

**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)

**OPENING COMMENTS OF THE UTILITY REFORM NETWORK
RESPONDING TO THE QUESTIONS RAISED IN SECTIONS 4.1 TO 4.6
OF THE ORDER INSTITUTING RULEMAKING**

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ATTACHMENT 3: TURN’s August 21, 2011 Comments to the Public Advisor’s Office on Improving Public Participation in the Commission’s Decision-Making Processes (updated in January 2014, with changes in redline)

**OPENING COMMENTS OF THE UTILITY REFORM NETWORK
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OF THE ORDER INSTITUTING RULEMAKING**

I. INTRODUCTION

On November 22, 2013, the Commission issued *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 (O.I.R.)*. The *O.I.R.* invites interested parties to file opening and reply comments addressing the preliminary scope of issues and responding to the questions raised in Sections 4.1 through 4.6 therein.¹ Accordingly, The Utility Reform Network (TURN) respectfully submits these opening comments.

II. COMMENTS ON THE PRELIMINARY SCOPE OF ISSUES AND CATEGORIZATION

As articulated in the *O.I.R.*, the purpose of this proceeding is two-fold:

(1) to consider how to modify or update the Rate Case Plan (RCP) for energy utilities to more purposefully and appropriately prioritize safety, reliability, and security considerations and related revenue requirements, clarify the rate case review process, and more efficiently manage the complexity and duration of the GRC proceedings, while ensuring consistency and uniformity among GRC applications of energy utilities; and

(2) to consider “broader revisions in the RCP in more general terms to promote more efficient and effective management of the overall rate case process.”²

TURN agrees that both purposes are important and timely and thus agrees with the preliminary scope of this proceeding.

Having clear Commission expectations about how the utilities should address

¹ *O.I.R.*, Ordering Paragraph 4.

² *O.I.R.*, pp. 1, 10.

safety and risk in rate cases, as well as policies regarding when and how such a showing will be evaluated by the parties and the Commission, should reduce litigation over these foundational matters in each GRC.³ The Commission is also correct in recognizing that modifying the Rate Case Plan (RCP) to incorporate a new kind of utility showing on safety and risk issues, and building into the schedule a new process for the review of that showing, will only serve to add complexity to proceedings which are already incredibly labor-intensive and time-consuming. For any number of reasons, many of which are discussed by TURN below, the time is right to update the RCP and adopt certain measures to reduce the complexity of GRCs.

TURN does not object to the Commission's preliminary determination that this proceeding is quasi-legislative and hearings are unnecessary.⁴

III. RESPONSE TO QUESTIONS IN SECTIONS 4.1 THROUGH 4.6

The Commission set forth eighteen questions in Sections 4.1 through 4.6 of the *O.I.R.* which are intended to begin developing the record on the issues that the Commission has preliminarily identified as within the scope of this proceeding. In the sections that follow, TURN offers a proposal for modifying the RCP to directly address the expected showing on and process for analyzing safety and risk in GRCs. TURN also puts forth various proposals intended to conform the RCP to the modern realities of GRCs and to reduce the complexity of these proceedings, without compromising the integrity of the Commission's review and ultimate ability to ensure that rates approved through a GRC are just and reasonable.

³ For instance, a significant amount of attention was devoted to these issues in PG&E's 2014 TY GRC, A.12-11-009 (currently pending before the Commission), with an entire section of the common briefing outline called "Safety and Risk in Ratemaking," and a subsection called "Balancing Safety and Risk with Just and Reasonable Rates."

⁴ *O.I.R.*, p. 16.

The Commission explained in the *O.I.R.*, “We want to encourage creative ideas, including radical departures from our current way of doing business.”⁵ In TURN’s view, the Commission’s follow-through on this invitation is critical to the overall success of this inquiry into improving the GRC process. The focus on a more prominent identification and review of safety- and risk-related utility activities will serve to expand the roster of issues under review in proceedings that are already so chock full of disputed issues that achieving completion within the time frame set out in the RCP is nigh impossible. Therefore the Commission should not minimize the import of creative ideas that focus on the “Reducing Complexity” subset of questions (Section 4.6) posed in the *O.I.R.*

For this reason, TURN’s responses to the Commission’s questions include elements for revising the broad approach to preparation, presentation, review and, ultimately, decisions on GRC applications. These elements are largely the product of input TURN received from William Marcus of JBS Energy, who has served as TURN’s expert witness in numerous Commission proceedings, including every GRC for a major energy utility for several decades. Mr. Marcus brings an invaluable perspective to these matters. His approach is informed by his experience with GRCs in a number of jurisdictions in addition to California, and as one regularly tasked with the initial review and assessment of the changes a utility includes in its GRC showing. He understands better than most the strain that such changes can place on parties and decision-makers striving to achieve the thorough review called for when a utility seeks revenue increases regularly exceeding \$1,000,000,000 over the GRC cycle in recent cases.⁶ And he has

⁵ *O.I.R.*, p. 10.

⁶ In SCE’s 2012 GRC, the utility’s request sought annual revenue requirement increases of approximately

worked with TURN to prepare a proposal that would reduce the complexity of a GRC in a manner that would permit the additional focus on safety- and risk-related issues without further taxing the limited resources available to intervenors, Commission staff devoted to processing and reviewing GRC applications, and the Commission's decision-makers.

A. Addressing Safety and Risk in GRCs: TURN's Proposal

TURN appreciates the Commission's desire to revise the RCP to incorporate a more explicit process to provide appropriate analysis and testimony on safety and risk management in GRCs, as well as to adopt a framework for more directly and comprehensively evaluating safety, reliability, security, and risk management in the Utilities' GRC applications, as indicated by the discussion and questions in Sections 4.1 and 4.2 in the *O.I.R.* To that end, TURN offers the following proposal, presented first in full here and then reiterated below in response to the Commission's specific questions in Sections 4.1 and 4.2, as appropriate. Some degree of repetition follows from this approach, but TURN hopes that providing a complete proposal will benefit the Commission and parties by allowing for an understanding of how the elements fit together.

TURN's proposal addresses the utility showing, the role of Commission Staff, and integrating the necessary analysis into the GRC process. TURN clarifies that our proposal was developed with the major jurisdictional energy utilities, including Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E),

\$946 million in 2012, \$488 million in 2013, and \$617 million in 2014. D.12-11-051, p. 25. In PG&E's 2014 GRC, the utility's application sought annual revenue requirement increases of approximately \$1.282 billion in 2014, \$492 million in 2015, and \$504 million in 2016. PG&E Application 12-11-009, pp. 2-4. And the SCE 2015 GRC application characterizes the utility-requested annual revenue requirement increases as \$206 million for 2015, \$368 million for 2016, and \$331 million for 2017. SCE Application 13-11-003, pp. 1 and 7.

Southern California Edison Company (SCE), and Southern California Gas Company (SoCalGas), in mind. To the extent that TURN refers to “utility” or “utilities” below, TURN intends to refer to those utilities.

1. Utility Showing

TURN recommends that the Commission modify the RCP to require each utility to include in its GRC showing a demonstration of the need for and cost-effectiveness of proposed safety-related work. The same showing should be expected of all utilities, and should include a “Safety Analysis” as a key component. The utility Safety Analysis should include at least three elements: (1) a Risk Analysis; (2) a Mitigation Measure Analysis; and (3) a Constraint Analysis.

a. General Demonstration of Reasonableness

As has always been the case under California law, all utility spending for any purpose, including safety, must be justified under Public Utilities Code Section 454(a) and must meet Section 451’s just and reasonable standard. The continued importance of cost scrutiny is reflected in Senate Bill (“SB”) 705, enacted in 2011. SB 705 makes explicit what was already implicit under Section 451, that safety must be the top priority for gas utilities.⁷ At the same time, SB 705 also underscores what Section 451 has always required -- that this safety priority must be “consistent with the principle of just and reasonable cost-based rates.”⁸

In reviewing a utility’s proposed safety-related spending in a GRC, the Commission must have before it a record that enables it to ensure that the benefits of a proposed outcome justify the costs. As the Commission recognized in the *O.I.R.*, “the

⁷ Section 963(b)(3).

⁸ *Id.*

Commission has the role of assuring that the overall safety of the utilities and the grid is cost-effectively achieved, i.e. the costs allocated to safety, at any level, achieves the maximum safety benefit per dollar spent.”⁹

TURN recommends that the RCP be modified to specify that the utility’s showing should demonstrate that (1) the work activities it proposes to fund are necessary and reasonable and (2) the proposed costs of those activities are reasonable. This framework is consistent with prior Commission decisions in which the Commission considered the showing necessary to allow it to analyze utility proposals for safety and/or risk-related spending to ensure that rates are just and reasonable.¹⁰

The first part of this standard requires the utility to present a detailed comparison of costs and benefits to demonstrate that the benefits justify the costs, unless the work activity is mandated, in which case such a cost-benefit comparison is unnecessary.¹¹ This does not necessarily mean that quantitative benefits must exceed costs, but benefits should be quantified as much as possible and, any qualitative benefits that are being relied upon should be identified and explained. It is not enough for the utility to merely assert that safety would be compromised absent approval of the work effort.¹²

The second part of this standard requires the utility to demonstrate that it compared the cost of alternative approaches to performing the work activity and that the proposed approach is the most cost-effective.¹³ As the Commission stated in SCE’s 2012 GRC decision, “[g]enerally, requests for additional funds have to be justified or

⁹ *O.I.R.*, p. 8.

¹⁰ *See, i.e.*, the Cornerstone decision, D.10-06-048, the Smart Grid Deployment decision, D.10-06-047, and the 2012 SCE GRC decision, D.12-11-051.

¹¹ *See, i.e.*, D.10-06-047, pp. 2-3; D.10-06-048, pp. 2-3.

¹² *See* D.12-11-051, p. 10.

¹³ *See* D.10-06-048, pp. 2-3;

established as reasonable by comparison to other alternatives.”¹⁴ This showing is consistent with the Commission’s desire to ensure that authorized spending “achieves the maximum safety benefit per dollar spent.”¹⁵

As part of its showing on these elements, each utility should submit a Safety Analysis as described below.

b. Safety Analysis – Element #1: Risk Analysis

The utility should provide a full examination of safety risks throughout the utility’s enterprise and the analysis the utility has performed to compare and prioritize those risks. This analysis should be at a sufficiently specific programmatic level so that the Commission and parties can meaningfully scrutinize and assess the utility’s priorities and, as necessary, propose an alternative ranking. TURN notes, for example, that PG&E’s response to Question 3 in Attachment A of the *O.I.R.*, which asked for the utility’s “top ten safety risks,” is far too general to suffice for the Safety Analysis TURN recommends.¹⁶

c. Safety Analysis – Element #2: Mitigation Measure Analysis

The utility should provide its full analysis of alternatives that it considered to mitigate the identified priority risks and a comparison of the relative cost-effectiveness of those mitigation measures. Such a cost-effectiveness comparison may entail a comparison of the costs and the benefits, both quantitative and qualitative. If the utility can successfully demonstrate that the expected quantitative benefits of its chosen alternative exceed the forecasted costs, the Commission has a relatively easier task in

¹⁴ D.12-11-051, p. 10.

¹⁵ *O.I.R.*, p. 8.

¹⁶ See PG&E’s Responses to Questions, filed December 20, 2013, pp. 3-1 to 3-4.

terms of finding the proposed spending reasonable. However, even where the quantitative benefits are less than the expected costs, a finding of reasonableness might be appropriate if the utility makes a sufficiently detailed explanation of the program's qualitative benefits and a showing that the chosen alternative is superior to others in terms of risk mitigation. In any event, a central element of the demonstration necessary to permit the Commission to conduct the analysis to support a finding of reasonableness is a robust showing on the expected mitigation benefits for the proposed work activity. Suffice it to say, the alternatives analysis should be sufficiently detailed to facilitate the Commission and parties making their own assessments.

d. Safety Analysis – Element #3: Constraint Analysis

The utility should discuss any and all constraints that the utility considered in deciding the proposed GRC work and how the utility's analysis of those constraints affected the GRC request. Constraints could include, for example: impact on rates/affordability; resource (e.g., equipment or labor) limitations; and permit or other limitations.

e. Safety Analysis: Further Guidance

Each of these three analyses must be sufficiently detailed to enable the Commission and parties to understand all facts and assumptions upon which the utility's decisions as to proposed GRC work are based. To facilitate comparisons, utilities should be encouraged to quantify (score) the risks and mitigation measures as much as possible. If such quantifications are used, the utilities should be required to provide full information about the model used, and all facts and assumptions upon which scores are based. TURN suggests that the feasibility and reliability of quantifying risks and

mitigation measures could be a topic for workshops in this proceeding.

The Safety Analysis should separately identify: (1) work that the utility deems necessary to comply with specific rules or orders (“required compliance work”) and (2) work that in the utility’s judgment is necessary to operate safe facilities (“discretionary work”).

The goal of the Safety Analysis showing should be full transparency about: (1) why the utility decided that certain risks need to be addressed and others not; (2) why the utility determined that its chosen mitigation methods are cost-effective; and (3) any constraints or other factors that contributed to determining the proposed GRC work.

2. Role of Commission Staff

A truly independent analysis of the utility’s Safety Analysis by Commission staff (or experts retained by Commission staff) could be a useful addition to the GRC record. The value of such a Staff Analysis would depend to a large extent on the degree of independence. If the Commission staff lacks the resources or the expertise to critically assess the facts and assumptions in the utility Safety Analysis and must therefore defer to the judgment of the utility, such a Staff Analysis would contribute little to the record. Indeed, it could create the unwarranted impression that an impartial and expert analysis had reached conclusions similar to those of the utility. On the other hand, if Commission Staff could retain qualified experts (either on staff or through outside contracting) who critically assess utility assertions and assumptions and have no qualms about challenging or criticizing the utility’s Safety Analysis when warranted, the resulting Staff Analysis could be a valuable addition to the record.

3. Integrating the Necessary Analysis into the GRC

As a legal requirement, Commission decisions in GRCs must be based on the

evidentiary record. Consequently, any utility Safety Analysis or Staff Analysis that the Commission may wish to consider or rely upon in its decision-making process must be part of the evidentiary record. For this reason, even though the record in GRCs is already massive, TURN believes that, both as a matter of law and basic fairness, the Utility Safety Analysis and any Staff Analysis must be considered part of the GRC record and not relegated to a separate process outside of the GRC.

Regarding workload impact, TURN is not convinced that a comprehensive utility Safety Analysis should necessarily expand the record beyond the kind of showing that utilities should have been making all along to justify safety-related spending. A comprehensive and coherent Safety Analysis could obviate the need for some of the ad hoc, project-by-project safety and reliability showings that utilities have tended to present in past GRCs.¹⁷ That said, a key point of this exercise is to ensure that the Commission has better and more complete information to make decisions about safety work, and TURN would not be surprised if the comprehensive Safety Analysis described above were, in fact, to add considerably to the resource demands upon the utilities and the parties.

If a Staff Analysis is prepared and to be part of the decision-making record, then, like all evidence, it should be subject to discovery and cross examination. All parties must have the opportunity to probe the facts and assumptions upon which the staff's conclusions are based.

In terms of schedule, integrating the utility Safety Analysis and any Staff Analysis

¹⁷ Until recently, the project-specific showing was more likely to be couched in terms of reliability than safety. However, the underlying principles have much in common. As SCE's T&D policy testimony in its 2015 GRC states, "In a very real sense, reliability equates directly to safety...." SCE-03, Vol. 1 (T&D Policy), p. 4.

into the GRC will pose challenges. It will be important to give TURN, ORA, and other parties sufficient time to conduct discovery and prepare responsive testimony to these utility and staff Analyses. Because the utility's Safety Analysis is likely to be the foundational building block for the safety work it proposes in the GRC, TURN would expect that it should be prepared early in the utility's GRC preparation process. With these points in mind, TURN suggests that the GRC schedule could be modified as follows to accommodate Safety Analyses:

- ffi The utility presents its Safety Analysis to the Commission staff and all interested parties six months prior to the submission of the NOI. At this point, parties may begin discovery regarding the utility Safety Analysis.
- ffi The Commission staff presents its Staff Analysis (if any) three to four months later. At this point, parties may begin discovery regarding the Staff Analysis.
- ffi The utility presents the NOI and application, with accompanying testimony and workpapers, on the dates that are determined for those events in this proceeding;
- ffi ORA, TURN and other parties are given an opportunity to respond to the utility Safety Analysis and any Staff Analysis in their testimony.

**B. Responses to Questions Presented in Section 4.1 of the *O.I.R.*:
Process to Provide Appropriate Analysis and Testimony on
Safety and Risk Management**

**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?**

As explained in Section III.A.2 above, TURN could support the use of a process similar the Commission’s approach to CEQA review, wherein Commission staff would prepare an *independent* analysis, relying on in-house technical expertise, supplemented by consultants to the extent necessary, which would then be subject to public review and comment. TURN’s enthusiasm for this approach is highly dependent on whether Commission staff has sufficient resources to conduct a rigorous analysis that is truly independent of the applicant utility. Sufficient resources include adequate in-house staffing and expertise, complemented by unbiased consultants (those who do not also have IOUs as regular clients). TURN also cautions that because staff reports are likely to be perceived as impartial and thus deserving of greater weight, parties must be afforded the opportunity to probe the assumptions and factual underpinnings for any conclusions put forth by staff in its analysis. As such, if a staff report is to come into the record in a GRC – such that it could inform the Commission’s disposition of issues in that proceeding – it must be subject to discovery and cross-examination like any other record evidence.

**C. Responses to Questions Presented in Section 4.2 of the *O.I.R.*:
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?**

Please see TURN's proposal presented in Section III.A above.

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

Please see TURN's proposal presented in Section III.A above.

- 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?**

Please see TURN's proposal presented in Section III.A above.

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

The costs associated with implementing TURN's proposal presented in Section III.A above should be borne as any other GRC-related costs, including the utility's cost to present its showing and the Commission's costs of processing the case.

**D. Responses to Questions Presented in Section 4.3 of the *O.I.R.*:
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?

TURN recommends that the Commission adopt a 4-year GRC cycle for each of the major jurisdictional energy utilities, including PG&E, SDG&E, SCE, and SoCalGas, as well as for PG&E's GT&S rate case (which, as evidenced by A.13-12-012, has become as complex as a GRC, with a similar magnitude of dollars at stake). No more than one rate case should be filed per year. TURN's approach includes a GRC jointly filed by SDG&E and SoCalGas every four years, as has been customary since the two utilities came to share Sempra Energy as a parent company.

Standardizing and staggering the rate case cycles for SDG&E/SoCalGas's GRC, SCE's GRC, PG&E's GRC, and PG&E's GT&S rate case is necessary to prevent a recurrence of what happened in recent years, when SCE and SDG&E/SoCalGas both filed their TY 2012 GRC applications in 2010. This resulted from SCE's 3-year cycle and SDG&E/SoCalGas's 4-year cycle and created an impossible workload for ORA and TURN, as well as the Commission staff and decision-makers. As a result of the necessary scheduling accommodations and presumably also the complexity of those cases, the Commission did not issue a final decision in the SCE GRC until November 2012, nearly the end of the test year. The final decision in the SDG&E/SoCalGas GRC came well into the second quarter of the first attrition year, in May 2013.

The Commission has appropriately opened the door in this proceeding for changes to the policies pursuant to which rate cases are filed and processed. Moving to a standard 4-year rate case cycle for PG&E, SCE, and SDG&E/SoCalGas has the potential

to reduce pressure on workload and allow adequate time for careful analysis, but the ultimate impact of this change will depend on the extent to which the Commission also adopts policies to reduce the complexity of rate cases. For this reason, TURN recommends that the Commission adopt the revisions to the broad approach to preparation, presentation, review and, ultimately, decisions on GRC applications that TURN presents in response to the questions in Sections 4.4 and 4.6 of the *O.I.R.* (or at least similar reforms) in conjunction with changes in the timing of GRCs.

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?

The RCP assigns ORA a unique role in the processing of NOIs tendered by the utilities prior to the filing of GRC applications.¹⁸ ORA must review the NOI for deficiencies, which can include the failure to include information required by the RCP but may also include other kinds of shortcomings, such as inaccurate or incomplete citations to supporting documentation. The correction of these deficiencies identified by ORA improves the quality of the application that is ultimately filed by the utility, thus easing the review process for intervenors, such as TURN.

TURN appreciates the role played by ORA regarding the NOI and supports the recommendations ORA will submit today regarding the timing of NOIs and the NOI review process. ORA's proposals include a delay in the tender date until September 1 and a reduction in the time between the submission of the accepted NOI and the filing of the application, from 60 days to 30 days. The net result of these changes is that applications would be expected around the same time as under the current RCP

¹⁸ D.89-01-040, RCP, Appendix B.

guidelines, but ORA's review process could be more efficient because staff would be less likely to still be litigating the current year's GRC while reviewing the new NOI.

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

TURN is not aware of any problems with any of the major energy utilities failing to comply with the timelines in the existing RCP. For this reason, we do not have reason to anticipate that the utilities would fail to meet new or modified RCP filing deadlines that might result from this proceeding. Should such failures occur, TURN submits that existing Commission authority and process will suffice to identify and impose appropriate consequences.

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

The Commission should require the utilities to submit annual reports on expense and capital recorded spending on safety-related activities authorized in the most recent GRC decision. The Commission would need to make findings in the GRC decision on which activities are sufficiently safety related to be subject to these reporting requirements.

Such reports should include the following information, at a minimum:

ffi Actual annual spending relative to authorized forecasts by safety-related program, showing costs at the level of Major Work Categories or FERC accounts, as appropriate for the utility at issue, as well as aggregated to the program level in order to promote relatively straightforward "apples-to-apples" comparisons of forecasts and recorded spending.

ffi Explanations for under- or over-spending, such as changes in unit costs,

constraints on availability of resources, technological changes (e.g, Picarro gas leak detection, robotic technology for inspecting pipelines), etc.

- ffi Actual program outputs and outcomes and an explanation of deviations from expected outputs and outcomes.
- ffi Descriptions of any new projects or programs that emerged since the test year, with a threshold of \$1 million of expense or \$5 million of capital, with a discussion of outputs and outcomes (expected in any case and achieved if available).

TURN recommends that Energy Division (ED) staff play an oversight role in reviewing these reports and verifying that the utilities are satisfying the Commission's expectations regarding safety-related spending. To the extent that staff finds significant deviations that are not sufficiently justified by the reports, the Commission should initiate a public process for the review of certain utility spending during the attrition years. The information exchanges between ED and the utilities as ED performs this oversight should be made available to the public, through service on parties on the service list and posting in an easily accessible location on the CPUC web site.

**E. Responses to Questions Presented in Section 4.4 of the *O.I.R.*:
RCP Schedule**

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

TURN recommends that the RCP continue to provide guidelines as to the timing of some procedural elements in a GRC but not be as prescriptive as currently drafted. Some degree of prescription is appropriate to provide the utilities and stakeholders a realistic expectation of the general timing of a GRC. At the same time, the RCP need not

prescribe all aspects of a GRC procedural schedule. It is reasonable to expect that the schedule should be derived in part from unique circumstances, such as the convenience of the parties and presiding ALJ and assigned Commissioner, as well as the availability of hearing rooms. In this section TURN identifies the areas where prescription is desirable, as well as addresses how the RCP should be updated in those areas.

a. Timing of the NOI and Application

TURN recommends that the RCP continue to prescribe the timing of the utility's tender of the NOI, the identification of deficiencies by ORA, and the timing of the filing of the application after the resolution of deficiencies.¹⁹ TURN has conferred with ORA and supports the revisions to the current RCP for these steps which ORA will propose in its opening comments, as explained above in response to Section 4.3, Question 2.

b. Timing of the Prehearing Conference

The RCP anticipates that the Commission will set the date, time, and location for the prehearing conference (PHC) and public comment hearings within two days of the filing of the GRC application, with the PHC held on day 40.²⁰ TURN respectfully submits that these targets are unrealistic in light of the current administrative practices of the Commission. Moreover, Rule 7.2 of the Commission's Rules of Practice and Procedure specifies:

In any proceeding in which it is preliminarily determined that a hearing is needed, the assigned Commissioner shall set a prehearing conference for 45 to 60 days after the initiation of the proceeding or as soon as practicable after the Commission makes the assignment.

To conform the RCP to this Rule, the Commission could modify the RCP plan to indicate that a PHC will be held by day 60 or as soon as practicable thereafter.

¹⁹ D.89-01-040, Appendix B, Rate Case Plan.

²⁰ D.89-01-040, Appendix B, Rate Case Plan.

c. Timing of ORA and intervenor testimony

According to the RCP, ORA would submit its testimony by day 77, meaning two and a half months after the utility filed its GRC application.²¹ This aspect of the RCP's guidance is "outdated, is not adequately attuned to current needs and realities, does not serve satisfactorily demands of the current regulatory environment, and does not fully reflect the technical complexity of policy issues we are facing today," as the Commission suggested more generally in the *O.I.R.*²²

The Commission has adopted a schedule in every major GRC (covering the major jurisdictional utilities) filed within the past decade that affords ORA far longer than the 77 days contemplated in the RCP to prepare its testimony. TURN reviewed the schedules adopted in each of the eight GRCs filed since 2004 (which, by necessity, excludes SCE's TY 2015 GRC, A.13-11-003, for which a schedule has not been adopted). In four of the eight, the due date for ORA's testimony was more than 150 days (5 months) after the utility filed its application.²³ In all but one, ORA's testimony was due more than 120 days (4 months) after the utility filed its application.²⁴ These timelines have been adopted in some cases over the strong objection of the applicant, who favored closer adherence to the RCP's shorter timeline.

TURN recommends that the Commission modernize the RCP to anticipate that ORA will submit its testimony within no fewer than 150 days of the filing of the application. This change is far more realistic in light of the complexities inherent in contemporary GRCs (which may be both increased and decreased by the outcomes in this

²¹ D.89-01-040, Appendix B, Rate Case Plan.

²² *O.I.R.*, p. 6.

²³ See Attachment 1. One of these, the Sempra TY 2012 GRC, was an outlier because of the Commission's approach to managing having both that GRC and the SCE TY 2012 GRC filed in the same year.

²⁴ See Attachment 1.

proceeding) and would serve to minimize disputes among parties over the schedule.

TURN likewise recommends that the RCP be modernized to reflect the now well-established practice of having testimony of other intervenors follow ORA's testimony and precede the commencement of evidentiary hearings. Specifically, TURN recommends that intervenor testimony be expected 21 days after the submission of ORA's testimony, which is long enough to permit intervenors to complement, supplement, and/or distinguish their recommendations from those of ORA, for the convenience of the applicant and Commission.²⁵ While intervenors have lived with a shorter interval in some past GRCs,²⁶ this is far short of optimal, given the sheer volume of ORA's testimony and the number of issues addressed therein, and the greater efficiencies gained by permitting fuller coordination of other intervenors' showings with the showing presented by ORA.

d. Timing of Utility Safety Report and Staff Analysis of Utility Safety Report (if any)

In Section III.A above, TURN recommends that each utility be required to include a Safety Report in its GRC showing and proposes a schedule for integrating that Safety Report into the GRC process. The RCP should be modified to provide guidance as to the timing of that report, as well as a Staff Analysis of the utility's Safety Report, should the Commission adopt a process that includes an independent analysis by staff. Specifically, TURN proposes that the utility Safety Analysis be submitted 180 days prior to the tendering of the utility's NOI, and that staff's analysis (if any) be submitted 90 to 120

²⁵ TURN's practice is to seek to coordinate our showing with ORA's well in advance of the submission of ORA's testimony. However, such coordination is not always possible due to the timing of ORA's internal testimony drafting and review processes. Furthermore, TURN's ability to accurately cite to ORA's testimony depends on having a final draft of that testimony.

²⁶ See Attachment 1.

days later. Parties' discovery rights would commence as soon as each document is available, and ORA and intervenors would have an opportunity to respond to the utility Safety Analysis and any Staff Analysis in their testimony.

e. Timing of Final Decision

The current RCP provides for a final Commission decision on day 384 after the utility files its application, which generally ends up being in the fourth quarter of the year prior to the test year.²⁷ While processing a GRC in approximately a year may have been realistic at the time the RCP was adopted, this target has not been met in any of the major energy utilities' GRCs in at least the past 10 years.²⁸ Despite every indication that a schedule with a final decision prior to the test year is unrealistic to afford parties and the Commission a reasonable opportunity to review the utility's showing, the utilities all continue to propose GRC schedules which adhere to the RCP timeline.²⁹ Perhaps this is a result of the RCP plan itself, and its impact on utility GRC applications. Or perhaps it is simply wishful thinking on the utility's part. No matter the motivation, the result is that ORA and other intervenors end up trying to negotiate a schedule with the applicant utility in each GRC that is driven, due to the utility's insistence, by an unachievable final decision date reflecting a completely unrealistic expectation of how the parties and the Commission will process the case.

TURN recommends that the Commission modify the RCP to eliminate the archaic target date for a final decision. Instead, the RCP should provide that the Commission

²⁷ D.89-01-040, Appendix B, Rate Case Plan.

²⁸ See D.04-05-055, issued in PG&E's TY 2003 GRC; D.04-07-022, issued in SCE's TY 2003 GRC; D.04-12-015, issued in SDG&E/SoCalGas's TY 2004 Cost of Service; D.06-05-016, issued in SCE's TY 2006 GRC; D.07-03-044, issued in PG&E's TY 2007 GRC; D.08-07-046, issued in SDG&E/SoCalGas's TY 2008 GRC; D.09-03-025, issued in SCE's TY 2009 GRC; D.11-05-018, issued in PG&E's TY 2011 GRC; D.12-11-051, issued in SCE's TY 2012 GRC; D.13-05-010, and issued in SDG&E/SoCalGas's TY 2012 GRC. See also Attachment 1.

²⁹ See, *i.e.*, PG&E TY 2014 GRC, A.12-11-009, p. 22; SCE TY 2015 GRC, A.13-11-003, p. 32.

will typically adopt rates effective on January 1 of the test year, even where a final decision issues after that time. TURN hopes that it will be reasonable to expect a final decision by the end of the first quarter of the test year, even with the addition of an explicit safety/risk component to GRCs, due to other policy changes that would support more efficient processing of each case (as recommended by TURN below). For this reason, it may be appropriate for the RCP to incorporate a target final decision in the first quarter of the test year, while also indicating that the Commission's ability to reach this target will ultimately depend on the complexity of the case, as well as the Commission's resources.

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?

In TURN's response to the previous question, TURN proposes that some elements of the RCP scheduling guidelines be updated to better reflect contemporary practices and the reality of GRCs today. One of those recommendations involves significantly increasing the time anticipated for ORA testimony and intervenor testimony. TURN recommends that the Commission update the RCP to acknowledge that ORA and intervenors need more time than set forth in the RCP to prepare testimony and provide the Commission with a robust record. At the same time, the assigned ALJ and Commission should be afforded ample discretion to deviate from the revised guidelines to the extent appropriate in any particular GRC.

The Commission can additionally improve the schedule to support effective and efficient participation by ORA and intervenors in two regards. First, TURN joins ORA in recommending that that the Commission require the applicants to provide all parties

with the last-recorded year data as soon as it is available (that is, for a 2015 test year GRC the utility would provide recorded 2013 data as early as practicable in 2014). The actual date could be determined at the prehearing conference.

Second, the Commission should contemplate moving very large projects (on a dollar basis) included in a GRC filing to a separate phase of the proceeding. For instance, the recently-filed SCE GRC application includes a new Pole Loading Program with a forecasted capital expenditure in excess of \$1 billion over a three-year period (2015-2017), some of which is associated with achieving SCE internal standards that are more stringent than Commission-adopted standards set forth in General Order 95.³⁰ This phasing would provide two benefits. The remainder of the case could be processed more expeditiously, and the review of the especially large project could be conducted over a time period commensurate with the magnitude of the project's scale. Cramping the review of an especially large project into a GRC timeline only serves to bog down the schedule and compromise the ability of intervenors to conduct a meaningful review of the myriad issues included in a GRC.

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

A sizeable amount of time during evidentiary hearings is devoted to getting data request responses into the record. In many instances, this is a time-saving device, as the responses can serve as a substitute for cross-examination. But in other instances, the amount of time devoted to working out the substantiation of the response, either through stipulations with the utility or through arguments resolved by the ALJ, can be substantial.

³⁰ SCE testimony in SCE-3, Volume 6, Part 2 from A.13-11-003, p. 18. There is an additional \$41 million forecast for 2014.

Scarce cross-examination time is used to move data request responses into evidence once the sponsoring witness authenticates the document. Attorney time is likewise spent trying to work out agreements regarding moving certain data requests into evidence without subjecting the sponsoring witness to cross-examination. Hearing time is then devoted to marking such documents and moving them into evidence. TURN recommends that the Commission increase the efficiency of the evidentiary hearing process by adopting a policy that data request responses identified prior to the time the sponsoring witness takes the stand can be moved into evidence as a matter of right.

In some jurisdictions other than California, all data request responses in a proceeding are automatically moved into evidence. Given the volume of discovery that typically occurs in a California GRC, TURN recommends a more modest version of that approach, one which places the burden on the party seeking to move data request responses into evidence to identify those responses in a timely manner.

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 Commission should continue the current practice of looking to the RCP as a guide for the schedule to be adopted in a GRC, rather than as a prescriptive tool. Efficient and effective processing of a GRC requires that the presiding ALJ has the discretion to adopt the most appropriate schedule for the case and then to modify that schedule during the course of the proceeding, should compelling circumstances present themselves. The corollary to this is that parties should have the latitude to propose an initial schedule, or subsequent modifications to the schedule, that deviate from the timeline presented in the RCP.

As this question anticipates, one of the more common circumstances in GRCs

which gives rise to a request from parties for an extension in the schedule is the development of potentially fruitful settlement efforts. When that happens, it is customary for parties to the negotiations to seek schedule modifications from the presiding ALJ in order to be able to devote their attention and resources to negotiating, rather than preparing for hearings or writing briefs. In TURN's experience, settlement discussions that arise organically, rather than from dates predetermined in the Scoping Memo, are more likely to be successful because they occur when one or more party believes that attempting to settle an issue or issues is a worthwhile endeavor in light of the range of dispute, perceived litigation risk, and the potential costs and benefits of settlement versus litigation. For this reason, TURN recommends against explicitly contemplating settlement negotiations in the RCP.

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

Earlier in these comments, TURN proposes that each utility submit a Safety Report as part of its GRC showing, which would be expected 6 months prior to the tender of the NOI. TURN also suggests that a Staff Analysis of this report (if any) should likewise be submitted 2-3 months prior to the NOI. By providing parties an opportunity to begin their review of the safety-related documents so early in the process, the Commission may mitigate some of workload pressure that would otherwise appear during the standard GRC processing period due to the new, explicit safety review the Commission contemplates in the *O.I.R.*

**F. Responses to Questions Presented in Section 4.5 of the *O.I.R.*:
Uniform Application of the Provisions of the RCP**

- 1. Are [the differences between the Commission-jurisdictional energy utilities] relevant for purposes of the RCP? If there are material differences, should they be reflected in the plan itself or addressed case-by-case?**

As indicated throughout TURN's comments, the revisions to the RCP proposed by TURN were developed based on TURN's experiences in the GRCs of the major jurisdictional energy utilities, PG&E, SDG&E, SCE, and SoCalGas. TURN submits that the differences between these four utilities and the other energy utilities regulated by this Commission are relevant for purposes of the RCP. As explained by ORA in its opening comments filed today, their GRCs are already quite different procedurally and in scope. For these reasons, TURN supports treating the smaller utilities differently than the major utilities, whether such differences are to be reflected explicitly in the RCP or addressed on a case-by-case basis.

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

TURN is generally supportive of ORA's response to this question but may supplement our response in reply comments.

**G. Responses to Questions Presented in Section 4.6 of the *O.I.R.*:
Reducing Complexity**

As previously explained, TURN has been working with William Marcus of JBS Energy to develop proposals to improve the processing of GRCs, a topic which Mr. Marcus has given much thought to over the years, but particularly since the increase in complexity in California GRCs during the past decade. TURN's responses to the

following questions present some of the GRC reforms developed by Mr. Marcus, which taken together, are intended to achieve the following goals:

1. To simplify the rate case and reduce the need for resource-intensive evaluation on routine matters;
2. To reduce disputes around the accuracy of forecasting;
3. To make the rate case more transparent for evaluators;
4. To reduce potential for gaming and asymmetry of information that benefits utilities;
5. To make it easier to process a case on time, while still providing more time for examining key policy issues such as safety and reliability;
6. To provide clarity on the meaning of the utility's burden of proof as to the reasonableness of its forecast and past expenditures;
7. To make utilities more accountable for their performance relative to their forecasts – particularly related to safety and reliability.

TURN may offer additional recommendations towards these ends at a later point in this proceeding or in a different forum. The recommendations put forth in this section pertain to the major jurisdictional energy utilities.

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?

TURN recommends a number of changes to the showing expected of utilities in GRCs, including the forecasting methodologies presumed to be reasonable, the framework for analyzing forecasts, data updates, and other content and process changes intended to reduce the complexity of utility filings as well as the nature of the review to

be undertaken by ORA, other intervenors, and decision-makers.

a. Forecasting Methods

One of the major drivers of the complexity of modern GRCs is the method commonly employed by utilities to create a future test year forecast. TURN would ungenerously characterize this method as the development of budget-based management wish lists for nearly all accounts, leading to extremely complex rate case filings that are difficult to evaluate because of the large numbers of small elements being forecast and the extremes in asymmetry of information between utility, intervenors, and regulators. To move toward a less complex and fairer showing, TURN recommends the Commission embrace the following framework for forecasting.

ffi The Commission would adopt a rebuttable presumption for O&M forecasts, subject to “special calculations” and “adjustments” (described below), that base year expenses escalated for inflation is a reasonable representation of the test year with only a limited number of exceptions. This approach recognizes that, going forward, some individual costs may increase at a rate higher than inflation, while others may increase at a lower rate, but in total the average increase should be something akin to an inflation adjustment.³¹ This rebuttable presumption would generally be applied at a very high level of utility operations, such as electric distribution, gas distribution, electric generation, A&G, etc., rather than at the project- or program-specific levels that are a hallmark of recent GRCs. The costs of safety, reliability, and regulatory compliance programs would be excluded from this presumption.

³¹ TURN uses the term “inflation adjustment” to reflect a standardized across-the-board approach. The appropriate rate for any given GRC would depend on a reasonable escalation factor reflecting a reasonable level of productivity.

ffi A utility or an interested party could ask for additional costs or to reduce costs, based on evidence to overcome to the rebuttable presumption, provided that:

- Any adjustment of any kind that spans more than one account would be identified and discussed in a single place in testimony and the effect of that adjustment on all accounts would be identified in one place.
- No single O&M adjustment will be under \$1 million, in the case of PG&E SCE, and SoCalGas, or \$500,000, for SDG&E, unless based on specific changes in government actions. A programmatic adjustment spanning several accounts may be counted as one adjustment for this purpose.³²
- Any requests for rate recovery of one-time O&M costs in a future year arising from approved capital spending (e.g., training and set up costs for new computer program) or other reasons must be accompanied by an analysis demonstrating that the aggregate of one-time costs in the test year is reasonably expected to exceed the aggregate of one-time costs recorded in the base year. If approved, any excess one-time costs in the future test year above base year levels should be averaged over the rate case cycle (i.e., one-fourth allowed if one-time for a single year in a 4-year cycle).
- Customer growth adjustments to O&M expenses between base year and test year are specifically included in the rebuttable presumption. The increased costs due to customer growth are assumed to be offset by productivity between the base year and test year unless the utility proves otherwise.
- Increases above inflation for unit costs of certain items included in non-labor inflation shall fall under the rebuttable presumption. For those items, it shall be assumed that non-labor inflation rates encompass all inflation on a company-wide basis unless shown otherwise. If the utility wishes to request an increase greater than inflation for an item, it should include the item's costs under non-standard escalation, and provide information (a) proving that its request is reasonable and (b) proving that the specific item is not included in the calculation of non-labor inflation for the cost type in question.
- Adjustments to refill vacant positions or annualize costs of vacant positions filled during the base year are specifically included in the

³² Dozens of micro-adjustments waste everyone's time, are difficult to review and end up largely being approved on a de facto basis because no one has the time to look at them. The 300 different shared services accounts used by Sempra Energy and the 55 adjustments in a single FERC account in a recent SDG&E case are just the most egregious examples that the Commission needs to address to reduce complexity. Furthermore, reviewing a single adjustment (such as a request for higher city permit fees affecting six different gas accounts) would be easier than account-by-account identification of little pieces of the same adjustment.

rebuttable presumption, because vacancies in the base year in the aggregate are presumed to be equal to vacancies in the test year on a corporate-wide basis unless proven otherwise. Any such adjustments must be accompanied by an analysis of the company's level of unfilled positions over the base year and four preceding years on a company-wide basis to show that vacancy levels were unusual in the base year. Any such adjustments must also net out corresponding reductions to overtime that would result from filling vacant positions.

- Changes in employee benefit programs that are expected to occur can be included. They must be justified with supporting evidence.

ffi The utility would continue to provide five years of recorded data at the account level. If the base year varies by the larger of 5% or \$100,000 relative to the previous year in real terms, a brief narrative explanation must be provided unless the account is a fluctuating account that is averaged, as provided below.

ffi Evidence intended to rebut the rebuttable presumption may include, but certainly not be limited to, known and measurable changes, which might affect the base year or test year costs (i.e., known changes in staffing, wage rates, benefits programs going forward).

ffi Certain types of O&M expenses would be excluded from the rebuttable presumption and be subject to special calculations. For instance:

- Items that tend to fluctuate (including but not limited to claims, workers compensation, storm damage, employee relocation, severance if allowed, fire safety which varies with weather conditions, etc.) should normally be averaged, although items that obviously will not recur or are unreasonable should be removed from the averaging process.
- A utility may claim that certain costs are cyclical and average them (i.e., general rate case preparation and litigation expenses over a general rate case cycle), but cyclical items should be the exception rather than the rule, and the reason for cyclicity should be clearly explained in testimony.

- For items that are a percentage of revenue (franchise fees, late payment charges, uncollectibles) the costs should be averaged as a percent of revenue, rather than as a dollar amount.
- For items that are affected by the number of employees or labor expenses (benefits, payroll taxes), the utility should calculate base year costs on a per-employee or a per-labor dollar basis.
- Special accounting should be required for certain generation-related costs. These include the following:
 - ffi Nuclear refueling outage expenses calculated on a per-outage basis and allowed for the utility based on actual number of outages.
 - ffi Long Term Service Agreements for combined cycle plants – the future expected costs should be averaged over the rate case cycle.
 - ffi Some generation costs (e.g., consumables, water) may also vary with hours run or kilowatt-hours produced and would therefore require special calculations.
- A utility shall to the extent feasible identify one-time costs experienced in the base year and each of the four preceding years to the base year in each account. However, the rebuttable presumption applies to one-time costs. While there is a need to review one-time costs to assure reasonableness, base year adjustments will normally not be made for one-time costs unless individual costs are extremely large, unusual in character, or unreasonable for some reason or unless there is a significant increase in one-time costs across the utility as a whole in the base year relative to earlier years.
- Special forecasting methods could be adopted for other operating revenues. TURN suggests the following policies:
 - ffi Tariffed other operating revenues shall be increased for customer growth from the base year to the test year. If a longer average is used instead of relying only on the base year, the average shall be done in dollars per customer.
 - ffi Other operating revenues that compensate for costs that increase with inflation shall be increased for inflation from the base year to the test year. If a longer average is used instead of relying only on the base year, the average shall be done in inflation-adjusted dollars.
 - ffi The test year forecast shall take into account any changes in tariffed charges that occurred during the base year or any other years used in developing the average.

b. Other aspects of the utility's showing

In addition to utility forecasting approaches, there are a number of other common utility practices in GRCs that impact the ability of intervenors, such as TURN, to efficiently and effectively review the utility's showing. Changing the ways in which utilities present certain information could reduce the time-intensity of GRCs. To this end, TURN offers the following recommendations:

- ffi For the sake of transparency, capital spending will be presented with and without overheads. At the present time, overheads are buried in the RO model.
- ffi All relevant capital overhead percentages and factors will be presented for the base year and four previous years and as forecast for the intermediate years between the base year and the test year. Any significant variation in overheads will be identified and fully explained.
- ffi The utility will provide a transparent method at the level of blankets and individual larger projects that shows both capital spending and capital additions. CWIP and plant-in-service balances will be tracked monthly from the beginning of the base year through the end of the test year.
- ffi The utility will identify and explain in testimony any changes in accounting practice from expense to capital or vice versa (a) implemented between rate cases; or (b) proposed for implementation in the rate case order and (c) will identify and explain in testimony any regulatory assets requested for recovery in the rate case with or without a rate of return.

c. Updates to the utility's showing

Standardizing certain updates to the utility's showing in rate cases would also serve to avoid discovery and potentially reduce areas of dispute, thus smoothing the

processing of these proceedings. TURN offers the following suggested automatic updates:

- ffi The utility shall provide the last full year of recorded data, as soon as that recorded data becomes available. (TURN also discussed this proposal in Section III.E.2 above.) Having this data as a matter of course will eliminate a common source of discovery disputes and will serve as a check on the reasonableness of forecasts, especially where costs above and beyond base year recorded costs are the basis for the test year forecast.³³ Additionally, it may be reasonable to update forecasts that are based on a 5-year average to improve the accuracy of the forecast.
- ffi Customer growth (particularly as it affects capital projects) and inflation forecasts shall be updated to the latest available data, at the time when recorded data is provided for the intermediate year.
- ffi Capital spending forecasts will be updated at the time when recorded data is provided for the last recorded year to reflect the following changes: (1) recorded data for the intermediate year, which will continue to be updated through the latest available month before ORA and intervenor testimony is due; (2) changes in customer growth, to the extent that forecasts of capital spending for specific project types are dependent on customer growth; (3) known changes in project schedules; and (4) known additions or deletions to the list of forecasted capital projects.
- ffi Similar to current practice, a “Second Update” would be provided after the close

³³ The routine availability of recorded data is even more important if the rebuttable presumption is not adopted.

of hearings to update for latest inflation estimates and changes in governmental taxes and fees with known and measurable monetary effects. These governmental items should include not only tax rates viewed narrowly but other tax effects, including changes to tax depreciation rates, changes to other rules regarding deductibility of expenses, changes in accounting obtained from the IRS, and maximum wage base for payroll taxes.

d. Increased accountability for safety-related spending

In Section III.D.4 above, TURN recommends annual reporting requirements during the rate case cycle on safety-related recorded costs. Similarly, TURN recommends that the Commission provide the utilities with guidance about the showing required for such projects in Section III.A. TURN does not repeat those recommendations here but simply reiterates the importance of receiving utility spending requests on a programmatic level, rather than only on a piecemeal, account-by-account basis. Having the whole picture, not just the scattered parts, will facilitate a more efficient and meaningful review of the utility's showing.

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?

Please see TURN's response to the previous question. Additionally, TURN has elsewhere in these comments presented three recommendations which would serve to expedite parties' review of GRC applications. Those include expanding the Master Data Request to reduce the need for separate discovery (Section III.G.5), addressing

exceptionally large projects included in a GRC application in a separate phase to enable the remainder of the case to be processed expeditiously without giving short shrift to the review of new work programs or large projects costing hundreds of millions of dollars (Section III.E.2), and making automatic certain data updates, so as to avoid the need for discovery (Section Section III.E.2).

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?

On August 21, 2011, TURN submitted comments to the Commission’s Public Advisor’s Office addressing how the Commission could improve public participation in its decision-making processes. TURN is including those earlier comments with this filing as Attachment 2 because TURN’s recommendations there, while intended to improve public participation in all Commission proceedings, are also directly applicable to this question. TURN additionally attaches an updated version of those comments, with changes presented in “redline,” in Attachment 3. TURN intends for the full set of recommendations contained in Attachment 3 to be considered by the Commission in this proceeding. TURN looks forward to working with parties and the Commission to implement some or all of these measures to improve public participation in rate cases.

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?

TURN supports the retention of the NOI for the reasons provided in TURN’s response to Question 2 of Section 4.3 of the *O.I.R.*, presented above in Section III.D.2.

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 updated to avoid the need for some data requests by intervenors. TURN has a number of standard data requests that we typically serve relatively early in each GRC on issues that TURN regularly reviews. If some of these questions could be incorporated into the Master Data Request, TURN’s review would be expedited. Other intervenors may be in a similar position as TURN.

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 for major gas utilities] need to be reconsidered and reformulated?

By all means, the answer is “no”. Each of the two phases of GRCs (for the major energy utilities) is complex, time-consuming, and requires significant attention from TURN’s attorneys and expert witnesses. The existing separation is a meaningful tool to make the workload inherent in each more manageable. TURN urges against any change to this division.

IV. CONCLUSION

TURN appreciates the Commission’s consideration of the recommendations put forth by TURN herein.

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Date: January 15, 2014

Respectfully submitted,

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ATTACHMENT 1

Schedules Adopted by the Commission in GRCs Filed Since 2004

Schedules Adopted by the Commission in GRCs Filed Since 2004

	A.04-12-014	A.05-12-002	A.06-12-009/010	A.07-11-011	A.09-12-020	A.10-11-015	A.10-12-005/006	A.12-11-009
	SCE TY 2006	PG&E TY 2007	Sempra TY 2008	SCE TY 2009	PG&E TY 2011	SCE TY 2012	Sempra TY 2012	PG&E TY 2014
Application Filed	12/21/2004	12/2/2005	12/8/2006	11/19/2007	12/21/2009	11/23/2010	12/15/2010	11/15/2012
ORA Testimony	4/15/2005	4/14/2006	6/1/2007	4/1/2008	5/5/2010	5/11/2011	9/1/2011	5/3/2013
Intervenor Testimony	5/9/2005	4/28/2006	6/1/2007	4/7/2008	5/19/2010	6/1/2011	9/22/2011	5/17/2013
Rebuttal Testimony	5/25/2005	5/17/2006	6/29/2007	4/14/2008	6/4/2010	7/3/2011	10/24/2011	6/28/2013
Evidentiary Hrgs Begin	6/7/2005	5/31/2006	7/30/2007	5/5/2008	6/21/2010	7/25/2011	11/30/2011	7/15/2013
Evidentiary Hrgs End	7/19/2005	7/7/2006	8/17/2007	5/23/2008	7/12/2010	8/19/2011	12/23/2011	8/9/2013
Opening Briefs	8/12/2005	7/27/2006	9/7/2007	6/30/2008	8/6/2010	9/19/2011	1/23/2012	9/6/2013
Reply Briefs	9/2/2005	8/10/2006	9/21/2007	7/7/2008	8/20/2010	10/10/2011	2/13/2012	9/27/2013
Proposed Decision	12/2/2005	11/14/2006	N/A	10/22/2008	11/16/2010	TBD	Feb-12	11/19/2013
Final Decision	Jan-06	12/14/2006	N/A	11/21/2008	12/16/2010	Dec-11	Mar-12	12/19/2013
App to ORA Testimony	115	133	175	134	135	169	260	169
ORA Test to Other Int.	24	14	0	6	14	21	21	14
Actual Final Decision	D.06-05-016	D.07-03-044	D.08-07-046	D.09-03-025	D.11-05-018	D.12-11-051	D.13-05-010	TBD

ATTACHMENT 2

**TURN's August 21, 2011 Comments to the Public Advisor's Office on Improving
Public Participation in the Commission's Decision-Making Processes**



Lower bills. Livable planet.

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San Francisco, CA 94104
415-929-8876 • www.turn.org
Hayley Goodson, Staff Attorney

August 21, 2011

Karen Miller
Public Advisor's Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
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Re: Workshop on Improving Public Participation in the Commission's Decision-Making Processes

Dear Ms. Miller:

On August 11, 2011, the California Public Utilities Commission (Commission) issued a *Notice of Workshop on Public Participation*, indicating that on September 13, 2011, the Commission will hold a workshop addressing the “challenges/opportunities for improving public participation in its decision-making processes.”¹ The workshop will address the following key topic areas: (1) Improving and Expanding Noticing of PPHs; (2) Adding Value to PPHs; and (3) Encouraging Public Input/Participation Through Informal Written Comments. The *Notice of Workshop on Public Participation* invited stakeholders planning to attend the workshop to “send in writing proposals, issues, or questions they suggest should be addressed in the workshop,” all of which the Commission will consider for inclusion in the workshop agenda. Such comments are to be e-mailed to the Public Advisor. Pursuant to this invitation, The Utility Reform Network (TURN) submits the suggestions that follow for improving public participation in the Commission's decision-making processes.

TURN enthusiastically applauds the Commission's interest in improving public participation. Over the past several years, TURN has worked diligently to educate our members and community-based organizations (CBOs) across California about opportunities for communicating with the Commission on issues of great concern to consumers. As a result of these efforts, TURN has a number of suggestions for improving the Commission's outreach and education about public participation opportunities, as well as the value of public participation hearings (PPHs). TURN also offers recommendations for expanding the existing avenues for

public input in the Commission's decision-making process. We look forward to discussing our proposals, as well as those presented by others, at the workshop next month.

1. Improving and Expanding Noticing of PPHs

According to the *Notice of Workshop on Public Participation*, the Commission "is eager to consider ways that the PPH noticing process and outreach on PPHs can be improved to incorporate new technologies, and to consider proposals on different ways to effectively communicate with consumers." TURN offers the following recommendations.

A. Use of New Technologies

As the Commission knows, the Digital Divide still plagues California, resulting in disparate access to the Internet and new media channels by the consumers whose input the Commission seeks. At the same time, a substantial number of Californians can access the Internet, especially if one includes access through public access centers, in addition to home and work-based points of access. Public access centers include locations such as schools, libraries, community based organizations, and community technology centers. TURN recommends that the Commission use the Internet to expand notice of PPHs and partner with cities, community technology centers, libraries and community groups, all of whom provide Internet access to consumers who lack access at home. The following specific actions will enhance the effectiveness of Internet-based outreach for PPHs:

- ✕✕ The Public Advisors Office (PAO) should identify public libraries and school districts that provide public Internet access. These libraries and school districts should be added to a mailing list to which notices of PPHs are sent. Because schools and libraries receive funding from the California Teleconnect Fund, TURN believes that the Commission should be able to find a list of schools and libraries that provide public Internet access, along with contact information. The Commission could also partner with the California Department of Education and/or library associations to establish these connections.
- ✕✕ The PAO should obtain a list of community technology centers that provide training and information to the consumers they serve. TURN believes such a list already exists. The PAO should ask such centers to post information about PPHs on their web sites and blogs, and disseminate notices through any social networking vehicles they use. The same should be done with CBOs, particularly those with whom the Commission has easy access, including the following: CBOs who receive funding from the California Teleconnect Fund; those participating in the Commission's Telecommunications Education and Assistance in Multiple-languages (TEAM) or Community Help and Awareness of Natural Gas and Electric Services (CHANGES) programs; those associated with the Lifeline Marketing Contract; those associated with outreach or implementation of

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~~✗~~ ~~✗~~ The PAO should contact the Mayor's office in each city where a PPH will be held and ask them to post information on their web site.

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~~✗~~ ~~✗~~ The PAO should create e-mail announcements in a format that allows for easy forwarding, so that Commission staff and stakeholders can conveniently distribute these notices widely.

Additionally, TURN is aware of the challenges in drawing media attention to utility issues, and also of the new opportunities created through the Internet. TURN encourages the Commission to include blog posts, online news sites and other electronic outlets in its media outreach efforts on PPHs.

B. Effective Communication with Limited English Proficient (LEP) Consumers, Consumers with Disabilities, and Other Hard to Reach Consumers

TURN recommends that the Commission increase the efficacy of its outreach regarding PPHs by improving communication with LEP consumers, consumers with disabilities, and other hard to reach consumers. To this end, TURN offers the following suggestions:

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² Cal. Civil Code Section 1632(a). Section 1632(a)(3) provides: "According to data from the United States Census of 2000, of the more than 12 million Californians who speak a language other than English in the home, approximately 4.3 million speak an Asian dialect or another language other than Spanish. The top five languages other than English most widely spoken by Californians in their homes are Spanish, Chinese, Tagalog, Vietnamese, and Korean. Together, these languages are spoken by approximately 83 percent of all Californians who speak a language other than English in their homes."

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TURN recommends that the Commission convene two working groups to assist with improving public participation. The "Outreach Working Group" should address outreach to LEP, disability and other hard to serve communities, including using the media in the most efficacious way for these communities. The "Communications Working Group" should address messaging, internet outreach, print and broadcast media. This group should help with designing a new and improved PPH notice (in user-friendly language and translated into languages other than English), and address the best way to notify customers who receive electronic bills. The working groups should be comprised of Commission staff, consumer groups, CBOs, individual consumers, and utility representatives.

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Organizations working to spread the word about upcoming PPHs need enough notice to effectively encourage public participation by the communities they serve. Based on TURN's experience with conducting outreach for PPHs, we recommend that the Commission ensure that PPHs take place no sooner than 6 weeks after they have been noticed by the Commission. In order to ensure that parties, other stakeholders and the PAO have adequate time to conduct outreach for PPHs, the Commission should direct that any ruling setting a PPH be issued at least 6 weeks prior to the date of the PPHs. To meet this timeline, the Administrative Law Judge or Assigned Commissioner may want to issue the ruling setting PPHs prior to the issuance of the

scoping memo, in the event both cannot be issued early enough to provide a meaningful opportunity for the PPHs to have good turnout.

Additionally, TURN has heard from consumers who complained of not receiving the bill insert early enough to allow them to attend a PPH. TURN appreciates that billing cycle variations can make it difficult to control exactly when consumers will receive a notice of an upcoming PPH. Consumer behavior also plays a role, as some people will not open bills immediately because they know the bill does not become due for several weeks. For these reasons, the Commission may want to consider providing more than 6 weeks between the setting of a PPH and the occurrence of the PPH to allow more time for the PAO's approval of the utility notice and inclusion of the notice in bills, such that customers at the end of the billing cycle still receive meaningful advanced notice.

2. Adding Value to PPHs

The Commission hopes to add value to PPHs “so that consumers who hear about the PPH will want to take the time to attend and participate.” TURN recommends the following actions to increase the value of PPHs, some of which also appear in the previous section:

- ✗✗ The Commission should continue to combine PPHs with events such as bill fairs. As discussed above, success at these events requires sufficient lead time and more effective communication with partnering organizations, such as social service agencies, CBOs, LIHEAP providers, etc., in order to allow these organizations to get the word out to the consumers with whom they have contact. The Commission should also increase local media outreach in advance of bill fairs.
- ✗✗ PPH notices should contain information about how comments made at PPHs will be used by ALJs and Commissioners in the decision-making process, as well as explain the reason for the PPH, why consumers should participate, and how they can participate. All language in PPH notices should be more user-friendly than language in the existing template(s) for PPHs. This information should also be included as part of the Commission's outreach to partner agencies and the media.
- ✗✗ Similar to the requirement adopted by the Commission in the AT&T/T-Mobile OII, the Commission should require speakers at PPHs to identify themselves, their relationship, if any, to the parties to the proceeding, and whether the organization they represent, if any, has received funding in the past twelve months or has been promised funding from any utility that is the subject of the proceeding or a foundation associated with such utility.³
- ✗✗ At PPHs all speakers should be required to sign up, and they should be called in the order in which they signed up, unless they require special accommodation

³ See I.11-06-009 (AT&T/T-Mobile OII), p. 15.

related to a disability or are an elected official. Groups of individuals should likewise be required to sign up, and they should be called in the order they appear on the sign-up list.

- ✕✕ Consumers should not be prevented or discouraged from speaking at the PPH by a utility representative. For example, if a person comes with a complaint to the PPH, she/he should not be immediately directed to or approached by a utility representative before speaking out. The Commission will benefit from hearing about the types of problems consumers are having, even if the utility can resolve those problems at the PPH.
- ✕✕ The Commission should conduct follow-up with people who attend PPHs, thanking them, by post card or letter, for coming out to speak. Likewise, the Commission should alert consumers when a final decision issues on the matter that was the subject of the PPH.
- ✕✕ The Commission should partner with cities and community groups to hold interactive video conferencing that allows consumers to make public comment. These events do not need to be held at the same time as the live meetings, and they should be held in places that are accessible to all consumers.
- ✕✕ The Commission should investigate using webinars or web casting to allow consumers to make public comment at PPHs. These webinars or web casts should be made available through public access points to encourage more input from consumers who do not have other access to the internet.

3. Encouraging Public Input/Participation through Informal Written Comments

TURN supports efforts to expand public participation beyond PPHs and public comment at the Commission's Business Meetings. Many of our suggestions for making PPHs more valuable and improving outreach for PPHs apply equally as well to the goal of encouraging other forms of public participation. For instance, the Commission should clearly explain what is at stake for consumers in language easily understood by people unfamiliar with legal and legislative processes in general, or the Commission's processes in particular. The Commission should expand the use of neighborhood newspapers and ethnic media in doing outreach. Additionally, the Commission should utilize social media and web outreach for wide distribution of written comment forms, and should provide stakeholders and community groups with easy-to-distribute e-mail announcements and links. The forms themselves and announcements should be translated into the five languages other than English most commonly spoken in the homes of Californians. Finally, TURN recommends that the Commission provide an 800 number on all invitations for public input (such as through informal written comment or otherwise) that people can call for more information about the proceeding at issue.

4. Conclusion

TURN looks forward to helping the Commission increase public participation in the Commission's decision-making processes. We appreciate your attention to this important matter. Please feel free to contact us if you have any questions. We would be glad to assist you in any way that we can.

Sincerely,

/S/

Hayley Goodson, Staff Attorney
Ana Montes, Director of Organizing
Mindy Spatt, Communications Director
THE UTILITY REFORM NETWORK
115 Sansome Street, Suite 900
San Francisco, CA 94104

ATTACHMENT 3

**TURN's August 21, 2011 Comments to the Public Advisor's Office on Improving
Public Participation in the Commission's Decision-Making Processes
(updated in January 2014, with changes in redline)**



115 Sansome Street, Suite 900
San Francisco, CA 94104

415-929-7744

Hayley Goodson, Staff Attorney

| August 21, 2011 (Updated January 2014)

Karen Miller
Public Advisor's Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
karen.miller@cpuc.ca.gov

Re: Workshop on Improving Public Participation in the Commission's Decision-Making Processes

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- ffi The PAO should create e-mail announcements in a format that allows for easy forwarding, so that Commission staff and stakeholders can conveniently distribute these notices widely.
- ffi The Commission should develop a mobile phone platform that provides easy access to the Commission's website. With the growth in market presence and increasing affordability of smart phones, there are now higher rates of smart phone adoption among low-income, black, and Latino populations as a means to access the internet.² While smart phones are making the online world more accessible to a broader segment of the California population, it is important to note that certain limitations, such as reduced functionality in lower cost phones and data caps, may limit online usage by low-income communities.

Additionally, TURN is aware of the challenges in drawing media attention to utility issues, and also of the new opportunities created through the Internet. TURN encourages the Commission to include blog posts, online news sites and other electronic outlets in its media outreach efforts on PPHs.

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- ffi PPH notices should contain information about how comments made at PPHs will be used by ALJs and Commissioners in the decision-making process, as well as explain the reason for the PPH, why consumers should participate, and how they can participate. All language in PPH notices should be more user-friendly than

language in the existing template(s) for PPHs. This information should also be included as part of the Commission's outreach to partner agencies and the media.

- ffi Similar to the requirement adopted by the Commission in the AT&T/T-Mobile OII, the Commission should require speakers at PPHs to identify themselves, their relationship, if any, to the parties to the proceeding, and whether the organization they represent, if any, has received funding in the past twelve months or has been promised funding from any utility that is the subject of the proceeding or a foundation associated with such utility.⁴
- ffi At PPHs all speakers should be required to sign up, and they should be called in the order in which they signed up, unless they require special accommodation related to a disability or are an elected official. Groups of individuals should likewise be required to sign up, and they should be called in the order they appear on the sign-up list.
- ffi Consumers should not be prevented or discouraged from speaking at the PPH by a utility representative. For example, if a person comes with a complaint to the PPH, she/he should not be immediately directed to or approached by a utility representative before speaking out. The Commission will benefit from hearing about the types of problems consumers are having, even if the utility can resolve those problems at the PPH.
- ffi The Commission should conduct follow-up with people who attend PPHs, thanking them, by post card or letter, for coming out to speak. Likewise, the Commission should alert consumers when a final decision issues on the matter that was the subject of the PPH.
- ffi The Commission should partner with cities and community groups to hold interactive video conferencing that allows consumers to make public comment. These events do not need to be held at the same time as the live meetings, and they should be held in places that are accessible to all consumers.
- ffi The Commission should investigate using webinars or web casting to allow consumers to make public comment at PPHs. These webinars or web casts should be made available through public access points to encourage more input from consumers who do not have other access to the internet.

3. Encouraging Public Input/Participation through Informal Written Comments

TURN supports efforts to expand public participation beyond PPHs and public comment at the Commission's Business Meetings. Many of our suggestions for making PPHs more valuable and

⁴ See I.11-06-009 (AT&T/T-Mobile OII), p. 15.

improving outreach for PPHs apply equally as well to the goal of encouraging other forms of public participation. For instance, the Commission should clearly explain what is at stake for consumers in language easily understood by people unfamiliar with legal and legislative processes in general, or the Commission's processes in particular. The Commission should expand the use of neighborhood newspapers and ethnic media in doing outreach. Additionally, the Commission should utilize social media and web outreach for wide distribution of written comment forms, and should provide stakeholders and community groups with easy-to-distribute e-mail announcements and links. The forms themselves and announcements should be translated into the five languages other than English most commonly spoken in the homes of Californians. Finally, TURN recommends that the Commission provide an 800 number on all invitations for public input (such as through informal written comment or otherwise) that people can call for more information about the proceeding at issue.

TURN additionally recommends that the Commission adopt the expanded approach to public participation currently being tested in R.13-01-010, *Order Instituting Rulemaking to Conduct a Comprehensive Examination of the California Teleconnect Fund*. In that proceeding, the Commission has determined that "Community-Based Organizations (CBOs) that would like to offer their views but are not active Parties to the proceeding will be able to do so on the CTF [California Teleconnect Fund] Webpage where an electronic form will be available for direct input."⁵ The Commission has also permitted CBOs to submit informal comments via e-mail in that proceeding.⁶ Both of these options reduce the participation burden on CBOs which lack the resources to attend a PPH or become a party to a proceeding but would nonetheless like to be heard on matters before the Commission that affect their communities.

4. Conclusion

TURN looks forward to helping the Commission increase public participation in the Commission's decision-making processes. We appreciate your attention to this important matter. Please feel free to contact us if you have any questions. We would be glad to assist you in any way that we can.

Sincerely,

/S/

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⁵ R.13-01-010, *Assigned Commissioner's Scoping Memo and Ruling*, issued November 5, 2013, p. 6.

⁶ *Id.*, p. 6, fn. 2.