BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Application of San Diego Gas & Electric Company (U902M) for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2012.	Application No. 10-12-005 (Filed December 15, 2010)
Application of Southern California Gas Company (U904G) for authority to update its gas revenue requirement and base rates effective on January 1, 2012.	Application No. 10-12-006 (Filed December 15, 2010)

REPLY BRIEF
OF THE DIVISION OF RATEPAYER ADVOCATES

JONATHAN BROMSON
NOEL OBIORA
NICHOLAS SHER

Attorneys for the Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2362
Fax: (415) 703-4432
jonathan.bromson@cpuc.ca.gov

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1. INTRODUCTION

Pursuant to Rule 13.11 of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC or Commission), and the schedule set by Administrative Law Judge (ALJ) John Wong, the Division of Ratepayer Advocates (DRA) submits this Rebuttal Brief for the General Rate Case (GRC) Applications of San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SCG or SoCalGas) (collectively, "the Utilities") for Test Year (TY) 2012. The Applicants' Opening Brief confirms that they have not met their burden of proof as to all elements of their requested rate increases. This Brief responds to the arguments of SDG&E and SCG.

2. EVIDENTIARY STANDARDS AND BURDEN OF PROOF

2.1. Burden and Standard of Proof

In their Opening Brief (OB), "SDG&E and SoCalGas agree that they have the ultimate burden of proof; the utilities must justify the reasonableness of their positions in this ratemaking proceeding."[1]

However, with respect to the standard of proof the Utilities have the burden of meeting, all SDG&E and SCG state is "[t]he evidentiary standard that applies to this burden of proof is one of preponderance of the evidence,"[2] with one mis-cite to D.09-03-025, p. 20, a Southern California Edison General Rate Case, a page which does not even discuss standard of proof. SDG&E and SCG do not define or describe "preponderance of the evidence," nor discuss the history of the Commission using the "clear and convincing" standard prior to D.09-03-025. Indeed, the Commission never cited any case in support of their decision in D.09-03-025. SDG&E and SCG do not assert that they have met the "clear and convincing" standard in case the Commission applies that standard in this proceeding.

"Preponderance of the evidence" is an inappropriate standard for a utility to meet its burden of proof for a rate proceeding. This standard is an invitation for utilities to

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[1] SDG&E and SoCalGas Opening Brief ("OB"), p. 3, *citing* Public Utilities Code § 454.

[2] OB, p. 3.

hide behind mere "evidence" of self-interested statements of utility consultants, managers, and field workers to justify spending, and then argue that this evidence is somehow "greater" than arguments against such spending, when the spending was never justified in the first place. It is inconsistent with placing the burden of proof on the utility to adopt a standard of "preponderance" which is inherently comparative, rather than a fixed standard that can and must be met initially by the utility without reference to an intervenors' showing. This is not a civil proceeding where the utility is trying to show that an injury happened, but an administrative proceeding whereby customers without choices for essential services have to pay the rates that the Commission determine. Without a showing of clear and convincing evidence, the Utilities cannot show their rates are "reasonable" and the Commission cannot compel ratepayers to pay such rates.

Finally, the fact that the burden of proof is on the utility means that just because DRA does not dispute a particular element of a forecast[3] is no reason that the forecast is reasonable *per se* or that another intervenor's arguments against that element are incorrect. The utility's forecast must be supported by objective, reasonable evidence. If that burden is not met, criticisms of intervenors' responsive showings do not alter the failure of the utility forecast to meet its minimum threshold showing of reasonableness. In their OB, SDG&E and SCG focus inordinately on their own, often incorrect, characterizations of DRA's positions rather than their own showings. The Utilities consequently and unconsciously support DRA's primary criticism of much of their spending, that they never met their initial burden of proof through showings of objective, reasonable evidence.

[3] SDG&E and SCG frequently state that DRA "accepts" a forecast. It is more proper to say that DRA does not dispute a forecast.

3. POLICY ISSUES

3.1. Forecasting Issues and the Use of 2010 Recorded Costs

3.1.1. The Rate Case Plan Does Not Preclude Use of 2010 Recorded Costs or Other Information

SDG&E and SCG state their "Interpretation of the Rate Case Plan"[4] (RCP), including that "[t]he intent of the RCP is that the Division of Ratepayer Advocates (DRA) shall file their testimony 11 weeks after Applicants– a timeline which normally requires the use of the same base year historical data for an application filed in early December, 2010,"[5] and that "[t]he RCP as a whole is designed to have CPUC staff using the same historical base data as Applicants, and to give both sides plenty of time to resolve any issues over that data before testimony is prepared."[6]

The purpose of the RCP is not so narrowly drawn as to be focused solely on evidence to be utilized by DRA. DRA does not believe a schedule more in line with that expected in the RCP would have precluded "the use of the same base year historical data for an application filed in early December, 2010." SDG&E and SCG did not follow the RCP schedule when filing their late July 2011 update testimony only one month before DRA testimony was due, but that fact in and of itself did not make such update testimony inadmissible or irrelevant. The RCP does not strictly govern which evidence is admissible or relevant in a GRC.

3.1.2. SDG&E and SCG Disclaimers About the Accuracy of Their Forecasted 2010 O&M and Capital Spending Do Not Foreclose Commission Use of 2010 Recorded Data

SDG&E and SCG impugn the accuracy of their own 2010 forecasts, both O&M and capital, in an attempt to downplay the wide gap between their 2010 forecast and 2010 recorded costs. SDG&E and SCG's explanations not only cannot explain the large disparity between 2010 forecast and 2010 actual costs, which they do not even

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[4] OB, pp. 3-4.

[5] *Id.*, p. 4

[6] Id.

acknowledge, but also are admissions that their forecasting process is flawed and not supported by the evidence they presented.

SDG&E and SCG explicitly disclaim the accuracy of their 2010 and 2011 O&M forecasts, and misleadingly describe such forecasts while doing so. The Utilities state:

> While SDG&E and SCG included O&M forecasts for 2010 and 2011 for "presentation" purposes,[7] these intervening years are not typically used for any purpose in the Commission's analysis of historical spending to develop the Test Year O&M forecast. In many if not most cases, SDG&E and SCG merely used the Test Year base O&M forecast as the base forecast for 2010 and 2011 without attempting to make any upward or downward adjustments that would be made if these years were used for any purpose other than mere illustration.[8]

There was no indication in the application, the filed written testimony, or workpapers that the O&M forecasts for 2010 and 2011 were included only for "presentation" purposes and should not be "used for any purpose other than mere illustration." DRA further disagrees that "[i]n many if not most cases" the utilities did not make any upward or downward adjustment to 2010 and 2011forecasts to determine a 2012 figure. Ms. Orozco-Mejia's SCG workpapers, for example, stated that the "adjusted forecast" figures non-shared O&M costs were $95,558 for 2010, $125,111 for 2011 and $132,182 for 2012, with only one small spending category the same for the three years.[9] Those figures are derived by detailed estimates of hundreds of FTEs to one decimal point that differ between the years for almost all categories.[10] It is SDG&E's and SCG's application, and they are not even sure whether "many" or "most" of their requests contained the same numbers for 2010 and 2011. DRA maintains that "some" or "several" would better describe how many contain the same number, as even a cursory look at the workpapers reveal – most of the areas DRA analyzed had different spending

[7] OB, p. 6, *citing* RT 1134:7-10.

[8] OB, p. 6.

[9] Ex. 28, p. 2

[10] *See id.*, pp. 3-4.

levels predicted for 2010, 2011 and 2012. But even when SDG&E and SCG do forecast the same spending level for 2010-2012, it is not sufficient to explain the extremely low actual costs in 2010 just to state that in a few instances the spending didn't occur in 2010 but did occur in 2011 or would occur in 2012.[11]

Additionally, in most cases SDG&E and SCG did predict differing, increased costs levels for 2010, 2011, and 2012, and the Utilities lack any explanation as to why in that circumstance the Commission should ignore 2010 data. If 2010 forecasts were too high, they could be expected to influence 2011 and 2012 forecasts in those circumstances. Even if it were true that data from "these intervening years are not typically used," the unpredicted strength of the economic downturn would be precisely the atypical circumstance to justify consideration of such data.

While DRA disagrees that SDG&E and SCG presented 2010 and 2011 data as a "presentation" and "mere illustration," taking the Utilities' position at face value *arguendo*, it is frankly amazing that on redirect a witness for the Utilities would retroactively so describe a considerable amount of their showing in this proceeding. The workpapers universally forecast 2010, 2011 and 2012 costs, whether or not the costs for 2010 and 2011 equaled 2012 costs or not. If SDG&E and SCG do not believe such cost predictions are trustworthy, they should not have included them in the first place. SDG&E and SCG disavow the majority of the evidence they presented in support of their application.

For capital costs, as opposed to O&M costs, SDG&E and SCG do not make such a claim that 2010 and 2011 forecasts are "illustrative" or "mere illustration." It is not a coincidence that 2010 and 2011 capital costs affect 2012 capital recovery costs, and thus "Capital forecasts were in fact prepared for 2010, 2011, and 2012."[12] The Utilities assert that "capital forecasts in many if not most cases were based on the entire three-year

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[11] *See* OB, pp.7-8. Moroever, this list does not only include "costs that would occur in TY 2012" as SDG&E and SCG assert, as with respect to Ms. Haines' predictions of "reasonable" future environmental regulatory costs.

[12] *Id.*, p. 8.

period of 2010-12,"[13] and that with capital spending "we are dealing with projects, and there are projects that move from one year to the next. So even though one year may be lower in some areas and higher in some areas, overall we look at the three-year sum."[14] Again, SDG&E and SCG seem unaware of whether or not the majority of their capital requests are on a three-year basis, rather than a zero-year basis where each year is truly estimated separately, and they don't have any explanation for those circumstances. Their explanation that delays in spending in the first-year of three-year capital projects are made up in the latter year is illogical given the difficulty in planning and implementing such projects. It is also likely that delays in spending on three-year projects could push the completion of such projects to beyond the Test Year such that none of the capital expenditures should be included at all. Finally, as capital projects are often in response to customer growth, the larger-than-predicted Great Recession and its effect on usage would be reflected beyond 2010 and into the Test Year. SDG&E and SCG have failed to explain the enormous gap between their forecasted O&M and capital spending for 2010 and actual 2010 spending.

3.1.3. Use of 2010 Data is Not Dependent Upon a Complete Analysis of Interrelated Cost Drivers

SDG&E and SCG assert that "[t]he introduction of 2010 actual cost data through DRA and intervenor testimony does not allow for a careful and thorough analysis of interrelated cost drivers."[15] The Utilities state further:

> Intervenors argue that, in areas where 2010 actual spending is less than forecast, the 2012 forecast should be reduced. If actual 2010 cost data is less than the historical five-year average for a given cost category, intervenors propose that the 2010 data be used to create a new average for that category, often for shorter time periods to enhance the effect of using lower 2010 data in the average. These approaches, however,

[13] Id.

[14] *Id., citing* RT 1140:22 -1141:11.

[15] OB, p. 10.

> are overly simplistic and fail to reflect a thorough analysis of underlying cost drivers.[16]

In many cases 2010 actual spending was not just less than forecast but less than 2009 spending, and by large margins to boot. But in any event it is an oversimplification to say that when 2010 actual spending was less than a five-year average, intervenors proposed use of 2010 actual spending data. Moreover, the Utilities used many variations other than a basic five-year average in their testimony, and witnesses too utilized 2010 data on a request-by-request basis rather than by some strict and hard rule. If SDG&E and SCG found a particular approach simplistic, they can and do argue so on an individual basis. There is no need for the Commission to use the overly broad stroke of not considering 2010 data under any circumstance.

Just because the actual 2010 data was not part of the data used in the application's forecast, and not subjected to the alleged "rigor" of the application's methods, does not mean the Commission cannot consider it at all as the Utilities assert.[17] The methodologies that the Utilities chose – the five-year or three-year averages or simple trends, or zero-based forecasts, or other methods – are not rocket science. There is no requirement of a supposed "comprehensive analysis of interrelated cost drivers forming the basis for the Test Year forecasts"[18] just to refer to and rely upon actual 2010 data. The Utilities do not question the actual 2010 data, but rather the methodologies utilizing such data, and 2010 data need not be excluded to consider their arguments against the methodologies themselves.

3.1.4. SDG&E and SCG's Position that the Commission Not Consider the 2010 Actual Cost Data The Utilities Introduced Does Not Prevent the Commission From Considering 2010 Data

SDG&E and SCG finally argue that just because they introduced 2010 data of their own, because it was on rebuttal and not in direct testimony, the Commission can

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[16] Id.

[17] Id., p. 11.

[18] Id.

overlook the intervenors' 2010 data to which they were responding. To prove the sincerity of their position, the Utilities state:

> SDG&E and SCG urge the Commission not to rely on 2010 data presented by any party, including SDG&E/SCG, as it was not subjected to the same sort of rigorous analysis as the historical cost data used to prepare the GRC application.[19]

As noted in Section 3.1.3 above, DRA disagrees that the failure to subject 2010 data to the "rigorous analysis" of the GRC application renders it unreliable at all by the Commission. It is actual data, and in many instances reliance on the most up-to-date regulations and spending is essential to understanding the issues. SDG&E and SCG are disingenuous to offer so much 2010 data in rebuttal, go through hearings on such data, and then argue that its own data is unreliable. The Commission simply cannot ignore the events from January 2010 onward just because the application in December 2010 did not have the benefit of a full year of actual 2010 data prior to its filing.

3.2. SDG&E and SCG Downplay and Misconstrue the Impact of the Great Recession on its Forecasts

In a two-page section entitled "Impact of Economic Conditions on Ratemaking,"[20] SDG&E and SCG downplay and misconstrue the impact of the Great Recession on its Forecasts in this proceeding:

> The Joint Parties have argued that rates should be held down by the Commission because of the so-called "Great Recession." Other intervenors have made similar arguments. However, the economy is growing and utility rates should continue to be cost-based regardless of current economic conditions, which are constantly in flux.[21]

That the Great Recession was the largest in almost 80 years is not in question, but the importance of it in this proceeding was not just that the recession was large, but that it was much stronger and lasted longer in 2010 and 2011 than anticipated in the 2009 –

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[19] Id.

[20] *Id.*, pp. 16-18.

[21] *Id.*, p. 16.

derived data SDG&E and SCG relied upon in their applications, and also that the recovery in 2012 was anticipated to be much smaller than initially thought. No one recommends a non-cost-based application, but rather an accurate cost-based estimate of 2012 not relying upon stale 2009 data that led to predictions for 2010 that were already false by the time the application was made. The much smaller growth rate predicted for 2012 than included in the application, and the much larger decline in 2010 and 2011, must be factored into the estimates in this proceeding.

The Utilities' feeble attempt to say that they accounted for the economic conditions by omitting their requests for Working Cash[22] hardly takes into account the impact of the recession on their customers' purchasing power and economic activity in general. The Utilities underestimated the recession, and overestimated the strength of the recovery in 2012. Omitting requests for Working Cash does not make up for these forecasting mistakes.

4. PROCUREMENT/GENERATION

4.1. Electric Procurement - SDG&E-Only

SDG&E's Electric Procurement and Resource Planning department claims that the state's Renewable Portfolio Standard program (RPS), Once-Through-Cooling (OTC) plant replacements and the changing electricity market as operated by the California Independent System Operator (CAISO) all translate into increased costs, including a need for six new FTEs in the Procurement and Portfolio Design Division. However, DRA's OB shows that these purportedly new programs have been on the ground for almost a decade, and the complexities Sempra uses to justify additional costs in the TY 2012 GRC were all known and anticipated by prior GRCs where the Commission allocated increased funds for those resources as well.

Sempra's OB dismisses DRA's conservative recommendation of a $2.153 million reduction in its $10.4 million proposal as "speculative assumptions and misguided conclusions." (Sempra's OB at 19). However on every single policy, which SDG&E

[22] *Id.*, p. 17.

claims was guiding their cost increases, DRA provided facts and figures to show that SDG&E's costs were overstated.

4.1.1. Long-Term Procurement

4.1.1.1. Procurement and Portfolio Design

SDG&E claims that increases in the need for conventional and renewable resources as well as the phasing out of Once-Through-Cooling power plants, requires this department to add 7 new FTEs in TY 2012. However, the 2010 LTPP recently concluded that the state has no need for new conventional resources in any of its service areas for the next planning horizon, and as for local need for load-following resources to integrate new renewables, there was no need to believe that current existing resources would insufficient.

Regarding 33% RPS procurement policy SDG&E states:

> DRA's speculative analysis cannot be reasonably relied upon. In contrast, Ms. Garcia provided significant evidence regarding the actual complex SDG&E must undertake in order to increase its RPS commitment each year, which includes compliance with numerous regulatory mandates.

(Sempra OB at 20, citing Exh. 109 at 6.)

What Ms. Garcia provided in her testimony was a description of the process by which SDG&E conducted competitive solicitations for new RPS and long-term electricity resources procurement. "Ms. Garcia explained that SDG&E's solicitation processes are ongoing and require months of planning and preparation, as well as knowledge of the renewable industries and reliable developers"[23] all of which SDG&E has done since the company resumed procurement after the electricity crisis in 2002. There was nothing in Ms. Garcia's testimony to support the need for incremental expenses as claimed by SDG&E. Yet, SDG&E's Electric Procurement and Resource Planning Department is seeking to expand its staffing resources to the largest level it has had since 2002.[24]

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[23] Sempra's OB at 18.

[24] 18 RT 2000:23-27; DRA OB at 20.

SDG&E further claims that this unprecedented expansion of its Electricity Procurement and Resource Planning Department is necessary to comply with "the Commission's preference for planning and procuring new resources well in advance of the need for the resources," nothing that "in D.07-12-052, for example, the Commission noted that 'recent experience suggests that the time required to develop, carry out competitive long-term Request for Offers (RFOs), then finance, permit and construct new generation resources … requires that these procurement decisions be made up to *seven years in advance…*'"[25] However, SDG&E has not shown any long-term resource need appearing seven years from date that would support the incremental costs that it seeks for this department. Had SDG&E looked at the 2010 LTPP decision[26], rather than rely on the 2006 LTPP decision[27], SDG&E would have found that the Commission is not forecasting any new need for resources in the State for the next long-term planning horizon, and until a need is identified in the LTPP, there can be nothing for SDG&E's Electricity Procurement and Resource Planning department to procure. If any solicitation for long-term procurement or capacity resources were done at all in this TY 2012 GRC, it would be nothing compared to the solicitations that SDG&E has always held since 2003, with adequate staffing authorized and paid for in previous rates.

4.1.1.2. Once-Through Cooling (OTC)

In many respects, SDG&E's disingenuous claims to support the unprecedented increase in the cost proposal for the Electric Procurement and Resource Planning Department smacks of desperation and thus reflects the utter lack of substantive evidence to justify the request. In one such disingenuous claim, SDG&E states:

> As Ms. Garcia testified, current OTC regulations were not adopted until May 4, 2010, with an effective date of October 1, 2010, and so represent an incremental need arising since the last

[25] Sempra OB at 21.

[26] D.12-01-033, p. 5

[27] D.07-12-052.

> GRC. SDG&E must now proceed as though these local facilities will be phased out and conduct RFOs to replace these power plants

(Sempra's OB at 22.)

However, Ms. Garcia, admitted on cross-examination that she had very little knowledge of any of the proceedings where Once-Through-Cooling was being considered and planned since 2005:

> Q.Are you familiar with the resource adequacy proceeding?
>
> A. Generally.
>
> Q. Were you involved in the implementation of the resource adequacy proceeding?
>
> A. I was not.
>
> Q. So you were not familiar with the challenges that were imposed by that proceeding in 2005/2006?
>
> A. I was not involved in that proceeding.
>
> Q. But that proceeding would have been implemented by this department that you are representing right now; is that correct?
>
> A. Yes. Our department implemented.
>
> Q. Were you involved in the long-term procurement planning proceeding in 2004?
>
> A. I was not.
>
> Q. How about in 2006?
>
> A. I was not.

(18 RT 2002:13 – 2003:5)

> Q. Are you familiar with the 2010 long-term procurement proceeding?
>
> A. No, I am not.

(18 RT 2004:2- 4.)

The OTC plants have been listed as retiring power plants in the Integrated Energy Policy Report (IEPR) as far back as 2005. In every LTPP since, the Commission has not counted them as resources to be relied upon in the planning horizon. Therefore, the current OTC planning regulations have no incremental cost impact on SDG&E's proposals for TY 2012. Further, it is not enough simply to say that the State is planning to retire many OTC plants in the coming years, but to actually identify which OTC plants in SDG&E's service area would cause SDG&E to procure new resources upon their retirement. The record in this proceeding does not show any such plant in SDG&E's service area that has not already been rendered redundant for SDG&E's planning purposes by SDG&E's prior solicitations for new resources.

4.1.2. Trading and Scheduling Group

SDG&E's Trading and Scheduling Group is responsible for short-term planning, trading and scheduling functions to serve bundled customers. SDG&E requests $3.170 million for TY 2012, but DRA recommends $2.478 million. The primary reasons for the difference of $692,000 between SDG&E's request and DRA's recommendation are the incremental costs for Green House Gas (GHG) activities, AB 32 Administrative Fees and Market Redesign and Technology Update Memorandum Account (MRTUMA).

Consistent with the Commission's directives in Resolution E-4093 and D.09-03-025, MRTU cost recovery should not be decided in the GRC. SDG&E requested a separate memorandum account to track MRTU costs, and got it, but now SDG&E wants to abandon the memorandum account process and collect costs for future activities in this GRC, while the Commission is still trying to formulate a consistent rule for all utilities on the recovery of MRTU costs. SDG&E does not dispute that the Commission has issued the aforementioned decision concerning the treatment of MRTU costs, but claims that the decision is not applicable to SDG&E but to SCE[28]. This argument is inapposite because D.09-03-025 serves as precedent that the Commission has already rejected SDG&E's attempt to collect MRTU costs in a GRC. If as Ms. Garcia

[28] Sempra OB at 26.

claims, DRA's position makes no practical sense because "D.09-03-025 was decided over two years ago and before the MRTU had begun" it is still incumbent on SDG&E to modify the decision or show that the decision's authority is not applicable to SDG&E after two years. Further, what qualification or experience makes Ms. Garcia the arbiter to the scope and applicability of the Commissions decision on this subject? Resolution E-4093 provides the best guidance as to what the Commission intends for all utilities going forward with the MRTU.

4.1.3. Middle and Back Office (EP003.000)

SDG&E's incremental cost requests for the Middle and Back Office are supposedly to support SDG&E's ability to meet its 33% RPS obligation as well as compliance with GHG regulations. These are exactly the same justifications and rationale SDG&E provided for the seven (7) FTEs SDG&E requested for the P&PD; DRA has already shown that there are no incremental obligations associated with these activities. According to SDG&E, this group would grow from 27.4 FTEs to 31.4 FTEs, based solely on the speculation that every new policy change requires the addition of several more FTEs, regardless of the fact that new policy programs replace other programs that end and free up several existing FTEs for new assignments.

On cross-examination, SDG&E conceded that there is no known correlation between the number of FTEs requested and the complexity of the policies that form the basis for the request.

> Q. How did you measure and compare the complexity of implementing the 33 percent by 2020 as a ratio of the fulltime equivalent positions you are projecting to add?
>
> A. We did not necessarily perform that type of analysis.

(18 RT 2002:7 – 12.)

4.1.4. Resource Planning (EP005.000)

4.1.5. AB 32 Administrative Fees (EP004.000)

SDG&E argues that DRA's reliance on D.10-12-026 to argue that utilities cannot recover AB 32 Administrative Fees in GRCs is erroneous, but SDG&E then ignores the decision entirely and does not address what to do with the clear directive in that decision that utilities may not recover AB 32 Administrative Fees in GRCs until the Commission determines in the next phase of that proceeding whether such fees are reasonable.

Rather, SDG&E states:

> DRA's incorrect assumption ignores the fact that D.10-12-026 authorizes the establishment of the AB 32 Fee memorandum accounts and that SDG&E must and is already preparing for AB 32 compliance.

(Sempra's OB at 28.)

Sempra's claims fails reason. The fact that D.10-12-026 authorizes the establishment of the AB 32 Fee memorandum account actually supports DRA's recommendation. D.10-12-026 states:

> We defer to a subsequent phase of this proceeding determination of whether costs incurred and recorded in the memorandum accounts prior to each of the Joint IOU's next general rate case will be recoverable in rates, and the appropriate manner in which any approved costs would be recovered.

(Exh. 476 at 16.)

SDG&E's simply hopes to confuse the issue in the hope of exhausting decision makers into submission on some of these issues.

4.2. Gas Procurement

SCG states that its Gas Procurement department is facing additional responsibilities, such as "[a]ctively participating in future pipeline rate cases which may have significant impact on gas costs,"[29] and "[a]s SCG moves away from longer-term

[29] OB, p. 28.

capacity contracts it needs to more frequently acquire capacity in the secondary market to minimize pipeline reservation charges while maintaining reliability."[30] But because SCG requested no increase in labor costs for these alleged additional responsibilities, SCG claims an increase in non-labor costs is necessary,

> with the assumption and expectation that the additional workload would be offset by increased productivity from the use of technology, consultants and various on-line services. [fn. omitted] As for non-labor costs, new software applications, publications and on-line services providing industry news and market intelligence continue to be needed and are normally available only at increased costs. Gas Acquisition needs to purchase or subscribe to these services to remain competitive in this fast changing industry in order to secure the lowest possible gas costs for its core customers.[31]

DRA strongly disagrees that there are any "additional responsibilities" in 2012 compared with the current time period associated with participation in rate cases associated with gas procurement, as there has been a spate of rate proceedings just litigated in 2010-2011 at FERC with only residual impacts on 2012 workload and beyond. DRA strongly disagrees that SCG is moving away from longer-term capacity contracts in 2012 compared with the immediate previous years, as SCG is still responsible for meeting the requirements of D.04-09-022, and longer-term transportation contracts expired well before 2012. Moreover, if there were such increased responsibilities in these areas, increased software and publications would not substitute for such work. Finally, SCG has failed to show any specific expenses associated with the software and publications,[32] instead just assuming those costs were somehow covered by the higher levels of non-labor costs in 2005-2007 that are included by their use of a five-year average. DRA's forecast is reasonable and should be adopted.

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[30] *Id.*, p. 29.

[31] Id.

[32] *See* Exs. 443, 444, & 445.

4.3. Electric Generation (Non-Nuclear) – SDG&E Only

DRA's recommendations for adjustments to SDG&E's non-nuclear electric generation operations and maintenance forecasts for TY 2012 are as follows:

1. DRA recommends $27,557,000 for Generation Plant Palomar. This is $2,051,000 less than SDG&E's request of $29,608,000 for TY 2012.
2. DRA recommends $928,000 for Generation Plant Miramar. This is $579,000 less than SDG&E's request of $1,507,000 for TY 2012.
3. DRA recommends $512,000 for Renewable Generation Support. This is $450,000 less than SDG&E's request of $962,000 for TY 2012.
4. DRA recommends $628,000 for Generation Plant Administration. This is $424,000 less than SDG&E's request of $1,052,000 for TY 2012.
5. DRA takes no issue with the $558,000 requested by SDG&E for SVP Power Supply for TY 2012.

As expected, SDG&E's OB opposes all these adjustments but fails to provide any data to support its opposition, relying only on semantics.

None of the arguments SDG&E proffers against approval of DRA's recommendations is compelling. For each of the above-mentioned recommendations, we address the key methodology DRA used in arriving at its recommendation and SDG&E's objection to that method.

4.3.1. Generation Plant Palomar

SDG&E claims that the use of a 4-Year Average for establishing the Palomar Generation Costs O&M does not accurately reflect the costs for the last two years and also that those four years (2006 to 2009) represent the first years of Palomar's operation when Palomar was not being dispatched as often as it is currently dispatched now that it is an older[33].

It is counter-intuitive to state that CAISO dispatches an older plant in the same service area more often than it dispatched the plant when it was newer, and SDG&E has

[33] Sempra OB at 32.

not provided any data or record of the dispatch in either its workpapers or in any records of this proceeding to support this claim. DRA urges the Commission once again to heed its own warning that the utilities prove their cases objectively rather than rely on the litigation advantage they have by virtue of the fact that the Commission must rely on the utility's expert knowledge of their dispatch practices and undisclosed records if any.[34] Nothing could be easier than showing that dispatch profile that supports the notion that Palomar is being dispatched more often today than it was in its first four years and that such increase in dispatch supports the incremental O&M costs that SDG&E has requested in this rate case.

Rather, SDG&E attacks DRA's witness for not understanding the manner in which CAISO dispatches utility power plants[35]. Again, SDG&E's representation in this regard is somewhat disingenuous. SDG&E would like the Commission to believe that its O&M costs are driven by CAISO's dispatch processes, which are simply out of SDG&E's hands. The truth is closer to the fact that SDG&E, like all utilities on a day-ahead basis must provide CAISO with Palomar's availability by bid its resources into the market based on the market profile for that day.

While CAISO may override any utilities' scheduling preferences in the event of an emergency, SDG&E has not yet showing any data to suggest that its rights and privileges to operate Palomar according to its needs and scheduling preferences are completely lost to CAISO. If that was really the case, then SDG&E must be speculating about the forecasts for the Palomar Generation plant for TY 2012 and the most accurate data for such a forecast would be a four-year average, which is more likely to capture CAISO's scheduling habits that might be repeated in the future.

4.3.1.1. FTEs Requested In The Palomar Account

DRA also recommended that the Commission deny SDG&E's request for new FTEs at the Palomar Generation Plant because none of the positions are actually needed.

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[34] D.05-12-020 at 5 (Apple Valley Rancho Water Company.)

[35] Sempra OB at 31, citing DRA/Laserson, 32 RT 4301:4-11.

Sempra's OB has not provided any logical or compelling arguments against this recommendation.

SDG&E's OB states:

> DRA's blanket disallowance of ***all***[36] requested new positions is apparently based on a misinterpretation of the fact that the Miramar facility can be remotely started and speculation that SDG&E could hire unidentified "outside services" during major outages (and presumably at no additional cost). But at hearing, DRA witness Ms. Laserson admitted she had no knowledge of how a remote-start facility is operated (outside of what she had learned from Mr. Baerman), nor could she identify any trained experienced "outside services" that SDG&E could use to handle the operation of its Miramar or Palomar facilities.

(Sempra's OB at 33.)

By this argument, SDG&E again manifests a degree of ignorance about how the standard of proof in rate cases is applied. Ms. Laserson as witness for DRA has no burden in this proceeding. It does not matter how many times or how well SDG&E denigrates her testimony or unreasonably mocks her competence, at the end of the day, SDG&E must still show proof why a remotely operated facility that only needed a certain number of personnel to operate in the last five years suddenly needs new FTEs to support its operation.

> [The Utility] has the sole obligation to provide convincing and sufficient showing to meet the burden of proof, and any active participation of other parties can never change that obligation.

(D.05-12-020 at 5.)

Ms. Laserson was merely noting that given the improbability of outages occurring during the TY 2012 period, the need to add more FTEs to support a remotely operated plant, that has been historically run properly is unreasonable, and SDG&E has not

[36] Emphasis in original, apparently supporting the entrenched notion that rate cases are determined by splitting the baby, such that whenever SDG&E recommends a certain number of FTEs in this rate case, with or without proof, ratepayers must accept at least some or be found unreasonable.

provided any evidence or data to contradict that recommendation, the "superior expertise" of Mr. Baerman notwithstanding.

4.3.2. Miramar Plant

Much of the difference between SDG&E's request of $1,507,000 request for the Miramar Plant and DRA's recommendations of $928,000 lies in DRA's use of Base Year expense methodology for its forecast and SDG&E's failure to provide any justification for the FTEs associated with the anticipated increase of the Miramar Generation Plant. SDG&E has not provided any new information in its opening brief to counter DRA's recommendation.

SDG&E makes the bold but erroneous assertion that "operating and maintaining twice the amount of equipment will cost twice as much",[37] but provides no record to support that claim. It is important to note that DRA does not oppose the $300,000 SDG&E has requested for each of the years from 2010 – 2012 for extended maintenance outage[38].

4.3.3. Renewable Generation Support

Similar to SDG&E's request for a Songs Consultant, SDG&E also request a renewable consultant to evaluate renewable deals brought to SDG&E outside of competitive solicitations. First, why should ratepayers finance the anti-competitive practice of going outside competitive solicitations to evaluate renewable deals? Second, why are those deals not finding there ways into competitive solicitations? Third, why are SDG&E's much touted Procurement and Portfolio Design Group among others at Electricity Procurement and Resource Planning unable to evaluate these outside renewable deals using the same criteria that independent evaluators have been using in SDG&E's competitive solicitations since 2003? The very idea of approving more money for SDG&E to hire outside consultants to evaluate renewable resources clearly raises

[37] Sempra's OB at 35.
[38] DRA's OB at 38.

more questions than it answers, especially after SDG&E mocked DRA's recommendations that it employ outside services to support Palomar in the improbable event of a forced outage.

5. SONGS

SDG&E's only argument in support of the excessive amount it seeks for hiring a Songs Consultant is that "this amount is reasonable in light of going rates for consultants for this type of work", but the record reflects neither the name of consultants who do this kind of work nor the basis on which SDG&E makes this claim, the rates they charge for instance. Not only are such conclusions in opening briefs not evidence, they serve only to reflect the absence of evidence in the record.

6. Electric Distribution Operations (SDG&E-Only)

Most of DRA's recommended disallowances of SDG&E's requests for Electric Distribution Operations and Maintenance costs are based on the fact that many of the requests lack evidentiary support[39]. Recognizing this fact, SDG&E filed supplemental workpapers, without being prompted by any party to do so, but even with the supplemental work papers, many of the cost items could not be justified or supported by the record[40].

DRA accepted the following proposed Electric Distribution costs proposed by SDG&E, without adjustments or disallowances thereto:

1. Behavior Based Safety Training $50,000
2. Badges Access Military Base $39,750
3. Smart Meter Outage Management $419,000
4. Smart Transformers $70,000
5. Distribution Engineering $969,000[41]
6. Officer Workgroup $417,000[42]

[39] DRA's OB at 54.

[40] *Id.* at 56.

[41] *Id.* at 102

7. Administrative and Management $150,000[43]

Further, in all instances pertaining to preparations for fire related events or fire prevention, DRA recommended deferred to D.09-08-029 where the Commission directed the utilities to record amounts incurred to mitigate fire hazards to the Fire Hazard Prevention Memorandum Account (FHPMA). SDG&E did not provide any evidence why such costs should now be collected in the TY 2012 rate case. DRA recommended adjustments based on D.09-08-029's directive to record relevant Electric Distribution Operations costs in the FHPMA affected the following cost entries:

A. Red Flag Warning Operations $1,793,505

B. Elevated Wind Conditions $122,140

C. Outage Patrolling During High Fire Risk Periods $1,646,100

D. Helicopter Utilization Expense (Fleet Department) $1,079,000

E. Field Crew Laptop Computers

In addition to these cost elements that were supposed to be recorded in their entirety to the FHPMA, there were also several FTEs doing Fire Hazard prevention work associated with high wind areas that DRA recommended should be recorded in the FHPMA. As reflected above and in the following discussion, DRA made every effort to be reasonable in its recommendations for adjustments to SDG&E's proposals, but it appeared in many instances that SDG&E made little or no effort to justify its requests and relied substantially on conjecture to support them.

The following discussion tracks the subheadings presented in Sempra's OB.

6.1. O&M

6.1.1. Electric Regional Operations (ERO) ED011.000

6.1.3.1. Safety Culture Change

SDG&E requests $160,000 in TY 2012 to employ culture change consultants. These consultants provide four seminars with four manuals for this amount. There is no

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[42] *Id.*

[43] *Id.* at 103.

record of the impact that previous culture change programs has had on employees or any correlation between the number of programs offered and safety culture at the company. DRA recommends that the Commission approve one out of four of the programs for $50,000. As ratepayers are forced by the economy to tighten their belts, so should the utilities.

SDG&E's OB would only say that the program DRA recommends would addresses individual behaviors but not company culture as a whole, and that "[b]oth approaches are needed to achieve a sustained improvement in SDG&E's safety performance."[44] However, SDG&E's application never stated how the various programs were supposed to fit together to achieve the intended result, nor did they even mention the programs. DRA had to discover them through its own research[45]. Thus given the lack of support the record showed for this program as a whole, SDG&E should be very happy with the individual program.

6.1.3.3. Overhead Switch Inspection and Maintenance

On the basis of the discussions previously made in this brief, DRA recommends that this cost be recorded to the FHPMA.

6.3.1.4. Overhead Connector Program

On the basis of the discussions previously made in this brief, DRA recommends that this cost be recorded to the FHPMA.

6.1.4. Safety and Environmental Compliance

6.1.4.1. PCB Reassessment of Use Authorization

SDG&E seeks authorization to open a two-way memorandum account to record costs associated with PCB phase-out that the U.S. Environmental Protection Agency has been contemplating for more than thirty years.

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[44] Sempra OB at 55.

[45] DRA OB at 58-59

Responding to DRA's argument that such a memorandum account is premature at this time, SDG&E claims that "EPA has moved beyond the 'contemplation' and 'pre-proposal stage' of amending the PCB Use Authorization and development of a Phase Out for PCB…"[46]

However, SDG&E provides no authority to support this claim but repeats that "EPA has committed to publish the proposed rule, and SDG&E needs to begin the proactive screening of its older electrical equipment…"[47] Thus, without a date for when this commitment would be realized, SDG&E is seeking approval from the Commission to commit ratepayer funds on the basis of double speculations about when the EPA would actually establish a rule for PCB Phase Out, not to mention the speculation on what that rule would require utilities to do exactly.

6.1.4.2. General Order 165 Annual Patrols in Fire Zones – Repairs

On the basis of the discussion in this brief, DRA recommends that this cost be recorded to the FHPMA. Further, DRA notes that the record in this proceeding does not support the recovery of these costs.

6.1.4.3. Rule 18 Notifications and Repair of Safety Hazards

DRA recommends that this cost be recorded to the FHPMA.

6.1.4.4. OII Quality Control Inspections

DRA recommends that this cost be recorded to the FHPMA.

6.1.4.5. Screening of Commercial Drivers

6.1.5. Fire Preparation

SDG&E criticizes DRA for recommending that all costs associated with prevention of fire high wind areas be recorded in the FHPMA, but then goes on to quote

[46] Sempra OB at 55.

[47] *Id.* at 55.

D.09-08-029 which makes it clear that the Commission is considering these costs in a completely separate proceeding[48].

Further, SDG&E argues that D.12-01-032 directs the utilities to recover the FHPMA costs in their next GRC, claiming that for SDG&E that next GRC is this TY 2012 GRC[49]. Considering that D.12-01-032 was obviously issued in the month when hearings concluded in this TY 2012 GRC, it is preposterous for SDG&E to argue that the Commission intended SDG&E to include those costs in this GRC. Notwithstanding what prescience one may wish to attribute to SDG&E for contemplating what the decision would say, it is very clear that D.12-01-032 contemplated a later GRC that would occur after Phase Two of the FHPMA proceeding has considered the reasonableness of the FHPMA costs and the tracking mechanism it planned to establish for those costs.

6.1.10. Operational Excellence 20/20 On-Going Support

This program is so lacking in evidentiary support that Sempra's OB description of its position and DRA's position on the subject actually make the case for lack of support:

> DRA disallowed all OpEx ongoing support costs, claiming a lack of detail. OpEx is a cost savings program, with long term benefits to the customer; thus disallowing ongoing support costs would be counterproductive.

(Sempra's OB at 58.)

Sempra's OB response to the fact that its application fails to provide any evidentiary support or detail for OpEx is that "OpEx is a cost savings program, with long-term benefits to the customer."[50] Sempra has failed to carry its burden of proof for the allowance of this cost.

SDG&E also requested funds under OpEx due for "Pathing". According to SDG&E "'Pathing' refers to the grouping of nearby facilities into the same inspection

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[48] *Id.* at 56.

[49] *Id.*,

[50] Sempra OB at 58.

year in order to avoid returning to the same area every year."[51] SDG&E has not provided evidence of how these costs were derived or how they would translate into future savings that justify the amount requested in this TY 2012 GRC. We see no reason why "Pathing" should cost money when gradual changes could be implemented from year-to-year to achieve the same "Pathing" result over time.

6.1.12. Electric and Regional Operations (Troubleshooting)

6.1.12.1. Skills and Compliance Training ED013.000

The only difference between DRA's recommendation of $3,664,000 and SDG&E's request of $4,338, 000 is that SDG&E used 2009 base year historical costs for the labor forecast but uses a 5-year average historical costs for its non-labor forecast, while DRA used a 4-year average of historical costs for its non-labor forecasts because 2005 was significantly higher than the years 2006-2009.

However, SDG&E's OB is utterly silent on the fact that its increased figures was based on the manipulation of the historical data to include a remote outlier. To hear SDG&E's OB tell it, DRA's recommendation "deliberately" jeopardizes the safety of its employees.[52]

6.1.13. Project Management ED010.000

DRA recommended adjustments to SDG&E's requests for Project Management based on a 4-year average historical data, but SDG&E used a 5-year average arguing that "2009 was the only year in the five year average that Project Management did not conduct a Planner/Designer Training Class.[53]" There is nothing in Commission decisions addressing the use of averages that requires the utility to include as many years as possible that have more of the costs it would like to see in its rates. Clearly, on the basis of the historical experience, it follows that there will be some years when Project

[51] Sempra OB at 58.
[52] Sempra OB at 63.
[53] Sempra OB at 65.

Management would conduct the "Planner/Designer Training Class" and some years when it would not. Therefore, the four-year historical average that DRA recommends is the more accurate reflection of the appropriate cost for project management.

6.1.14. Service Order Team ED014.000

The difference between DRA's recommendation for the Service Order Team and SDG&E's proposal is only $12,000 and it is based on DRA's use of a 4-year average historical costs, as discussed in the prior section. SDG&E used a base year 2009 data for labor and a 5-year average for non-labor.

6.1.15. Regional Public Affairs ED022.000

DRA recommended $1,006,000 for Regional Public Affairs using only the 2010 recorded data because it was adjusted to exclude non-recurring costs.[54] Inclusive in this recommendation is DRA's recommendation that the Commission deny SDG&E's request for a new FTE at a cost of $111,000 for which there was no justification in the record. SDG&E claims that DRA's recommendations ignores the mounting environmental regulation and increased customer outreach activities in relations to emergency preparedness, customer education, etc., which would enhance communication between utilities and customers. However, SDG&E does not argue that by reducing these costs, especially in these recessionary times, SDG&E could not effectively provide these services.

6.1.16. Grid Operations ED008.000

SDG&E requests one Electronic Control Technician in 2012 to support an increase in the number of Supervisory, Control & Data Acquisition (SCADA) equipment, but did not provide any documentation or evidentiary support for this position. SDG&E's OB claimed that the "program has been described and well documented in this GRC" but still failed to provide any reference to workpapers, testimonies or other exhibits to show where this position was supported in the record.

[54] DRA OB at 78.

6.1.18. System Protection ED017.000

SDG&E's OB describes the difference between DRA's recommendation and SDG&E's request as follows:

> DRA cuts $107,000 from this activity, using a 4 year average of 2007 – 2010 as opposed to a 4 year average of 2006-2009…. System Protection Maintenance maintains protective relays and control systems within SDG&E's substations.

(Sempra OB at 71.)

Given the description of System Protection as a very current maintenance instrument, DRA's use of the more recent 2010 data is more indicative of the appropriate costs going forward.

6.1.19. Electric Distribution Operations ED004.000:

SDG&E forecasts $10,475,000 for Electric Distribution Operations using a 5-year average historical data, while DRA recommends $1,878,000 using the last recorded year's data and rejecting all new FTE's for this section, due to lack of support in the record. SDG&E's OB merely restates the reasons for DRA's recommendations but does not provide any more information than what was already lacking in its testimony and application.

6.1.20. Distribution Operations (EGIM) ED003.000

SDG&E and DRA proposals for this cost item differs primarily due to the fact that SDG&E used a 5-year average of historical data for its forecast while DRA used a 3-year average, but included the most recent 2010 actuals. There was also no support for the FTEs SDG&E requested in this section.

6.1.21. Equipment Maintenance and Lab (Kearny) ED006.000

While DRA used a 5-year average of historical data for this cost item, SDG&E claimed to use a 5-year linear methodology for its forecast. However, it is clear that SDG&E's linear methodology overstates the 2010 expense levels.

6.1.22. Construction Services ED002.000

DRA recommends that the Commission approve $4.36 million for Construction Services rather than SDG&E's requested $5.53 million. One significant difference between SDG&E's request and DRA's recommendation is that DRA used a 4-year average that did not include 2009 when the costs included a special fire helicopter. Further, DRA found that some of the costs in construction services should have been recorded to the FHPMA.

6.1.23. Vegetation Management (Tree Trimming)

Tree trimming expenses are currently being recorded in the Tree Trimming Balancing Account (TTBA) which is a one-way balancing account to manage vegetation around overhead electric distribution lines, primarily to maintain mandated clearances. SDG&E seeks to change this balancing account to a two-way balancing account, purportedly to protect its customers and for regulatory certainty, but the ratepayer advocates in this proceeding all propose that the Commission maintain the one-way balancing account as it currently exists.

6.1.24. Vegetation Management (Pole Brush) ED021.000

SDG&E's pole brushing activities has been a non-balancing account expense, but SDG&E proposes to make it a balancing account item in this TY 2012 GRC. DRA opposes the use of a two-way balancing account for this program and recommends that the Commission only approve base year 2009 FTE costs. DRA's recommends approval for $3,803,000 for this item.

6.4 Smart Grid

As DRA noted no one questions the need for a smart grid development program adaptable to the growing demand for new technology, need to provide information to customers, or to ensure security and provide reliable service, but what is unclear is how best to achieve this objective:

> What is in question, however, is how we go about the business of creating the optimal result. SDG&E would have the Commission approve a sudden and large budget in order to move aggressively ahead; it suggests going from zero ratepayer dollars for smart grid upgrades in 2009 and 2010 to $36.5 million in 2011 and $57.2 million in 2012.

(DRA's OB, p.115)

A recent Smart Grid Annual Report to the Governor supports DRA's recommendation that the Commission refrain from authorizing too much in costs for smart grid upgrades until the much of the standards guiding the upgrades have been understood and their costs better assessed. To date, what the utilities have is a framework and no standards, which invariably makes for a very speculative forecast in this case.

The report to the governor states:

> Through California legislation (i.e., SB 1476, etc.) the CPUC is implementing policies on multiple fronts to ensure that our State remains a leader in moving forward and transforming our grid into one that brings more reliability, more efficiency, more choice, more cost effectiveness in California.

(California Public Utilities Commission Smart Grid Report 2011, p.13, http://www.cpuc.ca.gov/NR/rdonlyres/3B475B48-58CF-454-9ACE-2EEA7B374336/0/SmartGridAnnualReporttotheGovernorandtheLegislature.pdf)

DRA believes the Commission would only keep its leadership role in developing the Smart Grid by making informed rather than hasty decisions about the utilities investment. Sempra would like the Commission to believe that the way to show this leadership is by approving all the requests they have made in this application for Smart Grid funds but as the report shows, such an approach would likely undermine the coordinated work being done both at the State and Federal levels and by numerous organizations to create an interoperable smart grid for the nation. The critical role of developing and understanding

interoperability standards before hasty investments in smart grid are made is intended to ensure "that today's investments in the Smart Grid remain valuable tomorrow."[55] Sempra would like the Commission to believe that these investments would create jobs in a recessionary economy, but these jobs would be in highly specialized fields that may not be as affected by the high unemployment because of the critical nature of the work they are doing at this time. Furthermore, the American Recovery and Reinvestment Act of 2009 (ARRA) has invested significant sums in the development of Smart Grid standards and infrastructure. Rather that make imprudent investments for the sake of employment that might simply take workers from identical programs, the Commission should show the requisite leadership by taking a more reasoned and deliberate approach to ensuring California's Smart Grid future.

7.1. SoCalGas Issues

7.1.1. O&M

7.1.1.1. Locate and Mark

With respect to SCG's arguments about the timing of the Los Osos project, SCG states that the project will start in May 2012[56], but fails to acknowledge that its original request had the project starting in 2011 and through 2012 into 2013, and thus the costs in 2012 would be lower than originally anticipated.

7.1.1.3. Measurement and Regulation

DRA recommends $10.9 million for TY 2012. This amount is an adjustment of $24.9 million to SCG's request of $35.7 million. DRA's recommendation is based on the 5-year average of 2005-2009 spending, which is $10.8 million, plus $27,000 for the incremental greenhouse gas reporting work activities.[57]

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[55] NIST Framework and Roadmap for Smart Grid Interoperability Standards, Release 2.0, www.nist.gov/smartgrid/upload/NIST_Framework_Release_2-0_corr.pdf.

[56] OB, p. 112.

[57] Exh. 533, p. 17.

With respect to SCG's request for $23.4 million to comply with 40 C.F.R. § 98.230, subpart W, literally nowhere in the Utilities' OB is there any explanation of how the $23.4 million was determined, and why it is a reasonable interpretation of the EPA's Greenhouse Gas Reporting Rules. SCG states in Section 7.2.1.1.3 that

> DRA opposes the use of a two-way balancing account (NERBA) to address environmental compliance and proposes only $27,000 of incremental funding, a reduction of $23.4 million. SCG acknowledges the issuance of a "final" EPA GHG rule, but also notes that further clarification on definitions within the rule are required before it can assess the operational impacts of this final rule. For more information on the scope and timing of the EPA GHG Rules, please see the testimony of Ms. Haines, Exh. 330, discussed in Section 14.2 of this Brief.[58]

The Utilities subsequently mention Subpart W only twice, once in Section 7.2.3.15 with respect to optical equipment[59] and the other time in Section 14.2.1:

> The environmental issues proposed for the SCG NERBA are limited to Environmental Protection Agency's (EPA's) Mandatory Reporting under Subpart W, AB 32 Cap-and-Trade emission allowances (a tradeable type of emissions credit) and AB 32 administrative fees. The environmental issues proposed for the SDG&E NERBA are limited to EPA's Mandatory Reporting under Subpart W, AB 32 administrative fees and PCB Reassessment of Use Authorization program costs. Due to the large scope of these issues and the potentially high costs of compliance, NERBA is a sensible way to account for and manage this uncertainty. As described in much further detail in Ms. Haines' rebuttal testimonies,[60] the Commission should approve the NERBA as a reasonable and necessary accounting mechanism for SCG and SDG&E.[fn. omitted][61]

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[58] OB, p. 114.

[59] OB, p. 140. SCG further stated, [s]ince there remains uncertainty about the compliance requirements, SCG is proposing a two-way balancing account." Id.

[60] Exhs. 327 and 330, pp. 4-6.

[61] OB, p. 312.

But nowhere in the OB or Ms. Haines' rebuttal testimonies is there an explanation of how the $23.4 million was calculated. There was no discussion in the briefs or testimony of the updated GHG Rules other than arguments that there was "uncertainty" in the rules and that this uncertainty somehow justifies the request for a two-way balancing account. Ms. Haines is not just asking for a two-way balancing account, but an account that allocates $23.4 million to the utility at the start that would only at some uncertain future date be returned to ratepayers when it was not spent. Moreover, there is absolutely no legal argument proffered describing the history of the GHG rules and why and how the "uncertainty" justifies the specific amount $23.4 million. SCG has failed to provide any justification at all for the $23.4 million it requests be included in its NERBA account and the request must therefore be denied.

SCG's utter lack of support for its large incremental request shows why a two-way balancing account for environmental compliance costs is a disastrous idea. Simply put, DRA has no faith in SCG's ability to accurately assess environmental costs on its own without review, let alone reasonably spend such funds. A two-way balancing account will inappropriately allow SCG to recover unauthorized environmental costs without the type of due process that is necessary to include costs in rates.

With respect to the SCG's request of $122,000, for the cost of annually replacing 650 medium and large meter set assemblies over the next ten years, SCG failed to compare the alleged costs of more frequent field tests and adjustments to the cost of replacing the meters. SCG argues that "a proactive and systematic approach will better utilize resources,"[62] but their only evidence is conclusory statements about the benefits without any cost calculation. SCG has failed to carry its burden on this issue.

With respect to SCG's request for an accelerated replacement of meters they deem "obsolete" even though such meters are still working,[63] DRA maintains that SCG has

[62] OB, p. 114.

[63] OB, p. 115.

failed to support its claim. They have not established that such meters are a current threat to safety, but merely that the line is discontinued and a little more costly and difficult to maintain. But those factors do not by themselves justify the current adoption of an accelerated replacement project.

With respect to SCG's request for an increase of $179,000 in expenses above the base year level for TY 2012 for the set-up and dismantling of construction barriers and training of personnel for such tasks, SCG states that "these are specific tasks within a larger activity for which SCG cannot track costs and such new data would not exist in any event."[64] Nowhere in testimony or elsewhere did SCG say that these are tasks "for which SCG cannot track costs," and if indeed it were true, that in and of itself would disqualify the request. In testimony, SCG's witness stated that "SCG does not keep cost information on every task completed, and because this is new work, such data would not exist in any event."[65] SCG never explains why they cannot or do not track costs for "tasks within a larger activity," and if they cannot or do not account for such costs, they have failed to demonstrate that a specific amount is reasonable. SCG remarkably claims, "[t]he lack of detailed cost tracking does not mean that these incremental costs do not exist,"[66] forgetting that they have the burden of proving that their estimates are reasonable, and lack of cost tracking makes it literally impossible to show the reasonableness of a particular expense. If SCG cannot keep track of what they are spending, ratepayers cannot fund such activities.

With respect to SCG's request for an increase of $58,000 in expenses above the base year level for TY 2012 for additional odorization costs, SCG mistakenly states that "DRA does not contest the need for incremental odorization testing."[67] On the contrary, DRA's OB noted the lack of objective evidence to support the claim that there has been a

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[64] OB, p. 115.

[65] Exh. 29, p. GOM-40.

[66] OB, p. 112.

[67] OB, p. 115.

decline in odorant intensity in new installations requiring a more stringent application of odorant at increased costs.[68] SDG&E and SCG's OB similarly lacks references to any objective evidence supporting the need for this request.

7.1.1.7. Field Support

SCG requests $18.6 million in TY 2012, which is an increase of $4.2 million above the 2009 recorded spending level of $14.4 million.[69] The activities in this broad work category comprise of (1) field supervision, (2) clerical support, (3) dispatch operations, (4) off production time and (5) materials support. SCG's TY 2012 forecast is based on a five-year average of spending between 2005 and 2009, which results in an increase of $687,000 above the base year as spending declined over this period. To this base year amount, SCG also forecasts an increase of $3.5 million for incremental work activities. SCG partially justified the increase for 2012 on the expected economic growth that would return employment in 2012 to 2005-06 levels, but as has been discussed, more accurate economic data showed that 2012 employment will still be below such levels.[70] Based on this data, DRA disagrees with SCG's use of a 5-year average for the base forecast. Instead, DRA recommends using the 2009 recorded expenses of $14.4 million as the base forecast.

For TY 2012, DRA recommends $15.3 million in expenses for Field Support. DRA's estimate is based on using the 2009 recorded cost of $14.4 million, plus $277,000 in incremental expenses for training costs in support of new technology. DRA's recommendation is $3.9 million lower than SCG's forecast of $18.6 million.[71] DRA recommends denial of SCG's request.

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[68] DRA OB, p. 117.

[69] Exh. 26, p. GOM-32.

[70] Exh. 533, p. 43.

[71] *Id.*, p. 44, Table 44-12A.

With respect to SCG's request for $459,000 in funding for its new Area Resource Scheduling Operation (ARSO), SCG forecasted the hiring of six new employees, and noted that

> The scheduling and dispatch work activities cannot continue to be performed by the same persons as before because the OpEx 20/20 system requires specialized training. If SCG continued to rely on the current supervisors to schedule and dispatch work in the new system, more than 60 supervisors would require extensive training.[72]

SCG never compared the costs of relying on current supervisors with hiring new employees, nor does it account for the savings associated with the removal of scheduling and dispatch work activities from existing employees. SCG's request for incremental costs for ARSO should thus be denied.

SCG requests an increase of $2.7 million for TY 2012 to train approximately 1,000 employees on the new OP/EX 20/20 Program.[73] In rebuttal testimony, SCG states that "[t]he cost increase in 2012 is based on one week of training for approximately 1,000 employees to implement this new technology."[74] But now on brief, SCG maintains that "Since the field staffing level is just adequate now to perform necessary field work, overtime will be incurred to allow the training of approximately 1,000 employees for the new technology systems."[75] SCG failed to provide supporting cost information for either one week of training or overtime for 1000 employees, and the request should for incremental funding should be denied.

7.1.1.8. Tools, Materials & Fittings

With respect to SCG's request for $10.1 million in expenses for tools, materials and fittings, an increase of $1.5 million, or 17%, above the 2009 recorded amount of $8.6 million, SCG states that

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[72] OB, p. 119.

[73] Exh. 533, p. 48.

[74] Exh. 29, p. GOM-77.

[75] OB, p. 120.

> consumption of these materials is highly influenced by construction activity, which is often reflective of economic conditions. Therefore, SCG's TY 2012 forecast is driven by expectations of economic growth and uses the five-year average (2005-09) to capture the fluctuation in this area, resulting in a $1,492,000 increase over the 2009 BY.[76]

As has been stated repeatedly, the expected growth in 2012 is much smaller than SCG assumed in its forecast, and combined with their underestimation of the extent of the economic downturn in 2010 and 2011, results in excessive forecasts for TY 2012. For an account based on aggregate economic activity, a 2005-2009 average is particularly inappropriate. DRA's recommendation of maintaining the 2010 level spending is reasonable and should be adopted.

7.1.1.9. Pipeline Operations & Management Planning

With respect to SCG's request for four incremental environmental specialists, SCG said that it "explained that GHG reporting requirements were only delayed to September 30, 2011, so the reporting still remains within the TY 2012 forecast."[77] However, SCG does not cite any source for this date, either external or to their testimony. SCG also states that its request is "not simply based on the GHG Rule as DRA suggests, but also on changing regulations for stormwater discharge and other regulations."[78] As DRA noted in its OB, SCG never specified the stormwater discharge or other regulations, which they claim are "foreseeable." DRA's recommendation for two rather than four specialists should be adopted.

7.1.1.11. Operations Management and Training

SCG chose a five-year 2005-2009 average to forecast a base level of costs in this category, arguing, "[t]he five-year (2005-09) average of non-labor costs used by SCG

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[76] OB, p. 121.

[77] OB, p. 122.

[78] Id.

does in fact fluctuate, as can be seen in SCG's workpapers."[79] But SCG ignores that 2010 actual expenses of $7.771 million are essentially identical to the 2009 expenses of $7.772 million and the 2007 expenses of $7.774 million, and SCG's forecast of $8.826 million for 2010 was, like so many of its 2010 forecasts, much higher than the actual expenses. SCG then claims that "DRA was only able to show a decline in non labor costs by selectively excluding 2005 costs without explanation,"[80] but DRA clearly stated the decline was from 2006-09, and that with the remarkable consistency of costs in 2007, 2009, and 2010, with a lower but fairly close amount of spending for 2008, it was proper to adopt the 2009 level for 2012.[81]

With respect to SCG's request for an increase of $1.1 million in expenses above the base year level for the restoration of 10.5 FTEs to Gas Operations Services (GOS), SCG's brief does not refer to any external source supporting SCG's claim of an accurate number of FTEs to be transferred back to GOS based on its representation of OP/EX request parameters other than one witness's statement in a data request, nor does it show that such "additional" costs are reasonable.[82]

In addition to the "costs" associated with transferring personnel from OpEx 20/20 to GOS, SCG requests almost $1.5 million in further incremental costs associated with GOS business processes to implement the new OpEx 20/20 Program. SCG states that "[t]o support these new technologies and processes, SCG will need 1 to 2 analysts, advisors and/or project managers on average per region per application, an increase of $1,474,000."[83] SCG concedes that "[t]here were no extensive calculations to support the

[79] OB, p. 123, *citing* Ex. 28, p. 158.

[80] Id.

[81] *See* Exh. 533, p. 55 and Table 44-14.

[82] *See* OB, p. 123-124 and fn. 274, *citing* Ex. 29, p. 91

[83] OB, p. 124.

16 FTEs,"[84] and merely describing in general terms what these additional analysts will analyze does not carry SCG's burden of proof of showing these funds are reasonable.

With respect to SCG's request for an increase of $536,000 in expenses above the base year level to modify current instructional materials and to develop new training modules,[85] SCG explains that:

> In late 2009, a process began to formally track revisions to the numerous gas maintenance and construction field procedures so that they can be included in training materials. In addition, instructional design services will be needed to develop new training modules requested by field management or required to address new regulatory requirements. These additional design services result in an increase of $536,000.[86]

SCG's evidence is not persuasive that they will require this amount of money to clear up a backlog that is of their own making due to their late adoption of formal tracking processes.[87] SCG states that "historical data are irrelevant"[88] because they started this project in late 2009, but the actual expenses once they commenced this project were only $16,319 for instructional design services in the last three months of 2009, $82,500 for the complete year of 2010, and $43,709 as of May 2011.[89] It is particularly important and entirely appropriate to look at actual expenses for an entirely new project which is vaguely described and for which SCG admits historical cost are irrelevant.

With respect to SCG's request for an increase of $500,000 to complete 125 system instructional videos in 2012 and for the next four years, SCG states that "the four-year

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[84] Id.

[85] Exh. 26, p. GOM-48.

[86] OB, p. 125.

[87] TR 1262:11-14.

[88] Id.

[89] Exh. 533, p. 62.

time for the first 500 videos was based on SCG's internal resources, the vendor's capability to produce the videos, and the desire to deploy the VESIs on a timely basis to promote customer and employee safety."[90] This is not sufficient proof for SCG to meet its burden of showing this spending is necessary. Moreover, SCG's citation to a website for a Public Broadcasting System channel discussing the use of instructional videos specifically by teachers for elementary school students in classrooms does not support the SCG's claim that skilled professionals in the field need videos without in-classroom instruction.[91]

7.1.2. Capital

7.1.2.1. New Business

SCG claims that "DRA provides no evidence why SCG's forecasts should be scaled to match the 2010 ratio."[92] SCG has the burden of proof, and provides no explanation why any weight should be given to their forecasts for 2012 when the resulting 2010 recorded adjusted total capital expenditures for this category were only $12.350 million,[93] approximately 40% of SCG's projected 2010 expenditures of $31.395 million.[94] DRA has explained repeatedly that SCG relied upon stale economic forecasts that dramatically underestimated the depth of the Great Recession, and use of 2010 actual data is necessary in order to reflect the strength of the recession and revised lower estimates of growth in the recovery. Moreover, with respect to annual meter additions, SCG's general argument that a lower amount of capital spending in one year will lead to an increase in subsequent years is obviously inapplicable. DRA's estimate is far more reasonable than SCG's self-serving, overly optimistic, clearly flawed forecast, but it is SCG's forecast that fails to meet its burden of proof and it must not be adopted.

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[90] OB, p. 126.

[91] *Id.*, *citing* http://www.thirteen.org/edonline/ntti/resources/video1.html

[92] OB, p. 131.

[93] *See* Exh. 39; RT 1264:17-20

[94] *See* RT 1264:23-28; Exh. 535, p. 7.

7.1.2.2. Cathodic Protection

SCG states that DRA "did not challenge the driving factors of contractor rates and infrastructure age,"[95] but SCG's showings for these factors were insufficient. SCG claims there was an increase in contactor costs from 2005-09, but when confronted with the lower costs in 2010, SCG can only conjecture that "lower spending in 2010 could have been due to fewer jobs and/or less complexity."[96] SCG has not provided any separate evidence that there will be higher contractor costs in 2012, or that there will be more jobs of increased complexity. With respect to infrastructure age, all SCG states is

> The life expectancy of the anode beds is approximately 20 to 25 years. Many of these beds were installed in the 1970s, therefore SCG will need to complete more replacements as the materials effectiveness declines.[97]

This is not a sufficient showing of a need for specific amounts of incremental spending, as there is no showing of any history of a replacement program that could support a basis of comparison the conclusion that SCG will need to complete "more replacements."

7.1.2.3. Pipeline Relocation- Franchise

DRA used a five-year, 2005-2009 average in this category, which is usually the methodology chosen by SCG. However, SCG criticized this average as "not appropriate given known projects, improving economic conditions, availability of federal stimulus funding to municipalities, population growth and density, and age of infrastructure."[98] But these are not incremental factors introduced after 2009, as they were cited as drivers of such spending in the past as well.[99] Moreover, given the low spending in 2010, the accuracy of SCG's forecasts are suspect. A five-year average is appropriate here.

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[95] OB, p. 136.

[96] Id.

[97] *Id.*, p. 135.

[98] *Id.*, p. 137.

[99] *See* Ex. 26, pp. GOM-74 – GOM-75.

7.1.2.4. Meters & Regulators

SCG claims its response to DRA for using a scaling factor of actual 2010 spending to SCG's forecast and applying it to 2012 is the same as for New Business, Section 7.1.2.1 above. DRA reiterates that when SCG's forecasts for 2010 were so inaccurate, based on zero-based forecasts of annual growth, SCG's 2012 forecasts end up similarly flawed due to their reliance on stale, inaccurate data. DRA has completely explained the reasons for its recommendations, and SCG cannot even come close to explaining its massively overestimated capital costs for 2010. SCG claims that "[o]ver 10,000 meters were drawn from inventory during 2010 which reduced new meter purchases in that year," and that such a trend is unsustainable,[100] but SCG only offered this statement on rebuttal without any external support.[101] Even if true this amount does not cover the decline in meters installed in 2010, and the revelation of inventory meters shows that SCG has other options besides purchasing new meters in 2012. SCG's forecast is unreasonable.

7.1.2.5. Equipment/Tools

With respect to the $15.7 million for purchasing optical scanning equipment, SCG states that it "acknowledged the issuance of a final rule, but notes that further clarification on definitions within the rules is needed before SCG can assess the final operational impact, thus supporting the need for a two-way balancing account."[102] The Final Rule does not require scanning at the regulator stations originally contemplated, and the clarifications have already occurred. SCG's request is patently unreasonable should be denied.

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[100] OB, p. 138.

[101] Ex. 29, p. 144.

[102] OB, p. 140.

7.1.2.6. Field Support

7.2. SDG&E Issues

7.2.1. O&M

7.2.1.1. Other Services

SDG&E criticized DRA's use of a five-year average from 2006-2010 for general reasons.[103] DRA's use of 2010 data to calculate a five-year average is reasonable given the decline in costs from the 2009 base year figure, which renders SDG&E's 2012 estimate, over fifteen times as large as 2010 actual spending, as highly unlikely.

7.2.1.6. Supervision and Training

SDG&E criticizes DRA's use of a five-year, 2006-2010 average: "DRA's forecast should be rejected because it uses 2010 data and ignores new training needed to provide knowledge and skills to enhance worker effectiveness and safety."[104] But such new training would have been included in 2010 data, if it indeed exists, which SDG&E has never conclusively shown. SDG&E cannot have it both ways and criticize DRA for "ignoring" new requirements but utilizing actual 2010 spending. It is SDG&E that ignores its failure to forecast the decline in 2010 and what that failure says about its 2012 predictions.

7.2.1.10. Pipeline O&M and Planning

SDG&E argues that DRA ignored the incremental costs SDG&E requested for:

> training employees in the new GIS system; the pressing need for new engineers to provide engineering support for new requirements such as increased pipeline safety oversight; additional staffing requirements to support the rollout of OpEx 20/20 Graphic Work Design for construction cost estimating; and the full year's effect of two vacancies that were filled in 2009, all of which are discussed fully in Ms. Orozco-Mejia's testimony.[105]

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[103] OB, p. 142.

[104] OB, p. 145.

[105] OB, p. 147, *citing* Ex. 22, pp. 38-40.

DRA does not agree that the referenced testimony meets the burden of proof of establishing the reasonableness of the incremental costs, and the Commission should deny the request.

7.2.1.12. Operation Management and Training

SDG&E asserts that DRA "inexplicably used a two-year (2009-10) average for its forecast."[106] However, since 2006, the expense for this account has been decreasing each year through 2010.[107] Given the consistent, downward trend over the five years from 2006-2010, use of 2009 and 2010 actuals acknowledges this trend. SDG&E has failed to carry its burden of showing that "[w]ithout additional staffing and course materials, this group would not be adequately equipped to provide necessary training to employees and take full advantage of OpEx 20/20 technologies,"[108] as they provide no independent data, studies, or sample training materials to support these claims whatsoever.

7.2.2. Capital

7.2.2.1. New Customers

SDG&E in the OB never discusses how it determined that $4.898 million in capital costs in 2012, a 74% increase over 2009 spending, was a reasonable amount.[109] Regardless of criticisms of DRA's analysis, it is SDG&E's burden to show that particular amounts are reasonable, and SDG&E fails to meet this burden. Mr. Rengahan's analysis of customer growth in Ex. 491[110] is independent of and does not contradict the recommendations for this account.

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[106] OB, p. 148.

[107] Ex. 503, p. 16 and Figure 7-12.

[108] OB, p. 148.

[109] OB, p. 149.

[110] See Id.

7.2.2.10. Cathodic Protection

SDG&E argues that "DRA provides no justification or reason why an average is appropriate given the clear upward cost trend,"[111] but there is no clear upward trend, as costs declined markedly from $403,000 in 2006 to $285,000 in 2007. SDG&E forecast $581,000 for 2010 and has no specific explanation for why the actual spending was only $364,000. DRA's forecast of a five-year average taking into account 2010 spending should be adopted.

7.2.2.12. Local Engineering

SDG&E claims that "DRA improperly ignores the clear relationship of LEP [Local Engineering Pool] costs to construction activity."[112] This is incorrect. DRA did not replicate SDG&E's forecast of a ratio applied to certain categories of predicted capital costs, because DRA has not accepted the costs in these categories and has generally found them to be overestimated. Thus, using historical data from years where SDG&E noted there had been higher ratios of LE spending to capital than their proposal is a reasonable proxy.

8. GAS TRANSMISSION

8.1. SoCalGas Issues

8.1.1. O&M

8.1.1.1. Pipeline Operations and Maintenance

SCG says it "provided detailed information used to develop the TY 2012 forecast for this activity, including specific line items for locations and lengths of pipelines to be removed,"[113] but does not cite in its brief where such "detailed information" can be found in the record. SCG similarly claims in its brief, without citation to the record, that "DRA acknowledges SCG's justification for the request as due to an increase in the number of requests for the removal of pipelines, and noted SCG's increase in the number

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[111] OB, p. 155.

[112] OB, p. 156.

[113] OB, p. 158.

of landowner requests for pipeline removal between 2005 and 2010."[114] SCG never states that there is any requirement that it complete the alleged eight outstanding requests in 2012, and never explains the utter absence of historical spending despite outstanding requests in all the past years except 2009, when it spent only $91,000.[115] SCG fails to support its recommendation and it should be denied.

9. GAS STORAGE AND ENGINEERING

9.2. Gas Engineering

9.2.1. SoCalGas O&M

9.2.1.1. Gas Engineering

SCG amazingly criticizes DRA here for *not* incorporating 2010 costs, stating that "DRA used 2010 actual costs in many cases, but not here as it would have supported SCG's forecast,"[116] but SCG never backs up that statement with any reference to the 2010 actual costs to verify their claim.

9.2.1.2. Engineering Analysis Center

With respect to SCG's request for an increase of $180,000, for compliance within the Mojave Desert Air Quality Management District (MDAQMD) with MDAQMD Rule 1160 and AB32, SCG says its "environmental witness, Ms. Haines, Exh. 330, explains the timing and status of Rule 1160 and AB 32 supporting SCG's cost forecast"[117] and references Section 14.2 of the brief.[118] Section 14.2 does not discuss the timing and status of Rule 1160 and AB32. In Exh. 330, SCG said that "[t]here is no reason for SCG to doubt that the MDAQMD Rule 1160 will be revised and implemented by early

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[114] Id.

[115] Exh. 533, p. 97.

[116] OB, p. 170.

[117] OB, p. 171.

[118] OB, p. 171 fn. 386.

2012,"[119] but this statement and the remainder of the exhibit does not comprise definitive proof.

9.2.1.3. Planning and Analysis

As noted above, SCG does not include any arguments in its brief about AB 32 timing and thus cannot establish the reasonableness of its 2012 requests. Moreover, SCG has not established that the GRCs are the proper venue to recover future AB 32-related costs.

9.2.1.4. Sustainable SoCal Program

SCG states that it "requests $606,000 for the O&M to operate and maintain four biogas conditioning systems to help reduce the amount of GHGs emitted to the atmosphere by capturing raw biogas and upgrading it to pipeline quality biomethane."[120] DRA discussed biogas issues in Section 29 of its OB, and responds further below in Section 10.9 of this reply brief.

9.2.2. SoCalGas Capital

9.2.2.1. New Additions

SCG lists a number of projects it claims are "now expected" in 2011 and 2012, but never cites any sources for these lists, nor evidence of the likelihood of construction within the time period.[121] This list has changed considerably from the initial funding for only three projects in 2012, the City of Palmdale Utility Electric Generating (UEG) Plant, the SoCal Edison Mandalay Peaker UEG Plant, and the Hydrogen Energy 400 MW Plant.[122] SCG cannot establish with any certainty what projects it will add in 2012, and thus should be denied any funding for these three projects.

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[119] Exh. 330, p. DRH-20.

[120] OB, p. 171.

[121] *See* OB, pp. 177 -178.

[122] Exh. 535, p. 17.

9.2.3. SDG&E Issues – O&M

9.2.3.4. Public Awareness

SDG&E states that the "Commission should reject the use of historic costs for PA and should authorize the funds requested by SDG&E to enhance public awareness of pipeline safety."[123] Left unsaid is that SDG&E forecasted $457,000 of incremental spending in 2010, the same amount as for 2012, but only spent $119,000.[124] The historic costs are its own costs. SDG&E has no explanation for the disparity and its general position is that it would prefer that the Commission ignore 2010 actual data rather than examine it. Past low spending in this area not only supports DRA's forecast, but also supports DRA's request for a one-way balancing account that would ensure that SDG&E will spend monies allocated for safety on safety. In contrast, SDG&E's request for a two-way balancing account provides no guarantees that specific money forecasted for a safety activity will be spent on that activity, and no cost controls whatsoever.

9.3. Gas Pipeline Safety: Balancing Accounts and Expenditure Tracking

SDG&E and SCG have proposed a two-way balancing account without any specific review mechanisms for costs above the authorized level. In their brief they claim they "would *consider* reasonable procedures to allow parties meaningful review of any costs above authorized levels,"[125] but their proposal did not include such procedures, and it is improper to have a utility decide the processes of its own balancing accounts. Moreover, the Utilities' witness Stanford would not commit to any specific procedure, repeatedly commenting about the time rather than the substance of such review, and even complaining that an exchange of at least two rounds of data requests taking as long as one month might be too lengthy a period.[126] Just because spending is alleged to be in response to a TIMP directive cannot excuse it from some sort of Commission review,

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[123] OB, p. 181.

[124] Exh. 505, p. 5.

[125] OB, p. 183 (emphasis added).

[126] *See* RT 1433:5-23.

either through the traditional rate case process or a full retroactive reasonableness proceeding.

SDG&E and SCG also claim that their two-way balancing account "will also remove any disincentive to such spending,"[127] but one such disincentive to spending was also the ability of the utility to spend less than authorized on safety and pocket the difference, as was highly publicized for PG&E in the San Bruno explosion mentioned in the legislative history to AB 879[128], and such a disincentive is barred by the legislation and is prohibited in a one-way account as well. To the extent SDG&E and SCG are implying that they would somehow not spend the costs for necessary, required safety measures over the authorized amount without the approval of a two-way balancing account, such an assumption is unreasonable and would represent a dereliction of public utility responsibilities. DRA reiterates its support for a one-way balancing account with guarantees that funds authorized for TIMP spending are spent on TIMP accounts (and DIMP spending on DIMP accounts) with unspent amounts returned to ratepayers.

SCG also requests a two-way balancing account for environmental costs (NERBA), and for similar reasons, if a NERBA is established, it should not be a two-way account.

10. CUSTOMER SERVICE

10.1. Smart Meter Policy, AMO and MDO - SDG&E Issues

SDG&E argues that DRA provides "speculative and incorrect assumptions in a weak attempt to contest accurate Smart Meter forecasts."[129] SDG&E is mistaken; as discussed in DRA's Opening Brief, DRA's Smart Meter Policy recommendations are based on expected efficiency increases, overstated staffing needs and the unjustified filling of vacancies.[130] Given the potential for greater efficiencies across the Product

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[127] OB, p. 183.

[128] AB 879 only applies to TIMP. DRA support one-way balancing account treatment for DIMP costs as well, and SDG&E and SCG request a two-way balancing account for DIMP.

[129] OB, p. 185.

[130] DRA OB, pp. 195-198.

Support, Quality Assurance, Metering System Engineering and Operations Divisions, DRA recommended a modest 15% expense reduction to SDG&E's Advanced Metering Operations (AMO) expenses. DRA also recommended a modest 25% cut to SDG&E's proposed AMO staffing increases, essentially cutting one position from each of the four AMO Divisions, in contrast to SDG&E's request to add 20 FTEs. Regarding vacancies, SDG&E failed to meet its burden regarding 5 part-year vacancies in 2009 totaling $176,000 in salary savings. SDG&E did not explain why these positions were vacant, how the vacancies impacted workloads or whether filling those vacancies reduces the need for new staff. DRA recommended disallowing 50% of the expenses associated with vacant positions, totaling $192,000.

10.3.1. Customer Service Field -- SoCalGas Issues

With respect to SCG's request for an additional 19.1 FTEs to help large customers comply with new rules propounded by the South Coast Air Quality Management District (SCAQMD), SCG claims that "to exclude large industrial customers from these services would be inequitable,"[131] as they have been providing similar services to smaller customers. SCG never established how much it has spent historically on small versus large customers for compliance with SCAQMD rules, and cannot show it would be "inequitable" not to have large customers pay for their own pollution-abatement activities in order to avoid higher SCAQMD fees for which they are responsible.

SCG is requesting an increase of $998,000 over the 2009 expense level of $10.137 million for Branch Offices and Authorized Payment Locations, an increase of 9.8%.[132] DRA's recommendation is to maintain SCG's 2009 expense level of $10.137 million for TY 2012.[133] SCG admits that "it is accurate to state that SCG anticipates filing an application to propose closure of selected branch offices," but nevertheless SCG includes the costs of operating such offices in its application. Throughout this application when

[131] OB, pp. 197-198.

[132] Exh. 143, p. 39.

[133] Exh. 537, p. 6.

SCG anticipates future responsibilities increasing costs, it requests for such costs assuming the increased regulations, but when they propose their own internal cost-savings activities, they do not assume the approval of their request. SCG's recommendation for increased funding is inconsistent with their internal directives to shut down branches.

With respect to SCG's requesting of an increase of $1.260 million from the 2009 expense level of $31.657 million for meter reading, SCG repeats its argument that D.10-04-027 requires inclusion of these costs in this GRC,[134] but they failed to acknowledge an alternative treatment, that if DRA's proposal is accepted in this proceeding, they could "adjust the AMIBA benefits formula accordingly to reflect final authorized TY 2012 operating expenses for meter reading."[135] DRA recommends the Commission require SCG to take the expenses out of this GRC and adjust its AMIBA benefits as it suggests.

10.3.2. Capital

10.4. Field, Call Center & Branch Offices - SDG&E Issues

10.4.2. Capital Projects

SDG&E argues for $13.3 million in capital expenditures and associated O&M expenses to support customer HAN device adoption and usage. HAN technology is still very much in the early development stages: "the underlying technology is still undeveloped, smart appliances are not yet on the market, time-of-use or dynamic pricing is not yet widespread, benefits are speculative, and SDG&E's SmartGrid Deployment Plan (A.11-06-006) has not yet been evaluated" by the Commission.[136]

In this "which came first, the chicken or the egg" situation, SDG&E appears to have decided that it will skip the egg stage and go directly to the expensive rooster. The

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[134] OB, p. 203.

[135] Exh. 145, p. EF-54.

[136] DRA OB, p. 217.

Commission should tell SDG&E to delay its HAN capital and O&M expenditures until market demand, standards and hardware develop, if ever.

10.8. Information - Common Issues (including R&D)

Based on the neutral, permissive language of Public Utilities Code § 740 ("the commission *may* allow the inclusion of expenses for research and development") the Utilities argue for the wholehearted expansion of RD&D funding.[137] (emphasis added) DRA notes that the statute does not include the word "demonstration," which is unfortunate for the Utilities, since a better policy argument can be made for continuing ratepayer funding for demonstration or pilot programs, as opposed to pure research and development programs.

The function of regulated energy utilities is to distribute electricity and natural gas is a safe and cost-efficient manner. As distributors, utilities should not be expected to research, invent or develop new technologies – that's a task for competitive hardware vendors like General Electric and Silver Springs Technologies, who take the risks of product development in a competitive market and may reap the rewards of their efforts. The Utilities are closer cousins to Macy's than they are to technology manufacturers.

The Utilities also argue that due to CEC or U.S. DOE co-funding requirements, they need to have RD&D funding programs.[138] Once again, the Utilities miss the point that competitive hardware vendors should be taking advantage of governmental R&D subsidies, not Utilities.

SDG&E argues that it needs to significantly increase its RD&D budget from $2.8 million annually to $4.8 million, in part to "facilitate achievement of California state goals associated with Smart Meters and Smart Grid, among others."[139] Given that SDG&E expects to complete its Smart Meter installation in 2012, DRA is puzzled why

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[137] OB, p. 264.

[138] Id., p. 265.

[139] Id., p. 286.

SDG&E would now need to significantly increase its RD&D funding for a program that is almost completed.[140]

10.9. Information - SoCalGas Issues (includes Biogas)

With respect to SCG's request for $120,000 for market assessments to advance the biofuel market, SCG sidesteps completely the issue of why ratepayers should fund the otherwise non-utility, deregulated natural gas production market: "SCG believes it can leverage its long experience in natural gas processing technology and its distribution infrastructure to help and promote the biogas market development in California."[141] It is neither the responsibility of ratepayers or SCG the utility to "promote the biogas market development" (if indeed such a market could be developed given the current abundance of shale gas), and thus it is an improper request for ratepayer funding. If the request were for funds "to promote the natural gas market development in California" it would clearly be improper, and the fact that the gas is biogas does not change that conclusion.

SCG further states that

> DRA's references to "unregulated production activities," and "unregulated gas producers" suggests that DRA may believe that Sustainable SoCal hosts would be natural gas production companies. To be clear, small to medium size wastewater treatment plants are the "biogas producers" that Sustainable SoCal is targeting.[142]

Whether or not a wastewater plant that produces gas is exempted as a "gas corporation" under Public Utilities Code § 222 or not does not alter the fact that such

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[140] The Utilities' OB (p. 288) inexplicably cites Public Utilities Code § 701.3, as proof that "DRA ignores long standing state and Commission policy that has supported and recognized the value and need for utility investment and involvement in RD&D, as codified in Public Utilities Code section 701.3." Section 701.3, provided in full, makes no mention of RD&D: "Until the commission completes an electric generation procurement methodology that values the environmental and diversity costs and benefits associated with various generation technologies, the commission shall direct that a specific portion of future electrical generating capacity needed for California be reserved or set aside for renewable resources."

[141] OB, pp. 274-275.

[142] OB, p. 276.

plants would be producing natural gas. Such natural gas producers have been deregulated at the Federal level for decades. SCG is not a natural gas producer, and its ratepayers should not be a source of funding for processing for selected gas producers, even if such producers are sources of biogas. SCG procures and transports gas for its customers, but does not produce gas.

SCG claims that "Sustainable SoCal would not subsidize the host facilities"[143] because they wouldn't be paid for the biogas but "would only be compensated for the use of space to house the conditioning equipment."[144] There is not exactly a hot real estate market clamoring for space on wastewater facilities, and but for the biogas conditioning the facilities would be receiving no ratepayer-derived funding – if indeed they should be compensated at all for space for equipment to gather their emissions. Moreover, if wastewater facilities are not being paid for their gas, how is SCG improving the biogas market? SCG further states:

> SCG expects that Sustainable SoCal would be essentially a wash for the hosts in terms of financial impact, imposing no new costs on the hosts but providing no significant benefits either. The inherent subsidy that DRA identifies is in the air quality regulations, not in Sustainable SoCal, because air quality regulators charge minimal or no fees to wastewater treatment plants for their emissions of criteria pollutants.[145]

Whether or not the air quality regulations charge "minimal or no fees" does not change the fact that those facilities are responsible for the costs of compliance with such regulations, and their costs will be reduced through lessened fees and ratepayer-funded rent. Who will be the primary beneficiary of these efforts? "SCG will be the primary beneficiary of this biogas market development effort based on near term potential opportunities identified."[146] Ratepayers will be paying for benefits to SCG shareholders and the wastewater facilities and receiving little, if anything, in return. SCG can

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[143] Id.

[144] Id. at p. 277.

[145] OB, p. 277.

[146] Ex. 417, p. GAW-92.

undertake these activities through an unregulated affiliate if the business opportunity is so lucrative.

Furthermore, SCG claims that there are no GHG reductions associated with their biogas facilities at wastewater treatment facilities, only reductions of criteria pollutants.[147] Elsewhere in its OB, in the Gas Engineering, SCG Non-shared O&M, General Engineering Section 9.2.2.1.1, SCG's request for O&M was "to operate and maintain four biogas conditioning systems to help reduce the amount of GHGs emitted to the atmosphere by capturing raw biogas and upgrading it to pipeline quality biomethane."[148] But assuming SCG is correct in this section of its OB and there are no GHG reductions associated with their requested funds for biogas conditioning at wastewater treatment plants, this provides ratepayers even *less* value for these costs, even if it were proper for natural gas ratepayers to fund such activities.

SCG's cost comparisons are incorrect and irrelevant. All they say in their OB is that they presented such cost comparisons,[149] but in the current economic regime, DRA posits that paying over $14/MMBtu for gas that is currently selling for barely over $2/MMBtu is not a favorable cost comparison with any renewable electric technology. The comparison is also apples to oranges because in the electric industry the electric generators ultimately get paid for selling their power, not the electric utility purchasing the power. Here, SCG is the gas purchaser for captive ratepayers, and they reap the ultimate payments for the facilities to produce the biogas, not the biogas producers. Indeed, SCG admits that it "is well positioned to undertake this effort at a cost lower than other entities, because SCG already manages a large gas portfolio and can avoid the transaction costs of selling the initially small quantities of biomethane."[150] SCG's

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[147] OB, p. 277.

[148] OB, p. 171. Elsewhere SCG claimed that none of the gas would be injected into the pipeline system and would instead be used for SCG's own "internal purposes," including for its own fleet of NGVs. *See, e.g.,* TR 3318:18-28.

[149] OB, p. 277.

[150] OB, p. 278.

ratepayers should not be paying additional costs so that SCG can leverage its monopoly utility portfolio for captive ratepayers into a competitive advantage against other natural gas traders.

14. ADMINISTRATIVE AND GENERAL – UTILITY SHARED AND NON-SHARED SERVICES

14.1 Supplier Services and Diverse Business Enterprises

14.1.2. SoCalGas Issues

With respect to Logistics/Shops North, SCG acknowledges that its forecast is "projecting that the recent downward trends will not be sustained."[151] Yet despite recognizing the recent downward trend that was reflected in the three-year average DRA recommended, SCG claims "DRA fails to explain why a three-year average is appropriate."[152] DRA's OB section on this issue explained why the three-year average is appropriate for this cost category and other related costs.

14.2. Environmental Services

14.2.1. SoCalGas & SDG&E Issues

SDG&E states that DRA's recommendation should be rejected because DRA's method fails to account for future needs.[153] Not only does DRA's methodology give SDG&E enough money to comply with environmental regulations, DRA's recommendation results in more just and reasonable rates for SDG&E's ratepayers.

<u>SDG&E's methodology fails to accurately reflect future costs</u>

SDG&E states that its use of 2009 recorded data plus the addition or subtraction of incremental costs is a better methodology than the one used by DRA. Unfortunately, SDG&E's methodology fails to accurately forecast future costs and thus would results in the implementation of unjust and unreasonable rates.

<u>SDG&E's Inspection Fee estimate is wrong</u>

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[151] OB, p. 308.

[152] Id.

[153] OB, p. 314, and 26 RT 3361:9-13.

As demonstrated in DRA's motion seeking penalties against SDG&E for violation of Rule 1.1 of the Commission's Rules of Practice and Procedure, SDG&E did not accurately forecast inspection fees associated with the Aboveground Petroleum Storage Act (APSA). Based on the evidence provided by DRA and in acknowledgement of SDG&E's failure to accurately reflect the appropriate expenses, in its post-hearing update SDG&E has withdrawn its funding request for these fees.[154]

Fees associated with PCB remediation are not due in 2012

SDG&E claims that its ratepayers must pay for fees stemming from a future Environmental Protection Agency (EPA) Rulemaking.[155] SDG&E's forecast is inaccurate because SDG&E has failed to demonstrate that the new Rule will be in effect in the Test Year. In addition, SDG&E failed to justify its request for PCB remediation fees as SDG&E is merely relying on an informal communication to an industry group.[156] SDG&E admits that the new Rule is not in effect now[157] and that SDG&E is unable to agree or disagree with the statement that the Rule does not impose or propose any requirements, but instead seeks comments and suggestions for the EPA to consider.[158] Simply based on this failure to know whether the new Rule proposes or imposes any new requirements demonstrates that SDG&E has not met its burden of proof and thus its request should be denied.

SDG&E is seeking to improperly double collect fees associated with environmental mitigation requirements

SDG&E is seeking to have its ratepayers pay for environmental mitigation expenses.[159] These expenses stem from SDG&E activities, for which SDG&E must

[154] See Exh. 600, p. UP-127.

[155] 26 RT 3371:3-9.

[156] Id. at 3371:10-23

[157] Id. at 3373:14-15.

[158] Id. at 3376:1-9.

[159] Id. at 3392:23-27.

offset any impacts to wetlands, habitat, endangered species, etc.[160] However, SDG&E already collects these fees from its ratepayers as its ratepayers already pay for mitigation expenses on a project-by-project basis. SDG&E admits that mitigation is applied on a project-by-project basis.[161] Not only are mitigation expenses applied on a project-by-project basis, SDG&E also admits that it has already funded mitigation expenses for projects constructed in its service territory.[162] SDG&E tries to explain that there are other costs associated with other requirements, but when pressed as to why SDG&E failed to use these "other" requirements to justify SDG&E's request, SDG&E responded: "So, I'm not sure why [SDG&E] didn't mention [the Clean Water Act and Porter Cologne Act.] specifically …"[163]

Not only did SDG&E fail to mention these "other" requirements, SDG&E does not know what percentage of its request is based on these "other" requirements.[164] Without knowing what portion of mitigation expenses have already been paid by SDG&E's ratepayers, and the fact that SDG&E bases its request on requirements only raised during cross-examination, without any factual support other than the witness' word, the Commission cannot support SDG&E's funding request.

15. CORPORATE CENTER COSTS ALLOCATED TO UTILITIES

15.1. Communications and Investor Relations[165]/ Reorganization

15.2. Finance

Sempra's OB merely presents a laundry list of corporate center finance costs that DRA disagrees with and argues that DRA does not understand the nature of Corporate Center activities. This dismissive assessment of DRA's recommendation without the

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[160] Id. at 3393:2-7.

[161] Id. at 3395:15-20.

[162] Exh. 335 at 22, section 8, Exh. 336, and 26 RT 3396:22-28 – 3397:1-15.

[163] 26 RT 3398:25-26.

[164] Id. at 3399:1-5.

[165] Discussion of Communications and Investor relations is under finance, this section will discuss Reorganization a key decision that impacted all Corporate Center costs.

logical counterpoint to the reasons presented by DRA reflects what Sempra appears to expect from GRC's, which is that whether TY requests are supported or not, the Commission must make an award to resolve the issue.

Ratepayers are always at a disadvantage in the presentation of evidence in every rate case, and the Commission has acknowledged this fact:

> There is a natural litigation advantage enjoyed by utilities in that we must rely in significant part on their evidence and experts; this advantage reinforces the importance of placing the burden of proof in ratemaking applications on the applicant utilities. Apple Valley [in this case Sempra] has the obligation to provide a convincing and sufficient showing to meet the burden of proof, and any active participation of other parties can never change that obligation"

(D.05-12-020 at 5, re Apple Valley Rancho Water Company.)

In this case Sempra "has the obligation to provide convincing and sufficient showing to meet the burden of proof" and active participation by DRA should not be necessary for the Commission to find that SDG&E and SoCalGas should not, for instance, contribute towards Sempra's international taxes, when all their business is local[166].

In several cost items where Sempra was found to have overstated a need or clearly requested a cost, which ratepayers are already paying, Sempra's response in the OB is simply to state that DRA does not understand. These requests for ratepayer funding, notwithstanding the lack of evidentiary support for the Corporate Center requests and the apparent inconsistencies in the support that was in fact provided are not isolated instances or mistakes. They bespeak a lack of credibility of all the evidence Sempra presented in support of its Corporate Center requests in the hope that the Commission would feel bound to award something, regardless of the showing.

Therefore, DRA recommends that the Commission deny Sempra's argument against the use of 2010 data to determine Corporate Center costs, reject all duplicative positions and those costs that were not sufficiently described, much less supported, and

[166] Sempra OB at 359.

accept DRA's recommendations on averaging and trending methodologies where they differ from Sempra's proposals.

- **Duplicative Requests for Corporate Center Finance Costs**

DRA found the following Corporate Center Finance requests for positions to be duplicative:

1. Chief Financial Officer (CFO) (1100-0039)
2. SVP/Controller (1100-0338)
3. VP Corporate Incremental (1100-0054)
4. Financial Leadership Program (1100-0340)

- **Insufficient Record Requests for Corporate Center Finance Costs**

DRA recommended that the Commission deny the following Corporate Center Finance positions on the grounds that there was insufficient record to support them:

1. Corporate Accounting Special Projects (1100-0012)
2. VP Investor Relations (Additional FTE) (1100-0375)
3. VP Risk Analysis & Management (1100-0010)

- **DRA Recommendations Based On 2010 Data**

DRA's use of 2010 data formed the only basis for the difference between Sempra request and DRA's recommendations on the following Corporate Center Finance Cost items:

1. Accounting Research (1100-0347)
2. Financial Reporting Director (1100-0047)
3. Financial Reporting (1100–0048)
4. Financial Reporting D&T Fees (1100–0219)
5. Corporate Planning Financial (1100–0342)

- **Averaging Methods**

The difference between DRA's recommendation and Sempra's requests on the following Corporate Center Finance positions is based on the use of different averaging and trending methodologies:

1. Tax Law Group (2-Year Average) (1100-0399)
2. Short Term Bank Rate
3. Investor Relations Shareholders (1100-0042)

15.2.1. Cost Center 1100-0039 – Executive VP & CFO

Regarding, Sempra's request for a CFO for SoCalGas and SDG&E, where the record on cross-examination showed that ratepayers are already paying for a CFO for SoCalGas, Sempra's OB stated:

> DRA proposes that there is a duplication between the Corporate Center CFO and the CFO for SCG, and seeks to disallow the $259,000 SCG allocation for the Corporate Center CFO.

(Sempra's OB at 357.)

Sempra claims that DRA does not understand the distinction between a Corporate Center CFO and a business unit CFO, arguing that the two position are not duplicative but complimentary. This clarification is disingenuous because Sempra reorganized Corporate Center in 2009 to send certain functions and the performance of certain duties to the business units, namely SoCalGas and SDG&E and Sempra Global. Thus, it was not clear whether the CFO position was one of the functions sent to SoCalGas. In response to a DRA data request on the issue, Sempra stated: "DRA has confused the issue. In fact, it is SDG&E that has a CFO, and SCG does not."[167]

However, Exhibit 279 clearly showed that SoCalGas has a CFO, Mr. Robert Schlax, and on seeing admission of the exhibit at hearing, Sempra did not deny that the position he occupied at SoCalGas was the same position for which SoCalGas was making a request to fill in this GRC. Further, Sempra did not provide any evidence in this GRC to support the notion that the duties of the Corporate Center CFO for SoCalGas are different from the duties of the CFO assigned to the SoCalGas business unit. In fact, if as Sempra stated in Exhibit 272 that it is SDG&E not SoCalGas that has a CFO, and as it turns out the evidence is to the contrary, doesn't it show that Sempra does not have its

[167] Exh. 272 at BAF-15.

record straight on the CFO position and could not possibly know whether the position is duplicative or complimentary?

15.2.3.3. Cost Center 1100-0374 International Tax

Sempra proposes to allocate a portion of Corporate Center costs for international taxes to SoCalGas and SDG&E even though both companies operations are solely in California. DRA recommended a disallowance of the entire $693,000 allocation. Sempra's OB maintains that DRA's disallowance was based on DRA's lack of comprehension of the average methodology used for the whole Tax Services department[168]. We fail to see how Sempra can possibly spin the costs for international taxes that are paid by Sempra Global to make California ratepayers responsible for a portion of it, regardless of what methodology Sempra chooses for doing so.

15.3. Human Resources (D)

15.4. Legal

DRA recommended a disallowance of $18.635 million dollars from Sempra's TY 2012 forecast for Corporate Center Law Department, the bulk of which ($17.686 million) were for outside services for which Sempra did not provide justification or sufficient evidentiary support.

As described in Mr. Folkman's direct testimony (Exh. 272 at 37-38), when neither the business unit department nor Corporate Center Law Department (CCLD) is able to provide the necessary legal services, outside Counsel is hired.

(Sempra OB at 363.)

Mr. Folkman's direct testimony did not provide any explanation for why the business units' in-house counsel are particularly unable to do this work, that outside counsel could. Are there conflicts that bar in-house counsel from such representation? Is there expertise that in-house counsel may lack? What criteria drive the employment of outside counsel over the use of in-house counsel? In addition, why are SoCalGas and

[168] Sempra OB at 359.

SDG&E bearing the greatest percentage of these costs? Sempra provides no explanation for assessing these issues.

15.9. Insurance

DRA's recommendation that Sempra's forecast of $109.378 million for liability insurance be reduced by $3.486 million for Corporate Liability Insurance allocations in TY 2012 is based on adjustments to 2010 recorded costs and inaccurate multi-factor escalations that Sempra used.

The 13.486 million is the sum of the following adjustments:

1. $8.981 Million reduction from Excess Fire Liability
2. $1.1623 reduction from allocations to SDG&E for Wildfire Reinsurance
3. $1.95 million allocated to Utilities' D&O Insurance
4. $87,656 allocated to Utilities' Excess Workers Compensation Insurance
5. $112,118 reduction from allocation to Utilities' for SONGS and
6. $730,000 reductions based on auditor's adjustments to the multi-factor allocation.

15.9.3. Wildfire Liability

DRA's explanation for its recommendation on Wild Fire liability insurance is better restated than explained:

> DRA reduced the wildfire liability coverage by $8.891 million dollars by removing the first installment of wild fire reinsurance payment of $8.376 million from the 2010 forecast of $40.729 million dollars and then escalating the remaining sum.

(DRA's OB at 321.)

Sempra argues that the 2010 recorded liability insurance expenses "are accurate and do not warrant DRA's adjustment."[169] Further, Sempra claims "there is no double counting and no further adjustment is needed."[170] However, Sempra does not refer to any

[169] Sempra OB at 370.

[170] *Id.*

evidence in the record to prove the claim that there is no double counting. Given the figure of $40.729 million, which DRA began with, Sempra could have shown, perhaps by itemization, how every dollar in the figure was accounted for to eliminate DRA argument that there was double counting, but Sempra did not. Rather, Sempra relies solely on the statement in its brief.

15.9.4. SDG&E Wildfire Property Reinsurance

DRA reduced the Wildfire Property Reinsurance allocation solely by escalating the 2010 recorded adjusted figures. Sempra argues that because the policy was procured in June 2010, the recorded actual costs include only three installments. Therefore, annualizing the payments as DRA did erroneously understated the amount needed for the policy. However, Sempra did not provide any data showing that three rather than four installments were made in 2010. The record does not support Sempra's claim.

15.9.5. Board of Directors Insurance

In D.04-03-034, the Commission stated:

> [W]e will adopt an amount for D&O insurance that allocates the cost of D&O insurance equally between shareholders and customers.

(D.04-03-034 at 32-33.)

Consistent with the policy in D.04-03-034, DRA recommends that ratepayers pay only 50% of the D&O insurance allocated to the Utilities.

Sempra argues against this equal allocation of costs between shareholders and ratepayers, but completely ignores D.04-03-034 as it explains its rationale for imposing all the costs on ratepayers. Thus, Sempra has not stated any reason why D.04-03-034 should not apply in this case. In addition, Sempra argues that DRA miscalculated the 50% allocation in its recommendation, but Sempra does not show how the correct 50% allocation should be made or how it mathematically arrived at the conclusion that DRA's calculation was wrong.

Sempra's sole argument against DRA's recommendation that $87,656 be removed from the excess workers compensation insurance forecast is that Sempra disagrees with DRA's use of Global Insight's data for escalating the 2010 data, when elsewhere in its application, Sempra had used Global Insight's labor data as well.

15.9.6. Excess Workers Compensation Insurance

Sempra's sole argument against DRA's recommendation that $87,656 be removed from the excess workers compensation insurance forecast is that Sempra disagrees with DRA's use of Global Insight's data for escalating the 2010 data, when elsewhere in its application, Sempra had used Global Insight's labor data as well.

15.9.7. SONGS Nuclear Liability

Sempra forecasts $402,000 annually for Songs Nuclear Liability Insurance, when the 2010 recorded costs for the policy was $334.000. DRA escalated this last year recorded data using Global Insight's factor of 1.023% to recommend an annual figure of $350,000 for TY 2012. However, Sempra claims that the 2010 recorded data includes a discount for 2009 paid in 2010 but does not provide any record of the discount in either its testimony or work papers. Sempra also fails to state why the discount was given and would not be available in 2011 and 2012 as well.

15.9.9. Cost Center 1100-0433 – Group Executive

DRA recommended a disallowance of this Group Executive Insurance on the grounds that "this type of insurance serves to protect the interests of a limited, well compensated group of executives and Sempra provides no evidence that this expenditure serves ratepayer interests."[171]

Sempra's OB essentially concedes DRA's argument that Group Executive Insurance does not serve any ratepayer interest.

> The Group Executive policy is designed to protect key employee executives and their families against claims

[171] DRA OB at 326.

> resulting from personal injury, bodily injury or property damage lawsuits. It is one component of a competitive compensation and benefits package.

(Sempra's OB at 374.)

DRA maintains that this Group Executive policy is one component too many of an already competitive compensation package for Sempra's directors.

17. EMPLOYEE ISSUES (GENERIC EMPLOYEE-RELATED ISSUES)

17.2. Compensation and Benefits

17.2.1.SoCalGas

17.2.1.1. Compensation

The Utilities acknowledge in a footnote[172] that D.09-06-052 ruled that D.08-07-046 is not controlling upon this proceeding. SDG&E and SCG's citations to D.08-07-046 similarly do not control the ruling in this proceeding, and the Commission is to rule again in this proceeding on ratepayer/shareholder splits for compensation based on the merits of this particular proceeding, not the ruling in the prior GRC. DRA's 70/30 split is not arbitrary but within the range of splits adopted for other Utilities. SCG's lament that "[s]hareholders *already* fund a portion of ICP to the extent that performance exceeds target,"[173] overlooks that shareholders reap benefits from the entire ICP and should pay a portion of it regardless of whether performance exceeds target.

19. DEPRECIATION

Sempra's OB on depreciation not only fails to meet or carry the burden of proof necessary to support Commission approval of its proposal but also reflects Sempra's misunderstanding of the depth of analysis and staff review that forms the basis of DRA's recommendations in this GRC.

Thus, Sempra stated:

> The record shows that DRA's understanding of its own source materials is not accurate and reliable, which may be attributable to the fact that witness Marek Kanter is not an accountant.

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[172] OB p. 386, fn. 1488.

[173] OB, p. 386.

(Sempra's OB at 413.)

DRA has more than three levels of GRC review and oversight which involves different experts looking at all aspects of the application not just limited to the area, which they may have been assigned. The analysts' assignments are made by a program manager in consultation with supervisors who in turn supervise the assignments with DRA's attorneys. All discovery sent out during a GRC is reviewed, not just by the analyst assigned making the request but by several other experts and attorneys. Notwithstanding this fact, Mr. Kanter is certainly sufficiently qualified to support DRA's Depreciation recommendation and has more GRC experience that most if not all of the witnesses Sempra presented in this proceeding.

Sempra's focus on DRA's analysts' qualification ignores the glaring issue in its depreciation accounting, which is that Sempra continually has hundreds of millions of Third Party Reimbursement (TPR) payments of one kind or another in its possession for which it is not accountable to anyone for how they are retained or for the treatment of the interest that should accrue on them. In this GRC, Mr. Kanter found $133 million dollars that is neither in rate base nor held in any interest bearing account and for which Sempra maintains it cannot possibly be expected to account for because such accounting would be too complex. Further, Sempra tries to confuse the issue by claiming that Mr. Kanter confuses Contributions in Aid of Construction (CIAC) with TPRs, when the record clearly showed that CIAC is one form of TPRs and the treatment of CIACs at any point in time may not be the same accounting necessary for other kinds of TPRs.

Sempra goes on to argue that DRA's auditors and examiners did not take issue with Sempra's accounting treatment of depreciation. However, DRA's auditors noted in their examination that they conducted limited review of the rate case application and then selected a particular section for more detailed analysis.

20. TAXES

DRA had recommended that, consistent with the Commission's prohibition of carry backs and carry forwards in D.84-05-036[174], the Commission should reject Sempra's proposal to use accumulated depreciation bonus extensions to carry back and carry forward certain tax benefits.

Sempra maintains that its proposal to carry back and carry forward the resulting Net Operating Losses (NOLs) from the bonus depreciation tax extensions is consistent with Commission policy and unaffected by the Commission prohibition of carry backs and carry forwards in D.84-0-036. However, Sempra's argument in support of this position is misleading, contradictory and completely lacking in foundation. The following discussion of Sempra's position on NOLs is common to both SDG&E and SoCalGas.

20.1. Common Issues

Sempra acknowledges that the Commission prohibits the use of carry backs and carry forwards in TY calculation of income tax expenses, but claims that this prohibition is not applicable to the treatment of deferred taxes in rate base.

> Applicants fully comply with OII 24 by not carrying forward or carrying back projected NOLs in its income tax expense calculation, as also noted by PG&E and SCE. OII 24 did not address NOLs in the context of deferred taxes, which relate to rate base.

(Sempra OB at 424.)

This attempt to distinguish OII 24's application to rate base from its application to tax expense is disingenuous and misleading. First, Sempra is not arguing that the OII 24 "authorizes" the use of carry backs and carry forwards in the context of rate base or that the OII 24 made any exception in its prohibition of the practice of carry backs and carry forwards. Sempra is only arguing, "OII 24 did not address NOLs in the context of

[174] Also referred to as OII 24 in Sempra's Opening Brief.

deferred taxes, which relate to rate base."[175] Secondly, Sempra cannot point to any Commission decision that even remotely supports the distinction it claims between the treatment of NOLs for income tax expense purposes and the treatment of NOLs for rate base purposes. Finally, Sempra's suggestion that FERC supports the use of carry backs and carry forwards FERC proceedings is not compelling. Sempra has only cited one FERC case in support and another to the contrary. The others, as DRA notes, are off point.

20.1.1. The Commission's Prohibition Against the Use of Carry Backs and Carry Forwards is Broad and All Encompassing in Rate Cases

OII 24's prohibition against the use of carry backs and carry forwards is broad and all encompassing; if there were a ratemaking context, which the Commission did not intend the prohibition to apply, the Commission would have said so.

> We agree that the practice of excluding carry backs and carry forwards from TY calculations of income taxes is well founded and should continue.

(15 CPUC 2d. 55, .Sempra OB at 423; DRA's OB at 359.)

Sempra's distinction between cost of service components and rate base components is inconsistent with the Commission's explicitly stated scope, method and meaning in D.84-05-036. Specifically, the Commission concluded that any analyses of prospective, test-year adjustments must include the effects of all components of the revenue requirement, including expenses and rate base/return on investment:

> . . . Differences in income taxes between estimated and actual cannot be isolated from other factors in determining whether an adjustment should be made to the test-year estimate. Any review of differences would have to include the effects of differences of all estimates for revenues, operating expenses, incomes taxes and return on investment. Any prospective adjustment based on past over- or underestimates would have to take into consideration the overall effect

[175] Id.

> of the differences for all components of the test-year. Under these circumstances, parties recommend no change in the present ratemaking procedure.[176]

Since income taxes are derived residually, we agree that individual factors should not be isolated for purposes of comparing estimated and recorded results[177].

It is evident from the foregoing discussion that the Commission's prohibition against the use of carry backs and carry forwards encompasses the treatment of all items in GRCs. Sempra cannot pick and choose where carry backs and carry forwards should apply without express decisional guidance. By shifting current tax benefits to prior TYs or future years, Sempra unfairly eliminates tax benefits that current ratepayers are entitled to, or delays current tax benefits to future generations of ratepayers.

Sempra's claim that DRA's scaling factor method will result in a tax asset that is in excess of the difference between tax expense recovered in rates and taxes actually paid is not supported. First, Sempra's argument is premised on the false assumption that the Commission's prospective ratemaking and IRS retrospective filings are reconcilable. This is directly contradicted by Sempra/Rose's testimony[178], the 1984 Tax OII Decision[179] Resolution No. W-4867, and the unreal ratemaking concept of "stand alone." As such, applicants' arguments are a red herring to evade the real policy issue of no carry forwards and no carry backs by confounding a quantitative difference between DRA and Applicant with an IRC. On this score, based on the material differences between actual bonus depreciation deductions claimed in tax returns and those estimated in Sempra's last GRC cycle and the numbers used in the Results of Operations model for this application, DRA is certain that both Sempra's and DRA's forecasts for ratemaking will be materially

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[176] D.84-05-036 at 52.

[177] *Id*. at 53.

[178] 24 TR. 3185, ln.14, through 3186, ln.12, and 3194, ln. 4, 3194 through 3196, ln. 5.

[179] D.84-05-036 at 52. "It is highly improbable the recorded amounts experienced in the calendar year will be exactly equal to the amounts adopted in the decision … This is also true for the estimate of the tax deductions used to calculate the adopted income taxes included in the adopted results." Also see Resolution No. W-4867.

different from what Sempra ultimately files with the IRS (and with the Securities and Exchange Commission for that matter). Furthermore, the IRC provides taxpayers with other options for carry backs. For example, IRC §172(b)3 would allow Sempra to waive the carry back provision. More to the point, if the NOLs deductions are booked to a "tax asset" (e.g., "2010 tax assets" rather than a "deferred tax asset") and written-off however these deductions are ultimately claimed in the actual consolidated tax returns, then there should be no violations with the normalization rules, even though ratemaking amounts and timing may differ from those reported in actual returns.

20.1.2. Sempra's Proposal to Use Carry Backs and Carry Forwards Is Not Supported By Any Commission Decision

It is at best curious, that since 1984 when OII 24 was issued, Sempra could not find a Commission decision to support its position to apply carry backs and carry forwards to rate base treatment in GRCs. In fact, none of the utilities appearing in this proceeding to support this practice can point to any of their previous GRCs where the Commission has accepted such an argument and there have probably been more than two dozen GRC's in all since OII 24.

Sempra is joined by other utility interveners in presenting legal precedents on the matter of carry backs and carry forwards. As explained below, no party has provided a citation to an IRS or other legal ruling 1) in which a prohibition against using carry forwards and carry backs was over-turned or 2) that authorizes NOL carry backs without an offset to rate base for the amount of taxes not paid relative to the relevant previous year's allowance.

Las Quintas Serenas Water Company Decision: On point and, as Sempra/Warren admits, it supports DRA recommendation of no carry backs and no carry forwards.[180]

Kern River Gas Transmission Company FERC Opinion, Yankee Gas Services and Public Service Company of New Mexico decisions: They do not address the exigent issue – whether or not a Commission can prohibit the use of carry forwards and carry

[180] Exh. 590, SCE/Warren, at 13, fn.. 3 and see Attachment 4.

backs for ratesetting purposes. They do not support Sempra's[181] or Sempra/Turn's[182] proposals to use carry backs to eliminate the accumulated deferred income taxes and NOL savings from the revenue requirement. Finally, the analogy between the NOL – a paper loss -- and Allowance for Funds Used During Construction (AFUDC) – a funding source from the proceeds of debt -- is absurd.[183] First, the NOL is a difference "on paper" caused by depreciation schedules. It is not a real loss caused by events such as an earthquake requiring repairs and/or capital additions. NOLs resulting from tax legislation do not generate real money finances or tradable liquid assets. Thus, this NOL, unlike AFUDC, does not generate any additional revenue to report on tax returns. Second, the Commission does not guarantee real earnings and cannot guarantee paper losses either. Any "below-the-line" profits or losses, unlike the net effect of the timing differences in depreciation, are not the responsibility of ratepayers.

IRS Private Letter Ruling 8818040: Not on point because the issue is when to book actual carry forwards used in ratesetting not whether a Commission can prohibit their use for ratemaking.

In summary, the Las Quintas Serenas Water Company decision demonstrates that the Commission has the jurisdictional authority to prohibit the use of carry forwards and carry backs from ratemaking without violating the IRCs.

25. AUDIT & ACCOUNTING ISSUES (INCLUDES COST CENTER-FERC MAPPING AND SEGMENT/ASSIGN RATES)

25.1.3. Allowance for Funds Used During Construction (AFUDC)

DRA recommends that the Commission adopt the FERC's formula for the purposes of calculating the Applicants' AFUDC rates. Applicants proposed unreasonable proxy rates for AFUDC. The issue is not how Applicants should finance CWIP. The issue is how Applicants should calculate AFUDC rates for ratemaking purposes.

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[181] Exhs. 299 and 301.

[182] Exh. 338.

[183] Exh. 590, Attachment 1, at 92, paragraphs 229-230.

Applicants' proposed AFUDC rates are not calculated using the FERC's AFUDC formula.

Applicants' proposed proxies for AFUDC rates are not computed using the FERC's AFUDC formula and do not closely approximate AFUDC rates computed under the FERC's AFUDC formula. Therefore, Applicants' proposed proxies for AFUDC rates should be rejected. DRA's proposed AFUDC rates are calculated correctly, using the FERC's AFUDC formula and, therefore, should be accepted.

DRA correctly interprets the FERC's AFUDC formula

The FERC's formula for calculating AFUDC rates requires that 100% of average short-term debt forecasted is to be included in the calculation. Applicants' proposed proxies for AFUDC rates do not include any short-term debt whatsoever. The FERC's formula is not a requirement about how to "finance." The FERC's formula is a requirement about how to "calculate" allowable AFUDC rates. Applicants misinterpret the FERC's formula for calculating AFUDC rates. The FERC's formula does include a 100% imputation of the short-term debt forecasted into the AFUDC rate. Aside from the FERC's AFUDC formula, 1) companies, including the Applicants, do make use of short-term debt to finance CWIP, and 2) CWIP for a given project does not become a long-term asset and is not included in rate base unless and until the project is completed and the asset is transferred to Plant in Service as "used and useful."

How Applicants ultimately choose to finance their CWIP is irrelevant to the FERC's formula for calculating the AFUDC rate

The FERC's formula for calculating the AFUDC rate does not include an option for utilities, including the Applicants, to exclude short-term debt forecasted from the formula. Applicants argue that their short-term debt is never used for financing CWIP. Applicants' argument is irrelevant and, notwithstanding, is not credible in practice and in the "real world."

Applicants do not follow the FERC's formula for calculating AFUDC

Applicants have clearly admitted that they have been using "proxy" rates instead of calculating AFUDC rates using the FERC's formula. Applicants' "proxy" rates do not comply with the FERC's AFUDC formula. Further, Applicant's "proxy" rates do not even closely approximate AFUDC rates calculated using the FERC's formula. Applicants' "proxy" rates are unsuitable and unacceptable and should be rejected.

DRA's calculations are correct and consistent with proper ratemaking

DRA's proposed AFUDC rates pertain to each given year 2010-2012 and are not intended to calculate direct and cumulative adjustments to "rate base."

Applicants continually attempt to divert attention from the real issue, which pertains to the correct and proper calculation of AFUDC rates

Applicants continually attempt to divert attention from the real issue, which pertains to the correct and proper calculation of AFUDC rates. Applicants instead continue their irrelevant argument of how Applicants should or actually do finance CWIP. In accordance with the FERC's formula, DRA recommends the Commission impute short-term debt into Applicants' AFUDC rate regardless of how the Applicants should or actually do finance CWIP.

Applicants' argument invoking "rollover risk" and Supreme Court "regulatory precepts" is misguided and irrelevant to the real issue of Applicants' noncompliance with the FERC's AFUDC formula.

Conclusion

Applicants did not calculate AFUDC rate using the FERC's formula. Instead, Applicants used ROR as a "proxy." AFUDC is a component of CWIP and is not to be included in rate base until CWIP is completed and transferred to Plant in Service as "used and useful." DRA's Results of Examination testimony contains recommendations for Applicants to follow the FERC's guidance by computing AFUDC using the FERC's formula, which is to include 100% of forecasted short-term debt in the AFUDC calculation. Applicants' use of ROR as a "proxy" for AFUDC is contrary to the FERC's guidance because ROR calculations exclude short-term debt and because ROR

calculations are not applicable to CWIP. Adoption of DRA's AFUDC rate calculations through applying the FERC's formula would be appropriate, fair, and consistent with regulatory principles, guidelines, and laws.

29. CONCLUSION

For the aforementioned reasons, DRA respectfully requests that the Commission approve DRA's recommendations in this GRC.

Respectfully submitted,

JONATHAN BROMSON
NOEL OBIORA
NICHOLAS SHER

/s/ JONATHAN A. BROMSON

Jonathan A. Bromson
Staff Counsel

Attorneys for the Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2362
Fax: (415) 703-4432
jonathan.bromson@cpuc.ca.gov

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