

**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)

**SECOND ROUND OPENING COMMENTS OF  
SAN DIEGO GAS & ELECTRIC COMPANY AND  
SOUTHERN CALIFORNIA GAS COMPANY**

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RULEMAKING 13-11-006

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Pursuant to the Scoping Memo And Ruling Of The Assigned Commissioner And Administrative Law Judge dated May 15, 2014 (hereafter, “Scoping Ruling”), SDG&E and SoCalGas provide their second round opening comments on proposed revisions to the Rate Case Plan (“RCP”). As required by the Scoping Ruling, this second round of comments shall only address proposals to revise the RCP to “promote more efficient and effective management of the overall rate case process.”

SDG&E/SoCalGas comments filed January 15, 2014 raised the following points regarding the RCP:

- SDG&E and SoCalGas believe that the primary difficulty with the Commission’s RCP is that it is not enforced and (accordingly) the primary problem with GRCs is that they are not processed on a timely basis.
- The RCP itself is a map, a schedule, and a set of content requirements. The schedule can be modified, but without enforcement of the deadlines therein, such modification will likely be fruitless.
- There is very little point in having a RCP schedule if it is ignored in most GRC proceedings, as has been the case. For example, the current RCP calls for a period between the filing of the Application and the rendering of a Final Decision to be 384 calendar days. In the most recent SoCalGas/SDG&E GRC this was 876 days. Other recent GRCs have also not met the RCP milestones and deadlines (for example evidentiary hearings typically occur at least 100 days later than called for in the RCP).

This second round of comments builds on our earlier points, and attempt to provide concrete suggestions and specific ways to promote more efficient and effective management of the overall rate case process.

### Proposed Revisions to the Rate Case Plan

The Rate Case Plan needs enforcement more than it needs redesign. However, the Commission can take steps to make the RCP (and the resulting overall GRC process) more efficient. SDG&E and SoCalGas urge the Commission to take the following steps:

- Streamline content requirements in the RCP, eliminate steps where possible, and make routine steps more efficient by standardizing them.
- Enforce deadlines in the rate case plan and adopted schedule, as well as scoping limitations in each GRC.

Along these lines, SDG&E and SoCalGas make the following specific requests:

**1) Eliminate the Notice Of Intent (“NOI”) phase; if not eliminated shorten it substantially**

As noted by many parties in workshops and earlier comments, the NOI is a good candidate for elimination, and we believe it has outlived its usefulness. However, if any form of NOI remains, there should not be a mandatory wait period between the NOI and the Application. Under the current RCP there is a 60 day “dead period” during which the utility must wait to file its GRC application, after ORA has accepted the NOI. This is two full wasted months. The new RCP should not include any such wait time; if there is an NOI phase (which SDG&E/SoCalGas still believe to be unnecessary) the GRC application should be filed as soon as possible after the NOI has been deemed acceptable.

**2) Prehearing conferences should be scheduled a month after the GRC Application**

The RCP currently puts the PHC at 40 days after the application; however in recent GRCs they typically have been scheduled not at Day +40, but somewhere a month to three months later. This is inefficient and should be tightened up in the new RCP.

**3) Shorten the discovery window and manage the process.**

ALJs have repeatedly called for intervening parties to collaborate on discovery requests, to no avail. The volume of discovery has increased markedly in each successive GRC, with much discovery being duplicate or near-duplicate of requests from other parties. Additionally, in recent GRCs the period of time during which discovery has been pursued has ballooned by many months. The discovery time frame needs to be more actively managed, with predetermined cutoff dates to provide incentives for all parties to undertake discovery early rather than late. The Commission should consider appointing a Law and Motion Judge or similar staff resources to undertake a coordination and discovery management function.

**4) Set reasonable but shorter time windows for preparation of testimony**

Similarly, the period of time used for preparation of testimony by ORA and intervenors has grown steadily over time from the 77 days allowed in the original RCP, to at least double that in recent GRCs. In some GRC proceedings intervenor testimony has not been served until over 250 days into the rate case cycle. Given that the RCP allowed 384 days start to finish, having testimony served 2/3<sup>rd</sup>s of the way into the cycle virtually guarantees that a timely decision is impossible.

**5) Adopt as default within the RCP either the setting of January 1 of the Test Year as the revenue requirement effective date, or the use of a memorandum account if the GRC decision is not final by the start of the Test Year.**

The RCP should specify that for each GRC proceeding, the adopted revenue requirement's effective date will be January 1 of the Test Year; or that upon filing of the Application, a memorandum account is authorized to be established to achieve the same effective result. There is no legitimate reason to require motions, responses, and rulings in each GRC to reach this logical outcome, which in prior GRCs has been proposed by both utilities and intervenors. Resources and time of the parties and the ALJ is better spent on resolving other issues.

**Better Enforcement of Existing Rules and Deadlines Is Necessary.**

To have an efficient process for setting base rate revenue requirements, and to aid in processing GRC proceedings, the Commission needs to better enforce its own RCP, schedule, rules of practice, and scoping limitations. SDG&E and SoCalGas believe that there is no question

regarding authority to do so, on the part of the assigned ALJ, the assigned Commissioner, or the full Commission. The only question is how to facilitate the use of that authority. One suggested approach is financial incentives. While rarely used in the past, these should be considered. The regulated entities are subject to sanctions, if necessary. Intervenor who participate in the intervenor compensation program are sometimes “sanctioned” after the fact when their compensation requests are reduced for inefficiency. However, after-the-fact sanctions have less effect than timely ones. Since the Commission’s intervenor compensation program allows intervenors to request “efficiency adders” (such as when an attorney also acts as an expert witness) it would seem to be reasonable to also allow “inefficiency” adjustments to compensation. These could be handled by motion (e.g. suggested by another party) or they could be put in place *sua sponte* by the ALJ, with due process and after warnings.

**RCP Changes Must be Coordinated With Phase I of This Rulemaking.**

While these other aspects of the RCP are important, the Commission should reach a decision on the Phase I Risk Framework issues before implementing Phase II changes. It will be a natural consequence that the significant changes to the protocol of submitting and managing General Rate Cases being contemplated in Phase I could overshadow, or even collide with the ministerial changes to the RCP considered in Phase II. One such example is the final determination as to the continued need for the NOI process. The major issues considered for Phase II should be categorized for the time being, but that final decision on their form and adoption be considered only after the Phase I issues are resolved.

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## Conclusion

The RCP should not only be updated and streamlined, but more importantly it needs to be enforced. This is also true of the scope of GRCs, and of the adopted schedules in each GRC. Among other improvements, the Commission should eliminate the NOI process from the rate case plan, and (as noted in our Round One Opening Comments) 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 no more than one month longer. Otherwise the revised ratemaking process will impede safety rather than improve it.

Respectfully submitted,

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