

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Application of San Diego Gas & Electric Company (U902E) for Authorization to Recover Costs Related to the 2007 Southern California Wildfires Recorded in the Wildfire Expense Memorandum Account (WEMA).

Application 15-09-010
(Filed September 25, 2015)

OPENING BRIEF ON THRESHOLD ISSUES

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May 11, 2016

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I. INTRODUCTION

Pursuant to the *Scoping Memo and Ruling of Assigned Commissioner and Assigned Administrative Law Judge*, dated: April 11, 2016 (“Scoping Memo”), the Office of Ratepayer Advocates (“ORA”) submits this Opening Brief on Threshold Issues (“Opening Brief”). This Opening Brief is timely filed.¹

II. As Shown By the Heat Storm Decision, Costs Booked to a Memorandum Account Can be Dismissed Based on Threshold Issues.

In the Heat Storm Decision, Pacific Gas and Electric Company (“PG&E”) was denied Catastrophic Event Memorandum Account (“CEMA”) treatment for its costs associated with the July 2006 Heat Storm.²

While PG&E’s application included disaster declarations, it lacked *competent* disaster declarations. The Heat Storm Decision found that: “PG&E’s currently effective CEMA tariff includes the requirement that there be a declaration of emergency by a

¹ Scoping Memo at 7.

² D.07-07-041 at 23 (Ordering Paragraph 1).

competent state or federal authority.”³ The Commission noted the objection raised by the Division of Ratepayer Advocates (“DRA”, ORA’s predecessor):

If there were no specific criteria for the type of catastrophic events that implicate CEMA-eligibility, such as disaster declarations by competent state or federal authorities, then PG&E could file for recovery of costs between rate cases any time it merely alleges that a catastrophic event occurred. Thus, after a Commission decision approving a rate case settlement or a ruling in favor of DRA or other consumer advocates on various issues in a litigated decision, PG&E could file to recover costs it simply had not forecasted, attempt to double recover costs, or not spend ratepayer-funded amounts on certain items, and then claim these items in a CEMA account for repairing, replacing or restoring damaged utility facilities. Consequently, absent this specific criteria for a catastrophic event, PG&E could nullify the benefit to PG&E’s ratepayers of a compromise, which PG&E agreed to in a rate case settlement, or the favorable rulings for ratepayers in a litigated rate case. Conversely, there is no remedy for ratepayers between rate cases for decreasing PG&E’s rates if it forecasted higher costs than what it subsequently incurred.⁴

Similarly, in this case, SDG&E has failed to establish why ratepayers should be forced to pay for lawsuit costs in between rate cases, when such costs are generally determined prospectively. Ratepayers do not have a meaningful opportunity to obtain refunds if lower litigation costs occur between rate cases.

III. SDG&E has Already Been Compensated for Its Inaccurate Insurance Predictions Through the Z Factor Mechanism.

Insurance should generally cover settlements with civil plaintiffs. SDG&E’s inaccurate predictions regarding its insurance needs have already been expansively alleviated through the Z Factor Decision and subsequent Advice Letters. Through the Z Factor mechanism, SDG&E has recovered over \$120 million in increased revenue

³ D.07-07-041 at 22 (Finding of Fact 4).

⁴ D.07-07-041 at 11, citing DRA Reply Brief at 13.

requirement, above and beyond its 2008 authorized insurance premium of \$4.5 million.⁵
The instant application inappropriately seeks an additional layer of protection for
SDG&E's inaccurate insurance predictions.

IV. CONCLUSION

For the foregoing reasons, the Commission should dismiss the instant application.

Respectfully Submitted,

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⁵ See D.10-12-053 at 43 (Finding of Fact 9), 46 (Ordering Paragraph 2, Ordering Paragraph 4);
Resolution E-4450 at 25 (Ordering Paragraph 1); Resolution E-4484 at 24 (Ordering Paragraph 1).