



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

Encina Wastewater Authority,	)	
	)	
Complainant,	)	Case No. C.10-08-027
	)	(Filed September 28, 2010)
vs.	)	
	)	
San Diego Gas & Electric Company (U 902-E),	)	
	)	
Defendant	)	
	)	
	)	

**ANSWER OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902-M)  
TO COMPLAINT OF ENCINA WASTEWATER AUTHORITY**

In accordance with Rule 4.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), San Diego Gas & Electric Company (“SDG&E”) hereby answers the above-referenced Formal Complaint (“Complaint”) of Encina Wastewater Authority (“Complainant”) filed with the Commission on September 28, 2010. Complainant contends that it meets the eligibility requirements of SDG&E’s optional electric tariff Schedule PA-T-1, Experimental Power – Agricultural – Optional Time-of-Use [Exhibit 1] and requests to receive electric service on that schedule. Complainant also seeks repayment from SDG&E for the costs of receiving service under Schedule AL-TOU, General Service – Time Metered [Exhibit 2], the applicable default rate, that were in excess of what it would have paid under optional Schedule PA-T-1 for the period beginning July 1, 2008 through June 15, 2009.

As discussed in detail in this Answer, SDG&E disagrees that Complainant's electric load meets all of the qualifying requirements of optional Schedule PA-T-1; instead, Complainant should be served on the applicable default rate, Schedule AL-TOU.

Complainant's Informal Complaint, C-74716, filed on November 23, 2009, raised the same issues and arguments as the now-pending Complaint. On February 19, 2010, the Informal Complaint was correctly rejected by the Commission's Consumer Affairs Branch (CAB), which found that SDG&E handled Complainant's case in accordance with appropriate tariffs, codes, and regulations [Exhibit 3]. Subsequently, on March 5, 2010, Complainant filed an Informal Appeal of the CAB's determination, requesting CAB to review "new evidence" regarding its Informal Complaint. Complainant's Informal Appeal was rejected by the CAB on April 28, 2010 [Exhibit 4]. Despite these prior determinations, which were based on the CAB's full review of the pertinent facts, the Complainant again maintains that it qualifies for service under optional Schedule PA-T-1. Complainant reasserts this position even though the plain language of Special Condition 15 ("SC 15") of Schedule PA-T-1 limits the schedule's applicability to otherwise eligible customers with "... incidental usage (under 500 kWh/month) such as security or safety lighting."

As discussed in this Answer, SDG&E respectfully disagrees with Complainant's view that SC 15 does not apply to electric service provided to water pumping customers under Schedule PA-T-1. SDG&E submits that, under the plain language of the tariff, SC 15 limits the quantity of the "incidental" usage that water pumping or agricultural customers may have and still remain eligible for service under Schedule PA-T-1. In Complainant's case, the quantity of its "incidental" load does not fall within the tariff-prescribed limits.

Further, allowing water pumping customers to be treated more favorably under optional Schedule PA-T-1 than agricultural customers, as Complainant requests, would represent an

unsupported deviation from the intent, history and applicability of that tariff, and in SDG&E's view, would constitute a preference or advantage to Complainant that would be contrary to the mandates of Public Utilities Code Section 453.

Therefore, and as is explained in further detail below, Complainant's current electric load does not qualify for service under the optional Schedule PA-T-1. Complainant should continue to be served under the applicable default rate, Schedule AL-TOU, and the sum of approximately \$159,000 on deposit with the Commission should be released to SDG&E for electric service that SDG&E provided to the Complainant under Schedule PA-T-1 from June 15, 2009 to January 13, 2010. The Commission's CAB correctly determined that SDG&E "handled [the] case in accordance with the appropriate tariffs, codes, regulations, or service agreement; and the utility's initial position is sustained" [Exhibit 3]. Accordingly, the Complaint should be dismissed.

This Answer is organized as follows: Section I provides the Introduction and Background to the matters addressed in the Complaint. Section II contains SDG&E's response to the material allegations in the Complaint as well as further discussion as to why Complainant's interpretation of the eligibility requirements set forth in the optional rate, Schedule PA-T-1, is in error. Section III addresses the procedural requirements of Rule 4.4 of the Commission's Rules of Practice and Procedure dealing with the need for hearing, issues to be considered, and a proposed schedule. Section IV concludes this Answer, pointing out again that SDG&E has in all respects acted in accordance with the Commission-approved tariffs, rules and laws applicable to Complainant's electric service.

## **I. INTRODUCTION AND BACKGROUND**

The Complainant is a Joint Powers Authority (“JPA”) that provides wastewater treatment service to approximately 300,000 residents within the JPA’s service area. Before 2008, Complainant received electric service under Schedule PA-T-1. This tariff is an optional rate available to certain customers using electricity specifically for agricultural or water pumping purposes. In early 2008, Complainant upgraded its wastewater treatment facility, including construction of a new administration building that included office space, computer systems required to operate the sewage treatment plant, and a laboratory to test treated water. In addition, a new biosolids drying and pellet manufacturing operation was also started during this time period.<sup>1</sup> This process is also neither agricultural or water pumping. As part of these upgrades, Complainant also replaced the electrical switchgear for the facility.

In order to accommodate the Complainant’s project, at the request of the Complainant, SDG&E removed Complainant’s existing electric meters and installed new meters. In order to determine proper electrical equipment sizing, SDG&E established Complainant’s electric load requirements anew, and consistent with its standard practice, Complainant’s new accounts were set up to bill under the default, general service rate, Schedule AL-TOU. Schedule AL-TOU is SDG&E’s default electric rate applicable to all metered non-residential customers with demand that is expected to equal or exceed 20 kW for 12 consecutive months.

From September 2008 through March 2009, SDG&E and Complainant had several communications regarding the tariff applicable to Complainant’s electric service [Exhibit 5]. During the course of those conversations, SDG&E contacted the Complainant and informed it of alternative rate, Schedule PA-T-1. As noted above, Schedule PA-T-1 is an optional rate, and

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<sup>1</sup> EWA Winter 2008 Environmental Compliance Pretreatment Newsletter [Exhibit 10].

customers who are eligible to receive service under an optional rate are required to submit a request and provide proper authorization to SDG&E. On May 28, 2009, SDG&E received an optional rate authorization request from Complainant to change the rate from Schedule AL-TOU to Schedule PA-T-1. SDG&E processed Complainant's request and began billing its accounts under Schedule PA-T-1 effective June 15, 2009.

However, in processing the Complainant's requested rate change from Schedule AL-TOU to Schedule PA-T-1, SDG&E did not assess the applicability of a further eligibility requirement of Schedule PA-T-1, namely, Schedule PA-T-1, SC 15, which states:

"SPECIAL CONDITIONS

...15. Incremental Non-Agricultural Usage: This schedule shall be available even if there is incidental usage (under 500 kwh/month) such as security or safety lighting."

For a customer who is otherwise eligible for service under Schedule PA-T-1, SC 15 requires that any of the customer's usage that is "incremental" or "incidental" to the customer's primary agricultural or water pumping load must not exceed 499 kilowatt-hours ("kWh") per month.

However, during a visit to Complainant's facility on September 11, 2009, SDG&E's Account Executive ("AE") observed electric load – including a large, new office building -- that appeared to be neither water pumping nor agricultural load and which would be expected to consume far more than 499 kWh per month, inconsistent with the limited exemption authorized under Schedule PA-T-1, SC 15.

On November 23, 2009, Complainant filed an Informal Complaint (C-74716) with the Commission's CAB whereby Complainant sought to receive service under Schedule PA-T-1 and requested that SDG&E refund the difference between the amount billed under

Schedule AL-TOU and what would have been billed under Schedule PA-T-1 since July 2008. The CAB forwarded the Complainant's Informal Complaint to SDG&E and directed SDG&E to contact the Complainant to resolve the Informal Complaint. Pursuant to the CAB's directive, on December 10, 2009, SDG&E sent a letter to Complainant [Exhibit 6] explaining the circumstances that caused its new meters to be served on the applicable default rate, Schedule AL-TOU and, based on the excessive non-conforming load that now existed at Complainant's facility, SDG&E reaffirmed Complainant's ineligibility for service under the optional rate, Schedule PA-T-1. SDG&E explained, however, that Complainant could, at its own expense, separately meter the non-qualifying load and apply for service under Schedule PA-T-1 for the qualifying load. In addition, SDG&E provided an opportunity for Complainant to certify that the electric load at its facility conforms to the eligibility requirements of the optional rate, Schedule PA-T-1, including SC 15. On December 23, 2009, Complainant responded to SDG&E's initial attempt to resolve the Informal Complaint, stating that SC15 "does not apply to any non-water pumping use." Complainant's letter maintains that the entire amount of its load, regardless of the nature of the load, "...conforms to the eligibility requirements of Schedule PA-T-1 as a non-agricultural water pumping customer" [Exhibit 7].

In a further attempt to resolve the Informal Complaint, in early 2010, SDG&E met with Complainant at its facility to review the background of its Informal Complaint and to further discuss and clarify the applicability requirements of Schedule PA-T-1. SDG&E explained that all the tariff's terms and conditions must be met. In this case, the applicable terms and conditions require that: (1) the agricultural or water pumping customer have a maximum monthly demand expected to be above 500 kW; (2) the customer's business is classified with one or more of numerous North American Industry Classification (NAICS) Codes; and

(3) all Special Conditions are met, and as is relevant to the Complaint, the amount of load that is “incidental” or “incremental” to its primary load must comport with SC 15. SDG&E further explained that although a significant portion the load at the facility is water pumping, additional load, including a large office building, was being served through the electric meters serving the water pumping load and exceeds the 500 kWh/month limitation permitted under SC 15 in Schedule PA-T-1.

On February, 11, 2010, SDG&E submitted a report to the CAB informing it that SDG&E and Complainant were unsuccessful in reaching a mutually agreeable resolution to the Informal Complaint. The report also provided the CAB with a detailed explanation as to why the optional rate, Schedule PA-T-1 did not apply to the Complainant’s facility, noting that “the load on the meter must be limited to water pumping” and that the “non-water pumping load, including a large office building, is being served through electric meters which exceeds the 500 kWh/month permitted under SC 15 in Schedule PA-T-1” [Exhibit 8].

On February 19, 2010, the Commission’s CAB concluded its review of Complainant’s Informal Complaint and SDG&E’s response thereto and determined that SDG&E had handled the case “in accordance with appropriate tariffs, codes, and regulations.” The CAB sustained SDG&E’s position taken with respect to Complainant’s Informal Complaint. Accordingly, on February 26, 2010, SDG&E sent a letter to the Complainant stating that SDG&E would continue to bill its accounts under the applicable rate, Schedule AL-TOU and retroactively bill Complainant for the period it had been inappropriately charged under the optional Schedule PA-T-1 rate [Exhibit 9].

On March 5, 2010, the Complainant then filed a “Request to Consider New Evidence and Informal Appeal of the CAB’s Decision Regarding....” its Informal Complaint, which was subsequently forwarded by the CAB to SDG&E. SDG&E responded to the CAB on

April 27, 2010 [Exhibit 5]. The Informal Appeal was correctly rejected by the CAB on April 28, 2010<sup>2</sup> [Exhibit 4].

As has been now determined twice by the Commission's CAB, SDG&E has acted in accordance with the applicable tariffs, rules and laws applicable to Complainant's electric rates and service. SDG&E has worked cooperatively to address all of the Complainant's concerns. Nonetheless, Complainant has filed another Complaint, in the form of a Formal Complaint, providing essentially the same information and raising the same allegations as it has done twice before. SDG&E sets forth further explanation as to why the Complaint should and must be dismissed.

**II. THE COMPLAINT PROVIDES NO BASIS FOR COMPLAINANT TO RECEIVE ELECTRIC SERVICE UNDER THE OPTIONAL RATE, SCHEDULE PA-T-1.**

**A. Complainant's Electric Load Does Not Meet All of the Terms and Conditions of the Optional Rate, Schedule PA-T-1.**

In denying both Complainant's Informal Complaint and Informal Appeal, the Commission's CAB considered all of the relevant facts in this case and reached the correct result by finding that SDG&E has complied with its Commission-approved tariffs. The facts in this case are clear: While Complainant does have water pumping electric load that could qualify for service under the optional rate Schedule PA-T-1 if it was separately metered, a significant amount of Complainant's load (i.e., its new large administrative office building and other facilities) does not comport with the tariff requirements specified at SC 15 for "incidental usage (under 500 kWh/month) such as security or safety lighting." As is the case with all Commission-approved tariff rates or rules, all of the special conditions and other terms and conditions of

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<sup>2</sup> SDG&E notes that the CAB's February 19, 2010 letter finding that SDG&E acted in accordance with the applicable tariffs and other requirements also authorized Complainant to file an "Informal Appeal" of that Ruling, provided that Complainant provides "new evidence" that is "significant." SDG&E submits that the Complainant has not provided new, significant evidence, either for its Informal Appeal or its subject Complaint.

service are to be applied in all instances when a customer receives service pursuant to such rate or rule. Therefore, SDG&E has fully and correctly applied the terms and conditions of each tariff referenced in the Complaint.<sup>3</sup>

SDG&E's optional rate, Schedule PA-T-1 is a preferential rate intended for agricultural and water pumping customers whose general operations fall within certain NAICS Code classifications and meet all the requirements of Schedule PA-T-1. Classification under the NAICS codes alone is not sufficient to qualify for service under Schedule PA-T-1. SC 15 provides a limited exception to the load requirements permitted under Schedule PA-T-1.

A customer receiving service under Schedule PA-T-1 is permitted to use non-qualifying load only if such load results in usage that is less than 500 kWh per month. Security and safety lighting are typical examples of the types of non-qualifying load used by customers under the tariff, as they constitute small loads that typically use less than 500 kWh/month.<sup>4</sup>

Complainant's non-water pumping load, as described below, results in usage that clearly exceeds 500 kWh/month and is vastly different from the "security and safety lighting" examples provided in the tariff.

As stated in SDG&E's December 10, 2009 letter to Complainant [Exhibit 6], on September 11, 2009, "SDG&E's Account Executive ("AE") observed electric load that appeared to be neither water pumping nor agricultural load which would likely use more than 499 kWh per month...." More specifically, the load observed by SDG&E was a very large new office building located at Complainant's facility. Additional information obtained from Complainant's public website indicates that not only did Complainant construct a new 30,500 square foot

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<sup>3</sup> Complaint at Paragraphs 32, 33, 34, 35.

<sup>4</sup> A 150-watt outdoor security light that operates dusk-to-dawn during a thirty-day billing period would consume approximately 52 kWh. Pursuant to SC 15, a customer with multiple pumping stations served from the same meter would be permitted to use up 9 150-watt outdoor security lights.

state-of-the-art operations building, it also added a 12,500 square foot maintenance building and a new biosolids heat dryer and pellet manufacturing operation [Exhibit 10].<sup>5</sup>

Given Complainant's electric load characteristics, Complainant's usage since 2008 clearly falls well outside of the clear and explicit limitations of SC 15 that affect Complainant's eligibility for service under optional Schedule PA-T-1. This straight-forward analysis provides ample basis for the Commission to uphold the prior determinations of the Commission's CAB.

**B. Complainant's Interpretation that Special Condition 15 Does Not Apply Misconstrues That Provision and Fails to Read the Tariff As A Whole.**

Complainant further contends that "[b]ecause Special Condition 15 specifically applies only to 'Incremental Non-Agricultural Usage,' it does not apply to the EWA Facility because all of the electrical uses at the EWA Facility (and at all the other facilities identified by NAICS Codes 22131 or 22132) are by definition non-agricultural uses. Interpreting Special Condition 15 in the manner suggested by SDGE would render the tariff internally inconsistent and the applicability of the tariff to facilities identified by NAICS Codes a nullity, which would violate law."<sup>6</sup> Complainant's argument errs in several respects.

First, Complainant's interpretation of SC 15 selectively focuses on certain terms of the tariff and disregards others. SC 15 of optional Schedule PA-T-1 provides:

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<sup>5</sup> Moreover, the facts demonstrate that the electric load for Complainant's new buildings as well as Complainant's new biosolids heat dryer are served through the same meter that serves the sewage treatment and water pumping operations. According to a nationally recognized independent energy researcher, E Source, commercial office buildings in the United States consume an average of 17 kWh per square foot annually. Based on these average statistics, Complainant's 30,500 square foot operations building alone would consume approximately 43,200 kWh per month. Under the most conservative reasonable estimate, a building of this size and nature will easily consume more than 500 kWh per month. As stated previously, Schedule PA-T-1 does not and has never been intended to apply to customers using large amounts of electricity for loads not related to agricultural or water pumping. See [http://www.esource.com/esource/getpub/members/BCO-P-5-ESCD/ESCD\\_Pamphlet/Office\\_Buildings](http://www.esource.com/esource/getpub/members/BCO-P-5-ESCD/ESCD_Pamphlet/Office_Buildings)

<sup>6</sup> Complaint at Paragraph 38.

“Incremental Non-Agricultural Usage: This Schedule shall be available even if there is incidental usage (under 500 kwh/month) such as security lighting or safety lighting.”

Complainant focuses on the term “non-agricultural” in the heading of SC 15 to support its argument that SC 15 does not apply to Complainant’s water pumping and sewage treatment operations, as defined by two of the 45 NAICS codes specified in Schedule PA-T-1. This argument fails, however, because the heading of SC 15 is further explained in the text immediately following the heading to explain the heading’s terminology. By their nature, headings are intended to summarize provisions and are not designed to capture the contents that follow the heading. When reading SC 15’s heading and contents as a whole, giving effect to each term,<sup>7</sup> SC 15 applies fully to all customers who are otherwise eligible for optional Schedule PA-T-1. Complainant offers absolutely no support for its interpretation that SC 15 *exempts* the very same water pumping load that is otherwise eligible to receive service under Schedule PA-T-1.

Furthermore, under the logic of Complainant’s interpretation which selectively focuses on the headings of a section to the exclusion of the explanatory text, Schedule PA-T-1, which is entitled “Experimental Power – **Agricultural** – Optional Time-Of-Use” (emphasis added), would not apply to Complainant’s electric usage because Complainant’s usage is not agricultural. The Complainant’s interpretation of SC 15, as applied to the title of optional Schedule PA-T-1, would render that tariff inapplicable to Complainant’s usage. Complainant’s interpretation is internally inconsistent, unreasonable, and should be rejected.

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<sup>7</sup> See D.02-01-014 at 8, 2002 Cal. PUC LEXIS 191 (“It is axiomatic that a contract must be read as a whole (Civ. Code § 1641.) So too must tariffs, which constitute a utility’s contract with its customers.”) See also D.02-04-064 at Ordering Paragraph 2, 2002 Cal. PUC LEXIS 262 (“Tariffs must be read as a whole, so as to give effect to every part, if reasonably practicable, each clause or section helping to interpret the other.”)

**C. The “Primary” Loads Eligible for Service under Schedule PA-T-1 are Agricultural and Water Pumping, Special Condition 15 Sets Forth Limitations to the “Incidental” Uses.**

Complainant maintains that its eligibility for Schedule PA-T-1 is determined solely because its facility is described by two NAICS Codes appearing in the tariff.<sup>8</sup> However, the NAICS Association definitions referenced and relied on by Complainant clearly indicate that, for NAICS Codes 22131 and 22132, the Water Supply and Irrigation Systems and Sewage Treatment Facilities business codes respectively, are for “establishments primarily engaged in operating” those businesses.<sup>9</sup> Complainant’s reading of Tariff Schedule PA-T-1 is incorrect. The Applicability section of Schedule PA-T-1 clearly states that it is “available to agricultural and water pumping customers....who are *classified* with one or more of the...” NACIS Codes listed. While Schedule PA-T-1 recognizes agricultural and water pumping as “primary” usages, it also recognizes a need customers may have for a small amount of “incidental” usages that are not primary uses. Those “incidental” usages, however, were never intended to be unlimited, and in fact, are limited by SC 15 to a certain amount, as noted above. SDG&E has noted above that Complainant has certain facilities, such as office and maintenance buildings and a biosolids heat drying and pellet manufacturing operation that are neither “water pumping” nor “agricultural” in nature and therefore are classified as “incidental” loads. In this respect, Complainant’s argument that “the energy uses at the EWA Facility administration building are not incidental to but rather are fundamental to the operation of the EWA Facility ...”<sup>10</sup> is unavailing and contrary to Complainant’s own descriptions of its facilities [Exhibit 10].

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<sup>8</sup> Complaint at Paragraph 36.

<sup>9</sup> Complaint at Attachment 2.

<sup>10</sup> Complaint at Paragraph 40.

Complainant's interpretation of SC 15 disregards the narrowly stated limitations on incidental usage, such as "security or safety lighting" that are recognized under optional Schedule PA-T-1. The facts amply demonstrate that Complainant facilities include a 30,500 square foot state-of-the-art operations building, a 12,500 square foot maintenance building, and a biosolids dryer, and those usages are clearly not of the limited size of usages that fall within the parameters of SC 15.

**D. Complainant's "Proper Interpretation" of Special Condition 15 is Unsupported and, If Adopted, Would be Inconsistent with Law.**

The Complainant also maintains that "[t]he proper interpretation is that Schedule PA-T-1 Special Condition 15 applies only to the 43 agricultural-related NAICS Codes that are listed in the Schedule PA-T-1 tariff, fully 96% of the listed NAICS Codes, because those operations could have "incremental non-agricultural uses" that might disqualify them from being eligible for the tariff."<sup>11</sup> The "proper interpretation" of Schedule PA-T-1 suggested by Complainant is unsupported and would improperly result in two classes of customers: those agricultural customers to whom SC 15 applies; and water pumping customers to whom SC 15 does not apply. By its terms, Schedule PA-T-1 applies to both agricultural and water pumping customers with a maximum monthly demand expected to be above 500 kW, and the special conditions under that tariff schedule, including SC 15, apply identically to both types of customers. Nothing in the tariff states or suggests a differentiation between agricultural customers, on the one hand, and water pumping customers on the other hand. If that were the case, the tariff would have to make such a demarcation clear and explicit; however, the tariff does not do so.

SDG&E's application of its optional Schedule PA-T-1 allows for equal treatment for all qualifying agricultural and water pumping customers receiving service under Schedule PA-T-1.

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<sup>11</sup> Complaint at Paragraph 39.

Complainant's suggested "proper interpretation" of SC 15, on the other hand, would result in inconsistent treatment as between customers who are similarly situated with respect to all of the terms and conditions of the tariff. Complainant's interpretation that SC 15 applies to "96% of the listed NAICS Codes" but not the Schedule PA-T-1 customers whose NAICS Codes are, like Complainant's, non-agricultural, would be contrary to Public Utilities Code Section 453 that would prohibit a "preference or advantage" to that sub-class of Schedule PA-T-1 customers.

In sum, the Complaint does not establish any legal or other basis for Complainant to receive electric service under optional Schedule PA-T-1. Complainant should receive service under the applicable default rate, Schedule AL-TOU.

### **III. PROCEDURAL ISSUES**

In accordance with Rule 4.4 of the Commission's Rules of Practice and Procedure, SDG&E hereby provides the following comment on the need for hearing, issues to be considered, and proposed schedule. SDG&E submits that the Commission may resolve the subject Complaint without hearings on the basis of the facts, discussion, and positions provided in the Complaint, this Answer, and the documents submitted to the Commission's CAB associated with the Complaint. At issue is whether Complainant's electric usage may be served under SDG&E's optional Schedule PA-T-1, inclusive of that tariff's Special Condition 15. If hearings are required, however, SDG&E expects that one day of hearings would be necessary, preceded by a prehearing conference. That hearing, should it be needed, could occur as early as December 1, 2010.

#### IV. CONCLUSION

It has been well established in Complaint proceedings that the Complainant has the burden of proof.<sup>12</sup> With respect to this Complaint, as was twice determined by the Commission's CAB regarding the issues discussed herein, SDG&E at all times acted in accordance with Commission-approved Rules and Decisions along with its rights provided in SDG&E tariffs regarding rates, billing procedures, meter tests and adjustment of bills. The Complainant has not established that SDG&E violated any tariff, rule or law.

WHEREFORE, SDG&E respectfully submits that the Complaint is without merit and respectfully requests that it be dismissed and that the relief sought therein be denied.

Dated at San Diego, California, this 28th day of October, 2010.

Respectfully submitted,

/s/ Paul A. Szymanski

Paul A. Szymanski

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<sup>12</sup> See D.92-03-041 at 6.

**VERIFICATION**

I am an officer of San Diego Gas and Electric Company, the Defendant herein, and am authorized to make this verification on Defendant's behalf. The statements in the foregoing answer are true and accurate to the best of my knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 28, 2010 at San Diego, California.

By:   
\_\_\_\_\_  
Caroline Winn  
Vice President – Customer Services

## **Exhibit 1**

### **SDG&E Optional Rate Schedule PA-T-1**

#### **Experimental Power – Agricultural – Optional Time-of-Use**



**SCHEDULE PA-T-1**

Sheet 1

EXPERIMENTAL POWER - AGRICULTURAL - OPTIONAL TIME-OF-USE

APPLICABILITY

This is an optional schedule provided by the utility, on an experimental basis, for the purpose of evaluating time varying rates. Available to agricultural and water pumping customers whose maximum monthly demand is expected to be above 500 kw and who are classified with one or more of the following North American Industry Classification (NAICS) Codes 11111-11116, 11131-11132, 11191-11194, 111191, 111199, 111211, 111219, 111331-111336, 111339, 111411, 111419, 111421, 111422, 111991-111992, 111998, 11212, 11221, 11221-11224, 11239, 11241-11242, 11291, 11299, 112111-112112, 112511-112512, 112519, 22131, or 22132. This schedule is also available to those agricultural and water pumping customers whose maximum demand is less than 500 kw who are installing or have installed facilities or procedures to reduce their annual on-peak energy consumption by 1,500 kWhrs and are also classified by the above NAICS Codes. Service under this schedule is subject to meter availability.

TERRITORY

Within the entire territory served by the Utility.

RATES

Description – PA-T-1	Transm	Distr	PPP	ND	CTC	RS	TRAC	UDC Total
<u>Basic Service Fees</u> (\$/month)		58.22						<b>58.22</b>
<u>Demand On-Peak Summer</u> <u>Option C</u>								
Secondary		5.52			0.34	I		<b>5.86</b> I
Primary		5.34			0.34	I		<b>5.68</b> I
Transmission		0.42			0.34	I		<b>0.76</b> I
<u>Option D</u>								
Secondary		5.52			0.34	I		<b>5.86</b> I
Primary		5.34			0.34	I		<b>5.68</b> I
Transmission		0.42			0.34	I		<b>0.76</b> I
<u>Option E</u>								
Secondary		5.52			0.34	I		<b>5.86</b> I
Primary		5.34			0.34	I		<b>5.68</b> I
Transmission		0.42			0.34	I		<b>0.76</b> I
<u>Option F</u>								
Secondary		5.52			0.34	I		<b>5.86</b> I
Primary		5.34			0.34	I		<b>5.68</b> I
Transmission		0.42			0.29	I		<b>0.71</b> I
<u>Demand On-Peak Winter</u> <u>Option C</u>								
Secondary		4.77			0.34	I		<b>5.11</b> I
Primary		4.74			0.34	I		<b>5.08</b> I
Transmission		0.42			0.34	I		<b>0.76</b> I

(Continued)

1C14

Advice Ltr. No. 2166-E

Decision No. 10-04-010

Issued by  
**Lee Schavrien**  
Senior Vice President  
Regulatory Affairs

Date Filed Apr 19, 2010

Effective May 1, 2010

Resolution No. E-4226



**SCHEDULE PA-T-1**

EXPERIMENTAL POWER - AGRICULTURAL - OPTIONAL TIME-OF-USE

RATES (Continued)

Description – PA-T-1	Transm	Distr	PPP	ND	CTC	RS	TRAC	UDC Total
<u>Option D</u>								
Secondary		4.77			0.34			5.11
Primary		4.74			0.34			5.08
Transmission		0.42			0.34			0.76
<u>Option E</u>								
Secondary		4.77			0.34			5.11
Primary		4.74			0.34			5.08
Transmission		0.42			0.34			0.76
<u>Option F</u>								
Secondary		4.77			0.34			5.11
Primary		4.74			0.34			5.08
Transmission		0.42			0.29			0.71
<u>Demand Semi-Peak</u>								
Secondary	5.58	I 2.38				0.27		8.23 I
Primary	5.39	I 2.38				0.26		8.03 I
Transmission	5.34	I 0.02				0.26		5.62 I
<u>On-Peak Energy: Summer</u>								
Secondary	(0.00035)	0.00319	0.00639	0.00046	0.00257	(0.00020)		0.01206
Primary	(0.00035)	0.00309	0.00639	0.00046	0.00248	(0.00020)		0.01187
Transmission	(0.00035)	0.00309	0.00639	0.00046	0.00244	(0.00020)		0.01183
<u>Semi-Peak Energy: Summer</u>								
Secondary	(0.00035)	0.00231	0.00639	0.00046	0.00185	(0.00020)		0.01046
Primary	(0.00035)	0.00225	0.00639	0.00046	0.00181	(0.00020)		0.01036
Transmission	(0.00035)	0.00225	0.00639	0.00046	0.00181	(0.00020)		0.01036
<u>Off-Peak Energy: Summer</u>								
Secondary	(0.00035)	0.00142	0.00639	0.00046	0.00114	(0.00020)		0.00886
Primary	(0.00035)	0.00140	0.00639	0.00046	0.00114	(0.00020)		0.00884
Transmission	(0.00035)	0.00140	0.00639	0.00046	0.00114	(0.00020)		0.00884
<u>On-Peak Energy: Winter</u>								
Secondary	(0.00035)	0.00319	0.00639	0.00046	0.00257	(0.00020)		0.01206
Primary	(0.00035)	0.00309	0.00639	0.00046	0.00248	(0.00020)		0.01187
Transmission	(0.00035)	0.00309	0.00639	0.00046	0.00244	(0.00020)		0.01183
<u>Semi-Peak Energy: Winter</u>								
Secondary	(0.00035)	0.00231	0.00639	0.00046	0.00185	(0.00020)		0.01046
Primary	(0.00035)	0.00225	0.00639	0.00046	0.00181	(0.00020)		0.01036
Transmission	(0.00035)	0.00225	0.00639	0.00046	0.00181	(0.00020)		0.01036
<u>Off-Peak Energy: Winter</u>								
Secondary	(0.00035)	0.00142	0.00639	0.00046	0.00114	(0.00020)		0.00886
Primary	(0.00035)	0.00140	0.00639	0.00046	0.00114	(0.00020)		0.00884
Transmission	(0.00035)	0.00140	0.00639	0.00046	0.00114	(0.00020)		0.00884

Notes: Transmission Energy charges include the Transmission Revenue Balancing Account Adjustment (TRBAA) of \$(0.00029) per kWh and the Transmission Access Charge Balancing Account Adjustment (TACBAA) of \$(0.00006) per kWh. PPP rate is composed of: Low Income PPP rate (LI-PPP) \$0.00233 /kWh, Non-low Income PPP rate (Non-LI-PPP) \$0.00207 /kWh (pursuant to PU Code Section 399.8, the Non-LI-PPP rate may not exceed January 1, 2000 levels), and Procurement Energy Efficiency Surcharge Rate of \$0.00199 /kWh.

Minimum Charge

The minimum charge shall be the Basic Service Fee.

(Continued)



**SCHEDULE PA-T-1**

Sheet 3

EXPERIMENTAL POWER - AGRICULTURAL - OPTIONAL TIME-OF-USE

RATES (Continued)

Rate Components

The Utility Distribution Company Total Rates (UDC Total) shown above are comprised of the following components (if applicable): (1) Transmission (Trans) Charges, (2) Distribution (Distr) Charges, (3) Public Purpose Program (PPP) Charges, (4) Nuclear Decommissioning (ND) Charge, (5) Ongoing Competition Transition Charges (CTC), (6) Reliability Services (RS), and (7) Total Rate Adjustment Component (TRAC).

Utility Distribution Company (UDC) Total Rate shown above excludes any applicable commodity charges associated with Schedule EECC (Electric Energy Commodity Cost) and Schedule DWR-BC (Department of Water Resources Bond Charge).

Certain Direct Access customers are exempt from the TRAC, as defined in Rule 1 – Definitions.

Franchise Fee Differential

A Franchise Fee Differential of 5.78% will be applied to the monthly billings calculated under this schedule for all customers within the corporate limits of the City of San Diego. Such Franchise Fee Differential shall be so indicated and added as a separate item to bills rendered to such customers.

Demand Charge Time Periods

All time periods listed are applicable to local time.

<u>Option C</u>	<b><u>May 1 – September 30</u></b>	<b><u>All Other</u></b>
On-Peak	12 p.m. - 4 p.m. Weekdays	5 p.m. - 8 p.m. Weekdays
Semi-Peak	6 a.m. - 12 p.m. Weekdays	6 a.m. - 5 p.m. Weekdays
	4 p.m. - 10 p.m. Weekdays	8 p.m. - 10 p.m. Weekdays
 <u>Option D</u>	 <b><u>May 1 – September 30</u></b>	 <b><u>All Other</u></b>
On-Peak	1 p.m. - 3 p.m. Weekdays	5 p.m. - 8 p.m. Weekdays
Semi-Peak	6 a.m. - 1 p.m. Weekdays	6 a.m. - 5 p.m. Weekdays
	3 p.m. - 10 p.m. Weekdays	8 p.m. - 10 p.m. Weekdays
 <u>Option E</u>	 <b><u>May 1 – September 30</u></b>	 <b><u>All Other</u></b>
On-Peak	1 p.m. - 4 p.m. Weekdays	5 p.m. - 8 p.m. Weekdays
Semi-Peak	6 a.m. - 1 p.m. Weekdays	6 a.m. - 5 p.m. Weekdays
	4 p.m. - 10 p.m. Weekdays	8 p.m. - 10 p.m. Weekdays

(Continued)

3C17

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Decision No. 08-02-034

Issued by  
**Lee Schavrien**  
Senior Vice President  
Regulatory Affairs

Date Filed Mar 28, 2008

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Resolution No. \_\_\_\_\_

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**SCHEDULE PA-T-1**

Sheet 4

EXPERIMENTAL POWER - AGRICULTURAL - OPTIONAL TIME-OF-USE

RATES (Continued)

Demand Charge Time Periods (Continued)

<u>Option F</u>	<u>May 1 – September 30</u>	<u>All Other</u>
On-Peak	11 a.m. - 6 p.m. Weekdays	5 p.m. - 8 p.m. Weekdays
Semi-Peak	6 a.m. - 11 a.m. Weekdays	6 a.m. - 5 p.m. Weekdays
	6 p.m. - 10 p.m. Weekdays	8 p.m. - 10 p.m. Weekdays

Where the billing month contains time from both April and May or September and October, the Demand Charge for each time-of-use period shall be based on each of the two maximum demands for the two applicable time periods weighted based on the number of days in the respective periods.

Energy Charge, Time Periods, All Options:

	<u>May 1 - September 30</u>	<u>All Other</u>
On-Peak	11 a.m. - 6 p.m. Weekdays	5 p.m. - 8 p.m. Weekdays
Semi-Peak	6 a.m. - 11 a.m. Weekdays	6 a.m. - 5 p.m. Weekdays
	6 p.m. - 10 p.m. Weekdays	8 p.m. - 10 p.m. Weekdays
Off-Peak	10 p.m. - 6 a.m. Weekdays	10 p.m. - 6 a.m. Weekdays
	Plus Weekends & Holidays	Plus Weekends & Holidays

The time periods shown above will begin and end one hour later for the period between the second Sunday in March and the first Sunday in April, and for the period between the last Sunday in October and the first Sunday in November.

SPECIAL CONDITIONS

1. Definitions: The Definitions of terms used in this schedule are found either herein or in Rule 1.
2. Voltage: Service under this schedule normally will be supplied at a standard available Voltage in accordance with Rule 2.
3. Voltage Regulators: Voltage Regulators, if required by the customer, shall be furnished, installed, owned, and maintained by the customer.
4. Reconnection Charge: Any customer resuming service within twelve months after such service was discontinued will be required to pay all charges which would have been billed if service had not been discontinued.
5. On-Peak Period Demand Charge: The On-Peak Period Demand Charge shall be based on the appropriate Maximum On-Peak Period Demand.
6. Power Factor: The Power Factor rate shall apply to those customers that have a Power Factor test failure and will be based on the Maximum Kilovar Billing Demand. Those customers that have a Power Factor test failure will be required to pay for the Power Factor metering that the utility will install.
7. Terms of Service. This is a voluntary schedule and a customer receiving service under this schedule may choose a desired demand charge option subject to utility approval. A customer receiving service under this schedule may elect to change to another rate schedule at any time as provided in Rule 12. A customer may change demand charge options only with consent of the utility.

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(Continued)



**SCHEDULE PA-T-1**

Sheet 5

EXPERIMENTAL POWER - AGRICULTURAL - OPTIONAL TIME-OF-USE

SPECIAL CONDITIONS (Continued)

- 8. Demand Charge Option C through F. The Demand Charge will be based on kilowatts of maximum demand as measured each month during the On-Peak and Semi-Peak Periods. The Maximum Demand during the On-Peak and Semi-Peak Periods shall be the average kilowatt input during the fifteen-minute interval in which the consumption of electric energy is greater than in any other fifteen-minute interval during the respective Periods, as indicated or recorded by instruments installed, owned and maintained by the utility. D  
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- 9. Metering and Load Signals. The utility will supply, own, and maintain all necessary meters and associated equipment utilized for billings. In addition, and for purposes of monitoring customer load, the utility may install at its expense, load research metering. The customer shall supply at no expense to the utility, a suitable location for meters and associated equipment used for billing and for load research. The customer shall pay for all costs associated with providing a transmitted system load signal if the customer desires a signal. T
  
- 10. Load Checks under 500 kw Demand. The utility has the right to monitor time-of-use load and make facility inspections to verify that permanently installed on-peak conservation equipment or procedures, for customers taking service whose maximum demand is less than 500 kw, is properly installed, and in operation, and does reduce annual on-peak energy consumption by 1,500 kWhrs. In the event that a customer is found, by inspection or other means, not to have, or be operating, the necessary equipment or under necessary procedures, the utility shall have the right to rebill the customer's previous 11 months based on his otherwise appropriate schedule. T
  
- 11. Parallel Generation Limitation. This schedule is not applicable to standby, auxiliary service or service operated in parallel with a customer's generating plant, except as specified in Rule 1 under the definition of Parallel Generation Limitation. T
  
- 12. Maximum Semi-Peak Demand. The Maximum Semi-Peak Period Demand shall be the Maximum Demand measured during the billing period limited to the hours specified for the Semi-Peak Period. T

(Continued)



**SCHEDULE PA-T-1**

Sheet 6

EXPERIMENTAL POWER - AGRICULTURAL - OPTIONAL TIME-OF-USE

SPECIAL CONDITIONS (Continued)

- 14. Semi-Peak Period Demand: The Semi-Peak Period Demand charge shall be based on the Maximum Semi-Peak Period Demand.
- 15. Incremental Non-Agricultural Usage: This schedule shall be available even if there is incidental usage (under 500 kwh/month) such as security or safety lighting.
- 16. Billing: A customer's bill is first calculated according to the total rates and conditions listed above. The following adjustments are made depending on the option applicable to the customer:
  - a. **UDC Bundled Service Customers** receive supply and delivery services solely from the Utility. The customer's bill is based on the Total Rates set forth above. The EECC component is determined by multiplying the EECC price for this schedule during the last month by the customer's total usage.
  - b. **Direct Access (DA) and Community Choice Aggregation (CCA) Customers** purchase energy from a non-utility provider and continue to receive delivery services from the Utility. The bills for a DA and CCA Customer will be calculated as if they were a UDC Bundled Service Customer, then crediting the bill by the amount of the EECC component, as determined for a UDC Bundled Customer, and including the appropriate Cost Responsibility Surcharge (CRS), if applicable.

Nothing in this service schedule prohibits a marketer or broker from negotiating with customers the method by which their customer will pay the CTC charge.

- 17. Other Applicable Tariffs: Rules 21, 23 and Schedule E-Depart apply to customers with generators.
- 18. Generator Operation: The operation of a non-utility generator unless expressly authorized by tariff is prohibited.

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Issued by  
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Senior Vice President  
Regulatory Affairs

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Effective May 19, 2010

Resolution No. \_\_\_\_\_

**Exhibit 2**  
**SDG&E Schedule AL-TOU**  
**General Service – Time Metered**



**SCHEDULE AL-TOU**

Sheet 1

GENERAL SERVICE - TIME METERED

APPLICABILITY

Applicable to all metered non-residential customers whose monthly maximum demand equals, exceeds, or is expected to equal or exceed 20 kW. This schedule is not applicable to residential customers, except for those three-phase residential customers taking service on this schedule as of April 12, 2007 who may remain on this schedule while service continues in their name at the same service address. Those three-phase residential customers remaining on this schedule who choose to switch to a residential rate schedule may not return to this schedule. This schedule is optionally available to common use and metered non-residential customers whose Monthly Maximum Demand is less than 20 kW. Any customer whose Maximum Monthly Demand has fallen below 20 kW for three consecutive months may, at their option, elect to continue service under this schedule or be served under any other applicable schedule. This schedule is the utility's standard tariff for commercial and industrial customers with a Monthly Maximum Demand equaling or exceeding 20 kW.

Non-profit group living facilities taking service under this schedule may be eligible for a 20% California Alternate Rates for Energy (CARE) discount on their bill, if such facilities qualify to receive service under the terms and conditions of Schedule E-CARE.

Agricultural Employee Housing Facilities, as defined in Schedule E-CARE, may qualify for a 20% CARE discount on the bill if all eligibility criteria set forth in Form 142-4032 or Form 142-4035 is met.

TERRITORY

Within the entire territory served by the Utility.

RATES

Description – AL-TOU	Transm	Distr	PPP	ND	CTC	RS	TRAC	UDC Total
<u>Basic Service Fees</u>								
(\$/month)								
<u>0-500 kW</u>								
Secondary		\$58.22	I					\$58.22 I
Primary		58.22	I					58.22 I
Secondary Substation		16,630.12	I					16,630.12 I
Primary Substation		16,630.12	I					16,630.12 I
Transmission		84.67	I					84.67 I
<u>&gt; 500 kW</u>								
Secondary		232.87	I					232.87 I
Primary		232.87	I					232.87 I
Secondary Substation		16,630.12	I					16,630.12 I
Primary Substation		16,630.12	I					16,630.12 I
Transmission		338.77	I					338.77 I
<u>&gt; 12 MW</u>								
Secondary Substation		26,185.08	I					26,185.08 I
Primary Substation		26,185.08	I					26,185.08 I
<u>Trans. Multiple Bus</u>		3,000.00						3,000.00
<u>Distance Adjust. Fee</u>								
Secondary - OH		1.23						1.23
Secondary - UG		3.17						3.17
Primary - OH		1.22						1.22
Primary - UG		3.13						3.13

(Continued)

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**Lee Schavrien**

Effective

May 1, 2008

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Senior Vice President  
Regulatory Affairs

Resolution No.



**SCHEDULE AL-TOU**

Sheet 2

GENERAL SERVICE - TIME METERED

RATES (Continued)

Description – AL-TOU	Transm	Distr	PPP	ND	CTC	RS	TRAC	UDC Total
<u>Demand Charges (\$/kW)</u>								
<u>Non-Coincident</u>								
Secondary	5.02	I	7.77			0.27		13.06 I
Primary	4.85	I	7.64			0.26		12.75 I
Secondary Substation	5.02	I				0.27		5.29 I
Primary Substation	4.85	I				0.26		5.11 I
Transmission	4.81	I				0.26		5.07 I
<u>Maximum On-Peak</u>								
<u>Summer</u>								
Secondary	1.09	I	5.08		0.89			7.06 I
Primary	1.05	I	5.87		0.85			7.77 I
Secondary Substation	1.09	I	1.38		0.89			3.36 I
Primary Substation	1.05	I	0.34		0.41			1.80 I
Transmission	1.04	I	0.26		0.41			1.71 I
<u>Winter</u>								
Secondary	0.24	I	4.33		0.12			4.69 I
Primary	0.23	I	4.46		0.12			4.81 I
Secondary Substation	0.24	I	0.21		0.12			0.57 I
Primary Substation	0.23	I	0.07		0.08			0.38 I
Transmission	0.23	I	0.05		0.08			0.36 I
<u>Power Factor (\$/kvar)</u>								
Secondary			0.25					0.25
Primary			0.25					0.25
Secondary Substation			0.25					0.25
Primary Substation			0.25					0.25
Transmission								

(Continued)

2C7

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Issued by  
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Senior Vice President  
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**SCHEDULE AL-TOU**  
**GENERAL SERVICE - TIME METERED**

Sheet 3

RATES (Continued)

Description – AL-TOU	Transm	Distr	PPP	ND	CTC	RS	TRAC	UDC Total
<u>Energy Charges (\$/kWh)</u>								
<u>On-Peak - Summer</u>								
Secondary	(0.00035)	0.00524	0.00639	0.00046	0.00215	I (0.00020)		<b>0.01369</b> I
Primary	(0.00035)	0.00299	0.00639	0.00046	0.00210	I (0.00020)		<b>0.01139</b> I
Secondary Substation	(0.00035)	0.00237	0.00639	0.00046	0.00215	I (0.00020)		<b>0.01082</b> I
Primary Substation	(0.00035)	0.00043	0.00639	0.00046	0.00203	I (0.00020)		<b>0.00876</b> I
Transmission	(0.00035)	0.00048	0.00639	0.00046	0.00203	I (0.00020)		<b>0.00881</b> I
<u>Semi-Peak – Summer</u>								
Secondary	(0.00035)	0.00305	0.00639	0.00046	0.00126	I (0.00020)		<b>0.01061</b> I
Primary	(0.00035)	0.00176	0.00639	0.00046	0.00126	I (0.00020)		<b>0.00932</b> I
Secondary Substation	(0.00035)	0.00138	0.00639	0.00046	0.00126	I (0.00020)		<b>0.00894</b> I
Primary Substation	(0.00035)	0.00025	0.00639	0.00046	0.00118	I (0.00020)		<b>0.00773</b> I
Transmission	(0.00035)	0.00028	0.00639	0.00046	0.00118	I (0.00020)		<b>0.00776</b> I
<u>Off-Peak – Summer</u>								
Secondary	(0.00035)	0.00243	0.00639	0.00046	0.00101	I (0.00020)		<b>0.00974</b> I
Primary	(0.00035)	0.00139	0.00639	0.00046	0.00097	I (0.00020)		<b>0.00866</b> I
Secondary Substation	(0.00035)	0.00110	0.00639	0.00046	0.00101	I (0.00020)		<b>0.00841</b> I
Primary Substation	(0.00035)	0.00020	0.00639	0.00046	0.00097	I (0.00020)		<b>0.00747</b> I
Transmission	(0.00035)	0.00023	0.00639	0.00046	0.00097	I (0.00020)		<b>0.00750</b> I
<u>On-Peak – Winter</u>								
Secondary	(0.00035)	0.00438	0.00639	0.00046	0.00181	I (0.00020)		<b>0.01249</b> I
Primary	(0.00035)	0.00249	0.00639	0.00046	0.00177	I (0.00020)		<b>0.01056</b> I
Secondary Substation	(0.00035)	0.00198	0.00639	0.00046	0.00181	I (0.00020)		<b>0.01009</b> I
Primary Substation	(0.00035)	0.00036	0.00639	0.00046	0.00169	I (0.00020)		<b>0.00835</b> I
Transmission	(0.00035)	0.00040	0.00639	0.00046	0.00169	I (0.00020)		<b>0.00839</b> I
<u>Semi-Peak – Winter</u>								
Secondary	(0.00035)	0.00305	0.00639	0.00046	0.00126	I (0.00020)		<b>0.01061</b> I
Primary	(0.00035)	0.00176	0.00639	0.00046	0.00126	I (0.00020)		<b>0.00932</b> I
Secondary Substation	(0.00035)	0.00138	0.00639	0.00046	0.00126	I (0.00020)		<b>0.00894</b> I
Primary Substation	(0.00035)	0.00025	0.00639	0.00046	0.00118	I (0.00020)		<b>0.00773</b> I
Transmission	(0.00035)	0.00028	0.00639	0.00046	0.00118	I (0.00020)		<b>0.00776</b> I
<u>Off-Peak - Winter</u>								
Secondary	(0.00035)	0.00243	0.00639	0.00046	0.00101	I (0.00020)		<b>0.00974</b> I
Primary	(0.00035)	0.00139	0.00639	0.00046	0.00097	I (0.00020)		<b>0.00866</b> I
Secondary Substation	(0.00035)	0.00110	0.00639	0.00046	0.00101	I (0.00020)		<b>0.00841</b> I
Primary Substation	(0.00035)	0.00020	0.00639	0.00046	0.00097	I (0.00020)		<b>0.00747</b> I
Transmission	(0.00035)	0.00023	0.00639	0.00046	0.00097	I (0.00020)		<b>0.00750</b> I

Notes: Transmission Energy charges include the Transmission Revenue Balancing Account Adjustment (TRBAA) of \$(0.00029) per kWh and the Transmission Access Charge Balancing Account Adjustment (TACBAA) of \$(0.00006) per kWh. PPP rate is composed of: Low Income PPP rate (LI-PPP) \$0.00233 /kWh, Non-low Income PPP rate (Non-LI-PPP) \$0.00207 /kWh (pursuant to PU Code Section 399.8, the Non-LI-PPP rate may not exceed January 1, 2000 levels), and Procurement Energy Efficiency Surcharge Rate of \$0.00199 /kWh.

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3C13

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**SCHEDULE AL-TOU**

Sheet 4

GENERAL SERVICE - TIME METERED

RATES (Continued)

Rate Components

The Utility Distribution Company Total Rates (UDC Total) shown above are comprised of the following components (if applicable): (1) Transmission (Trans) Charges, (2) Distribution (Distr) Charges, (3) Public Purpose Program (PPP) Charges, (4) Nuclear Decommissioning (ND) Charge, (5) Ongoing Competition Transition Charges (CTC), (6) Reliability Services (RS), and (7) Total Rate Adjustment Component (TRAC).

Utility Distribution Company (UDC) Total Rate shown above excludes any applicable commodity charges associated with Schedule EECC (Electric Energy Commodity Cost) and Schedule DWR-BC (Department of Water Resources Bond Charge).

Certain Direct Access customers are exempt from the TRAC, as defined in Rule 1 – Definitions.

Time Periods

All time periods listed are applicable to local time. The definition of time will be based upon the date service is rendered.

	<u>Summer May 1 - Sept 30</u>	<u>Winter All Other</u>
On-Peak	11 a.m. - 6 p.m. Weekdays	5 p.m. - 8 p.m. Weekdays
Semi-Peak	6 a.m. - 11 a.m. Weekdays 6 p.m. - 10 p.m. Weekdays	6 a.m. - 5 p.m. Weekdays 8 p.m. - 10 p.m. Weekdays
Off-Peak	10 p.m. - 6 a.m. Weekdays Plus Weekends & Holidays	10 p.m. - 6 a.m. Weekdays Plus Weekends & Holidays

The time periods shown above will begin and end one hour later for the period between the second Sunday in March and the first Sunday in April, and for the period between the last Sunday in October and the first Sunday in November.

Non-Standard Seasonal Changeover

Customers may select on an optional basis to start the summer billing period on the first Monday of May and to start the winter billing period on the first Monday of October. Customers electing this option will be charged an additional \$100 per year for metering equipment and programming.

Franchise Fee Differential

A Franchise Fee Differential of 5.78% will be applied to the monthly billings calculated under this schedule for all customers within the corporate limits of the City of San Diego. Such Franchise Fee Differential shall be so indicated and added as a separate item to bills rendered to such customers.

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Regulatory Affairs

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**SCHEDULE AL-TOU**

Sheet 5

GENERAL SERVICE - TIME METERED

SPECIAL CONDITIONS

1. Definitions: The Definitions of terms used in this schedule are found either herein or in Rule 1.
2. Voltage: Service under this schedule normally will be supplied at a standard available Voltage in accordance with Rule 2.
3. Voltage Regulators: Voltage Regulators, if required by the customer, shall be furnished, installed, owned, and maintained by the customer.
4. Reconnection Charge: Any customer resuming service within twelve months after such service was discontinued will be required to pay all charges which would have been billed if service had not been discontinued.
5. Non-Coincident Demand Charge: The Non-Coincident Demand Charge shall be based on the higher of the Maximum Monthly Demand or 50% of the Maximum Annual Demand.
6. On-Peak Period Demand Charge: The On-Peak Period Demand Charge shall be based on the Maximum On-Peak Period Demand.
7. Power Factor: The Power Factor rate shall apply to those customers that have a Power Factor Test Failure and will be based on the Maximum Kilovar billing demand. Those customers that have a Power Factor Test Failure will be required to pay for the Power Factor Metering that the utility will install.
8. Parallel Generation Limitation. This schedule is not applicable to standby, auxiliary service or service operated in parallel with a customer's generating plant, except as specified in Rule 1 under the definition of Parallel Generation Limitation.
9. Seasonal Changeover Switching Limitation. Customers who elect the nonstandard Seasonal Changeover option of this schedule will be prohibited from switching service to the regular seasonal changeover for a 12-month period.
10. Limitation on Non-Standard Seasonal Changeover Availability. At the utility's sole option, the optional non-standard seasonal changeover provision is available to no more than ten additional Schedule AL-TOU and Schedule A6-TOU customers annually and; service will be provided in the order in which requests are received.

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(Continued)

5C11

Advice Ltr. No. 1978-E

Decision No. 08-02-034

Issued by  
**Lee Schavrien**  
Senior Vice President  
Regulatory Affairs

Date Filed Mar 28, 2008

Effective May 1, 2008

Resolution No. \_\_\_\_\_



**SCHEDULE AL-TOU**

Sheet 6

GENERAL SERVICE - TIME METERED

SPECIAL CONDITIONS (Continued)

- 11. Terms of Optional Service. A customer receiving service under this schedule may elect to change to another applicable rate schedule, but only after receiving service on this schedule for at least 12 consecutive months. If a customer elects to discontinue service on this schedule, the customer will not be permitted to return to this schedule for a period of one year.
- 12. Basic Service Fee Determination. The basic service fee will be determined each month based on the customer's Maximum Annual Demand.
- 13. Transmission Multiple Bus Basic Service Fee. This fee shall apply where a customer has at their option elected to be billed at this rate and is limited to where the customer is delivering power and taking service at one or more than one transmission service level bus even if at two or more different voltage levels, for service to a generation facility that is located on a single premise owned or operated by the customer. In such a case, the Utility shall, for the purposes of applying retail rates, combine by subtracting any generation delivered from any loads served provided, however, that for purposes of applying retail rates the difference resulting from this combining may not be less than zero. All other charges on this tariff shall also apply to the resulting combined loads.

Any customer selecting this optional billing no later than six (6) months from the first effective date of this new rate shall, for billing purposes, have any previously incurred demand ratchet treated as a "zero" from the effective date of the change in billing forward. In addition, any standby charges shall be adjusted to the customer's contract level from the effective date of the change in billing forward until the customer's demand triggers a future change.

- 14. Billing. A customer's bill is first calculated according to the total rates and conditions listed above. The following adjustments are made depending on the option applicable to the customer:
  - a. **UDC Bundled Service Customers** receive supply and delivery services solely from the Utility. The customer's bill is based on the Total Rates set forth above. The EECC component is determined by multiplying the EECC price for this schedule during the last month by the customer's total usage.
  - b. **Direct Access (DA) and Community Choice Aggregation (CCA) Customers** purchase energy from a non-utility provider and continue to receive delivery services from the Utility. The bills for a DA and CCA Customer will be calculated as if they were a UDC Bundled Service Customer, then crediting the bill by the amount of the EECC component, as determined for a UDC Bundled Customer, and including the appropriate Cost Responsibility Surcharge (CRS) if applicable.

Nothing in this service schedule prohibits a marketer or broker from negotiating with customers the method by which their customer will pay the CTC charge.

- 15. Temporary Service. When service is turned on for cleaning and/or showing of an unoccupied premise above 20 kW facility, the minimal usage shall be billed under Schedule A, until a new tenant begins service. Should usage exceed 20kW at any time for cleaning and/or showing, the customer shall be billed the rates on this schedule.

(Continued)

D



**SCHEDULE AL-TOU**

GENERAL SERVICE - TIME METERED

SPECIAL CONDITIONS (Continued)

- 16. Multiple Meters on Single Premise. When a single corporate entity owns a contiguous property, not divided by any public right of way or property owned by another entity, all within the same governmental agency's jurisdiction, and the Utility has more than one meter serving that property, then, at the customer's request the Utility will for the additional fees and conditions set forth in this Special Condition bill all of the usage at some, or all, of the meters as though the whole premise were served through a single meter. As of September 21, 2004, for new customers to be eligible for combined billing, all meters must have the same billing components. These components include but are not limited to Large Customer CTC Adjustment, Large Customer Commodity Credit, Direct Access (DA) Cost Responsibility Surcharge, DA Utility Service Credit, DA Energy Charge and DA Franchise Fee Surcharge. Meter data will be combined for the purpose of billing UDC charges, as listed in the Rates Section of this tariff, but meter data is not allowed to be combined for the purpose of off setting any charges on SDG&E's commodity rate schedules.. The customer must pay for the utility to install and maintain meters to record consumption in 15 minute intervals for all involved meters. The customer must also pay a distance adjustment fee determined by the utility that is based on the distance between each of the meters involved using normal utility position to determine that distance. The rate applied will be the Distance Adjustment Fee from the Rate Section of this tariff multiplied by 0.121.
  
- 17. Electric Emergency Load Curtailment Plan: As set forth in CPUC Decision 01-04-006, all transmission level customers except essential use customers, OBMC participants, net suppliers to the electrical grid, or others exempt by the Commission, are to be included in rotating outages in the event of an emergency. A transmission level customer who refuses or fails to drop load shall be added to the next curtailment block so that the customer does not escape curtailment. If the transmission level customer fails to cooperate and drop load at SDG&E's request, automatic equipment controlled by SDG&E will be installed at the customer's expense per Electric Rule 2. A transmission level customer who refuses to drop load before installation of the equipment shall be subject to a penalty of \$6/kWh for all load requested to be curtailed that is not curtailed. The \$6/kWh penalty shall not apply if the customer's generation suffers a verified, forced outage and during times of scheduled maintenance. The scheduled maintenance must be approved by both the ISO and SDG&E, but approval may not be unreasonably withheld.
  
- 18. Other Applicable Tariffs: Rules 21, 23 and Schedule E-Depart apply to customers with generators.
  
- 19. Generator Operation: The operation of a non-utility generator unless expressly authorized by tariff is prohibited.

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## **Exhibit 3**

# **CAB Rejection of Informal Complaint**

PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVE  
SAN FRANCISCO, CA 94102



FEBRUARY 19, 2010

10 FEB 24 12:46 PM

File No:74716

John Jardin  
Encina Water Pollution Control Facility  
6200 Avenida Encinas  
Carlsbad, CA 92011

Dear Mr. Jardin,

In response to your concerns regarding **SAN DIEGO GAS & ELECTRIC COMPANY**, the California Public Utilities Commission (CPUC) referred your complaint to the utility's Executive Offices for further review.

Based on the information included with your complaint and the utility's report, it appears that **SAN DIEGO GAS & ELECTRIC COMPANY** handled your case in accordance with the appropriate tariffs, codes, regulations, or service agreement; and the utility's initial position is sustained.

If you disagree with those findings and wish to appeal the decision, you may send a detailed explanation of your position, along with the appropriate supporting documentation, to our office. Appeals must demonstrate that important facts were not addressed or that the decision was based on an incorrect reading of the relevant tariff, code, regulation, or service agreement. An explanation of the appeal process is enclosed with this letter.

Sincerely,

A handwritten signature in cursive script that reads "Rosario Cervantes".

Rosario Cervantes  
Consumer Affairs Branch  
1-800-649-7570

## **Exhibit 4**

### **CAB Rejection of Informal Appeal**

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVE  
SAN FRANCISCO, CA 94102



APR 28 3 28 PM '10

APRIL 28, 2010

File No:74716

Encina Water Pollution Control Facility  
6200 Avenida Encinas  
Carlsbad CA 92011

Dear Encina Water Pollution Control Facility;

We are in receipt of San Diego Gas & Electric's (SDG&E) response to your complaint regarding have your service rate changed without your knowledge or approval.

SDG&E has not changed it's findings given the additional information you submitted, and again supplies tariff's which support both the change of rate/back-billing. It appears SDG&E is in complaine with the rules/tariffs of the CPUC and we must therefore close your file, as this branch has proceeded as far as it can.

I am enclosing both your impound in the amount of \$143,074.91, as an impound should not have been accepted on a case file the utility has already responded to, as well as information on how to file a formal complaint should you wish to proceed with your complaint.

Should you have questions, or need further assistance, call the number below and refer to your case file number above.

Sincerely,

Paul Harris  
Consumer Affairs Branch  
1-800-649-7570

**Exhibit 5**

**SDG&E 4/27/2010 Response to Informal Appeal**

San Diego Gas & Electric Company (SDG&E) hereby provides its response to the Commission’s direction to review additional information provided by Encina Wastewater Authority (EWA or Encina) in its “Request to Consider New Evidence and Informal Appeal of the CAB’s Decision Regarding Encina Wastewater Authority Complaint No. 74716.” SDG&E’s response is provided in three parts: I.) A timeline setting forth, in chronological order, recorded events and communications between SDG&E and EWA that transpired over the period of time relevant to EWA’s complaint; II.) A discussion concerning EWA’s claims that the electric use, in its entirety at the Encina Wastewater Pollution Control Facility (EWPCF), is eligible for service under SDG&E’s Commission-approved tariff, Schedule PA-T-1; and III.) SDG&E’s brief response to each of the questions and comments raised by the Commission in its Supplemental Informal Complaint sent to SDG&E on March 30, 2010.

**I. TIMELINE OF EVENTS AND COMMUNICATIONS BETWEEN SDG&E AND EWA**

<b>Prior to March 13, 2008</b>	EWPCF had two electric meters billing under Schedule PA-T-1 on separate billing accounts serving the EWPCF.
<b>March 13, 2008</b>	Per EWA’s request, SDG&E removed meter number 01759055.
<b>March 25, 2008</b>	Per EWA’s request, SDG&E set new meter number 01931462 – Billing under Schedule AL-TOU. Account number 9375319948. All new non-residential meter sets with expected demand equal to or greater than 20 kW receive the default non-residential rate, Schedule AL-TOU. <sup>1</sup> EWA’s load was expected to exceed 20 kW. Schedule PA-T-1 is a rate that is optionally available, by affirmative election, to eligible customers whose use of electricity is for agricultural production purposes or water pumping. <sup>2</sup>
<b>April 16, 2008</b>	SDG&E mailed the first AL-TOU billing for meter number 01931462 – and on a monthly basis thereafter. Monthly bills display the rate that customers are billed under.
<b>May 27, 2008</b>	Per EWA’s request, SDG&E removed meter number 01856515.
<b>June 25, 2008</b>	Per EWA’s request, SDG&E set new meter number 01839163 –

<sup>1</sup> The Applicability Section of SDG&E’s Tariff Schedule AL-TOU states in pertinent part that it is “Applicable to all metered non-residential customers whose monthly maximum demand equals, exceeds, or is expected to equal or exceed 20 kW.”

<sup>2</sup> SDG&E’s Electric Rule 12, Section D states in pertinent part, “It is the customer’s responsibility to request another schedule or option if the customer’s connected load, hours of operation, type of business or type of service have changed. Where the customer changes equipment or operation without notifying the Utility, the Utility assumes no responsibility for advising the customer of other rate options available to the customer as a result of changes in the customer’s equipment or operations.”

	<p>Billing under Schedule AL-TOU. Account number 5521899575. All new non-residential meter sets with expected demand equal to or greater than 20 kW receive the default non-residential rate, Schedule AL-TOU. EWA's load was expected to exceed 20 kW. Schedule PA-T-1 is optionally available to customers by affirmative election, whose use of electricity is for agricultural production purposes or water pumping.</p>
<b>July 16, 2008</b>	<p>SDG&amp;E mailed the first AL-TOU billing for meter number 01839163 – and on a monthly basis thereafter. Monthly bills display the rate that customers are billed under.</p>
<b>September 29, 2008</b>	<p>SDG&amp;E Customer Service Analyst (CSA) left voice mail message for Operations Director at EWA to discuss electric rate for meter number 01839163.</p>
<b>September 29, 2008</b>	<p>CSA sent a follow-up email to EWA advising that meter number 01839163 is billing under Schedule AL-TOU and reminds EWA that its previous account was billing under PA-T-1. (See attached email dated 9/9/2008 from CSA to EWA.)</p>
<b>September 30, 2008</b>	<p>EWA acknowledges and thanks the CSA for the notice of change to AL-TOU and further advises CSA that its analyses have indicated very little difference between AL-TOU and PA-T-1 and because EWA will be using electric power differently and at different times, it prefers to review its potential rate options at a later date when its normal operations are in place after construction work has been completed. (See attached email dated 9/30/2009 from EWA to CSA.)  <i><b>In its complaint at page 3, EWA asserts that “for some unknown reason and without any notice, SDG&amp;E set the rate for the new meter (and redundant service) using the Schedule AL-TOU....”</b></i>  EWA is incorrect. SDG&amp;E did, in fact, advise EWA of the rate being applied to its accounts and it was EWA who chose not to discuss potential rate options at the time. EWA also acknowledges that as a result of its “Phase V project”, which includes the addition of a biosolids heat dryer anticipated to be fully operational in April 2009, the nature of the facility's loads will also change.<sup>3</sup></p>
<b>October 7, 2008</b>	<p>CSA acknowledges EWA's request and confirms that SDG&amp;E is standing by and ready to assist when EWA is prepared to discuss rates. (See attached email dated 10/7/2008 from CSA to EWA.)</p>
<b>January 6, 2009</b>	<p>SDG&amp;E AE contacts EWA concerning rates – (See attached email</p>

<sup>3</sup> See attachment B – Pretreatment News – Winter 2008

	dated 1/6/2009 from AE to EWA.)
<b>January 7, 2009</b>	EWA acknowledges its understanding that both accounts at EWPCF have historically billed under AL-TOU. (See attached email dated 1/7/2009 from EWA to AE.) As shown above, electric service under AL-TOU for the new accounts commenced in March 2008 and June 2008.
<b>January 22, 2009</b>	EWA confirms by phone conversation with AE that its accounts will remain on AL-TOU until its onsite electric generation is operating correctly. (See attached internal email from AE dated 1/22/2009.)
<b>March 9, 2009</b>	SDG&E AE contacted EWA concerning rates and prematurely advises that PA-T-1 is an optional rate available to EWA – (See attached email dated 3/9/2009 from AE to EWA.)
<b>March 9, 2009</b>	EWA expresses interest in switching rates to PA-T-1 and although it had previously acknowledged that its accounts were billing under AL-TOU it begins to dispute the application of this rate since EWA did not request to be billed under AL-TOU – (See attached email dated 3/9/2009 5:15 pm from EWA to AE.)
<b>March 9, 2009</b>	EWA requests a rate analysis to determine if PA-T-1 would have resulted in lower bills retroactively for the billing periods to when the new accounts were activated. (See attached email dated 3/9/2008 5:18 pm from EWA to AE.)
<b>March 10, 2009</b>	EWA expresses that it needs more time to determine the rate it believes will be most beneficial for its operations. (See attached email from EWA to AE dated 3/10/2009 2:02 pm.)
<b>March 10, 2009</b>	EWA notifies AE that it has completed its analyses and has decided that PA-T-1 is its best rate option for both meters. EWA questions again why the rates were set under AL-TOU for the new meters. (See attached email from EWA to AE dated 3/10/2009 3:30 pm.)
<b>March 13, 2009</b>	SDG&E receives a request from EWA’s third-party consultant for access to EWA’s interval energy usage data.
<b>April 17, 2009</b>	EWA requests that its new accounts be retroactively billed under PA-T-1 to the respective start dates. (See attached email dated 4/17/2009 from EWA to AE.)
<b>May 28, 2009</b>	SDG&E accepts an optional rate change authorization from EWA to change the rate for both accounts from AL-TOU to PA-T-1. Rate changes became effective 6/16/2009.

<b>June 3, 2009</b>	EWA continues to claim that since it did not request to be billed under AL-TOU when the new meters were set, it is entitled to be retroactively billed under the optional PA-T-1 rate. (See attached email from EWA to AE dated 6/3/2009 3:47 pm.)
<b>June 3, 2009</b>	AE confirms SDG&E's receipt of EWA's request to change rates to PA-T-1 and advises that he will investigate the issue of retroactive billing for EWA's accounts. (See attached email from AE to EWA dated 6/3/2009 5:33 pm.)
<b>August 3, 2009</b>	AE notifies EWA that he is still investigating the retroactive billing issue. (See attached email from AE to EWA dated 8/3/2009.)
<b>September 11, 2009</b>	During a site visit to EWPCF, AE observes electric load that appeared to be neither water pumping nor agricultural load that would likely use more than 499 kWh per month. The nature and estimated usage of the non-qualifying load is described in detail in the following sections.

**II. EWA'S CONTINUED CLAIMS THAT THE ELECTRIC USE, IN ITS ENTIRETY AT THE EWPCF, IS ELIGIBLE FOR SERVICE UNDER SDG&E'S COMMISSION-APPROVED TARIFF, SCHEDULE PA-T-1 SHOULD BE REJECTED**

In denying EWA's informal complaint, the Commission considered all of the relevant facts in this case and reached the correct result by finding that SDG&E has complied with its Commission-approved tariffs. The facts in this case are clear. While EWA does have sewage treatment and water pumping electric load at EWPCF that could qualify for separately metered service under PA-T-1, a significant amount of load (i.e., its new large administrative office building and a new biosolids heat dryer) is served through the same meter (that also serves the sewage treatment and water pumping load) which clearly does not qualify for service under PA-T-1. As is the case with any other Commission-approved tariff rate or rule, the special conditions (i.e., terms and conditions of service) are to be applied in all instances when a customer receives service pursuant to such rate or rule.

SDG&E's Schedule PA-T-1 is intended for agricultural and water pumping customers that also meet certain NACIS code requirements. To the extent an agricultural or water pumping customer has incidental load which is not providing service to agricultural or water pumping activities, SDG&E's Tariff Special Condition (SC) 15 provides a limited exception to the load requirements permitted under PA-T-1. Given EWA's electric load profile, which has changed significantly from when EWA first began receiving service under Schedule PA-T-1 in 1983, the EWPCF would have to qualify under SC 15 in order for its new accounts to be eligible for service under Schedule PA-T-1. SDG&E demonstrated that the EWPCF did not qualify under SC 15 because its non-qualifying usage is well above the allowable limit under SC 15.

Because Schedule PA-T-1 applies to both agricultural and water pumping customers, the special conditions under that tariff schedule likewise apply to all such customers. SDG&E's application of its tariff allows for equal treatment for both agricultural and water pumping customers receiving service under PA-T-1, and is consistent with the history and intent behind the PA-T-1 tariff schedule and its special conditions.

EWA's contention that this experimental tariff would somehow impose terms and restrictions solely upon agricultural customers, and not on water pumping customers, is fundamentally flawed. There is absolutely no support for the position that SDG&E's PA-T-1 tariff was designed to discriminate between such customers by providing an inequitable benefit for, or extend preferential treatment to, water pumping customers. SDG&E's Commission-approved tariff is clear that Schedule PA-T-1 is not available to customers, whether agricultural or water pumping, for electric usage beyond its intended purpose, unless the SC 15 limited exception applies. And it is equally clear that all other non-residential customers with similar types of general service commercial and/or industrial loads whose maximum demand equals or exceeds 20 kW, including agricultural customers with non-PA-T-1 eligible load in excess of the limitations provided for in SC 15 receive service under Schedule AL-TOU.

The cost allocation and rate design used for the development of the PA-T-1 rates are based on specific qualifying loads served under the rate which represent loads used by water pumping and agricultural customers, not general service commercial and industrial loads which EWA seeks to include. To allow EWA and other customers to include such non-qualifying loads under this preferential rate for the purposes of receiving an inappropriate rate discount merely results in unfairly shifting costs to other customers and is tantamount to an impermissible collateral attack on the Commission's rate design determinations as well as its proceedings approving SDG&E's implementing tariff schedules, referenced herein.

As stated in SDG&E's December 10, 2009 letter to EWA (Attachment C), on September 11, 2009, "SDG&E's Account Executive (AE) observed electric load that appeared to be neither water pumping nor agricultural load which would likely use more than 499 kWh per month...." More specifically, the load observed by the AE was a very large new office building located at EWPCF. Additional information obtained from EWA's public website indicates, not only did EWA construct a new 30,500 square foot state-of-the-art operations building, it also added a 12,500 square foot maintenance building<sup>4</sup> and a new biosolids heat dryer.

Moreover, the facts demonstrate that the electric load for EWA's new buildings as well as EWA's new biosolids heat dryer<sup>5</sup> are served through the same meter that serves the sewage treatment and water pumping operations,. According to a nationally recognized independent energy researcher, E Source, commercial office buildings in the United States consume an average of 17 kWh per square foot annually.<sup>6</sup> Based on these average statistics, EWA's 30,500 square foot operations

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<sup>4</sup> Refer to Attachment D - Encina Fact Sheet

<sup>5</sup> Refer to Attachment E - Pretreatment News - Summer 2008

<sup>6</sup> [http://www.esource.com/esource/getpub/members/BCO-P-5-ESCD/ESCD\\_Pamphlet/Office\\_Buildings](http://www.esource.com/esource/getpub/members/BCO-P-5-ESCD/ESCD_Pamphlet/Office_Buildings)

building alone would consume approximately 43,200 kWh per month. Under the most conservative reasonable estimate, a building of this size and nature will easily consume more than 500 kWh per month. As stated previously, Schedule PA-T-1 does not and has never been intended to apply to customers using large amounts of electricity for loads not related to agricultural or water pumping.

### **III. SDG&E's Response to Questions and Comments Raised by the Commission in its Supplemental Informal Complaint**

**1) "What did SDG&E discover to lead that the customer was not adhering to the rate available to agricultural and water pumping customer, what was the monthly demand that tipped the utility?"**

SDG&E's Response:

As stated in Section 2 above, SDG&E observed a large office building and has since learned of a biosolids heat dryer, either one of which will use well in excess of 500 kWh per month.

**2) "When Encina paid for their own meter, were the two accounts serving the same meters?"**

SDG&E's Response:

At the time Encina upgraded its switchgear, for redundancy purposes and similar to the configuration that existed prior to its upgrade, it requested that two meters be installed. Each meter is connected to and is capable of serving the entire electric load at EWPCF. This metering configuration essentially provides the customer with an alternate service point that it can use in the event the other service point becomes unavailable for reasons such as an electric outage on the utility's side of the meter.

This type of installation is non-standard and, pursuant to SDG&E's Commission-approved tariffs, the customer is required to pay for non-standard installations. Each meter is set up to bill under a separate account.

**3) "Did SDG&E notify the customer of these contact Encina or contact at Encina to notify the customer of the change in rate, instead of directly billing the customer and sending them a letter that a change had been made?"**

SDG&E's Response:

As specified in the timeline above, SDG&E's Customer Service Analyst contacted EWA by telephone and email informing the customer of the rates being applied to its new electric accounts. The customer chose, at that time, to not discuss its potential rate options.

- 4) **“SDG&E removed the meter which was billed under the rate schedule, Schedule PA-T1. When the switchgear was replaced, SDG&E established a new billing account and set a new meter. There were two billing accounts 93753199489 and 5521899575.”**

SDG&E’s Response:

As specified in the timeline above, SDG&E removed two electric meters that were billing under Schedule PA-T-1 at the time they were removed. At EWA’s request, SDG&E set two new meters under the account numbers listed above and, in accordance with SDG&E’s Commission-approved tariffs, the accounts initiated service under the default rate for large non-residential customers, Schedule AL-TOU.

- 5) **“Encina requested to be changed on 5-28-2009 from AL-TOU to PA-T-1 effective 6-15-2009.”**

SDG&E Response:

As stated in its letter to Encina dated December 10, 2009, SDG&E received an optional rate authorization request from Encina to change the rate on both accounts from AL-TOU to PA-T-1 on May 28, 2009.

- 6) **“Did SDG&E inform EWPCF of their observance of electricity load appeared to be neither water pumping nor agricultural and would exceed 499 kw with a letter and then a new bill issued.”**

SDG&E Response:

In its letter to Encina dated December 10, 2009, SDG&E informed Encina that it had observed the non-qualifying load during the AE’s site visit on September 11, 2009.

- 7) **“The utility complied with EWPCF’s request to change back to PA-T-1 and billed PA-T-1 rate effective 6-15-2009.”**

SDG&E Response:

The new accounts were initiated for service commencing on March 25 and June 25, 2008. These accounts had not previously billed under Schedule PA-T-1. Per EWA’s request, the electric rate on both accounts was changed to PA-T-1 effective June, 15, 2009.

- 8) **“Please provide letters sent to the customer informing the CPUC that you discovered the extra load and sent out a new billing.”**

SDG&E Response:

Please see the attached letters from SDG&E to Encina dated December 10, 2009 (Attachment C) and February 26, 2010 (Attachment G).

**9) “They claim they were improperly forced to pay at the Schedule AL-TOU rate.”**

SDG&E Response:

Schedule AL-TOU is the applicable default rate for non-residential customers whose electric demand is expected to equal or exceed 20 kW. Therefore, since Encina’s load is well in excess of 20 kW, Schedule AL-TOU was applied properly to Encina’s new accounts.

**10) “Please list the customer statement that the facility was covered by two of the NAICS codes listed on the PA-T-1 Schedule.”**

SDG&E Response:

Please see Encina’s letter to SDG&E dated December 23, 2009. (Attachment F) In response to SDG&E’s letter dated December 10, 2009 in which SDG&E requested Encina to certify that it meets the eligibility requirements, including the requirements of SC 15, necessary to receive service under PA-T-1, Encina confirmed that it is classified under at least one of the NAICS codes listed, but it failed to certify that it met the requirements of SC 15 and instead claimed that it was somehow entitled to preferential treatment in that these terms and conditions of service are not applicable to its operations.

**11) “Re: Condition 15 of Schedule PA-T-1 does not apply to EWPCF:”**

**a) “Did they exceed 500 kWh, the stated limit.”**

SDG&E Response:

Based on the existence of the two large buildings and the new biosolids heat dryer, and as described above, even under the most conservative usage estimates, such non-qualifying load at EWPCF far exceeds the 500 kWh limitations under SC 15.

**b) “Please provide the actual overage and clarification on Special Condition 15.”**

SDG&E Response:

Please see the discussion in Section II which describes the type and nature of the non-qualifying load.

**c) “It only applies if incidental uses are not less than 500 kWh/month.”**

SDG&E Response:

Special Condition 15 applies to all customers receiving service under Schedule PA-T-1. In other words, all PA-T-1 customers are permitted to use non-qualifying load to the extent the load to the extent it results in usage that is less than 500 kWh per month.

- d) “Special Condition 15 also provides a specific example of incidental uses by including the phrase “such as security or safety lighting.”**

SDG&E Response:

As stated previously, a customer receiving service under PA-T-1 is permitted to use non-qualifying load to the extent such load results in usage that is less than 500 kWh per month. Security and safety lighting are typical examples of the types of non-qualifying load permitted as they constitute small loads that typically draw less than 500 kWh/month.<sup>7</sup> In addition, it is quite common for agricultural and water pumping customers to have lighting near their electrical load (i.e., water pumping stations) for security purposes or so they can make repairs in the event equipment malfunctions occur at night.

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<sup>7</sup> A 150-watt outdoor security light that operates dusk-to-dawn during a thirty-day billing period would consume approximately 52 kWh. Pursuant to SC 15, a customer with multiple pumping stations served from the same meter would be permitted to use up to 9 150-watt outdoor security lights.

**Exhibit 6**

**SDG&E 12/10/2009 Communication**



San Diego Gas & Electric  
8306 Century Park Court  
San Diego, CA 92123-1530



December 10, 2009

Mr. John Jardin  
Encina Water Pollution Control Facility  
6200 Avenida Encinas  
Carlsbad, CA 92011

Dear Mr. Jardin:

This letter is in response to the Informal Complaint (complaint) filed by The Encina Water Pollution Control Facility (EWPCF) with the California Public Utilities Commission (CPUC) on November 23, 2009. According to the complaint, EWPCF is disputing the electric rate that San Diego Gas & Electric (SDG&E) has previously applied to its electric billing account number 5521899575 for service provided at 6200 Avenida Encinas in Carlsbad, CA.

As stated in the complaint, EWPCF replaced its switchgear in early 2008. In order to accommodate the replacement of customer-owned equipment, SDG&E removed the existing electric meter which, at the time, was billing under SDG&E's rate, Schedule PA-T-1. Schedule PA-T-1 is an optional rate available to customers using electricity specifically for agricultural or water pumping purposes, with a limited exemption for incremental non-agricultural load of not more than 499 kilowatt-hours (kWh) per month.<sup>1</sup>

Upon completion of the switchgear replacement by EWPCF, consistent with its standard practice, SDG&E established a new billing account and set a new electric meter. In addition, SDG&E notes that, at its expense, EWPCF also installed a redundant electric service with a new, separate electric meter and new billing account number 93753199489 that has been and will be subject to the same treatment provided to billing account number 5521899575, as discussed herein. Since EWPCF's demand for electricity was projected to exceed 20 kilowatts (kW), the new accounts were setup to bill under the general service rate, Schedule AL-TOU.<sup>2</sup> In order to switch from a general service rate and receive service under an optional rate, such as PA-T-1, eligible customers are required to submit an optional rate change authorization request to SDG&E.

On May 28, 2009, SDG&E received an optional rate authorization request from EWPCF to change the rate on both accounts from AL-TOU to PA-T-1. SDG&E processed EWPCF's

<sup>1</sup> SDG&E's Schedule PA-T-1, Special Condition 15, Incremental Non-Agricultural Usage states, "This schedule shall be available even if there is incidental usage (under 500 kwh/month) such as security or safety lighting."

<sup>2</sup> Schedule AL-TOU is the default electric rate applicable to non-residential customers with demand that is expected to equal or exceed 20 kW for 12 consecutive months.

request and began billing its accounts under PA-T-1 effective June 15, 2009. However, during a visit to EWPCF's facility on September 11, 2009, SDG&E's Account Executive (AE) observed electric load that appeared to be neither water pumping nor agricultural load which would likely use more than 499 kWh per month, exceeding the limited exemption described above. Based on this assessment, SDG&E's AE advised EWPCF that the additional load caused it to not be eligible to receive service under PA-T-1 and that the rate had been misapplied since June 2009. As a result, EWPCF was informed that the electric rate would be reverted to and retroactively billed under AL-TOU effective June 15, 2009. Pursuant to SDG&E's CPUC-authorized tariffs, when a rate has been misapplied to a non-residential customer's bill, the billing is recalculated under the applicable rate and the customer is either responsible for paying any resulting undercharge or is refunded any resulting overcharge.<sup>3</sup>

In the event EWPCF can certify, in writing, to SDG&E that the total electric load served by SDG&E at its facility conforms to the eligibility requirements including, but not limited to, Special Condition 15 set forth in Schedule PA-T-1, SDG&E will recalculate EWPCF's bills according to rates in effect under Schedule PA-T-1, Option F, during the periods the accounts were billed under Schedule AL-TOU, as requested. For your reference, SDG&E has enclosed a copy of each CPUC-authorized tariff referenced herein.

If SDG&E does not receive from EWPCF the requested written certification on or before December 24, 2009, SDG&E will move forward with changing the rate and retroactively billing EWPCF under Schedule AL-TOU for the billing periods that have previously been billed under Schedule PA-T-1. At that time, SDG&E will inform EWPCF whether the retroactive billing results in an overcharge that will be refunded or an undercharge that must be paid.

If EWPCF does not dispute SDG&E's assessment that its electric loads do not conform to the requirements specified in Schedule PA-T-1, EWPCF can, at its own expense, separate the non-qualifying load to be served by SDG&E under the applicable general service rate through a separate meter(s) and apply for service under Schedule PA-T-1 for the qualifying load.

While SDG&E apologizes for the delay in resolving EWPCF's concerns regarding the billing of its electric accounts, SDG&E is committed to its obligation and responsibility to serve all customers in compliance with its CPUC-authorized tariffs. If EWPCF needs assistance from SDG&E to verify its total electric load, or if you have further questions, please contact me as soon as possible.

Sincerely,



Christopher W. Brown  
Account Executive

---

<sup>3</sup> SDG&E's Electric Rule 18, Section C

Attachments:

1. SDG&E Rule 18
2. SDG&E Schedule AL-TOU
3. SDG&E Schedule PA-T-1



**RULE 18**

METER TESTS AND ADJUSTMENT OF BILLS

A. Meter Tests

Any customer may, upon not less than five working days' notice, require the Utility to test the accuracy of any meter through which service is provided to the customer.

When a customer requests a meter test within six (6) months of installation of the meter or within six (6) months of the completion of a meter test finding that the meter is operating accurately and where the results of the prior test were provided to the customer, the Utility shall charge the customer \$50.00 for the meter test.

The amount deposited with the Utility in payment for the meter test shall be refunded to the customer if the meter is found to be in error by more than two percent (2%) fast or slow under conditions of normal operation.

A customer shall have the right to require the Utility to test the meter in the customer's presence, or if so desired, in the presence of an expert or other representative appointed by the customer.

A report giving the name of the customer requesting a test, the date of the request, the location of the premises where the meter has been installed, the meter statement at time of removal, the date tested, the result of the test, the type, make, size and number of the meter, the date of removal and deductions drawn therefrom, shall be supplied to the customer within a reasonable time after completion of the test.

All meters shall be tested prior to their installation and no meter shall be placed in service or allowed to remain in service that has an error in registration in excess of two percent (2%) under conditions of normal operation.

B. Adjustment of Bills for Meter Error

A meter error is incorrect kilowatthour, kilovarhour, or demand registration resulting from a malfunctioning or defective meter. A meter error does not include billing errors, unauthorized use, or errors in registration caused by meter tampering by an unauthorized person. It also does not include conditions such as grounds, shorts, incorrect meter readings, meter dial-overs, improper load wiring (including other customers' circuits connected to the wiring), accounting errors, improper customer wiring, blown fuse in one energized conductor, incorrect meter sizing, switched meters and/or meter configuration errors.

Where as the result of a meter test, a meter is found to be nonregistering or incorrectly registering, the Utility may render an adjusted bill to the customer for the amount of the undercharge, without interest, and shall issue a refund or credit to the customer for the amount of the overcharge, without interest, computed back to the date that the Utility determines the meter error commenced. The period of adjustment shall not exceed three years and shall be computed in accordance with the following:

(Continued)



**RULE 18**

Sheet 2

METER TESTS AND ADJUSTMENT OF BILLS

B. Adjustment of Bills for Meter Error (Continued)

1. Fast Meter: If a meter is found to be registering more than two percent (2%) fast, the Utility shall refund to the customer the amount of the overcharge based on the corrected meter readings or the Utility's estimate of the electric usage either for the known period of meter error or, if the period of error is not known, for the period during which the meter was in use, not to exceed six months.
2. Slow Meter: If a meter for residential service is found to be registering more than 25% slow, or a meter for nonresidential service is found to be registering more than two percent (2%) slow, the Utility may bill the customer for the amount of the undercharge based on the corrected meter readings or the Utility's estimate of the electric usage either for the known period of meter error or, if the period of meter error is not known, for the period the meter was in use, not exceeding three months in the case of residential service and three years for nonresidential service.
3. Nonregistering Meter: If a meter for residential service is found to be nonregistering, the Utility may bill the customer for the Utility's estimate of the electricity used but not registered, not exceeding three months in the case of residential service and three years for nonresidential service.
4. Estimated Usage: When regular, accurate meter readings are not available or the electric usage has not been accurately measured, the Utility may estimate the customer's electricity usage for billing purposes on the basis of information including, but not limited to, the physical condition of the metering equipment, available meter readings, records of historical use and/or the general characteristics of the customer's load and operation.

C. Adjustment of Bills for Billing Error

A billing error is an error by the Utility that results in incorrect billing charges to the customer. Billing errors may include incorrect meter reads or clerical errors by a Utility representative such as applying the wrong rate, wrong billing factor, or an incorrect calculation. Billing error shall also include failure to deliver a bill, actual or estimate, in a timely manner in accordance with Rule 17.A.

Billing error does not include a meter error or unauthorized use, nor any error in billing resulting from meter dial over; switched or mismarked meters by other than the Utility; improper customer wiring; blown fuse in one energized conductor; inaccessible meter consistent with Rule No. 17.C.2; failure of the customer to notify the Utility of changes in the customer's equipment or operation; failure of the customer to take advantage of a rate or condition of service for which the customer is eligible; or failure to issue a bill due to a natural or man-made disaster such as fire, earthquake, flood, or severe storms.

Where the Utility overcharges or undercharges a customer as the result of a billing error, the Utility may render an adjusted bill for the amount of the undercharge, without interest, and shall issue a refund or credit to the customer for the amount of the overcharge, without interest, in accordance with the procedures and limitations set forth below. Such adjusted bills shall be computed as follows:

(Continued)

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Advice Ltr. No. 1950-E-A

Decision No. \_\_\_\_\_

Issued by  
**Lee Schavrien**  
Senior Vice President  
Regulatory Affairs

Date Filed Dec 21, 2007

Effective Jan 20, 2008

Resolution No. \_\_\_\_\_

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**RULE 18**

Sheet 3

METER TESTS AND ADJUSTMENT OF BILLS

C. Adjustment of Bills for Billing Error (Continued)

1. Billing Error Resulting in Overcharges to the Customer: If either a residential or nonresidential service is found to have been overcharged due to billing error, the Utility shall calculate the amount of the overcharge, for refund to the customer, for a period of three years. However, if it is known that the period of billing error was less than three years, the overcharge shall be calculated for only those months during which the billing error occurred.
2. Billing Error Resulting in Undercharges to the Customer: If either a residential or nonresidential service is found to have been undercharged due to a billing error, the Utility may bill the customer for the amount of the undercharge for a period of three months for residential service or three years for nonresidential service. However, if it is known that the period of billing error was less than three months for residential service or three years for nonresidential service, the undercharge shall be calculated for only those months during which the billing error occurred.

D. Adjustment of Bills for Unauthorized Use

Unauthorized use is the use of energy in noncompliance with the Utility's tariffs or applicable law. It includes, but is not limited to, meter tampering, unauthorized connection or reconnection, theft, fraud, intentional or unintentional use of electricity whereby the Utility is denied full compensation for service provided.

Where the Utility determines that there has been unauthorized use of electricity, the Utility may bill the person or entity who benefited from such unauthorized use for the Utility's estimate of such unauthorized use. Such estimated billing shall indicate unauthorized use for the most recent three years and, separately, unauthorized use beyond the three year period for collection as provided by law. However, nothing in this rule shall be interpreted as limiting the Utility's rights and/or remedies in any provisions of any applicable law.

Utility shall bill and collect interest at a rate of ten percent (10%) per annum on unauthorized use billings from the date the unauthorized use commenced, and/or Utility shall bill and collect at a rate of ten percent (10%) per annum on amortized repayment agreements.

Utility shall bill and collect the associated costs resulting from the unauthorized use including, but not limited to, investigative, repair and equipment damage costs.

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Advice Ltr. No. 1950-E-A

Decision No. \_\_\_\_\_

Issued by  
**Lee Schavrien**  
Senior Vice President  
Regulatory Affairs

Date Filed Dec 21, 2007

Effective Jan 20, 2008

Resolution No. \_\_\_\_\_

**Exhibit 7**

**Complainant 12/23/2009 Communication**



## ENCINA WASTEWATER AUTHORITY

A Public Agency

6200 Avenida Encinas  
Carlsbad, CA 92011-1095  
Telephone (760) 438-3941  
FAX (760) 438-3861 (Plant)  
(760) 431-7493 (Admin)

December 23, 2009

VIA EMAIL <CWBrown@semprautilities.com>

Christopher W. Brown  
Account Executive  
San Diego Gas & Electric  
8306 Century Park Court  
San Diego, CA 92123-1530

Re: *Encina Wastewater Authority*  
*SDG&E Account Nos. 5521899575 and 93753199489*

Ref: Admin.09-9412

Dear Mr. Brown:

This is a response to your letter dated December 10, 2009 regarding the informal complaint filed by the Encina Wastewater Authority ("EWA") with the California Public Utilities Commission ("CPUC") on November 23, 2009. Specifically, EWA seeks to further explain the applicability of, and to certify its eligibility for, the San Diego Gas & Electric ("SDG&E") Schedule PA-T-1 electricity rate for the Encina Water Pollution Control Facility (EWPCF) which is operated, maintained and administered by EWA for its six public entity owners: the cities of Carlsbad, Vista and Encinitas; and, the Vallecitos Water District, Buena Sanitation District, and Leucadia Wastewater District.

SDG&E Schedule PA-T-1, filed with the California Public Utilities Commission on April 27, 2009 as Sheet No. 21210-E provides that the rate is "[a]vailable to agricultural and water pumping customers whose maximum monthly demand is expected to be over 500 kw and who are classified with" an enumerated list of North American Industry Classification System ("NAICS") Codes. The list includes NAICS Codes 22131 and 22132, which apply to wastewater treatment facilities like the EWPCF located at 6200 Avenida Encinas in Carlsbad, California (SDG&E Billing Account Nos. 5521899575 and 93753199489). Therefore, the EWPCF conforms to the eligibility requirements of Schedule PA-T-1 as a non-agricultural water pumping customer.

Your letter refers to an observation by SDG&E on September 11, 2009 of an electrical load that appeared to be neither water pumping nor agricultural and likely to exceed the 500 kwh/month limit proscribed by Special Condition No. 15 of Schedule PA-T-1. However, this limitation applies only to "Incremental *Non-Agricultural Usage*" and does not apply to any non-water pumping use. As stated

above, the EWPCF is wastewater treatment facility that is eligible for the PA-T-1 rate because it falls within the enumerated list of NAICS Codes and its maximum monthly demand is expected to be over 500 kw. Thus, the Special Condition No. 15 limitation cannot apply to the EWPCF because all of EWPCF's electrical consumption is for non-agricultural usage in excess of 500 kwh/month.

For the foregoing reasons, EWA hereby certifies that the total electric load served by SDG&E at the EWPCF as described above fully conforms to the eligibility requirements set forth in Schedule PA-T-1. We look forward to quickly resolving this matter and request that you please let us know as soon as possible if you have any questions or would like any additional information. Thank you very much for your assistance with this matter.

Sincerely,



Kevin Hardy  
General Manager  
Encina Wastewater Authority

cc: Gregory V. Moser



Seeing North  
San Diego County

ENCINA WASTEWATER AUTHORITY

135464.6100 Avenida Encinas • Carlsbad, CA 92009-1095 • Telephone (760) 438-3941  
Plant Fax (760) 438-3861 • Administrative Offices Fax (760) 431-7493



Printed on  
Recycled Paper

**Exhibit 8**

**SDG&E 2/11/2010 CAB Report**

Date: February 11, 2010

To: CPUC – Consumer Affairs Branch – S.F.

From: Joe Velasquez

Subject: CPUC Informal Complaint File No: 74716  
Encina Water Pollution Control Facility  
6200 Avenida Encinas  
Carlsbad, CA 92011-1009

**Informal Complaint Resolution**

This letter, along with all of its attachments, is hereby provided to inform the California Public Utilities Commission (“CPUC”) that San Diego Gas & Electric (“SDG&E”) and Encina Water Pollution Control Facility (“EWPCF”) have been unsuccessful at reaching a mutually agreeable resolution to EWPCF’s Informal Complaint (“Complaint”), referenced above.

SDG&E’s proposed resolution, as described below, ensures that the customer’s accounts are served and billed on the correct tariff rate effective February 12, 2010, with retroactive billing adjustments pursuant to SDG&E’s CPUC-approved tariffs.

**Background**

In its Complaint, EWPCF disputed the electric rate that SDG&E has previously applied to its electric billing account number 5521899575 for service provided at 6200 Avenida Encinas in Carlsbad, CA.

As stated in the Complaint, EWPCF replaced its switchgear in early 2008. In order to accommodate the replacement of customer-owned equipment, SDG&E removed the existing electric meter which, at the time, was billing under SDG&E’s rate, Schedule PA-T-1. Schedule PA-T-1 is an optional rate available to customers using electricity specifically for agricultural or water pumping purposes, with a limited exemption for

incremental non-agricultural load of not more than 499 kilowatt-hours ("kWh") per month.<sup>1</sup>

Upon completion of the switchgear replacement by EWPCF, consistent with its standard practice, SDG&E established a new billing account and set a new electric meter. In addition, SDG&E notes that, at its expense, EWPCF also installed a redundant electric service with a new, separate electric meter and new billing account number 93753199489 that has been and will be subject to the same treatment provided to billing account number 5521899575, as discussed herein. Since EWPCF's demand for electricity was projected to exceed 20 kilowatts ("kW"), the new accounts were setup to bill under the general service rate, Schedule AL-TOU.<sup>2</sup> In order to switch from a general service rate and receive service under an optional rate, such as PA-T-1, eligible customers are required to submit an optional rate change authorization request to SDG&E.

On May 28, 2009, SDG&E received an optional rate authorization request from EWPCF to change the rate on both accounts from AL-TOU to PA-T-1. SDG&E processed EWPCF's request and began billing its accounts under PA-T-1 effective June 15, 2009. However, during a visit to EWPCF's facility on September 11, 2009, SDG&E's Account Executive ("AE") observed electric load that appeared to be neither water pumping nor agricultural load which would likely use more than 499 kWh per month, exceeding the limited exemption described above. This non-qualifying load includes, among other load, EWPCF's newly constructed administration building and its state of the art laboratory. Based on this assessment, SDG&E's AE advised EWPCF that the additional load caused it to not be eligible to receive service under PA-T-1. As a result, EWPCF was informed that the electric rate would be reverted to and retroactively billed under AL-TOU effective June 15, 2009. Pursuant to SDG&E's CPUC-authorized tariffs, when a billing error results in incorrect charges to a non-residential customer's bill, the billing is recalculated under the applicable rate and the customer is either responsible for paying any resulting undercharge or is refunded any resulting overcharge.<sup>3</sup>

In response to the Complaint, on December 10, 2009, SDG&E sent a letter<sup>4</sup> (copy enclosed) to EWPCF requesting its certification, in writing, that the total electric load served by SDG&E at its facility conforms to the eligibility requirements including, but not limited to, Special Condition ("SC") 15 set forth in Schedule PA-T-1<sup>5</sup>. SDG&E stated in the letter that it would recalculate EWPCF's bills according to rates in effect under Schedule PA-T-1, Option F, during the periods the accounts were billed under Schedule AL-TOU, if EWPCF provided the certification as requested.

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<sup>1</sup> SDG&E's Schedule PA-T-1, Special Condition 15, Incremental Non-Agricultural Usage states, "This schedule shall be available even if there is incidental usage (under 500 kwh/month) such as security or safety lighting."

<sup>2</sup> Schedule AL-TOU is the default electric rate applicable to non-residential customers with demand that is expected to equal or exceed 20 kW for 12 consecutive months.

<sup>3</sup> SDG&E's Electric Rule 18, Section C

<sup>4</sup> A hard copy version of the letter was also mailed to EWPCF on December 11, 2009

<sup>5</sup> Schedule PA-T-1, Special Condition 15 - Incremental Non-Agricultural Usage states: "This schedule shall be available even if there is incidental usage (under 500 kwh/month) such as security or safety lighting."

SDG&E stated further that if it did not receive the requested written certification from EWPCF on or before December 24, 2009, SDG&E would move forward with changing the rate and retroactively billing EWPCF under Schedule AL-TOU for the billing periods that have previously been billed under Schedule PA-T-1.

In a letter to SDG&E dated December 23, 2009 (copy enclosed), EWPCF provided the following excerpt from the Applicability section contained in Schedule PA-T-1: "...available to agricultural and water pumping customers whose maximum monthly demand is expected to be above 500 kw and who are classified with one or more...." of the North American Industry Classification ("NAICS") Codes listed in the rate schedule. EWPCF essentially states further that because its load is not agricultural, it is not subject to the incidental load limitations described in SC 15 and since its operation falls within the classification of the NAICS codes 22131 and 22132 listed in PA-T-1, the entire amount of its load, "...conforms to the eligibility requirements of Schedule PA-T-1 as a non-agricultural water pumping customer."

On January 20, 2010, SDG&E met with EWPCF at its facilities to review the background of its complaint and to clarify for EWPCF that the language in the tariff requires that an eligible customer is classified under an applicable NAICS Code(s) and that the load on the meter must be limited to water pumping while not exceeding the incidental load limitations applicable to all customers receiving service under Schedule PA-T-1. SDG&E noted that although a significant portion the load at the facility is water pumping, additional non-water pumping load, including a large office building, is being served through the electric meters which exceeds the 500 kWh/month permitted under SC 15 in Schedule PA-T-1 and therefore EWPCF is not eligible for service under Schedule PA-T-1. While SDG&E offered to work with EWPCF to explore the feasibility of serving the water pumping loads from separate dedicated meters so that alternative rate options might be available, EWPCF continues to believe that its entire existing electric load as served currently qualifies to receive service under PA-T-1.

**SDG&E's Proposed Resolution complies with its CPUC-approved tariffs:**

Based on SDG&E's visual inspection of EWPCF's facilities EWPCF's electric load includes end-use equipment that causes non-agricultural/non-water pumping usage to exceed the 500 kWh/month limitation set forth under SC 15 in Schedule PA-T-1. Therefore, EWPCF is not eligible to receive service under PA-T-1 and has been incorrectly billed under this rate since June 15, 2009. As a result and in order for SDG&E to serve this customer in compliance with its CPUC-approved tariffs, effective February 12, 2010, the electric rate for EWPCF's accounts will be changed to the applicable rate, Schedule AL-TOU and, pursuant to SDG&E's Electric Rule 18, Section C., its accounts will be retroactively billed under AL-TOU to June 15, 2009. Based on SDG&E's preliminary estimates, the retroactive billing adjustment will result in EWPCF owing an additional amount of approximately \$125,000.00 to \$140,000.00.

**Exhibit 9**

**SDG&E 2/26/2010 Communication to Complainant**



A  Sempra Energy utility<sup>®</sup>

February 26, 2010

Mr. John Jardin  
Director of Operations  
Encina Water Pollution Control Facility  
6200 Avenida Encinas  
Carlsbad, CA 92011-1009

RE: California Public Utilities Commission Informal Complaint File No: 74716  
Encina Water Pollution Control Facility  
6200 Avenida Encinas  
Carlsbad, CA 92011-1009

Dear Mr. Jardin:

Thank you for meeting with us on several occasions to try to resolve Encina Water Pollution Control Facility's (EWPCF) informal complaint to the California Public Utilities Commission (CPUC). However, as you are aware, San Diego Gas & Electric Company (SDG&E) and EWPCF were not able to agree on a mutually acceptable resolution of the complaint. The purpose of this letter is to inform EWPCF of the actions SDG&E is taking to ensure its customer accounts are billed in compliance with its CPUC-approved tariffs.

On November 23, 2009, EWPCF filed an informal complaint with the CPUC against SDG&E, claiming that SDG&E incorrectly billed EWPCF by applying the rate, Schedule AL-TOU, to its electric bills from July 2008 through June 2009. EWPCF therefore requested that SDG&E recalculate its bills under Schedule PA-T-1 for this period of time. SDG&E explained that service under Schedule PA-T-1 is optionally available to customers using electricity for agricultural and/or water pumping purposes and that are classified under one or more of the North American Industry Classification System codes listed in the rate schedule. In addition to the agricultural and/or water pumping load, customers receiving service under Schedule PA-T-1 are permitted under Special Condition (SC) 15 to connect non-conforming load of up to 500 kWh per month.

In a December 10, 2009 letter to EWPCF, SDG&E explained why EWPCF no longer appeared to qualify for service under Schedule PA-T-1. Notwithstanding, SDG&E stated if EWPCF could certify, in writing, that the total electric load at its facility met the applicability requirements of Schedule PA-T-1, including certification that its non-conforming load does not exceed 500 kWh per month in conformance with SC 15, SDG&E would continue to provide service under

Schedule PA-T-1 and retroactively bill the accounts for the time period requested. In a letter to SDG&E dated December 23, 2009, EWPCF certified that its operation does meet the applicability requirements to be eligible for service under Schedule PA-T-1, but failed to certify that its non-conforming load did not exceed 500 kWh. Instead, EWPCF claimed that SC 15 did not apply to EWPCF.

SDG&E took steps to resolve the complaint with EWPCF while ensuring that EWPCF would be charged under the applicable CPUC-approved tariff(s) on a going forward basis. We have met personally with you and other senior management personnel of EWPCF and have also exchanged several verbal and written communications during our efforts to resolve this matter. Due to continuing disagreements as to the interpretation of the Schedule PA-T-1 applicability requirements, EWPCF and SDG&E were ultimately unable to agree to a mutually-acceptable resolution of the complaint. EWPCF therefore rejected, and SDG&E withdrew, any and all offers of settlement. On February 11, 2010, SDG&E submitted its written response to the complaint to the CPUC.

SDG&E has therefore taken the following actions:

- The electric rate for EWPCF's billing accounts will be changed to Schedule AL-TOU effective on the billing cycle starting with the February 12, 2010 meter reading.
- EWPCF's electric accounts will be retroactively billed under Schedule AL-TOU for the billing periods that have previously been billed under Schedule PA-T-1.

The CPUC has been informed of these changes that will be reflected on EWPCF's March billing statement.

SDG&E would like to reiterate its offer to work with EWPCF to explore whether electric load associated with water pumping could be separated and served through a separate meter(s) that would be eligible for service under Schedule PA-T-1. SDG&E also remains open to explore conjunctive billing for EWPCF's Schedule AL-TOU accounts that qualify for this billing option. As was discussed previously with EWPCF representatives, conjunctive billing may result in lower demand charges than might otherwise be incurred if EWPCF's meters are billed separately.

Please feel free to contact me if you have questions. I can be reached at (619) 540-9632.

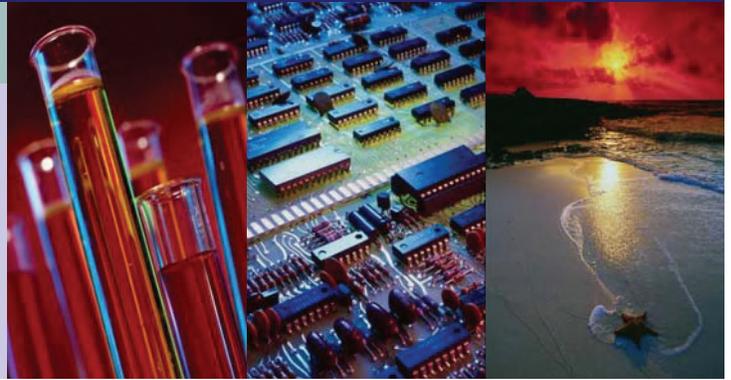
Sincerely,

  
Christopher W Brown  
Account Executive

## **Exhibit 10**

# **Encina Wastewater News & Facts Sheet**

# Pretreatment News



Volume 8, Winter 2008

## EWA to Re-evaluate Industry Discharge Limits

The Encina Wastewater Authority (EWA) is currently in the process of selecting a consultant to assist with its Local Limits Study. Pretreatment regulations require Publicly Owned Treatment Works (POTWs) to develop technically based local discharge limits to protect treatment plant operations, the health and safety of plant personnel, and the ability to reclaim wastewater byproducts,

as well as to ensure compliance with all regulatory requirements. These limits must be evaluated every five years to assess the need for revision.

In order to establish local limits, POTWs must determine the Maximum Allowable Headworks Loading (MAHL) of each pollutant that the plant can handle while maintaining compliance with all regulatory limits.

Background levels of pollutants from domestic sources are subtracted from the MAHL, along with a safety factor (to allow for service area growth), to determine how much can be allocated to industries. The resulting number is then divided by the industrial flow to establish a limit.

If it is determined that a revision of EWA's local limits is required, permitted

industries would be notified of a public hearing to be held during a regularly scheduled meeting of EWA's Board of Directors. Any increase in limits would also have to be approved by the Regional Water Quality Control Board. Once the proposed changes are approved, EWA's Pretreatment Ordinance and industry permits would then be modified. ■



### CSR Reminder!

Remember that your semiannual Compliance Status Report (CSR) is due by January 15, 2009. If your permit requires self-monitoring and you have not already collected a self-monitoring sample for the period of July 1 through December 31, 2008, you should do so immediately to avoid increased laboratory costs for rapid turnaround requests. Please contact your area inspector for questions about your sampling requirements.

## Good-bye Lisa!



*Lisa Urabe demonstrating wastewater treatment at an outreach event*

Inspector Lisa Urabe recently accepted a position as the new Public Information Supervisor with the Vallecitos Water District in San Marcos. Lisa has been an inspector at EWA for over 9 years.

During this time, she was able to utilize her creative talents and passion for protecting the environment to educate the public about wastewater treatment and other environmental issues. This new position will enable her to further utilize these skills in order to get the word out about the impending water shortage.

Lisa would like to thank all of her industries and the staff at EWA for making her job so enjoyable all of these years. If you live or work in San Marcos and would like some information on water conservation, feel free to give Lisa a call (after January 2<sup>nd</sup>) at (760) 744-0460.

# Phase V Plant Upgrades Near Completion

## Biosolids Heat Dryer

After seven years of planning, design, and construction, EWA's new biosolids heat dryer has produced its first pellets. Testing of the equipment is underway to maximize operational efficiency, with full production for distribution expected by April 2009.

The heat dryer produces Exceptional Quality Class A biosolids pellets, which can be used as a fertilizer or burned for energy (biofuel). Implementation of this technology positions EWA as a leader in the biosolids industry. Below is an overview of how wastewater sludge is converted into biosolids pellets.

## Cogeneration Engines

As part of EWA's mission to maximize the use of alternative and renewable resources, EWA is expanding and upgrading its cogeneration capability. Methane gas produced from digesting wastewater sludge will be used to fuel the biosolids heat dryer and internal combustion



engines that drive the generators. The new cogeneration facilities are projected to generate more than half of EWA's total power demand, mostly during peak and semi-peak power rate periods. ■

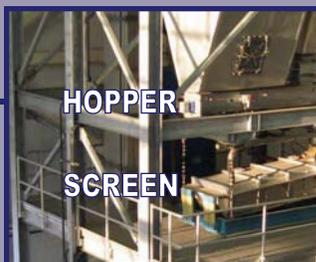
## The journey from wastewater sludge to biosolids pellets:



After 18-20 days of being digested by anaerobic bacteria, wastewater sludge is pumped to a centrifuge where it is spun to remove excess water.



The sludge is then heated in a rotating drum dryer, which removes most of the remaining water and forms the sludge into biosolids pellets.



The pellets are then dropped from a hopper into a shaker screen for sizing. Pellets that meet size specifications are transferred to a storage silo.



The pellets are sprayed with mineral oil for dust control and are then loaded into trucks to be transported to their final destination. EWA staff is in the process of securing partners to reuse this valuable resource.

# EWA Adopts New Mission Statement

EWA's Board of Directors recently adopted the following mission statement:

**As an environmental leader, EWA provides sustainable and fiscally responsible wastewater services to the communities it serves while maximizing the use of alternative and renewable resources.**

This revised statement reflects a shift from the old "treat and dispose" paradigm to the current focus on sustainability. Examples of "green" technologies implemented by EWA include the following:

- EWA operates the Carlsbad Water Reclamation Facility for the City of Carlsbad that produces 4 million gallons per day (MGD) of reclaimed water and provides 1 MGD of treated secondary effluent to the Leucadia Wastewater District's Gafner Water Reclamation Plant.
- The cogeneration facility upgrade will enable EWA to generate 3.0 megawatts (mw) of power (up from 1.4 mw), which will further reduce energy costs.
- The new biosolids heat dryer will produce Class A biosolids pellets that are suitable for unrestricted use as a fertilizer (6% Nitrogen, 6% Phosphorous) or as a biofuel (6,000 btu/lb – approximately 50% that of coal), and will result in a reduction in costs for biosolids disposal.

If you are interested in learning more about EWA's ongoing resource recovery programs, contact us and ask to be added to the mailing list for our new e-bulletin entitled "RenEWable News". ■

Once construction is finalized, EWA will offer plant tours to our industry contacts that want to learn more about our recent upgrades. ■



Pretreatment News is published by the

Encina Wastewater Authority  
6200 Avenida Encinas  
Carlsbad, CA 92011  
Phone: (760) 438-3941  
Fax: (760) 476-9852

If you wish to comment on a particular topic, or submit an idea for a future newsletter, please contact Debbie Biggs at the above address or email: [dbiggs@encinajpa.com](mailto:dbiggs@encinajpa.com).



## Encina Wastewater Authority Building Program Dedication Event Construction Fact Sheet

### Overview

The Encina Wastewater Authority (EWA) is a public entity created pursuant to a joint exercise of powers agreement by and between the City of Carlsbad, the City of Vista, the Buena Sanitation District, the Vallecitos Water District, the Leucadia Wastewater District, and the city of Encinitas. EWA provides wastewater treatment, disposal, laboratory, facility operations, and regulatory services in the Encina Service Area.

### Design Criteria



- Meet all operational, maintenance, laboratory, regulatory, administrative, and governance facility needs of a major regional public utility now and in the future.
- Ensure the project footprint reserves maximum space for further expansion of wastewater treatment and disposal process facilities.
- Provide durable, easy to maintain, operationally efficient, and flexible facilities that will accommodate changing organizational requirements and community needs.
- Reflect EWA's environmental mission through sustainable construction methods, materials, and technology.
- Establish an appropriate identity for EWA in Carlsbad's emerging Avenida Encinas commercial corridor.

### Construction Facts

- 43,000 square feet in two buildings on 3.3 acre site
- Operations Building: 2 story & 30,500 square feet
- Maintenance Building: 1 story & 12,500 square feet
- 5 year planning process; 29 months in construction
- Cost: \$15,337,962



### Building Features



- Operations Control Center
- Machine, Instrumentation & Fabrication Shops
- Chemistry, Microbiology & Process Laboratories
- Reinforced Trendstone masonry block with steel frame
- Drive through Maintenance & Fabrication Shop
- Multi-purpose Boardroom & Training Facility
- Lunch Room with Covered Deck
- Informal Meeting Spaces
- Two Story Lobby with Suspended Bridge
- Locker and Wellness Room



## Encina Wastewater Authority Building Program Dedication Event Construction Fact Sheet



### Sustainability Features

- Energy efficient design – 38 LEED Qualifying Credits
- SDG&E "Savings By Design" Award Recipient (\$38,000)
- Masonry enabled thermal mass heating and cooling
- Solar reflective "cool" roof
- Large, operable, high efficiency windows and skylights
- Motion and solar actuated lighting
- Automated passive cooling in Lobby and Boardroom
- Recycled, recyclable, local/regional materials
- Covered exterior balconies and louvered shading
- Demolition debris recycled
- Bicycle storage; major bus & train depots within walking distance
- Exposed structural elements minimizes applied finishes



### FWA Board of Directors

- Dan Dalager, Chair, City of Encinitas
- Irish Hannan, Vice-Chair, Vallecitos Water District
- Mark Packard, City of Carlsbad
- Ann Kulchin, City of Carlsbad
- Judy Ritter, City of Vista
- Morris Vance, City of Vista
- Darrel Gentry, Vallecitos Water District
- Claine Sullivan, Leucadia Wastewater District
- Alan Juliussen, Leucadia Wastewater District
- Maggie Houlihan, City of Encinitas

### EWA Officers

- Michael T. Hogan, General Manager & Board Secretary
- Kevin M. Hardy, Treasurer & Auditor
- Gregory V. Moser, General Counsel

### Construction Team

- Design: Platt-Whitelaw Architects
- Construction Management: Dudek & Associates
- General Contractor: Jaynes Corporation of California

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of **ANSWER OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902-M) TO COMPLAINT OF ENCINA WASTEWATER AUTHORITY** has been electronically mailed to each party of record of the service list in **C.10-08-027**. Any party on the service list who has not provided an electronic mail address was served by placing copies in properly addressed and sealed envelopes and by depositing such envelopes in the United States Mail with first-class postage prepaid.

Copies were also sent via Federal Express to the assigned Administrative Law Judges and Commissioner.

Executed this 28th day of October, 2010 at San Diego, California.

          /s/ Jenny Norin            
Jenny Norin



## CALIFORNIA PUBLIC UTILITIES COMMISSION Service Lists

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**PROCEEDING: C1008027 - ENCINA WASTEWATER AU**  
**FILER: ENCINA WASTEWATER AUTHORITY**  
**LIST NAME: LIST**  
**LAST CHANGED: OCTOBER 5, 2010**

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### Parties

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MEMGAN CAULSON  
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SAN DIEGO GAS & ELECTRIC COMPANY  
8330 CENTURY PARK COURT  
SAN DIEGO, CA 92123-1548  
FOR: SAN DIEGO GAS & ELECTRIC COMPANY

### Information Only

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CALIFORNIA ENERGY MARKETS  
425 DIVISADERO ST. SUITE 303  
SAN FRANCISCO, CA 94117

### State Service

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DIVISION OF ADMINISTRATIVE LAW JUDGES  
ROOM 5044  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3214

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[TOP OF PAGE](#)  
[BACK TO INDEX OF SERVICE LISTS](#)