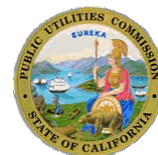


**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

03/03/21
04:59 PM

Order Instituting Rulemaking to Address
Energy Utility Customer Bill Debt
Accumulated During the COVID-19
Pandemic.

Rulemaking 21-02-014
(Filed February 11, 2021)

**COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) TO THE
ORDER INSTITUTING RULEMAKING TO ADDRESS ENERGY UTILITY
CUSTOMER BILL DEBT ACCUMULATED DURING THE COVID-19 PANDEMIC**

LAURA M. FULTON

Attorney for:
SAN DIEGO GAS & ELECTRIC COMPANY
8330 Century Park Court, CP32D
San Diego, CA 92123
Telephone: (858) 654-1759
Email: Lfulton@sdge.com

March 3, 2021

TABLE OF CONTENTS

I. INTRODUCTION 1

II. DISCUSSION..... 2

 A. SDG&E Has Numerous Existing Plans and Programs That Are Tailored
 to Aiding Customers Facing Arrearages..... 2

 1. Programs Offered by SDG&E Prior to the COVID-19 Pandemic 2

 2. COVID-19 Assistance Offered by SDG&E 3

 3. Additional Programs Offered by SDG&E as a Result of the Disconnection
 OIR Decision 4

 4. Local and Federal Stimulus Funds Are Also Available to Assist
 Vulnerable Customers..... 5

 B. Comments on Straw Proposals 5

 1. Proposal A, Arrearage Assistance Program (AAP) 5

 2. Proposal B: Extended Payment Plans 9

 C. Comments on Additional Proposed Scoping Issues 10

 1. Any Funding Structures That Include or Allow Shareholder Contributions
 Should be on A Voluntary Basis by the Utility 11

 D. SDG&E Is Supportive of a Workshop, If Deemed Necessary 13

III. CONCLUSION..... 14

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

Order Instituting Rulemaking to Address
Energy Utility Customer Bill Debt
Accumulated During the COVID-19
Pandemic.

Rulemaking 21-02-014
(Filed February 11, 2021)

**COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) TO THE
ORDER INSTITUTING RULEMAKING TO ADDRESS ENERGY UTILITY
CUSTOMER BILL DEBT ACCUMULATED DURING THE COVID-19 PANDEMIC**

I. INTRODUCTION

Pursuant to Rule 6.2 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), San Diego Gas & Electric Company (SDG&E) respectfully provides their Comments to the Order Instituting Rulemaking to Address Energy Utility Customer Bill Debt Accumulated During the COVID-19 pandemic.

SDG&E supports the Commission’s ongoing attention to the needs of customers struggling with financial hardship due to the COVID-19 pandemic, and shares the goal of easing customers back into normal credit and collections practices as the COVID-19 Emergency Customer Protections end later this year. SDG&E further appreciates the Commission’s efforts through this rulemaking to address the needs of customers facing uncommonly high arrearages due to the pandemic and the potential harm to the utilities’ financial health (and potential cost shifts to other customers) as unpaid arrearages grow. As outlined in the Order Instituting Rulemaking (OIR or COVID-19 Bill Debt OIR), the Commission—and the investor owned utilities (IOUs)—have gone to great lengths to ensure continuous service for customers from the outset of the COVID-19 pandemic. Moreover, while the Emergency Customer Protections have been in place, the Commission has established a myriad of new tools aimed at protecting customers from disconnection and reducing the burden of unpaid debt. Many of those tools achieve the goals of this OIR, and SDG&E encourages the Commission to allow these new programs—particularly the Arrearage Management Payment (AMP) Plan — to come into full effect prior to adopting new, and perhaps redundant, programs. SDG&E encourages the Commission to maximize the benefits of existing, important programs to provide the most

effective support for customers, avoid customer confusion, and minimize the potential affordability impacts if bad-debt costs are reallocated to other customers.

II. DISCUSSION

A. SDG&E Has Numerous Existing Plans and Programs That Are Tailored to Aiding Customers Facing Arrearages

1. Programs Offered by SDG&E Prior to the COVID-19 Pandemic

Since the start of the COVID-19 pandemic, SDG&E has built upon several preexisting policies and assistance programs to aid customers struggling with their utility bills. Additionally, and as noted by the Commission, during the disconnection moratorium instituted by the Emergency Customer Protections, numerous new programs have been implemented that will further assist customers with existing arrearages. Many of these programs are similar to those offered by the other states listed in the Order Instituting Rulemaking.

SDG&E has a longstanding Neighbor-to-Neighbor program, which is primarily funded through shareholder contributions. The Neighbor-to-Neighbor program is administered through the United Way, and the program provides up to \$150 (\$300 for Medical Baseline customers) towards a SDG&E bill for customers experiencing temporary financial hardship – which includes those customers affected by the COVID-19 crisis.¹ Since 2016, SDG&E has provided almost \$1.5 million to assist just over 9,600 customers through the Neighbor-to-Neighbor program. In March 2020, in response to the pandemic, SDG&E funded \$1 million to the Neighbor-to-Neighbor program. During 2020 alone, SDG&E’s Neighbor-to-Neighbor funds provided bill relief to 4,429 SDG&E customers – which represents 46% of all customers supported since 2016.

In addition, the Low-Income Home Energy Assistance Program (LIHEAP) program, federally funded and administered by the California Department of Community Service and Development (CSD), offers up to \$1,000 in financial aid for SDG&E customer bills. In 2020, 7,693 customers received pledges toward their SDG&E bill from the LIHEAP program.

¹ See San Diego Gas & Electric Company, *Help Paying Your Bill, Programs That Can Provide Funds Through Times of Hardship*, available at <https://www.sdge.com/residential/pay-bill/get-payment-bill-assistance/assistance-programs/help-paying-your-bill#:~:text=The%20Neighbor%2Dto%2DNeighbor%20Fund,agencies%20or%20visit%20them%20online>

SDG&E actively promotes and refers customers to 211 San Diego and the United Way of San Diego for enrollment in these additional bill relief programs.

2. COVID-19 Assistance Offered by SDG&E

The OIR describes the existing mandated Emergency Customer Protections in detail. To promote these protections and existing programs, SDG&E included language on its webpage and in marketing efforts to clarify that customers who have recently lost their job, even if receiving unemployment benefits, may be eligible for the California Alternate Rates for Energy (CARE) or Family Electric Rate Assistance (FERA) programs. For low-income customers enrolled in the CARE program, in accordance with the COVID-19 Customer Protections, SDG&E stopped income verification, recertification, and high-usage verifications effective March 4, 2020 through June 30, 2021. SDG&E also created a COVID-19 page on its website to provide easy access to information regarding various bill support programs.² Such programs included, but are not limited to: flexible payment plans, debt relief/arrearage management, CARE and FERA bill discount programs, and the federally funded LIHEAP.

Between March 2020 and December 31, 2020, CARE enrollment increased by approximately 27,830 customers (or 9%). As of January 2021, SDG&E's CARE penetration rate is 115%. This represents a significant increase from the 99% CARE penetration rate measured prior to the pandemic, in February 2020. As such, it is reasonable to assume that many customers were able to receive, and continue to receive, monthly bill assistance of up to 35% during the COVID-19 pandemic that they might normally not have been eligible to receive. Not only were these customers able to receive bill support through the CARE program, but they have also been able to receive support from other programs, such as the Neighbor-to-Neighbor program, LIHEAP, and the AMP Plan (that commenced in February 2021) discussed herein, thereby compounding and layering various incentives for bill relief.

In addition to the mandatory and discretionary Emergency Customer Protections offered as a result of the pandemic, SDG&E took several voluntary steps to support its customers and the surrounding community. SDG&E co-founded the San Diego COVID-19 Community Response Fund, which has raised \$66 million to support San Diegans in need, providing the region's most vulnerable communities affected by COVID-19 with computers, internet access, childcare, food

² See San Diego Gas & Electric Company, *SDG&E's Coronavirus Response: Supporting Customers Through These Tough Times*, available at <https://www.sdge.com/coronavirus#payments>.

security, financial assistance, medical support, workforce training and other emergent needs.³ SDG&E also serves as a lead investor, alongside The San Diego Foundation, for the San Diego Worker Assistance Initiative, which the United Way of San Diego County launched as part of the greater San Diego COVID-19 Community Response Fund, to provide flexible resources to individuals impacted by layoffs and reduced working hours implemented by employers.⁴ The funds go towards utilities as well as rent and mortgage payments, and complement the work of public health officials to prevent the need to enter the social services system of care and prevent homelessness.

3. Additional Programs Offered by SDG&E as a Result of the Disconnection OIR Decision

The Phase I Decision (D.20-06-003 or Decision) in the Disconnection OIR (Rulemaking (R.)18-07-005 or Disconnection OIR) require the utilities to implement various programs and assistance to customers facing disconnection or struggling with utility arrears, whether due to the COVID-19 pandemic or otherwise. For instance, the Decision requires the IOUs to implement AMP plans for qualified CARE and FERA customers.⁵ The AMP plans keep eligible customers on track by requiring customers to making on-time payments of current bills, while receiving progressive forgiveness of their arrearage debt over the course of a year. SDG&E’s AMP plan went live on February 1, 2021, and as of March 2, 2021, 443 customers are participating in the AMP plan. While the OIR notes that the AMP plan is in effect for customers who face “affordability problems under typical conditions,”⁶ SDG&E believes that AMP plan—which has never been tested under typical conditions—can assist the majority of customers facing COVID-19-related arrearages as well. For precisely those reasons, the Commission ordered an expedited

³ See The San Diego Foundation, *San Diego COVID-19 Community Response Fund*, available at <https://www.sdfoundation.org/donate-to-the-san-diego-covid-19-community-response-fund/>

⁴ See United Way of San Diego County, *San Diego COVID-19 Community Response Fund, San Diego Worker Assistance Initiative*, available at <https://uwsd.org/covid19/>.

⁵ One clarification that SDG&E would like to note is that AMP plan customers are not automatically enrolled, as stated by the Commission. See R.21-02-014, Order Instituting Rulemaking to Address Energy Utility Customer Bill Debt Accumulated During the COVID-19 Pandemic (February 11, 2021) (COVID-19 Bill Debt OIR) at Appendix A, A-4. Instead, customers can request to be enrolled in the AMP plan, and if eligible, SDG&E will enroll the customer. SDG&E is unable to automatically enroll customers in the AMP plan because of the complexity of the debt forgiveness aspect and the obligation and commitment on the customer to enroll in a new program.

⁶ COVID-19 Bill Debt OIR at 21.

implementation of the utilities' respective AMP plans, which SDG&E created and operates on a manual basis due to the scheduled upgrade of its Customer Information System (CIS).

The average SDG&E CARE and FERA customer arrearage is approximately \$475, which is far less than the \$8,000 AMP plan forgiveness limit, which means that the current AMP program, in combination with the additional assistance programs described herein should provide all the necessary relief for low- to moderate-income customers to achieve this objective. Implementing new and/or additional programs may ultimately confuse low-to moderate income customers about which program best meets their needs and may dilute participation in the new AMP plan. The Commission should focus on maximizing the benefit of this new and important program and give it time for eligible customers to take full advantage of its benefits.

In addition to the AMP plan, D.20-06-003 from the Disconnection OIR, made permanent the option of 12-month payment plans for customers facing disconnection. Prior to the Emergency Customer Protections, SDG&E offered payment plans extending only three months. The permanent extension of these 12-month payment plans will also allow customers a longer period to pay off existing arrearages.

4. Local and Federal Stimulus Funds Are Also Available to Assist Vulnerable Customers

In addition to programs offered by the utility, various local government entities are in receipt of federal stimulus funds, which over the next few months may be pledged to customers to reduce arrearages of utility balances. On February 22, 2021, San Diego City Council and its housing authority agreed to distribute \$92.2 million in rent relief from federal and state sources to tenants facing financial difficulties as a result of COVID-19.⁷ The program also includes assistance for past-due utilities. SDG&E is actively working with the City and County of San Diego and the City of Chula Vista, as well as other local entities, to make these and similar funds available to eligible utility customers.

B. Comments on Straw Proposals

1. Proposal A, Arrearage Assistance Program (AAP)

As mentioned above, SDG&E has various programs available to assist vulnerable customers with arrearages. The additional debt forgiveness portion of the Commission's

⁷ San Diego Union Tribune, *San Diego Approves \$92.2M in Rent Relief* (February 22, 2021), available at [San Diego approves \\$92.2M in rent relief - The San Diego Union-Tribune](#).

Proposal A, the Arrearage Assistance Program (AAP), is largely duplicative of the AMP plan, which already targets low- to mid-income customers and provides a maximum debt forgiveness amount that adequately covers customers' existing arrearages. Because the existing AMP plan provides an appropriate framework tailored to residential customers who face the most need, SDG&E does not believe the Commission's AAP proposal for residential and small business customers is necessary.⁸ SDG&E recognizes that eligibility for the AMP plan is limited to low-income customers—who likely face the most need as a result of the COVID-19 crisis—and appreciates that the Commission may wish to extend arrearage relief to a larger customer base. Should the Commission institute an AAP targeted at relieving customers' COVID-19 related debt, SDG&E proposes the following modifications to the proposal.

SDG&E also notes that it is currently in the process of replacing its legacy CIS with its new system, set to go live on April 5, 2021. Upon this implementation, SDG&E will be working to stabilize its new CIS over the course of the following six months, which is a period consistent with industry standards for an implementation of this size. This stabilization period is critical in order to mitigate risk and any unexpected customer impacts. Only after the stabilization period concludes can SDG&E begin to design and test any new functionality, including a program such as the AAP. Thus, if SDG&E is required to implement any new programs prior to the end of the stabilization period, they must be completed manually.⁹ SDG&E delayed the implementation of its CIS to accommodate the requirements established in the Disconnections OIR, including programming its AMP on an expedited basis. At this point in the CIS process, no further changes are possible due to the status of the CIS replacement and the importance of the stabilization period.

⁸ SDG&E agrees with the definition of small business for AAP as defined in the COVID-19 Bill Debt OIR at 21, n.43. SDG&E assumes the definition of small business as defined in its tariffs and the COVID-19 advice letters. *See* SDG&E Advice Letter 3516-E-C/2854-G-C, approved June 16, 2020 and effective March 19, 2020 at 4, n.6 and n.7., “Consistent with D.19-07-015, SDG&E has defined ‘small business’ in ‘accordance to the utilities definition of ‘small business’ in their rules and tariffs.’ Small business electric customers are all non-residential metered service customers whose annual usage is equal to or less than 40,000 kWh or whose demand is equal to or less than 20 kW, as further defined in SDG&E’s tariffs. *See* D.19-07-015 at 55, n.146. Additionally, “small business gas customers are all non-residential metered customers whose usage does not exceed 10,000 therms annually, as further defined in SDG&E’s tariffs. *See* D.19-07-015 at 55, n.146.”

⁹ SDG&E requests that the scope of the proceeding include establishment of a memorandum account to track any necessary costs associated with implementing additional programs mandated by the Commission.

SDG&E suggests an incentive requirement and the following additional limitations be added to the AAP proposal. As currently drafted, any customer with arrears of \$1,000 or more accumulated between March 2020 and June 2021¹⁰ stands to gain a one-time \$200 bill forgiveness credit from this program (COVID AAP Amount). To ensure that the program is appropriately administered to the customers that need assistance, clear eligibility guidelines must be defined. SDG&E proposes that after enrollment in AAP, a customer must make two consecutive on-time payments of their current month's bill, at which point the customer would become eligible for the one-time \$200 bill forgiveness credit and would be put on a 12-month payment arrangement (or less if desired by the customer) to pay off the remaining arrearage balance.¹¹ During the two months of initial enrollment, the customer would not face disconnection if they made the required payments of the current bill amount.

SDG&E believes that a \$200 bill credit and an extended payment plan is adequate support to assist customers in reducing their outstanding bills and addressing arrearages over time. The additional debt forgiveness for low-income customers beyond the one-time credit described in Proposal A, is not necessary because of the additional programs already in place for customers who may need additional assistance.¹² The CARE and FERA customers addressed by Proposal A will also be eligible for additional arrearage forgiveness through the AMP plan, and—above and beyond the AAP credit—may have the entirety of their arrears balance forgiven, up to \$8,000, over the course of a year. Customers receiving the medical baseline allowance can also qualify for AMP if they meet the necessary income qualifications. Because Medical Baseline is not an income qualified program, SDG&E recommends limiting the availability of any additional debt forgiveness to customers who meet the income requirements for CARE/FERA through the AMP. Such an income limitation will ensure that the “low- and moderate-income” customers who most need the assistance receive it.¹³ Additionally, SDG&E proposes that similar to AMP, residential and small business net energy metering (NEM)

¹⁰ Due to SDG&E's replacement of its legacy CIS, SDG&E is not converting this historical information to the new CIS, so any customer with \$1,000 in arrears would be eligible for AAP, despite the Commission's attempt to limit the arrears to March 4, 2020 through June 30, 2021.

¹¹ SDG&E proposes that the \$200 credit be applied to SDG&E charges only.

¹² See COVID-19 Bill Debt OIR at Appendix A, A-2 – A-3.

¹³ *Id.* at A-2. The medical baseline program is not tied to income, and as such, should not be used as a proxy for customers who may need additional financial assistance.

customers be excluded from AAP, because SDG&E NEM customers are not required to make monthly payments, and require their full year of metering to ensure that they receive the maximum benefit of seasonal generation.

SDG&E believes that the AAP program should be limited in time to reflect the financial impacts of the COVID-19 pandemic. SDG&E proposes that, if implemented, the AAP program should be open for customer enrollments for a period of six months following the end of the COVID-19 emergency customer protections set to expire on June 30, 2021, through December 31, 2021. Illinois proposes a similar limitation to their program, which is cited by the Commission in the OIR – Commonwealth Edison offered payments on a first-come first-served basis until funds were exhausted.¹⁴

SDG&E also has concerns with the Commission’s proposal that customers eligible for the AAP be automatically enrolled, or that customers first verify economic hardship due to COVID with their utility.¹⁵ First, SDG&E is unable to automatically enroll customers in this program due to system limitations. SDG&E’s new CIS goes live on April 5, 2021. The Commission expects a decision in this OIR in June, and the utilities would likely be ordered to implement AAP shortly thereafter, which is in the middle of SDG&E’s CIS stabilization period. Thus, automatic enrollment is not possible. Additionally, SDG&E believes that automatic enrollment is inappropriate because customers need to indicate that they are willing to participate in a payment arrangement, which is a contractual agreement between a customer and the utility. SDG&E supports a requirement that customers verify economic hardship to avoid abuse of the program but seeks clarification on the types of proof to determine eligibility, and notes that customer privacy laws and requirements may impede the verification process. Clear requirements are necessary, and enrollment qualifications that go beyond income thresholds (like CARE and FERA) may simply be too burdensome for the utility to administer.

SDG&E disagrees with the proposal that customers who are unsuccessful in the AMP plan may subsequently enroll in AAP. The AMP plan is deliberately tethered to a customer’s timely payment of current charges to encourage customers to keep up on utility bills, while forgiving past debt. A proposal that rewards customers who fail the AMP plan requirements

¹⁴ COVID-19 Bill Debt OIR at 18.

¹⁵ *Id.* at Appendix A, A-4.

may improperly incentivize customers to become delinquent on utility bills. For example, a customer could qualify for AMP, receive debt forgiveness for a majority of the program period, stop paying their bills a few months prior to program completion, and then still qualify for the additional AAP forgiveness, plus payment arrangements. Any AAP proposal should consider limitations on enrollment to ensure that customers are not taking advantage of duplicative benefits.

Any new programs should also clarify the mechanisms for funding and cost recovery prior to program implementation. SDG&E proposes that the debt forgiven for residential customers and small business customers be recovered in a two-way balancing account and be recovered through the following: (1) for electric, SDG&E proposes to recover the debt forgiveness through the Public Purpose Program (PPP) rates via the Annual Regulatory Account Update advice letter submittals; and (2) for gas, SDG&E proposes recovery through transportation rates via its Annual Gas Regulatory Account Update advice letter submittal. In addition, SDG&E proposes that any incremental implementation costs related to the program, including but not limited to hiring additional employees or system changes, be recovered through the two-way balancing accounts.

2. Proposal B: Extended Payment Plans

Proposal B recommends expanding payment plans by: (1) “[m]aking available payment plans up to 24-months for Residential and Small Business Customers who request them and have been customers of the utility for at least the length of the payment plan” and (2) “allowing customers to request up to three monthly deferrals on a payment plan before the payment is considered ‘broken.’”¹⁶ SDG&E generally disagrees with the need to further extend payment arrangements beyond the relatively new payment arrangements extended by D.20-06-003. The IOUs now offer 12-month payment plans to residential customers, a significant expansion from the payment arrangements offered to customers prior to the pandemic. The impact of these payment arrangements remains relatively untested, but they should aid in addressing the growth of customer arrearages during the Emergency Customer Protections period. SDG&E recognizes, however, that the pandemic has created significant economic harm for many customers, including its small business customers and, given the unique circumstances of the pandemic, recommends the following proposed modification to Proposal B.

¹⁶ *Id.* at Appendix A, A-7.

SDG&E recommends that the Commission correlate any further extension of payment plans to the amount of time the COVID provisions were in effect. Assuming the Emergency Customer Protections related to COVID-19 end on June 30, 2021, this would result in payment arrangement terms of 15 months for residential and small business customers. This extension of the currently offered payment arrangements would provide customers with the flexibility to address larger arrearages that the Commission seeks to provide.¹⁷ Due to the systemic limitations required by SDG&E's CIS replacement, SDG&E notes that it is unable to automate the option for three months of deferrals within these extended payment arrangements, as proposed by the Commission, in the required timeframe. Thus, SDG&E would need to implement a manual process to reinstate pay agreements when deferrals occur, which would create an additional administrative burden.

SDG&E also cautions the Commission about further extension of payment arrangements, in light of its data regarding the success of long-term payment plans. SDG&E has generally observed low single-digit success rates for customers who have payment agreements exceeding three months.¹⁸ The Commission now requires payment arrangements of a longer, 12-month, duration. But a refresh of SDG&E's data continues to show the same low success rates for customers in long-term payment plans. SDG&E continues to be concerned that further extension of available payment arrangements may negatively impact the customer. When a customer breaks a payment agreement, it is due to the customer not paying their installment amount plus their current charges. At the time of breakage, the current charges also becomes past due and this can increase a customer's arrearage balance. This process getting the customer further away from catching up on their bills, rather than achieving the shared goal of eliminating past-due balances.

C. Comments on Additional Proposed Scoping Issues

SDG&E agrees with the main issues that the Commission intends to address in this proceeding, including the discussion of special relief mechanisms to address COVID-19 related arrearages, the cost of such mechanisms, potential funding sources, and cost allocation. SDG&E's aforementioned comments address the straw proposals for arrearage relief, as well as

¹⁷ *Id.* at Appendix A, A-6.

¹⁸ R.18-07-005, *Joint Comments of Southern California Gas Company and San Diego Gas & Electric Company to Administrative Law Judge Kelly's Ruling Requesting Responses to Questions* (June 14, 2019) at 18 (stating that "data from a pilot demonstrated that pay arrangement plans over three months were not beneficial to the customer and were kept less than 3% of the time.").

certain identified issues for the scope of the proceeding. SDG&E provides the following comments on specific scoping issues below.

1. Any Funding Structures That Include or Allow Shareholder Contributions Should be on A Voluntary Basis by the Utility

The OIR describes arrearage relief programs that have been implemented in other states. It is critical to note that these programs only include or incorporate shareholder funds voluntarily contributed by the utility. The Commission requests that parties address whether “funding structures that include or allow shareholder contributions, including those structures being utilized in other states and referenced in Section 2.6, [are] suitable for arrearage relief[.]”¹⁹

SDG&E opposes any funding structure that includes *mandatory* shareholder contributions. Requiring mandatory shareholder contributions to cover costs that have already been approved for recovery in rates under SDG&E’s current General Rate Case would violate longstanding basic principles of ratemaking, namely the need to “permit the utility to recover its cost and expenses plus a reasonable return on the value of the property devoted to public use.”²⁰ This includes any costs ultimately rendered uncollectible by the COVID-19 pandemic, as a result of the mandatory Emergency Customer Protections, or forgiven through new arrearage relief mechanisms.²¹

¹⁹ COVID-19 Bill Debt OIR at 23-24.

²⁰ D.03-02-035 at 6; *see also* D.14-08-011 at 31.

²¹ To the extent any bad debt costs or costs associated with debt forgiveness include costs recovered through Federal Energy Regulatory Commission (FERC) approved rates, barring utilities from recovery of those costs (and requiring shareholders to cover them) would also violate the filed rate doctrine. “The filed rate doctrine ensures that sellers of wholesale power governed by FERC can recover the costs incurred by their payment of just and reasonable FERC-set rates. When FERC sets a rate between a seller of power and a wholesaler-as-buyer, a State may not exercise its undoubted jurisdiction over retail sales to prevent the wholesaler-as-seller from recovering the costs of paying the FERC-approved rate. . . . Such a ‘trapping’ of costs is prohibited.” *Miss. Power & Light Co. v. Miss.*, 487 U.S. 354 (1988) at 372 (quoting *Nantahala Power & Light Co. v. Thorburg*, 476 U.S. 953 (1986) at 970.).

The Supreme Court has long held that a “utility is entitled to all of its reasonable costs and expenses,” a principle consistently upheld by this Commission.²² The goal of this proceeding should be to assess cost recovery structures that are “just and reasonable,” consistent with all legal and ratemaking requirements. The Commission has already established the CPPMA and the RUBA to track and address cost recovery for customer protections similar to the AAP, and SDG&E anticipates recovery through appropriate regulatory mechanisms. A requirement that utility shareholders cover these costs, which have already been deemed just and reasonable in the utilities’ general rate cases, could constitute a regulatory taking in violation of the utilities’ constitutional rights.²³ Further, imposing the risk of bill debt on shareholders as a result of no fault of the utility would impact long-term investment considerations for utilities and potentially undermine the utilities’ credit ratings.

The programs discussed in the OIR appear to include and incorporate *voluntary, not mandatory* shareholder contributions. For example, the Public Service Company of New Mexico created its COVID Customer Relief assistance program through a \$2 million company contribution to support customers impacted by the pandemic with past due bills.²⁴ The Arizona Public Service (APS) program is similarly funded with a voluntary \$2.5 million (half of the \$5 million budget) contribution from shareholders.²⁵ The Order of the Arizona Corporation

²² *Bluefield Waterworks & Improvement Co. v. Public Service Comm’n of W. Va.*, 262 U.S. 679, 690 (1923) (“Rates which are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the service are unjust, unreasonable, and confiscatory, and their enforcement deprives the public utility company of its property in violation of the Fourteenth Amendment.”); *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) (“[I]t is important that there be enough revenue not only for operating expenses but also for the capital costs of the business.”) (emphasis added); see also *Railroad Comm’n Cases*, 116 U.S. 307, 341 (1886) (state regulation of public utility rates may not be confiscatory or deny due process).

²³ See *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1015 (1992) (“In general (at least with regard to permanent invasions [of property]), no matter how minute the intrusion, and no matter how weighty the public purpose behind it, we have required compensation.”).

²⁴ Cision PR Newswire, *PNM Resources Introduces COVID Customer Relief Programs, Raises 2020 Ongoing Earnings Guidance* (October 1, 2020), available at <https://www.prnewswire.com/news-releases/pnm-resources-introduces-covid-customer-relief-programs-raises-2020-ongoing-earnings-guidance-301143598.html>.

²⁵ See COVID-19 Bill Debt OIR at 19-20; See Arizona Corporation Commission, *COVID-19 Relief Company: Low-Income APS, TEP Customers Will Receive \$250 Off Past-Due Balance* (December 10, 2020), available at <https://www.azcc.gov/news/2020/12/10/covid-19-relief-coming-low-income-aps-tep-customers-will-receive-250-off-past-due-balance>.

Commission further notes that “each electric utility is authorized to defer for possible later recovery through rates all discounts herein ordered to be paid (less any amounts *voluntarily* contributed by the utilities from below the line sources).”²⁶

To the extent that the OIR explores the issue of shareholder contributions to aid in COVID-19 debt relief, SDG&E supports such a discussion to address if and where shareholders may, *on a voluntary basis*, target contributions to aid customers in need. As previously addressed, SDG&E already voluntarily participates in various shareholder-funded programs, such as the Neighbor-to-Neighbor program, charitable employee match contribution programs, and the COVID-19 Community Response Fund. SDG&E’s has already contributed \$1 million to assist customers with utility bills through its Neighbor-to-Neighbor fund, and the number of customers who received such assistance nearly doubled in 2020 over prior years. SDG&E is proud of the impact that its Neighbor-to-Neighbor fund has had during the pandemic and is committed to continued support of the community that it serves through this and other programs.

D. SDG&E Is Supportive of a Workshop, If Deemed Necessary

The COVID-19 Bill Debt OIR schedule provides for a workshop on March 26, 2021, and the Commission asks that parties state in Comments whether the workshop is necessary, specifying what topics should be covered in the workshop.²⁷ SDG&E is supportive of a workshop to discuss the various straw proposals proposed by the Commission, rate impacts from that would result from both proposals, cost recovery issues, and other issues that are identified in party Comments.

///

///

///

²⁶ See Arizona Corporation Commission, Decision 77849 in Docket E-00000A-19-0128 (December 17, 2020) at 11 (emphasis added), *available at* <https://docket.images.azcc.gov/0000202745.pdf?i=1611638894914>.

²⁷ COVID-19 Bill Debt OIR at 25.

III. CONCLUSION

SDG&E appreciates the opportunity to provide these Comments.

Respectfully submitted,

By: /s/ Laura M. Fulton
Laura M. Fulton

LAURA M. FULTON

Attorney for:
SAN DIEGO GAS & ELECTRIC COMPANY
8330 Century Park Court, CP32D
San Diego, California 92123
Telephone: (858) 654-1759
E-mail: Lfulton@sdge.com

March 3, 2021