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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Gas Company (U904G) and San Diego Gas & Electric Company (U902G) to Recover Costs Recorded in the Pipeline Safety and Reliability Memorandum Accounts, the Safety Enhancement Expense Balancing Accounts, and the Safety Enhancement Capital Cost Balancing Accounts.	Application 16-09-005 (Filed September 2, 2016)

ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S SCOPING MEMO AND RULING

This Scoping Memo and Ruling identifies the issues to be considered in this proceeding, sets a procedural schedule, and determines the category of the proceeding and the need for hearings pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure.[1]

1. Background

1.1. The Application

Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) request review of the capital and operations and maintenance expenditures, and seek recovery of the revenue requirement associated with those costs, for 26 pipeline projects, 15 bundled

[1] All subsequent references to "Rules" or "Rule" are to the Commission's Rules of Practice and Procedure. The full text of the Commission's Rules may be found on the Commission's website at www.cpuc.ca.gov.

valve projects, and two methane sensing equipment pilot projects. The expenditures total approximately $134 million in capital and $61 million in operations and maintenance. The associated revenue requirement requested for recovery totals $68.4 million for SoCalGas and $2.6 million for SDG&E. The subject Pipeline Safety Enhancement Plan (PSEP) costs, along with the associated revenue requirements, were recorded in their Pipeline Safety and Reliability Memorandum Accounts (PSRMA), Safety Enhancement Capital Cost Balancing Accounts (SECCBAs), and Safety Enhancement Expense Balancing Accounts (SEEBAs).

1.2. The Protests

The protests have adhered to a common theme: that the applicants have not met their burden of proving that the costs incurred are reasonable. For example, Office of Ratepayer Advocates (ORA) argues that Applicants have not met the minimum filing requirements of Decision (D.) 14-06-007 to establish the reasonableness standard that the Commission articulated for the recovery of the claimed costs. Similarly, The Utility Reform Network (TURN) also raises the reasonableness issue, along with the concerns that the claimed costs may significantly exceed the recorded costs of other operations performing comparable work, and that the request includes costs that should be borne by shareholders. Finally, Southern California Generation Coalition (SCGC) argues that Applicants either do not satisfy the reasonableness standard at all, or they summarily state what they did was reasonable without providing the level of detailed support required by D.14-06-007.

1.3. The Prehearing Conference

The Prehearing Conference (PHC) was held on February 10, 2017, and counsel for Applicants, ORA, and TURN were present. Counsel for SCGC was

not present. In advance of the PHC, the parties served their PHC statements where they set forth their respective positions regarding the issues for resolution, whether the record made by Applicants was sufficient, and the proposed schedule.

At the PHC, the assigned Administrative Law Judge instructed the parties as follows to meet and confer in order to jointly submit two follow-up items:

(1) Agreed-upon language outlining the extent to which Applicants' "Phase 2B" PSEP work will be considered within the scope of this proceeding; and
(2) A matrix intended to serve as a "meet-and-confer" among the parties regarding information Intervenors believe is missing from Applicants' initial showing. Intervenors are to list the information they believe is missing; Applicants are to indicate whether that information is included in their Application and, if so, where; and, finally, if Intervenors are not satisfied the information is sufficient for Applicants to make their *prima facie* case, they are to explain why.

On February 24, 2017, the parties submitted their response to the foregoing questions as follows:

Scoping Language Regarding Phase 2B PSEP Work

Applicants define Phase 2B segments as "pipelines with record of a pressure test, but without record of a pressure test to modern (49 Code of Federal Regulations Part 192, Subpart J) standards." Phillips Direct Testimony, Chapter 3, p. 6. The parties disagree as to whether the work identified as Phase 2B of PSEP has been mandated by the Commission due to differing interpretations of D.11-06-017. Applicants read the decision, particularly Ordering Paragraphs 3 and 4, to require the pressure testing or replacement of segments for which Applicants have a pre-Subpart J pressure test record (i.e., a pressure test record exists, but it is not up to the Subpart J "modern standard"). Intervenors read the

decision, particularly Ordering Paragraph 3, as not requiring ratepayers to pay for retesting through the Pipeline Safety Enhancement Plan (PSEP), those segments for which Applicants possess a pre-Subpart J pressure test record, provided that the test met the requirements in place when the test was conducted and was at least one hour in duration. The parties agree that this disagreement should be resolved in a different proceeding. Notwithstanding their different interpretations of the Commission's prior decision, the parties agree to the following:

Applicants provide the following descriptions of "incidental miles" and "accelerated miles":

Accelerated miles are miles that would otherwise be addressed in a later phase of PSEP under the approved prioritization process, but are being advanced to Phase 1A to realize operating and cost efficiencies.

Accelerated miles may include Phase 1B or Phase 2. Incidental miles are miles not scheduled to be addressed in PSEP, but are included where their inclusion is determined to improve cost and program efficiency, address implementation constraints, or facilitate continuity of testing.

(Phillips Direct Testimony, Chapter 3, p. 13.)

The parties agree that recovering the cost of "incidental" or "accelerated" pressure testing or replacement of segments may be considered in this proceeding. Intervenors reserve the right to challenge the reasonableness of cost recovery for any such incidental or accelerated segments. The parties further agree that any finding in this proceeding that costs of such work may be recovered would not be precedential for the issue of whether replacement or testing of all segments with a pre-Subpart J test record has been mandated or is necessary. In addition, the recovery of the costs of "standalone" Phase 2B

segments will be addressed in a forecast application or Applicants' General Rate Case to be filed in the future, at which time parties may assert their positions.

Meet-and-Confer Regarding Supplemental Testimony

Following an additional meet-and-confer, the parties also agree that Applicants shall not be required to supplement their Application or the supporting testimony and work papers. However, Intervenors reserve the right to oppose any requested cost recovery.

The assigned Commissioner and assigned ALJ appreciate the parties' efforts to narrow and define the issues in dispute.

1.4. Decision (D.)14-06-007 and The Reasonableness Standard of Review

Decision 14-06-007 adopted the SoCalGas and SDG&E Safety Enhancement plan. That decision gave guidance to the companies on filing to recover costs included in the Memo Accounts and authorized new balancing accounts for Safety Enhancement costs going forward from the date of the decision. No costs were preapproved, meaning that subsequent applications are subject to a reasonableness review necessary to determine whether costs were prudently incurred before those costs are recoverable from ratepayers.

What D.14-06-007 established, along with prior Commission decisions,[2] establish is the burden of proof that SoCalGas and SDG&E must meet in order to

[2] *See, e.g.* Decision 02-08-064 ("the reasonableness of a particular management action depends on what the utility knew or should have known at the time that the managerial decision was made, not how the decision holds up in light of future developments."); and Decision 88-02-036 (1988 Cal. PUC LEXIS 155, *7; 27 CPUC2d 525 ("Utilities are held to a standard of reasonableness based upon the facts that are known or should be known at the time. While this reasonableness standard can be clarified through the adoption of guidelines, the utilities should be aware that guidelines are only advisory in nature and do not relieve the

Footnote continued on next page

recover their costs. SDG&E and SoCalGas must show, through a preponderance of the evidence, that their requests are just and reasonable and the related ratemaking mechanisms are fair:

> California law, Commission practice and precedent, and common sense, all essentially require that before ratepayers bear any costs incurred by the utility, that those costs must be just and reasonable. That is, the costs must have been prudently incurred by competent management exercising the best practices of the era, and using well-trained, well-informed and conscientious employees and contractors who are performing their jobs properly. When that occurs, the commission can find the costs incurred by the utility to be just and reasonable and therefore, they can be recovered from ratepayers. When this is not the case however, the Commission can and must disallow those costs: that is unjust or unreasonable costs must not be recovered in rates from ratepayers.[3]

Thus, following SoCalGas and SDG&E's proffer, it is incumbent on the Commission to conduct a standard reasonableness review, which follows a long tradition of examining costs and the prudence of management's actions.[4]

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utility of its burden to show that its actions were reasonable in light of circumstances existent at the time.")

[3] D.14-06-007, mimeo at 30.

[4] We note that this well-settled approach was conducted most recently in A.14-12-016, wherein SoCalGas and SDG&E filed their first application to recover costs recorded in their Pipeline Safety and Reliability memorandum accounts. In Decision 16-12-063, the Commission issued its Alternate Decision finding, as reasonable, the costs for three completed projects that had been recorded in the Pipeline Safety and Reliability Memorandum Accounts, with the exception of the insurance costs which the Commission denied without prejudice.

2. Categorization and Need for Hearings

This Scoping Memo and Ruling confirms the Commission's preliminary categorization of this proceeding as ratesetting, as determined in Resolution ALJ-176-3384. This determination is appealable under the provisions of Rule 7.6. This Scoping Memo and Ruling also confirms that hearings are necessary and sets forth the hearing schedule. The application appeared on the Commission's daily calendar.

3. Hearing and Schedule

This Scoping Memo and Ruling adopts the following schedule that includes formal hearings:

Event	Date
Intervenor Opening Testimony	September 15, 2017
Concurrent Rebuttal Testimony	October 20, 2017
Hearings	December 4-8, 2017
Opening Briefs	January 19, 2018
Reply Briefs	February 16, 2018
Proposed Decision	2nd Quarter 2018

This proceeding is expected to be completed within 18 months of this Scoping Memo and Ruling, consistent with Public Utilities Code § 1701.5(a).

4. *Ex Parte* Communications

Ex parte communications are permitted as described in Pub. Util. Code §§ 1701.1 and 1701.3. Parties and interested persons are advised that, to the extent that the requirements of Rule 8.1 et seq. of the Commission's Rules of Practice and Procedure deviate from Pub. Util. Code §§ 1701.1 and 1701.3, as amended by Senate Bill 215, effective 1/1/2017, the statutory provisions govern.

In a ratesetting proceeding involving hearings, *ex parte* communications are permitted only if consistent with certain restrictions, and are subject to reporting requirements. (*See* Pub. Util. Code § 1701.3(c) and Rules 8.2, 8.3, and 8.5.) Parties must electronically serve the assigned Commissioner and Administrative Law Judge (Judge) all three-day notices required by Rule 8.2(c)(2) for all *ex parte* meetings with decision makers.

5. Scope

The purpose of this proceeding is primarily to establish that the costs recorded in the PSRMAs, SECCBAs, and SEEBAs were prudently incurred, that SDG&E and SoCalGas exercised good management practices, and that Safety Enhancement work was properly performed to comply with all laws, regulations, and the industry's best practices, as well as make all other necessary orders for to offer safe and reliable service at just and reasonable rates based on the findings of this proceeding. Based on the filings and the discussion at the Prehearing Conference, I determine the following scope of issues:

1. Whether SDG&E and SoCalGas have met their burden of proving, by the preponderance of the evidence standard, that costs recorded in the PSRMAs, SECCBAs, and SEEBAs were prudently incurred and were necessary costs to properly implement SDG&E and SoCalGas' Safety Enhancement program.
2. Whether SDG&E and SoCalGas have met their burden of proving, by the preponderance of the evidence standard, that they complied with the guidance and requirements in D.14-076-007 and all other relevant decisions addressing Safety Enhancement.
3. Whether SDG&E and SoCalGas complied with all state and federal regulations and followed industry best practices in its Safety Enhancement activities.

4. Whether SDG&E and SoCalGas' requested costs are reasonable when compared to the costs incurred to perform similar activities by comparable utilities.
5. Whether SDG&E and SoCalGas have included in their request for recovery amounts that should be borne by shareholders.
6. Whether the requested revenue requirement and cost allocation are reasonable.

Finally, the scope of this proceeding also includes an explanation of pipeline maintenance projects proposed to be deferred due to the unavailability of the Aliso Canyon storage facility.

6. Supplemental Testimony is not Required

TURN and ORA argue in their protests that SoCalGas and SDG&E have not met their burden of proof in the initial application. They argued at the Prehearing Conference that the application was an itemization and not an explanation and justification of the actions and decisions made by the companies in implementing Safety Enhancement.

As noted above, the parties have met and conferred, and based on that process, protestors now agree that SDG&E and SoCalGas do not need to submit additional testimony, Based on our initial and limited review, we agree. With respect to the explanation of pipeline maintenance projects due to the unavailability of the Aliso Canyon storage facility, the parties shall set forth their positions in their post hearing briefs.

Notwithstanding the foregoing, the assigned Administrative Law Judge, who is designed in this Scoping Memo and Ruling as the presiding officer, has the discretion to ask for additional clarifications, briefings, or aids that will assist in the evaluation of the parties' positions, or for supplemental testimony from

any party or intervenor if warranted by the further developments in this proceeding.

7. Settlement

In order for the Commission to consider any possible proposed settlement in this proceeding as being in the public interest, the Commission must be convinced that the parties had a sound and thorough understanding of the application, and of all the underlying assumptions and data included in the record. This level of understanding of the application and development of an adequate record is necessary to meet our requirements for considering any settlement. Any motion to approve a settlement must comply with the requirements of Rule 12.1.[5]

8. Discovery

Discovery will be conducted according to Article 11 of the Commission's rules. If the parties have discovery disputes they are unable to resolve by meeting and conferring, they may raise these disputes under the Commission's Law and Motion procedure. (*See* Rule 11.3.) Parties are expected to engage in timely discovery well before deadlines and are expected to raise discovery issues in a timely fashion to avoid adverse impacts on the schedule. SDG&E and SoCalGas must promptly raise issues of privilege and relevance before the due date for responding to discovery requests. Any party may, after conferring, ask the assigned Judge for assistance on a discovery dispute. All intervenors must confer and endeavor to coordinate discovery to minimize duplication.

[5] (Rule 12.1) Proposal of Settlements part (e): "The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest."

9. Final Oral Argument

Pursuant to Rule 13.13(b), a party in a ratesetting proceeding has the right to make a final oral argument before the Commission if the final oral argument is requested within the time and manner specified in the Scoping Memo and Ruling or later ruling. In this proceeding, any party seeking to present a final oral argument must file and serve a motion concurrent with opening briefs.

The motion must state the request, the subjects to be addressed at oral argument, the amount of time requested, any recommended procedure and order of presentations, and all other relevant matters. The motion must contain all the information necessary for the Commission to make an informed ruling on the motion and to provide an efficient, fair, equitable, and reasonable final oral argument. If more than one party seeks the opportunity for final oral argument, parties must use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentations, and anything else relevant to the motion. Responses to the motion may be filed.

If no hearings are held in this proceeding, Rule 13.13(b) indicates that a party's right to make a final oral argument ceases to exist. As provided for in Rule 13.13(a), the Commission may still, on its own motion or upon the recommendation of the assigned Commissioner or Judge schedule a final oral argument.

10. Intervenor Compensation

A party who intends to seek an award of compensation pursuant to Pub. Util. Code §§ 1801-1812 must file and serve a notice of intent to claim compensation no later than 30 days after the PHC. (§ 1804(a)(1).) Under the Commission's Rules, future opportunities may arise for such filings but such an opportunity is not guaranteed.

11. Filing, Service and Service List

The official service list was created at the PHC and is now on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the Judge. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission's web site meets that definition.

Electronic service must comply with Rule 1.10. All parties to this proceeding must serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded that, when serving copies of documents, the document format must be consistent with the requirements set forth in Rule 1.10(a).

Rules 1.9 and 1.10 govern service of documents only and do not change the rules regarding the tendering of documents for filing. Parties can find information about electronic filing of documents at the Commission's Docket Office at www.cpuc.ca.gov/PUC/efiling. All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Other documents, including prepared testimony, are served on the service list but not filed with the Docket Office. We will follow the electronic service protocols adopted by the Commission in Rule 1.10, whether formally filed or just served. This Rule allows electronic service of documents, in a searchable format, unless the appearance or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by United

States mail. Additionally, parties must serve paper copies of all filings on the presiding officer.

12. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to public.advisor@cpuc.ca.gov.

13. Presiding Officer

Pursuant to Rule 13.2, Administrative Law Judge Robert M. Mason III is designated as the presiding officer.

Therefore**, IT IS RULED** that:

1. This proceeding is categorized as ratesetting. This ruling is appealable within 10 days under Rule 7.6.

2. The Commission's preliminary determination that hearings are necessary is confirmed.

3. The issues to be considered are those described in this Scoping Memo and Ruling in Section 5.

4. The intervenors are to coordinate discovery and minimize any duplication in requests.

5. The timetable for the proceeding is as set forth herein at Section 3, and may be changed by an Administrative Law Judge ruling.

6. Rules 8.1, *et seq*, governing *ex parte* communications apply to this ratesetting proceeding provided they are not in conflict with Public Utilities Code §§ 1701.1 and 1701.3 as amended by Senate Bill 215 on 1/1/2017, in which case the statutory provisions control.

7.Administrative Law Judge Robert M. Mason III is designated as the presiding officer.

Dated April 20, 2017 at San Francisco, California.

/s/ CARLA J. PETERMAN	/s/ ROBERT M. MASON III
Carla J. Peterman	Robert M. Mason III
Assigned Commissioner	Administrative Law Judge