

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
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Agenda ID #8757  
and  
Alternate Agenda ID # 8758  
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 08-12-021

Enclosed are the proposed decision of Commissioner Timothy Alan Simon, and the alternate proposed decision of Administrative Law Judge Timothy Kenney. The proposed decision and the alternate decision will not appear on the Commission's agenda for at least 30 days after the date it is mailed.

Pub. Util. Code § 311(e) requires that the alternate item be accompanied by a digest that clearly explains the substantive revisions to the proposed decision. The digest of the alternate decision is attached.

When the Commission acts on these agenda items, it may adopt all or part of the decision as written, amend or modify them, or set them aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision and alternate decision as provided in Pub. Util. Code §§ 311(d) and 311(e) and in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov). Pursuant to Rule 14.3, opening comments shall not exceed [15] pages.

Comments must be filed either electronically pursuant to Resolution ALJ-188 or with the Commission's Docket Office. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Kenney at [tim@cpuc.ca.gov](mailto:tim@cpuc.ca.gov) and Commissioner Simon's advisor, Robert Mason at [RIM@cpu.ca.gov](mailto:RIM@cpu.ca.gov). The current service list for this proceeding is available on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov).

/s/ PHILIP S. WEISMEHL for  
Karen V. Clopton, Chief  
Administrative Law Judge

KVC:jt2  
Attachment

## **ATTACHMENT**

### **Digest of differences between the Assigned Commissioner's Proposed Decision (*Proposed Decision*) and the Alternate Proposed Decision (*Alternate*) of ALJ Kenney**

This digest is provided pursuant to Pub. Util. Code § 311(e). The main substantive differences between the Proposed Decision and the Alternate Proposed Decision are as follows:

The Proposed Decision authorizes San Diego Gas & Electric Company (SDG&E) to implement an Emergency Power Shut-Off (EPSO) Plan on a pilot basis and with numerous conditions. In addition, the Proposed Decision establishes procedures to (1) review the performance of the pilot EPSO, and (2) revise and authorize a revised EPSO, if appropriate. The Alternate Proposed Decision denies, without prejudice, SDG&E's application to implement its EPSO, and provides only general guidance regarding the contents of a subsequent application, if any, filed by SDG&E for Commission approval of an EPSO Plan.

The Proposed Decision also grants in part and denies in part SDG&E's request for Commission approval of SDG&E's proposed revisions to Electric Tariff Rule 14. The Alternate Proposed Decision denies all of SDG&E's proposed revisions to Tariff Rule 14.

**(END OF ATTACHMENT)**

Decision **PROPOSED DECISION OF COMMISSIONER SIMON**  
**(Mailed 8/11/2009)**

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

Application of San Diego Gas & Electric  
Company for Review of its Proactive  
De-Energization Measures and Approval of  
Proposed Tariff Revisions (U902E).

Application 08-12-021  
(Filed December 22, 2008)

**DECISION GRANTING SAN DIEGO GAS & ELECTRIC COMPANY  
CONDITIONAL AUTHORITY TO IMPLEMENT ITS POWER SHUT-OFF PLAN AS A  
PILOT PROGRAM; AND GRANTING IN PART AND DENYING IN PART THE  
PROPOSED CHANGES TO TARIFF RULE 14**

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**DECISION GRANTING SAN DIEGO GAS & ELECTRIC COMPANY  
CONDITIONAL AUTHORITY TO IMPLEMENT ITS POWER SHUT-OFF PLAN  
AS A PILOT PROGRAM; GRANTING IN PART AND DENYING IN PART  
PROPOSED CHANGES TO TARIFF RULE 14**

**1. Summary of Decision**

In Application 08-12-021, San Diego Gas & Electric Company (SDG&E) has asked the Commission to do the following:

1. Review SDG&E's plan to shut off power to high-risk fire areas during extreme fire-hazard weather; and
2. Approve proposed changes to Tariff Rule 14, which address, *inter alia*, liability for losses from power interruptions.

The Commission is responsible for ensuring public safety by its regulation of the entities that are subject to its jurisdiction. Because wildfires pose a significant and continuing risk to California generally, and to Southern California and San Diego County in particular, we do not believe it would be prudent to simply deny, even without prejudice, SDG&E's Application as the Alternate Proposed Decision has done. We acknowledge that parties have raised some legitimate concerns about SDG&E's Power Shut-Off Plan. However a review of the proceeding establishes that there is sufficient merit to the public-safety goal of SDG&E's Application that it should be granted in part as a Pilot Program so that this Commission can evaluate its effectiveness.

We also acknowledge that, based on the record to date, all of the intricacies regarding the creation and implementation of a Pilot Program, as well as the oversight thereof, have not been completely vetted at this stage due to the protestors near-unqualified objections to SDG&E's Application. Once the parties have had an opportunity to review and comment on this Proposed Decision, we are hopeful that the parties will provide constructive suggestions as to how this

Pilot Program can be structured so that the goals of fire prevention and public safety can be achieved with a minimum of disruption.

For now, we grant SDG&E's Application, in part, under the following proposed conditions:

- SDG&E shall provide notice and communicate with Cal Fire and the San Diego County Office of Emergency Services twelve hours before shutting off power under its Pilot Power Shut-Off Plan. SDG&E may shut off power if directed by either of these agencies; or if neither of these agencies objects before the deadline for the planned shut off. SDG&E shall immediately restore power to any area when directed by either of these agencies.
- CPSD shall work with the above-mentioned parties and persons in coordinating the protocol for notification and directives and report back to the Commission by September 30, 2009.
- Customers, communities, and providers of essential services in the areas where power is shut off need as much advance notice as possible before a power shut off event pursuant to the Pilot Power Shut-Off Plan. Today's decision requires SDG&E to provide the first notice a minimum of twelve hours in advance, instead of six hours as proposed by SDG&E. The second notice shall be six hours before the forecasted shut-off event, to the extent possible, instead of two hours as proposed by SDG&E.
- The Pilot Power Shut-Off Plan shall remain in effect until December 31, 2009. This proceeding will remain open so that the effectiveness of the Pilot Power Shut-Off Plan can be evaluated. Phase II of this proceeding shall commence in January of 2010, which will allow the Commission, the parties, and the public the opportunity to comment through Workshops and Public Participation Hearings reviewing the Pilot Power Shut-Off Plan and propose any appropriate changes in future de-energizing protocols. A schedule with the dates for Phase II events and deadlines will be issued at a later date.

- The Commission will form a De-Energizing Safety Oversight Committee (“Oversight Committee”) consisting of representatives from SDG&E, the California Resources Agency (or other State agency with jurisdiction over fire safety and/or emergency preparedness, such as Cal Fire), the San Diego County Fire Authority, City of San Diego Fire Rescue, the San Diego County Sheriff’s Department, the Water Districts in the proposed shut-off area, School Districts in the proposed shut-off area, the Commission’s Consumer Protection and Safety Division, the Commission’s Division of Ratepayer Advocates, Mussey Grade Road Alliance, and Disability Rights Advocates. Names of nominees shall be filed and served within seven days after this decision is adopted. The Commission will make the final decision regarding the membership of the Oversight Committee through a procedural process to be determined. The purpose of the Oversight Committee will be to (1) determine if the proposed criteria for shutting off power are effective in preventing fires; (2) attempt to resolve concerns raised in this proceeding by the San Diego Superintendent of Schools (such as all forms of emergency communications that should be explored; and maintenance of per-pupil funding in the event students are kept out of school due to a notification of shut-off event under the Pilot Power Shut-Off Plan), several municipal water districts, telecommunications providers, and consumers living in the areas that are the subject of the SDG&E’s Pilot Shut-Off Plan; and (3) provide recommendations for best practices in de-energizing relative to specific rural conditions within SDG&E’s service territory affected by this proceeding. The Oversight Committee shall file and serve a written report no later than January 29, 2010.
- All of the mitigation measures proposed by SDG&E are adopted, including those proposed in SDG&E’s Application and those identified at the all-party meeting held on July 6, 2009. These include the opening of evacuation centers; offering free medical transport; providing \$250 debit cards to customers participating in the CARE and Medical Baseline Programs; procuring a pool of 31 large portable generators for use by the School Districts, Water Districts, and evacuation centers; and



pre-wiring 110 sites to accommodate the aforementioned portable generators.

- SDG&E shall track all costs related to its mitigation measures adopted by today's decision in a memorandum account. SDG&E shall file a Tier 1 Advice Letter to establish this memorandum account.
- Any planned shut off events that occur pursuant to the Pilot Power Shut-Off Plan shall be limited to a maximum of 24 hours. Extensions of this period may be allowed with the approval of Cal Fire or San Diego Office of Emergency Services. SDG&E may also keep power shut off for more than 24 hours if directed to do so by a public safety agency due to a fire in the vicinity of power lines or other emergency conditions.
- For purposes of this Pilot Power Shut-Off Plan, SDG&E will not be granted absolute tariff immunity for the decision to shut off power.
- Upon receiving notice of the planned shut off, affected persons can pursue equitable remedies (*e.g.*, seek injunctive relief) with the Commission in the manner set forth, *infra*.
- So that Essential Customers do not experience higher rates and charges due to increased electric usage brought about by an announced power shut-off event, SDG&E shall revise its tariffs in the manner described in its Application for demand normalization, critical peak pricing, and demand response by filing a Tier 1 advice letter prior to the first shut-off event.

If SDG&E wishes to continue its Pilot Power Shut-Off Plan or submit a revised proposed Shut-Off Plan after December 31, 2009, SDG&E shall file and serve a request to do so by January 29, 2010. Before submitting such a request, SDG&E shall meet with the other members of the Oversight Committee and attempt to reach a consensus. If consensus cannot be reached, the parties may submit competing proposals by February 17, 2010. If SDG&E chooses not to continue with its Pilot Shut-Off Plan after December 31, 2009, or chooses not to

submit a revised Power Shut-Off Plan, SDG&E shall file and service notice of its decision by January 29, 2010.

### **1.1. The Proposed Tariff Rule 14**

We grant in part and deny in part SDG&E's proposed revisions to Electric Tariff Rule 14. The notions of sole decision-making authority and blanket immunity as requested by SDG&E appear to be too broad. Accordingly, we decline to adopt SDG&E's proposed revisions to Tariff Rule 14 that would provide SDG&E with (1) sole authority to decide when to implement its Power Shut-Off Plan, and (2) immunity from liability for any interruption, shortage, or insufficiency of supply of electricity caused by its Power Shut-Off Plan.

Today's decision adopts the following revisions to Tariff Rule 14:

- A requirement for SDG&E shall notify and communicate with appropriate State and local agencies before shutting off power under its Power Shut-Off Plan.
- A requirement to provide a minimum amount of twelve hours notice to affected customers prior to shutting off power.
- An exemption from liability due to a power shut-off under the following limited circumstances:
  - An existing emergency affecting SDG&E's distribution system, the ISO grid or any other system through which SDG&E directly or indirectly receives power.
  - Maintenance, improvements, repairs, or expansion of SDG&E's distribution system.
  - Cost incurred by state, county and local governmental entities that are not the result of fire damage caused by a Power Shut Off.

## **2. Summary of SDG&E's Application**

In Application (A.) 08-12-021, SDG&E asks the Commission to review its Emergency Power Shut-Off Plan (referred to hereafter as "the Power Shut-Off

Plan”).<sup>1</sup> Under its Power Shut-Off Plan, SDG&E will turn off electricity to certain regions during periods of high fire danger in order to prevent its overhead power lines from igniting potentially catastrophic wildfires. SDG&E intends to implement its Power Shut-Off Plan by September 1, 2009, in time for the autumn fire season in Southern California.

SDG&E anticipates that providers of essential services, such as police departments and hospitals, may need to increase their use of electricity in the hours leading up to an announced power shut-off event in order to prepare for the event. SDG&E requests that electric usage by these customers during the period immediately preceding a shut-off event be exempted from (1) the determination of peak demand changes, (2) critical peak pricing, and (3) the demand response program.

Finally, SDG&E requests authority to revise Electric Tariff Rule 14. The existing Tariff Rule 14 states that SDG&E is not liable to its customers for an interruption in service “caused by inevitable accident, act of God, fire, strikes, riots, war or any other cause not within its control.” SDG&E seeks to revise its Tariff to explicitly state that SDG&E will not be liable for any costs or adverse impacts that customers experience due to the Power Shut-Off Plan.

### **3. Procedural Background and Chronology**

SDG&E filed A.08-12-021 on December 22, 2008. Notice of A.08-12-021 appeared in the Daily Calendar on December 30, 2008. SDG&E served copies of A.08-12-021 on the San Diego Office of Emergency Services; the San Diego County Red Cross; and all State Legislators and members of Congress who represent any part SDG&E’s service territory. SDG&E also mailed a notice of

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<sup>1</sup> We interpret SDG&E’s request for Commission review of its Power Shut-Off Plan as a request for Commission authorization to implement the Power Shut-Off Plan.

A.08-12-021 to (1) all cities and counties in SDG&E's service territory, and (2) all customers in areas subject to the Power Shut-Off Plan. In addition, SDG&E published notice of A.08-12-021 in newspapers of general circulation.

The following parties filed protests to A.08-12-021: Pacific Bell Telephone Company d/b/a/ AT&T California and affiliated entities (together, "AT&T")<sup>2</sup>; the California Cable and Telecommunications Association (CCTA); CTIA-The Wireless Association (CTIA); the Commission's Consumer Protection and Safety Division (CPSD); the Commission's Division of Ratepayer Advocates (DRA); and a consortium of six municipal water districts (together, "the Water Districts").<sup>3</sup> SDG&E filed a reply on February 9, 2009.

A prehearing conference (PHC) was held on February 10, 2009. The following parties filed PHC statements: AT&T; CCTA; CoxCom, Inc., and Cox California Telecom, L.L.C. (together, "Cox"); CPSD and DRA (together, "CPSD/DRA"); CTIA; Disability Rights Advocates (DisabRA); the Mussey Grade Road Alliance (the Alliance); the San Diego County Superintendent of Schools ("the School Districts"); SDG&E; Southern California Edison Company (SCE); Time Warner Cable Inc. (Time Warner); Utility Consumers Action Network (UCAN); and the Water Districts. An Assigned Commissioner's Ruling and

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<sup>2</sup> The entities filing the AT&T protest were Pacific Bell Telephone Company (U-1001-C); AT&T Communications of California, Inc. (U-5002-C); TCG San Francisco (U-5454-C); TCG Los Angeles, Inc. (U-5462-C); TCG San Diego (U-5389-C); AT&T Mobility LLC; New Cingular Wireless PCS, LLC (U-3060-C); Cagal Cellular Communications Corporation (U-3021-C); Santa Barbara Cellular Systems, Ltd. (U-3015-C); and Visalia Cellular Telephone Company (U-3014-C) d/b/a AT&T Mobility LLC.

<sup>3</sup> The Water Districts are Valley Center Municipal Water District, Ramona Municipal Water District, Padre Dam Municipal Water District, Rainbow Municipal Water District, Fallbrook Public Utilities District, and Yuima Municipal Water District.

Scoping Memo was issued on February 26, 2009, pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rule).

There were no evidentiary hearings. The formal record was developed primarily through the direct written testimony submitted by SDG&E with its Application,<sup>4</sup> informational filings submitted by SDG&E, and written comments submitted by all the parties. The factual assertions in these documents were verified in accordance with Rule 1.11. The following table shows the chronology of the informational filings and written comments.

<b>Date 2009</b>	<b>Document</b>	<b>Party Filing Document</b>
March 13	Informational Filing	SDG&E
March 27	Opening Comments	AT&T; the Alliance; CCTA and Time Warner (together, CCTA); CPSD/DRA; Cox; CTIA; DisabRA; SDG&E; SCE; the School Districts; the Water Districts; and UCAN
April 3	Informational Filing	SDG&E
April 10	Reply Comments	AT&T; the Alliance; CCTA; CPSD/DRA; Cox; the California Farm Bureau (CFA); DisabRA; SDG&E; SCE; the School Districts; the Water Districts; and UCAN
April 10	Informational Filing	SDG&E
April 17	Reply to Informational Filing on April 10	DisabRA; and jointly by the School Districts and Water Districts

<sup>4</sup> SDG&E provided the direct testimony of the following witnesses with their subject topics in parentheses: David L. Geier (Policy); Sohrab A. Yari (engineering and Operations); Joe Velasquez (Customer Issues); and Greg Lawless (Special Needs and Low-Income customer Issues).

Date 2009	Document	Party Filing Document
May 12	Comments re: Portable Backup Generators to Pump Water for Fire Fighting Purposes	SDG&E and CPSD/DRA
May 19	Reply to Comments Filed on May 12	SDG&E and DisabRA
May 26	Additional Comments re: Portable Backup Generators	The Alliance, CPSD/DRA, and SDG&E
June 10	Further Comments re: Portable Backup Generators	SDG&E and the Water Districts
June 30	Comments re: (1) Use of San Diego County's Reverse 911 System, and (2) County Oversight of Portable Backup Generators	The Alliance, SDG&E, and the Water Districts
July 2	Reply to the Comments Filed on June 30, 2009	DisabRA; SDG&E; and jointly by CCTA, Cox and CTIA

Two public participation hearings (PPHs) were held in San Diego County. One was held in Alpine on April 7, 2009, and the second in Valley Center on April 8, 2009. Both PPHs were held in areas subject to the Power Shut-Off Plan. In addition, a public workshop was held in Valley Center on April 8, 2009, to obtain input from local governmental agencies regarding the impact of the Power Shut-Off Plan on public health, safety, and welfare. Workshop participants included the San Diego County Sheriff Department, the San Diego County Office of Emergency Services, the San Diego County Air Pollution Control District, the School Districts, and the Water Districts.

There was considerable public participation in this proceeding. More than 100 members of the public, elected representatives, government officials, and representatives of community organizations spoke at the PPHs and public

workshop, and dozens more sent letters and email to the Commission. The public's input was carefully considered in crafting today's decision.

#### **4. Summary of Parties' Positions**

All the intervening parties except SCE oppose SDG&E's Power Shut-Off Plan. Most of the comments received from the public also oppose the Plan. Those who oppose the Plan believe it will do little to prevent wildfires while increasing the risk of wildfires from other sources. They also contend that shutting off power will impose burdens on SDG&E's customers that outweigh any likely benefit.

Those who support SDG&E's Power Shut-Off Plan believe that shutting off power when fire risks are high is a reasonable precaution against the possibility of catastrophic wildfires being ignited by power lines.

#### **5. Commission Jurisdiction and Standard of Review**

SDG&E's Application to shut off power under specified circumstances in order to eliminate the risk of power-line fires is subject to Pub. Util. Code § 451<sup>5</sup> which states, in relevant part, as follows.

Every public utility shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

SDG&E has a duty under § 451 to provide electric service in a way that protects the safety of its customers, employees, and the public at large. The central issue in this proceeding is whether SDG&E should be relieved of its duty when, as SDG&E asserts, there is a heightened risk that its power lines could ignite a catastrophic wildfire

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<sup>5</sup> All statutory references are to the Public Utilities Code unless otherwise indicated.

The California Constitution<sup>6</sup> and the Public Utilities Code<sup>7</sup> provide the Commission with broad jurisdiction on matters regarding the safety of electric utility facilities and operations, including authority to promulgate regulations regarding the safety of overhead power lines.<sup>8</sup> Electric utilities are required by § 702 to “obey and comply” with such requirements.

The provision of electricity to the public carries some risk. Every year, people are injured and killed by contact with power lines, and numerous fires are started when foreign objects (e.g., balloons and tree branches) contact power lines. Despite the risks, electric utilities have a duty to provide electricity to the public because, as stated in § 330(g), “electric service is of utmost importance to the safety, health, and welfare of the state's citizenry and economy.” To minimize the risks, the Commission has promulgated safety regulations governing electric utility operations and facilities.<sup>9</sup> In addition, electric utilities may suspend service when necessary to protect public safety. For example, if a vehicle crashes into a utility pole, the electric utility may shut off the power line until the accident is cleared and pole is repaired.

SDG&E's Application to shut off power under certain conditions in order to prevent wildfires places two fundamental goals in conflict: the need for continuous electric service versus the need for public safety. While there are always trade offs, today's decision endeavors to achieve both goals using our judgment, experience, and expertise in regulating electric utilities.

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<sup>6</sup> Cal. Constitution, Article XII, §§ 3 and 6.

<sup>7</sup> Pub. Util. Code §§ 216, 701, and 768.

<sup>8</sup> Pub. Util. Code §§ 8037 and 8056. See also Pub. Util. Code §§ 761, 768, and 770.

<sup>9</sup> See, for example, General Orders 95 and 128.



## **6. Summary of SDG&E's Community Fire Safety Program**

Santa Ana winds occur annually in Southern California during the fall and early winter. These strong, dry, offshore winds have led to some of California's largest and most damaging fires. Over the past decade, wildfires fanned by Santa Ana winds have burned hundreds of thousands of acres in San Diego County, caused billions of dollars of damage, and killed numerous people. In October 2003 and 2007, wildfires driven by Santa Ana winds spiraled out of control to become devastating firestorms.

SDG&E is currently implementing a multi-pronged program to reduce the likelihood of strong winds causing power-line fires. The major elements of the program, which SDG&E calls the Community Fire Safety Program, are summarized below. SDG&E represents that it developed its Community Fire Safety Program after consulting with local governments, public safety agencies, the Red Cross, various community groups, and other stakeholders.

### **6.1. Hardening of Facilities**

SDG&E uses the term "hardening of facilities" to describe physical improvements to its overhead electric transmission and distribution system in areas that are prone to wildfires. Once hardened, SDG&E's system will be better able to withstand Santa Ana winds, which should lessen the risk of keeping power on during windy conditions.<sup>10</sup> The hardened facilities will also be more resistant to damage from wildfires, potentially reducing the time needed to restore power after a fire.

The steps SDG&E is taking to harden its overhead power lines include the replacement of wood poles with steel poles, use of heavier wire conductors,

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<sup>10</sup> SDG&E intends to exclude hardened facilities from its Power Shut-Off Plan. As facilities are hardened, the number of customers potentially impacted by the Power Shut-Off Plan should decrease over time.

increased spacing between conductors, and expanded use of conductor spacers. The hardened facilities are designed to withstand wind gusts of 85 miles per hour (mph). SDG&E is also implementing limited conversion of overhead power lines to underground lines in order to make electric service to essential public service facilities, such as water utility pump stations, less susceptible to outages from Santa Ana winds and wildfires.

## **6.2. Power Line Re-Closers**

Many of SDG&E's power lines have switches known as "re-closers" that automatically de-energize circuits if unusually high electric currents are detected, and then automatically restore power. Under the Community Fire Safety Program, SDG&E will modify the operation of re-closers for overhead power lines in the areas of high fire risk. When an Elevated Fire Condition<sup>11</sup> is present, SDG&E will adjust the operation of re-closers to allow either one or two re-energization attempts, depending on the location. If a circuit fails to re-close following the specified one or two attempts, the re-closer will be turned off remotely until the line is inspected and the re-closer is manually reset. Re-closers that cannot be monitored remotely will be turned off.<sup>12</sup>

SDG&E will turn off re-closers when a Red Flag Warning is declared by the National Weather Service for high winds and/or low humidity. When an outage occurs due to the operation of a re-closer, there will be a visual patrol of the line to ensure that it is safe to restore power. Although inspecting the line will increase the duration of the outage, SDG&E believes this step is warranted

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<sup>11</sup> SDG&E defines an "Elevated Fire Condition" as occurring when live vegetation fuel moisture is 75% or less as measured by the California Department of Forestry and Fire (Cal Fire).

<sup>12</sup> Turning off re-closers prevents automatic attempts to re-energize the line.

by the heightened fire risk conditions, especially since high-wind conditions increase the likelihood of damage to overhead facilities.<sup>13</sup>

### **6.3. Inspection of Overhead Power Lines**

As part of its Community Fire Safety Program, SDG&E has implemented expanded inspections of overhead power lines and associated facilities in areas of high fire risk. The expanded inspections exceed current regulatory requirements.

### **6.4. Vegetation Management**

SDG&E maintains clearance for approximately 72,000 trees located near overhead power lines in areas of high fire risk. SDG&E is working with local governments, public safety agencies, the Commission, and the legislature to modify current laws and regulations to allow for increased vegetation management.

### **6.5 Staging Personnel**

As part of its Community Fire Safety Program, SDG&E will stage personnel in or near Power Shut-Off Areas<sup>14</sup> when an Elevated Fire Condition is present or a Red Flag Warning for high winds and/or low humidity is declared. The purpose of staging personnel is to provide quicker response times.

### **6.4. Emergency Power Shut-Off Plan**

The final element of SDG&E's Community Fire Safety Program is the Power Shut-Off Plan. The purpose of this Plan is to de-energize overhead power lines when certain criteria are met in order to eliminate power lines as an ignition

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<sup>13</sup> SDG&E is considering the use of a new technology that sends a low-energy pulse through faulted power lines to determine if it is safe to re-energize. These devices might reduce restoration time.

<sup>14</sup> The term "Power Shut-Off Areas" is defined later in today's decision.

source when fire risks are high. SDG&E intends to implement its Plan on September 1, 2009. Power shut-off events will most likely occur during the September – December fire season in Southern California, but power will be shut off whenever the criteria are met.

#### **6.4.1. Power Shut-Off Criteria**

SDG&E's Power Shut-Off Plan calls for power to be shut off in certain areas when all five of the following criteria are met in those areas.

**Criterion 1: Live Fuel Moisture.** The less moisture in living plants, the higher the fire risk. SDG&E intends to use a live fuel moisture level of 75% or less as one of the five criteria for initiating a power shut-off event.<sup>15</sup> SDG&E will obtain measurements of live fuel moisture from Cal Fire and the United States (U.S.) Forest Service.

**Criterion 2: Non-Living Fuel Moisture.** The less moisture in dead vegetation, the higher the fire risk. SDG&E intends to use a non-living fuel moisture level of less than 10% as the second criterion for initiating a power shut-off event.<sup>16</sup> Measurements of this criterion are made hourly at Remote Automatic Weather Stations (RAWS) operated by Cal Fire, the U.S. Forrest Service, and the U.S. Bureau of Land Management.

**Criterion 3: Relative Humidity.** The risk of wildfires is inversely proportional to the amount of moisture in the air, also known as relative humidity.<sup>17</sup> The lower the relative humidity, the higher the fire risk. SDG&E

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<sup>15</sup> Live fuel moisture is the amount of moisture, expressed as a percentage of weight, in a living fuel sample compared to that sample when oven dry.

<sup>16</sup> Non-living fuel moisture is the amount of moisture in a non-living wood dowel expressed as a percent of the dry weight of that wood.

<sup>17</sup> Relative humidity is the ratio of actual moisture in a given volume of air at a given temperature compared to the total amount of moisture that volume of air could hold.

intends to use a relative humidity of 20% or less as the third criterion for initiating a power shut-off event. Measurements of relative humidity are readily available from RAWS.

**Criterion 4: Red Flag Warning.** The risk of wildfires increases when there is low humidity, high winds, and/or dry lightning. The National Weather Service declares a “Red Flag Warning,” its highest fire alert, when any of the following conditions are forecasted:

- Relative Humidity is 10% or less (for a duration of 10 hours or more) with no associated wind criteria.
- Relative Humidity is 15% or less, with sustained winds of 25 mph or more and/or frequent gusts of 35 mph or more (for duration of 6 hours or more).
- Dry lightning that is not accompanied by enough precipitation to significantly wet fuels that are critically dry.

SDG&E plans to use Red Flag Warnings for low humidity and/or high winds, but not dry lightning, as the fourth criterion for initiating a power shut-off event.<sup>18</sup>

**Criterion 5: High Winds.** High winds are a significant fire hazard for power lines. High winds can topple utility poles, detach power lines, blow flammable debris onto power lines, and cause trees to fall onto power lines. Power-line fires that occur during high winds spread faster and are more difficult to extinguish.

SDG&E intends to use wind speed as the final criterion for initiating a power shut-off event. The criterion is sustained winds of 35 mph, or gusts of

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<sup>18</sup> The Red Flag Warning criterion incorporates a forecast of relative humidity. In contrast, SDG&E’s relative humidity criterion is based on actual measurements of relative humidity.

55 mph accompanied by sustained winds of 30 mph.<sup>19</sup> These wind speeds are at 10 meters above ground level, which corresponds to the top of utility poles. However, the actual measurements of wind speeds will be made by the RAWs at six meters above ground level. SDG&E estimates that wind speeds at 6 meters are 15% less than wind speeds at 10 meters. The wind-speed criterion at 6 meters, where the actual measurements will be made, is sustained winds of 30 mph, or gusts of 48 mph accompanied by sustained winds of 25 mph.<sup>20</sup>

#### **6.4.2. Re-Energization of Power Lines**

After SDG&E shuts off power, SDG&E will not re-energize until sustained winds drop to 25 mph or less for two hours and the affected power lines have been visually inspected to ensure that it is safe to re-energize. SDG&E anticipates that the process of re-energizing its lines, including inspections, could take up to two hours. SDG&E will monitor weather data to determine when inspections can begin. If requested by an outside agency, SDG&E will re-energize prior to sustained winds staying at 25 mph or less for two hours, but only after SDG&E has deemed it safe to re-energize.

#### **6.4.3. Power Shut-Off Areas**

Except as noted below, SDG&E's Power Shut-Off Plan applies to all circuits with overhead facilities that pass through any region designated by Cal Fire as a moderate, high, or very high fire risk area. Circuits are excluded

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<sup>19</sup> Wind speeds are measured at RAWs and are reported once per hour. The reported sustained wind speed is the average wind speed during the ten-minute interval prior to the hourly report. The reported maximum gust speed is the maximum wind speed recorded for any six-second interval since the prior hourly report.

<sup>20</sup> The Red Flag Warning criterion incorporates a forecast of wind speeds. In contrast, the wind-speed criterion is based on actual measurements of wind speeds.

from the Power Shut-Off Plan if they have been hardened or the areas they pass through have burned in the last five years.

The geographic areas served by the circuits that are included in the Power Shut-Off Plan are called “Potential De-Energization Areas” (referred to hereafter as “Power Shut-Off Areas”). The Power Shut-Off Areas extend beyond the regions designated by Cal Fire as moderate, high, or very high fire risk because circuits do not stop at the boundaries of these regions.

There are 17 Power Shut-Off Areas. Each Area is associated with its own RAWS that is located in or near the Area, for a total of 17 RAWS.<sup>21</sup> Appendix A of today’s decision contains a map that shows the 17 Power Shut-Off Areas and the 17 RAWS. There is some overlap of Power Shut-Off Areas. Thus, individual customers may be in two or more Power Shut-Off Areas.

SDG&E will be able to turn off power in each Power Shut-Off Area without affecting other Areas. SDG&E believes it is extremely unlikely there will be a need to shut off power to all 17 Areas simultaneously. Should the need to shut off power occur, SDG&E believes it will be limited to only a few Areas, which will minimize the number of people affected by an outage.

#### **6.4.4. Number of Affected People and Customers**

SDG&E estimates there are 59,130 electric customers (meters) and 129,976 people living in the Power Shut-Off Areas, or about 4% of the total electric customers and population served by SDG&E. In addition, there are approximately 160 SCE customers served by SDG&E “fringe area circuits” who

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<sup>21</sup> The RAWS monitor and automatically report three of the five criteria used by SDG&E’s Power Shut-Off Plan. The two criteria that are not monitored by the RAWS are (1) the Red Flag Warnings declared by the National Weather Service, and (2) live fuel moisture, which is provided periodically by Cal Fire and the U.S. Forrester Service.

may be subject to SDG&E's Power Shut-Off Plan. SDG&E and SCE are taking steps to ensure inter-utility coordination on this matter.

The following table shows the estimated number of customers (meters) and people (residents) subject to the Power Shut-Off Plan in 2009, broken down by the 17 Power Shut-Off Areas.

<b>Number of Meters and Residents in Power Shut-Off Areas</b>					
<b>Area by RAWS Name</b>	<b>Total Meters</b>	<b>Residential Meters</b>	<b>Commercial Meters</b>	<b>Industrial Meters</b>	<b>Residents</b>
Alpine	18,566	15,615	2,943	8	42,205
Ammo Dump	1,736	1,139	597	0	3,289
Bell Canyon	68	7	56	5	81
Cameron	4,231	3,363	865	3	7,908
Camp Elliott	2,882	2,565	317	0	8,199
Descano	8,436	6,806	1,624	6	17,089
Goose Valley	18,027	15,136	2,885	5	45,580
Julian	3,294	2,393	901	0	4,001
Mount Laguna	286	226	60	0	391
Oak Grove	640	394	246	0	1,272
Palomar	1,310	885	424	1	1,126
Pine Hills	2,387	1,659	728	0	3,706
Potrero	2,471	1,890	581	0	5,423
Ranchita	1,116	747	369	0	1,802
San Miguel	2,298	1,977	321	0	6,119
Talega	19	0	17	2	19
Valley Center	13,886	10,815	3,062	9	29,932
<b>Total <sup>1</sup></b>	<b>81,653</b>	<b>65,617</b>	<b>15,996</b>	<b>39</b>	<b>178,142<sup>1</sup></b>
<b>Note 1:</b> Due to overlapping Areas, the sum of the meters in individual Areas (81,653) is greater than the total meters (59,130), and the sum of the residents in individual Areas (178,142) is greater than the total residents (129,976).					



SDG&E has identified approximately 902 Medical Baseline customers in the Power Shut-Off Areas. Of these, 590 require life support equipment. There are also approximately 5,700 customers in the Power Shut-Off Areas who participate in the California Alternative Rates for Energy (CARE) program.

Some customers will be removed from the Power Shut-Off Plan in 2009 due to a project that is currently underway to place certain overhead power lines underground. When the project is complete, it will remove approximately 2,300 customers from the Power Shut-Off Plan, including 14 water pumping stations, leaving 56,830 customers affected by the Plan.

SDG&E estimates that the duration of power shut-off events will range from 12 to 72 hours, and that the average number of residents affected by each event will be 18,600. This estimate of residents excludes approximately 160 SCE customers (meters) subject to SDG&E's Power Shut-Off Plan.

#### **6.4.5. Customer Education**

SDG&E believes it is important for customers to understand the Power Shut-Off Plan so they can prepare for power shut-off events before they occur. To this end, SDG&E has mailed information packets to all customers in the Power Shut-Off Areas. The package included a cover letter, program fact sheet, list of frequently asked questions, map of the impacted areas, a guide for developing an emergency plan, an unplanned outage fact sheet, a portable generator fact sheet, and a customer contact form. SDG&E will continue to mail a package annually to customers in Power Shut-Off Areas that contains the previously identified information.

SDG&E will survey its Special Needs Customers<sup>22</sup> to ascertain each customer's readiness for a power shut-off event and any transportation needs they may have. Special Needs Customers with mobility restrictions who cannot remain in their homes without electricity (as identified through customer surveys) will be provided round trip transportation to appropriate facilities. Similarly, customers with special needs for diet, medication, and medical equipment will be provided round trip transportation to acute care facilities or hospitals in accordance with their needs and insurance restrictions. All transportation will be at SDG&E's expense.

SDG&E has made significant outreach efforts to Essential Customers, i.e., customers who provide services that are essential to public health, safety, and welfare. SDG&E defines Essential Customers as including the following:

- A. Fire, police, and prison facilities.
- B. Lighting for streets, highways, and other public areas.
- C. National defense agencies.
- D. Hospitals and convalescent homes.
- E. Public, private, and municipal utilities that provide services that are essential for public health and safety (i.e., electric, gas, water, communication, and sewage disposal utilities).
- F. Public transportation.
- G. Radio and broadcasting stations that transmit emergency information.
- H. Residential customers who use medical life support equipment.
- I. Schools K-12.

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<sup>22</sup> SDG&E defines Special Needs Customers as those who participate in the Medical Baseline Allowance and/or Life Support programs.

Essential Customers are not exempt from the Power Shut-Off Plan. Due to the nature of their loads, most Essential Customers are prepared to operate during outages. For example, hospitals and skilled nursing facilities have back-up generation to support critical load for 12 to 72 hours.

SDG&E has contacted all Essential Customers in the Power Shut-Off Areas to discuss the Power Shut-Off Plan. SDG&E will continue to contact all Essential Customers prior to each fire season to help them plan for power shut-off events.

#### **6.4.6. Customer Notice of Power Shut-Off Events**

SDG&E will attempt to provide all customers with two notices when a power shut-off event appears likely. The first notice will occur twelve hours prior to the forecasted shut-off event. SDG&E will use its outbound dialer system to send telephone alerts to affected customers. The outbound dialing system can make more than 20,000 calls per hour, including calls to communications devices commonly used by persons with hearing, speech, and/or vision disabilities. The first notice will indicate that high fire risk conditions are forecast to occur, that SDG&E may shut off power, and that customers should prepare for a power shut-off event.

The second notice will occur six hours prior to the forecasted shut-off event. This second notice will have a more urgent tone about the need to prepare for the expected shut-off event. If the forecast changes and SDG&E determines that a power shut-off event is no longer likely, SDG&E will use its outbound dialer system to notify customers.

Essential Customers will be notified at the same times as other customers, but through phone calls and e-mails consistent with the individual customer preferences. SDG&E will also alert the Red Cross and 2-1-1 when a shut-off event is forecasted.

It is possible that the first forecast that SDG&E receives indicates a shut-off event could occur in six hours or less. In this situation, only one notice will be provided. In the unlikely event that a shut-off event occurs with no warning, SDG&E will notify customers as soon as practicable. Customers with functioning land lines or registered cell phones will receive a call.

#### **6.4.7. Mitigation of Adverse Impacts on Customers**

SDG&E acknowledges that shutting off power imposes hardships on customers, particularly low income customers and customers with medical needs. SDG&E will implement a variety of measures to mitigate the hardships, such as providing advance warning of an impending shut off event whenever possible so customers can prepare; providing \$250 debit cards to customers participating in the CARE and/or Medical Baseline programs; opening evacuation centers in the areas where power is shut off; and transporting customers who depend on life support equipment to appropriate medical facilities when a shut-off event is declared. SDG&E's shareholders will absorb the costs of these mitigation efforts in 2009.

SDG&E will contact all impacted Special Needs Customers in person or by telephone to discuss their emergency readiness and medical transportation needs in the case of a power shut-off event. Because Special Needs Customers are recertified bi-annually, SDG&E will use this opportunity to again discuss their emergency readiness and medical transportation needs. Once the power shut-off event is over and the Special Needs Customers are back home, there will be an in-person visit by an SDG&E employee to deliver assistance, followed by a live-person phone call to discuss the service level and overall experience.

SDG&E also recognizes that shutting off power will prevent the Water Districts from using many of their electric-powered pumps, which could disrupt

the supply of water used to fight fires. To mitigate this adverse impact, SDG&E will procure a pool of six portable backup generators (four 400 kW and two 750 kW) that can be dispatched to the Water Districts during power shut-off events. The six portable generators are intended to support 20 critical pump stations with loads of 100 kW or greater. SDG&E will install and own the wiring and permanent electric transfer safety switches at these 20 facilities. The total estimated cost of the six generators and wiring is \$3.9 million.<sup>23</sup>

If more than six generators are needed to provide water for fire-fighting purposes, SDG&E will re-energize any part of its system if ordered to do so by the incident commander. For example, if all six generators have been deployed to Water District facilities and additional Water District pump stations need to be brought on line at locations that remain de-energized, the incident commander could order SDG&E to re-energize a facility in the interest of public safety. SDG&E would re-energize the facility after conducting a safety inspection.

SDG&E is willing to own and maintain a pool of six generators for a two-year period. SDG&E believes that two years is enough time for the Water Districts to procure and install emergency back-up generation they should have for any of a number of emergency situations.

SDG&E does not intend to procure a pool of portable generators or install wiring for critical pump stations with a load of less than 100 kW. SDG&E

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<sup>23</sup> At the all-party meeting held on July 6, 2009, SDG&E stated that it would procure a pool of 31 portable generators. Six would be for the Water Districts, ten for evacuation centers, and 15 for schools. SDG&E also proposed to pre-wire 110 sites to accept the portable generators. Ten of these sites would be evacuation centers, 20 sites would be critical pump stations, and the remainder would be schools. SDG&E did not state who will ultimately pay for the generators and wiring. (Reporter's Transcript, pp. 39-40.)

believes that back-up generators for loads of less than 100 kW should be the responsibility of the individual Water Districts.

#### **6.4.8. Cost of the Power Shut-Off Plan**

SDG&E states that the costs for its Power Shut-Off Plan will depend on the frequency and scope of shut-off events. Assuming two events per year, the annual costs will be in the range of \$7 - \$11 million. Startup costs will be in the range of \$14 - \$24 million.<sup>24</sup> These estimates do not include any costs that result from Commission requirements that are adopted in this proceeding. SDG&E does not seek ratepayer funding for costs incurred in 2009.<sup>25</sup>

The above costs for the Power Shut-Off Plan are incremental to normal operating and maintenance costs and do not include other expenses for SDG&E's Community Fire Safety Program such as system hardening.

### **7. Review of SDG&E's Power Shut-Off Plan**

#### **7.1. Position of the Parties**

##### **7.1.1. SDG&E**

SDG&E asserts that its Power Shut-Off Plan is needed to address the serious fire danger that occurs when strong Santa Ana winds blow across SDG&E's service territory. The severity of the danger is demonstrated by the firestorms of October 2003 and October 2007. In October 2007, Santa Ana winds reportedly caused SDG&E's overhead power lines to ignite the Witch Fire, the

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<sup>24</sup> At the all-party meeting held on July 6, 2009, SDG&E stated that its startup costs would be in the range of \$24 - \$36 million. (Reporter's Transcript, pp. 39 - 40.)

<sup>25</sup> SDG&E does not state if or when it will request ratepayer funding of costs incurred in 2010 and future years.

Guejito Fire, and the Rice Fire.<sup>26</sup> The Witch Fire and Guejito Fire combined into a single wildfire that burned 197,990 acres and 1,624 buildings (including 440 homes), and killed two people. The Rice Fire burned 9,000 acres and 248 buildings (including 240 homes). There were no deaths. SDG&E is concerned that failure to shut off power during severe conditions could lead to firestorms like those in 2003 and 2007.

SDG&E used historical data to “backcast” the number of times it would have shut off power had its Power Shut-Off Plan been in effect in prior years. The following table lists the backcast of shut-off events, with an “event” defined as any calendar day in which power would have been shut off. A single calendar day in which shut offs occur at several locations is counted as one event.

Backcast of Power Shut-Off Events During Red Flag Warnings							
Event Date/ Time	RAWS	Vegetation Fuel Moisture		Relative Humidity	Sustained Wind or Gusts @ 6 Meters	Duration (Hours)	# Meters/ # of People
		Non-Living	Living				
		< 10%	< 75%	< 20%	<u>At 6 meters</u> • Sustain > 30 mph, <u>or</u> • Sustain > 25 mph + gusts > 48 mph		
<b>Event 1</b>							
2/9/02 @ 1500	Cameron	Note 1	71%	12%	Sustain 26 mph Gusts 48 mph	24 hours	4,231/ 10,587
2/9/02 @ 2230	Descanso	4%	71%	11%	Sustain 27 mph Gusts 59 mph	18 hours	8,436/ 21,299

<sup>26</sup> The Commission is currently investigating the Witch Fire and Guejito Fire in Investigation (I.) 08-11-006 and the Rice Fire in I.08-11-007. Today’s decision does not prejudge any issues being addressed in those Investigations.

Backcast of Power Shut-Off Events During Red Flag Warnings							
Event Date/ Time	RAWS	Vegetation Fuel Moisture		Relative Humidity	Sustained Wind or Gusts @ 6 Meters	Duration (Hours)	# Meters/ # of People
		Non-Living	Living				
		< 10%	< 75%	< 20%	<u>At 6 meters</u> • Sustain > 30 mph, <u>or</u> • Sustain > 25 mph + gusts > 48 mph		
<b>Event 2</b>							
2/10/02 @ 0050	Alpine	5%	71%	7%	Sustain 28 mph Gusts 52 mph	13 hours	18,566/ 48,078
2/10/02 @ 0410	Potrero	Note 1	71%	10%	Sustain 26 mph Gusts 53 mph	12 hours	2,471/ 6,043
<b>Event 3</b>							
2/25/02 @ 1720	Ammo Dump	10%	58%	10%	Sustain 37 mph Gusts 37 mph	3 hours	1,736/ 3,889
<b>Event 4</b>							
1/5/03 @ 2320	Ammo Dump	6%	74%	12%	Sustain 33 mph Gusts 45 mph	11 hours	1,736/ 3,889
<b>Event 5</b>							
1/6/03 @ 0130	Bell Canyon	7%	74%	7%	Sustain 38 mph Gusts 62 mph	7 hours	68/ 81
1/6/03 @ 0220	Talega	0%	74%	8%	Sustain 36 mph Gusts 39 mph	7 hours	19/ 19
<b>Event 6</b>							
1/7/03 @ 1220	Bell Canyon	7%	74%	20%	Sustain 38 mph Gusts 65 mph	3 hours	68/ 81
<b>Event 7</b>							
10/26/03 @ 1230	Descanso	Note 1	64%	4%	Sustain 27 mph Gusts 56 mph	6 hours	8,436/ 21,299
<b>Event 8</b>							
12/16/04 @ 1820	Ammo Dump	4%	66%	18%	Sustain 34 mph Gusts 39 mph	13 hours	1,736/ 3,889
12/16/04 @ 1500	Cameron	6%	66%	18%	Sustain 26 mph Gusts 50 mph	3 hours	4,231/ 10,587



Backcast of Power Shut-Off Events During Red Flag Warnings							
Event Date/ Time	RAWS	Vegetation Fuel Moisture		Relative Humidity	Sustained Wind or Gusts @ 6 Meters	Duration (Hours)	# Meters/ # of People
		Non-Living	Living				
		< 10%	< 75%	< 20%	<u>At 6 meters</u> • Sustain > 30 mph, <u>or</u> • Sustain > 25 mph + gusts > 48 mph		
<b>Event 9</b>							
12/24/04 @ 0900	Cameron	7%	66%	4%	Sustain 28 mph Gusts 49 mph	5 hours	4,231/ 10,587
<b>Event 10</b>							
2/8/06 @ 0630	Bell Canyon	2%	72%	4%	Sustain 29 mph Gusts 48 mph	17 hours	68/ 81
<b>Event 11</b>							
11/30/06 @ 0520	Ammo Dump	9%	58%	8%	Sustain 31 mph Gusts 37 mph	3 hours	1,736/ 3,889
<b>Event 12</b>							
10/21/07 @ 2222	Ammo Dump	9%	66%	7%	Sustain 30 mph Gusts 35 mph	38 hours	1,736/ 3,889
10/21/07 @ 2303	Cameron	0%	66%	9%	Sustain 28 mph Gusts 51 mph	18 hours	4,231/ 10,587
10/21/07 @ 1933	Descanso	3%	66%	10%	Sustain 26 mph Gusts 52 mph	28 hours	8,436/ 21,299
10/21/07 @ 2058	Goose Valley	8%	66%	8%	Sustain 29 mph Gusts 50 mph	13 hours	18,027/ 46,634
10/21/07 @ 1214	Potrero	0%	66%	8%	Sustain 27 mph Gusts 51 mph	49 hours	2,471/ 6,043
<b>Event 13</b>							
10/22/07 @ 0653	Alpine	4%	66%	9%	Sustain 27 mph Gusts 51 mph	5 hours	18,566/ 48,078
10/22/07 @ 0014	Julian	6%	66%	15%	Sustain 29 mph Gusts 57 mph	30 hours	3,294/ 7,817
10/22/07 @ 0313	Valley Center	6%	66%	0%	Sustain 26 mph Gusts 50 mph	10 hours	13,886/ 34,326

Backcast of Power Shut-Off Events During Red Flag Warnings							
Event Date/ Time	RAWS	Vegetation Fuel Moisture		Relative Humidity	Sustained Wind or Gusts @ 6 Meters	Duration (Hours)	# Meters/ # of People
		Non-Living	Living				
		< 10%	< 75%	< 20%	<u>At 6 meters</u> • Sustain > 30 mph, <u>or</u> • Sustain > 25 mph + gusts > 48 mph		
<b>Event 14</b>							
10/14/08 @ 0403	Cameron	0%	73%	13%	Sustain 30 mph Gusts 40 mph	7 hours	4,231/ 10,587
<b>Note 1:</b> Data for the "Non-living Fuel Moisture" was not available at the RAWS during that time period. However, nearby stations reported data that met the criterion.							

SDG&E's backcast shows that power shut-off events would have occurred 14 times in the last eight years. The duration of the backcast events ranges from 3 hours to 49 hours, with an average of 13 hours.<sup>27</sup> Duration includes the time that power is shut off due to exceeding the shut-off criteria plus the time required for the inspection and restoration process. The number of customers affected by each backcast event ranges from 68 to 35,746, with an average of 9,475 customers. The number of residents affected by each event ranges from 100 to 90,221, with an average of 23,826 residents. SDG&E believes this information shows that an average shut-off event will be far less disruptive to the public than the devastating firestorms that could occur if power is not shut off.

SDG&E identified 167 fires from August 2003 through early 2009 that in some way relate to its power lines. Most fires were insignificant. Of the 167 incidents, 13 are associated with high winds. SDG&E provided the following information for each of the 13 wind-related power-line fires: (a) date the fire started; (b) location; (c) size in acres; (d) injuries and/or property damage, if

<sup>27</sup> The average duration of 13 hours is the resident-weighted average.

known; (e) how the fire was ignited; (f) why the fire is associated with high winds; and (g) whether shutting off power might have prevented the fire.

The information for (a) – (f) is provided in the following table. For (f), SDG&E does not know the exact wind speed at the time of the fire. The rationale for labeling a fire as wind related comes from incident reports for each fire. With respect to (g) regarding whether the Power Shut-Off Plan might have prevented the fire, SDG&E does not know for 10 of the fires because of a lack of data. In three cases (Fire Event Nos. 2, 11, and 13 in the following table), SDG&E is confident that all five criteria of its Power Shut-Off Plan were met.

<b>Historical Data for Wind-Related Power-Line Fires</b>					
<b>Fire Event</b>	<b>Date Started</b>	<b>Location</b>	<b>Size in Acres</b>	<b>Injuries &amp; Property Damage</b>	<b>Wind-Related Cause of Fire</b>
1	12/16/04	Wynola	5	None noted	Power line down from heavy winds
2	12/16/04	Descanso	1	None noted	Power line down from heavy winds
3	12/17/04	Ramona	1	None noted	Power line down from heavy winds
4	2/19/05	Fallbrook	1	None noted	Tree branch into power line from high winds
5	2/7/06	Laguna Niguel	1	None noted	Tree branch into power line from high winds
6	6/27/06	Fallbrook	1	None noted	Tree branch into power line from high winds
7	10/27/06	Boulder Creek	2	None noted	Power line down from heavy winds
8	11/30/06	San Ysabel	130	Damage to bridge; loss of pasture land	Power line down. High winds of 40 mph w/gusts to 60 mph
9	12/27/06	Camp Pendleton	3	None noted	Power line down from heavy winds
10	3/3/07	Jamul	0.1	None noted	Tree branch into power line from high winds
11	10/21/07	Guejito, San Pasqual	197,990*	Extensive damage & injuries*	Alleged contact w/conductor. High winds observed in area.

Historical Data for Wind-Related Power-Line Fires					
Fire Event	Date Started	Location	Size in Acres	Injuries & Property Damage	Wind-Related Cause of Fire
12	10/21/07	Witch, Ramona	197,990*	Extensive damage & injuries*	Alleged arcing between power lines. Santa Ana winds in area.
13	10/22/07	Rice, Rainbow	9,472	Extensive damage & injuries	Alleged tree branch into power line from high winds
* Witch and Guejito acreage, injuries, and damage are aggregated.					

SDG&E cautions that while past experience is instructive, future power shut-off events and power-line fires may not follow historical patterns. SDG&E anticipates there will be fewer power-line fires in the future due to its Community Fire Safety Program and Power Shut-Off Plan.<sup>28</sup>

SDG&E believes that the parties who oppose its Power Shut-Off Plan overestimate the risk of fires being ignited by candles, barbeques, portable generators, and other sources when SDG&E shuts off power. To illustrate the small risk of fires from other sources, SDG&E cited statistical information maintained by the State Fire Marshal that shows generators ignited only 71 fires out of 55,636 equipment-related fires in all of California during the five-year period of 2003-2007.

### 7.1.2. Opposition Parties

SDG&E's Power Shut-Off Plan is opposed by the Alliance, AT&T, CCTA, CFB, Cox, CPSD, CTIA, DRA, DisabRA, the School Districts, the Water Districts,

<sup>28</sup> At the all-party meeting held on July 6, 2009, SDG&E stated for the first time that the re-closer policy it is implementing as part of its Community Fire Safety Program would have prevented the Witch Fire in October 2007 had the re-closer policy been in effect at that time. (Reporter's Transcript, p. 68.) The new re-closer policy is separate from SDG&E's Power Shut-Off Plan. SDG&E did not address whether its new re-closer policy would be just as effective at preventing wildfires as its Power Shut-Off Plan, but with considerably fewer impacts on customers and communities.

and UCAN (collectively, the “Opposition Parties”). They contend that SDG&E’s Power Shut-Off Plan will eliminate one ignition source but create many others. This is because customers without electricity may use other means for lighting and cooking, such as candles, lanterns, fireplaces, barbecues, and camp stoves. In addition, some customers may resort to providing their own power with portable generators that are not maintained and operated properly. AT&T cites the following warning from the U. S. Fire Administration regarding the fire hazard posed by generators:

Before refueling the generator, turn it off and let it cool. Fuel spilled on hot engine parts could ignite.<sup>29</sup>

The Opposition Parties assert that SDG&E has presented no evidence that its Power Shut-Off Plan will reduce the overall risk of wildfires. Rather, SDG&E’s Plan reduces one risk but increases others. The risk that is reduced is the one for which SDG&E might be held liable - fires caused by its power lines. The risks that are increased are those for which SDG&E would not be held liable.

The Opposing Parties note that SDG&E has identified 13 power-line fires since 2003 that are linked to high-wind events, but only three of these fires would have been prevented had its Power Shut-Off Plan been in effect at the time. The Opposing Parties question the benefit of shutting off power 13 times to prevent three fires. CCTA opines that the three fires could have been prevented by better maintenance, making SDG&E’s Power Shut-Off Plan unnecessary.

The Alliance and CPSD contend that SDG&E has selected a wind-speed criterion that is too low, which will cause needless power shut-off events. They state that SDG&E is required by General Order 95 to design, construct, and

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<sup>29</sup> [www.usfa.dhs.gov/citizens/all\\_citizens/co/generator.shtm](http://www.usfa.dhs.gov/citizens/all_citizens/co/generator.shtm).

maintain power lines that can withstand wind speeds well in excess of SDG&E's wind-speed criterion.

Finally, the Opposing Parties believe that the Power Shut-Off Plan will impose many significant costs, burdens, and risks on customers and communities in the areas where power is shut off. They argue that SDG&E has not conducted a cost-benefit analysis of the claimed benefits of its Power Shut-Off Plan versus the many adverse impacts. These potential adverse impacts are summarized below.

**Disruption of Communications Networks.** Communications providers rely on commercial power to provide landline telephone service, cable TV, internet, and wireless telephone service. Network facilities located in the Power Shut-Off Areas can function when commercial power is shut off by using onsite backup batteries and generators, but service could start to fail for many customers after 4 - 12 hours as batteries are exhausted and generator fuel is consumed. To keep networks functioning, the exhausted batteries would need to be replaced with fresh batteries or portable generators, and the generators would need to be refueled. This could become a herculean task during a widespread and prolonged power shut-off event, as there are hundreds of sites in the Power Shut-Off Areas where backup power would be needed to keep communications networks functioning.<sup>30</sup> Communications providers are concerned that if backup generators are not installed or refueled in time due to distance, terrain, traffic, blocked roads, or other obstacles, customers could lose communications services,

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<sup>30</sup> AT&T alone has hundreds of remote terminals in the Power Shut-Off Areas where calls carried by its landline network are aggregated and disaggregated. These remote terminals collectively serve tens of thousands of lines, and have an industry standard of about eight hours of battery backup.

including copper-based landline service, cable TV service, internet service, and/or wireless service.

Communications providers estimate that they will incur significant costs to respond to power shut-off events. The actual costs will vary depending on how widespread the shut off is, how long it lasts, and other factors. They will also lose an unknown amount of revenue if service is disrupted.

**Loss of Communications at Customer Premises.** Even if communications networks continue to function during a power shut-off event, the loss of power at customers' premises could cause many customers to lose access to communications services. For example, AT&T provided information that shows approximately 37% of households use only cordless phones for their landline service. Cordless phones rely on commercial power at customers' premises and are not usually sold with back-up batteries. As a result, thousands of households could be without landline service during a power shut-off event. Some of these households may have cell phones, but they might not be able to recharge cell phone batteries when power is shut off.

Customers who subscribe to cable voice services receive a modem with battery back-up for up to eight hours. Voice service will be lost after eight hours.

Many residents rely on broadband internet for "over-the-top" phone service (e.g., Vonage, Skype, and MagicJack). However, desktop computers will not function without power, and laptop computers will be unable to access the internet because the Wi-Fi modems that connect laptops to the internet will be without power. Only those customers who subscribe to wireless data services will be able to access the internet with a laptop, but only if the wireless networks are functioning and only for as long as laptop batteries hold out.

Large communications customers such as government agencies, financial institutions, and hospitals are often served by on-site equipment rooms with battery backup for short outages. These equipment rooms usually cannot accommodate portable generators. SDG&E estimates there are about 10,930 commercial customers in the shut-off area. Extended outages could force many commercial customers to temporarily curtail or halt their operations.

**Public Safety Impacts of Degraded Communications.** The loss of communications caused by a power shut-off event could adversely affect public health, safety, and welfare. These adverse impacts include:

- The loss of communications would occur during periods of high fire risk. Residents may not be able to call 911 to report fires. The delayed reporting of fires could allow fires to escape initial attack and spiral out of control.
- Residents may not be able to call 911 to report crimes, medical emergencies, and vehicle accidents. The delayed response to emergencies of all types poses a serious risk to lives and public safety in general.
- First responders may not be able to communicate with each other or the public via cell phones. The inability of first responder to communicate effectively could impede coordinated and timely responses to emergencies.
- Residents may not be able to receive emergency information such as evacuation notices disseminated through reverse 911.
- Health monitoring services and security services that rely on telecommunications may not function. Many seniors and disabled persons may not be able to use their “lifeline” emergency button when power is shut off.

**Loss of News and Information.** Most televisions and computers will not work without external power. Government agencies depend on television and the internet to disseminate emergency information. During the 2003 and 2007 firestorms, television and internet media provided around-the-clock coverage of



events and disseminated emergency information to residents throughout the area. SDG&E's Power Shut-Off Plan could cut off this important source of emergency information.

**Customers with Disabilities.** Shutting off power for an extended period could impose a number of hardships on people with disabilities. First, many people with disabilities depend on electric-powered devices. If power is shut off, people who use electric wheelchairs will find their mobility limited once the batteries run down. People with hearing or vision disabilities who rely on specialized communications equipment will not be able to communicate with the outside world.<sup>31</sup> People who take medications that must remain refrigerated may be forced out of their homes in order to find a location with refrigeration facilities. Similarly, people with medical conditions that require them to maintain their environment at a certain temperature may have to evacuate because the loss of power makes temperature control impossible.

Second, SDG&E estimates there are 902 Medical Baseline Customers in the Power Shut-Off Areas, including 590 customers who rely on life support equipment. Many of these individuals will have to evacuate if there is an extended outage. Because these people have serious medical conditions, any evacuation creates some risk.

SDG&E plans to offer free transportation to medically sensitive customers if a power shut-off event is called. However, any care provided at the hospital or other medical facility would be the customers' responsibility. This could result in additional medical bills for the customers or their insurance providers.

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<sup>31</sup> DRA reports that most of the equipment provided by the Deaf and Disabled Telecommunications Program needs external power to operate.

Third, people with disabilities rely on communications services to stay in contact with caregivers and other essential resources. If an outage occurs, many people with disabilities will need additional assistance. Any breakdown in communications places people with disabilities at risk of having health and medical needs go unmet.

Finally, disabled people are disproportionately low-income and can ill afford the costs of purchasing provisions for power shut-off events, such as landline phones, flashlights, coolers, spare batteries, and backup generators. Consequently, SDG&E's Plan will force many customers with disabilities to evacuate their homes and incur the costs and inconvenience that such evacuation entails. Even if some disabled persons could afford a generator, they may not be able to operate it due to mobility or vision impairments.

**Adverse Impact on Schools.** There are 65 public elementary schools, middle schools, and high schools in the Power Shut-Off Areas that serve approximately 19,867 students. None of these schools has backup power. All the affected schools use phone systems that need external power to operate.

During a power shut-off event, the schools affected by the event will be without internet, television, and phone service, which creates health and safety issues on three fronts. First, if a student is seriously hurt during an outage, the school may not be able to contact emergency services in a timely manner. Second, if there is an emergency outside of the school, such as a major wildfire, the school may not receive timely warning, thereby compromising the school's ability to protect children and staff. Third, schools without power may not be able to meet health and safety requirements, such as providing water from wells, lighting, and air conditioning. The School Districts estimate that it would cost several million dollars to prepare for power shut-off events.

The School Districts are very concerned about the loss of Average Daily Attendance (ADA) funding from the State, which is the main source of funds for the School Districts. If a lengthy power shut-off event occurs, schools may have to cancel school days, causing a loss of ADA funds. The Education Code provides for waivers of ADA requirements if an emergency is established to the satisfaction of the State Superintendent of Public Instruction. The School Districts are worried that a power shut-off event might not be deemed an emergency, resulting in a loss of ADA funds.

**Adverse Impact on Water Supply.** The Water Districts have 39 “critical pump stations” in the Power Shut-Off Areas that do not have backup power. These pump stations provide water to tens of thousands of customers and for fire fighting purposes. If SDG&E shuts off power, the supply of water in the areas served by the affected critical pump stations will be limited to whatever is on hand in tanks and small reservoirs. If a fire breaks out, the heavy demand for water to fight the fire could exhaust the available supply within hours. The lack of water to fight fires could be disastrous, as the fires would be occurring during periods of high fire danger (i.e., when winds are high, humidity is low, and vegetation is dry).

The Water Districts estimate that it would cost \$8 million to install backup generators and associated wiring at the 39 critical pump stations. They also state that SDG&E’s proposal to procure a pool of six portable generators for use by the Water Districts during power shut-off events is insufficient. SDG&E’s backcast shows that during the October 2007 firestorm, SDG&E would have shut off power to more than 30 critical pump stations simultaneously.

**Adverse Impact on Sewage Service.** Several of the Water Districts provide sewer service. In order to avoid spills or unlawful discharges, the Water

Districts will need to rent generators during power shut-off events to keep sewer facilities operating.

**Costs to Prepare for a Power Shut-Off Event.** Customers could incur significant costs to prepare for a power shut-off event. Such costs could include the purchase of landline phones; flashlights and portable radios; extra batteries for flashlights, radios, laptop computers, and communications devices; coolers to store perishable foods and medications; candles, camp stoves, and lanterns; and backup generators and fuel.

**Costs Incurred During a Power Shut-Off Event.** Many customers could incur significant costs due to a power shut-off event. Such costs could include the rental of portable generators; lost business revenues; lodging and restaurant costs for residents leaving the area while power is shut off; loss of refrigerated foods and medicines; and general loss of public convenience.

**Impacts on Low Income Customers.** Low income customers might not be able to afford the loss of refrigerated foods and medications, or to take actions to mitigate the impacts of shut-off events, such as evacuating to a hotel, eating at restaurants, or buying coolers and generators.

**Portable Generators.** Customers without power may use portable generators to provide electricity for their appliances and lights. The use of portable generators poses a fire risk for the reasons described previously, but that is not the only hazard. UCAN states that owners of portable generators may need to store 20 gallons of fuel on site in order to power a generator through a shut-off event lasting 72 hours. If a wildfire passes through the property, the fuel could explode with deadly consequences for residents and fire crews.

In addition, some residents may connect their generators to the electrical wiring of their homes. If “do-it-yourselfers” do not disconnect their electrical

panels from the utility system, the generators would energize utility lines, thereby nullifying SDG&E's intent to reduce ignitions from power lines. This would also pose a danger to utility employees because power lines would be "hot" when the workers do not expect it.

Finally, generators emit dangerous levels of carbon monoxide (CO). UCAN cites a study that shows portable generators were implicated in 96% of poisonings from CO following hurricanes Charley and Jeanne in Florida in 2004.

**Loss of Traffic Lights and Street Lights.** Traffic lights and street lights depend on commercial power. The loss of traffic lights and street lights during power shut-off events would increase the risk of vehicle accidents, particularly at night. Crash victims may not be able to summon help if the wireless network has ceased functioning. The loss of traffic lights could also delay the arrival of first responders to the scene of the accident or other emergency. If a general evacuation is declared due to an approaching wildfire, the lack of traffic signals and street lights could slow the evacuation and place many lives at risk.

**Hampering Evacuations.** Shutting off power would hamper evacuation efforts because customers might not receive timely notices to evacuate for the reasons stated previously. In addition, elderly and disabled persons may not be able to open their garage doors without electric garage door openers, trapping them in their homes. Evacuations from homes at night will be slower and more difficult without lights. Loss of power to traffic lights and street lights may impede and disrupt evacuations. Loss of power to fueling stations might trap evacuees without sufficient fuel in their vehicles.

The October 2007 firestorm demonstrates that concerns about evacuating during a power shut-off event are warranted. On October 21, 2007, the Witch Fire started at 12:35 p.m. near the community of Ramona. If the Power Shut-Off

Plan had been in effect, SDG&E would have shut-off power to Ramona at 8:58 p.m. Sixteen minutes later, at 9:14 p.m., residents of Ramona received reverse 911 calls to evacuate.<sup>32</sup> Fortunately, power was on, and residents were able to receive reverse 911 calls and to evacuate at night with the aid of lights in their homes and on the streets.

**Diversion of Public Safety Personnel.** Shutting off power could divert police and sheriff personnel from their primary missions. For example, officers would need to direct traffic at intersections where traffic lights no longer function until temporary stop signs could be set up. Police and fire department personnel might have to drive longer distances to find gas stations with working pumps to refuel emergency vehicles.

Police and sheriff personnel would be diverted at a time when many burglar alarms and security lights would not function, providing increased opportunity for criminal activity.

**Loss of Economic Activity.** Many businesses could not operate without commercial power. For example, some retail businesses could not function without scanners at checkout stands, gas stations could not pump fuel, and many restaurants could not cook. Employees who rely on computers could not work.

**Setting the Stage for Catastrophic Wildfires.** The simultaneous occurrence of the all of the above circumstances under high fire risk conditions (e.g., loss of communications, lack of water, disruption of traffic, disabled and elderly residents trapped in their homes, etc.) would increase the potential for catastrophic wildfires.

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<sup>32</sup> Reporter's Transcript of the all party meeting held on July 6, 2009, p. 47.

### **7.1.3. SCE**

SCE is the only party that supports SDG&E's Power Shut-Off Plan. SCE opines that shutting off power is better than running the risk of igniting catastrophic fires like the October 2003 and October 2007 firestorms.

SCE does not currently have a power shut-off plan in effect. However, in 2003 SCE implemented a temporary program to shut off power to rural areas where the Governor had declared a state of emergency due to the fire risk posed by the large number of dead trees killed by bark beetles. The purpose of SCE's power shut-off program was to protect against the possibility of strong winds causing dead trees to fall onto its power lines and igniting a wildfire. The region affected by SCE's program had 34,500 customers (meters), and was divided into 11 areas where power could be shut off independently from each other.

SCE implemented its power shut-off program in 2003 on its own initiative and obtained Commission authorization sometime later. SCE terminated the program in August 2005, after the dead and diseased trees had been cleared from the region. During the time SCE's power shut-off program was in effect, SCE shut off power one time. The shut-off occurred on October 26-27, 2003, in the Idyllwild area. It affected approximately 4,000 customers and lasted 26 hours. When SCE inspected its power lines prior to re-energization, it found six locations where trees had fallen onto the lines. SCE views its program as a success because it prevented what could have been a catastrophic wildfire.

### **7.2. Discussion**

In order to approve SDG&E's Power Shut-Off Plan, we must be convinced that the need to shut off power to protect public safety takes precedence over the vital necessity of keeping power on. There is a strong presumption that power should stay on. As the California Legislature recognized in § 330(g), "[r]eliable

electric service is of utmost importance to the safety, health, and welfare of the state's citizenry and economy."

The purpose of SDG&E's Power Shut-Off Plan is to prevent the reoccurrence of the huge wildfires that have devastated San Diego County in recent years. In October 2003, the Cedar Fire burned 280,275 acres, destroyed more than 2,200 structures, and killed 14 people.<sup>33</sup> In October 2007, the Witch, Guejito, and Rice Fires collectively burned 208,000 acres, destroyed more than 1,800 structures, and killed two people. The economic losses from the wildfires of October 2003 and 2007 reached into the billions of dollars.

California cannot afford more wildfires like those of October 2003 and 2007. All reasonable measures must be taken to prevent any more loss life, property, and economic activity from wildfires.

There is no doubt that shutting off power eliminates the risk of power lines igniting fires. This is a significant risk. Records maintained by Cal Fire show that four of the 20 largest fires in California's recorded history were started by power lines.<sup>34</sup> The Guejito, Rice, and Witch Fires of October 2007 were all started by power lines, although the exact cause of these fires is still under investigation.<sup>35</sup>

The Opposition Parties argue that shutting off power increases the risk of fires starting from sources other than power lines. For example, people who do

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<sup>33</sup> Cal Fire's report "California Fire Siege 2003, The Story" at [http://www.fire.ca.gov/fire\\_protection/downloads/2003FireStoryInternet.pdf](http://www.fire.ca.gov/fire_protection/downloads/2003FireStoryInternet.pdf), pp. 72-73. We take official notice of Cal Fire's report pursuant to Rule 13.9.

<sup>34</sup> Cal Fire's report "20 Largest California Wildland Fires (By Acreage Burned)" at [http://www.fire.ca.gov/communications/downloads/fact\\_sheets/20LACRES.pdf](http://www.fire.ca.gov/communications/downloads/fact_sheets/20LACRES.pdf). We take official notice of Cal Fire's report pursuant to Rule 13.9.

<sup>35</sup> Today's decision in no way prejudices the Commission's investigations of the Guejito, Rice, and Witch Fires that is taking place in I.08-11-007 and I.08-11-006.



not have power in their homes will light candles or lanterns when the sun goes down; will use barbeques and camp stoves to cook food, especially when faced with the loss of costly groceries in a freezer or refrigerator that is not receiving power; and will use their fireplaces for heat, light, and cooking. All of these actions create new ignition sources.

We agree that shutting off power will increase to some degree the risk of ignitions from sources other than power lines. However, the Opposition Parties have not provided any definitive evidence or analysis that shows to what extent shutting off power increases the risk of fires from sources other than power lines. In contrast, SDG&E has shown that risk of ignitions from other sources is very small. According to information that SDG&E obtained from the State Fire Marshall, during a recent five-year period there were 55,636 equipment-related fires in all of California, of which only 71 were caused by generators and 243 were caused by grills, hibachis, and barbeques.<sup>36</sup>

SDG&E's Power Shut-Off Plan includes several measures to reduce the risk of ignitions from sources other than power lines while power is shut off. Most importantly, SDG&E has undertaken an extensive customer education and outreach campaign that will help customers to prepare for power shut-off events and thereby mitigate the risk of ignitions from other sources. SDG&E submits, and we agree, that its education and outreach campaign will reduce what is already a very small risk of ignitions from sources other than power lines.

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<sup>36</sup> SDG&E Comments filed June 30, 2009, p. 7, Fn. 3, citing a report titled "Fires by Equipment Involved in Ignition, 2003-2007" prepared by the State Fire Marshall at [http://osfm.fire.ca.gov/cairs/pdf/firesbyeqinignition2003\\_07.pdf](http://osfm.fire.ca.gov/cairs/pdf/firesbyeqinignition2003_07.pdf). SDG&E's motion to take official notice of this information pursuant to Rule 13.9 and Evidence Code §§ 452(c) and 452(h) was granted by the assigned Administrative Law Judge in a ruling issue on August 6, 2009.

For the previous reasons, we find there is good cause to believe that SDG&E's Power Shut-Off Plan will eliminate the risk of fires being ignited by power lines during extremely hazardous fire conditions, while creating only a minor risk of fires from other sources.

We recognize that shutting off power imposes numerous costs, risks, and burdens on the customers and communities in the areas where power is shut off. These adverse impacts were summarized previously and are not repeated here.<sup>37</sup> SDG&E has proposed several measures to mitigate the adverse impacts, including the opening of evacuation centers; offering free medical transport; providing \$250 debit cards to customers participating in the CARE and Medical Baseline Programs; and procuring a pool of portable generators for use by the School Districts, Water Districts, and evacuation centers. And to mitigate the risk of wildfires burning in areas where power is shut off, SDG&E will restore power to any area if ordered to do by a public safety agency. SDG&E's shareholders will absorb much of the costs for these mitigation measures.

For the preceding reasons, we conclude that the costs, risks, and burdens of shutting off power, with the mitigation measures proposed by SDG&E, would be far less than the enormous costs and potential loss of life that would occur if there are more devastating wildfires like those of October 2003 and 2007. Our conclusion is reinforced by SCE's experience with its temporary power shut-off program during 2003 - 2005. During the time SCE's power shut-off program was in effect, SCE shut off power one time. The shut-off occurred on October 26-27, 2003, in the Idyllwild area. It affected approximately 4,000 customers and lasted 26 hours. When SCE inspected its power lines prior to re-energization, it found

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<sup>37</sup> See the previous summary in today's decision of the Opposition Parties' position on SDG&E's Power Shut-Off Plan.

six locations where trees had fallen onto the lines. We view SCE's program as a success because it prevented what could have been a catastrophic wildfire.

### **7.3. Interim Authority for Pilot Power Shut-Off Plan**

For the preceding reasons, we conclude that SDG&E should be granted interim authority, in part, to implement its Power Shut-Off Plan as a Pilot Program commencing on September 10, 2009 and continuing until December 31, 2009, subject to the following conditions:

- SDG&E shall provide notice and communicate with Cal Fire and the San Diego County Office of Emergency Services twelve hours before shutting off power under its Pilot Power Shut-Off Plan. SDG&E may shut off power if directed by either of these agencies; or if neither of these agencies objects before the deadline for the planned shut off. SDG&E shall immediately restore power to any area when directed by either of these agencies.
- CPSD shall work with the above-mentioned parties and persons in coordinating the protocol for notification and directives and report back to the Commission by September 30, 2009.
- Customers, communities, and providers of essential services in the areas where power is shut off need as much advance notice as possible before a power shut off event pursuant to the Pilot Power Shut-Off Plan. Today's decision requires SDG&E to provide the first notice a minimum of twelve hours in advance, instead of six hours as proposed by SDG&E. The second notice shall be six hours before the forecasted shut-off event, to the extent possible, instead of two hours as proposed by SDG&E.
- The Pilot Power Shut-Off Plan shall remain in effect until December 31, 2009. This proceeding will remain open so that the effectiveness of the Pilot Power Shut-Off Plan can be evaluated. Phase II of this proceeding shall commence in January of 2010, which will allow the Commission, the parties, and the public the opportunity to comment through Workshops and Public Participation Hearings reviewing the Pilot Power

Shut-Off Plan and propose any appropriate changes in future de-energizing protocols. A schedule with the dates for Phase II events and deadlines will be issued at a later date.

- The Commission will form a De-Energizing Safety Oversight Committee (“Oversight Committee”) consisting of representatives from SDG&E, the California Resources Agency (or other State agency with jurisdiction over fire safety and/or emergency preparedness, such as Cal Fire), the San Diego County Fire Authority, City of San Diego Fire Rescue, the San Diego County Sheriff’s Department, the Water Districts in the proposed shut-off area, School Districts in the proposed shut-off area, the Commission’s Consumer Protection and Safety Division, the Commission’s Division of Ratepayer Advocates, Mussey Grade Road Alliance, and Disability Rights Advocates. Names of nominees shall be filed and served within seven days after this decision is adopted. The Commission will make the final decision regarding the membership of the Oversight Committee through a procedural process to be determined. The purpose of the Oversight Committee will be to (1) determine if the proposed criteria for shutting off power are effective in preventing fires; (2) attempt to resolve concerns raised in this proceeding by the San Diego Superintendent of Schools (such as all forms of emergency communications that should be explored; and maintenance of per-pupil funding in the event students are kept out of school due to a notification of shut-off event under the Pilot Power Shut-Off Plan), several municipal water districts, telecommunications providers, and consumers living in the areas that are the subject of the SDG&E’s Pilot Shut-Off Plan; and (3) provide recommendations for best practices in de-energizing relative to specific rural conditions within SDG&E’s service territory affected by this proceeding. The Oversight Committee shall file and serve a written report no later than January 29, 2010.
- All of the mitigation measures proposed by SDG&E are adopted, including those proposed in SDG&E’s Application and those identified at the all-party meeting held on July 6, 2009. These include the opening of evacuation centers; offering free medical transport; providing \$250 debit cards to customers

participating in the CARE and Medical Baseline Programs; procuring a pool of 31 large portable generators for use by the School Districts, Water Districts, and evacuation centers; and pre-wiring 110 sites to accommodate the aforementioned portable generators.

- SDG&E shall track all costs related to its mitigation measures adopted by today's decision in a memorandum account. SDG&E shall file a Tier 1 Advice Letter to establish this memorandum account.
- Any planned shut off events that occur pursuant to the Pilot Power Shut-Off Plan shall be limited to a maximum of 24 hours. Extensions of this period may be allowed with the approval of Cal Fire or San Diego Office of Emergency Services. SDG&E may also keep power shut off for more than 24 hours if directed to do so by a public safety agency due to a fire in the vicinity of power lines or other emergency conditions.
- For purposes of this Pilot Power Shut-Off Plan, SDG&E will not be granted absolute tariff immunity for the decision to shut off power.
- Upon receiving notice of the planned shut off, affected persons can pursue equitable remedies (e.g., seek injunctive relief) with the Commission in the manner set forth, *infra*.
- So that Essential Customers do not experience higher rates and charges due to increased electric usage brought about by an announced power shut-off event, SDG&E shall revise its tariffs in the manner described in its Application for demand normalization, critical peak pricing, and demand response by filing a Tier 1 advice letter prior to the first shut-off event.

If SDG&E wishes to continue its Pilot Power Shut-Off Plan or submit a revised proposed Shut-Off Plan after December 31, 2009, SDG&E shall file and serve a request to do so by January 29, 2010. Before submitting such a request, SDG&E shall meet with the other members of the Oversight Committee and attempt to reach a consensus. If consensus cannot be reached, the parties may submit competing proposals by February 17, 2010. If SDG&E chooses not to

continue with its Pilot Shut-Off Plan after December 31, 2009, or chooses not to submit a revised Power Shut-Off Plan, SDG&E shall file and service notice of its decision by January 29, 2010.

Today's decision does not affect SDG&E's authority under §§ 451 and 399.2(a) to shut off power in emergency situations when necessary to protect public safety. These laws state, in relevant part, as follows:

**§ 451:** Every public utility shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities...as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

**399.2 (a)(1):** It is the policy of this state, and the intent of the Legislature, to reaffirm that each electrical corporation shall continue to operate its electric distribution grid in its service territory and shall do so in a safe, reliable, efficient, and cost-effective manner.

**399.2 (a)(2):** In furtherance of this policy, it is the intent of the Legislature that each electrical corporation shall continue to be responsible for operating its own electric distribution grid including, but not limited to, owning, controlling, operating, managing, maintaining, planning, engineering, designing, and constructing its own electric distribution grid, emergency response and restoration, service connections, service turnons and turnoffs, and service inquiries relating to the operation of its electric distribution grid, subject to the commission's authority.

SDG&E's statutory obligation to operate its system safely requires SDG&E to shut off its system if doing so is necessary to protect public safety. Any decision by SDG&E to shut off power may be reviewed by the Commission pursuant to its broad jurisdiction over matters regarding the safety of public utility operations and facilities.

Today's decision also does not affect SDG&E's obligation to take the necessary steps to harden its lines. When the hardening of the lines is complete, it may obviate the need for the shut-off program that is being adopted by the Proposed Decision. Therefore, we request that SDG&E submit for approval by this Commission its schedule for the hardening of the lines.

We commend SDG&E for its concern for fire safety and its extensive efforts to implement measures to protect the public, both in this proceeding and with its broader Community Fire Safety Program. We encourage SDG&E to continue its efforts, particularly with respect to its inspections of overhead power lines, hardening its facilities in fire-prone areas, and sound vegetation management.

## **8. Demand Normalization for Essential Customers**

### **8.1. Summary of SDG&E's Proposal**

Depending on weather conditions, SDG&E intends to provide four to six hours of advance notice of a power shut-off event. After receiving notice, Essential Customers may need to temporarily increase their energy usage in order to prepare for a shut-off event. This spike in energy usage could result in higher demand charges.

So that Essential Customers do not have to pay higher demand charges under these circumstances, SDG&E proposes an optional tariff that will allow Essential Customers to normalize electric demand. Under the proposed tariff, the maximum recorded demand for the period between the first notification and the time that power is shut off (or notice that the announced shut-off event will not occur) will not be considered for the purpose of determining demand charges. Any additional metering cost to implement demand normalization will

be the customer's responsibility. A copy of the proposed tariff is contained in attachment B of A.08-12-021.

SDG&E submits that excluding the relatively short and infrequent periods from establishing peak demand for Essential Customers should have no material impact on general revenues or rates. On the other hand, if Essential Customers are not able to normalize this artificial peak demand, they could experience a substantial increase in demand charges.

SDG&E proposes that no special mechanism be established to track and recover the revenue shortfall caused by the demand charge normalization. SDG&E states that current ratemaking processes for distribution, commodity, and the Competition Transition Charge will allow any revenue shortfall due to the demand charge normalization to be recovered in the rates of all customers in all customer classes.

## **8.2. Position of the Parties**

There was no response to SDG&E's proposal.

## **8.3. Discussion**

We will adopt SDG&E's unopposed proposal to offer an optional demand normalization tariff to Essential Customers so that such customers will not experience a substantial increase in demand charges due to increased energy usage they incur to prepare for an announced power shut-off event. It is not in the public interest to impose higher demand charges on the increased energy used by police departments, fire departments, hospitals, nursing homes, and other Essential Customers to prepare for a power shut-off event.



SDG&E shall file a Tier 1 advice letter<sup>38</sup> within 30 days from the effective date of today's decision to implement the optional demand normalization tariff for Essential Customers. The filed tariff shall mirror the pro forma tariff contained in Attachment B of A.08-12-021.

As recommended by SDG&E, there is no need to establish a mechanism to specifically identify, track, and recover the revenue shortfall associated with demand charge normalization. We agree with SDG&E states that current ratemaking processes will allow any revenue shortfall to be recovered in the rates of all customers in all customer classes.

## **9. Critical Peak Pricing and Demand Response for Essential Customers**

### **9.1. Summary of SDG&E's Proposal**

As mentioned previously, Essential Customers may have to increase their use of electricity in order to prepare for an imminent power shut-off event. This may prevent Essential Customers from curtailing their energy usage if a demand response event happens to be declared at the same time. SDG&E believes it is unlikely that a power shut-off event will occur at the same time as a demand response event, since the former will most likely occur when Santa Ana winds are blowing in the fall and winter, while the latter will most likely occur during peak summer demand. Nevertheless, SDG&E proposes that if the two events occur simultaneously, the affected Essential Customer facilities should not be subject to Critical Peak Pricing (CPP) or Demand Response Program penalties for usage during the period between the first notice of a potential power shut-off event and the time that power is shut off (or notice is issue that the announced

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<sup>38</sup> Tier 1 advice letters are effective pending disposition. (General Order 96-B, Energy Industry Rule 5.1.)

shut-off event has been canceled). During this time, the Essential Customers participating in CPP will be charged the non-CPP rate.

### **9.2. Position of the Parties**

There was no response to SDG&E's proposal.

### **9.3. Discussion**

We will adopt SDG&E's unopposed proposal to waive CPP and Demand Response Program penalties so that Essential Customers are penalized for increased energy usage during the period between the first notification of a power shut-off event and the time that power is shut off (or notice is issued that the announced shut-off event is canceled.). Essential Customers, including police departments, fire departments, hospitals, and nursing homes, should not be penalized for their inability to curtail energy use while preparing for a power shut-off event. During this time, the Essential Customers participating in CPP will be charged the non-CPP rate.

SDG&E shall file a Tier 1 advice letter within 30 days from the effective date of today's decision to implement a tariff change to waive CPP and Demand Response Program penalties for Essential Customers under the circumstances described previously, and to charge these customers the non-CPP rate when the previously described circumstances occur.

## **10. Injunctive Relief**

The School Districts and Water Districts ask the Commission to provide a procedure whereby parties could seek injunctive relief in the event that SDG&E shuts off power in manner inconsistent with today's decision.

The Commission has authority to grant injunctive relief. In *Consumers Lobby Against Monopolies v. Public Utilities Commission*, 25 Cal 3d 891, 907 (1979), the California Supreme Court said:

The commission often exercises equitable jurisdiction as an incident to its express duties and authority. For example, the commission may issue injunctions in aid of jurisdiction specifically conferred upon it. (*Kern County Land Co. v. Railroad Com.*, supra, 2 Cal. 2d 29, 36; *Motor Transit Co. v. Railroad Commission* (1922) 189 Cal. 573, 582 [209 P. 586].) . . . And the commission itself has relied on equitable precedent in implementing its authority to issue cease and desist orders. (*Eastshore Consolidated Water Co.* (1959) 57 Cal. P.U.C. 231; *Regulated Carriers, Inc. v. Farnham* (1935) 39 C.R.C. 323, 326.)<sup>39</sup>

We agree that parties should have the right to seek injunctive relief if SDG&E shuts off power in a manner that is not authorized by today's decision. To ensure there is no confusion about the exact area where SDG&E is authorized to shut off power, SDG&E shall file a Tier 1 advice letter that contains a map of the shut off area. The map shall be the same one as attached to SDG&E's Informational Filing submitted on April 3, 2009, modified as necessary to reflect customers removed from the shut-off area by the power line undergrounding projects that are the subject to Advice Letter 2075-E. So that customers have access to map filed at the Commission, SDG&E shall post a copy of the map on its webpage for the Community Fire Safety Program.

The Commission can delegate authority to grant injunctive relief so long as the action is ministerial. The law concerning the delegation of authority in California is generally described as follows:

As a general rule, powers conferred upon public agencies and officers which involve the exercise of judgment or discretion

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<sup>39</sup> See also California Constitution, Article XII, Section 2; Public Utilities Code Section 310; D.01-01-046, *Interim Opinion Affirming the Obligation to Serve and Issuing Temporary Restraining Order*, p. 16; D.01-07-033, *Opinion: Order Denying Rehearing of Interim Decision*; D.05-04-040, *Order Denying Request for Stay and Temporary Restraining Order*, page 2; and *Elson v. Public Utilities Commission*, 51 Cal. App.3d 577, 581-582 (1979).

are in the nature of public trusts and cannot be surrendered or delegated to subordinates in the absence of statutory authorization. (*Sacramento Chamber of Commerce v. Stephens*, 212 Cal. 607, 610; *Webster v. Board of Education*, 140 Cal. 331, 332; *City of Redwood City v. Moore*, 231 Cal.App.2d 563, 576.)

On the other hand, public agencies may delegate the performance of ministerial tasks, including the investigation and determination of facts preliminary to agency action. (*Klevesahl v. Byington*, 1 Cal.App.2d 671, 676; *Mecchi v. Lyon Van & Storage Co.*, 38 Cal.App.2d 674, 682.) Moreover, an agency's subsequent approval or ratification of an act delegated to a subordinate validates the act, which becomes the act of the agency itself. (*See Mott v. Horstmann*, 36 Cal.2d 388, 391.)

Under this doctrine, the authority to issue an injunction can be delegated to staff.

While the doctrine governing delegation of authority allows for subsequent ratification of delegated authority, subsequent ratification is not likely to be helpful here. If the goal is to provide prompt injunctive relief, then authorizing staff to grant injunctive relief to be later ratified by the full Commission would not necessarily result in prompt compliance by SDG&E. If ratification by the full Commission were required, the utility might choose to wait until the full Commission had voted to ratify before it complied with the staff's order.

Parties may submit written requests by email to the assigned Administrative Law Judge ("ALJ") requesting injunctive relief. Any such requests shall be concurrently served by email on the service list for this proceeding. Requests for injunctive relief shall be limited to alleged instances where SDG&E has shut off power when the conditions adopted by today's decision have not been met and/or in locations outside the map filed pursuant to today's decision.

The ALJ may grant or deny injunctive relief by an email sent to the service list.

#### Electric Tariff Rule 14

SDG&E's Electric Tariff Rule 14 requires SDG&E to exercise "reasonable diligence and care to furnish and deliver a continuous and sufficient supply of electric energy to the customer, and to avoid any shortage or interruption of delivery of same."<sup>40</sup> Tariff Rule 14 also states that SDG&E will not be held liable for an interruption in service "caused by inevitable accident, act of God, fire, strikes, riots, war or any other cause not within its control."

SDG&E requests authority to amend Tariff Rule 14 to include the statement that SDG&E may shut off power "without liability to Customers" when in "SDG&E's sole opinion such interruption is necessary for . . . [an] [e]mergency affecting or likely to affect SDG&E's distribution system."<sup>41</sup> The text of SDG&E's proposed revisions to Tariff Rule 14 mirrors PG&E's current Tariff Rule 14.

SDG&E's proposed revisions to Tariff Rule 14 are not contingent on Commission approval of SDG&E's Power Shut-Off Plan. Rather, SDG&E sees these as separate matters. The text of the proposed modified Tariff Rule 14 is as follows:

#### End Use Customers and Their Agents

SDG&E will exercise reasonable diligence and care to furnish and deliver a continuous and sufficient supply of electric energy to the customer, but does not guarantee continuity or sufficiency of supply. SDG&E will not be liable for interruption or shortage or insufficiency of supply, or any loss or damage of any kind or character occasioned thereby, if same is caused by inevitable

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<sup>40</sup> Tariff Rule 14, Section A.

<sup>41</sup> Exhibit SDG&E-3, Appendix C.

accident, act of God, fire, strikes, riots, war, or any other cause except that arising from its failure to exercise reasonable diligence.

SDG&E shall be the sole judge of whether it is operationally able to receive or deliver electric energy through its electric distribution system. Such judgment shall be non-discriminatory and without regard to the supplier or electric service provider to the end-use customer.

Under no circumstances shall SDG&E be liable to its customers or their agents for any local or system deficiencies in supply stemming from inadequate power bids of power deliveries over the Independent System Operator (ISO) grid. Similarly, SDG&E shall not be liable to any customer, or electric service provider, for damages or losses resulting from interruption due to transmission constraint, allocation of transmission or intertie capacity, or other transmission related outage, planned or unplanned.

SDG&E specifically maintains the right to interrupt its service deliveries, without liability to the Customers or electric service providers (ESPs) affected, when, in SDG&E's sole opinion, such interruption is necessary for reasons including, but not limited to, the following:

1. Safety of a customer, a SDG&E employee, or the public at large.
2. Breach of code or regulation on either SDG&E-owned or customer-owned facilities.
3. Emergency affecting or likely to affect SDG&E's distribution system, the ISO grid or any other system through which SDG&E directly or indirectly receives power.
4. Maintenance, improvements, repairs, or expansion of SDG&E's distribution system.

When SDG&E deems it necessary to make repairs or improvements to its system, SDG&E will have the right to suspend temporarily the delivery of electric energy. In all such cases, reasonable notice will be given to the affected Customers, or their agents, and the making of such repairs or improvements will proceed as rapidly as may be practicable. If practicable, and without additional cost to SDG&E, such work will be done at a time that will cause the least inconvenience to the majority of those involved. In some instances,

SDG&E will be required to initiate an interruption upon order of the ISO so work may be done on the ISO transmission grid. In those instances, SDG&E will make best efforts attempts to provide affected customers, or their agents, with notice but shall not be liable for interruption if notice cannot be provided in a timely manner. SDG&E will be responsible for answering all outage related inquiries by the customer and its ESP.

In case of shortage of supply and during the period of such shortage, SDG&E will make such apportionment of its available supply of energy among its customers, consistent with transmission allocation provided by the ISO by zone, and orders or directions provided by the California Public Utilities Commission, acting either directly or by a power administrator or other official appointed by it for that purpose. In the absence of such order or direction by the California Public Utilities Commission, SDG&E will, in times of shortage, apportion its available supply of energy among all customers in the manner which it deems most fair, reasonable, and appropriate for the efficient operation of its distribution system and that of the ISO grid.

A Scheduling Coordinator or an ESP may be authorized, under a commercial contract with its customers, to apportion its available supply of energy among its customers. SDG&E will accept requests for and make deliveries of these apportioned supplies as long as such deliveries do not affect SDG&E's ability to deliver service to other end-use customers, regardless of supplier, that would otherwise not be affected by the shortage of apportionment thereof.

## **10.1. Position of the Parties**

### **10.1.1. SDG&E**

SDG&E avers that its proposed revisions to Tariff Rule 14 will help customers understand that power may be shut off unexpectedly in order to protect public safety. SDG&E also asserts that customers are currently responsible for any losses they might occur when power is shut off for safety reasons, and that the proposed revisions to Tariff Rule 14 will not change that.

SDG&E maintains that PG&E's current Tariff Rule 14 is an appropriate template for revising SDG&E's Tariff Rule 14 even though PG&E's Tariff was not adopted as a part of a fire-safety program. Rather, it was approved in 1997 as part of the Commission's direct access program. SDG&E submits that PG&E's Tariff Rule 14 is not limited to situations involving direct access; it covers safety and interruption of service in a general sense.

#### **10.1.2. SCE**

SCE supports SDG&E's proposed revisions to Tariff Rule 14.

#### **10.1.3. The Opposition Parties**

The Opposition Parties assert that SDG&E's proposed revisions to Tariff Rule 14 will unfairly shift all costs and liabilities for power shut-off events to the customers and communities in the areas where power is shut off.

The Opposition Parties dismiss SDG&E's assertion that PG&E's Tariff Rule 14 is an appropriate template for revising SDG&E's Tariff Rule 14. They state that PG&E's Tariff Rule 14 was implemented for completely different purposes than what SDG&E intends. PG&E's Tariff Rule 14 was implemented as part of the direct access program, not a fire-safety program. PG&E has never had a power shut-off program like SDG&E's Power Shut-Off Plan.

#### **10.2. Discussion**

We believe there are limited circumstances where it would be appropriate for SDG&E to interrupt power and not be subject to liability. Accordingly, we concluded that SDG&E request should be granted in part. However, we decline to grant SDG&E's requests for sole decision making authority as to when to implement its Power Shut-Off Plan, and for blanket immunity, for several reasons. Blanket immunity would hamper the Commission's ability to supervise, review, and fashion appropriate remedies in the event that the



Commission were to find that SDG&E's actions in shutting off power were unreasonable. (See Cal. Const., Art. XII, sections 3, 6; PUC sections 216, 451, 701, 702, 761, 762, 767.5, 768, 770, 1001, 2101, and 8001, et seq.)

Regulated utilities do not have unfettered discretion to make decisions regarding service. (See *Berkovitch v. SDG&E*, D.00-04-029, 2000 Cal. PUC LEXIS 200 at \*18-\*19 ["We do not believe that SDG&E has unfettered discretion to make a determination to deem lines or portions of lines are permanently abandoned."]; and *Application of PG&E*, D.01-05-059, 2001 Cal. PUC LEXIS 413, at \*87 ["We are concerned with PG&E's assumption that it has unfettered discretion to decide on how to mitigate EMF effects...In all cases, the Commission retains jurisdiction to approve PG&E's EMF mitigation plan."]) While SDG&E may believe that meeting all five of its proposed shut-off criteria is sufficient to trigger de-energization, the Commission has authority to conduct a reasonableness review of SDG&E's actions. (PUC section 761; see also *Investigation on the Commission's Own Motion Into the Operations and Practices of Pacific Gas and Electric Company*, 2005 Cal. PUC Lexis 101 [I.05-03-011].)

As noted previously, SDG&E's Power Shut-Off Plan could impose potentially significant costs, burdens, and risks on the customers and communities in the areas where power is shut off. Customers directly affected by a power shut-off event may wish to pursue appropriate legal and equitable remedies in a court of competent jurisdiction. We decline to grant SDG&E blanket immunity against all legal and equitable claims for relief prematurely.

SDG&E offers two reasons why we should grant SDG&E's proposed revisions to Tariff Rule 14, neither of which is persuasive. First, SDG&E argues that the proposed revisions will help its customers understand that power may need to be shut off unexpectedly in order to protect public safety. SDG&E does

not explain why revising Tariff Rule 14 will achieve this objective, particularly if few customers ever read Tariff Rule 14. We believe that most customers already expect that SDG&E will shut off power when necessary to protect public safety, thereby making SDG&E's proposed revisions to Tariff Rule 14 superfluous.

Second, SDG&E argues that it should be allowed to revise its Tariff Rule 14 to mirror PG&E's Tariff Rule 14. We disagree. As noted by several parties, the revisions to PG&E's tariff were made in a different context. PG&E's Tariff Rule 14 stems from D.97-10-087, which concerned the interruption of energy supplied by energy marketers to direct access customers. The revisions to PG&E's Tariff Rule 14 were wholly unrelated to the purpose of SDG&E's proposed revisions to its Tariff Rule 14. Nor does SDG&E explain why a tariff filed by PG&E more than a decade ago to implement direct access is appropriate today given all the ensuing changes to direct access. In fact, what was done with PG&E's Tariff Rule 14 does not constitute applicable precedent, since the issue of power shut off was not raised by PG&E, the resulting ruling can not be relied upon to support such an outcome in another application. (*See Cooper Industries, Inc. v. Aviall Services, Inc.* 543 U.S. 157, 168-170 (2004); *Texas v. Cobb*, 532 U.S. 162, 169 (2001).)

However, there are certain parts of the PG&E Tariff Rule 14 that we agree are appropriate to include in the SDG&E Tariff Rule 14. We will revise SDG&E Tariff Rule 14 to read as follows:

End Use Customers and Their Agents

SDG&E will exercise reasonable diligence and care to furnish and deliver a continuous and sufficient supply of electric energy to the customer, but does not guarantee continuity or sufficiency of supply. SDG&E will not be liable for interruption or shortage or insufficiency of supply, or any loss or damage of any kind or character occasioned thereby, if same is caused by inevitable

accident, act of God, fire, strikes, riots, war, or any other cause not within its control.

SDG&E, in consultation with the California Resources Agency or any other State agency charged with the responsibility for responding to emergency situations involving fires, shall determine whether it is operationally able to receive or deliver electric energy through its electric distribution system. Such determination shall be non-discriminatory and without regard to the supplier or electric service provider to the end-use customer. SDG&E shall provide no less than 8 hours notice to those persons (i.e. ratepayers, school districts, water districts, emergency service providers, and anyone else in the area that will be the subject of the interruption of service.

SDG&E specifically maintains the right to interrupt its service deliveries, without liability to the Customers or electric service providers (ESPs) affected, when such interruption is necessary for any of the following reasons:

1. Emergency affecting SDG&E's distribution system, the ISO grid or any other system through which SDG&E directly or indirectly receives power.
2. Maintenance, improvements, repairs, or expansion of SDG&E's distribution system.

When SDG&E deems it necessary to make repairs or improvements to its system, SDG&E will have the right to suspend temporarily the delivery of electric energy. In all such cases, reasonable notice will be given to the affected Customers, or their agents, and the making of such repairs or improvements will proceed as rapidly as may be practicable. If practicable, and without additional cost to SDG&E, such work will be done at a time that will cause the least inconvenience to the majority of those involved. In some instances, SDG&E will be required to initiate an interruption upon order of the ISO so work may be done on the ISO transmission grid. In those instances, SDG&E will make best efforts attempts to provide affected customers, or their agents, with notice but shall not be liable for interruption if notice cannot be provided in a timely manner. SDG&E will be responsible for answering all outage related inquiries by the customer and its ESP.

In case of shortage of supply and during the period of such shortage, SDG&E will make such apportionment of its available supply of energy among its customers, consistent with transmission allocation provided by the ISO by zone, and orders or directions provided by the California Public Utilities Commission, acting either directly or by a power administrator or other official appointed by it for that purpose. In the absence of such order or direction by the California Public Utilities Commission, SDG&E will, in times of shortage, apportion its available supply of energy among all customers in the manner which it deems most fair, reasonable, and appropriate for the efficient operation of its distribution system and that of the ISO grid.

A Scheduling Coordinator or an ESP may be authorized, under a commercial contract with its customers, to apportion its available supply of energy among its customers. SDG&E will accept requests for and make deliveries of these apportioned supplies as long as such deliveries do not affect SDG&E's ability to deliver service to other end-use customers, regardless of supplier, that would otherwise not be affected by the shortage of apportionment thereof.

To implement the revised Tariff Rule 14, SDG&E shall file a Tier 1 advice letter<sup>42</sup> within 30 days from the effective date of today's decision. The filed tariff shall incorporate the revisions described previously.

## **11. Proceeding Category and Need for Hearings**

In Resolution ALJ 176-3228, dated January 29, 2009, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that hearings were necessary. The Assigned Commissioner's Ruling and Scoping Memo (Scoping Memo) dated February 26, 2009, affirmed these preliminary determinations, but left open the possibility of hearings would be held by requiring parties to submit motions for evidentiary hearings by April 10, 2009. The evidentiary hearings, if held, were set to begin on April 30, 2009.

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<sup>42</sup> Tier 1 advice letters are effective pending disposition. (General Order 96-B, Energy Industry Rule 5.1.)

There were no motions for evidentiary hearings. After consulting with the assigned Commissioner, the assigned Administrative Law Judge (ALJ) issued a ruling on April 15, 2009, that canceled the previously scheduled evidentiary hearings.

Rule 7.5 requires that the Commission to approve a change to the preliminary determination on the need for hearings. Today's decision affirms that evidentiary hearings are not needed in this proceeding.

## **12. Comments on the Proposed Decision**

The proposed decision of the assigned Commissioner was mailed to the parties in accordance with Pub. Util. Code § 311, and comments were allowed pursuant to Rule 14.3. Comments were filed on \_\_\_\_\_, by \_\_\_\_\_. Reply comments were filed on \_\_\_\_\_, by \_\_\_\_\_.

## **13. Assignment of the Proceeding**

Timothy Alan Simon is the assigned Commissioner for A.08-12-021 and Timothy Kenney is the assigned ALJ.

## **Findings of Fact**

1. The purpose of SDG&E's Power Shut-Off Plan is to prevent the ignition of wildfires by shutting off power lines during hazardous fire conditions.
2. Wildfires pose a significant and continuing risk in California generally, and to Southern California and San Diego County in particular.
3. The intent of SDG&E's proposed revisions to Tariff Rule 14 is to allow SDG&E to shut off power in a manner consistent with its Power Shut-Off Plan.
4. There is no evidence that PG&E's Tariff Rule 14 was filed to implement a power shut-off program like the one proposed by SDG&E.
5. In Resolution ALJ 176-3228, dated January 29, 2009, the Commission preliminarily determined that there was a need for evidentiary hearings in this

proceeding. The preliminary determination on the need for hearings was affirmed in the Scoping Memo, but the Scoping Memo also directed parties to file motions for evidentiary hearings.

6. There were no motions for evidentiary hearings.

### **Conclusions of Law**

1. SDG&E's Power Shut-Off Plan as set forth in A.08-12-021 should be granted as a Pilot Program with the following conditions:

2. SDG&E shall provide notice and communicate with Cal Fire and the San Diego County Office of Emergency Services twelve hours before shutting off power under its Pilot Power Shut-Off Plan. SDG&E may shut off power if directed by either of these agencies; or if neither of these agencies objects before the deadline for the planned shut off.. SDG&E shall immediately restore power to any area when directed by either of these agencies.

3. CPSD shall work with the above-mentioned parties and persons in coordinating the protocol for notification and directives and report back to the Commission by September 30, 2009.

4. Customers, communities, and providers of essential services in the areas where power is shut off need as much advance notice as possible before a power shut off event pursuant to the Pilot Power Shut-Off Plan. Today's decision requires SDG&E to provide the first notice a minimum of twelve hours in advance, instead of six hours as proposed by SDG&E. The second notice shall be six hours before the forecasted shut-off event, to the extent possible, instead of two hours as proposed by SDG&E.

5. The Pilot Power Shut-Off Plan shall remain in effect until December 31, 2009. This proceeding will remain open so that the effectiveness of the Pilot Power Shut-Off Plan can be evaluated. Phase II of this proceeding shall

commence in January of 2010, which will allow the Commission, the parties, and the public the opportunity to comment through Workshops and Public Participation Hearings reviewing the Pilot Power Shut-Off Plan and propose any appropriate changes in future de-energizing protocols. A schedule with the dates for Phase II events and deadlines will be issued at a later date.

6. The Commission will form a De-Energizing Safety Oversight Committee (“Oversight Committee”) consisting of representatives from SDG&E, the California Resources Agency (or other State agency with jurisdiction over fire safety and/or emergency preparedness, such as Cal Fire), the San Diego County Fire Authority, City of San Diego Fire Rescue, the San Diego County Sheriff’s Department, the Water Districts in the proposed shut-off area, School Districts in the proposed shut-off area, the Commission’s Consumer Protection and Safety Division, the Commission’s Division of Ratepayer Advocates, Mussey Grade Road Alliance, and Disability Rights Advocates. Names of nominees shall be filed and served within seven days after this decision is adopted. The Commission will make the final decision regarding the membership of the Oversight Committee through a procedural process to be determined. The purpose of the Oversight Committee will be to (1) determine if the proposed criteria for shutting off power are effective in preventing fires; (2) attempt to resolve concerns raised in this proceeding by the San Diego Superintendent of Schools (such as all forms of emergency communications that should be explored; and maintenance of per- pupil funding in the event students are kept out of school due to a notification of shut-off event under the Pilot Power Shut-Off Plan), several municipal water districts, telecommunications providers, and consumers living in the areas that are the subject of the SDG&E’s Pilot Shut-Off Plan; and (3) provide recommendations for best practices in de-energizing

relative to specific rural conditions within SDG&E's service territory affected by this proceeding. The Oversight Committee shall file and serve a written report no later than January 29, 2010.

7. All of the mitigation measures proposed by SDG&E are adopted, including those proposed in SDG&E's Application and those identified at the all-party meeting held on July 6, 2009. These include the opening of evacuation centers; offering free medical transport; providing \$250 debit cards to customers participating in the CARE and Medical Baseline Programs; procuring a pool of 31 large portable generators for use by the School Districts, Water Districts, and evacuation centers; and pre-wiring 110 sites to accommodate the aforementioned portable generators.

8. SDG&E shall track all costs related to its mitigation measures adopted by today's decision in a memorandum account. SDG&E shall file a Tier 1 Advice Letter to establish this memorandum account.

9. Any planned shut off events that occur pursuant to the Pilot Power Shut-Off Plan shall be limited to a maximum of 24 hours. Extensions of this period may be allowed with the approval of Cal Fire or San Diego Office of Emergency Services. SDG&E may also keep power shut off for more than 24 hours if directed to do so by a public safety agency due to a fire in the vicinity of power lines or other emergency conditions.

10. For purposes of this Pilot Power Shut-Off Plan, SDG&E will not be granted absolute tariff immunity for the decision to shut off power.

11. Upon receiving notice of the planned shut off, affected persons can pursue equitable remedies (e.g., seek injunctive relief) with the Commission in the manner set forth, *infra*.



12. So that Essential Customers do not experience higher rates and charges due to increased electric usage brought about by an announced power shut-off event, SDG&E shall revise its tariffs in the manner described in its Application for demand normalization, critical peak pricing, and demand response by filing a Tier 1 advice letter prior to the first shut-off event.

If SDG&E wishes to continue its Pilot Power Shut-Off Plan or submit a revised proposed Shut-Off Plan after December 31, 2009, SDG&E shall file and serve a request to do so by January 29, 2010. Before submitting such a request, SDG&E shall meet with the other members of the Oversight Committee and attempt to reach a consensus. If consensus cannot be reached, the parties may submit competing proposals by February 17, 2010. If SDG&E chooses not to continue with its Pilot Shut-Off Plan after December 31, 2009, or chooses not to submit a revised Power Shut-Off Plan, SDG&E shall file and service notice of its decision by January 29, 2010.

13. SDG&E has authority under §§ 451 and 399.2(a) to shut off power in emergency situations when necessary to protect public safety. Any decision by SDG&E to shut off power may be reviewed by the Commission pursuant to its broad jurisdiction regarding the safety of public utility operations and facilities.

14. PG&E's Tariff Rule 14 was filed to implement direct access and, therefore, does not constitute a reasonable precedent for revising SDG&E's Tariff Rule 14 for the purpose of implementing a power shut-off program with blanket immunity.

15. SDG&E's proposed revisions to Electric Tariff Rule 14 should be granted in part and denied in part in the manner discussed in the body of this decision.

16. To implement the revisions to Tariff Rule 14 adopted by today's decision, in particular, demand normalization and critical peak pricing and demand

response for Essential Customers, SDG&E should file a Tier 1 advice letter within 30 days from the effective date of today's decision.

17. Parties should have the right to seek injunctive relief if SDG&E shuts off power in a manner that is not authorized by today's decision.

18. SDG&E should file a Tier 1 advice letter that contains a map of the shut off area. The map shall be the same one as attached to SDG&E's Informational Filing submitted on April 3, 2009, modified as necessary to reflect customers removed from the shut-off area by the power line undergrounding projects that are the subject of Advice Letter 2075-E.

19. There is no need for evidentiary hearings in this proceeding. This changed determination on the need for hearings should be approved by the Commission in accordance with Rule 7.5 of the Commission's Rules of Practice and Procedure.

20. The following Order should be effective immediately.

## **O R D E R**

**IT IS ORDERED** that:

1. San Diego Gas & Electric Company's proposed Power Shut-Off Plan as set forth in Application (A.) 08-12-021 is granted, in part, as a Pilot Program subject to the conditions set forth in the body of this decision and the preceding conclusions of law.

2. The Pilot Power Shut-Off Plan shall commence on September 10, 2009, and remain in effect until December 31, 2009.

3. San Diego Gas & Electric Company (SDG&E) may file and serve a revised Power Shut-Off Plan in A.08-12-021 that conforms to the requirements set forth in the body of this decision by no later than January 31, 2010. If SDG&E chooses

to not submit a revised Power Shut-Off Plan, it shall file and serve notice of its choice no later than December 31, 2009.

4. San Diego Gas & Electric Company shall file a Tier 1 advice letter within 30 days from the effective date of today's decision to implement the revised Tariff Rule 14 that is described in the body of today's decision.

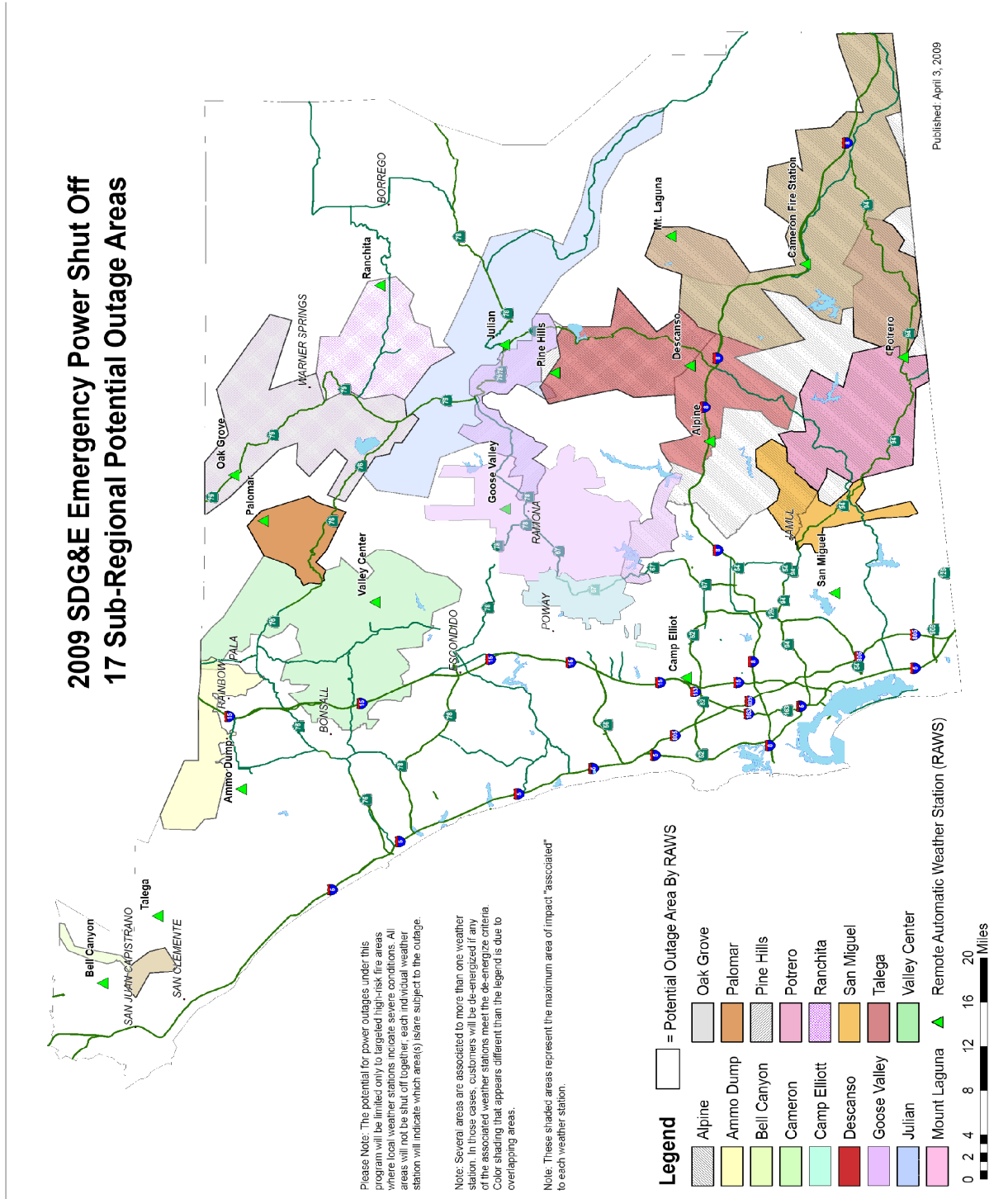
5. There is no need for evidentiary hearings in this proceeding.

6. Application 08-12-021 will remain open until further notice.

This Order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

### Appendix A: Map of the 2009 Power Shut-Off Areas



**INFORMATION REGARDING SERVICE**

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document’s acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today’s date.

Dated August 11, 2009, at San Francisco, California.

/s/ JOYCE TOM

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Joyce Tom