

**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 THE UTILITY REFORM
NETWORK PROPOSING REVISIONS TO THE RATE CASE PLAN TO PROMOTE A
MORE EFFICIENT AND MANAGEABLE RATE CASE PROCESS**

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I. INTRODUCTION

On May 15, 2014, the Commission issued the *Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge (Scoping Memo)*, which scheduled two rounds of comments and reply comments, the first addressing staff’s Refined Straw Proposal for incorporating a risk-based decision-making framework into the Commission’s Rate Case Plan (RCP) process, and the second proposing revisions to the RCP “to promote more efficient and effective management of the overall rate case process.”¹ Pursuant to the *Scoping Memo*, The Utility Reform Network (TURN) submits these comments providing recommendations for making the rate case process more efficient and manageable.

TURN proposes policy changes that would reduce the complexity of utility general rate case (GRC) filings, and focus and simplify the processing of GRCs. We urge the Commission to take advantage of the experience and insight offered by TURN, the Office of Ratepayer Advocates (ORA), and the other regular GRC intervenors who are active in this proceeding, to make GRCs more efficient and manageable for everyone involved. TURN also recommends changes to the RCP schedule to reflect the new safety and risk-related processes to result from this proceeding, as well as the modern realities of GRCs.

All of these changes warrant the Commission’s immediate attention. There appears to be general consensus among the utilities, other parties, and the Commission that the current GRC process is unwieldy, and adding a new Risk Assessment and Mitigation Phase (RAMP) to the GRC will introduce significant new complexities. TURN strongly cautions the Commission that

¹ *Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge*, pp. 5-6.

merely modifying the RCP timeline, without also providing the utilities with new direction intended to reduce complexity in the content and processing of GRCs, will worsen the situation dramatically. The Commission would do all parties, and its own staff, a disservice if it does not take steps to achieve the secondary purpose of this proceeding of making GRCs less complex, more efficient, and thus more manageable to process.²

II. Reducing the Complexity of Utility GRC Filings

Over the past decade, the increasing complexity of utility GRC showings and the particulars of utility forecasting methodologies have directly contributed to the need for more protracted schedules and increased discovery demands. TURN offered suggestions earlier in this proceeding for reducing the effort and time required to review the utilities' GRC requests based on our experiences as an intervenor in every major energy GRC over the past several decades, as well as the experiences of TURN's longtime expert witness William Marcus of JBS Energy, Inc., who has participated in GRCs in a number of other jurisdictions.³ Other parties, including ORA, Utility Consumers' Action Network (UCAN), San Diego Consumers' Action Network (SDCAN), Energy Producers and Users Coalition (EPUC), and Utility Workers Union of American (UWUA) have likewise presented the Commission with concrete suggestions for improving the manageability of GRCs.⁴ Rather than duplicate TURN's earlier detailed recommendations, TURN here provides a brief summary of our suggestions for reducing the complexity of GRCs by improving the transparency and digestibility of utility GRC showings.⁵

² O.I.R., pp. 1, 10.

³ TURN Opening Comments Responding to the O.I.R., pp. 33-34

⁴ See, e.g., TURN Reply Comments Responding to the O.I.R., pp. 8-10 (summarizing some of the recommendations of these parties).

⁵ The *Scoping Memo* acknowledges the likelihood that a party's proposed changes to the RCP may have already been described in the party's January 2014 comments on the O.I.R., as is the case for TURN, and invites such parties to reference their earlier comments in these second round comments. (*Scoping Memo*, p. 6, fn. 3.)

This summary is more illustrative than exhaustive.

A. Simplifying Forecasting Methods to Reduce the Countless “Micro-Adjustments” in Need of Scrutiny

The Commission should dictate movement away from the forecasting methods currently employed by the utilities in the development of their future test year forecasts, which are one of the major drivers of complexity in modern GRCs. These forecasting methods are overly granular, data-intensive, and incredibly resource-intensive to evaluate, in part because of the extreme asymmetry of information between the utility, intervenors, and the Commission.⁶ Specifically:

- The Commission should adopt guidelines for test year forecasting, including a rebuttable presumption that base year O&M recorded costs, escalated for inflation, are generally a reasonable representation of test year O&M expense, and should apply this presumption at a very high level of utility operations (e.g., line of business, A&G), as opposed to the program or project levels that are the hallmark of recent GRCs.⁷
- Costs of safety, reliability, and regulatory programs should be excluded from this rebuttable presumption, as should other specific types of O&M expenses that are more appropriately subject to special calculations, such as items that tend to fluctuate or that are cyclical (where averaging is normally used), or costs set at a percentage of revenue (which should be averaged as a percent of revenue, not a dollar amount).⁸
- A utility or intervenor could seek to overcome the rebuttable presumption where it applies by presenting certain types of evidence, including but not limited to, evidence of known and measurable changes impacting the base year or test year costs.⁹

⁶ TURN Opening Comments Responding to the O.I.R., p. 28.

⁷ TURN Opening Comments Responding to the O.I.R., p. 28.

⁸ TURN Opening Comments Responding to the O.I.R., pp. 28, 30-31.

⁹ TURN Opening Comments Responding to the O.I.R., pp. 29-30.

B. Improving the Presentation of Utility Data to Increase Transparency and Reduce the Time-Intensity of Intervenor Review of the Utility’s Showing

Changing the ways in which utilities present certain routine information in GRCs could improve the ability of intervenors, such as TURN, as well as the Commission, to efficiently and effectively process GRCs. For example:

- The Commission should direct the utilities to provide spending requests on a programmatic level, rather than only on a piecemeal, account-by-account basis, to facilitate a more efficient and meaningful review.¹⁰
- The Commission should direct the utilities to continue to provide five years of recorded historical data for O&M costs, and should require a narrative explanation for variations between the base year and prior year of greater than the larger of 5% or \$100,000 in real terms.¹¹
- The Commission should direct the utilities to present capital spending with and without overheads for the base year and four prior years, and as forecast for the years between the base year and test year, with explanations for significant variations in overheads.¹²
- The utilities’ showings should include both capital spending and capital additions at the level of blankets and individual larger projects, with CWIP and plant-in-service balances tracked monthly through the end of the test year.¹³
- The utilities should identify and explain any changes in accounting practices, such as changing the classification of activities as expense or capital, that are relevant to the review of the test year forecast, as well as any regulatory assets requested for rate recovery, with or without a rate of return.¹⁴

III. Streamlining the Processing of GRCs without Compromising the Quality of Review

In addition to creating efficiencies by reducing the complexity of utility GRC filings, the

¹⁰ TURN Opening Comments Responding to the O.I.R., p. 34.

¹¹ TURN Opening Comments Responding to the O.I.R., p. 30.

¹² TURN Opening Comments Responding to the O.I.R., p. 32.

¹³ TURN Opening Comments Responding to the O.I.R., p. 32.

¹⁴ TURN Opening Comments Responding to the O.I.R., p. 32.

Commission can adopt other measures to expedite the processing of GRCs by reducing the need for discovery and supporting a more focused review. TURN provided a list of suggestions to this end in our January 15, 2014, comments responding to the Order Instituting Rulemaking. We summarize that list here:

- The Commission should update the Master Data Request to incorporate questions commonly asked by intervenors, thus reducing the need for separate discovery.¹⁵
- The Commission should expand the requirements for automatic updates of certain information and data by the utility during the course of a GRC, such as the following:
 - The last full year of recorded data (for the year after the base year) should be provided as soon as it is available, at a date set at the Prehearing Conference.¹⁶
 - At the same time, forecasts that are based on a five-year average should be updated with last recorded year data to improve the accuracy of the forecast.¹⁷
 - Customer growth (particularly as it affects capital projects) and inflation forecasts should be updated to the latest available data when updated recorded data is provided.¹⁸
 - Also at that time same time, capital spending forecasts should be updated to reflect changes in recorded data for the last recorded year, changes in customer growth, known changes in project schedules, and known additions or deletions to the list of forecasted projects.¹⁹
 - Similar to the current “update testimony”, the Commission should require a second update after the close of evidentiary hearings, which provides the latest inflation estimates and changes in government fees and taxes, including tax rates and tax effects more broadly.²⁰

¹⁵ TURN Opening Comments Responding to the O.I.R., pp. 34, 36.

¹⁶ TURN Opening Comments Responding to the O.I.R., pp. 22-23, 33.

¹⁷ TURN Opening Comments Responding to the O.I.R., p. 33.

¹⁸ TURN Opening Comments Responding to the O.I.R., p. 33.

¹⁹ TURN Opening Comments Responding to the O.I.R., p. 33.

²⁰ TURN Opening Comments Responding to the O.I.R., pp. 33-34.

- The Commission should consider in each GRC whether there are very large projects (on a dollar basis) that should be considered in a separate phase of the proceeding to enable the remainder of the case to be processed expeditiously, while also affording adequate time and attention to the review of massive new work programs or projects.²¹

IV. Post-Risk Assessment and Mitigation Phase (RAMP) Scheduling Issues

The RCP sets forth a schedule for GRC processing that needs updating, both to accommodate the new RAMP phase, as well as to more realistically anticipate the time it takes for parties to fully litigate a GRC and for the Commission to issue a decision. TURN has previously addressed the need for changes in the RCP schedule in our January 15, 2014, comments responding to the Order Instituting Rulemaking, as well as in our May 23, 2014, first round comments and June 13, 2014, reply comments. For the convenience of the Commission and parties, TURN consolidates and summarizes those prior comments here.

- The RCP should continue to provide guidelines as to the timing of some procedural elements in a GRC but need not be as prescriptive as currently drafted. The RCP should explicitly acknowledge the discretion afforded to the assigned ALJ and Commissioner to determine the appropriate schedule in each GRC, as well as to modify the adopted schedule when necessary. The time periods for post-application events should be considered target dates. Where the utility serves an untimely or incomplete application and supporting materials, or fails to give timely and complete responses to reasonable discovery, or where the utility or Commission seeks to add issues that effectively expand the scope beyond that of a “typical” GRC, later dates for post-application events may be reasonable.²²
- The application should be filed on September 1, with a truncated NOI period prior to that date.²³
- The Prehearing Conference (PHC) should be held by day 60 after the filing of the application, or as soon as practicable thereafter, consistent with Rule 7.2 of the Commission’s Rules of Practice and Procedure, which provides that a

²¹ TURN Opening Comments Responding to the O.I.R., pp. 23, 35.

²² TURN Comments on the Refined Straw Proposal, pp. 13-14; TURN Opening Comments Responding to the O.I.R., pp. 17-18.

²³ TURN Comments on the Refined Straw Proposal, p. 17.

PHC will be set for 45 to 60 days after the initiation of a proceeding, or as soon as practicable after the Commission makes the assignment.²⁴

- ORA's testimony should be due no fewer than 150 days after the filing of the application, and 165 days may be more reasonable, particularly if the net result of this proceeding is an expansion in the scope of materials to be addressed by ORA without the adoption of policies to increase the transparency of and simplify the utility's showing and otherwise streamline the processing of GRCs.²⁵
- Other intervenor testimony should be due no fewer than three weeks after the due date for ORA's testimony.²⁶
- Two weeks between intervenor testimony and rebuttal testimony is unrealistically short, given the number of intervenors in recent GRCs; four weeks may be more appropriate.²⁷ Even so, the RCP should clearly direct that the utility must meet its evidentiary burden in its direct testimony; rebuttal is not intended to provide the utility an opportunity to add information that should have been included in its direct showing.²⁸
- Evidentiary hearings warrant at least four weeks, though six weeks may be more reasonable because of the additional safety analysis, particularly if the Commission does not adopt proposals to meaningfully simplify and streamline the processing of GRCs.²⁹
- GRCs should be processed on a three-year cycle if the Commission consolidates PG&E's GRC with its GT&S proceeding, such that one major GRC would be processed each year (e.g., PG&E, SCE, SDG&E/SoCalGas).³⁰
- If the Commission determines that PG&E should continue to have two GRC-type proceedings, gas distribution and transmission issues should be joined in a single gas GRC, and electric issues should be treated in an electric GRC, with common costs included in the electric GRC. Under this scenario, GRCs should be processed on a four-year cycle, such that one major GRC would be processed each year (e.g., PG&E-electric, SCE, SDG&E/SoCalGas, PG&E-

²⁴ TURN Opening Comments Responding to the O.I.R., p. 18.

²⁵ TURN Comments on the Refined Straw Proposal, p. 13; TURN Opening Comments Responding to the O.I.R., p. 19.

²⁶ TURN Opening Comments Responding to the O.I.R., p. 20; TURN Comments on the Refined Straw Proposal, p. 13.

²⁷ TURN Comments on the Refined Straw Proposal, p. 13.

²⁸ TURN Comments on the Refined Straw Proposal, p. 13.

²⁹ TURN Comments on the Refined Straw Proposal, p. 13.

³⁰ TURN Comments on the Refined Straw Proposal, pp. 15-16, 18.

gas).³¹

IV. CONCLUSION

For the reasons provided by TURN herein and in our prior comments, the Commission should act now to reduce the complexity of GRCs and increase their manageability. The recommendations provided by TURN will minimize disputes around the accuracy of forecasting, increase transparency for evaluators, reduce information asymmetry, and make it easier to process a case more quickly while also providing more time for examining key policy issues such as safety and reliability.

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³¹ TURN Comments on the Refined Straw Proposal, pp. 16, 18.