

**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.

Rulemaking 13-11-006
(Filed November 14, 2013)

**COMMENTS OF THE ENERGY PRODUCERS
AND USERS COALITION**

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Pursuant to Rule 6.2 of the Commission's Rules of Practice and Procedure and the Commission's 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 November 14, 2013 ("OIR"), the Energy Producers and Users Coalition (EPUC)¹ hereby provides its comments. EPUC's comments are limited to issues arising in the electricity sector.

I. INTRODUCTION

The OIR identifies three broad goals for this proceeding.² Foremost, the Commission intends to "*prioritize safety and reliability issues in GRC applications of energy utilities.*" It further intends to "*clarify the rate case review process, and more efficiently manage the complexity and duration of the GRC proceedings.*"

¹ EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, Chevron U.S.A. Inc., ExxonMobil Power and Gas Services Inc., Phillips 66 Company, Shell Oil Products US, Tesoro Refining & Marketing Company LLC, THUMS Long Beach Company, and Occidental Elk Hills, Inc.

² OIR at 1.

In doing so, the Commission aims to ensure “*consistency and uniformity among GRC applications of energy utilities.*” Finally, the OIR may also “*consider broader revisions in the RCP in more general terms to promote more efficient and effective management of the overall rate case process.*” While achievement of these goals will benefit all stakeholders – the Commission, the utilities and utility ratepayers – the breadth and generality of the OIR’s inquiry presents a challenge to responding parties. EPUC thus offers these initial comments to assist in refining the Commission’s goals, but looks forward to more targeted discussions and issue development as the rulemaking progresses.

EPUC also identifies two additional refinements of the OIR scope. First, the Commission should consider customer site implications as a part of the overall regulatory objectives. A brief power outage at a large industrial facility may present a safety risk at the customer site and reduce production for extended periods of time, resulting in supply disruptions and higher prices to consumers and millions of dollars of lost profit. Second, the complexity associated with rates in California arises not only from the General Rate Case (GRC) and the Rate Case Plan, but from the proliferation and frequency of other proceedings affecting rates. Part of the Commission’s objective thus should be to aggregate and minimize the frequency of decisions affecting rates.

II. COMMENTS

A. Section 4.1

Would developing a review process similar to the current CEQA review process, where internal review by the Commission staff is supplemented by technical review conducted by consultants, be effective, adequate, and desirable?

Commission safety staff has been overwhelmed by demands on its time in the natural gas sector since PG&E's San Bruno incident in 2010. While the Commission has reorganized and strengthened its safety oversight through the Safety and Enforcement Division (SED), technical review and analysis by outside experts will still be necessary. The use of outside consultants will supplement the hours available from Commission staff to conduct their review. Equally as important, this approach will naturally integrate lessons learned on a national and international scale as a result of the broad exposure of outside consultants. It may not be necessary, however, for the review process to be as complex as required by the California Environmental Safety Act. The Commission effectively employed outside review by Overland Consulting as a tool to inform the SED's analysis in the safety proceedings surrounding the San Bruno explosion. The Commission thus should set as an objective integrating outside expertise on safety matters without overly complicating or delaying rate proceedings.

EPUC observes that while the Commission has made great strides in examining safety impacts on the natural gas local distribution systems (LDCs), it has not had the same opportunity on the electric utility distribution company (EDC) systems. An outside consultant may be useful in identifying the scope of safety and reliability issues that must be regularly addressed in EDC rate case proceedings.

B. Section 4.2

- 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?

Reporting requirements and performance assessments naturally arise from safety and reliability standards. While safety and reliability standards should be well understood by the utilities, the applicable standards for maintaining and operating the PG&E system were called into question in the wake of the 2010 San Bruno incident. To avoid similar debates in the electric industry, the Commission should establish a process for regular and systematic updating as experience requires and technology permits.

Performance assurances should be provided by periodic testing and assessment of utility equipment. The Commission thus should require the utilities, to the extent not already provided, to maintain clear and detailed protocols for safety and reliability assessments.

Reporting requirements must include timely reporting of actual safety or reliability incidents on the system to inform the utility's practices. As a preliminary matter, the utility should inform the Commission of any incident affecting the utility's system or the safety or reliability of its deliveries to customers within 30 days. The report would provide the logistical details of the event, a description of the event's impacts and cost, lessons-learned from the event and a proposed mitigation strategy for future events. This reporting could be accomplished through a Tier III advice letter process. The reports could be summarized and analyzed in the utility's next rate case proceeding, identifying the linkage between the event(s) and proposed O&M and maintenance (O&M) and infrastructure costs.

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

As a very general matter, an adequate risk-informed GRC filing should clearly and separately:

- 1) Identify specific safety or reliability measures undertaken since the last GRC filing, including the safety plan element or risk compelling the measure and the forecast cost of risk mitigation.
- 2) Provide a report of all specific safety or reliability incidents that have occurred since the last GRC filing, including the geographic and system location (subject to customer confidentiality), the cause of the event, the duration of the event, the impact of the event on the utility and affected customer, lessons learned, remedial measures taken and proposed O&M or infrastructure projects aimed to address each incident.
- 3) Demonstrate that the utility has adequately balanced risk and cost in proposing O&M or infrastructure solutions to mitigate risks.
- 4) Identify needed refinements of existing Commission safety or reliability standards.

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?*

Yes.

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

As a general matter, end-use ratepayers should bear **reasonable** costs incurred by a utility to ensure safety and reliability on its system. “Safety and reliability”, however, should not become an untested justification for any and all utility O&M costs and infrastructure projects. In addition, ratepayer responsibility

should be limited if the costs incurred by the utility result from a failure to properly implement safety standards.³

C. Section 4.3

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?*

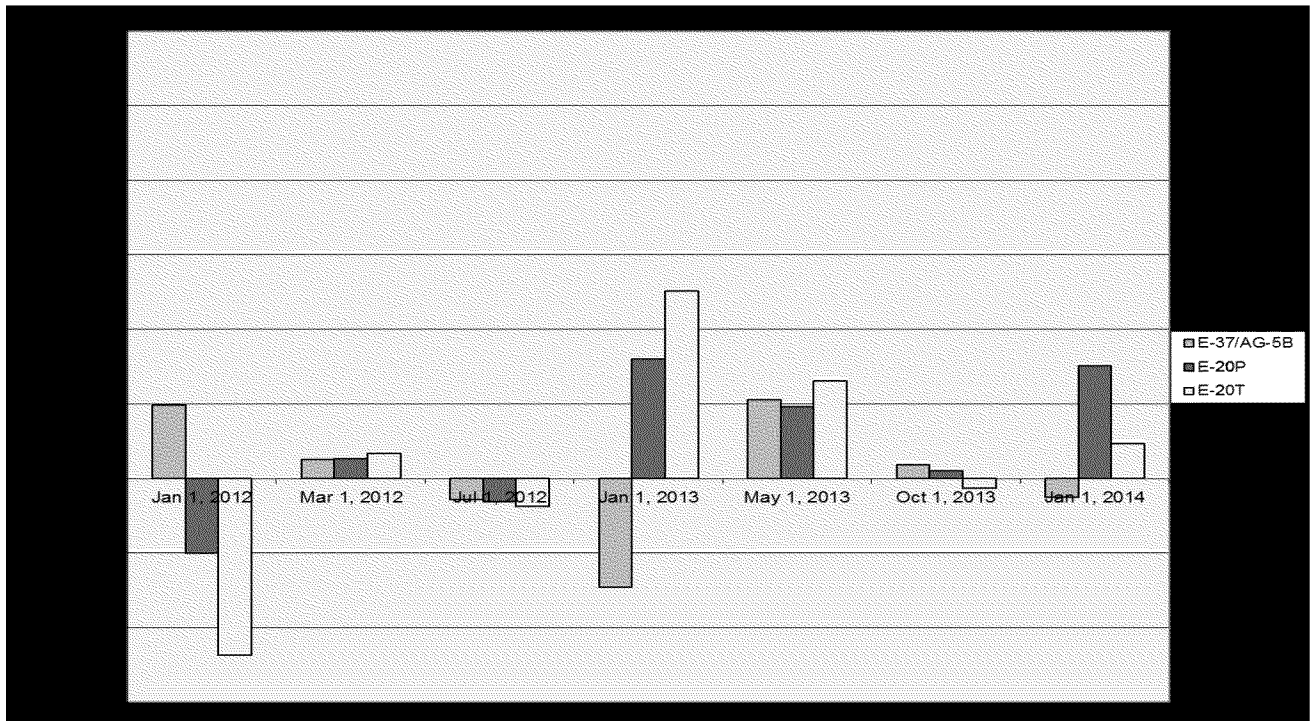
From a customer standpoint, it is important for intervals to be standard within a sector. EPUC does not see a need to modify the current three-year GRC rate cycle for the EDCs. The schedule for the three utilities should be staggered, to avoid overload on stakeholder and Commission resources.

The Commission should strive to limit rate changes resulting from a GRC to once annually. Additionally, Customers should have formal, standardized notice of the timing and magnitude of all changes resulting from Commission proceedings by rate class/group so that this information can be used in the business planning process. Below is a graph providing an illustration, showing the timing and magnitude of recent rate changes on the PG&E system.

Note that the graph illustrates that over the course of a year the rate changes for a particular set of customers can vacillate between increases and decreases. Additionally, the timing of rate changes during a calendar year, with the exception of the annual true-up in January of each year, is not consistent.

³ Examples can be found in R.11-02-019, the *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*. The Commission determined that the cost of retesting of pipelines resulting from PG&E's failure to maintain records of purported compliance were not a just and reasonable cost of providing public utility service. D.12-12-030 at 58.

The business planning process benefits from a policy that minimizes variability in the direction and timing of rate changes over the course of a year.



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?*

From a customer standpoint, an NOI serves little purpose.

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

While EPUC has no comment on consequences of failing to meet deadlines, the Commission should set a standard for accuracy in the filings and set consequences for material errors in analysis or testimony. For example, the Commission could establish sanctions for materially inaccurate filings submitted by a utility prematurely simply as a placeholder for later updates.

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

While the ultimate responsibility and risk associated with managerial decisions should rest with the utility, certain limitations must be in place. Funds authorized for projects of a specified magnitude should not be shifted to other projects unless expressly authorized by the Commission. To ensure that customers are not saddled with funding the same projects multiple times, the Commission and customers are entitled to a review comparing authorized and actual expenditures both in general areas of capital and expense and for projects of a specified magnitude.

D. Section 4.4

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

No comment.

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?*

By eliminating the NOI requirement, as discussed elsewhere in these comments, the utilities should be positioned to invest greater resources in a timely, accurate GRC application. Greater accuracy from the outset will provide better opportunities for meaningful participation. Likewise, an updated, detailed master data request could advance participation. Finally, the availability of reasonable nondisclosure agreements is critical to meaningful participation.

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

No comment.

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

The parties should have adequate opportunity to modify a schedule to facilitate settlement discussions within the overall established schedule.

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

If a systematic approach to examining safety and reliability is adopted for the RCP, additional safety review should not impair the schedule.

E. Section 4.5

There are many differences between the energy utilities. For example, they differ in number of customers, revenues, climate zones in which they operate. Some are solely gas or electric, others combine gas and electric service.

1. *Are these or other differences relevant for purposes of the RCP? If there are material differences, should they be reflected in the plan itself or addressed case-by-case?*

No comment.

2. *How much variation (if any) should be allowed between different utilities, between the gas and electric industries, or on any other basis?*

Absent a compelling justification, RCPs should be standardized among all energy utilities.

F. Section 4.6

1. *Should particular features of the current RCP for energy utilities be updated, or even discarded? How could the Commission reduce complexity of the filings?*

No comment.

- 2. 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?*

Certain utilities provide individual or group customer information sessions in advance of filing, which are beneficial. A general format should be developed by the utilities and customer groups to standardize these presentations.

Another beneficial tool would be a standard information sheet, similar to (but more sophisticated than) the approach used recently in greenhouse gas matters in A.13-08-002 et al. A standard information sheet would reduce the need for stakeholders to comb through volumes of testimony to understand the implications of an application. Again, the standard information sheet should be developed through coordinated efforts of the utilities and their customers. The standard information sheet could also be used as a basis for gauging the accuracy of submissions.

- 3. 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?*

See response to Question 2.

- 4. 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?*

The NOI is unnecessary and ineffectual from a customer standpoint. More detailed information in an accurate and timely GRC application is more important.

- 5. 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?

Yes, the master data request should be retained and updated. To the extent the response to the master data request is confidential, it should be made available automatically to all parties executing a standard NDA.

6. *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 or major gas utilities] need to be reconsidered and reformulated?*

The current structure of GRC phases merits consideration as the Commission considers the wide range of issues presented by the OIR. Other structures may be workable; some states, for example, combine revenue requirement, cost allocation, rate design and cost of capital into a single proceeding. It is too early in the discussion, however, to conclude that the current structure requires reformulation. The Commission should instead aim in its consideration to maintain a GRC structure that (a) minimizes the number of rate changes experienced by customers;(b) maximizes the accuracy of the forecasts used by the parties in litigating or settling GRCs; and (c) maximizes administrative efficiency to allow meaningful, cost-effective participation by intervenors and to minimize the burden on the Commission’s resources.

III. CONCLUSION

For all of the foregoing reasons, EPUC requests that the Commission

consider the recommendations herein to ensure safety and reliability of the utility systems and to simplify the rate case process.

Respectfully submitted,

A handwritten signature in black ink that reads "Evelyn Kahl". The signature is written in a cursive style with a large initial 'E' and 'K'.

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