

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



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Order Instituting Rulemaking Concerning Energy  
Efficiency Rolling Portfolios, Policies, Programs,  
Evaluation, and Related Issues.

Rulemaking 13-11-005

**SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) RESPONSE TO  
ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON UPSTREAM  
LIGHTING PROGRAM IMPACT EVALUATION FOR PROGRAM YEAR 2017**

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January 31, 2020

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Pursuant to the *Administrative Law Judge’s Ruling Seeking Comment on Upstream Lighting Program Impact Evaluation for Program Year 2017*, issued January 9, 2020 (“Ruling”), San Diego Gas & Electric Company (“SDG&E”) respectfully submits this Response.

**I. INTRODUCTION**

SDG&E appreciates the opportunity to respond to the Ruling. The Ruling seeks comments regarding the *Upstream and Residential Downstream Lighting Impact Evaluation Report, Lighting Sector – Program Year 2017* prepared by DNV GL Energy Insights USA, Inc. (“DNV GL Report”) and issued by the California Public Utilities Commission (“Commission”) on April 1, 2019. The Ruling also seeks responses to five questions related to the potential for remedies or refunds associated with SDG&E’s 2017 Upstream Lighting Program (“2017 Program”). Since the Ruling’s questions are related to the DNV GL Report, SDG&E’s response to both the questions and the DNV GL Report is presented in the form of answers to the five questions. As detailed below, SDG&E is conducting a review of the 2017 Program. Because this review is ongoing, SDG&E urges the Commission to refrain from reaching any final conclusions about the 2017 Program or imposing any remedies, until SDG&E has completed its review and is able to provide a more detailed report.

## II. SDG&E's RESPONSE TO RULING

SDG&E responds to the Ruling's five questions in each of the following numbered sections (the heading of each section includes the text of each question).

**1. What remedies do you propose to address the findings of the "Upstream and Residential Downstream Lighting Impact Evaluation Report: Lighting Sector – Program Year 2017," published April 1, 2019, by DNV GL, with respect to unaccounted-for lamps?**

*a. Additional Review of the 2017 Program Must Be Conducted*

Although the DNV GL Report concludes there were unaccounted for lamps, SDG&E has significant concerns about the methodology that was used to reach that conclusion (see SDG&E's response to Question #5 below). Despite its shortcomings, the DNV GL Report raises questions about reporting and accounting associated with the 2017 Program. As a result, SDG&E has begun a thorough review of all aspects of the 2017 Program, including documentation from lamp manufacturers and retailers provided to SDG&E to substantiate the numbers and types of lamps that were distributed in SDG&E's service territory. The review will also include careful examination of contracts, invoices, delivery slips and communications among lamp manufacturers, delivery carriers, retailers and SDG&E, and interviews with responsible individuals. The review is in the very early stages, and at this time, it is expected that it will take approximately three months to have a more accurate picture of the 2017 Program.

It should be noted that following issuance of the DNV GL Report in April of 2019, SDG&E initiated a review of its Upstream Lighting Program, which included engaging Evergreen Economics to conduct verification research. Contrary to what is stated in the Ruling, this review did not cover the 2017 Program. Rather, this effort focused on the 2019 Program.

The review of the 2019 Program was not completed,<sup>1</sup> and as previously reported to the Commission, SDG&E terminated its Upstream Lighting Program.<sup>2</sup>

*b. Legal Remedies*

If the evidence from the review leads SDG&E to conclude that one or more participants in the 2017 Program breached its contractual obligations to SDG&E, violated applicable laws, or the 2017 Program's rules, SDG&E may pursue legal remedies against those participants or refer the matter to appropriate government authorities.

*c. Other Remedies*

While the Upstream Lighting Program has ended, depending upon the results of SDG&E's ongoing review, other remedies may be appropriate. For example, if warranted, going forward SDG&E may require additional verification and control measures for upstream programs.

**2. Should the Commission order refunds or other compensation to the ratepayers of SCE and SDG&E for the upstream lighting lamps that were unaccounted for in the 2017 program year? Explain your reasoning.**

SDG&E cannot answer this question until SDG&E has concluded its review of the 2017 Program, as described in the answer to Question 1 above. If SDG&E failed to reasonably administer the 2017 Program, a refund would be appropriate.

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<sup>1</sup> The Evergreen Economics Report was provided electronically to Energy Division staff for review on August 14, 2019, prior to a meeting to discuss the research.

<sup>2</sup> SDG&E Advice Letter 3429-E-A, approved December 20, 2019 and effective January 1, 2020 at 12.

**3. If refunds or compensation are warranted, how should the amounts be calculated? What are your proposed amounts? Provide and explain your calculations.**

SDG&E cannot answer this question until SDG&E has concluded its review of the 2017 Program, as described in the answer to Question 1 above. If SDG&E failed to reasonably administer the 2017 Program, any proposed refund would be calculated at that time.

**4. If refunds or compensation are warranted, what method or vehicle should be used to credit the appropriate amounts to ratepayers? Explain your approach.**

As stated in the answers to Questions 2 and 3 above, it is premature to determine the necessity, method or vehicle for a refund.

**5. Make any other comments or proposals related to the topic of the 2017 upstream lighting impact evaluation and its findings with respect to unaccounted-for shipments of lamps.**

*a. Questions about the Reliability of DNV GL Report*

After it reviewed the draft DNV GL Report in March of 2019, SDG&E provided several comments that raised questions about the reliability of some of the Report's assumptions.<sup>3</sup> For example, SDG&E highlighted problems associated with relying on unverified surveys. Indeed, even though DNV GL responded that consumer surveys regarding purchase channels do not reflect volumetric adjustments and is not being used "as a source for counting results,"<sup>4</sup> SDG&E notes that the Commission appears to be relying on DNV GL's usage of consumer surveys for that very purpose. Moreover, the DNV GL surveys were conducted by telephone in January and February of 2019 and asked very general questions about the type and quantity of bulbs sold in

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<sup>3</sup> See California Public Utilities Commission, Upstream and Residential Downstream Lighting Impact Evaluation Report, Lighting Sector – Program Year 2017, DNV-GL – Energy (April 1, 2019) at Appendix J at pp. 155-156.

<sup>4</sup> *Id.* at Appendix J at p. 155.

an average week.<sup>5</sup> There is no indication that the responses in 2019 related to sales in 2017. In addition, the DNV GL Report solely utilized sales data from the Consortium of Retail Energy Efficiency Data (“CREED”) in estimating the total California statewide lamp sales market.<sup>6</sup> In its comments on the draft DNV GL Report, SDG&E asserted that market sales data is dependent on manufacturers/retailers’ self-reporting, which may not always be accurate.<sup>7</sup>

In light of the foregoing concerns, and others previously highlighted in its comments regarding the DNV GL Report, SDG&E respectfully asserts that it would be unreasonable to rely on the report as a basis for calculating remedies or potential refunds.<sup>8</sup> The only reasonable conclusion that can be drawn from the DNV GL Report is that there is a **possibility** of unaccounted for lamps and that further review is required. As detailed in its response to Question #1 above, SDG&E is currently undertaking that review and will promptly provide the Commission with its results once it has concluded.

*b. Additional Information from DNV GL*

SDG&E believes that additional information is necessary to further evaluate the DNV GL Report and its conclusions. Toward that end, SDG&E intends to request that DNV GL provide additional data regarding its methodology in determining the estimated number of unaccounted for lamps.

### **III. CONCLUSION**

While the DNV GL Report provides the Commission with some data on the 2017 Program, SDG&E asserts that it is certainly not enough to make the kind of determinations that

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<sup>5</sup> *Id.* at pp. 21-22 and Appendix E.

<sup>6</sup> *Id.* at p. 32, Table 4-3, n.\*\*.

<sup>7</sup> *Id.* at Appendix J at p. 156.

<sup>8</sup> Even the DNV GL Report recommends that further research be conducted, including a supply and distribution chain audit. *Id.* at p. 81.

are posed in the Ruling. Monetary decisions of this magnitude must be supported by thoroughly vetted data. SDG&E has already begun this process and is pursuing it in earnest. However, given the crucial need to request information from third parties, this process may take several months. SDG&E believes its request for more time is reasonable and will ultimately support the Commission in whatever decision is made with respect to remedies, including the possibility of refunds.

Dated in San Diego, California, this 31<sup>st</sup> day of January, 2020.

Respectfully submitted,

By:                   /s/ Erica L. Martin                    
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