

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

Application of San Diego Gas & Electric Company
(U902E) for Authorization to Recover Costs Related to
the 2007 Southern California Wildfires Recorded in the
Wildfire Expense Memorandum Account (WEMA).

A.15-09-010
(Filed September 25, 2015)

**JOINT PROPOSED SCHEDULE OF
MUSSEY GRADE ROAD ALLIANCE, OFFICE OF RATEPAYER ADVOCATES,
PROTECT OUR COMMUNITIES FOUNDATION, RUTH HENRICKS,
SAN DIEGO CONSUMERS' ACTION NETWORK,
THE UTILITY REFORM NETWORK, AND
UTILITY CONSUMERS' ACTION NETWORK**

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February 19, 2016

I. INTRODUCTION

In accordance with the February 16, 2016 email of Administrative Law Judge (“ALJ”) Jeanne McKinney, Mussey Grade Road Alliance (“MGRA”), Office of Ratepayer Advocates (“ORA”), Protect Our Communities Foundation (“POC”), Ruth Henricks, San Diego Consumers’ Action Network, The Utility Reform Network (“TURN”), and Utility Consumers’ Action Network (“Joint Intervenors”) submit this Joint Proposed Schedule. Joint Intervenors’ detailed proposed schedule is set forth in Appendix A.

II. THIS CASE SHOULD BE LITIGATED IN PHASES

Joint Intervenors all agree with the position stated in the Protest of TURN and the Center for Accessible Technology (“CforAT”)¹ that this case should be litigated in phases. Phase 1 should address SDG&E’s operational prudence concerning the facilities involved in the fires or, put another way, as stated by ALJ McKinney in her February 16, 2016 email, the reasonableness of SDG&E’s decisionmaking leading up to the fires. Phase 2 should address whether SDG&E should be authorized to recover the expenses in the WEMA, including but not limited to the reasonableness of SDG&E’s actions related to settling claims and other expenses it seeks to recover from ratepayers, and the timing of SDG&E’s proposed rate recovery.

The factors compelling phasing are stated in the TURN/CforAT Protest (pp. 4-8) and include: (1) there will be no need to devote any time and resources to the Phase 2 issues if SDG&E fails to satisfy its burden of proof with respect to the Phase 1 issues; (2) the Phase 2 issues (if necessary) are numerous, varied, and complex and will require significant resources of the Commission and parties to litigate; (3) SDG&E has to date failed to present basic

¹ CforAT has authorized Joint Intervenors to report that CforAT has suspended its participation in this case in light of the number of intervenors involved at this point.

information to meet its burden of proof on the Phase 2 issues, including a detailed accounting of the \$169 million in attorneys' fees it seeks to recover from ratepayers; and (4) if the case is litigated in a single phase, intervenors who rely on intervenor compensation to fund their participation in cases such as these will face the risk that any efforts they devote to the Phase 2 issues may never be addressed by the Commission in its final decision, since the case could be disposed of solely on the Phase 1 issues.

Joint Intervenors' meet and confer communications with SDG&E since the filing of the protests have only reinforced the concerns regarding the complexity of the Phase 2 issues and the insufficiency of SDG&E's showing to date. The TURN/CforAT Protest (p. 7) pointed out that intervenors seeking compensation through the intervenor compensation program are required to present detailed justification – including rates for attorneys and expert fees, detailed time records with descriptions of each claimed work task, and an explanation of the reasonableness of all claimed amounts – for any amount they seek to recover from ratepayers. When Joint Intervenors asked SDG&E if it would be willing to supplement its application to provide the same type of information to support its requested \$379 million rate increase, SDG&E was non-committal and held out the possibility that disputes regarding such issues would need to be resolved through motions practice. Similarly, based on the meet and confer communications, Joint Intervenors anticipate disputes with SDG&E regarding access to information that Joint Intervenors consider essential to assessing the reasonableness of SDG&E's settlements with plaintiffs that SDG&E views as protected by attorney-client or other privileges. Absent more clarity from SDG&E that it will agree to supplement its application to satisfy its burden of demonstrating the reasonableness of its proposed rate recovery, Phase 2 is shaping up to be unusually litigious, involving numerous disputes and related motions.

III. THE SCHEDULE SHOULD INCLUDE INITIAL BRIEFING ON THE THRESHOLD LEGAL AND POLICY ISSUES RELATING TO THE APPROPRIATENESS OF THE PROPOSED RATE RECOVERY

In reviewing all of the protests and SDG&E's response to those protests, it is clear that there is a fundamental disagreement regarding whether it is even appropriate, as a matter of law and policy, for SDG&E to seek to recover from ratepayers amounts related to the wildfires in excess of SDG&E's recovery from insurance and third parties. With the luxury of having no deadline to submit its application and accompanying testimony, SDG&E devoted a significant portion of the testimony of Lee Schavrien to advocating the utility's position regarding those threshold issues.² In contrast, the other parties had only a short time to review SDG&E's materials and prepare protests. Even so, some of the protests pointed out important threshold issues such as: whether rate recovery would create a moral hazard (MGRA), the fairness of imposing rate increases on San Diego customers, particularly those who were also victims of the fires (MGRA), and whether SDG&E has already been compensated for such risks in its rates and whether it warrants special recovery outside of the normal general rate case process (POC).

The Commission should allow all parties a fair and organized comment period regarding these and other threshold issues at the outset of the case, as set forth in Joint Intervenors' proposed schedule. If the intervenors' comments persuade the Commission that the application should be dismissed on legal or policy grounds without the need for further development of the record, Joint Intervenors' schedule allows the Commission to issue a proposed decision and final decision disposing of the case. Unless the Commission issues such a decision, the parties would continue with the litigation of Phase 1 issues.

² See Schavrien Testimony, e.g., pp. 9-15, presenting, among other things, SDG&E's legal and policy arguments as to why WEMA cost recovery is appropriate.

The virtue of this scheduling proposal is that, if deemed warranted, it would allow the Commission to dispose of the case efficiently without a large expenditure of resources. It would also avoid delaying the resolution of the case if the Commission does not believe dismissal based on the threshold issues is appropriate. In the latter situation, the Commission would still have the benefit of the opening comments to inform and frame the issues in Phase 1 and, if necessary, Phase 2.

IV. ALTERNATIVE SCHEDULE IF THE COMMISSION REJECTS PHASING

ALJ McKinney's February 16, 2016 email suggests that parties present schedules with and without phasing. In a no-phasing scenario, Joint Intervenors would recommend the following changes to the schedule set forth in Appendix A: (1) within 30 days of the issuance of the Scoping Ruling, SDG&E should be required to serve supplemental testimony that cures the deficiencies in its testimony to date, including (a) submitting intervenor compensation program level of detail supporting its requested recovery of attorneys' fees, including attorney timesheet and documentation of expenses and (b) case-specific analysis and documents justifying the settlement amounts that SDG&E seeks to recover from ratepayers; and (2) beginning with the ORA testimony date, extending all dates in the Phase 1 schedule by at least 75 days to allow time for parties to simultaneously conduct discovery, litigation discovery disputes, and prepare testimony regarding Phase 1 and Phase 2 issues.³ Given the uncertainty regarding what SDG&E would present in supplemental testimony and further uncertainty regarding the number and scope of disputes among the parties regarding access to necessary supporting material, Joint

³ In other words, in a single phase schedule, ORA testimony would be due no earlier than mid-December 2016 and the following events would keep roughly the same interval from the preceding event, with additional time necessary in certain instances because of holidays, e.g., intervenor testimony due in mid-January in consideration of the winter holidays.

Intervenors view 75 days as little more than a guess at this point and would not be surprised if significantly more time proved to be necessary.

V. PUBLIC PARTICIPATION HEARINGS

Joint Intervenors strongly support at least two public participation hearings (PPHs) in the San Diego area, at least one in the daytime and at least one at night. Joint Intervenors propose that the PPHs be scheduled after the submission of ORA and intervenor Phase 1 testimony, so that the public can be made aware of the range of positions in the case.

VI. CONCLUSION

Joint Intervenors look forward to further discussing these issues at the prehearing conference.

The undersigned is authorized to sign on behalf of each of the Joint Intervenors.

Dated: February 19, 2016

Respectfully submitted,

By: _____/s/_____
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**APPENDIX A
JOINT INTERVENOR PROPOSED SCHEDULE**

Phase 1 (SDG&E Operational Prudence): Reasonableness/prudence of SDG&E’s operation of facilities that caused the fires.

Phase 2 (Whether WEMA expenses should be recovered in rates): If (and only if) SDG&E is found to have operated its facilities reasonably and prudently, whether SDG&E should be authorized to recover the expenses in the WEMA, including, but not limited to, the reasonableness of, among other things: (1) the amount that SDG&E seeks to recover from ratepayers -- including attorneys’ fees and settlement amounts; (2) SDG&E’s WEMA accounting for costs and credits; and (3) SDG&E’s proposed six-year amortization period.

Event	Date	Comment
Application Filed	September 25, 2015	
Prehearing Conference	February 22, 2016	
Scoping Ruling Issued	TBD	
Opening Comments on Threshold Legal/Policy Issues Regarding SDG&E’s Right to Recover Costs from Ratepayers	30 days after issuance of Scoping Ruling	
Reply Comments on Threshold Legal/Policy Issues	15 days after Opening Comments	
Proposed Decision on Threshold Legal/Policy Issues		PD issuance is optional, depending on whether the ALJ/Assigned Commissioner determine the filed comments warrant dismissal of all or part of the application. Otherwise, filed comments would inform decision(s) in Phase 1 (and, if necessary, Phase 2)
Final Decision on Threshold Legal/Policy Issues		[See above]

ORA Testimony in Phase 1	October 3, 2016	
Intervenor Testimony in Phase 1	October 17, 2016	
Public Participation Hearings	October 24 – December 9, 2016	Range of dates in which PPHs could be held
Phase 1 Rebuttal Testimony	November 18, 2016	
Phase 1 Evidentiary Hearings	December 12-16, 2016	
Opening Briefs on Phase 1	January 20, 2017	
Reply Briefs on Phase 1	February 3, 2017	
Phase 1 Proposed Decision*	May 4, 2017	
Phase 1 Final Decision*	June 8, 2017	Remaining events only necessary if SDG&E satisfies burden of proof and prevails on Phase 1 issues, as indicated by brackets [] for events below
[SDG&E Supplemental Phase 2 Testimony]	June 22, 2017 (2 weeks after Phase 1 final decision)	Supplemental testimony is necessary to remedy deficiencies of SDG&E's current testimony on Phase 2 issues
[ORA Phase 2 Testimony]	October 27, 2017	
[Intervenor Phase 2 Testimony]	November 10, 2017	
[Phase 2 Rebuttal Testimony]	December 15, 2017	
[Phase 2 Evidentiary Hearings]	January 8-15, 2018	
[Phase 2 Opening Briefs]	February 9, 2018	
[Phase 2 Reply Briefs]	February 23, 2018	
[Phase 2 Proposed Decision]*	May 24, 2018	

[Phase 2 Final Decision]*	June 28, 2018	

* Denotes estimated dates for Commission action