

Decision 17-06-009 June 15, 2017

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas & Electric Company for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project.

Application 06-08-010
(Filed August 4, 2006)

**DECISION DISMISSING PETITION FOR MODIFICATION
AS MOOT AND FINDING COMPLIANCE WITH DECISION 08-12-058
REPORTING REQUIREMENTS**

Summary

This decision dismisses the Petition for Modification of Decision 08-12-058 (PFM) filed by San Diego Gas & Electric Company (SDG&E) regarding the maximum cost of the Sunrise Powerlink Transmission Project (Sunrise Powerlink). After considering the specific facts of the Sunrise Powerlink and the request, we find that the PFM should be dismissed because the request is moot. Because we find that the PFM is moot, it is not necessary to address the merits of SDG&E's request or to reach a legal conclusion regarding the extent of Commission jurisdiction over cost changes in transmission line construction.

This decision also finds that SDG&E complied with the minimum quarterly reporting requirements set by Decision 08-12-085. The required reporting was intended to keep the Commission up to date on significant changes in the project, and included specific minimum categories of information as well as "any additional information SDG&E believes relevant and necessary to

accurately convey the status of the Sunrise project.”¹ Going forward, we direct SDG&E to take a less restrictive view when determining what information is likely to be relevant for the Commission in project compliance reports.

1. Procedural and Legal Background

In 2008, this Commission approved the Sunrise Powerlink Transmission Project (Sunrise Powerlink) in Decision (D.) 08-12-058. The approved Sunrise Powerlink consists of 123 miles of 500 and 230 kilovolt (kV) transmission line which crosses many different local, state and federal jurisdictions including National Forest land.² The project was expected to cost nearly \$2 billion. The Sunrise Powerlink application was controversial; in addition to the Administrative Law Judge’s (ALJ’s) proposed decision, Commissioner Grueneich and President Peevey each issued an alternate proposed decision. Commissioner Grueneich and Commissioner Bohn each filed a concurrence to the final decision. D.08-12-058 granted a Certificate of Public Convenience and Necessity (CPCN) to San Diego Gas & Electric Company (SDG&E) to build the Sunrise Powerlink conditioned on a maximum cost of \$1.883 billion.³

On August 18, 2015, SDG&E filed a Petition for Modification (PFM) of D.08-12-058 requesting that the maximum cost set by D.08-12-058 be increased.

Under Section 1005.5 of the Public Utilities Code,⁴ when granting a CPCN, the Commission must specify a “maximum cost determined to be reasonable and

¹ D.08-12-058 Ordering Paragraph 13.

² D.08-12-058 at 1 and 249.

³ All amounts are in 2012 dollars.

⁴ All subsequent section references are to the California Public Utilities Code unless otherwise indicated. For ease of reference, Section 1005.5 is included as Attachment A to this decision.

prudent for the facility.” The Commission is also responsible for approving the environmental review of the project under the California Environmental Quality Act (CEQA).⁵ Although the Commission is responsible for ensuring fair and reasonable electricity rates,⁶ the Federal Energy Regulatory Commission (FERC) has jurisdiction to set rates to recover transmission costs.

D.08-12-058 set a maximum cost of \$1.883 billion, subject to certain adjustments. The largest adjustment would apply if SDG&E was not permitted to underground the line along Alpine Boulevard as planned. In that event, the cost cap was to be reduced commensurate with the estimated savings from not undergrounding the line. D.08-12-058 set a formula to be used to calculate the reduction. The active parties in this proceeding have stipulated that the adjusted cost cap, taking into consideration all adjustments required by D.08-12-058, is approximately \$1.800 billion.⁷

The PFM requests that the original cost cap be increased. Although the new maximum cost proposed by SDG&E is only approximately \$4.4 million more than the original cost cap of \$1.883 billion, it is approximately \$80 million more than the adjusted cost cap of approximately \$1.800 billion.

SDG&E cites two significant areas of increased costs: (1) environmental mitigation and monitoring costs are nearly double the original estimate; and (2) a change order dispute with the construction contractor led to a \$65 million settlement.

⁵ CEQA is codified at California Public Resources Code Sections 21000–21189 with CEQA Guidelines at California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387.

⁶ See Section 451.

⁷ January 7, 2016 Scoping Amendment 1 at 3.

Table Summarizing Changes (excerpt from SDG&E petition):
(in millions of 2012\$)

	Estimated Cost	Recorded cost	Over/Under
Construction costs & AFUDC	\$1,594.2	\$1,490.9	(\$103.3)
Alpine undergrounding ⁸	\$91.0	\$11.7	(\$79.3)
Mitigation & Monitoring	\$197.8	\$384.8	\$187.0
TOTAL	\$1,883.0	\$1887.4	\$4.4

San Diego Consumers Action Network (SDCAN) filed a response to the PFM on September 16, 2015 and SDG&E replied on September 28, 2015. A Prehearing Conference (PHC) was held on December 22, 2015. An Amendment to Scoping Memo was issued on January 7, 2016 (Scoping Amendment 1). As permitted by Scoping Amendment 1, SDG&E and SDGAN filed opening briefs on January 22, 2016 and reply briefs on February 12, 2016 on threshold legal issues regarding what level of review should apply to SDG&E's request to increase the cost cap. Southern California Edison Company (SCE) also filed an opening brief. Scoping Amendment 1 set a second PHC for April 7, 2016 to address the briefs on legal issues, but that date was suspended to allow additional time for review of the briefs.

The briefs raise a number of important issues regarding what level of review, if any, is required from the Commission at this time. Scoping

⁸ Because SDG&E was unable to get permits for all of the Alpine undergrounding, the recorded cost was substantially reduced. However, D.08-12-058 set a formula for reducing the cost cap on a per mile basis if SDG&E was unable to get the permits.

Amendment 1 contemplated a review to determine if SDG&E's additional expenditures were reasonable. The reasonableness standard is used frequently by the Commission. However, as SCE pointed out in its opening brief, "determination of the reasonableness of costs and associated ratemaking and revenue requirement fall under the sole jurisdiction of FERC." The Commission would not have been reviewing the reasonableness of costs for the purpose of setting transmission rates. SCE's arguments, however, highlight the question of whether, given the facts of the Sunrise Powerlink, it is an efficient and appropriate use of the Commission's resources for the Commission to review the reasonableness of an increase in costs at this time.

SDCAN agrees that the request to increase the cost cap is moot.⁹ SDCAN argues that Section 1005.5 requires SDG&E to obtain a cost cap increase from the Commission. Section 1005.5(b) allows the Commission to increase a cost cap if it finds that "the cost has in fact increased and that the present or future public convenience and necessity require construction of the project at the increased cost." But this statutory authority to increase the cost cap in connection with a CPCN contemplates that the project is not yet constructed when the request for an increase is made.

SDG&E recommends that if the Commission agrees with SDCAN that Section 1005.5(b) is limited to pre-completion adjustments to the cost cap, "the Commission should simply dismiss the petition and defer recovery of the costs at issue to [FERC]." ¹⁰

⁹ SDCAN Opening Brief at 4.

¹⁰ SDG&E Reply Brief at 3.

To protect ratepayers, D.08-12-058 required SDG&E to file quarterly reports on the Sunrise Powerlink project construction status.¹¹ The reporting requirements set forth in Ordering Paragraph 13 of D.08-12-058 are as follows:

SDG&E shall file quarterly Sunrise project status updates. Contained in these status reports shall be, at minimum, a comprehensive project development schedule, including estimated project in-service date; any changes in project scope and schedule, including the reasons for such changes ; any engineering difficulties encountered in constructing the project; the need for the Encina transformer, the cost of undergrounding in Alpine Boulevard, and the amount of undergrounding contemplated; total estimated project costs; actual spending to date; any and all filings submitted to FERC for ultimate cost recovery through transmission rates; and, any additional information SDG&E believes relevant and necessary to accurately convey the status of the Sunrise project. This quarterly report shall be served (but not filed) on each Commissioner, the Director of the Commission's Energy Division, and the service list for A.06-08-010.

In its filings related to the PFM, SDCAN raised significant concerns about whether SDG&E complied with the D.08-12-058 reporting requirements.

Because Sunrise Powerlink was one of the largest and most complicated transmission projects in California's history, the Commission sought to protect ratepayers from changes in cost. The quarterly reports were the primary protection for California ratepayers instituted by D.08-12-058. SDG&E was required to file these reports during construction.¹² SDG&E began filing the

¹¹ In his concurrence, Commissioner Bohn cited the quarterly project status updates, stating that the reports would allow the Commission to "be better able to monitor the total costs of Sunrise and evaluate SDG&E's performance." D.08-12-058 Bohn Concurrence at 3.

¹² D.08-12-058 at 273. Initially, the quarterly reports were served on the service list and provided to Energy Division, but, by subsequent ruling, the reports were required to be formally filed (including service on the service list).

reports in 2009. Sunrise was energized in 2012. Construction was completed in 2013. SDG&E continued to file quarterly reports, the most detailed of which is Quarterly Report 25, dated April 22, 2015, filed after construction was completed. Quarterly Report 25 includes significantly more detailed information on expenditures – especially estimated environmental mitigation and monitoring expenditures – than any previous quarterly report. By ruling on May 13, 2016, SDG&E was directed to file additional information regarding the cost cap and SDG&E’s compliance with D.08-12-058’s reporting requirements.

SDG&E’s supplemental filing was made on May 13, 2016. By ruling on June 6, 2016 the assigned ALJ suspended the procedural calendar. On July 29, 2016, in light of arguments made in the briefs, the assigned ALJ issued a ruling proposing to modify the scope of the proceeding. A PHC was held on August 15, 2016. The Second Amendment to Scoping Memo and Ruling of Assigned Commissioner (Scoping Amendment 2) was issued on August 29, 2016.

Opening briefs were served by both SDG&E and SDCAN on September 9, 2016, and reply briefs were served by both parties on September 16, 2016. Because SDCAN’s opening brief included extra-record attachments, initially only SDG&E’s opening brief was accepted for filing. By ruling on January 4, 2017, the assigned ALJ accepted SDCAN’s opening brief for filing, and the two other briefs were then filed as well. The record regarding the PFM stands submitted as of January 4, 2017.

2. Scope

Scoping Amendment 2 amended the scope for today’s decision so that it addresses only the following two questions:

1. Given the particular facts of this case, is SDG&E’s request for a cost cap increase moot?

2. Did SDG&E comply with D.08-12-058 reporting requirements? If not, is this noncompliance sufficient to raise a Rule 1.1 issue?

At the August PHC, the assigned ALJ clarified that this revised scope is intended to determine if SDG&E's actions complied with the quarterly reporting requirements and if SDG&E has potentially violated Rule 1.1. If either of these issues is determined in the affirmative, then a separate investigation would be opened to determine if there was actually a violation of Rule 1.1 or the Reporting Requirements, and if a penalty is warranted.

Scoping Amendment 2 also invited parties to suggest alternatives for more effective reporting on construction project milestones and costs for future construction projects.

3. Discussion

3.1. Mootness

A case is moot when the result would have no practical significance.¹³ We may apply the doctrine of mootness when there is no longer any actual controversy for which a Commission decision would have practical significance.¹⁴

Section 1005.5 requires the Commission to set the cost cap. Section 1005.5 also includes a procedure for changing the cost cap prior to completion of a project.¹⁵ That procedure is prospective, and requires the Commission to make

¹³ Black's Law Dictionary (9th ed. 2009).

¹⁴ See, e.g., D.03-06-076 citing *City of Los Angeles v. County of Los Angeles* (1983) 147 Cal. App.3d 952, 958.

¹⁵ Specifically, Section 1005.5 states, "[t]he commission may authorize an increase in the specified maximum cost if it finds and determines that the cost has in fact increased and that the

Footnote continued on next page

findings as to whether the cost has in fact increased and whether public convenience and necessity requires construction of the project at the increased cost.

The Sunrise Powerlink project has already been built and put in service. SDG&E has already incurred the costs of construction. Section 1005.5 does not address whether or how changes could be made to the cost cap for a completed project. The determination of whether SDG&E can include these costs in rates is not before the Commission. Although the Commission must set a cost cap for transmission projects, recovery of those costs, including determination of the reasonableness of rates, is under FERC jurisdiction. The requested increase is less than 5% of the total cost of the project.

Based on this analysis, the July 29, 2016 Ruling found that the request to increase the cost cap is moot. However, in order to ensure parties had the opportunity to raise any legal arguments regarding mootness before issuance of a final decision affirming this finding, Scoping Amendment 2 invited parties to brief the issue.

SDG&E agrees with the July 29, 2016 Ruling's analysis regarding mootness. SDCAN "might not use the term 'moot'" but agrees that because Sunrise Powerlink has already been put into operation "the request to change the cost cap is moot."¹⁶

Despite acknowledging that the request to change the cost cap is moot, SDCAN's opening brief addresses substantive issues that are outside the scope

present or future public convenience and necessity require construction of the project at the increased cost; otherwise, it shall deny the application."

¹⁶ SDCAN September 2016 Opening Brief (OB) at 4-5.

set in Scoping Amendment 2. SDG&E asserts that SDCAN's arguments are misleading, irrelevant, and wrong.¹⁷ We agree with SDG&E that these arguments are irrelevant because they go to the substantive issue of whether we should approve the cost cap change, not to whether the case is moot.¹⁸ Because we find that the request is moot, there is no reason to reach the arguments put forth by SDCAN.

In addition to the interpretation of Section 1005.5 above, our finding of mootness is informed by the following facts which are not in dispute:

(a) construction of the Sunrise Powerlink is complete, (b) the amount in dispute is less than 5% of the adjusted estimated total cost, (c) Section 1005.5 contemplates maximum cost in the context of a new or ongoing construction project.

We also find that SDG&E was required to file the request to increase the cost cap. Even though we find that this particular request for an increase in the cost cap of a transmission project is moot, a utility is still obligated to request a

¹⁷ SDG&E Reply Brief.

¹⁸ Specifically, in its opening brief, SDCAN gives the following four reasons for rejecting the PFM: (1) SDG&E's expenditures above the \$1,800 million (2012\$) cost cap are automatically treated as "imprudent" such that the cost cap cannot be increased because SDG&E violated Cal. Pub. Util. Code § 1005.5(b); (2) SDG&E's disregard for the express language of D.08-12-058 and violation of Cal. Pub. Util. Code § 702 specifically prevents the Commission from increasing the \$1,800 million (2012\$) cost cap; (3) SDG&E has failed to explain in its PFM why the 18.25% contingency factor and 11.5% rate of return included in D.08-12-058 do not address the additional costs it seeks to recover; and (4) an attempt by SDG&E to recover these costs through FERC would constitute double recovery. Although we find that it is not necessary to address these arguments directly, we note that our analysis of mootness makes it clear that SDG&E could not have violated Section 1005.5(b). In addition, we disagree with the assertion that SDG&E is seeking double recovery.

cost cap increase in the event that a transmission project exceeds the cost cap approved as part of its CPCN.

The Commission has an interest in reviewing and considering the reasonableness of cost increases on behalf of California ratepayers. This interest is demonstrated by the Commission's role in the CEQA process, in setting a cost cap, in granting a CPCN, and in representing California consumers in SDG&E's transmission owner rate cases at FERC.¹⁹ The Commission's role in setting the cost cap and in protecting ratepayers makes it clear that, even where FERC has jurisdiction to determine cost recovery, the Commission has an interest in cost increase information and reviewing the reasonableness of any cost increase.

We find that the request to raise the cost cap set forth in the instant PFM should be dismissed as moot.²⁰

3.2. Compliance with D.08-12-058 Reporting Requirements

Because the Sunrise Powerlink has already been built and put into operation, the request to change the cost cap is moot. But SDCAN raises an important issue: Did SDG&E comply with the provisions of the decision that were designed to protect California's rate payers?

D.08-12-025 required SDG&E to file quarterly reports. SDG&E's first report was filed on April 15, 2009 and its final report was filed on October 15, 2015. Aside from the final report, the reports included almost identical language under each of the subject headings. None of the reports included "additional

¹⁹ See California Public Utilities Code Section 307.

²⁰ Today's decision does not change the requirement for a PFM to be filed in similar circumstances where a maximum cost set in a CPCN has been exceeded.

information that SDG&E believes relevant and necessary to accurately convey the status of the Sunrise project.”²¹ Nonetheless, SDG&E argues that, because the reporting requirements expressly ask for the Total Estimated Cost, and because the Total Estimated Cost remained the same throughout construction (even when there were significant line item changes), the reports fulfill the requirements of D.08-12-058.

The two significant areas of cost increases identified are (1) environmental mitigation costs, and (2) a change order litigation claim filed by a construction contractor.

SDG&E included a reference to the change order dispute with the construction contractor in the 14th Quarterly Report (July 16, 2012).²² This reference can be found at the end of a lengthy paragraph stating construction was complete and the line was in service on June 17, 2012. The reference read simply, “and negotiation of the contractor claims associated with the safe acceleration of work requested by the CAISO.”²³ SDG&E provided brief updates regarding the litigation in later quarterly reports. In the 24th Quarterly Report (January 15, 2015), SDG&E stated that the arbitration claim had been settled for a cash payment of \$65 million on December 23, 2014.²⁴ The original amount of the claim (\$180 million) was not disclosed in quarterly reports until after the claim was settled.

²¹ D.08-12-058 Ordering Paragraph 13.

²² SDG&E Supplement Information Response Pursuant to May 4, 2016 ALJ Ruling (May 2016 Response) at 4.

²³ *Id.* citing 14th Quarterly Report at 2.

²⁴ *Id.* at 5 citing 24th Quarterly Report at 2.

Similarly, the 25th Quarterly Report includes detailed information on the increase in environmental mitigation and monitoring expenses. SDG&E states that:

In addition, beginning with the twenty-second quarterly report, in the item reporting “actual spending to date,” SDG&E reported the net present value (“NPV”) of environmental and restoration costs that were removed from capital and expense pursuant to a FERC settlement. At the time of the twenty-second report, most of such costs, to be paid out over a 58-year period, were estimated.²⁵

We find that SDG&E did comply with the reporting requirements. In the future, however, we direct SDG&E to be more proactive when filing reports that require “additional information . . . relevant and necessary to accurately convey the status of the Sunrise project.” In particular, this decision directs SDG&E that, in the future, significant changes in line item amounts of an approved estimated budget must always be treated as relevant and necessary to convey the status of a project.

SDCAN points out that SDG&E was required to apply to the Commission for an adjustment of the cost cap if the final, detailed engineering design-based construction estimate (1) was 1% or more less than the D.08-12-058 cost cap; or (2) if it exceeded the cost cap.²⁶ SDG&E states that it did not complete a final, detailed engineering design-based construction estimate prior to completion of the project. D.08-12-058 references a “final, detailed engineering-based construction estimate” but does not, by its plain language, set an affirmative

²⁵ May 2016 Response at 2 (footnotes omitted).

²⁶ SDCAN September 9, 2016 Opening Brief at 15-16 (citing Ordering Paragraph 6 of D.08-12-058, which states SDG&E “shall apply to the Commission for an adjustment of the cost cap” in either after a final, detailed engineering design-based construction estimate.)

requirement for SDG&E to complete such an estimate.²⁷ SDG&E has provided a detailed explanation regarding why it was not possible to complete the estimate.²⁸ SDCAN argues that the requirement to apply for an adjustment of the cost cap was triggered – even though SDG&E did not complete the estimate -- but SDCAN does not explain how. In light of the fact that SDG&E did not complete a final, detailed engineering design-based construction estimate, we find that SDG&E was not required to apply for an adjustment of the cost cap in order to comply with Ordering Paragraph 6.

Scoping Memo Amendment 2 also asked the parties to brief whether SDG&E's actions in connection with reporting constitute a violation of Rule 1.1.²⁹

²⁷ Today's decision does not address whether SDG&E's failure to complete the estimate was a violation of a Commission order or SDG&E covenant outside the plain language of D.08-12-058.

²⁸ SDG&E September 9, 2016 Opening Brief, Attachment 5.

For the reasons detailed below, SDG&E did not create a specific “final, detailed engineering design-based construction estimate” for Sunrise. This concept from D.08- 12-058 (p. 277) was not practical for the design and construction of Sunrise, because constant changes in requirements along various portions of the alignment meant that redesign continued after construction commenced. Put differently, there was never a “pencils down” moment when engineering design ceased and construction commenced. For example, final line relocations were not completed until approximately mid 2011 in order to meet the requirements. Several construction and consulting contract amendments were utilized to manage the evolving requirements throughout the project.

²⁹ Rule 1.1 states: “Any person who signs a pleading or brief, enters an appearance, offers testimony at a hearing, or transacts business with the Commission, by such act represents that he or she is authorized to do so and agrees to comply with the laws of this State; to maintain the respect due to the Commission, members of the Commission and its Administrative Law Judges; and never to mislead the Commission or its staff by an artifice or false statement of fact or law.”

SDG&E asserts that it complied with D.08-12-058 and did not take or omit any actions that would violate Rule 1.1.

SDCAN points out that in an earlier decision in this proceeding (D.09-07-018), SDG&E was found to have violated Rule 1.1 in connection with ex parte communications. SDCAN now argues that “[r]egardless of whether SDG&E sought to conceal information from the Commission, its recklessness, disregard and failure to apply the best practices and ethics mandated by D.09-07-018 in this instant proceeding warrants the initiation of an Order to Show Cause.”³⁰

While we agree with SDCAN that intent to conceal is not a requirement for a Rule 1.1 violation, we agree with SDG&E that it did not violate Rule 1.1 when it filed the quarterly reports.

In its PFM, SDG&E requested permission to terminate the quarterly reports. Scoping Amendment 1 directed SDG&E to suspend the filing of quarterly reports pending a decision on the PFM. SDG&E states that all open issues were resolved and reported in the 25th Quarterly Report filed in April 2015. SDG&E confirmed that there were no open issues in its 26th Quarterly Report filed on July 15, 2015 and 27th Quarterly Report filed on October 15, 2015. No party has identified a need for reporting to continue. We agree that there is no reason for SDG&E to file additional quarterly reports. The 27th Quarterly Report shall be the final report.

³⁰ SDCAN September 2016 OB at 14.

3.3. Suggestions to Improve Reporting Requirements

Given the Commission's goal of protecting ratepayer monies by tracking the status of a large project like Sunrise Powerlink, and given the difficulty in specifying exactly what information will be needed in the future to accomplish this goal, Scoping Memo Amendment 2 asked the parties to suggest ways that monitoring of similar projects could be improved in the future.

SDG&E notes that "the public interest requires that the constructing utility retain the flexibility to proceed as it sees fit, subject to the certificating decision's conditions." SDG&E states that "[t]he Commission should avoid regimes that require additional approvals after the certificate has issued, or other involvement in the construction process, other than enforcement of certificate conditions."³¹

Taking into account this notion, SDG&E made several suggestions to provide greater clarity on reporting requirements in future proceedings:

- (a) The Commission could clarify treatment of the estimates of the cost cap under Section 1005.5 for post construction changes in cost estimates. SDG&E suggests, for example, that the Commission "should consider an explicit requirement to report spending progress against the cost cap" as opposed to the D.08-12-058 requirement simply to report the project cost estimate.³²
- (b) The Commission could clarify reporting of what constitutes "actual spending" for reporting purposes. For example, SDG&E suggests that the Commission should address whether costs should be present-valued, and, if so, what assumptions should be used in determining present value.

³¹ SDG&E September 12, 2016 Opening Brief at 20.

³² *Id.* at 20.

- (c) The Commission could acknowledge and address the extraordinary uncertainty attendant in environmental costs when it issues a project certificate.³³

SDCAN did not offer any suggestions regarding improving reporting requirements for future projects.

4. Comments on Proposed Decision

The proposed decision of Administrative Law Judge ALJ McKinney in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on May 26, 2017 by SDCAN. Reply comments were filed on June 6, 2017 by SDG&E.

5. Assignment of Proceeding

Michael Picker is the assigned Commissioner and Jeanne M. McKinney is the assigned ALJ in this proceeding.

Findings of Fact

1. The California Public Utilities Commission is responsible for protecting California ratepayers from unreasonable and unjust rates.
2. D.08-12-058 approved the Sunrise Powerlink project subject to certain quarterly reporting requirements and a maximum cost of \$1.833 billion (subject to certain adjustments).
3. As adjusted, the new maximum cost is approximately \$1.800 billion.
4. Considering the adjusted maximum cost of approximately \$1.800 billion, SDG&E's request represents an increase of approximately \$80 million (4% of the adjusted maximum cost).

³³ *Id.* at 20 -21.

5. Construction of the Sunrise Powerlink is complete.
6. The change order litigation with the construction contractor was first referenced in the 14th Quarterly Report.
7. The amount of the change order litigation claim was first mentioned in the 24th Quarterly Report which stated that the original claim was \$180 million and was settled for \$65 million.
8. The increases in costs for environmental mitigation and monitoring were not described in the quarterly reports prior to the 25th Quarterly Report.
9. It is not an efficient or appropriate use of the Commission's resources for the Commission to review the reasonableness of an increase in costs at this time.
10. At this time, because the Sunrise Powerlink has been completed, and because of the unique circumstances of this case, and because FERC must complete a reasonableness review before it approves any cost recovery through transmission rates, SDG&E's request is of no practical significance.
11. There are no longer any open issues to be disclosed or updated in the D.08-12-058 Quarterly Reports.
12. SDG&E suspended filing of D.08-12-058 Quarterly Reports in 2016.
13. Hearings are not necessary.

Conclusions of Law

1. Section 1005.5 requires the Commission to set a maximum cost when granting a CPCN.
2. Section 1005.5(c) allows the applicant to request a cost increase prior to construction completion.
3. A matter is moot if it is of no practical significance.
4. SDG&E's request is moot.

5. The Commission has an interest in ensuring the reasonableness of transmission rates paid by ratepayers to investor-owned utilities. This interest includes the Commission's role in the CEQA process, in setting a cost cap, in granting a CPCN, and in representing California consumers in SDG&E's transmission owner rate cases at FERC.

6. FERC has exclusive jurisdiction to set rates for recovery of transmission costs.

7. Because Section 1005 requires the Commission to set a maximum cost when granting a CPCN, if the actual costs exceed the cost cap the utility must request an increase in the cost cap.

8. SDG&E did not violate Ordering Paragraph 6 or Ordering Paragraph 13 of D.08-12-058.

9. SDG&E's reporting on the status of the Sunrise Powerlink did not violate Rule 1.1.

10. The quarterly reporting required by D.08-12-058 is no longer necessary and should be terminated.

O R D E R

IT IS ORDERED that:

1. San Diego Gas & Electric Company's petition for modification requesting an increase in the Sunrise Powerlink cost cap is dismissed as moot.

2. San Diego Gas & Electric Company's obligation to file quarterly reports pursuant to Decision 08-12-058 is hereby concluded. The 27th Quarterly Report shall be the final report under Decision 08-12-058.

3. Application 06-08-010 is closed.

This order is effective today.

Dated June 15, 2017, at Sacramento, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners

Attachment A

California Public Utilities Code Section 1005.5

(a) Whenever the commission issues to an electrical or gas corporation a certificate authorizing the new construction of any addition to or extension of the corporation's plant estimated to cost greater than fifty million dollars (\$50,000,000), the commission shall specify in the certificate a maximum cost determined to be reasonable and prudent for the facility. The commission shall determine the maximum cost using an estimate of the anticipated construction cost, taking into consideration the design of the project, the expected duration of construction, an estimate of the effects of economic inflation, and any known engineering difficulties associated with the project.

(b) After the certificate has been issued, the corporation may apply to the commission for an increase in the maximum cost specified in the certificate. The commission may authorize an increase in the specified maximum cost if it finds and determines that the cost has in fact increased and that the present or future public convenience and necessity require construction of the project at the increased cost; otherwise, it shall deny the application.

(c) After construction has commenced, the corporation may apply to the commission for authorization to discontinue construction and recover those costs which were reasonably and prudently incurred. After a showing to the satisfaction of the commission that the present or future public convenience and necessity no longer require the completion of construction of the project, the commission may authorize discontinuance of construction and the recovery of those construction costs which were reasonable and prudent.

(d) In any decision establishing rates for an electrical or gas corporation reflecting the reasonable and prudent costs of the new construction of any addition to or extension of the corporation's plant, when the commission has found and determined that the addition or extension is used and useful, the commission shall consider whether or not the actual costs of construction are within the maximum cost specified by the commission.

(Added by Stats. 1985, Ch. 926, Sec. 2.)

(END OF ATTACHMENT A)