

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

San Diego Gas & Electric Company

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Docket No. ER25-\_\_\_\_-000

**PREPARED DIRECT TESTIMONY OF**

**BRUCE A. FOLKMANN**

**ON BEHALF OF SAN DIEGO GAS & ELECTRIC COMPANY**



**October 30, 2024**

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**PREPARED DIRECT TESTIMONY OF  
BRUCE A. FOLKMANN  
ON BEHALF OF SAN DIEGO GAS & ELECTRIC COMPANY**

**I. INTRODUCTION AND QUALIFICATIONS**

Q. Please state your name, position, and business address.

A. My name is Bruce A. Folkmann. I am President and Chief Financial Officer for San Diego Gas & Electric Company (“SDG&E”). My business address is 8330 Century Park Court, San Diego CA, 92123.

Q. Please describe your current responsibilities.

A. My responsibilities include overseeing the financial planning, budgeting and reporting, treasury management, regulatory, information systems and commercial development for SDG&E.

Q. Please describe your educational and professional background.

A. I graduated summa cum laude from the University of Houston Honors College, receiving degrees in Accounting and Finance. I am a Certified Public Accountant. I began my career with Arthur Anderson and a large multinational company. In 2005, I joined Sempra and have held positions of increasing responsibility in Sempra businesses since that time.

Q. Have you previously testified before this Commission?

A. Yes, in SDG&E’s TO5 formula rate proceeding, ER19-221.

**II. PURPOSE OF TESTIMONY**

Q. What is the purpose of your testimony, and how is it organized?

A. The purpose of my testimony is to provide a general overview of the formula rate tariff, the TO6 Formula, that SDG&E is proposing in this proceeding. In Section

1 III, I provide some background and contextual information about the TO6  
2 Formula. I then discuss the key drivers underlying the changes in SDG&E’s Base  
3 Transmission Revenue Requirements (“BTRR”). Next, in Sections IV-VII, I  
4 provide additional detail on several of these key drivers, and I identify the  
5 SDG&E witnesses who also testify on those issues.

6 **III. OVERVIEW OF TO6 FORMULA FILING**

7 Q. Please briefly describe SDG&E’s TO6 Formula filing.

8 A. SDG&E’s filing proposes a new formula rate tariff mechanism, the TO6 Formula,  
9 as a successor to SDG&E’s approved TO5 Formula.<sup>1</sup> The TO6 Formula is  
10 comprised of Appendix VIII of SDG&E’s TO Tariff, the Formula Rate Protocols,  
11 and the Formula Rate Spreadsheet. Most of the features of SDG&E’s TO6  
12 Formula are consistent with the TO5 Formula. SDG&E witness Adam Currey  
13 highlights the features that have changed.

14 Q. Please explain why SDG&E is proposing to continue its formulaic ratemaking  
15 approach under the TO6 Formula.

16 A. SDG&E has established its revenue requirements using a formulaic ratemaking  
17 approach for two decades. I believe that the TO5 Formula worked well, and  
18 interested parties are familiar with SDG&E’s approach and how the various  
19 components of the revenue requirement are developed each year. Continuing the  
20 formulaic approach here provides stability and consistency for SDG&E and its

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<sup>1</sup> The TO5 Formula was established through an “Offer of Settlement” among the settling parties that SDG&E filed on October 18, 2019 in Docket No. ER19-221. The Commission approved the settlement on March 23, 2020. *San Diego Gas & Elec. Co.*, 170 FERC ¶ 61,240 (2020).

1 stakeholders. I am not aware of any stakeholder that has objected to SDG&E's  
2 formulaic ratemaking approach.

3 Q. What is the BTRR that SDG&E is proposing in the first annual Cycle of the TO6  
4 Formula?

5 A. The TO6 Cycle 1 Retail BTRR is approximately \$1,262 million and CAISO  
6 Wholesale customers BTRR is approximately \$1,258 million.

7 Q. How does that proposed TO5 Cycle 1 BTRR compare to what is currently in  
8 effect in Cycle 6 of the TO5 Formula?

9 A. The TO6 Cycle 1 Retail BTRR represents an increase of approximately 24.24%  
10 compared to the TO5 Cycle 6 BTRR, and a CAISO Wholesale customers BTRR  
11 increase of approximately 24.24 %. Notably, the difference between the TO5  
12 Cycle 6 BTRR and what would have been the TO5 Cycle 7 BTRR is itself  
13 13.96%. This difference is driven primarily by a lower True-up Adjustment over-  
14 collection from the prior year and increases in Transmission Rate Base, O&M and  
15 Depreciation Expense. By comparison, the difference between TO6 Cycle 1 and  
16 TO5 Cycle 5, which was in effect in 2023, is 5.76%.

17 Q. Please identify the key drivers of the change.

18 A. The key drivers are the following:

- 19 1. The True-Up Adjustment associated with prior year collections as  
20 described above;
- 21 2. Return on Equity ("ROE");
- 22 3. Capital structure; and
- 23 4. Change to the allocation methodology for injuries and damages.

1                   Additionally, SDG&E has proposed new depreciation rates resulting from  
2                   a depreciation rate study undertaken in connection with the TO6 Formula, as  
3                   discussed in the testimony of SDG&E witness Dane Watson. Although the  
4                   depreciation rates do not impact the TO6 Formula until 2025, due to the timing of  
5                   the base period and true-up conventions used in the TO6 Formula,<sup>2</sup> this change  
6                   will have an impact on the BTRR in future years.

7   **IV.   SDG&E’S PROPOSED RATE OF RETURN ON EQUITY**

8   Q.   What is SDG&E’s proposed ROE for the TO6 Formula.

9   A.   12.25 percent, reflecting a base ROE of 11.75 percent plus the Order No. 679 50-  
10           basis point adder for SDG&E’s ongoing participation in the California  
11           Independent System Operator (“CAISO”) (the “RTO Adder”).

12   Q.   Please describe SDG&E’s base proposed ROE for the TO6 Formula.

13   A.   SDG&E proposes a base ROE of 11.75 percent, as described in the testimony of  
14           SDG&E’s expert ROE witness Joshua Nowak. Mr. Nowak concludes that,  
15           applying FERC’s ROE methodology, the proposed ROE is appropriate in light of  
16           market conditions, risk, and the need for SDG&E to attract investor capital—  
17           reflecting the ongoing heightened interest rate environment even after the Federal  
18           Reserve’s 50-basis point reduction to the federal funds overnight rate in  
19           September 2024.

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<sup>2</sup> As discussed further by Adam Currey, SDG&E’s TO6 Formula, like its TO5 Formula, uses historic information in the development of the Base Period and True-Up Adjustment. For rates effective in TO6 Cycle 1 (January 1, 2025 through December 31, 2025), the Base Period is the 12 months ended December 31, 2023, and the True-Up Adjustment is 2023 calendar year data, which is applicable to TO5 Cycle 5 (January 1, 2022 through December 31, 2022).

1 Applying Commission precedent,<sup>3</sup> Mr. Nowak established a zone of  
2 reasonableness between 9.45-12.32 percent based on the result of two methods  
3 (DCF and CAPM) applied to a proxy group of thirty companies. As discussed by  
4 Mr. Nowak, the 11.75 percent base ROE is at the upper midpoint of the zone of  
5 reasonableness once that zone is split into tertiles per Commission precedent. This  
6 proposal reflects SDG&E's higher than average wildfire and wildfire liability risk  
7 compared to other regulated utilities outside of California. This is an unmitigated  
8 downside risk uniquely borne by shareholders and thus not fully captured by  
9 SDG&E's credit ratings.

10 Q. Can you please describe in more detail why SDG&E faces above average risks  
11 from wildfires and wildfire liability that should place SDG&E in the above-  
12 average risk tertile.

13 A. As described further in the testimony of Mr. Nowak, despite SDG&E being a  
14 "leader in wildfire prevention,"<sup>4</sup> California electric utilities face unique risks  
15 related to catastrophic wildfires in California from a combination of the higher  
16 risk of wildfires in California and the threat of massive uninsured and  
17 unrecoverable losses for California investor-owned utilities due to California's  
18 application of "inverse condemnation" to utility-caused wildfires. This legal

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<sup>3</sup> See *Ass'n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, Op. No. 569, 169 FERC ¶ 61,129 (2019), *order on reh'g*, Op. No. 569-A, 171 FERC ¶ 61,154, *order addressing reh'g arguments and setting aside prior order in part*, Op. No. 569-B, 173 FERC ¶ 61,159 (2020), *vacated and remanded sub. nom MISO Transmission Owners v. FERC*, 45 F.4th 248 (D.C. Cir. 2022), *Order on Remand*, 189 FERC ¶ 61,036, P 1 (2024) (reversing the portions of Opinion Nos. 569-A and 569-B that include the Risk Premium model and maintain the other modifications to the Commission's ROE methodology set forth in Opinion No. 569, as modified by Opinion Nos. 569-A and 569-B).

<sup>4</sup> S&P Global Ratings, *San Diego Gas & Elec. Co.* (June 26, 2024) ("S&P June 2024") at 2.

1 doctrine makes a California electric utility strictly liable for any wildfire resulting  
2 from the utility's equipment, regardless of fault.

3 Regarding the former, as S&P states, "California's environment remains  
4 highly prone to catastrophic wildfires, continuing to pressure utility credit  
5 quality."<sup>5</sup> Wildfire risk is now a nearly year-round threat in Southern California.  
6 "Wildfires are increasing in size and intensity in the Western United States, and  
7 wildfire seasons are growing longer."<sup>6</sup> Climate change has both lengthened  
8 wildfire seasons and increased fire potential with the amount of available dry  
9 fuels.

10 According to Cal Fire, fifteen of the State's twenty most destructive  
11 wildfires in recorded history have been subsequent to 2007.<sup>7</sup> As credit rating  
12 agencies note, this increased duration of wildfire season and the higher frequency  
13 of wildfire-prone conditions has increased the opportunities for a utility's  
14 equipment to be involved in an ignition, expanding the risks both for the utility  
15 bearing costs and/or not obtaining cost recovery.<sup>8</sup> The ten most destructive  
16 wildfires in the history of the U.S. based on insured losses have all occurred in

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<sup>5</sup> S&P Global Ratings, *How are California Wildfire Risks Affecting Utility Credit Quality?*, (June 3, 2021) at 1; accord Moody's Investors Service, *San Diego Gas & Elec. Co., Update to credit analysis following upgrade to A3* (May 10, 2021) at 5.

<sup>6</sup> See The New York Times, *Hotter Summer Days Mean More Sierra Nevada Wildfires, Study Finds* (November 17, 2020), available at <https://www.nytimes.com/2021/11/17/climate/climate-change-wildfire-risk.html>.

<sup>7</sup> See <http://large.stanford.edu/courses/2022/ph240/chunduru1/docs/calfire-24oct22.pdf>.

<sup>8</sup> Moody's Investor Services, *San Diego Gas & Elec. Co.*, (Dec. 4, 2023) ("Moody's Dec. 2023") at 1, 7.



1 California.<sup>9</sup> Due to California’s higher population density, higher property values,  
2 and many new housing developments being constructed near or in the what the  
3 CPUC has determined to be “High Fire Threat Districts,” damages caused by  
4 wildfires in California are more costly than in other states.

5 Q. Can you please explain how California’s inverse condemnation standard  
6 contributes to SDG&E’s above-average wildfire risks?

7 A: This enhanced wildfire threat is exacerbated by inverse condemnation, which, as  
8 noted, makes California electric utilities strictly liable for liability damages  
9 caused by their own facilities, regardless of fault and/or other causes.<sup>10</sup> These  
10 liabilities may include homeowner insurance claims, uninsured property damage  
11 claims, business interruptions, agricultural damages, emotional harm, personal  
12 injuries, and other losses.

13 In 2007, the Witch, Guejito, and Rice fires were associated with SDG&E’s  
14 equipment. SDG&E settled approximately \$2.4 billion of the \$4 billion in total  
15 damage claims but SDG&E was only able to offset that liability with an insurance  
16 reimbursement of \$1.1 billion, cost recovery of almost \$80 million, and  
17 settlements with third parties of \$827 million.

18 Q. How have SDG&E’s credit ratings been impacted by its wildfire and wildfire  
19 liability risks?

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<sup>9</sup> See Insurance Information Institute, *Facts + Statistics: Wildfires*, available at <https://www.iii.org/fact-statistic/facts-statistics-wildfires>.

<sup>10</sup> See *id.* at 7 (Under inverse condemnation, “utilities are strictly liable for damages from fires ignited by their equipment, regardless of fault or how reasonably they acted.”).

1 A. The combination of high wildfire risk and the significant costs associated with  
 2 that risk have resulted in SDG&E’s ratings being reduced two notches below the  
 3 A-credit rating that SDG&E had in 2018 from all three credit rating agencies  
 4 following significant wildfires in the state in 2018-2019 and Pacific Gas and  
 5 Electric Company (“PG&E”) on January 29, 2019 filing for Chapter 11  
 6 bankruptcy protection based, at least in part, on risk and potential liability from  
 7 wildfires.<sup>11</sup> That is, SDG&E’s credit ratings were repeatedly downgraded in 2018  
 8 and early 2019 due to the unique risk from wildfires and wildfire liability related  
 9 to inverse condemnation in California compared to utilities outside the state—  
 10 despite SDG&E not being the cause of a significant wildfire since 2007 and the  
 11 utility repeatedly being lauded for its wildfire mitigation efforts.

12 **Figure 1: SDG&E’s Credit Ratings 2018-2024**

Agency	Date	Rating
S&P	Jul 9, 2018	A
	Sep 5, 2018	A-
	Jan 21, 2019	BBB+
Moody’s	Apr 11, 2018	A1
	Sep 6, 2018	A2
	Mar 5, 2019	Baa1
	Mar 30, 2021	A3
Fitch	Apr 20, 2018	A
	Sep 13, 2018	A-
	Jan 22, 2019	A-
	Mar 11, 2019	BBB+

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 14 As S&P recently stated, despite viewing SDG&E as a “global leader in  
 15 wildfire prevention,” S&P assesses SDG&E’s business risk profile at the “lower

<sup>11</sup> See PG&E Corporation, *PG&E Files for Reorganization Under Chapter 11* (January 29, 2019), available at [http://www.pgecorp.com/news/press\\_releases/Release\\_Archive2019/190129press\\_release.shtml](http://www.pgecorp.com/news/press_releases/Release_Archive2019/190129press_release.shtml).

1 end of our range for the excellent category” because “the threat of wildfires in its  
2 service territory [i]s high relative to that of its utility peers across North  
3 America.”<sup>12</sup>

4 Q. What is the impact of California Assembly Bill (“AB”) 1054?

5 A. AB 1054 was signed into law on July 12, 2019. As Moody’s states, there are three  
6 primary sources of wildfire liability risk reduction from that legislation: (1) it  
7 creates liquidity through the creation of a \$21 billion wildfire fund that a utility  
8 can immediately use to pay claims and then reimburse the fund later if there are  
9 any disallowances should the utility be deemed imprudent; (2) it caps the amount  
10 that the utility would have to reimburse the fund at 20% of the equity portion of  
11 the utility’s rate base; and (3) it revises the prudence standard that applies at the  
12 CPUC if the utility has a valid state safety certification.<sup>13</sup>

13 Q. Has AB 1054 mitigated SDG&E’s wildfire threat?

14 A. Although AB 1054’s establishment of a wildfire fund with a cap on expenses  
15 meaningfully reduces risks, it does not eliminate them. This is reflected in the fact  
16 that, while Moody’s raised SDG&E’s credit rating one notch in 2021, SDG&E’s  
17 credit ratings remain at least two notches lower from all three credit rating  
18 agencies even after AB 1054’s passage. As Moody’s states, exposure to wildfire  
19 risk continues to “temper[] SDG&E’s credit quality,” even after AB 1054’s  
20 passage, resulting from the “combination of (i) severe wind events; (ii) growing  
21 housing developments in fire-prone areas; and (iii) the California courts’

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<sup>12</sup> S&P June 2024 at 4-5.

<sup>13</sup> Moody’s Dec. 2023 at 7-8.

1 application of the inverse condemnation doctrine, which heightens the utilities'  
2 risk exposure to property damage.”<sup>14</sup>

3 In addition, as discussed further in the testimony of Mr. Nowak, the  
4 wildfire fund has no replenishment mechanism. If the “fund’s claim paying  
5 capability is exhausted, the majority of the credit supportive elements, including  
6 the liability cap, will terminate.”<sup>15</sup> Fitch thus states that “SDG&E’s risk profile is  
7 upwardly constrained because the availability of the insurance fund is subject to  
8 mitigation efforts and claims by other utilities. Additionally, inverse  
9 condemnation can still be applied in California.”<sup>16</sup>

10 Q. Have other agencies or analysts beyond credit rating agencies determined that  
11 SDG&E faces above-average wildfire risks not experienced by other utilities?

12 A. Yes. The Federal Energy Management Agency currently ranks San Diego County  
13 as the most at-risk California county for wildfires.<sup>17</sup> As noted, the CPUC has  
14 classified 57% of SDG&E’s service territory as being in a High Fire Threat  
15 District.

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<sup>14</sup> *Id.* at 1, 7

<sup>15</sup> *Id.* at 8.

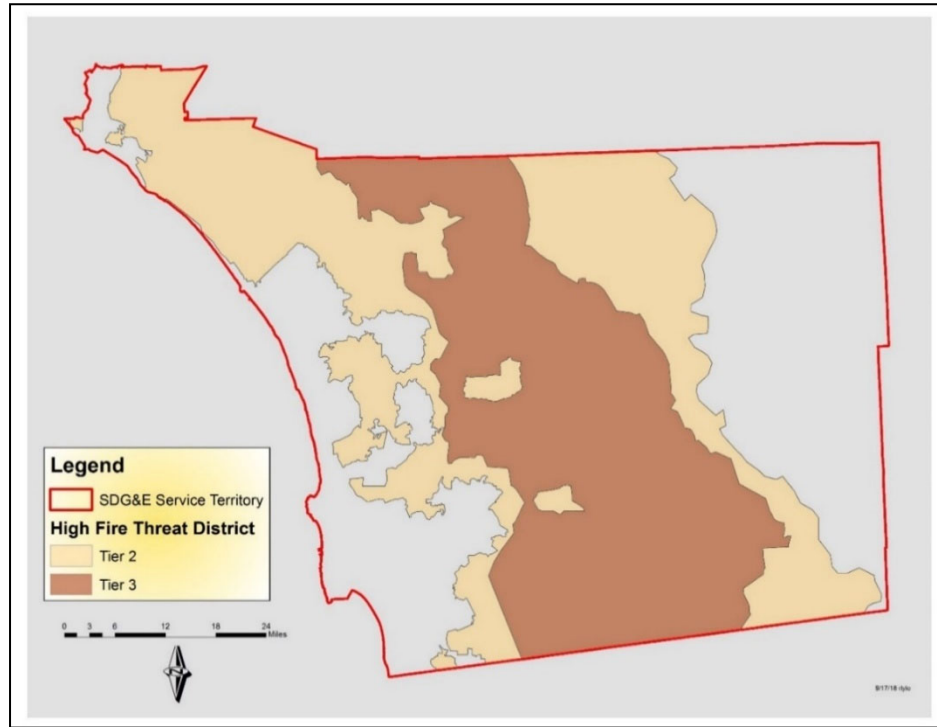
<sup>16</sup> Fitch Ratings, *Fitch Rates San Diego Gas and Electric Company’s First Mortgage Bonds ‘A’*, (Mar. 18, 2024) at 2.

<sup>17</sup> *See*

<https://hazards.fema.gov/nri/report/viewer?dataLOD=Counties&dataIDs=C06073,C06065,C06025,C06071,C06079,C06029,C06111,C06083,C06037,C06059,C06107,C06031,C06053,C06019,C06027,C06039,C06085,C06001,C06013,C06087#SectionRiskIndex>; *see also* <https://www.10news.com/news/local-news/fema-ranking-shows-san-diego-county-tops-list-of-most-at-risk-for-wildfires-in-southern-california#:~:text=FEMAranks%20San%20Diego%20County,to%20date%20with%20possible%20evacuations>.

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**Figure 2: SDG&E Service Territory and High Fire Threat District Boundaries**



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And as the table shows below, investor analysts discount SDG&E and other California utilities' equity valuation relative to the average regulated utility; meaning that SDG&E and other California electric utilities carry a risk premium for their above-average risks.

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**Figure 3: Investor Analysts Valuation Discount**

Date	Bank / Equity Analyst	Valuation Discount	Commentary
August 6, 2024	Wells Fargo	-11%	Discounted multiple reflects lingering risks related to CA's inverse condemnation policy and highly politicized regulatory environment. <sup>18</sup>
August 6, 2024	Evercore	10%	We continue to value SDG&E . . . by applying a 10% discount . . . due to wildfire liability issues associated with inverse condemnation. <sup>19</sup>

<sup>18</sup> Wells Fargo, *Sempra Energy (SRE) SRE: ECA Delay Rains on TX Parade* (Aug. 6, 2024) at 3.

<sup>19</sup> Evercore ISI, *Sempra Energy* (Aug. 6, 2024) at 2.

Date	Bank / Equity Analyst	Valuation Discount	Commentary
August 23, 2023	Barclays	10%	We apply a -10% discount to the FY25 Electric group multiple for SDG&E. We see the discounts as reasonable given the state’s inverse condemnation framework (electric) <sup>20</sup>
January 19, 2022	Bank of America Securities	-2.0x (equivalent to 11%)	We continue to apply a -2x discount to reflect above-average wildfire risk (albeit below that for Northern California peers) and uncertainty on the gas LDC’s longer-term prospects as the state takes actions to reduce consumption. <sup>21</sup>
June 30, 2021	Morgan Stanley	-10%	We value the CA utilities at a 10% discount to peers as the above-average rate base growth outlook is counterbalanced by a challenging regulatory and political backdrop along with heightened fire risk. <sup>22</sup>
June 29, 2021	Vertical Research Partners	-7.5%	We continue to apply a 7.5% California utility discount...to our 17.5x 2023E regulated target multiple. <sup>23</sup>

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Q. Does SDG&E face other relevant risks different from utilities outside of California?

A. Yes. SDG&E faces numerous public policy goal challenges, including decarbonization goals that are as aggressive, if not more aggressive, than any in the country. As Moody’s has stated, “SDG&E’s credit is also constrained by our view that political risk, in terms of media attention and the demand on utilities to implement the state’s clean energy policy goals, is higher in California compared to most other jurisdictions in the US.”<sup>24</sup>

<sup>20</sup> Barclays, *Initiating Coverage: Down But Not Out* (Aug. 22, 2023) at 111.

<sup>21</sup> BofA Global Research, *Sempra Energy, Setting the Stage for CAGR Launch: Depends Where You Start* (January 19, 2022) at 9.

<sup>22</sup> Morgan Stanley, *Sempra Energy North America, Analyst Day Takeaways* (June 30, 2021), (“Morgan Stanley June 30, 2021”) at 2.

<sup>23</sup> Vertical Research Partners, *Sempra Energy (SRE) Infrastructure is the new Energy* (June 29, 2021), at 1.

<sup>24</sup> Moody’s Dec. 2023 at 1.

1                   SDG&E also faces challenges from extremely high solar rooftop adoption  
2                   in its service territory. This heavy rooftop solar adoption presents risks, given the  
3                   Company's current system design and volumetric based rate structure, and puts  
4                   SDG&E in a distinct position on two fronts. First, high levels of customer DER  
5                   adoption under today's current volumetric rate structure impedes SDG&E's  
6                   ability to collect the cost of utility infrastructure investments equitably from all  
7                   customers, impacting the ability to make needed investments for safety and  
8                   reliability.<sup>25</sup> Second, it introduces reliability risk, as SDG&E must be prepared to  
9                   provide service to all customers.

10 Q.    Is SDG&E requesting the RTO Adder for its participation in CAISO?

11 A.    Yes, SDG&E is requesting the 50-basis point RTO Adder for its continuing  
12           participation in CAISO. As noted, adding the 50-basis point RTO Adder to  
13           SDG&E's proposed base ROE results in a total ROE request of 12.25 percent in  
14           this TO6 Formula. This total proposed ROE is within the composite ROE range  
15           identified by Mr. Nowak of 9.45 percent to 12.32 percent.

16 Q.    Has SDG&E been awarded the RTO Adder for CAISO participation in the past?

17 A.    Yes, SDG&E has received the RTO Adder for CAISO participation since 2007.  
18           Most recently, when SDG&E filed its TO5 Formula in October 2018, it proposed  
19           continued receipt of the RTO Adder for ongoing CAISO participation. SDG&E's

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<sup>25</sup> CPUC, *Utility Costs and Affordability of the Grid of the Future: An Evaluation of Electric Costs, Rates, and Equity Issues Pursuant to P.U. Code Section 913.1* (May 2021) ("White Paper") at 6 (noting that California's net energy metering framework for rooftop solar customers shifts costs from rooftop solar owners to often lower-income and otherwise vulnerable customers).

1 TO5 Formula rate settlement included the RTO Adder for CAISO participation,<sup>26</sup>  
2 which the Commission approved.<sup>27</sup>

3 Q. Are you aware that the Commission denied PG&E's request for the RTO Adder  
4 for CAISO participation going forward in *Pacific Gas and Electric Co.*, 185  
5 FERC ¶ 61,243 (2023), *affirmed on different reasoning*, *Pacific Gas and Electric*  
6 *Co.*, 187 FERC ¶ 61,167 (2024) (“PG&E”).

7 A. Yes. I understand that the Commission granted summary disposition against  
8 PG&E's request to receive the RTO Adder going forward on December 29, 2023,  
9 on the basis that PG&E's CAISO participation was no longer voluntary and thus  
10 that PG&E was no longer entitled to the RTO Adder under Commission  
11 precedent. That decision was based on the Commission's interpretation that  
12 California state law Assembly Bill (“AB”) AB 209, which passed in September  
13 2022 after the Ninth Circuit affirmed the Commission's finding in March 2022 in  
14 *CPUC v. FERC*, 29 F.4th 454 (9th Cir. 2022) that PG&E's CAISO participation  
15 was voluntary under then-existing California law,<sup>28</sup> requires CPUC approval for  
16 PG&E to withdraw from CAISO.<sup>29</sup> Because PG&E could not “unilaterally  
17 withdraw” from CAISO, the Commission found that PG&E's participation was  
18 no longer voluntary.<sup>30</sup>

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<sup>26</sup> *SDG&E Submits Tariff Filing per 385:602: SDG&E TO5 Formula Rate Settlement*, Offer of Settlement § 1.5.1 (Filed October 2019).

<sup>27</sup> *San Diego Gas & Elec. Co.*, 170 FERC ¶ 61,240 (2020).

<sup>28</sup> *CPUC*, 29 F.4th 454.

<sup>29</sup> 185 FERC ¶ 61,243, P 39.

<sup>30</sup> *Id* at P 42.



1 I also understand that, on rehearing, the Commission changed its  
2 reasoning as to why PG&E's CAISO participation was not voluntary while  
3 reaching the same result. The Commission on rehearing found that AB 209  
4 required PG&E to participate in CAISO without the CPUC having any authority  
5 to approve a request from PG&E to withdraw.<sup>31</sup>

6 Q. Why does SDG&E request the RTO Adder given those Commission Orders  
7 regarding PG&E?

8 A. SDG&E maintains that those Commission orders were wrongly decided, as  
9 reflected in SDG&E's request for rehearing and subsequent appeal of those orders  
10 to the United States Court of Appeals for the Ninth Circuit in *Pacific Gas and*  
11 *Electric Company, et al. v. FERC*, Case Nos. 24-2527 and 24-3786. That appeal  
12 remains pending. For the reasons explained in the Petitioners' opening brief in the  
13 Ninth Circuit, the Commission erred in interpreting AB 209, as reflected in  
14 Section 362(c) of the California Public Utilities Code, as making PG&E's RTO  
15 participation involuntary. The Commission's rehearing order interpretation that  
16 PG&E cannot withdraw from CAISO, even with CPUC approval, is contrary to  
17 Section 362(c)'s statutory text. In revising Section 362(c), the legislature sought  
18 to ratify authority that the CPUC had longed claimed to review applications to  
19 join or withdraw from CAISO. Under a correct reading of Section 362(c), PG&E  
20 is free to withdraw from CAISO participation subject to regulatory approval.

21 As noted, in the initial *PG&E* order, FERC took a different position,  
22 agreeing that the CPUC could approve PG&E's request to withdraw from CAISO

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<sup>31</sup> 187 FERC ¶ 61,167, P 37.

1 under Section 362(c), but holding that PG&E’s participation nevertheless was  
2 involuntary because PG&E could not “*unilaterally* withdraw” from CAISO.<sup>32</sup>  
3 But, as SDG&E argued on rehearing, the need to obtain CPUC approval before  
4 withdrawing does not mean that PG&E’s continued membership is involuntary.  
5 Regulatory approval is routinely required for actions utilities seek to undertake,  
6 but the decision whether to take such actions and seek necessary approvals is still  
7 voluntary. Indeed, the Commission itself reviews utilities’ requests to withdraw  
8 from RTOs yet does not believe that the need to obtain FERC approval makes  
9 utilities’ participation in RTOs involuntary.

10 Moreover, even if Section 362(c) did purport to require RTO membership,  
11 it was incorrect for the Commission to rely on that state statute to deny PG&E the  
12 RTO Adder because, under the FPA and the Supremacy Clause, states have no  
13 power to compel utilities to join RTOs. The law is thus field preempted. The  
14 Commission’s interpretation of 362(c) to mandate RTO membership also results  
15 in conflict preemption because Congress made RTO participation voluntary.  
16 Finally, Federal Power Act Section 219(c)’s plain text does not allow FERC to  
17 distinguish between utilities that join an RTO voluntarily rather than by state  
18 mandate.

19 Q. Does the Petition for Declaratory Order and Conditional Complaint filed May 31,  
20 2024 in Docket No. EL24-115 (“Complaint”) impact SDG&E requesting the RTO  
21 Adder here?

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<sup>32</sup> 185 FERC ¶ 61,243, P 39.

1 A. No. That filing relies on California's passage of AB 209 and the Commission's  
2 December 29, 2023 order in *PG&E* to, among other things, seek a Commission  
3 order finding that SDG&E's inclusion of the RTO Adder in its TO5 Formula  
4 going forward is unjust and unreasonable. For the same reasons discussed above,  
5 and as described in its answer to the Complaint, SDG&E continues to qualify for  
6 the RTO Adder.

7 **V. CAPITAL STRUCTURE PROPOSAL**

8 Q. Please describe SDG&E's capital structure proposal.

9 A. SDG&E's TO6 Formula capital structure will still be based on the values reported  
10 in SDG&E's FERC Form 1, similar to the TO5 Formula. But as further described  
11 in the testimony of Adam Currey, SDG&E will make new adjustments on top of  
12 SDG&E's actual capital structure to account for non-rate base transactions and to  
13 exclude CPUC-jurisdictional wildfire disallowances that impact SDG&E's  
14 common equity.

15 Q. What adjustments is SDG&E making for non-rate base transactions?

16 A. SDG&E is proposing to remove the impact of its \$451.5 million in contributions  
17 to the AB 1054 California wildfire fund from the calculation of its capital  
18 structure consistent with FERC precedent to remove amounts that are not  
19 available for rate base investment.<sup>33</sup> To do so, SDG&E will add back to equity the  
20 after-tax charges to earnings.

21 Q. What other adjustments is SDG&E proposing to make to the calculation of capital  
22 structure in TO6?

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<sup>33</sup> *El Paso Nat. Gas*, 139 FERC ¶ 61,095, PP 86, 90 (2012).

1 A. SDG&E will remove from common equity the \$208 million after-tax charge  
2 SDG&E took in 2017 related to wildfire claims in excess of liability  
3 insurance coverage, cost recovery, and settlements with third parties due to the  
4 2007 wildfires in SDG&E's service territory.

5 Q. Why is SDG&E requesting this adjustment now?

6 A. SDG&E's equity as a result of those liabilities is forever gone and leaves SDG&E  
7 in a common equity deficit relative to where SDG&E would otherwise be.

## 8 **VI. INJURIES AND DAMAGES ALLOCATION FACTOR**

9 Q. Please describe the change to SDG&E's Injuries and Damages Allocation Factor.

10 A. As discussed further by Adam Currey, SDG&E has added a line to Statement AH  
11 to recover costs in FERC 925 – Injuries and Damages using a new blended labor  
12 and plant allocation factor. The new allocation factor, Transmission Wages and  
13 Plant Blended Allocation Factor is equal to the average of the Transmission  
14 Wages and Salaries Allocation Factor and the Transmission Plant Allocation  
15 Factor.

16 Q. What is the impact from this change?

17 A. The change in SDG&E's injuries and damages allocation factor results in an  
18 increase in SDG&E's prior year revenue requirement, resulting from higher  
19 operations and maintenance expenses, depreciation expenses, property taxes,  
20 transmission rate base, and administrative and general expenses due to a new  
21 allocation methodology for injuries and damages.

## 22 **VII. DEPRECIATION RATES**

23 Q. Please describe the changes to depreciation rates that SDG&E proposes.

- 1 A. Expert witness Dane Watson has prepared a transmission depreciation rate study  
2 as part of SDG&E's TO6 Formula rate filing. As a result of that study, Mr.  
3 Watson proposes a composite depreciation rate of 3.11 percent, compared to a  
4 composite depreciation rate of 2.97 percent under SDG&E's TO5 Formula. Mr.  
5 Watson's depreciation rate study also sets forth transmission depreciation rates for  
6 each account.
- 7 Q. Why has SDG&E's depreciation expense increased in the TO6 Formula, as  
8 compared to the TO5 Formula?
- 9 A. The primary driver in the change in depreciation expense is the increase in  
10 negative net salvage for three accounts. This increase is partially offset by Mr.  
11 Watson's proposing longer service lives for four accounts.
- 12 Q. Does this complete your testimony?
- 13 A. Yes.

**VERIFICATION**

Bruce A. Folkmann hereby declares under penalty of perjury of the laws of the United States that the foregoing document is true and correct to the best of his knowledge and belief. *See* 28 U.S.C. § 1746.

Executed this 30th day of October, 2024

*/s/ Bruce A. Folkmann*  
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Bruce A. Folkmann