

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

Application of San Diego Gas & Electric)
Company (U 902 E) Proposing a Net Surplus)
Compensation Rate Pursuant to Assembly Bill)
920)
_____)

A.10-03-XXX
(Filed March 15, 2010)

**APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) FOR
APPROVAL OF ITS PROPOSALS FOR NET SURPLUS COMPENSATION**

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**APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) FOR
APPROVAL OF ITS PROPOSALS FOR NET SURPLUS COMPENSATION**

I. INTRODUCTION AND SUMMARY

In accordance with the “Assigned Commissioner’s Ruling Directing Electric Utilities to File Applications Proposing a Net Surplus Compensation Rate Pursuant to Assembly Bill 920,” (the “Ruling”) and the Rules of Practice and Procedure of the California Public Utilities Commission (the “Commission”), San Diego Gas & Electric Company (“SDG&E”) hereby submits its application (“Application”) for approval of Net Surplus Compensation proposals and associated program details. The Application provides an explanation of the legal framework within which SDG&E developed its proposal and a summary of the concurrently served testimony detailing SDG&E’s proposal. SDG&E also provides as an Appendix hereto responses to the questions set forth in Section 4 of the Ruling.

As SDG&E describes in more detail below, its Net Surplus Compensation proposal is designed to demonstrate SDG&E’s commitment to development of solar and wind energy, and to ensure that the compensation mechanism is transparent, low-cost, easy for customers to understand, and effectively eliminates potential barriers to customer participation. The proposed program would be open to all Net Energy Metering (NEM) customers with solar and/or wind generation of less than 1 MW, in accordance with AB 920. The net surplus compensation would apply when a customer has both net surplus bill credits and excess kilowatt hours (kWh) at the

end of the relevant 12-month true-up period. The compensation rate proposed by SDG&E for the energy component is a 12-month rolling average of the short-run avoided cost (“SRAC”) energy rate to correspond with the NEM customer’s 12-month true-up period; the compensation rate proposed for the bundled renewable energy credit (“REC”) component would be based, for an interim period, upon the most recent Market Price Referent (“MPR”) Greenhouse Gas Adder, and would eventually be replaced by a 12-month rolling average of REC prices from a liquid market.

SDG&E’s proposal will complement the existing NEM program; customers will continue to accrue monthly bill credits at the full retail rate under the basic NEM program until the end of their 12-month true-up period. If a customer has net surplus credits and kWh remaining at the end of the 12-month true-up period, SDG&E would calculate net surplus compensation owed to the customer and would, depending on the customer’s election, either (i) apply the calculated credit to the subsequent billing period as a dollar amount bill credit; or (ii) make a direct monetary payment to the customer of the compensation amount.

SDG&E’s proposal includes several measures intended to ensure that customers receive accurate, timely and ongoing information and support regarding the Net Surplus Compensation program. Information regarding the net surplus compensation credit amount owed to customers would be shown as a line item in the annual NEM statement and true-up bill already provided to NEM customers. The annual NEM true-up bill currently shows the net surplus kWh existing at the end of the customer’s 12-month true-up period as a line item, which allows customers to quickly identify their net kWh. By taking this amount and applying the appropriate compensation value (energy rate alone or energy bundled with REC), customers will be able to easily understand the derivation of the resulting credit amount owed. Because SDG&E’s proposed approach would require few changes to the existing billing system, implementation

costs would be relatively low. In addition SDG&E proposes to use educational website material, printed fact sheets, bill messages, and customer-contact employee education in order to assist both new and existing NEM customers to understand program benefits and how to participate. As SDG&E explains below, depending on the election option selected by customers (monetary payment versus bill credit) and whether the customer intends to convey the renewable attributes to SDG&E, it may be necessary for the customer to be certified by the Federal Energy Regulatory Commission as a “Qualifying Facility” and to be certified by the California Energy Commission as eligible to participate in the Renewable Portfolio Standard (“RPS”). Thus, as part of its customer service effort, SDG&E would assist NEM customers in obtaining any necessary certifications.

A more detailed explanation of SDG&E’s proposal and the relevant legal background is set forth below.

II. LEGAL AND PROCEDURAL BACKGROUND

SDG&E developed its Net Surplus Compensation proposal in accordance with the direction provided in the Ruling and with the following objectives in mind: (i) compliance with AB 920 requirements; (ii) compliance with other applicable state and federal laws; (iii) ease of customer understanding and participation; (iv) transparency in the calculation of compensation; and (v) low implementation costs.

A. The Assigned Commissioner’s Ruling

The Ruling, issued January 15, 2010, directed SDG&E, Southern California Edison Company (“SCE”), and Pacific Gas and Electric Company (“PG&E”) to file applications proposing a Net Surplus Compensation rate and other program details pursuant to the recently enacted AB 920 (described below). The Ruling directed that the applications should include the workpapers and methodology used to calculate the proposed rate and a sample tariff sheet

applying the new rate or a standard contract for purchase by the utility from the customer-generator. The Ruling also presented specific questions regarding the proposed net compensation rate and certain policy issues related to AB 920. Responses to the questions set forth in the Ruling are attached as Appendix A.

B. AB 920

AB 920, signed into law on October 11, 2009, requires the Commission to establish a Net Surplus Compensation Program by which the utilities will compensate NEM customers for net surplus electricity generation during a set 12-month period. Currently, SDG&E offers NEM tariff schedules that provide bill credits for excess generation in any given month, for use during the customer-generator's 12-month true-up period, pursuant to Public Utilities Code Section 2827. At the conclusion of the 12-month true-up period, the customer forfeits any remaining bill credits. AB 920 amends the existing law by requiring the Commission to approve a new NEM compensation program for generation in excess of on-site load at the conclusion of a customer-generator's annual true-up period. Compensation may be in the form of monetary payment or a dollar amount bill credit that would be applied to the customer-generator's next 12-month true-up period.

The new legislation requires the Commission to set the electricity compensation valuation by January 1, 2011. It directs the Commission to set the net surplus electricity compensation valuation at a level that provides the net surplus customer-generator just and reasonable compensation for the value of net surplus electricity, but leaves other ratepayers unaffected.¹ The Commission must ensure that the rate it sets does not result in a shifting of costs between solar customer-generators and other bundled service customers. It must also determine whether

¹ Public Utilities Code Section 2827(g)(4)(A) and (B). All statutory references herein are to the Public Utilities Code unless otherwise noted

the compensation will include (i) the value of the electricity itself; and (ii) the value of the renewable attributes of the electricity.

C. Federal Law Implications

Section 201(b)(1) the Federal Power Act (“FPA”) establishes the exclusive jurisdiction of the Federal Energy Regulatory Commission (“FERC”) over “the sale of electric energy at wholesale in interstate commerce.”^{2/} The FPA governs wholesale sales by public utilities^{3/} and defines wholesale sales as a “sale of electric energy to any person for resale.”^{4/} Where the wholesale sale involves generation that flows on a multi-state interconnected grid, it is deemed to be a “sale in interstate commerce.”^{5/}

The U.S. Supreme Court has made clear that FERC jurisdiction extends to “all wholesale sales in interstate commerce except those which Congress has made explicitly subject to regulation by the States.”^{6/} Congress has acted to carve out specific wholesale transactions from the plenary authority exercised by FERC. Most notably, the Public Utility Regulatory Policies Act of 1978 (“PURPA”) establishes a separate jurisdictional framework applicable to certain qualifying facilities (“QFs”), including cogeneration and small power production facilities, and provides a role for the States in implementing the statute.⁷

Under PURPA, IOUs must purchase electric generation from QFs at rates that are (i) just and reasonable; (ii) in the public interest; (iii) non-discriminatory; and (iv) not in excess of the incremental cost of alternative electric energy, or “avoided cost.”⁸ Section 210(f) of PURPA directs FERC to develop rules applicable to QF transactions and delegates to the States the

² 16 U.S.C. § 824(b)(1).

³ “Public utilities” is defined broadly to include sellers of electricity other than governmental entities, as defined in § 824(f). See 16 U.S.C. § 824(b)(1); *Connecticut Light & Power Company*, 70 FERC ¶ 61,012.

⁴ *Id.* at § 824(d).

⁵ See *Federal Power Commission v. Florida Power & Light*, 404 U.S. 453 (1972); 16 U.S.C. § 824(c).

⁶ *Federal Power Commission v. Southern California Edison Co. et al.*, 376 U.S. 205, 215-216 (1964).

⁷ 16 USC § 823, *et seq.*

⁸ 16 U.S.C. §§ 824a-3(b) and (d); 18 CFR 292.304.

authority to implement such rules. Thus, while state regulatory commissions may exercise jurisdiction over QF rates, their authority is limited to ensuring that the rates charged by QFs do not exceed avoided cost.⁹

The FERC has determined that a net metering customer-generator's net sale of electricity to a utility constitutes a "sale for resale" under the FPA,¹⁰ unless the customer-generator is certified with FERC as a QF and is thus exempt from the FPA under PURPA.¹¹ In that case, a state commission would have jurisdiction to set rates for such a sale (from a QF to a utility) at an avoided cost rate consistent with PURPA:

When there is a net sale to a utility, and the individual's generation is not a QF, the individual would need to comply with the requirements of the Federal Power Act. . . . When there is a net sale to a utility, and the individual's generation is a QF, that net sale must be at an avoided cost rate consistent with PURPA and our regulations implementing PURPA.¹²

Similarly, FERC affirmed that it does not assert jurisdiction over net metering customers where there is no "net sale" over the customer-generator's billing period, and where the customer receives a credit against its retail power purchases from the selling utility.¹³ However, if the customer-generator produces surplus electricity over the applicable billing period and makes a net sale of energy to the utility, FERC considers such sale to be within its jurisdiction.¹⁴ Thus, in implementing AB 920, the Commission must be mindful of the parameters imposed by federal law.

⁹ See, e.g., *Connecticut Light & Power Company*, 70 FERC ¶ 61,012 (1995).

¹⁰ 16 USC § 824, *et seq.*

¹¹ *In re MidAmerican*, 94 F.E.R.C. ¶61,340, ¶62,263.

¹² *Id.*

¹³ *In re Sun Edison, LLC*, 129 F.E.R.C. ¶ 61,146.

¹⁴ *Id.*

D. Renewable Energy Credits

AB 920 provides that the utility shall retain the bundled RECs associated with the net surplus electricity it purchases under the program.¹⁵ It notes that the definition of “Renewable Energy Credit” is set forth in Section 399.12, which provides in pertinent part:

(1) "Renewable energy credit" means a certificate of proof, issued through the accounting system established by the Energy Commission pursuant to Section 399.13, that one unit of electricity was generated and delivered by an eligible renewable energy resource.

(2) "Renewable energy credit" includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

The statute provides further that bundled RECs associated with the net surplus electricity purchased by the utility shall apply toward each utility’s RPS annual procurement targets, as established by Public Utilities Code Section 399.15(b)(1). Section 399.15(b)(1) requires retail sellers to meet annual procurement targets, with the ultimate objective of serving 20% of retail load with generation from “eligible renewable energy resources” by December 31, 2010. Section 399.12 defines an “eligible renewable energy resource” as an electric generating facility that meets the definition of “in-state renewable electricity generation facility” in Section 25741 of the Public Resources Code, subject to certain limitations. Public Resources Code Section 25741 sets forth a detailed definition of the generation that is eligible to be counted for RPS compliance.

¹⁵ See Section 2827(h)(5)(A, B).

Public Utilities Code Section 399.13 confers upon the California Energy Commission the sole authority to determine whether generation meets these requirements such that a renewable energy generation facility may be certified as an “eligible renewable energy resource” for purposes of the RPS program. Section 399.13 also confers upon the CEC the task of administering the accounting system used to track renewable energy for California RPS compliance purposes. The CEC has established guidelines and processes for certifying renewable energy resources as eligible for participation in California’s RPS program.¹⁶ The CEC has also developed rules governing participation in the Western Renewable Energy Generation Information System (“WREGIS”) – the accounting system used to track renewable energy applied for RPS compliance. Under the CEC’s rules, RPS-certified facilities must participate in the WREGIS accounting system.¹⁷

The Commission has recognized that “[i]t is an established rule of statutory construction that statutes should be interpreted with reference to the whole system of law, so that all may be harmonized. All acts relating to the same subject should be read together and harmonized if possible.”¹⁸ Thus it is clear that AB 920, when read in concert with the statutory provisions that create the framework of the RPS program, requires that certain prerequisites be met in order to count the renewable energy associated with the net surplus electricity purchased by the utility toward RPS compliance goals. Specifically, the renewable energy must be (i) associated with generation from an “eligible renewable energy resource” as that term is defined in Section 399.12(c); and (ii) tracked through WREGIS, the accounting system established by the CEC pursuant to Section 399.13.

¹⁶ See CEC *Renewables Portfolio Standard Eligibility Guidebook* (Third Edition, published January 2008) (hereinafter “RPS Eligibility Guidebook”).

¹⁷ *Id.* at p. 46.

¹⁸ D.88-02-028, 1988 Cal. PUC LEXIS 98, p. *4 (internal citations omitted).

III. SDG&E'S PROPOSAL

The following is a summary of the testimony served by SDG&E served concurrently with this Application:

A. Net Surplus Compensation Proposal

As detailed in the testimony of SDG&E witness, Lisa Davidson, AB 920 and applicable federal law establish certain eligibility requirements for participation in the Net Surplus Compensation program. Specifically, AB 920 limits eligibility for net surplus compensation to NEM customers with solar and/or wind generation of less than 1 MW. SDG&E proposes that the net surplus compensation would apply when a customer has both net surplus bill credits and excess kWhs at the end of the relevant 12-month true-up period.

In addition, as discussed above, customer-generators are required under federal law to obtain QF certification from the FERC prior to being eligible to receiving monetary compensation under AB 920 (as opposed to receiving a bill credit in a dollar amount). Accordingly, SDG&E's proposal is premised upon the assumption that NEM customers who elect to receive monetary compensation for net surplus generation would also need to be a QF, and may need complete documentation to certify with the FERC as a QF.¹⁹ SDG&E notes further that as part of its customer service effort, SDG&E would assist NEM customers in obtaining any necessary QF certification from the FERC, if required.

With regard to the net surplus compensation rate, Ms. Davidson explains that SDG&E proposes to use a 12-month rolling average of the short-run avoided cost ("SRAC") energy rate to correspond with the NEM customer's 12-month true-up period. The customer would have the option to carry over the net surplus compensation to future 12-month periods (SDG&E's

¹⁹ FERC is currently considering exempting all generating facilities with net power production capacities of one megawatt or less from the QF certification requirements. It is expected that FERC will consider the proposal at its March 18 Committee Meeting, where a decision could be voted out that would exempt all AB 920 eligible customers from QF certification requirements.

preferred “default” option) or could elect a monetary payment as described in the testimony of SDG&E witness, Christopher Swartz. In either case, the net surplus compensation amount would be calculated in the same manner. Use of the SRAC is consistent with AB 920’s mandate to establish a compensation rate that does not result in a shifting of costs between customer-generators and other bundled service customers, and also ensures compliance with FERC requirements related to the Commission’s setting of wholesale rates for QFs. In addition, use of the SRAC promotes administrative simplicity and will be easy for customers to understand.

SDG&E’s net surplus compensation mechanism is transparent and can be verified by the customer-generator. The SRAC rate is already calculated monthly and made publicly available on the SDG&E website. SDG&E would include the applicable SRAC energy rate(s) in the customer’s annual true-up statement and post the data and the derivation of the 12-month rolling average SRAC energy rates on the SDG&E website. In addition, this methodology has the benefit of being relatively simple to administer. It employs: (1) the SRAC rates, already used to calculate payments for QFs; (2) a proposed adjustment factor for small and non-TOU customers that is already calculated; (3) a bundled REC price that is already calculated (discussed below); and, (4) each customer’s net surplus kWhs, already tracked in the billing system.

B. Bundled REC Compensation Proposal

Included in Ms. Davidson’s discussion of SDG&E’s Net Surplus Compensation proposal is an explanation of SDG&E’s proposed compensation for the renewable attributes associated with the net surplus generation that are conveyed to the utility.²⁰ As a threshold matter, it will be necessary to ensure that the renewable energy the utilities purchase pursuant to AB 920 are RPS-eligible. Clearly, the utilities should not be required to purchase renewable energy without assurance that such renewable energy can be applied to meet the utilities’ RPS requirements. As

²⁰ In some cases, a third party owns the REC associated with customer generation.

discussed above, a generator must certify its facility with the CEC and participate in the WREGIS accounting system in order for the renewable energy to be deemed “RPS-eligible.” While SDG&E is prepared as part of its customer service effort to assist NEM customers in obtaining any necessary CEC certifications, it notes that the certification processes outlined in the CEC’s current RPS Eligibility Guidebook may not be appropriate for the customer-generators eligible to participate in the AB 920 program. Accordingly, SDG&E suggests that the CEC, the Commission and stakeholders collaborate to develop a streamlined customer-generator certification process for the purposes of allowing AB 920 customer-generators to provide RPS-eligible generation, consistent with the intent of the legislation.

To the extent the generation meets the requirements necessary to be deemed “RPS-eligible” by the CEC and the bundled RECs can therefore be applied toward SDG&E’s RPS procurement obligation, SDG&E proposes use, on an interim basis, a bundled REC price based upon the most recent MPR Greenhouse Gas Adder to compensate for the renewable attributes conveyed to the utility. The bundled REC price would be updated annually based on the most recent MPR and the interim methodology would eventually be replaced by a 12-month rolling average of REC prices from a liquid market.

The Commission’s recent approval of the use of unbundled RECs may or may not lead to a robust and liquid market for purchase and sale of unbundled RECs.²¹ If such a market develops, it will become a viable source for determining REC prices (the existing voluntary REC market is not adequately developed to provide reliable REC price data). The Commission should avoid any action in this proceeding that could potentially have the effect of establishing a target price or reserve price for unbundled RECs, where doing so would interfere with development of

²¹ It is important to note that the instant program involves bundled RECs that will not count against any cap on use of unbundled RECs.

the nascent unbundled REC market. Accordingly, while SDG&E supports development of an administratively-set REC price on an interim basis, at such time that the Commission has determined that the REC market in California is sufficiently robust and the price can be relied upon as competitive, a 12-month rolling average of REC market prices could be added to the 12-month rolling average SRAC price.

C. Billing and Implementation

In his testimony, Mr. Swartz explains that SDG&E's proposal will not affect the currently available NEM program. Customers will continue to accrue monthly bill credits at the full retail rate under the basic NEM program until the end of their 12-month true-up period. If a customer has net surplus credits and kWh remaining at the end of the 12-month true-up period, SDG&E would calculate net surplus compensation by first determining the net surplus kWh for the relevant 12-month true-up period and applying a 12-month rolling average of the SRAC energy rate (plus REC component, if applicable), as described in the testimony of Ms. Davidson. The calculated credit would then be applied to the subsequent billing period as a dollar amount bill credit or paid to the customer directly, depending on the customer's election.

SDG&E customers are already familiar with the NEM Program and the net kWh that are displayed at the end of their 12-month True-Up period. This amount is shown as a line item on the accompanying NEM Billing Statement, which allows customers to quickly identify their net kWh. By taking this amount and applying a 12-month rolling average of the SRAC energy rate (with an additional REC component, if applicable), customers will be able to easily understand the derivation of the resulting net surplus compensation amount. Moreover, because SDG&E's proposed approach would require few changes to the existing billing system, implementation costs would be relatively low.

D. Customer Communications

As Mr. Swartz details in his testimony, customers would have four election options under SDG&E's Net Surplus Compensation proposal:

- 1) Monetary payment for excess energy and associated RECs (requires QF status and confirmation of REC-eligibility);
- 2) Monetary payment for excess energy ONLY (requires QF status);
- 3) Compensation through bill credit applied to subsequent billing period for excess energy and associated RECs (requires confirmation of REC-eligibility); and
- 4) Compensation through bill credit applied to subsequent billing period for excess energy ONLY

SDG&E proposes to send out a mailing to collect customers' elections regarding any applicable net surplus credits. If a customer does not respond to the mailing, such customer will be defaulted to the bill credit approach without payment for RECs. The customer's election will continue to apply until such time that the customer changes its election or exits the program. After one year, customers would be allowed to switch their election with appropriate notice.

Mr. Swartz further explains that SDG&E's proposal includes several measures intended to ensure that customers receive accurate, timely, and ongoing information and support regarding the net surplus compensation program. Using educational website material, printed fact sheets, bill messages, and customer-contact employee education, these strategies can be targeted to both new and existing NEM customers.

IV. REQUESTED RELIEF

In accordance with California law and Commission policy, SDG&E requests Commission approval of its Net Surplus Compensation proposal as set forth herein and supported by the attached testimony, including implementation of changes to Schedule NEM to describe the mechanism for calculating the Net Surplus Compensation Rate, and implementation

of changes to its electric preliminary statement to reflect that any net surplus compensation payments made to eligible customer-generators will be recorded in the Energy Resource Recovery Account.

IV. STATUTORY AND PROCEDURAL REQUIREMENTS

A. Category, Need for Hearings, Issues, and Schedule - Rule 2(1)(c)

1. Category

SDG&E proposes that this proceeding be categorized as ratesetting.

2. Need for Hearings

SDG&E believes that evidentiary hearings will be required.

3. Issues to be Considered

The issues to be considered in this proceeding are whether the Commission should provide the relief requested by SDG&E in this Application, pursuant to the Commission's Section 2827 authority.

4. Proposed Schedule

SDG&E proposes the following schedule:

<u>EVENT</u>	<u>DATE</u>
Application	March 15, 2010
Protests	April 19, 2010
Reply to Protests	April 29, 2010
Prehearing Conference	May 11, 2010
Scoping Memo	May 21, 2010
DRA and Intervenor Testimony	June 21, 2010
Concurrent Rebuttal Testimony	July 13, 2010
Evidentiary Hearings	July 26, 2010

Opening Briefs	August 23, 2010
Reply Briefs	September 13, 2010
Proposed Decision	December 13, 2010

B. Authority - Rule 2.1

This Application is made pursuant to Sections 399.11, *et seq.*, 451, 454, 489, 491, 701, 728, 729 and 2827 of the Public Utilities Code of the State of California, the Commission's Rules of Practice and Procedure, and relevant decisions, orders, and resolutions of the Commission, including those specifically addressed herein

C. Corporate Information and Correspondence - Rules 2.1(a) and 2.1(b)

SDG&E is a public utility organized and existing under the laws of the State of California. SDG&E's principal place of business and mailing address is 8306 Century Park Court, San Diego, California, 92123.

All correspondence and communications to SDG&E regarding this Application should be addressed to:

Dean Kinports
Regulatory Case Administrator
8306 Century Park Court
San Diego, California, 92123
Telephone: (858) 654-1745
Facsimile: (858) 654-1788
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with a copy to:

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D. Organization and Qualification to Transact Business – Rule 2.2

SDG&E’s current Amended Articles of Incorporation were filed with the Commission in A.09-08-019 and are incorporated by reference herein.

E. Service of Notice - Rules 1.9 and 1.10

Concurrent with the filing of this Application, SDG&E will provide notice of such filing to the customer-generators who received the notification described in Ordering Paragraph 5 of the Ruling. This notice will state that a copy of this Application and related attachments may be examined at the Commission's offices and such offices of SDG&E as are specified in the notice.

In addition, in accordance with the direction provided in the Ruling, SDG&E will serve notice of this Application and related exhibits on persons and entities served with the Ruling and on parties of record in R.08-08-009, and will post copies of such documents on its website.

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DATED at San Diego, California, this 15th day of March, 2010.

Respectfully submitted,

SAN DIEGO GAS & ELECTRIC COMPANY

By: /s/ Lee Schavrien

Lee Schavrien
Senior Vice President, Regulatory and Finance
SAN DIEGO GAS & ELECTRIC COMPANY

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VERIFICATION

I am an officer of San Diego Gas & Electric Company and am authorized to make this verification on its behalf. The matters stated in the foregoing Application are true to my own knowledge, except as to matters that are stated therein on information and belief, and as to those matters I believe them to be true.

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

Executed this 15th day of March 2010, at San Diego, California.

/s/ Lee Schavrien
Lee Schavrien
Senior Vice President, Regulatory and Finance
SAN DIEGO GAS & ELECTRIC COMPANY

APPENDIX
RESPONSES TO ACR QUESTIONS

RESPONSES TO ACR QUESTIONS

I. INTRODUCTION

Through Assembly Bill (AB) 920, the California legislature amended Section 2827 of the California Public Utilities Code to require electric utilities to compensate eligible net energy metering (NEM) solar or wind customer-generators for any excess electricity generated over a 12-month period. Prior to adoption of SB 920, customer-generators on a NEM tariff were not due monetary compensation for energy produced in excess of consumption – instead, the NEM customer-generator would receive credits toward consumption based on the retail energy price. If such credits were not used within a 12-month period, they were forfeited. However, the new legislation requires compensation for excess energy at the conclusion of the 12-month period, if the customer so elects, and authorizes the California Public Utilities Commission (CPUC) to set the electricity compensation valuation. SDG&E has outlined its proposal in the testimony of SDG&E witnesses Lisa Davidson and Christopher Swartz. Below, SDG&E responds to the questions posed in the Assigned Commissioner’s Ruling (ACR) issued January 15, 2010 directing the IOUs to file applications proposing a net surplus compensation rate.

II. RATE AND BILLING QUESTIONS:

QUESTION 1:

1. A. How will Net Surplus Compensation rate be determined?

SDG&E RESPONSE: The Net Surplus Compensation rate should be calculated according to the utility’s avoided cost for the energy produced, and should “be just and reasonable to the electric consumer of the electric utility and in the public interest.” 18 C.F.R. § 292.304(a)(1,2). Avoided cost is the incremental cost to an electric utility of electric energy or capacity which, but for the purchase from the Qualifying Facility (QF), such utility would generate itself or purchase from another source. 18 C.F.R. § 292.101(b)(6).

AB 920 directs:

The net surplus electricity compensation valuation shall be established so as to provide the net surplus customer-generator just and reasonable compensation for the value of net surplus electricity, while leaving other ratepayers unaffected. Public Utilities Code Section 2827(g)(4)(A).

SDG&E proposes that the Short Run Avoided Cost (SRAC) energy rate, which is the Commission's determination of avoided cost for electric energy, be used as the basis for the Net Surplus Compensation rate in order to satisfy the objective of ratepayer indifference and to set a rate consistent with the Federal Energy Regulatory Commission (FERC) guidelines.

SDG&E also proposes to pay for bundled Renewable Energy Credits (RECs) associated with the net surplus generation that are offered by the customer, to the extent the generation is deemed "RPS-eligible" such that the bundled RECs can be applied toward SDG&E's Renewable Portfolio Standard (RPS) procurement obligation. On an interim basis, until price data from a competitive unbundled REC market is available, SDG&E proposes to pay an additional amount of 0.8 cents/kWh for the bundled REC based on the most recent Market Price Referent (MPR) Greenhouse Gas (GHG) Adder. This amount would be added to the energy rate to calculate the net surplus compensation rate. The calculation of net surplus compensation would multiply the net surplus compensation rate including the REC price times the surplus kWh. Further details of SDG&E's proposal are described in the testimony of Ms. Davidson.

1. B. Options include payment of the full retail rate, the generation-only rate, the most current RPS Market Price Referent rate adjusted for time-of delivery, an up-front avoided cost calculation, simple payout of customer bill credits, or some other method of valuation. For whatever rate is chosen, please discuss why the other rate options discussed above were not selected as the preferred method of compensation.

SDG&E RESPONSE: SDG&E proposes a net surplus compensation rate based on a 12-month rolling average of the SRAC energy rate in effect at the end of a customer's 12-month true-up period.¹ SDG&E supports this approach on the basis of its transparency, ease of customer understanding, administrative simplicity and avoidance of costly programming changes. SDG&E believes it is reasonable compensation for the avoided costs associated with purchasing that electricity.

The full retail rate is not an appropriate method of compensation for net surplus generation since it includes components such as distribution, transmission and public purpose program costs, as well as costs related to reliability and customer service. It does not represent a utility's avoided costs for purchase of electricity. See 18 C.F.R. § 292.101(b)(6). This method would shift additional costs onto other SDG&E customers

¹ The approach to the net surplus compensation rate will vary by sector and by whether or not the customer sells the REC to SDG&E as described further in the testimony of Ms. Davidson.

and would violate AB 920's mandate that other ratepayers remain unaffected by the net surplus compensation rate. Costs associated with delivering and receiving electricity from the customer and providing billing and other services are not avoided when a customer installs a generation system. Since these costs are not avoidable, NEM already shifts those costs to all other ratepayers to the extent fixed customer charges or demand charges do not recover the full costs of those services. In particular, residential NEM customers already avoid much of the cost responsibility associated with generating customer bills and the transmission and distribution infrastructure required to serve them since they are credited for excess generation at the full retail rate and only forfeit credits when they are net generators over a 12-month period.²

The bundled generation only rate is also not an appropriate method of compensation for net surplus generation due to the variance in rate structures and price levels for residential, commercial and agricultural customer groups. For example, the currently effective summer commodity rate for residential Schedule DR is 9.3 cents/kWh, while the summer on-peak rate for Commercial and Industrial Schedule DG-R is 16.3 cents/kWh. Due to the variance in price and rate structures, SDG&E does not believe that compensating customers based on the bundled commodity energy rate is representative of avoided energy cost. In addition, the bundled rate includes fixed costs associated with generation capacity that are not avoided costs.

Other accurate rate options and methodologies are available, but would be more difficult for SDG&E to implement. Alternatives to using the SRAC include the average market price from the California Independent System Operator (CAISO) day-ahead market for the SP-15 trading hub or the SDG&E local area price (DLAP). For the market pricing options, there are added complexities of compiling and aggregating the hourly prices on a monthly basis. Another alternative would be the Market Price Referent (MPR). The MPR is the current compensation rate for renewable energy contracted for under SB 1969 as expanded by SB 32. For the MPR option, there is the complexity associated with making a different payment to customers in each different year of installation and in determining the length of life of the facility since the MPR price varies by length of contract. The MPR price also is deficient in that it includes a capacity component. Finally the MPR includes a greenhouse gas adder that would only be appropriate to include if the renewable attributes always go to the utility. The use of the energy component of the MPR could be an appropriate rate and comparable to the SRAC rate if calculated using monthly natural gas prices.

² Other customer classes are subject to a fixed customer charge, which contributes to recovery of a portion of these costs. Most medium and large commercial customers also pay demand charges. Although residential customers are subject to a minimum bill of \$62/year, this does not recover the costs associated with serving that customer.

QUESTION 2:

2. A. Will the rate be fixed as of the online date of the generation (similar to RPS contracting) or change over time (along with other rates)?

SDG&E RESPONSE: Under SDG&E's proposed approach, the rate used to compensate customers for net surplus generation would be based on a 12-month rolling average of monthly SRAC energy prices, so it would change over time.

QUESTION 3:

- 3.A. How will the rate offered for Net Surplus Compensation interact with the rate offered for net generation on a monthly basis (i.e., the full retail rate)?

SDG&E RESPONSE: SDG&E's proposal would allow NEM customers to continue to accrue monthly bill credits at the full retail rate under the basic NEM program until the end of their 12-month true-up period. At that time, the utility would calculate net surplus compensation by multiplying the excess kWh by the net surplus compensation rate.

QUESTION 4:

4. A. How will all non-participating customers be held indifferent to the Net Surplus Compensation rate of payment?

SDG&E RESPONSE: Because SDG&E's proposed net surplus compensation mechanism would be developed using the SRAC energy rate to approximate the utility's avoided costs, non-participating customers should be indifferent.

QUESTION 5:

5. A. If the Customer will be receiving Net Surplus Compensation based on a generation-only rate, will a customer receive the generation rate applicable at the time the excess generation was generated or the generation rate in effect at the time of the 12 month assessment?

SDG&E RESPONSE: SDG&E's proposed approach uses a 12-month rolling average of the SRAC rate, so would approximate a payment for electricity at the time it was generated.

QUESTION 6:

6. A. Should the administrative cost of calculating Net Surplus Compensation and applying it to customer-generators' bills be considered when calculating a rate, to avoid shifting costs between customer-generators and other bundled service customers?

SDG&E RESPONSE: Yes, the administrative cost should be considered when determining how to compensate customer-generators. SDG&E's methodology explicitly considers billing costs in its choice of net surplus compensation mechanism to minimize the costs of implementation, as described in the testimony of SDG&E witness Mr. Swartz. Given the relatively low costs of implementation, SDG&E is not proposing to deduct this from the customer-generator net surplus compensation. However, in the event that an alternative, costlier method of compensation is adopted, the statute mandates that this group of customers would be responsible for paying those additional costs in order to avoid shifting the costs onto other bundled service customers.

QUESTION 7:

7. A. Is it possible to simply pay eligible customer generators the amount they have in surplus bill credits at the end of the true-up period?

SDG&E RESPONSE: No. The surplus bill credits awarded under the existing approach include costs associated with transmission, distribution, public purpose programs and other charges, and are thus above avoided cost. Paying customers the total amount they have in surplus bill credits would shift costs to other customers; AB 920 explicitly prohibits the cost shifting that would result from such an approach.

III. POLICY QUESTIONS

QUESTION 8:

- 8.A. Will the new tariff created by AB 920 replace the customer's existing NEM tariff, or would it coexist alongside that tariff?

SDG&E RESPONSE: The existing NEM tariff would be modified to accommodate net surplus compensation, as described further in the testimony of SDG&E witness Ms. Davidson.

8.B. Will some customers remain on basic NEM, and others opt into Net Surplus Compensation NEM?

SDG&E RESPONSE: All customers will remain on basic NEM and continue to receive its benefits. For ease of administration and as an additional benefit to the NEM customers, SDG&E proposes also to “enroll” all eligible customers in the net surplus compensation program at the end of their existing 12-month period occurring in 2011. Enrolling all customers will minimize customer confusion and administrative costs, while maximizing customer benefit. SDG&E recently sent a letter and form to customers to notify them of the program and allow them to select a different true-up date if they wish to opt into the program sooner. After any customer’s first 12-month net surplus generating true-up period, SDG&E will then offer net surplus generating customers the opportunity to elect whether to (1) receive a roll-over credit for net surplus generation or (2) certify as a QF and receive monetary payments for net surplus generation. In addition, the customer can elect to sell the renewable attributes associated with the surplus electricity to the utility once those surplus credits are authorized for application toward the Renewable Portfolio Standard (RPS). The default option will be for a roll-over of the net surplus compensation as credits with no sale of renewable attributes.

8.C. Will customers on the new tariff be compensated monthly for their monthly bill credits at the full retail rate?

SDG&E RESPONSE: Yes. SDG&E’s proposal would allow NEM customers to continue to accrue monthly bill credits at the full retail rate under the basic NEM program. If any NEM customer has net surplus credits and kilowatt-hours (kWh) remaining at the end of the 12-month true-up period, the SDG&E proposal would then additionally allow that customer the opportunity to receive compensation for the excess electricity at the Net Surplus Compensation rate.

QUESTION 9:

9.A. Is it possible that a customer could use all the bill credits created by surplus generation over a 12-month period and still have surplus kWh?

SDG&E RESPONSE: Yes. This event is possible for NEM customers with TOU rates if excess generation occurs in time periods where energy prices are low and consumption is high. It is not possible for the majority of NEM customers on residential Schedule DR.

9.B. Should the Net Surplus Compensation Program restrict a customer’s ability to [1] receive and consume full retail bill credits on a monthly basis and [2] receive payment for surplus kWh?

SDG&E RESPONSE: [1] The Net Surplus Compensation Program will not restrict the customer’s ability to receive and consume full retail bill credits on a monthly basis until the end of their 12-month true-up period as part of the currently available NEM program. [2]

At the end of 12-months, SDG&E's proposal would limit Net Surplus Compensation to customer-generators with both surplus kWh and remaining bill credits. The reason for this is that if a customer has already used their remaining bill credits at the end of their 12-month true-up period, that customer would have already received compensation for their generation at the full retail rate (under the basic NEM program).

QUESTION 10:

10. A. Will customers be allowed to switch from the compensation option to the rollover option or vice versa, and if so, at what point will switching be allowed?

SDG&E RESPONSE: Yes. Customers would be allowed to switch on an annual basis with appropriate notice.

QUESTION 11:

11. A.1. Will surplus electricity be rolled over in the form of bill credits or kWh?

SDG&E RESPONSE: SDG&E proposes to roll over surplus electricity in the form of bill credits, calculated by using the proposed Net Surplus Compensation Rate.

11. B.1. Will customers be compensated when they have surplus bill credits but not surplus kWh?

SDG&E RESPONSE: No. There would be no compensation if there are no surplus kWh. The legislation does not provide for compensation unless the customer has excess kWh.

11. B. 2. Will customers be compensated when they have surplus kWh but not surplus bill credits?

SDG&E RESPONSE: No. Under the SDG&E proposal, there would be no additional compensation if there were no surplus bill credits. If a customer has already used their remaining bill credits at the end of their 12-month true-up period, that customer would have already received compensation for their generation at the full retail rate (under the basic NEM program).

QUESTION 12:

12. A. In order to qualify for RPS compliance, a generator must be certified as eligible by the California Energy Commission (CEC), and the REC must be recorded in the Western Renewable Energy Generation Information System (WREGIS), which requires the meter measuring the generation to have accuracy of +/- 2%. Currently, the CEC has not certified distributed generation systems as eligible for RPS compliance and many systems on NEM tariffs do not have meters that meet the WREGIS accuracy

requirements. Are CEC certification and WREGIS meter accuracy requirements necessary preconditions in order for the utilities to count towards the RPS annual procurement targets the RECs associated with net surplus electricity purchased from eligible customer-generators (as per Section 2827(h)(5)(A-B))?

SDG&E RESPONSE: Currently, CEC certification and recording the REC in the WREGIS are requirements for the utility to apply the bundled REC to the RPS. SDG&E suggests that the CPUC and the CEC collaborate with key stakeholders to agree upon a streamlined approach for allowing the utilities to apply these bundled RECs to their RPS.

Assuming these are necessary preconditions, and if a net surplus customer-generator has equipment that complies with CEC and WREGIS standards:

12. A. 2. Will the REC belong to the utility if the customer chooses the roll-over option, where a credit for net surplus generation is rolled over into the next 12-month true-up period, or only if the customer chooses a payment for net surplus generation?

SDG&E RESPONSE: The bundled REC would belong to the utility only if the customer-generator chooses to sell the REC bundled with the energy and the utility compensates the customer-generator for the bundled REC. Regardless of whether the Company cuts a check or provides a bill credit in the next year, the utility is purchasing the excess electricity on behalf of non-participating customers, if the generating customer chooses that option.

12. A. 3. Will the REC belong to the utility for any net surplus generation if the customer does not elect either option?

SDG&E RESPONSE: If the customer elects not to participate in this program, the RECs would remain with the customer.

QUESTION 13:

13. A. Will customers be permitted to roll excess kWh over into subsequent 12-month periods indefinitely, or will the excess kWh “expire” after a certain period of time?

SDG&E RESPONSE: Under the SDG&E proposal, the credits for net surplus generation would roll over in the form of bill credits so there is no issue of the kWh expiring.

QUESTION 14:

14. A. Will the utility be required to cut a physical check to every customer that opts for Net Surplus Compensation, even if the amount owed would be below a de minimus

threshold (for instance, if the customer is owed \$1.00)? If not, how should the de minimus threshold be determined?

SDG&E RESPONSE: SDG&E proposes to establish a minimum threshold of \$1.00 for cashing out net surplus compensation.

QUESTION 15:

15. A. Given the potential new layer of complexity that Net Surplus Compensation may add to the existing NEM program, how will the utility communicate the NEM-related rate and program offerings to customers and how will it communicate the financial implications of the new Net Surplus Compensation program?

SDG&E RESPONSE: Upon Commission approval of SDG&E's proposal, SDG&E intends to implement several strategies described in the testimony of Mr. Swartz to ensure customers receive accurate, timely, and ongoing information and support regarding the net surplus compensation program. For example, SDG&E will have information on its website describing this program and how the net surplus compensation is derived. In addition, the customer will see their net surplus compensation amount and kWh in their annual true-up statement. Any new NEM customer will receive an information packet that includes information on how they can receive compensation for their annual excess energy. NEM customers will also be reminded in their NEM bill statement to check SDG&E's website for information on how they can receive compensation for excess electric generation.

15. B. Will customers be able to "look up" what rate is being offered to them?

SDG&E RESPONSE: Yes. The Net Surplus Compensation Rate would change monthly based on a 12-month rolling average of the SRAC rate and will be shown on the customer-generators' bill statements. In addition, customers will be able to see the net surplus compensation rate and the derivation of the rate on the SDG&E website. Call Center and Account representatives will also be available to answer questions for customers regarding the applicable rate.

15. C. If the rate is the generation-only rate, how will customers be notified if and when that rate changes, as it may multiple times throughout the year?

SDG&E RESPONSE: Please see response to 15.B.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **APPLICATION OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) FOR APPROVAL OF ITS PROPOSALS FOR NET SURPLUS COMPENSATION** on all known interested parties of record in **R.08-03-008** via email to those whose email address is listed in the official service list and via first class mail to those whose email address is not available.

Copies were also delivered to the Administrative Law Judge and Assigned Commissioner in this Rulemaking.

Executed this 24th day of March, 2010, at San Diego California.

/s/ JENIFER E. NICOLA
Jenifer E. Nicola