Decision **PROPOSED DECISION OF ALJ LONG** (Mailed 11/2/2005)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E) for Authority to Make Various Electric Rate Design Changes, Close Certain Rates, and Revise Cost Allocation Among Customer Classes Effective, January 1, 2006.	Application 05-02-019 (Filed February 18, 2005)

OPINION ADOPTING AN ALL-PARTY SETTLEMENT, IF MODIFIED, FOR THE 2006 SAN DIEGO GAS & ELECTRIC COMPANY ELECTRIC RATE DESIGN

(See Appendix A for List of Appearances.)

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1. Summary

This decision proposes to adopt the all-party settlement for the 2006 San Diego Gas & Electric Company (SDG&E) Rate Design Window Application if it is modified and clarified that only the settling parties' rate design is adopted and that no other ratemaking mechanisms are adopted or included in rates. The only modification is the exclusion of a new Total Rate Adjustment Component, which we find is not necessary in order to adopt a reasonable rate design that includes a reduction in the rate cross-subsidies of residential customers by other commercial and industrial customers, and other related allocations of costs among customer classes. The separate cost reallocation component is instead included in the distribution component. We otherwise find that the settlement rate design successfully moves rates towards cost-based rates lessening cross subsidies among rate classes.

2. Background

SDG&E filed a Rate Design Window Application for authority to make various rate design changes, and to update specific marginal costs, effective January 1, 2006, pursuant to the extensions granted in letters from the Executive Director dated January 26, 2005 and October 15, 2004 and otherwise in accordance with the schedule adopted in Commission decision (D.) 89-01-040, as modified by D.02-10-039, D.95-09-020, and D.94-08-023. SDG&E identified three primary objectives for the application:

> adjust electric revenue allocations and rates towards "cost-based levels" arguing that there is a need to reduce "cross-subsidies in the rates of non-residential customer classes."

provide customers "more cost-based commodity price signals" which SDG&E proposes to accomplish by transferring what it has identified as any "remaining cross-subsidies" to a new "non-bypassable charge."

ensure all customer classes bear responsibility for the residential subsidies mandated by Assembly Bill 1X ("AB1X"), including Community Choice Aggregation and Direct Access customers.

3. Procedural History

Notice of the Application appeared in the Commission's daily calendar. The Commission preliminarily categorized this matter as ratesetting in Resolution ALJ 176-3148, dated February 24, 2005.

By Notice dated March 29, 2005, the Commission set a prehearing conference (PHC) for April 13, 2005. On April 27, 2005, *The Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge* (Scoping Memo) determined that this is a ratesetting proceeding and set the evidentiary hearing schedule.

Testimony was served on June 24, 2005 by the following interested parties: Alliance for Retail Energy Markets (AReM)[1], California City-County Street Light Association (Cal-SLA), California Farm Bureau Federation (Farm Bureau), City of Chula Vista, City of San Diego, Federal Executive Agencies (FEA), Office of Ratepayer Advocates (ORA), and Utility Consumers' Action Network (UCAN). On July 8, prepared rebuttal testimony was served by SDG&E, Farm Bureau, and FEA. Evidentiary hearings were conducted on July 18, 2005, all parties waived cross-examination. The prepared testimony and exhibits were received in

[1] AReM's testimony was received late after clarification by counsel and no objection from any party.

evidence. Also at that time, pursuant to Rule 51 *et seq.*, SDG&E indicated that it would file a motion for the adoption of a settlement agreement[2] subsequently filed and served on July 26, 2005. Pursuant to Rule 51.1(b) SDG&E provided notice of a settlement conference on July 14, 2005; all active parties participated. Two parties, Pacific Gas and Electric Company and the Western Manufactured Housing Community Association, have authorized SDG&E to represent to the Commission that they will not oppose the settlement. Pursuant to Rule 51.4 a thirty-day comment period began on July 26, 2005. No comments were filed. No briefs were filed. The matter was submitted 30 days after July 26, 2005.

4. Scope and Issues

As specified in the Scoping Memo, the purpose of this proceeding is to establish just and reasonable rates on an overall (total utility) revenue neutral basis using the Commission authorized 2006 revenue requirement. The three general subjects of this rate design window application are marginal costs, revenue allocation, and rate design. Based on SDG&E's statement of proposed issues[3] in the application, Protests[4] by Office of Ratepayer Advocates' (ORA), the Utility Consumers' Action Network (UCAN) and the Western Manufactured Housing Community Association (Manufactured Housing), plus the parties'

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[2] *Joint Motion for Adoption of Settlement Agreement by Alliance for Retail Energy Markets, California City-County Street Light Association, California Farm Bureau, City of Chula Vista, City of San Diego, Federal Executive Agencies, Office of Ratepayer Advocates, San Diego Gas & Electric Company, and Utility Consumers' Action Network*, (Joint Motion) filed and served on July 26, 2005.

[3] (*See* Rules 6.3.)

[4] All three protests were timely filed on March 24, 2005, March 18, 2005, and March 23, 2005, respectively.

statements at the prehearing conference, the 2006 issues can be reasonably identified as:

a. Adjust electric revenue allocations and rates toward cost-based levels addressing the asserted cross-subsidies included in non-residential customer classes' rates.
b. Account for DWR Above-Market Costs.
c. Allocation of Public Purpose Program Costs.
d. Application of Allocation Methodology.
e. Establish a Master Meter Discount where there is sub-metered service See D. 04-04-043, D. 04-11-033 and D. 95-02-090/ D.95-08-056.
f. Consider authorization of a new non-bypassable charge for costs associated with AB 1X - the proposed Total Rate Adjustment Component.
g. Analyze the Marginal costs of generation, distribution, and customer services.
h. Determine the allocation of Marginal costs of generation, distribution, and customer services and the imposition of a cap.
i. Consider changes to the residential service rates including: elimination of the distribution rate components in residential rates for usage above 130 percent of baseline, consolidation of residential tier 4 and tier 5 commodity rates; and changes to Schedule E-LI for CARE customers.
j. Consider the use of full equal-percentage of marginal cost for generation costs.
k. Consider changes to small commercial customer charges; customer charge for Schedule PA; and Schedule S distribution charge.
l. Consider changes to summer/winter price differential for small commercial customers.
m. Consider closure and cancellation of Schedule AL-TOU-CP.

n. Consider the cost allocation and rate design of the Day-of-Reliability Tariff (CPP-E) adopted in D.05-04-053.

5. Standard of Review

ORA suggests that the cost allocation issues in this proceeding should be straightforward in light of the settlement of the prior rate design window. [5] However, as described in Rule 51.8., the adoption of a settlement in a prior proceeding does not constitute approval of, or precedent regarding any issue in a subsequent proceeding.[6] Thus the settlement in the last rate design window is not determinative of the issues presented in this proceeding. The scoping memo reminded parties that, to be viewed as credible, a party must demonstrate that it has performed sufficient current analysis to have an informed basis for the position it may advocate now, regardless of whether it supports the applicant, is in opposition, or proposes to enter into a negotiated settlement.

In order for the Commission to consider any proposed settlement in this proceeding as in the public interest, it must be convinced that the parties had a sound and thorough understanding of the application and all of the underlying assumptions and data included in the record. This level of understanding of the

[5] Transcript, p. 34, lines 23-26: "(W)e did reach a settlement that covered the calculation of marginal customer and distribution costs. And that is not an issue that we need to look at (sic) this proceeding."

[6] (Rule 51.8) ***Adoption Binding, Not Precedential***: "Commission adoption of a stipulation or settlement is binding on all parties to the proceeding in which the stipulation or settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding." (Note: Authority and reference cited: Section 1701, Public Utilities Code.) There is no such express provision applicable to this proceeding.

application and development of an adequate record is necessary to meet our requirements for considering any settlement.[7]

6. The Burden of Proof

There is a natural litigation advantage enjoyed by utilities,[8] and the Commission has long recognized this fact in articulating the relevant burden of proof. SDG&E has the sole obligation to provide a convincing and sufficient showing to meet the burden of proof, and any active participation of other parties can never change that obligation.[9]

The utility, not the staff or interested parties, is obliged to meet this burden by showing with clear and convincing evidence that its course of action was reasonable and therefore entitled to ratemaking recovery. As discussed below, we find that in this proceeding SDG&E has met its burden.

7. Settlement

In the joint motion the settling parties provided this summary:[10]

> TRAC - The settlement adopts the [Total Rate Adjustment Component] TRAC ratemaking mechanism proposed by SDG&E with some modification. The TRAC contains the cross-subsidies associated with the AB 1X rate cap and the revenue allocation cap in this settlement. TRAC will apply to all customers (including any customers who become Community Choice Aggregation (CCA)

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[7] (Rule 51.1) ***Proposal of Settlements or Stipulations*** part (e): "The Commission will not approve stipulations or settlements, whether contested or uncontested, unless the stipulation or settlement is reasonable in light of the whole record, consistent with law, and in the public interest."

[8] This advantage is discussed at length in D.00-02-046, a recent rate case for PG&E.

[9] D.87-12-067, 27 CPUC 2d, 1, 21, and footnote 1 at p. 169.

[10] Joint Motion, pp. 3 – 5.

customers), except that existing Direct Access (DA) customers will not be subject to the TRAC mechanism. If additional customers become eligible for DA as a result of future changes in law or regulation, they will be subject to the TRAC mechanism.

Revenue Allocation – The settlement adopts the class revenue allocation proposed by ORA, which reflects a 2% cap on [the] residential class allocation increase, and is as follows:

Residential:	+2.00%
Small Commercial:	-0.95
Commercial & Indus:	-1.56
Agriculture:	-3.16
Lighting:	-8.58

However, because TRAC is not going to be applied to existing DA customers, the impacts on DA and non-DA customers in each class are somewhat different from each other than the percentage for each total class shown above. The changes for DA and non-DA customers in each class are shown in rate tables that are part of the settlement agreement.

Marginal Costs – Because the settlement adopts ORA's proposed class revenue allocation, the settlement does not and need not resolve any issues raised in the case about marginal cost methodologies.

Residential Rate Design – The settlement retains SDG&E's current five-tier residential rate structure. Total rates for usage within 130% of baseline allowances are not increased. Rates for [California Alternative Rates for Energy] CARE customers are not increased.

Small Commercial Rates – The settlement increases Basic Service Fees by 5%. SDG&E's proposal to align energy charges seasonally using [Equal Percentage of Marginal Cost] EPMC is adopted by the settlement.

Large Commercial and Industrial Rates – Transmission-level Basic Service Fees will be increased 15%. The non-coincident demand charge will continue to be based on the higher of the current month's maximum demand or 50% of the maximum demand in the prior 11 months. The non-coincident demand charge currently within the [Competition Transition Charge] CTC component of rates will be eliminated and the revenue shortfall collected in summer on-peak demand charges. The settlement does not resolve issues about whether SDG&E's electric transmission rate design should be revised, but recognizes that this issue may be raised in the [Critical Peak Pricing[11]] CPP or other proceedings. Standby rates will be raised by 10%. Per SDG&E's unopposed recommendation, Schedule AL-TOU-CP will be closed and then cancelled twelve months later. SDG&E's unopposed proposal to eliminate unused rate options other than D and F in Rate Schedule PA-T-1 is adopted. SDG&E's unopposed proposal to cap the on-peak TOU commodity rate for residential and commercial/industrial rate schedules at 12 cents/kWh is adopted.

Agricultural Rates – The Basic Service Fee will increase by 5% (same as for Schedule A). SDG&E's proposal to align energy charges seasonally using EPMC is adopted by the settlement.

Street Lighting – SDG&E's unopposed proposals to use D.04-04-042 Streetlighting Rate Design Model, incorporate TRAC, and set commodity rates at EPMC rate level are adopted.

Tariff Language Changes/Clean-up – SDG&E's proposals intending to clarify existing tariff language changes on multiple meters on a single premises and combining rates on tariff sheets to show a single value for all time periods are not adopted in the settlement. SDG&E's proposal for a special condition on operation of a generator is adopted.

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[11] See Application (A.) 05-01-017, filed by SDG&E, consolidated with A.05-01-016 and A.05-01-018 by Pacific Gas and Electric Company and Southern California Edison Company, respectively. This footnote is not in the Joint Motion.

Future Study – SDG&E agrees to perform and file with its next Rate Design Window application a study of correlation of average and peak demand during peak hours. Exact parameters of the study are specified in the settlement.

Discussion

a) Standard for Approval of a Settlement

Rule 51.1(a) provides:

> Parties to a Commission proceeding may stipulate to the resolution of any issue of law or fact material to the proceeding, or may settle on a mutually acceptable outcome to the proceeding, with or without resolving material issues. Resolution shall be limited to the issues in that proceeding and shall not extend to substantive issues which may come before the Commission in other or future proceedings.

Rule 51.1(e) has, as a further requirement:

> The Commission will not approve stipulations or settlements, whether contested or uncontested, unless the stipulation or settlement is reasonable in light of the whole record, consistent with law, and in the public interest. (Emphasis added.)

As already noted, Rule 51.1(e) requires a settlement to be "reasonable in light of the whole record, consistent with law, and in the public interest."

b) Reasonable in Light of the Whole Record

We have reviewed the evidence in the record, considered the scope and thoroughness of the review by all active parties, especially UCAN and ORA. In particular, UCAN conducted the most detailed examination by any of the parties, and it proposed significant changes to SDG&E's proposed cost allocation, marginal costs, and rate design. Having reviewed the prepared testimony of SDG&E and all other parties, we find that the proposed rate design included in

the settlement is within the range of reasonable findings had the application been fully litigated.

c) Consistent with Law

Nothing in the settlement is inconsistent with the law, and the settlement process was consistent with Rule 51 *et seq*.

d) In the Public Interest

There was no guarantee that litigation of the issues raised by the parties would have resulted in an adjustment to SDG&E's rate design as significant as the settlement rate design which is acceptable to all parties. The settlement saved time and resources, and achieved a result within the range of reasonable litigation outcomes. However, as discussed in detail below, the inclusion of a TRAC mechanism in SDG&E's tariffs is not in the public interest. Therefore, consistent with Rule 51.7.3[12] we must reject this settlement unless parties agree to modify the settlement and delete the TRAC Mechanism.

e) Uncontested Settlement

A further standard is articulated in San Diego Gas & Electric, 46 CPUC 2d 538 (1992), and applies to all-party settlements. As a precondition to approving such a settlement, the Commission must be satisfied that:

1. The proposed all-party settlement commands the unanimous sponsorship of all active parties to the proceeding.

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[12] "The Commission may reject a proposed stipulation or settlement without hearing whenever it determines that the stipulation or settlement is not in the public interest. Upon rejection of the settlement, the Commission may … 3. Propose alternative terms to the parties to the settlement which are acceptable to the Commission and allow the parties reasonable time within which to elect to accept such terms or to request other relief."

2. The sponsoring parties are fairly representative of the affected interests.
3. No settlement term contravenes statutory provisions or prior Commission decisions.
4. Settlement documentation provides the Commission with sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests.

In this instance we can only answer all four requirements in the affirmative if the settlement is modified: all active parties participated and agreed to the settlement; ORA is charged with representing the long term best interest of all ratepayers; UCAN affirmatively represented small commercial and residential customers, sponsoring the most detailed testimony besides SDG&E, and all other customer interests and the competing interests of direct access service providers and customers, and potential community choice aggregators and their constituents, were well represented too. The settlement does not contravene any statutes or prior decisions; and, the settlement, if modified to delete the TRAC mechanism, is sufficiently detailed for implementation and allows the Commission to discharge its future regulatory obligations.

8. Settlement Provisions

a) Total Rate Adjustment Component

SDG&E argues that its rates are not currently allocated correctly and do not send the right price signals. (Ex. 1, pp. 3-5.) In particular SDG&E believes that AB 1X has imposed a rate cap on residential rates for up to 130% of baseline usage, which leads to a reallocation of the full cost of service to above 130% of baseline and that this "distortion" extends to other customer classes' rates too. (Ex.-1, p. 5.) SDG&E proposes to address the effects of "rate capping" caused by AB 1X, "as well as a phased-in approach for reducing inter-class subsidies."

(Ex-1, p. 6.) SDG&E's proposed solution is the Total Rate Adjustment Component (TRAC): "TRAC is designed to be revenue neutral in that it does not collect any additional revenue but merely shifts revenues to implement Commission-adopted subsidies and revenue allocation capping requirements." (Ex-1, p. 6.)

SDG&E proposes this elaborate mechanism to eliminate inter-class subsidies in three to four years if the annual total revenue reallocations are capped at two to three percent. (Ex. 1, pp. 10-11.) These reallocations would appear in SDG&E's tariffs but not on the unbundled descriptions of the customer's monthly bills. (Proposed settlement, 6.)

UCAN, the City of San Diego and AReM argued against the adoption of the TRAC in any form, while ORA was indifferent, focusing on the end-result of the adopted rate design and mitigation of the rate impact on residential customers if rates were to shift to a fully allocated cost of service. UCAN points out that TRAC is an unnecessary extra billing component, although the settlement would exclude TRAC from customers' bills but include TRAC in the tariffs. (Ex. 12, p. 28.) UCAN also points out that current proposals from both Pacific Gas and Electric Company and Southern California Edison Company, where those companies argue residential rates would have to change by 16% and 10%, respectively, to be cost based, did not propose a TRAC-like mechanism.

Inclusion of the TRAC in the settlement and its subsequent inclusion in SDG&E's tariffs may unintentionally imply that the Commission has given its imprimatur to the proposed ratemaking mechanism and such implication could

lead parties in the next rate design proceeding to approach the issue as if the TRAC was a Commission-approved process. We do not intend this to happen.[13]

We find the inclusion of the TRAC in the proposed settlement is not in the public interest. As proposed by SDG&E, it is too sweeping a change with post-settlement implications and presumptions: SDG&E's testimony envisions utilizing TRAC for three to four years to shift rates to a fully allocated cost of service by rate class. The proposed settlement recognizes the non-precedential nature of settlements, but by incorporating the TRAC into the tariffs, and not the customers' bills, (Settlement, p. 6.) we are concerned that an implication is established that the TRAC is reasonable. A settlement should only establish an acceptable outcome, the final rate design, and as is often the case, the individual trade-offs to reach that settlement may not be apparent. There is no presumption that there will be subsequent TRAC adjustments because the settlement applies to this rate design only. In the absence of fully litigating the proposal and the opposition embodied in the prepared testimony of the parties, we cannot accept the TRAC as a necessary part of the settlement.

We therefore find that the inclusion of the TRAC in the proposed settlement, with the implied presumption that the TRAC is a reasonable starting point for the next rate design application, interferes with the Commission's

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[13] (Rule 51.8) Adoption Binding, Not Precedential

> Commission adoption of a stipulation or settlement is binding on all parties to the proceeding in which the stipulation or settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding. (Note: Authority and reference cited: Section 1701, Public Utilities Code.)

ability to discharge its future regulatory obligations. We do not know what conditions will exist when SDG&E files its next application. We should not be burdened with the superfluous TRAC interfering with a reasonable determination of the appropriate marginal costs, cost allocation and rate design in subsequent years.

SDG&E proposed a separate TRAC component in the tariffs that would be excluded from a customer's detailed billing. This is unreasonable for two reasons: first we do not want an implication in the tariffs that the TRAC itself has been found reasonable; and secondly, there should be no discrepancies between the customer's bill and the applicable tariff. Therefore, we direct SDG&E to add the cost reallocation to the distribution rate component – which is paid by all customers whether they are full service, DA, or CCA – and delete the TRAC component from its tariffs.

a) Marginal Costs

SDG&E proposed marginal costs for customer costs, distribution, generation and energy. UCAN proposed the use of duct-firing in a combustion turbine to determine the marginal generation capacity costs. (Ex. 12, pp. 5 - 8.) The settlement does not resolve any of the marginal cost issues, and we agree with the settling parties that it is unnecessary. We find, however, that UCAN raised significant issues concerning the calculation of marginal costs and the use of different technology for the marginal cost of generation capacity. In order to expedite the discussion in the next rate design proceeding, we direct that SDG&E shall include in its application a complete analysis of UCAN's proposal to use duct-firing in a combustion turbine to determine marginal generation capacity costs, in addition to any other proposal SDG&E may prefer.

UCAN also raised a significant concern regarding the use of nominal dollar costs without adjustment. (Ex. 12, pp. 11 - 12.) We can observe that whenever costs are compared over time that nominal dollars should be adjusted to a constant or present value basis. Therefore, we will direct that SDG&E shall include the use of constant dollars or present value, in all of its analysis in support of the next rate design application in addition to any other proposal it may prefer.

b) Revenue Allocation

SDG&E proposed the use of the equal percentage of marginal cost methodology in developing revenue allocation for DWR above market costs. (Ex. 2, p. 1 and Ex. 7, p. 17.) ORA and UCAN proposed to use equal cents per kWh. (ORA Ex. 11, pp. 2-1 and 3-2, and UCAN Ex. 12, p. 20.) The proposed settlement does not resolve the allocation and notes the allocations had similar results. We agree these details need not be decided in order to adopt the settlement's rate design.

Similarly, SDG&E proposed the use of the equal percentage of marginal cost methodology in developing revenue allocation for utility-retained generation and the DWR revenue allocation of bond charges, and it proposed the use of the equal percentage of marginal cost methodology in developing revenue allocation for utility-retained generation and the DWR revenue allocation of all other generation costs. In both cases, UCAN proposed different allocations and the settlement did not resolve the dispute, citing similar results. We agree these details need not be decided in order to adopt the settlement's rate design.

c) Capping of Revenue Allocation

SDG&E proposed a 2% limit to the increase in rates to any customer class as a result of otherwise adjusting rates to fully reflect the cost of service. (Ex. 2,

p. 3.) All parties agreed in testimony to a 2% limit except FEA who proposed a 3% limit.

We find a 2% limit is reasonable because it allows the rates to move towards full cost of service while providing some rate-shock insulation.

f) Settlement Rates for Customer Classes

After consolidation of the TRAC rate component with the distribution rate component, we will adopt the rates for all customer classes as proposed in the settlement. These rates are the result of give-and-take in negotiation, they achieve a movement towards full cost of service, and they a limited by the settlement's 2% increase limitation.

SDG&E argues that the TRAC would prevent direct access or community choice aggregation customers bypassing what it identifies as an AB1X subsidy. Direct Access and community choice aggregation customers cannot bypass the cost reallocation because this decision adopts the settlement's final rate design inclusive of the proposed TRAC adjustment amounts as a part of the distribution cost component of rates.

g) Tariff Language Changes

The settlement includes various negotiated changes to the tariff language and to the extent those changes are described in the settlement and do not implement TRAC in tariffs, they should be included in the compliance advice letter filed by SDG&E to implement this decision. No other changes are authorized by this decision or for inclusion in the compliance filing.

h) Future Study

UCAN proposed that the Commission "require SDG&E to submit a statistical analysis regarding the correlation of the customer's average and peak demand during peak hours with peak and other high load hours on the system."

(Ex. 12, p. 2.) The proposed settlement includes SDG&E's agreement to prepare a specific study in the next rate design application. It is reasonable that parties should agree on additional information or studies that will be included in subsequent proceedings and, therefore, we will direct SDG&E to include the proposed study as a part of the next application. Additionally, SDG&E should provide UCAN with the detailed work papers supporting the study at the time the application is filed.

9. Assignment of Proceeding

Dian M. Grueneich is the Assigned Commissioner and Douglas M. Long is the assigned ALJ in this proceeding.

10. Comment on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(d) and Rule 77.1 of the Rules of Practice and Procedure. Parties are directed to indicate in their comments either acceptance or rejection of the one modification to the settlement to eliminate the TRAC and modify the distribution rate component to include the proposed TRAC rate component.

Findings of Fact

1. The settlement is uncontested.
2. The settlement resolves all of the disputed issues among the settling parties.
3. The active parties in the proceeding are representative of the stakeholders, and each has ably and vigorously pursued the interests of its constituency.
4. Pacific Gas and Electric Company and the Western Manufactured Housing Community Association were not active parties in the proceeding.

5. The TRAC is not reasonable or necessary in order to adopt a rate design that allows the rates to move towards full cost of service. The TRAC component to reallocate costs and avoid potential bypass can be included in the distribution rate component.

6. A 2% limit on the change to residential customers is reasonable to mitigate rate-shock.

Conclusions of Law

1. Rule 51 *et seq*, should be used to review the settlement agreement. The settlement meets the criteria of an uncontested settlement under Rule 51(f) and *San Diego Gas & Electric* 46 CPUC 2d 538 (1992).

2. If modified as set forth in this order, the settlement between SDG&E and the active parties resolves all issues in this proceeding and, if modified, it is reasonable in light of the whole record, consistent with law, and in the public interest. It should therefore be adopted as set forth in the following order.

3. A 2% limit on changing residential customer revenue allocation is reasonable because it allows the rates to move towards full cost of service while providing some rate-shock insulation.

4. Adoption of the proposed settlement, as modified, creates no precedent for subsequent rate design applications for SDG&E.

5. The Settlement as modified does not contravene or compromise any statutory provision or Commission decision, and is consistent with law.

6. The proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. The July 26, 2005 *Joint Motion for Adoption of Settlement Agreement by Alliance for Retail Energy Markets, California City-County Street Light Association,*

California Farm Bureau, City of Chula Vista, City of San Diego, Federal Executive Agencies, Office of Ratepayer Advocates, San Diego Gas & Electric Company (SDG&E), and Utility Consumers' Action Network (UCAN) is granted if modified as set forth herein.

2. SDG&E shall eliminate the Total Rate Adjustment Component from the proposed tariffs and rates by including the rate element in the distribution component of every rate otherwise adopted in the settlement.

3. SDG&E shall include in its application a complete analysis of UCAN's proposal to use duct-firing in a combustion turbine to determine marginal generation capacity costs.

4. SDG&E shall include the use of constant dollars or present value, in all of its analysis in support of the next rate design application.

5. SDG&E shall include a study regarding the correlation of the customer's average and peak demand during peak hours with peak and other high load hours on the system as agreed to and as otherwise described in the settlement as a part of its next rate design application. SDG&E shall also provide detailed work papers for that study to UCAN at the time the application is filed.

6. SDG&E shall file a compliance advice letter with the Commission's Energy Division within 10 days of the effective date of this decision. It shall be served on the service list for this proceeding. The advice letter shall modify its tariffs to implement the rate design as adopted in the settlement and will be effective on January 1, 2006, or the first day of the month following the effective date of this order, subject to Energy Division determining that the revised tariffs are in compliance with this order.

7. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX A
List of Appearances
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APPENDIX A
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