Dan Skopec
Vice President
Regulatory & Legislative Affairs

601 Van Ness Ave Suite 2060
San Francisco, CA 94102

Tel: 415-202-9986
Fax: 415-346-3630
dskopec@semprautilities.com

March 22, 2011

Commission President Michael Peevey
Commissioner Mike Florio
Commissioner Catherine Sandoval
Commissioner Timothy Alan Simon
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Comments on Revised Draft Resolution L-411 (Dated March 10, 2011)

Dear Commissioners:

I am writing on behalf of San Diego Gas & Electric Company ("SDG&E") and Southern California Gas Company ("SoCalGas") (jointly, Sempra Energy Utilities or "SEU") to express SEU's strong opposition to Draft Resolution L-411, as most recently revised on March 10, 2011 ("Fifth Draft Resolution"). This resolution should be rejected for four fundamental reasons.

First, the Fifth Draft Resolution continues to ignore the point that these proposed memorandum accounts are not necessary for utilities with a pending 2012 General Rate Case ("GRC") proceeding. Bonus depreciation is already part of the overall revenue requirement calculation in the SEU's filed GRCs, including the Small Business Jobs Act of 2010 ("Small Business Act") which is currently also within the scope of the Fifth Draft Resolution. Utilities with pending 2012 GRCs will incorporate the deferred tax effects resulting from bonus depreciation from both the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 ("Tax Relief Act") and the Small Business Act to its forecast years' rate base.

Second, the Fifth Draft Resolution alters the terms of Decision ("D.") 08-07-046 and the settlement agreements adopted in that decision (which resolved the SDG&E and SoCalGas Test Year 2008 GRCs). The decision and settlements provide that attrition year revenue requirements (including 2011) are not subject to any true-ups. D.08-07-046, Appendices 3 and 4, Section I and H, respectively states:

> *"The Joint Parties agree that there shall be no true-up or after-the-fact modification to any attrition year revenue requirement increase."*

Modification of 2011 rates by truing-up the deferred taxes associated with investments placed in service up to September 8, 2010 and eligible for bonus depreciation per the Small Business Act, or placed in service after September 8, 2010 and eligible for bonus depreciation per the Tax Relief Act, is in violation of the terms of the settlement agreements and the decision adopting them, D.08-07-046.

Third, the Fifth Draft Resolution undermines longstanding Commission tax ratemaking procedures, as established in the Tax OII D.84-05-026, by noting that since that seminal decision the Commission has "departed in many respects from the kind of forecast ratemaking we engaged at that time."[1] In actuality, however, the Commission's standard for making such departures is unchanged, and the actions contemplated in the Fifth Draft Resolution have not been shown as prudent or necessary to override ratemaking practices that have stood the test of time. The complexities inherent in earlier versions, as well as in the Fifth Draft Resolution, underscore the point that the customary regulatory process in place, whereby these matters are addressed in GRCs, are a more appropriate forum to reflect the effect of the tax laws, rather than attempting to enact ratemaking measures that will prove to upset the balance of the process. This is particularly true for utilities with pending 2012 GRCs. SEU asks the Commission to question why a resolution is needed, especially where any ratepayer benefits associated with bonus deprecation will be fully investigated in the GRCs currently before the Commission. It is in that timely forum where the Commission and parties can ensure that the tax benefits are being properly addressed with the added benefit of guidance and clarity on the bonus depreciation provision of the Tax Relief Act which have yet to be issued by the federal government.

Fourth, SEU also believes that the Fifth Draft Resolution's requirement to file an application or advice filing that identifies the specific projects, sources of funding, estimated costs and revenue requirement impacts, and explains why the investments should be made promptly is an onerous and convoluted requirement that undermines the intent of the tax laws to encourage timely infrastructure investment.[2]

For the foregoing reasons, SEU urges the Commissioners to withdraw or reject the Fifth Draft Resolution in order to more appropriately reflect the intent of the tax laws, support the adopted post-test year settlement provisions of D.08-07-046, and uphold the reasonableness of the Commission's own regulatory ratemaking process.

Sincerely,

Dan Skopec

Dan Skopec
Vice President of Regulatory & Legislative Affairs
Sempra Energy Utilities

---

[1] See Fifth Draft Resolution at p. 16.

[2] The Fifth Draft Resolution instructs that "advice letters filed pursuant to this ordering paragraph will require Commission action before they are put into effect,"

cc: Paul Clanon, Executive Director
Frank R. Lindh, General Counsel
Joel Perlstein, Esq., Legal Division
Karen Clopton, Chief Administrative Law Judge
Rami Kahlon, Director, Division of Water and Audits
Marzia Zafar, Executive Division
Service List for Draft Resolution L-411