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 Electric Rate Design.	Application 11-10-002 (Filed March 2012)

OPENING BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES

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I. INTRODUCTION

Pursuant to the Rule 13.11 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates ("DRA") submits this opening brief on the application of San Diego Gas & Electric Company ("SDG&E") seeking approval of rate design changes in its 2012 General Rate Case Phase II, A.11-10-002. DRA focuses this brief on proposed changes to SDG&E's residential rate design, proposed changes to SDG&E's California Alternate Rates for Energy ("CARE") allocation, and on SDG&E's proposed prepay program. In addition, and for the for sake of efficiency, DRA incorporates by reference arguments made by The Utility Reform Network ("TURN") and San Diego Consumers' Action Network ("SDCAN").

II. Residential Rate Design Issues

A. Introduction

Three disputed residential rate design issues were discussed in this proceeding: 1) SDG&E's proposal to introduce a residential customer charge; 2) SDG&E's proposal for a three-tier residential rate design; and 3) SDG&E's proposal to eliminate its freeze on CARE Tier 3 rates. DRA opposes all three of SDG&E's proposals. With regard to SDG&E's proposal to eliminate the current rate freeze on Tier 3 rates, DRA recommends the adoption of a cap of 18 cents per kWh on CARE Tier 3 rates. This would allow some increase in the CARE Tier 3 rate, but would not allow unlimited CARE Tier 3 rate increases between rate design proceedings.

B. SDG&E's proposal to introduce a residential basic service fee ("BSF") should be rejected on legal and policy grounds

1. SDG&E's proposed residential BSF violates Public Utilities Code Section 739.9 9(a) and 739.1 (b) (2)

SDG&E's proposed residential BSF (or customer charge) closely resembles a similar proposal Pacific Gas and Electric Company ("PG&E") made in its 2010 General Rate Case ("GRC") Phase II Application. The Commission recently examined and rejected that proposal in Decision ("D.")11-05-47. The Commission also denied the joint application for rehearing filed by PG&E, Southern California Edison Company ("SCE"), and Kern County Taxpayers Association ("Kern Taxpayers")[1] of that Decision.

Like PG&E's rejected proposal, SDG&E's residential customer charge violates the Senate Bill ("SB") 695 rate protections for Tier 1 rates for residential customers who use less than baseline quantities. As the Commission stated in connection with PG&E's proposal, the "key legal question:"

> ... is whether the imposition of a fixed customer charge is included within the Sec. 739.1(b)(2) and 739.9(a) annual rate limitations applicable to electric usage up to 130 percent of baseline. Based on our analysis of the statutory provisions as discussed below, **we do interpret Sec. 739.1(b)(2) and 739.9(a) as including fixed customer charges within the limitations on allowable percentage increases in "rates for usage." Thus, we are prohibited by law from approving PG&E's customer charge to the extent the total bill impacts exceed these statutory limitations on baseline rate increases**. (D.11-05-047, p. 24.) (Emphasis added)

The Commission went on to explain:

> In this context, although a fixed customer charge is not applied on a per-unit volumetric usage basis for billing purposes, the Commission has still recognized fixed customer charges in calculating customer-related bill impacts for usage within baseline quantities. **Accordingly, even though the customer charge is not a volume-based billing determinant, the customer charge is still relevant in calculating the "rate for usage" in the context of identifying impacts on customers usage in Tier 1 (i.e., baseline quantities) or Tier 2 (up to 130 percent of baseline usage). Irrespective of whether rate design is configured to recover customer-related costs as a fixed amount or through a per-unit consumption rate, the customer impact is the same. The customer charge is thus included within the "rates… for electricity usage up to 130 percent of baseline usage…" as referenced in Sec.**

[1] See D.12-03-056, Order Denying Rehearing of Decision 11-05-047.

> **739.1(b)(2) and 739.9 9(a)**.(D.11-05-047, pp.29-30) (emphasis added)

In its Order denying rehearing of D.11-05-047, the Commission discusses further the rate protections from SB 695, saying:

> The interpretation promoted by the joint applicants for rehearing would effectively deprive Tier 1 and 2 customers of their primary protection in section 739.9(a). Following the rate freeze, which shielded residential customers consuming less than 130 percent of baseline from rate increases for a number of years, the Legislature, through SB 695, established a means for phased-in rate increases, so that the affected customers were provided some protection, through statutorily identified limitations, from suffering rate shock as the result of sudden rate increases. Under the outcome proposed by the joint applicants for rehearing significantly different charges could be assessed to PG&E's CARE and non-CARE customers, as well as significant increases to the total rates charged to CARE customers using up to 130 percent of baseline quantities. The outcome demanded by the joint applicants for rehearing defies the logic of the legislation at issue and does not comport with the legislative history. The arguments of the joint applicant for rehearing that PG&E's proposed increase would not undermine the legislative intent and is not prohibited by the legislation at issue are without merit. Joint applicants for rehearing have failed to establish the challenged decision erred. (D.12-03-056, p.12)

The same legal standards that apply to PG&E's proposed residential customer charge also apply to SDG&E's.

The imposition of a fixed customer charge is included within the Sec 739.1(b) (2) and 739.9(a) annual rate limitations applicable to electric usage up to 130 percent of baseline usage. Section 739.9(a) provides:

> The commission may, subject to the limitation in Subdivision (b), increase the rates charged residential customers for electricity usage up to 130 percent of the baseline quantities, as defined in Section 739, by the annual percentage change in the Consumer Price Index from the prior year plus 1 percent, but not less than 3 percent and not more than 5 percent per

> year. For purposes of this subdivision, the annual percentage change in the Consumer Price Index shall be calculated using the same formula that was used to determine the annual Social Security Cost of Living Adjustment on January 1, 2008. This subdivision shall become inoperative on January 1, 2019, unless a later enacted statute deletes or extends the date.

Section 739.1(b)(2) provides:

> The commission may, subject to the limitation in paragraph (4), increase the rates in effect for CARE program participants for electricity usage up to 130 of baseline quantities by the annual percentage increase in benefits under the CalWORKS program as authorized by the Legislature for the fiscal year in which the rate increase would take effect, but not to exceed 3 percent per year.

SDG&E's proposal, like that of PG&E, effectively would deprive residential customers of these rate protections. SDG&E's proposal, like PG&E's, is contrary to law and should be rejected.

SDG&E proposes to reduce its Tier 1 residential volumetric rates by approximately 1 cent per kWh to offset the bill impacts of a \$3 customer charge. The additional proposal to reduce the Tier 1 volumetric rate is, however, insufficient to maintain the rate protections contained in PU Code sections 739.9(a) and 739.1(b)(2). While it might leave customers who consume at levels equal to or above their baseline allowances indifferent, customers with usage below baseline would receive bill increases that are greater than the 3% to 5% annual increases allowed by PU Code section 739.9(a).

The rate protections from Sections 739.9(a) and 739.1(b) (2) apply to *all* residential customers with usage up to 130% of baseline usage, including customers who use less than the baseline allowance. SDG&E's proposals would deny the rate protections the Legislature mandated for residential customers with usage below baseline.

The Section 739.1(a) and 739.9(a) rate protections include fixed customer charges within the allowable percentage increases for usage up to 130% of baseline usage for all residential customers. If SDG&E's residential rate design proposals are adopted, residential non-CARE customers with usage below the baseline usage level would receive bill increases as high as 21.7%. CARE customers with usage below the baseline usage level would receive bill increases as high as 24.5%. Non-CARE residential customers consuming electricity at 25% of baseline quantities would receive bill increases of 20.3% to 21.7%[2] in the coastal climate zone and 17.5% to 18.5%[3] in the inland climate zone[4]. CARE customers, who consume electricity at 25% of baseline quantities, would receive bill increases of 22.9% to 24.5% in the coastal climate zone and from 19.8% to 20.9%[5] in the inland climate zone. During Hearings, SDG&E's witness Cynthia Fang admitted that some customers using less than 130% of baseline would experience bill increases greater than the three to five percent range permitted in SB695.[6]

The rate increases from SDG&E's proposal clearly exceeds the allowable increases of 3% to 5% per year for non-CARE residential customers and the current cap of zero for CARE customers[7]. Furthermore, these bill impacts do not take into account the annual request to increase Tier 1 and Tier 2 rates that SDG&E and the other electric Investor Owned Utilities ("IOUs") have made each year since SB695 was passed. For example, the bill impacts cited above do not take into account the 5% increases to Tier 1

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[2] Ex. DRA-1, p. 5-7. This range of bills is based on summer and winter billing periods and baseline allowances.

[3] Ex. DRA-1, p.5-7.The information is contained in SDG&E's response to DRA Data request DRA-DR-09, question 9.

[4] Ex. DRA-1, p.5-7.The coastal and inland climate zones account for approximately 99% of SDG&E customers.

[5] Ex. DRA-1, p.5-8.This information is contained in SDG&E's response to DRA Data request DRA-DR-09, question 11.

[6] RT Vol 4 (October 9) p.213:19—p.214:26.

[7] Ex. DRA-1, p.5-8. CARE rate increases for usage up to 130% of baseline quantities, is tied to the CalWorks program escalator. Because of state budget difficulties in the last few years, there have been no increases to the CalWorks escalator.

and Tier 2 rates that SDG&E implemented on January 1, 2012[8], or additional requests for Tier 1 and Tier 2 rate increases that it will likely make for January 1, 2013.

In its Rebuttal testimony, SDG&E attempts to defend the legality of its proposal. SDG&E states : "Further, by speaking to the ability to 'increase the rates charged residential customers for electricity usage up to 130 percent of the baseline quantities' in the aggregate, PU Code 739.9 (a) refers to rates applied to the identified customer groups as a whole, rather than every individual customer (as DRA argues)."[9] Under cross examination, Witness Fang agreed that PU Code 739.9 (a) does not include the phrases she uses to interpret this Code section such as "in the aggregate" or "customer groups as a whole."[10] The language in PU Code section 739.9 (a) (as shown above) shows that the section discusses allowable rate increases usage up to 130% of baseline quantities and does not discuss " rate increases in the aggregate".

It is important to keep in mind the Legislative intent of SB 695, which made modifications to the rate protections from AB 1X from 2001. AB 1X did not permit any rate increases for usage up to 130% of baseline quantities, and SB695 modified this to allow increases of 3% to 5% per year for usage up to 130% of baseline quantities for non-CARE residential customers. The Commission examined the Legislative intent behind SB 695 in D.11-05-047, and concluded that the Legislature intended to restrict increases to an annual narrow range. SDG&E's proposal would result in bill increases far in excess of the annual narrow range allowed by SB695. In D.11-05-047, the Commission examined the Legislative intent of SB695 stating:

> In reference to the legislative history of SB 695, the Legislature has stated that "**by restricting rate increases to an annual narrow range and controlling the increase within relatively small parameters, SB 695 is intended to**

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[8] Ex. DRA-1, p.5-8. The 5% Tier 1 and Tier 2 rate increases were implemented via Advice Letter 2303-E.

[9] Ex. SDG&E-11, p.CF-7:3-6.

[10] RT Vol 4 p.233 :20 –p.234:7and p.219:16 –p.220:3.

> **minimize spikes in electricity rates and provide relative stability and predictability.**"[11] Consistent with this express intent, the limitations in "rate" increases must be interpreted consistent with providing "relative stability and predictability" in customers' rates. **Ignoring the effects of a fixed customer charge in assessing permissible statutory rate increases would conflict with this stated intent of SB 695. Otherwise, merely imposing limits on volumetric tiers would have little meaning if a fixed customer charge could be imposed without regard to such limits, and thereby undermine the intended overall rate stability. No customer using only baseline quantities could avoid the customer charge. Thus, it is logical to infer that the Legislature intended that all rate elements relevant to baseline usage be included for purposes of "restricting rate increases."** Thus, by examining the legislative intent, we resolve the ambiguity in favor of interpreting customer charges as being included within the intended use of the term "rates" in Sec. 739.1(b)(2) and 739.9(a). (D.11-05-047, pp25-26)" (emphasis added)

As D.11-05-047 notes, while Sec 739(a) does not explicitly mention "customer charges," it does refer to "rates ... for electricity usage up to 130 percent of baseline quantities," and Commission decisions have repeatedly recognized that baseline rates include any fixed customer charges. D.11-05-047 includes a partial list and description of some of those decisions:[12]

> For example, in D.91107, issued in 1979, the Commission stated," [a]s the customer charge is an integral component of the lifeline charge, an increase in the customer charge is a disguised form of an increase in the lifeline rates." (D.91107, mimeo, pp. 143-144, 2 CPUC 2d 596.)
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> In D. 92497, issued in 1980, the Commission stated: "[w]e fail to see how doubling the customer charge produces an

[11] Ex. DRA-1, p.5-8. Assem. Com. On Appropriations Analysis of SB 695 (2009-10 Reg. Sess.) August 19, 2009, at 2-4 see also Sen. Floor Analysis of SB 695, Sept. 2, 2009.

[12] See D.11-05-047, pp.28-29.

> inexpensive lifeline rate since the customer charge is part of the lifeline."(D.92497, p. 824, 4 CPUC 2d 725, 824).

In D.00-04-060 for a SoCalGas Biennial Cost Allocation Proceeding, the Commission provided the following summary of this issue:

> Section 739(c) (Public Utilities Code) requires the Commission to establish "baseline rates" which apply to the lowest block of an increasing block rate structure. The statute is premised on the principle that "electricity and gas are necessities, for which a low affordable rate is desirable." (739 (c) (2)). Section 739.7 similarly requires an "appropriate inverted rate structure". These code sections have been consistently interpreted to include the customer charge in determining whether the rate structure is, in fact, inverted. Under this "composite tier differential" approach, customer charges are considered part of the Tier I, or baseline, rate for the purpose of calculating tier differentials. (D.87-12-039, 26 CPUC2d 213,270; D.89-01-055; D.97-04-082, p.118)" (D.00-04-060, p.107)
>
> We reject SoCalGas' proposal. As we said in the last SoCalGas BCAP, "Therefore we should retain the existing tier differential calculated on a composite basis. **The composite tier differential is more meaningful than the simple differential because it gives the price for access and purchase of a quantity of gas that covers basic needs**. (D.00-04-060, p.107, emphasis added.)

Thus, in previous cases, and most recently in D.11-05-047, the Commission has thoroughly reviewed the law, the Legislative intent and previous decisions applicable to residential customer charges. Just as the Commission rejected PG&E's proposed residential customer charge in D.11-05-047, so too should it reject SDG&E's proposal in this case.

2. SDG&E's proposal for a residential charge is contrary to public policy

DRA also opposes SDG&E's residential customer charge on policy grounds. SDG&E's proposal would result in excessive bill impacts, especially for low-usage low-income customers. Fixed charges also limit the ability of customers to control the size of their bills. A customer charge also is unnecessary if the existing minimum charge is maintained.

In D. 11-05-047, the Commission examined PG&E's proposed residential customer charge in light of public policy stating:

> We also consider, however, the potential adverse bill impacts of a customer charge, particularly on low-income households. Aside from any legal restrictions the fact remains that a fixed customer charge would be an unavoidable component of the bill of every residential customer, including those whose usage remained within baseline. Because a fixed customer charge cannot be avoided by a customer's reducing usage or being more energy efficient, the customer charge offers no conservation price signal. (D.11-05-047, p.33)

The same reasoning applies here. SDG&E's residential rate design proposals would result in bill increases for many residential customers, especially low-income customers. Approximately 36.7% of non-CARE residential customers[13] and approximately 80%[14] of CARE customers would receive bill increases if SDG&E's proposals are adopted. SDG&E's proposals include its revenue allocation proposal for a 1.36% decrease for the residential class. However, SDG&E's proposal fails to account for any portion of SDG&E's requested rate increase in SDG&E's pending GRC or any of its pending rate increase requested at the Federal Energy Regulatory Commission (FERC).

Clearly, the bill impacts are greater for SDG&E's CARE customers than for non-CARE customers. For CARE customers, 13.7% would experience bill increases of 6% or greater (6.5% would experience bill increases of 10% or greater; 3% would experience bill increases of 15% or greater; 1.5% would experience bill increases of 20% or greater; and 1,078 customers or 0.4% would experience bill increases of 30% or greater)[15]. For

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[13] Ex. DRA-1, p.5-11. This information is contained in SDG&E's response to DRA-DRA-09, q.1.

[14] Ex. DRA-1, p.5-11. This information is contained in SDG&E's response to DRA-DRA-09, q.2.

[15] Ex. DRA-1, p.5-11. The average bill increase is actually 41% for the group of CARE customers with

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non-CARE residential customers, 8.2% would experience bill increases of 6% or greater (4.7% would experience bill increases of 10% or greater; 2.7% would experience bill increases of 15% or greater; 1.7% would experience bill increases of 20% or greater; and 6,899 customers or 0.7% would experience bill increases of 30% or greater).

IOUs may like fixed charges because they provide stable revenues. However, fixed charges give customers less control over managing their bills. No change in customer behavior or consumption would reduce or eliminate the fixed customer charge. DRA believes that customers should have as many ways as possible to control the level of their bills—especially during these difficult economic times.

SDG&E currently has a minimum charge of 17 cents per day, or roughly $5.10 per month, which helps collect revenues to fund IOU facilities that are in place to serve customers. For customers with no or very low usage, a minimum charge functions like a customer charge and collects fixed revenue. Customers who use more energy (and whose bills exceed $5.10 per month) do not pay the minimum charge, but instead pay for customer access through their volumetric rates. A minimum charge ensures that a customer who uses little or no electricity will contribute to the cost of customer access facilities.

C. SDG&E's Proposal to Combine Tier 3 and Tier 4 rates to create a new Tier 3 rate should be rejected

SDG&E proposes to combine its Tier 3 and Tier 4 rates to create a new Tier 3 rate. Currently PG&E and SDG&E have a four tier residential rate design, and if the residential rate design settlement for SCE is adopted, SCE will also have a four tier residential rate design. It is inappropriate at this time for SDG&E to move to a three tier rate design because this change may impact or interfere with other rate design changes being considered in the residential rate design OIR, R.12-06-013. DRA opposes

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bill increases of 30% or greater.

SDG&E's proposal to combine residential Tier 3 and Tier 4 rates for the following reasons:

1) The Commission recently issued a decision maintaining PG&E's 4-Tier residential rate design;
2) This is a bad time to reduce the number of tiers because, with the addition of AMI capabilities, it is now possible to give customers better and timelier information about their electricity usage.
3) Rates for customers in the current Tier 3 usage range would increase, creating bill impacts;
4) There would be less incentive to conserve after usage exceeds 200% of baseline usage;
5) The proposal would harm medical baseline customers who currently do not pay rates higher than Tier 3 rates;
6) Combining Tiers 3 and 4 would likely, in the future lead, to even higher differentials between Tier 2 to Tier 3 rates, where there is already large rate differentials; and
7) Residential rate increases in the future would primarily be recovered in Tier 3 rates, putting additional pressure on CARE Tier 3 rates.

DRA recommends that the Commission maintain 4 tiers of residential rates for SDG&E while the Commission considers other changes to residential rate design in the residential rate design OIR.

As indicated above, the Commission recently examined a similar proposal by PG&E, in its GRC Phase II proceeding, to combine residential Tier 3 and Tier 4 rates, and rejected PG&E's proposal. At the same time, the Commission established a 4 cent per kWh differential between Tier 3 and Tier 4 rates. This was the first time that this issue had been litigated since the implementation of the 5 tier residential rate design in 2001.

In D.11-05-047, the Commission rejected PG&E's proposal on the following basis:

> We conclude, however, that a complete consolidation of Tiers 3 and 4 goes too far. Accordingly, we reduce the Tier 4 rate somewhat, but require that a Tier 4 differential of at least four cents per kWh be maintained between Tiers 3 and 4. (p.48)

> If Tier 4 were entirely eliminated, there would be no rate incentive to conserve for usage beyond 200 percent of baseline. Entirely eliminating Tier 4 could impede progress toward achieving the CSI goal of creating a self-sustaining residential solar PV market. By promoting the market for residential PV, we help to advance the state's loading order and meet AB 32 greenhouse gas emission reduction goals. (p.48)

The second reason for not collapsing Tiers 3 and 4 is that new AMI meter capabilities should be available soon. This will provide customers with better and timelier information regarding their monthly consumption. Customers can now be alerted when their usage is about to exceed their allowance for each rate tier. They also can be informed what rate they will be paying, and when their bill reaches specified levels. Leaving the current rate design in place would allow for observing the effectiveness of the combination of this four tier rate design and AMI Meter and customer notification capabilities in promoting conservation.

The third reason for not combining Tiers 3 and 4 is that doing so would result in increases to the residential Tier 3 rate. And this rate will increase still further if SDG&E receives a GRC Phase I revenue requirements increase.

A fourth reason why DRA opposes SDG&E's proposal is that it would provide incentives to not consume above 130% of baseline usage, but would not provide additional incentives to conserve at greater usage levels. While there is a small increase between the Tier 1 and the Tier 2 rates, (2.2 cents per kWh), there is a large increase to the Tier 3 rate (roughly a 9 cents per kWh increase in the summer). In the future, a 3-rate Tier rate structure would likely result in even greater differentials between the Tier 2 and Tier 3 rates. If a Tier 4 rate is maintained, some of future revenue requirements increases could be spread to the Tier 4 rate.

A fifth reason for opposing SDG&E's proposal is that it would harm medical baseline customers who currently do not pay Tier 4 rates. Medical Baseline customers pay the Tier 3 rate for all usage above 130% of baseline usage. Combining the Tier 3 and

4 rates would result in higher Tier 3 rates that would result in bill increases for Medical Baseline customers who consume at Tier 3 levels.

Finally, this proposal would put more pressure on CARE Tier 3 rates to increase in the future, as CARE Tier 3 rates are linked to the level of non-CARE Tier 3 rates. Combining the Tier 3 and 4 rates would result in higher Tier 3 rates than if there were both Tier 3 and Tier 4 rates to absorb residential revenue requirements increases. Hence, CARE Tier 3 rates would be impacted less in the future if SDG&E's proposal to combine Tiers 3 and 4 is rejected.

D. A Cap on CARE Tier 3 rates should be maintained

SDG&E proposes to remove the cap on CARE residential Tier 3 rates on a going-forward basis. DRA recommends that a cap on CARE Tier 3 rates of a maximum of 18 cents per kWh be adopted in this proceeding, and that this cap remain until SDG&E's next GRC. A GRC Phase II proceeding is the main proceeding in which rate design and the level of CARE rates for SDG&E are examined. Setting a cap on CARE Tier 3 rates is preferable to allowing a series of "flow through" or non-litigated rate increases for CARE customers for the three years between rate cases. Unlimited CARE Tier 3 rate increases could result in CARE Tier 3 rates that violate the spirit of Public Utilities Code Section 382 (b) which states:

> In order to meet legitimate needs of electric and gas customers who are unable to pay their electric and gas bills and who satisfy eligibility criteria for assistance, recognizing that electricity is a basic necessity, and that all residents of the state should be able to afford essential electricity and gas supplies, **the commission shall ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures**. Energy expenditure may be reduced through the establishment of different rates for low-income ratepayers, different levels of rate assistance, and energy efficiency programs. (Emphasis added)

Currently SDG&E's CARE Tier 3 rate is 17.5 cents per kWh in the summer and 16.4 cents per kWh in the winter. SDG&E proposes to increase these rates to 17.7 cents per kWh in the summer and 15cents per kWh in the winter. This proposal is on top of

SDG&E's proposal for a $3 per month CARE customer charge. SDG&E's proposed rates are based on updating marginal costs and removing the cap on CARE Tier 3 rates, and do not include increases in revenue requirements. Thus, removing the caps on the CARE Tier 3 rates would result in even greater increases to those rates than SDG&E has shown when revenue requirements increases from SDG&E's GRC Phase I proceeding and other proceedings are implemented.

DRA's revenue allocation and rate design proposals would result in a CARE Tier 3 rate of 14.4 cents per kWh in the summer and 12 cents[16] per kWh in the winter. Thus, if DRA's proposals were adopted, there would not be a need for a cap on CARE Tier 3 rates immediately. However, it would be prudent for the Commission to institute a cap on the level of CARE Tier 3 rates between rate cases to provide some insurance for low income customers.

Though SDG&E recommends removing the cap on CARE Tier 3 rates, it has not provided forecasts of potential increases to CARE Tier 3 rates that could occur before its next GRC. CARE Tier 3 rate increases could occur as a result of revenue requirements increases in other proceedings or because of balancing account amortizations. Rates are not examined as thoroughly in these other proceedings, thus, it makes better sense to set a policy on CARE rates in this rate design proceeding. The potential for CARE rate increases over the next three years should be considered when setting CARE rates policy, and certainly before the cap on CARE Tier 3 rates is removed. A cap on CARE Tier 3 rates is a better policy than allowing unlimited non-litigated increases to CARE rates.

III. CARE ALLOCATION

A. The Law Requires that CARE Costs be Allocated Based on Equal Cents per Kilowatthour (kWh) to all Customer Classes

PU Code 327 (a) (7) states:

[16] Ex. DRA-1, p.5-15. These proposed CARE Tier 3 rates would likely increase if a cap to the revenue allocation is implemented.

> For electrical corporations and for public utilities that are both electrical corporations and gas corporations, *allocate the costs of the CARE program on an equal cents per kilowatthour or equal cents per therm basis to all classes of customers* that were subject to the surcharge that funded the program on January 1, 2008. (emphasis added)

The above requirement was codified when Senator Bill 695 was approved in October 2009[17]. CARE costs include the CARE shortfall, CARE program administrative costs, and CARE balancing account amortizations.[18]

SDG&E did not explicitly explain its CARE cost allocation in its direct testimony. However, SDG&E's CARE allocation is shown in its cost allocation model. SDG&E reflects the CARE shortfall costs in two places in its revenue allocation model: 1) in the CARE surcharge; and 2) in the Total Rate Adjustment Component (TRAC). SDG&E properly allocates the former costs on an equal cents per kWh basis to all classes of customers subject to the CARE surcharge.[19] However, SDG&E collects another portion of CARE costs in its TRAC rate component and this portion of CARE costs is allocated solely to non-CARE residential customers.[20] The portion of CARE costs in the TRAC rate component is not allocated on an equal cents per kWh basis to all classes of customers subject to the CARE surcharge and is thus inconsistent with state law. Because SDG&E's allocation of CARE-related TRAC costs are not in compliance with PU Code 327(a) (7), SDG&E's proposal should be rejected.

B. Both PG&E and SCE have Allocated Total CARE Costs to All non-Exempted Classes

Both PG&E and SCE have allocated total CARE costs to all non-exempted customers. This was not a disputed issue in either of their GRCs. PG&E and SCE

[17] Ex.DRA-1, p.4-7.

[18] Ex. DRA-1, p.4-8.

[19] Ex. DRA-1, pp. 4-7 & 4-8.

[20] Ex. DRA-1, pp. 4-7 & 4-8.

correctly calculate the CARE shortfall as the difference between non-CARE and CARE rates, multiplied by the applicable CARE sales. This reflects the full CARE shortfall. SDG&E uses its own method to define the CARE shortfall, and calculates a 20% discount of the non-CARE rate and multiplies this by applicable CARE sales. Additional differences between CARE and non-CARE rates are placed in the TRAC rate components that are only paid by non-CARE residential customers. SDG&E's method of separating the CARE shortfall into two pieces and allocating these two pieces differently is no longer legally permissible and is a clear violation of P.U. Code Section 327 (a) (7). The entire CARE shortfall must be allocated by equal cents per kWh.

As DRA stated in its testimony, PG&E and SCE have both used same the allocation method as does DRA.[21] In the last PG&E GRC Test Year (TY) 2011 Phase 2 proceeding, PG&E acknowledged that all CARE surcharge revenue requirement and CARE shortfall revenue requirement should be allocated and paid for by all non-exempt customers (residential and non-residential). This was first proposed by PG&E in its testimony in the 2010 GRC, and DRA[22] supported this approach noting that it would more appropriately comply with PU Code 327(a) (7). This allocation methodology was later further spelled out in the Joint Parties' settlement agreement, which was adopted by the Commission[23].

DRA has been involved in the recent SCE cost allocation and rate design proceeding and noted that SCE also applied the same allocation approach:

> [T]he discount for residential customers served on the tariff for the California Alternate Rates for Energy (CARE) program is reflected in the distribution revenue component for the Domestic rate group while the CARE surcharge, which is recovers the resulting distribution revenue deficiency, is recovered through the PPP revenue component.

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[21] Ex.DRA-1, p.4-8.

[22] A.11-03-014, PGE-1, p.2-4. DRA-1, p.5A-5.

[23] D.11-12-053.

> This result in the allocation of a distribution revenue deficiency of roughly $317 million in CARE discounts, to other *non-CARE residential customers and to other rate groups*[24].

C. SDG&E Creates more Confusion in its Rebuttal Testimony

SDG&E rebutted DRA's CARE cost allocation and stated:

> DRA witness Ms. Tan is correct when she states that SDG&E, as required by state law, is allocating the CARE program costs funded by the CARE surcharge that is part of the PPP rate component to all customer classes (except CARE customers and lighting customers that are exempt from paying these costs) on an equal cents per kWh basis. Ms. Tan is also correct when she states that SDG&E is allocating the cost of the discounts provided to CARE customers through their tiered electric rates to only the residential class through the TRAC rate component. The Commission adopted this treatment for recovery of rate discounts associated with the Assembly Bill 1X (AB1X) rate cap in D.05-12-003. Ms. Tan implies that Senate Bill 695 (SB 695) modified the AB1X allocation treatment adopted by the Commission. However, the decision addressing the rate adjustments allowed under SB 695 (D.09-12-048) did not require changes to non-residential rates to recover costs related to these residential rate changes. For this reason, the implementation of SB 695 by SDG&E in Advice Letter 2135-E, as adopted by the Commission, changed the rates of only residential customers.[25]

SDG&E's rebuttal testimony does not explain how its proposal complies with P.U. Code 327 (a) (7). Instead it uses an old Commission decision from 2005, which predates the implementation of P.U. Code 327 (a) (7), to justify its proposal. The other Decision that SDG&E cites, D.09-12-048, does not examine the CARE allocation issue; instead it examines a totally different issue—the increase to residential non-CARE Tier 1 and Tier

[24] A.11-06-007, SCE-03, p.7.

[25] Ex. SDGE-12, p. WGS-4.

2 rates as allowed under P.U. Code Section 739.9 (a). The non-CARE Tier 1 and Tier 2 rate increases are not relevant to a discussion on the CARE cost allocation.

SDG&E states that, previously, it allocated CARE costs using the same method it proposes in this proceeding and that the Commission approved this method in D.05-12-003. While the Commission may have approved this method in 2005, this was before the passing of SB695 and the addition of P.U. Code section 327 (a) (7) in 2009. The method SDG&E proposes, of allocating some CARE costs by equal cents per kWh, and of allocating other CARE costs solely to non-CARE residential customers, is no longer legal. This is the first rate design proceeding since the passage of SB695 where the CARE cost allocation method has been examined. SB695 contained several provisions related to revenue allocation and rate design. The most relevant section related to the CARE allocation issue is the addition of P.U. Code Section 327 (a) (7). This code section clearly requires an equal cents per kWh CARE allocation. All CARE costs now need to be allocated this way. The Commission needs to reject SDG&E's proposal and allocate all CARE costs by equal cents per kWh.

In its Rebuttal testimony, SDG&E also discusses D.09-12-048. This Decision discusses how the three IOUs could increase their residential non-CARE Tier 1 and Tier 2 rates[26]. There was no discussion about CARE cost allocation at all, and there was nothing supporting SDG&E's assertion that the Commission approved SDG&E's use of its prior CARE allocation method in this GRC. D.09-12-048 did allow SDG&E to use the same general rate design methodology adopted in its last GRC, but makes no mention of the CARE cost allocation. Ordering Paragraph 4 states:

> San Diego Gas & Electric Company is hereby authorized to increase its Tier 1 and Tier 2 rates by 3% on all non-California Alternate Rates for Energy residential schedules, and to decrease non-California Alternate Rates for Energy Tiers 3, 4, and 5 rates commensurately. *These decreases shall be consistent with the currently authorized rate design*

[26] D.09-12-048, ordering paragraphs 1, 2, 3, and 4.

> *methodology adopted in D.08-02-034 (San Diego Gas & Electric Company's General Rate Case Phase 2) and D.09-09-036 (San Diego Gas & Electric Company's Rate Design Window).* San Diego Gas & Electric Company is authorized to include these rate changes in its annual consolidated advice letter filing to implement electric rates effective January 1, 2010. (Emphasis added.)

Cost allocation methods are routinely revised in each new GRC phase 2. This proceeding is the first rate design proceeding for SDG&E since the passage of SB695 and hence it is the appropriate venue in which CARE cost allocation going forward should be examined. Furthermore, there was no need for the Commission to focus on how CARE costs were allocated in D.09-12-048[27]. The Commission was primarily addressing the IOUs' proposals regarding how to implement PU code 739.9, which sets guidelines for Tiers 1 & 2 annual rate changes.[28] It also should be noted that this decision ordered that CARE Tiers 1 and 2 rates not be increased[29]. In any event, P.U. Code Section 327 (a) (7) provides no exception to the principle that all CARE costs should be allocated on an equal cents per kWh basis to all non-exempted customer classes. SDG&E's method clearly violates the law, and should be corrected now.

IV. PREPAY PROGRAM

A. SDG&E's Prepay Proposal Removes Substantial Customer Protections

SDG&E proposes to introduce a Prepay program option for its customers. As proposed by SDG&E, a participating customer would be disconnected if his or her Prepay account balance drops below zero, and if at least one of the following conditions is met: 1) the customer's balance has been below zero for four consecutive days; or 2) the customer's balance is at or below -$20.00. If at least one of the above conditions is met,

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[27] Or, in A.09-10-013, A.09-10-014, A.09-10-015, Applications by the three IOUs to implement PU Code 739.9.

[28] D.09-12-048, mimeo, p.1 and discussions throughout the decision.

[29] D.09-12-048, Conclusion of Law 8.

a remote disconnection will be scheduled for the next business day during normal business hours.[30]

The problem with this approach is that customers who sign up with the Prepay Program would forgo the following customer protections instituted by the legislature and the Commission:

- The 15-day notice requirement of Section 779.1(a).[31]
- A 24-hour notice of termination by telephone or in person; or, where such contact cannot be accomplished, a 48-hour notice delivered by mail or in person as required by Section 779.1 (b).[32]
- The requirement that no disconnection may occur during a pending investigation, or complaint, or request for extended period for payment as required by Section 779.[33]
- Notification to customers facing disconnection of the availability of the California Alternate Rates for Energy (CARE) program and of extended

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[30] Ex.SDG&E-9, p. DWC-5.

[31] PU Code Section **779**.1. (a) Every electrical, gas, heat, or water corporation shall allow every residential customer at least 19 days from the date of mailing its bill for services, postage prepaid, for payment of the charges demanded. No corporation subject to this section may terminate residential service for nonpayment of a delinquent account unless the corporation first gives notice of the delinquency and impending termination, at least 10 days prior to the proposed termination, by means of a notice mailed, postage prepaid, to the customer to whom the service is billed, not earlier than 19 days from the date of mailing the corporation's bill for services, **and the 10-day period shall not commence until five days after the mailing of the notice**. (Emphasis added.)

[32] PU Code Section **779**.1. (b) Every corporation shall make a reasonable attempt to contact an adult person residing at the premises of the customer by telephone or personal contact at least 24 hours prior to any termination of service, except that, whenever telephone or personal contact cannot be accomplished, the corporation shall give, either by mail or in person, a notice of termination of service at least 48 hours prior to termination.

[33] Section 779(c) Any residential customer who has initiated a complaint or requested an investigation within five days of receiving the disputed bill, or who has, before termination of service, made a request for extension of the payment period of a bill asserted to be beyond the means of the customer to pay in full within the normal period for payment, shall be given an opportunity for review of the complaint, investigation, or request by a review manager of the corporation. The review shall include consideration of whether the customer shall be permitted to amortize any unpaid balance of the delinquent account over a reasonable period of time, not to exceed 12 months. No termination of service shall be effected for any customer complying with an amortization agreement, if the customer also keeps the account current as charges accrue in each subsequent billing period.

payment plans, before effecting any disconnection of service for nonpayment or inability to pay energy bills in full.[34]

- A customer signing up for the Prepay option may be foregoing disconnection protections without being aware of it. It cannot be shown that a customer has knowingly and voluntarily relinquished these protections if she or he signs up for this program.

In addition, and for the for sake of efficiency, DRA incorporates by reference arguments made by The Utility Reform Network ("TURN") and San Diego Consumers' Action Network ("SDCAN") on SDG&E's proposed Prepay program.

B. Energy Services are Essential and Disconnections should be Avoided whenever Possible

SDG&E acknowledges that the four-day period for disconnection is much shorter than the disconnection period for traditional post-pay customers. However, SDG&E argued that the shorter disconnection period is a necessary trade-off for not requiring a two-month deposit from Prepay customers.[35] DRA does not find such a trade-off to be reasonable.

In AB 1X, the Legislature declared: "The furnishing of reliable reasonably priced electric service is essential for the safety, health, and well-being of the people of California[36]." A disconnection could cause customers to rely upon unsafe measures in lieu of electricity. These include using candles for lighting during the night, which could result in accidentally setting a house on fire. This provision could cause substantial public health problems and safety hazards. For example, a disconnection could spoil

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[34] PU Code Section 794(3) (A) Provide information about the CARE program and other assistance programs, and attempt to qualify customers for CARE, and provide information about individual payment arrangements that allow customers to pay the amounts due over a reasonable period of time, not to exceed 12 months, and attempt to enroll customers in a payment arrangement program, before effecting any disconnection of service for nonpayment or inability to pay energy bills in full.

[35] Ex.SDG&E-9, p. DWC-5.

[36] D.02-02-051, mimeo, finding of fact 1.

medicine stored in a refrigerator for people who may not be on medical baseline but who must use medications occasionally.

SDG&E proposes to allow one percent of SDG&E's residential customers to participate in the Prepay program, which would represent more than 124,000 customers. This is a significant number of customers.[37] SDG&E's latest disconnect rate is about 2 to 3.5%. With shorter notice periods for prepay customers, their disconnect rate could increase substantially.[38] Moreover, the Smart Meter remote disconnect feature allows SDG&E to turn off the power quickly[39] without having to send field employees to the customer's residence, eliminating any possibility of checking for any unsafe disconnection situations.

There are also scenarios that could increase the possibility of Prepay customers being disconnected immediately by SDG&E's smart meter remote disconnection:[40]

- If, during electricity rates spikes, customers do not immediately react to manage their usage, resulting in a more rapid depletion of the Prepay credit.
- If the number of persons in a customer's household increases, or a customer or someone in the household experiences an unexpected illness, and thus consumes more energy than expected, depleting the Pre-pay credit more quickly and leaving the customer unprepared to address the exhaustion of prepay funds.

The human costs and risks associated with energy service disconnection are difficult to measure. The Prepay program could lead to more and quicker service disconnections, creating hardship and increased costs for SDG&E's most vulnerable customers.

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[37] Ex. DRA-1, p.7-5.

[38] Ex. DRA-1, p.7-5.

[39] Ex. DRA-1, p.7-5.

[40] Ex.DRA-1, pp.7-5 & 7-6.

C. The Commission should Adopt DRA's Proposal Provide Customer Budget Management Tools in lieu of SDG&E's Opt-in Prepay Program.

SDG&E touted its Prepay Programs by stating that these programs would provide some flexibility and benefits to the customers, and it also noted that it would supplement the Prepay Programs with various account management and notification tools.[41] Though DRA opposes the Prepay Program, it urges that the account management and notification tools be offered to all smart meter customers who are interested in budgeting and managing their energy expenditures. DRA suggests that the customers be able to set different budget amount thresholds for notification and the frequency of notification. SDG&E should allow the customers to customize the method for notification (i.e., text message, email, and automated phone call) of account balances. In addition, the account balances should be updated daily, and the customers should be able to view their daily balance by logging into their accounts online using MyAccount, or by dialing into an Interactive Voice Recognition ("IVR") system. Finally, customers should be afforded payment options including 1) a 24-hour online payment provision linking to a bank account and making payments from the bank account using MyAccount, 2) 24-hour online use of a credit or debit card via SDGE's processing vendor BillMatrix, 3) contact by telephone using an automated IVR system, or 4) payment by cash or check at one of SDG&E's branch offices or Authorized Payment Locations.[42]

In its rebuttal testimony, SDG&E notes that such tools are either already available or will become available for all customers by January 1, 2014.[43] However, it argued that to provide these account management tools to the budgeting tools alone would not be as effective if they were not combined with a Prepay option.

[41] Ex. SDG&E-9, p. DWC-4.

[42] Ex. DRA-1, p.7-10.

[43] Ex. SDG&E-18, p. DWC-9.

> Knowing your month-to-date bill is not as effective as being able to set aside a limited budget in advance by prepaying for energy usage. SDG&E agrees with DRA's claim that residential customers have invested in the advanced metering infrastructure ("AMI") and should be given the opportunity to realize the potential benefits of Smart Meter Technologies…. [T]here are customers who would prefer the additional functionality of allocating their resources for utility service in advance. By implementing a Prepay Program, customers can decide for themselves if the budgeting tools are sufficient for their planning needs or if they would rather leverage the prepayment option.

This misses DRA's point. DRA emphasized that, before trying the Prepay program, SDG&E should provide the budget tools without the drastic disconnection policy. Through employee training, such tools also should be recommended to customers who could be in imminent danger of service shut offs:

> The customers could choose to establish a monthly (or weekly) budget and be notified if they do or are likely to miss their set budget goals…. SDG&E also should train its customer service representatives to alert customers about these budget tool options, especially customers who are in imminent danger of service shut offs[44].

As DRA stated and SDG&E cited in its rebuttal, residential customers have invested in the AMI and should be given the opportunity to realize the potential benefits of Smart Meter Technologies first. This is over an $800 million investment and cost could continue to grow[45]. It would be preferable to offer some of these potential AMI benefits to customers without requiring that customers participate in such a risky program. If the customers become more conscious about their energy consumption and costs, and take active steps to reduce consumption or to make prompt payments, SDG&E could achieve its goals of reducing disconnections and bad debt without risking

[44] Ex.DRA-1, p.7-10.

[45] The original AMI proceeding approved $572 million (for years between 2008 – 2012) in D.07-04-043, the Dynamic Pricing PD approved $92 million, and there are on-going costs to be requested in future proceedings.

customers' safety or disconnecting essential services unnecessarily. Furthermore, if customers became accustomed to such a system, they could be educated to be more responsive to time-varying rates and other demand response programs[46].

V. CONCLUSION

For the foregoing reasons, DRA recommends that the Commission reject SDG&E's proposal to institute a residential customer charge on legal and policy grounds and reject SDG&E's proposal for a three tier residential rate design. DRA recommends that the Commission adopt a cap of 18 cents per kWh for CARE Tier 3 rates. All CARE costs should be allocated on an equal cents per kWh basis. SDG&E's Prepay program, which would remove substantial customer protections from disconnections, should also be rejected.

Respectfully submitted

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[46] Ex.DRA-1, p.7-10.