

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

Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.

Rulemaking 12-06-013  
(Filed June 21, 2012)

**OPENING PHASE 2 BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY (U902E),  
THE OFFICE OF RATEPAYER ADVOCATES, THE UTILITY REFORM NETWORK,  
THE UTILITY CONSUMERS' ACTION NETWORK, THE SAN DIEGO CONSUMERS'  
ACTION NETWORK, AND THE COALITION OF CALIFORNIA UTILITY  
EMPLOYEES IN SUPPORT OF SETTLEMENT AGREEMENT FOR INTERIM  
RESIDENTIAL RATE DESIGN CHANGES  
FOR SAN DIEGO GAS AND ELECTRIC COMPANY**

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THE UTILITY CONSUMERS' ACTION NETWORK, THE SAN DIEGO CONSUMERS'  
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EMPLOYEES IN SUPPORT OF SETTLEMENT AGREEMENT FOR INTERIM  
RESIDENTIAL RATE DESIGN CHANGES  
FOR SAN DIEGO GAS AND ELECTRIC COMPANY**

**I. INTRODUCTION**

San Diego Gas & Electric Company ("SDG&E"), The Office Of Ratepayer Advocates ("ORA"), The Utility Reform Network ("TURN"), The Utility Consumers' Action Network ("UCAN"), The San Diego Consumers' Action Network ("SDCAN"), and The Coalition Of California Utility Employees ("CUE") (hereinafter collectively referred to as "Settling Parties") hereby submit their Opening Brief in Phase 2 of the above-entitled proceeding. For the reasons set forth herein as well as in the Joint Motion for Adoption of Settlement Agreement submitted by the Settling Parties, the Settling parties submit that the California Public Utilities Commission ("Commission") should adopt and find reasonable the Settlement Agreement for Phase 2 Interim Residential Rate Design Changes for San Diego Gas and Electric Company ("Settlement Agreement"), that has been submitted herein.

Through this Opening Brief, the Settling Parties reiterate the grounds supporting adoption of the Settlement set forth in the Motion for Adoption of Settlement Agreement, and further explain how the Settlement Agreement:

1. Complies with Assembly Bill (“AB”) 327;
2. Meets the commission's rate design principles; and,
3. Addresses "affordability" issues.

## **II. BACKGROUND**

Paragraph 3 of the Settlement Agreement (which was submitted into the record of this proceeding as SDG&E Exhibit 8) as well as the Motion for Adoption of Settlement Agreement submitted by the Settling Parties, provide the relevant procedural background, which is repeated herein for convenience.

On June 28, 2012, the Commission issued an Order Instituting Rulemaking on the Commission’s Own Motion To Conduct A Comprehensive Examination Of Investor-Owned Electric Utilities’ Residential Rate Structures, The Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations (Rulemaking, or “R.” 12-06-013). The Rulemaking was initiated, among other reasons, “to examine current residential electric rate design, including the tier structure in effect for residential customers, the state of time variant and dynamic pricing, potential pathways from tiers to time variant and dynamic pricing, and preferable residential rate design to be implemented when statutory restrictions are lifted.”<sup>1</sup>

From summer 2012 through summer 2013, parties to the Rulemaking submitted opening and reply comments in response to a series of policy and other questions in the initial Rulemaking; attended an initial prehearing conference; filed another round of opening and reply comments on questions posed by the Assigned ALJ regarding how the Rulemaking should be

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<sup>1</sup> R.12-06-013, p. 2.

coordinated with other residential rate design proceedings; filed opening comments on definitional matters in advance of an in-person workshop facilitated by the assigned ALJ and Commission staff; and filed “optimal” residential rate design proposals assuming no legislative restrictions, including opening and reply comments thereto. Informal and formal discovery has been ongoing throughout the Rulemaking.

In October 2013, over one year after the Rulemaking was initiated, the California Legislature passed AB 327, which was supported by the investor-owned utilities (“IOUs”), ORA, TURN, American Association of Retired Persons (“AARP”), and the Greenlining Institute. Among other things, AB 327 lifted many of the statutory restrictions that had applied to residential rates for usage up to 130% of baseline under AB 1X beginning in February 2001, and by Senate Bill (“SB”) 695, which became effective in January 2010.

Following the passage of AB 327, an Assigned Commissioner’s Ruling (“ACR”) was issued on October 25, 2013 inviting the IOUs to submit “interim” rate change proposals that were consistent with the Commission’s authority under AB 327. The goal of the interim proposals was to “stabilize and rebalance tiered rates” through a reasonable phase-in schedule relative to rates in effect prior to January 1, 2014, and consistent with statutory requirements that differentials between tiers should be gradual, that rates not unreasonably impair incentives for conservation and energy efficiency, and that rates not overburden low-income customers.<sup>2</sup> The IOUs were instructed to file interim proposals in a newly opened “Phase 2” of the Rulemaking, which was categorized as ratesetting, and was to run concurrently with Phase 1.<sup>3</sup>

To comply with the October 25, 2013 ACR, SDG&E filed its Phase 2 Supplemental Filing For Interim Residential Rate Design Changes on November 22, 2013 (“November 22

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<sup>2</sup> October 25, 2013 ACR, p. 3.

<sup>3</sup> See Amended Scoping Memo and Ruling Of Assigned Commissioner, dated January 6, 2014. Phase 1, designed to address the years 2015-2018, was also categorized as ratesetting, but the longer-term issues to be decided in Phase 1 are beyond the scope of this Settlement Agreement.

Proposal”), concurrently with the service of supporting testimony. The November 22 Proposal requested authorization to: increase lower tier rates; increase Tier 1 rates to Tier 2 levels; consolidate Tiers 3 and 4; move CARE subsidies from rates to a line item on the bill for residential and non-residential CARE customers; implement a transition path to bring the effective CARE discount within 30-35% for residential and non-residential CARE customers; and adopt a four year transition for rates applicable to non-CARE medical baseline customers. Several parties filed protests to the November 22 Proposal and SDG&E filed a reply.

SDG&E provided notice to customers via bill insert, electronic access to the insert, and by publication of its November 22, 2013 Phase 2 proposal.

On January 24, 2014 (consistent with conclusions drawn at a prehearing conference held January 8, 2014), a Second Amended Scoping Memo and Ruling Of Assigned Commissioner and Assigned Administrative Law Judge (“Second Amended Scoping Memo”) was issued, in which the IOUs were instructed to serve “simplified” interim residential rate design proposals to supplement the testimony filed on November 22, 2013. The stated reason for instructing the IOUs to re-serve simplified proposals was “in order [for the Commission] to fairly evaluate the IOU rate change proposals in time to implement new residential rates in 2014.” The Second Amended Scoping Memo stated that the simplified proposals “should be limited to increases in the lower tiers commensurate with projected increases in the overall revenue requirement allocated to the residential class, plus no more than a few percentage points, if necessary, to keep the upper tiers within a range that will avoid the potential for significant bill volatility and rate shock in the summer.”<sup>4</sup>

To comply with these directives and guidelines, on January 28, 2014, SDG&E served the Revised Prepared Direct Testimony of Cynthia Fang On Behalf of San Diego Gas & Electric

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<sup>4</sup> Second Amended Scoping Memo, p. 2.

Company, revising its Interim Residential Rate Design Proposal (“Revised Proposal”). Through this testimony, SDG&E proposed: to increase Tier 1 and Tier 2 rates with and at the same level as system average rate (“SAR”) increases; to change CARE rates with and at the same level as SAR changes to better maintain current effective discount levels and avoid moving further from the 30-35% legislated range; to increase Tier 1 non-CARE rates by an additional 1 cent/kWh; and to reduce the differential between Tier 3 and Tier 4 non-CARE rates from 2 cents/kWh to 1 cent/kWh. On March 7, 2014, parties served intervenor testimony, raising various issues and concerns regarding SDG&E’s Revised Proposal. SDG&E served rebuttal testimony on March 12, 2014 in response to intervenor testimony.

On March 21, 2014, SDG&E filed a Motion Seeking Leave to Notice a Settlement Conference on less than 7 days’ notice, attaching a notice of settlement conference as an appendix. On March 21, 2014, ALJ McKinney issued an order granting SDG&E’s request. On that basis, SDG&E provided notice to all parties of its intent to formally hold a settlement conference, and an initial settlement conference pursuant to Article 12 of the Commission’s Rules of Practice and Procedure was held telephonically on March 24, 2014.

On March 25, 2014, the terms of the Settlement Agreement were presented by a panel of witnesses representing SDG&E, ORA and TURN at transcribed evidentiary hearings that were held in R.12-06-013, ALJs McKinney and Halligan presiding. During the hearings, these witnesses summarized the Settlement Agreement, explained why the Settlement Agreement is in the public interest, and responded to questions posed by the Administrative Law Judge McKinney as well as cross-examination on the impact of the Settlement Agreement on affordability.



### III. SUMMARY OF POSITIONS AND SETTLEMENT

On December 23, 2013, ORA, TURN, UCAN, and SDCAN filed protests in response to SDG&E's 2014 Interim Rate Design Proposal. Among other things, these parties expressed concern about the impact on lower tier customers as well as whether SDG&E's Interim Rate Design Proposal would go too far and do so too quickly. On January 4, 2014, SDG&E filed a Reply to Protests.

In its revised proposal, served on January 28, 2014, SDG&E responded to direction provided in the Second Amended Scoping Memo as well as many of the concerns that had been raised in Protests of its November 22, 2013 filing. On March 7, 2014, ORA, TURN, UCAN and SDCAN served intervenor testimony, raising additional issues and concerns regarding the Revised Proposal SDG&E served on January 28, 2014. Through both their protests and testimony, these parties expressed concern over impacts on lower tier customers, among other things:

- ORA raised issues concerning the impact of SDG&E's Revised Proposal on lower tier customers, questioned whether SDG&E's proposals complied with the Second Amended Scoping Order, and made its own proposals.<sup>5</sup>
- TURN expressed concerns that SDG&E's rate changes would result in a rate design that approaches a two-tier rate system, would not advance the Commission's short-term goals of gradually raising Tier 1 and 2 rates and preventing immediate rate shock, and would set the stage for more severe future rate shock by increasing the rate differential between existing Tier 2 (101-130% baseline usage) and Tier 3 (131-200% baseline usage) rates.<sup>6</sup>

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<sup>5</sup> See, ORA Testimony on San Diego Gas and Electric Company 2014 Summer Rate Relief, Exhibit ORA-01, at pp. 1-4.

<sup>6</sup> See, Prepared testimony of William B. Marcus submitted on behalf of TURN, TURN Exhibit TURN-01, at p. 1.

- UCAN expressed the concern that SDG&E’s proposals attempt to move too quickly toward a 2 tier rate design as well as over the potential impacts on Tier 1 customers.<sup>7</sup> UCAN also expressed concern that SDG&E’s proposal to manage the rise in the Tier 4 price caused the Tier 1 price to rise excessively.<sup>8</sup>
- SDCAN raised concerns over SDG&E’s revenue requirement, potential impacts upon Tier 1 customers as well as the effect of the proposal upon the State’s conservation and energy efficiency efforts.<sup>9</sup>

A matrix summarizing the positions of the Settling Parties is set forth below.

**Comparison Matrix of the Positions of Settling Parties in Phase 2 of R.12 06 013**

Issues	SDG&E	ORA <sup>10</sup>	TURN	UCAN	SDCAN
<b>Non-CARE Tiered Rates</b>	<ul style="list-style-type: none"> <li>• Tier 1 and 2 rates with should increase with SAR increases.</li> <li>• Tier 1 should increase by an additional 1 cents/kWh.</li> <li>• Tier 3/Tier 4 differential should be reduced from 2 cents/kWh to 1 cent/kWh.</li> </ul>	<ul style="list-style-type: none"> <li>• Tier 1 should be set at residential class average (“RAR”) + 5% and capped at a 15% increase.</li> <li>• Tier 2 should be set at RAR + 8% and capped at an 18% increase.</li> <li>• Tiers 3 should be solved residually and Tier 4 should be set 4 cents above Tier 3.</li> </ul>	<ul style="list-style-type: none"> <li>• Supports ORA’s rate proposal.</li> </ul>	<ul style="list-style-type: none"> <li>• There should be a wider gap between Tiers 1 and 3 and between Tiers 3 and 4.</li> <li>• Tier 4 rate should not be capped at 40 cents.</li> <li>• Tier 2 as well as Tier 1 should be allocated revenues to mitigate bill impacts.</li> </ul>	<ul style="list-style-type: none"> <li>• Rate changes should focus upon Tiers 2 and 3, with Tier 3 getting closer to Tier 4 and increasing the delta between Tiers 1 and 2.</li> <li>• Tier 1 rate should be increased by no more than the system average rate increase.</li> </ul>
<b>CARE Tiered Rates</b>	<ul style="list-style-type: none"> <li>• Change CARE rates with SAR</li> </ul>	<ul style="list-style-type: none"> <li>• All CARE rates should</li> </ul>	<ul style="list-style-type: none"> <li>• Supports ORA’s</li> </ul>	<ul style="list-style-type: none"> <li>• Nothing proposed for</li> </ul>	<ul style="list-style-type: none"> <li>• Nothing proposed for</li> </ul>

<sup>7</sup> See, Prepared Testimony of David Croyle Regarding San Diego Gas and Electric’s 2014 Phase 2 Proposal for Interim Rate Relief On Behalf of the Utility Consumers’ Action Network (UCAN), UCAN Exhibit UCAN -06, at p. 5.

<sup>8</sup> See, Prepared Testimony of David Croyle Regarding San Diego Gas and Electric’s 2014 Phase 2 Proposal for Interim Rate Relief On Behalf of the Utility Consumers’ Action Network (UCAN), UCAN Exhibit UCAN -06, at p. 6- 7

<sup>9</sup> See, Prepared Testimony of Michael Shames on behalf of San Diego Consumers’ Action Network, at p. 1.

<sup>10</sup> ORA’s testimony used November 2013 rates as the base rates for capping rate increases prior to RROIR Phase 1 decision becomes available.

	levels.	be set at RAR + 5% and capped at a 15% increase.	recommended rate proposal.	CARE.	CARE.
<b>Overarching Concerns</b>	<ul style="list-style-type: none"> <li>Significant revenue requirements will result in upper tier rates over 40 cents/kWh.</li> </ul>	<ul style="list-style-type: none"> <li>Significant revenue requirement increases are unfortunate because it causes unreasonable bill impacts for low usage customers.</li> </ul>	<ul style="list-style-type: none"> <li>SDG&amp;E's proposal much more significantly increases the Tier 1 rate while reducing the Tier 2/Tier 1 and the Tier 3/Tier 1 ratios.</li> </ul>	<ul style="list-style-type: none"> <li>More revenues should be allocated to Tier 2 to take away some of the burden from Tier 1 customers.</li> <li>Tier 4 rate should not be capped at 40 cents.</li> </ul>	<ul style="list-style-type: none"> <li>Rate shock for Tier 1 customers.</li> <li>Impacts upon conservation.</li> </ul>

\* CUE did not submit intervenor testimony in Phase 2 of R.12-06-013.

The Settlement Agreement represents a compromise of the positions outlined above. Under the Settlement Agreement, revenue requirement changes post-February 1, 2014 and prior to a decision in Phase 1 of R.12-06-013 shall be implemented pursuant to the following rules:

- Non-CARE Tier 1: Tier 1 Rates shall change at a level of residential class average rate ("RAR") plus 2%, but in no event less than 7% relative to February 1, 2014 rates. In the event that Tier 1 rates change at the floor level of 7%, the existing cents/kWh differential between Tier 1 and Tier 2 rates shall be maintained.
- Non-CARE Tier 2: Tier 2 Rates shall change at a level of RAR plus 4%, subject to the provisions applicable to the Tier 1 and Tier 2 differential in the event Tier 1 reaches the 7% floor set forth above.
- CARE Tier 1: CARE Tier 1 Rates shall change at a level of RAR plus 2%.
- CARE Tier 2: CARE Tier 2 Rates shall change at a level of RAR plus 2%.
- CARE Tier 3: CARE Tier 3 Rates shall change at a level of RAR plus 5%.

- Non-CARE Tier 3 and Tier 4: Tier 3 Rates shall be adjusted, after implementation of the forgoing rules for Non-CARE Tier 1 and Tier 2 Rates as well as CARE Tier 1, Tier 2 and Tier 3 Rates treatment of post February 1, 2014 revenue requirement changes, in a manner that maintains the existing 2 cent differential between Tier 3 and Tier 4 Rates.
- SDG&E will consolidate revenue requirement changes whenever feasible to reduce unnecessary rate fluctuations.
- When SDG&E files an Advice Letter to reflect revenue requirement changes, it will include data about February 1, 2014 rates, RAR and SAR contrast to February 1, 2014 percent changes to help parties to review them more efficiently.

The Settlement agreement provides for rules regarding how tiered rates will change with changes in revenue requirements rather than setting fixed rate levels. Table 1 below provides illustrative Settlement rates under different revenue requirement scenarios.<sup>11</sup>

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<sup>11</sup> See, Exhibit 8, at p. 9.

**Table 1: Illustrative Settlement Rates under Full Revenue<sup>12</sup> and 50% Revenue<sup>13</sup> Scenarios**

	Current (2/1/2014)	Illustrative Settlement Rates (Full Revenue Change)	% Change from Current	Illustrative Settlement Rates (50% Revenue Change)	% Change from Current
<b>RAR</b>	21.1	23.3	11%	21.7	3%
<b>Non CARE</b>					
Tier 1	15.4	17.3	13%	16.5	7%
Tier 2	17.8	20.4	15%	18.9	6%
Tier 3	34.9	37.7	8%	34.6	1%
Tier 4	36.9	39.7	8%	36.6	1%
<b>CARE</b>					
Tier 1	10.3	11.6	13%	10.8	5%
Tier 2	12.0	13.5	13%	12.6	5%
Tier 3	17.6	20.3	16%	19.0	8%

**IV. ADOPTION OF THE SETTLEMENT AGREEMENT IS REASONABLE AND IN THE PUBLIC INTEREST**

For the reasons demonstrated below and in the Motion for Adoption of Settlement Agreement previously submitted herein, the Settling Parties submit the Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest. Moreover, as is demonstrated below, the Settlement Agreement complies with AB 327; meets the commission's rate design principles; and, addresses "affordability" concerns. The Settlement Agreement is also consistent with Commission decisions on settlements, which express the strong public policy favoring settlement of disputes if they are fair and reasonable in light of the

<sup>12</sup> Full Revenue reflects incremental impacts of (1) 2014 Energy Resource Recovery Account ("ERRA") Forecast (A.13-09-017), (2) ERRA Trigger Application (A.13-04-017) assuming year-end 2013 balance of \$213.3 million, and (3) incremental balance of \$80 million anticipated for 2014. Also includes impacts of 2012 GRC P2 implementation of (1) change in revenue allocation, (2) change in allocation of CARE rate design subsidy, and (3) change in class definition for Schedule PA-T-1.

<sup>13</sup> 50% revenue reflects incremental impacts of (1) 50% of the incremental impact of 2014 ERRA Forecast (A.13-09-017), (2) 50% of incremental impact of ERRA Trigger Application (A.13-04-017) assuming year-end 2013 balance of \$213.3 million, and (3) 50% of the incremental balance of \$80 million anticipated for 2014. Also includes impacts of 2012 GRC P2 implementation of (1) Change in revenue allocation, (2) change in allocation of CARE rate design subsidy, and (3) change in class definition for Schedule PA-T-1.

whole record.<sup>14</sup> This policy supports many worthwhile goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce unacceptable results.<sup>15</sup>

The Settlement Agreement complies with Commission guidelines and relevant precedent for settlements. The general criteria for Commission approval of settlements are stated in Rule 12.1(d) as follows:

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.<sup>16</sup>

The Settlement Agreement meets the criteria for a settlement pursuant to Rule 12.1(d), as discussed below.

#### **A. The Settlement Agreement Is Reasonable In Light of the Record**

The record in Phase 2 of this proceeding includes this Motion, SDG&E's November 22 proposal and supporting testimony (SDG&E Exhibits 1 and 2), the Revised Prepared Direct Testimony of Cynthia Fang filed on January 28 (SDG&E Exhibit 3), the Supplemental Bill Impact Tables of SDG&E served on January 22 (SDG&E Exhibit 4), the Supplemental Bill Impact Tables Setting Forth Annual Impact for System-Wide Non-CARE and CARE Primary Default Rate Schedules (SDG&E Exhibit 5), and the Prepared Rebuttal Testimony of Cynthia Fang on Behalf of SDG&E (SDG&E Exhibit 6); the Term Sheet of Agreement in Principle (SDG&E Exhibit 7), Exhibit SDG&E 8. Joint Motion of SDG&E, ORA, TURN, UCAN, SDCAN, and CUE for Adoption of Settlement Agreement for Phase 2 Interim Rate Design

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<sup>14</sup> See, e.g., D.88-12-083 (30 CPUC 2d 189, 221-223) and D.91-05-029 (40 CPUC 2d, 301, 326).

<sup>15</sup> D.92-12-019, 46 CPUC 2d 538, 553.

<sup>16</sup> See also, Re San Diego Gas & Electric Company, (D.90-08-068), 37 CPUC 2d 360: “[S]ettlements brought to this Commission for review are not simply the resolution of private disputes, such as those that may be taken to a civil court. The public interest and the interest of ratepayers must also be taken into account and the Commission’s duty is to protect those interests.”

Changes for SDG&E, filed on March 28, 2014 (“Joint Motion”) together with attached Settlement Agreement (Exhibit SDG&E 8); Bill Impacts for Rates under Proposed Settlement Agreements showing bill impacts for the proposed settlement rates (Exhibit SDG&E 9); Energy Burden Table showing the electricity burden ratios for all non-CARE and CARE residential customers system wide for March 31, 2014 rates; rates under proposed settlement agreement provided separately with equivalent kWh consumption bins; and ratios for all-electric customers under March 31, 2014 rates, rates under proposed settlement agreement (Exhibit SDG&E 10), Office of Ratepayer Advocates testimony on San Diego Gas & Electric Company 2014 Summer Rate Relief (ORA Exhibit 1), Testimony of William B. Marcus submitted on behalf of TURN (TURN Exhibit 1), UCAN Data Request (UCAN Exhibit 1), Customer Bill Impacts in Response to Data Request (UCAN Exhibit 2), Customer Bill Impacts for a Second Scenario (UCAN Exhibit 3), ORA Data Request (UCAN Exhibit 4), Customer Bill Impacts in response to ORA Data Request (UCAN Exhibit 5), and the Testimony of David Croyle submitted on behalf of UCAN (UCAN Exhibit 6), the Testimony of Michael Shames submitted on behalf of SDCAN (SDCAN Exhibit 1) as well as the comments and reply comments that have been submitted by SDG&E, ORA, TURN, UCAN and SDCAN herein. Together, the above documents provide the information necessary for the Commission to find the Settlement Agreement reasonable in light of the record.

The settlement represents a significant compromise by SDG&E in response to concerns over impacts on lower tier and whether SDG&E’s proposal would go too far, too quickly. In that regard, as is demonstrated in Exhibit SDG&E 8, rather than reducing the differential between Tier 1 and Tier 2 rates and increasing Tier 1 and Tier 2 rates with and at the same level as SAR increases plus an additional 1 cent/kWh increase for Tier 1 rates, the Settlement Agreement provides that Non-CARE Tier 1 Rates would change at a level of RAR plus 2% (but in no event

less than 7% relative to February 1, 2014 rates) while non-CARE Tier 2 Rates would change at a level of RAR plus 4%. Rather than changing CARE rates with and at the same level as SAR changes as SDG&E proposed, the Settlement Agreement provides that CARE Tier 1 and Tier 2 Rates would change at a level of RAR plus 2% and CARE Tier 3 Rates would change at a level of RAR plus 5%. Finally, rather than reducing the differential between Tier 3 and Tier 4 non-CARE rates from 2 cents/kWh to 1 cent/kWh as SDG&E proposed, the Settlement Agreement would adjust upper tier rates in a manner that maintains the 2 cents/kWh differential between Tier 3 and Tier 4 Rates.

The Settlement Agreement does not prejudge Phase 1 of this proceeding and proposes a set of rules for implementing revenue requirement changes for residential customers on an interim basis that would be superseded by a decision in Phase 1 of R.12-06-013.

The Settlement Agreement is also reasonable insofar as it is consistent with the guiding principles contained in the October 25, 2013 ACR, which recommended that, for the interim residential rate changes, “any tier increase resulting from increased revenue requirements [will] be applied first to the lower tiers” in order to “prevent further disparity in lower and upper tiers,” that rate changes should “avoid rate shock,” and that the rates for Tiers 1 and 2 should “begin to increase in 2014.”<sup>17</sup> The Settlement Agreement would provide for increases in Tier 1 and Tier 2 Rates, but at levels that moderate potential bill impacts in order to avoid rate shock.

The Settling Parties respectfully submit that the Settlement Agreement is reasonable, in the public interest, and is consistent with AB 327 as well as the guiding principles in the October 25, 2013 ACR:

- The Settlement Agreement includes no major structural adjustments to CARE, Family Electric Rate Assistance (“FERA”) or medical baseline programs.

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<sup>17</sup> October 25, 2013 ACR, p. 5.



- The Settlement Agreement provides a small adjustment to the effective CARE discount in order to begin to put CARE rates on a glide path to the 35% maximum discount required by AB 327.
- The Settlement Agreement limits rate changes to increases in lower tiers no more than a few percentage points above projected increases in revenue requirements to the class, in a manner that avoids rate shock to all customers.
- The Settlement Agreement represents a movement from all party's positions and balances interests of all ratepayers.

**B. The Settlement Agreement is Consistent with Law**

The terms of the Settlement Agreement comply with all applicable statutes and prior Commission decisions, and reasonable interpretations thereof, including AB 327. In that regard, AB 327 provides, in pertinent part, as follows:

**Section 739.1**

(b) The commission shall establish rates for CARE program participants, subject to both of the following:

(1) That the commission ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures, pursuant to subdivision (b) of Section 382.

(2) That the level of the discount for low-income electricity and gas ratepayers correctly reflects the level of need as determined by the needs assessment conducted pursuant to subdivision (d) of Section 382.

(c) In establishing CARE discounts for an electrical corporation with 100,000 or more customer accounts in California, the commission shall ensure all of the following:

(1) The average effective CARE discount shall not be less than 30 percent or more than 35 percent of the revenues that would have been produced for the same billed usage by non-CARE customers. The average effective discount determined by the commission shall reflect any charges not paid by CARE customers, including payments for the

California Solar Initiative, payments for the self-generation incentive program made pursuant to Section 379.6, payment of the separate rate component to fund the CARE program made pursuant to subdivision (a) of Section 381, payments made to the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code, and any discount in a fixed charge. The average effective CARE discount shall be calculated as a weighted average of the CARE discounts provided to individual customers.

(2) If an electrical corporation provides an average effective CARE discount in excess of the maximum percentage specified in paragraph (1), the electrical corporation shall not reduce, on an annual basis, the average effective CARE discount by more than a reasonable percentage decrease below the discount in effect on January 1, 2013, or that the electrical corporation had been authorized to place in effect by that date.

(g) It is the intent of the Legislature that the commission ensure CARE program participants receive affordable electric and gas service that does not impose an unfair economic burden on those participants.<sup>18</sup>

### **Section 739.9**

(b) Increases to electrical rates and charges in rate design proceedings, including any reduction in the California Alternate Rates for Energy (CARE) discount, shall be reasonable and subject to a reasonable phase-in schedule relative to the rates and charges in effect prior to January 1, 2014.

(c) Except as provided in subdivision (c) of Section 745, the commission shall require each electrical corporation to offer default rates to residential customers with at least two usage tiers. The first tier shall include electricity usage of no less than the baseline quantity established pursuant to paragraph (1) of subdivision (d) of Section 739.<sup>19</sup>

The requirements of AB 327 were summarized by Commissioner Peevey:

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<sup>18</sup> See, California Public Utilities Code, Section 739.1(b)(c) and (g).

<sup>19</sup> See, California Public Utilities Code Section 739.9(b) and (c).

All changes must be consistent with the statutory requirements that changes be made through a reasonable phase-in schedule relative to rates in effect prior to January 1, 2014, that differentials between tiers should be gradual, that rates not unreasonably impair incentives for conservation and energy efficiency and that rates not overburden low income customers. (California Public Utilities Code Sections 739.9(b); 739(d)(1); 739(e).)<sup>20</sup>

As Cynthia Fang testified at the hearings in the proceeding, under the Settlement Agreement, SDG&E's effective CARE discount will be reduced towards the 35% cap provided for under California Public Utilities Code Section 739.9, but in a gradual manner, to ensure that the average effective CARE discount is not reduced "by more than a reasonable percentage decrease below the discount in effect on January 1, 2013":

"for SDG&E, our current CARE effective discount level is 39 percent, and so we are outside of the statutory bounds for that. And so this settlement will bring that a little bit closer, but it isn't a dramatic move to -- it's approximately 37.4. So while it starts to make . . . it's a slow progressive move towards getting us within those legislative bounds."<sup>21</sup>

The forgoing also ensures compliance with the requirements of Section 739.1 that an "electrical corporation shall not reduce, on an annual basis, the average effective CARE discount by more than a reasonable percentage decrease."<sup>22</sup> Finally, by ensuring a modest reduction in the effective tier discount, combined with provisions that provide for protections for both CARE and non-CARE Tier 1 and Tier 2 customers, the Settlement Agreement ensures that "low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures"<sup>23</sup> and that "CARE program participants receive affordable electric and gas service that does not impose an

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<sup>20</sup> See, Assigned Commissioner's Ruling Inviting Utilities to Submit Interim Rate Change Applications, issued October 25, 2013, at p. 3.

<sup>21</sup> See Hearing Transcript, Volume 1, at pp. 107-108.

<sup>22</sup> See, California Public Utilities Code Section 739.1(c)(2).

<sup>23</sup> See, California Public Utilities Code Section 739.1(b)(1).

unfair economic burden on those participants.”<sup>24</sup> In that regard, Ms. Tan testified that the Settlement Agreement caps CARE Tier 1 and Tier 2 rate increases at 2% above residential average rate increases as follows:

“... the residential average rate is going to increase based on their projection. So without anything, all these tiers are going to see that impact. And what we are trying to protect is that we are only allowing the CARE Tier 1 and 2 and also non-CARE Tier 1 to increase only another 2 percent above this residential cost.”<sup>25</sup>

In preserving the existing 4 tier rate structure under new cost allocation rules, the Settlement Agreement also meets the requirement that default rates for residential customers include at least two usage tiers with a first tier that include electricity usage of no less than the baseline quantity established pursuant to paragraph (1) of subdivision (d) of Section 739 set forth in Section 739.9. Because the changes are modest there are no adverse impacts on incentives to pursue conservation.

For the forgoing reasons, the Settling Parties respectfully submit that the Settlement Agreement is consistent with the law, including relevant provisions of AB 327.

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<sup>24</sup> See, California Public Utilities Code, Section 739.1(g).

<sup>25</sup> See, Hearing Transcript, Volume 1, at p. 109.

### **C. The Settlement Agreement Complies with the Commission's Rate Design Principles**

In the Scoping Memo and Ruling of Assigned Commissioner issued November 26, 2012, ten rate design principles were adopted in this proceeding.<sup>26</sup> The Settling parties submit that the Settlement Agreement complies with each of the foregoing rate design principles for the reasons set forth below.

1. *Low-income and medical baseline customers should have access to enough electricity to ensure basic needs (such as health and comfort) are met at an affordable cost.* For the reasons set forth above, and in the section on affordability issues below, the Settlement Agreement has been structured in a way that ensures that low-income and medical baseline customers have access to enough electricity to ensure basic needs are met at an affordable cost. In short, there will be no changes to the FERA and medical Baseline program structures,<sup>27</sup> rate changes will be tied to residential average rate increases,<sup>28</sup> and the effective CARE discount will be slightly reduced from 39% to 37.4%, but remain at a level above the statutory cap of 35%.<sup>29</sup>

2. *Rates should be based on marginal cost.* By allowing lower tier rates to increase at the level of residential class average rates plus 2%, with a floor of 7%, the Settlement Agreement ensures that lower tier rates will move closer to marginal cost levels. As a consequence, upper tier rates will also move closer to marginal cost.

3. *Rates should be based on cost-causation principles.* In short, the Settlement Agreement adopts rules that will move both upper and lower tier rates closer to cost of service. See number 2, above.

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<sup>26</sup> Scoping Memo and Ruling of Assigned Commissioner issued November 26, 2012, at pp. 5-7.

<sup>27</sup> See, Hearing Transcript, Volume 1, at p. 106.

<sup>28</sup> See, Hearing Transcript, Volume 1, at p. 103.

<sup>29</sup> See, Hearing Transcript, Volume 1, at p. 107-108.

4. *Rates should encourage conservation and energy efficiency.* The Settling Parties have different views on the best manner to structure rates to encourage conservation and energy efficiency. The Settlement Agreement avoids prejudging this issue, and adopts interim rate design rules subject to determinations on this and other longer-term issues in Phase 1 of this proceeding. Until longer-term issues are resolved, the Settlement Agreement will preserve the existing 4 tier rate structure while providing for gradual rate increase for lower tier customers that will preserve existing incentives to pursue conservation and energy efficiency for higher tier customers while increasing those incentives for lower tier customers.

5. *Rates should encourage reduction of both coincident and non-coincident peak demand.* Consistent with the streamlined scope of this Phase of this proceeding, the Settlement Agreement defers consideration of optional and other rate designs that might be structured to encourage coincident and non-coincident demand to Phase 1 of this proceeding and/or other proceedings.

6. *Rates should be stable and understandable and provide customer choice.* The Settlement Agreement provides that SDG&E will consolidate revenue requirement changes whenever feasible to reduce unnecessary rate fluctuations and that, when SDG&E files an Advice Letter to reflect revenue requirement changes, it will include data about February 1, 2014 rates, RAR and SAR contrast to February 1, 2014 percent changes to help parties to review them more efficiently. This will help ensure stability in rates and that rate changes are more understandable for customers.

7. *Rates should generally avoid cross-subsidies, unless the cross-subsidies appropriately support explicit state policy goals.* The Settlement Agreement provides for gradual adjustments in lower tier rates that will move them closer to cost while protecting upper tier customers against rate increases that are not based on their cost of service. As such, the

Settlement Agreement provides for changes that will gradually reduce tier differentials.

However, longer-term issues are reserved for consideration in Phase 1 of this proceeding.

8. *Incentives should be explicit and transparent.* See above. While the Settlement Agreement avoids prejudging issues that will be resolved in Phase 1 of this proceeding, it adopts provisions that will gradually reduce the differentials that exist between rate tiers in the interim.

9. *Rates should encourage economically efficient decision-making.* See above.

10. *Transitions to new rate structures should emphasize customer education and outreach that enhances customer understanding and acceptance of new rates, and minimizes and appropriately considers the bill impacts associated with such transitions.* See Number 6 above. The Settlement Agreement provides that SDG&E will consolidate revenue requirement changes whenever feasible to reduce unnecessary rate fluctuations and that, when SDG&E files an Advice Letter to reflect revenue requirement changes, it will include data about February 1, 2014 rates, RAR and SAR contrast to February 1, 2014 percent changes to help parties to review them more efficiently. This will help ensure that rate changes are more understandable for customers.

#### **D. The Settlement Agreement Ensures Affordability**

The Settlement Agreement has been structured to ensure that affordability concerns are addressed. In that regard, as witness Ms. Tan testified in this proceeding:

...we also tried to tie all the future rate changes until the OIR Phase 1 decision come out to the February 1st, and still tied it to the residential cost, plus percentage change. So you won't have situation that – the utilities sometimes do file multiple rate changes within one year, and sometimes they may be up and down. But no matter what, we tried to make sure the Tier 1 and also the CARE customers will not see more than just a couple more

points above the residential cost rate increase. So those are the major protection which we had to build into the settlement package.<sup>30</sup>

Furthermore, the bill impact tables show that more than 70% of care customers would see less than a \$5 monthly bill increase, and 90% of care customers would see less than a \$10 change per month.<sup>31</sup>

The Settlement Agreement also ensures that there will be no changes in FERA and medical baseline program structures:

ALJ MC KINNEY: Okay. I think you've discussed the allocation formula for the revenue requirement. And I believe you stated that there will be no changes to the FERA and medical Baseline program structures at this time under this settlement.

WITNESS MANZUK: A Yes, that's correct.

WITNESS MARCUS: A And in addition, there are fewer changes to the actual discount in this case because the difference between Tiers 2 and 3 is approximately the same under most circumstances. I wouldn't say all, but following the rule, under most circumstances the differences don't change much.<sup>32</sup>

Further, as stated above and as witness Fang testified on March 25, the Settlement Agreement preserves an effective CARE discount above the statutory maximum, which SDG&E currently has a CARE effective discount level of 39 percent.

#### **E. The Settlement Agreement is in the Public Interest**

The Settlement Agreement is a reasonable compromise of the Settling Parties' respective positions, as summarized in Section III. The Settlement Agreement represents a balanced approach to an interim rate given both the diverse interests of the parties and more importantly, to the residential customers in each of the four tiers. Specifically, as explained in Section IV.A.,

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<sup>30</sup> See, Hearing Transcript, Volume 1, at p. 103.

<sup>31</sup> Exhibit SDG&E-9, Attachment B.1, page 27 - 29 of 50. The bill impacts are based on the scenario assuming 50% of SDG&E revenue requirement increases. The 100% full revenue requirements would produce higher bill impacts.

<sup>32</sup> See, Hearing Transcript, Volume 1, at p. 106.



above, the Settlement Agreement provides for reasonable increases in the rates for non-CARE Tiers 1 and 2, and provides a reasonable formula for addressing revenue requirement changes until a Commission decision is implemented addressing longer-term rate design issues in Phase 1 of this proceeding.

The Settlement Agreement, if adopted by the Commission, would avoid the cost of further litigation, and free up Commission resources for other proceedings, including timely resolution of Phase 1 of this Rulemaking. The Settlement Agreement would free up the time and resources of other parties as well, allowing them to focus on the rest of this proceeding and other proceedings.

#### V. CONCLUSION

For the forgoing reasons, the Settling Parties respectfully request that the Commission:

1. Approve the attached Settlement Agreement as reasonable in light of the record, consistent with law, and in the public interest; and
2. Issue a decision no later than June 12, 2014 authorizing SDG&E to implement changes via a Tier 1 Advice Filing in accordance with the terms of the Settlement Agreement.

Dated: April 7, 2014

San Diego Gas & Electric Company

*/s/ Thomas R. Brill*

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Dated: April 7, 2014

The Office of Ratepayer Advocates

*/s/ Gregory Heiden*

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