

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

Application to Establish Non-Bypassable Charge
("NBC") for Above-Market Costs Associated
with Tree Mortality Power Purchase Agreements
("Tree Mortality") in Compliance with Senate
Bill 859 and Resolution E-4805.

A.16-11-___

**JOINT APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39-E),
SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), AND SAN DIEGO GAS &
ELECTRIC COMPANY (U 902-E)**

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Dated: **November 14, 2016**

**JOINT APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39-E) SOUTHERN
CALIFORNIA EDISON COMPANY (U 338-E), AND SAN DIEGO GAS & ELECTRIC
COMPANY (U 902-E)**

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I.

INTRODUCTION AND EXECUTIVE SUMMARY

Pursuant to Ordering Paragraph (“OP”) No. 4 of Resolution E-4805, Pacific Gas and Electric Company (“PG&E”), Southern California Edison Company (“SCE”), and San Diego Gas & Electric Company (“SDG&E”) (hereinafter referred to jointly as “Joint Investor Owned Utilities” or “Joint IOUs”) hereby submit this Joint Application to create a new Tree Mortality Non-Bypassable Charge (“Tree Mortality NBC” or “TM NBC”).¹ The Joint IOUs request that the California Public Utilities Commission (“Commission” or “CPUC”) act expeditiously to adopt the Tree Mortality NBC proposed in this Joint Application.

A. Statutory Basis

California has experienced several years of drought that have exacerbated bark beetle infestations that have killed millions of trees, and millions more are expected to die. On August

¹ Resolution E-4805, OP 4, p.18.

30, 2016, the California Legislature passed Senate Bill (“SB”) 859, and Governor Edmund G. Brown, Jr., signed it into law on September 14, 2016.² SB 859 developed a new requirement for electrical corporations to procure their respective shares of 125 Megawatts (“MW”) from existing biomass facilities using prescribed amounts of dead and dying trees located in high hazard zones (“HHZ”) as feedstock. In addition, SB 859, at Public Utilities Code §399.20.3(f), requires that the procurement costs to satisfy this requirement be recovered from all customers on a non-bypassable basis.

B. Resolution E-4805

On October 21, 2016, the Commission issued Resolution E-4805 to implement the requirements of SB 859. As discussed above, SB 859 explicitly requires cost allocation to all customers. Resolution E-4805, therefore, required the Joint IOUs to file applications within 30 days of its issuance to establish a Tree Mortality NBC consistent with the requirements of SB 859.³ Resolution E-4805 also requires the Joint IOUs to file Tier 2 advice letters within 30 days of its issuance creating memorandum accounts to track the costs of procurement associated with the tree mortality emergency while the application on cost allocation is pending.⁴ This Joint Application requests that the Tree Mortality NBC, described below, be used to allocate the procurement costs of the contracts entered into by the Joint IOUs.

C. Resolution E-4770 and Petitions for Modification of D.10-12-048

Prior to passage of SB 859 and issuance of Resolution E-4805, on October 30, 2015, Governor Brown, issued a Proclamation of a State of Emergency (“Proclamation”) to address the tree mortality crisis in California.⁵ The Proclamation classified the dead and dying trees located in HHZ as being a high priority to remove. In response to the Proclamation, on March 17, 2016,

² http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB859.

³ Resolution E-4805, October 13, 2016, Ordering Paragraph 4, at page 18.

⁴ *Id.* at, Ordering Paragraph 5.

⁵ https://www.gov.ca.gov/docs/10.30.15_Tree_Mortality_State_of_Emergency.pdf.

the Commission issued Resolution E-4770 requiring that the Joint IOUs enter into contracts to purchase their share of at least 50 MW of generating capacity collectively from biomass generation facilities that use minimum prescribed levels of HHZ material as feedstock and to use the Renewable Auction Mechanism (“RAM”) solicitation procedures to procure the contracts. This procurement of biomass energy using the RAM procedures is also known as BioRAM.

In comments on a draft version of Resolution E-4770, the Joint IOUs proposed the allocation of costs to all benefitting parties. The final version of Resolution E-4770 rejected that request on procedural grounds, stating that any such change would have to be made through modification of Decision (“D.”) 10-12-048 (“RAM Decision”). Accordingly, the Joint IOUs proposed in two Petitions for Modification (“PFMs”) of the RAM Decision⁶ that any costs incurred and benefits received as part of the BioRAM program authorized by Resolution E-4770 be allocated to all benefitting parties through a cost recovery mechanism, such as a Tree Mortality NBC which is essentially the same as the Tree Mortality NBC that the Joint IOUs request approval of in this Joint Application. The only substantive difference between the PFMs was that SDG&E proposed recovery of the identified Tree Mortality NBC costs through the Public Purpose Program (“PPP”) Charge, and PG&E and SCE requested recovery of the identified Tree Mortality NBC costs through the New System Generation Balancing Accounts to collect their Cost Allocation Mechanism (“CAM”) costs. In this Joint Application, the Joint IOUs request recovery of the Tree Mortality NBC costs through the PPP Charge.⁷ The Joint IOUs specifically request, as part of this Joint Application, that the Commission adopt the same Tree Mortality NBC for all procurement entered into to comply with the mandates set forth in Resolutions E-4770 and E-4805 (collectively, the “Tree Mortality Procurement”).

⁶ SDG&E filed one Petition for Modification of the RAM Decision, and PG&E and SCE jointly filed another Joint Petition for Modification of the RAM Decision.

⁷ While the Joint IOUs support cost recovery through the PPP charge, they will accept cost recovery through the New System Generation Balancing Account used to recover CAM costs, if the Commission so chooses for all Tree Mortality NBC costs.

Procurement resulting from both Resolutions is designed to meet requirements established by California executive and legislative action to address the Tree Mortality crisis in the forests of California. Resolution E-4770 was intended to address the Tree Mortality crisis expeditiously and as a result, deferred the issue of cost allocation by requesting that the Joint IOUs file PFMs. It is logically and operationally efficient to use the same cost allocation methodology to allocate costs and benefits of procurement resulting from both Resolutions E-4770 and E-4805.

On October 31, 2016, the Commission issued a Proposed Decision (“PD”) denying the pending PFMs and ordering the Joint IOUs to either file additional applications or amend the existing application(s) for a Tree Mortality NBC to address contracts entered into pursuant to Resolution E-4770. The Joint IOUs intend to file comments to the PD, on or before November 21, 2016, noting that they are requesting in this Joint Application the adoption of the same Tree Mortality NBC for contracts entered into pursuant to both Resolution E-4770 and E-4805. In fact, the PD determines that “[i]t therefore is reasonable, and likely to improve the efficiency of both procurement processes, for the IOUs to use the same mechanism to allocate allowable costs and benefits of procurement under both resolutions.”⁸ Therefore, the Joint IOUs do not expect to need to amend this Joint Application or file separate applications to comply with the PD, if it is adopted. The Joint IOUs respectfully request in this Joint Application that the adopted cost allocation methodology for all Tree Mortality Procurement be the same and be effectuated through action in this docket. This will avoid significant administrative burdens and complexities that adoption of separate cost allocation methodologies would create.

D. Summary of Specific Relief Requested

The Joint IOUs specifically request that the Commission:

⁸ See ALJ Simon’s Proposed Decision Denying Petitions for Modification of Decision 10-12-048, dated October 31, 2016, at p. 11.

- Adopt the Tree Mortality NBC Proposal, as set forth in supporting testimony served concurrently with this Joint Application for each of the Joint IOUs;
- Authorize the Joint IOUs to transfer all amounts recorded in their BioRAM memorandum accounts for Tree Mortality Procurement to their Tree Mortality NBC Balancing Accounts;
- Authorize the Joint IOUs to recover the Tree Mortality NBC through the PPP Charge;
- Find that the Tree Mortality NBC is consistent with SB 859, Public Utilities Code §399.20.3(f), Resolution E-4770, and Resolution E-4805;
- Adopt the same Tree Mortality NBC methodology for all Tree Mortality Procurement, whether entered into pursuant to Resolution E-4770 or Resolution E-4805, and SB 859, for all three Joint IOUs, as set forth in this Joint Application;
- Authorize each of the Joint IOUs to file a Tier 1 compliance advice letter to provide preliminary statements and other tariff changes consistent with the TM NBC Proposal set forth in the testimony supporting this Joint Application; and
- Adopt any other relief necessary to implement the Tree Mortality NBC, as proposed in this Joint Application.

II.

GREENHOUSE GAS (“GHG”) EMISSION COSTS OR ATTRIBUTION FROM BIOMASS FACILITIES

During the Commission’s business meeting at which Resolution E-4805 was adopted, President Picker noted his expectation that the Joint IOUs’ Tree Mortality NBC application would propose a way in which departed load would share not only in the procurement costs, but also be assigned some of the additional carbon load associated with biomass procurement. In concurrence on Resolution E-4805, President Picker further noted the uncertainty surrounding

relative greenhouse gas (“GHG”) emissions in BioRAM with current valuation systems that cannot capture the burdens and benefits.⁹

Currently, biomass resources using fuel that would otherwise be disposed of utilizing open burning or forest accumulation are deemed to meet California’s Emission Performance Standard (“EPS”).¹⁰ Biomass generation facilities are also generally exempt from compliance obligations under California’s Cap-and-Trade Program for achieving statewide GHG emission reduction goals.¹¹ Finally, pursuant to the BioRAM contract, a biomass facility must ensure that the RPS product delivered is zero net emitting. In general, therefore, current State policy and the BioRAM contract treat biomass generation facilities like those that will be procured pursuant to Resolution E-4770 and E-4805 as GHG-neutral from both a cost and emission perspective.

The IOUs’ BioRAM contracts, which would likely form the starting point for any additional procurement to comply with Resolution E-4805 beyond BioRAM, place the responsibility on the seller for costs and compliance with laws applicable to the Project and obligations incurred applicable to the Product prior to and at the Delivery Point, as each of those capitalized terms is defined in the respective contracts. In the event that the laws or regulation affecting biomass facilities or their resulting products changes, the Joint IOUs may consider the impact of such changes on their procurement.

⁹ Concurrence of President Picker on Resolution E-4805, dated November 1, 2016, at pp. 1-2.

¹⁰ D.07-01-039, pp. 269-270 (Conclusion of Law 35(d)).

¹¹ See 17 Cal. Code Regs. § 95852.2 (noting that “emissions without a compliance obligation include:

(a) CO2 emissions from combustion of the following biomass-derived fuels:

...

(4) Wood and wood wastes identified to follow all of the following practices:

(A) Harvested pursuant to an approved timber management plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 or other locally or nationally approved plan; and

(B) Harvested for the purpose of forest fire fuel reduction or forest stand improvement.”).

III.

NEED FOR AND SUMMARY OF COST ALLOCATION PROPOSAL

SB 859 added Public Utilities Code §399.20.3 to California law to address the need for each electrical corporation to procure its proportionate share of 125 MW of energy from bioenergy facilities burning dead and dying trees from HHZs. Public Utilities Code §399.20.3(f) requires that “The commission shall ensure that the costs of any contract procured by an electrical corporation to satisfy the requirements of this section are recoverable from all customers on a non-bypassable basis.” Accordingly, the costs and benefits of Tree Mortality Procurement should be recovered from all customers through a Tree Mortality NBC that fairly allocates all program costs and benefits to all benefitting customers in California on a non-bypassable basis. Even though the Tree Mortality Procurement is divided into two phases covered by two different Commission Resolutions – E-4770 and E-4805 - any costs incurred and benefits received under any Tree Mortality Procurement should be allocated to all benefitting parties through the Tree Mortality NBC.

The Joint IOUs’ prepared testimony supporting this Application consists of one exhibit in four sections (each sponsored by one witness from each of the Joint IOUs). Section I provides an overview of the testimony which, as a whole, presents a detailed description of how such a Tree Mortality NBC should be implemented. Section II of the testimony generally describes the costs and the benefits that the Joint IOUs expect to be associated with the Tree Mortality Procurement and defines “net costs” as the portion of the total contract costs net of the energy, ancillary service (if any), and renewable energy credit (“REC”) value derived from the procurement. Section II of the testimony also describes how Resource Adequacy (“RA”) value would be allocated, which is fully consistent with the methodology currently used to allocate RA in the context of the existing CAM. Section III of the testimony describes how each of the Joint IOUs would use balancing accounts to track and true up the costs and revenues associated with Tree Mortality Procurement over time. Finally, Section IV of the testimony describes the rate

design aspects of the proposal and addresses, in particular, why the Joint IOUs propose to collect the net cost of the Tree Mortality Procurement through the PPP Charge.

Recognizing the broad public benefits described above, in the Emergency Proclamation, and in SB 859, and in light of several of the Commissioners' own concerns about the fundamental fairness of imposing the costs of BioRAM on only the Joint IOUs' bundled customers, the Commission can and should adopt the Tree Mortality NBC proposed in this Application.

IV.

STATUTORY AND REGULATORY REQUIREMENTS

A. Statutory and Other Authority – Rule 2.1

Rule 2.1 requires that all applications: (1) clearly and concisely state authority or relief sought; (2) cite the statutory or other authority under which that relief is sought; and, (3) be verified by the applicant. Rules 2.1(a), 2.1(b), and 2.1(c) set forth further requirements that are addressed separately below.

The Joint IOUs have set forth a concise statement of the relief sought in Section I of this Application, above.

The statutory and other authority under which this relief is being sought include California Public Utilities Code Sections adopted in SB 859, the Commission's Rules of Practice and Procedure, and prior decisions, orders, and resolutions of this Commission, including Resolution E-4805.

Finally, this Joint Application has been verified by officers of each of the Joint IOUs as provided in Rule 1.11.

B. Legal Names and Correspondence – Rules 2.1(a) and 2.1(b)

Pursuant to Rules 2.1(a) and 2.1(b),¹² the legal names of the Joint IOUs are: Pacific Gas and Electric Company; San Diego Gas & Electric Company; and Southern California Edison Company. SCE is a public utility organized and existing under the laws of the State of California. The location of SCE's principal place of business is: 2244 Walnut Grove Avenue, Rosemead, California. PG&E is a corporation organized under the laws of the State of California. PG&E's principal place of business is 77 Beale Street, San Francisco, California 94105. SDG&E is a corporation organized under the laws of the State of California. The location of SDG&E's principal place of business is: 8330 Century Park Court, San Diego, California 92123.

Correspondence or communications regarding this application should be addressed to:

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¹² Rule 2.1(a) requires the application to state the exact legal name of the applicant and location of its principal place of business, and, if a corporation, the state under the laws of which the applicant was organized. Rule 2.1(b) requires the application to state the name, title, address, telephone number, facsimile transmission number, and e-mail address of the person to whom correspondence or communications in regard to the application are to be addressed.

For SDG&E:

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C. Proposed Categorization, Need for Hearings, Issues to Be Considered, Proposed Schedule – Rule 2.1(c)

Commission Rule 2.1(c) requires that all applications shall state “the proposed category for the proceeding, the need for hearing, the issues to be considered including relevant safety considerations, and a proposed schedule.”¹³ The Joint IOUs propose this joint application be designated a “ratesetting” proceeding, as defined in California Public Utilities Code §1701.1(c)(3) and Rule 1.3(e).¹⁴

The Joint IOUs do not believe that evidentiary hearings will be necessary for this Joint Application because the issues to be considered are policy issues associated with implementation of SB 859 and Resolution E-4805, which can be adequately addressed through briefing. Accordingly, the Joint IOUs set forth below a proposed schedule without evidentiary hearings. That said, if the Commission determines that there is a need for hearings, the Joint IOUs’ also propose a procedural schedule providing an option for 2 days of evidentiary hearings.

The issues to be considered in this proceeding are whether the relief that the Joint IOUs have requested, as set forth in Section I of this Application, should be granted. In D.16-01-017,

¹³ TITLE 20 CAL. CODE REGS. Div. 1, Art. 2, §2.1.

¹⁴ “Ratesetting cases, for purposes of this article, are cases in which rates are established for a specific company, including, but not limited to, general rate cases, performance-based ratemaking, and other ratesetting mechanisms.” CAL. PUB. UTIL. CODE §1701.1(c)(3). “‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities).” TITLE 20 CAL. CODE REGS §1.3(e).

the Commission adopted an amendment to Rule 2.1(c) requiring applications to clearly state the “relevant safety considerations.” The Commission has previously explained that the “safe and reliable provisions of utilities at predictable rates promotes public safety.”¹⁵ The ultimate purpose of the Tree Mortality Procurement, as expressed in the Governor’s Proclamation, Resolution E-4770, SB 859, and Resolution E-4805, is to reduce wildfire threats to public safety and grid reliability. While this Joint Application does not seek approval of specific biomass generation procurement contracts, the broad, statewide public safety policy goals that led to the Tree Mortality Procurement mandates are highly relevant to the determination of a fair allocation of costs associated with such procurement, as requested in this Application. In sum, the Joint IOUs’ proposal in this proceeding supports the safe and reliable provision of electric service, including through reducing risks associated with wildfire, which can help facilitate public safety.

The Joint IOUs propose the following alternative schedules for this proceeding:

Event	Date without Evidentiary Hearing	Date with Evidentiary Hearings
Joint IOUs file Application	November 14, 2016	November 14, 2016
Notice of Application appears in Daily Calendar (expected)	November 21, 2016	November 21, 2016
Protests/Responses to Joint Application Due	30 days after Notice Appears	30 days after Notice Appears
Reply to Protests Due ¹⁶	10 days after Notice Appears	10 days after Notice Appears
Prehearing Conference Held	January 23, 2017	January 23, 2017
Intervenors Opening Testimony Due	N/A	February 22, 2017

¹⁵ D.14-12-053 at pp. 12-13.

¹⁶ The Joint IOUs intend to file a separate motion within two weeks of the filing of this Joint Application respectfully requesting that, given the upcoming holiday season and expected unavailability of key Joint IOU personnel during that time, the due date for the Reply to Protests not occur during the window of time of December 19, 2016 through January 16, 2017.

Concurrent Rebuttal Testimony Due	N/A	March 77, 2017
Evidentiary Hearings Held, if necessary	N/A	March 17-18, 2017
Opening Briefs due	February 23, 2017	April 18, 2017
Reply Briefs due	March 9, 2017	May 2, 2017
Proposed Decision	June 9, 2017	August 2, 2017
Final Decision	July 13, 2017	September 14, 2017

D. Organization and Qualification to Transact Business – Rule 2.2

1. PG&E

PG&E is, and since October 10, 1905, has been, an operating public utility corporation organized under California law. It is engaged principally in the business of furnishing electric and gas services in California. A certified copy of PG&E’s Restated Articles of Incorporation, effective April 12, 2004, was filed with the Commission on May 3, 2004 with PG&E’s A.04-05-005. These articles are incorporated herein by reference.

2. SCE

In compliance with Rule 2.2,¹⁷ a copy of SCE’s Certificate of Restated Articles of Incorporation, effective on March 2, 2006, and presently in effect, certified by the California Secretary of State, was filed with the Commission on March 14, 2006, in connection with Application No. 06-03-020,¹⁸ and is by reference made a part hereof.

¹⁷ Rule 2.2 requires the applicant to submit a copy of its organizing documents and evidence of its qualification to transact business in California, or to refer to that documentation if previously filed with the Commission.

¹⁸ Application 06-03-020, For Approval of Early Transfer of Anaheim’s Share of SONGS 2&3 to SCE.

A copy of SCE's Certificate of Determination of Preferences of the Series D Preference Stock filed with the California Secretary of State on March 7, 2011, and presently in effect, certified by the California Secretary of State, was filed with the Commission on April 1, 2011, in connection with Application No. 11-04-001, and is by reference made a part hereof.

A copy of SCE's Certificate of Determination of Preferences of the Series E Preference Stock filed with the California Secretary of State on January 12, 2012, and a copy of SCE's Certificate of Increase of Authorized Shares of the Series E Preference Stock filed with the California Secretary of State on January 31, 2012, and presently in effect, certified by the California Secretary of State, were filed with the Commission on March 5, 2012, in connection with Application No. 12-03-004, and are by reference made a part hereof.

A copy of SCE's Certificate of Determination of Preferences of the Series F Preference Stock filed with the California Secretary of State on May 5, 2012, and presently in effect, certified by the California Secretary of State, was filed with the Commission on June 29, 2012, in connection with Application No. 12-06-017, and is by reference made a part hereof.

A copy of SCE's Certificate of Determination of Preferences of the Series G Preference Stock filed with the California Secretary of State on January 24, 2013, and presently in effect, certified by the California Secretary of State, was filed with the Commission on January 31, 2013, in connection with Application No. 13-01-016, and is by reference made a part hereof.

A copy of SCE's Certificate of Determination of Preferences of the Series H Preference Stock, filed with the California Secretary of State on February 28, 2014, and presently in effect, certified by the California Secretary of State, was filed with the Commission on March 24, 2014, in connection with Application No. 14-03-013, and is by reference made a part hereof.

A copy of SCE's Certificate of Determination of Preferences of the Series J Preference Stock, filed with the California Secretary of State on August 19, 2015, and presently in effect, certified by the California Secretary of State, was filed with the Commission on October 2, 2015, in connection with Application No. 15-10-001, and is by reference made a part hereof.

A copy of SCE's Certificate of Determination of Preferences of the Series K Preference Stock, filed with the California Secretary of State on March 2, 2016, and presently in effect, certified by the California Secretary of State, was filed with the Commission on April 1, 2016, in connection with Application No. 16-04-001, and is by reference made a part hereof.

Certain classes and series of SCE's capital stock are listed on a "national securities exchange" as defined in the Securities Exchange Act of 1934 and copies of SCE's latest Annual Report to Shareholders and its latest proxy statement sent to its stockholders has been filed with the Commission with a letter of transmittal dated March 18, 2016, pursuant to General Order Nos. 65-A and 104-A of the Commission.

3. SDG&E

A copy of SDG&E's Restated Articles of Incorporation as last amended, presently in effect and certified by the California Secretary of State, was filed with the Commission on September 10, 2014 in connection with SDG&E's Application No. 14-07-008, and is incorporated herein by reference.

V.

CONCLUSION

For the reasons stated above, and consistent with the statutory requirement set forth in SB 859, the Joint IOUs respectfully request that the Commission approve the Tree Mortality NBC proposed in this Application and grant the relief set forth in Section I of this Application.

Respectfully submitted on behalf of PG&E, SCE, and
SDG&E,

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November 14, 2016

VERIFICATION

I am an officer of Southern California Edison Company, and am authorized to make this verification on its behalf. I am informed and believe that the matters stated in the foregoing document are true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this **14th day of November, 2016** at Rosemead, California.

/s/ Ronald O. Nichols _____

Ronald O. Nichols

President

SOUTHERN CALIFORNIA EDISON COMPANY

8631 Rush Street

Post Office Box 800

Rosemead, CA 91770

VERIFICATION

I, Steven Malnight, say:

I am an officer of Pacific Gas and Electric Company, a corporation, and am authorized pursuant to Rule 2.1 and Rule 1.11 of the Rules of Practice and Procedure of the CPUC to make this Verification for and on behalf of said corporation, and I make this Verification for that reason. I have read the foregoing Application and I am informed and believe that the matters therein concerning Pacific Gas and Electric Company are true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Francisco, California, this **14th day of November, 2016**.

/s/ Steven Malnight _____

Steven Malnight

Senior Vice President, Regulatory Affairs

PACIFIC GAS AND ELECTRIC COMPANY

VERIFICATION

I am an officer of San Diego Gas & Electric, and am authorized to make this verification on its behalf. I am informed and believe that the matters stated in the foregoing document are true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this **14th day of November, 2016**, at San Diego, California.

/s/ Emily C. Shults _____

Emily C. Shults

Vice President, Energy Procurement

SAN DIEGO GAS & ELECTRIC COMPANY