

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



FILED

06-11-10
04:59 PM

Application of San Diego Gas & Electric Company
(U 902 M) for Authorization to Recover Costs Related to
the 2007 Southern California Fires Recorded in the
Catastrophic Event Memorandum Account (CEMA)

Application 09-03-011
(Filed March 6, 2009)

**JOINT MOTION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E)
AND THE DIVISION OF RATEPAYER ADVOCATES
FOR APPROVAL OF SETTLEMENT AGREEMENT**

ED MOLDAVSKY
Staff Counsel for:

ALLEN K. TRIAL
Attorney for:

**DIVISION OF RATEPAYER
ADVOCATES**
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-5134
Facsimile: (415) 703-2262
Edm@cpuc.ca.gov

**SAN DIEGO GAS & ELECTRIC
COMPANY**
101 Ash Street, HQ-12
San Diego, CA 92101
Telephone: (619) 699-5162
Facsimile: (619) 699-5027
Atrial@semprautilities.com

Dated: June 11, 2010

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

Application of San Diego Gas & Electric Company
(U 902 M) for Authorization to Recover Costs Related to
the 2007 Southern California Fires Recorded in the
Catastrophic Event Memorandum Account (CEMA)

Application 09-03-011
(Filed March 6, 2009)

**JOINT MOTION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E)
AND THE DIVISION OF RATEPAYER ADVOCATES
FOR APPROVAL OF SETTLEMENT AGREEMENT**

Pursuant to Rule 12.1 of the Commission's Rules of Practice and Procedure, San Diego Gas & Electric Company (SDG&E) and the Division of Ratepayer Advocates (DRA) request Commission approval of the attached Settlement Agreement. The Settlement Agreement resolves this proceeding and SDG&E's request for recovery of costs recorded in its Catastrophic Events Memorandum Account (CEMA) related to the 2007 fires described below. SDG&E and DRA, jointly referred to herein as the Settling Parties, believe that the Settlement Agreement meets the Commission's criteria for approval of settlement agreements and is reasonable in light of the whole record, consistent with the law and in the public interest, as required by Rule 12.1(d). Accordingly, the Settling Parties urge the Commission to approve the Settlement Agreement as filed.

I. BACKGROUND AND PROCEDURAL HISTORY

Beginning on October 21, 2007, Southern California experienced a series of major fires and numerous smaller fires. The first fire reported within SDG&E's service territory was the Harris Fire, which started on October 21, 2007, in the border community of Potrero. It was

followed by the Witch, McCoy, Guejito, Coronado Hills, Rice, Poomacha, and Ammo fires. Compliant disaster declarations from the Governor of California and the President of the United States were issued in this matter, as required by CPUC Decision (D.) 07-07-041.¹

On March 6, 2009, SDG&E filed its CEMA Application to recover its incremental expenses and capital-related costs incurred as a result of the 2007 fires in SDG&E's service territory. A Prehearing Conference (PHC) was held on June 12, 2009. At the PHC, Settling Parties offered opposing arguments about the degree of linkage between SDG&E's CEMA Application, which was related to all of the 2007 fires in SDG&E's service territory, and the Fire OIIs (I.08-11-006 and I.08-11-007), which focused on alleged safety violations linked to the Witch, Rice and Guejito Fires.² Proceeding on an expedited schedule for the CEMA proceeding, as opposed to holding it in abeyance until the resolution of the Fire OIIs, was also discussed at the PHC. No Scoping Memo has been issued in this matter. DRA has conducted an audit of the expenses and capital costs that SDG&E included in its CEMA filing, and has conducted some follow-up discovery as well.

II. THE SETTLEMENT AGREEMENT

This Settlement Agreement represents a compromise between the Settling Parties and should not be considered a precedent with respect to other CEMA costs, not at issue in this proceeding, in any future proceeding. This Settlement Agreement should also not be considered precedent with respect to other proceedings related to the 2007 fires, such as the Z-Factor proceeding (A.08-09-019).

¹ City and County declarations were also issued, but these declarations do not meet the standard for CEMA eligibility.

² An uncontested settlement agreement between SDG&E and the Consumer Protection and Safety Division to resolve both Fire OIIs was presented for Commission approval on October 30, 2009. In the settlement, SDG&E denied that it violated safety General Orders and other laws and rules and did not admit to any safety violations of General Orders and related statutory requirements. The Commission approved the settlement agreement on April 22, 2010.

III. THE COMMISSION SHOULD APPROVE THE SETTLEMENT

The Commission's rules set forth the requirements for approval of settlements and provide that the Commission will not approve a settlement, whether contested or uncontested, unless it is reasonable in light of the whole record, consistent with the law, and in the public interest (see, generally, Article 12; Rule 12.1 (d)). The Settling Parties are the only active parties in this proceeding, and no other parties have indicated they would participate in the hearings. The Settling Parties also represent all affected interests; SDG&E provides necessary energy services to its customers, and DRA represents the interests of all consumers of electricity in SDG&E's service territory. As such, Settling Parties consider their discussions regarding the Settlement Agreement sufficient to satisfy the Commission's rule regarding settlement conferences (Rule 12.1(b)). Additionally, as discussed in more detail below, the Settlement Agreement meets the specific conditions for Commission approval of settlements.

A. Reasonableness of the Settlement

As noted above, a settlement must be reasonable, consistent with law and in the public interest (D.95-05-042, 59 CPUC2d 779, 788). SDG&E's Application sought Commission approval for approximately \$6.8 million of Operation and Maintenance (O&M) expenses and \$43.3 million of capital costs associated with the 2007 fires, which resulted in a total revenue requirement of \$32.2 million. The settled amount would remove all of SDG&E's requested O&M of approximately \$6.8 million.

This amount results in a revised revenue requirement of \$25.44 million and represents a reasonable percentage (21%) reduction of SDG&E's original CEMA request. This amount is a fair compromise of strongly held views, and the Settlement Agreement will spare the Commission and the parties the effort required to litigate disputed issues.

Additionally, DRA's audit of SDG&E's showing is complete. Discovery allowed DRA to gauge the strengths and weaknesses of SDG&E's request. The current stage of the proceeding has given the Settling Parties a fair opportunity to settle their differences.

The Settlement Agreement also addresses all the major issues within the scope of the proceeding. The Application seeks authorization to recover costs in the CEMA that were incurred for restoring utility service and making repairs in response to a declared disaster. The Settlement Agreement approves rate recovery of a level of costs acceptable to both SDG&E and DRA. For all of these reasons, the Settling Parties strongly believe that the Settlement Agreement is reasonable in light of the whole record.

B. Consistency with the Law

The Settling Parties are aware of no statutory provision or prior Commission decision that would be contravened or compromised by the Settlement Agreement.

C. Public Interest

The public interest and the interests of ratepayers must be considered for the Commission to approve a settlement, and this Settlement Agreement satisfies that requirement. First, settlement of disputes to avoid costly and protracted litigation reflects sound public policy (D.88-12-083, 30 CPUC2d 189, 221). Second, DRA represents the interests of all consumers of electricity in SDG&E's service territory and is satisfied that the Settlement Agreement represents a fair outcome. Thus, taken as a whole, the Settlement Agreement is in the public interest.

IV. CONCLUSION AND REQUESTED COMMISSION ACTION

The Settling Parties believe the Settlement Agreement is: (1) reasonable in light of the record and positions of the parties; (2) consistent with the law; and (3) in the public interest. The Settlement Agreement represents a mutually acceptable outcome to a pending proceeding,

thereby avoiding the time, expense, and uncertainty of litigation on issues raised in SDG&E's CEMA Application. Accordingly, the Settling Parties request that the Commission approve this Settlement Agreement in its entirety as filed.

Respectfully submitted on this 11th day of June, 2010, at San Diego, California.

/s/ Ed Moldavsky

ED MOLDAVSKY
Staff Counsel for:

**DIVISION OF RATEPAYER
ADVOCATES**
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-5134
Facsimile: (415) 703-2262
Edm@cpuc.ca.gov

/s/ Allen K. Trial

ALLEN K. TRIAL
Attorney for:

**SAN DIEGO GAS & ELECTRIC
COMPANY**
101 Ash Street
San Diego, California 92101
Telephone: (619) 699-5162
Facsimile: (619) 699-5027
Atrial@semprautilities.com

ATTACHMENT

**SETTLEMENT AGREEMENT BETWEEN
SAN DIEGO GAS & ELECTRIC COMPANY AND THE
DIVISION OF RATEPAYER ADVOCATES
RESOLVING ISSUES IN THE
CATASTROPHIC EVENT MEMORANDUM ACCOUNT
PROCEEDING (APPLICATION NO. 09-03-011)**

In accordance with Article 12 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) and San Diego Gas & Electric Company (SDG&E) (together the "Settling Parties"), by and through their undersigned representatives, enter into this Settlement Agreement resolving issues in SDG&E's Catastrophic Event Memorandum Account (CEMA) proceeding, Application No. 09-03-011. As a compromise to resolve issues in this proceeding, SDG&E and DRA agree to and support all of the terms of this Settlement Agreement.

I. THE CATASTROPHIC EVENT MEMORANDUM ACCOUNT PROCEEDING

Beginning on October 21, 2007, Southern California experienced a series of major fires and numerous smaller fires. The first fire reported within SDG&E's service territory was the Harris Fire, which started on October 21, 2007, in the border community of Potrero. It was followed by the Witch, McCoy, Guejito, Coronado Hills, Rice, Poomacha, and Ammo fires. Compliant disaster declarations, from the Governor of California and the President of the United States, were issued in this matter as required by CPUC Decision (D.) 07-07-041.¹

On March 6, 2009, SDG&E submitted its CEMA Application to recover its incremental expenses and capital-related costs incurred as a result of all of the 2007 Fires in SDG&E's service territory. A Prehearing Conference (PHC) was held on June 12, 2009. At the PHC, Settling Parties had offered opposing arguments about the degree of linkage between SDG&E's CEMA Application, which was related to all of the 2007 Fires in SDG&E's service territory, and

¹ City and County declarations were also issued, but these declarations do not meet the standard for CEMA eligibility.

the Fire OIIs (I.08-11-006 and I.08-11-007), which focused on alleged safety violations linked to the Witch, Rice and Guejito Fires.² Proceeding on an expedited schedule for the CEMA proceeding, as opposed to holding it in abeyance until the resolution of the Fire OIIs, was also discussed. No Scoping Memo has been issued in this matter. DRA has conducted an audit of the expenses and capital costs that SDG&E included in its CEMA filing.

II. THE SETTLEMENT

This Settlement resolves this proceeding and consists of the following agreement by the Settling Parties:

1. According to SDG&E's Application, SDG&E incurred approximately \$112.1 million in total costs associated with the 2007 Fires. SDG&E's Application sought Commission approval for approximately \$6.8 million of Operation and Maintenance (O&M) expenses and \$43.0 million of capital costs associated with the 2007 Fires. Thus, SDG&E's CEMA Application sought a total revenue requirement of \$32.2 million. The Settling Parties agree that the Commission should find that it is reasonable to remove all of the O&M expenses totaling approximately \$6.8 million from SDG&E's total CEMA revenue requirement request. This reduction would result in an authorized total revenue requirement of \$25.44 million. This represents 79% of SDG&E's originally requested recovery for all of the 2007 Fires in SDG&E's service territory, and 23% of the total costs that SDG&E states that it incurred in the 2007 Fires. DRA recommended the 21% revenue requirement reduction based on its review of available evidence, taking into consideration the opinions of the Consumer Protection and Safety Division in regards to the Witch, Rice and Guejito Fires. SDG&E strongly disagreed with those opinions

² An uncontested settlement agreement between SDG&E and the Consumer Protection and Safety Division to resolve both OIIs was presented for Commission approval on October 30, 2009. In the settlement, SDG&E denied that it violated safety General Orders and other laws and rules and did not admit to any safety violations of General Orders and related statutory requirements. The Commission approved the settlement agreement on April 22, 2010.

and their relevance to this proceeding, but agreed to the 21% revenue requirement reduction in this matter.

III. RESERVATIONS

1. The Settling Parties agree that this settlement represents a compromise of their respective positions. It does not represent the Settling Parties' endorsement of, or agreement with, any or all of the positions of the other party.

2. The Settling Parties by joint motion concurrently request Commission approval of this Settlement. The Settling Parties additionally agree to actively support prompt approval of the Settlement. Active support shall include necessary filings and, if required, appearances and other means to obtain the approvals sought. The Settling Parties further agree to participate jointly in necessary briefings to Commissioners and their advisors regarding the Settlement and the issues resolved by it.

3. This Settlement embodies the entire understanding and agreement of the Settling Parties with respect to the matters described herein, and, except as described herein, supersedes and cancels any and all prior oral or written agreements, principles, negotiations, statements, representations or understandings among the Settling Parties.

4. The Settlement may be amended or changed only by a written agreement signed by the Settling Parties.

5. The Settling Parties have bargained earnestly and in good faith to achieve this Settlement. The Settling Parties intend the Settlement to be interpreted and treated as a unified, interrelated agreement. The Settling Parties therefore agree that if the Commission fails to approve the Settlement as reasonable and adopt it unconditionally and without modification, any Settling Party may in its sole discretion elect to terminate the Settlement. The Settling Parties

further agree that any material change to the Settlement shall give each Settling Party in its sole discretion the option to terminate the Settlement. In the event the Settlement is terminated, the Settling Parties will request that the unresolved issues in Application 09-03-011 be heard at the earliest convenient time.

6. This Settlement represents a compromise between the Settling Parties and should not be considered precedent with respect to other CEMA costs, not at issue in this proceeding, in any future proceeding. This Settlement should also not be considered precedent with respect to any other matters in any way related to the 2007 Fires, including but not limited to the Z-Factor proceeding (A.08-09-019). The Settling Parties have assented to the terms of this Settlement Agreement only for the purpose of arriving at the compromise herein. Except as provided in reservation #4, each Settling Party expressly reserves its right to advocate, in current and future proceedings, positions, principles, assumptions, arguments and methodologies that may be different from those underlying this Settlement.

7. Each of the Settling Parties hereto and their respective counsel have contributed to the preparation of this Settlement. Accordingly, the Settling Parties agree that no provision of this Settlement shall be construed against any Settling Party because that party or its counsel drafted the provision.

8. It is understood and agreed that no failure or delay by any Settling Party hereto in exercising any right, power or privilege hereunder shall operate as a waiver hereof, nor shall any single or partial exercise thereof preclude any other or future exercise thereof or the exercise of any other right, power or privilege.

9. This document may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10. This Settlement shall become effective between the Settling Parties on the date the last Settling Party executes the Settlement as indicated below.

In witness whereof, intending to be legally bound, the Settling Parties hereto have duly executed this Settlement Agreement on behalf of the parties they represent.

DIVISION OF RATEPAYER
ADVOCATES



Dana Appling
Director
Division of Ratepayer Advocates

SAN DIEGO GAS & ELECTRIC
COMPANY

Lee Schavrien
Senior Vice President,
Finance, Regulatory, and Legislative Affairs
San Diego Gas & Electric Company

Date: June 10, 2010

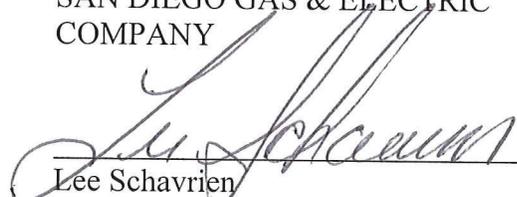
10. This Settlement shall become effective between the Settling Parties on the date the last Settling Party executes the Settlement as indicated below.

In witness whereof, intending to be legally bound, the Settling Parties hereto have duly executed this Settlement Agreement on behalf of the parties they represent.

DIVISION OF RATEPAYER
ADVOCATES

Dana Appling
Director
Division of Ratepayer Advocates

SAN DIEGO GAS & ELECTRIC
COMPANY



Lee Schavrien
Senior Vice President,
Finance, Regulatory, and Legislative Affairs
San Diego Gas & Electric Company

Date: June 10, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served a true copy via electronic service of the foregoing **JOINT MOTION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) AND THE DIVISION OF RATEPAYER ADVOCATES FOR APPROVAL OF SETTLEMENT AGREEMENT** on all parties in this proceeding providing an e-mail address.

Copies were also sent via electronic service and Federal Express to Administrative Law Judge Darwin E. Farrar.

Executed this 11th day of June, 2010, at San Diego, California.

/s/ Jenny Norin _____
JENNY NORIN



CALIFORNIA PUBLIC UTILITIES COMMISSION Service Lists

PROCEEDING: A0903011 - SDG&E - FOR AUTHORIT
FILER: SAN DIEGO GAS & ELECTRIC COMPANY
LIST NAME: LIST
LAST CHANGED: MAY 12, 2010

[DOWNLOAD THE COMMA-DELIMITED FILE](#)
[ABOUT COMMA-DELIMITED FILES](#)

[Back to Service Lists Index](#)

Parties

ALLEN K. TRIAL
SAN DIEGO GAS & ELECTRIC COMPANY
101 ASH STREET, HQ-12B
SAN DIEGO, CA 92101
FOR: SAN DIEGO GAS & ELECTRIC COMPANY

ED MOLDAVSKY
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5037
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: DRA

Information Only

MRW & ASSOCIATES, LLC
EMAIL ONLY
EMAIL ONLY, CA 00000

GREGORY HEALY
SEMPRA UTILITIES
555 WEST FIFTH STREET, 14TH FLR. -GT14D6
LOS ANGELES, CA 90013

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVE
ROSEMEAD, CA 91770

JANE LEE COLE, ESQ.
SOUTHERN CALIFORNIA EDISON COMPANY
PO BOX 800 / 2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

MARY BETH QUINLAN
PROJECT MANAGER
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

ROBERT F. LEMOINE
ATTORNEY
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

SHAWN CAINE
LAW OFFICE OF SHAWN CAINE
1125 CAMINO DEL MAR, SUITE D
DEL MAR, CA 92014

DIANE CONKLIN
MUSSEY GRADE ROAD ALLIANCE
PO BOX 683
RAMONA, CA 92065

JOSEPH W. MITCHELL, PH. D.
M-BAR TECHNOLOGIES AND CONSULTING, LLC
19412 KIMBALL VALLEY RD
RAMONA, CA 92065

ONEILL SOTO
SAN DIEGO UNION-TRIBUNE
PO BOX 120191
SAN DIEGO, CA 92112-0191

BRUCE FOSTER
SOUTHERN CALIFORNIA EDISON COMPANY
601 VAN NESS AVENUE, STE. 2040
SAN FRANCISCO, CA 94102

ERROL KISSINGER
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET; MC B10A
SAN FRANCISCO, CA 94105

FRANCES YEE
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MC B10A
SAN FRANCISCO, CA 94105

LARRY NIXON
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE ST., MC B9A
SAN FRANCISCO, CA 94105

CASSANDRA SWEET
DOW JONES NEWSWIRES
201 CALIFORNIA ST., 13TH FLOOR
SAN FRANCISCO, CA 94111

HILARY CORRIGAN
CALIFORNIA ENERGY MARKETS
425 DIVISADERO ST., SUITE 303
SAN FRANCISCO, CA 94117-2242

CASE COORDINATION
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE ST., PO BOX 770000 MC B9A
SAN FRANCISCO, CA 94177

State Service

LAURA LEI STRAIN
CALIF PUBLIC UTILITIES COMMISSION
ENERGY DIVISION
320 WEST 4TH STREET SUITE 500
LOS ANGELES, CA 90013

DARWIN FARRAR
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5041
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

DONALD J. LAFRENZ
CALIF PUBLIC UTILITIES COMMISSION
ENERGY DIVISION
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JAMES R. WUEHLER
CALIF PUBLIC UTILITIES COMMISSION
ENERGY COST OF SERVICE & NATURAL GAS BRA
ROOM 4208
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: DRA

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