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ORIGINAL

Decision 88 07 059 JUL 22 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
of SOUTHERN CALIFORNIA GAS COMPANY to )	
Revise its Rates and for Approval of )	Application 87-06-021
Hazardous Substance Site Cleanup )	(Filed June 12, 1987)
Program. (U904G) )	

Thomas D. Clarke, Jeffrey E. Jackson, and Roy M. Rawlings, Attorneys at Law, for Southern California Gas Company, applicant.

Richard K. Durant, Carol B. Henningson, and James M. Lehrer, Attorneys at Law, for Southern California Edison Company; Andrew Safir and Ronald G. Oechsler, for Holly Sugar Corporation; Edward Duncan, for Consumers Coalition of California; Mark E. Brown, for Pacific Gas and Electric Company; and Robert Ferrara and Dorothy Taylor, for Public Advisor's Office; interested parties.

Greggory Wheatland, Attorney at Law, William Dietrich, and Donna Orebic, for Division of Ratepayer Advocates.

OPINION

Summary of Decision

This decision authorizes Southern California Gas Company (SoCal) to record up to \$515,000 in a memorandum account for certain hazardous waste cleanup projects. These expenses will not be reflected in rates until a reasonableness review has been completed.

The Commission concludes that the existing procedure established for utility hazardous waste cleanup programs needs to be modified in order to expedite the process of authorizing the booking of hazardous waste cleanup expenses. In order that utilities may be made whole for any such expenses that are

reasonably incurred, the Commission has adopted a new procedure which allows to the utility to seek authorization to book such expenses in a memorandum account by filing an advice letter with certain prescribed documentation.

Background

The Commission first addressed the ratemaking for a utility's hazardous waste cleanup program in PG&E's 1987 test year general rate case application (Application (A.) 85-12-050). In Decision (D.) 86-12-095 (PG&E decision) the Commission adopted explicit criteria and procedures for PG&E's hazardous waste cleanup program. It should be noted that the PG&E decision draws an important distinction between two general categories of expenses related to hazardous waste cleanup programs. These two expense categories are: "investigation and program development" and "cleanup or remedial activities."

Also, the PG&E decision authorized \$2 million in base rates for investigations and program development expense for PG&E's manufactured gas plant sites, including ongoing investigations at a rate of at least 10 sites per year. The PG&E decision authorized additional amounts for compliance activities and capital expenditures and established that actual site specific planning and cleanup should be handled through a "special procedure":

"PG&E should file a formal application for approval of funding for a project or package of projects. Funding for approved projects should be entered into a memorandum account, to be recovered following review in ECAC proceedings..." (P. 65c, D.86-12-095.)

In addition, the PG&E decision required PG&E to file, by March 1, 1987, a report outlining the company's proposed 1987 manufactured gas program which should present program priorities and how they mesh with government-funded programs.

Shortly after the PG&E decision was issued, SoCal and the Division of Ratepayer Advocates (DRA) entered into a stipulation to

postpone SoCal's next general rate case from test year 1988 to test year 1990. The stipulation established for SoCal a special ratemaking procedure for its hazardous waste cleanup program. In particular, DRA and SoCal agreed that "SoCal will be bound by all the terms, conditions, and reporting requirements with regard to Hazardous Waste Costs/Manufactured Gas Plant Sites" as set forth in the PG&E decision.

The Commission issued D.87-05-027 (SoCal decision) in May 1987, incorporating fully the terms and conditions of the stipulation. As a result of this decision, SoCal continued to recover in base rates the approximate same level of funding established in the 1985 Test Year general rate case. The SoCal decision became effective on June 12, 1987.

The Commission readdressed the issue of ratemaking treatment of hazardous waste cleanup programs in Southern California Edison Company's (Edison) general rate case (A.86-12-047). In that proceeding Edison and DRA (then the Public Staff Division - PSD) were the only two parties that addressed this issue. Edison stipulated to DRA's proposed ratemaking treatment. In D.87-12-066 (Edison decision) the Commission concluded that :

- "1. Edison should file an application for funding prior to expending funds when its hazardous waste program for the sites it owns is more definite. Applications under this procedure are only intended for hazardous waste cleanup at sites included in Edison's general rate case filing and/or in its annual hazardous waste management report.
- "2. For hazardous waste sites that Edison does not currently own, it should file an application to receive prospective funding for remedial investigations or work when Edison is ordered by a regulatory agency or a court to perform such work or is notified by a regulatory agency that it is considered a potentially responsible party for these costs.

- "3. Upon approval Edison should be allowed to place actual program costs into a memorandum account for recovery in a subsequent ECAC or general rate case proceeding. This account should accrue interest at the ECAC interest rate.
- "4. No retroactive recovery of hazardous waste costs incurred prior to 1988 should be authorized.
- "5. Edison should file with the Executive Director and the PSD's Resources Branch a comprehensive overview of Edison's hazardous waste management effort, including its underground storage program, by March 31, 1988 and update it annually by January 31 until ordered otherwise."  
(P. 106, D.87-12-066.)

Therefore it will be noted from the PG&E and Edison decisions, that aside from providing nominal amounts included in base rates to cover the utility's ongoing administrative costs and costs of preliminary investigations, the Commission required the utilities to submit new applications requesting authorization to record site specific expenses before incurring those expenses.

#### SoCal's Application

On June 12, 1987, SoCal filed A.87-06-021 requesting approval of its hazardous waste cleanup program and associated rate relief. SoCal sought authority to immediately increase its rates by \$2.926 million to recover the costs of its hazardous waste cleanup program for the period January 1, 1985 through May 31, 1988. Also, SoCal requested authority to charge future costs associated with the program to a balancing account for implementation in rates in subsequent proceedings subject to refund following periodic reasonableness reviews.

Later, SoCal decided to forego an immediate increase in rates and revised its request for authorization to book up to \$2.424 million of cost related to certain hazardous waste cleanup projects in a memorandum account which would be incorporated in

rates after a reasonableness review. This included \$1.062 million of costs incurred during January 1, 1985 through May 31, 1987.

On August 31, 1987, SoCal filed a motion requesting authorization to create an interim memorandum account to book up to \$2 million of ongoing expenses for its hazardous waste cleanup program. D.87-09-078, dated September 23, 1987, authorized SoCal to establish an interim memorandum account to record up to \$390,000 in expenses for continuing Phase III investigations at the Olympic Base, El Centro and Dinuba sites. The decision further authorized SoCal to record up to \$550,000 in expenses for new Phase III investigations at the Colton II, Santa Barbara II, and Ventura II sites, effective upon submission to the Commission of a preliminary risk analysis for each site, a detailed budget and a workplan for each site investigation.

Hearings were held on December 14, 15, 17, and 18, 1987 before Administrative Law Judge Garde. The matter was submitted on February 16, 1988 upon receipt of reply briefs.

#### Hazardous Waste Cleanup Program

The Hazardous Waste Cleanup Program is designed to investigate sites potentially subject to federal, state, and local requirements that mandate the assessment and mitigation of risks posed by hazardous waste disposal sites, and to take remedial action required at such sites. SoCal's hazardous waste cleanup efforts are carried out under the following two programs:

1. Superfund Program
2. Towne Gas or Manufactured Gas Program

#### 1. Superfund Program

The Superfund program was developed in response to the Comprehensive Environmental Response, Compensation and Liability Act (Superfund). Superfund is the federal statute enacted in 1980 and amended in 1986 that generally provides for the cleanup of hazardous substance releases into the environment. Those responsible for the release are liable for the financial burden of

the cleanup. California has a companion state Superfund law that addresses the issue of financial responsibility in a similar fashion.

An essential provision of the Superfund law is that waste generators remain potentially liable for cleanup and other costs associated with such sites even though waste generation and disposal may have occurred many years ago and despite the fact that the waste may not have been deemed hazardous at the time of its disposal. No public funds are available in cases where the enforcing agency can identify responsible parties or a potentially responsible party (PRP) with the ability to pay these costs.

The Superfund program deals specifically with sites that have been identified by the Environmental Protection Agency (EPA), the California Department of Health Services (DHS), other local agencies with cleanup jurisdiction or another PRP as requiring investigation or cleanup action. Under the Superfund and other federal laws, EPA can require any PRP(s) to provide documentation and information regarding past waste disposal practices. EPA can also require the PRP(s) involved to proceed with investigative and/or remedial work at a contaminated site. As discussed later in this decision, SoCal is presently involved in one such site, the Operating Industries Inc. landfill in Monterey Park, in which EPA has identified SoCal as one of many PRPs and has required SoCal to provide EPA with documentation and information regarding past waste disposal practices.

## 2. Towne Gas Program

The Towne Gas program involves a systematic investigation of potential problems at SoCal's former manufactured gas plant sites. Prior to the widespread availability of natural gas in the 1920s, synthetic gas was manufactured from fossil fuel (predominantly coal and oil) for heating, cooking, and lighting. Typically, each town had its own gas manufacturing plant. These early Towne Gas plants were the forerunners of the natural gas

industry as we know it today. In addition to manufacturing gas from coal, Towne Gas plants produced by-products including tars, oils, and lampblack. Most of the by-products had commercial value and were commonly sold. However, residues of these materials may still be present in the soil at former Towne Gas plant sites. The technical name for the chemical constituents of greatest concern in Towne Gas residues is "polycyclic aromatic hydrocarbons" (PAHs). Other chemicals that may be present at Towne Gas sites include non-PAH organic compounds, asbestos, cyanides, and traces of heavy metals.

In recent years, Towne Gas sites have become a focus of environmental concern, because they may pose public and employee health risks and may be subject to the previously described Superfund laws. Accordingly, the current owner of a former Towne Gas site as well as the owner or operator of a Towne Gas facility at the time of disposal of any residues are potentially liable.

The Towne Gas program has four phases. The first two phases involve preliminary site screening, data gathering, and ranking of sites for future, more comprehensive investigations. These activities would come under the investigation and program development expense category mentioned earlier. Phase III involves a detailed field investigation, also known as remedial investigation, to assess the nature and extent of site contamination. If necessary, action plans to mitigate health and environmental risks are also developed in Phase III. Phase IV involves the implementation of the remedial action plans developed in Phase III. Phase III and IV activities would come under the remedial activities category mentioned earlier.

The Towne Gas program also involves sites where two or more utilities shared past ownership and/or responsibilities for cleanup efforts. These sites are designated as Mutual Interest Sites. SoCal and Edison have recognized that they may both have past involvement in a number of Mutual Interest Sites. To assure

that the two utilities approach such sites in a coordinated manner, the utilities have agreed to share certain information to avoid performing duplicative work, to keep each other advised of developments at these sites, and to pursue a more comprehensive generic agreement regarding how the two utilities will fully address the Mutual Interest sites.

SoCal's Schedule and Plan

SoCal's current schedule allows ten years (from 1985 through 1994) for the completion of its hazardous waste cleanup program.

SoCal completed Phase I activities in June 1986. Most of Phase II activities are completed. The primary future efforts will be for Phase III and Phase IV activities.

According to SoCal's plan, it would give priority to projects or sites where one or more of the following conditions apply:

- An order from a government agency or court of law requiring SoCal to perform work.
- A demand by a third party coupled with SoCal's own assessment that there is a substantial degree of liability exposure under the law.
- A situation where immediate action is advisable to avert higher costs at a later date that will result from delay.
- Awareness of activities by third parties that are likely to result in a release or in exposure of the public to hazardous substances.
- A situation in which, by negotiating SoCal's share of obligation for site cleanup with another potentially responsible party, SoCal can avoid higher costs associated with legal defense at a later date.



Ratemaking Issues

This proceeding involves the following issues:

1. Which costs included in SoCal's current application should be booked into a memorandum account?
2. Should SoCal be authorized to recover the hazardous waste cleanup costs incurred during January 1, 1985 through May 31, 1987?
3. What is the appropriate ratemaking procedure for SoCal's hazardous waste cleanup program?
4. Miscellaneous issues.

Costs to Be Booked in the Memorandum Account

Table A sets forth SoCal's request, DRA's recommendation and the amounts adopted by the Commission for inclusion in a memorandum account:

TABLE A  
Page 1SOCAL'S HAZARDOUS SITE CLEANUP PROGRAM  
COMPARISON OF REQUESTED, RECOMMENDED, AND ADOPTED AMOUNTS  
A.87-06-021

<u>Item 1</u>	<u>SoCal Initial</u> [a]	<u>SoCal Revised</u> [b]	<u>DRA</u> [c]	<u>Adopted</u> [d]
Haz. Waste Cleanup Prog. 1/1/85-6/12/87	\$1,062,500	\$1,062,500	\$ 0	\$ 0
TOWNE GAS PROGRAM				
Olympic Base	185,000	136,000	185,000	185,000
Dinuba	120,000	127,000	127,000	127,000
Venice	N.A.	203,000	203,000	203,000
El Centro	85,000	55,000	0	0
New Site I	N.A.	65,000	0	0
New Site II	N.A.	35,000	0	0
Santa Barbara II	150,000	47,000	0	0
Ventura II	150,000	13,000	0	0
Colton II	250,000	0	0	0
Aliso (Los Angeles II)	250,000	1,000	0	0
SUPERFUND SITES PROGRAM				
Monterey Park Landfill	240,000	290,000	0	0
COMPANY LABOR	250,000	200,000	0	0
COMPANY NON-LABOR	50,000	40,000	0	0
MISCELLANEOUS				
(Including program development and completion of Phase II)	70,000	98,000	0	0
UNCOLLECTIBLES AND FRANCHISE FEES				
	<u>63,000</u>	<u>52,000</u>	<u>0</u>	<u>0</u>
	\$2,925,500	\$2,424,500	\$515,000	\$515,000



TABLE A  
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- NOTES: [a] SoCal's initial request, A.87-06-021, Tab B, Table 1, for expenses to be incurred between 6/12/87 and 5/31/88; and A.87-06-021, Tab A, Exhibit GES-3 for expenses incurred between 1/1/85 and 6/12/87. SoCal proposed that these costs be placed in rates subject to refund after reasonableness review.
- [b] SoCal's revised request as presented in Exhibit 6, p. A-1. According to this revision, as clarified by witness Strang, SoCal requests that these costs be recorded in a memorandum account, to be incorporated in rates after a reasonableness review.
- [c] DRA recommends that these costs be placed in a memorandum account, to be recovered in rates after a reasonableness review.
- [d] Costs authorized to be booked in a memorandum account.

At the beginning of hearings in this proceeding in December, 1987, SoCal revised its budget for the period June 1, 1987 through May 31, 1988. According to SoCal the need for such changes in the budget demonstrate the uncertainties that will always be associated with accurately forecasting costs, schedules, and the scope of site investigations and cleanups. The budget changes also reflect actual expenditures for the first six months of this period that were of necessity, estimated in the forecast SoCal presented in June. SoCal maintains that many of the reductions in expenditures between the initial budget and the revised budget were simply a matter of SoCal finding opportunities to defer expenditures to future periods, and to modify the estimated overall expense associated with certain sites.

SoCal completed Phase II of the Towne Gas program in June, 1987. The expenses that SoCal seeks authority to record in a memorandum account for the period June 1, 1987 to May 31, 1988 would be used primarily for Phase III remedial investigations at seven manufactured gas sites. At three of the seven sites the funds would be used for ongoing remedial investigations, and at the other four sites SoCal would use the funds to initiate new investigations.

In addition to the amounts shown in Table A, SoCal requests that an appropriate component for uncollectibles and franchise fee expenses be authorized when the related rate change is implemented. Based on the current uncollectibles and franchise fee rates approved for SoCal and the amounts requested in this application, SoCal estimates the the amount for uncollectibles and franchise fee expense to be \$52,000.

SoCal contends that the level of detail that it has provided with respect to each portion of its budget meets or exceeds the guidelines for forecast purposes that SoCal has proposed for Commission adoption set forth in Exhibit 12. With regards to the past expenditures, SoCal states that it has provided

DRA with all of the information that has been provided to government environmental agencies. This information includes a detailed breakdown of the expenditures themselves and the associated activities. SoCal contends that the only questions that remain are whether the past expenditures were prudently incurred, and whether their recovery is legally permissible or whether it is prohibited as retroactive ratemaking. According to SoCal, the question of prudence should be addressed in the reasonableness proceedings and the question of retroactive ratemaking should be addressed in this proceeding.

Summary of DRA's Position

DRA recommends that the Commission authorize SoCal to book into a memorandum account up to \$515,000 of costs related to its hazardous waste cleanup program for the following three sites:

- a. Up to \$185,000 for the Olympic Base Towne Gas Site.
- b. Up to \$127,000 for the Dinuba Towne Gas Site.
- c. Up to \$203,000 for the Venice Towne Gas Site.

According to DRA, for each of these sites SoCal has provided the requisite information consisting of a reasonably detailed budget, a workplan and justification for the need to investigate each site.

DRA opposes SoCal's request to book expenses for other sites and projects included in Table A.

Following is a discussion of the major items of SoCal's budget:

A. Olympic Base Towne Gas Site

The Olympic Base site investigation was initiated in September 1983 at the request of the Los Angeles Regional Water Quality Control Board (LARWQCB). All investigation activities

conducted to date at the site have been directed by LARWQCB and/or the California Department of Health Services (DHS).

A Consent Order was issued by DHS to SoCal in December, 1986 which specifies the key activities and schedules for additional work requested at the site. SoCal estimates that \$136,000 is needed to comply with the Consent Order requirements through May 31, 1988.

DRA recommends that SoCal be authorized to record up to \$185,000 for the Olympic Base site. DRA's recommended funding exceeds the amounts requested in SoCal's revised budget, because DRA does not believe it to be necessary to artificially terminate the funding for these projects in the middle of the calendar year. Therefore, DRA recommends that SoCal should be permitted to book up to the authorized amount, even if such expenditures are incurred after June 1, 1988.

#### B. Dinuba Towne Gas Site

This site investigation began in 1985 when SoCal's research of historical records revealed evidence of a gas plant operation at the present location of SoCal's Dinuba Base. Subsequently, an inspection of the base followed by a review of property ownership records revealed that contiguous property occupied by a church/day-care center with an unpaved playground area was once part of the Towne Gas plant site. SoCal conducted limited sampling of surface and shallow subsurface soils at the church property and SoCal's base in November, 1985.

On January 26, 1986, after learning of the contamination situation, the Tulare County Health Department ordered the day care center closed indefinitely. Subsurface soil contamination was independently verified by the Fresno District Office of DHS. In March 1986, the Central Valley Regional Water Quality Control Board (CVRWQCB) directed SoCal to submit a workplan for geotechnical investigations at the church and Dinuba base

properties to assess the effects on groundwater of prior disposal of waste.

Since that time, SoCal has been conducting investigations at the site under the direction of CVRWQCB, and responding to DHS' and Tulare County Health Department's concerns as well. SoCal estimated that \$127,000 will be needed for investigative work at this site through May 31, 1988.

DRA agrees with SoCal's request.

C. Venice Towne Gas Site

This site is a Mutual Interest Site. Towne Gas residues were discovered during a 1986 redevelopment project at this former gas plant site which SoCal and its predecessor owned for over 50 years. Edison performed the initial remedial investigation and remediation of the site. Site characterization and remediation costs incurred by Edison as of the time of SoCal's filing of its application were in excess of \$1 million. SoCal was approached as a PRP by Edison. Edison has filed A.88-03-013 requesting approval to record in a memorandum account certain costs associated with cleanup efforts at the Venice Towne Gas Site.

Due to events occurring after the filing of the application, SoCal's involvement at this site has increased substantially. On June 23, 1987, SoCal, Edison, and four other parties received a summons naming SoCal and the other parties as defendants. The plaintiffs are Mitra Farokhpay-Sadeghi and Ali Sadeghi in Case No. WEC 114575, filed in L.A. County Superior Court.

On July 8, 1987, DHS issued Remedial Action Order naming SoCal and Edison as respondents in - Docket No.HSA 87/88-001RA - Venice Manufacturing Gas Plant. SoCal has been working with Edison to meet the requirements of the order. On August 31, 1987, the Technical Work Plan for Remedial Investigation/Feasibility Study (RI/FS) work at one of the parcels of the Venice site was submitted to DHS for approval. Upon the receipt of DHS approval, SoCal and

Edison were required to implement a workplan within ten months, including preparation and submittal of a remedial investigation report within four months and a feasibility study within ten months. As of the close of the hearings in this proceeding, DHS has not granted approval for the RI/FS submitted.

According to SoCal, the foregoing events make clear that previously unanticipated expenditures will be required to comply with DHS' Remedial Action Order. SoCal estimates its share of this additional Investigative Costs for this site to be \$300,000, of which SoCal expects to spend approximately \$200,000 through May 31, 1988.

DRA agrees and recommends that SoCal be allowed to book in the memorandum account up to \$203,000 as set forth in Table A.

Although DRA agrees with SoCal's request for costs at the Venice site, it does not accept SoCal's argument that D.87-09-078 granted SoCal authority to begin booking Venice costs into the interim memorandum account. D.87-09-078 authorized SoCal to record expenses in a memorandum account for new Phase III investigations at three specific sites, Colton II, Santa Barbara II, and Ventura II, effective upon submission of certain data. DRA contends that since Venice was not named in that order, even though SoCal submitted data on the Venice site, SoCal was not authorized to begin booking Venice costs. However, DRA agrees that SoCal may begin booking Venice costs from the effective date of this order.

D. El Centro Base

In early 1986, odorous residues were unearthed during a routine underground gasoline storage tank retrofit excavation at SoCal's El Centro base, a site not previously known to be a Towne Gas plant site. Analyses of several soil samples combined with additional historical research site revealed that the site was a former gas manufacturing plant location. SoCal took the precautions that were necessary for the disposal of the small amounts of material that were in the hole needed to bury the



underground tank. After putting the underground tank back in the ground with clean soil, SoCal then recognized that something more would have to be done with the Towne Gas residues found at El Centro base.

Thereafter, SoCal retained an environmental consultant to conduct a limited Phase II/III investigation for the gas plant residue contamination at the site. The investigation began in July, 1986 and was completed in January, 1987. This preliminary investigation provided additional historical background on the gas plant operation, information on local hydrogeologic conditions, the extent of soil contamination as the result of gas plant residues and the depth and quality of groundwater. A final report on the preliminary investigation was submitted to the Colorado River Regional Water Quality Control Board (CR-RWQCB), DHS and Imperial County Department of Health Services in February 1987. Consequently, CR-RWQCB directed SoCal to conduct additional field investigations prior to developing a remedial action plan for the gas plant residues and associated contamination. According to SoCal, plans are presently being completed for the additional studies required to meet CR-RWQCB's concerns pertaining to the gas plant residues in the soil; and the source, nature, and extent of groundwater contamination at the site. SoCal projects that \$55,000 is needed for Investigative Costs to comply with the agencies' requirements through May 31, 1988.

DRA opposes the request to book expenses at this site in a memorandum account. According to DRA, unlike the Olympic Base and Dinuba sites, SoCal has shown no evidence that it is currently conducting or plans to conduct Phase III work at this site. DRA maintains that SoCal's own investigation survey indicates that the problem at the site appears to be gasoline or a similar fuel in the ground rather than Town Gas residue. DRA believes that the costs of investigating or cleaning fuel spills and other related operating activities should not be charged to the Towne Gas

Program. DRA contends that the Commission has already authorized SoCal funds in base rates to cover costs related to fuel spills and natural gas lines. According to DRA, these types of expenses do not belong in a memorandum account.

E. New Sites 1 and 2

New sites are potential sites not identified at this time. SoCal expects to be required to perform investigative work at two such sites in the near future. In making its requests for booking costs for the potential sites identified as New Sites I and II in a memorandum account, SoCal claims the following:

On April 1, 1987, SoCal received a letter from DHS requiring it to provide the location and other information on all former Towne Gas sites. DHS is currently reviewing the notification packages and other information it has received from SoCal on these sites. DHS's plan is to do some preliminary site screening and investigation. Results of this activity will be used as the basis for developing a program to address Towne Gas sites. If during the preliminary investigation, information is obtained that indicates an immediate concern for public health or the environment at a site, DHS indicated it will address that site immediately. As a result of this activity by DHS, SoCal estimates that two new sites may start during this period. SoCal does not have specific sites identified, but understands that DHS is looking at a variety of factors as part of its preliminary investigation. SoCal's experience indicates that DHS is likely to request SoCal to perform certain work in support of DHS's efforts. SoCal expects some work at two such sites and has budgeted \$100,000 for the these activities through May 31, 1988.

DRA opposes booking of expenses related to any sites that have not been positively identified (New Sites 1 and 2). According to DRA, SoCal has provided absolutely no information by which the Commission may monitor the costs, benefits or necessity of

investigation or cleanup at these sites. DRA points out that SoCal at this time does not even know where these sites are.

F. Santa Barbara II, Ventura II,  
Colton II, Los Angeles II (Aliso)

At the time of filing A.87-06-021, SoCal anticipated initiating Phase III investigations at the above sites during 1987. However, SoCal also explained that circumstances could cause the schedule for a particular site to be advanced or delayed and the scope of Phase III investigations to be either expanded or reduced.

While SoCal's tentative plans for the sites it owned (Ventura II and Santa Barbara II) together with third party contacts at the other two sites (Aliso II and Colton II) indicated expenditures might be required at those sites prior to May 31, 1988, SoCal has not yet received any governmental agency or court orders or third party demands requiring immediate action at any of these sites. As a result, Phase III investigation work has not been initiated at the Los Angeles II site, Colton II site, and those portions of the Ventura II sites not presently owned by SoCal. However, SoCal has received letters from both California Department of Transportation (CalTrans) and Southern California Rapid Transit District (RTD) indicating their intent to seek cost recovery from SoCal at the Los Angeles II site. SoCal has reviewed and responded to those requests as appropriate and has taken no other action to date. SoCal's liability is unknown at this time. However, SoCal believes that it is most likely that claims by CalTrans and RTD may be settled through negotiations; otherwise they will be decided by courts of law.

A limited amount of Phase III work has been performed at the Santa Barbara II site and SoCal's portion of Ventura II site. However, investigations conducted to date have been focused on those portions of the site owned by SoCal that were or would be directly affected by construction or excavation activities resulting from SoCal's ongoing operations. Those investigations

have entailed work necessary to determine appropriate safety precautions for field personnel and to assure safe handling and disposal of gas plant residues, if encountered, during the excavation. These are limited investigative activities as compared to the full scale remedial investigations that are on-going at Towne Gas sites such as the Olympic Base, Dinuba Base and Venice, pursuant to regulatory agency requirements. While SoCal expects it will ultimately incur costs at some or all of these sites, SoCal has been successful in deferring work to future budget periods.

DRA contends that SoCal has identified the locations of these projects, but little more. According to DRA, none of these four sites were described in the application and despite persistent inquiry from SoCal, DRA was able to obtain only a minimal amount of information regarding these projects. DRA points out that SoCal has no immediate plans to conduct investigations at any of these four sites. The absence of any actual plan to conduct any investigation at these sites in the foreseeable future is confirmed by SoCal's revised budget. This revised budget reduced SoCal's request to nothing for the Colton site, \$1,000 for Los Angeles II (Aliso), \$13,000 for Ventura, and \$47,000 for Santa Barbara, with no explanation of why it was necessary to expend even these meager amounts.

G. Superfund Site - Monterey Park Fill

As mentioned earlier, SoCal has been identified as a potentially responsible party (PRP) at one Superfund site - the Monterey Park Fill site. SoCal is a member of the Steering Committee which consists of the the other PRPs for this site. The Steering Committee is conducting negotiations with EPA that would have the PRPs conduct the cleanup instead of EPA.

SoCal contends that its 1987 Plan & Budget for the Superfund Site was based in part on the assumption the Steering Committee would sign a Consent Order with EPA in September, 1987, and begin conducting Remedial Investigation/Feasibility Study

(RI/FS) work at the site on or about October 1, 1987. SoCal assumes that the Steering Committee members would have to pay some portion of the \$8 million of EPA's past costs incurred at the site soon after signing the Consent Order.

SoCal states that while some of the assumptions have changed, the estimate of expenditures for Monterey Park Fill from June 1, 1987 through May 31, 1988 reflected in its 1987 Plan and Budget remains valid. Since the time of that estimate it has become clear that the Steering Committee will be unable to reach an agreement with EPA to conduct RI/FS. Accordingly, SoCal agrees that the costs associated with supporting that study will not be incurred during this period. SoCal contends that the Steering Committee may undertake a less extensive study to assist with the PRP's defense, which includes SoCal, in anticipated litigation. In addition, EPA has advised the Steering Committee that it will issue special notices pursuant to Section 122 (e) of CERCLA, 42 U.S.C. §9622(e), wherein EPA will invite the Steering Committee members to negotiate an agreement to perform certain tasks at the site, some of which may become part of the EPA approved remediation plan. SoCal argues that costs previously unplanned for will need to be incurred in order to support these negotiations. According to SoCal, if such an agreement is reached, it is possible that some remedial costs such as leachate management will be incurred during the budget period. If no agreement is reached, it is likely that EPA will initiate litigation in this matter, which will cause SoCal to incur defense costs. For these reasons, SoCal contends that although the original assumptions underlying the budget numbers have changed, it is likely that actual expenditures will approximate the amounts contained in the original budget estimate during this period.

DRA recommends that no Monterey Park Fill expenses be booked to the proposed memorandum account. According to DRA, SoCal has provided only the minimum level of detail in support of this

request. DRA contends that these costs primarily support ongoing negotiations. According to DRA, these types of costs have been a normal part of SoCal's operating budget, they have been in base rates and they should be in base rates. DRA contends that SoCal has offered not a shred of proof to support its claim that these expenses are "unfunded"

H. Company Labor, Non-labor  
and Miscellaneous Expenses

DRA opposes these requested budget items because (1) they are not related to specific projects, (2) SoCal has provided no explanation of the nature, purpose or necessity of these costs, and (3) these costs are probably duplicative of costs already covered by base rates.

Discussion

We reaffirm our concerns previously expressed in the PG&E and Edison decisions. The Commission is convinced that hazardous waste cleanup effort is an increasingly important public health matter. While encouraging and supporting sound waste cleanup programs, it has clearly indicated its wish to balance its concern for environmental protection with the protection of utility ratepayers, who should not be required to fund unnecessary or inefficient cleanup efforts. In particular, the Commission has stated that it will not allow ratepayers to be used as a source of readily available "deep-pocket" financing of cleanup projects that fall within the intended scope of taxpayer funded cleanup programs.

Turning to SoCal's request for project funding, we agree with DRA there is no need to terminate the funding for the Olympic Base site in the middle of the calendar year. Therefore, we will authorize SoCal to record up to \$185,000 of expenses incurred at the Olympic Base site in the memorandum account, even if such expenses are incurred after June 1, 1988. We will also authorize SoCal to book up to \$127,000 of expenses incurred at the Dinuba

Base site and up to \$203,000 of expenses at the Venice Towne Gas site.

With regard to El Centro Base site, we note that in its February 1987 letter to DHS, SoCal did state that the problem at the El Centro Base site appeared to be gasoline or similar fuel in the ground rather than Towne Gas residue. Therefore, we conclude that these costs should not be recovered as part of the Towne Gas program.

At the close of the hearings, the ALJ requested SoCal and DRA to file a late filed comparison exhibit (Exhibit 11) outlining the parties' positions regarding the amounts to be included in the memorandum account. SoCal refused to participate in the preparation of such an exhibit. The ALJ informed SoCal that he will have to rely on DRA's figures in making his recommendations to the Commission. Table A shows the information included in Exhibit 11.

SoCal has not demonstrated that it has provided all the necessary information regarding the work to be performed at Santa Barbara II, Ventura II, Colton II, and Los Angeles II sites. Therefore, we will not authorize memorandum account treatment for expenses at these sites because of the lack of certainty of the liability and the precise cost of remedial measures.

We note that the PG&E decision authorized PG&E \$2 million in base rates for Investigative Costs related to new Towne Gas sites at a rate of at least 10 new sites per year (p. 65c, D.86-12-095). SoCal's request for funds for New Sites I and II would fall under the same category. SoCal did not request any funds in base rates when it stipulated to the rate making treatment for its hazardous waste cleanup program. By requesting authorization for a memorandum account treatment for the expenses at New Sites I and II SoCal is circumventing the terms of the stipulation. We will hold SoCal to the terms of the stipulation and deny SoCal's request related to New Sites I and II.

Turning to SoCal's request for authorization to book into a memorandum account the expenses incurred at the Monterey Park Fill site, we believe that there are too many uncertainties associated with the work to be performed. Before SoCal is authorized to book any expenses incurred at the Monterey Park Fill site or any other Superfund Site, it will have to provide specific information regarding each such project. Such information should conform with the requirements detailed later in this decision in the section covering "Ratemaking Mechanism" which addresses the utility's need to promptly respond to such matters. We believe that if SoCal provides all the required information with its filing, it will receive timely approval to book its costs related to the projects covered by the Superfund Program, thus enabling it to be responsive to the demands of EPA.

With regard to expenses under the category of company labor, non-labor and miscellaneous, we agree with DRA that SoCal has not provided an adequate explanation of the nature, purpose or the necessity of such expenses. There is also a possibility that these expenses are covered in SoCal's base rates authorized in its Test Year 1985 general rate case. It is SoCal's responsibility to show that this is not so. SoCal has not met that responsibility. Therefore, we will not authorize SoCal to book these expenses in the memorandum account.

Franchise fees and uncollectibles expenses should be added on when the memorandum account expenditures are approved for inclusion in rates following a reasonableness review. Since SoCal has withdrawn its request for immediate rate relief, we will not address these expenses in this proceeding.

Retroactive Ratemaking

SoCal requests authority to recover \$1,062,500 in hazardous waste cleanup program expenses from January 1, 1985 through May 31, 1987. DRA argues that recovery of certain past



expenditures is barred by the rule against retroactive ratemaking. SoCal disagrees.

According to SoCal, there is indeed a prohibition against retroactive ratemaking, but the prohibition is limited in scope. SoCal believes that while Public Utilities (PU) Code Section 728 vests the Commission with power to fix rates prospectively only, the California Supreme Court has determined that it is not required that each and every act of the Commission operate solely in the future, and that the restriction is limited merely to the act of promulgating "general rates" (Pacific Tel. & Tel. Co. v. Public Utilities Commission (1965) 62 Cal. 2d 634; Southern Cal. Edison v. Public Utilities Commission (1978) 20 Cal. 3d 813, 816). SoCal contends that the Supreme Court found in Pacific Tel. and reaffirmed in Edison that the rule in general ratemaking is legislative in character and looks to the future. In Edison the Supreme Court found that an order requiring a fuel cost adjustment clause to operate on a recorded basis did not constitute retroactive ratemaking because rates were being adjusted merely to offset changed fuel costs. Retroactive adjustment of rates is not prohibited in a case where the Commission, without waiting until the utility's next general rate case proceeding, determines that "there had occurred a significant and not reasonably foreseeable change in an item of expense or revenue that, unless taken account of, would seriously affect the utility or its ratepayers" (City and County of San Francisco v. Public Utilities Commission (1985) 39 Cal. 3d 523, 531).

SoCal contends that in such a case, the Commission "need only determine the relevant extraordinary change and then take account of it by adjusting the utility's rates to offset the the affect of such change, with all other items of expense and revenue held constant as estimated in the utility's most recent rate proceeding." (Id.)

According to SoCal, that is precisely what has occurred in the SoCal hazardous waste cleanup application. The hazardous waste cleanup costs that were expended prior to the instant application were not reasonably foreseeable, as this entire proceeding has made clear. Furthermore, they were expended in large part due to requirements imposed on SoCal by state and federal government, and the expenditures could be neither delayed nor avoided. SoCal maintains that its hazardous waste cleanup expenditures were absolutely necessary to begin the work to protect the public at large and SoCal employees from potential exposure to hazardous substances, and to protect the utility and the ratepayer from potential subsequent financial liability. According to SoCal, the amount expended was certainly significant, \$1,062,500 by May 31, 1987, and the failure to expend this amount would have seriously affected the ratepayers.

SoCal contends that DRA witness Dietrich made it clear that DRA has not examined these costs to determine their prudence. According to SoCal, DRA has not examined them at all beyond making the recommendation that these costs be disallowed in rates because their recovery would violate the prohibition against retroactive ratemaking.

SoCal maintains that the expenditure of these funds was prudent and in the public interest and consistent with the guidelines that the Commission is now developing for hazardous waste cleanup activities. In fact, SoCal argues that it would have been imprudent not to have engaged in the cleanup activities in question and incurred the associated costs. Therefore, SoCal contends that the Commission should allow the booking of all past expenditures, for recovery in rates following a reasonableness review.

On the other hand, DRA argues that SoCal's attempt to receive a further rate increase to recover hazardous waste cleanup

program expenses incurred during the 1985-87 rate case cycle is a blatant exercise in retroactive ratemaking and double-recovery.

DRA agrees that the PG&E decision granted PG&E \$2 million per year in base rates for investigations and program development, including ongoing investigations of Towne Gas sites. However, DRA maintains that in agreeing to defer the 1988 Test Year general rate case, SoCal voluntarily waived its opportunity to request an increase in base rates (as was granted PG&E) for increased costs, if any, which it might incur for investigative work for the Towne Gas Sites. According to DRA, the fact that SoCal did not request an increase in base rates for hazardous waste expenses does not mean that any or all such expenses are "unfunded" either prior to January 1, 1988 or thereafter.

DRA notes that D.84-12-069 in SoCal's 1985 Test Year general rate case (A.84-02-025) adopted, within the overall estimate of operating expenses, a figure of \$30.6 million for Account 870, the Supervision and Engineering subaccount of SoCal's distribution expenses. It is DRA's position that Account 870 includes both labor and nonlabor costs relating to SoCal's hazardous waste program. DRA contends that in its 1985 general rate case SoCal specifically requested and received an increase in Account 870 because of increased costs in its hazardous waste program. In support of its contention, DRA cites SoCal witness E.L. O'Rourke's testimony in A.84-02-025<sup>1</sup> which describes one of the reasons for the requested increase in Account 870 to be:

"Further, higher costs associated with the handling disposition of toxic substance have been included in the 1985 estimate. These are

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<sup>1</sup> The testimony of E. L. O'Rourke is not in the record of this proceeding. DRA has provided the testimony in full in Appendix B to its opening brief with a request that the Commission take official notice of this testimony pursuant to Rule 73 of the Commission's Rules of Practice and Procedure.

expected to result from increased governmental concern and regulation related to toxic air pollutants and hazardous waste."

DRA contends that all expenses related to the increased hazardous waste cleanup program have been and continue to be funded at the levels authorized by D.84-12-069.

With regard to O'Rourke's testimony, SoCal contends that DRA is mistaken. According to SoCal, DRA neglected to examine the entire record in its Test Year 1985 general rate case. SoCal argues that DRA based its opinion on the direct testimony of O'Rourke regarding Account 870. SoCal maintains that it is clear from the cross-examination on O'Rourke's rebuttal testimony that hazardous waste cleanup cost were not included in Account 870 but included in a balancing account established for cost of cleanup, removal and disposal of poly chlorinated byphenols (PCB). Due to an immediate health problem posed by PCBs, the Commission had allowed utilities to recover PCB cleanup costs through balancing accounts.

Returning to the issue of retroactive ratemaking, according to DRA, the basic approach of the Commission in ratemaking is to take a test year and to determine the revenues, expenses, and investments for the test year. The test period results may be prospectively adjusted in future years to allow for reasonably anticipated changes in revenues, expenses or other conditions (City of Los Angeles v. Public Utilities Commission (1972) 7 C. 3d 331, 346). DRA believes that the stipulation and decision, which covers the test period 1988 to 1990, was prospective in application. DRA maintains that there is no evidence that the Commission intended to authorize any retroactive change in expenses or rates during any part of the 1985-1987 rate cycle.

DRA asserts that even if the Commission had intended to allow retroactive recovery of certain hazardous waste costs, it

could not legally have done so. According to DRA, it has long been settled that the Commission is given the power to prescribe rates prospectively only and that the Commission could not, even on grounds of unreasonableness, retroactively adjust a rate that has formally been found reasonable by the Commission. DRA is of the opinion that SoCal's request to increase rates to reimburse the company for costs incurred back to 1985 is a classic example of illegal, retroactive ratemaking.

It is DRA's opinion that the effect of the stipulation and D.87-05-027 is to continue the funding of all SoCal operations at the levels established in the 1985 test year, adjusted for attrition. DRA maintains that SoCal's request for an immediate rate increase for costs of its hazardous waste cleanup program in this application directly violated SoCal's vow that the stipulated settlement of the rate case would not result in a rate increase for reasons other than attrition or adjustment in the rate of return.

#### Discussion

We agree with DRA that recovery of the \$1.06 million for hazardous waste cleanup project expense incurred during the period January 1, 1985 through May 31, 1987 is barred by the rule against retroactive rulemaking.

SoCal correctly points out that in Southern Cal. v. Public Utilities Commission the Supreme Court found that an order requiring fuel cost adjustment clause to operate on a recorded basis did not constitute retroactive ratemaking. However, it is important to note that the Commission had a ratemaking mechanism in place for the recovery of fuel costs on a recorded basis. No such ratemaking mechanism was in place for SoCal to recover hazardous waste cleanup costs for the period January 1, 1985 through May 31, 1987. Therefore, we cannot apply the fuel cost adjustment analogy to retroactive recovery of SoCal's hazardous waste cleanup costs.

SoCal may be justified in claiming that its hazardous waste expenses were absolutely necessary. However, before

incurring the expenses SoCal should have sought Commission authorization to establish a rate recovery procedure. It did not do so. Therefore, since there was no ratemaking mechanism in place, SoCal cannot now legally recover those expenses.

As requested by DRA, we will take official notice of the testimony provided in SoCal's Test Year 1985 general rate case (A.84-02-075). We agree with DRA that it is not clear from the review of the testimony whether or not the authorized base rates did include funds for hazardous waste cleanup efforts. However, it was SoCal's responsibility to demonstrate convincingly that the expenses were indeed unfunded. SoCal failed to do so. Therefore, since it is possible that by authorizing SoCal to book in the memorandum accounts for expenses incurred during January 1, 1985 and May 31, 1987, we would be allowing a double recovery of those expenses.

#### Ratemaking Mechanism

During the hearing, the ALJ suggested that the parties explore the possibility of recovering costs of hazardous site cleanup through base rates. Parties were asked to provide their comments on this proposal in their opening briefs.

The ALJ also asked SoCal to propose a procedural schedule for recovery of its hazardous waste cleanup program costs. Accordingly, SoCal submitted its Exhibit 12, setting forth a proposed procedural schedule for the hazardous waste program.

As stated previously, the PG&E decision distinguishes between two general categories of hazardous waste cleanup program activity. These categories are generally described as "investigative and program development" and "cleanup or remedial."

SoCal believes that as a conceptual matter, it is appropriate for investigative costs to be included in base rates. According to SoCal, these costs are fairly predictable and fairly controllable. Therefore, SoCal proposes to place the investigative costs in base rates through its next general rate case.

SoCal opposes applying base rate treatment to remediation costs. SoCal points out that since under nearly all circumstances, remediation activity will occur only after an order has been received from a responsible governmental agency, these costs are not appropriate for inclusion on base rates. In addition SoCal cites two reasons: First, the need to incur remediation costs can develop too quickly for recovery of such costs through the process of authorizing base rates. SoCal contends that a three year rate cycle, even with an annual attrition allowance, is simply not quick enough to allow for the funding of a project that can neither be avoided nor delayed when ordered by a governmental agency or courts of law.

Second, SoCal believes that the magnitude of remediation costs is very difficult to predict. According to SoCal, cost of remediation activity for a site may range from only a few thousand dollars to up to several million dollars in costs during a 12-month period depending on the type of remediation plan that is ordered for the site, and the identification of PRPs. SoCal contends that the unpredictability of remedial costs makes recovery through base rates a risky proposition for the utility as well as the ratepayer.

SoCal notes that in the event that the Commission decides to have the utility recover all its costs through base rates, rather than through a memorandum account outside the context of the general rate case, the advice letter filings for forecasting costs would, of course, have to be changed to applications for base rate increases, with the necessary additions to the schedule of notice and hearing as required by the Commission's rules.

In its proposed procedural schedule, SoCal seeks authority to book its hazardous waste program costs into a memorandum account by filing a forecast of its planned expenditures for the next six month period. SoCal's proposed procedural schedule is broken down into separate forecast filings for investigation costs and for remediation costs, in anticipation of

the Commission placing investigation costs into base rates in SoCal's Test Year 1990 general rate case.

SoCal claims that its proposed procedural schedule is intended to provide the Commission with an appropriate level of information at all times, while allowing the program to proceed with a minimal administrative burden for all parties. It is also intended to provide a smooth transition to SoCal's next general rate case. Further, SoCal notes that, in the meantime, the inclusion of investigative costs in base rates before its next general case would necessitate implementing minor rate changes and SoCal is willing to support any effort to accomplish the task earlier. However, SoCal maintains that no gaps be allowed to develop in the funding authorization between the decision that will be issued in this proceeding and the decision the Commission may issue in subsequent proceedings.

In its proposed procedural schedule SoCal also requests approval to book into a memorandum account any investigative and remediation costs at hazardous substance cleanup sites if one or more of the following criteria are applicable:

1. A court order or an enforceable demand from a governmental agency with responsibility for administration of hazardous waste, hazardous substance, or water pollution laws.
2. A demand by a third party coupled with SoCal's own assessment that there is a substantial degree of liability exposure under the state or federal Superfund law or common law.
3. A situation where immediate action is advisable to avert higher costs at a later date that will result from delay.
4. Awareness of activities by third parties that are likely to result in a release or in exposure of the public to hazardous substance.



5. SoCal is identified as a PRP by a federal, state or local environmental agency.

According to SoCal's proposal, the recovery in rates of these expenses that are booked in the memorandum account should be achieved through an annual reasonableness proceeding.

DRA filed its proposed procedural schedule with its opening brief. DRA agrees with SoCal that investigative costs should be reviewed in general rate cases and recovered through base rates. The major differences between DRA's and SoCal's proposals are summarized below.

DRA believes that SoCal should file a formal application for each project or a package of projects. According to DRA, at a minimum the application must contain sufficient information regarding the project so that the Commission may (1) review the filing for consistency with the guidelines established in the PG&E decision, and (2) monitor the need for the project, the costs of the project and the benefits of the clean-up effort.

DRA recommends that for those projects where SoCal has received a governmental order, the need for the investigation should be presumed. According to DRA, SoCal should be required to file the following information with its applications:

- A. For projects that SoCal has been ordered to undertake by a government agency, the application shall include:
  - A copy of the order(s) to undertake site work.
  - A detailed work plan and schedule.
  - A detailed budget.
- B. For site investigation or cleanup projects that SoCal has not been ordered to undertake, the application shall include:
  - A comprehensive site history and site description (to include chain-of-ownership, current and past land use,

dates of Manufactured Gas or Towne Gas operation, hydrogeology and other physical characteristics of site).

- A statement explaining why SoCal believes it has potential liability for site remediation.
- A preliminary risk analysis (demonstration of environmental and/or health hazard at the site).
- A detailed work plan and schedule.
- A detailed budget.
- Records of all communications with third parties regarding site contamination.

DRA contends that this information will allow the Commission to monitor the need for the investigation and ensure that the project is consistent with the guidelines in the PG&E decision. DRA believes that all of its informational requirements represent data which should be readily available to SoCal from its preliminary investigations.

DRA proposes the following procedure to process the application:

1. Upon receipt of the application containing the necessary information, DRA will review the application within 30 days.
2. If DRA approves the application, authorization to book the costs into a memorandum account may be granted on an ex parte basis.
3. If DRA opposes portions of the applications, those disputed costs may be set for hearing on an expedited basis.
4. Once funds have been booked into the memorandum account, they may be reviewed for reasonableness in the subsequent fuel offset proceeding.

DRA contends that its proposed schedule is consistent with the guidelines established in the PG&E decision. With regard to the procedures proposed by SoCal, DRA argues that these are markedly inconsistent with the terms and conditions set forth in SoCal D.87-05-027 particularly the stipulation which SoCal promised would "conform precisely" to the PG&E decision.

DRA notes that the PG&E decision provides for recovery of costs booked into the memorandum account, following review of reasonableness in Energy Cost Adjustment Clause (ECAC) proceedings. According to DRA, the regulatory equivalent to ECAC review for SoCal is now the Annual Cost Allocation Proceedings (ACAP). DRA recommends that the reasonableness reviews of SoCal's hazardous waste cleanup should be conducted in its ACAP. DRA believes that SoCal's first ACAP filing in March 1989 will be the appropriate proceeding to review the reasonableness of hazardous waste cleanup expenses booked into the memorandum account.

#### Discussion

In D.86-12-095 we established a special procedure for handling PG&E's hazardous waste cleanup program costs. The special procedure adopted required PG&E to file a formal application for approval of funding for each project or a package of projects. Funding for approved projects was to be booked into a memorandum account, to be recovered following review in ECAC proceeding. We adopted a procedure requiring formal applications, which we believed would not slow PG&E's cleanup efforts.

Based on our experience with this procedure, we believe that the procedure needs to be modified in order to expedite the process of authorizing the booking of the hazardous waste cleanup program expenses in a memorandum account. In this proceeding the Commission was required to issue an interim decision to authorize SoCal to book certain expenses in a memorandum account. The evidentiary hearing in this proceeding dealt mainly with the authorization to book in a memorandum account the expenses related

to the same projects. We believe that this duplication of effort should be avoided.

We are also concerned with the slow progress of this proceeding. This decision authorizes the booking in a memorandum account of the expenses incurred through May 31, 1988; yet it will not be effective until after May 31, 1988.

While we are interested in streamlining the process of approving funding for hazardous waste projects, we do not wish to provide utilities a "blank check" to book costs for any hazardous program activity at any site. Ideally the process should be expeditious and not undermine the ability of the Commission to monitor the costs and the necessity of hazardous waste cleanup projects. We believe our objectives could be achieved by adopting the modified procedure discussed below.

At the outset, before incurring any expenditures, SoCal should file an advice letter for approval of a funding level and establishment of a memorandum account which will allow future recovery of expenses incurred for a hazardous waste project or group of projects. The advice letter should contain the following information:

- A. For projects that SoCal has been ordered to undertake by a government agency, the advice letter shall include:
  - A copy of the order(s) or directive(s) to undertake site work. ✓
  - A detailed work plan and schedule.
  - A detailed budget.
- B. For site investigation or cleanup projects that SoCal has not been ordered to undertake, the advice letter shall include:
  - A comprehensive site history and site description (to include chain-of-ownership, current and past land use, dates of Manufactured Gas or Towne Gas operation,

hydrogeology and other physical characteristics of site).

- A statement explaining why SoCal believes it has potential liability for site remediation.
- A preliminary risk analysis (demonstration of environmental and/or health hazard at the site).
- A detailed work plan and schedule.
- A detailed budget.
- Records of all communications with third parties regarding site contamination.

DRA should review the advice letter and provide comments to the Director of the Commission Advisory and Compliance Division (CACD) within 30 days. Based on DRA's comments and further review, if CACD concludes that the advice letter is satisfactory, authorization to book expenses in a memorandum account would be granted through a Commission resolution. If CACD rejects the advice letter or portions of the advice letter, those disputed items may be set for hearing.

In its proposed schedule DRA proposes to review a utility's application within 30 days. We agree with DRA that it will need 30 days to perform an adequate review of the any filing related to hazardous waste cleanup program. In order to allow DRA, based on its review, to file a timely protest to the advice letter, the 20 day protest period for advice letters should be extended to 30 days for hazardous waste program advice letters.

We believe that this procedure will expedite the process of project funding approval and will allow the Commission the opportunity to screen the utility's projects in order to ascertain the magnitude of costs, the need for cleanup and the benefits to the utility, its ratepayers and the general public. We reiterate that in order to receive a swift approval of its advice letter, it

would be in the utility's interest to provide with its advice letter all the necessary information regarding a project.

Turning to the question of the procedure for reflecting these expenses in rates, the expenses booked in the memorandum account will only be recovered after a reasonableness review in a separate proceeding. In the PG&E decision we proposed to review the reasonableness of hazardous waste program costs in ECAC proceedings. However, based on experience in this proceeding we now realize that review of hazardous waste cleanup programs and the related expenses is a complex and time consuming process. A review of the reasonableness of hazardous waste cleanup efforts in an ECAC proceeding would unnecessarily complicate and delay the proceeding. Therefore, we believe that SoCal should file a separate application requesting rate recovery of its hazardous waste cleanup program expenses. Such applications shall not be filed more than once a year. For recovery of expenses incurred at Mutual Interest Sites, all utilities involved should file applications to allow consolidated hearings.

With regard to the question of recovery of hazardous waste cleanup expenses through base rates, we note that both SoCal and DRA agree that investigative expenses should be evaluated in general rate case review and included in base rates. We agree that these costs are fairly predictable and should be included in base rates after review in a general rate case proceeding. For example, in PG&E's general rate case the cost of investigation at manufactured gas plant sites was estimated and included in base rates. Therefore, SoCal should request base rate recovery of its investigative costs in its next general rate case.

#### Miscellaneous

The PG&E decision ordered PG&E to submit an annual report describing all of its hazardous waste cleanup efforts. The first such report was due on January 1, 1988. DRA contends that this is one of the conditions of the PG&E decision to which SoCal agreed to

be bound, yet SoCal did not file such a report on January 1, 1988. According to DRA, SoCal does not intend to comply with the requirement of an annual report, commencing January 1, 1988; instead, SoCal proposes that its reasonableness report of the past year and its forecast for the future year would be submitted in lieu of the annual report. DRA contends that this is not satisfactory because the purpose of the annual report is to ensure a comprehensive, methodical, cooperative review of all of the utility's hazardous waste efforts, not just those efforts which are reflected in the memorandum account.

DRA requests that SoCal be directed to file its first annual report no later than July 1, 1988, and thereafter on January 1 of 1989 and 1990.

DRA also proposes that the Commission order an environmental audit of SoCal's hazardous waste cleanup program as part of the general management audit. DRA finds SoCal's current program to be inadequate and ill-defined. SoCal did not take a position on the proposed audit during the course of these hearings.

SoCal contends that while the PG&E decision ordered annual reports for PG&E and while annual reports are an essential part of the program, the Commission did not establish a January 1 filing date for SoCal. SoCal believes that there is no logic in forcing SoCal into an identical filing date.

SoCal maintains that its reporting efforts to date have in fact exceeded any Commission requirements, and SoCal's proposed procedural schedule for future implementation exceeds this requirement. According to SoCal, DRA has ignored the extensive report that was filed as part of this application, which described SoCal's hazardous waste cleanup program in as much detail as any regulator could possibly want. SoCal contends that DRA also ignored SoCal's procedural recommendations that include, among other things, that an annual reasonableness report on activities which are covered by the special memorandum account for program

costs will be filed on March 31 of each year, to cover the previous calendar year. SoCal claims that it chose the earliest date that it could reasonably be expected to file a report on the previous calendar year activities and as a reasonable starting day for a proceeding that would lead to a rate order that could be incorporated by reference in the utility's annual attrition allowance or general rate case for rate implementation.

SoCal disagrees with DRA's recommendation that the annual reports be filed with DRA rather than CACD. SoCal contends that given the roles established for DRA and CACD the Commission appropriately ordered PG&E to file its report with CACD. According to SoCal, it should also be required to file its report with CACD.

In its reply brief, SoCal disagrees with DRA's proposal that the Commission order an environmental audit of SoCal's hazardous waste cleanup program as part of the general management audit. SoCal believes that the annual reasonableness review proceeding will be adequate for the Commission's need to examine SoCal's program without putting the ratepayers to the additional expense of a separate independent audit.

#### Discussion

We agree with DRA that requiring SoCal to file an annual report describing all of SoCal's hazardous waste cleanup activities will ensure a methodical approach to the cleanup program. However, we believe that SoCal has furnished a reasonable level of information regarding its hazardous waste cleanup program with this application and that no useful purpose will be served by requiring SoCal to file, at this time, an annual report by July 1, 1988. However, for monitoring SoCal's hazardous waste cleanup activities in the future, we will require SoCal to file an annual report describing all its hazardous waste cleanup activities during the previous year as well as projected activities for the next 12 months. The report on projected activities should also include a budget for planned activities. The annual reports shall be filed



by March 1 of each year starting in 1989. The March 1 date will give SoCal the opportunity to report on its activities for the prior calendar year, instead of partial year as would be case if it was required to file on January 1.

With regard to which Division should receive the report, we note that such reports are routinely filed with the Director of CACD. However, since DRA will be responsible for reviewing SoCal's hazardous waste cleanup efforts, a copy of the report should be filed with the Director of DRA.

We think DRA's proposal that an environmental audit of SoCal's hazardous waste cleanup activities be ordered has some merit. However, it would be inappropriate to order such an audit before determining if the annual reasonableness review proceeding will provide the necessary examination of SoCal's program. Therefore, we will not adopt DRA's proposal at this time.

Finally, we note that SoCal seeks approval of its hazardous waste cleanup program. We note that SoCal's schedule and plan for cleanup of hazardous waste appears to be reasonable and in general accord with the guidelines set forth in the PG&E decision (p. 65c, D.86-12-095):

"PG&E should give first priority, of course, to projects which it is ordered to clean up by government agencies and the courts. The utility shall give second priority to sites which pose a significant public health threat and are in the utility's rate base. Projects which the utility does not own should not be funded unless PG&E has been ordered by the court or a government agency to cleanup such sites because they pose a significant health hazard to the public."

Therefore, we approve SoCal's hazardous waste cleanup program.

Comments on the Proposed Decision

SoCal, PG&E, and DRA have filed comments on the ALJ's proposed decision. DRA has also filed a response to SoCal's

comments. Based on our review, we believe that the following modification to the decision, other than correction of errors and omissions should be made:

Termination Date for Recording of Expenses

The proposed decision states the following regarding the budget at the Olympic Base site:

"[W]e agree with DRA there is no need to terminate the funding for the Olympic Base site in the middle of the calendar year. Therefore, we will authorize SoCal to record up to \$185,000 of expenses incurred at the Olympic Base site in the memorandum account, even if such expenses are incurred after June 1, 1988."

While the proposed decision adopts this position for the Olympic Base site, it leaves open the question of whether this rule would apply to other projects for which funding is authorized.

SoCal and DRA request that the Commission clarify that for all three sites for which SoCal is authorized to book expenses, SoCal may book such expenses up to the authorized amount, even if such expenses are incurred after June 1, 1988.

We agree. Accordingly, authorize SoCal to record up to \$127,000 for the Dinuba Towne Gas Site and up to \$203,000 for the Venice Site in the memorandum account, even if such expenses are incurred after June 1, 1988.

Interest on Memorandum Account

SoCal points out that the decision does not discuss the issue of interest on the memorandum account. SoCal requests that the same interest rate be adopted for amounts carried in this memorandum account as in the other accounts that the utility carries on its books, i.e., the interest rate applicable to the Consolidated Account Mechanism (CAM) accounts. SoCal contends that its request for interest on the memorandum account is consistent with Commission policy. In support of its position, SoCal cites the Edison decision (D.87-12-66) which authorized Edison to accrue ECAC interest rates for Edison's hazardous waste cleanup expense

memorandum account. SoCal also contends that DRA, through a statement of counsel, supports the use of CAM interest rates for the memorandum account.

Although the PG&E decision is silent on the subject of interest on the memorandum account, it has been Commission policy to allow utility to accrue ECAC or CAM interest rates on balancing accounts. Our review of the record (Tr. 4/330) also reveals that both SoCal and DRA agree that CAM interest rates should be applied to the memorandum. Therefore, we will allow SoCal's memorandum account to accrue interest at the CAM interest rate.

Accordingly, we will modify Ordering Paragraph 3 (new Ordering Paragraph 4) as follows:

"3. SoCal shall book its hazardous waste cleanup costs in the memorandum account only after receiving authorization to book such expenses. Such authorization shall be requested on a project-by-project basis. The memorandum account shall accrue interest at SoCal's CAM interest rate."

Ordering Paragraph 6

Ordering Paragraph 6 reads as follows:

"Following the filing of SoCal's annual report, SoCal shall file an application for a reasonableness review of expenditures on projects that have been completed, and which should be included in rates. SoCal shall file this application no later than 60 days after filing its report. The application shall be filed annually commencing in 1989."

SoCal raises two concerns regarding this ordering paragraph.

First, SoCal requests that the application for reasonableness review should include a review of all expenditures for the prior calendar year, not just the expenses for completed project, and that approved expenses should be included in rates as appropriate after the reasonableness review is completed. SoCal

contends that if this modification is not made, SoCal will have to wait till each project is completed prior to the filing of the reasonableness review application. SoCal believes that requesting rate relief for a project only after it is completed would pose the following problems:

- o It is likely that hazardous waste management projects may last over several years, which could lead to large amounts of money being accrued in the memorandum account.
- o It will be difficult to effectively review activities that have taken place several years previously.
- o Most projects will not come to sudden halt with an accompanying end to expenditures. Some expenditures connected with remedial projects may continue even after the major work has been completed.

DRA has addressed this issue in its response to SoCal's comments. While DRA agrees in principle with SoCal's proposal for annual reviews of all expenditures, it is concerned about SoCal's refusal to furnish complete information regarding expenses incurred on grounds that disclosure to the Commission "would unduly jeopardize the position of SoCal in pending and anticipated future litigation and administrative proceedings." Therefore, DRA recommends that if SoCal wishes the benefit of annual reasonableness review of on-going projects, it should be required to provide the Commission with all the information relevant to the costs under review.

We believe that SoCal has provided convincing reasons to authorize annual reasonable review of costs of on-going projects. However, we share DRA's concern about SoCal's refusal to furnish complete information regarding the expenses on whatever grounds. Therefore, in order to qualify any expenses for rate relief, we will require SoCal to furnish all the information necessary to establish the reasonableness of the expenses. Failure to provide

the necessary information will result in denial of rate relief for the expenses in question. On the other hand, if SoCal believes that disclosure of information relating to an on-going project could jeopardize its position in other pending proceedings, it should request rate relief for such projects only after the projects are completed and all alleged danger from disclosure has passed. Therefore, we will authorize SoCal to request reasonable review and rate relief for expenses for on-going projects. Such authorization will be subject to conditions discussed above.

SoCal's second comment regarding Ordering Paragraph 6 relates to the timing of the annual filings. SoCal contends that while the filing of the reasonableness review application no later than 60 days after the filing of the annual report poses no problem, there is a potential problem if the Commission adopts SoCal's recommendation for reasonableness reviews covering expenses on an annual basis rather than on a project completion basis. According to SoCal, as currently written the proposed decision would create a time gap during which SoCal cannot file for rate recovery. SoCal points out that it would be required to make its first annual filing in 1989. SoCal contends that while this filing would cover expenses for calendar year 1988, it would fail to cover the expenses booked into the memorandum account authorized by this decision. In order to address this problem, SoCal suggests that the rate relief requested in its A.88-03-070 (filed March 31, 1988) which covers the period from June 1, 1987 through December 31, 1987, should be consolidated with the filings to be made in 1989. SoCal believes that this course of action would be administratively more efficient. ✓

We believe that it would be prudent to consolidate the \$1.6 million rate increase request in A.88-03-070 with SoCal's 1989 application for reasonableness review. Therefore, we will defer action on A.88-03-070 until SoCal files its 1989 application for

reasonableness review. The two proceedings will be processed on a consolidated basis.

In order to address the above changes to the procedure for filing an application for reasonableness review, we will modify Ordering Paragraph 6 (new Ordering Paragraph 7) as follows:

6. Following the filing of SoCal's annual report, SoCal shall file an application for a reasonableness review of expenditures incurred during the previous year, and which should be included in rates. SoCal shall file this application no later than 60 days after filing its report. The application shall be filed annually commencing in 1989.

Utility's Response to DRA's  
Comments on the Advice Letter

The proposed ratemaking procedure allows DRA a 30-day period to provide comments on the advice letter to CACD. According to the procedure, based on DRA's comments and further review, if CACD concludes that the advice letter is satisfactory, authorization to book expenses in a memorandum account would be granted through a Commission resolution. If CACD rejects the advice letter or portions of the advice letter, those disputed items may be set for hearing.

PG&E believes that prior to CACD's determination of acceptance or rejection of the advice letter in whole or in part, the proposed procedure should provide a mechanism for a limited response by the utility to issues raised by the DRA in any protest filed. Therefore, PG&E requests that a utility be granted a 10-day period following DRA's submission of comments for submission of a response, primarily to clarify potential documentation problems or other issues. PG&E contends that under the new advice letter approach with predetermined informational requirements, the potential for prompt resolution of issues raised by DRA or other parties regarding the advice letter filing is greatly enhanced.

We agree that allowing a utility to respond to DRA's comments would facilitate the resolution of issues raised by DRA. Therefore, we will require DRA to provide its comments to the utility and will allow the utility 10 days to provide CACD its response to DRA's comments. Such response shall be confined to addressing factual or legal issues raised by DRA's comments, and shall not address new issues. This matter is addressed in our order.

Findings of Fact

1. SoCal seeks to book \$2.424 million costs of certain hazardous waste cleanup projects in a memorandum account.
2. DRA recommends that SoCal be allowed to book up to \$515,000 for investigative costs incurred for three specific projects - Olympic Base Towne Gas site, Dinuba Towne Gas site, and the Venice site.
3. In order to monitor the costs and review the necessity of hazardous waste projects a utility needs to provide the Commission with a certain minimum information.
4. SoCal has provided the necessary information for the three projects recommended by DRA.
5. SoCal has not provided the necessary information for the other projects it seeks funding for.
6. SoCal requests to book in the memorandum account the hazardous cleanup costs incurred by SoCal during January 1, 1985 through May 31, 1987.
7. SoCal has failed to demonstrate that it has not already received allowance in rates granted in its Test Year 1985 general rate proceeding to cover administrative and preliminary investigation costs related to hazardous waste cleanup program.
8. No ratemaking mechanism was in place for recovery of hazardous waste cleanup costs during the period January 1, 1985 through May 31, 1987.

9. The PG&E decision established a special procedure for handling PG&E's hazardous waste cleanup program costs.

10. D.87-05-027 made applicable to SoCal the special ratemaking procedure for handling of hazardous waste cleanup program costs adopted in the PG&E decision.

11. The special procedure adopted required PG&E to file a formal application for approval of funding for each project or package of projects. Funding for the approved projects was to be booked into a memorandum account, to be recovered following a reasonableness review in its ECAC proceeding.

12. The special procedure adopted in the PG&E decision needs to be modified to make it more efficient.

13. The modified procedure set forth in this order will achieve the objective of streamlining the process of handling hazardous waste cleanup program costs.

14. A separate hazardous waste cleanup program cost reasonableness review proceeding will relieve ECAC proceedings from having to deal with an additional complex issue.

15. The PG&E decision ordered PG&E to submit an annual report describing all of its hazardous waste cleanup efforts. The first such report was due on January 1, 1988.

16. DRA recommends that SoCal be directed to file its first annual report no later than July 1, 1988, and thereafter on January 1 of 1989 and 1990. ✓

17. SoCal proposes that its annual report on hazardous waste cleanup activities covering previous calendar year be filed on March 31 of each year so that it can include the activities for a full prior calendar year.

18. SoCal has furnished a reasonable level of information regarding its hazardous waste cleanup program activities to satisfy the requirements of the annual report ordered for PG&E.

19. No useful purpose will be served by requiring SoCal to file an annual report by July 1, 1988.



20. Requiring SoCal to file an annual report describing its hazardous waste cleanup activities during the previous year as well as projected activities for the next 12 months by March 1 of each year starting in 1989 will allow the Commission to monitor the program.

Conclusions of Law

1. For hazardous waste cleanup program expense, SoCal should be allowed to book up to \$185,000 for the Olympic Base site, \$127,000 for the Dinuba Base site, and \$203,000 for the Venice site.

2. SoCal should not book any hazardous waste cleanup costs incurred during the period January 1, 1985 through May 31, 1987.

3. The modified ratemaking procedure for handling hazardous waste cleanup program costs set forth in this decision should be adopted.

4. Recovery of the hazardous waste expenses incurred during January 1, 1985 through May 31, 1987 would constitute retroactive ratemaking.

5. SoCal should file an annual report describing its hazardous waste cleanup activities during the previous year by March 31 of each year starting in 1989.

6. SoCal should file an application for an annual reasonable review of completed projects so that expenses that are reasonably incurred may be reflected in rates.

7. SoCal should not receive in rates additional expenses to cover preliminary investigations since such recovery would result in retroactive ratemaking.

ORDER

IT IS ORDERED that:

1. Southern California Gas Company (SoCal) is authorized to book in the memorandum account established by D.87-09-078 the expenses related to the following hazardous waste cleanup projects:

- a. Up to \$185,000 for the Olympic Base Towne Gas site.
- b. Up to \$127,000 for the Dinuba Towne Gas Site.
- c. Up to \$203,000 for the Venice site.

2. Before incurring any expenditures, SoCal shall file an advice letter for approval of funding for a hazardous waste cleanup project or group of projects. The advice letter shall contain the following information:

A. For projects that SoCal has been ordered to undertake by a government agency, the advice letter shall include:

- A copy of the order(s) or directive(s) to undertake site work.
- A detailed work plan and schedule.
- A detailed budget.

B. For site investigation or cleanup projects that SoCal has not been ordered to undertake, the advice letter shall include:

- A comprehensive site history and site description (to include chain-of-ownership, current and past land use, dates of Manufactured Gas or Towne Gas operation, hydrogeology and other physical characteristics of site).
- A statement explaining why SoCal believes it has potential liability for site remediation.

- A preliminary risk analysis (demonstration of environmental and/or health hazard at the site).
- A detailed work plan and schedule.
- A detailed budget.
- Records of all communications with third parties regarding site contamination.

3. DRA shall review the advice letter and file comments on it with the Director of CACD within 30 days of the filing of the advice letter. DRA shall provide a copy of its comments to SoCal and to anyone who requested service of SoCal's advice letter. Any responses to DRA's comments shall be filed within 10 days of the filing of DRA's comments. The responses to DRA's comments shall be filed with the Director of CACD and shall be confined to addressing factual or legal issues raised by DRA's comments, and shall not address new issues.

4. SoCal shall book its hazardous waste cleanup costs in the memorandum account only after receiving authorization to book such expenses. Such authorization shall be requested on a project-by-project basis. The memorandum account shall accrue interest at SoCal's CAM interest rate.

5. By March 1 of each year starting in 1989, SoCal shall file an annual report describing its hazardous waste cleanup activities during the previous calendar year as well as projected activities for the next 12 months. The report should be filed with the Director of CACD and a copy should be filed with the Director of DRA.

6. Until such time as its next general rate case, SoCal shall not be awarded revenue increases in base rates to cover administrative and preliminary investigation expenses for its hazardous waste cleanup program.

7. Following the filing of SoCal's annual report, SoCal shall file an application for a reasonableness review of expenditures incurred during the previous year, and which should be

included in rates. SoCal shall file this application no later than 60 days after filing its report. The application shall be filed annually commencing in 1989.

8. This proceeding is terminated.

This order is effective today.

Dated JUL 22 1988, at San Francisco, California.

STANLEY W. HULETT  
President

DONALD VIAL  
FREDERICK R. DUDA  
G. MITCHELL WILK  
JOHN B. OHANIAN  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY

  
Victor Weisser, Executive Director

*pb*

have entailed work necessary to determine appropriate safety precautions for field personnel and to assure safe handling and disposal of gas plant residues, if encountered, during the excavation. These are limited investigative activities as compared to the full scale remedial investigations that are on-going at Towne Gas sites such as the Olympic Base, Dinuba Base and Venice, pursuant to regulatory agency requirements. While SoCal expects it will ultimately incur costs at some or all of these sites, SoCal has been successful in deferring work to future budget periods.

DRA contends that SoCal has identified the locations of these projects, but little more. According to DRA, none of these four sites were described in the application and despite persistent inquiry from SoCal, DRA was able to obtain only a minimal amount of information regarding these projects. DRA points out that SoCal has no immediate plans to conduct investigations at any of these four sites. The absence of any actual plan to conduct any investigation at these sites in the foreseeable future is confirmed by SoCal's revised budget. This revised budget reduced SoCal's request to nothing for the Colton site, \$1,000 for Los Angeles II (Aliso), \$13,000 for Ventura, and \$47,000 for Santa Barbara, with no explanation of why it was necessary to expend even these meager amounts.

**G. Superfund Site - Monterey Park Fill**

As mentioned earlier, SoCal has been identified as a potentially responsible party (PRP) at one Superfund site - the Monterey Park Fill site. SoCal is a member of the Steering Committee which consists of the the other PRPs for this site. The Steering Committee is conducting negotiations with EPA that would have the PRPs conduct the cleanup instead of EPA.

SoCal contends that its 1987 Plan & Budget for the Superfund Site was based in part on the assumption the Steering Committee dealing would sign a Consent Order with EPA in September, 1987, and begin conducting Remedial Investigation/Feasibility Study

to the same projects. We believe that this duplication of effort should be avoided.

We are also concerned with the slow progress of this proceeding. This decision authorizes the booking in a memorandum account of the expenses incurred through May 31, 1988; yet it will not be effective until after May 31, 1988.

While we are interested in streamlining the process of approving funding for hazardous waste projects, we do not wish to provide utilities a "blank check" to book costs for any hazardous program activity at any site. Ideally the process should be expeditious and not undermine the ability of the Commission to monitor the costs and the necessity of hazardous waste cleanup projects. We believe our objectives could be achieved by adopting the modified procedure discussed below.

At the outset, before incurring any expenditures, SoCal should file an advice letter for approval of a funding level and establishment of a memorandum account which will allow future recovery of expenses incurred for a hazardous waste project or group of projects. The advice letter should contain the following information:

- A. For projects that SoCal has been ordered to undertake by a government agency, the advice letter shall include:
  - A copy of the order(s) to undertake site work.
  - A detailed work plan and schedule.
  - A detailed budget.
- B. For site investigation or cleanup projects that SoCal has not been ordered to undertake, the advice letter shall include:
  - A comprehensive site history and site description (to include chain-of-ownership, current and past land use, dates of Manufactured Gas or Towne Gas operation,

by March 1 of each year starting in 1989. The March 1 date will give SoCal the opportunity to report on its activities for the prior calendar year, instead of partial year as would be case if it was required to file on January 1.

With regard to which Division should receive the report, we note that such reports are routinely filed with the Director of CACD. However, since DRA will be responsible for reviewing SoCal's hazardous waste cleanup efforts, a copy of the report should be filed with the Director of DRA.

We think DRA's proposal that an environmental audit of SoCal's hazardous waste cleanup activities be ordered has some merit. However, it would be inappropriate to order such an audit before determining if the annual reasonableness review proceeding will provide the necessary examination of SoCal's program. Therefore, we will not adopt DRA's proposal at this time.

Finally, we note that SoCal seeks approval of its hazardous waste cleanup program. We note that SoCal's schedule and plan for cleanup of hazardous waste appears to be reasonable and in general accord with the guidelines set forth in the PG&E decision (p. 65c, D.86-12-095):

"PG&E should give first priority, of course, to projects which it is ordered to clean up by government agencies and the courts. The utility shall give second priority to sites which pose a significant public health threat and are in the utility's rate base. Projects which the utility does not own should not be funded unless PG&E has been ordered by the court or a government agency to cleanup such sites because they pose a significant health hazard to the public."

Therefore, we approve SoCal's hazardous waste cleanup program.

Findings of Fact

1. SoCal seeks to book \$2.424 million costs of certain hazardous waste cleanup projects in a memorandum account.

2. DRA recommends that SoCal be allowed to book up to \$515,000 for investigative costs incurred for three specific projects - Olympic Base Towne Gas site, Dinuba Towne Gas site, and the Venice site.

3. In order to monitor the costs and review the necessity of hazardous waste projects a utility needs to provide the Commission with a certain minimum information.

4. SoCal has provided the necessary information for the three projects recommended by DRA.

5. SoCal has not provided the necessary information for the other projects it seeks funding for.

6. SoCal requests to book in the memorandum account the hazardous cleanup costs incurred by SoCal during January 1, 1985 through May 31, 1987.

7. SoCal has failed to demonstrate that it has not already received allowance in rates granted in its Test Year 1985 general rate proceeding to cover administrative and preliminary investigation costs related to hazardous waste cleanup program.

8. No ratemaking mechanism was in place for recovery of hazardous waste cleanup costs during the period January 1, 1985 through May 31, 1987.

9. The PG&E decision established a special procedure for handling PG&E's hazardous waste cleanup program costs.

10. D.87-05-027 made applicable to SoCal the special ratemaking procedure for handling of hazardous waste cleanup program costs adopted in the PG&E decision.

11. The special procedure adopted required PG&E to file a formal application for approval of funding for each project or package of projects. Funding for the approved projects was to be booked into a memorandum account, to be recovered following a reasonableness review in its ECAC proceeding.

12. The special procedure adopted in the PG&E decision needs to be modified to make it more efficient.



13. The modified procedure set forth in this order will achieve the objective of streamlining the process of handling hazardous waste cleanup program costs.

14. A separate hazardous waste cleanup program cost reasonableness review proceeding will relieve ECAC proceedings from having to deal with an additional complex issue.

15. The PG&E decision ordered PG&E to submit an annual report describing all of its hazardous waste cleanup efforts. The first such report was due on January 1, 1988.

16. DRA recommends that SoCal be directed to file its first annual report no later than July 1, 1988, and thereafter on January 1 of 1989 and 1990.

17. SoCal proposes that its annual report on hazardous waste cleanup activities covering previous calendar year be filed on March 31 of each year so that it can include the activities for a full prior calendar year.

18. SoCal has furnished a reasonable level of information regarding its hazardous waste cleanup program activities to satisfy the requirements of the annual report ordered for PG&E.

19. No useful purpose will be served by requiring SoCal to file an annual report by July 1, 1988.

20. Requiring SoCal to file an annual report describing its hazardous waste cleanup activities during the previous year as well as projected activities for the next 12 months by March 1 of each year starting in 1989 will allow the Commission to monitor the program.

#### Conclusions of Law

1. For hazardous waste cleanup program expense, SoCal should be allowed to book up to \$185,000 for the Olympic Base site, \$127,000 for the Dinuba Base site, and \$203,000 for the Venice site.

2. SoCal should not book any hazardous waste cleanup costs incurred during the period January 1, 1985 through May 31, 1987.

3. The modified ratemaking procedure for handling hazardous waste cleanup program costs set forth in this decision should be adopted.

4. Recovery of the hazardous waste expenses incurred during January 1, 1985 through May 31, 1987 would constitute retroactive ratemaking.

5. SoCal should file an annual report describing its hazardous waste cleanup activities during the previous year by March 31 of each year starting in 1989.

6. SoCal should file an application for an annual reasonable review of completed projects so that expenses that are reasonably incurred may be reflected in rates.

7. SoCal should not receive in rates additional expenses to cover preliminary investigations since such recovery would result in retroactive ratemaking.

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2. Before incurring any expenditures, SoCal shall file an advice letter for approval of funding for a hazardous waste cleanup project or group of projects. The advice letter shall contain the following information:

- A. For projects that SoCal has been ordered to undertake by a government agency, the application shall include:

- A copy of the order(s) to undertake site work.
- A detailed work plan and schedule.
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- A comprehensive site history and site description (to include chain-of-ownership, current and past land use, dates of Manufactured Gas or Towne Gas operation, hydrogeology and other physical characteristics of site).
- A statement explaining why SoCal believes it has potential liability for site remediation.
- A preliminary risk analysis (demonstration of environmental and/or health hazard at the site).
- A detailed work plan and schedule.
- A detailed budget.
- Records of all communications with third parties regarding site contamination.

3. SoCal shall book its hazardous waste cleanup costs in the memorandum account only after receiving authorization to book such expenses. Such authorization shall be requested on a project-by-project basis.

4. By March 1 of each year starting in 1989, SoCal shall file an annual report describing its hazardous waste cleanup activities during the previous calendar year as well as projected activities for the next 12 months. The report should be filed with the Director of CACD and a copy should be filed with the Director of DRA.

the necessary information will result in denial of rate relief for the expenses in question. On the other hand, if SoCal believes that disclosure of information relating to an on-going project could jeopardize its position in other pending proceedings, it should request rate relief for such projects only after the projects are completed and all alleged danger from disclosure has passed. Therefore, we will authorize SoCal to request reasonable review and rate relief for expenses for on-going projects. Such authorization will be subject to conditions discussed above.

SoCal's second comment regarding Ordering Paragraph 6 relates to the timing of the annual filings. SoCal contends that while the filing of the reasonableness review application no later than 60 days after the filing of the annual report poses no problem, there is a potential problem if the Commission adopts SoCal's recommendation for reasonableness reviews covering expenses on an annual basis rather than on a project completion basis. According to SoCal, as currently written the proposed decision would create a time gap during which SoCal cannot file for rate recovery. SoCal points out that it would be required to make its first annual filing in 1989. SoCal contends that while this filing would cover expenses for calendar year 1988, it would fail to cover the expenses booked into the memorandum account authorized by this decision. In order to address this problem, SoCal suggests that the rate relief requested in its A.88-03-070 (filed March 31, 1988) which covers the period from June 1, 1987 through December 31, 1987, should be consolidated with the filings to be made in 1989. SoCal believes that this course of action would be administratively more efficient.

We believe that it would be prudent to consolidate the \$1.6 million rate increase request in A.88-03-070 with SoCal's 1989 application for reasonableness review. Therefore, we will defer action on A.88-03-070 until SoCal files its 1989 application for

5. Until such time as its next general rate case, SoCal shall not be awarded revenue increases in base rates to cover administrative and preliminary investigation expenses for its hazardous waste cleanup program.

6. Following the filing of SoCal's annual report, SoCal shall file an application for a reasonableness review of expenditures on projects that have been completed, and which should be included in rates. SoCal shall file this application no later than 60 days after filing its report. The application shall be filed annually commencing in 1989.

7. This proceeding is terminated.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

- A preliminary risk analysis (demonstration of environmental and/or health hazard at the site).
- A detailed work plan and schedule.
- A detailed budget.
- Records of all communications with third parties regarding site contamination.

3. DRA shall review the advice letter and file comments on it with the Director of CACD within 30 days of the filing of the advice letter. DRA shall provide a copy of its comments to SoCal. SoCal may file its response to DRA's comments within 10 days of the filing of DRA's comments. The response to DRA's comments shall be filed with the Director of CACD and shall be confined to addressing factual or legal issues raised by DRA's comments, and shall not address new issues.

4. SoCal shall book its hazardous waste cleanup costs in the memorandum account only after receiving authorization to book such expenses. Such authorization shall be requested on a project-by-project basis. The memorandum account shall accrue interest at SoCal's CAM interest rate.

5. By March 1 of each year starting in 1989, SoCal shall file an annual report describing its hazardous waste cleanup activities during the previous calendar year as well as projected activities for the next 12 months. The report should be filed with the Director of CACD and a copy should be filed with the Director of DRA. ✓

6. Until such time as its next general rate case, SoCal shall not be awarded revenue increases in base rates to cover administrative and preliminary investigation expenses for its hazardous waste cleanup program. ✓

7. Following the filing of SoCal's annual report, SoCal shall file an application for a reasonableness review of expenditures incurred during the previous year, and which should be

TABLE A  
Page 1

SOCAL'S HAZARDOUS SITE CLEANUP PROGRAM  
COMPARISON OF REQUESTED, RECOMMENDED, AND ADOPTED AMOUNTS  
A.87-06-021

<u>Item 1</u>	<u>SoCal Initial</u> [a]	<u>SoCal Revised</u> [b]	<u>DRA</u> [c]	<u>Adopted</u> [d]
Haz. Waste Cleanup Prog. 1/1/85-6/12/87	\$2,062,500	\$1,062,500	\$ 0	\$ 0
<b>TOWNE GAS PROGRAM</b>				
Olympic Base	185,000	136,000	185,000	185,000
Dinuba	120,000	127,000	127,000	127,000
Venice	N.A.	203,000	203,000	203,000
El Centro	85,000	55,000	0	0
New Site I	N.A.	65,000	0	0
New Site II	N.A.	35,000	0	0
Santa Barbara II	150,000	47,000	0	0
Ventura II	150,000	13,000	0	0
Colton II	250,000	0	0	0
Aliso (Los Angeles II)	250,000	1,000	0	0
<b>SUPERFUND SITES PROGRAM</b>				
Monterey Park Landfill	240,000	290,000	0	0
<b>COMPANY LABOR</b>				
	250,000	200,000	0	0
<b>COMPANY NON-LABOR</b>				
	50,000	40,000	0	0
<b>MISCELLANEOUS</b>				
(Including program development and completion of Phase II)	70,000	98,000	0	0
<b>UNCOLLECTIBLES AND FRANCHISE FEES</b>				
	<u>63,000</u>	<u>52,000</u>	<u>0</u>	<u>0</u>
	\$2,925,500	\$2,424,500	\$515,000	\$515,000