

**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 SAN DIEGO GAS & ELECTRIC COMPANY AND
SOUTHERN CALIFORNIA GAS COMPANY
ON REFINED STRAW PROPOSAL**

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I. INTRODUCTION

The Commission’s Policy and Planning Division (“PPD”) issued its original straw proposal on March 21, 2014. Three days of workshops were held on March 19-21, 2014. Alternate “redline” straw proposals were filed by numerous parties on April 7, 2014. Administrative Law Judge (“ALJ”) Wong issued the refined straw proposal (“RSP”) on April 17, 2014 and held a prehearing conference on April 29, 2014. A Scoping Memo and Ruling was issued on May 15, 2014. Opening comments were filed by many interested parties on May 23, 2014.¹ As requested by ALJ Wong at the prehearing conference and in the Scoping Memo, SDG&E/SoCalGas’ opening comments explained SDG&E/SoCalGas’ position on the RSP, and requested consideration of its alternate proposal. Consistent with the procedural schedule set by ALJ Wong at the prehearing conference and in the Scoping Memo, these reply comments are timely filed.

II. OVERVIEW

Opening comments reveal an overwhelming focus on tools, procedure, process, and details, rather than goals and desired outcomes. The fact that an entire new regulatory proceeding is under discussion focused solely on tools (computer models, inputs, and algorithms)

¹ Opening Comments were received from UWUA, SCE, PG&E, ORA, TURN, Liberty, Southwest Gas, MGRA, UCAN (Donald Kelly), EPUC, and CBE.

says a great deal. Given the Commission’s goal in this proceeding to improve utility safety and reliability, SDG&E and SoCalGas question the need to spend months in a formal proceeding discussing computer models. The Commission already has well-established rules regarding the use of computer models in regulatory proceedings and no party has questioned their efficacy.² Results of Operations models are already used in GRC proceedings (consistent with the Rules cited above) and they have never been the subject of a formal stand-alone proceeding. Some other parties comment along these same lines. For example SCE comments that the proposed modeling proceeding³ could be replaced by workshops.⁴ SDG&E and SoCalGas agree. Many important questions remain on how a risk-informed GRC should be prepared, reviewed, and addressed, so additional workshops are logical next steps. The workshops could incorporate other industry sectors, such as aviation or military, and aide the development of the California risk informed GRC through the evolution of leading practices in safety and risk management. SDG&E and SoCalGas reiterate the importance of resolving those issues thoroughly instead of rushing to implement a RSP that is not practical and likely to create more confusion and delay. Risk management itself is a tool, and it relies on other tools, such as models (both database and spreadsheet based.) But the goal is safety and reliability (in the context of ratemaking), not modeling, and not even risk management itself. The Commission should not lose sight of the forest for the trees.

III. REPLY TO OPENING COMMENTS

A. Reply to UWUA

UWUA proposes to replace the NOI with a new phase of the GRC;⁵ however in reality the UWUA proposes simply to co-opt the first few months of the normal GRC process with a limited sub-GRC proceeding addressing only the issues that UWUA most cares about (such as “timeliness, responsiveness, and behind the meter work”). However, UWUA already raises these types of issues in GRCs without any apparent problem or need for its own sub-proceeding. This proposal is neither streamlining nor focused. For example, UWUA suggests that the Commission should in this proceeding address the customer risk of not being on the correct rate

² See, Rule 10.3 through 10.4 of the Commission’s Rules of Practice and Procedure.

³ Called “S-MAP” in the RSP.

⁴ SCE Opening Comments, p. 4 (May 23, 2014).

⁵ UWUA Opening Comments, p. 8 (May 12, 2014).

schedule.⁶ Although having customers on the right rates (such as CARE) is important, it is not at all the subject matter of this Rulemaking. SDG&E and SoCalGas agree with UWUA’s concern that the RSP is not an appropriate approach;⁷ however, our reasons for that concern are very different. SDG&E and SoCalGas also strongly oppose UWUA’s suggestion (which is not risk related) that GRC proceedings no longer forecast revenue requirements, but instead utilize prior year actual expense.⁸ Such methodology not only inappropriate, but would provide inefficient incentives and could result in significant rate increases caused by overspending in the year prior to a GRC.

B. Reply to PG&E

SDG&E and SoCalGas disagree with PG&E’s support for the RSP.⁹ Even with modifications, SDG&E and SoCalGas believe that the RSP would result in untimely GRC processing, an excessive focus on details and methodology, and needless consumption of resources (both by the Commission and the utilities). A simple review of comparative proposed timelines demonstrates that the process is unsustainable.

We do agree with PG&E’s comment that the S-MAP design allows process to overwhelm substance.¹⁰ And, while a one-time S-MAP would be better than a recurring proceeding, SDG&E/SoCalGas still see no need for a formal modeling proceeding. To the extent there is a need to establish the CPUC’s expectations for risk programs and models or to develop common risk terminology as PG&E suggests,¹¹ the Commission and stakeholders can accomplish this through workshops, as well as the present Rulemaking.

PG&E comments that the design of the RAMP would benefit by clarifying expectations that the Safety and Enforcement Division (“SED”) would be the principal entity engaged in discovery during this phase.¹² While a request in the right direction, this does not go far enough to clarify roles and duties. SED’s job in the RAMP should be as clear as possible, for the benefit of all parties including SED.

⁶ Id. at 9.

⁷ Id. at 2.

⁸ Id. at 10.

⁹ PG&E Opening Comments, p. 2 (May 23, 2014).

¹⁰ Id.

¹¹ Id.

¹² Id.

SDG&E/SoCalGas agree with PG&E's comment that the new reporting requirements are unworkable in their current formulation.¹³ A workshop might be a better approach to working out what reports are appropriate, as compared to numerous parties individually commenting on such a detailed problem.

PG&E comments that the GRC cycle should remain on a three-year interval, and claims that lengthening the interval could put the Commission in violation of state law regarding the need to audit the utilities once every three years.¹⁴ SDG&E and SoCalGas believe that the three year interval may need to be lengthened to four years, but only if the adopted risk proposal were to add nine months onto the current GRC schedule (as proposed in the RSP). If the four year interval were necessary, it would also be necessary to revise the Commission's current practice of doing audits as a part of the GRC (in order to maintain compliance with State law). In fact, this is yet another reason why the Commission should avoid lengthening the GRC by using those elements of the RSP which add nine months to the schedule. It makes little sense to add costs and use additional resources by doing audits "out of sync" with the utility's GRCs. The Commission should adopt a risk proposal which retains (as much as possible) the current GRC schedule, thus allowing retention of the three year cycle and compliance with State law requiring audits every three years within the GRCs. The SDG&E/SoCalGas version of the straw proposal only adds one month to the current GRC process, and would allow audits to continue to be performed efficiently and in compliance with law within the GRC cycle.

PG&E suggests that ORA should in no event have more than four and a half months to review a GRC filing.¹⁵ SDG&E and SoCalGas believe that four months should be adequate. The current rate case plan allowed 77 days, so four months is almost double that timeline.

PG&E's comments also clearly illustrate the need for the Commission to closely coordinate (and consider resource constraints associated with) this proceeding with ongoing and upcoming GRCs. For example, SDG&E, SoCalGas, and PG&E will all be tendering NOIs for their upcoming GRCs, and PG&E comments that it anticipates processing both its NOI and its risk showing simultaneously. These could of course also overlap with the first S-MAP proceeding, which would involve all the utilities as well as SED and intervenors:

¹³ Id.

¹⁴ Id. at 5.

¹⁵ Id.

Accordingly, PG&E remains on course to increase its risk showing in the 2017 GRC and to submit its NOI in early July 2015. To the extent that the Commission would like to engage technical review of PG&E's operational plans – as it did in the 2014 GRC with SED's review of the electric, gas and energy supply testimony – PG&E urges the Commission to commence that review even in advance of the NOI and proposes that SED begin its review of the draft operational plan that forms the basis for the GRC filing as early as May 1.¹⁶

Regardless of which “straw proposal” version is eventually adopted in this Rulemaking, the Commission should clarify exactly when new process requirements will apply and should also give consideration to the need to phasing in new methodologies and requirements.

C. Reply to ORA

ORA comments that GRCs should move to a four year cycle.¹⁷ For reasons noted above in response to PG&E's comments, SDG&E and SoCalGas reiterate that the choice between a three year and four year GRC cycle must first consider how much additional time and resources will be consumed by the final, adopted version of the various “straw proposals.”

ORA also comments that “[a] 4-year GRC cycle may allow for better utility financial and operational management of spending and investment.”¹⁸ In response, SDG&E and SoCalGas believe that better “utility financial and operational management of spending and investment” during longer GRC cycles not only require timely decisions, but also will certainly require more certain and more accurate attrition mechanisms. If a four year cycle is adopted, the decision setting that cycle timing must clarify that (1) attrition is a right (because there have been rare rate cases in which no attrition adjustment has been granted for one year) and (2) that attrition adjustments should be designed to be accurate compensatory mechanisms for necessary cost adjustments between GRCs.

ORA's comments improperly attempt to relitigate a well settled debate over the preponderance of evidence standard.¹⁹ This request is a collateral attack on Decision (D.) 12-11-051, and must be rejected. That Decision was issued on December 10, 2012; it clearly states (on page 9) that the standard of proof is the preponderance of evidence; and ORA did not file a timely application for rehearing on this issue (or any other for that matter). An application for

¹⁶ Id. at 9.

¹⁷ ORA Opening Comments, p. 5 (May 23, 2014).

¹⁸ Id.

¹⁹ Id. at 3 and Appendix A.

rehearing is the only correct avenue for ORA if it wishes the Commission to revisit this now-closed debate. California Public Utilities Code Section 1709 provides:

[i]n all collateral actions or proceedings, the orders and decisions of the commission which have become final shall be conclusive.

D.12-11-051 is a final decision which was not challenged by ORA.

ORA's comments are also a collateral attack on D.09-03-025 (issued March 17, 2009) which reached the exact same conclusion on the standard of proof in SCE's Test Year 2009 GRC, as the Commission did in D.12-11-051 in SCE's Test Year 2012 GRC. Having lost this debate in two consecutive GRCs, in two final decisions without filing applications for rehearing on this argument, ORA cannot relitigate it here.

In addition, this Rulemaking docket is neither the time nor place to revisit legal debates over standards of proof, which will in NO way streamline GRC proceedings. ORA's argument is backwards, and contrary to the goal of streamlining GRCs that is being pursued in this Rulemaking. If the evidentiary standard is stricter, if the burden of proof is higher, then utilities will have to put forward more detailed and more complex GRC testimony – not the other way around. In D.12-11-051, the Commission has clearly stated which standard of proof applies to GRCs. ORA's collateral attack on D.12-11-051 is improper and must be denied.

With regard to the S-MAP, ORA comments that “[w]hile developing common risk assessment elements and models is a laudable objective, ORA believes that this step is premature for the first S-MAP proceeding.”²⁰ SDG&E and SoCalGas agree that developing common models and common risk assessment elements is premature for the first S-MAP. In fact, common models may not be appropriate or necessary, for reasons we have previously stated.

D. Reply to CBE

CBE wishes to simultaneously expand the definition of risk and then pass the resultant costs of risk mitigation onto utility shareholders through strained and bizarre interpretation of what it claims to be a “mandate”:

...first, safety is the Commission's highest priority; second, given this high priority, utilities must do “all reasonable and appropriate actions necessary” to ensure safety and at the same time, ensure just and reasonable rates. This

²⁰ Id. at 5.

implicitly requires utilities to, if necessary, absorb some cost of risk mitigation measures in order to avoid any increase in rates.²¹

SDG&E and SoCalGas utterly disagree. Risk mitigation is a necessary and prudent cost of doing business; and there is no requirement (statutory or otherwise) to “avoid any increase in rates”²² when mitigating risks. Although CBE argues that costs should be “de-emphasized” when considering safety,²³ there is no “mandate” setting a rate or revenue cap for safety activities. Rather, there is always a balancing that must be undertaken in any Commission ratesetting process, taking into account the simultaneous need for safe, reliable, and affordable utility service.

E. Reply to EPUC

EPUC would drastically alter the purpose and scope of the S-MAP proceeding, seeking to have it “develop a comprehensive risk management strategy”²⁴ and focus more on reliability than safety, and on asset management rather than risks.²⁵ The S-MAP proceeding was intended in the RSP to focus on modeling issues, not strategy discussions. This EPUC suggestion is inappropriate and should be rejected.

EPUC also objects to the focus in the initial RAMP phase on risks associated with the utility’s top ten assets.²⁶ While it may be appropriate to eventually broaden the scope of inquiry of the RAMP phase, there must be time to evolve the relevant methodologies. Starting with a smaller scope makes sense and should be retained.

EPUC also comments that a risk lexicon should be developed, and suggests both new terms, and modifications of the proposed risk lexicon, including the term “incident.”²⁷ SDG&E and SoCalGas note that there are already other CPUC uses of the term “incident” (see, e.g., the CPUC’s Incident Reporting Guidelines first set forth in D.06-04-055, Appendix B; and General Order 167, regarding incidents at generation facilities). The definition of “incident” proposed by EPUC does not reflect and is not consistent with these pre-existing uses. The Commission

²¹ CBE Opening Comments, p. 13 (May 23, 2014).

²² Id.

²³ Id.

²⁴ EPUC Opening Comments, p. 14 (May 23, 2014).

²⁵ Id. at 3 and 14.

²⁶ Id. at 18.

²⁷ Id. at 3-4 and Appendix C.

should carefully develop its risk lexicon to avoid inconsistent uses of the same term in various scenarios. EPUC’s proposed new terms for the risk lexicon are debatable both in scope and quality of definition; in short they are not “ready for prime time” but need further discussion. SDG&E and SoCalGas look forward to working with the Commission in the considered development of a reasonable and useful lexicon, but simply adding new definitions to a list is not the way to do it. EPUC’s notion that the RSP “adopts” a risk lexicon²⁸ should be put aside; the CPUC’s risk lexicon must be developed thoughtfully or it will do more to confuse than to aid in communication.

F. Reply to UCAN

UCAN argues that the Commission should standardize models, processes, and reports and points to Public Utilities Code Section 364 as support for its position.²⁹ However, UCAN overlooks the fact that Section 364 allowed the Commission to adopt *either* prescriptive or performance based standards, which could vary by utility. Furthermore Section 364 resulted in the Commission’s development and adoption of General Order 165, pursuant to which each utility filed a compliance plan with the Commission regarding its inspection plans. However, each utility’s inspection plan is unique, not standardized. Compliance is measured against each utility’s plan, not against a standardized uniform design. Analogous reasoning should apply here. Each utility’s risk assessment will be unique, as their assets and design parameters differ. For example, SDG&E and SoCalGas do not have hydroelectric generation facilities or underground substations as PG&E does. There is no good reason to stamp a “must be identical” requirement on risk models, risk assessment, and risk reporting, given that the risks faced and assets in question are not identical or “standardized.” Furthermore, adoption of a standardized model would impede the adoption of improved or next generation models. The Commission should at least see what options develop in utility risk modeling before deciding that a single standardized version is warranted.

²⁸ Id. at 9.

²⁹ UCAN Opening Comments, p. 5 (May 23, 2014).

G. Reply to CUE

CUE argues that the RSP's focus on one SED report submitted in the RAMP phase will result in the Commission giving that report too much weight and thus, will preclude parties from effectively advocating differing positions during the GRC phase.³⁰ CUE suggests that the next proposal should explicitly include an opportunity for any party to issue safety and reliability reports.³¹

SDG&E and SoCalGas wholly disagree. The Commission knows how to appropriately weight reports from its own Staff (and does this routinely); it is absurd to claim that other parties will be "precluded" from advocating different positions in the GRC. Furthermore SED is the appropriate staff division to issue this report; CUE's suggestion that "any party" can issue such reports would likely lead to further delay and additional litigation; plus it would resolve very little if anything.

Worse yet, CUE proposes to slow down the GRC process even further. CUE notes that its proposed timeline "pushes the utility's RAMP application to after the end of the test year."³² SDG&E and SoCalGas oppose this (or any other) extension or further delay in the RSP's schedule, which is already far too slow compared to the current rate case plan.

CUE also claims that "the Commission is looking at these issues too narrowly by focusing on equipment failure. This approach completely loses sight of the workforce as the asset which supports and operates the systems needed for safe and reliable service. The next proposal should explicitly include analysis of the workforce..."³³ Risk analysis will in fact consider workforce, despite CUE's concern that it will not. Simply because risks are identified and organized by assets does not mean that workforce is ignored. Indeed, the principal focus of this OIR is public and worker safety. All other attendant types of risk, while worthy, line up behind safety.

CUE notes that the ALJ asked whether the reporting requirements in the RSP overlap or duplicates other reporting requirements, such as Public Utilities Code 958.5, gas safety reports, GO 118-E reports or others.³⁴ However, CUE then erroneously claims that the RSP fails to

³⁰ CUE Opening Comments, p. 2 (May 23, 2014).

³¹ Id.

³² Id. at 5.

³³ Id. at 2.

³⁴ Id. at 8.

incorporate any specific reporting requirements (which wholly overlooks the two verification reports). CUE then argues that the utilities should be required to include and incorporate all reports mandated by the Commission, whether or not the reporting requirements overlap or duplicate.³⁵ This request should be rejected. The point of the question was to avoid duplication, not to multiply it.

IV. CONCLUSION

The SDG&E/SoCalGas proposal in Appendix A of our Opening Comments will provide the Commission with the correct tools for evaluating the safety and reliability issues that are in the general rate case. The Commission should replace the proposed recurring S-MAP proceeding with one or more workshops. It should not require identical, standardized models or risk processes. It should eliminate the NOI process from the rate case plan, and use the time window previously occupied by the NOI to incorporate a RAMP process at the beginning of the GRC cycle. The GRC cycle should not be lengthened if at all possible, but if it is extended, the longer cycle should be one month longer, not nine months. Otherwise the ratemaking process will impede safety rather than improve it.

Respectfully submitted,

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³⁵ Id.