

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

**ENERGY DIVISION**

**Agenda ID #24032**  
**RESOLUTION E-5411**  
**March 19, 2026**

**R E S O L U T I O N**

Resolution E-5411. San Diego Gas & Electric Company's Request for Commission Review of CPUC Staff's Disposition of its Advice Letter 4475-E - Request to Establish a Memorandum Account to Track Incremental Administrative and/or Procurement Costs During a Provider of Last Resort Mass Involuntary Return of Customers

**PROPOSED OUTCOME:**

- This Resolution denies San Diego Gas & Electric Company's (SDG&E) Request for Commission Review of CPUC Staff's Disposition of Advice Letter (AL) 4475-E, which sought to Establish a Memorandum Account to Track Actual Incremental Administrative and/or Procurement Costs During a Mass Involuntary Return of Customers to Provider of Last Resort Service Pursuant to Decision (D.) 24-04-009.

**SAFETY CONSIDERATIONS:**

- There are no safety considerations associated with this Resolution.

**ESTIMATED COST:**

- There are no costs associated with this Resolution.

On January 21, 2025 SDG&E filed a request for Commission review of ED's January 10, 2025 disposition of SDG&E AL 4475-E.

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**SUMMARY**

This Resolution addresses San Diego Gas & Electric Company's (SDG&E) request for review of CPUC staff's denial of SDG&E Advice Letter (AL) 4475-E, through which SDG&E sought to open a memorandum account to track actual incremental

administrative and/or procurement costs during a mass involuntary return of customers to Provider of Last Resort (POLR) service. While we decline to review CPUC staff's denial of SDG&E's request to immediately open a memorandum account, we clarify that the AL to be submitted in the event of an involuntary return shall be classified as Tier 1.

The Commission staff denied SDG&E AL 4475-E by non-standard disposition letter (Disposition) on January 10, 2025. The disposition stated that SDG&E AL 4475-E on the basis that it did not conform with D.24-04-009, which authorized the utility, acting in its role as POLR, to open a memorandum account during an involuntary return. The Decision was the result of a proceeding, Rulemaking (R.) 21-03-011, which considered a number of issues related to POLR service.

SDG&E requested Commission review of the CPUC staff's Disposition of AL 4475-E on January 21, 2025. This Resolution addresses that reconsideration request and affirms the previous staff disposition to deny SDG&E's request to approve AL 4475-E. This Resolution provides clarification of the conditions under which a POLR shall file a Tier 1 AL to establish a memorandum account in the event of a mass involuntary return of customers.

## **BACKGROUND**

Public Utilities (P.U.) Code Section 394.25(e) establishes that in the event of an involuntary return of customers to POLR service, a reentry fee may be assessed to avoid imposing costs on other customers. The Commission originally established a methodology to calculate the financial security requirement (FSR) in D. 18-05-022 for Community Choice Aggregators (CCA) prior to the enactment of POLR legislation. The FSR is a financial instrument that ensures that a (CCA) has funds available to cover the costs of involuntarily returning their customers to the POLR in the event that the CCA fails. The Commission determined that CCA customers should not be exposed directly to market prices, but instead should be returned to the IOU's bundled service rate, and the incremental procurement costs should be forecast to calculate reentry fees, using the same method used to calculate FSRs.

The process for implementing involuntary returns and calculating reentry fees was adopted in Resolution (Res.) E-5059, implementing the requirements set in D.18-05-022. Res. E- 5059 permitted investor owned utilities (IOUs) to file a Tier 1 AL to create a memorandum account as a temporary measure to track administrative costs of returning customers until the Commission gave further guidance, specifically because the issue of who is responsible for reentry fees that exceed the financial security requirement was not yet decided.

Subsequently, SB 520 (Hertzberg, 2019) enacted P.U. Code Section 387 directing the Commission to adopt a Provider of Last Resort (POLR) framework. As directed by SB 520, the CPUC adopted the POLR framework in D.24-04-009, which among other things, adopted updates to the existing cost recovery mechanisms and processes governing POLR service during a mass involuntary return of customers. D.24-04-009 considered whether to maintain the calculation of reentry fees as a forecasted calculation from the FSR, as originally adopted in D.18-05-022, or to track incremental procurement costs. To avoid cost-shifting, D.24-04-009 considered a CPUC staff proposal that identified alternative options to the default FSR-reentry fee. These alternatives were (1) to track all incremental procurement and administrative costs through a memorandum account or (2) maintain the current method of calculating the reentry fees with the FSR calculator, but allow adjustments to certain costs and revenues.<sup>1</sup> The CPUC staff proposal identified challenges with the first approach, including the difficulties in isolating the load and costs attributable to returning customers, a lengthy review process before funds can be disbursed, the possibility of increased administrative expense, and the potential exposure of returning customers to increased reentry fees.

D.24-04-009 provided different options for calculating reentry fees. It maintained the approach adopted in D.18-05-022 of applying the FSR calculation to collect reentry fees but also authorized an alternative option to track actual procurement and administrative costs, by giving the POLR the discretion to create a memorandum account. D.24-04-009 acknowledged that the CPUC staff proposal identified challenges with tracking costs through a memorandum account but concluded that it is prudent

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<sup>1</sup> D.24-04-009 at p. 61

and reasonable to provide options to ensure compliance with P.U. Code Section 394.25(e) because “there may be variations in the timing and scope of a mass involuntary return of customers.”<sup>2</sup>

D.24-04-009 directed IOUs to (1) hold a meet and confer session with all parties to the proceeding to develop a common understanding, approach, and language to implement the cost tracking options adopted in the Decision and (2) file Tier 2 ALs implementing the Decision.<sup>3</sup> In response, SDG&E first filed AL 4473-E as a Tier 2 AL to implement the modifications to Tariff Rule 25 (Direct Access Rules) and Rule 27 (CCA Rules) as directed by the Decision, and subsequently filed AL 4475-E as Tier 1 AL to open the memorandum account.

#### **SDG&E Tier 1 Advice Letter (September 6, 2024)**

SDG&E filed AL 4475-E, a Tier 1 AL, on September 6, 2024 to request to establish a POLR memorandum account immediately, to track actual incremental administrative and/or procurement costs during a POLR event, rather than wait until a mass return occurs. The AL confirms that the IOUs held a meet and confer session on June 10, 2024 to, among other things, implement the cost tracking options adopted in D.24-04-009. The IOUs proposed during the meet and confer session that the IOU would make the election within 30 days of an instance of a mass involuntary return, applicable to all mass future involuntary returns, and once tracking actual procurement and/or administration costs is elected for a particular return, the IOU cannot later revert to using the tariffed methodology for calculating the Re-Entry Fees but rather must use its tracked costs. In this instance, SDG&E used this AL to apply to open a memorandum account as a one-time election.

The IOUs proposed that the steps to be followed in the event of a mass involuntary return to POLR would be that within 30 days of the initiation of the return, the IOU would submit a Tier 1 AL to:

- Indicate whether the mass involuntary return is planned or unplanned;
- Notify the CPUC and stakeholders whether the IOU is electing to track actual

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<sup>2</sup> Ibid, Conclusion of Law no. 31

<sup>3</sup> Ibid at pg. 2

costs caused by the mass involuntary return and advise whether the IOU elects to track (i) incremental procurement costs; (ii) incremental administration costs, or (iii) both as separate categories; and

- Designate the forward period(s) over which the incremental costs will be tracked.

No Protests were filed in response to SDG&E's AL 4475-E.

### **CPUC Staff Disposition of AL 4475-E**

On January 10, 2025, CPUC staff issued a Disposition rejecting SDG&E's request to preemptively establish a POLR memorandum account on three grounds:

1. CPUC staff interpreted Ordering Paragraph (OP) 3 of D.24-04-009 to mean that the POLR memorandum account must be established immediately in advance of a POLR event, as a preemptive action;
2. CPUC staff found that the adopted financial reporting requirements in D.24-04-009 would provide the Commission with sufficient time to anticipate a POLR event and return of customers; and
3. CPUC staff interpreted OP 3 to require that the AL to establish the POLR memorandum account be filed as Tier 2 AL, not a Tier 1 AL as SDG&E requested.

### **NOTICE**

Notice of SDG&E AL 4475-E was made by publication in the Commission's Daily Calendar. SDG&E states that a copy of the AL was mailed and distributed in accordance with Section 4 of General Order 96-B.

### **REQUEST FOR REVIEW**

On January 21, 2025, SDG&E submitted a timely letter to request Commission review of CPUC staff disposition of SDG&E AL 4475-E.

### **Purpose of the Memorandum Account**

In their January 21, 2025, letter, SDG&E noted that they had raised concerns to CPUC staff that SDG&E would be unable to seek recovery of costs that are not tracked in the memorandum account, and that it is important to have a memorandum account in

place *before* a mass involuntary return so that it is possible for SDG&E to act quickly to ensure uninterrupted service for returning customers.

### **Timing for Establishing a Memorandum Account**

SDG&E argues that CPUC staff's Disposition misinterprets the direction provided in D.24-04-009 to state that the memorandum account should be established during the mass involuntary return. SDG&E argues that past experience indicates that an IOU may have days rather than weeks to prepare for a mass involuntary return of customers. The memorandum account must be in place on day 1, it says, if the public interest is to be served by ensuring uninterrupted service for customers.<sup>4</sup> It further argues, by analogy to the Catastrophic Event Memorandum Accounts, that authorizing the pre-established memorandum accounts— wherein a utility can immediately record disaster related costs — would provide for those costs being captured in their entirety and then being recovered fully through the rates.

### **Sufficient Alert Period**

SDG&E takes issue with the Disposition's assertion that the financial reporting triggers will provide the POLR sufficient time to anticipate an involuntary return, because D.24-04-009 did not direct a CCA to notify the POLR or adopt rules for the POLR to be notified of a trigger.<sup>5</sup> SDG&E also points out that the matter is not currently within the scope of Phase 2 of the POLR rulemaking.<sup>6</sup> SDG&E believes that it is fair to expect that if a financial monitoring trigger event or imminent deregistration were to occur, the impacted CCA would object to the IOU POLR being notified by the Commission of such occurrence. This could create challenges for CPUC staff in its effort to communicate with the IOU POLR in order to protect customers and would likely delay the request to establish the POLR memorandum account.

### **The Correct Tier for the AL**

SDG&E's letter argues that the Commission had already given IOUs authority to establish a memorandum account by filing a Tier 1 AL in Resolution E-5059, OP 9 which

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<sup>4</sup> SDG&E's Request for Commission Review at pg 3 "Discussion"

<sup>5</sup> The Decision (D.24-04-009) says that a subsequent phase of the rulemaking might opt to make a determination on the matter. See D.24-04-009 at pg 94

<sup>6</sup> SDG&E's Request for Commission Review at pg 5

establishes a process for collecting reentry fees, and captured in its Tariff Rule 27 (CCA Rules) Section W.h, to track the actual administrative costs of processing an involuntary return.<sup>7</sup> SDG&E argues that since the Phase 1 Decision expands the scope of costs related to a mass involuntary return that may be tracked, but does not otherwise disturb the process by which the memorandum account is to be used for such tracking, it is reasonable to conclude that the process for establishing the memorandum account to be used to track costs of an involuntary return (administrative and/or procurement-related) remains the same — a Tier 1 AL. SDG&E argues that the reference in OP 3 to filing a Tier 2 AL is not for the establishment of the POLR memorandum account but concerns the implementation of costs tracking options.

## **DISCUSSION**

The Commission has reviewed the AL, the Disposition and request for Commission review, and addresses the requests as follows:

### **Purpose of the Memorandum Account**

SDG&E's concern that the POLR would be unable to recover procurement costs if they are not tracked in a memorandum account indicates a misunderstanding of the purpose of the memorandum account in this context. The memorandum account was not intended to entirely replace the FSR instrument as the basis for reentry fees, which was established by P.U. Code Section 394.25(e). Rather, D.24-04-009 authorized the opening of such accounts as an alternative option to account for procurement costs when calculating reentry fees during an involuntary return of customers to the POLR. We clarify here the practical reality that the IOU will recover all procurement costs in their annual Energy Resource Recovery Account filing regardless of whether a memorandum account is opened or the POLR relies on the FSR calculator to calculate reentry fees. The memorandum account would only be used to assess reentry fees collected directly from returned customers.

While D.24-04-009 provided the POLR with the discretion to determine whether to open a memorandum account to track actual costs, the authority remains with the Commission to determine how to recover costs — through the memorandum account or

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<sup>7</sup> See pg 2 of SDG&E's request for Commission Review

using the FSR calculation. The memorandum account was intended to serve as an option for circumstances in which the costs of the involuntary return were too significant for the POLR to absorb under the normal course of business. The Decision noted that there are several challenges to tracking actual procurement costs to assess reentry fees, including the ability to isolate individual energy procurement costs to be attributed to the returning customers from their overall supply portfolio.

Moreover, review and approval of reentry fees recorded in a memorandum account through an Application proceeding would be very time-consuming. In such an instance, reentry fees would not likely be approved and collected a year or more after customers have returned to SDG&E. This approach may be necessary if, for instance, San Diego Community Power were to fail and to return a customer load that is larger than SDG&E's current bundled customer base. But by contrast, it may be more costly and unnecessary if a small CCA like Clean Energy Alliance were to initiate a planned return with plenty of advance note, where the incremental procurement cost could be forecasted and absorbed with reentry fees calculated from the FSR. In this case, the costs of an Application for memorandum account review could be greater than the reentry fees themselves.

### **Timing for Establishing Memorandum Account**

SDG&E further argues that they will not be able to fully recover costs unless it is allowed to establish its memorandum account in advance of any possible involuntary return. D.24-04-009 states that IOUs may open memorandum accounts *during* a mass involuntary return of customers to POLR service. Opening a memorandum account at this time would pre-suppose that the POLR would track actual procurement costs under all circumstances of involuntary return, which was not what the Decision intended. If there is an imminent risk of CCA failure, SDG&E may submit an AL to open a memorandum account at that time.

### **Sufficient Alert Period**

D.24-04-009 adopted a six-month notice period prior to deregistration to allow sufficient time for a utility to adjust its procurement portfolio to accommodate additional bundled

load due to returning CCA customers. It also created financial monitoring rules<sup>8</sup> that give CPUC staff advance notice, in most cases, such that there would be adequate time for a planned return of customers to POLR and advance procurement. SDG&E argues that because it is not involved in the financial monitoring process, it is possible that it may not be given time to open a memorandum account to prepare for an involuntary return.<sup>9</sup>

These reporting requirements are to increase CPUC staff's situational awareness of any CCA that is at risk of defaulting on its obligations.<sup>10</sup> While D.24-04-009 did not provide specific guidance regarding the reporting of Tier 2 triggers to the POLR, CPUC staff is committed to helping ensure the POLR is prepared for an involuntary return.<sup>11</sup> Until further guidance is provided, subject to any obligations to protect confidential information, CPUC staff will notify the POLR when CPUC staff believes a CCA is at material risk of failure and an involuntary return is likely, as necessary to allow the POLR sufficient time to prepare to serve any returned customers.

### **The Correct Tier for the AL**

D.24-04-009 at OP 3 directs the IOUs to file a Tier 2 AL to "implement the cost tracking options adopted in this decision", after holding a meeting and confer with all parties to develop a common understanding and approach. We agree with SDG&E's interpretation that the Tier 2 AL directed in OP 3 was to make changes to its Tariff Rules 25 (Direct Access) and 27 (CCAs) regarding the process to track actual

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<sup>8</sup> D.24-04-009 at Ordering Paragraphs 6 and 7

<sup>9</sup> SDG&E's Request for Commission Review at pg 6

<sup>10</sup> D.24-04-009 at pg 73

<sup>11</sup> The Decision at p.80-81 defines Tier 2 triggers and financial reporting and monitoring. The former (triggers) are (i) receiving a credit rating below BBB-/Baa3 from S&P & Moody's, (ii) DLOH less than 45 days, and Adjusted Debt Service Coverage Ratio less than 1.0, (iii) Cash reserves for falling below 5% of annual expenses, (iv) defaults on one or more procurement contracts required to meet RA requirements or to the CAISO scheduling coordinator due to non-payment, and (v) becoming insolvent or files for bankruptcy, or having a reasonable expectation that either event will occur. The Latter (monitoring) is defined as meeting with Energy Division once per month to share information on (i) energy and hedging contracts for the next six months with term details, (ii) the status of all procurement contracts, in particular, those at risk of default, (iii) detailed financial information as requested by the Commission including, but not limited to, the CCA's most recent financial statements and DLOH; and plan for financial correction and/or market exit.

incremental procurement and/or administration costs in a mass involuntary return, as SDG&E has filed in its Tier 2 AL, 4473-E on July 17, 2024.<sup>12</sup> We also agree with SDG&E that the Decision does not specify the tier of the AL that the POLR would file to open a memorandum account in advance of an involuntary return, but that Res. 5059-E designated this type of AL as Tier 1.

## **COMMENTS**

P.U. Code Section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review. Any comments are due within 20 days of the date of its mailing and publication on the Commission's website and in accordance with any instructions accompanying the notice. Section 311(g)(2) provides that this 30-day review period and 20-day comment period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day review and 20-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today."

## **FINDINGS**

1. The POLR memorandum account was not intended to entirely replace the FSR instrument as the basis for reentry fees, which was established by P.U. Code Section 394.25(e). Rather, D.24-04-009 authorized the opening of such accounts as an alternative option to account for procurement costs when calculating reentry fees during an involuntary return of customers to the POLR.
2. The POLR will be able to recover all procurement costs and/or administrative costs in its annual ERRA filing regardless of whether a memorandum account is opened or the POLR relies on the FSR calculator to calculate reentry fees. The memorandum account would only be used to assess reentry fees collected directly from returned customers.

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<sup>12</sup> see SDG&E AL of July 17, 2024 at pgs 4 and 5

3. While D.24-04-009 provided the POLR with the discretion to determine whether to open a memorandum account to track actual costs, the authority remains with the Commission to determine how to recover costs—through the memorandum account or using the FSR calculation.
4. Opening a memorandum account at this time would pre-suppose that the POLR would track actual procurement costs under all circumstances of involuntary return, which was not what D.24-04-009 intended.
5. While D.24-04-009 did not provide specific guidance regarding the reporting of Tier 2 triggers to the POLR, it is CPUC staff's responsibility to ensure the POLR is prepared for an involuntary return of any CCA that is at risk of failure.
6. SDG&E's AL 4473-E, filed on July 17, 2024, met the requirement of OP 3 to file a Tier 2 AL to implement the cost tracking options adopted in D.24-04-009. A Tier 1 AL needs to be filed to open a memorandum account.
7. Until further guidance is provided, subject to any obligations to protect confidential information, CPUC staff will notify the POLR when CPUC staff believes a CCA is at material risk of failure and an involuntary return is likely, as necessary to allow the POLR sufficient time to prepare to serve any returned customers.

**THEREFORE IT IS ORDERED THAT:**

1. SDG&E's request for review of Energy Division's disposition of SDG&E AL 4475-E is denied.
2. In the event of a Tier 2 trigger of a CCA in which there is material risk on involuntary return, SDG&E may submit a Tier 1 AL to open a memorandum account.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on March 19, 2026; the following Commissioners voting favorably thereon:

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Leuwam Tesfai  
Executive Director

Commissioner Signature blocks to be added  
upon adoption of the resolution

Dated \_\_\_\_\_, at Sacramento, California.