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Decision 89 06 046 JUN 21 1989 ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking Proceeding on the Commission's Own Motion to Revise the Regulatory Treatment of Research, Development and Demonstration in the Electric and Gas Industries.	R.87-10-013 (Filed October 16, 1987)

INTERIM OPINION REPUBLISHING A PROPOSED RULE FOR UTILITY RESEARCH, DEVELOPMENT, AND DEMONSTRATION (RD&D) PROGRAMS

I. Summary

This interim order revises and republishes a proposed rule for utility RD&D programs. We propose that review of RD&D programs remain in General Rate Cases (GRCs). Second, we propose that DRA prepare a biennial report on RD&D for all utilities. Third, additional RD&D guidelines are proposed for comment.

II. Background

Utilities routinely engage in various RD&D activities, which are substantially funded by ratepayers. In 1981, in (D.) 93887, the Pacific Gas and Electric Company (PG&E) general rate case, the Commission expressed concern that "PG&E's planning and management of RD&D lack direction and a sense of priorities. Concrete steps must now be taken to ensure that the utility's RD&D program is more than a grab bag of disjointed programs." The Commission directed staff, PG&E, and other investor owned utilities (IOUs) in energy to develop a definition of RD&D and a system of RD&D priorities. The California Energy Commission (CEC) was also invited to participate. After a series of workshops and meetings, staff prepared a report containing its recommended definition of RD&D and a system for setting RD&D priorities. The report recommended:

1. Use of the Federal Energy Regulatory Commission (FERC) definition of RD&D with modifications.

2. RD&D projects be prioritized.

3. Utilities show the relationship of the RD&D project to their resource plan.

4. Utilities recommend how the RD&D expenditures should be recovered.

5. An annual RD&D coordination meeting be held early each year.

6. No specific RD&D budget ceiling or floor be imposed.

The Commission opened Order Instituting Investigation (OII) 82-08-01 to receive comments and ultimately adopt RD&D guidelines. In D.82-12-005 we directed that RD&D funding be handled in GRCs, and adopted guidelines which stated that the projects were to support one or more of the following RD&D objectives of the Commission.

- The project should lead to environmental improvement.

- The project should enhance public or employee safety.

- The project should support the Commission's conservation objectives and promote conservation by efficient resource use or by reducing and/or shifting system load.

- The project should develop new resources, particularly renewable resources, and/or processes, or otherwise further supply technology. The project should reduce reliance on finite, non-renewable resources.

- The project should improve operating efficiency and/or reliability or otherwise reduce operating costs.

These objectives have been incorporated in § 740.1 of the Public Utilities (PU) Code.

III. The Proposed Rule

A. Summary of the Proposed Rule

On October 16, 1987 the Commission opened this Order Instituting Rulemaking (OIR) proposing for comment a rule revising the Commission's procedures for review and funding of energy utility RD&D programs. The rule proposed to remove the review of utility RD&D programs from GRCs by establishing a separate proceeding combining the review of RD&D programs of PG&E, Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCal).

The intent of the rule was to alleviate two concerns with the present method by which the Commission reviews RD&D. First, review in a GRC for individual companies does not set common policies for all utilities. Second, such review does not allow the Commission to treat RD&D as a unique area of utility operation that may warrant special review outside the GRC to facilitate the Commission's policy-making authority.

B. Comments

Comments on the proposed rule were submitted by PG&E, SCE, SDG&E, SoCal, CEC, and the Division of Ratepayer Advocates (DRA). Except for PG&E, the parties generally support the intent of the rule. They typically comment that the purpose of the rule is already being accomplished but that if the Commission wishes to implement this change in procedure, they would support it.

PG&E, however, explains its adamant opposition to the rule with extensive and detailed comments. PG&E feels that the rule is unnecessary, inappropriate, and would impose on it an unreasonably heavy regulatory burden. The responses are summarized in the following section.

Question 1: "Should the Commission adopt the proposed rules concerning the Commission ratemaking? If not explain why."

PG&E comments that the rule would result in "an unneeded layer of micro-regulation" at a time when the Commission is encouraging utilities to meet the challenge of competition through initiative and creativity rather than relying on regulation. PG&E doesn't believe that a need for increased regulation of RD&D has been demonstrated, and asserts that the current system of review of RD&D in the GRC is functioning well. Since RD&D by nature is new and uncertain, PG&E thinks RD&D is the wrong subject for implementing increased regulation. PG&E believes that the proposed rule would actually cause RD&D to suffer as a result of ever-increasing Commission attention and effort. PG&E recommends that the GRC is the appropriate place to address RD&D since the unique characteristics of utilities, including resource plans and RD&D needs, can best be handled on an individual utility basis. PG&E points out that the Commission has numerous means of receiving RD&D information, including the annual RD&D Status Report and meeting, data requests, and informal communication with staff, in addition to GRC filings.

PG&E further comments, regarding the adequacy of current inter-utility coordination, that the California Utility Resource Council (CURC) was set up for this purpose and at least annually the major energy utilities meet with the Commission and CEC staffs. In addition, utilities frequently co-sponsor RD&D, and implicitly cooperate and coordinate their RD&D efforts through membership in the Electric Power Research Institute (EPRI) and the Gas Research Institute (GRI). PG&E also stresses the need for proprietary RD&D programs in some instances so that ratepayers can benefit from sale of rights of those programs when successful and marketable. In summary, PG&E opposes any changes that would result in added scrutiny of utility RD&D activity by the Commission.

SCE supports the proposed rule as a means of addressing RD&D in a consolidated proceeding for all the major energy utilities, which would allow staff to better determine whether duplication exists. The staggered nature of GRC's makes such determination difficult under the current review procedure. SCE also believes that the proposed rule would enhance coordination and facilitate joint funding among the utilities, and encourage consistency in RD&D efforts.

SDG&E supports the proposed rule but requests that a three-year instead of a two-year cycle be used to avoid significantly increased administrative costs. Alternatively, if the Commission adopts a two-year cycle, SDG&E recommends that the current requirement for utilities to file an annual RD&D report be changed to a biennial report.

SoCal indicates support for the proposed rule, although it believes its current RD&D expenditures to be efficient, effective, and non-duplicative. However, SoCal echoes PG&E's concern about the potential for inflexible "micromanagement" of RD&D by the Commission. SoCal expresses concern that the new process operate in a timely manner so that the RD&D funding is provided in the appropriate GRC.

The CEC supports the proposed rule and offers two suggestions to enhance it. The first recommendation is to articulate the method of coordination of the OIR with the CEC biennial Energy Development Report (EDR). The second recommendation is to change the schedule to allow the CURC to make recommendations more effectively for the EDR and the Commission.

DRA's comments deal with the mechanics and timing of review of RD&D programs in the proposed separate proceeding. DRA also comments that a predetermined level of funding for RD&D,

adjusted annually for inflation, should be used. The level to be used would be determined after the utilities recommend a level to the Commission. The level could be adjusted in the future, and unspent funds would be returned to the ratepayers. SCE also supports a predetermined level of RD&D expenses.

> **Question 2: "Should the Commission consider any particular alternatives to the proposed rule? If recommending an alternative rule or amendments to the proposed rule, parties should provide proposed language for adoption in the rule, and should discuss any necessary ratemaking mechanisms in detail, explaining their practicality and their ability to achieve regulatory goals."**

PG&E did not recommend alternates to the proposed rule, instead recommending that the Commission simplify review of RD&D within the GRC, rather than amplify it.

SCE suggests an alternate to the ratemaking method proposed, in recognition of the potential exemption of large light and power (LL&P) customers from the Electric Revenue Adjustment Mechanism (ERAM) and the Attrition Rate Adjustment (ARA) procedures. A tracking account would compare monthly, recorded RD&D expenses with recorded revenues. The cumulative difference in under- or overcollection would be either recovered or returned to customers through rate changes in subsequent biennial RD&D proceedings.

SDG&E offers no further alternates beyond minor changes to reduce the administrative costs, as discussed above.

SoCal, CEC, and DRA offer no alternates to the proposed rule.

Question 3: "On what schedule and through what proceedings should the Commission implement the rule?"

SCE, CEC, and DRA each recommend a two-year schedule intended to coordinate with CURC, CEC, and the Commission. SDG&E proposes a three-year schedule. PG&E and SoCal offer no proposed schedule.

C. Discussion

We have carefully considered the comments of all parties on the proposal to remove the review of utility RD&D from the general rate cases. These comments identify several benefits of considering utility RD&D in consolidated proceedings. A consolidated review would increase coordination between individual utility RD&D programs. Consolidated review would allow us to set common goals and consistent policies for all of the major energy utilities. Moreover, a consolidated proceeding would allow us to examine utility RD&D programs with greater attention than permitted in the crowded calendar of the general rate case plan.

While we continue to believe that a consolidated proceeding would offer several benefits, we also recognize that such a procedure has certain costs and limitations. A separate proceedings adds an additional level of regulation and imposes added costs of preparation and participation on both utilities and our staff. Although DRA originally supported the proposed rule it now believes that the consolidated proceeding, in which it be required to concurrently review the RD&D programs of four major energy utilities, could exceed its resources. Similarly, PG&E, SDG&E, and SoCal express concern over the added costs of the new proceeding. On balance, we conclude that the added costs of a consolidated proceeding may outweigh the benefits which could be derived. Therefore, we will continue to review utility RD&D expenditures in general rate cases.

IV. Proposals for Further Consideration

A. The Revised Rule

We will solicit comments on a revised rule that we believe retains many of the desirable features of the earlier proposed rule but should substantially reduce the regulatory burden.

DRA prepares a report on RD&D for use in each GRC. In this order we propose that DRA prepare a biennial report on RD&D for all the energy utilities, to be used subsequently in individual GRCs. While both the DRA report and the EDR report of the CEC are biennial reports, prepared in alternate years, they serve different purposes. The DRA report is intended to be used by the Commission for the near-term purposes of authorizing RD&D activities, budget and resulting rates in the GRC.

The EDR is a part of the CEC Biennial Report which serves a longer term planning horizon, forecasting energy use for up to 20 years into the future.

RD&D activities should be conducted with full understanding of the EDR and other relevant portions of the Biennial Report. Although the DRA report and the EDR cover different periods of time, it is nevertheless useful to seek cooperation in the preparation of the two DRA reports and the EDR since the two documents concern very similar subject matter.

It is important to the success of the revised rule that proper coordination take place between the Commission, the IOUs, the CEC, and the unregulated municipal utilities. We encourage DRA and CACD, and the IOUs, to contribute meaningfully to the development of the CEC EDR. The IOUs should benefit from this effort by obtaining information on the municipal utility activities that is otherwise not as readily available.

The proposed rule clarifies the specific information utilities would be required to provide in alternating annual reports.

We are also proposing for comment a revised schedule attached as Appendix B. We believe that this two-year schedule will allow DRA to develop a comprehensive biennial RD&D report, evaluating the RD&D programs in the context of the RD&D guidelines.

The schedule alternates between the DRA issuing its biennial RD&D report mid-year in odd-numbered years and the CEC issuing the biennial EDR mid-year in even-numbered years.

We invite the parties to comment on the proposed procedure and the revised rule attached as Appendix A. We request that parties provide substantive comments with specific and detailed suggestions, and supporting statements and documents if appropriate.

B. Guidelines for RD&D

The comments from the parties point out that it may be appropriate for us to revisit guidelines for RD&D, due to changes in the electric and gas utility industries in recent years.

Among the changes are bypass of the utility by certain customer groups, especially large customers, who may have access to economic alternate sources of gas or electricity. Adding the costs of RD&D to those customer classes can exacerbate the bypass problem. Also, those customer groups may not be interested in the potential longer-term benefits of RD&D since they may be bypassing the utility when the benefits become available. On the other hand, captive customer groups such as residential and small commercial will remain customers of the utility and can expect to benefit from successful RD&D programs.

We believe it is appropriate to supplement the RD&D guidelines we adopted by D.82-12-005 and codified in PU Code § 740.1 with guidelines that reflect the industry changes since then.

The following guideline implements PU Code § 740.1(e)(1).

(1) RD&D priorities and programs should consider environmental concerns, needs, and considerations in the short-, mid- and long-term. (Such as the increasingly important global environmental problems, clean air quality attainment. RD&D activities should be conducted with a particular awareness of its implications on water supply and quality, air quality, and hazardous waste.)

These additional objectives supplement PU Code § 740.1(e).

(6) RD&D should consider and be responsive to basic changes in the energy industries.

(7) RD&D programs should include long-, mid-, and short-term end-use energy applications in an appropriate mix.

(8) RD&D programs as a whole should be balanced among supply (production) distribution and end-use areas.

(9) The individual projects and the total RD&D program should demonstrate policy formulation and execution, budget allocation, priorities, project management and coordination, planning process, and implementation procedures that carry out and comply with CPUC policy and guidelines.

The Commission will request written comments from the parties on these guidelines.

Findings of Fact

1. D.82-12-005 adopted RD&D guidelines for energy utilities and required that RD&D funding would be handled in GRCs.

2. This OIR was opened to propose for comment a rule revising the procedures for review and funding of energy utility RD&D programs.

3. Comments on the proposed rule were filed by PG&E, SCE, SDG&E, SoCal, CEC, and DRA.

Conclusions of Law

1. It is appropriate to revise the rule proposed for comment to reflect comments of the respondents and further consideration by the Commission.

2. It is appropriate to request comments on the revised rule.

3. Appendix A should apply to Applications and Notices of Intent filed after the effective date of the adopted rule.

INTERIM ORDER

IT IS ORDERED that:

1. Respondents Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCal) are ordered to file comments on:

a. The RD&D guidelines listed in the text of this order.

b. The revised rule attached as Appendix A.

c. The proposed schedule attached as Appendix B.

Other interested parties are invited to file comments on these topics.

2. Comments shall be filed in accordance with Commission rules no later than 30 days after the effective date of this order. Comments shall be served on all parties listed in Appendix C.

3. This proceeding remains open.

This order is effective today.

Dated June 21, 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

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

Victor Weisser, Executive Director

REVISED
RULE ON COMMISSION RATEMAKING TREATMENT OF RESEARCH, DEVELOPMENT AND DEMONSTRATION (RD&D) PROGRAMS FOR PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA GAS COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY AND SAN DIEGO GAS & ELECTRIC COMPANY

1. Commencing on March 31, 1990, and annually thereafter each utility shall file an Annual Report (Report) on RD&D activities with the Commission.

   a. The Report shall cover the four year period consisting of the year prior to the report, the current year, and the next two years.

   b. The initial Report in 1990 and subsequent Reports in even-numbered years shall include a review of the relationship of the RD&D activities with the stated policies of the Commission and the California Energy Commission (CEC).

   c. Subsequent Reports in odd-numbered years will include the following:

      (1) Information on new RD&D activities.

      (2) Updated information on continuing RD&D activities when the budget or manpower for that activity has changed by 30 percent or more since the last filing.

   d. The Report shall be served on the Commission's Division of Ratepayer Advocates (DRA) and the Commission Advisory and Compliance Division (CACD). It shall also be served on the California Energy Commission CEC if requested.

2. The Notice of Intention (NOI) and Application (A.) for a general rate case shall include the following RD&D funding information.

   a. Requested maximum and minimum RD&D budget levels for Commission adoption.

   b. Requested overall RD&D funding level if within the maximum and minimum levels.

c. Justification for RD&D funding levels outside the adopted minimum or maximum levels.

(END OF APPENDIX A)

PROPOSED SCHEDULE OF COMMISSION RATEMAKING TREATMENT OF RESEARCH, DEVELOPMENT AND DEMONSTRATION (RD&D) PROGRAMS FOR PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY AND SAN DIEGO GAS AND ELECTRIC COMPANY

Schedule for 1990 and Subsequent Even-Numbered Years

January

Annual meeting of the California Utilities Research Council (CURC).

March 31

Annual RD&D report from the IOUs.

Spring

Issuance of the Energy Development Report (EDR) draft by the California Energy Commission (CEC), followed by public hearings to consider comments.

June

CEC issues the final EDR.

Schedule for 1991 and Subsequent Odd-Numbered Years

January

Annual meeting of the CURC.

March 31

Annual RD&D report from the IOUs.

April

Commission Division of Ratepayer Advocates (DRA) commences review of utilities' filings, coordinates with CEC, meets with CURC and utilities as appropriate.

June

DRA issues its biennial RD&D status reports covering the IOUs.

(END OF APPENDIX B)

APPENDIX C
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Appearances:

James M. Lehrer, Atty.
Southern California Edison Company
P.O. Box 800
Rosemead, CA 91770

David B. Follett, Manager
Southern California Gas Company
Box 3249 Terminal Annex
Los Angeles, CA 90051

Michael R. Weinstein
Associate Counsel
San Diego Electric
P.O. Box 1831
San Diego, CA 92112

Richard H. Moss, Atty. at Law
Pacific Gas and Electric Co.
77 Beale Street
San Francisco, CA 94106

Warren D. Noteware
Commissioner and Presiding Member
Intergovernmental Affairs Committee
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

*ALJ STALDER 5111

State Service:

Sharon Jane Matthews
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

*T. Thompson 4-B

*J. Rood 5001

*California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Information Only:

Winston K. Ashizawa, Supervisor
Demand-Side Planning
Sacramento Municipal Utility District
P.O.Box 15830
Sacramento, CA 95852-1830

California Institute for Energy
Attention: Jeffrey Harris
Lawrence Berkeley Laboratory
University of California
Berkeley, CA 94720

G. S. Whittlinger
General Manager
Anza Electric Cooperative, Inc.
P.O. Box 96
Anza, CA 92306

R. S. Jarrett, Vice President
C. P. National Corporation
P.O. Box 8192
Walnut Creek, CA 94596

R. M. Loch, V.P.-Reg. Affairs
Pacific Enterprises
801 S. Grand Avenue
Los Angeles, CA 90054

David W. Sloan, Director
Pricing & Regulatory Affairs
Pacific Power & Light Company
920 Southwest - 6th Avenue, #1224
Portland, OR 97204

B. W. Pfile
Plumas-Sierra Rual Electric
P.O. Box 2000
Portola, CA 96122-2000

J. C. McElwee, Asst. Controller
Sierra Pacific Power Co.
P.O. Box 10100
Reno, NV 89510

R. F. Gruszka, V.P., Rev. Req.
Southern California Water Co.
3625 W. 6th Street
Los Angeles, CA 90020

APPENDIX C
Page 2

N. W. Mathews, General Manager
Surprise Valley Electrification
Corp.
P.O. Box 691
Alturas, CA 96101

R. A. Janess, Vice President - Gas
C. P. National Corporation
P.O. Box 8192
Walnut Creek, CA 94596

Rolff Dohlen, General Manager
Valley Electric Association, Inc.
P. O. Box 237
Pahrump, NV 89041

Thomas J. Trimble, Senior Vice
President & General Counsel
Southwest Gas Corporation
P.O. Box 98510
Las Vegas, NV 89193-8512

- The project should improve operating efficiency and/or reliability or otherwise reduce operating costs.

These objectives have been incorporated in Section 740.1 of the Public Utilities Code.

III. The Proposed Rule

A. Summary of the Proposed Rule

On October 16, 1987 the Commission opened this Order Instituting Rulemaking (OIR) proposing for comment a rule revising the Commission's procedures for review and funding of energy utility RD&D programs. The rule proposed to remove the review of utility RD&D programs from GRCs by establishing a separate proceeding combining the review of RD&D programs of PG&E, Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCal).

The intent of the rule was to alleviate two concerns with the present method by which the Commission reviews RD&D. First, review in a GRC for individual companies does not set common policies for all utilities. Second, such review does not allow the Commission to treat RD&D as a unique area of utility operation that may warrant special review outside the GRC to facilitate the Commission's policy-making authority.

B. Comments

Comments on the proposed rule were submitted by PG&E, SCE, SDG&E, SoCal, CEC, and the Division of Ratepayer Advocates (DRA). Except for PG&E, the parties generally support the intent of the rule. They typically comment that the purpose of the rule is already being accomplished but that if the Commission wishes to implement this change in procedure, they would support it.

PG&E, however, explains its adamant opposition to the rule with extensive and detailed comments. PG&E feels that the

The proposed rule clarifies the specific information utilities would be required to provide in alternating annual reports.

We are also proposing for comment a revised schedule attached as Appendix B. We believe that this two-year schedule will allow DRA to develop a comprehensive biennial RD&D report, evaluating the RD&D programs in the context of the RD&D guidelines.

The schedule alternates between the DRA issuing its biennial RD&D report mid-year in odd-numbered years and the CEC issuing the biennial EDR mid-year in even-numbered years.

We invite the parties to comment on the proposed procedure and the revised rule attached as Appendix A. We request that parties provide substantive comments with specific and detailed suggestions, and supporting statements and documents if appropriate.

B. Guidelines for RD&D

The comments from the parties point out that it may be appropriate for us to revisit guidelines for RD&D, due to changes in the electric and gas utility industries in recent years.

Among the changes are bypass of the utility by certain customer groups, especially large customers, who may have access to economic alternate sources of gas or electricity. Adding the costs of RD&D to those customer classes can exacerbate the bypass problem. Also, those customer groups may not be interested in the potential longer-term benefits of RD&D since they may be bypassing the utility when the benefits become available. On the other hand, captive customer groups such as residential and small commercial will remain customers of the utility and can expect to benefit from successful RD&D programs.

We believe it is appropriate to supplement the RD&D guidelines we adopted by D.82-12-005 and codified in PU Code Section 740.1 with guidelines that reflect the industry changes since then.

We believe that the following additional guidelines of RD&D reflect the changes.

- RD&D should consider and be responsive to basic changes in the energy industries. The changes include bypass threat, customer needs for varying levels of reliability and service quality.

- RD&D programs should be directed to long term end-use energy applications that are expected to be in service for sufficient time to justify the program expenses.

- RD&D programs for captive customer groups, who do not have readily available and economic alternate energy sources, should be coordinated among utilities. The coordination should result in avoiding duplication of RD&D effort to the extent practical.

- RD&D priorities and programs should consider environmental constraints and considerations, including the increasingly important global environmental problems. RD&D activities should be conducted with a particular awareness of its implications on water supply and quality, air quality, and hazardous waste.

The Commission will request written comments from the parties on these guidelines.

<u>Findings of Fact</u>

1. D.82-12-005 adopted RD&D guidelines for energy utilities and required that RD&D funding would be handled in GRCs.

2. This OIR was opened to propose for comment a rule revising the procedures for review and funding of energy utility RD&D programs.

3. Comments on the proposed rule were filed by PG&E, SCE, SDG&E, SoCal, CEC, and DRA.

The following guideline replaces PU Code § 740.1(e)(1).

(1) RD&D priorities and programs should consider environmental concerns, needs, and considerations in the short-, mid- and long-term. (Such as the increasingly important global environmental problems, clean air quality attainment. RD&D activities should be conducted with a particular awareness of its implications on water supply and quality, air quality, and hazardous waste.)

These additional guidelines supplement PU Code § 7401.(e).

(6) RD&D should consider and be responsive to basic changes in the energy industries.

(7) RD&D programs should include long-, mid-, and short-term end-use energy applications in an appropriate mix.

(8) RD&D programs as a whole should be balanced among supply (production) distribution and end-use areas.

(9) The individual projects and the total RD&D program should demonstrate policy formulation and execution, budget allocation, priorities, project management and coordination, planning process, and implementation procedures that carry out and comply with CPUC policy and guidelines.

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Conclusions of Law

1. It is appropriate to revise the rule proposed for comment to reflect comments of the respondents and further consideration by the Commission.

2. It is appropriate to request comments on the revised rule.

3. Appendix A should apply to applications and Notices of Intent filed after the effective date of the adopted rule.

O R D E R

IT IS ORDERED that:

1. Respondents Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCal) are ordered to file comments on:

a. The RD&D guidelines listed in the text of this order.

b. The revised rule attached as Appendix A.

c. The proposed schedule attached as Appendix B.

Other interested parties are invited to file comments on these topics.

2. Comments shall be filed in accordance with Commission rules no later than 30 days after the effective date of this order. Comments shall be served on all parties listed in Appendix C.

This order is effective today.

Dated JUN 21 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners