

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

Order Instituting Rulemaking to Develop a Risk-Based Decision-Making Framework to Evaluate Safety and Reliability Improvements and Revise the General Rate Case Plan for Energy Utilities.

FILED
PUBLIC UTILITIES COMMISSION
NOVEMBER 14, 2013
SAN FRANCISCO, CALIFORNIA
RULEMAKING 13-11-006

**REPLY COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U902M)
AND SOUTHERN CALIFORNIA GAS COMPANY (U 904G)**

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Pursuant to the direction and schedule set forth in Order Instituting Rulemaking (“OIR” or “Rulemaking”) 13-11-006, San Diego Gas & Electric Company (“SDG&E”) and Southern California Gas Company (“SoCalGas”) provide their reply comments on the issues discussed in Sections 4.1 through 4.6 of the Rulemaking. Opening comments were received from a large group of respondents and interested parties.¹

Introduction

SDG&E and SoCalGas reiterate that the focus of the Commission in this proceeding should be to undertake a process that will over time result in a better understanding of risk, risk mitigation, and how those should be reflected in ratemaking in a manner that is consistent with other important goals such as safety, reliability, environmental stewardship, and reasonable rates. Accordingly, SDG&E and SoCalGas support the thoughtful development and implementation of a new process to better integrate risk analysis and a new process to put technical testimony into the record about risk and risk mitigation. However, radical changes to the ratemaking process (as proposed by some

¹ Comments were filed by SDG&E, SoCalGas, Southern California Edison, PG&E, Liberty Utilities (CalPeco Electric), Bear Valley Electric (BVES) (Golden State Water), Southwest Gas, PacifiCorp (Pacific Power), Mussey Grade Road Alliance (MGRA), California Farm Bureau (CFB), SDCAN, UCAN, TURN, State Senator Jerry Hill, 31st District (Hill), CCUE, Tesoro Refining & Marketing (Tesoro), Southern California Generation Coalition (SCGC), Energy Producers and Users Coalition (EPUC), ORA, Utility Workers Union of America (UWUA), and ExxonMobil Power and Gas Services.

intervenors in opening comments) are neither necessary nor appropriate.² While some of those changes may be ‘radical departures’ as mentioned in the OIR (at page 10, Preliminary Scoping Memo), that attribute does not imply they should be adopted. Utilities are ultimately responsible for the safe and reliable operations of their systems, and changes to the ratemaking process must not constrain or prohibit the utilities months or years later from reallocating expenses to new or changed activities (including those required by new or changed regulations) and projects that the utility, in its best judgment, determines are necessary for public and worker safety and for system reliability.

The Rulemaking’s two “tracks” of substance (better identifying and incorporating risk analysis into the General Rate Case (“GRC”)) and process (Rate Case Plan (“RCP”)-related) should be separated and prioritized in order to expedite and focus on the vastly more important substantive issues. There is no point in revising the RCP process³ until the Commission has substantively determined how to better incorporate risk identification and mitigation into the GRC process.

Along those lines, several parties commented that the risk assessment groundwork necessary for this Rulemaking would be best served through a series of workshops. These can be used to establish the definitions, scope and limitations for the risk management concepts. It is apparent that there are divergent perspectives on these items, and reaching consensus in an informal setting is workable approach. As EPUC states, “targeted discussion and issue development” are needed.

SDG&E and SoCalGas urge the Commission to consider the following points:

- The Commission should develop or adopt a common set of definitions for terms such as risk, safety, prioritization, optimization, acceptable level, or other terms of art as may be used in the discipline of risk mitigation.

² For example, proposed changes to the “utility business model,” switching from test year ratemaking to recorded year ratemaking, or setting rebuttable presumptions that “inflation adjustments only” is reasonable GRC ratemaking.

³ Many parties commented that the primary problem with the Commission’s RCP is that it is not enforced and (accordingly) the primary problem with GRCs is that they are not processed on a timely basis. However, a few argue that extensive delay is now customary and therefore must not be a problem. This is backwards thinking, particularly with the recognition that risk management is likely to add more issues and more complexity to GRCs.

- The future role of the Commission’s Safety and Enforcement Division (“SED”) in general rate case proceedings (whether as advisor, party, etc.) should be resolved if possible.
- Any adopted criteria must be clear and objective rather than subjective, that is, measurable by pre-defined values.
- Workshops are critical and should occur without delay
- Procedural matters⁴ should not be addressed until substantive matters are resolved
- Unnecessary inclusion in GRCs of new, non-risk assessment issues (such as merging Cost of Capital litigation into the GRC) would add complexity and strain resources, for no good reason,
- SDG&E and SoCalGas oppose shifting to 4 year intervals for GRC⁵

Reply to Comments

4.1. Process to Provide Appropriate Analysis and Testimony on Safety and Risk Management

REPLY: Most parties commented that a CEQA-type supplemental technical review by consultants is not practical in GRC proceedings. See, Comments of SCE, PG&E, Liberty, Bear Valley Electric, CCUE, and UWUA. Having the utilities and Energy Division separately hire third party professionals to prepare PEAs, EIRs, and other documents in support of CEQA has resulted in additional delay, cost, and duplication.

As for the use of consultant expertise, however, SDG&E and SoCalGas agree with EPUC’s comment that the Commission should bring the necessary expertise in-house at the Commission staff though education and experience.

⁴ For example, TURN’s request to introduce discovery automatically as a matter of right is inappropriate for this rulemaking, as are proposed limitations on forecasting practices & recorded data.

⁵ This is regardless of the reason proposed; PG&E’s GRC and Gas Accord, to use one example, have been litigated separately until now and they should not be used as an excuse to make other IOU GRC cycles longer.

4.2 Comprehensive Review of Safety, Reliability, Security, and Risk Management in the Utilities' GRC Applications

1. *How should the Commission develop a new RCP for energy utilities in a way that will link strategy and goals to resource allocation? What kind of reporting requirements are needed in order to identify the framework, method, practices and activities used in assessing risk of safety, security, and/or reliability deficiencies and linking it to the requested funding in a GRC?*

REPLY: SDG&E and SoCalGas reiterate that the RCP itself will *not* link strategy, goals, and resource allocation; the focus of this proceeding should be to move toward greater risk information in the context of regulation. Process changes such as updating the RCP should come later, as necessary to allow the risk information to be appropriately incorporated.⁶ Many comments seem to over-prioritize the procedural changes and do not focus on the primary issue which is risk. Other specific reply comments in this area are set forth below:

Tesoro comments that the Commission already has experience with incentive mechanisms for reliability and safety; that these mechanisms are appropriate when balanced; and supports their use in the future. To the extent these types of mechanisms are balanced and utilized to promote appropriate targets, SDG&E and SoCalGas agree. The Commission has encouraged better reliability and safety in GRCs using such mechanisms in the past, and should include them in its arsenal of tools going forward. SDG&E and SoCalGas agree with EPUC that the Commission should maintain clear protocols for safety and reliability.

ORA's proposal for a Long-Term Safety Plan proceeding, in which Safety and Enforcement Division (SED) is to lead the process is problematic even at its present stage of partial development. This proposal appears to remove infrastructure planning from the utilities and place much of that task with SED (without any assurance of adequate

⁶ Similarly, reporting requirements are only a tool in the Commission's arsenal when it comes to adequately funding safe and reliable utility service. The kind of reports ordered and the amount of data they contain are not as important as how that information is used. The Commission is already looking at how SED can more effectively oversee utility compliance to General Orders that pertain to provision of safe and reliable service, including through additional reporting requirements. It is illogical to duplicate those efforts here. The Commission should examine whether any of the reports already being generated could be used in the GRC process. But even there, any requirements or review of whether moneys were spent in accordance with these goals should be conducted after-the-fact, and not during the GRC. Any such review should occur outside the RCP, as the Commission is already doing with the Gas Safety Reports.

staffing or expertise) and the public. This framework is a major change to the normal process (utilities plan, manage, and operate their business and capital planning, and the Commission regulates and oversees the utilities on behalf of ratepayers and the public). And while public input can be useful, it cannot be allowed to cause critical safety-related utility infrastructure work to be delayed or grind to a halt. Utilities are in the best position to plan, manage, and operate their own assets, and are responsible for the actions taken. The Commission is not staffed or responsible to perform those functions. The Commission in this Rulemaking should be focused on assessing risk and risk-based capital planning, under a meaningful and adopted set of definitions and criteria, such that the Commission can determine the reasonableness of a utility's GRC requests while giving safety heightened consideration.

TURN's proposal also appears untenable. TURN would require each utility in its GRC to perform cost-effectiveness studies of all proposed safety-related work. Thus for every project that is undertaken in furtherance of safety, TURN would require a utility to provide a detailed cost-benefit analysis (where benefits are quantified as much as possible) as well as a risk mitigation analysis. However, risk mitigation and cost-benefit analysis do not map one-to-one. TURN recommends a 3-pronged analysis that seems to require the same amount of detail that is required in applications for major utility capital projects which take several years to complete. In a GRC, where hundreds of projects are being proposed (both small and large scale) that type of showing is impractical, voluminous, and complex. TURN's proposal is not workable.

2. *What criteria should be used by the Commission to evaluate whether a utility has produced an adequate risk-informed GRC filing?*

REPLY: MGRA's comments argue that even low probability events should be included in risk assessment. SDG&E and SoCalGas do not believe that a GRC filing needs to examine (for example) whether or not a 1-in-100 year solar flare has been addressed, in order to be an "adequate risk-informed GRC filing". GRC ratemaking must be practical, not perfect, and in the real world not every risk in the universe can be analyzed in ratemaking proceedings. Even if the Commission undertakes a long term safety plan proceeding, it is unclear that highly improbable risks warrant being included in the first round of planning.

3. *Is the development of safety, reliability, and security assessment and review tools that could be used internally or externally desirable and sufficient for investment review purposes?*

REPLY: Most comments agreed that until such tools have been developed it is not possible to say whether or not they are “sufficient” on a stand-alone basis. Tools need to make sense and be workable from an operations perspective; there must be sufficient time to develop them internally before they are required to be reported.

4. *Who should bear the cost of developing safety assessment and review tools that the Commission might be using?*

REPLY: Most parties who addressed this question commented that reasonable costs of such tools could be included in rates.⁷

4.3 Timing of the GRC Applications

1. *What should be the interval between GRCs for energy utilities? Should all energy utilities be treated uniformly? What should the schedule look like in the coming years?*

REPLY: Many parties support a three year cycle. See, Comments of SCE, PG&E, Liberty, CCUE, SCGC, EPUC. The three-year cycle has proved over time to be the most workable, given the number of large energy utilities in California, emergent regulatory requirements, and the variability of economic environments, and that all the large energy utilities should be treated uniformly to the extent possible. However, ORA has suggested a rate case cycle of four years with PG&E GRCs taking up two of the four years (one for their “normal” GRC and one for their Gas Transmission and Storage proceeding). This is illogical. SDG&E and SoCalGas recommend a three year GRC cycle.

2. *How can we determine the timing of the incoming NOIs as well as the attrition years in order to reduce pressure on workload and allow adequate time for careful analysis?*

REPLY: Many parties agree that there is little point in having a RCP schedule if it continues to be ignored in GRC proceedings. The RCP calls for a period between the filing of the Application and the rendering of a Final Decision to be 384 calendar days but in the recent SoCalGas/SDG&E GRC this was 876 days. Some intervenors argue

⁷ ORA appears to be the only party commenting that shareholders should pay for new analytical tools and methods.

that this is acceptable. It is not; the circular logic that massive delays are fine because we've already had them in the past is just as unacceptable as arguing that safety problems are fine because we've seen them in the past too. The Notice of Intent ("NOI") was addressed by several parties who commented that the Commission should shorten the time between the NOI and the Application, so as to start the review period of the Application earlier. That results in a net savings of time and provides more time for review for all parties of the actual application. CUE has suggested that the NOI time window could be used for an expedited, non-evidentiary examination of safety and reliability.⁸ SDG&E and SoCalGas disagree; this proposal is unworkably short and does not mesh with the GRC framework. Safety and reliability analyses and approvals (if any) must be completed in time to incorporate them into GRC forecasts; this cannot be accomplished in the time frame CUE proposes. ORA's proposal to undertake a long term safety plan at minimum it should also incorporate reliability (which is very difficult if not impossible to separate from safety) and be no longer than a three year cycle for two reasons: these goals are too important for a "stale" plan, and a three year plan will fit better with the GRC process.

3. *Under any of these scenarios, what consequence(s) should follow from utility's failure to meet its filing deadline under the plan?*

REPLY: Protracted rate case proceedings originate from Scoping Memo schedules that stretch the RCP schedules; no party argued that utility failures to meet deadlines were a problem; thus no particular consequences for a failure for a utility to meet its deadline were suggested.

4. *Under any of these scenarios, what review of utility spending should occur in the intervening years?*

REPLY: Several parties commented that if the Commission decided to adopt longer GRC cycles, and to the extent it wishes to review spending, it should also review whether or not funding is adequate for safe and reliable service. The adequacy of post-test-year attrition mechanisms must be addressed (including the balancing of capital), and the use of the many annual and semi-annual reports already produced by the utilities to the Commission should be reviewed and utilized across the divisions (ORA and Energy

⁸ CUE Comments, pp. 3-5.

Division). As SCE points out, funding must be reasonable not only in the Test Year, but in all Post Test Years as well.⁹ Reviewing safety and reliability investments in all years of the GRC cycle makes a good deal of sense.

4.4 RCP Schedule

1. *Aside from the interval between cases, how prescriptive should the RCP be regarding the schedule for the case itself?*

REPLY: Some parties commented that the RCP should contain a default prescriptive schedule, while others suggest that it should be flexible but require a timely decision. SDG&E and SoCalGas agree that timely decisions are very important, regardless of the firmness of the interim steps of the schedule adopted (either in the RCP or by a Scoping Memo)

2. *In what ways can the Commission improve the schedule such that all parties are provided with adequate time for meaningful contributions to the case?*

REPLY: Most parties commented that GRCs are lengthy enough that all parties have adequate time to meaningfully participate and contribute.

3. *Are there any stress points where all parties need extra time or any interval which is not spent efficiently?*

REPLY: The discovery period in recent GRCs has been extremely long. SCE comments that the GRC discovery process has become untenable¹⁰ and SCE is open to considering proposals from other parties that may include other processes that could facilitate a more effective discovery process. SDG&E and SoCalGas support SCE's proposal and encourage the Commission to streamline the discovery process.

4. *How much latitude should parties have to adjust the timing in particular rate cases, for example, to build in time for settlement efforts?*

REPLY: Several comments stated that there should be latitude for adjustments. However this has rarely been a problem in GRCs, as utilities have typically been able to settle many, if not all issues in prior GRCs, without substantial deviation from the RCP

⁹ SCE Comments, p. 6.

¹⁰ SCE's comments note that "as of December 2013, SCE has responded to over 2,400 data requests, deficiency questions and Master Data Request responses in its 2015 GRC application. The expectation is that we will have to respond to over 10,000 questions (compared to 2903 data requests received in our 2003 GRC) before a decision is issued in our 2015 GRC." SDG&E and SoCalGas have experienced similar level of discovery.

schedule. Where schedule modifications have been needed they have typically been addressed by motion. To the extent there is a partial settlement, the Commission might consider finding ways to move forward on the agreed upon issues so they don't have to be held up by those items still in dispute.

5. *How may additional safety review by the Commission and by other parties affect the RCP schedule?*

REPLY: There should already be adequate time in the RCP schedule for additional safety review if that review is conducted in the context of the cost of service evaluation of just and reasonable rates. However, any in-depth safety review such as for system safety or integrity are more appropriately handled through separate and targeted regulatory proceedings (potentially including some type of a long term safety and reliability plan proceeding) where the focus is on safety and reliability issues and a robust and relevant record addressing those issues can be created. The GRC is not the optimal procedural context to incorporate this type of review. This is why the process issues should not be addressed before the substantive issues. If there are things adopted with respect to risk and risk mitigation that are incorporated into the GRC process, the Commission may need to revisit the impact this may have on the GRC.

4.5 Uniform Application of the Provisions of the RCP

REPLY: Most parties commented that the smaller and multi-jurisdictional utilities need not be treated the same as the largest energy utilities for purposes of the RCP.

4.6 Reducing Complexity

REPLY: Comments in this area were wide-ranging. Several parties suggested eliminating the NOI phase, as discussed further below. There were many other suggestions ranging from relatively straightforward ones (two ALJs per GRC, more workshops, timing adjustments for various deadlines) to proposals that are far more radical and controversial (such as elimination of test year ratemaking, adding new phases of the GRC, or greatly altering the scope and content of the GRC). SDG&E and SoCalGas believe that at the appropriate time, a stakeholder workshop would be helpful

to identify which features of the current RCP should be updated, and which might be discarded. However, the substantive risk assessment issues *must* be resolved first.¹¹

The concept in this OIR of “Reducing complexity” is also only one of several goals that must be balanced at the same time. For example, TURN’s proposal to move large project/activity funding requests outside the GRC would lead to significantly more and overlapping proceedings, which is wholly counter-productive to the desire to simplify and expedite the ratemaking proceedings.¹² If adopted, many other elements proposed in Opening Comments would make the General Rate Case neither less complex nor expeditious.¹³

1. *What kind of process changes might be helpful for stakeholders to enable them to review the application in an expedited manner? For example, would a presentation by the utility filing the application right after the submittal be helpful to familiarize the stakeholders with the application early in the process?*

REPLY: All comments on this subject agreed that presentations after the Application is submitted would be a reasonable process to aid stakeholders in expediting their review of the GRC filing.

2. *What kind of process changes would be helpful for the general public to better understand the impact of rate case and participate in the proceeding?*

REPLY: The current process of public participation hearings might benefit from some form of public education, including a greatly shortened version of the presentation for stakeholders discussed above. Again, however, the substantive issues on risk assessment should be the focus of this rulemaking. As TURN’s detailed comments on the PPH process show, the Commission has already taken comments on this particular issue.

¹¹ There are a number of issues cited in the opening comments that would vastly widen the scope of this proceeding if resolved in the context of RCP design. These are largely issues relevant to certain large customers (and were accordingly raised in the comments of Exxon, Tesoro, SCGC, Farm Bureau, EPUC) such as rate noticing for Phase 2, incident reporting, and access to maintenance and inspection records. The Commission should focus this rulemaking, and leave these issues to be argued within the actual GRCs themselves without embodying them in the RCP.

¹² At the same time many of TURN’s other proposals seem likely to extend the rate case schedule and make GRCs slower, which is also something that the Commission should be actively avoiding in this proceeding. In that context, CCUE’s comments note that “evidentiary hearings have a tendency to drift...” SDG&E and SoCalGas agree, ALJs should restrain parties to their allocated times for cross examination.

¹³ For example, TURN’s proposal to modify admissibility rules will also add complexity rather than reduce it. Because the scope of discovery is broader than that of admissible evidence, TURN’s proposal would cause far more problems and consume more time in the discovery phase than it would resolve in the hearing room.

3. *How effective is the NOI? Would the Commission and the parties be better served by simply having the utility file its application earlier than it does now?*

REPLY: Many parties comment that the NOI is not particularly effective and that the time could be more efficiently used for other work. See, Comments of SCE, PG&E, Bear Valley Electric, Southwest Gas, CCUE, SCGC, EPUC. ORA appears willing to shorten the NOI period by 30 days, but not to give it up completely. SDG&E and SoCalGas agree that a shorter NOI period would be an improvement, if the Commission determines that the NOI cannot be eliminated altogether.

4. *Whether or not the NOI is retained, should the “master data request” be reviewed and possibly updated? How can we modify the “master data request” in order to streamline the data requests and reduce the amount of unused data?*

REPLY: Although SDG&E and SoCalGas believe that the Master Data Request (“MDR”) is a reasonably efficient process, some parties¹⁴ commented that it should be updated. All the utilities, ORA, and intervenors could work together in a stakeholder workshop to streamline the MDR and eliminate areas that are less useful.¹⁵ Again however, this is lower priority and should be undertaken after the substantive issues are addressed.

5. *Even more fundamental, does the current division of GRCs between a “Phase 1” (results of operations/revenue requirement) and a “Phase 2” (rate design) [or Cost Allocation Proceeding for major gas utilities] need to be reconsidered and reformulated?*

REPLY: Parties who commented on this question seem to agree that the basic concept of phasing GRCs is generally valid. Cost allocation between classes, marginal costing, and rate design need not (and should not) be litigated simultaneously with Results of Operations/revenue requirements.

¹⁴ SCE, PG&E. SDG&E and SoCalGas are not opposed to routine updating of the MDR and agree that it is logical.

¹⁵ UCAN comments that all utilities should be required to put a price tag on a large number of utility operations (such as vegetation management) that UCAN apparently believes are standardized. However, such utility-to-utility comparisons are not necessarily valid, but proceed from a false assumption. Using the suggested ‘price tag’ approach is very problematic for such things as contractual terms, long-term providers, local or regional supply differences, and other issues.

Summary and Conclusion

The Commission should focus on risk assessment issues first, and leave the procedural details to be determined once the substantive issues are resolved. That being said, the most important issue with regard to the RCP is actually sticking to the adopted schedule, so that ratemaking is timely. GRCs establish revenues and corresponding rates periodically so that utilities can run their core operations and implement rate changes in a nondisruptive and timely manner. Timely GRC decisions avoid many of the problems that are associated with delay, such as potential rate shock, perceptions of increased regulatory risk from investment analysts, and uncertainties in project/budgetary planning at the utilities. The Commission, through this OIR, should re-emphasize the critical importance of adhering to the RCP schedule for the reasons discussed in these comments.

Whatever the outcomes of this OIR, they should not be retroactive, nor should they be imposed on rate cases already in process. Sufficient lead time needs to be allowed for the utilities to incorporate any new RCP requirements.

Respectfully submitted,
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