BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Expedited Application of San Diego Gas & Electric Company (U902E) Under the Power Charge Indifference Adjustment Account Trigger Mechanism	Application 20-07-009 (Filed July 10, 2020)

REPLY BRIEF OF THE CALIFORNIA ALLIANCE FOR COMMUNITY ENERGY

Al Weinrub, Coordinator
Erika Morgan, Operations Coordinator

California Alliance for Community Energy
(no physical address)
Tel: 619-894-6707
E-mail: erika@cacommunityenergy.org

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I. INTRODUCTION

Pursuant to the schedule and directives contained in the October 7, 2020, *Assigned Commissioner's Scoping Memo and Ruling* ("Scoping Memo"), opening briefs were filed in this proceeding by listed parties on October 20. From a review of both the filed briefs and informed by the perspective of our members, the California Alliance for Community Energy ("the Alliance") submits this reply brief.

On July 10, 2020, San Diego Gas & Electric ("SDG&E") filed the above-captioned Application to change their Power Charge Indifference Adjustment ("PCIA") collections. The manner in which they proposed to implement these changes would impose undue and unnecessary financial penalties on customers of Solana Energy Alliance ("SEA"), the first and so far only community choice program in San Diego County.

The Alliance is a statewide network of individuals and organizations engaged in public outreach, education and advocacy on behalf of Community Choice energy programs across the state. Our mission is to "... to support and defend Community Choice energy programs in California that advance local clean energy for the environmental, economic, and social justice benefit of our communities." Alliance members engage in a robust discussion of issues affecting community choice through our publications, campaigns, projects, monthly webinars and other activities. Through our multiple participation venues, the Alliance reaches roughly 1,000 individuals on a routine basis, a number multiplied substantially through the participation of affiliated and aligned organizations.

SDG&E's Application 20-07-009 is the first to arise following Decision (D.) 18-10-019, the controversial "Peterman Decision". This Decision significantly altered the rules governing calculation of the PCIA. As the first Application following this order, the issues raised in this

case highlight concerns of implementation that may not have been adequately explored in the prior docket. We expect arguments raised in this record will influence adjustments to methodology for subsequent similar applications.

The Alliance is one of few organizations in the community choice ecosystem that represents primarily the customers and communities[1] served by community choice programs. In light of the egregious impacts of the SDG&E Application on SEA customers and the implications of this Application for all California community choice customers, the Alliance was compelled to protest the Application[2], supported by our Brief[3] and this Reply Brief.

II. SUMMARY OF POSITION

The question at issue in this proceeding is straightforward. Should the Commission approve the Application filed by SDG&E, to raise PCIA rates in the manner authorized in D.18-10-019. The Alliance submits that this Application is flawed in several ways and should not be approved as filed.

A. The Application fails to meet the standards set in Law, Rules and Decision 18-10-019

Authorities governing this Application arise from multiple sources, to include D.18-10-019, Commission guiding principles and state law. In our opening brief[4], the Alliance highlighted five standards against which the Application should be evaluated. To pass muster, the Application must:

- Impose on departing customers[5] only those costs which cannot be reasonably mitigated in any other way (per Pub. Util. Code Section 366.2(f)(1)-(2).)[6]

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1 The trade association for community choice programs, California Community Choice Association (CalCCA) as well as the individual community choice programs themselves, represent the interests of the agencies, their boards of elected officials as well as their customers. Other organizations that represent customer interests represent bundled and unbundled customers largely without differentiation.

2 *California Alliance for Community Energy Protest of Expedited Application of San Diego Gas& Electric Company (U 902 E) Under the Power Charge Indifference Adjustment Account Trigger Mechanism,* August 11, 2020.

3 *Brief of California Alliance for Community Energy,* October 20, 2020.

4 Brief of the California Alliance for Community Energy, P. 2

5 "Departing" customers are those who select an alternative electricity supplier, whether from a community choice aggregator, a direct-access provider, or elect to self-generate for the majority of their requirements.

6 The Legislature limited the charges that can be imposed on departing customers to "...the share of the electrical corporation's estimated net **unavoidable** [emphasis added] electricity purchase contract costs attributable to the customer..."

- Contribute to the stability and predictability of the rate regime affecting both departing Community Choice customers and "bundled" customers, i.e., those remaining with the incumbent investor-owned utility (IOU). Per Commission Guiding Principle in D.18-10-019.[7]
- Avoid undue or excessive rate shock. Also per Commission Guiding Principles in D.18-10-019.[8]
- Not create unreasonable obstacles to customer choice. Particularly with regard to community choice electricity programs, the IOUs are directed under both state law[9] and Commission rules to refrain from creating obstacles to customer participation.
- Comply with state law.[10]

The Alliance asserts that the Application fails to meet all of these standards.

1. The Application fails to mitigate costs levied on departing customers.

The Commission's guiding principles in this case state that the PCIA calculation methodology "Should only include legitimately unavoidable costs ..."[11]. SDG&E's Application violates this standard, by seeking to include undercollections sufficient to bring the CAPBA account to a de minimus level, rather than the 7% trigger level per D.18-10-019. Setting the level well below the 7%, as we propose, will, in combination with the extended amortization period discussed below, do much to mitigate the damaging impact on unbundled customers. Maximizing the amount to be collected as SDG&E's Application proposes to do, violates the obligation to "take all reasonable steps" to minimize the costs levied on the small number of Solana Energy Alliance customers.

2. The Application fails to "promote certainty and stability for all customers"

The Commission states in D.18-10-019 its intention that the desired PCIA methodology

7 D.18-10-019, P. 127

8 D.18-10-019, P. 128

9 SB 790 (Leno) which established a Code of Conduct for electrical corporations in their actions vis a vis community choice aggregators, states that the "exercise of market power by electrical corporations is a deterrent to the consideration, development, and implementation of community choice aggregation programs. (Section 2 (f)). The Code of Conduct itself, adopted in D.12-12-036 in R.12-02-009, states that "...the purpose of these rules is to provide CCAs with the opportunity to compete on a fair and equal basis with other LSEs, and to prevent utilities from using their position or market power to gain unfair advantages over CCAs." page 21.

10 Ibid.

11 D.18-10-019, P. 129

"should have reasonably predictable outcomes that promote certainty and stability for all customers within a reasonable planning period". As filed, the Application's three-month collection period would have inflicted unconscionable[12] instability on the customers of Solana Energy Alliance. Customers would receive a "normal" SDG&E bill for the first eight-ten months of the year, only to have that bill jump –inexplicitly to them– by somewhere between $30 (best case) to $187 (worst case) per month for the balance of the year. Customer reactions to this apparent surcharge, and the messaging required by both SDG&E and Solana Energy Alliance to address it, are discussed further in the following sections.

Several parties agree with the Alliance that the Application fails to meet the "certainty and stability" standard. San Diego Community Power ("SDCP"), Clean Energy Alliance ("CEA"), Solana Energy Alliance ("SEA"), (collectively, the "San Diego CCA Programs"), and the California Community Choice Association ("CalCCA") expressed that the consequence of both SDG&E's recovery proposals would be a "staggering and unprecedented increase" in the PCIA[13]. The Joint CCA Parties also assert that SDG&E carries the burden of proof to establish that its proposed increases are reasonable.[14] The Alliance submits that SDG&E has not attempted to establish that its proposal is reasonable, and therefore that this burden has not been met.

3. The Application causes and does not avoid "excessive rate shock"

The Alliance agrees with multiple parties that the rate shock caused by approval of SDG&E's Application would be as severe and excessive as it is unnecessary. The language used by the Joint CCA Parties is particularly telling: "The consequence of either [SDG&E allocation method] would be a staggering and unprecedented increase in the PCIA for departing load customers.."[15] Other parties use similar language, confirming the Alliance's position that this degree of rate shock is indeed "excessive". The Alliance for Retail Energy Markets ("AReM") and Direct Access Customer Coalition ("DACC") characterized the rate shock as "unacceptable"[16]. Shell Energy North America (US), L.P. ("Shell Energy") stated that "either a

12 "A bargain or contract which is clearly unfair, exorbitant, harsh, contrary to common sense or good conscience." Duhaime's Law Dictionary.

13 Joint Opening Brief of San Diego Community Power, Clean Energy Alliance, Solana Energy Alliance, and the California Community Choice Association, P. 6.

14 Ibid, page 4.

15 Ibid page 6.

16 Opening Brief of the Alliance for Retail Energy Markets and the Direct Access Customer Coalition in Response

three-month amortization period or a six-month amortization period … would unnecessarily and unreasonably produce "rate shock" for departing load customers"[17]. Even under SDG&E's best case scenario, the equal-cent-per-kWh approach, the compressed amortization period would still increase rates by 238% for residential departing load customers[18]. A rate increase this dramatic, resulting in sudden, astonishing increase in customer bills, would redound immediately and disastrously against SEA. "Rate shock" this profound would immediately undermine the choices made by SEA customers to remain with the community choice program, and potentially subject SEA to significant financial risk. The Alliance concurs with the majority sentiment on this point – that the rate shock caused by the Application is excessive, unreasonable and on its own, grounds for denial.

4. The Application creates an unreasonable and unnecessary obstacle for present and prospective community choice programs.

In D. 18-10-019, the Commission states as a guiding principle that the PCIA calculation methodology "Should not create unreasonable obstacles for customers of non-IOU energy providers."[19] As stated in our opening brief, the Alliance cannot emphasize in strong enough language the completely unreasonable, indeed, again, unconscionable, obstacle that would be created for community choice should SDG&E's proposal be approved as submitted. SEA customers would be directly impacted, resulting in an immediate and potentially catastrophic spike in customer actions to opt-out.

Additional impacts will be felt throughout the community choice ecosystem, and especially in SDG&E territory, where SDCP is due to launch customer service in 2021. Imposition of even temporary rate increases like those proposed will create an association between community choice and dramatically erratic and unpredictable rate- and bill increases. No amount of messaging and protestations from SDG&E, SEA, CalCCA and other organizations like the Alliance will be sufficient to rebuild the customer trust shattered by these unforeseen, erratic and damaging bill impacts. Customers, both present and prospective, will understandably conclude that service from a community choice aggregator subjects one to a high risk of grossly unpredictable electricity bills, even while no element of this scenario can be laid at the door of

to the Expedited Trigger Application of San Diego Gas and Electric Company, P. 3.

17 Opening Brief of Shell Energy North America (US), L.P., P. 5.

18 Joint Opening Brief of San Diego Community Power, Clean Energy Alliance, Solana Energy Alliance, and the California Community Choice Association, P. 6.

19 D.18-10-019, P. 127, 128

SEA.

In our Protest, the Alliance expressed the suspicion that this quick-to-spread, impossible-to-counteract black eye might in fact be part of SDG&E's motivation, as they face the 2021 departure of potential customers to SDCP: "We submit that...SDG&E intends to communicate to every customer of SEA that they made an egregious mistake in departing the incumbent utility – a mistake that will cost them dearly."[20] SDG&E's reply denied that their Application was about "undermining or 'sabotaging' CCA programs". Rather, they claimed they were adhering to the letter of a flawed cap mechanism in D.18-10-019.[21] Nonetheless, given that they failed to avail themselves of possible steps to mitigate the damage unavoidably inflicted upon present and prospective community choice programs, we reiterate that the "obstacle" hereby created is both real and far from accidental or unintended.

5. The Application is so egregious it violates the spirit and intent of state law.

The Alliance retains our view that this first Application of D.18-10-019's cap and trigger reveals the flaws in these mechanisms. Particularly in a circumstance where the "paying" side is as numerically small as SEA, while "receiving" bundled customers are most likely indifferent to their near-de minimus receipts, these mechanisms seem ill-designed to promote rate stability. Rather, the cap and trigger together create an artificial imperative to expedite collection over shorter and shorter periods. The result is a constellation of impacts that stand to do unspeakable damage to community choice in southern California.

We submit that approval of this Application would fly in the face of SB 790 (2011)[22] and the resulting IOU Code of Conduct, which together enact a framework requiring IOUs to be neutral in their communications and actions toward community choice. We fail to imagine any scenario under which a community choice customer receives a bill with a $187 (or even $30) surcharge arising from their community choice decision, that can be understood by them as

20 *California Alliance for Community Energy Protest of Expedited Application of San Diego Gas & Electric Company (U 902 E) Under the Power Charge Indifference Adjustment Account Trigger Mechanism",* August 11, 2020; page 6-7.

21 "..(I)t is the cap itself –which artificially decreased the initial PCIA rates to levels that did not reflect the actual amount of forecasted departing load PCIA revenues – that caused the undercollection." *Reply of San Diego Gas and Electric Company (U 902 E) to Protests Regarding Its Expedited Application Under the Power Charge Indifference Adjustment Account Trigger Mechanism,* August 24, 2020. Page 4, footnote 8.

22 SB 790 "Sec.2.(f) The exercise of market power by electrical corporations is a deterrent to the consideration, development, and implementation of community choice aggregation programs. (g) California has a substantial governmental interest in ensuring that conduct by electrical corporations does not threaten … implementation of community choice aggregation programs. (h) It is therefore necessary to establish a code of conduct .. to foster fair competition...

justified, fair or anything other than a penalty for their choice. We maintain that this outcome is counter to the intent of the Community Choice law as well as the Commission's intent, and we again urge denial of this Application.

B. The Alliance agrees with many parties that the amortization period must be extended.

In our opening brief, the Alliance urged the Commission to " ... order a recovery schedule that amortizes the final recovery … over the maximum number of months possible." Several parties agreed that the recovery period must be extended. The Alliance for Retail Energy Markets ("AReM") and Direct Access Customer Coalition ("DACC") expressed that collecting the CAPBA balance over three months would create "unacceptable rate shock and instability". Shell Energy North America (US), L.P. ("Shell Energy") stated that "either a three-month amortization period or a six-month amortization period for the CAPBA balance undercollection would result in a substantial increase in the level of the PCIA for departing load customers" and that "the proposed increase in the PCIA rate would unnecessarily and unreasonably produce "rate shock" for departing load customers"[23].

Most notably, the Joint CCA Parties proposed an extension of the recovery period to 36-months.[24] The Alliance agrees with the arguments made in support of this proposal, namely that the longer term a) allows SDG&E full recovery without an undue burden on departing customers; b) reduces the cataclysmic effect of prior proposals on community choice customers, thereby reducing an "obstacle effect" otherwise caused; c) the extended amortization period would have no impact on bundled customers, because the refunded amounts are already small; and d) preserves intact the Commission's guiding principles about rate certainty and stability.

Further, we submit that lengthening the amortization/ collection period has several salutary effects. Not only is the burden of this undercollection reduced on the departing community choice customers footing the bill. In fact, an extended collection period – for example, 72 months – puts even more substance to the notion of the "cap" itself. Rather than acting as a cap from one year to the next, creating the potential for compounding over multiple years, a longer amortization period forces the D.18-10-019 cap to act like a true cap. With a

23 Opening Brief of Shell Energy North America (US), L.P., page 5.

24 Joint Opening Brief of San Diego Community Power, Clean Energy Alliance, Solana Energy Alliance, and the California Community Choice Association, Pages 1, 7.

significantly longer collection period, the damage of SDGE's undercollection is reduced almost entirely. Currently, residential customers of SEA, who are assigned a 2017 Vintage, pay a PCIA rate of $0.03187.[25] Under a 72-month amortization period, SEA customers would pay a 2020 PCIA rate of $0.03543 or a 11% increase using the generation revenue allocation methodology and $0.01911 or a 40% decrease using the equal-per-kWh allocation.[26] Therefore, we submit that a cap that requires collection over 72 months, not 3 months, would maintain collection amounts at a level less likely to damage departing customers, possibly removing the need for a cap at all.

III. CONCLUSION

For the reasons set out above, the Alliance respectfully requests that the Commission deny the Application as filed. We request that the Commission extend the amortization period as discussed above. We appreciate the opportunity to provide these comments.

Respectfully submitted,

/S/
Al Weinrub, Coordinator
Erika Morgan, Operations Coordinator

California Alliance for Community Energy
(no physical address)
Tel: 619-894-6707
E-mail: erika@cacommunityenergy.org

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25 Joint Opening Brief of San Diego Community Power, Clean Energy Alliance, Solana Energy Alliance, and the California Community Choice Association, Page 7.

26 Joint Opening Brief of San Diego Community Power, Clean Energy Alliance, Solana Energy Alliance, and the California Community Choice Association, Page 7.