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February 11, 2020

VIA EMAIL
Ms. Caroline Thomas Jacobs
Director
Wildfire Safety Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: San Diego Gas & Electric Company's Response to Comments Directed to Its Compliance with Executive Compensation Provisions of Public Utilities Code § 8389(e)

Dear Ms. Jacobs,

In accordance with your January 17, 2020 letter ("January 17 Letter"), San Diego Gas & Electric Company ("SDG&E") submitted documentation of its compliance with the executive compensation provisions of Public Utilities Code § 8389(e) via a letter dated January 27, 2020. On February 5, 2020, two parties submitted comments on SDG&E's executive compensation structure – The California Environmental Justice Alliance ("CEJA") and The Utility Reform Network ("TURN"). As discussed in this response, neither CEJA nor TURN present any valid basis for altering or rejecting SDG&E's executive compensation structure, and SDG&E accordingly requests that Wildfire Safety Division ("WSD") deem it in compliance with Section 8389(e).

RESPONSE TO CEJA COMMENTS

CEJA contends that SDG&E's executive compensation structure may fall short of Assembly Bill 1054 because "[o]f the variable pay elements, only 10% are wildfire focused elements, and these elements are largely based on completing hardening measures, not on assessing whether the harm that results from wildfires is reduced."[1] CEJA elaborates that these metrics should measure actual performance, "not just project completions."[2] These arguments are flawed in several important respects.

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1 CEJA Comments, p. 3 (referencing "SDG&E Variable Pay Elements" table).

2 *Id.*, p. 3.

First, the relative percentage of SDG&E's wildfire-related Variable Pay elements compared to other elements does not show a lack of emphasis on wildfire safety. Rather, it shows that SDG&E has many other important safety risks and considerations that inform its Variable Pay structure – ranging from gas and electric system safety elements, to employee and individual safety elements. Preventing natural gas pipeline damage and responding to pipeline incidents expeditiously, for instance, are equally important to SDG&E's overall safety performance as preventing and mitigating wildfires. SDG&E's broad consideration of safety in its Variable Pay elements thus complies with Section 8389(e)(4), which requires that its structure focus on "public safety and utility financial stability," as well as "safety performance." That statutory provision does not limit safety to wildfire safety, nor should the WSD seek to impose such a restriction.

Second, CEJA's attempted distinction between project completions and actual wildfire risk reduction is a false one. The "Fire and Public Safety" Variable Pay projects to which CEJA refers – "Fire Hardening: Wood-to-steel pole replacements;" "Overhead System Hardening (miles);" "Underground System Hardening (miles);" and "Wildfire Safety Communications" – each involve specific SDG&E actions to reduce wildfire risk. By advancing and completing project milestones, SDG&E makes its system and community safer from the risk of catastrophic wildfires.

While acknowledging that SDG&E provided a table showing reductions or withholdings in Variable Pay in past years – as required by the WSD's January 17 Letter – CEJA next contends that "the table only implicates a small percentage of the total variable pay elements," "that it is unclear whether the pay is truly evaluated to ensure public safety is prioritized," and that utilities should thus be compelled to "provide a more complete evaluation showing how all metrics have been applied to utility pay in recent years."[3] This argument errs in several respects. First, SDG&E listed the instances in which performance goals were not met, and Variable Pay was thus withheld or reduced. That is precisely what the WSD's January 17 Letter required. CEJA seeks more information, but the information provided shows that safety is being prioritized. Second, it is not clear that more historical information would even have value since the executive compensation provisions of Section 8389(e) took effect in July 2019 and apply prospectively. SDG&E fully demonstrated in its January 27 submission that its forward-looking executive compensation structure meets the requirements of Section 8389(e).

Lastly, CEJA suggests that SDG&E should be required to deny all executive compensation in the event it causes a catastrophic wildfire.[4] As an initial matter, SDG&E notes that Section 8389(e)(4) provides a utility's executive compensation plan "*may* include … denying all incentive compensation in the event the electrical corporation causes a catastrophic wildfire that results in one or more fatalities," but it is not a statutory requirement. SDG&E respectfully submits that denying all of its executive compensation in these circumstances is bad policy. For instance, it would unjustly

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3 CEJA Comments, p. 3.

4 *Id*., p. 3.

penalize executives for utility-caused wildfires where the wildfire ignited due to circumstances beyond a utility's control. In SDG&E's case, it is also unnecessary. SDG&E is already fully incentivized to avoid catastrophic wildfires caused by utility equipment, and its wildfire prevention and mitigation efforts – which have extended over a decade – demonstrate its unambiguous commitment to safety.

RESPONSE TO TURN'S COMMENTS

The basic theme of TURN's comments is that SDG&E's January 27 submission to WSD fell short of various informational requirements. As discussed below, however, neither Section 8389(e) nor the WSD's January 17 Letter required the information that TURN deems lacking, and such information is not necessary to evaluating SDG&E's compliance with Section 8389(e). SDG&E's executive incentive compensation plan (*i.e.*, its Variable Pay) fully complies with Section 8389(e)(4), and its executive compensation structure fully complies with Section 8389(e)(6).

TURN's claims that SDG&E omitted required or requested information are wrong.[5] While TURN argues, for instance, that "naming a metric is not the same as providing a description," it then acknowledges that SDG&E did describe the safety-related Variable Pay metrics and faults SDG&E for not describing non safety-related metrics. SDG&E provided detailed descriptions of the Variable Pay elements in the "Employee and Public Safety Operations" categories in Appendix 1 to its January 27 submission. SDG&E included these detailed descriptions of the safety elements because Section 8389(e)(4) requires that utility executive incentive compensation structures are "structured to promote safety as a priority and to ensure public safety and utility financial stability with performance metrics." SDG&E thus provided the relevant and required information.

TURN similarly faults SDG&E for indicating that its Variable Pay safety goals include a combination of input based and output based measures without explaining which goals fall into each category.[6] But neither Section 8389(e) nor the WSD's January 27 letter required this type of breakdown. In any event, in a subsequent portion of its comments, TURN found itself able to break down the goals into input and output based measures.[7]

TURN then argues that SDG&E should have further broken down various aspects of its executive compensation structure.[8] While it is not entirely clear what benefit TURN ascribes to such an additional breakdown,[9] it is clear that SDG&E has provided

[5] TURN Comments, pp. 12-14.

[6] *Id*., pp. 13-14.

[7] *Id*., p. 14.

[8] *Id*., pp. 13-14.

[9] Later in its comments, TURN appears to have calculated the breakdown it seeks. *Id*., p. 15.

the information required by both Section 8389(e) and the WSD's January 17 Letter. More specifically, SDG&E demonstrated that its executive incentive compensation plan structure (Variable Pay) meets the requirements of Section 8389(e)(4), both by describing the plan, identifying the safety goals and percentages, and providing descriptions. SDG&E also provided these explanations to satisfy the first through fourth bulleted requirements of the WSD's January 17 Letter.[10] In addition, SDG&E satisfied the fifth bulleted requirement by providing examples of executive incentive compensation withheld between 2014-18.[11]

SDG&E demonstrated that its executive compensation structure meets the requirements of Section 8389(e)(6) by describing that structure and providing a table breaking down the allocation of Base Pay, Variable Pay, and Target LTIP awards. SDG&E also indicated that there are no guaranteed monetary incentives, that a significant portion of executive compensation takes the form of Sempra Energy stock, and that it is not aware of any indirect or ancillary compensation that is not aligned with shareholder and taxpayer interests. These explanations also satisfy the first and third bulleted requirements of the WSD's January 17 Letter.[12]

TURN's argument that SDG&E has not demonstrated that its executive incentive compensation goals are measurable and enforceable similarly misses the mark.[13] SDG&E's executive Variable Pay performance goals are clearly measurable, as is clear from the goal definitions in Appendix 1 to SDG&E's January 27 submission. Those safety goals are enforceable by the SDG&E Board of Directors, which reviews and approves Variable Pay.

Citing to Section 8389(e)(4), TURN then claims that SDG&E has not demonstrated that its executive incentive compensation is "structured to promote safety as a priority and to ensure public safety."[14] In support of this argument, TURN claims that SDG&E's Variable Pays relies too heavily on input-based metrics because 9 of the eighteen metrics are input-based.[15] While SDG&E disagrees with TURN's assumption that output-based metrics are superior safety measures, the critical point TURN misses is that Section 8389(e) does not require a specific breakdown of input versus output-based measures.

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10 *See* WSD January 17 Letter, p. 2.

11 *Id.*, p. 3.

12 *Id.*, p. 2.

13 TURN Comments, p. 14.

14 *Id.*, pp. 14-15.

15 *Id.*, p. 14.

TURN also contends that financial performance metrics play too large a role in SDG&E's overall executive compensation structure.[16] TURN apparently overlooks that Section 8389(e)(4) specifically requires that the executive compensation structure is "structured to promote … *utility financial stability*." Indeed, utility financial stability is among the core purposes of the legislation – Assembly Bill 1054 – that added Section 8389(e) to the Public Utilities Code. Accordingly, both safety performance and financial performance are important considerations, as reflected in SDG&E's executive compensation structure.

Also misguided is TURN's claim that SDG&E did not demonstrate that the primary portion of its executive compensation is based on the achievement of objective performance measures.[17] More specifically, TURN claims it "may be the case" that "the combination of base pay, the subjective ICP performance metrics, and LTIP service-based compensation" could comprise more than 50% of total executive compensation for some officers, depending on how large a role the service-based component of the LTIP plays in the overall LTIP award. But a foundational error in this argument is that Variable Pay (ICP) performance metrics are "subjective." That is not the case.

TURN is also wrong that SDG&E did not demonstrate a lack of guaranteed monetary incentives in its executive compensation structure.[18] SDG&E explicitly indicated that it was not aware that any such incentives exist.

TURN's expression of "surprise" that SDG&E did not include safety performance metrics tied to the Wildfire Mitigation Plan proceeding or the Safety Model Assessment Proceeding is unavailing. Once again, Section 8389(e) does not contain such a requirement. There is also no basis to import metrics from contested proceedings into SDG&E's executive compensation.

Lastly, TURN's complaints about the WSD's process for reviewing the electrical corporation's executive compensation structures are unjustified.[19] TURN had sufficient time to review SDG&E's executive compensation structure. More importantly, while the WSD was not required by statute or regulation to entertain comments, it nevertheless established a process to allow comments from interested parties, which is sufficient from a due process perspective.

In sum, SDG&E respectfully submits that its January 27 submission to WSD fully demonstrated both its compliance with Section 8389(e) and its responsiveness to WSD's January 17 Letter. Accordingly, there is no basis to reject or require modification to SDG&E's Variable Pay or its overall executive compensation structure.

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[16] *Id*., p. 15.

[17] *Id*., p. 15.

[18] *Id*., p. 16.

[19] *Id*., pp. 1-2.

Please contact me if you have any questions regarding this response.

Respectfully submitted,

/s/ *Christopher M. Lyons*
Attorney for San Diego Gas & Electric Company

cc: Shana Lazerow (CEJA)
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