~~STATE OF CALIFORNIA~~ ~~GAVIN NEWSOM, *Governor*~~

~~PUBLIC UTILITIES COMMISSION~~

~~505 VAN NESS AVENUE~~
~~SAN FRANCISCO, CA 94102-3298~~

~~August 3, 2021~~ **~~Agenda ID #19760~~**
~~Ratesetting~~

~~TO PARTIES OF RECORD IN RULEMAKING 13-11-005:~~

~~This is the proposed decision of Administrative Law Judge (ALJ) Julie A. Fitch. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's September 9, 2021 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.~~

~~Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.~~

~~The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).~~

~~/s/ MICHELLE COOKE for~~
~~Anne E. Simon~~
~~Chief Administrative Law Judge~~

~~AES:jnf~~
~~Attachment~~

ALJ/JF2/jnf **PROPOSED DECISION** **Agenda ID #19760 (Rev. 1)**
Ratesetting
Item #9

Decision **PROPOSED DECISION OF ALJ FITCH (Mailed 8/3/2021)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues.	Rulemaking 13-11-005

ADOPTION OF SETTLEMENT AGREEMENT ON SAN DIEGO GAS & ELECTRIC COMPANY'S UPSTREAM LIGHTING PROGRAM 2017-2019

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ADOPTION OF SETTLEMENT AGREEMENT ON SAN DIEGO GAS & ELECTRIC COMPANY'S UPSTREAM LIGHTING PROGRAM 2017-2019

Summary

This decision approves a settlement agreement between San Diego Gas & Electric Company (SDG&E), the Public Advocates Office of the California Public Utilities Commission, and The Utility Reform Network, related to SDG&E's administration of an upstream lighting energy efficiency program between 2017 and 2019.

The settlement agreement provides for refunds to SDG&E customers in the amount of $45.44 million, a return to customers of $6.162 million in shareholder awards associated with the program, and a fine in the amount of $5.5 million for SDG&E knowingly submitting inaccurate information to the California Public Utilities Commission. In addition, if SDG&E pursues recovery of additional funds from manufacturers who participated in the program and violated its terms, 33 percent of any amount collected from those manufacturers will be returned to SDG&E customers. Finally, SDG&E will conduct whistleblower training within one year of this decision, at shareholder expense.

This proceeding remains open.

1. Background

The upstream lighting program from 2017 through 2019 was one of a number of energy efficiency programs managed by the investor-owned utilities (IOUs), including San Diego Gas & Electric Company (SDG&E), designed to produce cost-effective energy savings. The program was designed to encourage the purchase and installation of residential energy efficient light bulbs by offering incentives in the form of rebates to manufacturers, that would then be passed on as discounts to purchasing retailers and eventually to retail customers.

In 2017, the program emphasis was shifted to target hard-to-reach retail locations, such as small, independent grocery stores, drug stores, and discount shops, instead of only "big box" stores, which were previously the more typical retail partners. This shift was designed to serve customers who may not otherwise typically purchase efficient light bulbs. At the same time, when the program emphasis was changed, it was generally acknowledged that smaller retail locations did not maintain as detailed sales records for their inventory as the larger "big box" stores. Therefore, manufacturers were given the option to invoice the IOUs with shipment data rather than sales data.

The modified program was evaluated for the first time in an impact evaluation report, the final version of which was published on April 1, 2019, by DNL GL Energy Insights USA, Inc. (DNV GL), titled "Upstream and Residential Downstream Lighting Impact Evaluation Report: Lighting Sector – Program Year 2017."[1] The impact evaluation was conducted under a contract to the California Public Utilities Commission (Commission), with oversight from the Commission's Energy Division, as part of the evaluation, measurement, and verification (EM&V) framework for energy efficiency. Prior to the final version of the report being published, the draft version was presented at a public Quarterly EM&V meeting hosted by Commission staff on March 12, 2019, and SDG&E also provided a written response to the report on March 15, 2019.[2]

[1] The full report is available at: https://pda.energydataweb.com/api/view/2166/CPUC%20Group%20A%202017%20Upstream%20Lighting%20Impact%20Eval%20Report%20FINAL.pdf

[2] *See* SDG&E's response, available at the following link: https://pda.energydataweb.com/api/downloads/2146/SDGE%20Comments%20on%20Upstream%20Lighting_Impact_Eval_Draft%203-15-2019.pdf

In 2017, the lighting program made up 35 percent of SDG&E's reported energy savings.

The impact evaluation generally found that there were unusually large volumes of light bulbs shipped to many small stores in the SDG&E territory. SDG&E, in particular, shipped approximately five times as many bulbs in 2017 compared to 2015, the last year that the previous version of the program was studied. Looking only at discount and grocer stores, SDG&E's shipments had increased by nearly a factor of ten.

According to DNV GL, "these data reveal that the market could not have supported the volume of sales that the 2017 program data reported as shipped." Overall, DNV GL found that approximately 95 percent of SDG&E's program bulbs may not have been sold to customers and were likely overstocked or missing entirely.

After the evaluation, SDG&E engaged its own evaluator, funded by its shareholders, to conduct further assessment of what occurred in this program. This version of the upstream lighting program ran from 2017 through 2019, but was discontinued in this form after the 2019 program year.

On January 9, 2020, an assigned Administrative Law Judge's (ALJ) ruling was issued seeking comment on the upstream lighting program impact evaluation for 2017, as well as what remedies the Commission should order in response to its findings.

SDG&E filed a response to the January 9, 2020 ALJ ruling on January 31, 2020, asking for additional time to investigate and respond to the impact evaluation.

On April 3, 2020, another assigned ALJ ruling was issued setting new dates for responses to the 2017 impact evaluation, and also adding the 2018 program year evaluation to the scope of issues for responses. On June 8, 2020, SDG&E

filed a response to both ALJ rulings, stating, among other things, that SDG&E's own investigation also found significant issues with program oversight in 2017 and 2018. The investigation conclusions included the following, summarized from SDG&E's filed response:

- Manufacturers falsified invoices to SDG&E, and SDG&E paid manufacturers for bulbs that they never delivered or simply "dumped" on "hard to reach" retailers.
- The program rules required retailers to pay for inventory received from manufacturers. However, in many cases, retailers did not pay for or order bulbs, and SDG&E employees who were managing the program were aware of this program rule violation.
- SDG&E's internal controls for this program were either inadequate or not followed by program employees.
- For the 2017 upstream lighting program, SDG&E management was aware of SDG&E employees' concerns regarding the manufacturers' overstatement of the quantity of bulbs, but still filed reports with the Commission without adjusting quantities or noting their concerns.
- After becoming aware of the many aforementioned issues in early 2018, SDG&E employees continued to approve invoice packages that were incomplete, and they continued to pay manufacturers despite the fact that SDG&E was not performing any contemporaneous inspections to verify the delivery of the bulbs. Several program employees urged contemporaneous inspections moving forward in 2018 and were ignored.
- In 2019, SDG&E management was aware of employee concerns regarding the alleged quantities of bulbs delivered during the 2018 program, as well the DNV GL April 1, 2019 impact evaluation report, which concluded that the quantities delivered to the "hard to reach" retailers were overstated by as much as 95 percent in 2017. However, the management-level employees filed a report with the Commission without performing any

investigation and without adjusting the quantities or noting any concerns.

- There appear to be significant overstatements of quantities of bulbs delivered for 2017, 2018, and 2019.
- The investigation team did not find evidence that any SDG&E employee engaged in fraud or personally benefitted from the above-referenced issues.

SDG&E, in its filed response of June 8, 2020, characterizes these conclusions as "very serious," and also describes actions it took in response to the findings, including all of the following:

- disciplining employees or separating them from employment,
- conducting audits and inspections;
- conducting program administration training;
- strengthening processes for invoice review and payment;
- developing and strengthening processes for onboarding new vendors and contractors;
- instituting additional monitoring processes; and
- developing protocols in case of contractor non-compliance with program rules.

During the Summer and Fall of 2020, SDG&E engaged with the Public Advocates Office of the California Public Utilities Commission (Cal Advocates) and The Utility Reform Network (TURN) in negotiations for a settlement of these issues. These discussions culminated in the filing of a joint motion for Commission adoption of a settlement agreement associated with SDG&E's failure to prudently manage its upstream lighting program in years 2017-2019. The joint motion was filed on December 9, 2020.

Small Business Utility Advocates (SBUA) filed comments in response to the settlement agreement on January 8, 2021. The settling parties jointly filed reply comments to SBUA on January 25, 2021.

2. Settlement Agreement

The settlement agreement filed jointly by motion on December 9, 2020, by SDG&E, Cal Advocates, and TURN (collectively: the "settling parties"), is designed to settle any issues with the upstream lighting program of SDG&E during 2017-2019. The motion also states that the agreement resolves all issues in response to both the January 9, 2020, and April 3, 2020 ALJ rulings in this proceeding.

The settlement agreement has several aspects, summarized in this section.

2.1. Acknowledgement

The settlement agreement includes SDG&E acknowledgement of failure to prudently manage the upstream lighting program in 2017-2019 and admission of knowingly submitting inaccurate information, compliance documents, and other reports to the Commission.

2.2. Refunds

Included in the settlement agreement are the following details with respect to refunds to SDG&E ratepayers.

- Program refund of $45.440 million in shareholder funds to SDG&E ratepayers for funds spent on the upstream lighting program 2017-2019. This refund will be credited to the Post-1997 Electric Energy Efficiency Balancing Account and then refunded to ratepayers as part of SDG&E's next Consolidated Rate Filing.
- Shareholder incentive award refund of $6.162 million in shareholder funds to ratepayers for awards SDG&E received, or was due to receive, as part of the efficiency savings and performance incentive (ESPI) mechanism, for the 2017, 2018, and 2019 program years. This refund will

be credited to the Rewards and Penalties Balancing Account and then refunded to ratepayers as part of SDG&E's next Consolidated Rate Filing.

- Tax treatment of refunds: For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. §162(f)(2)(A)(ii), the performance by SDG&E of the funds described above are restitution or required in order to come into compliance with the law.

2.3. Fine

The settlement agreement includes a fine of $5.5 million in shareholder funds for violation of Rule 1.1 of the Commission's Rules of Practice and Procedure, covering two violations committed by SDG&E when it knowingly submitted inaccurate information to the Commission in its: 1) 2017 Energy Efficiency Annual Report, filed on May 1, 2018, and 2) 2018 Energy Efficiency Annual Report, filed on May 1, 2019. These rule violations were considered continuous until June 8, 2020, when SDG&E filed its response to the ALJ rulings with the results of its external investigation of the program administration. The settling parties represent that the daily fine of approximately $4,677 is intended to reflect the five factors used by the Commission to set Rule 1.1 fines, including: 1) severity of the offense; 2) conduct of the utility; 3) the financial resources of the utility; 4) the totality of the circumstances; and 5) the role of precedent. SDG&E agrees to pay this fine to the General Fund of the State of California within 60 days of Commission approval of the settlement agreement.

2.4. Other Terms

In addition to the above terms, the settlement agreement also includes several other provisions, as follows:

- Cost of investigation: the cost of SDG&E's hiring of an outside investigator to investigate the 2017, 2018, and 2019 upstream lighting program, estimated at $1.5 million, will be borne by shareholders and not recovered from ratepayers.

- Recovery from manufacturers: If SDG&E pursues and recovers money from manufacturers for wrongdoing related to the program during the 2017, 2018, and 2019 program years, SDG&E ratepayers will be awarded 33 percent of any amount SDG&E is able to recover in litigation or settlement, after costs are accounted for.
- Terms to promote timely and effective employee whistleblower reporting, at shareholder expense:
  - Expand the information on the Sempra Energy Ethics and Compliance Helpline webpage.
  - Provide whistleblower training to all SDG&E employees and corporate employees whose costs are allocated in whole or in part to the utility.
  - Provide supplemental training on Commission Rule 1.1 and the importance of timely reporting of non-compliance issues.
  - TURN and Cal Advocates may advocate that the Commission expand its own whistleblower program, with applicability to all utilities.

3. Response to the Settlement Agreement

SBUA was the only party to file a response to the settlement agreement. SBUA generally agrees with the reasonableness of the settlement, but recommends some small amendments.

In particular, SBUA agrees with the purpose of the program modifications that were designed to address hard-to-reach customers, including small businesses, and contends that shortcomings in the administration of the program frustrated this purpose. Therefore, SBUA suggests that the Commission award any amounts recovered from manufacturers to ratepayers that qualify as "hard to reach" rather than to the ratepayer population as a whole. In addition, SBUA recommends that an additional 10 percent of any amount recovered in litigation or settlement with manufacturers be refunded to the public purpose programs fund in general, to help lower bills overall.

The settling parties' reply to SBUA suggests that the proposed modifications present logistical and practical considerations that could be addressed later, at such time when litigation has been pursued and proceeds recovered. The settling parties suggest that SDG&E meet and confer with other parties prior to filing an advice letter, as part of its consolidated rate riling or other filing, proposing a methodology for distributing any additional funds recovered in litigation or settlement with manufacturers to ratepayers~~, based on the current rate design at that time~~. Further, the settling parties suggest that SDG&E be asked to target distribution of those proceeds to "hard to reach" customers, to the extent practicable.

Further, the settling parties state that they understand the purpose behind SBUA's suggestion to increase the distribution of litigation recovery proceeds from 33 percent to 43 percent. However, they represent that they could not reach agreement on this suggested modification, and therefore propose that the Commission leave the 33 percent provision intact, as drafted.

4. Discussion

The Commission generally evaluates settlement agreements as a whole package, and favors their adoption if they are reasonable in light of the whole record, consistent with law, and in the public interest.[3] We generally favor adopting settlements without changes to avoid harm to the balance of interests

[3] *See* Rule 12.1(d) of the Commission's Rules of Practice and Procedure.

and compromises achieved in the settlement. In this section, we evaluate the settlement agreement in light of these criteria.

4.1. Reasonableness in Light of the Whole Record

In the case of the settlement agreement presented here, the record includes the 2017 and 2018 DNV GL Reports, incorporated by reference into the assigned ALJ rulings seeking comment.

In addition, SDG&E, Cal Advocates, and TURN all filed comments in response to the ALJ rulings. SDG&E's response filed on June 8, 2020, provides detail about the findings of the independent outside investigator retained by SDG&E to examine the program administration. Those findings were based on approximately 30 witness interviews and review of numerous documents.

The settlement takes into account the results of this in-depth investigation, as well as the comments of parties representing ratepayer interests.

The settlement includes refunds to ratepayers that cover both rebate amounts for unaccounted for light bulbs, as well as program administration costs incurred by SDG&E. In addition, the settlement includes a refund of ESPI awards that are associated with the savings from the volume of bulbs that are unaccounted for.

Based on the findings from the 2017 and 2018 DNV GL Reports, we find that the settlement amounts for refunds to ratepayers are reasonable in light of the full record before us.

4.2. Consistency with the Law

To determine if a settlement is consistent with the law, the Commission evaluates whether the settlement contravenes a statute or prior Commission decision. No party has suggested and we find no evidence that the settlement would be inconsistent wither either law or Commission precedent.

Here, the terms of the settlement also include fines for misleading the Commission, in violation of Rule 1.1 of the Rules of Practice and Procedure. The settlement was therefore also negotiated with consideration of the five factors the Commission uses to evaluate the appropriateness of sanctions, including: 1) severity of the offense; 2) conduct of the utility; 3) financial resources of the utility; 4) totality of the circumstances; and 5) the role of precedent.

As stated by the settling parties in their motion, here the findings of the investigator hired by SDG&E were significant. There was harm to the regulatory process, since SDG&E did not prudently manage the program and did not come forward to the Commission on its own to acknowledge the problems, as well as harm to SDG&E's credibility as a program manager. The harm to customers was economic, rather than a direct harm to public safety.

Once the initial ALJ ruling was issued, SDG&E management moved quickly to investigate, at shareholder expense, and cooperated fully with the outside investigation. SDG&E appears to have been thorough and transparent in its handling of the program since the 2017 DNV GL report findings, and has since ceased implementing the program in its 2017-2019 form. SDG&E also acknowledged responsibility for imprudent management and took steps to improve its processes.

In addition, the terms related to improving SDG&E's training about whistleblower complaints and Rule 1.1 requirements with the Commission should improve compliance with rules and regulations.

In terms of the financial resources of the utility, the total amount of refunds and penalties proposed in the settlement agreement of approximately $58.6 million is reasonably sized compared to the total SDG&E budget for the program and its size as the smallest of the three large investor-owned electric utilities in California.

With consideration of the totality of the circumstances associated with SDG&E's management of the upstream lighting program in 2017-2019, the settling parties represent that the problem, though serious, was not widespread, and was confined to a small group of employees reporting to a single director. In addition, there is no evidence of fraud or that any employee involved personally benefitted from the mismanagement of the program. Further, as mentioned above, the settlement includes provisions for training to prevent such circumstances from occurring in the future.

Finally, in terms of Commission precedent, the settling parties cite to several previous cases involving utility mismanagement and/or misrepresentation of facts to the Commission. The examples cited include a penalty to SCE related to performance-based ratemaking incentives, where the penalty was $80 million,[4] in a case involving misconduct that was widespread throughout the company and affected all ratepayers and employees. The settling parties also cite to Decision (D.) 16-01-015 where the Commission penalized Rasier-CA, LLC for failing to comply with a Commission decision setting forth reporting requirements for rideshare companies and violating Rule 1.1. In that case, the penalty was $7.6 million. In light of these examples, the fine included in the settlement for SDG&E in this settlement appears reasonable and in keeping with the levels of prior precedent.

For all of the above reasons, the settlement before us is consistent with the law and the Commission's criteria for adoption of sanctions.

[4] *See* D.08-09-038.

4.3. Public Interest

In the case of the settlement agreement before us here, it is supported by both Cal Advocates and TURN, two groups that routinely and effectively advocate for ratepayer interests before us. Their support alone is an indicator of the public interest of this settlement. In addition, the financial provisions of the settlement go a long way to restoring funding to ratepayers who did not receive the benefits of the program managed imprudently from 2017 through 2019. Finally, the provisions that obligate SDG&E to conduct additional training and put additional management checks and balances in place to prevent such mismanagement in the future, indicate that this settlement is in the public interest. For all of these reasons, we find that the settlement is in the public interest and should be adopted.

4.4. SBUA Recommendations

SBUA recommended two changes to the settlement agreement on the provisions related to litigation and possible recovery of funds from lighting manufacturers participating in the upstream lighting program. SBUA recommended that the proceeds be refunded directly to "hard to reach" customers instead of the total ratepayer population, and that the percentage to be returned to ratepayers be increased from 33 percent to 43 percent, if funds are recovered through litigation or settlement.

While we appreciate the spirit of the SBUA recommendations, which is to benefit the "hard to reach" customers that were intended to be targeted for participation in the upstream lighting program, we find that they are not necessary to achieve the benefits of the settlement agreement. Since all ratepayers paid for the costs of the program, refunds to general ratepayers are appropriate. And the percentage of award to ratepayers from any litigation proceeds is entirely discretionary and reflects only one provision of many in the settlement. Therefore, we will not disturb the balance achieved by the parties to the settlement by modifying this one provision. We do, however, encourage SDG&E to seek recovery of additional funds from manufacturers where possible and to distribute those additional funds to "hard to reach" customers, after meeting and conferring with interested parties on the method to accomplish this objective.

5. Comments on Proposed Decision

The proposed decision of ~~ALJs~~ALJ Fitch ~~and Kao~~ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on ~~________~~August 23, 2021 jointly by SDG&E, Cal Advocates, and ~~reply~~TURN. Reply comments were filed on ~~________ by ________~~August 30, 2021 by SBUA.

In joint comments, SDG&E, Cal Advocates, and TURN clarified that their intention with respect to meeting and conferring with parties interested in serving the "hard to reach" markets was focused on the distribution of any additional funds recovered from litigation or settlement with manufacturers. In reply comments, SBUA preferred the original formulation in the proposed decision, which had this "meet and confer" requirement applying to all of the funds in the settlement.

We have modified this decision in the manner requested by the joint settling parties. The "meet and confer" requirement is appropriate to apply only to any additional proceeds recovered from manufacturers, because the underlying program funding being refunded in the settlement agreement was already collected from all classes of ratepayers, and therefore should be returned in the same manner. Additional proceeds could be further directed to "hard to reach" customers, because those funds would be additional and are therefore discretionary as to how they are distributed. Revisions have therefore been made to the text of this decision to clarify the direction to SDG&E to meet and confer in the event that additional funds are collected from manufacturers.

6. Assignment of Proceeding

Genevieve Shiroma is the assigned Commissioner and Julie A. Fitch and Valerie U. Kao are the assigned Administrative Law Judges in this proceeding.

Findings of Fact

1. The upstream lighting energy efficiency program of SDG&E was modified in 2017 with an intent to try to reach previously-underserved residential market segments, by shipping efficient light bulbs to smaller and independent grocery, drug, and discount stores.

2. An impact evaluation of the 2017 upstream lighting program by DNV GL and another one in 2018 revealed significant numbers of missing or unaccounted-for light bulbs from small and independent grocery, drug, and discount stores that do not maintain as detailed inventory records as larger stores.

3. The market for efficient light bulbs in the SDG&E area in 2017 and 2018 could not have supported the volume of sales that were reported as shipped in the upstream lighting program of SDG&E in 2017 and 2018.

4. SDG&E's investigators found evidence that manufacturers falsified invoices to SDG&E for bulbs that were never delivered or were dumped on retailers.

5. SDG&E program managers were aware of program rule violations by some manufacturers.

6. SDG&E's internal controls for the upstream lighting program 2017-2019 were either inadequate or not followed by employees.

7. For the 2017 program, SDG&E management was aware of employees' concerns regarding the manufacturers' overstatement of the quantity of bulbs, but still filed reports with the Commission without adjusting quantities or noting their concerns.

8. In 2019, SDG&E management was aware of employee concerns regarding the alleged quantities of bulbs delivered during the 2018 program, as well as the DNV GL April 1, 2019 impact evaluation report, which concluded that the quantities delivered to the "hard to reach" retailers were overstated by as much as 95 percent in 2017. However, management-level employees filed a report with the Commission without performing any investigation and without adjusting the quantities or noting any concerns.

9. Quantities of bulbs shipped in 2017-2019 were overstated by significant amounts.

10. SDG&E's investigation team did not find evidence that any SDG&E employee engaged in fraud or personally benefitted from the issues found with the program administration.

11. SDG&E ratepayers paid for energy efficiency benefits from the upstream lighting program in 2017-2019 that did not materialize.

12. SDG&E received or was due to receive ESPI awards for upstream lighting program benefits in 2017-2019 that did not materialize.

13. SDG&E knowingly violated Rule 1.1 of the Commission's Rules of Practice and Procedure by filing its 2017 and 2018 energy efficiency program annual reports containing inaccurate information.

14. Once the January 9, 2020 assigned ALJ ruling was issued, SDG&E management moved quickly to investigate, at shareholder expense, and cooperated fully with the outside investigation.

15. SDG&E has acknowledged responsibility for imprudent management of the upstream lighting program 2017-2019 and has taken steps to improve its processes.

Conclusions of Law

1. The settlement agreement filed on December 9, 2020, jointly by SDG&E, TURN, and Cal Advocates is reasonable in light of the whole record of the SDG&E upstream lighting program issues 2017-2019 in this proceeding.

2. The settlement agreement is consistent with the law and should be adopted.

3. The penalty provisions of the settlement agreement are reasonable considering the severity of the offense, conduct of the utility, financial resources of the utility, totality of the circumstances, and the role of precedent and should be adopted.

4. The settlement agreement is in the public interest and should be adopted.

5. The modifications to the settlement agreement recommended by SBUA should not be adopted.

6. SDG&E should seek recovery of additional funds from manufacturers where possible.

7. For tax treatment of refunds, the performance by SDG&E of the refunds in the settlement agreement are restitution or required in order to come into compliance with the law, for purposes of the provisions of Section 162(f)(2)(A)(ii) of the Internal Revenue Code.

8. SDG&E should be required to meet and confer with representatives of hard-to-reach customer groups, including SBUA, prior to proposing a methodology in an advice letter for distribution of funds to ratepayers ~~associated with this order~~of amounts recovered in litigation or settlement with manufacturers, if any.

O R D E R

IT IS ORDERED that:

1. The Joint Motion of Settling Parties for Commission Adoption of Settlement Agreement filed December 9, 2020, by San Diego Gas & Electric Company, representing itself, The Utility Reform Network and the Public Advocates Office is hereby adopted.

2. San Diego Gas & Electric Company (SDG&E) shall comply with all aspects of the Settlement Agreement filed December 9, 2020, in this proceeding, including, but not limited to, the following key provisions:

(a) Refund $45.440 million in shareholder funds to SDG&E ratepayers by crediting the Post-1997 Electric Energy Efficiency Balancing Account and refunding to ratepayers as part of the next Consolidated Rate Filing;

(b) Refund $6.162 million in shareholder funds to ratepayers for awards SDG&E received, or was due to receive, as part of the efficiency savings and performance incentive mechanism, by crediting the Rewards and Penalties Balancing Account and refunding to ratepayers as part of the next Consolidated Rate Filing;

(c) Pay $5.5 million in fines to the General Fund of the State of California as further directed in Ordering Paragraph 3;

(d) Cover the costs of SDG&E's hiring of an outside investigator with shareholder funds not recovered from ratepayers;

(e) Award 33 percent of any funds recovered from lighting manufacturers, after costs are accounted for, to SDG&E

ratepayers by crediting the Post-1997 Electric Energy Efficiency Balancing Account and refunding to ratepayers as part of the next Consolidated Rate Filing;

(f) Expand information on the Sempra Energy Ethics and Compliance Helpline webpage at shareholder expense;

(g) Provide whistleblower training, at shareholder expense, to all SDG&E employees and corporate employees whose costs are allocated in whole or in part to the utility, within one year of the issuance of this decision; and

(h) Provide supplemental training, at shareholder expense, on Commission Rule 1.1 and the importance of timely reporting of non-compliance issues within one year of the issuance of this decision.

3. San Diego Gas & Electric Company (SDG&E) shall, within 60 days of the issuance of this order, pay $5.5 million in fines by check or money order payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102. SDG&E shall write on the face of the check or money order "For deposit to the General Fund per Decision in Rulemaking 13-11-005."

4. San Diego Gas & Electric Company shall meet and confer with representatives of hard-to-reach customers, including, but not necessarily limited to, the Public Advocates Office, The Utility Reform Network, and Small Business Utility Advocates, prior to making its Consolidated Rate Filing or advice letter proposing the methodology for distribution of credits to customers associated with ~~this order~~amounts recovered in litigation or settlement with manufacturers, if any.

5. Rulemaking 13-11-005 remains open.

This order is effective today.

Dated _____________________________, at San Francisco, California.

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