REPLY COMMENTS OF SAN DIEGO GAS & ELECTRIC (U-902-E) ON CRR/VIRTUAL BIDDING/ADDITIONAL MRTU CONCERNS

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October 31, 2008
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Pursuant to the Assigned Commissioner’s Ruling and Scoping Memo on the 2008 Long-Term Procurement Proceeding, Phase I (Scoping Memo), dated August 28, 2008, San Diego Gas & Electric Company (SDG&E) provides the following reply in response to Southern California Edison (SCE)’s comments on SDG&E’s Congestion Revenue Rights (CRRs) and virtual bidding proposals.

I. THE COMMISSION’S CURRENT CRR “NO SPECULATION” RULE IS INSUFFICIENT TO ENSURE THAT SDG&E WILL BE ABLE TO OBTAIN A REASONABLE ALLOCATION OF CRRs AT THE IMPERIAL VALLEY SUBSTATION.

A fundamental purpose of this proceeding is to ensure that jurisdictional load-serving entities have the tools they need to manage risks associated with their procurement obligations. SDG&E’s CRR tool kit was shorted by the CAISO’s initial allocation of CRRs, which did not recognize contracts SDG&E had signed for future delivery at the Imperial Valley substation. Not only was SDG&E allocated no CRRs to hedge potential transmission congestion associated with these contracts, the CAISO’s front-loaded allocation rules allow a large percentage of the total number of CRRs allocated to be retained indefinitely by the initial recipients, thereby potentially
foreclosing any future opportunity for SDG&E to nominate and receive the Imperial Valley CRRs that it clearly needs and deserves.

SDG&E is seeking judicial review of the CAISO’s CRR allocation rules, and will continue to investigate the verified source representations that were used by some parties to justify preferential allocations at the Imperial Valley substation. But, as explained below, the Commission has an opportunity in this proceeding to investigate and, if it believes warranted, to craft a LTPP rule designed to mitigate the severity of the problem facing SDG&E. Without intervention from this Commission (or the DC Circuit Court of Appeals), SDG&E is unlikely to ever receive an allocation of CRRs sufficient to hedge its renewable resource contracts in the Imperial Valley. As things now stand, SDG&E’s customers face financial exposure to significant amounts of unhedged congestion in one of the most congested transmission corridors in the United States.

To partially mitigate the financial risk inflicted on SDG&E by the CAISO’s unreasonable allocation rules, SDG&E proposes a LTPP rule designed to enhance a more equitable future allocation of the CRRs associated with the CDWR contracts that are currently being administered by the three investor-owned utilities, including SDG&E. Specifically, SDG&E seeks a rule in this proceeding that would direct the IOUs not to seek indefinite renewal in the CAISO’s priority nomination process (PNP) tier for those CRRs that were initially allocated to them because a CDWR contract was used as a source to justify a priority allocation in the early Tier 1 and Tier 2 allocations. Instead, when the CDWR contracts expire, the relevant IOU would be directed to allow the associated CRR allocation to lapse and be returned to the pool of CRRs available for nomination by all load-serving entities in the next Tier 3 allocation in accordance with
the generally applicable load-share principles. This narrowly-focused rule would restore some modicum of CRR allocative fairness among the three IOUs that have been administering the contracts signed by CDWR.

II. SCE’s REFUSAL TO CONSIDER SDG&E’s PROPOSAL IS UNREASONABLE AND ITS ARGUMENTS ARE UNPERSUASIVE.

Southern California Edison (SCE) has responded negatively to SDG&E’s proposed rule, asserting that SDG&E has taken the opportunity to “rehash arguments”, “collaterally attack” the FERC, present a “fundamentally flawed” proposal, and sneak a “[f]ourth [b]ite at the [a]pple”. SDG&E is disappointed that SCE is unwilling to work with SDG&E in crafting a workable solution to this serious threat. SCE apparently seeks to preserve indefinitely its CRR windfall by not agreeing to reasonably examine the substance and merits of SDG&E’s claim. Fortunately, the scope of this proceeding permits SDG&E to assert its claim that it faces indefinite foreclosure from being allocated the Imperial Valley CRRs that are central to its hedging program.

SCE correctly, but irrelevantly, notes that the existing “no speculation” rule precludes unconditional renewal of CRRs once the underlying contract expires. SDG&E agrees that the existing “no speculation” rule is sufficient to support the Commission’s overall policy of loosely linking financial transmission hedges (CRRs) to physical supply contracts. But the “no speculation” rule does little or nothing to address SDG&E’s claim that the initial priority allocations based on the CDWR contracts, in conjunction with

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1 SCE Response at 1-4.
2 Pacific Gas and Electric Company (PG&E) was also allocated a large position in Imperial Valley CRRs by virtue of administering a CDWR contract. PG&E has yet to express in this proceeding a position adverse to SDG&E’s proposal to sunset priority renewals of CDWR-related CRRs when the CDWR contracts expire.
3 The “no speculation” rule is derived from the Commission’s directive that the IOUs should acquire only those “CRRs that closely resemble the LSE’s expected grid usage both in the choice of source/sink combinations and in the duration of the CRR with respect to the length of the LSE’s energy supply contracts.” See Resolution E-4117 at 7.
future priority renewals in the PNP tier based on new supply contracts, will work to deny SDG&E a reasonable opportunity to nominate the CRRs it needs to hedge its renewable contracts signed years earlier in 2006 or before.

SCE asserts that it would tie its CRR renewals in the PNP tier to contracts that it has entered into, or reasonably expects to enter into, utilizing the same source location or a highly correlated source location. Under this formulation of the “no speculation” rule, SCE will have virtually unlimited opportunity to avoid releasing for future nomination any of the Imperial Valley CRRs that it currently holds. To facilitate renewal in the PNP tier, SCE would only have to sign new contracts for delivery at the Imperial Valley substation. Even easier, it could simply assert that the Imperial Valley CRRs are adequate proxies for purposes of hedging its extensive portfolio at Palo Verde and other hubs in the Southwest. Either way, uninterrupted renewal in the PNP tier will effectively deny SDG&E an opportunity to nominate and receive CRRs to hedge renewable resource contracts signed in 2006 and earlier.

SCE also asserts that utility customers will suffer if the Commission were to adopt SDG&E’s proposed rule because SCE might not be re-allocated all of the Imperial Valley CDWR-related CRRs if it has to use Tier 3 once the CDWR contracts expire. To properly assess the lack of merit in this argument, one must first note that the general rule for CRR allocation is non-discriminatory allocation to each load-serving entity in accordance with its proportional share of the total load being served. A “grandfathering” exception to the general rule was created to smooth the transition to the new MRTU tariff. It is this exception to the general rule that SCE relied upon to obtain preferentially

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4 SCE Response at 5.
5 SCE Response at 6.
its initial allocation of Imperial Valley CRRs. In response to SDG&E’s limited proposal to end the preferential treatment for CDWR-related CRRs when the CDWR contracts expire, SCE claims that ending a preference enjoyed only by the utilities “would place the utilities at a disadvantage to non-CPUC jurisdictional entities.”\(^6\) Frankly, SDG&E fails to see how ending a preference once the reason for the preference no longer exists constitutes a “disadvantage” that this Commission must avoid at all costs. Only the IOUs jurisdictional to the Commission enjoyed the initial preference linked to the CDWR contracts. Indeed, a better and more proper solution would have been to allocate the CRRs to CDWR itself, where they would lapse naturally at the expiration of the contracts.\(^7\) The Commission has no duty to preserve indefinitely this exceptional preference that is being derivatively asserted by SCE, especially given that its continuance will block SDG&E’s prospects for a future allocation of the CRRs it needs to hedge its renewable resource contracts scheduled for delivery at the Imperial Valley substation.

SCE advises the Commission that the “appropriate place to impose rules that shift the balance of equities in the CAISO’s CRR nomination process is at the FERC where such rules can be applied and enforced equally over all CRR bidders.”\(^8\) In fact, SDG&E argued early on at the CAISO and later at the FERC that the 2006 historic allocation year failed to capture an accurate snapshot of SDG&E’s past and future use of the Southwest Power Link. SDG&E made every possible effort to educate the CAISO and the FERC to the future problems that will occur if SDG&E is deprived of a fair opportunity to obtain

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\(^6\) SCE Response at 6.
\(^7\) CDWR is no longer in the power buying business on behalf of IOU customers, so there would be no reason or ability of CDWR to seek renewal in the PNP tier when the contracts expire. SCE should not be permitted more flexibility in retaining a preferential allocation than CDWR itself would possess.
\(^8\) SCE Response at 6.
the CRRs that it needs to hedge its existing – but not yet flowing – portfolio of Imperial Valley contracts. Unfortunately, SCE was just as assiduous in opposing all efforts at the CAISO and the FERC to join issue and address SDG&E’s legitimate concerns. SCE’s self-serving exhortations urging the Commission to avert its gaze from SDG&E’s pressing problem – a problem that SCE has steadfastly encouraged the CAISO and FERC to ignore – ring hollow.

III. SDG&E RESPECTFULLY REQUESTS THE SCHEDULING OF A WORKSHOP TO ADDRESS SDG&E’S PROPOSED CRR RULE.

SDG&E requests that it be allocated sufficient time during the upcoming workshops to present its claim, defend its proposed solution, and address the questions of workshop participants and Commission staff. In similar circumstances that have arisen in the resource adequacy proceedings – such as allocation of capacity import rights and use of Path 26 for resource adequacy purposes – the Commission and the FERC have smoothed the transition by grandfathering existing contracts, but only until the contracts expire.9 Thereafter, the limited infrastructure resource has been allocated to each load-serving entity on a non-discriminatory basis proportional to share of total load. SDG&E is confident that a fair hearing during the upcoming workshops will produce a similar solution here, thereby providing SDG&E with a reasonable opportunity to nominate and be allocated the Imperial Valley CRRs that are needed to manage its financial exposure to transmission congestion.

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9 See California Independent System Operator Corporation, 119 FERC ¶ 61,164 (2007) at P34, supported by CPUC Answer at 7; and Opinion on Phase 2 – Track 1 Issues, R.05-12-013 (June 21, 2007).
IV. SDG&E SUPPORTS THE DEVELOPMENT OF UPFRONT STANDARDS FOR VIRTUAL BIDDING.

SCE’s comments include a section regarding virtual bidding issues. As represented in those comments, SDG&E agrees that the 5% spot market reference in its comments is indeed a guideline and not a strict cap or limit, as it relates to spot market purchases. However, with respect to SCE’s suggestion that the Commission should delay the development of up front standards for virtual bidding, SDG&E is of a different opinion. That is, SDG&E believes that the more reasonable approach is to act now in authorizing the use of virtual bidding at a 5% cap. If necessary, once the product is created and a track record is established, the 5% cap can be re-visited. This approach allows for the development of experience with the product while assuring the Commission that it will not cause market problems.

V. CONCLUSION

SDG&E respectfully submits the foregoing reply to SCE’s comments regarding CRRs and virtual bidding. SDG&E also looks forward to further addressing these issues
during workshops and the possibility that further collaboration with SCE, the Commission and other interested parties will produce a resolution satisfying the concerns and needs of all parties.

Respectfully submitted,

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DATED at San Diego, California, this 31st day of October, 2008.
CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission’s Rules of Practice and Procedure, I have this day served a true and correct copy of the foregoing REPLY COMMENTS OF SAN DIEGO GAS & ELECTRIC (U-902-E) ON CRR/VIRTUAL BIDDING/ADDITIONAL MRTU CONCERNS to each party of named in the official service list for R.08-02-007 by electronic mail. Those parties without an email address were served by placing copies in properly addressed and sealed envelopes and depositing such envelopes in the United States Mail with first-class postage prepaid.

Copies were also sent via Federal Express to Commissioner Michael Peevey and Administrative Law Judge Carol A. Brown, who have been assigned to this proceeding.

Executed this 31st day of October 2008, at San Diego, California.

/s/ Lisa Fucci-Ortiz
Lisa Fucci-Ortiz