

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the  
Commission's Own Motion to Adopt  
New Safety and Reliability Regulations  
for Natural Gas Transmission and  
Distribution Pipelines and Related  
Ratemaking Mechanisms.

Rulemaking 11-02-019  
(Filed February 24, 2011)

**DIVISION OF RATEPAYER ADVOCATES' RESPONSE TO  
SUPPLEMENT TO REQUEST FOR MEMORANDUM ACCOUNT OF  
SOUTHERN CALIFORNIA GAS COMPANY AND SAN DIEGO GAS &  
ELECTRIC COMPANY**

**I. INTRODUCTION**

In accordance with the Amended Scoping Memo and Ruling of the Assigned Commissioner issued in the above-captioned proceeding on November 2, 2011, as amended by the Administrative Law Judge's Ruling Modifying Schedule and Granting Motions for Party Status issued on January 5, 2012, the Division of Ratepayer Advocates ("DRA") hereby submits its response to the Sempra Utilities' supplement to their motion for a memorandum account related to the costs of the proposed PSEP.<sup>1</sup>

**II. RESPONSE TO SEMPRA SUPPLEMENT TO MEMORANDUM  
ACCOUNT REQUEST**

SoCalGas and SDG&E first requested authority to establish the Pipeline Safety and Reliability Memorandum Account by a motion filed on May 4, 2011.<sup>2</sup> DRA opposed

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<sup>1</sup> See R.11-02-019 and Application 11-11-002, Comments of Southern California Gas Company (U904G) and San Diego Gas & Electric Company (U 902 M) In Response to Assigned Commissioner's Rulings and Supplement to Request for Memorandum Account ("Sempra Supplement"), Jan. 13, 2012.

<sup>2</sup> See R.11-02-019, Motion of Southern California Gas Company (U 904 G) and San Diego Gas & Electric Company (U 902 M) for Authorization to Establish Pipeline Safety and Reliability Memorandum Account ("Motion"), May 4, 2011.

that motion in a response filed on May 20, 2011.<sup>3</sup> DRA continues to recommend that the Commission deny the Sempra Utilities' memorandum account request.

In its response to the motion, DRA stated:

The Commission in Resolution G-3454 questioned the need to establish a memorandum account prior to adoption of any regulations in this Rulemaking. Sempra's motion here is likewise premature, and instead should follow actual adoption of any new mandates or requirements in this Rulemaking and determination of their specific costs, and a showing by Sempra that those costs are incremental to existing programs. In addition, the memorandum account, if approved, should be effective from the date of Commission approval rather than, as Sempra proposes, retroactively to the date the Rulemaking was issued.<sup>4</sup>

Sempra's supplement to its motion does not alleviate the concern expressed by DRA and other parties<sup>5</sup> that costs could be authorized for activities that already are currently funded under existing programs for pipeline maintenance and integrity management. Sempra's supplement does not comprise a sufficient showing that the stated costs are truly incremental. Sempra states that the "estimates of direct costs are preliminary and could vary."<sup>6</sup> SoCalGas and SDG&E, and other parties such as DRA, have not opposed transferring to the TCAP the "reasonableness and ratemaking review"<sup>7</sup> of the Sempra Plan. The determination of the technical soundness of the proposed Plan and the reasonableness of the associated costs has yet to take place and Sempra has not

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<sup>3</sup> See R.11-02-019, Response of the Division of Ratepayer Advocates to Motion of Southern California Gas Company and San Diego Gas & Electric Company for Authorization to Establish Pipeline Safety and Reliability Memorandum Account ("DRA Response"), May 19, 2011.

<sup>4</sup> DRA Response at 3; see Commission Resolution G-3453, denying without prejudice PG&E Advice Letter 3171-G to establish Gas Preliminary Statement CH, Natural Gas Transmission Pipeline Safety Memorandum Account, May 5, 2011, at 7.

<sup>5</sup> See R.11-02-019, Response of Disability Rights Advocates and The Utility Reform Network to Motions of Southern California Gas Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company to Establish Memorandum Accounts, May 19, 2011, at 5: "DisabRA and TURN urge the Commission to be vigilant that any costs recorded in newly established memorandum accounts truly are incremental to costs for which funds have already been allocated in these other proceedings."

<sup>6</sup> Sempra Supplement at 6.

<sup>7</sup> See, e.g., Sempra Supplement at 3.

made its showing justifying the reasonableness of the technical and cost aspects of the proposed PSEP.

In the meantime, the Sempra Utilities do not need a memorandum account or assurance of cost recovery to make management decisions to meet their ongoing obligation to provide safe and reliable service. As the Commission has stated, the utilities are “obliged to exercise competent managerial discretion and make the necessary capital expenditures and capital repairs and maintenance even if those expenditures exceed test year forecasts. Test year ratemaking is not a guarantee of full recovery or of fully expending the amounts as forecast. The ‘regulatory compact,’ is that in exchange for a reasonable opportunity of earning a fair return, ratepayers pay the adopted rates and the utility does what is necessary to provide safe and reliable service.”<sup>8</sup>

Lastly, SoCalGas and SDG&E agree that the TCAP is an appropriate forum in which to evaluate their Plan and “urge the Commission to consider both the technical aspects of our proposed plan and the ratemaking aspects of our proposed plan in the same forum.”<sup>2</sup> As such, it would make little sense to deem the memorandum account, if approved, effective from the date of the Rulemaking’s issuance, as the Sempra Utilities have proposed; rather, the memorandum account, if approved, should be effective from the date it was authorized.

### III. CONCLUSION

DRA continues to oppose Sempra’s request to establish the proposed memorandum account, for the reasons discussed in this filing and in DRA’s response to Sempra’s initial motion.

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<sup>8</sup> Decision 09-03-025, *mimeo.* at 324.

<sup>2</sup> Sempra Supplement at 3-4.

Respectfully submitted,

/s/ MARION PELEO

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