Application of San Diego Gas and
Electric Company (U 902 E) For
Authority To Update Marginal Costs,
Cost Allocation, And Electric Rate Design

Application 11-10-002

PREPARED DIRECT TESTIMONY OF JOHN HOWAT
ADDRESSING THE PROPOSAL OF SAN DIEGO GAS AND ELECTRIC COMPANY TO IMPLEMENT A RESIDENTIAL PREPAID ELECTRIC SERVICE PILOT PROGRAM

IN APPLICATION 11-10-002

SUBMITTED ON BEHALF OF
NATIONAL CONSUMER LAW CENTER
THE UTILITY REFORM NETWORK
CENTER FOR ACCESSIBLE TECHNOLOGY
THE GREENLINING INSTITUTE

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

JUNE 12, 2012

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PREPARED DIRECT TESTIMONY OF JOHN HOWAT

I. INTRODUCTION AND OVERVIEW

A. Identification of Consumer Groups

This testimony is presented on behalf of National Consumer Law Center ("NCLC"), The Utility Reform Network ("TURN"), the Center for Accessible Technology ("CforAT"), and the Greenlining Institute ("Greenlining") (collectively the "Sponsoring Parties") by John Howat, Senior Policy Analyst for NCLC.

B. Purpose of Testimony

The purpose of this testimony is to address concerns regarding San Diego Gas & Electric's ("SDG&E's") proposal to implement a prepaid residential electric utility service program to be made available on an opt-in basis beginning in 2014. The Sponsoring Parties explain how SDG&E's proposal fails to address various important issues regarding protections for customers who may select prepaid service. In addition, in order to provide context for SDG&E's proposal, the Sponsoring Parties will present information regarding participation, disconnections, and costs associated with existing prepaid utility service programs offered by other utilities and operating in the United States and Great Britain. Overall, the Sponsoring Parties recommend that the Company's proposal be rejected for the reasons set forth below.

C. Description of SDG&E's Prepaid Service Proposal

As part of the rate design phase of its general rate case filing, SDG&E proposes to implement a new residential prepaid electric service program.[1] The new service would be available to most residential customers, with some exclusions that are discussed in detail below. The new program would become operational on January 1, 2014. The Company's proposal

[1] The company's proposal is set forth in the Revised Prepared Direct Testimony of David W. Cheng.

includes background information about the prepaid service program, a statement of what the Company regards as customer benefits associated with prepaid service, and proposals regarding customer eligibility and program policies that would apply to the proposed pilot program.[2]

SDG&E states that it decided to propose a new prepaid service program based on its own survey of 900 customers conducted in 2010 and the results of other industry sponsored customer surveys.[3] The Company asserts that its proposed prepaid service program will provide a number of benefits to participating customers. The benefits claimed by the company include the following:

1. The Company will not require customers participating in a prepaid service pilot program to provide a security deposit when establishing service; standard post-paid residential customers can be required to pay a deposit equal to two times the customer's average monthly bill.[4,5]
2. The Company will not require customers who have a prior uncollectible account to pay the entirety of an existing previous balance prior to establishing prepaid service; standard post-paid residential customers are generally required to pay any existing balance in full before initiating new service.[6]
3. The Company asserts that customers who participate in the prepaid service pilot program will have flexibility to choose when to make a payment and how much to

[2] SDG&E February 2012 Testimony, Chapter 9, DWC-1.
[3] SDG&E February 2012 Testimony, Chapter 9, DWC-1-2.
[4] SDG&E February 2012 Testimony, Chapter 9, DWC-2; SDG&E Electric Rules 6 (Establishment and Re-establishment of Credit) and 7 (Deposits). However, it should be noted that under the terms of a Settlement entered into in Docket R.10-02-005, SDG&E currently is prohibited from requiring a re-establishment of credit deposit of customers seeking to re-establish service after a disconnection for nonpayment when SDG&E's disconnection rate exceeds the allowable disconnections benchmark.
[5] We further note that SDG&E's proposal is silent on the extent to which deposits of existing customers that are held by the company would be refunded to customers who switch from standard post-paid service to prepaid service.
[6] SDG&E February 2012 Testimony, Chapter 9, DWC-2-3.

pay at any given juncture. The Company proposes four options through which customers would pay for service credits: the customer can (1) link a bank account to the Company's payment system using the "MyAccount" service, (2) make online credit or debit card payments using BillMatrix service, (3) use a telephone IVR service, or (4) pay by check or cash at a Company branch office or third-party payment location.[7] The customer is permitted to use any of these services without restriction, and, with the exception of in-person payments by check or cash, a customer may use these options at any time, day or night.

4. The Company asserts that customers using prepaid service consume less energy and have lower monthly bills than standard post-paid residential customers, citing studies conducted by other utilities implementing prepayment programs.[8]

SDG&E proposes to exclude certain vulnerable customer groups from participation in the prepaid pilot program. The customers who would be excluded include all the customer groups that are identified as "vulnerable" in the Disconnection Settlement Agreement reached between SDG&E and a number of consumer groups (including all the Sponsoring Parties[9] as well as the Division of Ratepayer Advocates) in R.10-02-005 and approved by the Commission in D.10-12-051.[10] This includes customers who self-identify that someone in the household is aged 62 or older, customers who self-identify that someone in the household has a disability, customers

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[7] SDG&E February 2012 Testimony, Chapter 9, DWC-3.

[8] SDG&E February 2012 Testimony, Chapter 9, DWC-3. The Company cites King, Jennie, "M-Power: A Better Way to Keep Customers in Power," *Metering, AMR, and Data Management,* Energy Central (January 18, 2007); and Chartwell, Jonna Buck, Oklahoma Electric Cooperative, "Prepaid Experience," Webinar (July 2008).

[9] CforAT was not an original party to the Disconnection Settlement Agreement but it was added in D.12-03-054 as the successor to Disability Rights Advocates.

[10] SDG&E specifically noted that the exclusions were intended to be consistent with the "vulnerable consumer" classification from the Disconnection Settlement Agreement. SDG&E February 2012 Testimony, Chapter 9, DWC-3, footnote 7. Notwithstanding the use of the same classification, the Sponsoring Parties note that the Disconnection Settlement Agreement sunsets on December 31, 2013, and SDG&E has proposed that its prepayment program begin on January 1, 2014.

enrolled in the Medical Baseline or Life Support program, or customers who self-certify that someone in the household has a serious illness or condition that could become life-threatening if service is disconnected. The Company, however, does not indicate how it will address the circumstance in which a vulnerable customer becomes ineligible (or self-identifies as ineligible) after previously enrolling in the prepayment program, nor does it address how it will respond if a customer contacts the utility and indicates that he or she is part of a vulnerable customer class after the customer receives notice regarding imminent service disconnection. No program should be adopted without addressing how to handle vulnerable customers and how to transition newly identified vulnerable customers into standard service without compromising their health or safety.

In addition to these vulnerable customer classes, the Company would exclude existing (connected) customers with an arrearage balance from participation in the prepaid service pilot program.[11] However, prior customers with uncollectible accounts would be permitted to establish service with the Company without paying off the entirety of the previous, outstanding balance. In order to be eligible to obtain prepaid service, prior customers with arrearages would be required to agree to devote 25% of all future payments toward the outstanding balance until it is paid in full.[12]

SDG&E proposes to exclude customers participating in the prepaid program from the standard notice requirements provided to post-paid customers (and required by California state law, as described in detail below) prior to any service disconnection. Instead, the Company proposes to provide much more limited notice to prepaid customers whose credit balances have fallen below a customer-selected threshold (if customers elect to receive this service) and

[11] SDG&E February 2012 Testimony, Chapter 9, DWC-3.
[12] SDG&E February 2012 Testimony, Chapter 9, DWC-4.

otherwise when the credit balance has been depleted. The Company will provide such notice via text message, e-mail, or automated telephone call, as selected by the customer when he or she enrolls in the program.[13] Following this single, zero-balance notice, SDG&E intends to terminate via remote disconnection the service of any customer whose credit balance drops below zero and remains there for four days, or whose balance reaches or drops below -$20, whichever occurs sooner. When one of these conditions occurs, SDG&E will terminate the customer's service on the next business day during normal business hours.[14] In order to avoid disconnection or to have service reconnected after disconnection, a prepaid customer would be required to make a payment that is sufficient to bring the credit balance to $10 or more, using one of the options described above.[15]

II. SDG&E'S PREPAID SERVICE PROPOSAL WOULD DEPRIVE CONSUMERS OF MANY EXISTING CONSUMER PROTECTIONS RELATED TO SERVICE TERMINATION AND SET FORTH BY THE CALIFORNIA LEGISLATURE

As described above, customers enrolled in SDG&E's prepaid service program would receive notice when their account balance equals $0 or below by their chosen method, including automated phone call, text message, or e-mail.[16] Customers would then experience disconnection for nonpayment via remote disconnection when the sooner of the following occurs: (1) the customer's balance is below $0 for four days, or (2) the customer's balance reaches minus $20.[17] SDG&E proposes to inform customers "who wish to participate" in the prepaid service program that "the four-day period for disconnection is much shorter than the

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[13] SDG&E February 2012 Testimony, Chapter 9, DWC-4. SDG&E also states that customers could additionally elect to check their account balance as often as daily. *Ibid.*
[14] SDG&E February 2012 Testimony, Chapter 9, DWC-5.
[15] SDG&E February 2012 Testimony, Chapter 9, DWC-5.
[16] SDG&E February 2012 Testimony, Chapter 9, DWC-4. Customers could additionally elect to check their account balance as often as daily or receive notification when the balance reaches certain thresholds. *Ibid.*
[17] SDG&E February 2012 Testimony, Chapter 9, DWC-5.

disconnection period for traditional post-pay customers."[18] This warning does not remedy the fact that the prepaid service program disconnection process would deprive customers of numerous consumer protections related to service termination that are enshrined in California law.

As provided by California Public Utilities Code Sections 739.4, 779, and 779.1, all of SDG&E's customers are entitled to receive the following protections prior to experiencing disconnection for nonpayment.

- The utility must provide the customer with multiple notices prior to disconnection, including a 14-day notice by mail, and a 24-hour notice by telephone or personal contact or a 48-hour notice by mail or in person.[19]
- The disconnection notices must contain, in pertinent part, information about how to initiate a complaint or request an investigation concerning service or charges; how to request a payment extension or payment plan; how to obtain information on the availability of financial assistance from governmental and/or non-governmental sources; and the telephone number customers may use to contact the CPUC with questions or concerns.[20]
- The utility must offer the customer an opportunity to enter into a payment plan with the utility when the customer falls behind on payments, rather face disconnection.[21]
- The utility must educate the customer at risk of disconnection about the California Alternate Rates for Energy (CARE) program and other assistance programs and rate options that may help lower the customer's bills and increase affordability.[22]

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[18] SDG&E February 2012 Testimony, Chapter 9, DWC-5.
[19] [19] Cal. Pub. Util. Code § 779(a); §§ 779.1(a)-(b).
[20] Cal. Pub. Util. Code § 779(a); §§ 779.1(d)(4)-(8).
[21] Cal. Pub. Util. Code § 739.4(b)(3)(A).
[22] Cal. Pub. Util. Code § 739.4(b)(3)(A).

- The utility must educate the customer about the levelized payment program that allows them to pay a monthly average bill based on 12 months of usage.[23]
- The utility is prohibited from disconnecting a customer's service when the utility receives a commitment pledge or other notification that a provider of energy assistance is forwarding payment sufficient to prevent disconnection.[24]
- The utility is prohibited from disconnecting a customer's service while a dispute over charges is pending.[25]

SDG&E's prepaid service program includes none of these consumer protections. Yet, as explained below, the customers for whom the prepaid service program is designed to be particularly appealing are the very same customers who are most likely to need these protections against premature or unnecessary disconnection. Because all utility customers should enjoy the protections required by California law, the Commission should not authorize SDG&E to deprive some customers – those who would sign up for the prepaid service program -- of these important protections intended to reduce the incidence of disconnection for nonpayment.

III. SDG&E's PREPAID SERVICE PROPOSAL WOULD PLACE FINANCIALLY STRUGGLING UTILTY CUSTOMERS AT INCREASED RISK OF DISCONNECTION, CONTRARY TO THE COMMISSION'S POLICY OF TRYING TO REDUCE SERVICE DISCONNECTIONS

A. The Prepaid Service Benefits Touted by SDG&E Will Be Most Attractive to Payment-Troubled Customers

By allowing customers to avoid paying a security deposit to establish service, SDG&E's prepaid service program appears to be designed to appeal to customers who cannot afford to pay a deposit or who are required to pay a deposit because of past credit and collection activities.

[23] Cal. Pub. Util. Code § 739.4(b)(3)(D)(i).
[24] Cal. Pub. Util. Code § 739.4(b)(3)(C).
[25] Cal. Pub. Util. Code § 779 (b)(1).

Likewise, by allowing customers with a prior uncollectible account to avoid paying off the previous debt in full prior to reestablishing service, SDG&E's prepaid service program is designed to appeal to customers who have previously been disconnected for nonpayment.

B. SDG&E's Prepaid Service Proposal Does Not Offer Prepaid Service Customers a Lower, More Affordable Rate for the Provision of Reduced Utility Services.

While the Company purports to offer benefits to lower-income customers who are already payment-challenged, the prepaid service program, as proposed by SDG&E, would charge prepaid customers the same rates for utility service as are paid by standard, post-paid customers. Yet, these are the same rates that previously proved to be difficult for many of these customers to pay. In short, the prepaid service program as proposed will not enhance affordability of utility service for low-income customers. As a result, customers participating in the prepaid service program would continue to be at risk of service disconnection for nonpayment, albeit without the disconnection notice and prevention-related consumer protections that are afforded to SDG&E's other residential customers.

The Sponsoring Parties note that prepaid service customers, while paying the same rates as standard, post-paid customers, would be asked to sacrifice service quality along with important consumer protections that are enjoyed by traditional customers and enshrined in state law. The utility's traditional responsibility of providing adequate, continuous service instead would be shifted to the prepaid service customer, who would still be obligated pay the same rate for service as a post-paid customer who is fully served by the utility. Thus, prepaid service customers, hoping to avoid the short-term financial costs of security deposits or repayment of prior uncollectible account balances, would be required to settle for a second class quality of utility service, while paying the same rate as post-paid customers who enjoy more convenient utility service and greater consumer protections.

C. SDG&E's Proposal Would Undercut the Commission's Effort in Recent Years to Reduce Disconnections

The California Public Utilities Commission has recognized the risks and harms of even short-term service disconnections, and has taken steps to reduce the instances of disconnection for non-payment. This effort was the focus of the Commission's Rulemaking 10-02-005, which was opened in order to "continue [the Commission's] efforts to reduce the number of residential gas and electric utility service disconnections due to nonpayment by improving customer notification and education."[26] The Order Instituting Rulemaking in R.10-02-005 further noted that "the economic crisis currently existing in California and a recent increase in utility service disconnections has led us to reexamine utility disconnection rules and practices. We want to identify more effective ways for the utilities to work with their customers and develop solutions that avoid unnecessary disconnections without placing an undue cost burden on other customers."[27] In support of its efforts to reduce levels of service disconnections, the Commission issued interim rules in the OIR, requiring customer service representatives of each of the major California gas and electric Investor Owned Utilities (including SDG&E) to inform customers of their right to a payment plan for any arrearage of a minimum of three months and forbidding utilities (including SDG&E) from charging residential customers who have paid late or been disconnected for nonpayment a reestablishment of credit deposit.[28] The Commission then proceeded to address other cost-effective means of reducing service disconnections.

Six months later, the Commission issued D.10-07-048, which continued the interim practices and adopted additional measures to prevent service termination. This decision required the utilities, including SDG&E, to continue offering all customers with an arrearage that put the

[26] Order Instituting Rulemaking, R.10-02-005, issued on February 5, 2010, at p. 1.
[27] *Id.*
[28] *Id.* at p. 2.

customer at risk of disconnection a payment plan of at least three months.[29] The Commission also prohibited the utilities from charging any residential customer a reestablishment of credit deposit for late payment, as well as charging any low-income customer a reestablishment of credit deposit following a disconnection for nonpayment.[30] The Commission in D.12-04-054 extended these requirements through the end of 2013 (though only for PG&E and SCE, as discussed below) and adopted additional measures to further reduce the number of disconnections experienced by low-income customers.

With the issuance of D.10-12-051, the Commission approved a settlement agreement entered into by SDG&E and a number of consumer groups which superseded the provisions of D.10-07-048 as applied to SDG&E. In D.10-12-051, the Commission again emphasized the importance of utility practices that assist customers in avoiding service termination. The Commission found that the settlement agreement "improves customer notification and education, enhances reporting requirements, and proposes performance-based residential disconnection benchmarks intended to allow the Commission to better evaluation the Joint Utilities' success in assisting customers to reduce disconnections. . . . The Settlement Agreement also incorporates additional customer service and communications practices, policies, and protocols to address additional issues articulated in, or related to, this rulemaking."[31]

It would be fundamentally inappropriate for the Commission to retreat from the gains made in the service disconnection proceeding, which was intended to reduce the risk of short-term service disconnections based on nonpayment, by implementing a prepayment program that

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[29] D.10-07-048, Ordering Paragraph 1.
[30] D.10-07-048, Ordering Paragraph 3, 4.
[31] D.10-12-051 at p. 7.

would provide fewer consumer protections and result in an increase in the number of service disconnections.

IV. COSTS AND TOUTED BENEFITS OF THE PROPOSED PILOT PROGRAM

Evidence shows that reduced consumer protections and heightened rates of service disconnection are inevitable costs of prepayment programs. While SDG&E argues that benefits will accrue through implementation of its proposed pilot program, each of the touted benefits could be provided to the customers or obtained by the utility through means that neither compromise important consumer protections nor increase rates of service disconnection. Further, the Company's proposal includes no discussion of other direct costs that will likely accrue to program participants and potentially to the utility system if the SDG&E proposal is approved and implemented.

A. Participant Costs

As demonstrated in the discussion of existing programs in Section V, below, prepaid service increases the risk of service disconnection for participating customers, resulting in significant costs. Further, prepaid service program participation and the associated costs are concentrated among lower-income utility customers who can least afford to absorb them. These customers often make frequent monthly payments and thus may incur significant transaction costs in retaining access to necessary utility service. (See discussion of transaction fees in Section IV.C.3, below.) For customers who can least afford the added fees and charges, prepaid service often results in high rates of disconnection and reliance on a weakened consumer protection structure.

As noted above, consumer protections are weaker for prepaid customers who would receive fewer notices, containing less information, and transmitted through less-reliable means than those provided to standard post-paid customers. SDG&E proposes that prepaid customers would assuredly receive only a single notice after depletion of credit balances and prior to service disconnection. Standard post-paid customers must be contacted two times before service can be terminated, including a 15-day notice by mail, and a 24-hour notice by telephone or personal contact or a 48-hour notice by mail or in person.[32] The methods by which notices provided to standard post-paid customers are delivered – by U.S. Mail, by personal telephone contact, and/or in person -- are secure and reliable. In contrast, the notification options provided under the prepaid proposal -- text message, email, or automated telephone call -- are considerably less reliable, particularly for low-income households in which arrearages in cell phone, landline phone and/or internet service may coincide with electric utility payment difficulties. In other words, just as a low income customer is experiencing financial difficulties that lead to challenges in making payments for electric service credits, that same customer may be experiencing difficulty in paying for cell phone, landline, or internet service, jeopardizing access to these less-secure means of notification of impending electric service shut-off. Furthermore, one should not assume that a low-income household can afford in-home internet service that would allow the customer to access email on as convenient or frequent a basis as would be necessary to monitor email notices of impending termination. Additionally, text messages may not be an option for those low-income customers who depend on landline phones as their lowest cost, and only, voice service option.

Customers receiving prepaid service could also lose access to certain sources of emergency financial assistance with utility bill payment. To the extent that these programs, such as the Low-Income Home Energy Assistance Program, pledge support before money is actually

[32] SDG&E Electric Rule 11; *see also* Cal. Pub. Util. Code § 779(a); §§ 779.1(a)-(b).

paid to the utility, the structure of prepaid service may functionally preclude meaningful assistance. While the utility will suspend disconnection of a traditional post-paid customer upon receipt of a pledge of assistance, SDG&E's prepaid service proposal makes no such accommodation. Likewise, a prepaid service customer would be unable to benefit substantially from any financial assistance fund that requires a customer to be in arrears. Because the customer's arrearage would never exceed $20, the customer would forego a much larger grant that post-paid customers could access. As a result, a prepaid service customer could be without service, while a post-paid customer with the exact same budgeting constraints could have received assistance and been able to avoid disconnection. This "opportunity cost" is not trivial. An SDG&E post-pay customer might be eligible for a LIHEAP crisis grant of hundreds of dollars, money which a prepaid service customer might need just as much to buy service credits but would not be able to use.

These reduced protections increase the risk of service disconnections, which also have associated costs, ranging from food spoilage and loss of medication that needs refrigeration to direct health and safety risks that come from lack of electricity. As the United States Supreme Court stated in *Memphis Light, Gas & Water Division v. Craft*, "Utility service is a necessity of modern life; indeed, the discontinuance of water or heating for even short periods of time may threaten health and safety."[33]

In short, prepaid utility service may entail risks and costs for participating customers, many of which were not identified in the Company's proposal. These costs include, but are not limited to, increased risk of and actual increase in the rate of disconnection of service (with

[33] *Memphis Light, Gas & Water Division v. Craft* (1978) 436 U.S. 1, 18. *See also* D.07-09-041, issued in A.02-11-017 / I.03-01-012 / A.02-09-005, pp. 40-41 (finding that utility customers are physically harmed by the termination of electric and/or natural gas utility service for nonpayment).

attendant costs and harms), lower quality of utility service without an attendant rate discount, transaction fees associated with making payment for service credits (discussed in greater detail below), and the cost of retaining access to the alternate means of notification that the Company proposes.

B. Utility System Costs

The SDG&E prepaid service proposal includes no information with respect to potential utility system costs associated with development and implementation of the program. Clearly, the program envisioned by the Company would rely on the communication and remote disconnection/reconnection capabilities of the existing advanced metering infrastructure ("AMI"). However, one could imagine that the utility might, at some point in the future, seek to pass additional costs on to ratepayers, such as costs to modify or upgrade existing AMI, billing, and IT systems, as well as costs associated with production and distribution of program marketing and other customer information materials, and training of customer service representatives. The Sponsoring Parties do not offer an estimate here of what these costs might be, nor do we intend to suggest that any claim of incremental costs associated with implementing a prepaid service program would be reasonable. But absent a showing by the utility related to costs, either that there will be none or some, the Commission is hamstrung in its ability to properly evaluate the merits of SDG&E's proposal. The Sponsoring Parties recommend that the Commission deny any proposal for a prepaid service program on either a permanent or pilot basis, absent a finding of positive net benefit based on an analysis of complete and transparent cost and benefit information.

C. Critique of Purported Benefits of Prepayment Touted by SDG&E

As described above, SDG&E identifies customer benefits that it expects to flow from implementation of its proposed prepaid service program. These include the ability of customers to obtain service without paying a security deposit, the ability of customers with bad debt to reestablish service without lump sum repayment of the previous outstanding balance, flexibility for customers through the option of making multiple payments each month through a variety of methods, and conservation benefits. Each of these touted benefits is addressed below.

1. Deposits

SDG&E currently requires applicants for utility service who have not otherwise established credit with the utility to pay a deposit.[34] It suggests that an added benefit of prepaid service is the waiver of such charges for prepaid customers.[35] However, SDG&E is not obligated to charge deposits to standard customers. Some states simply prohibit utilities from charging residential customers any security deposits or late payment fees, as a policy. In Massachusetts, for example, no electric or natural gas utility company under the jurisdiction of the state Department of Public Utilities may require a security deposit of a residential customer as a condition of providing service.[36] In New York, utility companies may not require security deposits of customers or applicants for service who receive public assistance or SSI.[37] When there is no deposit requirement, there is no associated customer affordability concern.

SDG&E may argue that it needs to collect deposits to reduce the risk of uncollectable debt. However, other states allow deposits, and address affordability through various assistance mechanisms without forcing customers to choose between paying an unaffordable deposit or select prepaid service. For example, in Indiana, Northern Indiana Public Service Company

[34] *See* SDG&E Electric Rules 6 (Establishment and Re-establishment of Credit) and 7 (Deposits).
[35] SDG&E February 2012 Testimony, Chapter 9, DWC-2.
[36] Mass. Regs. Code tit. 220, § 27.00.
[37] N.Y. Comp Codes R. & Regs. Tit. 16, § 11.12.

operates a bill payment and deposit assistance program for low-income customers. Deposits for qualifying NIPSCo customers are reduced to one-twelfth of the annual estimated bill through the "Winter Warmth" program.[38]

These examples from other states show that there are various means that utility companies and states can use to address security deposit affordability concerns in a more consumer-friendly fashion, compared to the prepaid service proposal by SDG&E. The Sponsoring Parties recommend that the Company withdraw its prepaid service proposal and replace it with a program design that includes less punitive means of providing access to service for customers who are unable to afford a security deposit. Such a program design could include waiver of security deposits for CARE-eligible customers, amortization of security deposit costs, a reduction in the deposit amount requested from low-income customers, or payment assistance targeted specifically toward security deposit costs, such as through SDG&E's Neighbor-to-Neighbor financial assistance fund.

2. Uncollectible Accounts

SDG&E generally requires prior customers with arrearages to pay off their account in full in order to re-establish service. It proposes to allow such prior customers to establish prepaid service without paying off their debt in full, but by committing to apply a portion of each payment to the prior debt. Similar to the subsection on security deposits above, the Sponsoring Parties recommend that the Company withdraw its prepaid service proposal and replace it with a program design that includes less punitive means of providing customers with bad debt access to service. For example, a program that allows customers to write down a previous arrearage over an extended period of time while paying current bills timely and in full need not entail the rapid,

[38] LIHEAP Clearinghouse, http://www.liheap.ncat.org/news/Feb06/IN.htm, October, 2011.

automated disconnect feature of SDG&E's prepaid service proposal. Providing customers the opportunity to pay an affordable installment toward past debt at the time of service establishment, with the remainder subject to a payment plan, would also be an improvement. The Sponsoring Parties further recommend that the Company enhance its efforts to assist and encourage CARE-eligible customers to avoid the build-up of excessive arrears, collection activities, and the write-off of accounts. These activities include, but are not limited to, initiation of positive customer service contact with customers experiencing difficulty remaining current on their bills and the offering of payment agreements that incorporate terms based on a household's circumstances that include considering actual income, expense, and emergency consumption. These activities, unlike SDG&E's prepayment proposal, would not subject customers to the loss of existing protections set forth by the California Public Utilities Code.

3. Flexibility

As described above, the Company asserts that prepaid service customers will receive a benefit by having flexibility to choose when to make a payment and how much (and how) to pay at any given juncture. The Company proposes that customers will be able to pay for service credits by linking a bank account to the Company's payment system using the "MyAccount" service, by making online credit or debit card payment using BillMatrix service, by telephone IVR service, or by check or cash payment at a Company branch office or third-party payment location.

As an initial matter, the Sponsoring Parties note that each of these payment options is currently available to standard post-paid residential customers. Customers also enjoy considerable flexibility in determining when to pay. According to SDG&E, "there is no need for … the utilities to permit customers to select their own billing dates or due dates" because residential customers have approximately 30 days from the mail date of the bill to pay before facing any "disconnection or credit issue."[39] In addition, residential customers with advanced meters can access detailed information regarding their energy consumption. The Division of Ratepayer Advocates (DRA) points out in its testimony in this proceeding that daily account balances and automatic notification of account balances, two additional features included in SDG&E's prepaid service proposal, can and should be made available to all customers with installed AMI meters.[40] DRA explains, "All SDG&E residential customers are paying for the AMI investment, so it is essential for them to be able to have the opportunity to reap the benefits that can be realized through AMI," including these account management and notification features.[41] Thus, the flexibility "benefits" identified by the Company are not (and should not be) unique to a prepaid service program.

The prepaid payment options proposed by SDG&E include online payments using a credit card through the Company's payment processing vendor, BillMatrix. This payment method currently adds a service fee of $1.50 for each payment.[42] In addition, customers making payments through a linked bank account may incur service charges from their banks, as SDG&E warns on its website.[43]

Prepaid service customers tend to purchase service credits much more frequently than once per month. A 2009 study of the Arizona Salt River Project's M-Power prepaid service program, discussed in greater detail below, showed that participants made an average of 7.1

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[39] Opening Comments of San Diego Gas & Electric Company and The Southern California Gas Company to the Administrative Law Judge's Ruling Providing Opportunity for Comments and Addressing Other Phase II Issues, filed in R.10-02-005 on Sept. 15, 2010, p. 8.
[40] Division of Ratepayer Advocates Testimony on San Diego Gas & Electric Company's 2012 General Rate Case, Phase 2, A.11-10-002, May 18, 2012, p. 7-9.
[41] Id.
[42] SDG&E February 2012 Testimony, Chapter 9, DWC-4, footnote 8.
[43] *See* http://sdge.com/customer-service/billing-and-payment-options/sdge-pay-phone; http://sdge.com/customer-service/billing-and-payment-options/other-ways-pay.

payments during summer months and 3.6 payments during off-peak winter months. Individual payments averaged between $21 and $24.[44] If customers are paying transaction fees, the frequency of payments among prepaid service customers becomes highly relevant. If a hypothetical "average" SDG&E prepaid service customer makes four payments per month and incurs a transaction fee of $1.50 per payment, the customer will incur a total of $72 in transaction fees over the course of a year. This amount represents a 12.5% increase in the average SDG&E CARE customer's electric bill.[45] Such added costs undermine the argument that prepaid service enhances affordability based on payment flexibility.

The Sponsoring Parties recommend that the Company's prepaid service proposal be rejected absent clear evidence that participation in the program will result in an economic savings, not economic costs, to participants.

4. Potential For Conservation Savings

The Company asserts that customers using prepaid service consume less energy and have lower monthly bills than standard post-paid customers, citing studies conducted by other utilities implementing prepayment programs.[46] The foundation of this assertion should be examined closely. While the Company cites other utility company studies showing reduced usage among prepaid service customers, these studies do not calculate the extent to which this "conservation effect" is attributable to forced usage reduction to avoid complete loss of light, cooling and heat, or even from reduced usage because of service disconnections. There is currently no conclusive evidence demonstrating the source of any usage reductions associated with prepayment.

[44] Bruce Neenan, "Paying Upfront: A Review of Salt River Project's M-Power Prepaid Program," *Electric Power Research Institute* (2010) ("EPRI Report"), p. 4.7.
[45] Calculated from SDG&E's 2011 FERC Form 1 filing, p. 304.
[46] SDG&E February 2012 Testimony, Chapter 9, DWC-3. The Company cites King, Jennie, "M-Power: A Better Way to Keep Customers in Power," *Metering, AMR, and Data Management,* Energy Central (January 18, 2007); and Chartwell, Jonna Buck, Oklahoma Electric Cooperative, "Prepaid Experience," Webinar (July 2008).

Unlike efficiency measures that generate real energy savings for a consistent level of work (e.g., heating, cooling or light), or even education that encourages reduced usage in ways that do not risk health or safety (e.g. unplugging appliances that are not in use), forced usage reduction or remote disconnection of service simply cannot be considered an enhancement to the quality or affordability of utility service. These sources of consumption reduction should be neither encouraged nor lauded by policymakers.[47] Additionally, any calculation of bill "savings" for prepaid service customers which includes households experiencing service disconnection must be offset by the costs attributable to the disconnection, including direct costs such as food spoilage and indirect costs such as compromised health and safety. Rather than turning to prepaid service, energy conservation and efficiency should be encouraged through energy efficiency programs and customer education and outreach about conservation. In contrast with prepaid service, neither of these approaches puts customers at increased risk of disconnection.

V. PREPAID SERVICE EXPERIENCE IN THE UNITED STATES AND THE UNITED KINGDOM: LOW INCOME CUSTOMERS AND HIGHER RATES OF SERVICE DISCONNECTIONS

Based on the experience of utilities in the United Kingdom and the United States, the population that participates in prepaid service is concentrated among low or moderate income customers, many of whom are at risk of service disconnections for nonpayment. Prepaid service does not lower the risk of service disconnection, however. In fact, prepaid customers generally face frequent service disconnections or interruptions, while sometimes paying higher rates than customers receiving traditional credit-based service. Nevertheless, prepaid service is offered to customers on what is termed a "voluntary" basis, and, when a prepayment customer experiences

[47] *See, i.e.* R. Cavanagh, J. Howat, *Finding Common Ground Between Consumer and Environmental Advocates*, ELECTRICITY POLICY JOURNAL, May 2, 2012 (prepaid service is inappropriate for low-income and other vulnerable households, even though consumption reduction has been observed in prepaid service customers).

a service disconnection, it is often referred to within the industry as a "self-disconnection" or "voluntary disconnection." In fact, participating prepaid customers may not feel as though they have any other option. A customer who is facing imminent loss of essential service—often with devastating consequences— may surrender consumer protections and access to a reasonable payment agreement to keep service in the short term. This is what has been shown to happen when customers are offered prepayment services.

A. Prepaid Service in the United States

In the United States, at least 53 utilities in 19 states currently operate prepayment electric programs, but most of the utilities that offer prepaid service are electric cooperatives. Additionally, prepaid utility service is concentrated in service territories served by publicly- or cooperatively-owned utility systems that are not subject to the full regulatory jurisdiction of state utility commissions. Large-scale prepayment programs are run by Salt River Project (SRP) in Arizona through its M-Power program and by Oklahoma Electric Cooperative. In Texas, at least six Retail Electric Providers deliver prepaid service through advanced meters. In addition to the Company's proposal at issue in this proceeding, investor owned utilities have proposed or are considering prepayment programs in Arizona, Delaware, Florida, Louisiana, North Carolina, and Oklahoma.

Generally, prepaid service proposals that are subject to the jurisdictional authority of state utility regulators can only be authorized based on a petition seeking permission to bypass, modify, or eliminate standard consumer protections regarding service disconnection notifications and timelines. Prepaid service providers must also obtain permission to bypass obligations to offer a reasonable payment agreement as an alternative to service disconnection.

In Iowa, proponents of prepaid service sought legislation to allow them to bypass these important consumer protection regulations. The proposed legislation sought to define a remote disconnection of service for a prepaid customer who failed to maintain an adequate balance as a "voluntary termination." The proposed legislation would have allowed an electric utility to install a prepaid metering system and equipment configured to terminate electric service immediately and automatically when the customer incurred charges for electric service equal to the customer's prepayments for such service. The precise language of the bill states: "The automatic termination of electric service once the customer's prepaid limit has been reached shall be considered a voluntary termination of service by the customer and shall not be considered a disconnection by the utility for purposes of this chapter and applicable rules adopted by the board."[48] No action was taken on this legislation during the 2011 Legislative Session.

Salt River Project ("SRP"), Arizona's second largest electric utility and the third largest municipally-owned utility in the United States, operates the SRP M-Power prepayment meter program, the largest prepayment program in the United States. Currently, over 100,000 customers are enrolled in the SRP program.

The vast majority of SRP prepayment program participants are low-income households, and the median income of M-Power customers has declined considerably in recent years. In 2007, the median participant income was $27,500. Within a year, it dropped to $19,500. In 2010, the median income fell below the poverty level for a family of three or more to $17,900. In 2010, 82 percent of program participants had household income of less than $30,000.[49]

[48] 2011 Iowa House Study Bill 158. Emphasis added.
[49] EPRI Report, Table 4-3, p. 4-6.

Additionally, a study of customers in the M-Power program shows an increasing proportion of racial minorities enrolled in prepayment service. Surveys prior to 2010 showed that Hispanics comprised 22 to 23 percent of SRP's prepaid service customers in 2006, but that Hispanic participation had increased to 48 percent by 2008.[50] In Phoenix, the largest city served by the Salt River Project, Hispanics account for 40.8 percent of the population, and are thus disproportionately represented in the prepaid service program.[51]

A 2009 analysis showed that M-Power customers are "more likely to be relatively young, have families, be relatively low-income, be low electricity consumers, live in apartments, have been SRP customers for less than five years, and have unsatisfactory or "new credit ratings" compared to other residential customers.[52] On average, the head of a household with a prepaid meter is 36 years old, makes an average annual income of $24,400, and is Hispanic.[53]

B. Prepaid Service in Great Britain and the United Kingdom

In the western world, Great Britain took the lead in implementation of prepaid electric service, with rapid growth in the rate of prepayment meter installations beginning in the 1980s. By 1989, about 3.7 million electricity customers and 1.1 million natural gas customers in Great Britain used prepayment meters to pay for utility service. The number of customers using the systems nearly doubled between 1990 and 1997.[54] Currently, about 6.7 million residential natural gas and electric utility customers in Great Britain use prepayment meters, representing about 13 percent of all installed residential meters.[55]

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[50] Id. at 4-6.
[51] U.S. Census Bureau, "State & County Quick Facts," (2012).
[52] EPRI Report, Table 4-3, p. 4-6.
[53] Id.
[54] Centre for Sustainable Energy and National Right to Fuel Campaign, "Counting the Hidden Disconnected," (1998), p. 8-9.
[55] Office of Gas and Electricity Markets, "Domestic Suppliers' Social Obligations: 2010 Annual Report," June, 2011, p. 21.

Historically, a vast majority of prepayment meter users in Great Britain have been low-income customers.[56] Utility companies targeted marketing of prepayment meters to low-income households in arrears, even though they charged substantially more for service delivered under prepayment than for service paid for by traditional billing means or through direct debit.[57]

Prepayment meters in Great Britain are still concentrated disproportionately in lower-income households. Sixty percent of electricity and natural gas customers with prepayment meters in 2010 had annual incomes below £17,500 ($27,704). Further, over half of prepayment meter customers received a means-tested benefit, nearly half had an unemployed head of household, and more than a third had one or more household members with a long-term physical or mental illness or disability.[58] Similar to the SRP experience, average income among prepaid service customers in Great Britain is declining. In 2008, the average household income for prepaid customers was £16,091 ($27,523). By 2009, the average income fell to £13,466 ($21,929).[59] The number of customers with disabilities increased from 26 percent to 39 percent.[60]

C. Disconnections among Prepaid Service Customers in the United Kingdom and the United States

Information regarding rates and service disconnections among prepaid service customers is very difficult to come by, since implementing utilities in the United Kingdom and the United States are not necessarily required to track and report this critical information. However, customer surveys provide valuable insights and help to fill the information gap. Accent, an

[56] Centre for Sustainable Energy and National Right to Fuel Campaign, "Counting the Hidden Disconnected," (1998), p. 8.
[57] National Right to Fuel Campaign, "Fuel Poverty Fact File: Progress and Shortfall," (2000), p. 23-26.
[58] Mummery and Reilly, Consumer Focus, "Cutting Back, Cutting Down, Cutting off: Self Disconnection Among Prepayment Meter Users" by July 2010, ("Mammery and Reilly") page 5.
[59] Accent for National Housing Federation, "Pre-Payment Meter Utilities Customers: Wave 2 Final Report," (April 2009), p. i.
[60] Id.

independent research firm in the UK, surveyed prepaid service customers. It found that in 2008, 9% of prepaid electric service customers had experienced disconnections during the previous twelve months.[61] However, customers using traditional, credit-based service experienced a disconnection rate of about one-tenth of one percent during that same period.[62] Further, a 1997 customer service survey found that twenty-eight percent of prepayment customers in Great Britain were disconnected from service over the previous twelve month period.[63] The survey also found that over half of prepaid service customers experiencing disconnection went without fuel supplies up to three times during the previous year. Over half of the households reporting disconnection from prepaid service went without fuel between five and twenty-four hours, and four percent of those disconnected from natural gas service went without fuel for between four and seven days.[64] Finally, a 2010 survey conducted in Great Britain for the organization, Consumer Focus showed that twenty-two percent of prepaid service customers had foregone other necessities such as food and medicine in order to retain utility service, forty-five percent had reduced their energy usage to retain service, fifty-four percent had used a "emergency credit" to retain service, and fully sixteen percent had service disconnected during the previous year.[65]

VI. SUMMARY OF RECOMMENDATIONS AND CONCLUSIONS

SDG&E's proposed prepaid service program is a cause of serious concern. By offering a waiver of security deposit and being available to prior customers with uncollectible accounts, SDG&E's prepaid service proposal is designed to appeal to customers who cannot afford to pay

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[61] Accent report prepared for National Housing Federation, "Pre-Payment Meter Utilities Customers, Final Report," (June 2008), p. 12.
[62] Calculated by National Consumer Law Center using Office of Gas and Electricity Markets Domestic Suppliers Quarterly Debt and Disconnections Reports from 2008.
[63] Centre for Sustainable Energy and National Right to Fuel Campaign, "Counting the Hidden Disconnected," (1998), p. 20.
[64] Id. at p. 21.
[65] Mummery and Reilly at p. 17.

a deposit, customers who are required to pay a deposit due to past credit and collection activities, and prior customers with an uncollectible account. These customers should be considered those in the most financial hardship, and most at-risk of disconnection of traditional service.

The California Public Utilities Code provides protections for customers prior to experiencing disconnection for nonpayment, but the SDG&E prepaid service proposal would circumvent these protections. SDG&E fails to discuss (1) how it would offer prepaid service customers an opportunity to enter a payment plan when the customer's service credits fall below zero; (2) how SDG&E would educate the customer at-risk of disconnection about other assistance programs and rate options to lower the customer's bill and increase affordability; (3) how levelized billing could be offered to a prepaid service customer; (4) how low-income customers on prepaid service could continue to benefit from fuel assistance payments and how disconnection would be suspended upon notification that a provider of energy assistance is forwarding payment sufficient to prevent disconnection; and (5) how disconnection could be prevented while a prepaid service customer is disputing an issue of service or charges.[66] As far as can be determined, SDG&E's prepaid service proposal contains none of these consumer protections.

Additionally, while customers who enroll in SDG&E's proposed prepaid service program would lose the above consumer protections enjoyed by traditional, post-paid service customers, SDG&E proposes to charge its prepaid service customers the same rate as post-paid customers. This is especially problematic, as lower-income customers whom the prepaid service program will attract will essentially be paying the same rates as post-paid customers, while enjoying only second class utility service compared to other customers. Not only will prepaid service customers

[66] *See, e.g.*, Cal. Pub. Util. Code §§ 739.4, 779, and 779.1.

lose the notice and affordability protections to prevent disconnection that are set forth by the California Public Utilities Code, but they will also lose customer service and technical expertise provided by the utility. That is, prepaid service allows the utility to pass its traditional burden of maintaining continuous, reliable service onto the backs of struggling, low-income customers who do not have the same technical expertise as SDG&E's staff, and who may not have the time, availability, or convenient access to phone or internet in order to make the frequent payments needed to maintain constant service through the prepayment program.

SDG&E's prepaid service proposal is also counterproductive to the steps taken by this Commission to reduce the disconnection rates among low-income customers, in docket R-10-02-005. Where a payment troubled customer's enrollment in prepaid service may result in frequent disconnections as balances run down to $0 or -$20 before a consumer has opportunity to replenish credits, disconnection rates of SDG&E's low-income customers can be expected to drastically rise.

The benefits of prepaid service touted by SDG&E are not necessarily achievable only through a prepaid service program, but are achievable in other ways that are less punitive to SDG&E customers. Uncollectibles can be reduced by an alternate post-payment program design that allows customers to write down previous arrearages over an extended period of time while paying current bills. The flexibility in payment through SDG&E's "My Account" service, online credit or debit card payment, telephone, check or cash payment that SDG&E states would be provided for prepaid service customers does not hinge on the existence of a prepaid service proposal – these payment options are already currently available to SDG&E's post-paid customers. Lastly, the potential energy savings cited by SDG&E are not traceable to reduction of usage caused by anything specific; rather, the touted savings may likely be largely due to consumption reduction due to disconnections of service to prepaid customers.

SDG&E's prepaid service proposal fails to explain how SDG&E can continue to provide prepaid service customers the protections set forth in the California Public Utility Code; fails to justify charging prepaid service customers the same rate for second class service as what SDG&E charges post-paid customers; is counterproductive to the Commission's goals of lowering disconnection rates, especially among low-income customers, in docket R.10-02-005; and fails to demonstrate that any substantial or significant benefits exist that outweigh the negative effects of its proposal for potential prepaid service customers.

SDG&E states that the proposed prepaid service program is strictly optional, but SDG&E has not provided other realistic options for low-income customers who are struggling to retain service. Other realistic options for payment-troubled customers are possible, but have not been proposed by SDG&E. For example, alternatives to SDG&E's prepaid service proposal for maintaining utility service could include implementing a waiver of security deposits as a company-wide policy either for all customers or for those in financial hardship.[67] Indeed, under the terms of the Settlement that SDG&E entered in docket R. 10-02-005, SDG&E currently will waive re-establishment of credit deposits through the term of the Settlement for residential customers if its disconnection benchmarks are exceeded. Other means to make a security deposit more affordable include implementation of a deposit assistance program, or expanding the idea of SDG&E's Neighbor-to-Neighbor financial assistance fund to also assist customers generally with deposit payments.

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[67] *See* Mass Regs. Code tit. 220, § 27.00; N.Y. Comp Codes R. & Regs. Tit. 16, § 11.12.

Based on these findings and analysis, Sponsoring Parties respectfully recommend that the Commission reject SDG&E's prepaid service proposal in its entirety.

VII. STATEMENT OF QUALIFICATIONS

My name is John Howat. I am a Senior Policy Analyst at the National Consumer Law Center, 7 Winthrop Square, Boston, MA 02110. At the NCLC over the past eleven years I have managed a range of regulatory, legislative and advocacy projects across the country in support of low-income consumers' access to affordable utility and energy related services. I have been involved with the design and implementation of low-income energy affordability and efficiency programs and outreach efforts, regulatory consumer protection, rate design, issues related to metering and billing, development of load profiles, energy burden and related demographic analysis. I have worked on behalf of community-based organizations or their associations in Arkansas, Arizona, Illinois, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Mississippi, Nevada, New Jersey, Pennsylvania, Rhode Island, Texas, Utah, and Vermont. I have worked under contract on low-income energy and utility issues with the U.S. Department of Health and Human Services, Oak Ridge National Laboratory, the National Energy Assistance Directors' Association, the Office of the Attorney General in Nevada, the Ohio Consumers' Counsel, and AARP. I have presented testimony or comments before utility regulatory commissions in California, Idaho, Illinois, Indiana, Louisiana, Massachusetts, Missouri, Nevada, New Jersey, Pennsylvania, Rhode Island, Texas, Washington State, and Vermont. In addition, I am a presenter at conferences of National Community Action Foundation, National Low Income Energy Consortium, National Energy Assistance Directors Association, National Association of Regulatory Utility Commissions and National Association of State Utility Consumer Advocates. I am co-author of <u>Access to Utility Service</u>, a law and policy manual published by National

Consumer Law Center; and primary author of “Home Energy Costs: The New Threat to Independent Living for the Nation’s Low-Income Elderly,” published in Clearinghouse Review, Vol. 9 - 10, Jan - Feb 2008; “Tracking the Home Energy Needs of Low-Income Households through Trend Data on Arrearages and Disconnections,” National Energy Assistance Directors Association, 2004, http://www.neada.org/publications/Tracking_the_Need.pdf, and “Public Service Commission Consumer Protection Rules and Regulations: A Resource Guide,” National Energy Assistance Directors Association, 2006, http://www.neada.org/publications/Consumer_Protection_Guide.pdf.

I have been professionally involved with energy program and policy issues since 1981. Prior to joining the Advocacy Staff at National Consumer Law Center, I consulted with a broad range of public and private entities on issues related to utility industry restructuring. Previously, I worked as Research Director of the Massachusetts Joint Legislative Committee on Energy, responsible for the development of new energy efficiency programs and low-income energy assistance budgetary matters; economist with the Electric Power Division of the Massachusetts Department of Public Utilities, responsible for analysis of electric industry restructuring proposals; and Director of the Association of Massachusetts Local Energy Officials. I have a Master's Degree from Tufts University's Graduate Department of Urban and Environmental Policy and Bachelor of Arts Degree from The Evergreen State College.