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May 1, 2020

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: San Diego Gas & Electric Company, Docket No. ER20-____-000
Order No. 864 Compliance Filing**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act and Sections 35.13 and 385.205 of the Federal Energy Regulatory Commission's ("Commission" or "FERC") regulations,¹ San Diego Gas & Electric Company ("SDG&E") hereby tenders for re-filing after withdrawal proposed revisions to SDG&E's Fifth Transmission Owner Formula Rate ("TO5 Formula Rate"), Appendix VIII of SDG&E's Transmission Owner ("TO") Tariff, FERC Electric Tariff, Volume No. 11² to comply with Order No. 864 in Docket No. RM19-5-000 issued November 21, 2019 ("Order 864" or "Order").³

On April 10, 2020, in Docket No. ER20-1540, SDG&E submitted its Order 864 compliance filing. SDG&E withdrew that filing on April 23, 2020 due to errors in the eTariff filing process. In its withdrawal letter, SDG&E stated that it would re-submit its Order 864 compliance filing after it submitted its May 1, 2020 compliance filing in ER19-221 that implemented Commission-approved SDG&E's TO5 Formula Rate Settlement changes – because that ER19-221 compliance filing contained revisions to Appendix VIII that became effective June 11, 2019 prior to the January 27, 2020 effective date of SDG&E's Order 864

¹ 18 C.F.R. §§ 35.13 and 385.205.

² Appendix VIII of SDG&E's TO Tariff includes an Attachment 1 (the Formula Rate Protocols) and an Attachment 2 (the Formula Rate Spreadsheet).

³ 169 FERC ¶ 61,139 (2019) (Public Utility Transmission Rate Changes to Address Accumulated Deferred Income Taxes).

compliance revisions.⁴ SDG&E filed its compliance filing in ER19-221 on April 29, 2020.⁵

SDG&E's TO5 Formula Rate Tariff already reflects the revenue requirement impacts required by Order 864. This Order 864 compliance filing, however, brings SDG&E fully into compliance with the Order, principally by adding a supplemental ADIT worksheet. The requested effective date is January 27, 2020.⁶

I. NATURE AND PURPOSE OF FILING

The Tax Cuts and Jobs Act of 2017 ("TCJA") included tax-related changes that reduced the federal corporate income tax rate from 35 percent to 21 percent beginning January 1, 2018. This reduction in corporate income tax rate required the re-valuing of a corporation's accumulated deferred income tax ("ADIT") balance to reflect the lower tax rate.

In response, on November 21, 2019, the Commission issued its final rules in Order 864. The Order requires all public utility transmission providers with transmission formula rates under an Open Access Transmission Tariff, a transmission owner tariff, or a rate schedule to revise those transmission formula rates to account for changes caused by the TCJA.⁷ Specifically, in Order No. 864, the Commission required all public utilities with formula transmission rates to do the following:

- Include a mechanism in the public utility's formula rate to deduct any excess ADIT from, or add any deficient ADIT to, their rate bases;⁸
- Include a mechanism in the public utility's formula rate to adjust the income tax allowance by amortized excess or deficient ADIT;⁹ and
- Incorporate a new permanent worksheet into the public utility's transmission formula rates that will annually track ADIT information.¹⁰

Public utilities with formula transmission rates were required to submit compliance filings by the later of thirty (30) days after the effective date of the final rule or the public utility's next annual informational filing following the issuance of the final rule.¹¹ On March 11,

⁴ San Diego Gas & Electric Company submits tariff filing per 35.17(a): Order No. 864 Compliance Withdrawal (ER20-1540) (filed Apr. 23, 2020).

⁵ San Diego Gas & Electric Company submits tariff filing per 35: TO5 Compliance Filing to be effective 6/1/2019 under ER19-221 (filed Apr. 29, 2020).
⁶ Order 864 at P 100.

⁷ Federal Public Law 115-97, enacted on December 22, 2017.

⁸ Order No. 864 P 28.

⁹ *Id.* at P 42.

¹⁰ *Id.* at PP 52, 62.

¹¹ *Id.* at P 100.

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2020, SDG&E requested an extension of time to submit its compliance filing as required by Order No. 864 until April 10, 2020.¹² On March 17, 2020, the Commission granted that request.¹³

As noted, on April 10, 2020, SDG&E submitted its Order No. 864 compliance filing, which it subsequently withdrew due to errors in the eTariff filing process.¹⁴ In that withdrawal letter, SDG&E noted that it would re-file its Order No. 864 compliance filing after it filed its compliance filing in ER19-221 implementing the Commission-approved tariff changes resulting from SDG&E's TO5 settlement – because those changes had an earlier effective date (June 1, 2019) than the Order No. 864 compliance changes (January 27, 2020).¹⁵

This submission by SDG&E to comply with Order 864 demonstrates that the changes proposed in this filing coupled with SDG&E's existing Formula Rate meet all of the requirements of Order 864.

II. SUMMARY OF SDG&E'S EXISTING TO5 FORMULA RATE

On October 30, 2018, SDG&E submitted its proposed TO5 Formula Rate.¹⁶ On October 18, 2019, SDG&E submitted an uncontested settlement of its TO5 Formula Rate,¹⁷ and on March 23, 2020, the Commission issued a letter order approving the TO5 Formula Rate Settlement.¹⁸ As noted, on April 29, 2020, SDG&E made a compliance filing in ER19-221 to implement the tariff changes resulting from the Commission-approved TO5 Formula Rate Settlement.¹⁹

SDG&E's TO5 Formula Rate includes both a method to adjust SDG&E's rate base for excess or deficient ADIT and a method to adjust SDG&E's income tax allowance for the amortization of ADIT. Statement AF of SDG&E's existing formula rate reflects the excess ADIT resulting from TCJA. The ADIT, including the excess portion from Statement AF, flows to the rate base calculation on statement BK-1, page 3, line 14. The resulting rate base from BK-1, page 3, line 27 is used to derive the return and associated income taxes included in SDG&E's revenue requirement. Additionally, Statement AR of SDG&E's existing formula rate

¹² RM19-5, *Public Utility Transmission Rate Changes to Address Accumulated Deferred Income Taxes*, Motion of Extension of Time to comply with the requirements of Order 864 of San Diego Gas & Electric Company under RM19-5 (Mar. 11, 2020).

¹³ *Id.*, Notice of Extension of Time (Mar. 17, 2020).

¹⁴ San Diego Gas & Electric Company submits tariff filing per 35: TO5 Compliance Filing to be effective 6/1/2019 under ER19-221 (filed Apr. 29, 2020).

¹⁵ *Id.*

¹⁶ 18 C.F.R. §§ 35.13 and 385.205. *See* ER19-221, San Diego Gas & Electric Company submits tariff filing per 35.13(a)(1): TO5 Formula Rate Tariff Filing (Oct. 30, 2018).

¹⁷ *See id.*, SDG&E TO5 Formula Settlement Filing (Oct. 18, 2019).

¹⁸ *See id.*, Letter to San Diego Gas & Electric Company approving its Oct. 18, 2019 filing of an Offer of Settlement and Settlement Agreement concerning its TO5 Formula Rate which establishes SDG&E's base transmission revenue requirement under EL18-67, et al. (Mar. 23, 2020).

¹⁹ San Diego Gas & Electric Company submits tariff filing per 35: TO5 Compliance Filing to be effective 6/1/2019 under ER19-221 (filed Apr. 29, 2020).

reflects the amortization of ADIT. The amortization is included as an adjustment to the income tax rate on Statement AV, page 3, line 7.

SDG&E's formula rate thus already reflects the portion of Order No. 864 that impacts a public utility's revenue requirement. No further changes to SDG&E's revenue requirement are needed based upon the Order. SDG&E recognized, however, that an additional filing was necessary to comply with Order No. 864 to add a supplemental ADIT worksheet to meet the requirements of the Order.

III. LIST OF DOCUMENTS SUBMITTED

This Filing consists of the following documents:

1. Transmittal letter;
2. Revised Formula Rate Spreadsheet (TO Tariff, Appendix VIII, Attachment 2) tariff sheets in both clean and redline format; and
3. A populated excel version of the formula rate spreadsheet, including new permanent ADIT worksheets, for TO5 Cycle 2 (reflecting the 2020 revenue requirement).

IV. SUMMARY OF PROPOSED REVISIONS TO SDG&E'S FORMULA RATE

SDG&E is proposing the addition of four worksheets to its Formula Rate Spreadsheet. Worksheets Order 864-1 and Order 864-2 are for the prior year. Worksheets Order 864-3 and Order 864-4 are for the current year (the base year of the applicable cycle). The following table summarizes the additions SDG&E is proposing to its Formula Rate Spreadsheet to meet Order 864's requirements:

Proposed Revisions	Order Compliance Requirement	Reference
New worksheets Order 864-2 and Order 864-4: Columns 3 – 8 and Order 864-1 and Order 864-3: Column 9	Category 1: How any ADIT accounts were re-measured and the excess or deficient ADIT contained therein	Order 864 at PP 52, 62
New worksheets Order 864-1 and Order 864-3: Columns 3 - 6 and 10 - 12	Category 2: The accounting for any excess or deficient amounts in Accounts 182.3 (Other Regulatory Assets) and 254 (Other Regulatory Liabilities)	Order 864 at PP 52, 62

New worksheets Order 864-1 and Order 864-3: Column 1 and Order 864-2 and Order 864-4: Column 1	Category 3: Whether the excess or deficient ADIT is protected or unprotected	Order 864 at PP 52, 62
New worksheets Order 864-1 and Order 864-3: Columns 7 – 8	Category 4: The accounts to which the excess or deficient ADIT are amortized	Order 864 at PP 52, 62
New worksheets Order 864-1, Order 864-2, Order 864-3, and Order 864-4: Lines 1, 8, 13, and 19; Note 1	Category 5: The amortization period of the excess or deficient ADIT being returned or recovered through the rates	Order 864 at PP 52, 62

V. WAIVER

SDG&E believes that this filing conforms to any rule of general applicability and to any FERC order specifically applicable to SDG&E, and that the data contained in this filing provide sufficient information upon which to accept this filing. Yet to the extent necessary, SDG&E requests that FERC waive its filing requirements contained in §§ 35.5 and 35.13 of its regulations or any other Commission rules and regulation necessary for acceptance of this compliance filing under the Federal Power Act.

VI. SERVICE

SDG&E has served copies of this compliance filing on those persons on the official service lists in Docket No. ER19-221.

VII. COMMUNICATIONS

Correspondence and other communications concerning this compliance filing should be addressed to:

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VIII. CONCLUSION

SDG&E respectfully requests that the Commission approve its proposed modifications to Appendix VIII of its Transmission Owner Tariff as in compliance with Commission Order No. 864, effective January 27, 2020.

Respectfully submitted,

/s/ Ross R. Fulton

Ross R. Fulton

*Attorney for
San Diego Gas & Electric Company*

Enclosures