

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



FILED

07/06/22

04:59 PM

A2205023

Application of San Diego Gas & Electric
Company (U 902 E) to Review Green Access
Programs Pursuant to Decisions 18-06-027 and
21-12-036.

Application 22-05-023
(Filed, May 31, 2022)

**PROTEST OF CLEAN ENERGY ALLIANCE AND SAN DIEGO COMMUNITY
POWER TO THE APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY TO
REVIEW GREEN ACCESS PROGRAMS**

July 6, 2022

Chasity Hendren
Ty Tosdal
Tosdal, APC
845 15th Street, Suite 103
San Diego, CA 92101
Telephone: (858) 252-6255
E-mail: chasity@tosdalapc.com

*On behalf of Clean Energy Alliance and San Diego
Community Power*

TABLE OF CONTENTS

I. INTRODUCTION2

II. BACKGROUND3

 a. SDG&E’s Green Tariff Shared Renewables Program3

 b. SDG&E’s Request to Suspend the Green Tariff Shared Renewables
 Program5

III. EFFECT OF THE APPLICATION ON THE PROTESTANT.....6

IV. GROUNDS FOR PROTEST.....7

V. CATEGORIZATION AND NEED FOR EVIDENTIARY HEARINGS..... 11

VI. PROPOSED SCHEDULE..... 11

VII. COMMUNICATIONS..... 12

VIII. CONCLUSION 12

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

Application of San Diego Gas & Electric Company (U 902 E) to Review Green Access Programs Pursuant to Decisions 18-06-027 and 21-12-036.

Application 22-05-023
(Filed May 31, 2022)

PROTEST OF CLEAN ENERGY ALLIANCE AND SAN DIEGO COMMUNITY POWER TO THE APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY TO REVIEW GREEN ACCESS PROGRAMS

I. INTRODUCTION

Pursuant to Decision (“D.”) 18-06-027 and D.21-12-036, San Diego Gas & Electric Company (“SDG&E”) filed the *Application of San Diego Gas & Electric Company (U 902 E) to Review Green Access Programs Pursuant to Decisions 18-06-027 and 21-12-036* (“Application”), Application (“A.”) 22-05-023, on May 31, 2022. Among other things, the Application requests authority to terminate the Green Tariff Shared Renewables (“GTSR”) program and recover outstanding program costs. Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”), San Diego Community Power (“SDCP”) and Clean Energy Alliance (“CEA”) (collectively, the “Joint CCAs”)¹ hereby protest certain aspects of the relief sought in the SDG&E’s Application. Specifically, the Joint CCAs have identified several issues around the reasonableness of SDG&E’s requests to recover costs recorded in its GTSR balancing account, which is currently undercollected. The Application also seeks authorization to suspend the GTSR programs subject

¹ Each of the above-mentioned CCAs respectfully requests independent party status.

to a request for an expedited schedule under the Commission Rule² 2.9. The Joint CCAs do not object to SDG&E’s GTSR program suspension nor SDG&E’s request for the Commission to hear the matter on an expedited schedule. The issues identified below should be thoroughly investigated before the Commission grants the relief requested in the Application. The Joint CCAs respectfully request that the Commission set this matter for hearing to fully examine those issues together with any other issues that may arise during the course of the proceeding.

II. BACKGROUND

a. SDG&E’s Green Tariff Shared Renewables Program

Senate Bill (“SB”) 43 (Wolk 2014) required electrical corporations with 100,000 or more customers in California³ to file an application with the Public Utilities Commission (“Commission”) requesting approval of a GTSR program.⁴ The GTSR program is an optional program designed to “expand access to all eligible renewable energy resources to all ratepayers who are currently unable to access the benefits of onsite generation.”⁵ Notably, the statute requires that no costs be shifted to non-participating ratepayers:

The commission shall ensure that charges and credits associated with a participating utility's green tariff shared renewables program are set in a manner that ensures nonparticipant ratepayer indifference for the remaining bundled service, direct access, and community choice aggregation customers and ensures that no costs are shifted from participating customers to nonparticipating ratepayers.⁶

On January 29, 2015, the Commission issued Decision (“D.”) 15-01-051 *Decision Approving Green Tariff Shared Renewables Program for San Diego Gas & Electric Company*,

² Citations herein to a “Rule” or “Rules” are to the Commission’s Rules of Practice and Procedure.

³ Public Utilities Code § 2831.5(b)(2) (2014).

⁴ Public Utilities Code § 2832(a) (2014).

⁵ Public Utilities Code § 2831(b) (2014).

⁶ Public Utilities Code § 2833(q).

Pacific Gas and Electric Company, and Southern California Edison Company Pursuant to Senate Bill 43. This decision granted, with modifications, SDG&E’s Application (“A.”) 12-01-008.

On December 17, 2021, SDG&E filed Advice Letter (“AL”) 3920-E, requesting rapid suspension of its GTSR program. SDG&E claimed that many of its customers had recently departed for Community Choice Aggregations (“CCAs”), and recently-implemented San Diego Community Power (“SDCP”) was scheduled to take over the city of San Diego, which accounted for forty percent of SDG&E’s load, by March 2022.⁷ SDG&E contended that the GTSR’s fixed costs were now spread over fewer customers, making the program more expensive for the remaining customers.⁸

On January 6, 2022, SDCP filed a timely response to AL 3920-E. SDCP expressed concern that SDG&E may improperly attempt to recover outstanding costs from non-participating customers, including unbundled customers, served by CCAs if its GTSR program were suspended.⁹ SDCP questioned how SDG&E would recover any of its remaining under-collection balance after suspension, when SDG&E already had approximately \$2 million in under-collected amounts accrued from GTSR customers.¹⁰

On April 19, 2022, The Commission denied SDG&E’s request for suspension because SDG&E failed to meet the obligations required to suspend its GTSR program as directed in Ordering Paragraph (“OP”) 15 of D. 15-01-051.¹¹ D. 15-01-051 states that an IOU may issue a Tier 2 AL to suspend the GTSR program “[i]f there is ratepayer exposure to excessive costs due

⁷ SDG&E AL 3920-E at 3.

⁸ *Id.* at 6.

⁹ SDCP’s Response to SDG&E’s AL 3920-E at 2.

¹⁰ *Id.*

¹¹ Staff Disposition of SDG&E’s AL 3920-E (April 19, 2022) at 1.

to market manipulation or market malfunction associated with the GTSR Program.”¹² Related, OP 15 states SDG&E “shall file a Tier 2 Advice Letter setting forth why such suspension is necessary to protect ratepayers and the utility’s proposal for resolving the issue.” But, in AL 3920-E, SDG&E did not include any proposed solutions for resolving the issues that made suspension necessary.¹³ As a result, Commission staff recommended that SDG&E “provide a detailed mitigation strategy and suspension plan, complete with concrete timelines, in its forthcoming Application for Review.”¹⁴ The Commission also stated in its disposition letter that a temporary suspension must have an end date, and a full termination is forbidden by Public Utilities Code § 2833(d).

Presently, Section 2833(d) states that a utility must implement the GTSR program “until the utility meets its proportionate share of a statewide limitation of 600 megawatts.”¹⁵ As of the date of this protest, the Legislature is considering Assembly Bill (“AB”) 2838 (O’Donnell, 2022).¹⁶ AB 2838, as amended on April 18, 2022, grants the Commission authority to terminate the GTSR programs, subject to certain conditions, on or after April 1, 2023.¹⁷

b. SDG&E’s Request to Suspend the Green Tariff Shared Renewables Program

On May 31, 2022, SDG&E filed its Application requesting authorization to suspend its GTSR programs “to protect program participants from impacts to GTSR rates that are on a

¹² D. 15-01-051 at page 164, Finding of Fact 46.

¹³ Staff Disposition of SDG&E’s AL 3920-E at 5.

¹⁴ *Id.* at 6-7.

¹⁵ Public Utilities Code § 2833(d) (2021).

¹⁶ Assembly Bill 2838, California 2021-2022 Regular Session, 2021.

¹⁷ *Ibid.*

trajectory to be more than 20 times higher than the rates were two years ago.”¹⁸ SDG&E further requests for the commission to:

[d]irect SDG&E to seek cost recovery of its GTSR balancing account under collection to date for those costs that have been reviewed through the ERRA Compliance Proceedings and going forward as costs are reviewed in the future Annual ERRA Compliance Proceedings. As SDG&E is required to offer the programs to all customers, authorize SDG&E to seek recovery of SDG&E reviewed under collection, and future GTSR program costs, once reviewed, in future Annual ERRA Compliance Proceedings.¹⁹

The Joint CCAs subsequently filed this protest.

III. EFFECT OF THE APPLICATION ON THE PROTESTANT

Each of the Joint CCAs are governed by a Board of Directors comprised of elected officials who represent the individual cities and counties the CCA serves or an elected City Council.²⁰ In their representative capacity, the Joint CCAs are advocates for their customers and their local energy programs before the Commission. The Joint CCAs provide generation services to their customers and their customers receive transmission, distribution, billing, and other services from SDG&E. Such customers are categorized as unbundled customers. Unbundled customers must pay the same electric distribution, transmission, and non-bypassable rates as SDG&E’s bundled customers. However, unbundled customers also pay CCA-specific generation rates, which vary and are partially influenced by local mandates to procure and maintain clean electricity portfolios that in many cases exceed state requirements for renewable generation.

Since SDG&E’s GTSR program is only available to bundled customers, unbundled CCA customers are ineligible and considered non-participating customers under the program. Non-

¹⁸ A. 22-05-023 at 4.

¹⁹ *Id.* at 4-5.

²⁰ *See* Pub. Util. Code §366.2.

participating customers are not responsible for costs incurred on behalf of participating GTSR customers. Because ERRA is used to approve rates from broader classes of customers, the Application's proposed collection of GTSR costs through ERRA may force non-participating, CCA customers to subsidize GTSR program costs associated with participating customers. This cross-subsidization directly contravenes Senate Bill 43's intent to avoid non-participating customers subsidizing participating customers and puts CCAs at a competitive disadvantage.²¹ The Commission has previously emphasized on numerous occasions its desire and its legal commitment to avoid any such cross-subsidization.²² For all of these reasons, ensuring the Application's proposed cost recovery method is of substantial interest to the Joint CCAs.

IV. GROUNDS FOR PROTEST

The Joint CCAs have identified issues that directly and substantially impact their interests described above. The issues enumerated below should be considered preliminary matters that the Joint CCAs have identified as unjust and unreasonable and/or potentially having anti-competitive impacts. The Joint CCAs reserve the right to address, protest and analyze additional issues that may arise. Thus far, we have identified the following issues related to cost recovery that warrant close scrutiny.

SDG&E seeks to recover \$5 million in undercollection costs recorded in its various GTSR related balancing accounts²³ through March 2022. For costs incurred through 2020 that

²¹ See, § 2(h) of Senate Bill (SB) 790 (Leno, 2011); See also, Public Utilities Code § 2833(d) (2021).

²² See, e.g., D. 13-08-023 at 17 ("The Commission remains committed to ensuring that Community Choice Aggregators and other non-utility LSEs may compete on a fair and equal basis with regulated utilities. Toward this end, we will continue to consider both the mechanics and overall fairness of cost allocation and departing load charge methodologies proposed in the future, *with the specific goal of avoiding cross-subsidization.*") (emphasis added).

²³ Green Tariff Shared Renewables Balancing Account ("GTSRBA"); Green Tariff Shared Renewables Administrative Cost Memorandum Account ("GTSRACMA"); Green Tariff Marketing Education &

have already been reviewed and found reasonable in previous ERRA compliance proceedings, SDG&E proposes recovery in the next annual ERRA compliance application. Going forward, SDG&E seeks to establish ERRA as the correct venue for reasonableness review and cost recovery of any current and future undercollected GTSR costs, which includes costs incurred from 2021 to 2022.

Pursuant to Public Utilities Code § 2833(q), the Commission must ensure:

[T]hat charges and credits associated with a participating utility's green tariff shared renewables program are set in a manner that ensures nonparticipant ratepayer indifference for the remaining bundled service, direct access, and community choice aggregation customers and ensures that no costs are shifted from participating customers to nonparticipating ratepayers.²⁴

The Application's proposed recovery of undercollection costs, however, is vague and incomplete as to how the nonparticipant ratepayer indifference will be maintained. SDG&E fails to identify the ratepayers that such costs will be recovered from.

As stated in the Application, “[a]s SDG&E is required to offer the programs to all customers, authorize SDG&E to seek recovery of SDG&E reviewed under collection, and future GTSR program costs, once reviewed, in future Annual ERRA Compliance Proceedings.”²⁵

While misleading because SDG&E can only offer GTSR programs to bundled customers, not unbundled customers, the Joint CCAs interpret this statement to mean that SDG&E intends to seek cost recovery from all customers. This interpretation is further supported by the request to seek cost recovery through ERRA compliance proceedings which are used to approve rates for broader classes of customers, including nonparticipating customers. As the Application currently

Outreach Memorandum Account (“GTME&OMA”); and Enhanced Community Renewable Marketing, Education & Outreach Memorandum Account (“ECRME&OMA”).

²⁴ Public Utilities Code § 2833(q).

²⁵ A. 22-05-023 at 4-5.

reads, the proposed cost recovery method lacks vital details needed to meet the Legislature’s mandate that no costs are shifted from participating customers to nonparticipating ratepayers.

When evaluating the proposed cost recovery, it is critical that the Commission investigate whether the program was prudently managed so that costs to be recovered are just and reasonable. The Application offers little detail explaining why costs, already reviewed and apparently deemed reasonable in 2018, were not collected sooner. SDG&E simply cites the structure of the ERRA filing process creating a two-year delay in the cost recovery of 2016-2019 undercollections²⁶ and “rate impact considerations”²⁷ as the reason for delaying recovery of 2020 costs.

A significant portion, approximately 68%, of the total undercollections that SDG&E is seeking to recover are from years 2019 and 2020, correspond with the phased enrollment of the Joint CCAs. As the Joint CCAs offer their customers identical renewable power source options to SDG&E’s EcoChoice, it is reasonable to ask whether the delayed recovery of 2019-2020 costs stemmed from a competitive strategy to keep GTSR rates low during the years the Joint CCAs launched and began providing service.

The Application goes on to cite the “recent explosion of customers leaving for CCA commodity service” as the reason for the sudden increase on GTSR rates and what drives the requested relief.²⁸ However, SDG&E had ample notice of the implementation of CCA programs in its service territory due to, among other things, the required public filing of each of the Joint CCAs’ Implementation Plan and State of Intent.²⁹ Despite being on notice of the forecasted

²⁶ SDG&E Prepared Direct Testimony of Eric Dalton, May 31, 2022, 85:5 to 85:7.

²⁷ SDG&E Prepared Direct Testimony of Eric Dalton, May 31, 2022, Table 2-Ed.

²⁸ A. 22-05-023 at 11.

²⁹ See San Diego Community Power CCA Implementation Plan and Statement of Intent, December 2019; Clean Energy Alliance CCA Implementation Plan and Statement of Intent, December 2019.

departure of customers from bundled service in 2019, the Joint CCAs are not aware of any action taken by SDG&E to ensure the program’s continued success in a departing load environment until the submission of SDG&E AL 3920-E, on December 17, 2021.

In response to SDG&E AL 3920-E, SDCP raised concerns around improper cost recovery from non-participating customers, including unbundled customers served by CCAs, due to the fact that SDG&E’s provided no explanation on how it would recover any of its remaining under-collection balance.³⁰ In the Commission’s disposition letter denying SDG&E AL 3920-E, Energy Division recognized the legitimacy of SDCP’s concerns stating that SDG&E “does not advance any proposals for the recovery of its outstanding undercollection balance” but simply “identifies the balance and provides vague plans” to explore cost recovery.³¹ The Application provides little additional information addressing the concerns SDCP raised in its response, and it remains unclear how customer indifference will be maintained.

The Commission’s denial of SDG&E AL 3920-E rested on the grounds that a proposed solution to issue was not provided, as required by D.15-01-051 Ordering Paragraph (“OP”) 15.³² Further, the Commission noted that SDG&E failed to include an evaluation of stranded costs, identification of funds spent so far, and the number or characteristics of the customers affected.³³ SDG&E was directed to provide a detailed mitigation strategy and suspension plan, complete with concrete timelines, in the instant Application.³⁴ Like SDG&E AL 3920-E, SDG&E’s Application does not offer a proposed solution other than the suspension of the program³⁵ and

³⁰ SDCP’s Response to SDG&E’s AL 3920-E at 2.

³¹ Staff Disposition of SDG&E’s AL 3920-E at 6.

³² Staff Disposition of SDG&E’s AL 3920-E at 5.

³³ *Id.*

³⁴ Staff Disposition of SDG&E’s AL 3920-E at 6-7.

³⁵ SDG&E Prepared Direct Testimony of Eric Dalton, May 31, 2022, 72:14 to 72:18.

does not provide a suspension plan with concrete timelines, stating the program will resume when there are sufficient bundled customers to support a rate reasonable to attract program participants.³⁶ SDG&E should be ordered to cure such deficiencies in its proposal before the Commission issues a final decision in this proceeding.

The Commission should review the reasonableness of current and future GTSR costs and approve cost recovery in the instant proceeding, rather than in ERRA proceedings. The numerous competing issues in the ERRA proceedings make the inclusion of GTSR issues in that case unduly complicated and unlikely to get the attention that the issues deserve. Although GTSR rates are prospectively set in the ERRA proceeding, the purpose of this Application is a retrospective look at the success and failures of the programs. Addressing cost recovery in the same proceeding where the history and pertinent facts are presented is a much more efficient vehicle for review and approval of GTSR costs incurred. As such, the nexus between cost recovery and cost causation is stronger in this proceeding versus ERRA proceedings. Thus, the various cost recovery should be in scope and resolved in this proceeding.

V. CATEGORIZATION AND NEED FOR EVIDENTIARY HEARINGS

The Joint CCAs agree with the classification of this proceeding as “ratesetting,” and, for the reasons explained above, believe that hearings are necessary.

VI. PROPOSED SCHEDULE

The Joint CCAs do not oppose SDG&E’s proposed schedule to bifurcate the proceeding into two tracks with Track 1 addressing SDG&E’s request for suspension and a shortened

³⁶ SDG&E Prepared Direct Testimony of Eric Dalton, May 31, 2022, 79:4 to 79:10.

proceeding schedule pursuant to Commission Rule 2.9, and Track 2 addressing all other issues in the Application, including a review of GTSR post-suspension.

VII. COMMUNICATIONS

The Joint CCAs consent to “email only” service and request that the following individuals be added to the service list for A.22-05-023 on behalf of the Joint CCAs:

Party Representative for each of the Joint CCAs:

Ty Tosdal
Tosdal, APC
845 15th Street, Suite 103
San Diego, CA 92101
Telephone: (858) 252-6416
E-mail: ty@tosdalapc.com

Information-Only Representatives for each CCA:

Chasity Hendren
Tosdal, APC
845 15th Street, Suite 103
San Diego, CA 92101
Telephone: (858) 252-6255
E-mail: chasity@tosdalapc.com

CONCLUSION

For the foregoing reasons, the Joint CCAs appreciate the Commission’s attention to this matter and request that it be set for hearing to fully examine the issues discussed above.

Respectfully submitted,

/s/ Chasity Hendren

Chasity Hendren

Tosdal, APC

845 15th Street, Suite 103

San Diego, CA 92101

Telephone: (858) 252-6255

E-mail: chasity@tosdalapc.com

*On behalf of Clean Energy Alliance and San
Diego Community Power*

July 6, 2022