sup> The Companies disagree with TURN’s recommendation.

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[&formType=10-K&formDescription=Annual+report+pursuant+to+Section+13+or+15%28d%29&dateFiled=2023-02-23&cik=827052.](#)

<sup>53</sup> D.17-11-033 at 3 (citation omitted).

<sup>54</sup> Ex. CA-12 (Chumack) at 11.

<sup>55</sup> *Id.* at 12.

<sup>56</sup> Ex. TURN-11 (Finkelstein/Ellis) at 6. TURN’s recommendation that the Companies self-insure the first \$50 million of their wildfire liability insurance program is paired with its related recommendations that the Commission cap wildfire liability insurance at \$1 billion and reduce their 2024 test year forecasts for wildfire liability insurance costs to \$140 million.



1           TURN states that it recognizes that the Companies’ “claims histories, risk profiles, and  
2 recent and forecasted insurance costs” materially differ from PG&E and SCE, such that “a shift  
3 to self-insurance for the entirety of wildfire liability coverage may not be warranted for the  
4 Sempra utilities at this juncture.”<sup>57</sup> TURN focuses on the lowest, most expensive, tier of the  
5 Companies’ wildfire program for purposes of its self-insurance analysis, but in recommending  
6 self-insurance for the first \$50 million of wildfire coverage, it fails to acknowledge: (a) the  
7 benefit that the current insurance policy provides to ratepayers by transferring the risk of wildfire  
8 losses, (b) the burden on ratepayers of even a single wildfire loss, and (c) the potential impact on  
9 ratepayers of aggregate losses from several small wildfires.

10           The first \$50 million of the Companies’ wildfire liability program and the focus of  
11 TURN’s self-insurance recommendation is also subject to renewal for the 2023-2024 policy  
12 year. The segment is currently being renegotiated using the Companies’ Blind-Bid Pricing  
13 Strategy,<sup>58</sup> whereby segments are priced without disclosure to insurers of the pricing of any other  
14 segment. The new pricing for the first \$50 million of the Companies’ wildfire liability insurance  
15 program is not finalized, although the Companies have received a pricing indication substantially  
16 lower than the pricing for the 2022-2023 policy year.<sup>59</sup>

17           The Companies’ pricing strategy has been highly successful and keeps the prices incurred  
18 at each layer strictly confidential so that no insurer knows the price paid to another insurer,  
19 which has partially contributed to a track record of procuring wildfire liability insurance with  
20 average costs that are a fraction of the costs incurred by PG&E and SCE. The relevance of the  
21 Companies’ track record and need for confidentiality is self-apparent. If TURN believes that the  
22 expiring pricing of the first \$50 million of the Companies’ wildfire liability insurance program  
23 has crossed a pricing threshold beyond which self-insurance should apply, and the Companies  
24 succeed in reducing the pricing for the upcoming term substantially below its current pricing  
25 level, then the new pricing would revert to a level below the self-insurance threshold and make  
26 self-insurance unnecessary. The Companies simply need the leeway to finish the negotiations  
27 being conducted concurrently with this GRC to achieve an optimal outcome for ratepayers.

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<sup>57</sup> Ex. TURN-11 (Finkelstein/Ellis) at 6.

<sup>58</sup> Ex. SCG-24/SDG&E-28 (Gaughan) at DJG-20 – DJG-21.

<sup>59</sup> See Confidential Ex. SCG-224/SDG&E-228-C (Gaughan) at DJG-2 for additional discussion. The Companies treat pricing and specific layer information as highly confidential.

1           TURN also focuses on the Energy Division’s decision to approve the Companies’ 2020  
2 Tier 2 Advice Letters<sup>60</sup> that restored their self-insured retentions (SIR) to their historic levels of  
3 \$1 million.<sup>61</sup> Focusing on the \$1 million SIR of the Companies’ wildfire liability insurance  
4 program distracts from the proper focus on the Companies’ ability to procure from the  
5 commercial insurance market a wildfire liability policy that transfers risk at a reasonable price.  
6 The Companies’ Tier 2 Advice Letters set forth the reasonableness of their requests to restore the  
7 SIR to historical levels and support the Energy Division’s decision to approve them.<sup>62</sup> Moreover,  
8 in TURN’s recent wildfire liability insurance settlement with PG&E, TURN agreed to a 5%  
9 deductible or \$2.5 million on a \$50 million claim.<sup>63</sup> And in its insurance settlement with SCE,  
10 TURN agreed to a 2.5% percent shareholder contribution on claims in excess of \$500 million up  
11 to a \$12.5 million cap, with no deductible at all for the first \$500 million of claims.<sup>64</sup>

12           The insurance settlements with PG&E and SCE also authorize annual revenue  
13 requirements of \$400 million for PG&E and \$300 million for SCE, subject to future adjustments  
14 based on loss history.<sup>65</sup> Under both settlements, the ratepayer-funded revenue requirements  
15 provide complete coverage for the first \$50 million of wildfire claims. Moreover, under both  
16 settlements, PG&E and SCE have two-way balancing accounts modified to support the  
17 administration of the settlements.<sup>66</sup>

18           TURN’s self-insurance recommendation for the Companies provides for no direct  
19 ratepayer funding of the \$50 million self-insurance layer. TURN’s recommendation also fails to  
20 include a balancing account to manage the administration of the self-insurance, in contrast to  
21 both the PG&E and SCE settlements. Instead, TURN suggests that the Companies might

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<sup>60</sup> See *supra* n.14 and accompanying text regarding the Companies’ 2020 Tier 2 Advice Letters.

<sup>61</sup> Ex. TURN-11 (Finkelstein/Ellis) at 3-4.

<sup>62</sup> SoCalGas AL 5725-G at 5; SDG&E AL 3638-E/2922-G at 5.

<sup>63</sup> D.23-01-005 at 11 (referencing 5% shareholder deductible up to \$1 billion).

<sup>64</sup> A.19-08-013, Joint Petition for Modification of Decision 21-08-036 and Expedited Approval and Adoption of the Attached Agreement of Southern California Edison Company, the Public Advocates Office, and the Utility Reform Network Regarding Wildfire Liability Insurance (February 22, 2023) (Joint Petition to Approve SCE Insurance Settlement) at 16.

<sup>65</sup> D.23-01-005 at 11; Joint Petition to Approve SCE Insurance Settlement at 11 and 16.

<sup>66</sup> D.23-01-005 at 13, referred to as PG&E’s Risk Transfer Balancing Account; Joint Petition to Approve SCE Insurance Settlement at 13, referred to as SCE’s Risk Management Balancing Account.

1 achieve rate recovery through the existing Third-Party Claims Memorandum Account,<sup>67</sup> which  
2 would provide a regulatory hurdle to recovery of self-insured claims in contrast to TURN’s  
3 settlement agreement with SCE, providing that “For the Program Period, self-insurance funding  
4 collected in customer rates shall not be subject to refund or reimbursement.”<sup>68</sup>

5 Self-Insurance Analysis To Be Prepared Before TY 2028 GRC

6 TURN recommends, as part of its self-insurance discussion, that the Commission require  
7 the Companies to provide a robust analysis of self-insurance no later than test year 2028.<sup>69</sup>

8 The Companies disagree with TURN’s recommendation. The Companies have not  
9 established a threshold price where, in their view, self-insurance becomes more attractive than  
10 commercial insurance. Rather, the direct testimony explains that under the self-insurance  
11 scenarios evaluated “the price of self-insurance would be substantially greater than what the  
12 Companies currently pay to insurance markets, at least initially. For a given insured, as the price  
13 that they pay for traditional insurance escalates, the price of self-insurance eventually becomes a  
14 reasonable alternative.”<sup>70</sup> The direct testimony adds that, “[b]ecause the gap that exists between  
15 what the Companies pay for liability insurance and the cost of self-insurance is forecasted to  
16 continue, the Companies have chosen not to request a self-insurance option as part of this  
17 GRC.”<sup>71</sup>

18 TURN fails to share the point or range where, in its judgment, self-insurance is more  
19 attractive than traditional insurance, although the 46% rate online level reached by SCE and the  
20 80% level reached by PG&E established pricing levels where TURN has concluded, “self-

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<sup>67</sup> Ex. TURN-11 (Finkelstein/Ellis) at 8.

<sup>68</sup> A.19-08-013, Joint Petition [...] and Expedited Approval and Adoption of the Attached Agreement of SCE, Cal Advocates and TURN regarding Wildfire Liability Insurance (February 22, 2023), Appendix C, Section 3.4 at C-8, Agreement Between Southern California Edison Company, The Utility Reform Network and The Public Advocates Office at the California Public Utilities Commission to Jointly Petition to Modify D.21-08-036 On Wildfire Liability Insurance Issues; *see also* D.23-01-005, Appendix 1, Section 3.4 at 6, Settlement Agreement Between Pacific Gas and Electric Company, The Utility Reform Network and The Public Advocates Office at the California Public Utilities Commission on Wildfire Liability Insurance Issues.

<sup>69</sup> Ex. TURN-11 (Finkelstein/Ellis) at 9-12.

<sup>70</sup> Ex. SCG-224/SDG&E-228 (Gaughan) at DJG-23 (citation omitted).

<sup>71</sup> *Id.*

1 insurance becomes an option.”<sup>72</sup> In contrast, the pricing for the Companies’ wildfire program<sup>73</sup>  
2 is so far beneath the levels of the SCE and PG&E programs that if the Companies can avoid  
3 large price increases, then traditional insurance can continue to be a just and reasonable risk  
4 management tool.

5 TURN acknowledges that the Companies represent differentiated risk profiles in  
6 comparison to PG&E and SCE.<sup>74</sup> The facts, circumstances, insurance costs, and loss histories  
7 that supported the self-insurance settlements reached with PG&E and SCE do not apply to the  
8 Companies’ situation. If the Companies can maintain their track record of remaining free of  
9 third-party wildfire claims and are able to manage insurance costs in the ranges that are  
10 forecasted, the framework used for their most recent self-insurance analyses is reasonable.

### 11 3. UCAN

12 UCAN recommends that the Commission order SDG&E to self-insure liability coverage  
13 at the \$250,000,000 level.<sup>75, 76</sup>

14 SDG&E disagrees with UCAN’s recommendation. UCAN begins its discussion by  
15 correctly identifying SDG&E’s total liability insurance revenue request of \$299,191,000.<sup>77</sup>  
16 Nevertheless, UCAN subsequently appears to conflate coverages and risks when it identifies the  
17 \$51,190,000 in total forecasted increases in liability insurance costs in the next sentence,<sup>78</sup> but

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<sup>72</sup> Ex. TURN-11 (Finkelstein/Ellis) at 5.

<sup>73</sup> See Confidential Ex. SCG-224/SDG&E-228-C (Gaughan) at DJG-1.

<sup>74</sup> Ex. TURN-11 (Finkelstein/Ellis) at 5 – 6 (“TURN is proposing a different approach for the Sempra utilities (as compared to PG&E and SCE) because of their different claim histories, risk profiles, and recent and forecasted insurance costs.”).

<sup>75</sup> Ex. UCAN (Zeller) at 10.

<sup>76</sup> UCAN also refers to “Property Insurance” and “Property Liability Insurance” on the first page of its insurance discussion. Ex. UCAN (Zeller) at 9:5-13. The Companies have treated these references as typographical errors, because UCAN’s associated testimony does not relate or tie into the Companies’ revenue requests for property insurance.

<sup>77</sup> Ex. UCAN (Zeller) at 9:14. The Companies’ total liability insurance revenue request includes all of SDG&E’s liability insurance coverages, including general excess liability, wildfire liability, D&O liability, fiduciary, workers’ compensation, and a catchall category of liability coverages identified as “other.” Ex SCG-24/SDG&E-28/Gaughan at DJG-9 – DJG-16 (the “Other Liability” category includes cyber insurance, auto liability, aviation liability, pollution liability, Arizona Public Service (APS) Yuma 500 kV transmission system – liability, railroad protective policies, and broker fees).

<sup>78</sup> As noted *supra* at n.77, UCAN mistakenly identifies the \$51,191,000 as “Property Insurance” in its chart summarizing its proposed adjustments. Ex. UCAN (Zeller) at 9.

1 then measures the size of that increase solely with reference to SDG&E’s wildfire loss history.<sup>79</sup>  
2 SDG&E’s forecasted increases in wildfire liability insurance costs from BY 2021 to TY 2024 is  
3 \$35,098,000<sup>80</sup> and not \$51,190,000.<sup>81</sup>

4 If UCAN intends its recommendation to be limited to SDG&E’s wildfire liability  
5 insurance costs, then the \$250 million threshold would align with Cal Advocates’  
6 recommendation that the Companies consider self-insurance if wildfire liability insurance costs  
7 eventually reach \$250 million.<sup>82</sup> If that construction of UCAN’s recommendation is correct,  
8 then SDG&E’s response to UCAN’s self-insurance recommendation is the same as their  
9 response to Cal Advocates’ similar recommendation.<sup>83</sup> If, however, UCAN intends its  
10 recommendation to encompass all of SDG&E’s liability insurance costs, then SDG&E disagrees  
11 with UCAN’s recommendation, because it: (1) makes no provision for the other liability  
12 insurance costs that are included in the Companies’ \$299,191,000 forecast, and (2) fails to  
13 explain why converting to self-insurance for the other liability coverages is just and reasonable.

#### 14 **E. Allocation of D&O Insurance Costs**

15 FEA recommends that SDG&E’s D&O insurance costs be reduced by 50% to \$795,000  
16 to be consistent with prior CPUC decisions.<sup>84</sup> TURN recommends that no D&O insurance costs  
17 be authorized because it believes that the Companies have failed to make a prima facie case for  
18 recovery of costs,<sup>85</sup> but adds an alternative recommendation similar to FEA’s that would reduce

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<sup>79</sup> Ex. UCAN (Zeller) at 10 (“The \$299,191,000 figure represents a \$51,190,000 increase from what Sempra paid for comparable coverage in 2021 despite even though (sic) SDG&E’s service area has not seen a significant wildfire since 2007”).

<sup>80</sup> \$35,098,000 is the escalation between SDG&E’s base year 2021 costs for wildfire liability insurance of \$202,398,000 and the test year 2024 forecast of \$237,496,000. Ex. SCG-24/SDG&E-28 (Gaughan) at DJG-26.

<sup>81</sup> *Id.* The \$35,098,000 escalation from base year costs to test year forecast represents a 5.5% compound annual growth rate over the three-year period from 2021 to 2024.

<sup>82</sup> Ex. CA-12 (Chumack) at 11.

<sup>83</sup> *See supra* at DJG-14.

<sup>84</sup> Ex. FEA-01 (Smith) at 34 – 35.

<sup>85</sup> Prepared Testimony of Robert Finkelstein Addressing Burden of Proof, EEI Dues, Directors and Officers Insurance, and Balancing and Memorandum Accounts (March 27, 2023) (Ex. TURN-15 (Finkelstein)) at 6.

1 the Companies’ forecasted D&O costs to \$785,000 for SDG&E and \$937,000 for SoCalGas.<sup>86</sup>

2 The Companies disagree with both FEA’s and TURN’s recommendations.

3 Prima Facie Case for Recovery of D&O Costs

4 TURN acknowledges that D&O costs are legitimate costs for recovery, if supported. “To  
5 be clear, TURN is not arguing here that D&O insurance is not a legitimate business expense for  
6 Sempra utilities, or that there are never circumstances where some portion of the cost might be  
7 reasonably assigned to ratepayers.”<sup>87</sup> Nevertheless, TURN recommends authorizing \$0 of the  
8 Companies’ TY 2024 D&O insurance cost forecasts because it believes that the Companies have  
9 completely failed to establish a prima facie case for recovery.<sup>88</sup>

10 The Companies disagree with TURN’s contention that the Companies have not supported  
11 their D&O requests. My direct testimony explains that “the ability of Sempra to mitigate  
12 insurance cost drivers is linked to the success of the Companies’ risk management programs.  
13 SDG&E’s wildfire mitigation plan (WMP) serves as the main regulatory vehicle for evaluation  
14 of its wildfire risk mitigation efforts.”<sup>89</sup> These risk management programs have allowed the  
15 Companies to provide safe and reliable services to ratepayers that include a track record of  
16 having no third-party wildfire claims since 2008. To achieve that successful track record, to the  
17 benefit of ratepayers, Sempra has had to attract and retain high quality senior executives, which  
18 D&O insurance helps to accomplish.

19 My direct testimony and workpapers support the Companies’ proposal, with my direct  
20 testimony explaining that, “[b]ecause of the uncertainty of future liability insurance premiums,  
21 our forecasts are substantially based on forecasts provided by our primary insurance broker  
22 Marsh.”<sup>90</sup> My workpapers identify our broker’s role in the forecasts of D&O insurance costs by  
23 explaining that the TY 2024 D&O insurance cost forecast of \$6.888 million, before allocations,  
24 is based on insurance broker forecast.<sup>91</sup>

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<sup>86</sup> *Id.* at 10, n.25.

<sup>87</sup> *Id.* at 10.

<sup>88</sup> *Id.*

<sup>89</sup> Ex. SCG-24/SDG&E-28 (Gaughan) at DJG-18.

<sup>90</sup> *Id.* at 17.

<sup>91</sup> Ex. SCG-24/SDG&E-28-WP (Gaughan) at DJG-52.

1 In sum, the Companies disagree with the TURN’s conclusion that that Companies have  
 2 provided insufficient evidence to support their forecasts. Cal Advocates was provided with the  
 3 same evidence as TURN, and concluded: “After reviewing Sempra’s request and supporting  
 4 papers, Cal Advocates does not oppose Sempra’s request for \$3.444 million for D&O  
 5 insurance.”<sup>92</sup>

6 Reduction of D&O Forecasts by 50%

7 The Companies also disagree with FEA’s and TURN’s recommendations to reduce by  
 8 50% the Companies’ D&O forecasts to be consistent with prior Commission decisions. FEA  
 9 quotes from the Commission’s TY 2019 GRC Decision that “50% of the allocated costs to  
 10 SDG&E and SoCalGas should be borne by shareholders” to support its recommendation of a  
 11 further 50% reduction of the Companies’ requested costs, which results in FEA’s recommended  
 12 allocation for SDG&E (and would result in a similar revision for SoCalGas), as follows:

13

<b>FEA Proposal: Two 50% Allocations (\$000)</b>		
	Test Year 2024	% of Total
SDG&E	795	11.53%
SoCalGas	928	13.47%
Global/Retained	5,166	75%
Total	6,889 <sup>93</sup>	100.00%

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19 The allocation methodology recommended by FEA and by TURN in the alternative  
 20 results in two 50% allocations to shareholders, first by the Companies pursuant to their multi-  
 21 factor split methodology and again in an effort to follow the language of the Commission’s TY  
 22 2019 GRC Decision.<sup>94</sup> The Companies have always acknowledged the Commission’s decision,<sup>95</sup>  
 23 respectfully, however, the Companies still believe that their TY 2024 GRC D&O requests are

<sup>92</sup> Ex. CA-12 (Chumack) at 5.

<sup>93</sup> The total amount of the Companies’ D&O forecasted insurance costs for test year 2024, before allocations, is \$6,888,000. Ex. SCG-24/SDG&E-28/Gaughan-WP at DJG-51. FEA’s slightly higher figure is referenced only in this discussion of FEA’s recommendation.

<sup>94</sup> The allocation methodology and D&O forecasts recommended by FEA are the same as suggested by TURN as an alternative to its primary recommendation that the Commission authorize no D&O forecasted costs. Ex. TURN-15 (Finkelstein) at 10, n.25.

<sup>95</sup> See, e.g., the Companies’ 2020 Tier 2 Advice Letters at 4 (SDG&E) and 5 (SoCalGas) (“The allocation for the D&O additional cost follows the allocation method as described in Findings of Fact 223 of D.19-09-051”).

1 just and reasonable and that the Commission should revisit its TY 2019 GRC Decision with  
2 respect to the allocation of D&O costs.

3         TURN also describes a two-step process in its construction of the Commission’s  
4 TY 2012 GRC decision,<sup>96</sup> whereby the first step would allocate total costs between  
5 Global/Retained,<sup>97</sup> SoCalGas, and SDG&E, using Sempra Utilities’ multi-factor basic  
6 methodology,<sup>98</sup> and the second step would implement the 50% sharing between Global/Retained  
7 and the Companies, based on the results of the first step. That two-step process would result in  
8 a total of \$2.958 million in costs allocated to the Companies (\$1.350 million for SDG&E and  
9 \$1.608 million for SoCalGas),<sup>99</sup> which contrasts with TURN’s alternative recommendation for  
10 D&O costs totaling \$1.722 million (\$.785 million for SDG&E and \$.937 million for  
11 SoCalGas).<sup>100</sup>

12         The Companies respectfully request that the Commission authorize their forecasted D&O  
13 costs as submitted.

#### 14 **IV. CONCLUSION**

15         In summary, SoCalGas and SDG&E respectfully request that the Commission adopt their  
16 proposed 2021 test year insurance forecast and reauthorize the Companies’ LIPBAs.

17         This concludes my prepared rebuttal testimony.

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<sup>96</sup> Ex. TURN-15 (Finkelstein) at 6-7.

<sup>97</sup> TURN construes the Commission’s TY 2012 Decision as including a first step “used to allocate costs between regulated utilities and the unregulated Sempra affiliates.” Ex. TURN-15 (Finkelstein) at 6. Any allocation to unregulated businesses is made to the Companies’ Global/Retained category, which is itself a proxy for shareholder interests in that it excludes ratepayer interests. As the Companies set forth in their discussion of FEA’s recommendation regarding D&O costs, an allocation to the Global/Retained category captures shareholder interests. *See supra* at 19.

<sup>98</sup> Please note that the multi-factor basic allocation percentages that are sponsored by the Companies’ Corporate Center – General Administration witness apply to additional business segments, including Oncor Electric, that are excluded from the scope of the allocations made by Corporate Center – Insurance. As a result, the multi-factor basic allocation percentages set forth in the Corporate Center – General Administration testimony are different than the multi-factor basic allocation percentages set forth in Ex. SCG-24/SDG&E-28 (Gaughan). *See generally* Revised Prepared Direct Testimony of Derick R. Cooper (Corporate Center – General Administration) (August 2022) (Ex. SCG-23-R/SDG&E-27-R (Cooper)).

<sup>99</sup> The General Administration testimony confirms these calculations by first applying Sempra’s multi-factor basic allocation methodology for TY 2024 and then shifting 50% from the Companies to Global/Retained. *See generally* Ex. SCG-23-R/SDG&E-27-R (Cooper).

<sup>100</sup> Ex. TURN-15 (Finkelstein) at 10, n.25.



**APPENDIX A**  
**GLOSSARY OF TERMS**

**APPENDIX A**  
**GLOSSARY OF TERMS**

<b>ACRONYM</b>	<b>DEFINITION</b>
Cal Advocates	Public Advocates Office
Commission	California Public Utilities Commission
D.	Decision
D&O	Directors and Officers
Energy Division	Energy Division of the California Public Utilities Commission
FEA	Federal Executive Agencies
GRC	General Rate Case
LIPBA	Liability Insurance Premium Balancing Account
Marsh	Marsh USA, Inc.
O&M	Operations and Maintenance
PG&E	Pacific Gas and Electric Company
SCE	Southern California Edison
SDG&E	San Diego Gas & Electric Company
SoCalGas	Southern California Gas Company
TURN	The Utility Reform Network
TY	Test Year
XS WC	Excess Workers' Compensation

**APPENDIX B**  
**MEMORANDUM OF COVERAGE**  
**WILDFIRE FUND**

# MEMORANDUM OF COVERAGE WILDFIRE FUND

Issued to a **Participating Utility**

This MEMORANDUM OF COVERAGE (hereinafter "**Memorandum**") is between the **Administrator** of the **Wildfire Fund** and all **Participating Utilities** of the **Wildfire Fund**, including the **Participating Utility** named below.

In this **Memorandum**, words written in boldface type are defined in SECTION II DEFINITIONS.

The terms and conditions of this **Memorandum** are intended to be based on and consistent with statutes creating and governing the **Wildfire Fund** as set forth in the California Public Utilities Code, and are provided by the **Administrator** of the **Wildfire Fund** to **Participating Utilities**.

## **PARTICIPATING UTILITY**

**SAN DIEGO GAS & ELECTRIC COMPANY**

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**(Insert Name)**

## **COVERAGE YEAR\***

Commencing: [June 26, 2022 at 12:01 a.m. Pacific Time](#); and

Ending: [June 25, 2023 at 12:00 a.m. Pacific Time](#).

\* [Any changes in the date parameters for a subsequent Coverage Year will not retroactively impact the Coverage Year under this Memorandum of Coverage.](#)

# MEMORANDUM OF COVERAGE WILDFIRE FUND

## SECTION I - STATEMENT OF PURPOSE

The purpose of this **Memorandum** is to set forth the terms on which a **Participating Utility** may apply for and receive reimbursement for **Eligible Claims** from the **Wildfire Fund**, as well as the methods of determining what amounts, if any, a **Participating Utility** must reimburse the **Wildfire Fund**.

## SECTION II - DEFINITIONS

- A. **“Administrator”** means the administrator of the **Wildfire Fund** appointed by the California Catastrophe Response Council pursuant to section 8899.72 of the Government Code.<sup>1</sup>
- B. **“Annual Contribution”** means an amount equal to \$300,000,000 multiplied by the **Wildfire Fund** allocation metric found in Public Utilities Code section 3280(n).
- C. **“Catastrophic Wildfire Proceeding”** means proceedings in which a **Participating Utility** files an application with the **Commission** to recover costs and expenses pursuant to Public Utilities Code sections 451 or 451.1, as applicable, related to a **Covered Wildfire**.
- D. **“Commission”** means the California Public Utilities Commission.
- E. **“Council”** means the California Catastrophe Response Council created pursuant to Government Code section 8899.70.
- F. **“Coverage Year”** means, with respect to any given **Participating Utility**, an annual period of exactly 12 months that (1) commences as of date and time, as declared by the **Participating Utility** to the **Administrator** no less than 30 days in advance, at which any or all of that **Participating Utility**'s insurance coverage that is required to be in place pursuant to section 3293 of the Public Utilities Code incepts, and (2) ending exactly 12 months after the date of commencement.
- G. **“Covered Wildfire”** means a **Wildfire** that occurred in whole or in part within the State of California, that ignited on or after July 12, 2019, that either
  - (1) A **Determining Governmental Entity** has determined, or a court of competent jurisdiction has finally adjudicated was ignited as a result of the equipment or

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1. All references in this Memorandum to any “Code” or “Code section” are references to the applicable California Codes, which may be viewed at <https://leginfo.legislature.ca.gov/faces/codes.xhtml>.

operations of an **Electrical Corporation**, as described in subdivision 1701.8(a)(1)(A) of the Public Utilities Code; or

- (2) Is asserted to have been caused by an **Electrical Corporation** and results in a court-approved dismissal resulting from the settlement of **Third-Party Damages** claims, as described in subdivision 1701.8(a)(1)(B) of the Public Utilities Code.

A landslide, mudslide, mudflow, or debris flow that follows a **Covered Wildfire** will be considered to be part of and included within this definition of a **Covered Wildfire**, if it is induced by, and would not have occurred in the absence of, that **Covered Wildfire**. For purposes of determining in which **Coverage Year** such an event occurred, that landslide, mudslide, mudflow, or debris flow will be deemed to have occurred in the same **Coverage Year** as the **Wildfire** that triggered it.

- H. **“Determining Governmental Entity”** means an entity, agency, or subdivision of the government of the United States of America, State of California, or California county or municipality that, consistent with section 1701.8 of the Public Utilities Code, is legally charged with the responsibility for determining, and does in fact make a final determination of, the cause of ignition of a **Wildfire**.
- I. **“Electrical Corporation”** means every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others.
- J. **“Eligible Claims”** means claims for **Third-Party Damages** directly resulting from **Covered Wildfires**, as described in section 3280(f) of the Public Utilities Code and presented by a **Participating Utility** for reimbursement from the **Wildfire Fund**. **“Eligible Claims”** also includes amounts for which a **Participating Utility** is liable under a valid and enforceable indemnification agreement with a contractor or other indemnitee, but only to the extent that the indemnification owed by the **Participating Utility** is for the settlement of a settled or finally adjudicated claim of a third party for damages directly resulting from a **Covered Wildfire**.
- K. **“Initial Contribution”** means an amount equal to \$7,500,000,000 multiplied by the “Wildfire Fund allocation metric” as that term is defined in Public Utilities Code section 3280, subdivision (n).
- L. **“Memorandum”** means this Memorandum of Coverage.
- M. **“Participating Utility”** means an **Electrical Corporation** that has met all of the requirements for participation in the **Wildfire Fund** as set forth in section 3292 of the Public Utilities Code.
- N. **“Subrogation Claim”** means a right held by an insurer, or an insurer’s assignee or subrogee, to legally pursue a third party that caused a loss to its insured that resulted in a paid insurance claim by that insurer. As used herein, the terms “insurance” and “insurer” are deemed to include coverages issued by reinsurers as well as primary insurers.

- O. “**Subrogation Value**” means, as to a **Subrogation Claim**, the aggregate amount of the **Participating Utility**’s direct liability to all insureds or claimants upon whose loss the **Subrogation Claim** is based, had such insureds or claimants pursued their claims directly against the **Participating Utility**.
- P. “**Third-Party Damages**” means settled or adjudicated claims for damages made against the **Participating Utility** by claimants that suffered damages as a direct result of a **Covered Wildfire**. **Third-Party Damages** do not include payments to parties that are owned in whole or in part by the **Participating Utility**, and any such claims are excluded from coverage.
- Q. “**Threshold Amount**” means, as to each **Participating Utility**, an amount of **Eligible Claims** that, in the aggregate in any given **Coverage Year**, is equal to the greater of (1) \$1,000,000,000 or (2) the amount of the insurance coverage required to be in place for the **Participating Utility** pursuant to section 3293 of the Public Utilities Code.

When determining whether the **Participating Utility** has met the **Threshold Amount**, only **Third-Party Damages** that constitute **Eligible Claims** are to be included in that calculation. No other costs, expenses, liabilities, claims, or losses, including but not limited to those in the categories listed in SECTION V – EXCLUSIONS, will be included in the calculation of the **Threshold Amount**, even if such costs, expenses, liabilities, claims or losses are actually incurred by a **Participating Utility** as the result of a **Covered Wildfire**.

- R. “**Wildfire**” means an accidental and unintentional, uncontrolled fire that (1) is listed on a list of wildfire incidents compiled by the California Department of Forestry and Fire Protection (“CAL FIRE”),<sup>2</sup> or, (2) if not so listed on the CAL FIRE list of wildfire incidents, is determined by the **Administrator**, in the **Administrator’s** sole discretion, to be of the nature and sort of fire that should enable a **Participating Utility** to apply for and receive reimbursement for **Eligible Claims** from the **Wildfire Fund**.
- S. “**Wildfire Fund**” means the fund created in section 3284 of the Public Utilities Code.

### SECTION III - REQUIREMENTS FOR PARTICIPATING UTILITIES

As a condition of receiving reimbursement for **Eligible Claims** from the **Wildfire Fund**, a **Participating Utility** must, at the time of submission of its claim to the **Wildfire Fund** for reimbursement, be in compliance with each of the following requirements set out in this Section III:

- A. *Corporate Financial Status*. The **Participating Utility** must have satisfied the **Wildfire Fund** participation requirements of, as applicable to that **Participating Utility**, sections 3289 and 3292 of the Public Utilities Code.
- B. *Change of Control*. The **Participating Utility** must comply with, and remain in compliance with, Public Utilities Code sections 854 and 854.2 regarding “change of

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<sup>2</sup> Annual CAL FIRE incident lists may be viewed at <https://www.fire.ca.gov/incidents/>.

control,” as that term is defined in the Public Utilities Code, and all requirements with regard to workforce management stated therein.

C. Participant Fees. The **Participating Utility** must have paid:

1. **Initial Contribution** fees to the **Wildfire Fund** as per Public Utilities Code section 3280(i) and as defined in this **Memorandum**, and
2. All **Annual Contributions** that have come due as provided for in Public Utilities Code section 3292, subdivisions (a) and (b), and this **Memorandum**. **Annual Contributions** must be made by January 1 of each calendar year.

#### **SECTION IV – COVERAGE**

The **Administrator** will make payment from the **Wildfire Fund** to the **Participating Utility**, only as reimbursement for amounts actually paid by or on behalf of the **Participating Utility** as **Eligible Claims**, and only for that portion of **Eligible Claims** in excess of the **Threshold Amount** that are settled or finally adjudicated by or on behalf of the **Participating Utility**. At the **Administrator’s** sole option, the Administrator will have the right, but not the obligation, to provide payment to the Participating Utility for Eligible Claims after the amount of those Eligible Claims incurred by the Participating Utility are finally determined but before those Eligible Claims are actually paid by or on behalf of the Participating Utility.

A. Coverage for **Eligible Claims** arising from agreements or settlements:

That portion of **Eligible Claims** resolved by or on behalf of the **Participating Utility** as a result of settlements, agreements, mediation, non-binding arbitration awards, or other non-judicial resolution of such claims will be paid as follows, depending on whether such **Eligible Claims** constitute **Subrogation Claims** or non-**Subrogation Claims**. All such claims are subject to the review and approval of the **Administrator**, pursuant to the **Administrator’s** claims procedures, to determine whether any or all of the claim amount is within the reasonable business judgment of the **Participating Utility** and thus qualifies for reimbursement by the **Wildfire Fund**. That amount so determined by the **Administrator** is binding on the **Participating Utility** and is subject to review only pursuant to any review procedures implemented by the **Administrator**.

1. **Subrogation Claims**

- a. **Eligible Claims** that are **Subrogation Claims** that are settled or agreed to by or on behalf of the **Participating Utility** at an amount less than or equal to 40 percent of **Subrogation Value**, and that include a full release of the balance of the asserted claim, will be paid at the amounts settled or agreed to on behalf of the **Participating Utility** unless the **Administrator** determines that the exceptional facts and circumstances surrounding the underlying claim do not justify the **Participating Utility’s** exercise of such business judgment, in which case the **Administrator** will determine an appropriate amount of payment to be made.



- b. **Eligible Claims** that are **Subrogation Claims** that are settled or agreed to by or on behalf of the **Participating Utility** at an amount in excess of 40 percent of the **Subrogation Value**, will be paid at the amounts settled or agreed to on behalf of the **Participating Utility** only to the extent that (1) the settlement or agreement includes a full release of the balance of the asserted **Subrogation Value**, and (2) the **Administrator** determines that the **Participating Utility** exercised its reasonable business judgment in determining to settle for a higher percentage of the **Subrogation Value** or on different terms based on a determination that the specific facts and circumstances surrounding the underlying claim. If the **Administrator** does not so determine, the **Administrator** will determine an appropriate amount of payment to be made.
  2. **Non-Subrogation Claims.** **Eligible Claims** that are non-**Subrogation Claims** that are settled or agreed to by or on behalf of the **Participating Utility** will be paid if the claim is approved by the **Administrator** as being within the reasonable business judgment of the **Participating Utility**. If, however, such non-**Subrogation Claims** are not so approved by the **Administrator**, such claims will be paid at an amount as determined by the **Administrator**.
- B. *Coverage for Eligible Claims resulting from judicial determinations:* **Eligible Claims** that are finally adjudicated by way of any enforceable judicial (or binding quasi-judicial) means, including by way of final judgment, jury or bench trial award, final appeal, or binding arbitration, will be eligible to be paid in the full amount of that judgment, award, or determination, provided, however, that the **Participating Utility** has made a reasonable and good faith effort, appropriate to the circumstances and nature of the claim, to defend, litigate, appeal, arbitrate, or otherwise resolve the claim.
- C. *Threshold Amount*
  1. No payment will be made by the **Wildfire Fund** to the **Participating Utility** until and unless the aggregate amount of **Eligible Claims** attributable to the **Participating Utility** for the **Coverage Year** in which the **Wildfire** or **Wildfires** giving rise to such **Eligible Claims** were ignited that are paid by or on behalf of the **Participating Utility** exceeds the **Threshold Amount**, and only the portion, if any, of such **Eligible Claims** in excess of the **Threshold Amount** is subject to coverage under this **Memorandum**.
  2. If a **Participating Utility's Threshold Amount**, as calculated pursuant to Paragraph C of Section II of this **Memorandum**, is greater than \$1,000,000,000, and an insurer of that **Participating Utility** becomes insolvent and cannot and does not pay some or all of the amounts it is obligated to pay for any portion of **Eligible Claims** under the terms of its contract or policy of insurance issued to that **Participating Utility**, that **Participating Utility's Threshold Amount** will be deemed to be reduced by the amount the insurer cannot and does not pay (but shall not be reduced to less than \$1,000,000,000), even if that is a lesser amount than the required level of insurance that was in place. The **Wildfire Fund** will not, however, have any responsibility for amounts unpaid by the insolvent insurer

to the **Participating Utility**, and those amounts will not constitute any portion of **Eligible Claims**.

- D. **Coverage Limit.** The aggregate recovery from the **Wildfire Fund** for all **Participating Utilities**, for all **Eligible Claims** regardless of number or amount, will be limited to the amount of assets existing in the **Wildfire Fund**. If, in any **Coverage Year**, the aggregate of **Eligible Claims** of all **Participating Utilities** submitted for reimbursement by the **Wildfire Fund** (whether submitted by one or more than one of the **Participating Utilities**) exceeds the amount of assets existing in the **Wildfire Fund**, the **Administrator** has the discretion to (a) limit the aggregate amount of payments for **Eligible Claims** for all **Participating Utilities** to the amount of assets then existing in the **Wildfire Fund** and (b) apportion the claims payments to the **Participating Utilities** for the then-unpaid claims on a reasonable pro-rata basis; and said payments or apportioned payments will be deemed the full and final payment from the **Wildfire Fund** to the **Participating Utilities** for all **Eligible Claims**, provided, however, that such payment, or any portion thereof, may be subject to reimbursement to the **Wildfire Fund** under the terms of Section VIII of this **Memorandum**.

## SECTION V – EXCLUSIONS

No coverage is provided under this **Memorandum** for, and no reimbursement will be provided by the **Wildfire Fund** to the **Participating Utility** for, any of the following claims, damages, losses, expenses, fees, or other costs (sometimes collectively referred to herein as “claims,” “losses,” or “expenses”). None of the following are deemed to constitute **Eligible Claims** even if such claims, losses, or expenses directly or indirectly arise out of a **Covered Wildfire**, nor do any of the following claims, losses, or expenses apply toward the calculation of the **Threshold Amount** of the **Participating Utility**.

- A. Attorney fees, litigation costs, expert expenses, or other costs, and all other non-**Third-Party Damages**, incurred (including but not limited to those incurred by the **Participating Utility**) in resolving, defending or litigating claims (including but not limited to **Eligible Claims**) made against the **Participating Utility**; provided, however, that any such fees or expenses of a third-party **Covered Wildfire** loss claimant that are ordered to be paid by the **Participating Utility** to that third party as part of a judicial determination may be deemed to constitute **Third-Party Damages** and thus are not within the scope of this exclusion.
- B. Expenses incurred (including but not limited to those incurred by the **Participating Utility**) relating to insurance or reinsurance matters, including, but not limited to:
1. Expenses incurred for coverage advice, coverage disputes, declaratory relief or insurance or reinsurance coverage actions, or to make a claim against or to participate in litigation or other dispute resolution with an insurer reinsurer, or other risk transfer counterparty with respect to **Wildfire** losses or claims; or
  2. Losses covered under and claimed against the **Participating Utility**'s insurance, reinsurance, or other risk transfer coverage, but for which under insurer, reinsurer, or other risk transfer counterparty has not paid or indemnified the **Participating Utility** and that are non-collectible because of that insuring entity's

insolvency, bankruptcy, conservation, or other financial inability or unwillingness to pay.

- C. Expenses incurred by the **Participating Utility** for coverage advice, legal advice, coverage disputes, declaratory relief or other actions with respect to the **Wildfire Fund** or **Administrator**, or to make a claim to or participate in litigation with the **Wildfire Fund** or **Administrator**.
- D. Expenses incurred by a **Participating Utility** as a result of any regulatory or enforcement actions or to comply with any legal, official, or regulatory investigation, including but not limited to **Commission** investigations, and any fines, civil penalties, or similar claims or expenses.
- E. Expenses incurred by a **Participating Utility** related to bankruptcy or bankruptcy advice.
- F. Claims, losses, or expenses related to injuries to or death of the employees, officers, agents, contractors, or subcontractors, of the **Participating Utility** or the **Participating Utility's** joint venturers, affiliates, contractors, or subcontractors.
- G. Claims, losses, or expenses related to the damage to or the repair or replacement of (1) the **Participating Utility's** own equipment or other owned or leased property, or (2) equipment or property jointly owned, leased, or operated by the **Participating Utility** and one or more other persons or entities.
- H. Claims, losses, or expenses arising out of the willful or intentional acts of the **Participating Utility** or its employees, agents, or officers.
- I. Claims, losses, or expenses resulting from de-energization of power systems or deprivation of electricity services to customers or third parties, including but not limited to public safety power shut-offs, unless such actions directly result in a **Covered Wildfire**.
- J. Claims, losses, or expenses for punitive, exemplary, or other non-compensatory damages.
- K. Claims or expenses for which the **Participating Utility** has made an application to the **Commission** to recover under Public Utilities Code sections 451 or 451.1.

## SECTION VI – CLAIM PROCEDURES

- A. Claims Administration Procedures. The **Administrator**, with the approval of the **Council**, has established and approved written Claims Administration Procedures for the review, approval, and funding of **Eligible Claims**, in a manner consistent with applicable law and this Memorandum of Coverage. The Claims Administration Procedures may be revised from time to time by the **Administrator** with the approval of the **Council** at a public meeting at which any **Participating Utility** may appear and comment on proposed amendments to the Claims Administration Procedures. All **Eligible Claims** submitted to the **Wildfire Fund** will be processed in accordance with those Claims Administration Procedures.

- B. *Burden of Proof.* The **Participating Utility** bears the burden to demonstrate that the claim it makes to the **Wildfire Fund** is an **Eligible Claim** and further bears the burden of establishing all necessary components of and conditions of coverage under this **Memorandum** including, but not limited to, establishing, to the satisfaction of the **Administrator**, all of the following:
1. The **Participating Utility** has incurred **Eligible Claims** for **Third Party Damages** in excess of the applicable **Threshold Amount**;
  2. The **Eligible Claims** for which the **Participating Utility** claims reimbursement have actually been paid by or on behalf of the **Participating Utility**;
  3. The **Participating Utility's** claim for reimbursement is for **Eligible Claims** that are covered claims as per SECTION IV COVERAGE of this **Memorandum**;
  4. The **Participating Utility's** claim for reimbursement is not for losses or expenses excluded pursuant to SECTION V EXCLUSIONS of this **Memorandum**; and
  5. The amount paid by the **Participating Utility** for its **Eligible Claims** was paid in an exercise of the **Participating Utility's** reasonable business judgment.
- C. *Required Cooperation.* The **Participating Utility** must cooperate with the **Administrator** and any service providers engaged by the **Administrator** for the review or processing of **Eligible Claims**, must fully comply with the Claims Administration Procedures, must provide all necessary documentation and detail, and must complete and file all necessary forms as required by the **Administrator** to evaluate any **Eligible Claims**.
- D. *Administrator Review.* The **Administrator** will review and approve of any settlement amount of an **Eligible Claim** and will not release funds to the **Participating Utility** until and unless the **Administrator** determines that the amounts paid were paid in the reasonable business judgment of the **Participating Utility**
- E. *Payment of Approved Eligible Claims.* **Eligible Claims** will be reimbursed within 45 days after the date the **Administrator** approves the amount thereof in accordance with its claims procedures, unless that timing is not practicable under the circumstances.

## SECTION VII – OTHER CONDITIONS

- A. *Legislative Changes.* It is understood that the **Wildfire Fund** is created pursuant to California legislation and is subject to change by legislation. In that event, the **Administrator** reserves the right to change the terms of the **Memorandum** to comply with the provisions and requirements of any such legislation.
- B. *Interpretation of Memorandum.* No party to the **Memorandum** is entitled to rely on any interpretation principle that would require the interpretation of ambiguous language against the drafter. The **Participating Utility** understands and acknowledges that this **Memorandum** is not an insurance policy nor subject to regulation under the California

Insurance Code nor the California Insurance Fair Claims Practices Act. The **Wildfire Fund** has no obligation to issue reservation of rights letters, nor does it have any obligation to provide any defense or assistance with the handling of the **Eligible Claims**.

- C. Inspections and Audits. The **Administrator** will have the right to examine and audit the **Participating Utility's** computer records, books, files, and other accumulation of data, and may make reasonable inspections and review of physical facilities or evidence at any time during the **Participating Utility's** participation in the **Wildfire Fund** and within three years after the termination of the **Wildfire Fund** or the **Participating Utility's** participation therein.
- D. Coverage Year. As described in paragraph F of Section II of this **Memorandum**, the **Participating Utility** must, in advance of the commencement of the **Coverage Year**, notify the **Administrator** of the inception date of that Participating Utility's insurance coverage that is required to be in place pursuant to section 3293 of the Public Utilities Code. In the event the commencement date of that insurance coverage changes in a future year, thus modifying the commandment of the corresponding **Coverage Year**, the **Participating Utility** must so notify the **Administrator** of that change in advance of its effective date, in accordance with paragraph F of Section II of this **Memorandum**.
- E. Right to Terminate the Wildfire Fund. The **Wildfire Fund** may be terminated if the **Administrator** determines that the fund resources are exhausted, taking into account the amount of any unpaid liabilities including necessary reserves, any remaining unpaid annual contributions from **Participating Utilities**, and the charges authorized pursuant to Public Utilities Code section 3289. Upon the determination of the **Administrator** that the fund is to be terminated, the **Administrator** will pay all remaining **Eligible Claims** and fund expenses and liquidate any remaining assets. Any remaining assets must be transferred to the General Fund of the State of California.

## SECTION VIII - REIMBURSEMENTS TO WILDFIRE FUND

- A. Compliance with Laws and Regulations. If a **Participating Utility** has received any payment from the **Wildfire Fund** for **Eligible Claims**, the **Participating Utility** must comply with the laws and regulations related to a **Catastrophic Wildfire Proceeding**.
- B. Required Applications. If a **Participating Utility** has received any payment from the **Wildfire Fund** for **Eligible Claims**, the **Participating Utility** must file an application to the **Commission** to commence a **Catastrophic Wildfire Proceeding** by no later than the earlier of the following:
  1. The date when it has resolved all **Third-Party Damage** claims and exhausted all right to indemnification or other claims, contractual or otherwise, against any third parties, including collecting insurance proceeds, related to the **Covered Wildfire**.
  2. The date that is 45 days after the date the **Administrator** requests the **Participating Utility** to make such an application.
- C. Required Payments. Based on the **Commission's** decision in a **Catastrophic Wildfire Proceeding**, a **Participating Utility** must reimburse the **Wildfire Fund** as follows:

1. If the **Commission** finds that the **Participating Utility's** costs and expenses were just and reasonable, the **Participating Utility** will only be required to reimburse the **Wildfire Fund** for any costs and expenses the **Commission** determined were disallowed.
2. If the **Commission** finds that the **Participating Utility's** costs and expenses were not just and reasonable, the **Administrator** may, after the **Commission** makes such findings, commence a process to determine whether the **Participating Utility's** actions or inactions that resulted in the Covered Wildfire constituted conscious or willful disregard of the rights and safety of others, and the **Participating Utility** must reimburse the **Wildfire Fund** as follows:
  - a. If the **Administrator** does not make a determination that the **Participating Utility's** actions or inactions that resulted in the **Covered Wildfire** constituted conscious or willful disregard of the rights and safety of others, the **Participating Utility** must reimburse the **Wildfire Fund** in the lesser amount of either of the following:
    - i. The full amount of costs and expenses the **Commission** determined were disallowed, or
    - ii. The amount determined pursuant to Public Utilities Code section 1701.8(h)(2)(C).
  - b. If the **Administrator** determines that the **Participating Utility's** actions or inactions that resulted in the **Covered Wildfire** constituted conscious or willful disregard of the rights or safety of others, or if the **Participating Utility** failed to maintain a valid safety certification at the time of the commencement of the **Covered Wildfire**, the **Participating Utility** must reimburse the **Administrator** in the full amount of costs and expenses the **Commission** determined were disallowed.

D. Permitted Liens

1. Except as provided in subparagraph 2, below, of this paragraph D, within six months after the **Commission** adopts a decision in a **Catastrophic Wildfire Proceeding** a governmental assessment will be imposed in the full amount of, and the **Participating Utility** must reimburse the **Wildfire Fund** for the full amount of, costs and expenses that the **Commission** determined were the amount of the obligation to reimburse the **Fund**.
2. With respect to a governmental assessment pursuant to subparagraph 1, above, of this paragraph D, the **Wildfire Fund** is granted a statutory lien on the revenues of a **Participating Utility** to secure the reimbursement obligations to the **Wildfire Fund** subject to the conditions in Public Utilities Code section 3295(b).

**APPENDIX C**  
**SEU RESPONSE 11**  
**TO DATA REQUEST (DR)**  
**TURN-SEU-007**

**Data Request Number:** TURN-SEU-007

**Proceeding Name:** A2205015\_016 - SoCalGas and SDGE 2024 GRC

**Proceeding Number:** A2205015\_016 2024 GRC

**Publish To:** The Utility Reform Network

**Date Received:** 10/7/2022

**Date Responded:**10/21/2022

11. In Ex. SCG-24/SDG&E-28, at DJG-22 to DJG-23, the testimony states that the utilities have evaluated additional ways of managing price volatility, including self-insurance. Please provide all documentation associated with the utilities' evaluation, including but not limited to setting forth the results of such evaluation.

**SEU Response 11:**

SoCalGas and SDG&E object to this request to the extent it seeks confidential and proprietary information belonging to a third party that may not be shared pursuant to the Companies' contractual obligations. Subject to and without waiving this objection, SoCalGas and SDG&E respond as follows: SoCalGas and SDG&E have incorporated multiple sources of capital and risk transfer agreements into their liability program to reduce the Companies' exposure to annual insurance price volatility, as explained in DJG Direct Testimony at DJG-19 to 20. As part of their ongoing assessment of self-insurance, SoCalGas and SDG&E have also tracked, and continue to track, the self-insurance discussions before the Commission of the other investor-owned utilities, as noted in DJG Direct Testimony at DJG-23 n.33.

Additionally, in late 2020, SoCalGas and SDG&E also discussed with its broker, Marsh, the feasibility of expanding the use of the EIS protected cell captive that is discussed in DJG Direct Testimony at DJG-23 or launching a proprietary captive. Those discussions did not go beyond the draft stage after Marsh's preliminary analysis showed a captive generated a financial disadvantage.