Application No.: R.07-05-025
Exhibit No.:
Witness: James Spurgeon

PREPARED REBUTTAL TESTIMONY OF JAMES SPURGEON CHAPTER 1 SAN DIEGO GAS & ELECTRIC COMPANY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

February 25, 2011

TABLE OF CONTENTS

PREPARED REBUTTAL TESTIMONY OF
JAMES SPURGEON
CHAPTER 1
DIRECT ACCESS SWITCHING RULES

I. INTRODUCTION

Pursuant to the June 15, 2010 *Assigned Commissioner and the Administrative Law Judge Ruling Clarifying Scope and Scheduling Further Proceedings,* San Diego Gas and Electric (SDG&E) herby submits reply testimony to the opening testimonies of parties submitted on January 31, 2011.

II. SUMMARY OF SDG&E'S OPENING TESTIMONY RECOMMENDATIONS ADDRESSING THE PHASE III ISUES

In its Prepared Opening Testimony, SDG&E presented a comprehensive set of simple-to-implement, cost-effective recommendations that address the Phase III issues. SDG&E's proposals are customer-friendly, fair, appropriately assign risks, and mitigate potential cost-shifting to bundled customers arising from eligible customers exercising their option to elect direct access (DA) service.

The elements of SDG&E's recommendations are as follows:

1) In order to properly assign the potential risks associated with the return of DA customers to utility service, the Commission should reaffirm the existing rule which requires that involuntarily returned customers, regardless of the circumstances, receive service under a fully compensatory transitional bundled service (TBS) rate for an appropriate length of time.
2) Similar to the adopted re-entry fee for Community Choice Aggregation (CCA)[1], the Commission should establish an administrative re-entry fee applicable to DA customers returning to utility service.
3) Consistent with Public Utilities Code Section 394.25, the Commission should establish Energy Service Provider (ESP) security requirements that are sufficient to

[1] *See* SDG&E's Schedule CCA, available at: http://www.sdge.com/tm2/pdf/ELEC_ELEC-SCHEDS_CCA.pdf.

cover the administrative re-entry fees associated with circumstances involving an en masse involuntary return of customers to utility service.

4) The Commission should adopt only minimal changes to the existing DA switching rules that would extend the term-of-service under the TBS rate to one year for customers returning to utility service under the circumstances of an en masse involuntary return, and reduce the existing 3-year commitment, i.e., "minimum stay" requirement to 18 months for all customers returning to the utility's bundled portfolio rate.
5) The Commission should maintain all other elements of the existing switching rules, i.e., noticing requirements, Safe-Harbor, and term-of-service under the TBS rate, during all other instances when an en masse involuntary return has not occurred, e.g., "business-as-usual".
6) The Commission should adopt appropriate modifications to the existing methodology for developing the power charge indifference adjustment (PCIA).
7) The Commission should adopt appropriate modifications to the existing methodology for developing the TBS rate.

Chapter 1 of SDG&E's reply testimony will primarily address the DA Parties' proposed changes to the DA switching rules. SDG&E Witness Fang will address proposed changes to the PCIA in Chapter 2 and, in Chapter 3 Witness Choi will address the TBS commitment period for customers returning to utility service en masse and the minimum stay requirement for all customers returning to the utility's bundled portfolio rate.

III. SDG&E'S REPLY TO THE DA PARTIES' PROPOSALS TO MODIFY THE EXISTING SWITCHING RULES

The existing DA switching rules are clear and effective as written. Customers understand these rules and SDG&E is not aware of any complaints from customers that they are unfair or burdensome. The existing rules sufficiently address the changes in the DA world that have occurred as a result of the limited re-opening of DA and the capped environment. Finally, the DA switching rules are based on sound logic and reasoning. However, the DA Parties seem to believe that sweeping and obfuscating changes to the DA switching rules must ensue simply because Public Utilities Code Section 394.25(e)

distinguishes an involuntary return from a voluntary return for the sole purpose of determining who is responsible for paying re-entry fees, and determining appropriate ESP security requirements.[2]

SDG&E does not dispute a minimal need to update the existing DA switching rules to address en masse involuntary returns caused by conditions other than a customer's return due to default in payment or other contractual obligations or because the customer's contract with it ESP has expired. However, SDG&E does not agree that the wide scale modifications to the rules proposed by the DA Parties have merit because: 1) they are confusing, too convoluted for customers to easily understand, and an unnecessary use of resources to implement; 2) they would discriminate or provide preferential treatment to certain customers over others; and 3) they are based on a misunderstanding of the current DA switching rules. For these reasons and as discussed below, the Commission should reject the DA Parties' proposed changes to the DA switching and minimum stay rules.

A. The DA Parties' Proposed Modifications to the DA Switching Rules Are Untenable and Unnecessary.

In Opening Testimony, the DA Parties propose that "a voluntary return of a Direct Access customer to utility bundled service occurs when the contract between the customer and his or her ESP has expired and the customer has not entered into a contract with that ESP or another ESP for DA service; or a customer has given the utility notice that the customer intends

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[2] Public Utilities Code Section 394.25(e) states:

> If a customer of an electric service provider or a community choice aggregator is involuntarily returned to service provided by an electrical corporation, any reentry fee imposed on that customer that the commission deems is necessary to avoid imposing costs on other customers of the electrical corporation shall be the obligation of the electric service provider or a community choice aggregator, except in the case of a customer returned due to default in payment or other contractual obligations or because the customer's contract has expired. As a condition of its registration, an electric service provider or a community choice aggregator shall post a bond or demonstrate insurance sufficient to cover those reentry fees. In the event that an electric service provider becomes insolvent and is unable to discharge its obligation to pay reentry fees, the fees shall be allocated to the returning customers. (e) If a customer of an electric service provider or a community choice aggregator is involuntarily returned to service provided by an electrical corporation, any reentry fee imposed on that customer that the commission deems is necessary to avoid imposing costs on other customers of the electrical corporation shall be the obligation of the electric service provider or a community choice aggregator, except in the case of a customer returned due to default in payment or other contractual obligations or because the customer's contract has expired. As a condition of its registration, an electric service provider or a community choice aggregator shall post a bond or demonstrate insurance sufficient to cover those reentry fees. In the event that an electric service provider becomes insolvent and is unable to discharge its obligation to pay reentry fees, the fees shall be allocated to the returning customers.

to return to utility bundled service."[3] By contrast, the DA Parties propose that '[a]n involuntary return of a Direct Access customer occurs when the customer is returned to utility bundled service due to: the Commission revoking the ESP's registration; the termination of the ESP-utility Agreement; the ESP or its authorized CAISO Scheduling Coordinator has defaulted on its CAISO obligations, such that the ESP is no longer has [*sic*] an authorized CAISO Scheduling Coordinator."[4] The implementation of the DA Parties' proposed definitions of voluntary versus involuntary returns would be too confusing for customers to understand—especially the proposed various permeations of how and when a DA customer can be considered involuntarily returned. In addition, the complex modifications are simply not needed to continue the effectiveness of the existing DA switching rules. Further, implementation of the proposed changes would cause an unnecessary use of utility resources to reprogram the computer systems and to create and administer a process whereby the business-as-usual voluntary returns could be tracked separately from involuntary returns, and a need to reeducate customers and update DA collateral materials, such as the website.

B. The DA Parties' Proposed Modifications to the DA Switching Rules Would Unfairly Result in Disparate Treatment of Customers.

On page 13 of their Opening Testimony, the DA Parties attempt to present an argument for treating voluntary return customers differently than involuntary return customers. Essentially, the DA Parties support their argument because of the way in which a customer has been treated by its ESP. For example, when discussing the minimum stay provisions, DA Parties Witness Fulmer states, "The voluntary return customer knows beforehand that its DA service is ending, and therefore can make appropriate plans for either continued DA service with another ESP or bundled service with the utility subject to known minimum stay requirements. The involuntary return customer may not have been able to make a measured decision concerning future retail service. This is why the involuntary customer should be granted greater flexibility with respect to the safe harbor provisions." However, the rules should not be set up so that they

[3] DA Parties Opening Testimony, at p. 9. The DA Parties also propose that "[i]f a customer is placed on utility service because that customer defaulted under his or her service agreement with the ESP, then that customer should be considered a voluntary return for purposes of the switching and minimum stay rules.

[4] *Id.* at pp. 9-10.

provide certain customers with preferential treatment simply because their ESP might have treated them unfairly by not providing notice of a pending involuntary return.

Except for conditions involving an en masse return of DA customers to utility service, the switching rules should not discriminate or provide preferential treatment to one group of customers over another. On page 11 of their Opening Testimony, the DA Parties propose that "[a]n involuntarily returned customer will not have provided any notice to the utility of its return to utility service. In order to provide such a customer with the necessary flexibility to choose between utility service and alternative retail service, the Direct Access Parties proposal would allow that customer to notify the utility that it plans to return to Direct Access service any time during the first 60 days that it is on TBS service. That customer will then have the remainder of the six month period to actually return to Direct Access."

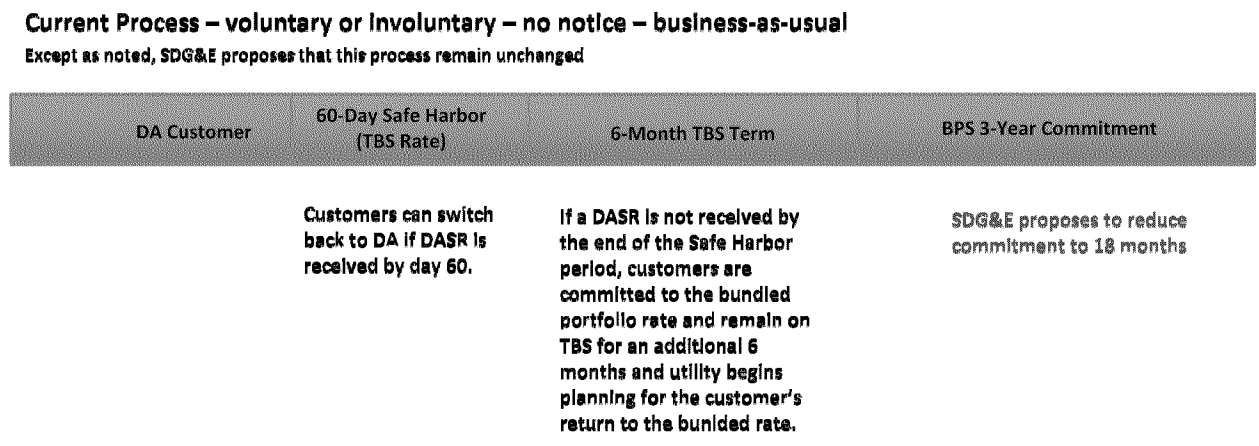
SDG&E objects to this proposal for two reasons. First, since "voluntary" returning customers would not be provided the same opportunity, it would again interject inappropriate favorable treatment to some customers over others. In SDG&E's view, simply because a customer's ESP may have treated it unfairly, providing preferential treatment under these circumstances is unacceptable. Secondly, under the existing DA rules, the amount of load that can transfer from bundled service to DA is capped. By essentially extending the safe harbor for an additional four months, the utility would necessarily be required to track and hold the customer's load until it made a decision to either commit to bundled service or return to DA. Holding load that might otherwise be available for DA for up to six months is simply unfair to other customers and creates additional, unnecessary administrative burdens on an already complex process.

C. The DA Parties' Proposed Modifications to the DA Switching Rules Are Based on a Misunderstanding, and Thus Misrepresentation, of the Current DA Switching Rules.

On page 10 of their Opening Testimony the DA Parties (mis)state, "First, a voluntarily returning customer must give six months notice before returning to utility service from Direct Access service." This is incorrect. An existing DA customer that elects to receive service from the utility simply needs to call the utility's customer service call center and request that a Direct Access Service Request (DASR) be initiated. In accordance with the DASR processing rules, the customer's account will be switched to TBS, under the safe harbor provision, on the

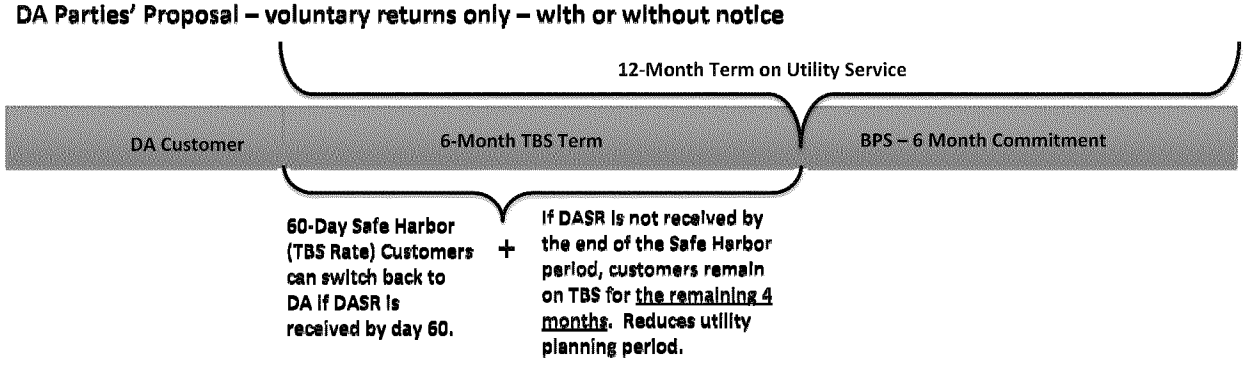
appropriate next meter read date. The only time that a DA customer is required to submit a six-month notice is when the customer desires to affirmatively make a commitment to return to the bundled portfolio rate.

Diagram 1



The DA Parties go on to state that, "[i]f the voluntarily returning customer has not elected new Direct Access service by the end of the safe harbor period, the remainder of the six month service on TBS service will be provided to the customer, after which time the customer will take service under the applicable bundled tariff and will be subject to the minimum stay provisions."[5]

Diagram 2

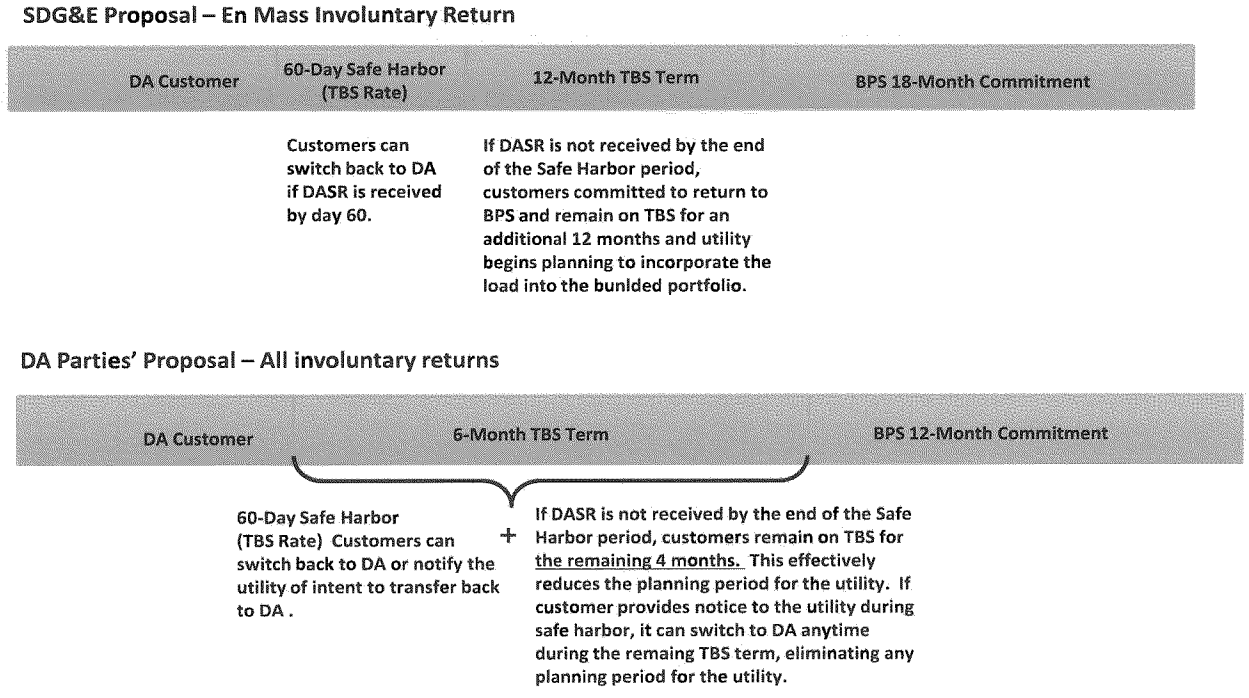


This statement is also inaccurate. Under the existing DA switching rules, a customer that returns to utility service without notice is placed in the 60-day safe harbor under TBS. In the event a DASR is not submitted on the customer's behalf by the 60th day, the customer remains

[5] DA Parties Opening Testimony, at p. 11.

on TBS for an additional six months and only after the completion of its TBS term is it placed on the bundled portfolio rate. During the safe harbor period, the utility has absolutely no certainty of the customer's intentions as to whether it will remain with the utility or return to DA. SDG&E has stated previously, and no party, including the DA Parties, has provided evidence to support otherwise, that it requires at least six months notice to plan for a customer's return to the bundled portfolio rate. The DA Parties' attempt to change the rules such that the utility's six-month planning period is cut short by including the 60-day safe harbor as part of a customer's TBS term undermines the utility's ability to plan with any reasonable certainty and optimize its portfolio in anticipation of a customer's return to the bundled portfolio rate. The DA Parties further propose to provide customers returning under business-as-usual conditions the same treatment as customers returning under an en masse involuntary return, e.g., under both scenarios, customers would be eligible for the bundled portfolio rate after spending only six months on the TBS rate. As SDG&E proposed in its opening testimony and as further explained in the attached reply testimony of Witness Choi, SDG&E requires a minimum of 12 months to plan for and incorporate the load of an en masse return of customers into the bundled portfolio. These elements of the DA Parties proposal must be rejected.

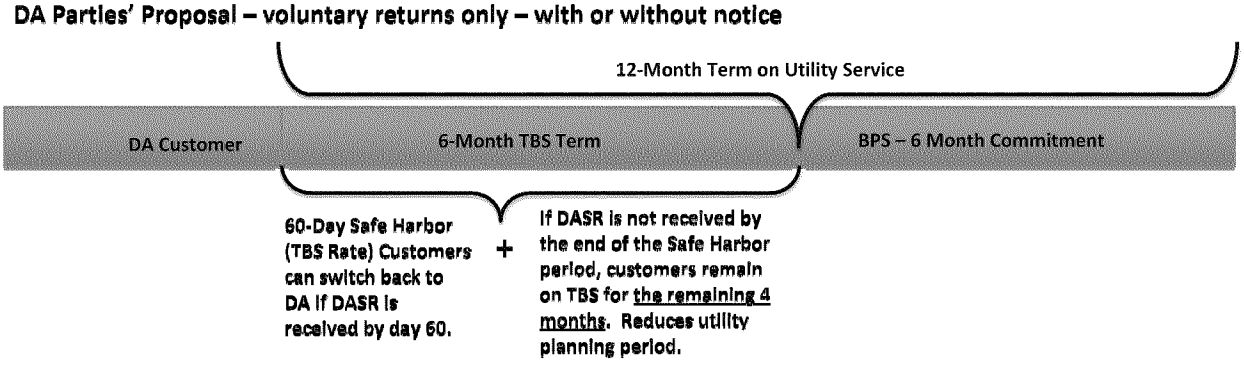
Diagram 3



IV. SDG&E'S REPLY TO THE DA PARTIES' PROPOSALS TO MODIFY THE EXISTING MINIMUM STAY RULES

The DA Parties' proposal would require only a 12-month commitment and in one instance only six months when it counts service under the TBS rate as part of the bundled service commitment6. Moreover, the DA Parties' proposal again attempts to treat customers differently based on how their status lines up with the proposed definitions of voluntary versus involuntary returns. On page 12 of their Opening Testimony, the DA Parties outline this preferential treatment when they state, "The DA Parties recommend that the minimum stay for voluntarily returning customers be 12 months, which begins at the end of the safe harbor period or when the customer commits to returning to utility service. The minimum stay for an involuntarily returned customer would also be 12 months and would begin at the end of the six month TBS rate period (assuming of course that the customer has not exercised the right to take DA service from another ESP)." The discriminatory treatment would require that some customers' commitments to the minimum stay requirement would be for a longer period of time than different group of customers. As proposed in its opening testimony, while SDG&E agrees that reducing the current 3-year minimum stay to 18 months is reasonable and the shorter commitment should be adopted; the same minimum stay requirement should be applicable to all customers that return to the bundled portfolio rate.[7]

Diagram 4



This concludes my Reply Testimony.

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[6] *See* Attachment

[7] The need for an 18-month commitment is further explained in the attached testimony of Witness Choi.