

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 OFFICE OF RATEPAYER ADVOCATES
REGARDING THE REFINED STRAW PROPOSAL ON A RISK-BASED
DECISION-MAKING FRAMEWORK TO EVALUATE SAFETY AND
RELIABILITY IMPROVEMENTS AND REVISE THE GENERAL RATE CASE
PLAN FOR ENERGY UTILITIES**

I. INTRODUCTION

Pursuant to the Administrative Law Judge's (ALJ) Ruling Regarding Refined Straw Proposal issued April 17, 2014, the Office of Ratepayer Advocates (ORA) submits these Reply Comments to respond to Comments made by some parties to questions posed in this Order Instituting Rulemaking (OIR or Rulemaking). Silence on any Comments of any other party should not be interpreted as agreement or disagreement.

ORA has the statutory duty to represent and advocate on behalf of ratepayers within the Commission's jurisdiction with the goal of obtaining the lowest possible rate for service consistent with reliable and safe service levels.¹ To this end, ORA has supported, and continues to advocate for policies, rules and programs promoting safety by treating the goal of safety as integral to any cost-effectiveness and rate case analyses.

¹ Public Utilities Code §309.5. On September 26, 2013, Governor Edmund G. Brown signed Senate Bill (SB) 96 into law. Among other things, SB 96 amends Section 309.5 changing the name of the Division of Ratepayer Advocates to the Office of Ratepayer Advocates. The goal is still: "...to obtain the lowest possible rate for service consistent with reliable and safe service levels."

II. DISCUSSION

A. Position on the Refined Straw Proposal.

Below is ORA's Reply to some Comments of other parties for revising elements of the Refined Straw Proposal (RSP).

Safety Model Assessment Proceeding (S-MAP)

A recurring S-MAP proceeding is critical to ensuring lessons learned can be shared, and the development of better methodologies and approaches can occur in a public and transparent manner. The claims of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCalGas, collectively with SDG&E, Sempra) that a recurring proceeding is not needed are ill-advised, given the objectives identified in the OIR.² It is specifically because of the issues identified in their comments that a recurring proceeding is necessary.

Workshops, as SCE envisions, but held through a new proceeding, are the best approach to developing a cohesive and coherent work product. However, the objectives: developing a framework to assess risk, a risk lexicon, and general principles, are likely to need revision and updating as the Commission and all parties become more familiar with these tools to mitigate risk. The Commission should also, at a minimum, examine the models and specific methodologies the utilities will be putting forward as a basis for their risk-based decision-making processes.

Risk Assessment and Mitigation Phase (RAMP) Report

ORA agrees with Coalition of California Utility Employees (CUE), Energy Producers and Users Coalition (EPUC), The Utility Reform Network (TURN), and Utility Consumers Action Network (UCAN) that all parties must have the opportunity to provide comments on the RAMP report or testimony.³ In particular, ORA supports CUE's approach, which would have each interested party presenting a report or testimony with subsequent workshops and final reports or testimony. This approach

² PG&E Comments, p. 2, Sempra Comments, pp. 3-4, SCE Comments, p. 4.

³ CUE Comments, p. 4, UCAN Comments, p. 3, TURN Comments, p. 8, EPUC Comments, p. 17.

balances the goals outlined in the Refined Straw Proposal.⁴ Sempra's and PG&E's proposals are counter to the intent to develop a more open and transparent process. Sempra and PG&E offer concerns regarding parties' limited resources as a reason to not be required to make an open showing of their risk models and approaches for direct comparison with other utilities. Certainly parties will need to balance their resource constraints when determining when and how to intervene in any proceeding. However, the Commission should not preclude their participation merely because the utilities believe parties may not be able to adequately participate. ORA agrees with SCE that there must be adequate time between the conclusion of the RAMP and the filing of the GRC to allow for the utilities to incorporate the results of the RAMP into their GRC.⁵

Other Issues

The proposal of Communities for a Better Environment (CBE)⁶ that the Inherently Safer Systems approach of risk management may be one way to improve safety is a valid consideration.⁷ The appropriate venue to take this up is as part of the first S-MAP.

ORA agrees with Southwest Gas Corporation (SW Gas) and the California Association of Small and Multijurisdictional Utilities (CASMU) members (Liberty Utilities, Bear Valley Electric Service, and PacifiCorp) that application of this OIR should focus first on the large energy utilities. However, the CASMU members should be expected to incorporate safety issues in a comprehensive manner within future general rate case applications.

⁴ CUE Comments, p. 4.

⁵ SCE Comments, p. 8.

⁶ CBE Comments, pp. 7-9.

⁷ Inherently Safer Systems or Designs originated in chemical safety, where both process lifecycle and steps to minimize, substitute, moderate or simplify the production process are used to lead to more reliable risk management. The Chemical Safety Board brings this topic up in its May 2014 report on the Chevron Richmond Refinery Pipe Rupture and Fire. (*See* <http://www.csb.gov/chevron-refiner-fire/>.)

B. Proposals for Revising Various Elements of the Rate Case Plan.

Below are ORA's Reply Comments to the Comments of other parties for revising elements of the Rate Case Plan.

NOI

ORA continues to recommend that the Notice of Intent (NOI) process be retained.⁸ Presumably, if the Commission decides to eliminate the NOI process, then the Commission could exercise its ability to reject any applications that are incomplete, or lack information that would have been identified had the NOI process been retained. In reality, however, what Commission staff would have time to ascertain whether a GRC application is deficient, incomplete or lacks proper information? And would this really save time or resources?

If the Commission is going to assign to the Docket Office the responsibility of reviewing GRC applications for completeness, then it should seek the input of the Docket Office on how much time that office would need. In any case, the Docket Office would not be reviewing testimony and workpapers for deficiencies since this information is not served with the application.

If the NOI process is eliminated, then ORA and other parties may have to use the formal motion process to move to dismiss deficient applications with the resulting impact on the time and resources of numerous parties and the Commission itself. This would likely lead to a less efficient process in certain instances. The review of the NOI for deficiencies is a process unique to the general rate cases of large utilities and continues to serve a vital purpose.

For example, the NOI period allows ORA an opportunity to begin reviewing and verifying a utility's complex Results of Operations (RO) computer model. In the NOI phase of the PG&E TY 2011 GRC, ORA (then DRA) identified various deficiencies and limitations regarding the functionality of PG&E's model, and did not accept the version of the model submitted with PG&E's NOI. PG&E was required to revise its RO model

⁸ See TURN Comments, p. 17.

by providing additional functionality and flexibility, and to comply with the statutory requirements (Public Utilities Code Section 1822(a)), and Commission requirements (Decision 07-07-004, page A-31, and Decision 00-07-050) applicable to computer models before ORA was willing to accept the NOI so that PG&E could file its GRC application.

During the NOI period, ORA reviews and analyzes the utilities' testimony, workpapers, and RO model, conducts discovery, and holds discussions with utility witnesses. Other intervenors may do the same. These efforts constitute a "head start" which helps in processing the utilities' GRC applications in an efficient manner. In its Opening Comments, ORA proposed a shortened NOI period that conforms with the draft schedule in the Refined Straw Proposal. This should work to the benefit of all parties while making the GRC process more efficient.

GRC Cycle

ORA agrees with Sempra's comments that a 4-year GRC cycle makes sense with the addition of RAMP in the GRC process.⁹ The increased complexity of future GRC proceedings as envisioned, if they are to have an adequate level of safety review, necessitates more time between each utility's GRC. The Commission can focus less on claims of urgent needs for funding on a short cycle, and more on regulating to ensure the right level of funding for the right kinds of activities.

Even before adding a safety review into the GRC process, utilities' GRC filings are already complex and voluminous. For example, in its Test Year 2014 GRC, PG&E submitted approximately 4,800 pages of direct testimony, about 12,900 pages of workpapers, and over 5,400 pages of rebuttal testimony. Furthermore, there are essentially four major general rate case filings: PG&E, SCE, Sempra (SoCalGas and SDG&E, and PG&E Gas Transmission and Storage.

With a 3-year GRC cycle, test years of the initial case serve as base years for the following rate case, which presents a problem because recorded test year costs may not

⁹ Sempra Comments, p. 3.

always be representative of future costs, as the utilities often begin new programs during the test year, and initial costs may not reflect a more stable or steady-state level of expenses or expenditures. In fact, the utilities' comments regarding how recent test year spending patterns have been impacted by delays in GRC decisions support going to a 4-year cycle. A 4-year GRC cycle allows for better utility financial and operational management of spending and investment. For small and mid-sized utilities, the interval should be no less than 4 years between rate cases with the option for an extension beyond the 4-5 year timeframe.

Understandably, utilities may prefer a 3-year GRC cycle because it means they can request substantial revenue increases more often than with a 4-year cycle, since test year increases are typically higher than the attrition year increases authorized by the Commission. For example: (1) PG&E received a revenue increase of approximately 8.1% for test year 2011 over present rates while receiving post-test year increases of about 3.0% per year for 2012 and 2013¹⁰; (2) SCE received approximately a 5.0% revenue increase for test year 2012 over present rates while receiving post-test year increases averaging 4.8% per year for 2013 and 2014¹¹; and (3) Sempra received approximately a 6.0% revenue increase for test year 2012 over rates while receiving post-test year increases of about 2.7% per year for 2013, 2014 and 2015.¹²

CUE comments that the GRC cycle should remain on a 3-year cycle, but offers a 6-year cycle as an alternative.¹³ ORA is open to consideration of a 6-year cycle for the major utilities, but maintains that a 4-year GRC cycle is the most optimal policy for the OIR. There is no need to be concerned about multiple GRCs for large IOUs in some years should the Commission adopt a 4-year GRC cycle. The initial Straw Proposal set forth a reasonable transition to a 4-year rate case cycle which would avoid any overlap

¹⁰ D.11-05-018, p. 2, second paragraph.

¹¹ D.12-11-051, p. 3.

¹² D.13-05-010, p. 2, last paragraph.

¹³ See CUE Comments, p. 7.

among GRCs. With the current 3-year GRC cycle, an overlap will occur in those years that PG&E files its Gas Transmission and Storage GRC. This will lead to inefficiency in the regulatory process as two major rate cases will need to be processed in the same year. A 4-year GRC cycle will serve to improve the regulatory efficiency for processing GRCs.

For example, as set forth in the original straw proposal, if a 4-year GRC cycle is established beginning with PG&E's Gas Transmission and Storage GRC, then PG&E GT&S case would have test years in 2015, 2019, and 2023. Sempra would have GRCs for test years 2016, 2020, and 2024. PG&E would have GRCs for test years 2017, 2021, and 2025. SCE would have GRCs for test years 2018, 2022, and 2026. If a GRC schedule is adopted consistent with the original Straw Proposal then there would not be any overlap of large energy utilities' GRCs resulting in a more efficient GRC process, which is one of the objectives of the OIR.

PG&E GT&S

ORA agrees with PG&E that it is not necessary to combine PG&E's Gas Transmission and Storage (GT&S) rate case with the utility's GRC.¹⁴ ORA supports the current division of the review of PG&E's costs between the GRC and the GT&S applications. While there are similar elements between natural gas transmission and distribution, they generally have significantly different threats and risks that warrant maintaining this split. Additionally, the GT&S rate case is a comprehensive proceeding that addresses many other issues including those related to system operations and controversial cost allocation and rate design issues.

PG&E 2017 GRC

In its comments, PG&E proposes a procedural schedule for its 2017 GRC.¹⁵ This OIR is not the appropriate forum for the Commission to establish a specific procedural schedule for that particular rate case. To the extent that the Commission adopts a generic policy and GRC schedule in the OIR applicable to all utilities, then PG&E and parties

¹⁴ PG&E Comments, p. 10.

¹⁵ PG&E Comments, pp. 10-11.

will be expected to adhere to that schedule and request any scheduling changes in each specific proceeding.

The Scheduling for ORA Testimony As Set Forth in the Refined Straw Proposal is Reasonable and Requires No Modification

The Refined Straw Proposal sets forth a date of April 11 for ORA's testimony. This date is reasonable and consistent with due dates for ORA testimony in general rate cases over the past 15 years. PG&E's and SCE's comments claiming a need to reduce the amount of time ORA is provided for serving testimony are without merit.¹⁶

PG&E comments that ORA testimony should be due on January 15 instead of April 11 of Base Year +2. SCE comments that ORA testimony should be due on February 15 instead of April 11 of Base Year +2. Both options are untenable, as they would result in a reduction of 2 to 3 months from ORA's timeline relative to that provided in the RSP, which is already a reduction to the amount of time ORA is normally afforded to serve its testimony. These proposals to limit the amount of time for ORA to conduct discovery, prepare its analysis, develop its forecasts and write its reports will necessarily affect the quality of the work product ORA is able to offer the Commission for its consideration.

Based on the procedural schedules from the last three PG&E rate cases (2007, 2011, and 2014), the last three SCE rate cases (2009, 2012, and 2015), and the last two Sempra rate cases (2008 and 2012), ORA served its testimony an average of 176 days after GRC applications were filed, plus an average of 130 days between the NOI tendering and application filing, or an average of 306 days between the NOI tendering and ORA's testimony due date. As previously indicated, during the NOI period, ORA is reviewing and analyzing the utilities' testimony, workpapers, and RO model, conducting discovery, and holding discussions with utility witnesses.

¹⁶ PG&E Comments, p. 5, SCE Comments, p. 13.

For the PG&E and SCE general rate cases, ORA served its testimony an average of 286 days after the NOI was tendered.¹⁷ The schedule in the Refined Straw Proposal is for ORA to serve its testimony approximately 223 days after the utility application is filed. This is when parties would now receive the filing, in contrast to past years, when ORA began its review when the utilities tendered the NOI. The Refined Straw Proposal would provide ORA with 63 days less to review the utility GRC filings as compared to the last three PG&E and SCE general rate cases.

Under the RSP, the 7.5 months (approximately 223 days) between the GRC application filing and ORA's testimony due date, already reduces the amount of time ORA is normally afforded to serve its testimony. The ORA testimony due date of 7.5 months after the utility files its GRC application, as set forth in the Refined Straw Proposal, strikes an equitable balance, especially given that the NOI process may be eliminated.

The RSP schedule already cuts about 80 days (63 days compared to SCE and PG&E) from ORA's typical schedule for recent large energy GRCs. It is therefore critical that utilities provide ORA and intervenors with recorded adjusted data from Base Year +1, in the same format as presented in their testimony and workpapers which contain recorded and forecasted numbers.

In somewhat of a twist, Attachment 3 of PG&E's comments contain a proposed schedule for the utility's GT&S rate case. PG&E proposes a schedule whereby ORA serves its testimony on February 1 of Base Year +2, or 7 months after the GT&S application is filed on June 1 of Base Year +1.

Recent delays in the PG&E 2014 and SCE 2012 GRC decisions have not been a result of ORA serving its testimony in May 2013 and May 2011, respectively. These cases have typically been submitted in the September time frame, thus allowing for timely decisions. Furthermore, the utilities have consistently been granted memorandum accounts which have assured that they recover the full, adopted test year revenues in

¹⁷ Because of the unique scheduling associated with the TY 2012 Sempra GRC, ORA was provided additional time to submit its testimony. See attached timeline of schedules of recent GRCs.

rates. The utilities attempt to play the blame game while failing to acknowledge that they remain a primary source of the delay in GRC decisions. The utilities have continuously requested significant revenue increases in their GRC applications. Moreover, the utilities request numerous incremental revenue increases above recorded expense levels in hundreds of different areas. Therefore, the utilities' own requests require substantial discovery and analysis by ORA and other parties, and significant time to adjudicate by the ALJ and Commissioners.

Scheduling – Procedural Matters

TURN and Sempra suggest that four weeks for rebuttal testimony makes more sense than two weeks.¹⁸ PG&E and SCE propose six weeks for rebuttal testimony.¹⁹

ORA agrees that four weeks strikes an appropriate balance for rebuttal testimony and is generally consistent with the time that has been provided in past GRCs. TURN and PG&E propose four weeks for evidentiary hearings.²⁰ This is an area which could be reduced to three weeks, but no more than four weeks of evidentiary hearings should be scheduled.

Sempra states that more time is needed for a comment period on Proposed Decision and Alternate Decision(s) than is provided in the RSP.²¹ ORA recommends that the Commission retain the comment period of 20 days for opening comments and 5 days for reply comments, consistent with Rule 14.3 of the Commission's Rules of Practice and Procedure.

¹⁸ TURN Comments, p. 13, Sempra Comments, p. 5.

¹⁹ PG&E Comments, p. 10; SCE Comments, pp. 5-6.

²⁰ TURN Comments, p. 13, PG&E Comments, Attachment 1, p. 10.

²¹ Sempra Comments, p. 5.

Respectfully submitted,

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