

STATE OF CALIFORNIA

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

October 27, 2021

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**-Agenda ID #20010  
Ratesetting**

~~TO PARTIES OF RECORD IN APPLICATION 17-09-005:~~

~~This is the proposed decision of Administrative Law Judge Lau. 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 December 2, 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/ ANNE E. SIMON~~

Anne E. Simon

Chief Administrative Law Judge

AES:mph

~~Attachment~~ALJ/EC2/mph **PROPOSED DECISION** Agenda ID #20010 **(Rev. 1)**

**Ratesetting**

**12/2/2021 Item #6**

~~X.XX XX XXX ^^^/^^^/^^^~~ **PROPOSED DECISION**

Decision **PROPOSED DECISION OF ALJ LAU (Mailed 10/27/2021)**

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

Application of San Diego Gas & Electric Company (U902M) for Authority to Implement Rate Relief and Increase Spend in Support of the San Diego Unified Port District's Energy Management Plan.

Application 17-09-005

**DECISION MODIFYING DECISION 19-12-022 TO EXTEND THE SAN DIEGO UNIFIED PORT DISTRICT'S CURRENT LEVEL OF RATE DISCOUNT**

## Summary

This decision grants in part and denies in part the Petition for Modification of Decision (D.) 19-12-022.

This decision grants an extension of the discount the San Diego Unified Port District (Port) currently receives on its non-coincident demand charge until either June 1, 2022, or the ~~issuance of the decision resolving~~ [implementation of the Maritime Rate that San Diego Gas & Electric Company \(SDG&E\) is requesting in](#) Application (A.)20-12-009, whichever is sooner. The Port currently receives an 80 percent discount on its non-coincident demand charge. The 80 percent discount is set to decrease to 70 percent on January 1, 2022, pursuant to D.19-12-022.

An extension of the Port's current level of discount gives the Port rate stability within the short period of time between January 1, 2022, when the Port's discount is set to decrease, and when the Maritime Rate is implemented. The Maritime Rate, which the Commission is reviewing in A.20-12-009, is a long-term electric rate for the Port that more closely aligns with its costs of service than its current electric rate. The extension of the discount is only for a short period of time, approximately six months, to limit the amount of costs that ~~San Diego Gas & Electric Company's~~ (SDG&E) ratepayers will have to pay to subsidize the Port for the discount.

This decision denies without prejudice the request in the Petition for Modification to authorize a one-time bill adjustment related to the implementation of the Maritime Rate for the Port. Because the record in this current proceeding does not contain any data or evidence related to the Maritime Rate, this proceeding is not the appropriate forum to address the requested bill adjustment.

This proceeding is closed.

## 1. Background

On April 14, 2021, San Diego Gas & Electric Company (SDG&E), the San Diego Unified Port District (Port), and the Public Advocates Office (Cal Advocates) filed a Joint Petition for Modification (PFM) of Decision (D.) 19-12-022. In the PFM, the Petitioners request that the Commission suspend the Five-Year Rate Plan approved in D.19-12-022 such that the Port can continue to receive its 80 percent non-coincident demand charge discount until the Commission approves a Maritime Rate for the Port in Application (A.)20-12-009. The Petitioners also request a one-time bill adjustment for the difference between the Port's bills since January 1, 2022, and the bills that would be charged under the Maritime Rate, if the Port's discounted rate is higher than the adopted Maritime Rate.

No protests or responses were submitted to the PFM.

### 1.1. Decision 19-12-022

D.19-12-022 adopted a Five-Year Rate Plan to help the Port gradually transition from the Small Commercial customer rate to a Medium and Large Commercial and Industrial customer rate by providing a discount to the Port's non-coincident demand charges. The discount gradually declines after each year, over the five-year term of the Rate Plan. Currently, for the year 2021, the Port is in Year 2 of the Rate Plan and is receiving a discount of 80 percent on its non-coincident demand charge. On January 1, 2022, the Port will enter Year 3 of the Rate Plan, during which its non-coincident demand charge discount will decrease to 70 percent.

D.19-12-022 also directed SDG&E to coordinate with parties to develop a long-term Maritime Rate for the Port.

### 1.2. **A.20-12-009 Seeks Approval of a Maritime Rate**

On December 18, 2020, SDG&E filed A.20-12-009 to seek approval of a long-term Maritime Rate for the Port. The Maritime Rate that SDG&E proposed seeks to set specific transmission rates for the Port. Transmission rates, however, are under the jurisdiction of the Federal Energy Regulatory Commission (FERC).

On May 26, 2021, the assigned Administrative Law Judge (ALJ) issued an email ruling to suspend the procedural schedule for A.20-12-009. The ruling also directed SDG&E to seek approval of the Maritime Rate from FERC first before seeking approval from the Commission.

### 1.3. **Submission of the FERC filing**

On July 29, 2021, SDG&E submitted to FERC a filing (ER21-2540-000) seeking approval to amend its Transmission Owner Tariff so that a Port-specific Maritime Rate can be created. In the filing, SDG&E requested an effective date of January 1, 2022.

## 2. **Cal Advocates' Motion to Strike its Name from the PFM**

On June 24, 2021, Cal Advocates filed a motion to strike its name from the Joint Petition for Modification. Cal Advocates states that, because the proceeding in A.20-12-009 was suspended, it no longer supports the requests in the PFM. Cal Advocates is concerned about the uncertainty of the length of time the discount would be extended.

No parties filed a response to Cal Advocates' motion.

Cal Advocates' motion to strike its name from the PFM is granted. From hereafter, the Petitioners in the PFM shall consist only of SDG&E and the Port and shall no longer include Cal Advocates.

### 3. Parties' Updated Position on the Petition for Modification

On July 14, 2021, the assigned Administrative Law Judge issued an [email-mail](#) ruling directing parties to provide clarification on their respective positions on the PFM.

On August 2, 2021, Cal Advocates filed a response, indicating that they now oppose the PFM. They request that the Commission deny the requests in the PFM, arguing that the requests are no longer necessary because FERC should have sufficient time to approve the Maritime Rate before January 1, 2022.

On the same day, SDG&E and the Port also filed a response (Joint Response), in which they argue that, even though the proceeding is suspended, the relief requested in the PFM is still necessary unless the Maritime Rate is approved by FERC and the Commission by January 1, 2022. SDG&E and the Port assert that, absent the relief requested, the Port would experience a significant bill increase on January 1, 2022. The bill increase, according to SDG&E and the Port, would exacerbate the economic hardship the current COVID-19 pandemic brought to the Port, the cruise business, and the overall economy in San Diego. SDG&E and the Port also argue that denial of the suspension request will give the Port rate volatility, because the Maritime Rate is expected to be approved before or shortly after the January 1, 2022 rate increase.

#### 3.1. Revisions to the Requested Modifications

In their Joint Response, SDG&E and the Port revised the requested modifications to D.19-12-022 to reflect the current circumstances, in which SDG&E has submitted a filing to FERC to seek approval of the Maritime Rate

since July 2021. Below are the revised ordering paragraphs that SDG&E and the Port request to add in D.19-12-022:<sup>1</sup>

1. The Adopted 5-Year Rate Plan Table on page 20 of Decision 19-12- 022 shall be suspended, and the discount rate set to 80% when the Commission issues a Scoping Memo in Application 20-12-009. The 80% discount rate shall remain in effect until San Diego Gas & Electric Company receives any necessary approval from the Federal Energy Regulatory Commission to implement the new long-term Maritime Rate and such rate is implemented.
2. In the event that the Maritime Rate is approved and implemented by FERC after January 1, 2022, SDG&E will indicate in a Tier 1 Advice Letter submitted to implement the adopted Maritime Rate whether a one-time bill credit equal to the difference between Port bills based on the 80% non-coincident demand charge discount and the adopted Maritime Rate, assuming this difference is positive, will be provided to the Port. The one-time bill credit difference will be calculated from the period January 1, 2022 until the adopted Maritime Rate is implemented, billed and provided to the Port.

#### **4. Procedural Requirements Under Rule 16.4**

Rule 16.4 of the Commission's Rules of Practice and Procedure governs the process for filing and consideration of a petition for modification.

Rule 16.4(b) requires that a petition for modification concisely state the justification for the proposed relief and propose specific wording for all requested modifications. The Petitioners assert that the extension of the discount is necessary to avert financial harm of a bill increase for the Port on January 1, 2022, particularly since the expected rate increase would exacerbate the devastating economic impacts the COVID-19 pandemic has brought to the

<sup>1</sup> Response of San Diego Unified Port District and San Diego Gas & Electric Company to ALJ Ruling Directing Parties to Provide Clarification on the Petition for Modification, Appendix A.

Port, the cruise industry, and the San Diego region. The Petitioners also argue that the suspension of the discount is necessary to give the Port rate stability until the approval of the Maritime Rate. The Petitioners proposed specific wording for the requested modifications, which they later updated in a Joint Response by SDG&E and the Port. (See Section 3.1, Revisions to the Requested Modifications.)

Rule 16.4(d) requires petitioners to file and serve petitions for modification within one year of the effective date of a decision. If more than one year elapses before a petitioner files a PFM, the petitioner must explain why the PFM could not have been presented within one year of the effective date of the decision.

In the PFM, the Petitioners explain that the need for a suspension of the discount became apparent only after A.20-12-009 was filed. In A.20-12-009, SDG&E requested that the Maritime Rate be implemented by January 1, 2022, before the Port's 80 percent non-coincident demand charge discount drops to 70 percent.<sup>2</sup> After discussions at the prehearing conference for A.20-12-009, the Petitioners determined that the Maritime Rate may not be approved by January 1, 2022, and that a PFM to suspend the Port's current level of discount was necessary.

We find that the Petitioners provided adequate justifications as to why the PFM was filed more than one year after the issuance of D.19-12-022, and that the PFM is in compliance with Rule 16.4.

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<sup>2</sup> Application 20-12-009 at 9.



## 5. Discussion

We grant in part and deny in part the Petitioners' requested modifications to D.19-12-022.

We grant the suspension of the Five-Year Rate Plan such that the Port will continue to receive an 80 percent discount on its non-coincident demand charge until June 1, 2022, or the ~~date of issuance~~[implementation](#) of the ~~decision resolving A.20-12-009~~[Maritime Rate](#), whichever is sooner. We deny without prejudice the request for a one-time adjustment on the Port's electric bill equal to the difference between the Port's bills since January 1, 2022, and the bills the Port would be charged under the Maritime Rate for this same period, if this difference is positive.

### 5.1. **The Port should have rate stability until the approval of its Maritime Rate.**

The Petitioners assert that, absent the rate relief requested, the Port would experience significant financial harm from the rate increase on January 1, 2022, which would further exacerbate the economic damages the Port has been experiencing because of the current COVID-19 pandemic. In July 2021, SDG&E submitted a filing (ER21-2540-000) to FERC to seek transmission rate design changes in order to implement the Maritime Rate. SDG&E and the Port expect FERC to approve the filing soon, before or shortly after January 1, 2022.<sup>3</sup>

If the Maritime Rate is ~~approved~~[implemented](#) shortly after January 1, 2022, the Port would experience significant rate volatility over the short period of time between January 1, 2022, when the Port's discount is set to decrease, and when the Maritime Rate is implemented. Extending the Port's current level of discount over this short period of time will give the Port the rate stability that it needs,

<sup>3</sup> Response of San Diego Unified Port District and San Diego Gas & Electric Company to ALJ Ruling Directing Parties to Provide Clarification on the Petition for Modification at 3.

particularly since the Port has been experiencing economic challenges resulting from the COVID-19 pandemic.

But the extension of the Port's discount comes at a cost to the rest of SDG&E's ratepayers who are providing the Port a subsidy for the discount. This rate subsidy issue has been considered in D.19-12-022 in which the Commission had to balance between the Port's rate stability and the costs to ratepayers who are paying for the Port's discounts.<sup>4</sup> We share Cal Advocates' concerns that, without knowing how long FERC will take to resolve the filing, there is uncertainty in how long the 80 percent discount will be extended.

To give the Port rate stability, while limiting the amount of subsidy that ratepayers will provide the Port, we extend the Port's current level of discount, which is 80 percent off its non-coincidental demand, for a short period of time. Because SDG&E expects FERC to approve the Port's Maritime Rate by January 1, 2022, we expect that A.20-12-009 would be resolved shortly thereafter, or within a few months following the approval of the FERC filing. It is therefore reasonable to set the end date for the Port's current 80 percent discount to June 1, 2022, approximately 18 months after A.20-12-009 was filed, or ~~the issuance of a decision resolving A.20-12-009,~~[when the Maritime Rate is implemented](#), whichever is sooner.

**5.2. A Petition for Modification of D.19-12-022 is not an appropriate forum to address the request for one-time bill credit for the Port.**

The Petitioners request that D.19-12-022 be modified to give the Port a one-time bill adjustment of the difference between the Port's bills since January 1, 2022, and the bills the Port would have been charged under the

<sup>4</sup> D.19-12-022 at 18-19, Finding of Facts 11, 12, and 13.

Maritime Rate during this period, if the Port's current electric rate is higher than the adopted Maritime Rate. Because the record of this proceeding does not contain any data or evidence related to the Maritime Rate, and the requested bill adjustment is related to the implementation of the Maritime Rate, a petition for modification of D.19-12-022 is not the appropriate forum for such a request.

Therefore, the request to modify D.19-12-022 to give the Port a one-time bill adjustment related to the Maritime Rate is denied without prejudice. The Petitioners may consider seeking such a request in the currently open proceeding, A.20-12-009, in which SDG&E is seeking approval to implement the Maritime Rate.

## 6. Adopted Modifications to D.19-12-022

Based on the discussions above, the following new ordering paragraph shall be added to D.19-12-022:

The "Adopted Five-Year Rate Plan" set forth in section 4.2 of this decision is suspended effective January 1, 2022 until the earlier of June 1, ~~2022 or the issuance of a decision resolving Application 20-12-009, 2022, or the implementation of the Maritime Rate~~, [2022, or the implementation of the Maritime Rate](#), whichever is sooner. The San Diego Unified Port District shall continue to receive an 80 percent discount on its non-coincident demand charges until the end of this suspension period.

## 7. Comments on Proposed Decision

The proposed decision of the ALJ 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 \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_ SDG&E filed comments on November 16, 2021. No parties filed reply comments. The~~

[proposed decision was modified to reflect the Applicant's comments where it was appropriate.](#)

## **8. Assignment of Proceeding**

Marybel Batjer is the assigned Commissioner and Elaine Lau is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. D.19-12-022 adopted a Five-Year Rate Plan to help the Port gradually transition from the Small Commercial customer rate to a Medium and Large Commercial and Industrial customer rate by providing a discount on the Port's non-coincident demand charges. This discount gradually decreases each year over the five-year period of the Rate Plan.
2. On January 1, 2022, the Port's discount will decrease from 80 percent to 70 percent, which will increase the Port's electric bills.
3. An increase in the Port's electric bill would exacerbate the financial hardship it is currently experiencing from the COVID-19 pandemic.
4. On December 18, 2020, pursuant to D.19-12-022, SDG&E filed A.20-12-009 to seek approval of a long-term Maritime Rate for the Port.
5. To implement the proposed Maritime Rate, SDG&E seeks to set specific transmission rates for the Port. Rate designs for transmission rates are under the jurisdiction of FERC.
6. On May 26, 2021, the assigned ALJ issued an email ruling that suspended the procedural schedule for A.20-12-009 and directed SDG&E to seek approval of the Maritime Rate from FERC first before seeking approval from the Commission.

7. On July 29, 2021, SDG&E submitted a filing (ER21-2540-000) to FERC to seek approval of the Maritime Rate and requested an effective date of January 1, 2022.

8. SDG&E and the Port expect FERC to approve the Maritime Rate soon, before or shortly after January 1, 2022.

9. If the Maritime Rate is ~~approved~~[implemented](#) shortly after January 1, 2022, the Port would experience significant rate volatility over the short period of time between January 1, 2022, when the Port's discount is set to decrease, and when the Maritime Rate is implemented.

10. Extending the Port's current level of discount (80 percent), over a short period of time will give the Port the rate stability that it needs, particularly since the Port has been experiencing economic challenges resulting from the COVID-19 pandemic.

11. The extension of the Port's discount comes at a cost to the rest of SDG&E ratepayers who are providing the Port a subsidy for the discount.

12. A.20-12-009 is expected to be resolved shortly, or within a few months following FERC's approval of the Maritime Rate.

13. The record of this proceeding does not contain any data or evidence related to the Maritime Rate.

14. The requested bill adjustment is related to the implementation of the Maritime Rate.

15. On June 24, 2021, Cal Advocates filed a motion to strike its name from the Joint Petition for Modification, stating that Cal Advocates no longer supports the PFM because the proceeding in A.20-12-009 was suspended and it is concerned about the uncertainty of the length of time the discount would be extended.

16. No parties filed a response to Cal Advocates' motion.

17. The Petitioners did not file the PFM within one year of the effective date of the decision because the need for a suspension of the discount became apparent only after A.20-12-009 was filed and it was determined that the Maritime Rate application may not be resolved by January 1, 2022, when the Port's discount is set to decrease.

18. Without the PFM, the Port's bill would increase on January 1, 2022, and the Port would experience significant rate volatility over a short period of time if the Maritime Rate is ~~approved~~[implemented](#) shortly after January 1, 2022.

### **Conclusions of Law**

1. To give the Port rate stability, while limiting the amount of subsidy that ratepayers will provide the Port, it is reasonable to extend the Port's current level of discount, which is 80 percent off its non-coincidental demand charges, for a short period of time.

2. It is reasonable to set the end date for the Port's current 80 percent discount to June 1, 2022, approximately 18 months after A.20-12-009 was filed, or the ~~issuance of a decision resolving A.20-12-009~~[implementation of the Maritime Rate](#), whichever is sooner.

3. A PFM of D.19-12-022 is not the appropriate forum to request a bill adjustment for the Port related to the Maritime Rate.

4. The request to modify D.19-12-022 to authorize a bill adjustment for the Port related to the Maritime Rate should be denied without prejudice.

5. Cal Advocates' motion to strike its name from the PFM should be granted.

6. Rule 16.4(d) requires petitioners to file and serve petitions for modification within one year of the effective date of a decision or explain why the petition for modification could not be filed within the one-year period.

7. The Petitioners provided adequate justifications as to why the PFM was filed more than one year after the issuance of D.19-12-022.

8. The PFM is in compliance with Rule 16.4.

### **O R D E R**

**IT IS ORDERED** that:

1. The following ordering paragraph shall be added to D.19-12-022 as Ordering Paragraph 10:

The “Adopted Five-Year Rate Plan” set forth in section 4.2 of this decision is suspended effective January 1, 2022 until the earlier of June 1, 2022 or the ~~issuance of a decision resolving Application 20-12-009~~, [implementation of the Maritime Rate](#), whichever is sooner. The San Diego Unified Port District shall continue to receive an 80 percent discount on its non-coincident demand charges until the end of this suspension period.

2. The motion of the Public Advocates Office to strike its name from the Petition for Modification of Decision 19-12-022 is granted.

3. The request in the Petition for Modification of Decision 19-12-022 to authorize a one-time bill adjustment for the San Diego Unified Port District is denied without prejudice.

4. Application 17-09-005 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

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