

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



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Application of Southern California Gas  
Company (U904G) for Authority, Among  
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January 1, 2024.

Application 22-05-015

And Related Matter.

Application 22-05-016

**SAN DIEGO GAS & ELECTRIC COMPANY (U902M) RESPONSE TO  
PETITION FOR MODIFICATION OF DECISION 24-12-074**

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**I. INTRODUCTION**

Pursuant to Rule 16.4(f) of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, San Diego Gas & Electric Company (“SDG&E”) respectfully submits this response to the *Petition for Modification of Decision 24-12-074 of the Joint Petitioners* (“Petition”), filed in this proceeding by the Joint Petitioners<sup>1</sup> on November 25, 2025. The Joint Petitioners request to modify Decision (“D.”) 24-12-074,<sup>2</sup> the Decision adopting SDG&E’s Test Year 2024 General Rate Case (“GRC Decision”), to strike the funding cap established for the Electric Rule 45 (“Rule 45” or “EV Infrastructure Rule”) Electric Vehicle Infrastructure Memorandum Account (“EVIMA”) and confirm that Rule 45 must remain open to all eligible applications through at least the current rate-case cycle (2024-2027).

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<sup>1</sup> The Natural Resources Defense Council (“NRDC”), CALSTART, Inc. (“CALSTART”), Powering America’s Commercial Transportation (“PACT”), Advanced Energy United (“United”), Tesla, Inc. (“Tesla”), Walmart Inc. (“Walmart”), the City of San Diego (“City”), Electrify America, LLC (“Electrify America”), EVgo Services, LLC (“EVgo”), and the Electric Vehicle Charing Association (“EVCA”).

<sup>2</sup> Decision Addressing the 2024 Test Year General Rate Cases of Southern California Gas Company and San Diego Gas & Electric Company (dated effective December 19, 2024) in Application (“A.”) 22-05-016.

SDG&E supports the Petition, particularly its core proposal to preserve the EV Infrastructure Rule without disruption to customers to promote ongoing investment in transportation electrification. As the Petition aptly highlights, the legislature intended in Public Utilities Code § 740.19 “that the design, engineering, and construction of utility-side infrastructure needed for EV charging are not optional investments, but standard utility functions essential to the state’s decarbonization strategy.”<sup>3</sup>

In this response, SDG&E provides the Commission with additional data and policy recommendations to support the approval of the Petition, and clarifies certain facts set forth by the Petitioners.

## **II. DISCUSSION**

### **A. The Commission Should Grant the Joint Petitioners’ Recommendation to Remove the Funding Cap and Make Clear that SDG&E May Continue to Record Costs for Reasonableness Review in the Next GRC**

As a matter of policy, SDG&E supports maintaining Rule 45 as a durable signal to the marketplace to continue electrifying. Many Rule 45 customers are large fleet customers electrifying medium- and heavy-duty vehicles and EV service providers enabling high-speed public charging for EVs. However, in the absence of Rule 45, and especially in the absence of a regulatory mandate for fleet electrification,<sup>4</sup> it cannot be assumed that these customers will proceed under Rule 16 or that demand for developing EV infrastructure will continue at the pace needed to meet state goals.

The Joint Petitioners request that the Commission modify the GRC Decision to (1) strike the funding cap of \$7.58 million for SDG&E’s EVIMA; and (2) clarify that SDG&E shall

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<sup>3</sup> Petition at 13.

<sup>4</sup> California Air Resources Board (CARB), *Letter to EPA withdrawing waiver and authorization request for Advanced Clean Fleets regulation*, January 13, 2025. Available at: <https://www.epa.gov/system/files/documents/2025-01/ca-acf-carb-withdrawal-ltr-2025-1-13.pdf>.

continue recording costs in the existing EVIMA without a numerical or budgetary limit, subject to later reasonableness review.<sup>5</sup> SDG&E agrees with this approach. Most notably, the Petition highlights that a funding cap of \$7.58 million for the EVIMA appears to have been based on a misperception of the status of Rule 45 projects at the time of the Decision:

D.24-12-074 notes that “Given that SDG&E opened the EV Infrastructure Rule to customer applications in April 2022, it has yet to book significant costs in the EVIMA. At the time of filing the GRC application, SDG&E showed a \$0 balance in the EVIMA.” However, Joint Petitioners confirm that from 2022 through mid-2024, prior to the release of the Proposed Decision in October 2024 and final adoption of D.24-12-074, SDG&E was made aware of pending projects and received Rule 45 applications, contracts, and commitments for installation of EVSE infrastructure at over 100 locations throughout its territory prior to the end of the 2024-2027 GRC cycle. Although the Decision asserts that a funding level of \$7.58 million “... allow[s] SDG&E to build EV infrastructure in accordance with the AB 841 EV Infrastructure Rule,” it should have been clear at the time of the Proposed Decision, at least to SDG&E, that the EVIMA funding would be inadequate. Unfortunately, SDG&E did not correct this misperception in its comments on the Proposed Decision and the EVIMA funding cap was adopted.<sup>6</sup>

SDG&E agrees with Joint Petitioners that at the time of the GRC application, no significant costs had been incurred or booked to the EV Infrastructure Rule Memorandum Account (“EVIMA”). However, while it is true that there were over 100 Rule 45 projects in various phases *at the time of the proposed decision in October 2024*, SDG&E disagrees with the Joint Petitioners’ argument that SDG&E “failed to advise the Commission” of its Rule 45 applications and contracts, causing the Commission to issue a decision based on “inaccurate and incomplete information.”<sup>7</sup> SDG&E acted in good faith to support the record with accurate and complete information throughout the GRC.

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<sup>5</sup> Petition at 24.

<sup>6</sup> Petition at 14-15 (internal citations omitted).

<sup>7</sup> Petition at 20.

In the 2024 GRC application, specifically within the testimony of Jennifer Reynolds (Clean Transportation), SDG&E anticipated unknowns in future costs and addressed this potential issue with the request to implement a two-way balancing account as a means of preventing these exact funding limitations.

Ensuring that the EV Infrastructure Rule fully contributes to meeting California's EV goals will require significant marketing, education, and outreach... In turn, the overall cost of the EV Infrastructure Rule is driven by customer demand. As of the date of this filing, it is difficult to estimate this cost. SDG&E only recently opened the EV Infrastructure Rule to customers, and the ultimate rate of EV charging site construction under the EV Infrastructure Rule is unknown. Therefore, SDG&E requests the creation of the two-way EV Infrastructure Rule Balancing Account (EVIBA) to record the costs of implementing the EV Infrastructure Rule going forward.<sup>8</sup>

At the time the GRC Decision was issued, the forecasting limitations outlined in SDG&E's testimony remained valid. Multiple variables—including uncertain participation rates, evolving project scopes, and the absence of historical cost data—continued to constrain SDG&E's ability to accurately predict how, and to what extent, the newly imposed funding cap would interact with in-flight Rule 45 projects. While SDG&E did have numerous applications and preliminary agreements under the rule, these did not equate to incurred costs per the commission's accounting rules. Project costs are reflected in the budget as they are incurred from actual expenditures—primarily during the construction phase—but are not recorded in the EVIMA until the project is fully energized and reconciled. Unlike other customer programs, such as Rule 16, the utilities execute contracts under Rule 45 during the pre-design stage before projected costs are determined. A large majority of the projects at this time were still in these early scoping stages, and SDG&E had no reasonable way of anticipating or controlling the status of these Rule

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<sup>8</sup> Exhibit SDG&E-21 at JLR-iv

45 costs relative to the funding cap. By the end of 2024, only 14 Rule 45 projects had been fully energized and reconciled.

Additionally, given historical context and the underlying statutory language requiring the Rule, SDG&E was surprised by the GRC Decision’s language adopting a funding cap for the Rule 45 program. Specifically, this approach was a departure from historical regulatory practice for numerous reasons.

First, adopting a cap diverges from the Commission’s usual treatment of memorandum accounts, which are designed to track actual costs for later reasonableness review. Applying a funding cap impacts Rule 45’s operation and availability to customers once the cap is reached. Despite the concerns expressed by the Petitioners, SDG&E must operate Rule 45 in compliance with the current and effective EMIMA capital spending cap unless and until the cap is lifted.

Second, the \$7.58M figure proposed by Cal Advocates for capping SDG&E’s *balancing* account proposal originated from SDG&E’s Advice Letter 3908-E, where the figure was provided as an illustrative revenue requirement for 2022–2023 only—not a projection of total costs for the 2024–2027 GRC cycle.<sup>9</sup> Indeed, in CPUC Resolution E-5167, which approved (with modifications) SDG&E’s Rule 45 proposal, the CPUC ordered SDG&E to provide an “expected revenue requirement and rate impact” resulting from Rule 45 through the end of 2024. Nowhere does the Resolution suggest that this estimate would serve as an actual revenue requirement or program spending cap. However, in the GRC Decision, this preliminary estimate became the basis for the spending cap for the entire 2024-2027 Rate Case cycle and clearly

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<sup>9</sup> “As it is unknown whether California EV adoption and EV charging site deployment will meet the full need identified by the CEC, this estimated revenue requirement and customer rate impact is illustrative only.” SDG&E AL 3908-E at 5.

ignored the testimony’s explicit acknowledgment that the future costs of the EV Infrastructure Rule are not known or readily estimated at this time.<sup>10</sup>

Third, during the period noted, “from 2022 through mid-2024”, SDG&E continued operations under the assumption that the Commission would either approve its proposed two-way balancing account (“EVIBA”) with forecasted spending, which Cal Advocates did not oppose; or it would deny the request and SDG&E would continue to operate utilizing the current and effective EVIMA. When the Commission denied the EVIBA and instead applied the cap to EVIMA, it created an unexpected constraint that was simply not contemplated in SDG&E’s proposal or in stakeholder discussions.

Finally, the GRC Decision did not specify what would occur if the cap was reached. To ensure compliance with the capped EVIMA and limit the opportunity for at risk overspend, SDG&E filed AL 4705-E in August of 2025 to implement the funding cap and close Rule 45—this action was not anticipated by SDG&E or stakeholders, resulting in confusion and disruption for customers and developers.

**B. Changes to the Commission’s Policy on the EV Infrastructure Rules Should Be Litigated in a Rulemaking Proceeding – Not within the GRC**

By capping Rule 45 capital expenditures at \$7.58 million, the Joint Petitioners correctly argue that the Commission has created a contradiction with Public Utilities Code §740.19(c). Specifically, Public Utilities Code § 740.19(c) only authorizes the Commission to revise its policy on the EV Infrastructure rules after completion of the GRC cycle following the one during which the AB 841 advice letter was filed and only if necessary to ensure just and reasonable

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<sup>10</sup> Ex SDG&E-21 at JLR-12, line 1

rates.<sup>11</sup> SDG&E agrees with the Joint Petitioners that D.24-12-074 prematurely adopted a policy change unique to SDG&E's Rule 45 service to customers.

SDG&E does not believe that it was the Commission's intention to change its policy on SDG&E's Rule 45 in its GRC Decision. The Commission typically strives to make its policies and requirements generally consistent across the investor-owned utilities, and to ensure that all relevant stakeholders have the opportunity to comment on proposed policy changes. As such, individual GRCs can often times be inappropriate regulatory pathways for certain policy changes for statewide programs.

Here, customers eligible for Rule 45 and directly impacted by this policy, including the Joint Petitioners, were not parties to the GRC proceedings.<sup>12</sup> Additionally, the imposition of the funding cap has impacted SDG&E's Rule 45 program without any corresponding impact on the other investor-owned utilities' similar programs. As such, it appears that the GRC proceeding may not be the most appropriate regulatory path for Rule 45 related policy changes. Instead, it would be more appropriate for this issue to be addressed in the open Transportation Electrification Policy and Infrastructure rulemaking proceeding, where the EV Infrastructure rule is already scoped:

1. **Timely Energization of Electric Vehicle Charging.** This topic area includes:
  - a. *Electric Vehicle Charging Station Energization:* continue the implementation of the IOUs' Electric Vehicle Infrastructure Rules (Rule 29 and Rule 45), transportation electrification energization timelines, Plug-in Electric Vehicle Common Treatment Policy, and coordinated policy with the implementation of Rules 15 and 16.

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<sup>11</sup> In Resolution E-5167, p 31, Energy Division provided further definition of this timing for SDG&E: *To the question of interpreting the statute's language of "the general rate case cycle of the electrical corporation following the one during which the advice letter was filed," the status is as follows:...SDG&E's next GRC cycle will end in 2027*

<sup>12</sup> See Petition's Appendix B Declarations of Walmart, Electrify America, EVgo, and United at item 8.



- b. *IOU Resource Needs*: assess IOU resource needs, policies and/or process solutions, and coordination with other Commission proceedings to support timely energization.
- c. *Consider Impacts on Ratepayers*: assess how IOU side-of-the meter transportation electrification investments and policies, including those related to implementation of Electric Vehicle Infrastructure Rules 15 and 16, impact affordability and rates.<sup>13</sup>

Imposing a Rule 45 funding cap through the GRC proceeding has not only disrupted customer services but further led to inconsistency across the investor-owned utilities.

**C. A Capped Memorandum Account Prematurely and Arbitrarily Disallows Recording of Costs that the CPUC Intended to Track and Can Ultimately Find Reasonable for Cost Recovery in a Future GRC.**

Capped memorandum accounts are very unusual. As the Commission acknowledges, “Generally, memorandum accounts do not have a cap, but in this instance, since SDG&E has agreed to set a funding level, we find it reasonable to limit cost spending and recovery in rates at their proposed funding level” (emphasis added).<sup>14</sup> SDG&E notes that it agreed to set a funding level on its rejected two-way balancing account proposal, not on the EVIMA. Adding a cap to the existing memorandum account would impose a premature and arbitrary limit on the EV Infrastructure Rule operations during its pilot phase and would contravene the Commission’s own effort to conduct extensive data gathering and review for guiding future adjustments to Rule 45 *after* SDG&E’s current GRC cycle (2024-2027). These data and reporting requirements, including highly prescriptive cost tracking requirements for the EVIMA itself, are described extensively in Resolution E-5167, where the CPUC outlined the importance of its data gathering efforts during this current GRC cycle to inform future changes to Rule 45:

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<sup>13</sup> R.23-12-008, *Order Instituting Rulemaking Regarding Transportation Electrification Policy and Infrastructure and Closing Rulemaking 18-12-006* (issued December 20, 2023), at 12. While SDG&E and other parties have recommended that consideration of Rule 45 modifications be moved to the Energization OIR, no parties have recommended individual utility GRCs as an appropriate venue for litigating the Commission’s policy on the EV Infrastructure Rule.

<sup>14</sup> D.24-12-074 at 564.

Pursuant to PU Code Section 740.19(c), the CPUC and stakeholders will begin an evaluation of the effectiveness of these Rules in accelerating TE and protecting the interest of ratepayers beginning in 2025. However, any potential modifications to the Rules resulting from this evaluation would go into effect after the IOUs' following GRC cycle. This Resolution requires the IOUs to track costs on a site-by-site basis, among other requirements, within their proposed Memorandum Accounts, and additionally requires the IOUs to report data via the annual Joint IOU Electric Vehicle Load Research and Charging Infrastructure Cost Report to enable analysis and evaluation of the EV Infrastructure Rules.<sup>15</sup>

Thus, it makes no sense to impose a cap on Rule 45 spending costs that could limit utility and customer-side activities under the Rule less than midway through SDG&E's current GRC cycle. Doing so would skew the Rule 45 data that the CPUC intends to use for future EV policy and decision-making.

Given the intent of Resolution E-5167 to produce extensive data in support of future EV Infrastructure decision making and the fact that a reasonableness review of Rule 45 costs has yet to be conducted,<sup>16</sup> an uncapped EVIMA remains appropriate for current cost tracking and future cost recovery consideration. Public Utilities Code ("PUC") Section 792 provides that the Commission may establish a system of "accounts, records, and memoranda of the movement of traffic as well as the receipts and expenditures of moneys, and any other forms, records, and memoranda which in the judgment of the commission may be necessary to carry out any of the provisions of this part." Put simply, memorandum accounts are intended for recording and tracking incurred costs for later reasonableness review and recovery. By contrast, PUC Section 792.5 governs balancing accounts generally:

Whenever the commission authorizes any change in rates reflecting and passing through to customers specific changes in costs, except rates set for common carriers, the commission shall require as a condition of the order that the public utility establish and maintain a balancing account reflecting the balance, whether positive or negative, between the related **costs and**

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<sup>15</sup> E-5167 at 4.

<sup>16</sup> GRC Decision Finding of Fact 232

revenues, and the commission shall take into account by appropriate adjustment or other action any positive or negative balance remaining in the balancing account at the time of any subsequent rate adjustment. (emphasis added)

This justification for necessitating a balancing account is what makes the GRC Decision so confounding; as none of these conditions have been satisfied. The GRC Decision did not authorize a revenue requirement for recovery of Rule 45 costs and, therefore, there is no revenue that will be collected from customers or would need to be balanced against utility spending. Placing a cap on spending only serves to undermine the entire premise of a EVIMA as previously set forth by the CPUC. Moreover, a cap is entirely unnecessary to provide “cost certainty,” as reasoned in the Decision. Under the EVIMA, SDG&E must request a reasonableness review and receive authorization to recover any costs incurred in the account. There is no uncertainty in this reasonableness review -The CPUC retains full authority to approve or deny ratepayer recovery of costs as it sees fit. Therefore, the GRC Decision unnecessarily transposes elements of a balancing account on the EVIMA and should be modified to remove the EVIMA cap.

### III. CONCLUSION

SDG&E appreciates the opportunity to provide this response and requests that the Commission approve the Petition for the reasons set forth above.

Respectfully submitted this 19th day of December 2025.

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