



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

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Application of San Diego Gas & Electric)
Company (U-902-E) For Authority To)
Update Marginal Costs, Cost Allocation,)
And Electrical Rate Design.)
_____)

Application No. 11-10-002
(Filed October 3, 2011)

FALLBROOK PUBLIC UTILITY DISTRICT, HELIX WATER DISTRICT, LEMON GROVE SCHOOL DISTRICT, PADRE DAM MUNICIPAL WATER DISTRICT, POWAY UNIFIED SCHOOL DISTRICT, SAN DIEGO COUNTY SUPERINTENDANT OF SCHOOLS, SAN DIEGO COUNTY WATER AUTHORITY, VALLECITOS WATER DISTRICT, AND VALLEY CENTER MUNICIPAL WATER DISTRICT'S RESPONSE TO UTILITY CONSUMERS' ACTION NETWORK'S (UCAN) MOTION FOR A PRELIMINARY RULING AND COMPELLING SDG&E TO RESUBMIT ITS GRC PHASE 2 APPLICATION

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San Diego County Superintendent of Schools
San Diego County Water Authority
Vallecitos Water District
Valley Center Municipal Water District

Dated: November 17, 2011

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

Application of San Diego Gas & Electric Company (U-902-E) For Authority To Update Marginal Costs, Cost Allocation, And Electrical Rate Design.)	Application No. 11-10-002 (Filed October 3, 2011)
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Fallbrook Public Utility District, Helix Water District, Lemon Grove School District, Padre Dam Municipal Water District, Poway Unified School District, San Diego County Superintendent of Schools, San Diego County Water Authority, Vallecitos Water District, and Valley Center Municipal Water (“San Diego County Public Agencies”) hereby respond in support of the Motion of Utility Consumers’ Action Network (“UCAN”) for a Preliminary Ruling Determining San Diego Gas & Electric’s (“SDG&E”) Rate Design Application Violates the Public Utilities Code and Compelling SDG&E to Resubmit Its GRC Phase 2 Application (“Motion”). San Diego County Public Agencies file this response pursuant to Rule 11.1 of the Commission’s Rules of Practice and Procedure and in accordance with Gregory E. Barnes’ e-mail dated November 1, 2011, giving notice that Administrative Law Judge Amy C. Yip-Kikugawa set a response date of November 17, 2011, to UCAN’s Motion. Specifically, the San Diego County Public Agencies support UCAN’s contention that SDG&E’s proposed Network Use Charge is an illegal, obscured surcharge targeting net energy metering (“NEM”) customers

and UCAN's request that the Commission compel SDG&E to resubmit a rate design application that addresses that illegality.¹ The San Diego County Public Agencies do not express an opinion as to the remainder of UCAN's Motion at this time.

As set forth in UCAN's Motion, Public Utilities Code section 2827 ("Section 2827") limits a utility from introducing new charges that could cause a NEM customer to incur costs that the customer would not incur except for being a NEM customer, which is exactly what SDG&E is proposing in its Application.² SDG&E's proposed Network Use Charge violates both the express requirements of Section 2827, as well as the underlying statutory intent.³ Despite SDG&E's contention that the Network Use Charge is "applicable to all customers," in reality, and as demonstrated by SDG&E's testimony, the only customers that will actually be impacted by the charge are NEM customers.⁴ Section 2827, subdivision (g), expressly states that any charge against NEM customers "that would increase an eligible customer-generator's costs beyond those of other customers who are not eligible customer-generators in the rate class to which the eligible customer-generator would otherwise be assigned if the customer did not own, lease, rent, or otherwise operate an eligible solar or wind electrical generating facility is contrary to the intent of this section, and shall not form a part of net energy metering contracts or tariffs." SDG&E's Network Use Charge effectuates such a charge that is only applicable to NEM customers and therefore is counter to the purpose and declared intent of Section 2827 and prohibited under subdivision (g).⁵

SDG&E's Application further proposes to unilaterally eliminate an important Legislative subsidy for encouraging the installation of alternative energy, including solar.⁶ SDG&E's Network Use Charge is squarely at odds with the Legislature's intent to affect a subsidy for NEM customers in light of greater policy objectives and the Legislature's express rejection of the same "unfair subsidy" argument made by SDG&E in the instant application in approving the

¹ Motion of the Utility Consumers' Action Network (UCAN) for a Preliminary Ruling Determining San Diego Gas & Electric's Rate Design Application Violates the Public Utilities Code and Compelling SDG&E to Resubmit its GRC Phase 2 Application ("UCAN's Motion") (October 27, 2011), p. 1.

² See UCAN's motion, pp. 12-19.

³ See UCAN's motion, pp. 13-19.

⁴ Testimony of Thomas R. Brill, p. TRB-1, 17; Testimony of Chris Yunker, p. CY-10.

⁵ See UCAN's motion, pp. 1-3, 5-8, 12-19.

⁶ See Testimony of Thomas R. Brill, pp. TRB-13-14 [admitting SDG&E's Network Use Charge will "reduce the degree of subsidy that [NEM] customers enjoy"].

subsidization of NEM customers.⁷ The California Legislature has repeatedly recognized the importance of this renewable energy subsidy in amending Section 2827, which is codified as a Legislative declaration in Section 2827, subdivision (a).

For the reasons set forth above, as well as those set forth in UCAN's Motion,⁸ the San Diego County Public Agencies respectfully request the Commission grant UCAN's Motion to the extent it asks the Commission to preliminarily determine that SDG&E's Network Use Charge is illegal and compel SDG&E to resubmit a rate design application that addresses that illegality.

Respectfully submitted,

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⁷ UCAN's motion, pp. 1-3, 5-8, 12-19. In 2011, the Legislature amended Public Utilities Code section 2827 to open NEM to all forms of renewable energy to allow more utility customers to convert to renewable energy and offset their electric bill. Southern California Edison specifically opposed this bill because "the net energy program provides an unfair subsidy to net exporting customer-generators by paying for their generation at retail rates, effectively failing to charge for transmission, distribution and other services on all exported power." (Senate Floor Analysis of SB 489, August 30, 2011, available at http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0451-0500/sb_489_cfa_20110830_101610_sen_floor.html.) Despite this protest, the Legislature did not take specific action to alter the form of the subsidy.

⁸ See UCAN's motion, pp. 1-2, 5-8, 12-19, 37-39.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **FALLBROOK PUBLIC UTILITY DISTRICT, HELIX WATER DISTRICT, LEMON GROVE SCHOOL DISTRICT, PADRE DAM MUNICIPAL WATER DISTRICT, POWAY UNIFIED SCHOOL DISTRICT, SAN DIEGO COUNTY SUPERINTENDANT OF SCHOOLS, SAN DIEGO COUNTY WATER AUTHORITY, VALLECITOS WATER DISTRICT, AND VALLEY CENTER MUNICIPAL WATER DISTRICT RESPONSE TO UTILITY CONSUMERS' ACTION NETWORK'S (UCAN) MOTION FOR A PRELIMINARY RULING AND COMPELLING SDG&E TO RESUBMIT ITS GRC PHASE 2 APPLICATION**, by using the following service:

- E-Mail Service:** sending the entire document as an attachment to an e-mail message to all known parties of record to this proceeding who provided electronic mail addresses.

- U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

I have also sent hard copies by overnight mail to the Assigned Administrative Law Judge and Assigned Commissioner.

Executed on November 17, 2011 at San Diego, California.



Anthony A. Harris

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Proceeding No. Proceeding A1110002, Filed October 3, 2011

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