

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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In the Matter of the Application of San Diego Gas & Electric Company (U902G) and Southern California Gas Company (U904G) for a Certificate of Public Convenience and Necessity for the Pipeline Safety And Reliability Project.

Application 15-09-013  
(Filed September 30, 2015)

**PROTEST  
OF THE OFFICE OF RATEPAYER ADVOCATES**

**I. INTRODUCTION**

Pursuant to Rule 2.6 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, the Office of Ratepayer Advocates (ORA) hereby submits the following protest to the Application of Southern California Gas Company (SCG) and San Diego Gas & Electric Company (SDG&E)<sup>1</sup> for a Certificate of Public Convenience and Necessity (CPCN) for the Pipeline Safety and Reliability Project.

Applicants propose to replace Line 1600, a 16-inch transmission pipeline from Rainbow Station to Miramar, with a 47 mile long, 36-inch transmission pipeline also from Rainbow Station to Miramar, at a construction cost of \$595 million,<sup>2</sup> for a planned in-service date of 4<sup>th</sup> quarter of 2020.<sup>3</sup> Applicants claim this proposal avoids the need to

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<sup>1</sup> We will refer to SCG and SDG&E collectively as "Applicants." The project is located within SDG&E's gas service territory.

<sup>2</sup> Application, p. 24, *citing* Proponent's Environmental Assessment (PEA), pp. 3-66 to 3-67, Table 3-7.

<sup>3</sup> PEA, p. 3-67, fn. 36.

pressure-test Line 1600 – avoiding both the direct costs of pressure testing and the costs of loss of service of taking Line 1600 out of service for pressure testing – and allows Line 1600 to serve as a lower-pressure distribution pipeline without the need for pressure testing.

ORA protests the application in order to examine whether or not SCG and SDG&E’s proposal is just and reasonable and meets the standards for the Commission to approve a CPCN. Based on the materials provided, applicants have not demonstrated that the Commission should grant a CPCN. Applicants have failed to show they have followed their own decision tree from the Pipeline Safety Enhancement Proceeding, as Line 1600 has been able to be evaluated through in-line inspection (ILI), and the decision tree then calls for pressure-testing rather than immediate replacement of the pipeline. Applicants have also failed to demonstrate why Line 1600 could not be taken out of service for pressure testing with “manageable” customer impacts, particularly given PG&E’s recent experience of pressure-testing lines while maintaining service to customers.

ORA also notes the absence of some required information in applications for CPCNs, particularly the lack of any specific projected expected level of service for the new pipeline,<sup>4</sup> and lack of sufficiently detailed cost information, as well as the lack of any accompanying testimony with the application, which Applicants propose would be provided later in two phases. ORA opposes the schedule, bifurcated into a first phase of purpose, need and project design issues, and a second, subsequent phase of cost and CEQA issues, and remarkably little time for intervenor review of SCG and SDG&E’s testimony despite a long time for processing the application (one month for each of the two testimonies in a 27-month process). ORA suggests an alternate bifurcation into non-CEQA issues and CEQA issues, allowing for adequate time for meaningful public review of need and cost issues and the response of Applicants to such concerns, while not

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<sup>4</sup> E.g., CPUC Rules of Practice and Procedure, Rules 3.1(k)(1)(A); 3.1(k)(1)(B); 3.1(k)(2). See *infra* section 2.B.2.d.

delaying the final decision on CEQA. The determination of need in a CPCN cannot be made without consideration of costs and should be conducted at the same time. Finally, ORA reserves the right to conduct meaningful discovery and review of the large costs of the pipeline, more than \$12 million per mile, which are neither detailed nor supported by SCG and SDG&E's showing to date, with its lack of testimony regarding costs.

## **II. DISCUSSION**

ORA has started its review of the Application and the Proponent's Environmental Assessment (PEA), but notes the lack of accompanying testimony filed with the Application, which makes it much more difficult to list issues and estimate the time needed to review the application and conduct the proceeding. ORA's protest will assume that the testimony would approximately track the PEA, but ORA reserves the right to request a revised scope of the proceeding if subsequently filed testimony includes new issues.

The application requests a bifurcated hearing, with initial SCG and SDG&E testimony on "purpose and need, and project design issues" not due until February 12, 2016, and SCG and SDG&E testimony on "CEQA and cost" not due until January 17, 2017.<sup>5</sup> ORA will discuss the schedule further below in Section III. Despite the lack of any testimony at this juncture, ORA intends to conduct discovery as necessary to further understand the need for the project, costs and rate impacts of the project.

### **A. REQUESTED AUTHORITY**

Applicants request that the Commission:

issue and certify an Environmental Impact Report and issue a decision granting SDG&E a CPCN authorizing SDG&E to construct the Proposed Project set forth in this Application, PEA and the accompanying documents within the proposed timelines set forth in Section V-A.4.d of this Application, and approve the Applicants' revenue requirement request and rate recovery for the Proposed Project.<sup>6</sup>

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<sup>5</sup> Application, p. 20.

<sup>6</sup> Application, p. 2.

## **B. PRELIMINARY LIST OF ISSUES**

ORA has had limited time and resources to review SCG and SDG&E's Application and Proposed Environmental Assessment. Based on our review to date, the Application raises at least the following issues for further discovery:

- The reasonableness of SCG and SDG&E's decision to replace the 16-inch Line 1600 with a new 36-inch pipeline and converting the existing transmission assets to distribution assets;<sup>7</sup>
- The sufficiency of SCG and SDG&E's showing of purpose and need;<sup>8</sup>
- The reasonableness of the project's scope and size, costs and proposed rate design;<sup>9</sup> and
- Compliance with California Law and Commission Rules of Practice and Procedure with respect to CPCNs, including providing the demonstrated need for the project, design criteria and expected throughput, and cost estimates for the cost caps required in Public Utilities Code Section 1005.5.

### **1. Line 1600 Could Be Pressure Tested and Kept in Service**

Applicants incorrectly state that the practice of post-construction pressure testing "was not established in 1949 when Line 1600 was constructed."<sup>10</sup> On the contrary, pressure testing has been established under the American Standards Association going back to at least 1935.<sup>11</sup> SCG and SDG&E further state:

The 16-inch pipe segments of Line 1600 have been in-line inspected with tools to detect corrosion, manufacturing defects, and other anomalies. The operating history and the more than 50 excavations that have been completed verify the

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<sup>7</sup> Application, p. 4-5.

<sup>8</sup> Application, p. 4-7; PEA pp. 2-5 to 2-7.

<sup>9</sup> Application, p. 4-7; PEA pp. 2-5 to 2-7.

<sup>10</sup> PEA, p. 2-5.

<sup>11</sup> American Standards Association, Code for Pressure Piping, July 1935, Sections 222, 223.

integrity of the pipeline and serve to validate its integrity in distribution service. A short segment of Line 1600 that is 14 inches in diameter is scheduled for in-line inspection in the fourth quarter of 2015.<sup>12</sup>

Applicants have admitted that they already conducted in-line inspections (ILIs) on the pipeline they propose to replace, and if they can conduct ILIs, applicants thus are able to pressure test Line 1600. SCG has not demonstrated why Line 1600 should deviate from the PSEP Decision Tree<sup>13</sup> and why the pipeline cannot be taken out of service with “manageable” customer impacts. As the Applicants note, Line 1600 serves only 10% of San Diego demand, or approximately 61 MMcf of demand.<sup>14</sup> PG&E has recently stated that it has been able to pressure test the primary transmission line into Santa Cruz, CA, and use Liquefied Natural Gas (LNG) and Compressed Natural Gas (CNG) to serve customers during tests without shutting off service.<sup>15</sup> Applicants at the least must provide an explanation as to why such measures would not work to avoid the need to shut down service during hydrotesting, or if Applicants have deemed the measures too expensive they must provide a showing demonstrating the cost differences.

## **2. Commission Rules of Practice and Procedure and Public Utilities Code Sections Relevant to the Application**

Applicants discussed many of the applicable Rules of Practice and Procedure and Public Utilities Code Sections in its CPCN application. ORA will respond to a few of these arguments, and will discuss the applicability of Sections 1005 and 1005.5 to the proceeding.

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<sup>12</sup> PEA, p. 2-5 fn. 4.

<sup>13</sup> See Attachment B; D. 14-06-007, Attachment 1 in the SCG PSEP proceeding also provides a schematic of The Decision Tree.

<sup>14</sup> Application, p. 3 Assuming 630 million cubic feet in the winter, Line 1600 would carry ten percent of that amount, or 63 MMcf, and 59 MMcf in the summer.

<sup>15</sup> <http://www.pgecurrents.com/2015/10/08/santa-cruz-pge-deployed-world%E2%80%99s-largest-sustainable-portable-lng-project-to-support-safety-tests/>

**a) Rule 3.1(e) - Public Convenience and Necessity**

Rule 3.1(e) of the Commission’s Rules of Practice and Procedure (“Rules”) requires applicants or a CPCN to include in the application “[f]acts showing that public convenience and necessity require, or will require, the proposed construction or extension, and its operation.” Applicants referred to Sections III-A and III-B of its Application, and Chapter 2.0 of its PEA, as providing such facts.<sup>16</sup> ORA will review whether these facts do require the proposed construction, particularly with respect to the level of demand. The PEA states in Chapter 2.0:

With the Proposed Project, the capacity on the San Diego gas system will be increased by approximately 30 percent—or 200 MMcfd (assuming all transmission pipeline and compression assets are available)—on a daily basis, allowing for elevated demand conditions. With the Proposed Project, the system will be able to serve 830 MMcfd of customer demand in the winter operating season, and 790 MMcfd of customer demand in the summer operating season.<sup>17</sup>

However, in its recent Advice Letter No. 4829, presented as Attachment A, SCG noted that it received bids in its open season starting June 1, 2015 representing 551 MMcfd of winter demand and 373 MMcfd of summer demand on its San Diego system.<sup>18</sup> Even before the expansion with the system capable of serving approximately 630 MMcfd of winter demand and 590 MMcfd of summer demand, SCG admitted the open season solicitations resulted “in excess capacity in both seasons.”<sup>19</sup> Yet SCG presses on with its expansion plans, regardless of a lack of current demand for such capacity.

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<sup>16</sup> Application, p. 24.

<sup>17</sup> PEA, p. 2-7.

<sup>18</sup> Advice Letter No. 4829, Attachment A, p. 2.

<sup>19</sup> Id.

**b) Rule 3.1(f) – Estimated Cost**

Applicants acknowledge that “Commission Rule 3.1(f) requires an applicant for a CPCN to include in its application ‘A statement detailing the estimated cost of the proposed construction or extension and the estimated annual costs, both fixed and operating associated therewith.’”<sup>20</sup> Applicants then state: “A table of estimated cost for the Proposed Project is found in the PEA, Chapter 3.0, *Project Description*, Volume II of this Application, Section 3.8, Table 3-7, at page 3-67.”<sup>21</sup> This table does provide “the estimated construction costs” at a very high level – and apparently very loosely defined as \$5 million for “outside legal counsel” is included as “construction” costs – but Applicants provide no estimate of annual costs, both fixed and operating, associated therewith, as required by Commission rules.

**c) Rule 3.1(h) – Proposed Rates**

As Applicants acknowledge, “Commission Rule 3.1(h) requires an application for a CPCN to include ‘A statement of the proposed rates to be charged for service to be rendered by means of such construction or extension.’”<sup>22</sup> SCG and SDG&E “propose to allocate the incremental gas transportation revenue requirements associated with the Proposed Project to its Backbone Transportation Service (BTS) rates.”<sup>23</sup> Although the Application fails to explicitly reference it here, in Appendix D, SCG and SDG&E provide their proposed rates. Table 8 in Appendix D shows that BTS rates would go up by 45.3%, from 17.8 cents per therm to 25.8 cents per therm, with expected additional revenues of \$82,671,000 annually to SDG&E. This increase is to current rates, and does not include a potential, slightly larger increase associated with the North-South application, A. 13-12-013.

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<sup>20</sup> Application, p. 24.

<sup>21</sup> *Id.*

<sup>22</sup> Application, p. 25.

<sup>23</sup> *Id.*

**d) Rules 3.1(k)(1)(a) – Volumes Statement;  
3.1(k)(1)(b) – Contract Statement; 3.1(k)(2) –  
Economic Feasibility; 3.1(k)(3)(a) –  
Interstate Transportation Tariff Provision;  
3.1(k)(3)(b); Out-of-state Supplier Statement**

Commission Rules 3.1(k)(1)(a) and 3.1(k)(1)(b) state that applications for CPCNs shall contain:

(k) In the case of a gas utility seeking authority to construct a pipeline:

(1) Regarding the volumes of gas to be transported:

(A) A statement of the volumes to be transported via the proposed pipeline including information on the quality of gas and the maximum daily and annual average daily delivery rates.

(B) A statement that copies of summaries of all contracts for delivery and receipt of gas to be transported via the proposed pipeline and information on the reserves and delivery life pertaining thereto will be made available for inspection on a confidential basis by the Commission or any authorized employee thereof. The terms and provisions of individual contracts for gas supply and data as to reserves or delivery life of individual gas suppliers shall not be required to be stated in the application or in the record of the proceedings, and if disclosed to the commission or to any officer or employee of the Commission on a confidential bases as herein provided, shall not be made public or be open to public inspection.

Applicants only discuss a portion of Rule 3.1(k)(1)(a) without disclosing they are not quoting the entire subsection: “Commission Rule 3.1(k)(1)(a) requires a gas utility to include in its application “[a]statement of the volumes to be transported via the proposed pipeline”<sup>24</sup>.but Applicants say nothing about the requirement to state the quality of gas or maximum daily and annual average, daily delivery rates of the gas to be transported. In any event, Applicants do not even include a “statement of volumes to be transported,” but instead state: “[t]he Proposed Project will **expand the capacity** of the SDG&E gas transmission system by approximately 200 MMcfd.”<sup>25</sup> Capacity is not the same as

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<sup>24</sup> Application, p. 26.

<sup>25</sup> Id.(emphasis added).

transported volumes. Applicants also cite the PEA, Section 2.0 “for a more detailed discussion of the public convenience and necessity of the Proposed Project,”<sup>26</sup> but nowhere in that Section is any discussion of volumes to be transported, annual daily maximum and average throughput, or gas quality. SCG and SDG&E’s failure to include estimated volumes is a red flag that there may not in fact be sufficient volumes to justify construction of the pipeline, and that other motives, such as expanding rate base for its own sake, or providing surplus capacity to link with Otay Mesa for future export to Sempra’s affiliated LNG export facility in Costa Azul, Mexico, are the primary drivers of this project.

Finally, the Commission also requires all gas corporations to include in their CPCN applications in Rules 3.1(k)(2), 3.1 (k)(3)(A) and 3.1(k)(3)(B):

(2) A summary of the economic feasibility, the market requirements and other information showing the need for the new pipeline and supply.

(3) Where the gas to be transported through the pipeline is to be purchased by the applicant from, or transported by the applicant for, an out-of-state supplier:

(A) A copy of the proposed tariff under which the gas will be purchased or transported.

(B) A statement that the out-of-state pipeline supplier has agreed: (1) to file with this Commission copies of annual reports which it files with the Federal Power Commission; (2) to file with this Commission monthly statements of its revenues, expenses and rate base components; (3) to file with this Commission copies of its tariffs as filed from time to time with the Federal Power Commission; and (4) at all times to permit this Commission or its staff reasonable opportunity for field inspection of facilities and examination of books and records, plus assurance that reasonable requests for operating information otherwise prepared in the course of business will be supplied in connection with any proceeding before the Federal Power Commission.

Applicants never discuss the above rules, let alone provide summaries of economic feasibility and need for the new pipeline through firm contractual arrangements, or copies of contracts with upstream, interstate gas suppliers and

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<sup>26</sup> Id.

transporters. SCG and SDG&E’s failure to discuss these matters in their Application raises further red flags as to the support for this pipeline.

### III. CATEGORIZATION, HEARINGS, AND SCHEDULE

SCG proposes that this Application be categorized as ratesetting.<sup>27</sup> ORA agrees with the proposed categorization.

SCG expects that hearings will be necessary in this proceeding.<sup>28</sup> ORA concurs that hearings will be necessary.

ORA includes SCG and SDG&E’s proposed schedule below, followed by ORA’s proposal:

#### SCG / SDG&E Proposed Schedule

End of Response Period	November 10, 2015 (approximate)
Prehearing Conference	December 2015
CEQA Scoping	January 2016
Applicant Opening Testimony	January 15, 2016
Intervenor Testimony	February 12, 2016
Rebuttal Testimony	March 11, 2016
Hearings on Purpose, Need, (and if necessary Design)	March 28-30, 2016
Opening Brief	April 15, 2016
Reply Brief	April 29, 2016
Draft EIR Issued	November 4, 2016
Applicant Prepared Testimony on CEQA and cost)	January 20, 2017
Intervenor Testimony on CEQA and Cost	February 17, 2017
Rebuttal Testimony	March 17, 2017
Evidentiary Hearings	April 2017
Rebuttal Testimony	March 17, 2017
Opening Brief	May 2017
Reply Brief	May 2017

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<sup>27</sup> Application, p. 18.

<sup>28</sup> Application, p. 11.

**ORA Proposed Schedule**

Prehearing Conference	December 2015
CEQA Scoping	January 2016
Applicant Opening Testimony on Purpose, Need, Cost and Design Issues	February 5, 2016
Intervenor Testimony	August 12, 2016
Rebuttal Testimony	September 9, 2016
Hearings on Purpose, Need, Cost Design	October 3- 7, 10 -14 2016
Opening Brief	November 18, 2016
Reply Brief	December 9, 2016
Draft EIR Issued	November 4, 2016
Applicant Prepared Testimony on CEQA	December 2, 2016
Intervenor Testimony on CEQA	February 17, 2017
Rebuttal Testimony	March 17, 2017
Evidentiary Hearings on CEQA	Late April to Early May 2017
Opening Brief	4 weeks after end of hearings
Reply Brief	May 2017

SCG and SDG&E have proposed a bifurcated hearing schedule for a CPCN that separates the determination of cost and CEQA issues from issues of purpose, need, and design. Moreover, the first stage would be held very early, with hearings now conflicting with the dates agreed upon by parties in A.15-06-020, SCG’s Curtailment Application, filed three months prior to the current application, even though Applicants in this proceeding propose that its own testimony not be filed until mid-January, four weeks prior to the deadline they seek for ORA testimony. ORA opposes SCG and SDG&E’s proposal that would only allow intervenors one month for discovery and drafting of testimony on the need for and purpose of a \$595 million dollar addition to revenue requirement, and would propose only one further month a year later for intervenors to review such costs separately. SCG and SDG&E’s proposed schedule would not provide due process for interested parties to review fully the numerous items included in the application, and would unnecessarily and improperly separate the consideration of need and purpose from cost issues. The evaluation of both need and cost are required to grant

a CPCN. The Application fails to discuss the requirements of Public Utilities Code Section 1005.5, and does not propose a maximum cost to be included in the certificate as required.

Public Utilities Code Section 1005.5 states:

1005.5. (a) Whenever the commission issues to an electrical or gas corporation a certificate authorizing the new construction of any addition to or extension of the corporation's plant estimated to cost greater than fifty million dollars (\$50,000,000), the commission shall specify in the certificate a maximum cost determined to be reasonable and prudent for the facility. The commission shall determine the maximum cost using an estimate of the anticipated construction cost, taking into consideration the design of the project, the expected duration of construction, an estimate of the effects of economic inflation, and any known engineering difficulties associated with the project.

(b) After the certificate has been issued, the corporation may apply to the commission for an increase in the maximum cost specified in the certificate. The commission may authorize an increase in the specified maximum cost if it finds and determines that the cost has in fact increased and that the present or future public convenience and necessity require construction of the project at the increased cost; otherwise, it shall deny the application.

(c) After construction has commenced, the corporation may apply to the commission for authorization to discontinue construction and recover those costs which were reasonably and prudently incurred. After a showing to the satisfaction of the commission that the present or future public convenience and necessity no longer require the completion of construction of the project, the commission may authorize discontinuance of construction and the recovery of those construction costs which were reasonable and prudent.

(d) In any decision establishing rates for an electrical or gas corporation reflecting the reasonable and prudent costs of the new construction of any addition to or extension of the corporation's plant, when the commission has found and determined that the addition or extension is used and useful, the commission shall consider whether or not the actual costs of construction are within the maximum cost specified by the commission.

Section 1005(b) further requires:

(b) When the commission issues a certificate for the new construction of a gas or electric plant, line, or extension, the certificate shall specify the operating and cost characteristics of the plant, line, or extension, including, but not limited to, the size, capacity, cost, and all other characteristics of the plant, line, or extension which are specified in the information which the gas and electrical corporations are required to submit, pursuant to Section 1003 or 1003.5.

Applicants have failed to provide this information, particularly with respect to the operating and cost characteristics, but would have the Commission rule on purpose and need before any consideration of costs.

The Commission should adopt ORA's proposed schedule, with more advance lead time before the first round of hearings than proposed by Applicants, and hearings first on all non-CEQA issues rather than leaving cost issues for a later hearing combined with CEQA issues. Determining an accurate forecast of costs and impact on ratepayers will require substantial time for discovery and to fully engage with the issues brought up in the proceeding. Moreover, SCG and SDG&E filed its application during an abnormally busy time for gas proceedings, including the SCG Pipeline Safety and Reliability Memorandum Account Application (A.14-12-016), the SCG TCAP Phase 1 (A.14-12-017), and Phase 2 (A.15-07-014), SCG Curtailment Revisions (A.15-06-020), SCG North-South Project (A.13-12-013), the SCG Pipeline Safety Enhancement Plan Phase 2 Memorandum Account (A.15-06-013), SCG / SDG&E 2016 GRC (A.14-11-003, A.14-11-004), the Natural Gas Leak Abatement Rulemaking (15-01-008), the PG&E Gas Transmission and Storage Rate Case Application A. 13-12-013, and PG&E's 2017 General Rate Case, including gas distribution costs, A. 15-09-001, for which a PHC was held yesterday and which involves ORA staff assigned to this proceeding. Hearings held in Fall 2016 rather than early Spring 2016 will allow all parties the ability to participate meaningfully both in terms of allowing time for discovery and fitting into parties' very busy schedules.

ORA offers this schedule to allow ORA and other intervenors due process rights and sufficient time to review the non-CEQA portions of the application and participate in prior-filed proceedings that are further along in the queue, yet still provide for timely, Commission review of the entire project consistent with Applicant's proposed overall timeline. ORA's schedule was also informed by its experience with the North-South Project in A.13-12-013 which was of similar scale and costs as the Applicant's current proposed project.

#### **IV. CONCLUSION**

ORA respectfully submits this protest, and recommends that the Commission allow adequate time for discovery and analysis to determine whether the Application is in fact reasonable. ORA has not yet completed discovery related to this Application, and reserves the right to assert any issues discovered after this protest has been filed.

Respectfully submitted,

/s/ JONATHAN A. BROMSON

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October 30, 2015