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

Application of Southern California Gas Company
(U904G) for Authority, Among Other Things, to
Update its Gas Revenue Requirement and Base
Rates Effective on January 1, 2024.

Application 22-05-015
(Filed May 16, 2022)

Related Matter

Application 22-05-016
(Filed May 16, 2022)

**THE PROTECT OUR COMMUNITIES FOUNDATION
APPLICATION FOR REHEARING OF D.26-01-021**

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TABLE OF CONTENTS

I.	INTRODUCTION.....	2
II.	GROUND FOR APPLICATION FOR REHEARING.....	3
III.	THE COMMISSION FAILED TO PROCEED IN THE MANNER REQUIRED BY LAW BY FAILING TO ADHERE TO THE SCOPING MEMO.	4
	A. SDG&E’s 2023-2027 Costs Were Not Described In the Scoping Memo As An Issue for Track 2.....	6
	B. Securitization Was Not Described in the Scoping Memo as an Issue for Track 2.	7
	C. The Decision Erred by Instructing that the Commission Will Review SDG&E’s Wildfire Mitigation Costs After 2023 in a Future Proceeding Because the Scoping Memo Identified Track 1 for Determining Revenue Requirements for the Years 2024 Through 2027.....	7
IV.	THE DECISION APPLIED THE INCORRECT STANDARD OF REVIEW.	8
V.	THE COMMISSION VIOLATED DUE PROCESS AND ERRONEOUSLY APPLIED A WEAKENED STANDARD OF REVIEW AT THE LAST MINUTE AND WITHOUT PROVIDING AN OPPORTUNITY FOR PARTIES OTHER THAN SDG&E TO COMMENT.....	10
VI.	THE DECISION ERRED BY REFUSING TO DISALLOW UNJUSTIFIED AND UNREASONABLE COSTS.	12
	A. The Commission Erred By Refusing to Deny the Drone Program Costs.....	12
	B. The Commission Erred by Refusing to Deny the Costs of Other Unjustified Programs.....	13
	C. The Commission Erred in Deeming Irrelevant the Crowe Audit Findings of SDG&E’s Prior WMP Underspending.	16
	D. The Commission Erred in Admitting SDG&E’s Supplemental Exhibit Filed After the Evidentiary Hearings and Briefing Were Closed.....	17
VII.	CONCLUSION	19

TABLE OF AUTHORITIES

Cases

Caesar's Restaurant v. Industrial Accident Com. (1959) 175 Cal.App.2d 850..... 18

California Trucking Assn. v. Public Utilities Com. (1977) 19 Cal.3d 240..... 18

Center for Biological Diversity, Inc. v. Public Utilities Com. (2025) 18 Cal.5th 293 3, 4, 5

City of San Diego v. Bd. of Trustees of Cal. State Univ. (2015) 61 Cal.4th 945 3

County of Sonoma v. State Energy Resources Conservation and Development Com.
 (1985) 40 Cal.3d 361 4

Family Health Centers of San Diego v. State Dept. of Health Care Services
 (2023) 15 Cal.5th 1 3

Fed. Power Comm'n v. Hope Nat. Gas Co. (1944) 320 U.S. 591 9

Goldberg v. Kelly (1970) 397 U.S. 254 18

Golden State Water Co. v Public Utilities Commission (2024) 16 Cal.5th 380 5, 6

Southern California Gas Co. v. Public Utilities Com. (1979) 24 Cal.3d 653..... 3

Constitution

Cal. Const. art. 1..... 18

Cal. Const. art. XII..... 3, 4, 8

U.S. Const. Amend. I 3

U.S. Const. Amend. XIV 18

Statutes

Code Civ. Pro., § 1094.5 3

Pub. Util. Code § 217..... 12

Pub. Util. Code, § 463..... 11, 12, 15

Pub. Util. Code, § 451..... 16

Pub. Util. Code, § 451.1..... 11

Pub. Util. Code, § 454..... 15

Pub. Util. Code, § 1701..... 4, 5

Pub. Util. Code, § 1701.1..... 4, 5, 6, 7

Pub. Util. Code, § 1701.9..... 10

Pub. Util. Code, § 1705.....	3, 18
Pub. Util. Code, § 1731.....	1
Pub. Util. Code, § 1757.....	3, 4, 5 8
Pub. Util. Code, § 8386,4.....	passim
Pub. Util. Code, § 850.....	7

Regulations

Cal. Code Regs., tit. 20, § 7.3	6
Cal. Code Regs., tit. 20, § 13.11	17, 18
Cal. Code Regs., tit. 20, § 16.1	1
Cal. Code Regs., tit. 20, § 13.15	

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**THE PROTECT OUR COMMUNITIES FOUNDATION
APPLICATION FOR REHEARING OF D.26-01-021**

Pursuant to California Public Utilities Code¹ section 1731(b)(1)² and Rule 16.1(c)³ of the California Public Utilities Commission (Commission) Rules of Practice and Procedure (Rules), The Protect Our Communities Foundation (PCF) timely submits this application for rehearing of Commission Decision 26-01-021, *Decision Addressing San Diego Gas & Electric Company's Track 2 Request For Recovery Of Wildfire Mitigation Plan Memorandum Account Costs* (Decision). This application is timely filed within 30 days of January 23, 2026, when the Commission issued the Decision.⁴

¹ All statutory references are to the Public Utilities Code unless otherwise specified.

² Pub. Util. Code, § 1731, subd. (b).

³ Cal. Code Regs., tit. 20, § 16.1, subd. (c).

⁴ Pub. Util. Code, § 1731, subd. (b); *see also* Cal. Code Regs., tit. 20, § 16.1, subd. (a).

I. INTRODUCTION

This application for rehearing requests that the Commission correct three legal errors in the Decision. First, the Commission's failed to proceed in the manner required by law by violating the scoping memorandum issued in the proceeding. Although the scoping memo specified that Track 2 would involve reasonableness review of San Diego Gas & Electric Company's (SDG&E) 2019-2022 wildfire costs, the Decision added capital costs for 2023-2027, securitization issues, and negated the scoping memo for Track 1 which had already concluded.

Second, the Commission failed to apply the applicable standard when reviewing SDG&E's costs. Instead of considering whether costs to implement SDG&E's Wildfire Mitigation Plans (WMPs) were just and reasonable as required by statute, the Commission instead applied a "prudent manager standard" and abdicated its responsibility protect ratepayers against unreasonable and unjustified costs, and its duty to reduce electric rates to as low as possible.

Third, the Commission failed to proceed in the manner required by law by determining that SDG&E failed to establish reasonableness but declining to disallow SDG&E's costs. Despite finding that SDG&E had not met its burden of proof, the Decision erroneously allowed SDG&E an additional opportunity to prove its drone costs in Track 3 of the proceeding, and merely required SDG&E to do better in the next general rate case (GRC) for other programs. SDG&E failed to meet its burden of proof in this proceeding, and the Commission was obliged as a matter of law to deny SDG&E recovery of costs from ratepayers who are already shouldering the highest rates in California and throughout the nation.

II. GROUNDS FOR APPLICATION FOR REHEARING

Rule 16.1(c) requires an application for rehearing (AfR) to “set forth specifically the grounds on which the applicant considers the order or decision of the Commission to be unlawful or erroneous.”⁵ The purpose of an AfR “is to alert the Commission to a legal error, so that the Commission may correct it expeditiously.”⁶

Review of D.26-01-021, a ratemaking decision addressed to specific parties, is governed by section 1757.⁷ PCF submits this application on the grounds that (1) the Commission failed to proceed in the manner required by law, (2) exceeded its powers under Article XII of the California Constitution, and because (3) the Decision is not supported by the findings and (4) violated PCF’s rights to due process and to scrutinize and petition the Commission under the United States and California Constitutions.⁸ The Commission fails to proceed in the manner required by law when it contradicts Legislative directives, applies an erroneous legal standard, or otherwise bases its decision on erroneous legal conclusions.⁹ No showing of prejudice is required.¹⁰

⁵ Cal. Code Regs., tit. 20, § 16.1, subd. (c).

⁶ Cal. Code Regs., tit. 20, § 16.1, subd. (c).

⁷ See *Center for Biological Diversity, Inc. v. Public Utilities Com.* (2025) 18 Cal.5th 293, 303.

⁸ Pub. Util. Code, §§ 1757, subds. (a)(1), (2), (3), (6), 1705 (“the decision shall contain, separately stated, findings of fact and conclusions of law by the Commission on all issues material to the order or decision”); U.S. Const. Amends. I, XIV; Cal. Const. art. 1, §§ 3, 7.

⁹ *Southern California Gas Co. v. Public Utilities Com.* (1979) 24 Cal.3d 653, 659 (Commission lacks authority to contradict or disregard specific legislative directives); cf. *City of San Diego v. Bd. of Trustees of Cal. State Univ.* (2015) 61 Cal.4th 945, 956 (“use of an erroneous legal standard constitutes a failure to proceed in a manner required by law”); *Family Health Centers of San Diego v. State Dept. of Health Care Services* (2023) 15 Cal.5th 1, 10 (decision based on erroneous conclusions of law “must be reversed”).

¹⁰ When the Legislature rewrote section 1757 in Senate Bill No. 779, the Legislature borrowed from California Code of Civil Procedure section 1094.5. *Center for Biological Diversity, Inc. v. Public Utilities Com.* (2025) 18 Cal.5th 293, 304; Stats. 1998, ch. 886 (1997-1998 Reg. Sess.). In contrast to Code of Civil Procedure section 1094.5, however, the Legislature in section 1757 declined to require the showing of prejudice that Code of Civil Procedure section 1094.5 requires and it separated the phrase “abuse of discretion” from the phrase “has not proceeded in the manner required by law” by placing them in two distinct subdivisions—(a)(5) and (a)(2). Pub. Util. Code, §1757; compare Code Civ. Pro., § 1094.5.

III. THE COMMISSION FAILED TO PROCEED IN THE MANNER REQUIRED BY LAW BY FAILING TO ADHERE TO THE SCOPING MEMO.

Under Article XII of the California Constitution, “the power of the Legislature to confer powers respecting public utilities upon the [Commission] is ‘plenary’ and ‘unlimited by any provision of this Constitution,’”¹¹ and the Commission lacks any power to establish procedures that conflict with statute or due process.¹²

The Legislature required, in section 1701.1, subdivision (b)(1), that the Commission issue “a scoping memo that describes the issues to be considered and the applicable timetable for resolution and that, consistent with due process, public policy, and statutory requirements, determines whether the proceeding requires a hearing.”¹³ Additionally, the Legislature requires that all proceedings “shall be governed by this part and by rules of practice and procedure adopted by the [C]ommission,”¹⁴ which themselves require a scoping memo determining the “issues to be addressed.”¹⁵

In a case involving a far more lenient standard of review applicable only to water corporations¹⁶ addressing identical language in section 1701.1, subdivision (c),¹⁷ the California

¹¹ *County of Sonoma v. State Energy Resources Conservation and Development Com.* (1985) 40 Cal.3d 361, 367-368; accord, *Center for Biological Diversity, Inc. v. Public Utilities Com.* (2025) 18 Cal.5th 293, 307 (citing *County of Sonoma*).

¹² Cal. Const. art. XII, § 2 (“Subject to statute and due process, the commission may establish its own procedures.”).

¹³ Pub. Util. Code, § 1701.1, subd. (b)(1).

¹⁴ Pub. Util. Code, § 1701, subd. (a).

¹⁵ Cal. Code Regs., tit. 20, § 7.3 (“The assigned Commissioner shall issue the scoping memo for the proceeding, which shall determine the schedule (with projected submission date), issues to be addressed, and need for hearing.”)

¹⁶ Commission decisions addressed solely to water corporations are reviewed only to determine whether the Commission “has regularly pursued its authority.” (Pub. Util. Code, §§ 1757.1, subd. (b), 1757, subd. (c); *Center for Biological Diversity, Inc. v. Public Utilities Commission* (2025) 18 Cal.5th 293, 304.)

¹⁷ Subdivision (c) applies to proceedings the Commission has categorized as quasi-legislative, and subdivision (b)(1) applies to proceedings the Commission has categorized as adjudication or ratesetting. (Pub. Util. Code, § 1701, subd. (a), (b)(1), (c).) Both subdivisions require that the assigned commissioner

Supreme Court in *Golden State Water Co. v. Public Utilities Com.* (2024) 16 Cal.5th 380 held that that a scoping memo that fails to give notice of the issues under consideration in the proceeding violates the statutory mandate.¹⁸ The Court in *Golden State Water* made plain that even under the most lenient standard of judicial review, the Commission cannot lawfully prevent parties from having an opportunity to advocate effectively.¹⁹

More recently, in *Center for Biological Diversity, Inc. et al. v. Public Utilities Com.* (2025) 18 Cal.5th 293, the Supreme Court upheld and enforced the much more rigorous standard of judicial review that applies to judicial review of Commission decisions regarding an energy company like SDG&E.²⁰ Under the far more rigorous standard that applies under section 1757, subdivision (a)(2), there can be no doubt that violating sections 1701.1, subdivision (b) and 1701, subdivision (a) constitutes reversible error.²¹ Under section 1757, subdivision (a)(2), when the Commission fails to proceed in the manner required by a statute or due process – both of which, by definition, constitute laws – the courts are required to set aside the Commission’s decision.²² As set forth below, the Commission failed to proceed in the manner required by law by considering matters outside the scope of the issues identified in the Scoping Memo for Track 2 which was limited to “Years 2019-2022.”²³

“shall prepare and issue by order or ruling a scoping memo that describes the issues to be considered and the applicable timetable for resolution and that, consistent with due process, public policy, and statutory requirements, determines whether the proceeding requires a hearing.” (Pub. Util. Code, § 1701, subsd. (b)(1), (c).)

¹⁸ *Golden State Water Co. v. Public Utilities Commission* (2024) 16 Cal.5th 380, 395.

¹⁹ *Golden State Water Co. v. Public Utilities Commission* (2024) 16 Cal.5th 380, 382 (addressing “the process that led up to” the Commission’s decision), 398 (holding that “the lack of notice prejudiced the Water Companies by depriving them of an adequate opportunity to present their case for preserving the use of decoupling mechanisms”).

²⁰ *Center for Biological Diversity, Inc. v. Public Utilities Commission* (2025) 18 Cal.5th 293.

²¹ Pub. Util. Code, § 1757, subd. (a)(2), (6) (court must determine whether the Commission “has not proceeded in the manner required by law” and whether the Decision violated PCF’s constitutional rights).

²² Pub. Util. Code, §§ 1757, subd. (a)(2), 1758.

²³ A.22-05-015/-16, Assigned Commissioner’s Scoping Memo and Ruling (October 3, 2022), p. 18.

A. SDG&E’s 2023-2027 Costs Were Not Described In the Scoping Memo As An Issue for Track 2.

The Commission erred in considering and awarding SDG&E costs for its spending after 2022.²⁴ The Scoping Ruling clearly stated that the proceeding would proceed in three tracks.²⁵ Track 1 was to address “Review of 2024 TY Revenue Requirement and Attrition Years 2025, 2026, and 2027,”²⁶ Track 2 was to address the “Wildfire Mitigation Plan Memorandum Account” for “Years 2019-2022,”²⁷ and Track 3 was to address “the reasonableness of 2023 actual recorded costs.”²⁸ The Scoping Memo elsewhere identified the years 2019-2021 as the scope for Track 2, but parties understood Track 2 to encompass the years 2019 through 2022,²⁹ which corresponds with SDG&E’s one-year 2019 WMP and its three-year 2020-2022 WMP.

Nonetheless, the Decision adopted Mr. Gentes’s testimony that SDG&E should be authorized to recover “forecasted ongoing capital-related costs for 2023 to 2027.”³⁰ SDG&E’s costs after December 31, 2022 is clearly outside the time period delineated in the Scoping Memo. Thus, the Decision should not have approved post 2022 costs. All references to and requests for recovery of SDG&E’s “ongoing-capital related costs” beyond 2022 are out of scope and should not have been considered.³¹

²⁴ D.26-01-021, p. 186-187 (Conclusion of Law No. 27-28; Ordering Paragraph No. 1-2).

²⁵ A.22-05-015/016, Assigned Commissioner’s Scoping Memo and Ruling (October 3, 2022), p. 16.

²⁶ A.22-05-015/016, Assigned Commissioner’s Scoping Memo and Ruling (October 3, 2022), p. 18.

²⁷ A.22-05-015/016, Assigned Commissioner’s Scoping Memo and Ruling (October 3, 2022), p. 18.

²⁸ A.22-05-015/016, Assigned Commissioner’s Scoping Memo and Ruling (October 3, 2022), p. 17.

²⁹ See, e.g., A.22-05-015/016, Motion of San Diego Gas & Electric Company (U 902 M) to Amend the Assigned Commissioner’s Scoping Memorandum and Ruling to Modify the Track 2 Schedule (September 7, 2023), p. 1 (SDG&E’s motion to modify the Track 2 schedule explaining that Track 2 regards “SDG&E’s Wildfire Mitigation Plan Memorandum Account from 2019-2022.”).

³⁰ Exhibit SDG&E-T2-02R (Gentes), p. CG-7.

³¹ Cal. Code Regs., tit. 20, § 7.3; Pub. Util. Code, § 1701.1, subd. (b); *Golden State Water Co. v Public Utilities Commission* (2024) 16 Cal.5th 380, 394-398.

B. Securitization Was Not Described in the Scoping Memo as an Issue for Track 2.

The Scoping Memo precluded any consideration of SDG&E’s securitization proposal in this proceeding because the Scoping Memo did not identify SDG&E’s securitization proposal as an issue to be considered in Track 2 of the proceeding.³² The financing mechanism to which SDG&E referred³³ applies to catastrophic wildfire amounts and incremental under collection amounts³⁴ and remains limited to financing orders for expressly defined “recovery costs”³⁵ nowhere mentioned in the Scoping Memo. In fact, the Scoping Memo categorized this proceeding as a ratesetting proceeding which is distinct from a catastrophic wildfire proceeding.³⁶ The Commission was obliged to reject SDG&E’s unlawful securitization proposal as out of scope, but the Decision erroneously authorized SDG&E to file an application to securitize the WMPMA costs.³⁷

C. The Decision Erred by Instructing that the Commission Will Review SDG&E’s Wildfire Mitigation Costs After 2023 in a Future Proceeding Because the Scoping Memo Identified Track 1 for Determining Revenue Requirements for the Years 2024 Through 2027.

The Decision erred in stating that “[i]n a subsequent proceeding, the Commission will review SDG&E’s wildfire mitigation costs after 2023,” addressing wildfire mitigation costs beyond the year 2022, and in authorizing yet another proceeding for the years 2024 and 2025.³⁸

³² A.22-05-015/016, Assigned Commissioner’s Scoping Memo and Ruling (October 3, 2022), p. 4-5.

³³ SDG&E Opening Brief, p. 95 (arguing section 850.1 allows SDG&E “to finance the just and reasonable wildfire mitigation costs and expenses at issue in [its] application through a financing order to mitigate rate and bill impacts through longer financing terms”).

³⁴ Pub. Util. Code, § 850, subd. (a).

³⁵ Pub. Util. Code, § 850, subd. (b)(10).

³⁶ See A.22-05-015/016, Assigned Commissioner’s Scoping Memo and Ruling (October 3, 2022), p. 19, 23; Pub. Util. Code, § 1701.1, subd. (d)(3) (defining “Ratesetting cases” categorization); compare, Pub. Util. Code, § 1701.1, subd. (d)(4) (defining “Catastrophic wildfire proceedings” categorization).

³⁷ D.26-01-021, p. 164-165, 189 (Ordering Paragraph No. 10).

³⁸ D.26-01-021, p. 167, 187 (Ordering Paragraph No. 1-2), 189 (Ordering Paragraph No. 11)

However, the Scoping Memo identified the necessary revenue requirements for the years 2024 through 2027 – which relate to the costs to implement SDG&E’s 2023-2025 WMP³⁹ – as the subject of Track 1⁴⁰ which concluded at the end of 2024.⁴¹ By authorizing yet another proceeding to be opened for those years, the Decision violated the Scoping Memo and erroneously reopened an already complete process to pursue the Commission’s own decisional agenda in complete disregard of statutory directives, due process, and fundamental fairness principles.

IV. THE DECISION APPLIED THE INCORRECT STANDARD OF REVIEW.

The Decision applied a “prudent manager” standard⁴² instead of proceeding in the manner required by section 8386.4, which requires the Commission to consider whether the costs to implement SDG&E’s WMPs are just and reasonable.⁴³ The prudent manager standard originates from a 1987 decision, D.87-06-021, related to recovery of Southern California Edison’s litigation costs⁴⁴—not related to wildfire costs, and not from statutory construction. Under Article XII of the California Constitution and section 1757, subdivision (a)(2), it is not up to the Commission to decide what standard it wishes to apply. The Commission must abide by the Legislature’s directives.

The “just and reasonable” standard set forth in section 8386.4 must be interpreted in light of the Legislature’s expressed intent to “that the commission reduce rates for electricity and

³⁹ See former Pub. Util. Code, § 8386, subd. (b) added by Stats. 2019, ch. 79, § 17 (requiring plans to cover a three-year period). The current version of Pub. Util. Code, § 8386, subdivision (b) requires plans to cover a four-year period. (Pub. Util. Code, § 8386, subd. (b) (amended by Stats. 2025, ch. 119, § 57).)

⁴⁰ A.22-05-015/016, Assigned Commissioner’s Scoping Memo and Ruling (October 3, 2022), p. 16-18.

⁴¹ D.24-12-074, *Decision Addressing the 2024 Test Year General Rate Cases of Southern California Gas Company and San Diego Gas & Electric Company* (December 19, 2024).

⁴² D.26-01-021, p. 24, 40, 54, 58, 171.

⁴³ Pub. Util. Code, § 8386.4, subd. (a).

⁴⁴ D.87-06-021, 24 CPUC 2d 476 (June 15, 1987)

natural gas to the lowest amount possible.”⁴⁵ Section 8486.4 requires the Commission to review the costs to implement each WMP, so that it can ensure that ratepayers are paying for the most cost-effective wildfire mitigation programs – and not for gold plating the utilities’ infrastructure that would provide the utilities with the most profit.

Yet, instead of reviewing SDG&E’s costs in the context of its 2019 or 2020-2022 WMPs to assess whether SDG&E had considered the best wildfire mitigation programs that would reduce rates for electricity to the lowest amount possible, the Commission approached its statutory duty to assess the reasonableness of SDG&E’s WMP costs from the perspective of a utility company manager that is inherently incentivized to maximize profits by increasing capital project expenditures.⁴⁶ As the Commission has acknowledged, a utility like SDG&E is “inherently incentivized to make investments to drive an increase in their rate base and there, their profitability.”⁴⁷ Considering wildfire mitigation spending from the perspective of utility managers does not come close to protecting ratepayers from the unreasonable and unjustified costs that the utilities are inherently incentivized to spend on capital projects.

Notably, even under federal law and a far less rigorous standard of review, the Supreme Court has interpreted “just and reasonable” language as requiring an analysis that considers the consumer perspective and protects against exploitation of consumers by privately owned

⁴⁵ Pub. Util. Code, §§ 747, 1757, subd. (a)(2).

⁴⁶ D.26-01-021, p. 41.

⁴⁷ A.22-05-015/016, Exhibit PCF-41 (Powers), CPUC, Utility Costs and Affordability of the Grid of the Future (May 2021), p. 24, available at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/office-of-governmental-affairs-division/reports/2021/senate-bill-695-report-2021-and-en-banc-whitepaper_final_04302021.pdf.

utilities.⁴⁸ Even prudent utility managers cannot be expected to protect ratepayers against exploitation by the utility managers themselves.

V. THE COMMISSION VIOLATED DUE PROCESS AND ERRONEOUSLY APPLIED A WEAKENED STANDARD OF REVIEW AT THE LAST MINUTE AND WITHOUT PROVIDING AN OPPORTUNITY FOR PARTIES OTHER THAN SDG&E TO COMMENT.

One day before the Commission voted to approve the Decision, the Commission – violating fundamental due process requirements and failing to proceed in the manner required by law—significantly revised the proposed decision to rely on the Commission-created prudent manager standard. The Commission explained that it viewed the prudent manager standard as allowing approval of costs that had not been justified:

[T]he prudent manager standard...gives the Commission discretion to find cost recovery reasonable where “it encompasses a spectrum of possible practices, methods, or acts consistent with the utility system needs, the interest of the ratepayers.” That is the case here where the Commission finds SDG&E’s scope of Covered Conductor work versus DOSH and undergrounding to be appropriate. SDG&E’s amount of recovery for Covered Conductor work is reasonably disputed.¹⁵⁰ However, the prudent manager standard is not one of perfection that is limited to the optimum practice to the exclusion of all others. For the amount requested for this work, the Commission finds the cost per mile for Covered Conductor work for the 2019–2022 period to be an exercise of reasonable judgment for that time period.⁴⁹

All of the prudent manager revisions to the proposed decision were issued on Wednesday January 14th, two days after a “Ratesetting Deliberative Meeting” (RDM) was held on Monday January 12th. The Commission noticed the RDM immediately after SDG&E filed its Notice of Ex Parte Communication,⁵⁰ which meant that no other party could request or attend an ex parte

⁴⁸ cf. *Fed. Power Comm'n v. Hope Nat. Gas Co.* (1944) 320 U.S. 591, 612 (Supreme Court holding Federal Power Act provisions which also include “just and reasonable” language “plainly designed to protect the consumer interests against exploitation at the hands of private [utility] [] companies.”).

⁴⁹ D.26-01-021, p. 58.

⁵⁰ A.22-05-015/016, Southern California Gas Company and San Diego Gas & Electric Company’s Notice of Ex Parte Communication (January 8, 2026); A.22-05-015/016, Courtesy Notice of Ratesetting

meeting prior to the January 15th vote in order to respond to the baseless claims made by SDG&E.⁵¹

When the revisions to the PD were published (largely incorporating SDG&E’s comments) just the day prior to the meeting at which D.26-01-021 was approved,⁵² no other party had any opportunity to comment on the extraordinary change to the standard of review that was inserted at the last minute to the PD.

The new standard of review impermissibly replaces the applicable standard of review with concepts from the wildfire recovery fund statute.⁵³ Section 8386.4, which applies to this proceeding, requires the Commission to apply the “just and reasonable” standard and mandates that the Commission disallow recovery of unreasonable costs⁵⁴ – not a standard that looks from the perspective of utility management and authorizes costs that SDG&E failed to present even the most baseline information to justify them.

The Decision in failing to apply the correct standard of review by accepting last minute evidence, last minute comments by SDG&E only, and in last minute revisions, violated basic due process requirements and constituted a failure to proceed in the manner required by law. The failure to provide any opportunity to be heard on such a vital and structural change to the Commission’s essential legal responsibilities alone warrants rehearing.

Deliberative Meeting on Monday, January 12, 2025 (A.22-05-015, A.22-05-016) (January 9, 2026) (“ex parte communications are prohibited...for the three business days before the Commission’s scheduled vote on the Proposed Decision at the January 15, 2026 Voting Meeting”).

⁵¹ Cal. Code Regs., tit. 20, § 8.2, subd. (c)(4); Pub. Util. Code, § 1701.9, subd. (b).

⁵² See A.22-05-015/016, Proposed Decision Rev. 1 (Redline) (January 14, 2026).

⁵³ Pub. Util. Code, § 451.1, subd. (b).

⁵⁴ Pub. Util. Code, § 8386.4, subd. (a)(1).

VI. THE DECISION ERRED BY REFUSING TO DISALLOW UNJUSTIFIED AND UNREASONABLE COSTS.

Under section 8386.4, subdivision (a)(2), the Commission is required to “review the costs in the memorandum accounts and disallow recovery of those costs the commission deems unreasonable.”⁵⁵ And under section 463, if a utility “fails to prepare or maintain records sufficient to enable the commission to completely evaluate... the reasonableness and prudence of any expense,” that expense must be denied.⁵⁶ The Decision recognized that SDG&E failed to establish the reasonableness of the costs to implement its drone and other programs, but erroneously refused to deny SDG&E recovery of those costs from ratepayers.

A. The Commission Erred By Refusing to Deny the Drone Program Costs.

The Decision correctly finds that SDG&E failed to demonstrate the reasonableness of its drone program.⁵⁷ While the Proposed Decision originally denied drone program costs,⁵⁸ the Commission revised the Proposed Decision based on SDG&E’s unsupported and unsubstantiated comments, including those made without providing any opportunity for parties to respond.⁵⁹ In the Decision, the Commission acknowledged that it should not send the message that “IOUs will be given multiple bites at the apple where they fail to meet their burden by failing to provide

⁵⁵ Pub. Util. Code, § 8386.4, subd. (a)(2).

⁵⁶ Pub. Util. Code, § 463, subd. (b); *see also* Pub. Util. Code § 217 (adopting a broad definition of electric plant).

⁵⁷ D.26-01-021, p. 179 (Finding of Fact No. 11: “San Diego Gas & Electric Company (SDG&E) failed to demonstrate that its costs for its Drone Investigation Assessment and Repair pilot program after 2020 were reasonable for many reasons, including the lack of cost breakdowns, the lack of comparisons with other SDG&E inspection programs, and this program’s high unit cost.”).

⁵⁸ A.22-05-015/-016, Proposed Decision Addressing San Diego Gas & Electric Company’s Track 2 Request For Recovery Of Wildfire Mitigation Plan Memorandum Account Costs (November 14, 2025), p. 145 (FoF 11).

⁵⁹ A.22-05-015, -016, Opening Comments Of San Diego Gas & Electric Company (U 902-E) On The Proposed Decision Track 2 Request For Recovery Of Wildfire Mitigation Plan Memorandum Account Costs, p. 11; A.22-05-015/016, Southern California Gas Company and San Diego Gas & Electric Company’s Notice of Ex Parte Communication (January 8, 2026); *see, also*, Section V, *supra*.

what should be basic information” and that SDG&E did not meet its burden of proof to establish the reasonableness of its drone programs,⁶⁰ but erroneously refused to deny recovery of these costs. The Commission remains statutorily obliged to deny costs where SDG&E has not met its burden of proof.⁶¹ Allowing SDG&E to a second bit at the apple to prove its unjustified drone costs in Track 3 violates sections 8386.4 and 463 and principles of due process.

B. The Commission Erred by Refusing to Deny the Costs of Other Unjustified Programs.

Throughout the Decision the Commission correctly acknowledged that SDG&E had not established cost-effectiveness.⁶² Although SDG&E had been repeatedly called out for failing to prioritize wildfire mitigation programs based on cost-effectiveness,⁶³ the Decision failed to enforce SDG&E’s cost-effectiveness mandates and required additional showings within the next GRC. The Commission was required to deny costs for which cost-effectiveness had not been established, such as Distribution Overhead System Harding (DOSH) which included replacing

⁶⁰ D.26-01-021, p. 109.

⁶¹ Pub. Util. Code, §463, subd. (b) (“Whenever an electrical or gas corporation fails to prepare or maintain records sufficient to enable the commission to completely evaluate any relevant or potentially relevant issue related to the reasonableness and prudence of any expense...the commission shall disallow that expense for purposes of establishing rates for the corporation.”); Pub. Util. Code, §8386.4, subd.(b); see, also, Pub. Util. Code, §§ 451, 454.

⁶² D.26-01-026, p. 28 (“The Commission agrees with intervenors, however, who show that SDG&E continues to lag in specifically evaluating wildfire mitigation strategies for cost-effectiveness.”).

⁶³ See A.22-05-015/016, PCF Track 2 Opening Brief (September 26, 2024), p. 7-18; A.22-05-015/016, PCF Reply Brief (October 10, 2024) p. 16-23.

wood poles,⁶⁴ Strategic Undergrounding,⁶⁵ Microgrids,⁶⁶ and the generator programs,⁶⁷ but instead gave SDG&E a free pass until the next GRC. For example:

- for Strategic Undergrounding the Commission stated “cost-effectiveness is a valid concern” for Strategic Undergrounding and that SDG&E must improve its analysis in the next GRC, but approved all of the undergrounding costs;⁶⁸
- for Distribution Overhead System Hardening the Commission found that SDG&E had satisfied the prudent manager standard, even though it had not complied with the requirements of D.19-05-039 to report on the cost-effectiveness of replacing wood poles with steel poles;⁶⁹

⁶⁴ D.26-01-021, p. 53-54 (“However, SDG&E shall continue to monitor, evaluate, and report the cost-effectiveness of replacing wood poles with steel poles as the Commission has required. In future applications for cost-recovery and GRCs, SEDG&E shall provide the information required by D.19-05-039 in its initial cost recovery or GRC application as a condition of approval.”), p. 96-97 (“GO 165 has required wood pole intrusion inspections since 1997. The relevant costs have been requested and authorized in rates. The Commission needs additional information, however, in future requests for cost recovery to adequately judge what costs are just and reasonable. As such, the Commission requires that SDG&E shall specify the O&M costs for inspections separately from the capital costs for repair or replacement of poles and other equipment and the number of poles being replaced. SDG&E shall also demonstrate how such costs are incremental to other authorized pole replacement programs and how SDG&E is coordinating and optimizing pole inspection and replacement programs to avoid redundancies. In addition, in the next GRC, SDG&E shall perform cost benefit analyses to compare the costs and benefits of the use of wood poles compared to metal poles (with the additional data for the 2019–2022 period that was not reviewed in D.19-05-039), and to demonstrate how SDG&E has accounted for savings in using metal poles instead of wood poles.”), p. 188 (Ordering Paragraph No. 4).

⁶⁵ D.26-01-021, p. 59-60, p. 188 (Ordering Paragraph 6).

⁶⁶ D.26-01-021, p. 71 (“PCF identifies areas that require further examination. As a result, in its next GRC, if SDG&E requests cost recovery for any additional microgrid projects, SDG&E shall provide evidence of the energy source and cost-effectiveness of future microgrid projects.”), p. 188 (Ordering Paragraph 5).

⁶⁷ D.26-01-021, PD, p. 67 (“SDG&E shall provide data comparing the cost of renewable generator sources with the cost of non-renewable generator sources. Specifically, in SDG&E’s next GRC, SDG&E shall provide evidence of the following: the unit cost of generator and standby sources of power, including renewable options; and the distance at which grid hardening remote customers is unreasonable and standby power is recommended. The cost-effectiveness of such alternatives to grid hardening compared to standby, remote, and renewable sources should also be considered in SDG&E’s next Risk Assessment and Mitigation Phase proceeding.”)

⁶⁸ D.26-01-021, p. 67.

⁶⁹ D.26-01-021, p. 53-54.

- for covered conductor, the Decision states that the recovery for covered conductor is “reasonably disputed,” and called SDG&E’s lack of explanation for its covered conductor costs for “troubling,”⁷⁰ but allowed recovery of 81% of the covered conductor costs because of the prudent manager standard;⁷¹
- for Patrol Inspection of Distribution Equipment, the Decision acknowledges that SDG&E “combined imputed values” of multiple programs rather than provide the “baseline information to assess reasonableness”⁷² of the costs of each program; and that in future applications for recovery of these costs, SDG&E shall provide evidence regarding how inspection programs are coordinated to avoid duplication;⁷³
- for high fire threat district (HFTD) Tier 3 Distribution Pole Inspections, the Decision acknowledged that SDG&E’s capital costs were neither justified nor reasonable, and required SDG&E in the future to distinguish the O&M costs for inspections from the capital costs for repair or replacement of poles and other equipment,⁷⁴ but authorized some of the costs anyway.

Avoiding duplication, distinguishing between capital and O&M, and establishing that programs were prioritized based on cost-effectiveness were fundamental and essential elements of establishing reasonableness.

⁷⁰ D.26-01-021, p. 58

⁷¹ D.26-01-021, p. 54-58.

⁷² D.26-01-021, p. 111.

⁷³ D.26-01-021, p. 87, 90, 111 (“SDG&E provides little evidence that the above programs are coordinated to optimize efficiencies and avoid redundancies. In future applications for recovery of asset management and inspection costs and GRCs, SDG&E shall provide additional evidence regarding how inspection programs are coordinated to avoid or account for overlapping activity and associated O&M and capital costs. SDG&E shall also detail the staffing employed, their cost, and the justification for the additional cost in coordination with other inspection programs, including their risk benefit cost ratios. Such differences would be reasonable to compare with other inspection programs.”)

⁷⁴ D.26-01-021, p. 100, 181 (Conclusion of Law No. 7).

The Decision also required that in future WMPs, unlike in this proceeding, SDG&E must fully disclose the work and costs performed within and outside HFTDs.⁷⁵ SDG&E should have disclosed the costs within and outside the HFTD as part of its showing to recover money in *this* GRC request.

In summary, despite identified serious deficiencies in SDG&E's showing, the Commission approved most or all costs. The Decision must be revised to instead apply the statutory mandates in sections 8386.4 and 463, which require that all costs be just and reasonable. Unjustified or unreasonable costs **requires a mandatory disallowance** when the utility has not provided sufficient records for a reasonableness review.⁷⁶

Rather than repeating that SDG&E must do better in the next round, the Commission was required to deny the costs of the above programs because SDG&E failed to meet its burden of proof to show just and reasonableness.

C. The Commission Erred in Deeming Irrelevant the Crowe Audit Findings of SDG&E's Prior WMP Underspending.

The revisions to the PD published on January 14, 2026, substantially changed the Commission's analysis of and justifications for allowing SDG&E to receive \$240 million despite the OEIS Crowe audit's unrefuted finding that SDG&E failed to document whether and if so how it spent \$240 million in WMP spending that the Commission authorized in 2019.⁷⁷ The January 14th revisions to the PD added the following justification for the Commission to ignore the unrefuted findings that SDG&E failed to document that it spent \$240M in WMP spending authorized in 2019:

⁷⁵ D.26-01-021, p. 188 (Ordering Paragraph No 6).

⁷⁶ Pub. Util. Code, §§ 8386.4, subd. (a)(2), 463.

⁷⁷ A.22-05-015/016, Exhibit PCF-43 (Performance Audit).

[T]he Commission does not find the Crowe Audit findings and recommendations to be directly relevant to this proceeding for the following reasons: 1) the Crowe Audit's first recommendation pertained to SDG&E's WMPMA balance before it authorized SDG&E's 2021 Interim Relief Application, not the specific issues in this case; 2) the Crowe Audit reflects SDG&E's WMP costs as of December 31, 2020, and includes costs incurred from January to May of 2019, not a complete picture of SDG&E's Track 2 request.⁷⁸

Under this reasoning, about which no party comments were allowed, no independent audit finding need ever be considered by the Commission as all audits will not involve the "complete" picture of a utility's GRC application. In adopting this justification for ignoring the independent audit conclusions produced by OEIS, the Commission ignored material evidence, violated due process requirements of notice and allowing parties an opportunity to be heard, and failed to proceed in the manner required by sections 8386.4, 451, 454, and 463.

D. The Commission Erred in Admitting SDG&E's Supplemental Exhibit Filed After the Evidentiary Hearings and Briefing Were Closed.

The Decision should not have admitted SDG&E's Supplemental Exhibit because admitting the additional exhibit over PCF's objection was contrary to the Commission's Rules, the Public Utilities Code, and fundamental principles of due process. Eight months after the deadline for intervenor testimony, six months after the close of evidentiary hearings, and four months after completion of the briefing,⁷⁹ the ALJ issued an email ruling requiring SDG&E to submit supplemental exhibits demonstrating how it corrected the deficiencies and lack of support and documentation repeatedly identified by the Commission and OEIS over the course of many years.⁸⁰ The ruling allowed intervenors only 10 days to respond to the evidence, and PCF's

⁷⁸ D.26-01-021, p. 168-169.

⁷⁹ A.22-05-015/016, Email Ruling Granting Extension of Track 2 Evidentiary Hearing (July 26, 2024), p. 5; D.26-01-021, p. 38-39.

⁸⁰ A.22-05-015.016, Email Ruling Requiring Additional Evidence (February 18, 2025).

initial attempt to file objections in March were rejected.⁸¹

The Decision erred by admitting the Supplemental Exhibit because PCF and other intervenors were denied the opportunity to cross examine any SDG&E witnesses about the materials contained in the Supplemental Exhibit and because PCF did not agree to it.⁸² Rule 13.11 of the Commission's Rules allows the presiding officer in a proceeding to "require the production of further evidence upon any issue," but receipt of that evidence into the record may only occur "[u]pon agreement of the parties."⁸³ As the Commission correctly found, PCF did not agree.⁸⁴

Additionally, the Commission erred in overruling PCF's objections.⁸⁵ Among others, PCF objected because the Commission failed to comply with its own Rules and on due process grounds because PCF and other intervenors did not have the opportunity to cross examine witnesses about the additional materials.⁸⁶ Section 1705 requires that "[a]t the time fixed for any hearing before the commission," intervenors "shall be entitled to be heard and to introduce evidence,"⁸⁷ and fundamental principles of due process require that parties have a right to cross-examine witnesses to satisfy their right to be heard.⁸⁸ The Supreme Court has stated that "[i]n

⁸¹ A.22-05-015/016, The Protect Our Communities Foundation Response to June 20, 2025 Email Ruling Addressing Outstanding Exhibits (June 30, 2025), p. 2 & Attachment 1 (The Protect Our Communities Foundation Objections to Material Referenced by San Diego Gas & Electric Company on March 4 and March 5, 2025 dated March 14, 2025).

⁸² A.22-05-015/016, Email Ruling Admitting Outstanding Exhibits (July 21, 2025).

⁸³ Cal. Code Regs., tit. 20, § 13.11.

⁸⁴ D.26-01-021, p. 39.

⁸⁵ A.22-05-015/016, Email Ruling Admitting Outstanding Exhibits (July 21, 2025), p. 4-5.

⁸⁶ See A.22-05-015/016, The Protect Our Communities Foundation Response to June 20, 2025 Email Ruling Addressing Outstanding Exhibits (June 30, 2025), p. 1-3 & Attachment 1, p. 1-8 (The Protect Our Communities Foundation Objections to Material Referenced by San Diego Gas & Electric Company on March 4 and March 5, 2025 dated March 14, 2025).

⁸⁷ Pub. Util. Code, § 1705.

⁸⁸ U.S. Const. Amend. XIV; Cal. Const. Art. 1, § 7; *California Trucking Assn. v. Public Utilities Com.* (1977) 19 Cal.3d 240, 244 (opportunity to present written objections fails to provide required opportunity

almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses,” including “in all types of cases where administrative actions were under scrutiny.”⁸⁹ The Commission failed to comply with Rule 13.11 of its own procedural rules, section 1705, and basic due process requirements.

VII. CONCLUSION

PCF requests that the Commission grant this application for rehearing and correct the legal errors identified above.

Respectfully submitted,

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to be heard); *Caesar's Restaurant v. Industrial Accident Com.* (1959) 175 Cal.App.2d 850, 855 (“The right to [a fair and open hearing] is one of ‘the rudiments of fair play’[] assured to every litigant by the Fourteenth Amendment as a minimal requirement.[] The reasonable opportunity to meet and rebut the evidence produced by his opponent is generally recognized as one of the essentials of these minimal requirements”).

⁸⁹ *Goldberg v. Kelly* (1970) 397 U.S. 254, 269-270.