

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of San Diego Gas & Electric  
Company (U 902-M) for Authority,  
Among Other Things, to Increase Rates  
and Charges for Electric and Gas Service  
Effective on January 1, 2012.

Application 10-12-005  
(Filed December 15, 2010)

Application of Southern California Gas  
Company (U 904-G) for authority to  
update its gas revenue requirement and  
base rates effective on January 1, 2012.

Application 10-12-006  
(Filed December 15, 2010)

**PROTEST OF THE UTILITY REFORM NETWORK**

Nina Suetake  
Staff Attorney

Robert Finkelstein  
Legal Director

**The Utility Reform Network**  
115 Sansome Street, Suite 900  
San Francisco, CA 94104  
Phone: (415) 929-8876  
Fax: (415) 929-1132  
E-mail: [bfinkelstein@turn.org](mailto:bfinkelstein@turn.org)

January 18, 2011

## PROTEST OF THE UTILITY REFORM NETWORK

On December 15, 2010, San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) each filed an application seeking to increase its base revenue requirement. The SoCalGas application states that the requested revenue requirement for the 2012 test year is \$2.124 billion, and describes the increase embedded in that figure as a 7.4% increase over the “currently effective 2010 level.”<sup>1</sup> The utility’s policy testimony claims that the increase is fairly characterized as a system average rate revenue increase of 7.4% as compared to currently effective 2010 rates.<sup>2</sup> Truth be told, the utility’s proposed rates for 2012 would represent a \$306 million increase over the revenues achieved under existing rates (\$1.818 billion)<sup>3</sup> or an increase of nearly 17%.<sup>4</sup> In other words, the revenues subject to this GRC application would be 17% higher in 2012 than they would be in 2012 if existing rates were left in place. A request for a 17% increase should catch the Commission’s attention under any circumstances. When it comes couched in an application that seems to want to mask the magnitude of that increase, it warrants the Commission’s closest scrutiny.

On January 7, 2011, Administrative Law Judge John Wong issued a ruling consolidating these two applications. Pursuant to Rule 2.6 of the Commission’s Rules of Practice and Procedure, The Utility Reform Network (TURN) submits this protest to The Sempra Utilities’ applications. Rule 2.6 requires that protests be filed within 30 days of the date the notice of the filing of the application first appeared in the Commission’s

---

<sup>1</sup> SoCalGas Application, p. 1.

<sup>2</sup> Ex. SCG-1 (Policy), p. 2.

<sup>3</sup> Ex. SCG-28 (Summary of Earnings), Table DH-1, line 3.

<sup>4</sup> \$306 million/\$1.818 billion = 16.8%

Daily Calendar. Notice of the instant application appeared on December 16, 2010, making the protest due January 18, 2010. TURN's protest is thus timely filed.

### **I. Grounds for Protest**

The Commission must ensure that the rates charged by SDG&E and SoCalGas are just and reasonable. As the Commission explained in D.01-10-031 with regard to a PG&E GRC:

We have a regulatory responsibility to ensure PG&E provides adequate service at just and reasonable rates, and we must view the facts accordingly. Our legislative mandate encompasses promoting the "safety, health, comfort, and convenience of PG&E's patrons, employees, and the public." *See* §451.<sup>5</sup>

TURN protests SDG&E's and SoCalGas's request for authorization to increase their revenue requirements as presented in these applications, as the requests are without sufficient support and are excessive, particularly in light of the ongoing economic conditions in southern California generally. As the applicants, SDG&E and SoCalGas bear the burden of proving that each is entitled to the revenue requirement it seeks in its application, and must affirmatively establish the reasonableness of each and every proposal within its application.<sup>6</sup> Moreover, the starting point for the Commission's analysis must be that existing rates are reasonable unless a party meets its burden of proving that they are not.<sup>7</sup>

As in past GRCs and similar cases involving the Sempra Utilities, TURN intends to carefully coordinate our participation with other consumer representatives, particularly

---

<sup>5</sup> D.01-10-031, *Order Granting Rehearing of and Modifying Decision 00-02-046*, p. 5.

<sup>6</sup> *See, i.e.*, D.09-03-025, p. 8 (discussing SCE's burden of proof in its Test Year 2009 General Rate Case, A.07-11-011).

<sup>7</sup> "[The utility] has the burden of proving that its current authorized revenues are unreasonable and should be adjusted." D.00-02-046, Conclusion of Law 3.

Utility Consumers Action Network (UCAN). If past patterns hold true in this proceeding, UCAN will take the lead on SDG&E-specific issues, with TURN taking the lead on SoCalGas-specific issues. For those issues common to both utilities (for example, depreciation, non-tariffed products and services, and the OpEx 20/20 undertaking), TURN and UCAN will work together in an effort to ensure that one of us takes the lead on the issue, thus minimizing the risk of duplication and maximizing the issue coverage we are able to achieve.

While TURN is still in the preliminary stage of our investigation and analysis, we expect to present evidence in our prepared testimony and through evidentiary hearings showing that SoCalGas and SDG&E have failed to meet their burden of demonstrating the reasonableness of many aspects of their showing, including but not limited to certain proposals regarding electric and gas distribution costs, customer service costs, electric generation costs, administrative and general expenses, shared services and other support costs, and rate base. TURN may additionally address some or all of the following aspects of the utilities' showing:

- The intersection between each utility's GRC and its Advanced Metering Infrastructure (AMI) program and any related programs.
- The inclusion of certain A&G-related Energy Efficiency and Demand Response program costs in the GRC, rather than in their respective program applications, which could have the effect of artificially increasing the cost-effectiveness calculations for those programs, as well as impacting the allocation among customer classes of these program costs.
- The inclusion of costs associated with plug-in electric vehicles. The Commission is considering issues associated with ratepayer funding of any such costs in a separate rulemaking. SDG&E's proposal is premature at best.
- The request for approximately \$36 million of increased costs for Wildfire Property Damage Reinsurance for SDG&E,<sup>8</sup> a nearly 66% increase over the total

---

<sup>8</sup> Ex. SCG-18, p. MBD-2; Ex. SDG&E-24, p. MBD-2.

SDG&E liability insurance costs for 2009. There is a separate application (jointly filed by SDG&E) to address issues associated liability risks associated with wildfires in a joint utility application (A.09-08-020). Consideration of the proposed increase in liability insurance expenses may need to be coordinated with the issues raised in that proceeding.

- The recently enacted federal tax legislation (the Small Business Job Act of 2010 and the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010) each include provisions that will permit rapid acceleration of depreciation of utility plant in the years 2010, 2011, and 2012. This will likely have implications on each utility's rate base and revenue requirement for the 2012 test year. The Sempra Utilities' testimony mentions the former,<sup>9</sup> but the latter was enacted after the application was filed and testimony served.
- The Sempra Utilities are proposing substantial changes to their approach to non-tariffed products and services (NTP&S). After years of offering virtually no new NTP&S or substantially increasing the amount of existing NTP&S, the utilities propose three new revenue sharing mechanisms that they claim will provide appropriate risk and revenue sharing. TURN's initial review of the proposals suggests that the utilities fail to recognize the extent of the financial and non-financial risks ratepayers bear with regard to NTP&S, and have not demonstrated that the proposed cost tracking and revenue sharing mechanisms appropriately balance the risk and reward between ratepayers and shareholders. TURN will also oppose a "net revenue" sharing mechanism, particularly one that treats a "rate of return" component as one of the incremental costs that must be recovered from net revenues before any revenue sharing would take place.
- The operation to-date of the Sempra Utilities' "Operational Excellence 20/20" (OpEx 20/20) and the forecasts of future costs and savings. This is the outgrowth of the "Utility of the Future" program that came to light during the course of litigating the test year 2008 GRC.
- The testimony on the costs of environmental programs for both utilities includes the cost impact of a Mandatory Reporting Rule (MRR) from the United States Environmental Protection Agency that includes a subpart W which as originally proposed in March 2010 would have caused each utility to incur certain costs. A footnote discloses that the final version of subpart W as adopted in November 2010 "will yield substantially lower costs than the March 2010 proposal would have yielded."<sup>10</sup> Each utility's application continues to reflect the substantially higher costs from the March 2010 proposal. If the utilities intend to update their request to reflect subpart W as adopted, they should make clear when and where they intend to make this change.
- TURN only found the word "overtime" once in the prepared testimony regarding

---

<sup>9</sup> Ex. SCG-20, p. RGR-12; Ex. SDG&E-34, p. RGR-16.

<sup>10</sup> Ex. SCG-15, p. LPG-7, fn. 1; Ex. SDG&E-21, p. LPG-7, fn. 1.

SoCalGas's testimony on its distribution operations.<sup>11</sup> However, the workpapers for that volume appear to indicate that the utility's cost forecasts regularly reflect substantial amounts of overtime.<sup>12</sup> It is not clear why SoCalGas deemed it appropriate to forecast its labor costs as if a substantial portion of the hours would be incurred at overtime rates.

## **II. Effect of the Application on the Protestant**

TURN is a non-profit consumer advocacy organization, and has a long history of representing the interests of residential and small commercial customers of California's utility companies before this Commission. TURN's articles of incorporation specifically authorize our representation of the interests of residential customers. The instant application harms the interests of the Sempra Utilities' residential and small commercial ratepayers, whose interests TURN represents, by seeking authorization to collect from ratepayers charges that are unjust and unreasonable for the provision of utility service during the years 2012, 2013 and 2014.

## **III. Need for Evidentiary Hearings**

In Resolution ALJ 176-3266 (December 16, 2010), the Commission preliminarily determined that each of these applications should be categorized as "ratesetting" and that evidentiary hearings will be necessary. TURN concurs with this assessment. TURN intends to actively participate in evidentiary hearings.

## **IV. Schedule**

The schedule for this proceeding needs to take a number of factors into consideration, including but not limited to the magnitude of the revenue requirement increase each Sempra Utility seeks in these applications, the concurrent GRC underway

---

<sup>11</sup> Ex. SCG-2, p. GOM-36.

<sup>12</sup> Workpapers to Ex. SCG-2, pp. 39-52, and 63-69.

for Southern California Edison Company (with DRA, TURN and other intervenors active in all three GRCs), and the pattern of issuing GRC decisions after the start of the test year in each GRC of the past decade.

In the SCE GRC, TURN has filed a motion seeking establishment of a memorandum account that would make the revenue requirement adopted for the test year go into effect on January 1, 2012 even if the final decision issues after that date, in part to mitigate the pressure to develop a schedule driven by a year-end target date for the decision. The Sempra Utilities filed a similar motion in this consolidated proceeding on January 10, 2011. TURN generally supports the relief requested in that motion, although we disagree with the assertion that “establishment of this safeguard should not create an expectation of a delay in the procedural schedule set forth by the Rate Case Plan.”<sup>13</sup> As the utilities’ motion describes,<sup>14</sup> none of the GRCs for any of California’s major energy utilities in at least the past decade have achieved a final decision before the start of the designated test year, despite an initial procedural schedule that would have achieved that deadline, at least on paper. Rather than creating an expectation of delay, establishment of the memorandum account early in the proceeding would create an expectation consistent with the reality of recent history. And instead of continuing to act as if it were reasonable to expect a final decision before the end of 2011, TURN submits that the procedural schedule should reflect the clear and consistent evidence that a decision within that time frame is highly unlikely.

Regardless of the outcome on that motion, the schedule established in this proceeding must ensure that DRA, TURN and other parties have sufficient time to review

---

<sup>13</sup> Joint Motion of SDG&E and SoCalGas to Establish Memorandum Accounts (January 10, 2011), p. 2.

<sup>14</sup> *Id.*, p. 3.

and analyze SDG&E's and SoCalGas's requests prior to serving their testimony; to review rebuttal testimony and conduct discovery on that testimony before the evidentiary hearings commence; to conduct cross examination on material issues; and to otherwise have sufficient opportunity to present and support their positions. The key element of ensuring that parties have sufficient time is avoiding overlap between this consolidated proceeding and the SCE GRC proceeding. TURN does not have a specific schedule to propose at this time, but anticipates presenting one in a prehearing conference statement submitted prior to the first prehearing conference.

#### **V. Other Matters To Be Addressed Early In The Proceeding**

In addition to the substantive issues identified above, TURN takes this opportunity to identify other issues that the Commission may need to address at the prehearing conference or at some other relatively early point in the proceeding.

First, the Commission may need to address the Sempra Utilities' document retention practices for purposes of this proceeding. TURN's understanding is that each Sempra Utility has standard document retention practices that apply to both paper and electronic versions of documents and other communications, and that for some documents the period for retention can be as short as a matter of months in some cases. Such an approach could unduly hamper the ability for parties to review or analyze utility-produced materials related to this GRC. Therefore it may behoove the parties and the Commission to have a clear understanding very early in the proceeding as to the utilities' document retention practices that will be applied to GRC-related materials, and how the utility defines GRC-related materials for this purpose. TURN urges each utility to use the reply to protests as an opportunity to describe in detail the applicable document retention practices.



Second, the Commission regularly issues an order instituting investigation (OII) as a companion proceeding to each major energy utility's GRC. Among other things, the OII serves as the forum for parties other than the Sempra Utilities to present affirmative recommendations on subjects not covered by the utility's application or testimony. While the Commission has typically issued the OII within a few months of the GRC application being formally filed, in the 2011 test year GRC for PG&E (A.09-12-020) the OII did not issue until August 4, 2010, after the close of the evidentiary hearings (I.10-07-027). The Commission should either issue the companion OII much earlier in this proceeding or make clear at the prehearing conference that such an OII will issue and that parties should proceed accordingly.

January 18, 2011

Respectfully submitted,

By:   /S/  \_\_\_\_\_

Robert Finkelstein  
Legal Director

**THE UTILITY REFORM NETWORK**  
115 Sansome Street, Suite 900  
San Francisco, CA 94104  
Phone: (415) 929-8876  
Fax: (415) 929-1132  
E-mail: [bfinkelstein@turn.org](mailto:bfinkelstein@turn.org)