Application No: A.09-08-xxx
Exhibit No.: ______________________
Witness: Lee Schavrien

In the Matter of the Application of San Diego Gas & Electric Company (U 902 E) for Authorization to Recover Unforeseen Liability Insurance Premium and Deductible Expense Increases as a Z-Factor Event.	))))))	A.09-08-____ (Filed August 31, 2009)

PREPARED DIRECT TESTIMONY OF

SAN DIEGO GAS AND ELECTRIC COMPANY (U 902 E)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

August 31, 2009

PREPARED DIRECT TESTIMONY OF

LEE SCHAVRIEN

ON BEHALF OF SAN DIEGO GAS & ELECTRIC COMPANY

I. Purpose

On April 17, 2009, San Diego Gas & Electric Company ("SDG&E") notified the California Public Utilities Commission ("Commission") of its intent to designate unforeseen liability insurance premium expense increases as a Z-factor event.[1] In accordance with its Z-factor mechanism, SDG&E established a subaccount of the Z-factor Memorandum Account ("ZFMA") to track annual liability insurance expenses above the level authorized in D.08-07-046, SDG&E's 2008 General Rate Case ("GRC") decision.

The purpose of my testimony is to describe the history and function of the Z-factor mechanism, to explain why the liability insurance premium and deductible expense increases qualify for cost recovery under the Z-factor mechanism, and to describe SDG&E's proposed methodology for cost recovery of the annual ZFMA liability insurance subaccount balance until the next GRC.[2] The testimony of Mr. Maury De Bont describes the changes in the insurance market since the 2008 SDG&E GRC was authorized by the Commission and the procurement process for 2009 liability insurance. The testimony of Ms. Deborah Yee describes the translation of the annual ZFMA subaccount balance into an annual incremental revenue requirement for ratemaking purposes.

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[1] On April 17, 2009, SDG&E also notified the Commission of its intent to designate unforeseen potential outside litigation and liability claim expenses in excess of insurance coverage as a Z-factor event in order to track such expenses in its ZFMA. On this same date, Southern California Gas Company ("SoCalGas") notified the Commission of its intent to designate unforeseen liability insurance premium expense increases as a Z-factor event. These other Z-factor notifications are not being addressed as part of this application.

[2] Currently scheduled to be Test Year 2012.

II. Z-Factor Mechanism History

In post-test year ratemaking the Commission has established a way to protect both the utility and customers by allowing for adjustments for unexpected and uncontrollable events. The adopted mechanism, a "Z-factor," has been addressed by the Commission in multiple proceedings beginning with D.89-10-031. In that decision, the Commission adopted the Z-factor to allow rate adjustments for exogenous factors outside of the inflation index adopted for the utility.[3] Subsequent decisions provided a complete framework for Z-factor analysis establishing whether an alleged Z-factor event meets specific criteria. If it does, the cost in question may be eligible for Z-factor cost recovery.

In the early 1990s, telecommunication companies on a number of occasions sought recovery for costs they considered to meet the definition of a Z-factor event. In considering these cases, the Commission established nine specific criteria for evaluating Z-factor events. These criteria were summarized in D.94-06-011, the Commission's review of the incentive-based new regulatory framework (NRF) adopted in D.89-10-031.

In 1996, the Commission authorized Southern California Edison ("SCE") to adopt a Z-factor mechanism as part of its Performance Based Regulation ("PBR") application.[4] In that decision, the Commission confirmed the nine criteria set forward in D.94-06-011 and retained the procedure established in D.04-06-011 to file the details of the Z-factor event with an annual rate change filing.

In D.97-07-054, the SoCalGas PBR decision, the Commission established a Z-factor mechanism for SoCalGas based on the same nine criteria established for D.94-06-011 and included a $5 million deductible for each Z-factor event.

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[3] D.89-10-031 addressed Z-factor guidelines specifically for telecommunication companies.
[4] D.96-09-092.

D.99-05-030 established the SDG&E Z-factor mechanism, also based on the series of nine criteria first identified in D.94-06-011 and including a $5 million deductible for each Z-factor event.

III. Use of the Z-Factor Mechanism

Since adoption of the Z-factor mechanism for the energy utilities, the proposed use of the mechanism has been limited to a few cases. In SoCalGas' 1997 PBR application, DRA had proposed to use the Z-factor mechanism to recover costs associated with catastrophic events. However, DRA and SoCalGas reached a settlement, which was adopted by the Commission, to treat catastrophic events outside of base margin through a separate recovery mechanism.

In December 2002, SoCalGas requested Z-factor treatment for fumigation turn-off/turn-on costs due to a change in Department of Transportation ("DOT") regulations terminating authorization for contractors to shut-off and restore gas service when performing tented fumigation jobs. SDG&E and SoCalGas submitted Advice Letters 1351-G and 3210, respectively, to change the utilities' rules to comply with the new DOT regulations and to establish memorandum accounts to track any incremental costs. The Commission denied the establishment of the proposed fumigation memorandum accounts in Resolution G-3344. However, the Commission did authorize the Z-factor treatment for tracking the expenses associated with fumigation turn-off/turn-on activities. Ultimately, the incremental costs associated with the event did not exceed either utility's $5 million deductible and the Z-factor event did not result in any increase to rates.

On April 17, 2009, both SDG&E and SoCalGas notified the Commission of a Z-factor event associated with unexpected increases in their liability insurance expense. Both utilities began tracking costs in their respective Z-factor memorandum accounts in July 2009 when the policies were renewed.

IV. SDG&E's Current Z-Factor Mechanism

In D.05-03-023 the Commission continued the Z-factor mechanism established by D.99-05-030 but eliminated one of the nine criteria.[5] In D.08-07-046, the Commission addressed the Test Year 2008 GRC applications of SDG&E and SoCalGas. This decision approved settlement agreements related to SDG&E and SoCalGas' respective Test Year 2008 revenue requirements and post-test year ratemaking mechanisms for each utility (together, the "Settlement Agreements").[6] In approving the Settlement Agreements, the Commission authorized SDG&E's existing Z-factor mechanism to continue through 2011.[7] Accordingly, SDG&E is afforded Z-factor treatment for certain significant costs associated with unexpected and uncontrollable events.

As a result of the above decisions, the eight criteria applicable to the current SDG&E Z-factor mechanism are:

1. The event must be exogenous to the utility;
2. The event must occur after implementation of rates;
3. The costs are beyond the control of the utility management;
4. The costs are not a normal part of doing business;[8]

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[5] See D.05-03-023, mimeo., at 78 (Ordering Paragraph No. 2 authorizing SDG&E and SoCalGas to file for rate adjustments using the mechanisms described in the Settlement Agreement) and p. 12 of Appendix C (Settlement Agreement). The eliminated criteria provided that the costs and event are not part of the rate update mechanism.
[6].D.08-07-046, mimeo., at 101 (Ordering Paragraphs No. 3 and No. 4).
[7] D.08-07-046, mimeo., at Appendix 3 (Settlement Agreement Regarding SDG&E Post-Test Year Ratemaking) at 6.
[8] The description of Z-factor criteria in D.05-03-023 omits the word "not" from this criteria. See D.05-03-023, mimeo., 30. SDG&E views this as an inadvertent clerical error since the Commission was merely attempting to describe the existing criteria, and neither the settling parties nor the Commission propose or describe any change to the existing Z-factor criteria other than the elimination of criterion No. 6 set forth in the Settlement Agreement. As a result of this inadvertent error in D.05-03-023, the same omission was also inadvertently carried forward into SDG&E's preliminary statement describing the Z-factor mechanism.

5. The costs must have a disproportionate impact on the utility;

6. The costs must have a major impact on overall costs;

7. The cost impact must be measurable; and

8. The utility must incur the cost reasonably.

The SDG&E Z-factor mechanism also includes the following procedural requirements:

- When a potential Z-factor event occurs, SDG&E must promptly advise the Commission of its occurrence by advice letter and establish a memorandum account for the event;
- The notification must provide all relevant information, including a description, amount involved, timing, and how the event conforms to the adopted Z-factor criteria;
- .Each Z-factor event is subject to a $5 million deductible; and
- The deductible shall be a one-time deductible per Z-factor event, even if the costs associated with the event are incurred in more than one year.[9]

V. Z-Factor Event Qualification - Meeting the Eight Criteria

Eligibility for cost recovery under SDG&E's Z-factor mechanism is dependent upon the event meeting the eight Z-factor criteria. In 2009, utility industry insurance carriers have unexpectedly and dramatically raised the cost of wildfire liability insurance and reduced the available coverage. At the same time, insurers required higher deductibles and coinsurance requirements, further reducing the scope of coverage available to SDG&E. SDG&E understands that it is likely that other California IOUs will also face increasing liability insurance expense and reduced coverage offers when their 2009 renewal dates arrive. The following discussion will demonstrate that this event meets all the conditions established to qualify for Z-factor cost

[9] See D.99-05-030, mimeo., at 58-59 and 76-77 (Ordering paragraph No. 7).

recovery. Sempra Energy procures liability insurance on behalf of itself and its affiliates, including SoCalGas and SDG&E, and allocates a portion of the total expense to each affiliate. For ease of reference, the remainder of my testimony refers to "SDG&E insurance procurement" to refer to this process.

A. The Event Must Be Exogenous to the Utility

The first measure determining if an event qualifies under Z-factor treatment is whether the event creating the cost at issue is exogenous to SDG&E. The specific event impacting SDG&E related to the increased liability insurance cost and the reduction in available coverage satisfies this first Z-factor test by the very nature of how insurance markets work. Market prices and available capacity are driven and decided by factors such as supply, demand, competition, and even further by forces such as historical market losses, changes in law, and perception of future exposure to risk. All of these conditions and pressures directly influence how insurers make decisions about offering coverage and setting price, and the resulting changes in costs are ultimately imposed upon the insured rather than being controlled by the insured. Specifically, the types of changes impacting SDG&E are solely determined by these various external elements that drive the market place and are exogenous to SDG&E.

The contraction in available liability coverage combined with a dramatic increase in cost for the 2009 liability insurance premiums was driven in part by the insurance industry's reaction to world events such as the financial market meltdown, the lack of reinsurance, and the increased cost of obtaining reinsurance where available. Insurers' investment portfolios took a dramatic hit, putting great stress on their financial stability, which only exacerbated the situation for insurers who write liability insurance for the utility industry.

As described in the testimony of Mr. De Bont, recent California wildfires injected over a billion dollars of claims into the market. Certain carriers within the insurance industry responded by either determining that California wildfire liability was an uninsurable risk and exited this market, or by drastically cutting back on the amount of available capacity and increasing its cost. Also, the concept of strict liability for investor owned utilities in the form of inverse condemnation (see Section V.D for a discussion of this concept) has emerged in California, which in the eyes of the insurance markets added an even greater risk exposure when it was time to consider renewal. In addition, some of the carriers that underwrite the energy utility segment in California experienced difficulty in obtaining reinsurance as a result of their prior losses. Consequently, in 2009 there was a significant reduction in available insurance.

As Mr. De Bont further notes, all of the conditions, market forces, and pressures that impact the availability of insurance also directly influence how insurers make decisions about setting price for coverage. For 2009, all of the insurers who remained active in the Southern California energy utility liability insurance market drastically increased their premiums. As detailed in the testimony of Mr. De Bont, the reasons for the premium increases were (1) the increasing use of inverse condemnation for all California utilities; (2) the recent wildfires experienced in Southern California; (3) underwriters' assessment of increased risk for future losses; (4) the loss of available reinsurance; and (5) general market pressures outside of the California wildfire situation.

All of these market decisions by insurers are exogenous to SDG&E and any resulting premium cost increases are therefore also exogenous to SDG&E. Thus, the liability insurance increase meets the first Z-factor criterion.

B. The Event Must Occur After Implementation of Rates

The second criterion determining if an event qualifies under Z-factor treatment is whether the event occurred after the implementation of currently effective rates. As described above, the Commission approved D.08-07-046 authorizing SDG&E's Test Year 2008 revenue requirement (which included both liability insurance and deductible expense) in July 2008 but with an effective date retroactive to January 1, 2008. Specific details regarding the unexpected changes in liability insurance, which included a decrease in available liability coverage and dramatic cost increases, were not known to SDG&E until early 2009, well after the rates were set in place as a result of D.08-07-046.

During the annual renewal process in 2008 the extent to which SDG&E would be impacted by cut-backs in available capacity and subjected to premium and deductible increases attributed to losses related to the wildfires had not yet been determined. In fact, virtually all insurers who had written liability insurance for SDG&E in 2007 renewed their coverage in June 2008, roughly coincident to the time that rates were set in place via the 2008 GRC. Rates were slightly higher than in 2007, but SDG&E was still able to acquire $1.17 billion of liability insurance at a reasonable cost. It was not until late 2008 that changes to the pricing and availability of future liability coverage became apparent, and SDG&E was not aware of the specific details regarding the changes in costs and coverage until early in 2009 when the normal efforts for procuring insurance for the next 12-month period began. The final exact liability insurance premium expense increase was not known until the renewal date of June 26, 2009. Thus, the liability insurance increase meets the second Z-factor criterion.

C. The Costs Are Beyond the Control of Utility Management

The third criterion determining whether an event qualifies for Z-factor treatment is whether the costs are beyond management's control. As discussed in Section V.A above, Mr. De Bont describes how the insurance market is driven by market forces exogenous to SDG&E which dictate the price and availability of coverage. Specifically, the premium cost and deductible increases imposed upon SDG&E in 2009 were determined by the insurance carriers that chose to underwrite liability insurance in the Southern California market. SDG&E, as a "price-taker" in the insurance market, must pick from the coverage that is offered in order to form the most reasonable and cost-effective liability insurance program.

As described in the testimony of Mr. De Bont, the current insurance market in Southern California has experienced a rapid and unexpected contraction of capacity. Minimal discretion to comparison shop for the best price existed, and SDG&E was not in a position to dictate the level of insurance coverage it would receive or the deductibles that it might pay. When it came time to initiate the process of renewing its insurance for 2009, the insurance market had changed dramatically from prior years and SDG&E learned that there was a deep drop in available liability insurance, which would be accompanied by severe premium increases. In response, as many insurance company sources as possible were sought out in an effort to mitigate the cost impacts imposed upon it. For example, Mr. De Bont's testimony describes how the procurement effort encompassed the world's insurance markets to reach as many qualified insurers as possible, including utility industry mutual companies, United States domestic markets, European companies and the Bermuda insurance markets. However, the availability of coverage along with the cost of that coverage is strictly controlled by these insurance markets and the agencies that operate there. The fact that there were reduced and limited alternative choices available resulted in SDG&E receiving less liability insurance coverage at a dramatically higher price. Thus, while SDG&E believes the most reasonable and cost-effective liability insurance package available was procured, it was beyond SDG&E's control to do so without incurring dramatic cost increases over prior years.

Accordingly, the liability insurance increase meets the third Z-factor criterion.

D. The Costs are Not a Normal Part of Doing Business

To qualify for Z-factor treatment, an event must not be a normal part of doing business. As clarified by D.94-06-011, the costs imposed by the event must not be the result of general economic conditions but must result from factors which specifically impact the utility.[10]

SDG&E has a number of operating factors which appear to cause it to be somewhat unique in the eyes of insurance carriers and which have resulted in unique and unprecedented premium expense increases. First, SDG&E is in large part an electric utility. That means that it has thousands of miles of electric distribution and transmission lines, some of which cross areas at high risk for wildfires. Second, SDG&E experienced multiple catastrophic wildfire events in its service territory in 2003 and 2007, which were declared as states of emergencies by government officials. Third, SDG&E has experienced more than $1.6 billion in liability claims associated with the 2007 wildfires. Fourth, SDG&E is a California investor-owned utility which puts it at risk for the legal doctrine of inverse condemnation. Under this doctrine, liability can be imposed for unforeseeable events without regard to whether there is any utility fault.

The increases in insurance premiums experienced by SDG&E in 2009 are not an insurance industry phenomenon. Instead, the liability premium increases are a California utility and SDG&E-specific phenomenon. Each of the factors above has resulted in SDG&E in particular, and to a certain extent other California utilities as well, being assigned

[10] D.94-06-011, mimeo., at 27.

disproportionate risk premiums by insurers. The issues surrounding the wildfires, and inverse condemnation litigation, have created outside insurance market conditions that have fundamentally changed the availability and pricing of liability insurance that is being offered to SDG&E. SDG&E finds itself paying extraordinary premium expenses directly attributable to the way that insurance markets underwrite coverage. As described by Mr. De Bont, SDG&E's liability insurance premiums increased from $4.5 million authorized in the SDG&E 2008 GRC to $47 million in 2009 -- a magnitude of increase not experienced before by any utility in California. This increase was not experienced by the general insurance market and was directly attributable to the unique factors associated with SDG&E.

Thus, the liability insurance increase meets the fourth Z-factor criterion.

E. The Costs Must Have a Disproportionate Impact on the Utility

The next Z-factor qualifying criterion requires that the costs related to the event must have a disproportionate impact on the utility. As described by Mr. De Bont, and discussed in Section V.D above, insurance carriers have assigned risk premiums to California IOUs due to exogenous factors generally impacting insurance markets. They have also assigned significant and disproportionate risk to SDG&E, which is primarily attributable to the 2007 wildfires that occurred in SDG&E's service territory, but is also attributable to the adverse litigation climate in California. In short, the segment of the insurance market that underwrites liability insurance for utilities now considers SDG&E's liability risk profile very differently than it did in earlier years. The various factors described in the testimony of Mr. De Bont regarding the reasons for the premium increases (i.e., the increasing use of inverse condemnation in California, the recent wildfires experienced in Southern California, underwriters' assessment of increased risk for future losses, the loss of available reinsurance, and general market pressures outside of the

California wildfire situation), directly and disproportionately impact SDG&E. In addition, due to its relatively small size compared with other investor-owned utilities, the cost burden of the premium increases is likely to have an even more substantial impact on SDG&E. For example, the increase represents approximately 8 percent of the net operating income reported for SDG&E in 2008.

As explained in a recent Grand Jury report (provided with this testimony as Appendix A), San Diego County is "woefully unprepared" in regards to fire preparedness.[11] The Grand Jury report also found that:

> [T]he County of San Diego does not comply with national standards for emergency response time or emergency response locations. San Diego is also the largest County in the State of California without a consolidated County firefighting agency.[12]

In comparison to its neighbors, San Diego County also lags in spending on fire prevention. The table below illustrates that although the area is larger than Los Angeles County, San Diego County spends far less (about 1/5) on fire prevention:

County	**Population**	**Area (Square Miles)**	**Countywide Fire Spending (FY2007-2008)**
Los Angeles	10 million	4,060	$2.2 billion
Orange	3 million	790	$542 million
San Diego	3 million	4,200	$475 million

Source: San Diego Institute for Policy Research: How San Diego's Investment in Fire Protection Stacks Up

The lack of fire preparedness in San Diego County and limited countywide fire spending has a direct effect on fire claims against SDG&E. Simply put, when wildfires do happen in San Diego County, they tend to be more intense and to cover more area than if San Diego County

[11] San Diego Grand Jury Report, May 2008.
[12] Id.

had adequate firefighting resources. As a result past fire-related claims against SDG&E have been higher than they would otherwise have been, and the risk of future claims is greater. Higher past claims and future risks in turn translate directly into higher liability premiums and lower available coverage for SDG&E. As explained in the testimony of Mr. De Bont, liability insurance premium costs and available liability insurance coverage are driven in large part by past loss experience and future risk of loss.

Thus, given the unique factors disproportionately impacting SDG&E, the liability insurance increase meets the fifth Z-factor criterion.

F. The Costs Must Have a Major Impact on Overall Costs

Meeting the sixth Z-factor qualifying criterion involves whether the cost increase in liability coverage has a major impact on SDG&E's overall costs. Mr. De Bont describes how the cost of liability insurance allocated to SDG&E will increase from an authorized level of $4.5 million in 2008 to an actual level of $47 million in 2009. An unanticipated cost increase of over 1,000 percent has had a major impact on SDG&E's overall costs. Such an increase represents approximately 8 percent of SDG&E's 2008 net operating income and over 10 percent of the total administrative & general expenses reported in 2008.

Clearly, the liability insurance increase meets the sixth Z-factor criterion.

G. The Cost Impact Must Be Measurable

Another criterion that must be met in order to qualify for Z-factor treatment relies on whether the cost impact is measurable. SDG&E renewed its liability insurance coverage on June 26, 2009, and has documented evidence of the exact amount of 2009 liability insurance expense. The testimony of Mr. De Bont describes the increase in total liability premium expense from the $4.5 million authorized in the 2008 GRC to $47 million in 2009.

Thus, the liability insurance increase meets the seventh Z-factor criterion.

H. The Utility Must Incur the Cost Reasonably

The 2009 insurance procurement process is discussed in the testimony of Mr. De Bont and briefly in Section V.C above. Every effort was made to secure all reasonably available liability insurance coverage. During this process, the same procedures were used that have been found to be reasonable by the Commission in multiple rate case proceedings. This effort was hampered by the unwillingness of some insurance carriers to offer liability coverage at all, or to offer liability coverage at a reasonable price. Nevertheless, SDG&E believes that the 2009 insurance procurement process was reasonable, and that the costs incurred for liability insurance coverage represent the most cost-effective liability insurance package available to SDG&E.

SDG&E also believes that future insurance procurement based on the methodology described by Mr. De Bont will be demonstrably reasonable. Moreover, SDG&E is undertaking numerous efforts to mitigate the risk of wildfires in its service territory, which should further its efforts to ensure that SDG&E is offered the most coverage at the least cost. These efforts include implementation of a multi-pronged "Community Fire Safety Program" to reduce the likelihood of strong winds causing power line fires. SDG&E's Community Fire Safety Program efforts include: (1) physical improvements to SDG&E's overhead electric transmission and distribution system in areas that are prone to wildfires; (2) modification of the operation of re-closers for overhead power lines in areas of high fire risk; (3) expanded inspections of overhead power lines and associated facilities in areas of high fire risk; and (4) increased vegetation management for approximately 72,000 trees located near overhead power lines in areas of high fire risk. In addition, SDG&E has proposed an Emergency Power Shut-Off Plan that would de-energize overhead power lines in areas of high fire risk when certain criteria are met in order to eliminate power lines as an ignition source when fire risks are high. SDG&E's proposed Emergency Power Shut-Off Plan is currently being considered by the Commission in A.08-12-021.

In summary, SDG&E believes that the 2009 insurance procurement process resulted in the most cost-effective liability insurance package available. Moreover, SDG&E hopes that steps it is taking to mitigate the risk of wildfires in its service territory will positively impact the future insurance procurement process, and we believe that our future insurance procurement efforts will be reasonable as well. Thus, the liability insurance increase meets the eighth, and last, Z-factor criterion.

VI. Cost Recovery

A. 2009 Incremental Insurance Premium Expense

As discussed in Part IV of the SDG&E Preliminary Statement, the Z-factor mechanism requires SDG&E to notify the Commission of any potential Z-factor event prior to beginning to track costs associated with the event in the ZFMA. On April 17, 2009, SDG&E notified the Executive Director of the Commission of its intent to designate unforeseen insurance policy premium expense increases as a Z-factor event in order to track these costs in a subaccount of the ZFMA.

At the time of the SDG&E Z-factor notification letter, the available insurance coverage and the cost structure of that coverage was undetermined. Since that time the 2009 liability insurance premium and deductible expense has been established as described by the testimony of Mr. De Bont and the incremental liability insurance premium expense allocated to SDG&E is being tracked in a subaccount of the SDG&E ZFMA. The testimony of Ms. Deborah Yee describes the transformation of the ZFMA subaccount balance to a 2009 incremental revenue requirement for ratemaking purposes.

To effectuate the amortization of the ZFMA subaccount, SDG&E proposes that upon a Commission decision in the Application, the 2009 incremental revenue requirement associated with the ZFMA subaccount balance be amortized over a period of not less than twelve months beginning June 1, 2010.

The amount proposed for rate recovery is $28,884,000. This amount is the incremental revenue requirement above current authorized revenues associated with 2009 actual insurance cost. The proposed increase has been adjusted to remove Federal Energy Regulatory Commission ("FERC") jurisdictional costs and the $5,000,000 one-time Z-factor deductible for this event. It includes an O&M expense portion of costs and a capital related portion of cost which is comprised of annual return, depreciation, taxes and franchise fees and uncollectibles. It also includes allowed interest on the estimated monthly balances in the proposed ZFMA subaccount. Please see the testimony of Ms. Deborah Yee for the explanation and detail of this proposed amount.

B. Future annual premium increases and deductible expense prior to the implementation of the next GRC Test Year

The Z-factor event associated with the increase in liability premium and deductible expense is potentially a multi-year phenomenon. While the cost of future liability insurance premiums and deductibles is unknowable today, it appears likely that the future expenses will remain well above that which was authorized in the 2008 SDG&E GRC. As described in the testimony of Mr. De Bont, the insurance procurement process for subject year 2010 and until the next GRC will continue to be based on the methodology described in this application. While it is hoped that the efforts undertaken by SDG&E will help reduce any future liability premium increases, only time will tell.

To the extent any 2010 or subsequent year liability premium expenses exceed the amount authorized in the 2008 GRC, SDG&E proposes to track those premium expenses in the liability insurance subaccount of the ZFMA for each year until the next GRC. As discussed in the testimony of Mr. De Bont, with the 2009 insurance renewal the liability insurance deductible expense increased from $1 million per event to $5 million per event. Since the actual claims experience at this point in time is not knowable, SDG&E proposes that the ZFMA also book expenses associated with changes in the liability insurance deductible limits to the extent those expenses exceed the 2008 GRC authorized level in any year prior to the next GRC.

SDG&E proposes the following mechanism to include any future ZFMA subaccount balance in rates. Beginning in 2010 and continuing annually until the next GRC, 30-days following each annual insurance renewal date SDG&E will file an advice letter describing the insurance procurement process for that year and containing the calculations of the incremental liability insurance premium expense that will be recorded to the ZFMA (for the next 12-month insurance coverage period) and any incremental expense associated with an increase in the deductible level recorded to the ZFMA that was incurred in the prior insurance coverage period. As described by Ms. Yee, the advice letter will also include all the necessary calculations to transform these amounts to an incremental revenue requirement using the same methodology as described in this application. Upon approval of the advice letter, SDG&E will reflect the ZFMA balance in its annual regulatory account update advice letter filed in October of each year and transfer the ZFMA to the Electric Distribution Fixed Cost Account (EDFCA) or Core/Non-core Fixed Cost Account (CFCA/NFCA) for amortization over a 12-month period beginning the following January 1st of the following year in connection with SDG&E's annual regulatory account balance update filing.

A portion of the liability insurance premium expense is allocated to the electric transmission department (please see the testimony of Ms. Deborah Yee for details), which is regulated by FERC. To perform this allocation, a revised FERC allocation methodology has been developed since a larger portion of the wildfire liability is associated with electric transmission lines than the current FERC allocation methodology contemplates. This proposed change would increase the allocation of the wild fire premium expense to the electric transmission department from 8.3 percent to 22.6 percent. While SDG&E believes this change to be reasonable, it is not certain that this change will be approved by the FERC. Should this change in allocation methodology be denied by FERC, SDG&E proposes that the revenue requirement difference between the current and proposed methodologies be added to the ZFMA for recovery as described above.

VII. Relationship Between the Z-Factor Application and the Joint Investor-Owned Utility ("IOU") Wildfire Cost Recovery Application

Coincident with the filing of the SDG&E Z-factor application, SoCalGas, SDG&E, SCE, and PG&E are jointly filing an application ("Joint IOU application") proposing a mechanism for the recovery of wildfire claims, wildfire litigation expenses, and wildfire insurance premiums in excess of amounts authorized for recovery in rates in the utilities' GRCs.

SDG&E proposes that the treatment of incremental liability insurance premium expenses and expenses associated with increases in liability insurance deductible levels above the levels authorized in the 2008 GRC be as described in this SDG&E Z-factor application until SDG&E's next GRC unless the Commission approves the Joint IOU application. Should the Commission approve the Joint IOU application with provisions that provide for the recovery of wildfire claims, wildfire litigation expenses, and/or wildfire insurance premiums in excess of amounts authorized for recovery in rates in the Utilities' GRCs, then SDG&E proposes that the Joint IOU mechanism adopted by the Commission supersede the Z-factor methodology for such expenses going forward.

VIII. Conclusion

SDG&E believes that the liability insurance premium increases are a valid Z-factor event and that this testimony has demonstrated that the event has passed all the required tests for Z-factor recovery.

IX. Witness Qualifications

I am Senior Vice President Regulatory and Finance for San Diego Gas & Electric ("SDG&E") and Southern California Gas Company ("SoCalGas"). I have held this position since November 1, 2008. In my present capacity, I am responsible for all federal and state regulatory matters, including revenue requirements and tariffs, gas acquisition for SDG&E and SoCalGas core customers, as well as all financial and accounting matters for SDG&E and SoCalGas.

I joined SDG&E in 1978 as a laborer. In 1979 I began working in the Regulatory Affairs Department. Between 1979 and 1989 I held various positions of increasing responsibility within SDG&E's Regulatory Affairs Department, including working on numerous SDG&E General Rate Cases. In 1989, I was promoted to Manager of Business Planning and Budgets at SDG&E. In that position I was responsible for SDG&E's centralized budgeting and business planning activities. In 1991, I became SDG&E's Manager of Revenue Requirements. My responsibilities included overall project management of SDG&E's 1993 General Rate Case. In 1992 I became

SDG&E's Manager of Regulatory Affairs, with responsibility for all state regulatory matters, including revenue requirements. In 1996, I became Regulatory Affairs Director. In October 1996, I was appointed the project manager of the Enova/Pacific Enterprises Merger. I served in that assignment until I assumed the responsibility of Director Regulatory Affairs for SDG&E and SoCalGas. In January of 2002, I was appointed to the position of Vice President of Regulatory Affairs for SDG&E and SoCalGas. In December of 2006 I was promoted to Senior Vice President of Regulatory Affairs. I held that position until assuming my current position.

I have a Bachelor of Business Administration from National University and I have previously testified before the California Public Utilities Commission.

This concludes my prepared direct testimony.

Appendix A

THE FIRE NEXT TIME – WILL WE BE READY?

SUMMARY

The San Diego region has suffered two devastating wildfires within the last five years. This necessitated a response far beyond the capabilities of local agencies in terms of fire fighting resources, mass evacuations, care and sheltering. According to the San Diego County After Action Report "Firestorms 2003," the Cedar Fire of October 25-27, 2003 burned 376,237 acres, destroyed 3,241 structures and claimed the lives of 15 citizens and one firefighter. The 2007 San Diego County Firestorms After Action report states the Witch Creek/Guejito fire of October 21-25, 2007 burned 368,340 acres, destroyed 2,653 structures, claimed the lives of 10 citizens, caused 23 citizen injuries and 89 firefighter injuries. According to researchers, fire season has grown two months longer and destroys 6.5 times more land than in the 1970s. Given the existing high-risk conditions that are projected to continue into the future, destructive firestorms will certainly occur again. Yet, even armed with this knowledge and after the Cedar Fire wake-up call, the San Diego region is woefully unprepared, prompting a local academic to refer to San Diego as "…serial non-learners when it comes to fire preparation."

Fire fighting and crime are two topics that everyone has a comment or opinion on, whether it's to solve deficiencies or to criticize the budget. Whatever opinions or comments have been offered, problems continue unresolved and emergency requirements of residents throughout the county are not being served. Budget issues on crime have been addressed and funding identified. Firefighting issues need to be raised to at least the same level of appropriate funding interest. This cannot be treated as a political issue. A budget with sustainable funding needs to be put in place as soon as possible.

A citizen solution to the problem is similar to the "Old West," when people banned together and formed groups to protect themselves. That's exactly what has happened with firefighting; volunteer fire protection districts have been formed to respond and protect citizens in emergencies. Because of the existence of volunteer districts, public officials have not yet addressed funding responsibilities for fire protection in unincorporated areas. The Local Agency Formation Commission (LAFCO) stated in their report that many problems need to be resolved before a total fix of the system, that currently exists, can be redefined to better serve the public.

When firefighters raise the issue of additional stations, equipment or personnel, the politicians' response is: how much is it going to cost and who is going to pay for it? If the needs require funding, it is part of their job to find the means and establish continued funding. Public safety in an emergency is a defined need that deserves funding and support.

Organized firefighting in the unincorporated areas of San Diego County is fractured. Coverage and response time is not uniform for all residents, dispatching is not consolidated, not all Fire Protection Districts are manned around the clock, and Volunteer Districts are <u>not</u> under the Office of Public Safety.

PURPOSE

The purpose of this investigation is:

- To examine and review the efforts, cooperation, and results of actions taken by authorities and personnel in charge of management and response to emergency disasters;
- To assess what lessons were learned;
- To make recommendations for improving the ability of the community to respond to the threat of wildfire;
- To recommend suggestions for improving response efforts in emergencies;
- To commend the exemplary actions of front line responders who serviced the needs of 500,000 people affected by the wildfires.

PROCEDURES

Members of the 2007/2008 San Diego County Grand Jury:

- Interviewed Fire Chiefs representing different regions throughout the County.
- Visited the County's Office of Emergency Services, met with its senior staff and toured the County Emergency Operations Center.
- Interviewed management staff at two mega-shelters; the City's at Qualcomm Stadium, and the County's at the Del Mar Fairgrounds.
- Interviewed a Cedar Fire Survivor.
- Toured the City operated Local Assistance Center in Rancho Bernardo, which also included support provided by County staff.
- Visited two fire and medical emergency dispatch centers.
- Reviewed both the County of San Diego and the City of San Diego After Action Reports for the 2007 wildfires.
- Interviewed senior staff of the County Department of Animal Services.
- Interviewed management staff of Volunteer San Diego.
- Interviewed Fire Prevention Staff in the County Dept. of Planning and Land Use.
- Interviewed members and staff of the Local Agency Formation Commission (LAFCO) on plans to consolidate Fire Districts in the County.
- Reviewed LAFCO May 2007 Micro Report: Reorganization of Structural Fire Protection and Emergency Medical Services in Unincorporated San Diego County.
- Reviewed the transcript of LAFCO's December 3, 2007 Meeting-Agenda, titled End of Year Update Reorganization of Fire Agencies - Phase I.
- Reviewed the County's Operational Area Emergency Plan and selected annexes.
- Reviewed emergency standard operating procedures for 13 of the County's 18 cities.
- Reviewed the Governor's September 2004 Blue Ribbon Fire Commission Report.
- Reviewed the 2008 reports of the City of San Diego's Independent Budget Analyst.

- Reviewed the 2003 San Diego County Fire Siege Fire Safety Review.
- Attended the February 2008 San Diego Regional Fire Safety Forum.
- Compared 2003 Cedar Fire with 2007 Witch Creek/Guejito /Harris Fire After-Action Reports.
- Consulted newspaper articles from the San Diego Union Tribune, Los Angeles Times, Voice of San Diego, North County Times and USA Today.
- Reviewed the statement from the office of the Under Secretary for Natural Resources and Environment, US Department of Agriculture.
- Reviewed Independent Budget Analyst (IBA) Report #:08-15 -- Fire-Rescue Helicopter Acquisition.
- Reviewed IBA Report #:08-12 -- Preliminary Report on Fire-Rescue Needs and Funding Plan.

DISCUSSION #1 – Lessons Learned from the Cedar Fire?

During "A Working Emergency Planning and Preparedness Forum: Including People with Disabilities" attended by Grand Jury members, it was stated: "Planners cannot foresee every outcome and Incident Managers cannot anticipate every scenario. While disasters have a language of their own and no plan guarantees success; inadequate plans are proven contributors to failure."

Recommendations from the City of San Diego's 2003 Cedar Fire After-Action Report that were not fully implemented and remained issues during the 2007 Wildfires include:

1) Fund, develop and train to National Wildfire Coordinating Group (NWCG) standards eleven different staff functions such as Command positions, dispatchers, field observers, Incident Commanders, etc. Not completed due to funding issues.

2) Fund staffing and resources needed for extended duration incidents. Not completed due to funding. Partially mitigated by Federal Emergency Management Agency reimbursement.

3) Fund and develop staffing to ensure the timely implementation of an Incident Safety Officer. Not completed due to funding.

4) Train all personnel for risk/benefit analyses, fatigue, personal protective equipment and span of control. Not completed due to funding.

5) Remove open cab apparatus from service. Partially completed for the 2007 Wildfires.

6) Fund additional staffing and training for:
    - The Public Information Officer (PIO) to include support staff and uniformed personnel. Not completed due to funding.

- The roles of a functional Department Operations Center (DOC). In the process of being completed.

7) Review and revise recall procedures. Not completed due to staffing.

8) Fund, develop and train adequate personnel to function at all Logistics Section Unit Leader levels. Not completed due to funding.

9) Develop logistical plans and organization charts for storage at the Department Operations Center (DOC). Not completed due to funding.

10) Locate the Logistics Section Chief in the DOC to coordinate incident needs with the Planning, Operations and Finance Section Chief. Not completed due to funding.

11) Locate the functional units of the Logistics Section in the vicinity of the Repair Facility. Not completed due to funding.

12) Issue credit cards to all Battalion and Deputy chiefs for necessary first responder support. Partially completed due to lack of staff for policy development.

13) Address the inventory to equip stripped engines through a thorough review of SDFD's engine fleet. Only partially completed due to funding.

14) Review the storeroom inventory to ensure proper levels to emergency equip firefighters at an incident. Not completed due to funding.

15) Replace all staff sedans with command Sport Utility Vehicles (SUVs). Only partially completed due to funding.

16) Perform a review of SDFD's water application capabilities to determine the need for additional apparatus. Not completed due to funding.

17) Fund appropriate staffing levels of the Repair Facility. Not completed due to funding.

18) Develop plans for the rapid assignment of unit identifiers to improve resource/personnel tracking at the FCC. Not completed due to staffing.

19) Incorporate and utilize a Demobilization Plan for all state or federal reimbursement incidents. Not completed due to funding and staffing.

20) Develop and review the capabilities of local military air resources to be incorporated appropriately into local response plans through Firefighting Resources of California Organized for Potential Emergencies (FIRESCOPE). Discussions held State and Federal Government coordination required.

21) Develop and implement a plan to establish a fleet of three fire-rescue helicopters under a regional program. Permanent funding sources not secured.

The County of San Diego's 2003 After-Action Report also contained several high priority recommendations that had not been fully implemented by 2007. These were primarily concerned with the equipping of personnel and apparatus and the development of comprehensive plans for wildlife management.

DISCUSSION #2 – Needs v. Wishes

Our investigation revealed that County Supervisors refer to fire fighting/emergency response as a separate service, as if it is not directly related to the public safety services provided by the county sheriff and judicial systems. Public safety is, and must continue to be the responsibility of the county supervisors. They need to publicly clarify that it includes safety, security and know that emergency needs will be met by police or fire/paramedic professionals whenever and wherever they occur in the county. The 500,000 residents evacuated and those who remained in-place, but also were affected by the wildfires in San Diego County, pay taxes to receive full service public safety. Since early in 2004, firefighting professionals have been asked the same questions multiple times. The responses have always been the same. They express their needs for equipment and personnel and to have emergency stations located in the areas they serve in order to provide acceptable response times. The wildfires in 2007 have exposed additional fire safety deficiencies that must be addressed. The after-action reports for 2007 continue to list deficiencies in staffing and funding fire protection districts. Budgetary short falls or restrictions should not override safety.

In reports since 1998, San Diego Local Agency Formation Commission (LAFCO) has been publicly assessing the issue of public safety and firefighting. The December 2007 report, available on-line, suggests different ways to improve and fund fire protection in San Diego County; it offers at least a minimal start to correct old problems. In 2008 this report was open to public opinion and scrutiny by the electorate.

DISCUSSION #3 –Brush Management

There are code enforcement inspections of privately owned property. City and county owned properties, also subject to code enforcement, are rarely inspected for brush clearance.

On March 28, 2008, San Diego Mayor Jerry Sanders announced an aggressive cleanup program for city canyons and open space. These areas are fire hazards that threaten surrounding homes and private property. For years, this program has been insufficiently funded. However, the Mayor intends to use $3.9 million from the city's general fund, over a 2-year period, to clear 1,180 acres of open space. The $3.9 million is in addition to a $2.3 million federal grant earmarked for brush clearance. Six additional code-compliance officers for the city Fire-Rescue Department will be added to the two-officer staff to monitor brush and weed abatement on private property. Thirteen employees will be added to the city Park and Recreation Department's staff of seven, focusing specifically on brush management. Additionally, contract companies will continue to work with these employees. The brush management problem has been known to city officials for decades as a serious fire hazard. In fact, in 2005 a former Fire Chief advised officials that 590 acres should be cleared annually, in contrast to the 70 that was the practice.

In the past the County of San Diego, through its probation department, operated inmate work camps whose tasks included brush management. Some individuals have expressed concern that closure of inmate work camps had a direct correlation on the severity of wildfires. Our investigation revealed that probation officers who supervised work camp crews have been warning officials of the danger of closing these camps for the last decade.

In an effort to save money, county officials began closures of work camps in the 1980s. The last closure was in 2001. Fire experts advised that brush along with high winds and low humidity was the major factor in the 2003 and 2007 fires.

After last year's wildfires, County Board of Supervisors members discussed using "inmate labor crews," to clear brush, but abandoned the plan because of logistical problems.

DISCUSSION #4 – Funding Fire Protection

Since 2003, fire professionals in San Diego County have been asked what they need to do their job, not just for a simple wish list. Obtaining the resources needed by our firefighters has to be our primary concern. This section deals with some of those needs in both the City and the County of San Diego and suggests possible ways to fund them.

The City of San Diego

Even though the City of San Diego lies within an area prone to wildfires, it is not accredited by the Commission on Fire Accreditation International (CFAI) because the City's Fire Rescue Department does not meet national standards. Twelve of the City's 45 engine districts exceed the standard nine square mile service area. Forty-six percent of the time the department cannot meet the national five-minute response time. Rancho Bernardo, the San Diego community that lost 365 homes in the last fire, has one fire station that was built in 1969. It serves 28 squares miles, the largest response area in the City. It was designed to house one engine and three fire fighters. It now houses three engines and six fire fighters per shift. According to national standards, three fire stations are required for an area of this size.

In assessing the City's ability to meet the fire service needs of the community, the CFAI concluded that there exists:

- Serious reduction of service levels.

- Serious gaps in coverage: inadequate number of fire stations, engines, trucks and staffing.
- Few measurable objectives regarding response to coverage.
- No comprehensive plan to improve coverage.
- No objectives in place to capture qualitative data relative to measuring performance effectiveness.
- Insufficient staff to analyze data such as response times, compliance with goals and objectives, incident reporting and trends.
- The Fire Department is not involved in the City planning process.

Following the November 27, 2007 meeting of the U.S. Senate Interior Appropriations Subcommittee, chaired by a California Senator, a council member requested a study from the Independent Budget Analyst (IBA). This study addresses a "list of alternative measures and relevant costs to implement the Fire-Rescue Department Station Master Plan to eliminate the City's fire station deficits within the next ten years."

Preliminary Report #08-12 on Fire-Rescue Needs and Funding Plan from the IBA provides an overview of past studies that have addressed the Fire-Rescue Department needs and considered potential sources of funding. A report released by the City Manager in the spring of 2004 led to the City Council approving two ballot measures: Proposition C in the March 2004 election and Proposition J in the November 2004 election. Both of these measures proposed a 2.5% increase in the Transient Occupancy Tax (TOT) which would have increased the tax on hotel and motel rooms from 10.5% to 13%. The TOT is one of the largest sources of revenue for the City's General Fund.

Proposition C on the March 2, 2004 ballot said "Shall the City increase the transient occupancy tax (TOT) paid by hotel and motel visitors by 2.5% and shall these funds, along with current TOT funds, be earmarked to fund Fire-Rescue and Police emergency services, equipment and facilities, road improvements, park and coastal improvements; tourist promotion; and library and arts programs; and shall public audits be conducted of the uses of these funds?" Because funds were earmarked for specific purposes, this measure required a 66.7% majority vote, which it failed to receive. If the measure had passed, it is estimated that it would have provided approximately $26 million in additional revenue with approximately $8 million for the Fire-Rescue Department.

Proposition J on the November 2, 2004 ballot said "Shall the City Charter and the San Diego Municipal Code be amended to increase the transient occupancy tax (TOT) paid solely by hotel and motel visitors from 10.5% to 13% to be used for general governmental purposes?" While Proposition J required only a simple majority, it also failed to pass.

On December 4, 2007, just weeks after the wildfires, the hotel industry persuaded the City Council to establish a "Tourism Marketing District." This action permitted a two percent increase in the room tax at larger hotels. This will allow certain hotel owners to increase the room tax without taxpayer approval and use the revenue generated, approximately $20 – 30 million annually, to promote tourism. Some of these dollars may have been a potential source for serving public safety needs. This measure was adopted by the City Council.

A California legislator is seeking an amendment to the State Constitution, which would allow local jurisdictions to raise taxes for firefighting with 55% of the vote instead of 66.7%.

The County of San Diego

At a recent congressional hearing, a local fire chief criticized County officials for historically and currently failing to provide the resources necessary to protect residents and visitors during significant firestorms. It was noted that the County has made some progress since the Cedar fires in implementing a reverse 911 calling system and adopting stricter building codes. However, San Diego County, as stated at the hearing, spends only $8.5 million annually on fire protection as opposed to Orange County which spends $260 million and Los Angeles County that spends $860 million. According to 2007 State of California estimates, San Diego County has over 3 million people and covers 4,200 square miles. For comparison purposes, Orange County has an estimated 3 million people and covers 790 square miles, while Los Angeles County has approximately 10 million people and covers 4,060 square miles. However, historically San Diego County has had a lower tax base than the other two counties.

In spite of Santa Ana conditions, insufficient rainfall, longer fire seasons and urban sprawl, the County remains without a unified fire protection agency and no central command. Assessments following the Cedar Fire and the Witch Creek/Guejito fire have consistently called for a better-organized and more responsive system in the unincorporated area where wildfire tends to originate. Many believe that a unified county fire protection agency would result in a more stable system and more efficient and effective use of resources. It would also enable the County to respond with mutual aid when other jurisdictions are overwhelmed.

Potential funding sources under discussion for consolidation of the 65 fire departments under a County department and the additional fire fighting resources needed might be partially provided by the County reserve fund or perhaps interest from the fund, a reallocation of Proposition 172 funds, or a ballot measure proposing a ½ cent sales tax increase. Additionally, LAFCO suggested using county Supervisor's discretionary funds for this purpose.

San Diego County has a reserve fund of approximately $725 million. The Board of Supervisors is unlikely to tap into this fund because they consider it essential to maintaining the County's strong financial position. However, the interest on this fund may be a possible source of funding.

Proposition 172, the Local Public Safety Protection and Improvement Act was passed by 58% of California voters in 1993. It replaced local property tax revenues with a ½ cent sales tax to be expended on public safety services, which included sheriffs, police, fire, county district attorneys, corrections and lifeguards. Although police and fire fighting services were used extensively in the marketing campaign for the tax initiative, Board of Supervisors Policy #A-126 Proposition 172 and New Program Revenues in the Sheriff's Department, Office of the District Attorney and the Probation Department fails to mention fire services. The program allocation for Proposition 172 funds established by the Board on December 14, 1993, allocated 72.4 % of the revenue to the Sheriff, 20.4% to the District Attorney, and 7.2% to the Probation Department.

The purpose of Proposition 172 was to create a permanent source of funds for public safety purposes. In the aftermath of two massive wildfires, it would be difficult to argue that fire safety should not be included in the distribution of these funds. If Proposition 172 funds were reallocated to shift 20% of the funds from the Sheriff to fire services, this could potentially provide more than $40 million to a serious public safety threat. The Board of Supervisors has the authority to allocate these funds at its discretion. This policy was to be reviewed for continuance by December 31, 2001, but this has not occurred.

Funding for consolidation of the 65 fire departments and the additional fire fighting resources needed might be provided by County reserve fund or perhaps interest from the fund, a reallocation of Proposition 172 funds, and/or a ½ cent sales tax increase. Prop 172 generates approximately $230 million annually. At least $110 million is needed to maintain a fully consolidated county fire department, based on previous statements by a member of the formation commission studying consolidation.

At the State level, the Governor has proposed a Wildland Firefighting Initiative which would be financed through an annual 1.25 % surcharge on all property owners statewide, a cost of approximately $10 - $12 per property owner each year. This would raise nearly $100 million for CAL FIRE, the Office of Emergency Services and the California National Guard to strengthen the state's wildland firefighting capability.

FACTS/FINDINGS

Fact: The City of San Diego Fire-Rescue Department is not accredited because it is unable to meet national standards in delivering day-to-day emergency response and fire protection services citywide.

Finding #01: The City of San Diego needs to address the gaps in emergency and fire protection services.

Fact: Proposition 172 was passed in 1993 to offset partially the loss of local property tax revenue shifted to the State to augment educational funding. The revenue generated by the additional ½ cent sales tax was intended to fund local public safety agencies.

Fact Firefighting agencies are considered public safety agencies.

Fact: At the time Prop 172 was passed the County of San Diego had no fire agency to which sales tax revenue could be allocated.

Finding #02: The 2003 and 2007 wildfires have demonstrated a need for the creation of a consolidated County fire agency.

Finding #03: The use of Proposition 172 money to fund a County fire agency is appropriate.

Finding #04: Due to the size and composition of a county that includes 18 cities, solutions need to be proposed and implemented as soon as possible.

RECOMMENDATIONS

The 2007/2008 San Diego County Grand Jury recommends that the Mayor and City Council of the City of San Diego:

08-105: Prepare a ballot measure to propose an increase in the Transient Occupancy Tax to be used solely for the purpose of improving fire protection levels including additional stations, engines, firefighters, training, equipment, etc. as outlined in the After Action Reports. We believe a 2.5% should be considered.

08-106: Reallocate existing funds and develop new revenue streams.

The 2007/2008 San Diego County Grand Jury recommends that the County Board of Supervisors:

08-107: Review the County Board of Supervisors Policy A-176 on the allocation of Proposition 172 funds with the objective of earmarking a portion of these funds for firefighting purposes.

DISCUSSION #5 – Consolidation of County Fire Agencies

Within the last five years, San Diego County has experienced two of the most devastating wildfires in California history. Significant firefighting assistance cannot be expected from areas to the East, South or West. During the fire season, immediate assistance from the North is often unavailable since resources are being used to fight wildfires there. Assistance from State and Federal agencies is often not available in the first 48 hours after the outbreak of a major wildfire. San Diego is the largest County in the State of California without a consolidated County firefighting agency.

Firefighting in San Diego County is a patchwork quilt of City fire departments, local fire protection special districts, volunteer fire departments and County Service Areas. The majority of wildfires originate in rural areas of the county where Fire agencies are chronically under-funded. These agencies have to depend on available grants for acquiring equipment and on local fund-raisers to finance ongoing expenses. Response time to fires and medical emergencies in many of the rural communities is significantly slower than the national standard of five to seven minutes from the receipt of a call for assistance. This potentially jeopardizes the ability of the responding agency to prevent loss of life and property. Not all of the volunteer departments have the personnel to staff fire stations around the clock seven days a week, thus further increasing response times in the areas they cover.

While the previous discussion is primarily concerned with funding options for a region-wide County fire agency, this section deals with efforts currently under way to consolidate 13 rural fire districts under a centralized command and control. In the words of one fire professional interviewed by the Grand Jury, "Incremental improvement is preferable to the paralysis of perfection."

In November 2004, a year after the 2003 wildfires, residents of the unincorporated areas were asked through a ballot measure (Proposition C) whether they would support consolidation of the 35 fire protection agencies that serve those areas. This advisory measure passed soundly with 81% of the vote. In the words of one official, the residents "recognized that this region can no longer afford to have a fractured and inequitable fire protection system." Shortly thereafter the County Board of Supervisors requested that the Local Agency Formation Commission (LAFCO) initiate the process to consolidate the fire protection agencies in the unincorporated area of the County. Per section 56001 of the California Government Code, LAFCO is the governmental body responsible for reviewing jurisdictional lines and services and which has the power to initiate and implement a reorganization of public services. Approval of the County Board of Supervisors is required.

In the aftermath of the Cedar Fires, federal grants of approximately $40 million were received by the County, to which they added $5 million, to remove over a half-million dead, dying and diseased trees on back country land. A Fire Prevention Unit in the County Department of Planning and Land Use (DPLU) was the coordinating agency for this important fire safety and fuels reduction program. On July 1, 2007, the Fire Prevention Unit of The Department of Public Works and Land Use (DPLU) took over the management of seven County Service Areas having fire responsibilities. Six of these County Service Areas have volunteer fire departments. The Fire Prevention Unit in DPLU, with a staff of eight, is the closest thing we have to a County fire agency. It administers the $8.5 million Fire Enhancement Program, under which contracted fire protection agencies can be reimbursed for certain expenses, such as utility payments and workers' compensation insurance. It also has entered into agreements with the California Dept. of Forestry and Fire Protection (CAL FIRE) to staff ten of its stations. These stations are to be staffed on a year-round basis, not just during fire season. Such agreements are called "Amador Agreements." Funding for these agreements is included in the $8.5 million Fire Enhancement Program.

County Service Areas (CSAs) are geographic districts established in unincorporated areas, with the approval of LAFCO. The County provides an extended service funded by a tax levy paid by residents of the area, usually in the form of a special assessment added to real property taxes. Examples of services provided are extended police protection, structural fire protection, water and sewer services, etc. County Service Areas are formed under the provisions of Government Code Sections 25210.1 through 25210.9c. The County Board of Supervisors has ultimate legal and fiscal control of each CSA. Structural fire protection is defined in the code to include fire prevention, hazard abatement and enforcement of fire codes.

In addition to the seven CSAs for fire protection, there is CSA 135 established to govern the San Diego County-Imperial County Regional Communications System. LAFCO is capable of expanding the services covered under CSA 135 to include fire protection by a consolidated County fire agency. This is one of three governance models that have been proposed for such an agency.

After several years of work, on December 3, 2007, LAFCO approved what it calls Phase I of the reorganization plan for county fire departments. The County Board of Supervisors received the Phase I proposal on January 29, 2008, and directed the Chief Administrative Officer to evaluate it and return in 120 days with recommendations. The Grand Jury recommends adoption of Phase I, or any like plan, which incorporates the following:

- Utilization of existing volunteer fire departments with no reduction in funding.
- Uniting of the 13 Phase I fire agencies under one command structure.
- Ability to man no fewer than 28 rural fire stations around the clock with a combination of volunteers and professional fire fighting and paramedic staff.
- Reciprocal working agreements between CAL FIRE and the County fire agency.
- Centralized command and control for acquiring and deploying resources.
- Central authority for brush management and inspection activities.
- Governance model based on the County Service Area concept with a possible expansion of the scope of County Service Area 135.
- Creation of one new property Tax Rate Area for parcels within the area covered by the 13 participating fire districts.
- Coordination of evacuation notifications.
- Coordination and control of dispatch activities.
- Coordination of training for all participating departments.
- Incorporation of the existing funding, staff and functions of the Fire Prevention Unit in DPLU, including the Fire Enhancement Program.
- Establishment of the Office of the San Diego County Fire Commander as an independent office, not as a component of the Department of Planning and Land Use.
- Creation of the position of San Diego County Fire Commander, either on the level of a Deputy Chief Administrative Officer or reporting directly to the Deputy Chief Administrative Officer for Public Safety.

FACTS/FINDINGS

Fact: The National Fire Protection Association (NFPA) suggests appropriate response time to emergencies be within 5 to 7 minutes. To meet that standard, Fire Stations/Emergency Response Centers need to serve areas within a radius of five miles of the station.

Finding #05: The County of San Diego does not comply with NFPA standards for emergency response time or emergency response locations.

Fact Fire Fighters are expected to respond to medical and life safety emergencies in addition to fire emergencies.

Finding #06: Emergency medical or life safety calls outnumber fire calls by three to one or at least 75% of calls for emergency assistance to Fire Fighters.

Finding #07: Higher than average response times reduce the ability of responding agencies to prevent loss of life and property.

Fact: Six volunteer fire departments are in County Service Areas under the San Diego County Department of Planning and Land Use.

Fact: The Fire Prevention Unit in the Department of Planning and Land Use has experience in managing fuels reduction programs and in administering the Fire Enhancement Program.

Finding #08: The staff of the Fire Prevention Unit in the Department of Planning and Land Use have sufficient expertise to serve as staff for a newly created fire agency.

RECOMMENDATIONS

The 2007/2008 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors:

08-108: Approve and fund the consolidation of fire agencies according to the Phase I plan of the Local Agency Formation Commission or a substantially similar plan.

08-109: Create the position of San Diego County Fire Commander, either as a Deputy Chief Administrative Officer or to report directly to the Deputy Chief Administrative Officer for Public Safety.

DISCUSSION # 6 – Sheltering

The October 2007 Wildfires not only ravaged San Diego County, it set records for the number of residents evacuated. The American Red Cross was overwhelmed by the massive need for assistance. If not for local governmental agencies and community volunteers setting up additional shelters, the fires could have been worse for the residents who had to evacuate their homes.

The care and shelter component of the County's Operational Area Emergency Plan is contained in Annex G to that plan, entitled "Care and Shelter Operations." This annex sets forth the operational procedures for the provision of food, clothing and shelter, on a mass care basis, to victims of natural disasters or other emergencies who are unable to provide for themselves. Disaster planning professionals estimate that approximately 10% of victims require mass care. The vast majority are either able to find shelter with friends or relatives or have sufficient resources to finance their own temporary housing. In the 2007 wildfires, approximately 500,000 people were under mandatory evacuation orders. This translates into an estimated 50,000 people requiring emergency mass shelter in this incident.

Annex G designates the San Diego/Imperial Counties Chapter of the American Red Cross as the manager of disaster response for mass care and sheltering. The authority for this designation is the Federal Disaster Relief Act of 1974, reinforced locally by a memorandum of understanding dated April 10, 1979, between the local Red Cross chapter and San Diego County Board of Supervisors. The director of the County Health and Human Services Agency (HHSA) is designated as County Care and Shelter Coordinator, while each of the 18 cities is expected to have a City Care and Shelter Coordinator. Annex G does not define the terms "manager" and "coordinator" but makes it clear that the Red Cross is the lead agency. HHSA is charged in the plan with providing care and shelter if the catastrophic nature of the event prevents the Red Cross from meeting the immediate needs of all disaster victims. Also, HHSA is charged with providing trained personnel at shelters upon request of the Red Cross. County officials are satisfied with the recent performance of the local Red Cross, but acknowledge there have been problems of coordination and service delivery in the past.

During the 2007 fires, 46 shelters opened in the County, and at least 21 were opened by entities other than the Red Cross. These include two mega-shelters, shelters for evacuees with special needs, and animal shelters. The ability of evacuees to bring their animals to shelters was vastly improved over 2003. County of San Diego personnel staffed the mega-shelter at the Del Mar Fairgrounds, while the City of San Diego managed and staffed the mega-shelter at Qualcomm Stadium. Neither the County nor the City has specific procedures for the operation of mega-shelters. Many smaller shelters were opened by faith-based organizations.

The local Red Cross was able to shelter about 6,500 persons during the 2003 wildfires and improved its capacity to over 16,000 in 2007. However, it did not have the ability –

either in staffing or resources- to meet the immediate needs of over 50,000 evacuees requiring shelter in the first 48 hours.

The National Red Cross management team did not arrive in San Diego County with additional supplies and staff until the third day of the fire. By the fourth day, the national Red Cross volunteers were able to supplement staff at almost all of the 46 shelters, many of which were starting to wind down operations as evacuation orders began to be lifted. Also, the local Red Cross was able to train about 2,400 volunteers, most of whom were referred through Volunteer San Diego, in a short time. Only 800 of these volunteers were actually used.

Volunteer management was cited as an area of concern by both City and County staff who had experience in 2007 shelter operations. Volunteer San Diego has expertise in registering and assigning volunteer staff, as well as the capacity to expand its own operations during a disaster. Hence, the Grand Jury is recommending that San Diego County complete a memorandum of understanding with Volunteer San Diego and incorporate that agency as part of the Area Emergency Operations Center and include Volunteer San Diego staff in the training exercises conducted by the Office of Emergency Services.

After action reports cited the inability of staff at most of the shelters to communicate with evacuees who speak a language other than English or who are hearing impaired. It is imperative that agencies charged with operating shelters identify those trained shelter staff who can communicate in more than one language or in American Sign Language. The rosters of trained shelter workers should list their ability in other languages and be sorted by the home zip code of those workers to facilitate their rapid assignment to the shelter nearest their homes.

FACTS/FINDINGS

Fact: All eighteen cities in the County of San Diego were asked by the Grand Jury for copies of their Standard Operating Procedure Manual for Emergencies (SOP).

Finding #09: Sixteen cities responded to the Grand Jury's request for copies of their Standard Operating Procedures Manual for Emergencies (SOP). Two cities in the county, La Mesa and Imperial Beach did not.

Fact: The Cedar Fires presented unforeseen difficulties for emergency personnel. As a result, many of the existing disaster procedures were changed to accommodate weather, terrain and evacuation of inhabitants.

Fact: Many of the "Emergency Disaster Procedure Plans" were developed after the Cedar Fires and finalized in September 2006 by the county and most of the cities in the county. However, a few are still incomplete.

Fact: The Red Cross has limited ability to meet the sheltering needs of all evacuees within the first 48 hours of a major disaster.

Fact: The County of San Diego is responsible for meeting the sheltering needs not provided by the Red Cross.

Finding #10: The County of San Diego needs an understanding of the sheltering capacity of the local Red Cross during the first 48 hours of a major disaster.

Finding #11: Neither the County of San Diego nor any of the cities, including the City of San Diego, had a standard operating procedure for the operation of a mega-shelter.

RECOMMENDATIONS

The 2007/2008 San Diego County Grand Jury recommends that the San Diego County Office of Emergency Services:

08-110: Include the Executive Director of Volunteer San Diego, or designee, as a participant in Office of Emergency Services training exercises and as a representative at the Operational Area Emergency Operations Center in actual incidents.

08-111: Revise the County's Memorandum of Understanding with the San Diego/Imperial Counties Chapter of the American Red Cross to include a quantification of its ability to staff and equip emergency shelters, especially in the first 48 hours of a major disaster.

08-112: Maintain at the Office of Emergency Services a complete roster, broken down by zip code, of County staff that has been trained in shelter operations. Roster should also indicate languages spoken other than English.

08-113: Request that the Red Cross roster of trained shelter staff be coded to identify language skills.

08-114: Revise Annex G of the Operational Area Emergency Plan to include a plan for the establishment and operation of a mega-shelter.

The 2007/2008 San Diego County Grand Jury recommends that the Office of Homeland Security of the City of San Diego:

08-115: Adopt an Emergency Care and Sheltering Plan for the City of San Diego which includes a plan for the establishment and operation of a mega-shelter, with particular application to the Qualcomm Stadium facility.

COMMENDATIONS

The 2007/2008 San Diego County Grand Jury wishes to commend:

All of the firefighters, professional and volunteer, who put their lives on the line in the assault against the 2007 wildfires. This includes both our local firefighters and those from outside jurisdictions who answered the call for aid.

All of the thousands of volunteers who staffed emergency shelters, telephone information lines and other disaster aid operations; also the citizens of San Diego who donated time, money, goods, services, etc.

The management and staff of the City Office of Homeland Security for its establishment and management of the mega-shelter at Qualcomm Stadium on short notice and with no standard operating procedures in place.

The management and staff of the County Office of Emergency Services for its establishment of the mega-shelter at the Del Mar Fairgrounds on short notice and with no specific operating procedures for a mega-shelter in place.

The Office of Administration of the City of San Diego Mayor for its prompt activation and efficient management of the Rancho Bernardo Local Assistance Center. This commendation also applies to the City and County staff that worked long hours at all four Local Assistance Centers and other assigned facilities. Also the County Health and Human Services Agency for its management of those centers operated by the County.

The Food Services Division of the San Diego County Sheriff's Department for expanding and re- deploying its feeding capacity to include field meals of emergency responders, the National Guard and fire victims at evacuation facilities. In addition to their regular workload, these include almost 15,000 meals supplied to the Red Cross for the feeding of evacuees.

The Court Services Division of the San Diego County Sheriff's Department for its ability to re-assign deputies promptly to security and traffic control functions in the evacuated areas.

COMPLETE RECOMMENDATIONS

The 2007/2008 San Diego County Grand Jury recommends that the Mayor and City Council of the City of San Diego:

08-105: Prepare a ballot measure for the proposing a 2.5% increase in the Transient Occupancy Tax to be used solely for the purpose of improving fire protection levels including additional stations, engines, firefighters, training, equipment, etc. as outlined in the After Action Reports.

08-106: Reallocate existing funds and develop new revenue streams.

The 2007/2008 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors:

08-107: Review the County Board of Supervisors Policy A-176 on the allocation of Proposition 172 funds with the objective of earmarking a portion of these funds for firefighting purposes.

08-108: Approve and fund the consolidation of fire agencies according to the Phase I plan of the Local Agency Formation Commission or a substantially similar plan.

08-109: Create the position of San Diego County Fire Commander, either as a Deputy Chief Administrative Officer or to report directly to the Deputy Chief Administrative Officer for Public Safety.

The 2007/2008 San Diego County Grand Jury recommends that the San Diego County Office of Emergency Services:

08-110: Include the Executive Director of Volunteer San Diego, or designee, as a participant in Office of Emergency Services training exercises and as a representative at the Operational Area Emergency Operations Center in actual incidents.

08-111: Revise the County's Memorandum of Understanding with the San Diego/Imperial Counties Chapter of the American Red Cross to include a quantification of its ability to staff and equip emergency shelters, especially in the first 48 hours of a major disaster.

08-112: Maintain at the Office of Emergency Services a complete roster, broken down by zip code, of County staff that has been trained in shelter operations. Roster should also indicate languages spoken other than English.

08-113: Request that the Red Cross roster of trained shelter staff be coded to identify language skills.

08-114: Revise Annex G of the Operational Area Emergency Plan to include a plan for the establishment and operation of a mega-shelter.

The 2007/2008 San Diego County Grand Jury recommends that the Office of Homeland Security of the City of San Diego:

08-115: Adopt an Emergency Care and Sheltering Plan for the City of San Diego which includes a plan for the establishment and operation of a mega-shelter, with particular application to the Qualcomm Stadium facility.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

(a) As to each grand jury finding, the responding person or entity shall indicate one of the following:

  (1) The respondent agrees with the finding

  (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:

  (1) The recommendation has been implemented, with a summary regarding the implemented action.

  (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

  (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.

  (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

(c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

Responding Agency	**Recommendations**	**Date**
Mayor, City of San Diego	**08-105, 08-106**	**8/31/08**
City Council, City of San Diego	**08-105, 08-106**	**8/31/08**
San Diego County Board of Supervisors	**08-107, 08-108, 08-109**	**8/31/08**
San Diego County Office of Emergency Services	**08-110, 08-111, 08-112, 08-113, 08-114**	**8/31/08**
Office of Homeland Security, City of San Diego	**08-115**	**8/31/08**