

**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  
ON THE REFINED STRAW PROPOSAL**



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## I. INTRODUCTION AND SUMMARY

Pursuant to the May 15, 2014 Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge (“Scoping Ruling”), The Utility Reform Network (“TURN”) submits these Reply Comments on the Refined Staff Straw Proposal (“RSP”).

TURN was pleased to see that an unusually broad diversity of parties filed opening comments, representing the perspectives of large and small utilities, representatives of large and small customers, workers, environmental justice advocates, and grass roots safety activists. Continuing to encourage such diversity of participation concerning risk and safety issues in utility general rate cases (“GRCs”) should be a key goal of the Commission.

In evaluating the opening comments, the Commission should be mindful of the three procedural principles that the RSP champions and that TURN fully supports: Transparency, Participatory Inclusivity, and Accountability.<sup>1</sup> Although the large utilities<sup>2</sup> did not voice any concerns with these principles and indeed SCE affirmatively supported them,<sup>3</sup> the utilities’ general positions on the three major reforms proposed by the RSP – Safety Model Assessment Proceedings (“S-MAP”), a new Risk Assessment and Modification Phase (“RAMP”) in GRCs, and two new Accountability Reports – would undermine each of these important goals. Specifically,

- The utilities opposed a meaningful role for anyone other than Commission Staff in the RAMP, contrary to Transparency and Participatory Inclusivity;

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<sup>1</sup> RSP, p. 1.

<sup>2</sup> For ease of reference, in the remainder of these reply comments, TURN will use “utilities” to refer to the three large utilities, Pacific Gas and Electric Co. (“PG&E”), Southern California Edison Company (“SCE”) and Southern California Gas Co. and San Diego Gas and Electric Co. (collectively “the Sempra Utilities” or “Sempra”).

<sup>3</sup> SCE, p. 2.

- The utilities opposed the S-MAP generally and specifically the goal of uniformity of utility risk assessment and mitigation models, contrary to the goal of Participatory Inclusivity and streamlining the GRC process; and
- The utilities opposed the Risk Mitigation Accountability Report, contrary to the goal of Accountability.

In contrast, like TURN, most of the non-utility parties espoused positions that were fully consistent with the RSP's three guiding procedural principles and the additional goal of integrating safety and risk analysis into GRCs in as streamlined a manner as possible. In particular, most non-utility parties emphasized the importance of uniform risk models to facilitating intervenor involvement and efficient Commission decision-making. The intervenors also stressed the need to avoid a Staff-centric RAMP and to allow all interested parties to meaningfully comment on the utility RAMP submission. TURN elaborates on these points in Sections II, III and IV below.

In addition, in Section V, TURN explains its opposition to PG&E's proposal to retain the artificial exclusion of transmission operations from its revenue requirements GRC. In addition, TURN presents its proposal for addressing PG&E's next GRC, which will come before the reforms in this docket can be fully implemented. Finally, in Section VI, TURN responds to certain utility scheduling and timing proposals regarding the Rate Case Plan ("RCP").

## **II. PERIODIC S-MAP PROCEEDINGS THAT STRIVE FOR UNIFORM RISK MODELING BY UTILITIES WOULD STREAMLINE RISK AND SAFETY ANALYSIS IN RATE CASES**

The large utilities do not see value in S-MAP proceedings and propose that they be limited to a one-time event,<sup>4</sup> or eliminated entirely.<sup>5</sup> In contrast, TURN and most of the other

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<sup>4</sup> PG&E, p. 2.

<sup>5</sup> Sempra, p. 3; SCE, p. 3.

non-utility parties<sup>6</sup> who spoke to the S-MAP found it to be an important opportunity to enhance understanding of utility safety modeling and to facilitate intervenor participation in GRCs. The main difference in perspective revolves around the RSP’s stated goal of “making the utility models as uniform as possible,”<sup>7</sup> a goal the intervenors readily embrace and the utilities disparage. The Commission should reject the utilities’ self-serving opposition to periodic review of their risk models.

**A. The Commission Should Affirm the RSP’s View that S-MAPs Afford the Commission the Opportunity to Push (the Obviously Reluctant) Utilities to Move Toward Uniformity of Risk Models**

The RSP makes a succinct and persuasive case for S-MAPs as the vehicle by which the Commission can promote increasingly uniform standards for utility risk models over time:

In successive S-MAPs, the Commission could establish more detailed standards or guidelines for utility models, with a goal of making the utility models as uniform as possible. Uniformity of models would have the obvious benefit of reducing burdens on Commission staff and parties to learn multiple models and would also increase the comparability of risk priority and mitigation analyses among the utilities.<sup>8</sup>

However, the utilities strongly opposed the objective of uniformity, citing vague concerns about “operational” differences among the utilities that require customization of models.<sup>9</sup> The utilities’ objections are unconvincing and certainly not a reason for the Commission to give up on making the models as uniform as possible.

As EPUC persuasively explained, the adoption of more uniform decision-making methodologies and models will reduce barriers to intervenor participation, by “alleviat[ing] the current burden on intervenors having to learn different models and methodologies for each of the

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<sup>6</sup> TURN, p. 22; EPUC, pp. 6-7; UCAN, pp. 3-5; ORA, p. 5; Mussey Grade, p. 2.

<sup>7</sup> RSP, p. 4.

<sup>8</sup> RSP, p. 4.

<sup>9</sup> PG&E, p. 3; SCE p. 5.

utilities.”<sup>10</sup> Moreover, promoting uniformity of models can be a key means of streamlining use of Commission resources, and simplifying RAMP reviews and GRC decision-making.<sup>11</sup>

Utility objections based on operational differences are vague and should not be credited at this point. Of course, no two utilities are the same, and gas operations are certainly different from electric operations. But merely noting such differences does not explain why it is not possible to use a single model – or at least similar modeling methodologies -- to assess risk for different types of utility operations. For now, the Commission should acknowledge the important benefits of uniform models and place a heavy burden on the utilities in the S-MAP proceedings to show with specificity the ways in which the goal of uniformity is not attainable.

**B. Periodic Formal Proceedings Are Needed to Allow the Commission to Issue Directives to the Utilities About Their Risk Assessment Models**

PG&E suggests that the objectives of the S-MAP could be accomplished through workshops and *en banc* meetings, rather than periodic S-MAP proceedings.<sup>12</sup> TURN disagrees with the suggestion that such tools would be useful if they are not employed in the context of a formal proceeding. As explained in the RSP, the goals of the S-MAP are two-fold: to allow the utilities to share information about their models and to allow the Commission to establish standards and requirements for the models.<sup>13</sup> Workshops or *en bancs* that are not part of a formal proceeding do not provide a basis for Commission orders with binding effect on the utilities. To issue such binding decisions, a formal S-MAP proceeding would be the most efficient way to develop the necessary record for Commission decisions. On the other hand, workshops and *en banc* sessions conducted as part of S-MAPs – not instead of – may be an

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<sup>10</sup> EPUC, p. 7.

<sup>11</sup> EPUC, p. 2; UCAN, p. 5; Mussey Grade, p. 2.

<sup>12</sup> PG&E, p. 4; SCE, p.

<sup>13</sup> RSP, p. 1.

entirely appropriate means of record development to support Commission orders regarding risk models.

Contrary to utility suggestions, S-MAPs do not necessarily have to be on a strict three-year cycle. Indeed, in the early stages of utility risk model development, it may be worthwhile to have more frequent proceedings that take on a relatively limited scope targeting key issues. Furthermore, TURN agrees with the RSP's recognition that not all risk model issues can be effectively addressed in a single proceeding and that the scope and sophistication of issues to be addressed will evolve over time.<sup>14</sup> That said, the Commission always has the ability to decide not to open a new S-MAP if it finds that the proceedings are not serving a useful purpose.

### **III. MOST NON-UTILITY PARTIES RECOGNIZE THAT THE RAMP PHASE NEEDS TO BE MORE INCLUSIVE AND TRANSPARENT THAN OUTLINED IN THE REFINED STRAW PROPOSAL**

With respect to the RAMP, the opening comments reflect another dichotomy between the positions of the utilities and intervenors. Like most of the intervenors, TURN urges that the RSP be modified to encourage meaningful participation by a diverse group of parties, rather than the Staff-centric and opaque process that the utilities favor.

#### **A. The RAMP Review Should Encourage Meaningful Participation By a Diversity of Parties**

The utilities favor a Staff (SED)-centered review of the utilities' RAMP submissions, with intervenors given only a peripheral role, if that, of commenting on the Staff report. [cites]

In contrast, TURN and most of the other non-utility parties expressed the view that the worthy RSP principle of Participatory Inclusivity<sup>15</sup> supports a process that allows all interested parties to submit responses to the utility RAMP submissions and that further allows all

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<sup>14</sup> RSP, pp. 3-4.

<sup>15</sup> RSP, p. 1.

stakeholders to comment on each other's responses.<sup>16</sup> As CUE recommended, all interested parties should have the opportunity to present a report or testimony on the utility's RAMP submission, and parties should be able to choose to introduce their report/testimony in the GRC phase.<sup>17</sup> This process will encourage participation from diverse parties, jump-start and streamline the GRC phase, and avoid automatically (and inappropriately) elevating the Staff's report to a higher status than all other responses.<sup>18</sup>

TURN hopes that the Commission will recognize that intervenors will see limited incentive to participate in the review of utility safety assessments if they are relegated to an insignificant role in the process. This outcome would seem to suit the utilities just fine, but should be antithetical to the Commission's goals as a public agency of obtaining the most diverse possible record on which to base its decisions. Moreover, meaningfully involving all interested parties should speed review of the GRC application and supporting material, since many of the safety issues will have already been previewed in the RAMP submissions.

**B. The Commission Should Resist the Utilities' Desire for the Real Review of Their RAMP Submissions to Take Place Out of the View of the Public**

From the utilities' perspective, an obvious benefit of their Staff-centric view of the RAMP is to keep the real review and analysis of the utilities' RAMP submissions a mostly private, behind-closed-door process involving just SED and the utilities. Echoing themes struck by the other utilities, Sempra (p. 7) calls for SED to be the "gatekeeper" of the utilities' RAMP proposals, urging that the RAMP submissions should be submitted to SED alone, with other parties' primary opportunity to participate limited to commenting on the SED report at the end of

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<sup>16</sup> TURN, pp. 6-8; CUE, pp. 2-4; UCAN, pp. 3, 6; ORA, p. 2.

<sup>17</sup> CUE, pp. 3-4.

<sup>18</sup> CUE, p. 4.



SED's review. In its mark-up of the RSP, Sempra advocates allowing "the utility to participate in the SED evaluation,"<sup>19</sup> a telling acknowledgement of the utilities' desire to keep a close eye on SED's analysis and find behind-the-scenes ways to influence the analysis that interested parties will never know about.

In contrast, the process advocated by TURN and most other intervenors would be far more consistent with the RSP's Transparency goal.<sup>20</sup> Interested parties would have an early opportunity in a workshop to comment on SED's plan for RAMP review; discovery (including discovery by Staff) would be shared among all parties; and Staff's report would be one among potentially several analyses from a variety of perspectives. The Commission needs to understand that, in the wake of the San Bruno explosion, there is a strong public perception that the Commission Staff is too cozy with the utilities and reaches conclusions after hearing only from the utility without the benefit of input from other interested parties. Adopting the utilities' proposal for a Staff-centric process would only reinforce such concerns.

### **C. RAMP Schedule Issues**

SCE (p. 7) claims that allowing 225 days from RAMP submission to final reports is excessive but fails to explain why. RAMP will be the key vehicle for examining safety issues in a comprehensive manner, and it is appropriate to allow sufficient time for Staff and intervenors to understand and analyze the utility proposal. In addition, the time period proposed in the RSP will accommodate the inclusive and transparent process that TURN and most other intervenors recommend. However, TURN agrees with SCE (pp. 6-7) that the GRC schedule should not be held up as a matter of course if Staff or intervenors do not finish their reports on time.

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<sup>19</sup> Sempra, p. A-3.

<sup>20</sup> RSP, p. 1.

SCE proposes (pp. 13-14) to eliminate the time period for Staff and parties to present their tentative conclusions at a workshop and then submit follow-up comments before preparing final reports. The Commission should reject SCE's recommendation. This dialogue phase of the RAMP could be the most important part of the process by promoting an exchange of ideas among diverse participants in a transparent manner.

#### **IV. ACCOUNTABILITY REPORTS**

##### **A. The Concept of the Risk Mitigation Accountability Report is Sound**

The RSP explains that the purpose of the Risk Mitigation Accountability Report ("Mitigation Report") would be to have the utility compare its projections of benefits and costs of risk mitigation projects with its actual results, and to explain any discrepancies.<sup>21</sup> Not surprisingly, the utilities dislike the idea of being held accountable for the risk reduction benefits on which they base their rate increase requests. In particular, Sempra and SCE claim it is impractical to expect them to be able to measure risk reduction benefits and advocate that this report be dropped from the RSP.<sup>22</sup>

The Commission should not let the utilities off so easily. Ratepayers are entitled to know whether they are getting good value for the work they are funding. While quantifying risk reduction benefits may now seem difficult, it is a worthy goal. The Commission needs to keep pressure on the utilities to move in this direction. Particularly in the early years when quantification of risk mitigation results may not always be possible, even qualitative discussions would be useful. Such qualitative discussions, however, can and should explain whether any

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<sup>21</sup> RSP, p. 9.

<sup>22</sup> SCE, pp. 15-17; Sempra, p. 5.

promised cost savings have been obtained – and to what extent -- as a result of the work funded by ratepayers.

The illustrative explanation shown in Section 1 of PG&E’s draft report would be wholly insufficient, even as a qualitative discussion. For item R3, the supposed “explanation” of the risk reduction for Overhead Conductors is the absurdly circular statement that such risks “have been reduced” by implementing GRC proposed measures.<sup>23</sup> The Commission must require more, such as an explanation of what PG&E did to determine whether risk was reduced and what it learned from such efforts. In other words, the Report should explain how the utility is holding itself accountable for gaining the risk reduction benefits it promised in the GRC and whether the utility achieved its accountability benchmarks.

In response to SCE’s concern (pp. 16-17) that risk mitigation benefits will sometimes materialize over a period of years with variations from year to year, TURN would not oppose allowing the reports to provide such explanations and, when warranted, to use a time horizon longer than the previous year to assess risk mitigation benefits.

#### **B. The Risk Spending Accountability Report is Sound**

The utilities do not express fundamental objections to the Risk Spending Accountability Report (“Spending Report”).

However, SCE (pp. 18-19) raises a legitimate concern with respect to how authorized capital expenditures are determined for purposes of this Report. Specifically, SCE points out that, in recent decisions, the Commission has not approved capital forecasts for the second and third years of the rate case cycle (attrition years), but rather has adopted a broad escalation factor to set the post-test year revenue requirement. Thus it could be unclear what values to compare

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<sup>23</sup> PG&E, Att. 2, p. 2, row 3.

actual capital spending against for those attrition years. In such cases, TURN would suggest that utilities would continue to report actual capital expenditures for years two and three. Depending on the post-test year ratemaking provisions adopted in the utility's most recent GRC, the Commission could choose to require the utility to: (1) compare the recorded spending to a proxy for an authorized capital expenditure amount (that is, the test year figure escalated by some amount); (2) compare the recorded spending to the level authorized for the test year; or (3) make no comparison at all. At a minimum, however, the Commission would have the benefit of the comparison of authorized to actual expenditures for the initial (test) year of the cycle, and the amount of actual expenditures for each of the attrition years.

**C. Timing of Accountability Reports**

TURN agrees with PG&E (p. 7) that both reports should not be required to be submitted until the end of the first quarter of the year following the reporting period, not at the end of the reporting period as proposed in the RSP.

**V. ISSUES RELATED TO PG&E'S NEXT GRC AND GT&S CASES**

**A. The Revenue Requirements Determination for PG&E's Transmission and Storage Operations Should Be Re-Integrated Into PG&E's Phase 1 GRC**

Contrary to the recommendations of TURN<sup>24</sup> and CUE,<sup>25</sup> PG&E advocates retaining the current artificial division between PG&E's gas transmission and storage revenue requirements, on the one hand, and its gas distribution and electric revenue requirements, on the other hand.

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<sup>24</sup> TURN, pp. 15-17.

<sup>25</sup> CUE, p. 7.

PG&E relies on the facile argument that there is little overlap between the parties and issues in its GRC and GT&S cases.<sup>26</sup>

PG&E ignores the difference between revenue requirements issues (Phase 1 GRC issues) and the distinct (Phase 2 or TCAP) issues of rate design and cost/revenue allocation. Unlike the procedure for the Sempra gas utilities and PG&E's electric operations, the current GT&S combines both sets of Phase 1 and TCAP issues. It should not be surprising that there is little overlap of parties between the GRC and GT&S, because most of the active GT&S parties are largely if not entirely focused on the rate design and cost allocation issues and are far less likely to actively participate in PG&E's Phase 1 GRC. Under TURN's proposal, the predominance of GT&S parties who are solely interested in rate design and allocation issues would not have to participate in a proceeding that, with PG&E's latest proposal, has become far more focused on revenue requirement issues than has been the case in the past.

The key point, succinctly stated by CUE, is that gas and electric safety and reliability – and associated revenue requirements – should be addressed in the same proceeding.<sup>27</sup> As TURN explained in its opening comments, a single Phase 1 GRC for PG&E, as is now done for the Sempra Utilities (including SDG&E – a combined gas and electric utility), would foster a comprehensive prioritization of risks among all PG&E operations. Moreover, PG&E would be forced to address the overall impact of its proposals on the affordability of its services, rather than presenting piecemeal proposals that prevent a comprehensive analysis of affordability impacts. Furthermore, by having the GT&S-related revenue requirements subject to the minimum showing requirements of the RCP, parties and the Commission would have the benefit of an initial utility showing that includes five years of recent recorded data and other material

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<sup>26</sup> PG&E, p. 10.

<sup>27</sup> CUE, p. 7.

that parties take for granted in GRCs, but are not a required element of the separate GT&S application under current practices.

Upon further consideration since the time of preparing its opening comments, TURN has concluded that the best and most feasible re-integration option would be the first option TURN discussed – to include gas transmission and storage revenue requirements in PG&E’s current Phase 1 GRC.<sup>28</sup> This is also CUE’s recommendation. This outcome can be accomplished by limiting the revenue requirements determined in the pending GT&S case (A.13-12-012) to a two-year cycle (2015 and 2016). PG&E’s 2017 test year GRC would then address revenue requirements for the entirety of PG&E’s CPUC-jurisdictional operations, including gas transmission and storage.

**B. Special Attention Should Be Paid to Transitioning the Goals of this Proceeding to PG&E’s 2017 GRC**

PG&E correctly points out that a decision in this docket will likely not be issued in time to allow an S-MAP docket to be concluded before PG&E’s Fall 2015 GRC submission for its 2017 Test Year GRC, or to allow a full RAMP schedule.<sup>29</sup> However, PG&E’s proposal for dealing with this scheduling reality should be unacceptable to the Commission.

In particular, PG&E proposes that SED (and only SED) begin a technical review of PG&E’s “operational plans” by May 2015 and that SED (and only SED) complete such review by September 2015. This proposal presents at least two concerns. First, PG&E is vague regarding what it means by “operational plans.” Consistent with the RAMP concept, the Commission should specifically direct PG&E to present a RAMP-like submission that evaluates company-wide risk and mitigation priorities. This is an undertaking that PG&E claims to be

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<sup>28</sup> TURN, p. 16 (first full paragraph).

<sup>29</sup> PG&E, p. 9.

doing already. Second, review and analysis of this pre-GRC RAMP-like submission should not be confined to SED. Instead, consistent with the principles of Participatory Inclusivity and Transparency and the discussion in Section III above, all parties should be invited to review and comment on PG&E's submission and to be kept informed regarding the analysis Commission Staff (and /or its consultants) is undertaking.

If (contrary to TURN's recommendation) transmission and storage revenue requirements issues are kept separate from the GRC, then the Commission should reject PG&E's proposal to not have a RAMP for the 2018 GT&S case.<sup>30</sup> PG&E's reasoning – that most of the programs in GT&S relate to safety and reliability – only underscores the value of a RAMP submission that would show how its GT&S proposals fit within company-wide risk mitigation priorities and real world constraints, such as affordability to customers. The need for a RAMP prior to both GT&S and GRC submissions only highlights the wisdom and efficiency of considering safety issues in a single comprehensive company-wide revenue requirement phase of the GRC.

## **VI. RESPONSE REGARDING PROPOSED RATE CASE PLAN CHANGES**

TURN opposes PG&E's proposal for fixed calendar deadlines for all GRC events.<sup>31</sup> While a calendar date for serving the utilities' GRC application and testimony is warranted, the Commission needs to maintain some degree of flexibility with regard to subsequent dates. For example, ORA and intervenor testimony due dates will need to reflect factors that cannot be known until the proceeding is underway, such as the quality and quantity of the utility's showing<sup>32</sup>, and whether the Commission chooses to add issues to the scope of the proceeding.

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<sup>30</sup> PG&E, p. 11.

<sup>31</sup> PG&E, p. 6.

<sup>32</sup> This is especially true should the Commission eliminate the NOI stage or significantly scale back the ORA review of the application and supporting testimony to assess the adequacy of the initial showing.

Therefore the time periods for post-application events should be considered target dates that reflect an assumption that the utility serves a timely and complete application (and supporting materials) and gives timely and complete responses to data requests, and that neither the utility nor the Commission seek to add issues that effectively expand the scope of the GRC.

The utilities seek to significantly shorten the time for ORA and intervenor testimony and to significantly lengthen the time for rebuttal testimony. TURN recommends that ORA testimony be due no earlier than five and one-half months after the utility has served a complete application (particularly since this period will likely include the Thanksgiving and Winter holidays) and that intervenor testimony be due three weeks later. As indicated in TURN's opening comments (p. 13), TURN agrees that the RSP's two weeks is too short for utility rebuttal testimony, but four to five weeks should be sufficient for the utilities and other parties to prepare appropriately limited rebuttal testimony, i.e., that does not advance arguments that could and should have been presented in their opening testimony.

## VII. CONCLUSION

TURN recommends that the Refined Straw Proposal be adopted, with the changes proposed in TURN's opening comments and these reply comments.

Date: June 13, 2014

Respectfully submitted,

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