



ADVICE LETTER SUMMARY

ENERGY UTILITY



MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No.:

Utility type:

ELC GAS WATER
 PLC HEAT

Contact Person:

Phone #:
E-mail:
E-mail Disposition Notice to:

EXPLANATION OF UTILITY TYPE

ELC = Electric GAS = Gas WATER = Water
PLC = Pipeline HEAT = Heat

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #:

Tier Designation:

Subject of AL:

Keywords (choose from CPUC listing):

AL Type: Monthly Quarterly Annual One-Time Other:

If AL submitted in compliance with a Commission order, indicate relevant Decision/Resolution #:

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL:

Summarize differences between the AL and the prior withdrawn or rejected AL:

Confidential treatment requested? Yes No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required? Yes No

Requested effective date:

No. of tariff sheets:

Estimated system annual revenue effect (%):

Estimated system average rate effect (%):

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected:

Service affected and changes proposed¹:

Pending advice letters that revise the same tariff sheets:

¹Discuss in AL if more space is needed.

Protests and all other correspondence regarding this AL are due no later than 20 days after the date of this submittal, unless otherwise authorized by the Commission, and shall be sent to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102
Email: EDTariffUnit@cpuc.ca.gov

Name:
Title:
Utility Name:
Address:
City:
State: Zip:
Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

Name:
Title:
Utility Name:
Address:
City:
State: Zip:
Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

ENERGY Advice Letter Keywords

Affiliate	Direct Access	Preliminary Statement
Agreements	Disconnect Service	Procurement
Agriculture	ECAC / Energy Cost Adjustment	Qualifying Facility
Avoided Cost	EOR / Enhanced Oil Recovery	Rebates
Balancing Account	Energy Charge	Refunds
Baseline	Energy Efficiency	Reliability
Bilingual	Establish Service	Re-MAT/Bio-MAT
Billings	Expand Service Area	Revenue Allocation
Bioenergy	Forms	Rule 21
Brokerage Fees	Franchise Fee / User Tax	Rules
CARE	G.O. 131-D	Section 851
CPUC Reimbursement Fee	GRC / General Rate Case	Self Generation
Capacity	Hazardous Waste	Service Area Map
Cogeneration	Increase Rates	Service Outage
Compliance	Interruptible Service	Solar
Conditions of Service	Interutility Transportation	Standby Service
Connection	LIEE / Low-Income Energy Efficiency	Storage
Conservation	LIRA / Low-Income Ratepayer Assistance	Street Lights
Consolidate Tariffs	Late Payment Charge	Surcharges
Contracts	Line Extensions	Tariffs
Core	Memorandum Account	Taxes
Credit	Metered Energy Efficiency	Text Changes
Curtable Service	Metering	Transformer
Customer Charge	Mobile Home Parks	Transition Cost
Customer Owned Generation	Name Change	Transmission Lines
Decrease Rates	Non-Core	Transportation Electrification
Demand Charge	Non-firm Service Contracts	Transportation Rates
Demand Side Fund	Nuclear	Undergrounding
Demand Side Management	Oil Pipelines	Voltage Discount
Demand Side Response	PBR / Performance Based Ratemaking	Wind Power
Deposits	Portfolio	Withdrawal of Service
Depreciation	Power Lines	

December 8, 2020

California Public Utilities Commission
Energy Division, Attention: Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, CA 94102-3298

SDCP Advice Letter 20-2

RE: SUBMITTAL OF COMMUNITY CHOICE AGGREGATOR (CCA) FINANCIAL SECURITY REQUIREMENT INSTRUMENT IN COMPLIANCE WITH RESOLUTION E-5059

PURPOSE

San Diego Community Power (“SDCP”) hereby submits its Community Choice Aggregator (“CCA”) Financial Security Requirement (“FSR”) Instrument pursuant to Resolution E-5059. SDCP is a new CCA program that is forming in San Diego Gas & Electric (“SDG&E”) territory and will begin serving customers in March 2021.

BACKGROUND

Assembly Bill (“AB”) 117 enacted requirements designed to ensure that bundled service customers of investor-owned utilities (“IOUs”) are indifferent to the costs of electricity customers migrating to and from CCA programs. Public Utilities Code Section 394.25(e) established consumer protections that require CCAs to post financial security to cover the reentry fees that would be imposed on CCA customers in the event these customers are involuntarily returned en masse to IOU service. The Commission issued Decision (“D.”) 18-05-022 on June 7, 2018, which found that Public Utilities Code Section 394.25(e) requires the implementation of both a reentry fee and a corresponding financial security requirement (“FSR”) to address the costs of a potential mass involuntary return of CCA customers to utility service.¹ The FSR represents the estimated amount that would be required to cover IOU administrative and procurement costs resulting from a mass involuntary return.² D.18-05-022 established the methods for calculating re-entry fees and financial security amounts and established a minimum CCA financial security amount of \$147,000.³

D.18-05-022 ordered each CCA to submit a compliance advice letter to Energy

¹ D.18-05-022 at 14; Conclusions of Law 1.

² *Id.*; Conclusions of Law 2.

³ *Id.* at 16; Ordering Paragraph 9.

Division, providing notice of compliance with the FSR and requesting the return of any interim financial security posted with the Commission.⁴ D.18-05-022 determined that letter of credit, surety bonds, or cash held by a third-party are among the acceptable instruments to satisfy the FSR.⁵ D.18-05-022 further ordered the amount of the FSR to be updated twice per year to reflect the change to forecasted procurement and administrative costs if the change in the amount of the reentry fees is greater than 10 percent.⁶

On August 15, 2018, Pacific Gas & Electric (“PG&E”) filed AL 5354-E, Southern California Edison (“SCE”) filed AL 3840-E, and San Diego Gas & Electric (“SDG&E”) filed AL 3257-E (collectively “IOU Advice Letters”) seeking CPUC approval of proposed revisions to the three IOUs tariffs to define and calculate the CCA financial security requirements and reentry fees pursuant to D.18-05-022. On September 4, 2018, the California Community Choice Association (“CalCCA”) protested the IOU Advice Letters arguing that the IOU Advice Letters were overly broad and went beyond the scope of D.18-05-022.⁷

On October 9, 2020 the Commission issued Resolution E-5059, partially approving the IOU Advice Letters and directing the CCAs to post new financial security instruments within 60 days of the Resolution. The Resolution adopted the proposed tariff revisions that were specifically directed in D.18-05-022 but rejected those proposed revisions that did not comply with the decision.⁸ The Resolution determined that the FSR instrument will govern the rights and obligations of the parties and shall be based on commercially reasonable and accepted terms and conditions.⁹ The Resolution further states that the CCA FSR instrument may only be drawn upon in the event of an involuntary return, or as mutually agreed upon in, or pursuant to, the terms of the FSR instrument.¹⁰ Finally, the Resolution found that a utility may not terminate CCA service for failure to post its FSR instrument without an order of the CPUC.¹¹

The Resolution further rejected PG&E and SDG&E’s revisions to language defining an involuntary return and ordered PG&E and SDG&E to refile tariff sheets with language that is consistent with SDG&E Electric Rule 27 and PG&E Electric Rule

⁴ *Id.*; Ordering Paragraph 10.

⁵ *Id.*; Ordering Paragraph 7.

⁶ *Id.* at 10.

⁷ See California Community Choice Association’s Protest of PG&E Advice Letter 5354-E, SDG&E Advice Letter 3257-E, and SCE’s Advice Letter 3840-E as Related to Tariff Revisions to Implement Decision 18-05-022.

⁸ Resolution E-5059 at 2.

⁹ *Id.* at 26.

¹⁰ *Id.* at 27.

¹¹ *Id.* at 16.

22.¹² The Resolution also ordered the IOUs to refile their tariff sheets to clarify: (i) the terms of the FSR are subject to mutual agreement by the IOU, the CCA, and the third-party issuer of the FSR instrument, (ii) failure of the CCA to post the FSR instrument within the sixty-days may be grounds for the CCA's involuntary service suspension by the CPUC, (iii) the IOU may not terminate CCA service without approval from the CPUC, and (iv) the Involuntary Return Process as provided for in the Resolution.¹³ SDG&E filed its revised tariff sheets via Tier 1 advice letter on November 9, 2020, to conform with Resolution E-5059.¹⁴

Subsequently, on November 10, 2020, SDG&E issued Advice Letter 3646-E, updating CCA FSR requirements pursuant to D. 18-05-022 and calculating an FSR amount for SDCP for the first time. Upon review of Advice Letter 3646-E, SDCP discovered certain deficiencies and lack of clarity related to SDG&E's application of the methodology prescribed in D. 18-05-022 as well as the due date for the FSR posting. SDCP filed a protest describing the issues and proposed how to resolve them.¹⁵ While SDG&E's Advice Letter 3646-E should have no bearing on the FSR posting due at the present time, out of an abundance of caution SDCP has requested an extension of the compliance deadline in the event that the Commission determines otherwise.¹⁶ The extension was granted.¹⁷ Nevertheless, SDCP has taken all the steps necessary to meet the FSR requirements and make the required posting by today's due date as set forth in this advice letter.

FINANCIAL SECURITY REQUIREMENT INSTRUMENT

Under Resolution E-5059, a CCA has complied with the FSR posting requirements when the CCA has demonstrated that the financial instrument has been formed, and the IOU made its obligee, recipient, or equivalent.¹⁸ Appendix A to this advice letter contains a copy of the FSR instrument in the form of a pro forma letter of credit that SDCP has executed, thereby satisfying the posting requirement. The executed copy contains confidential information and is not being included with this advice letter. In the event that an involuntary return occurs, the utility shall file a Tier 1 advice letter within 30 days of the involuntary return to notify the Commission that the return has

¹² *Id.* at 26; Ordering Paragraph 3.

¹³ *Id.* at 26-27; Ordering Paragraph 4.

¹⁴ See SDG&E Advice Letter 3257-E-A, November 09, 2020.

¹⁵ See Protest of San Diego Community Power to San Diego Gas & Electric Company's Advice Letter 3646-E Updating Community Choice Aggregator Financial Security Requirements For November 2020 Pursuant to Decision 18-05-022, November 30, 2020.

¹⁶ Request for an Extension of San Diego Community Power's December 8, 2020, and January 1, 2021 Financial Security Requirement Posting Due Dates, December 2, 2020.

¹⁷ Letter from California Public Utilities Commission Acting Executive Director Rachel Peterson to Ty Tosdal, Attorney for San Diego Community Power, December 8, 2020 (granting extension of compliance deadline).

¹⁸ *Id.* at 26; Findings of Fact 17.

occurred and to set forth the reentry fee calculation.¹⁹ The form and terms of the attached FSR instrument, including the specific conditions under which the FSR is activated, have been mutually agreed upon between SDCP and SDG&E.

SDCP previously posted an interim FSR of \$100,000 with the Commission in compliance with Resolution E-4133. Per Resolution E-5950 and D.18-05-002, any interim financial security bond posted with the CPUC should be returned to the posting CCA when the CCA complies with the financial security requirements as described in Resolution E-5059.²⁰ Through this advice letter, SDCP is requesting the return of the interim FSR amount of \$100,000.

EFFECTIVE DATE

SDCP requests that this Tier 1 Advice Letter become effective on December 8, 2020, which is the date of this submission.

APPENDICES

Appendix A: Pro Forma Letter of Credit

PROTESTS

Anyone wishing to protest this advice filing may do so by letter via U.S. Mail, facsimile, or electronically, any of which must be received no later than 20 days after the date of this advice filing. Protests should be mailed to:

CPUC, Energy
Division Attention:
Tariff Unit 505 Van
Ness Avenue
San Francisco, California 94102
E-mail: EDTariffUnit@cpuc.ca.gov

Copies should also be mailed to the attention of the Director, Energy Division, Room 4004 (same address above). In addition, protests and all other correspondence regarding this Advice Letter should also be sent by letter or electronically to the attention of the following individuals:

Bill Carnahan, CEO
San Diego Community Power
1200 Third Street, 18th Floor
San Diego, CA 92101-4195
bcarnahan@sdcommunitypower.org

¹⁹ *Id.* at 27; Ordering Paragraph 7.

²⁰ *Id.* at 5; *See also* D.18-05-022 at 11.

and;

Ty Tosdal
Tosdal APC
777 S. Highway 101, Suite 215
Solana Beach, CA 92075
ty@tosdalapc.com

There are no restrictions on who may file a protest, but the protest shall set forth specifically the grounds upon which it is based and shall be submitted expeditiously.

Respectfully,

/s/ Bill Carnahan

Bill Carnahan, CEO
San Diego Community Power
1200 Third Street, 18th Floor
San Diego, CA 92101-4195
bcarnahan@sdcommunitypower.org

Appendix A

Pro Forma Letter of Credit

U.S. Bank National Association
Global Documentary Services
555 S.W. Oak Street, Suite 400-P
Portland, Oregon U.S.A. 97204
Fax: (503) 464-4125
Phone: (503) 464-3700

Issue Date: (Issue date)

IRREVOCABLE STANDBY LETTER OF CREDIT NO. XXXX

BENEFICIARY:

San Diego Gas & Electric Company
Quantitative Risk and Major Markets Credit
8326 Century Park Court CP21C
San Diego, CA 92123

APPLICANT:

San Diego Community Power
9601 Ridgehaven Ct.
San Diego, CA 92123

AMOUNT:

[amount]

EXPIRATION DATE:

[one year from issuance] at our counters

Ladies and Gentlemen:

We have been informed that this Letter of Credit is issued as financial security pursuant to California Public Utilities Code section 394.25(e), California Public Utilities Commission Decision (D.) 18-05-022 and Resolution E-5059 by which the Commission established reentry fees, and financial security requirements ("FSR") applicable to Community Choice Aggregation (CCA) programs, and SDG&E Rule 27, which implements Reentry fees and Financial Security Requirements for CCA programs. Reentry fees include investor-owned utility (IOU) administrative costs and procurement costs resulting from a mass involuntary return of CCA customers to IOU service, and the financial security requirements must cover those potential costs.

We hereby establish our irrevocable standby Letter of Credit Number XXXX in favor of San Diego Gas & Electric Company ("Beneficiary"), by order and for account of San Diego Community Power ("Applicant"), available at sight upon demand at our counters, at 555 SW Oak Street, Suite 400-P, Portland, Oregon 97204, Attn: Global Documentary Services, for an amount of US \$ _____ (_____), effective immediately.

Funds under this Letter of Credit are available to Beneficiary by presentation on or before 5:00 p.m. Oregon time, on or before the Expiration Date of the following documents:

1. Statement signed by a person purported to be an authorized representative of Beneficiary stating that: "Under terms of the SDG&E Rule 27, Beneficiary is entitled to draw under Letter of Credit No. XXXX the sum of U.S.\$_____ (_____) owed by San Diego Community Power for the payment of Reentry Fees."

or

This page forms an integral part of credit XXXX

2. Statement signed by a person purported to be an authorized representative of Beneficiary stating that: “As of the close of business on _____ [insert date, which is less than 90 days prior to the expiration date of the Letter of Credit] you have provided written notice to us indicating your election not to permit extension of this Letter of Credit beyond its current expiry date. The amount due to Beneficiary, whether or not a triggering event under SDG&E Rule 27 has occurred, is U.S. \$ _____ (_____).”

Special Conditions:

All costs and banking charges pertaining to this Letter of Credit are for the account of Applicant.

Partial and multiple drawings are permitted.

Fax of Document 1 or 2 above acceptable.

This Letter of Credit expires on December 7, 2021 at our counters.

Such payment documents, notices and communications must be sent either (but not both) by: (a) Courier mail to U.S. Bank National Association, 555 SW Oak Street, Suite 400-P, Portland, Oregon 97204, Attn: Global Documentary Services, or (b) Facsimile to facsimile number (503) 464-4125, Attn: Global Documentary Services; provided, however, that such address and facsimile number may be amended by us upon the provision of written notice of such amendment to you. Beneficiary shall use best efforts to give telephonic notification of a demand for payment at either (866) 359-2503 (extension 3620) or (503) 464-3620.

We hereby engage with Beneficiary that upon presentation of a document as specified under and in compliance with the terms and conditions of this Letter of Credit, this Letter of Credit will be duly honored in the amount stated in Document 1 or 2 above. If a complying document is so presented by 10:00 am Pacific Time on Oregon banking day, we will honor the same in full in immediately available funds on the next succeeding Oregon banking day and, if so presented after 10:00 am Pacific Time on Oregon banking day, we will honor the same in full in immediately available funds by noon on the second succeeding Oregon banking day.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period beginning on the present expiry date hereof and upon each anniversary of such date, unless at least ninety (90) days prior to any such expiry date we have sent you written notice by regular and registered mail or courier service that we elect not to permit this Letter of Credit to be so extended beyond, and will expire on its then current expiry date. No presentation made under this Letter of Credit after such expiry date will be honored.

We agree that if this Letter of Credit would otherwise expire during, or within 30 days after, an interruption of our business caused by an act of god, riot, civil commotion, insurrection, act of terrorism, war or any other cause beyond our control or by any strike or lockout, then this Letter of Credit shall expire on the 30th day following the day on which we resume our business after the cause of such interruption has been removed or eliminated and any drawing on this Letter of Credit which could properly have been made but for such interruption shall be permitted during such extended

This page forms an integral part of credit XXXX

period.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision) International Chamber of Commerce, Publication No. 600 (“UCP”), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including but not limited to Articles 14(b) and 36 of the UCP, in which case the terms of this Letter of Credit shall govern. Matters not covered by the UCP shall be governed and construed in accordance with the laws of the State of California.

U.S. Bank National Association

Authorized Signature

L/C format approved by:

X _____
Authorized Signature, River City Bank
as authorization to issue in this form