Commissioner Josiah L. Neeper, Concurring:

I come to support the Alternate of Commissioner Wood after much thought, including consideration of the following.

What is my job as Commissioner? It is to be 20% of final decision. It can be to write Alternate and vote for it, or to choose among Proposed Decision and, in this case, two alternates the one with which I agree. Or, it may be to choose the one with which I least to agree.

Can I choose parts of Proposed Decision, parts of one alternate, and parts of the others? No. The vote is for one of three and the bad of that with the good.

Is this case a PBR question, a GRC question, or both? By CPUC rules in dealing with application, intervention, scoping, discovery, trial, and argument, this is a GRC decision. The PD and alternates treat it as GRC decision. Each speculates about the future and a PBR case in future. I much prefer the Bilas alternate as to certainty of a PBR occurring, and occurring sooner rather than later. In the end, this is a GRC decision, so my 20% must focus on applying the rules of the CPUC-GRC framework.

Is a GRC intended, and practiced, as an adversarial rather than administrative event? A trial features a) burden of proof (going forward and persuading) b) winner takes all. That's not a GRC. GRCs are intended, and practiced, as administrative events. Kind of one side on one extreme, other side or sides create other extreme. A compromise or interior position may be created by parties. The ALJ takes a position, most often between extremes, five Commissioners do the same.

The ALJ and the five Commissioners exercise "judgment" based on "policy". Rationalization of "judgment" is required in the decision, but one is never sure whether the rationalization is caused the decision or simply is an effort to put clothes on a naked, gut feeling.

What does a GRC decide and what does it not decide? It may decide pricing for the rate case period. It decides what revenue is "required" for the period, but no technique is part of a GRC to insure the "requirement" is in fact met (a shortfall is not cured by CPUC), and not exceeded (no payback of excess).

What else does it not decide? It does not decide how the revenues are to be spent. The GRC used expense categories to estimate revenue as a total of all categories that use revenues. It does decide total revenues required in relation to expected units of sale produce price needed. That's a GRC as we practice it.

Should we treat our GRC-generated detailed revenue requirement categories (expense lines) as an expense-side budget and to be administered by PG&E. No, as previously discussed.

So what about previous under spending of individual revenue requirements (expense) categories (e.g., gas capital expenditures)? As such, this is meaningless. We do not look at individual items in isolation. It is in fact a double entry system. Revenue not spent in particular categories shows up in another category -- return on equity is a fundamental category. Excess expenditures over supposed 100% shows up as less spending in another category, including a lower number in return-on-equity.

To avoid loss, where is the contingency – fund category? Almost every government, non-profit and for profit business I have known uses the contingency fund as a formal expense-side budget category (or informal)? Most department managers informally practice contingency-fund thinking with this individual Dept. budget. Future capital needs are met by retained earnings. The practice of CPUC decision-making does have contingency-fund or "slack" as a concept. Management also has judgment to use expenses category by category.

As our GRC model is currently constituted, it is deficient in this regard. Our intervenor party practice is to focus on short fall in an expense category like gas capital expenditure, without showing whether profit or another expense category became the

beneficiary of the shortfall. As an example: capital expenditure for new plant and replacement of old is always a prime candidate for deferred spending

Here is my conclusion. As nearly as I am can make-out from the record over all actual revenues realized in past have not vastly exceeded the forecast so as to produce actual revenues that need not be spent, but rather flow smoothly to actual net profit. Rather where these have been actual revenues exceeding forecast, they have been joined by actual expenses over-all exceeding forecasts.

The record showing is that revenue flow (over-all) into return on equity has not met CPUC forecasts of what was necessary maintain a safe, reliable, viable system. Other expense categories necessary to run the system have been the beneficiary of actual spending buyout forecast. No showing is in the record that such spending was not cost-beneficial or reasonable.

My conclusion is that in choosing I shall take a macro-view. My view is different than either 5a, or 5b. Both do category by category analysis and stop there. For hour after hour, I have looked and looked at category-by-category, and in my analysis there is a tie between them. An Engineering Decisions Time Analysis as a technique can break the tie. But this results in more ties.

Finally, I take a comprehensive look and conclude the 5b alternate comes close to my conclusion and so will vote for H-5b.

I prefer mightily the H-5a treatment of PBR, but this is a GRC case. I wish H-5b was silent on PBR. It is not. I must vote for H-5b in its whole.

JOSIAH L. NEEPER
Commissioner

San Francisco, California
February 17, 2000