

**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)

**PREHEARING CONFERENCE STATEMENT OF  
SAN DIEGO GAS & ELECTRIC COMPANY AND  
SOUTHERN CALIFORNIA GAS COMPANY**

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January 26, 2011

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SAN DIEGO GAS & ELECTRIC COMPANY AND  
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Pursuant to the *Administrative Law Judge's Ruling on the Motion to Consolidate and Setting a Prehearing Conference* (dated January 7, 2011), and Rule 7.2 of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure, San Diego Gas & Electric Company ("SDG&E") and Southern California Gas Company ("SoCalGas")(jointly "Applicants") hereby file this Prehearing Conference (PHC) Statement in this consolidated docket. There are two PHCs scheduled for January 31, 2011 at the Commission, in San Francisco. The first joint PHC will address the procedural schedule,<sup>1</sup> and the second PHC will discuss the scope of issues that should be addressed with respect to the General Rate Case (GRC) applications filed by SDG&E and SoCalGas on December 15, 2010.

**Procedural Schedule**

The single most important procedural issue is how the Commission can process this case in time for SDG&E and SoCalGas to implement rates on January 1, 2012, the beginning of the test year. The procedural schedule proposed by SDG&E and SoCalGas in their GRC

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<sup>1</sup> The first PHC will also include Southern California Edison Company (Edison), which also has a Test Year 2012 General Rate Case before the Commission. See application (A.) 10-11-015.

applications was prepared in accordance with the Commission’s Rate Case Plan.<sup>2</sup> This schedule is reproduced below:

December 15, 2010	Application filed
January 14, 2011	Protests due to Application
February 15, 2011	Prehearing Conference
TBD	Public Participation Hearings <sup>3</sup>
March 2, 2011	DRA Report served
April 2, 2011	Intervenor Testimony served
April 2011	Discovery on Intervenor Testimony
May 2, 2011	SoCalGas Rebuttal Testimony served
June/July 2011	Evidentiary Hearings <sup>4</sup>
August 2011	Opening Briefs filed
September 2011	Reply Briefs filed
September 2011	Update Filing and Hearings, if necessary
October 2011	Proposed Decision
November 2011	Commission Decision
December 2011	Final Tariffs filed
January 1, 2012	Implementation

Certain parties, such as the Division of Ratepayer Advocates (“DRA”), have raised concerns over resource and time constraints due to being involved in more than one GRC application and their overlapping schedules. It is the understanding of SDG&E and SoCalGas that DRA has already staffed resources to handle the GRC proceedings in the two dockets (i.e., Edison GRC - A.10-11-015 and SDG&E/SoCalGas consolidated GRC – A.10-12-005/006), although there may be a handful of DRA personnel working on both cases. Out of 20 witnesses

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<sup>2</sup> The Commission’s Rate Case Plan originally adopted in D.89-01-040 was most recently updated in D. 07-07-004.

<sup>3</sup> As of the present date, SDG&E and SoCalGas suggest scheduling approximately eight Public Participation Hearings during early May, 2011.

<sup>4</sup> As of the present date, SDG&E and SoCalGas anticipate approximately three weeks of evidentiary hearings beginning in June. The two month “window” noted here is intended to provide flexibility, not to imply a need for eight weeks of hearings.

already working on the SDG&E/SoCalGas GRC, DRA has only five witnesses who are working on the SCE GRC as well.<sup>6</sup> DRA has not alleged that any of its legal staff are assigned to both proceedings. DRA has in fact proposed a partial schedule in its protest filed January 18, 2011, under which it would not even serve its prepared direct testimony until September, 2011, and has proposed that hearings not begin until December, 2011. This schedule cannot be adopted for the reasons set forth below.

### **The Commission Has An Obligation to Timely Process Ratemaking Applications And Has Repeatedly Indicated Its Intentions To Do So In This Case**

The Commission has an obligation to its regulated entities to timely process ratemaking proceedings in order to fulfill the regulatory compact and to allow them a reasonable opportunity to earn their authorized rate of return. The Commission is required by law to annually report to the Governor and the Legislature on its success in timely concluding its proceedings. In reaching decisions, the Commission has the obligation to balance the interests of applicants' shareholders and ratepayers under the constraints of the evidence presented in the proceeding and the time constraints permitted for its completion.<sup>7</sup>

In the instant case, multiple Commission decisions have determined that SDG&E and SoCalGas should timely file and process their GRC applications for Test Year 2012. This requirement was clearly imposed in the Commission's decision on SDG&E's and SoCalGas' Test Year 2008 GRC. See, D. 08-07-046, mimeo, p. 3. Applicants note that this filing requirement was determined only after considering DRA's arguments (raised during the 2008 GRC proceeding) that it would have staffing limitations. In fact, the Commission specifically found that "we can also expect to successfully conduct rate cases for Edison as well as SDG&E and SoCalGas for test year 2012." D.08-07-046, p. 40.

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<sup>6</sup> DRA Protest, p. 6.

<sup>7</sup> D. 91-07-075, 1991 Cal. PUC LEXIS 411, \*12; 41 CPUC2d 175.

Last year the Commission reiterated this requirement in D.10-04-003<sup>8</sup>, when it again ordered both SDG&E and SoCalGas to timely file applications for Test Year 2012 GRCs. The Commission has also refused to grant several motions seeking similar forms of delay, both by DRA and by other intervenors.<sup>9</sup>

Consistent with these Commission decisions, each utility timely tendered its NOI on August 6, 2010. DRA completed its identification of deficiencies and on October 12, 2010 DRA recommended to the Commission's Executive Director that SDG&E and SCG's NOI's be deemed accepted. After a 60 day waiting period as required by the Rate Case Plan (during which time discovery continued) both utilities timely filed their GRC applications on December 15, 2010.

### **DRA's Proposed Schedule Is Unfair And Could Cause Rate Shock**

DRA's proposed schedule would give DRA and intervenors well over a year to do discovery while Applicants would have far less time. DRA and some intervenors began discovery shortly after Applicants NOIs were filed in August 2010. In fact Applicants have already responded to 95 % of the approximately 2000 data request questions received to date, as described further below. The DRA proposal would give intervenors and DRA sixteen months to do their discovery, while Applicants would only have less than three. This is patently unfair. Furthermore, SDG&E's and SoCalGas' GRC Applications were filed only a few weeks after SCE's GRC. However, DRA's proposal to run these cases one after the other rather than in

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<sup>8</sup> On November 5, 2009 SDG&E, SoCalGas, and DRA filed a joint petition to modify the GRC schedule to change SDG&E and SoCalGas's next GRCs to Test Year 2013. This petition was opposed by various intervenors, and no action was taken on it for several months. Accordingly, on February 10, 2010 SDG&E and SoCalGas filed a motion to withdraw the Joint Petition, based on lack of action by the Commission and a need for certainty in order to move ahead with an August 2010 Notice of Intent to file a GRC (NOI) filing for a Test Year 2012 GRC. D.10-04-003 was voted out on April 8, 2010; it granted SDG&E and SoCalGas' motion, denied DRA's requested relief, and ordered the utilities to file timely applications for 2012 TY GRCs.

<sup>9</sup> In addition, on May 18, 2010, The Utility Reform Network ("TURN"), Utility Consumers' Action Network ("UCAN"), Disability Rights Advocates, Greenlining, and Federal Executive Agencies filed a motion in the Commission's Rate Case Plan Rulemaking 87-11-012 (a closed docket), asking that the filing date for SDG&E and SoCalGas' NOI's be delayed until February, 2011. Applicants opposed this motion, noting both substantive and procedural reasons that the motion should be rejected. On June 4, 2010 the CPUC's Assistant Chief ALJ rejected this motion, so no delay was granted. And on May 13, 2010 DRA filed a motion to stay D.10-04-003; this motion was deemed moot and therefore dismissed in December 2010. D.10-12-018, mimeo p. 11.

parallel would mean that SCE would probably get a timely decision, but the consolidated SDG&E and SoCalGas decision would be subject to massive delays.

Applicants also note that DRA's proposed schedule could cause or exacerbate rate shock. To the extent that a final decision is delayed until late 2012 (as would be probable if hearings began in December) a year's worth of revenue requirement change would have to be compressed into an abnormally short recovery period, to the detriment of ratepayers.

### **DRA's Proposed Schedule Would Greatly Hinder Settlement Discussions.**

Typically, parties to GRCs do not engage in settlement discussions regarding the overall revenue requirement until testimony of all parties has been served. By not presenting DRA testimony until September 2011 (which means that intervenor testimony will be weeks later), there will be extremely limited opportunities to settle or stipulate in this GRC. DRA's proposal is contrary to the Commission's well-established public policy to encourage settlement discussions and agreements.

### **DRA's Schedule Does Not Comply With The Rate Case Plan Adopted In D.07-07-004.**

DRA fails to comply with the Commission's Energy Rate Case Plan and D. 07-07-004. Pursuant to D.07-07-004, DRA "shall submit all exhibits, prepared testimony, and evidence..." on Day 77.<sup>10</sup> Day 77 is March 2, 2011, i.e., 77 days after the Applications were filed on December 15, 2010. DRA's proposal is to wait until September 1, 2011, which is Day 260 – or over three times the number of days allocated under the Rate Case Plan for DRA to submit its direct testimony. DRA not only fails to mention this fact, but DRA's proposal completely ignores the rate case plan.<sup>11</sup>

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<sup>10</sup> D. 07-07-004, Appendix A, p. A-13.

<sup>11</sup> DRA's proposed start-of-hearing date, Day 355, is over 200 days late as compared to the Commission's adopted Rate Case Plan, pursuant to which evidentiary hearings are supposed to start on Day 153.

## **DRA's Proposed Schedule Fails To Comply With D.10-12-018.**

In April 2010, D.10-04-003 rejected DRA's arguments that its staffing issues justified delaying the SDG&E/SoCalGas GRC schedule, and ordered Test Year 2012 GRCs for SDG&E and SoCalGas. Shortly thereafter, on May 13, 2010 DRA filed an application for rehearing of D.10-04-003. Only last month, in D. 10-12-018 DRA's argument was again denied, and DRA was told that it needed to resolve any GRC staffing matters internally.

Throughout this proceeding and prior to the issuance of D.08-07-046, DRA has raised the issue of the potential for the Commission's ratepayer advocacy division to be in litigation in three simultaneous energy utilities' GRCs... D. 10-12-018, mimeo p.2.

DRA has not provided information establishing that we have refused or are incapable of providing the necessary personnel and resources to the division to represent and advocate "at a level sufficient to ensure that customer ... interests are fairly represented" in all three GRCs. (§ 309.5(c).) The allegation is without merit. D. 10-12-018, mimeo p. 7.

We now believe that the matter should be resolved in-house. Crucial to the resolution is the determination as to whether or not the Commission has adequately staffed the DRA "at a level sufficient to ensure that customer and subscriber interests are effectively represented in all significant proceedings." (§ 309.5(c).) If the matter cannot be resolved in-house, the DRA should petition to the Commission and propose a solution for the staffing issue, which can include a revisit on the issue of the scheduling of the three GRCS in Test Year 2012. D. 10-12-018, mimeo p. 9.

Although on rehearing the Commission modified some of the wording and rationales in D.10-04-003, D. 10-12-018 (and in particular Ordering Paragraph 1b) clearly does not support DRA's request for a six month delay in this proceeding:

- b. The second sentence of first full paragraph on page 10 is replaced by the following language: "We find that petitioners complied with rule 16.4. **However, the petitioners have not established that DRA will not be adequately staffed at a sufficient level to ensure that customer interests will be effectively represented in each of the three energy utility GRCs for Test Year 2012.**"

D. 10-12-018, mimeo p. 12, Ordering Paragraph 1.b. (emphasis added).

Furthermore, the Decision is abundantly clear that only if DRA tried to resolve its staffing concerns "in house" and failed, would it be allowed to seek further scheduling relief. DRA has

made no demonstration that it has complied with this order by seeking to resolve staffing matters internally.<sup>12</sup>

**DRA's Schedule Directly Conflicts With Phase 2 of the SDG&E GRC And Directly Conflicts With The SoCalGas/SDG&E Triennial Cost Allocation Proceeding.**

On January 18, 2010 the Commission's Executive Director mailed a letter to SDG&E which granted an extension and postpones the filing date of SDG&E's GRC Phase 2 (electric rate design application and testimony) until September 1, 2011 rather than on March 15.<sup>13</sup> This extension request was made jointly with DRA on January 10, 2011, and was unopposed by any party. However, DRA's proposed Phase 1 schedule would now cause both Phase 1 and Phase 2 to be processed simultaneously. This would defeat the purpose of the Phase 2 extension and cause more workload conflicts, not less.

In addition, per D.09-11-006, SoCalGas and SDG&E are required to file their Triennial Cost Allocation Proceeding ("TCAP") no later than September 1, 2011 – the same day that DRA proposes to present its GRC testimony. The TCAP is a complex proceeding that typically involves numerous parties currently intervening in this GRC, such as Southern California Generation Coalition ("SCGC") and TURN; it also relies on having a timely adopted revenue requirement in order to undertake cost allocation.

Avoiding these types of conflicts is precisely the reason the Commission has a Rate Case Plan, and why it needs to be followed in this GRC proceeding.

**DRA's Schedule Is Unworkably Compressed.**

DRA seeks to delay the entire schedule by months based upon its own workload considerations, despite having only five witnesses whose duties overlap with SCE's GRC. Their proposed schedule would require all of the following to be completed between September 1 and December 5:

- all intervenor testimony and workpapers prepared and served;

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<sup>12</sup> For example, DRA could use contract labor, consultants, summer interns, staff borrowed from other divisions, or could use resources from cases with lower priorities.

<sup>13</sup> The Rate Case Plan provides that SDG&E must file its "GRC Phase 2" (electric unit marginal costs, marginal cost revenue responsibility, revenue allocation, and rate design application, served with supporting testimony) ninety days after its Phase 1 filing – in this case, by March 15, 2011.

- all discovery on DRA testimony and workpapers;
- all discovery on intervenor testimony and workpapers;
- drafting of rebuttal testimony and workpapers;
- all discovery on rebuttal testimony and workpapers;
- update testimony and supporting workpapers, including R/O model updates;
- discovery on update testimony and workpapers;
- any errata to intervenor testimony and workpapers;
- any errata to DRA testimony and workpapers;
- witness and attorney preparation for hearings;
- noticing of hearings,
- PLUS all settlement discussions that any party may wish to pursue;
- motions, and other typical pre-hearing pleadings; and
- DRA also proposes that public participation hearings occur in this time frame.

In addition to the very significant workload noted above, under DRA's proposal the pre-hearing preparations and then evidentiary hearings would encompass an extremely busy time of year, in other CPUC proceedings as well as this one (DRA is not the only party involved in multiple proceedings) and would make for a very difficult end-of-year holiday season for all parties. For example, under DRA's schedule, briefing would start approximately on Christmas Eve, unless evidentiary hearings were still underway.

It should be readily apparent to experienced practitioners, the Administrative Law Judge, and the Assigned Commissioner, that this is unworkable. Accordingly DRA's proposed schedule must be rejected. The Scoping Memo should adopt a schedule designed to reach a decision by the end of 2011, in order to allow rates to be updated at the beginning of the test year.

### **A DELAYED SCHEDULE IS NOT THE ONLY OPTION**

Applicants note that delays in the procedural schedule are not the only means of accommodating staffing or other constraints. Other approaches are more feasible and should be undertaken to avoid any lengthy delays in a final decision date. Some steps have already been

taken. For example, a significant portion of the GRCs for SDG&E and SoCalGas involve shared services costs; accordingly intervenors could consider coordinating efforts to divide and handle particular issues to avoid duplication of effort. The Commission has made this recommendation to GRC parties in the past:

For this proceeding, we ask the intervening parties to greatly increase the level of coordination and cooperation that they already demonstrate in similar proceedings. Our goals are to significantly increase efficiency and effectively use the limited resources of all parties, including DRA. We strongly urge the parties to jointly plan their analysis, avoid repetitive analysis, conduct joint analysis where feasible, and consider joint presentations of witnesses and unified cross examination of applicants.<sup>14</sup>

Parties can actively seek to resolve or narrow some issues through issue-specific settlements or stipulations, thereby reducing or eliminating the need to address those issues in testimony and evidentiary hearings. However, as noted above this would be frustrated if not impossible were DRA's extremely slow scheduling proposal put in place. SDG&E and SoCalGas historically have been able to settle many, if not most issues in their prior GRC proceedings – for example ten separate settlements were put before this Commission in their 2008 GRCs. The Commission should not adopt a procedural schedule in this GRC that would effectively eliminate any realistic opportunity to engage in meaningful settlement discussions.

As noted above, on January 10, 2011 SDG&E and DRA jointly requested an extension from the Commission's Executive Director of the due date for SDG&E's electric rate design phase of the GRC. Since this extension was recently granted, Phase 2 is delayed such that SDG&E's electric rate design application and testimony will be filed on September 1, 2011. However, DRA's proposed Phase 1 schedule is in conflict with this timing for Phase 2 rate design issues.

While parties are afforded the opportunity to conduct sufficient discovery, the level and scope of data requests propounded can largely impact the timeliness and usefulness of responses. SDG&E and SoCalGas have and will continue to make a concerted effort to expedite responses, which may entail collaboration with requesting parties to reach agreements on honing the focus

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<sup>14</sup> *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge* in A.06-12-009/010 (February 27, 2007), p. 5 (SDG&E's and SoCalGas' 2008 GRC). Similar Commission guidance was given in Edison's 2009 GRC. See e.g., *Scoping Memo and Ruling of Assigned Commissioner* in A.07-11-011 (February 7, 2008), p. 9.

of discovery requests.

Other efficiencies can be realized by developing realistic and judicious cross-examination estimates, and, where possible, achieving cross-examination waivers in advance of hearings. On occasion, written cross stipulated into the record can be utilized with great efficiency.

In any event, to the extent it becomes increasingly clear that delays in the procedural schedule are necessary and unavoidable, Applicants recommend that any changes to the procedural schedule be requested through a filed motion during the course of this proceeding rather than at the onset, as part of the initial scoping memo and ruling.

### **Scope and Other Issues**

#### **1. Scope**

The GRC applications of SDG&E and SoCalGas list the subject matters (with corresponding witnesses) that support the overall Test Year 2012 request. SDG&E's application is supported by 48 separate pieces of testimony, while SoCalGas' application is supported by 41 separate pieces of testimony. These testimonies (and where applicable, supporting workpapers) address operations and business functions and needs of the utilities and the corresponding capital and O&M costs associated with those functions and needs. In addition, Applicants have preliminarily identified other issues pertaining to: (1) the regulatory accounts proposed in this proceeding; (2) present and proposed rates; and (3) the need for memorandum accounts in the event of a delayed final decision. The scope of a GRC proceeding is of course broad. However, there are limits. SDG&E and SoCalGas note that the Commission can expedite this GRC proceeding by not allowing parties to try to litigate issues which are outside the scope of Phase 1 GRC ratemaking, including but not limited to philanthropy, cost allocation, and commodity costs.

#### **2. Discovery**

SDG&E and SoCalGas have responded to an extensive Master Data Request (1033 questions) for DRA, received an additional 75 sets of DRA data requests (604 questions in total, of which we have responded to 578 questions), and numerous additional deficiency requests. In addition, Applicants have made every effort to arrange meetings at DRA's offices to discuss

many of the subject areas contained in the GRCs and to keep the lines of communication open for information exchange on an informal basis, and have arranged site visits for DRA witnesses as well. Moreover, SDG&E and SoCalGas have received 10 sets of data requests (376 questions in total, of which we have responded to 317 questions) from The Utility Reform Network (TURN) and Utility Consumers' Action Network (UCAN); are in the process of responding to recent discovery from SCGC; and anticipate a high volume of additional data requests from all parties to this proceeding going forward. The following table provides a snapshot of the current status of data requests received by SDG&E and SoCalGas, and the status of responses to those requests as of January 21, 2011.

	<u>Received</u>	<u>Sent</u>	<u>In process</u>
DRA	604	578	26
DRA MDR	1,033	1,033	-
TURN	71	12	59
UCAN	305	305	-
SCGC	4	-	4
<b>Total:</b>	<u>2,017</u>	<u>1,928</u>	<u>89</u>

### 3. Need for Hearings

SDG&E and SoCalGas anticipate evidentiary hearings will be needed and believe that approximately three weeks may be necessary, dictated by the scope of remaining contested issues. As stated earlier, all parties should make every effort to narrow the scope of issues, to provide realistic cross estimates and avoid duplicative cross-examination, and to seek ways to reducing hearing time through the use of stipulations, admission of written material in lieu of in-person testimony, and, where feasible, waiver of witnesses.

**Conclusion**

SDG&E and SoCalGas respectfully urge the Commission to resolve the GRCs in this consolidated docket in accordance with the procedural schedule set forth in this statement. Even with more than one GRC in process, there are efficiencies that can be required of the Applicants and parties to ensure a timely resolution to this proceeding. SDG&E and SoCalGas commit to working with the parties and Commission staff to narrow or resolve issues if possible, avoid or minimize any procedural disputes, and otherwise conduct the necessary steps to develop a full and fair record in an expedient manner.

Respectfully submitted,

SAN DIEGO GAS & ELECTRIC COMPANY and  
SOUTHERN CALIFORNIA GAS COMPANY

By: /s/ KEITH W. MELVILLE

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January 26, 2011

**CERTIFICATE OF SERVICE**

I hereby certify, that pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true and correct copy of the **PREHEARING CONFERENCE STATEMENT OF SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY** to the parties indicated in the service list for Application Nos. 10-12-005/006 (in addition to the parties listed in the last GRC, Consolidated Application Nos. 06-12-009/010). Those parties without an email address were served by placing copies in properly addressed and sealed envelopes and depositing such envelopes in the United States Mail with first-class postage prepaid.

Executed this 26th day of January, 2011 at San Diego, California.

/s/ LISA FUCCI-ORTIZ  
Lisa Fucci-Ortiz



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## CALIFORNIA PUBLIC UTILITIES COMMISSION

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