BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Application of San Diego Gas & Electric Company (U 902 E) for Authority to Enter into Purchase Power Tolling Agreements with Escondido Energy Center, Pio Pico Energy Center and Quail Brush Power.	A.11-05-023 (Filed May 19, 2011)

PROTEST OF THE DIVISION OF RATEPAYER ADVOCATES TO APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) FOR AUTHORITY TO ENTER INTO PURCHASE POWER TOLLING AGREEMENTS WITH ESCONDIDO ENERGY CENTER, PIO PICO ENERGY CENTER AND QUAIL BRUSH POWER

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I. INTRODUCTION

Pursuant to Rule 2.6 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules"), the Division of Ratepayer Advocates ("DRA") files this protest to San Diego Gas and Electric Company's ("SDG&E") Application 11-05-023 ("Application") for Authority to Enter into Purchase Power Tolling Agreements with Escondido Energy Center, Pio Pico Energy Center and Quail Brush Power.

DRA is not recommending approval or denial of the Application at this time. DRA plans to continue to conduct discovery to develop its testimony and recommendations. This Protest may not identify all of the issues that DRA will examine in this proceeding. At this time, DRA believes that hearings will be necessary to resolve factual issues raised by SDG&E's application.

II. BACKGROUND

SDG&E filed A.11-05-023 for the Commission's approval of three long-term Power Purchase Tolling Agreements ("PPTAs") that would add a total of approximately 450 MW of local capacity to SDG&E's service area. SDG&E executed PPTAs with the following non-utility entities: Pio Pico Energy Center ("Pio Pico"), 305 MW; Wellhead's Escondido Energy Center ("EEC"), 45 MW; and Quail Brush Generation Project ("Quail Brush"), 100 MW (collectively, the "PPTAs" or "Agreements"). SDG&E also seeks authority to allocate the cost of these new resources in accordance with Public Utilities Code Section 365.1(c). Finally, SDG&E seeks the Commission's confirmation that SDG&E may pursue the recovery of its costs associated with these Agreements and the rebalancing of SDG&E's capital structure in accordance with Financial Accounts Standards Board Interpretation No. 46(R) ("FIN 46(R)") in its next Cost of Capital proceeding.

III. ISSUES

DRA is currently reviewing the application and conducting discovery and through its preliminary review has identified several potential issues.

A. Need (load and resources)

Based on DRA's preliminary review of SDG&E's filing, it is unclear whether SDG&E has established a need for the PPTAs. The proceeding should therefore consider whether SDG&E has established a need for each of the proposed projects, considering updated data on forecasted demand and resources that are or may become available within SDG&E's service area to satisfy local capacity requirements.

First, it is not clear whether SDG&E has correctly interpreted the Commission's Long Term Power Procurement Decisions with respect to the amount of local capacity that has been authorized.[1] SDG&E claims that the Commission authorized procurement of up to 530 MWs of local capacity.[2] Due to recent resource additions, the expected

[1] D.07-12-052, as amended by D.08-11-008.

[2] D.08-11-008. http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/93602.htm at 25-26

completion of the Sunrise Powerlink in 2013, and other factors, it appears that the sole basis of SDG&E's estimated need is the forecasted retirements of certain units in its service area.[3] SDG&E has not clearly established, and DRA may contest, whether this amount of local capacity will be lost. As one example, the site owner is seeking to repower the Encina Power Plant[4] following the retirement of the Once Through Cooling units. Further, while CPV (Competitive Power Ventures) was unsuccessful in securing the Miramar site, the City of San Diego has successfully leased the site to Capital Power, and it is possible that Capital Power intends to construct a 200 to 300 MW facility similar to the one proposed by CPV in the 2009 RFO that would satisfy local RA requirements. These or other competing developments may affect the determination of need.

Second, it is not clear whether SDG&E's need forecast accounts for important factors including the impact of a reduced forecasted load caused by the worst recession since the Great Depression, the addition of local peak distributed generation resources resulting from the recently approved Renewable Auction Mechanism ("RAM Program"), SDG&E's Solar PV Program,[5] or expected future development of customer-side distributed generation sources.

Third, SDG&E's procurement authorization for the Application is based on the 2006 LTPP. Although some components of SDG&E's need forecast are based on more current information, the root authorization for the procurement results from decisions that are several years old and based on even older data. At the same time, the Commission is currently evaluating procurement and capacity needs in the LTPP and may issue rulings within the time frame of a decision in this proceeding that will supersede the 2006 authorized need. DRA is concerned with the proposed timing and expedited schedule in the Application – which requests that the Commission adopt a decision in under nine

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[3] D.07-12-052, p. 280 authorized SDG&E to procure to procure the equivalent quantity of local capacity associated with any retirements of local area resources that occur beyond the amount of retirements forecasted in the LTPP. That authorization had no linkage to the decision's 530 MW procurement allowance.

[4] http://www.nrgenergy.com/pdf/factsheets/factsheet_cecp.pdf

[5] D.10-12-048 and D.10-09-016 respectively.

months from filing, even though the Application does not claim any near-term compliance shortfall and the LTPP may revise SDG&E's long-term procurement authorization.

Although the Commission authorized procurement of "up to" 530 MWs of local capacity or an amount that offsets retirements not forecasted in the 2006 LTPP, SDG&E has the burden to prove that even with changed circumstances, the need still exists for part or all of this capacity. At this time and based on its review of SDG&E's application, DRA cannot conclusively determine whether this need exists. DRA will conduct further analysis and discovery and expects that hearings will be necessary to resolve this factual issue.

B. Selection Process

DRA is in the process of reviewing SDG&E's process that resulted in the selection of the three proposed contracts included in this proceeding. These contracts were part of the 2009 RFO. Purchase power contracts are usually evaluated in the RFO process for price, least cost best fit (LCBF), and viability, among other things. The proceeding should therefore consider whether SDG&E's selection process was adequate and whether the costs of the resulting PPTAs are just and reasonable.

C. Transmission Costs

Both Pio Pico and Quail Brush are located on new sites and will require new switchyards to connect into the SDG&E grid. At present, the costs of any additional system upgrades arising from the proposed projects are unknown. CAISO Phase II cluster studies will not be complete until August, at the earliest. These studies are essential to understanding the cost of upgrading the system in order to accommodate the two projects. Such upgrades have to be viewed in comparison to other planned re-powering projects that will require minimal system upgrades. The proceeding should therefore consider the costs of required transmission upgrades for these two proposed projects and whether the upgrades will detrimentally impact the projects' viability or otherwise increase costs or risks for ratepayers.

D. Regulatory Burden of Green House Gas (GHG) Compliance

While the burden of compliance with future GHG regulation will be reflected in a generator's bid price, DRA seeks some assurance that any developed generation will remain competitive under various GHG compliance scenarios. SDG&E has not provided sufficient information in the application, testimony and supporting materials to understand how the three generators in this application will perform as regulations change. The proceeding should therefore consider how different future GHG regulations scenarios could affect the costs, operations, or financial viability of these projects.

E. Cost Recovery and Allocation

SDG&E's application includes several cost recovery proposals as listed below:

1. SDG&E requests authority to seek full cost recovery for costs associated with FIN 46(R) consolidation and debt equivalence issues for these PPTAs in SDG&E's next Cost of Capital proceeding.

2. SDG&E requests authority to adopt a new two-way, interest-bearing balancing account mechanism, the Local Generation Balancing Account ("LGBA"), upon approval of the earlier of this Application or one or more of the PPTAs. DRA believes this request is aimed at allowing SDG&E to allocate the costs among various LSEs.

3. SDG&E requests allocation of the costs of these contracts on a non-bypassable basis among all utility and non-utility electricity customers in its service territory through the adoption of Local Generation Capacity (LGC) rate component.

DRA is in the process of analyzing and conducting discovery on these ratemaking proposals and has not yet determined whether it will recommend approval or denial of these proposals. The proceeding should therefore consider whether SDG&E's proposed cost recovery and allocation are reasonable.

IV. CATEGORIZATION AND PROPOSED SCHEDULE

DRA agrees with SDG&E's proposed categorization of this proceeding as rate setting. Evidentiary hearings may be necessary to resolve the issues that are raised by SDG&E's Application.

SDG&E has proposed an extremely expedited schedule, with a full Commission resolution of the application within roughly nine months from submission of the application. The schedule proposed by SDG&E does not allow sufficient time to thoroughly review and analyze the various requests in the Application. In addition, not all the information needed to evaluate the application is available since the transmission costs for two of the proposed contracts are unknown at this time, and will not be known until sometime in August at the earliest. Furthermore, given the need timeline associated with these projects, with the first identified need in 2017, there is not a demonstrable need for the expedited schedule.

Therefore, DRA recommends an adjustment to the schedule to allow for additional time to conduct discovery, analysis and preparation of testimony as well as time for potential settlement negotiations. The following is DRA's proposed schedule:

Responses/Protests	June 24, 2011
Reply to Responses/Protests	July 8, 2011
Prehearing Conference	July 14, 2011
Scoping Memo Issued	July 28, 2011
Intervenor Testimony	September 30, 2011
Rebuttal Testimony	October 21, 2011
Evidentiary Hearings	November 7-8, 2011
Concurrent Opening Briefs	December 5, 2011
Concurrent Reply Briefs	December 21, 2011
Proposed Decision	February 17, 2012
Comments on Proposed Decision	March 8, 2012
Reply Comments on Proposed Decision	March 13, 2012
Commission Decision Adopted	March 2012

V. CONCLUSION

For the reason stated above, DRA recommends that the Commission further investigate several aspects of SDG&E's application. DRA is currently conducting discovery to develop its testimony and recommendations. Hearings will likely be required and the Commission should adopt a schedule that allows for a thorough review of the application. Since DRA has not completed discovery or filed its report, it reserves the right to assert any issues discovered subsequent to the filing of this Protest.

Respectfully submitted,

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