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

Application of San Diego Gas & Electric Company (U902E) for Approval of: (i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2016, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account and Transition Cost Balancing Account in 2016 and (iii) Costs Recorded in Related Regulatory Accounts in 2016.

Application 17-06-006

**ADMINISTRATIVE LAW JUDGE'S RULING RECEIVING EXHIBITS  
INTO THE EVIDENTIARY RECORD AND GRANTING THREE MOTIONS TO  
SEAL PORTIONS OF THE RECORD**

**Summary**

This ruling grants motions filed by San Diego Gas & Electric Company (SDG&E) and the Public Advocates Office of the Public Utilities Commission (Cal PA)<sup>1</sup> to offer testimony and exhibits into evidence and admits the exhibits into the evidentiary record of this proceeding, as further described below. This Ruling also grants a joint motion of SDG&E and Cal PA and separate motions filed by SDG&E and Cal PA to seal portions of the evidentiary record.

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<sup>1</sup> The Office of Ratepayer Advocates was renamed the Public Advocates Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

**Background**

On April 24, 2018, San Diego Gas & Electric Company (SDG&E) and the Public Advocates Office of the Public Utilities Commission (Cal PA) jointly filed a motion for approval of a proposed settlement. On the same day, SDG&E and Cal PA jointly filed a motion for leave to file confidential material under seal. Following a review of the motion for approval of the settlement, the assigned Administrative Law Judge issued a Ruling instructing SDG&E and Cal PA to correct several errors with the filing and refile the motion.<sup>2</sup> SDG&E and Cal PA complied in a timely manner.

On July 27, 2018, SDG&E filed two motions: one to offer prepared testimony, appendices, and an exhibit into the evidence and one to seal a portion of the record. Cal PA also separately filed two motions: one to offer testimony into evidence and admit testimony into the record under Rule 13.8(c) and one to seal a portion of the evidentiary record (i.e., the documents listed as confidential in Table 1). No party filed opposition to any of the four motions.

The testimony SDG&E and Cal PA offer into evidence is listed in Table 1 below.

<b>Table 1</b> <b>Application 17-06-006</b> <b>Testimony and Supporting Documents</b>		
Exhibit No.	Title	Sponsor
SDG&E-1	Direct Testimony of Ana Garza-Beutz(Public)	SDG&E
SDG&E-1C	Direct Testimony of Ana Garza-Beutz (Confidential)	SDG&E

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<sup>2</sup> Administrative Law Judge Email Ruling, July 20, 2018.

<p style="text-align: center;"><b>Table 1</b>  <b>Application 17-06-006</b>  <b>Testimony and Supporting Documents</b></p>		
SDG&E-2	Direct Testimony of Sheri S. Miller (Public)	SDG&E
SDG&E-2C	Direct Testimony of Sheri S. Miller (Confidential)	SDG&E
SDG&E-3	Direct Testimony of Joseph Pasquito (Public)	SDG&E
SDG&E-3C	Direct Testimony of Joseph Pasquito (Confidential)	SDG&E
SDG&E-4	Direct Testimony of Daniel L. Sullivan (Public)	SDG&E
SDG&E-4C	Direct Testimony of Daniel L. Sullivan (Confidential)	SDG&E
SDG&E-5	Direct Testimony of Carl S. LaPeter (Public)	SDG&E
SDG&E-6	Direct Testimony of Joseph Pasquito Revised JP-27 and JP-30 (Public)	SDG&E
SDG&E-7C	Direct Testimony of Joseph Pasquito Revised Attachment A (Confidential)	SDG&E
SDG&E-8C	Direct Testimony of Joseph Pasquito Revised Attachment B (Confidential)	SDG&E
SDG&E-9C	Direct Testimony of Joseph Pasquito Revised Attachment G (Confidential)	SDG&E
SDG&E-10	Rebuttal Testimony of Monica Chihwaro (Public)	SDG&E
SDG&E-11	Rebuttal Testimony of Ana Garza-Beutz (Public)	SDG&E
SDG&E-11C	Rebuttal Testimony of Ana Garza-Beutz (Confidential)	SDG&E
SDG&E-12	Rebuttal Testimony of Carl S. LaPeter (Public)	SDG&E
SDG&E-13	Rebuttal Testimony of Joseph Pasquito (Public)	SDG&E

<p style="text-align: center;"><b>Table 1</b>  <b>Application 17-06-006</b>  <b>Testimony and Supporting Documents</b></p>		
SDG&E-13C	Rebuttal Testimony of Joseph Pasquito (Confidential)	SDG&E
SDG&E-14	Rebuttal Testimony of Daniel L. Sullivan (Public)	SDG&E
SDG&E-14C	Rebuttal Testimony of Daniel L. Sullivan (Confidential)	SDG&E
SDG&E-15	Data Requests to Cal PA (11/6/17) and Responses from Cal PA (12/15/17) (Public)	SDG&E
CPA-1	Cal PA Testimony (Public)	Cal PA
CPA-1C	Cal PA Testimony (Confidential)	Cal PA
CPA-2	Cal PA Testimony Errata (Public)	Cal PA
CPA-2C	Cal PA Testimony Errata (Confidential)	Cal PA

### **July 27, 2018 Motions to Offer Testimony into Evidence**

On July 27, 2018, SDG&E and Cal PA each separately filed a motion to offer testimony into evidence and admit testimony into the record of this proceeding. The exhibits listed in Table 1 above are hereby identified and marked as indicated in Table 1. There being no objection to the two motions to admit the testimony into the record of the proceeding, the exhibits listed in Table 1 are received into evidence.

### **April 24, 2018 Joint Motion for Leave to File Under Seal**

On April 24, 2018, SDG&E and Cal PA jointly filed a motion for leave to file under seal, seeking to file under seal the confidential version of its joint motion for approval of its proposed settlement. According to the April 24, 2018

motion for leave to file under seal, the joint motion for approval of proposed settlement and its associated Attachment 3 include nearly entirely public information, with a few very discrete pieces of confidential information. SDG&E and Cal PA contend the limited confidential items are confidential pursuant to Decision 06-06-066<sup>3</sup> and General Order 66-D<sup>4</sup> and therefore not subject to public disclosure. A table attached to the motion for approval of the settlement: 1) describes the material for which SDG&E and Cal PA seek confidential treatment; 2) states whether confidentiality treatment is pursuant to D.06-06-066 and/or other authority; and 3) for protection pursuant to D.06-06-066, provides the category or categories to which the data correspond.

Upon review, the joint motion of SDG&E and Cal PA requesting to file under seal the confidential version of its joint motion for approval of proposed settlement meets the requirements of D.06-06-066, Ordering Paragraph 2, in that: 1) the material being considered for confidentiality constitutes a particular type of data listed in D.06-06-066; 2) the table attached to the joint motion regarding the settlement indicates which category or categories the data corresponds to; 3) the joint motion regarding the settlement indicates compliance with the limitations on confidentiality specified in D.06-06-066; 4) the data being considered for confidentiality is not already public; and 5) the data cannot be aggregated, redacted, summarized, masked, or otherwise protected in a way that

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<sup>3</sup> D.06-06-066 implemented Senate Bill No. 1488 (2004 Cal. Stats. Ch. 690 (Sept. 22, 2004)), which required the Commission to examine its practices regarding confidential information.

<sup>4</sup> General Order 66-D (adopted 9/28/17; effective 1/1/18 pursuant to D.17-09-023) provides procedures for submission of information to the Commission with claims of confidentiality.

allows partial disclosure. No party filed opposition to the joint motion to file under seal the confidential version of its motion for approval of proposed settlement. It is, therefore, reasonable to grant the request to file under seal the confidential version of the joint motion for approval of proposed settlement for a period of no more than three years following the issuance of this Ruling, as indicated in D.06-06-066, Ordering Paragraph 1.

**July 27, 2018 SDG&E Motion for Leave to Seal a Portion of the Record**

On July 27, 2018, SDG&E filed a motion requesting to seal a portion of the evidentiary record. Specifically, SDG&E requests to seal the exhibits listed in Table 2 below:

<b>Table 2 Application 17-06-006 Exhibits Requested by SDG&amp;E to be Sealed</b>	
<b>Exhibit No.</b>	<b>Title</b>
SDG&E-1C	Direct Testimony of Ana Garza-Beutz (Confidential)
SDG&E-2C	Direct Testimony of Sheri S. Miller (Confidential)
SDG&E-3C	Direct Testimony of Joseph Pasquito (Confidential)
SDG&E-4C	Direct Testimony of Daniel L. Sullivan (Confidential)
SDG&E-7C	Direct Testimony of Joseph Pasquito Revised Attachment A (Confidential)
SDG&E-8C	Direct Testimony of Joseph Pasquito Revised Attachment B (Confidential)
SDG&E-9C	Direct Testimony of Joseph Pasquito Revised Attachment G (Confidential)
SDG&E-11C	Rebuttal Testimony of Ana Garza-Beutz (Confidential)

<b>Table 2</b> <b>Application 17-06-006</b> <b>Exhibits Requested by SDG&amp;E to be Sealed</b>	
SDG&E-13C	Rebuttal Testimony of Joseph Pasquito (Confidential)
SDG&E-14C	Rebuttal Testimony of Daniel L. Sullivan (Confidential)

SDG&E provides that each confidential version of testimony contains the respective witness' declarations explaining which aspects of their testimonies are confidential under the Commission's requirements. Additionally, SDG&E declares an alternative basis for requesting confidential treatment and submits that the project status information provided is material, market sensitive, electric procurement-related information protected under Public Utilities Code Section 454.5(g) and Section 583 and is also trade secret information protected under Government Code Section 6254(k). Further, SDG&E contends disclosure of this information would place SDG&E at an unfair business disadvantage, triggering the protection of General Order 66-D.

Upon review, the motion of SDG&E requesting to file under seal the confidential testimony meets the requirements of D.06-06-066, Ordering Paragraph 2, in that: 1) the material being considered for confidentiality constitutes a particular type of data listed in D.06-06-066; 2) the tables attached to the confidential exhibits indicate which category or categories the data corresponds to; 3) the tables attached to the confidential exhibits indicate compliance with the limitations on confidentiality specified in D.06-06-066; 4) the data being considered for confidentiality is not already public; and 5) the data cannot be aggregated, redacted, summarized, masked, or otherwise protected in a way that allows partial disclosure. No party filed opposition to the joint motion to file under seal the confidential version of testimony. It is, therefore,

reasonable to grant the request to file under seal the confidential version of SDG&E's testimony for a period of no more than three years following the issuance of this Ruling, as indicated in D.06-06-066, Ordering Paragraph 1.

**July 27, 2018 Cal PA Motion for Leave to Seal a Portion of the Record**

On July 27, 2018, Cal PA filed a motion requesting to seal a portion of the evidentiary record. Specifically, Cal PA requests to seal the exhibits listed in Table 3 below:

<b>Table 3 Application 17-06-006 Exhibits Requested by Cal PA to be Sealed</b>	
<b>Exhibit No.</b>	<b>Title</b>
CPA-1C	Cal PA Testimony (Confidential)
CPA-2C	Cal PA Testimony Errata (Confidential)

Cal PA contends the exhibits listed in Table 3 contain information identified by SDG&E as confidential pursuant to D.06-06-066 and D.08-04-023.<sup>5</sup> Additionally, Cal PA provides the Declaration of its witness, Mea Halperin, declaring the confidential nature of these two exhibits.

Upon review, the motion of Cal PA requesting to file under seal its confidential testimony did not contain sufficient evidence to rule on the motion, as there was no proof, as described in Ordering Paragraph 2 of D.06-06-066, that the information contained in the Cal PA exhibits is confidential. Cal PA stated

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<sup>5</sup> D.08-04-023 adopted a model protective order and non-disclosure agreement. Most relevant to this decision, D.08-04-023 revised the confidentiality matrix referenced throughout this decision.



that SDG&E had identified the Cal PA testimony and errata as confidential. As such, an email ruling was issued on September 6, 2018 instructing SDG&E to file a late-filed reply to the July 27, 2018 Cal PA motion and provide the appropriate description of the protected information pursuant to D.06-06-066. On September 18, 2018, SDG&E complied with the Ruling and filed a confidentiality matrix and additional confidentiality declarations.

Upon review of the additional materials filed by SDG&E, the motion of Cal PA requesting to file under seal its confidential testimony meets the requirements of D.06-06-066, Ordering Paragraph 2, in that: 1) the material being considered for confidentiality constitutes a particular type of data listed in D.06-06-066; 2) the tables attached to the confidential exhibits indicate which category or categories the data corresponds to; 3) the tables attached to the confidential exhibits indicate compliance with the limitations on confidentiality specified in D.06-06-066; 4) the data being considered for confidentiality is not already public, and 5) the data cannot be aggregated, redacted, summarized, masked, or otherwise protected in a way that allows partial disclosure. No party opposed the motion and SDG&E's filed materials support the request for confidentiality. It is, therefore, reasonable to grant the request to file under seal the confidential version of Cal PA's testimony for a period of no more than three years following the issuance of this Ruling, as indicated in D.06-06-066, Ordering Paragraph 1.

**IT IS RULED** that:

1. The July 27, 2018 motions of the Public Advocates Office of the Public Utilities Commission (Cal PA) and San Diego Gas & Electric Company (SDG&E) requesting to mark and enter the documents listed in Table 1 of this ruling into the evidentiary record of Application 17-06-006 are granted.

2. The exhibits identified in Table 1 of this ruling are received into evidence.

3. The April 24, 2018 joint motion of SDG&E and Cal PA for leave to file confidential materials under seal is granted.

4. The confidential version of the motion of SDG&E and the Cal PA for approval of proposed settlement shall be considered sealed and remain as such for a period of three years from the issuance of this Ruling. During this three-year period, this information shall not be publicly disclosed except on further Commission order or Administrative Law Judge (ALJ) ruling. If either SDG&E or the Cal PA believes that it is necessary for this information to remain under seal for longer than three years, a new motion showing good cause for extending this order shall be filed no later than 30 days before the expiration of this order.

5. The July 27, 2018 motion filed by SDG&E requesting the exhibits listed in Table 2 of this ruling be sealed is granted.

6. The exhibits listed in Table 2 of this ruling shall be considered sealed and remain as such for a period of three years from the issuance of this ruling. During this three-year period, this information shall not be publicly disclosed except on further Commission order or ALJ ruling. If SDG&E believes that it is necessary for this information to remain under seal for longer than three years, a new motion showing good cause for extending this order shall be filed no later than 30 days before the expiration of this order.

7. The July 27, 2018 motion filed by the Cal PA requesting the exhibits listed in Table 3 of this ruling be sealed is granted.

8. The exhibits listed in Table 3 of this ruling shall be considered sealed and remain as such for a period of three years from the issuance of this ruling. During this three-year period, this information shall not be publicly disclosed except on further Commission order or ALJ ruling. If the Cal PA believes that it

