

**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)

**REPLY 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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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 (OIR)*. The *OIR* 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 reply comments.

Judging by the impressive breadth of proposals put forth by parties in opening comments, TURN anticipates a lively and interesting proceeding. While TURN looks forward to exploring many of these ideas over the course of this proceeding, TURN focuses on two issues in these reply comments. First, TURN addresses the process for presenting and evaluating safety and risk proposals. Second, TURN responds to certain comments intended to hasten the processing of GRCs.

II. INCORPORATING AN EXPLICIT PROCESS TO ANALYZE SAFETY, RELIABILITY, SECURITY, AND RISK MANAGEMENT INTO ENERGY UTILITY GENERAL RATE CASES (Questions in *OIR* Sections 4.1 and 4.2)

The opening comments do a good job of presenting the parties' general perspectives on better integrating safety and reliability issues into GRCs. Not surprisingly, the parties generally echo the *OIR* in recognizing the priority of safety

¹ *OIR*, Ordering Paragraph 4.

considerations, while also recognizing that safety must be achieved at reasonable cost.²

Perhaps befitting opening comments, many parties (particularly the large utilities) declined to offer comprehensive and detailed recommendations. In particular, despite the OIR's request,³ there was little discussion of criteria the Commission should use to evaluate the adequacy of a risk-informed GRC filing. In this respect, TURN believes that its comments stand out in offering a full and fairly detailed recommendation as to the criteria that should be met and the elements that a utility should present in their GRC safety and risk showings.⁴

Consistent with the high-level nature of most of the comments, in this pleading, TURN will focus on a few of the general themes that surfaced in the opening comments.

A. Commission Decisions Regarding Safety Standards Need to Be Informed By Reliable Information Regarding Cost Impacts.

The opening comments of the Coalition of California Utility Employees (CUE) and the Utility Workers Union of American (UWUA) propose to add time to the GRC review process to enable parties and, ultimately, the Commission to devote time and attention to developing safety- and reliability-related standards first, then determining the necessary revenue requirement needed to meet those standards.⁵ TURN generally agrees with a key premise of these proposals -- that the Commission and parties should regularly consider whether the Commission should modify its safety and reliability standards for

² *OIR*, p. 8.

³ *OIR*, Section 4.2, Question 2.

⁴ TURN Opening Comments, pp. 5-9. TURN labeled the initial, detailed showing that should be required of utilities the utility "Safety Analysis." An entirely different but thoughtfully developed approach was offered by the Office of Ratepayer Advocates (ORA). ORA Opening Comments, pp. 3-4.

⁵ CUE Opening Comments, p. 2; UWUA Opening Comments, pp. 10-12.

utilities.⁶ However, TURN would add another important premise that was not clearly articulated in these proposals – that such examinations of safety and reliability standards must include a thorough understanding of the costs associated with any proposed change to standards.

Achieving safe and reliable service while maintaining just and reasonable rates – goals the OIR and the parties embrace -- will require a balancing act. Successful performance of that act will require an understanding of the trade-offs between improved safety and reliability and the associated costs. Given that it will never be possible to mitigate all risks, choices must always be made about which risks need to be addressed, and costs and benefits must be weighed in making those choices.

TURN readily acknowledges that there will some instances when a safety-related activity is mandated or essential such that the need is not in dispute. In such instances, the reasonableness question is more likely to turn on whether the utility’s proposal is a least-cost approach to addressing the need.⁷ But for what are likely to be the vast majority of safety- and reliability-related spending, the need for the safety-related activity is not so cut and dried. In those instances the Commission will need to balance the amount of forecasted spending with the incremental benefits likely to be produced from such spending. On this point TURN agrees with the comment of the Energy Producers

⁶ In these comments, TURN is not offering a detailed response to the CUE and UWUA proposals, or indeed any party’s proposals. However, TURN does wish to flag one concern. While CUE and UWUA wish to add a less formal Safety and Reliability (CUE) or Service Adequacy (UWUA) phase to the beginning of the GRC, neither seems to contemplate any Commission decision in that phase, most likely because the GRC time-frame does not allow two major decisions. However, without a Commission decision, TURN is unsure of the value of such an exercise, except in the (unlikely) event of an all-party consensus on revised safety and reliability standards.

⁷ For purposes of these comments, TURN is assuming that the need for the safety-related activity is not tied to imprudent utility actions or decisions, and that no other reason exists to deny or limit rate recovery of the activity’s reasonable costs.

and Users Coalition (EPUC) that a “risk-informed GRC filing” would include demonstration of an appropriate balancing of cost and risk.⁸

This balancing of cost and risk is akin to the approach the Commission took a few years ago when addressing Pacific Gas and Electric Company’s (PG&E’s) proposed Distribution Reliability Improvement Program (DRIP) (also known as the Cornerstone Project). PG&E had proposed to spend nearly \$2 billion over a six-year period on reliability-related capital expenditures. But the Commission scaled back the effort substantially, consistent with its finding that up to 68% of quantifiable reliability improvement benefits associated with PG&E’s proposed program required only 18% of PG&E’s forecasted capital expenditures.⁹ That outcome did not reflect a wavering of the Commission’s commitment to ensuring sufficient reliability, but rather an appropriate balancing of the reliability benefits and their associated costs.

The Commission can expect such trade-offs to be part of safety-related proposals going forward; some will achieve relatively high levels of improvement for relatively small expenditures, others not so much. And the Commission will need to ensure that the utilities provide reliable information necessary to permit all parties to understand and assess such trade-offs.

B. The Commission Should Be Mindful of the “Information Asymmetry” Problem.

The UWUA comments appropriately remind the Commission of its own observation in the 1999 PG&E GRC decision that information asymmetry puts the regulator at risk of having incomplete and one-sided versions as the basis of its

⁸ EPUC Opening Comments, p. 5.

⁹ D.10-06-048, issued in A.08-05-023, p. 9 and Finding of Fact 11.

decisions.¹⁰ PG&E confirms that this is still a valid concern when it offers to share information regarding its “Risk Evaluation Tool,” while expressing doubt that any non-PG&E party could effectively use the tool “given the purpose and design of the tool.”¹¹ The Commission has to understand that there is a problem with “the purpose and design of the tool” if it is not able to be effectively used by others engaged in the same general enterprise of advancing risk evaluation in utility regulation. And the Commission should be very concerned that a PG&E proposal that relies on its Risk Evaluation Tool for any substantial portion of the analysis would seem to have a “black box” element to it by design.

Broad access to transparent information will be a critical element of the Commission’s effort here if it is to successfully elevate risk and safety analysis and assessment into the GRC process. While the utilities may bridle at increased discovery demands or other burdens of increased transparency, TURN, the Office of Ratepayer Advocates (ORA) and other parties cannot perform the evaluative role the Commission expects unless we have full visibility into the information on which the utility bases its proposals. For this reason, TURN emphasized in its opening comments the need for the utilities’ Safety Analyses to provide a detailed explanation of the facts and assumptions upon which their GRC proposals are based.¹²

Another way for the Commission to at least partially mitigate information asymmetry is to create a process that does not unduly limit the range of discussion to the proposals put forward by the utilities. Too often, GRCs treat the utility’s proposal as the

¹⁰ UWUA Opening Comments, pp. 8-9, citing D.00-02-046. San Diego Consumers’ Action Network’s (SDCAN’s) opening comments raised similar concerns regarding the impact of information asymmetry in the GRC process.

¹¹ PG&E Opening Comments, p. 6.

¹² TURN Opening Comments, pp. 7-9.

default framework that can only be tweaked around the edges depending on criticisms raised by intervenors or the Commission. TURN's proposal that the utility be required to present a detailed Safety Analysis six months prior to the NOI¹³ is a way to enable intervenors to offer alternative proposals at an earlier point in the proceeding to put them on a more equal footing with those of the utility.

C. The Commission Should Strive to Create, to the Extent Possible, a Common Methodology for Presentation and Analysis of Safety and Risk-Related Funding Requests.

San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) (jointly, SDG&E/SoCalGas) point out that at this juncture there is not a common or generally-accepted methodology among the major energy utilities for presentation and analysis of what those utilities deem "risk-aware" funding requests.¹⁴ TURN agrees with that observation, as well as the follow-on recommendation that the Commission should develop a common set of definitions for terms associated with risk assessment and mitigation, coupled with objective criteria it can deploy in performing risk assessment and mitigation tasks.¹⁵

Likewise, TURN urges the Commission to seek to achieve a common methodology for presentation and analysis of utility proposals for risk mitigation and safety promotion spending. Even though the utilities may appeal to the Commission to permit differences in how they plan and budget their work and prepare and present forecasts, standardization in safety and risk showings in GRCs would confer important

¹³ TURN Opening Comments, p. 11. The Safety Analysis would need to include the detailed information described on pages 7 to 9 of TURN's comments.

¹⁴ SDG&E/SoCalGas Opening Comments, pp. 2-3.

¹⁵ Utility Consumers' Action Network's (UCAN's) comments similarly promote the concept of developing a standardized metric for use in the evaluation of safety-related proposals and activities. UCAN Opening Comments, pp. 1-2.

benefits.¹⁶ To the extent the Commission permits each utility to develop and apply a utility-specific approach, performance of any review or analysis of the utility's proposals will be more difficult, as the agency and interested parties will need to devote time and resources to getting up to speed on that utility-specific approach. While there may well be limited instances in which legitimate differences in utility operations might produce materially different outcomes in this regard, the Commission should make clear that it expects such instances to be the exception rather than the rule. The goal should be to establish uniformity in this regard where possible in order to ease the presentation and review of the critical information regarding safety-related proposals.

III. REDUCING THE COMPLEXITY OF GENERAL RATE CASES TO SUPPORT LESS TIME-CONSUMING PROCESSING OF CASES (Questions in *OIR* Sections 4.3, 4.4, and 4.6)

A number of parties suggest procedural and substantive changes in how GRCs are presented and processed with the goal of making these massive proceedings less labor-intensive and/or less time-consuming. The large utilities seem most concerned with adherence to the schedule outlined in the exiting Rate Case Plan (RCP) as a way to make GRCs less unwieldy. SDG&E/SoCalGas suggest, "Workload is best managed by a much more rigorous adherence to schedules. There is very little point in having a RCP schedule if it is ignored in most GRC proceedings, as has been the case."¹⁷ Southern California Edison Company (SCE) "believes the most significant shortcoming of the current RCP is that it doesn't hold all parties to the schedule defined in the RCP. This has led to delayed decisions."¹⁸ Similarly, SCE points to the Commission's failure in

¹⁶ See, e.g., PG&E Opening Comments, p. 9.

¹⁷ SDG&E/SoCalGas Opening Comments, p. 6.

¹⁸ SCE Opening Comments, p. 17.

recent GRCs to issue “a final decision within the timeframe found in the Rate Case Plan, or established in the scoping memo.”¹⁹

SDG&E/SoCalGas, SCE, and PG&E likewise point to increasing discovery demands from ORA and intervenors as the culprit. SDG&E/SoCalGas argue, “The discovery period in recent GRCs has been extremely long; while discovery is important it should not result in untimely decision-making or failure to conform to the adopted RCP schedule.”²⁰ SCE points to the volume of discovery in its current GRC (expected by SCE to reach 10,000 questions) and concludes that “the GRC discovery process has become untenable.”²¹ SCE suggests that placing limits on discovery could relieve some of the pressure: “One potential enhancement to the RCP that would be beneficial is limiting discovery to information used to develop the GRC request.”²² PG&E more generally argues that the “Commission should consider setting expectations (and possibly limits) on ever-escalating evidentiary demands.”²³

TURN submits that both of these issues – the protracted schedules and discovery trends – are a product of the same cause, the increasing complexity of the utilities’ showings and the particulars of their forecasting methodologies. It would make sense, then, that those parties who routinely review utilities’ showings in GRCs would offer suggestions intended to actually reduce the effort and time (including the discovery) required to review the utilities’ requests. Indeed, the Commission now has before it proposals to this end from TURN, ORA, Utility Consumers’ Action Network (UCAN), San Diego Consumers’ Action Network (SDCAN), EPUC, and UWUA, all of which

¹⁹ SCE Opening Comments, p. 10.

²⁰ SDG&E/SoCalGas Opening Comments, p. 8.

²¹ SCE Opening Comments, p. 18.

²² SCE Opening Comments, p. 17.

²³ PG&E Opening Comments, pp. 3, 9.

draw from the experiences of those who have been involved in GRCs for many years.

For instance, ORA suggests automatic updating of recorded costs to improve the accuracy of forecasting without requiring discovery and potential discovery disputes.²⁴ UCAN recommends requiring the utilities to submit standardized information about the cost and necessity of certain common utility functions to increase transparency and save the Commission and intervenors significant time and resources.²⁵ SDCAN warns that “GRCs will continue to be saddled by complexity if gaming opportunities remain,” citing manipulation of future test year spending forecasts, utility reorganization, excessive granularity in the utility’s showing, complexity of shared services accounts, and undervaluation of productivity, as features of current GRCs giving rise to problems.²⁶ SDCAN recommends a return to a historical test year adjusted for a limited number of macro-level known and measurable changes, as well as other GRC process changes, including but not limited to requiring all California IOUs to adhere to FERC accounting standards or another uniform code of accounts, establish a minimum adjustment or minimum account threshold, under which adjustments may not be sought.²⁷ UWUA similarly advocates improvements to the GRC process to address “information asymmetry” through increased transparency, including ending “the use of speculative forecasted future test years, replacing it with prior year actuals reflected in Uniform System of Accounts (USA) adjusted for fixed known and measurable changes and policy-based safety, reliability and service quality standards, objectives and goals.”²⁸ And EPUC more generally asks that the Commission seek to maximize “the accuracy of

²⁴ ORA Opening Comments, p. 10.

²⁵ UCAN Opening Comments, p. 8.

²⁶ SDCAN Opening Comments, pp. 14-20.

²⁷ SDCAN Opening Comments, pp. 24, 31.

²⁸ UWUA Opening Comments, p. 12.

forecasts used by the parties in litigating or settling GRCs” and promote “administrative efficiency to allow meaningful, cost-effective participation by intervenors” as it considers changes to the GRC structure in this proceeding.²⁹ A workshop would be useful for further exploring these proposals and investigating their merits.

TURN urges the Commission to give serious consideration in this proceeding to parties’ suggestions for improving the transparency and digestibility of each utility’s showing in GRCs. If the Commission were merely to give greater weight to the existing RCP schedule, as some utilities suggest, GRCs would be no less complex. ORA, other intervenors, and Commission decision-makers would have the same tasks before them, but would have less time in which to complete those tasks. Similarly, if the Commission were merely to constrain discovery by intervenors to compress the schedule, the Commission would have a less robust record upon which to evaluate the utility’s request, but not necessarily a less complex task at hand. Either outcome would undermine the integrity of the Commission’s processing of GRCs. Instead, the Commission should take advantage of the experience and insight offered by TURN, ORA, and the other regular GRC intervenors, who are clearly motivated to assist the Commission in making GRCs more manageable for everyone involved.

IV. CONCLUSION

TURN appreciates the Commission’s consideration of TURN’s opening and reply comments addressing the questions put forth in Sections 4.1 to 4.6 of the *OIR*. TURN looks forward to assisting the Commission in adopting thoughtful and appropriate changes to the GRC Rate Case Plan to explicitly prioritize safety, reliability, and security

²⁹ EPUC Opening Comments, pp. 10-11.

considerations, as well as 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.

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