

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



FILED

04/12/24

04:59 PM

A2306002

Application of San Diego Gas & Electric Company (U 902-E) for Approval of: (i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing Account, Transition Cost Balancing Account, and Local Generating Balancing Account in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022.

Application 23-06-002
(Filed June 1, 2023)

**OPENING BRIEF OF SAN DIEGO
COMMUNITY POWER AND CLEAN ENERGY ALLIANCE**

PUBLIC VERSION

Tim Lindl
Alissa Greenwald
Keyes & Fox LLP
580 California Street, 12th Floor
San Francisco, CA 94104
Telephone: (510) 314-8385
E-mail: tindl@keyesfox.com
agreenwald@keyesfox.com

April 12, 2024

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

SUBJECT MATTER INDEX

I. LEGAL STANDARDS AND PERMISSIBLE SCOPE OF REVIEW 3

II. SDG&E’S APPROACH TO SELLING RA IN THE RECORD YEAR WAS FAR TOO CONSERVATIVE, LEAVING SUBSTANTIAL QUANTITIES OF RA CAPACITY UNAVAILABLE TO THE MARKET IN A YEAR IN WHICH RA WAS SCARCE..... 5

 A. SDG&E Did Not Make All of its Excess RA Available to the Market in 2022..... 7

 B. SDG&E Improperly Limited Excess RA Sales Based on Price. 11

III. THE COMMISSION SHOULD REVISIT SDG&E’S BPP IN THE IRP PROCEEDING. 13

IV. SDG&E’S EXCESS RA SALES PRACTICES ARE PROPERLY WITHIN THE SCOPE OF THIS PROCEEDING. 15

V. CONCLUSION..... 18

TABLE OF AUTHORITIES

Statutes

Cal. Pub. Util. Code § 451 3

Commission Decisions

D.02-10-062 16
D.02-12-069 17
D.09-03-025 3
D.12-11-051 3
D.12-12-030 3
D.19-10-001 5, 6, 12
D.20-06-002 10
D.22-05-006 6
D.22-12-012 5
D.23-12-008 15
D.23-12-021 6

Commission Rules of Practice and Procedure

Rule 13.12 1

SUMMARY OF RECOMMENDATIONS

After experiencing rotating outages during the summer of 2020, the State of California has invested over \$3 billion to ensure sufficient capacity at peak times and under particularly stressful events impacting the electric grid. While the State has enacted extraordinary measures to achieve this goal, San Diego Gas & Electric Company (“SDG&E”) has simultaneously been afforded significant discretion in determining when and how to sell Excess Resource Adequacy (“RA”) due to its vague and open-ended Bundled Procurement Plan (“BPP”).

During the 2022 record period, SDG&E opted to follow an overly conservative approach to selling Excess RA [REDACTED]

[REDACTED] SDG&E’s “gut feeling” approach to selling RA does not rely on any quantifiable methodology, conflicts with Commission guidance in D.19-10-001, as well as Pacific Gas & Electric Company’s methodology, and is so vague that it provides no criteria by which the Commission could review SDG&E’s actions. In 2022, this resulted in lost opportunities to reduce costs to customers and further squeezed an already constrained RA market. As discussed below, SDG&E’s conservative approach to its sales of Excess RA contributed to an average of 484 MW of Unsold RA capacity from Power Charge Indifference Adjustment eligible resources per month during the 2022 record year. During the particularly RA-constrained months of July, August, and October 2022, SDG&E reported 738, 301, and 476 MWs of Unsold RA, respectively.

To remedy these issues and ensure that SDG&E’s Excess RA methodology is aligned with State policies and priorities, San Diego Community Power and Clean Energy Alliance offer the following recommendations:

- The Commission should find that SDG&E's BPP is overly vague as to how SDG&E approaches its sales of Excess RA.
- The Commission should order that SDG&E's BPP be revisited in the Integrated Resource Planning ("IRP") docket to be more prescriptive as to SDG&E's sales of Excess RA.

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

Application of San Diego Gas & Electric Company (U 902-E) for Approval of: (i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference Adjustment Undercollection Balancing Account, Transition Cost Balancing Account, and Local Generating Balancing Account in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022.

Application 23-06-002
(Filed June 1, 2023)

**OPENING BRIEF OF SAN DIEGO COMMUNITY POWER
AND CLEAN ENERGY ALLIANCE**

Pursuant to Rule 13.12 of the Rules of Practice and Procedure of the California Public Utilities Commission (the “Commission”) and the December 6, 2023 *Email Ruling in Response to Request by San Diego Gas & Electric Company, San Diego Community Power, Clean Energy Alliance, and the Public Advocates’ Office to Revise the Procedural Schedule*,¹ San Diego Community Power² (“SDCP”) and Clean Energy Alliance³ (“CEA”) (together, the “CCA Parties”) hereby submit this Opening Brief regarding the *Application of San Diego Gas & Electric Company (U 902-E) for Approval of: (i) Contract Administration, Least-Cost Dispatch and Power Procurement Activities in 2022, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account, Portfolio Allocation Balancing Account, Power Charge Indifference*

¹ Application (“A.”) 23-06-002, *Email Ruling in Response to Request by San Diego Gas & Electric Company, San Diego Community Power, Clean Energy Alliance, and the Public Advocates’ Office to Revise the Procedural Schedule* (Dec. 6, 2023).

² SDCP is the Community Choice Aggregator (“CCA”) for the cities of Chula Vista, Encinitas, Imperial Beach, La Mesa, National City, and San Diego, and the unincorporated areas of San Diego County.

³ CEA is the CCA for the cities of Carlsbad, Del Mar, Solana Beach, Escondido, San Marcos, Oceanside, and Vista.

Adjustment Undercollection Balancing Account, Transition Cost Balancing Account, and Local Generating Balancing Account in 2022, and (iii) Costs Recorded in Related Regulatory Accounts in 2022 (“Application”).

Since the summer of 2020, the State of California has taken extraordinary measures to ensure electric reliability, with the primary goal of ensuring that there is sufficient capacity on the grid at peak times and under stressful conditions.⁴ However, during the 2022 record period, San Diego Gas & Electric Company (“SDG&E”) adopted an overly conservative approach to offering its Excess Resource Adequacy (“RA”), *i.e.*, RA not needed for its own compliance obligations, to the market. A more reasonable approach to the sales of Excess RA would have reduced costs to customers, as well as helped to ensure that other load-serving entities (“LSEs”) facing a severely constrained RA market could have met their RA obligations.

While it appears that SDG&E did not act in customers’ best interests during the 2022 record period with regard to its sales of Excess RA, there are currently administrative roadblocks in place preventing the Commission from formally reaching this conclusion within this proceeding. Specifically, SDG&E’s Excess RA sales practices are governed by its Bundled Procurement Plan

⁴ For example, AB 205 established the \$3.3 billion Strategic Reliability Reserve, which was designed to “ensure electricity reliability during this period of heightened risk” and to maintain “sufficient capacity of new and existing generation assets.” The Strategic Reliability Reserve is comprised of the Department of Water Resources Electricity Supply Strategic Reliability Reserve Program (“ESSRRP”), the California Energy Commission (“CEC”) Demand Side Grid Support (“DSGS”) program, and the CEC Distributed Electricity Backup Assets (“DEBA”) program. Notably, the ESSRRP was justified as a means to “bring additional energy and resource adequacy into California” (Budget Change Proposal, DF-46). Further, SB 846 (Chapter 239, Statutes of 2022) also extended the life of the Diablo Canyon Nuclear Power Plant, which otherwise would have been retired in 2025. The bill was enacted “to improve statewide energy system reliability and to reduce the emissions of greenhouse gases while additional renewable energy and zero-carbon resources come online, until those new renewable energy and zero-carbon resources are adequate to meet demand.” Extending the plant was another extraordinary measure to ensure grid reliability and sufficient capacity. Finally, in September 2022, Governor Newsom took the extraordinary measure to use the State’s wireless emergency alert system to push an energy conservation alert to over 27 million Californians. This reduced demand on the grid by a reported 2,600 MWs, reducing the need for capacity that wasn’t available.

(“BPP”), which is remarkably vague on the process SDG&E will follow to ensure the maximum amount of capacity is made available to the market. As a result, SDG&E has been afforded significant leeway in its decisions regarding when and how to sell Excess RA, with no firm standards by which the Commission may hold it accountable. This opacity not only undermines transparency and accountability but poses a barrier to remedying the adverse impacts of SDG&E’s RA sales practices on the market: further squeezing an RA market that is already tight. In light of these circumstances, the Commission should order that SDG&E’s BPP be revised in the Integrated Resource Planning (“IRP”) proceeding to create firmer standards to safeguard customers and ensure that regional RA needs can be met.

I. LEGAL STANDARDS AND PERMISSIBLE SCOPE OF REVIEW

SDG&E, as the applicant, bears the burden of establishing the reasonableness of all aspects of its Application,⁵ and that burden of proof generally is measured based upon a preponderance of the evidence.⁶ In addition, pursuant to Public Utilities Code Section 451:

All charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful.⁷

As described above, SDG&E’s RA solicitations are governed by its BPP.⁸ As such, SDG&E contends that under § 454.5 of the California Public Utilities Code, its RA sales and solicitations

⁵ Rulemaking (“R.”) 11-02-019, *Decision Mandating Pipeline Safety Implementation Plan, Disallowing Costs, Allocating Risk of Inefficient Construction Management to Shareholders, and Requiring Ongoing Improvement in Safety Engineering*, p. 42 (Dec. 28, 2012) (“D.12-12-030”); Cal. Pub. Util. Code § 451 (requiring that rates be “just and reasonable”).

⁶ D.12-11-051, p. 9; D.09-03-025, p. 8.

⁷ Cal. Pub. Util. Code § 451.

⁸ See A.23-06-002, Exhibit CCA-01: Prepared Direct Testimony of Carlo Bencomo-Jasso on Behalf of San Diego Community Power and Clean Energy Alliance in San Diego Gas & Electric Company’s 2022 ERRRA Compliance Proceeding (Corrected Errata Version), Attachment D (Dec. 22, 2023).

are not subject to an after-the-fact reasonableness review.⁹ However, SDG&E’s arguments improperly limit the scope of permissible Commission review in an Energy Resource Recovery Account (“ERRA”) Compliance proceeding.

First, parties can contest, and the Commission can review through the ERRA Compliance application process whether SDG&E’s actions during the record year were in compliance with its BPP. This review extends to actions both prescribed and permitted by the BPP. Independent of the question of consistency with the BPP, parties to the ERRA Compliance proceeding can contest, and the Commission can review the appropriateness of SDG&E’s RA sales, as those sales directly impact entries to the Portfolio Allocation Balancing Account (“PABA”).¹⁰ If the Commission found that SDG&E’s sales of Excess RA were not appropriate, or were out of line with Commission directives, the ERRA Compliance proceeding would be the venue in which the Commission could order adjustments to the PABA. Finally, the ERRA Compliance application process allows the Commission to scrutinize SDG&E’s Excess RA sales since those sales are directly relevant to whether SDG&E prudently managed its generation portfolio. In fact, if the issue involves actions that SDG&E should have taken, but did not pursue, the only available venue is the ERRA Compliance application and review process. Consequently, the Commission must review both (1) the accounting and tracking of SDG&E’s RA sales, and (2) whether SDG&E prudently managed its portfolio in making those sales in the present proceeding.

⁹ A.23-06-002, Exhibit SDGE-10: Prepared Rebuttal Testimony of Josh Chassé on Behalf of San Diego Gas & Electric Company, pp. JC-9:32-33, JC-10:1 (Feb. 23, 2024).

¹⁰ Exhibit CCA-01 at 4:5-6.

II. SDG&E’S APPROACH TO SELLING RA IN THE RECORD YEAR WAS FAR TOO CONSERVATIVE, LEAVING SUBSTANTIAL QUANTITIES OF RA CAPACITY UNAVAILABLE TO THE MARKET IN A YEAR IN WHICH RA WAS SCARCE.

SDG&E’s Application requests, among other things, review and approval of costs related to activities recorded to the ERRA and the PABA.¹¹ Community choice aggregation (“CCA”) and other unbundled customers are subject to several non-bypassable charges (“NBCs”), including Power Charge Indifference Adjustment (“PCIA”) rates to recover the above-market costs of the utility’s PCIA-eligible resources and the Local Generation Charge to recover Cost Allocation Mechanism costs.¹²

SDG&E’s PCIA rates are set in the ERRA Forecast proceeding based on: (1) the Indifference Amount (the difference in the forecast year between the cost of the IOU’s supply portfolio and the market value of the IOU’s supply portfolio); and (2) the year-end balance in the PABA.¹³ The Indifference Amount and the year-end PABA over- or under-collection are added together to form the PABA revenue requirement underlying PCIA rates.¹⁴

For bundled customers, the PCIA-related costs are included in the commodity revenue requirement and recovered through a bundled commodity rate, which is also set in the ERRA Forecast case. Costs to meet bundled customers’ energy and ancillary service requirements through the California Independent System Operator (“CAISO”) market, along with costs of resources not eligible for recovery in the PABA or CAM, are recovered via the ERRA.¹⁵ The total bundled

¹¹ See generally, Exhibit SDGE-02: Prepared Direct Testimony of Joe Bautista on Behalf of San Diego Gas & Electric Company (June 1, 2023).

¹² See Exhibit CCA-01 at 1:13-15, 3:23-25, 4:1.

¹³ See D.19-10-001, pp. 10-1.

¹⁴ See, e.g., D.22-12-012, p. 54 (explaining this generally applicable methodology in the context of Southern California Edison Company).

¹⁵ Exhibit SDGE-02 at 3.

customer commodity revenue requirement is calculated by combining ERRA costs with bundled customers' share of above market cost of PCIA-eligible contracts and utility owned resources.

SDG&E tracks actual costs and revenues incurred over the course of the year for PCIA-eligible resources in the PABA.¹⁶ Costs to meet bundled customers' energy and ancillary service requirements are recorded and tracked in the ERRA balancing account during the record year.¹⁷ The result in both balancing accounts is SDG&E recording either an under- or over-collection based on many factors tied to actual market costs, actual market revenues, and actual customer revenues from retail sales. The resulting under- or over-collection is then included in the revenue requirement for the following year's ERRA and PCIA rates.¹⁸ For example, customers in 2023 pay the under- and over-collections that SDG&E recorded over the course of 2022.

One important factor in whether an over- or under-collection exists in the PABA is the actual amount of RA capacity SDG&E sold during the record year compared to the amount of RA it forecasted it would sell.¹⁹ SDG&E, like other investor-owned utilities ("IOUs"), sells its Excess RA to other LSEs that must also meet RA compliance obligations.²⁰ The revenues from SDG&E's sales of Excess RA are an important offset to the costs recorded to the PABA during the record year, which are recovered from bundled and unbundled customers.²¹

Excess RA that is not sold to third parties is classified as Unsold RA and valued at \$0 in the PABA,²² thereby providing no financial benefit to customers. SDG&E's sales of Excess RA

¹⁶ Exhibit CCA-01 at 4:1-3.

¹⁷ See D.22-05-006, p. 6.

¹⁸ Exhibit CCA-01 at 4:3-5 (explaining that the 2022 PABA undercollection will be recovered from SDG&E's bundled and unbundled customers); see also D.19-10-001, p. 11; see e.g., D.23-12-021, p. 11.

¹⁹ Exhibit CCA-01 at 4:5-6 (explaining that revenues from sales of Excess RA offset costs recorded in the PABA during the record period).

²⁰ *Id.* at 6:4-9.

²¹ *Id.* at 4:5-6.

²² *Id.* at 4:6-8.

also have larger implications for LSEs in its service territory, which faced a severely constrained RA market during the summer of 2022.²³ Given these market conditions, LSEs faced difficulty in procuring sufficient RA to meet compliance obligations.²⁴ When the CCA Parties raised these facts in opening testimony, SDG&E did not dispute them.²⁵

As discussed in more depth below, SDG&E determines the amount of Excess RA it will offer to the market based on subjective and ill-defined factors, which at times allowed it to [REDACTED]. [REDACTED] The vagueness of SDG&E’s Excess RA sales practices also extends to its [REDACTED], which is opaque and equally discretionary. Ultimately, SDG&E’s conservative approach to its sales of Excess RA contributed to an average of 484 MW of Unsold RA capacity from PCIA-eligible resources per month during the 2022 record year.²⁷ During the particularly constrained months of July, August, and October 2022, SDG&E reported 738, 301, and 476 MWs of Unsold RA, respectively.²⁸

A. SDG&E Did Not Make All of its Excess RA Available to the Market in 2022.

SDG&E primarily sells Excess RA through quarterly and multi-year solicitations, and may also sell Excess RA through other processes such as Requests for Offers (“RFOs”) and bilateral sales.²⁹ SDG&E previously stated that it seeks to make all Excess RA available to the market.³⁰ Notwithstanding SDG&E’s prior statements, for each solicitation during the 2022 record period,

²³ *Id.* at 4:18-21.

²⁴ *Id.* at 4:18-21, 5:1-10. The Commission’s Enforcement Actions Spreadsheet tracks and reports RA citations issued to entities for deficiencies in meeting RA compliance obligations. In 2019, there was a sharp increase in the number of citations for RA-deficient LSEs, with elevated levels continuing through 2022.

²⁵ *See id.* at 1-5; *see generally* A.23-06-002, Exhibit SDGE-10: Rebuttal Testimony of Josh Chasse on Behalf of SDG&E (Feb. 23, 2024).

²⁶ A.23-06-002, Exhibit CCA-01C: Confidential Prepared Direct Testimony of Carlo Bencomo-Jasso on Behalf of San Diego Community Power and Clean Energy Alliance in San Diego Gas & Electric Company’s 2022 ERRRA Compliance Proceeding (Corrected Errata Version), p. 8:2-4 (Dec. 22, 2023).

²⁷ Exhibit CCA-01 at 4:8-12.

²⁸ *Id.* at 4, Table 1.

²⁹ *Id.* at 6:12-17; Exhibit SDGE-10 at JC-16:10-19.

³⁰ Exhibit CCA-01 at 6:2-12, Attachment C.

SDG&E [REDACTED] In particular, the amounts of System Excess RA that SDG&E offered in each solicitation were [REDACTED].³² During several months in 2022, the quantity of Excess System RA SDG&E offered to the market [REDACTED].³³

SDG&E employs a three-part methodology to identify its available Excess RA at any given time.³⁴ First, SDG&E determines its overall RA portfolio position.³⁵ SDG&E explained in testimony that it makes this baseline determination based on already conservative estimations.³⁶ Second, SDG&E identifies its year-ahead and monthly RA compliance requirements.³⁷ Finally, SDG&E calculates its Excess RA position, which is the delta between its RA position and its RA compliance requirements, less any RA SDG&E decides to hold back.³⁸

To determine the quantity of Excess RA to hold back, SDG&E states that it considers several operational factors such as resource outages and gas curtailments, as well as changes to the Net Qualifying Capacity (“NQC”) of its resources, operational constraints, battery storage derates, and “other considerations.”³⁹ In testimony, SDG&E explained [REDACTED]

[REDACTED].⁴⁰

³¹ Exhibit CCA-01C at 6:17-20, 7:1-12.

³² *Id.* at 7:9-12.

³³ *Id.* at 7:10-12. While SDG&E contends that the CCA Parties fail to understand the dependencies between System, Local, and Flex RA (*see* Exhibit SDGE-10 at JC-15:3-9), SDG&E was unable to demonstrate how its Local and Flex RA positions at the time of each solicitation referenced in Table 2 and Table 3 of Exhibit CCA-01 would affect the System RA available for sale as depicted in those Tables (*see* Exhibit CCA-02 at SDG&E Response to SDCP and CEA DR 3.05).

³⁴ Exhibit SDGE-10 at JC-14:2:3.

³⁵ *Id.* at JC-14:3-13.

³⁶ *Id.* at JC-14:3-13.

³⁷ *Id.* at JC-14:13-15.

³⁸ *Id.* at JC-14:15-19.

³⁹ A.23-06-002, Exhibit CCA-02: SDG&E Responses to SDCP/CEA Data Request Set 3, SDG&E Response to SDCP/CEA 3.01 (Mar. 22, 2024); Exhibit SDGE-10 at JC-14:15-21.

⁴⁰ Exhibit SDGE-10 at JC-15:10-11; A.23-06-002, Exhibit CCA-02C, Confidential SDG&E Responses to SDCP/CEA Data Request Set 3, SDG&E Response to SDCP/CEA 3.03 (Mar. 22, 2024). [REDACTED]

However, SDG&E provided no explanation tying the above-mentioned operational considerations to [REDACTED]. That is, there is no clear methodology for quantifying SDG&E’s “gut feeling” on what is the right amount of RA to sell.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] SDG&E’s subjective justifications, coupled with undefined “other considerations” that influence its decision-making contribute to the overall opacity and ambiguity that underlie SDG&E’s Excess RA sales practices. These haphazard considerations do not rise to the level of reasonable, objective, and measurable criteria by which SDG&E should base its approach to selling Excess RA.⁴³

To further underscore the informality of SDG&E’s practices, SDG&E keeps no records that itemize the specific quantities of RA held back from the market at the time of each solicitation.⁴⁴ Rather, SDG&E’s determination of the appropriate amount of Excess RA that should be offered in a given solicitation is simply discussed in an informal and sparsely documented conversation with the Procurement Review Group (“PRG”).⁴⁵ [REDACTED]

[REDACTED]

⁴¹ Exhibit CCA-01C at 7:17, 8:1-4.

⁴² *Id.* at 8:2-4.

⁴³ *Id.* at 8:4-7.

⁴⁴ Exhibit CCA-02 at SDG&E Response to SDCP/CEA DR 3.02.

⁴⁵ Exhibit CCA-02 at SDG&E Responses to SDCP and CEA DRs 3.02 and 3.04.

methodology. As a result, SDG&E's PRG has no firm standards by which it can advise SDG&E on the decision to withhold Excess RA from a given solicitation.

B. SDG&E Improperly Limited Excess RA Sales Based on Price.

In the solicitations of Excess RA SDG&E did offer to the market in 2022, SDG&E utilized

a [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Solicitation documents from the 2022 record period indicate that in following this methodology, [REDACTED], thereby passing along higher net costs to customers.⁵⁹

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

⁵³ A.23-06-002, Exhibit SDGE-10C: Prepared Rebuttal Testimony of Josh Chassé on Behalf of San Diego Gas & Electric Company, p. JC-21:4-5 (Feb. 23, 2024).

⁵⁴ Exhibit CCA-01C at 13:13-15.

⁵⁵ *Id.* at 12, Figure 2.

⁵⁶ *See id.* at 12, Figure 2; *id.* at 9:1-4.

⁵⁷ *See id.* at 10:4-16.

⁵⁸ *Id.* at 9:5-6.

⁵⁹ *Id.* at 8:17-20.

⁶⁰ Exhibit SDGE-10C at JC-21:10-12.

⁶¹ Exhibit CCA-02C at SDG&E Response to SDCP/CEA DR 3.10. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁶² Consequently, the only source of information bidders had regarding SDG&E’s [REDACTED] is one sentence in its overly vague BPP. [REDACTED]

[REDACTED]⁶³

In addition, [REDACTED] is inconsistent with Commission guidance and the practices of other IOUs. In D.19-10-001, the Commission found that:

“An investor-owned utility may decide not to sell RA below [a] floor price because the possible California Independent System Operator penalties for doing so could require the IOU to recover costs in excess of the floor price from both bundled service and departing load customers.”⁶⁴

In accordance with D.19-10-001, Appendix S of Pacific Gas & Electric Company’s (“PG&E”) BPP prescribes a methodology for calculating a price supply curve to determine floor prices.⁶⁵ PG&E’s price floor evaluates the potential CAISO penalties a generating unit may receive, calculated as a function of the probability of a generating unit receiving a penalty and the associated penalty cost.⁶⁶

Although the outcome of the 2022 record period and the practices of other IOUs denote the shortcomings of SDG&E’s [REDACTED], parties again face obstacles to challenging the prudence of SDG&E’s decisions because its [REDACTED].⁶⁷ However, SDG&E’s BPP does not follow the guidance in D.19-10-

⁶² See Exhibit CCA-02C at SDG&E Response to SDCP/CEA DR 3.10 [REDACTED]

[REDACTED] Exhibit CCA-01C at 14:13-16.

⁶⁴ D.19-10-001, Finding of Fact 29.

⁶⁵ A.24-02-012, Pacific Gas & Electric Company Prepared Testimony, Chapter 8, p. 8-8 (Feb. 28, 2024).

⁶⁶ *Id.*

⁶⁷ Exhibit SDGE-10C at JC-21:3-4.

001, conflicts with PG&E’s methodology, and is so vague as it relates to [REDACTED] that it provides no criteria by which the PRG *could* advise alternative approaches.

Ultimately, SDG&E adopted an overly conservative approach to its sales of Excess RA in 2022, leaving substantial quantities of RA capacity unavailable to the market and [REDACTED] [REDACTED] in a year in which RA was scarce. SDG&E’s overly vague BPP enabled this outcome, which must be revised to establish firm standards by which the PRG and the Commission can evaluate SDG&E’s Excess RA methodology. The CCA Parties’ recommendation for a path forward to revise SDG&E’s BPP is set forth in Section III below.

III. THE COMMISSION SHOULD REVISIT SDG&E’S BPP IN THE IRP PROCEEDING.

As noted by SDG&E, a Commission-approved BPP establishes the “upfront standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation before the execution of the transaction.”⁶⁸ However, SDG&E’s BPP is remarkably vague as it relates to sales of Excess RA and contains no real requirements or guidelines for maximizing RA sales to benefit customers.⁶⁹ In fact, all references to RA sales in SDG&E’s BPP consist of “may” statements, *i.e.*, what the utility might do, leaving no firm standard against which the Commission can measure SDG&E’s actions.⁷⁰

This ambiguity provides SDG&E with significant leeway to sell or withhold RA from the market based on its discretion. Indeed, SDG&E withholds RA from solicitations for far more reasons than those identified in the BPP, including unidentified “other considerations.”⁷¹ The lack

⁶⁸ Exhibit SDGE-10 at JC-25:7-11 (citing Cal. Pub. Util. Code § 454.5(b)(7)).

⁶⁹ Exhibit CCA-01 at 15:16-17, Attachment D; Exhibit CCA-02 at SDG&E Response to SDCP/CEA DR 3.10.

⁷⁰ Exhibit CCA-01 at 15:16-22, 16:1-2, Attachment D.

⁷¹ Exhibit CCA-02 at SDG&E Response to SDCP/CEA DR 3.01.

of detail contained in SDG&E's BPP is unlike that of other similarly situated IOUs, whose BPPs are generally far more prescriptive on this topic.

Much of the detail needed to create a more effective BPP was provided by SDG&E through testimony. For instance, SDG&E's BPP should describe its three-part methodology to identify its Excess RA position but should include firm and objective standards by which SDG&E determines to hold back Excess RA from solicitations. SDG&E's BPP should also identify procedures for specific scenarios identified by SDG&E, including situations in which SDG&E may bring additional RA to the market given sufficient bidder interest.⁷² Further, SDG&E's BPP should clearly define the methodology by which SDG&E [REDACTED], which should be set in accordance with [REDACTED].⁷³

The Commission can, in this proceeding, order that SDG&E's BPP be revisited in the IRP docket.⁷⁴ The IRP docket, as the successor to the Long-Term Procurement Plan dockets that gave rise to the most recent, full BPPs, is the appropriate vehicle to evaluate the BPP revisions contemplated herein. Specifically, the initial Order Instituting Rulemaking ("OIR") issued in the current IRP docket stated explicitly that the IRP docket was the correct venue for BPP revisions.⁷⁵ This notion was reaffirmed by the Preliminary Scoping Memo included in the OIR.⁷⁶ Further, the Amended Scoping Memo, which currently controls the IRP docket, states that the IRP docket is anchored by, among other things, "[c]onsideration of the need for procurement by LSEs of

⁷² See Exhibit SDGE-10 at JC-19:1-4 (explaining that if there were market priced offers for more RA than the Excess RA offered in the solicitation, SDG&E may consider whether it was prudent to bring those RA volumes back to the solicitation); *but see* Exhibit CCA-02 at SDG&E Response to SDCP/CEA DR 3.06 (explaining that SDG&E does not have specific procedures in place to make this determination or to carry out this process).

⁷³ Exhibit CCA-01C at 14:7-9.

⁷⁴ California PUC Docket No. R.20-05-003.

⁷⁵ R.20-05-003, Order Instituting Rulemaking, p. 2 (May 14, 2020).

⁷⁶ *Id.*, p. 10.

electricity resources,” and that the current scope includes issues related to “[e]stablishing a process and cadence for performing reliability analysis and setting reliability planning and procurement requirements for LSEs . . . involv[ing] coordination with resource adequacy requirements[.]”⁷⁷ This Commission has reinforced this conclusion in other proceedings, suggesting that BPP procurement rules have not *yet* been addressed in the IRP docket.⁷⁸

Finally, the IRP docket provides a forum in which parties may workshop best practices for BPP provisions governing Excess RA solicitations and the development of [REDACTED]. While the Commission’s model non-disclosure agreement prevents discussion of the specifics of the confidential components of other IOUs’ BPPs in individual ERRA Compliance proceedings, the IRP docket is a consolidated proceeding in which parties may execute non-disclosure agreements that allow for the evaluation of each IOU’s BPP in the same place. Accordingly, parties and the Commission can determine if there are existing practices in place that may be an appropriate remedy for the lack of detail currently found in SDG&E’s BPP.

IV. SDG&E’S EXCESS RA SALES PRACTICES ARE PROPERLY WITHIN THE SCOPE OF THIS PROCEEDING.

In an ERRA Compliance proceeding, it is appropriate to review the prudence of portfolio management – including whether the utility maximized the value of its resources for the benefit of its customers. SDG&E’s prudent management of its generation portfolio, specifically the efficiency of its sales of Excess RA, directly contributes to the rates its customers ultimately pay.

⁷⁷ R.20-05-003, Amended Scoping Memo, p. 8 (Aug. 21, 2023).

⁷⁸ D.23-12-008, p. 23 (stating “BPPs were reviewed and adopted every two years via a Commission decision in the Long-Term Procurement Plan (LTTP) proceeding. Although the IOUs’ current BPPs were last approved, with modifications, by D.15-10-031 on October 22, 2015, in R.13-12-010, the IOUs have not filed a full update of their BPPs since then. Instead, the IOUs have updated various sections of their BPPs via advice letters as needed over the years. **The IRP proceeding is the successor proceeding to the LTTP proceeding, however, a complete review of the IOU BPPs and changes to BPP procurement rules has yet to be addressed.**” (emphasis added)).

Consistent with this practice, Scoping Issue One of the *Assigned Commissioner’s Scoping Memo and Ruling* asks “[w]hether SDG&E administered and managed its own generation resources prudently, to include the management of outages and associated fuel costs, according to Standard of Conduct (‘SOC’) 4.”⁷⁹ SOC 4 requires utilities to prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner.⁸⁰

SDG&E contends that Scoping Issue One relates solely to whether it physically operated and maintained its utility-owned generation (“UOG”) resources in a reasonable and prudent manner, consistent with Good Utility Practice and the reasonable manager standard in order to minimize outages.⁸¹ However, Scoping Issue One is broader than SDG&E contends. In an ERRA Compliance proceeding, the Commission’s review typically extends to whether the utility administered and managed its generation resources and contracts in compliance with *all applicable rules, regulations, and Commission decisions, including but not limited to SOC 4*.⁸² No Commission decision has limited the applicability of this review solely to utility maintenance and upkeep of generation resources, and nothing prevents the Commission from including SDG&E’s management of its RA resources in its evaluation of SDG&E’s management of its generation resources more generally.

SDG&E’s assertions represent an unduly narrow view of the scope of this proceeding, its obligations, and the Commission’s authority. For example, the “Good Utility Practice” standard is more broadly applicable than SDG&E asserts.⁸³ SDG&E’s compliance with the Good Utility Practice standard includes the need to exercise proper management of its entire business, including

⁷⁹ A.23-06-002, Assigned Commissioner’s Scoping Memo and Ruling, p. 2 (Oct. 31, 2023).

⁸⁰ D.02-10-062, Conclusion of Law 11.

⁸¹ Exhibit SDGE-10 at JC-4:20-22, JC-5:1-2.

⁸² See e.g., A.21-06-004, Assigned Commissioner’s Scoping Memo and Ruling, Scoping Issue One (Aug. 13, 2021) (emphasis added).

⁸³ Exhibit SDGE-10 at JC-5:13-15.

making reasonable efforts to ensure SDG&E gets value for all its resources. This is a key consideration in determining whether a utility has prudently managed its generation portfolio. As SDG&E correctly points out, Good Utility Practice was defined in D.02-12-069 to include, “*any* of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period...”⁸⁴ Accordingly, nothing constrains the Commission to applying the Good Utility Practice standard solely within the prism of utility maintenance decisions.

The 2022 record year belies the shortcomings in SDG&E’s Excess RA methodology, and the CCA Parties could not have otherwise investigated this issue without it being in scope. As described herein, the only other source of information regarding SDG&E’s approach to sales of Excess RA is its BPP, which is deeply opaque. Through investigation in this proceeding, the CCA Parties uncovered many previously unknown details surrounding SDG&E’s Excess RA sales practices, which assisted the CCA Parties in better understanding the outcome of the 2022 record period and will assist the Commission in determining how to make sure as much capacity as possible is available to the RA market.

If the Commission limited the scope of this proceeding to exclude these issues, there would be no process by which the Commission could evaluate whether SDG&E’s Excess RA sales practices should be changed. For example, SDG&E asserts that the RA docket⁸⁵ is the appropriate venue to address its Excess RA solicitation practices.⁸⁶ However, IOUs in the RA docket have

⁸⁴ D.02-12-069, Attachment A-3, p. 5 (emphasis added).

⁸⁵ California PUC Docket No. R.23-10-011.

⁸⁶ Exhibit SDGE-10 at JC-12:16-20.

asserted that as solicitations of Excess RA are governed by the BPP, they are out of scope in the RA docket and must be evaluated in an ERRA Compliance proceeding.⁸⁷

Finally, it is crucial that there is a Commission venue to shed light upon the IOUs' Excess RA sales practices before stakeholders with the proper confidentiality protections in place. As mentioned above, the State has invested over \$3 billion to ensure sufficient capacity at peak times and under particularly stressful events for the electric grid. At the same time, the State, through the Commission's PRG, has permitted SDG&E to withhold Excess RA without any specific or numerical justification. While there may be reasonable and legitimate reasons to retain Excess RA, the IOUs' decisions to do so must be measurable against firm, knowable standards. In light of these significant taxpayer investments, the direct cost impacts to customers, and the overall effect of SDG&E's actions on other LSEs, the Commission must afford SDG&E's Excess RA sales practices proper scrutiny in this proceeding.

V. CONCLUSION

For the foregoing reasons, the CCA Parties respectfully urge the Commission to take the actions discussed herein and to grant any other relief the Commission deems just and reasonable.

Respectfully submitted,

/s/ Alissa Greenwald

Alissa Greenwald

Tim Lindl

Keyes & Fox LLP

580 California Street, 12th Floor

San Francisco, CA 94104

Telephone: (510) 314-8385

E-mail: agreenwald@keyesfox.com

tlindl@keyesfox.com

April 12, 2024

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

⁸⁷ See R.23-10-011, Pacific Gas and Electric Company's (U 39 E) Opening Comments on Track 1 Proposals, p. 17 (Mar. 8, 2024).