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

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| Application of San Diego Gas & Electric Company (U 902 E) for Approval of Palomar Decarbonization Demonstration Project | A.25-12-009 |

# JOINT PROTEST OF SAN DIEGO COMMUNITY POWER AND CLEAN ENERGY ALLIANCE TO THE APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY

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In accordance with Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), San Diego Community Power[1] ("SDCP") and Clean Energy Alliance[2] ("CEA") (together, the "SD CCAs") hereby submit this protest to San Diego Gas & Electric Company's ("SDG&E") *Application for Approval of Palomar Decarbonization Demonstration Project* ("Application").[3]

SDG&E's Application seeks Commission approval to recover costs associated with a substantive modification to an existing utility-owned generation ("UOG") asset – *i.e.*, the addition of an integrated hydrogen system to the Palomar Energy Center ("PEC") to gain knowledge and experience with emerging technologies and inform SDG&E's long-term strategies. When an investor-owned utility ("IOU") changes or pursues major upgrades to UOG assets, it is imperative that the Commission closely scrutinize the IOU's cost recovery proposals to ensure that unbundled customers remain indifferent to IOU generation investments that were not procured on their behalf. SDG&E's Application provides little detail as to its proposed allocation of the costs associated with the Palomar Decarbonization Demonstration Project ("Project") and thus necessitates

[1] 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.
[2] CEA is the CCA for the cities of Carlsbad, Del Mar, Solana Beach, Escondido, San Marcos, Oceanside, and Vista.
[3] Application ("A.") 25-12-009 (Dec. 16, 2025).

additional investigation. Accordingly, the SD CCAs respectfully request that the Commission refrain from granting the relief SDG&E requests, grant SDCP and CEA party status, and set this matter for hearing. The SD CCAs further request that the Commission adopt their proposed scope of issues and a non-expedited procedural schedule.

## I. SDCP AND CEA'S INTEREST

In its Application, SDG&E requests that the Commission approve its request to recover the costs associated with the Project, as well as Commission approval of a new two-way balancing account (the Hydrogen 2 Balancing Account ("H2BA")).[4] The PEC is an SDG&E-owned combined-cycle natural gas generation plant, which SDG&E placed in service in 2006.[5] The Project is SDG&E's integrated hydrogen system at PEC.[6] While the PEC power plant has historically utilized hydrogen for generator cooling, the Project is intended to substantively expand the use of hydrogen for PEC operations. SDG&E's Application explains that the Project's purpose is to demonstrate how renewable hydrogen can be utilized to support decarbonization across the following utility operations: 1) generator cooling, 2) power generation, 3) fleet vehicle fueling, and 4) additional research, demonstration, and deployment.[7]

SDCP and CEA are community choice aggregators ("CCAs") in SDG&E's service area. The SD CCAs are governed by a Board of Directors comprised of elected officials who represent the individual cities and, in the case of SDCP, the county the CCA serves. While the SD CCAs' advocacy frequently benefits both bundled and unbundled customers, the SD CCAs are the sole advocates for their unbundled customers and their local energy programs before this Commission.

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4 Application at 18.

5 A.25-12-009, *Prepared Direct Testimony of Pooyan Kabir and Kevin Counts on Behalf of San Diego Gas & Electric Company*, p. PK_KC-1:12-13 (Dec. 16, 2025).

6 Application at 1.

7 *Id*. at 1-2.

CCA customers receive generation services from their local CCA and receive transmission, distribution, billing, and other services from IOUs such as SDG&E. CCA customers pay the same electric distribution, transmission, and non-bypassable rates as SDG&E's bundled customers. However, CCA customers also pay CCA-specific generation rates, which vary and are partially influenced by local mandates to increase electric vehicle use, to procure and maintain clean electricity portfolios that in most cases exceed state requirements for renewable generation, and to achieve other local goals.

The statutory provisions underlying the Commission's CCA framework require that "departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load."[8] This legal requirement is referred to as the indifference principle. One of the key means by which the Commission effectuates indifference is the Power Charge Indifference Adjustment ("PCIA") – a nonbypassable charge that both bundled and unbundled customers pay. The Commission adopted the PCIA to ensure that when IOU customers depart from bundled service and receive their electricity from a non-IOU provider, such as a CCA, "those customers remain responsible for costs previously incurred on their behalf by the IOUs—but only those costs."[9] The PCIA framework includes a vintaging process by which the IOUs assign a vintage date to each UOG asset based on the year the generation resource commitment was originally made, as well as a vintage year to departing customers based on their departure date.[10] The Commission uses these vintage assignments to determine customers' generation resource obligations.[11]

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[8] Cal. Pub. Util. Code § 365.2.

[9] Decision ("D.") 18-10-019, p. 3 (Oct. 11, 2018); *see also* Rulemaking ("R.") 17-06-026, *Scoping Memo and Ruling of Assigned Commissioner*, p. 2 (Sept. 25, 2017).

[10] *See* D.08-09-012, p. 59 (Sept. 5, 2008).

[11] *See id*.

Decision 08-09-012 provides the basis for the current cost responsibility policies for departing load customers, and specifically, the policies associated with vintaging IOU generation costs. The Decision limits a departing load customer's cost responsibility to resource commitments made by the IOU up until the time of the customer's departure, finding that "departing customers should bear no cost responsibility for . . . commitments the IOU makes after their departure."[12] This directive helps ensure that each customer will "pay its fair share of the costs the IOU incurred on [its] behalf[,]" which "is an integral part of the principles of bundled customer indifference and prevention of cost-shifting."[13]

The Commission has since provided additional guidance as to departed customers' responsibility for legacy UOG costs. In D.18-10-019, the Commission explained that:[14]

> It is possible that new investments in an old power plant may represent such a significant overhaul of the facility as to justify a "re-vintaging" of the facility. Likewise, it is possible that plant investments for certain upgrades may justify a different vintage treatment for those investments than for the underlying facility. But any such analysis must be fact-specific to the plants and spending in question, and is better suited to a GRC evaluating such spending.

The Commission subsequently reinforced the ongoing applicability of this concept, finding in SDG&E's 2024 general rate case ("GRC") that the construction of a battery energy storage system at the Miramar Energy Facility would constitute such a major upgrade, and directing SDG&E to provide information necessary to determine appropriate vintaging treatment should the utility pursue that project in the future.[15] The Commission further provided that until it can consider a more broadly applicable vintaging framework in a statewide proceeding, "SDG&E should carefully reconsider the merits of vintaging if it decides to file a separate application for a project

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12 *Id*. at 59.
13 *Id*. at Finding of Fact 2.
14 D.18-10-019 at 135.
15 D.24-12-074, pp. 398-399 (Dec. 23, 2024).

such as the Miramar Energy Facility, where such a reconsideration might be warranted."[16] Finally, the Commission provided Pacific Gas and Electric Company with similar guidance in D.23-11-069, requiring the utility to provide "1) the details of any PG&E proposal for new asset life extensions, incremental capacity additions, or changed functions for any of its UOG assets and why it is undertaking these changes, (2) on whose behalf it is making these new investments, and (3) the appropriate vintaging treatment for each asset in light of this testimony along with any future GRC proposals."[17] This prior guidance makes clear that the appropriate vintaging treatment of new investments in legacy UOG is an important aspect in ensuring that the costs of those investments are not illegally and unfairly shifted to departed load customers.

Finally, SDG&E's Application is unclear regarding its proposal for cost recovery, specifically in that the Application and supporting testimony do not clarify whether costs will be recovered through electric delivery (distribution) rates or generation rates. To the extent SDG&E proposes to recover costs associated with the Project through distribution rates, it is important to confirm that those costs are properly categorized as distribution costs to ensure that generation costs are not improperly shifted into distribution rates. Such a result would create anti-competitive outcomes by allowing SDG&E to artificially deflate its generation costs. In light of the foregoing, the SD CCAs have a clear, real, present, tangible, and pecuniary interest in the outcome of this proceeding.

## II. GROUNDS FOR PROTEST

The impact of SDG&E's Application on both departed and bundled customers requires cautious and careful consideration under the applicable standards of proof. SDG&E, as the applicant, has the burden of affirmatively establishing the reasonableness of all aspects of its

[16] *Id*. at 408.
[17] D.23-11-069, p. 511 (Nov. 17, 2023).

Application,[18] and that burden of proof generally is measured based upon a preponderance of the evidence.[19]

The SD CCAs have identified several preliminary issues in the Application that impact the interests described above. The SD CCAs are still evaluating the Application, formulating discovery, and intend to communicate with SDG&E to better understand and analyze SDG&E's Application. The SD CCAs reserve the right to address and protest additional issues within the scope of this proceeding as they arise through continued review, analysis, discovery, and investigation of all aspects of the Application and supporting testimony.

### A. The SD CCAs Seek to Ensure That SDG&E's Cost Recovery Proposals are Just, Reasonable, and Prevent Illegal Cost Shifting.

Analysis of the important issues described above requires close scrutiny of the Application's testimony and supporting workpapers. Through this investigation, the SD CCAs are particularly interested in ensuring that there is no cost-shifting between bundled and unbundled customers.

In their initial review, the SD CCAs have identified a number of issues pertaining to these topics that it plans to investigate more closely, including:

- Whether SDG&E proposes to recover the costs associated with the Project through electric generation or electric delivery rates, or both, and whether SDG&E's proposal is reasonable.

- If SDG&E intends to recover the costs associated with the Project through generation rates, whether SDG&E should provide additional information necessary to determine the appropriate vintaging treatment of the Project.

- Whether the Project constitutes a significant overhaul that would necessitate re-vintaging of PEC.

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[18] D.12-12-030, p. 42 (Dec. 28, 2012).

[19] *See, e.g.,* D.18-01-009 at 9-10; D.15-07-044, p. 29 (Jul. 27, 2015) (observing that the Commission has discretion to apply either the preponderance of evidence or clear and convincing standard in a ratesetting proceeding, but noting that the preponderance of evidence is the "default standard to be used unless a more stringent burden is specified by statute or the Courts").

- Whether the Project constitutes a major upgrade that would necessitate partial re-vintaging through separate vintaging treatment for all or part of the Project.

- Whether SDG&E's proposals with regard to the recovery of research and development costs are just and reasonable and how they will be recovered.

Until such review and analysis is complete, the SD CCAs cannot conclude that the relief SDG&E requests is justified. The SD CCAs therefore request that the Commission refrain from granting the relief SDG&E requests and set this matter for hearing to allow for further investigation on these issues and any other issues that may arise during the course of the proceeding.

## III. CATEGORIZATION OF PROCEEDING, ISSUES TO BE CONSIDERED, NEED FOR HEARINGS, AND PROPOSED PROCEDURAL SCHEDULE

### A. Categorization

The SD CCAs agree with the categorization of this proceeding as ratesetting.[20]

### B. Need For Hearings

The SD CCAs believe hearings may be necessary, depending on their on-going analysis of the Application, SDG&E's responses to discovery, and any settlement discussions that may take place. As such, the SD CCAs request that the Commission set this matter for hearing.

### C. Issues to be Considered

To ensure the important issues described above are afforded proper consideration, the SD CCAs recommend several additions to SDG&E's proposed scope of issues. Those include the following:

1. Whether the Commission should approve SDG&E's request for cost recovery for the Project, including:

[20] Application at 13.

a. Whether SDG&E's proposed allocation of costs among rate components is reasonable;

b. Whether the costs associated with the Project warrant separate vintaging treatment.

2. Whether the Commission should authorize SDG&E to establish the H2BA balancing account to track the costs and revenues associated with the Project

**D. Schedule**

The SD CCAs recommend that the Commission adopt a non-expedited procedural schedule to allow parties sufficient time and opportunity to thoroughly investigate the Application. The SD CCAs' recommended procedural schedule is set forth in the table below.

| ACTION | DATE |
|---|---|
| Application Filed | December 16, 2025 |
| Protests / Responses Due | February 5, 2026 |
| Reply to Protests / Responses Due | February 17, 2026 |
| Prehearing Conference | March 20, 2026 |
| Intervenor Testimony | July 24, 2026 |
| Rebuttal Testimony | September 4, 2026 |
| Rule 13.9 Meet and Confer | October 5, 2026 |
| Evidentiary Hearings | December 2026 |
| Concurrent Opening Briefs | February 5, 2027 |
| Concurrent Reply Briefs | March 5, 2027 |
| Proposed Decision | April 2027 |
| Comments on Proposed Decision | May 2027 |
| Reply Comments on Proposed Decision | May 2027 |
| Commission Final Decision | June 2027 |

## IV. COMMUNICATIONS AND SERVICE

The SD CCAs consent to "email only" service and request that the following individuals be added to the service list for A.25-12-009 on behalf of the SD CCAs:

**Party Representative**

Please list SDCP and CEA as individual parties to this proceeding with Alissa Greenwald as the representative for each party:

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E-mail: agreenwald@keyesfox.com

**Information-Only**

Please include the SD CCA representative listed below on the information-only service list for this proceeding:

Jacob Schlesinger
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## V. CONCLUSION

For the foregoing reasons, the SD CCAs respectfully request that the Commission grant party status to SDCP and CEA and set this matter for hearing to fully examine the issues discussed above.

Respectfully submitted,

*/s/ Alissa Greenwald*

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February 5, 2026

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