Decision **ALTERNATE PROPOSED DECISION OF COMMISSIONER BOHN**
(Mailed 6/10/2008)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U902M) for authority to update its gas and electric revenue requirement and base rates effective on January 1, 2008.	Application 06-12-009 (Filed December 8, 2006)
Application of Southern California Gas Company for authority to update its gas revenue requirement and base rates effective on January 1, 2008. (U904G)	Application 06-12-010 (Filed December 8, 2006)
Order Instituting Investigation on the Commission's own motion into the rates, operations, practices, services and facilities of San Diego Gas & Electric Company and Southern California Gas Company.	Investigation 07-02-013 (Filed February 15, 2007)

(See Appendix 11 for List of Appearances.)

DECISION ON THE TEST YEAR 2008 GENERAL RATE CASES FOR SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY

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Appendix 1 Settlement Agreement Regarding San Diego Gas & Electric Company Test Year 2008 Revenue Requirement

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DECISION ON THE TEST YEAR 2008 GENERAL RATE CASES FOR SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY

1. Summary

San Diego Gas & Electric Company (SDG&E) filed Application (A.) 06-12-009, a general rate case (GRC) application, and Southern California Gas Company (SoCalGas) filed A.06-12-010, also a GRC application. They are related companies with some shared services. This decision adopts for each company a Test Year 2008 revenue requirement, a mechanism for attrition adjustments until the next GRC, and performance and safety incentive mechanisms, which are reasonable and necessary to provide safe and reliable service to ratepayers.

The decision requires SDG&E and SoCalGas to file another rate case for Test Year 2012 and it allows the filing of a single combined application with separate revenue requirements for each company. This decision adopts eight settlements, and rejects two others, pursuant to Rule 12 *et seq.*, between applicants and various parties which, in total, resolve nearly all contested issues.

The adopted settlements were not all-party settlements and therefore this decision resolves all objections to those settlements, with any reasonable and necessary modifications. The adopted settlements are:

1. Settlement Agreement Regarding San Diego Gas & Electric Company Test Year 2008 Revenue Requirement with the Division of Ratepayer Advocates (DRA);
2. Settlement Agreement Regarding Southern California Gas Company Test Year 2008 Revenue Requirement with DRA and The Utility Reform Network (TURN);

3. Settlement Agreement Regarding San Diego Gas & Electric Company Post-Test Year Ratemaking with DRA, TURN and the Aglet Consumer Alliance (Aglet);
4. Settlement Agreement Regarding Southern California Gas Company Post-Test Year Ratemaking DRA, TURN and Aglet;
5. Settlement Agreement Regarding Employee Safety Incentive Measure for SDG&E with Coalition of California Utility Employees;
6. Settlement Agreement Regarding Utility Workers Union of America, Local 132 Issues - A Safety Incentive for SoCalGas;
7. Settlement Agreement with Pest Control Operators - Tariff Rules for SDG&E and SoCalGas; and
8. Settlement Agreement with Disability Rights Advocates - Accessibility issues for SDG&E.

This decision rejects two other proposed settlements that are not in the public interest, and not reasonable, based on the record of the proceeding:

1. Six Year Leadership Agreement with the Greenlining Institute - on Corporate Philanthropy and Diversity of SDG&E and SoCalGas, with The Greenlining Institute, and
2. Settlement Agreement Regarding Local 483 Issues - for SoCalGas.

This decision also resolves the remaining contested issues addressing various incentive mechanisms on safety and reliability. Finally, this decision finds that the effective date for the change in revenue requirement is January 1, 2008, which resolves the one issue identified in Decision (D.) 07-12-053. These proceedings are closed.

2. Procedural Background

A January 2, 2007 ruling consolidated the applications pursuant to Rule 7.4. DRA, Disability Rights Advocates, PCOC, Southern California Generation Coalition, and TURN timely filed protests. The Commission preliminarily categorized these matters as ratesetting and requiring hearings in Resolution

ALJ 176-3185. The categorization of these proceedings is determined herein to be ratesetting. A prehearing conference was held on February 9, 2007, for a discussion on the scope of the proceeding, guidelines on discovery,[1] lead counsel to reduce duplication,[2] scheduling, and a mandatory effort for settlement. An assigned Commissioner's scoping ruling was subsequently issued on February 27, 2007. The scoping ruling confirmed that this was a ratesetting proceeding and evidentiary hearings were necessary. There were 13 days of evidentiary hearings,[3] followed by concurrent opening and reply briefs on October 5 and October 19, 2007, respectively.

During hearings, several limited scope agreements, or settlements, between applicants and various parties were received as exhibits in the record. After submittal, the assigned Administrative Law Judge (ALJ) granted motions to set aside submission and accept for filing late-filed comprehensive settlements of Test Year 2008 revenue requirements, dated December 20, 2007.[4] Parties were allowed to file comments and replies under Rule 12.2 on January 31, 2008, and February 15, 2008, respectively. The ALJ granted further motions to set aside submission and accept for filing late filed comprehensive settlements of post test year ratemaking and related issues dated January 18, 2008. Parties were allowed to file comments and replies under Rule 12.2 on February 19, 2008, and March 5, 2008, respectively.

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[1] For discovery, the parties preferred that any deadlines be more "guidelines" than "rules," thus no specific limits were set.

[2] TR., p. 10, ff.

[3] August 6 – 10, August 13-16, and September 10 – 13, 2007.

[4] All late-filed settlements were reviewed pursuant to Rules 12.1 through 12.7, as discussed in detail in this decision. No settlement was an all-party settlement.

The record is composed of all filed and served documents. It also includes all testimony and exhibits received at hearing and late-filed exhibits as ordered by the ALJ. Also, the ALJ sealed as confidential various exhibits. We affirm all ALJ rulings on confidential exhibits and rulings allowing the late filing of settlements between applicants and one or more other parties.

2.1. Scope

The purpose of this proceeding is primarily to establish just and reasonable rates for Test Year 2008 and make all other necessary orders for both SDG&E and SoCalGas to offer safe and reliable service. We will determine:

a The just and reasonable test year revenue requirements for 2008 inclusive of all operating expenses and capital costs. This includes the costs of all operating or customer-related programs necessary to provide safe and reliable utility service in the test year.

b A just and reasonable post-test year ratemaking mechanism to adjust annual revenue requirements in subsequent years until the Commission adopts a test year revenue requirement in a subsequent proceeding.

c Whether to adopt, and if so, what incentive mechanisms to adopt, that potentially reward or penalize SDG&E and/or SoCalGas for the safe and reliable operation of their utility services.

Excluded from this proceeding were all matters of cost allocation, determination of marginal costs, and rate design for SDG&E's electric department. These matters were properly considered in a separate proceeding, A.07-01-047 and resolved in D.08-02-034. All matters of cost allocation and rate design for the gas department of SDG&E and for SoCalGas are properly included in the next Biennial Cost Allocation Proceeding. We affirm all ALJ rulings on scope.

2.2. Standard of Review

SDG&E and SoCalGas bear the burden of proof to show that the rates they request are just and reasonable and the related ratemaking mechanisms are fair.

In order for the Commission to consider any possible proposed settlement in this proceeding as being in the public interest, the Commission must be convinced that the parties had a sound and thorough understanding of the application, and all of the underlying assumptions and data included in the record. This level of understanding of the application and development of an adequate record is necessary to meet our requirements for considering any settlement. Applicants submitted separate limited-scope settlement of issues with parties: Disability Rights Advocates; Utility Workers Union of America, Local 132 (Local 132); Utility Workers Union of America, Local 483 (Local 483); Coalition of California Utility Employees (CCUE); the PCOC; and the Greenlining Institute. We can review these limited-scope settlements within the overall scope of the proceeding to adopt reasonable test year revenue requirement, post-test year ratemaking mechanisms, incentive performance mechanisms, and the reasonable operations of the utilities to provide safe and reliable service.

Applicants late-filed four other settlements. First, on December 20, 2007, there were two settlements on total Test Year 2008 revenue requirements: for SDG&E the settlement was with only DRA; and for SoCalGas the settlement was with DRA and TURN. Finally, on January 18, 2008, there were two settlements addressing post-test year ratemaking: for SDG&E the settlement was with DRA, TURN and Aglet; and for SoCalGas the settlement was also with DRA, TURN and Aglet.

Based upon our review of the extensive prepared testimony, lengthy hearings and comprehensive briefing of the litigated applications we find that the parties to the settlement had a sound and thorough understanding of the application, and all of the underlying assumptions and data included in the record and thus we can consider the various settlements as offered by competent and well-prepared parties able to make informed choices in the settlement process.

3. Appropriate Recorded Data

3.1. 2006-Recorded Data

SDG&E and SoCalGas filed for rate increases in compliance with the Commission's extant rate case plan. The applicants served a notice of intention to file the applications in the summer of 2006 based on the latest available 2005-recorded data and reported in the format of the Federal Energy Regulatory Commission's (FERC) Uniform System of Accounts (USOA). DRA reviewed the filing and provided a list of deficiencies for SDG&E and SoCalGas to correct or resolve in the applications filed in December 2006.

SDG&E and SoCalGas do not use the USOA to manage and control operations – instead there is a cost control system based on areas of responsibility and function or cost centers.[5] Therefore, for many witnesses it was necessary to translate these operating cost center control accounts into FERC-USOA accounts for the rate case. This in turn led to significant adjustments. Even though the accounting system was able to generate a translation, SDG&E

[5] See as examples: SCG-13-E, p. 2: "Cost centers: the lowest level organizational unit for which shared services costs are tracked and recorded"; and the Shared Services Reports (SCG/SDG&E-14, Chapter VIII).

and SoCalGas made numerous adjustments to "manually" reallocate many overhead accounts or activities to the FERC-USOA accounts for rate case presentation. SDG&E and SoCalGas then forecast or escalated 2005 costs to derive 2006 and 2007 costs in order to ultimately forecast in much greater detail Test Year 2008.

In the spring of 2007, the 2006-recorded data was available and SDG&E and SoCalGas provided it to the intervenors. But the applicants were unable to replicate the adjustments to 2005-recorded data on the 2006-recorded data in the very limited time frame before the intervenors served testimony for the evidentiary hearings. Nevertheless, DRA and others used 2006-recorded data in many instances to substitute for the interim 2006 forecast as a part of calculating ratemaking adjustment recommendations for Test Year 2008. SDG&E and SoCalGas objected to this use of 2006-recorded data as beyond the scope of the rate case plan. The companies argue that the rate case plan narrowly limits up-dating during the rate case and that up-dating for 2006 exceeds the scope of permissible up-dating. SDG&E and SoCalGas objected that the results were inaccurate because the intervenors did not consider the numerous 2005 adjustments which could not be accurately reflected in the 2006-recorded data.

We disagree with SDG&E and SoCalGas on whether the updating exceeds the permissible rate case updates: the issue with using 2006 data is whether it is compatible with the other years of recorded data in order to derive trends and forecasts. However, we find that the 2006 data was not in a format compatible with the adjusted data for 2005 and prior years. We therefore agree with SDG&E and SoCalGas that it is unreasonable in this instance to use unadjusted 2006-recorded data to substitute for the 2006 forecast based on adjusted 2005-recorded data because it is an inconsistent base for re-forecasting 2007 and

2008. Neither DRA nor any other intervenor used 2006-recorded data for every instance of re-forecasting 2007 and deriving a different Test Year 2008. In fact, SDG&E and SoCalGas assert that the intervenors only used 2006-recorded data when the unadjusted 2006-recorded data was a lower amount than the applicants' forecast 2006. No party rebutted this assertion. Therefore we would not adopt any use of 2006-recorded data, as proposed by DRA and others, if we adopted a litigated outcome for Test Year 2008. We therefore find the intervenors did not reasonably use unadjusted 2006-recorded data to derive their 2008 test year forecasts.

3.2. Accounting Systems

It is clear from our record that using the FERC-USOA format added an unnecessary level of complexity to the current proceeding. In recent years, the companies have filed rate cases in a format which requires translation or allocation from the in-house accounting and management control system used to operate the companies. SDG&E and SoCalGas do not manage operations on a daily basis using the FERC USOA for reporting and control. They clearly made numerous and extensive conversions of operating data to fit the USOA. As already noted, this meant the company could not do a complete conversion of 2006 data into the rate case format based on the FERC USOA.

To the extent that SDG&E and SoCalGas operate the utilities with a different accounting system which matches costs to areas of operational responsibility, it is reasonable to allow and even require SDG&E and SoCalGas to file the next GRCs formatted to reflect the actual operations of the companies. We therefore expect fewer adjustments and re-allocations because we will have the next recorded base year - and the ultimate test year forecast - in the exact format used by SDG&E and SoCalGas management to operate and control the

companies.[6] SDG&E and SoCalGas noted in opening briefs[7] that the cost center accounting system changes over time, as cost centers are opened or closed. But this system reflects how the companies are operated and changed, and therefore, even if some tracking is required, updated data for the entire system does not have to be translated to the FERC accounts. We note too that in the past SDG&E and SoCalGas have no doubt opened and closed cost centers which were translated into the historical FERC accounts.

We can authorize this change without the need to change how SDG&E and SoCalGas file and report their financial statements in the FERC-USOA format to the Commission and to FERC. Parties commented that five years of data should be included in the new format for the next proceeding, and we agree that such a historical base is needed. Any cost centers that are closed during the historical period would show zero for subsequent periods and new cost centers would show zero for earlier years. This would reflect real changes within the operations of the companies obscured by the FERC account summations. We believe we can reasonably distinguish financial reporting (which is intended to be consistent for all reporting jurisdictional utilities) from the unique operational features of individual utilities to forecast a just and reasonable test year revenue requirement. We also believe that DRA can quickly and easily reconcile that the overall recorded costs reported for the base year in a FERC-USOA format exactly encompasses the same costs reported in the accounting format used by SDG&E

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[6] We expect that with a change to forecasting the test year on a functional basis that there will still be consistency in major categories, such as depreciation expense, or a very clear translation between historical account groupings using the FERC USOA and the companies' management accounting system.

[7] Sempra Opening Brief, p. 368.

and SoCalGas management to operate the companies. DRA testified that its audit found the total adjusted 2005 data to be consistent with total recorded 2005 data.

3.3. Single Application

SDG&E and SoCalGas have filed separate rate applications even after the merger of the two parent companies. Both companies are now subsidiaries of Sempra Energy and, as shown in the record for this proceeding, many functions are performed either by a "corporate center" for both utilities, or within the structure of either one of the two utilities on behalf of both companies. As a result, there was significant duplicate testimony on various shared or allocated services, and many policy issues, as well as mechanical forecast methodologies, which were the same for both applications. The two applications were consolidated, as already noted, and a single investigation was opened and consolidated with the applications to examine the operations of both companies.

No practical benefit appears to arise from separate applications.

Rule 2.1 allows multiple legal entities to file a joint application. Pub. Util. Code § 701 provides the Commission broad discretion to regulate.[8] Therefore, we direct SDG&E and SoCalGas to specifically consider and, if feasible, file a single general rate application for Test Year 2012. We note that the unique revenue requirements for the two companies must be separately stated within the application, but, wherever feasible, SDG&E and SoCalGas should avoid

[8] Section 701: The commission may supervise and regulate every public utility in the State and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.

duplicate testimony in order to reduce the burden on all parties. Should SDG&E and SoCalGas choose to file two applications we would still direct them to minimize the duplication of testimony.

At the prehearing conference and in the scoping memo parties were urged to consider the use of "lead counsel" to reduce the amount of duplication and to coordinate the limited resources of all intervening parties. We found that as has been common in the past, TURN and UCAN to a large degree and, to a lesser degree, those two, with Aglet appear to have coordinated on many issues. We are concerned, however, that there continues to be a marked degree of duplication between all intervenors and DRA. We again urge parties to think creatively and embrace the "lead counsel" concept and strive to further eliminate duplicate analysis. This request is directed specifically to include DRA and is intended to reduce the duplication, and increase teamwork and coordination, between *all* parties. (Scoping Memo, pp. 5–6.)

4. Settlement Rules

4.1. Bilateral Settlements

In the consolidated proceedings there were a number of settlements[9] proposed by either or both SDG&E and SoCalGas and at least one other party. Each settlement is discussed separately in this decision. They are:

1. Appendix 1, title as filed, is *Settlement Agreement Regarding San Diego Gas & Electric Company Test Year 2008 Revenue Requirement*, which is Ex. SDG&E/SCG-303, (SDG&E Test Year 2008 Settlement).

[9] The assigned ALJ identified an exhibit number and admitted the proffered settlements into the record either during evidentiary hearings, or by ruling subsequent to hearings.

2. Appendix 2, title as filed, is *Settlement Agreement Regarding Southern California Gas Company Test Year 2008 Revenue Requirement*, which is Ex. SDG&E/SCG-304, (SoCalGas Test Year 2008 Settlement).
3. Appendix 3, title as filed, is *Settlement Agreement Regarding San Diego Gas & Electric Company Post-Test Year Ratemaking*, which is Ex. SDG&E/SCG-305, (SDG&E Post Test Year Ratemaking Settlement).
4. Appendix 4, title as filed, is *Settlement Agreement Regarding Southern California Gas Company Post- Test Year Ratemaking*, which is Ex. SDG&E/SCG-306, (SoCalGas Post Test Year Ratemaking Settlement).
5. Appendix 5, title as served, is *Settlement Agreement Regarding Employee Safety Incentive* Measure, which is Ex. CCUE-4, (SDG&E and CCUE Settlement Agreement).
6. Appendix 6, title as served, is *Settlement Agreement Regarding Utility Workers Union of America, Local 132 Issues*, which is Ex. SDG&E/SCG-265, (SoCalGas and Local 132 Settlement).
7. Appendix 7, as served, is *Six Year Leadership Agreement,* which is Ex. SDG&E/SCG-280, (Greenlining Settlement).
8. Appendix 8, title as served, is *Settlement Agreement Regarding Local 483 Issues*, which is Ex. SDG&E/SCG-255, (SoCalGas and Local 483 Settlement).
9. Appendix 9, title as served, is *Memorandum of Understanding*, which is Ex. SDG&E/SCG-259, (Pest Control Operators Settlement).
10. Appendix 10, title as served, is *Memorandum of Understanding*, which is Ex. SDG&E/SCG-256, (Disability Rights Advocates Settlement).

4.2. Summary

These general rate proceedings were fully and extensively litigated. Nevertheless, several parties entered into bilateral, limited scope, settlements resolving several limited issues and much more broadly proposing settlements

for both companies' Test Year 2008 revenue requirement and post-test year ratemaking mechanisms. As more fully discussed in this decision we adopt several of the settlements (modifying two of them) and reject two limited scope settlements. As the United States Court of Appeals for the Ninth Circuit has observed, in evaluating a settlement the agreement must stand or fall on its own terms, not compared to some hypothetical result that the negotiators might have achieved, or that some believe should have been achieved:

> Settlement is the offspring of compromise; the question we address is not whether the final product could be prettier, smarter or snazzier, but whether it is fair, adequate and free from collusion. (*Hanlon v. Chrysler Corp*., 150 F.3d 1011, 1027 (9th Cir. 1998).

4.3. Settlement Rules

Rule 12.1, provides in pertinent part:

(Rule 12.1) Proposal of Settlement

(a) Parties may … propose settlements on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the proceeding. Settlements need not be joined by all parties; however, settlements in applications must be signed by the applicant. ...

The motion shall contain a statement of the factual and legal considerations adequate to advise the Commission of the scope of the settlement and of the grounds on which adoption is urged. Resolution shall be limited to the issues in that proceeding and shall not extend to substantive issues which may come before the Commission in other or future proceedings. …

(b) Prior to signing any settlement, the settling parties shall convene at least one conference with notice and opportunity to participate provided to all parties for the purpose of discussing settlements in the proceeding. …

> (c) Settlements should ordinarily not include deadlines for Commission approval…
>
> (d) The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

In short, we must find whether the settlements comport with Rule 12.1(d), which requires a settlement to be "reasonable in light of the whole record, consistent with law, and in the public interest." We address below whether the settlements meet these three requirements.

4.4. Reasonable in Light of the Whole Record

The settlements as discussed below, except for the proposed settlements with Local 483 and Greenlining Institute, are reasonable in light of the whole record. For these two we find no factual or policy basis in the record to adopt these settlements. All of the other settlements are supported by the factual record and sound policy recommendations.

4.5. Consistent With Law

None of the settlements violate any code or law and are all therefore consistent with this requirement of our settlement rules.

4.6. In the Public Interest

Rule 12(a) includes the requirement that a settlement "shall not extend to substantive issues which may come before the Commission in other or future proceedings." The settlements as discussed below, except for the proposed settlements with Local 483 and Greenlining, are in the public's interest.

5. Test Year 2008 Settlements (Appendices 1 and 2)

5.1. Summary

We adopt the proposed settlements for Test Year 2008 revenue requirements. There were timely comments in opposition to the SDG&E settlement by UCAN, and Federal Executive Agencies (FEA). We will discuss their objections in detail. No party filed comments objecting to the SoCalGas revenue requirement settlement, so we therefore will consider it to be unopposed. The Southern California Generation Coalition separately raises the issue of the revenue requirement associated with the purchase of the Cuyama-Casitas pipeline which was not included in the settlement. We will discuss that issue separately.

We adopt the SDG&E Test Year 2008 settlement (Ex. SDG&E/SCG-303, Appendix 1) based on the considerable litigated evidentiary record and our findings that the outcome is reasonable on that record, within the likely range of outcomes were we to address every account and every test year activity in detail, herein. Notwithstanding this finding, there are several issues which we can resolve without overturning the settlement. In fact, the settling parties specifically identified unresolved policy issues. Several of these items were raised by parties that did not join in the settlements and thus these issues should be addressed in order to adopt settlements. We find that several of these are ripe for resolution, without otherwise modifying the settlements' test year revenue requirements, or adversely impacting or altering the separate post-test year ratemaking settlements, discussed separately in this decision.

We also adopt the settlement between SoCalGas and DRA and TURN and Aglet. (Ex. SDG&E/SCG-304, Appendix 2.) There were timely comments on the proposed settlement discussed below:

5.1.1. SDG&E - Summary

The Joint Parties, SDG&E and DRA, agreed to:

- a 2008 SDG&E base margin of $1,087,285,000 (revised to $1,097,897 as a result of D.07-12-049, which adjusted SDG&E's cost of capital from 8.23% to 8.4%[10]) for electric and $233,670,000 (similarly revised to $235,125) for gas, for a total of $1,320,955,000 which was revised to $1,333,022;
- a 2008 rate base for SDG&E of $3,347,587,000;
- a detailed allocation of expenses as described in the settlement and comparison exhibit (EX. SDG&E/SCG-301); and
- other various agreements which affect operations and capital additions.

Because we adopt the SDG&E settlement, we adopt the details as described in the agreement (Ex. SDG&E/SCG-303) and also the comparison exhibit (Ex. SDG&E/SCG-301). It is against this agreement that SDG&E will be evaluated in its efforts to fulfill the obligation to provide safe and reliable service. Although SDG&E has significant discretion in its detailed operations, the agreement reflects a commitment to a certain expected level of maintenance, repair, capital additions, and customer service, as described in the comparison exhibit.

5.1.2. SoCalGas - Summary

SoCalGas and DRA, TURN agreed to:

- a 2008 SoCalGas base margin of $1,610,510,000;
- a 2008 rate base for SoCalGas of $2,800,852,000; and
- other various agreements which affect operations and capital additions.

[10] The settlement (p. 12) provided for this adjustment based on the final adoption of the cost of capital decision.

Because we adopt the SoCalGas settlement, we adopt the details as described in the agreement (Ex. SDG&E/SCG-304, Appendix 2) and also the comparison exhibit (Ex. SDG&E/SCG-302). It is against this agreement that SoCalGas will be evaluated in its efforts to fulfill the obligation to provide safe and reliable service. Although SoCalGas has significant discretion in its detailed operations, the agreement reflects a commitment to a certain expected level of maintenance, repair, capital additions, and customer service, as described in the comparison exhibit.

5.2. Unresolved Test Year Issues

By separate filing,[11] the settling parties, in a joint response, identified several issues which the settlements specifically did not resolve even though the settlements otherwise agree to Test Year 2008 revenue requirements and the comparison exhibits for these settlements fully allocate the settled amounts by expense and capital categories for both companies. UCAN reminds us in its comments that SDG&E has settled every GRC since 1984. Therefore it behooves us to resolve these litigated disputes to provide both a critical review of the current unpersuasive arguments and guidance for the next proceeding. We also note that TURN did not settle with SoCalGas, nor did UCAN or FEA settle with SDG&E. FEA and UCAN argue that the decision should adopt a litigated outcome rather than adopt the settlement; therefore as a part of our review of the settlement we must critically review these disputes. These unresolved issues, as described in the joint response, include:

[11] Joint Response to ALJ Long's Questions Regarding 2008 Test Year Settlements, filed and served January 22, 2008. (Joint response.)

a. Whether or not, as a matter of policy, the CPUC should consider the closure of SoCalGas or SDG&E branch offices in the future;

b. Whether or not, as a matter of policy, the CPUC should allow SoCalGas or SDG&E to use "payday lenders" as authorized by the utility as non-utility payment locations;

c. Whether or not, as a matter of policy, the CPUC should assign Sempra Energy shareholders with responsibility for funding SoCalGas or SDG&E incentive compensation plans;

d. Whether or not, as a matter of policy, the CPUC should consider the proposals raised by TURN (with respect to SoCalGas only) or DRA related to the calculation of SoCalGas or SDG&E depreciation expense;

e. Whether or not, as a matter of policy, the CPUC should consider the proposals raised by TURN (with respect to SoCalGas only) or DRA related to the calculation of SoCalGas or SDG&E working cash expense, including whether Customer Deposits should be considered as a source of working cash; and

f. Whether or not, as a matter of policy, the CPUC should consider the proposals raised by TURN related to the SoCalGas Employee Stock Ownership Plan and its relationship to the calculation of SoCalGas' income tax expense.

5.2.1. Authorized Non-Utility Payment Locations and Branch Offices

The bilateral settlement with Disability Rights Advocates, discussed elsewhere in this decision, provides for studies and certain limitations on branch office closures and new authorized payment locations. As discussed below, we still have concerns which we find compelling after considering, for example, cross examination by Greenlining and TURN which showed there had not been a careful study on the impacts to low-income customers. Thus, we adopt the settlement with the further guidance here on branch offices generally and

authorized non-utility payment locations. We go further than the settlement and place a moratorium on branch office closures and new pay-day lender payment locations.

We find that the proposal to close branch offices is problematic for low-income customers. We therefore find that all existing branch offices should remain open but that applicants may separately apply to close individual offices in the future or revisit the issue in the next GRC. The reality is that some customers are more expensive to service than others: we cannot presume all to have internet bill-paying capacity or even checking accounts. Therefore we must find a way to serve these customers' needs for bill payment, customer service, and information. The traditional branch offices serve these functions.

5.2.2. Authorized Non-Utility Payment Locations

We find that "payday lenders" or check-cashing outlets are problematic locations for customers to pay their bills. We therefore impose a moratorium on further pay-day lender non-utility authorized payment locations. Applicants argue that these businesses are regulated by the state and they are willing, unlike many other businesses, to undertake payment functions. As noted above, some customers are harder to serve and branch offices meet their needs. We accept applicants' testimony on the very limited number of customers who use branch offices or payment locations. Nevertheless, we agree that these payday lender businesses are problematic because of the potential for customers to enter into legal but costly loans in the process of paying their utility bills. We therefore will

place a moratorium on any further contracts with payday lenders.[12] We invite applicants to work with parties and develop other options to serve these customers' needs. SDG&E and SoCalGas may bring an application at any time to propose a comprehensive solution to the problems of business office closures and payment locations, or defer any further action to the next GRC.

5.2.3. Incentive Compensation

We find, based on the testimony of applicants and DRA, that the total compensation study, performed by an independent consultant under the joint direction of the applicants and DRA, demonstrates that total compensation for SDG&E and SoCalGas is statistically "at market" and thus reasonable.[13] The use of the joint applicant-DRA total compensation study is a long-standing component of general rates, including the last proceedings for SDG&E and SoCalGas, A.02-12-028 and A.02-12-027, respectively. Total compensation includes, for many employees, a combination of base pay and incentives. The study results were used to develop applicants' test year forecasts and included incentives "at target" – this means that SDG&E or SoCalGas would absorb the difference if employees actually earn above or below target incentives.

Because total compensation is reasonable, (defined as prevailing market rates for comparable skills) the ratepayers should reasonably fund a revenue requirement that includes the full market-based employee compensation for the

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[12] Disability Rights Advocates commented on the proposed and alternate decision that a restriction on new pay-day lenders would not require any modification to the settlement which is silent on the particular types new payment locations. (Comments, p. 3.)

[13] Once we find a total compensation package to be reasonable, it would typically be used to forecast the labor costs of the test year forecast for the adopted staffing levels.

adopted levels of staff. Thus there is no basis to exclude the incentive component and force shareholders to assume a portion of the reasonable cost of employee compensation. We find no merit in DRA's argument that shareholders should fund any portion of the incentive portion of market-based employee compensation. We do not agree that incentives solely benefit the company: if employees work harder or smarter to earn incentives (even just to achieve the target incentives) then ratepayers should benefit too.

5.2.4. Depreciation

Although there is a settlement of revenue requirement, under the settlement rules, the outcome is not a precedent for the future. (Rule 12.5.) Nevertheless, we can review several issues that were extensively litigated prior to the settlement and make certain findings. We find, as discussed below, intervening parties were not persuasive here, and have also failed to persuade the Commission in other recent proceedings, that the current depreciation practices are unreasonable or incorrect. In particular, TURN and UCAN argue applicants incorrectly calculate and recover the negative net salvage values. We reject these arguments, as we discuss further below.

The alternative methodology proposed by TURN was not adopted in the most recent Pacific Gas & Electric Company (PG&E) and Southern California Edison Company (SCE) GRCs.[14] We would therefore have denied with prejudice the recommendations of DRA, TURN, and UCAN on depreciation and net salvage in a litigated decision. The purpose of this discussion of our likely denial is to avoid an unnecessary repetition in subsequent proceedings. Any party that

raises these issues again should have new analysis and new arguments which may persuade us, unlike the arguments raised here or in other recent rate proceedings. We adopt, as a part of the Test Year 2008 settlements, the further studies identified in the settlements and described below, that are to be included in the subsequent GRCs for SDG&E and SoCalGas.

5.2.4.1. Net Salvage

Net salvage is the difference between the gross salvage amounts that will be realized when an asset is retired, less the cost of removing the assets. Regulatory accounting includes an allowance for net salvage in depreciation rates accrued over the life of the asset.[15] As discussed below, we find that we disagree with the changes proposed by DRA and TURN/UCAN. Also, we did not adopt the TURN/UCAN proposals in both of the recent GRCs for PG&E and SCE and we do not adopt them here.

The Applicants' testimony asserts there is a prevailing trend in recent studies toward more negative net salvage rates, generally related to the change in service lives (which are lengthening), and has an offsetting impact on depreciation rates and expense.[16] Based on its analysis, DRA opposes 11 of the 30 changes proposed changes by SDG&E, and eight of the 23 changes proposed changes by SoCalGas.[17] DRA concedes, however, that the methodology used by

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[14] For example, in D.07-03-044 the Commission did not adopt TURN's proposals but did require further study for the next general rate. (*Mimeo.*, pp. 210 – 222.)

[15] Ex. DRA-20, p. 20-7, lines 14-17.

[16] Ex. SDG&E-18-E, p. REL-4, lines 21-24; Exhibit SoCalGas-16-E, p. REL-3, lines 25-28.

[17] Table 20-3 of Exhibit DRA-20 (p. 20-13) shows the comparison of the proposed net salvage rates of SDG&E and DRA for Test Year 2008. Table 20-4 of the same exhibit (p. 20-23) shows the comparison of the proposed net salvage rates between DRA and SoCalGas.

DRA and both utilities is the same and is consistent with the Commission's Standard Practice (SP) U-4.[18] DRA argues that it considered additional factors: (a) the utilities' over-reliance on historical data; (b) a comparison of proposed net salvage to those of other California utilities; and (c) whether SDG&E and SoCalGas already collect sufficient funds under current rates to pre-fund future cost of removal.[19]

The Applicants' rebuttal testimony criticizes DRA's additional factors, arguing that DRA "has demonstrated a clear bias in its approach."[20] DRA argues that SDG&E and SoCalGas rely on a flawed methodology which calculates net salvage rates based solely on the weighted average rates of 15-year historical data. DRA cites to PG&E's Test Year 1999 GRC, (which is not the recently settled proceeding) arguing the Commission warned against over-reliance on historical data:

> "PG&E relies on a mechanistic transformation of historical recorded accounting data into proposed depreciation parameters, a transformation which was not effectively tempered by judgment."[21]

DRA states it does believe it is appropriate to consider a 15-year historical band and it is consistent with its past recommendations on this issue. DRA further states that it does not oppose the majority of the Utilities' proposed changes to its net salvage rates which are based on this 15-year band. DRA

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[18] California Public Utilities Commission, Standard Practice for Determination of Straight-Line Remaining Life Depreciation Accruals. (January 3, 1961.)

[19] Ex. DRA-20, pp. 20-8 – 20-12.

[20] Ex. SDG&E/SoCalGas-242, p. 1, lines 7-8.

[21] D.00-02-046, p. 360.

argues it is the Commission's policy that other factors and considerations, *in addition to* the 15-year historical average, can influence the final result.

We agree with DRA that in certain instances additional information may justify a departure from the standard methodology. We reject, however, the analysis that DRA performed of actual removals compared to the accrual of salvage costs. DRA states that it compared the accruals of net salvage dollars authorized in rates to the actual net salvage dollars spent by both utilities during a five-year period from 2001-2005. SDG&E collected approximately $279 million in rates from customers for net salvage and actually spent approximately $106 million for cost of removal during a five-year period. DRA further cites that SoCalGas collected approximately $309 million in rates during the same five-year period, but actually spent approximately $64 million for cost of removal during that time.

However, we find that the accrual of salvage costs in the past five years is not intended to fund the current removal in that same five-year period. The accrual in any one year is the fractional accrual for the eventual retirement of all outstanding plant as their service lives expire. We therefore find no meaningful conclusions from this analysis. We note for future proceedings that parties should analyze actual removal and net salvage for specific asset groups, and the accrual in rates over the assets' service lives, to determine whether there are over or under-accrual allowances.[22]

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[22] We note, as a clarification, that the depreciation issues in this proceeding relate entirely to the method of cost recovery for ratemaking, often called a "straight-line" depreciation method. None of this discussion involves the differences between ratemaking depreciation and accelerated depreciation as used for income tax purposes.

5.2.4.2. Settlement

The settlement agreements provide that parties have compromised on an allowance for depreciation expense in the test year revenue requirements. They also agree to perform a detailed study for the next proceeding as described below for SDG&E (and with similar language in SoCalGas' settlement):

> SDG&E shall also provide in its next GRC application the following:
>
> 1. The then-current balance of pre-funded removal costs;
> 2. A year-by-year projection of: (1) when the then-existing balance of prefunded removal costs will be consumed, and (2) the implicit inflation rate for future asset removal costs;
> 3. A five-year projection of the year-end balance of pre-funded removal costs showing for each year the gross additions to the balance, gross expenditures for removal costs, and the net change in the balance of pre-funded removal costs;
> 4. A study for presentation in the next GRC that will separate the accrual for cost of removal from accruals for depreciation expense; and
> 5. If SDG&E determines the necessary information is available, SDG&E shall include a net salvage study for each of the Palomar and Miramar generation facilities in the next GRC. (SDG&E Settlement Agreement, p. 11.)

We agree that this is a worthwhile study. We expect that parties may either agree on a methodology or at least not replicate the same arguments presented here without further and more persuasive analysis.

5.2.5. Working Cash

DRA proposes an adjustment to the working cash allowance because it argues the amounts included by SDG&E "are not a 'required bank deposit' as clearly set forth in Standard Practice U-16 (SP U-16)." (Ex. DRA-22. p. 22-7.) DRA quotes the practice: "In determining the cash requirement, the only amounts which should be considered are the required minimum bank deposits

that must be maintained and reasonable amounts of working funds." (*Ibid*, p. 22-6.) DRA quotes SDG&E's explanation that the amount the company includes in the working cash calculation "represent its estimated average required minimum bank deposit. It is not a minimum balance specified by the bank, but rather it is the minimum average bank balance required to operate SDG&E effectively." (*Ibid*.)

The current standard practice, U-16 was first published on February 28, 1956, and last revised September 13, 1968, about 40 years ago. It is less than current: certainly many aspects of how a regulated utility operates, and how it can manage its cash flow, pay bills, receive payments, etc., have changed. DRA does not literally apply the language of U-16; its witness provided an interpretation, with a slight wording variation, which allowed for a downward adjustment to the calculation. We are not persuaded that the intention of U-16 is to consider only the deposits "required by the bank" and not the amount of cash on deposit "required to operate SDG&E effectively." Had the standard practice meant only the narrow specific "required by the bank" it could have said so.

We believe SDG&E's description of "the minimum average bank balance required to operate SDG&E effectively" is more reasonable: we should only include in rates what the company reasonably needs. The 1968 standard practice also states: "[i]n the final analysis the amount of working cash to be included in the rate base must rest upon the engineer's judgment. The amount of working cash allowance in the end result is essentially a <u>judgment</u> amount based upon what the staff engineer believes to be fair and reasonable for the operations of the utility but within limitations dictated by the size of the utility and staff policy." (SP U-16, *mimeo.*, pp. 1-3 and 1-4. Emphasis in the published original.) We see

no exercise of judgment "to be fair and reasonable for the operations of the utility" in the DRA recommendation.

We believe, however, the parties are better served by looking to the purpose of any standard practice when setting reasonable rates rather than any narrow parsing of the language. The standard practice does not make any effort to narrowly construe the language and DRA offers no Commission decisions which make the narrow interpretation it proposed here. The standard practice is a tool of convenience, with inherent compromises, not a razor-sharp scalpel.

Another recommendation for working cash proposed an adjustment for customer deposits. We will not review it in detail because we adopt a settlement. We will note that PG&E's Opening Brief[23] (pp. 3-8) correctly summarized the history and practice of excluding interest bearing customer deposits from working cash where the Standard practice is extremely brief and unambiguous: "[o]nly non-interest-bearing customer deposits are to be considered." (SP U-16, p. 3-7.) We could wish for more explanation, but there is no ambiguity. As with the bank deposit question, we expect parties to exercise good judgment and thoughtful analysis to the operating needs of the utility and not try to overly narrowly construe standard practices.

5.2.6. Employee Stock Ownership Plan – Tax Deduction

TURN and UCAN argue that the utility tax allowance calculation should include the benefit of the tax deduction for dividend payments attributable to the Sempra shares held by utility employees in the employee stock ownership plan.

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[23] PG&E intervened, sponsored testimony, cross examined witnesses, and filed briefs, on a limited number of issues.

PG&E intervened supporting applicants' view that the deduction was irrelevant to utility operations because the dividends are not a part of test year revenue requirement.

In PG&E's recent GRC, TURN raised the same issue of stock option dividends. However, the Commission adopted a settlement which did not resolve this dispute.[24]

We agree with applicants and PG&E: dividends are the disbursement of earnings that would be distributed even if the shares were not held in the stock option plan. Those earnings are shareholder property. (See, PG&E Opening Brief, October, 11, 2007.) We find that the tax benefits derived from the payment of dividends on stock held by employees in the Employee Stock Ownership Plan do not require ratepayer funding beyond the allowance for a return on equity which is included in rates regardless of who owns the shares. Therefore, the tax benefits accrue to the corporation, and not ratepayers.

6. Objections to the SDG&E Test Year 2008 Settlements

6.1. Summary

UCAN and FEA filed timely objections to the proposed SDG&E Test Year 2008 Settlement and Southern California Generation Coalition objected to the SoCalGas proposed settlement omitting discussion of the revenue

[24] "… we find … it is unnecessary to delve deeper into the merits of TURN's proposed disallowance for ESOP tax benefits. We conclude that the Settlement Agreement, by reducing PG&E's requested revenue requirement by $181 million, represents a reasonable approximation of the likely litigation outcome of all issues raised by TURN and the other parties, including [employee stock option plans]." D.07-03-044, *mimeo.*, p. 231.

requirement associated with the purchase of the Cuyama-Casitas pipeline.[25] We address that issue separately without impacting the settlement itself. Additionally, we address concerns by UCAN, FEA and others whose comments question the adoption of the settlement. UCAN presented a jeremiad of concerns, focusing on issues it believes need to be resolved and were excluded from the settlement.

6.2. UCAN's Objections – SDG&E Settlement

We have reviewed UCAN's detailed concerns and find, except as discussed below, that the settlement adequately addresses the litigated issues to derive a reasonable Test Year 2008 forecast for SDG&E. UCAN would have us not consider the proposed settlement under Rules 12.1 through 12.7. UCAN suggests we consider the proposal to be a "joint recommendation". (UCAN Comments, pp. 6-7.) UCAN also cites to the prior rules, Rule 51.1(e), which were subsumed into the new Rule 12. The new settlement rule drops any reference to "stipulations" and neither version (Rule 51 or Rule 12) provide for a "joint recommendation". We find that the settling parties followed the requirements of Rule 12 and the specific requirements of the scoping memo and the ALJ's rulings, including the January 8, 2008 Ruling Adopting Procedural Changes for A Proposed Settlement. As noted elsewhere, parties were encouraged from the start of the proceeding to engage in an inclusive settlement process.

In response to UCAN's comments, SDG&E filed a reply which showed UCAN's recommendations directly led to two major adjustments: first, a series of downward adjustments were made to the SDG&E end-of-litigation position in

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[25] "The reasonableness of the purchase and its impact on revenue requirements may be

Footnote continued on next page

response to UCAN's litigation positions. This reduced SDG&E's pre-settlement start-point by $14.7 million. (Updated Table from UCAN Data Request 41, Question 35, in SDG&E's Response to ALJ filed February 2, 2008.) Second, SDG&E showed that within the settlement process, SDG&E and DRA specifically identified $17.7 million in downward adjustments as a part of the settlement directly attributed to outstanding UCAN litigation positions. (*Ibid*.) Thus, we find that there are $32.4 million in adjustments to the settlement revenue requirement directly attributed to UCAN's recommendations, *i.e,* the benefits are embedded in the settlement. We find that UCAN's positions were given significant weight in the settlement even without UCAN's participation in the final settlement.

UCAN's comments argue for various litigated proposals which it believes would reasonably further reduce the settlement's revenue requirement (after it implicitly accepts the $32.4 million discussed above) without further consideration of the included compromises between DRA and SDG&E. UCAN attached, without analysis or tabulation, a lengthy series of data questions and responses which, it asserts show how the settlement omitted UCAN's positions. But UCAN does not persuade us that the settlement is unfair: we find that the settlement as a whole is reasonable on the record before us and does include substantial compromises which encompass many of UCAN's positions.

UCAN does not explain whether or not the DRA and SDG&E settlement makes any adjustments which may equal or partially offset its list of recommendations. For example, UCAN implies that the settlement ignored a

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revisited in SoCalGas' next general rate case." Resolution G-3386 at 1 (April 13, 2006).

UCAN recommendation to eliminate $1,112,000 in Information Technology (IT) capital costs related to changing SDG&E's customer information and billing systems to accommodate community choice aggregation. (UCAN Comments, pp. 44 and 45.) But the SDG&E response, as included in UCAN's comments, states the settlement includes a combined reduction of $26,877,000 for many 2008 IT projects. DRA originally proposed a total adjustment of $28,746,000 million. UCAN fails to demonstrate that either the settlement still includes specific funding for community choice aggregation or why we should modify the settlement of IT costs by a further $1,100,000.

UCAN has only shown that it believes the revenue requirement should be lower. It has not shown the proposed settlement is not a reasonable compromise even though the compromise is principally between SDG&E and DRA. DRA's positions overlapped, although not completely, the positions of many intervenors. UCAN has not shown that we must discard the settlement and resolve every individual issue in order to adopt just and reasonable rates. UCAN merely argued the settlement "could be prettier, smarter or snazzier" or lower, not that it was unreasonable.

FEA makes a similar argument that the settlement does not explicitly address every issue. SDG&E responds that the settlement addresses, for example, tree trimming, property insurance, and other expenditures that were covered in FEA's testimony. (Joint Reply, p. 2.) Taken as a whole, based on an extensive record, we find the settlement to be reasonable. We are not obliged to individually resolve every litigation position as a potential modification to a settlement and neither TURN nor FEA convince us that the settlement as a whole is unreasonable.

6.3. Southern California Generation Coalition - Cuyama-Casitas Pipeline

The Southern California Generation Coalition points out that the SoCalGas Test Year 2008 settlement does not specifically address the Cuyama-Casitas pipeline which SoCalGas purchased in 2005. Previously, SoCalGas leased the pipeline. SoCalGas filed Advice Letter G-3537 where the company indicated that the projected revenue requirement based on owning the pipeline would be greater than the amount currently in rates based on the cost of leasing the pipeline.

Southern California Generation Coalition argues in its comments that Resolution G-3386, determined that SoCalGas should continue to recover as revenue requirement an amount predicated on leasing the Cuyama-Casitas pipeline in 2005, not a higher revenue requirement associated with SoCalGas owning the pipeline. That is, Southern California Generation Coalition argues the Commission specifically assigned the issue of the reasonableness of SoCalGas' purchase of the Cuyama-Casitas pipeline, and the impact of the purchase on SoCalGas' revenue requirement, to SoCalGas' next (*i.e.*, this) general rate case: "The reasonableness of the purchase and its impact on revenue requirements may be revisited in SoCalGas' next general rate case." Resolution G-3386 at 1 (April 13, 2006). (Southern California Generation Coalition Comments, p. 2.)

SoCalGas states in its reply comments that "while Resolution G-3386 stated that Cuyama-Casitas issues "may" be revisited in this proceeding, it is not necessary to do so in order to establish [SoCalGas'] 2008 revenue requirement." (Joint Reply, p. 3.)

SoCalGas and the settling parties describe the settlement as "a recommended resolution of the revenue requirement of [SoCalGas] for Test Year 2008." (SoCalGas Test Year 2008 Settlement, see Appendix 2, p. 1.) Because the settlement does not adopt a specific component of revenue requirement or rate base for Cuyama-Casitas, it does not explicitly resolve the issue of whether Cuyama-Casitas' revenue requirement should remain set equal to its prior lease or adjusted herein. Rather, as is typical of a settlement, the settlement includes broad categories which may represent compromises between the settling parties on several different underlying points. We do not find that the failure of this settlement to expressly resolve the treatment the Cuyama-Casitas pipeline costs provides any reason to reject the settlement that in the overall compromises it reaches, is reasonable. Thus the revenue requirement for service on the Cuyama-Casitas pipeline should not be changed as a result of this settlement.

7. Post-Test Year Ratemaking Settlements (Appendices 3 and 4)

7.1. Summary

This Decision adopts the January 18, 2008 proposed settlements for post-test year ratemaking for both SDG&E and SoCalGas with a modified earnings sharing mechanism. As discussed below, these proposals reasonably address the litigated issues. Thus, it also provides that SDG&E and SoCalGas should next file a GRC for Test Year 2012. SDG&E and SoCalGas point out in reply to comments opposing the proposed post-test year settlements that "the settlement revenue requirements are fixed dollar amounts, and are not like traditional attrition mechanisms at all. There is no adjustment for inflation and no adjustment to true up for recorded capital additions during the GRC term, both of which are features of a traditional attrition mechanism." (Reply, p. 4.)

We agree and, thus, adopt the settlements, as modified and discussed herein, knowing that we are departing from traditional attrition ratemaking.

7.2. Unique Features

As SDG&E and SoCalGas note, the post-test year's settlement revenue requirements are fixed dollar amounts, and are not traditional attrition mechanisms: there is no adjustment for inflation and no adjustment to true up for recorded capital additions. In order to adopt these departures we must ensure ratepayers will still see adequate expenditures by SDG&E and SoCalGas for maintenance, repair, capital replacement, and expansion commensurate with the needs of the system regardless of inflation, customer growth or any other factors which may influence the operating needs of the companies.

When we adopt rates they must be just and reasonable so that the regulated utility has a reasonable opportunity to provide safe and reliable service and earn a fair return. In that process we set expectations for performance – *e.g.*, a specific rate allowance to maintain pipeline plant comes with an obligation to actually maintain the pipelines. Traditional attrition adjusts the detailed test-year revenue requirement for known factors, forecasts of growth, and a mechanism to recognize inflation, such as a specific price index.

Here, the settling parties propose a fixed monetary amount in lieu of the traditional detailed derivation. DRA, TURN and Aglet, are the principal ratepayer representatives that joined with SDG&E and SoCalGas in the proposed settlements. We can find, based on the depth and breadth of the evidentiary record that these parties performed sufficient competent analysis to make an informed choice to settle with SDG&E and SoCalGas. When a traditional attrition mechanism is used we make the assumption that the underlying expenditures for capital additions and expenses will continue on a particular

trajectory and we can adjust for an inflation forecast and a rate of growth. We do not delve into the same level of detail that occurs in the test year. Adopting a fixed amount for attrition provides more latitude or discretion to the companies on how to reasonably use the revenue to provide safe and reliable service.

We can adopt the proposed settlements provided the parties clearly accept that SDG&E and SoCalGas are in no way relieved of any obligation to spend sufficient funds for maintenance, repair, capital replacement, and expansion commensurate with the needs of the system. With that clarification, we adopt the proposed post-test-year settlements.

7.3. FEA's Objections – SDG&E Post-Test Year Settlement

FEA raised three objections to the settlement (1) procedural, (2) the settlement was not reasonable in light of the whole record (Rule 12.1(d)), and (3) the proposed settlement is not in the public interest.

7.3.1. Procedural

FEA argues the settling parties failed to comply with the requirements of Rule 12.1(a) and ignored Rule 11.6, in that the settling parties failed to notice every party to seek informal agreement to an extension (Rule 11.6) before filing the motion for permission to late file a proposed settlement, and that the motion was itself untimely (Rule 12.1(a)). FEA did not make the same objection to the proposed Test-Year 2008 Settlement which was also filed after the Rule 12.1 deadline.

Although we are sympathetic to FEA, we note that parties were on notice from the initial prehearing conference, and it was affirmed in the assigned Commissioner's scoping memorandum, that the parties were encouraged to settle the proceeding (after thorough discovery and analysis, and service of

intervenor testimony) and thus there was a strong preference for settlement. Guidance included a requirement that the parties could not settle test year, post-test year, and incentive-related issues, where the compromise in one area was dependent on another outcome.[26] Although SDG&E and SoCalGas did not comply with Rule 12.1(b) separately for the post-test year settlement proposals, Rule 1.2 permits deviations from the rules. In light of the preference for settlements, the ALJ was within his discretion to allow the proposed settlements to be filed. Parties were allowed to comment and the Commission considered all objections.

7.3.2. Reasonable in Light of the Whole Record

FEA argues any rate-cycle longer than three years is unreasonable based on the record of the proceeding. As discussed below, we pragmatically adopt a four-year cycle with other safeguards. As a matter of basic policy our rate case plan would envision a three-year cycle, but when we delay proceedings or depart from the plan for other utilities, there are cumulative impacts on other proceedings that must be addressed.

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[26] We believe that there are three independent categories of issues that are potential areas of settlement. Thus, any settlement in one category should be separate from any settlement, or failure to settle, in the other categories. Specifically, we consider test year revenue requirements, post-test year ratemaking mechanisms, and incentive mechanisms to be unique and independent categories; therefore, parties should not condition a settlement in any one category on specific outcomes in either of the other categories. We will consider individual settlements in one or more of these three categories without regard to the other settled or litigated outcomes. (Scoping Memo, p. 7.)

7.3.3. Public Interest

We find FEA is not persuasive that the proposed settlement is not in the public interest. FEA suggests SDG&E will shift significant savings to the company through a longer four-year or five-year cycle. FEA (and the Farm Bureau) argue the proposed settlement's late-filing violates the public interest. We have already addressed that point. And finally, FEA objects that the proposed settlement has the unresolved four or five-year attrition conflict between the settling parties. We can resolve this difference which is otherwise the only residual dispute between the settling parties. We adopt the four-year rate cycle option below.

7.4. Duration of the Post Test Year Cycle

In the settlements DRA agreed to a five-year cycle and Aglet argued for a four-year cycle (thus settling parties ask the Commission to resolve this residual difference). Both of these options are a reduction from the proposed six-year cycle in the applications. We adopt a four-year rate cycle (test year plus three years of attrition).

SDG&E and SoCalGas originally proposed the next rate case should be for Test Year 2014, following a six-year cycle of Test Year 2008 plus five subsequent years of attrition adjustment. We find as a matter of public policy this is too long a period without a thorough review of utility operations. For example, about six years ago, in late 2001, the restructured electric industry was in free-fall. We cannot adequately provide appropriate safeguards for ratepayers and an opportunity for shareholders to earn a fair return with any proposed post-test year rate adjustment mechanism for five years beyond the test year. Too many unforeseeable events will likely transpire, and the Commission should not handicap its regulatory oversight by foregoing timely GRC reviews of SDG&E

and SoCalGas' operations. We note that PG&E will file for Test Year 2011[27] and SCE has filed for Test Year 2009.[28] Because of the burden of these GRCs on all parties, we prefer to avoid overlapping proceedings and 2010 is too close upon us. Therefore, the earliest we can reasonably consider another SDG&E and SoCalGas GRC is for Test Year 2012.

DRA argues in its comments in support of the five-year option, with a Test-Year 2013, and pleads its case that the staffing requirements of a GRC dictate the five-year cycle. Aglet argues a four-year option is better, closer to the standard of three years, and that five or six years are too long. We believe that 2012 is the earliest year that may not "double-up" major rate cases (depending on the outcome of the pending Edison rate case A.07-11-011), we can try to accommodate DRA's staffing limitations and the concerns of other parties that more than three-year cycles are unreasonable. Nevertheless we have recently address this issue where we were prepared for a potential overlap of the next PG&E general rate case with a rate case for SDG&E and SoCalGas on a three-year cycle:

> The Commission and DRA have sufficient resources to process simultaneous test-year 2011 GRCs for PG&E, SDG&E, and [SoCalGas]. (Decision (D.) 07-03-044, Finding of Fact 28, *mimeo.*, p. 275.)

Thus, if necessary, if we could expect to successfully pursue rate cases for test year 2011 for PG&E as well as SDG&E and SoCalGas, then we can also

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[27] D.07-03-044, *mimeo.*, p. 2.

[28] D.06-05-016, *mimeo.*, p. 1, which reflects the adoption of Test Year 2006, post-test years 2007 and 2008.

expect to successfully conduct rate cases for Edison as well as SDG&E and SoCalGas for test year 2012.

8. Earnings Sharing

8.1. Summary

The proposed post-test year ratemaking settlement has no earnings sharing mechanism. This would end the mechanism adopted in D.05-03-023, and exclude a mechanism as modified by the applicant's proposal. We find it reasonable to adopt the settlement.

8.2. Background

SDG&E and SoCalGas propose nearly identical, symmetrical, earnings sharing mechanisms with dead-bands of plus or minus 50 basis points of overall rate of return (ROR) and ratepayer rewards or payments that are capped when achieved RORs exceed or fall below authorized levels by 300 basis points or more. (Exhibit SDG&E-34, p. MMS-14; Exhibit SCG-31, p. MMS-10.)

In the prior proceeding, SDG&E and SoCalGas also requested symmetric earnings sharing mechanisms, *i.e.*, ratepayers would share in earnings above or losses below authorized returns. The only significant difference is that in the prior proceeding, after 300 basis points the mechanism would be suspended (D.05-03-023, *mimeo.*, pp. 23-24), and here, SDG&E and SoCalGas propose (Ex. SCG-31, p. MMS-14) to keep the mechanism in place and receive 100% of the over or under-earnings, as shown below:

Proposed Earnings Sharing Mechanism			
Bands	**Sharing Band (Basis Points) Above or Below Authorized Rate of Return**	**Company**	**Customer**
Inner	0-50	100%	0%
1	51-100	25%	75%
2	101-125	35%	65%
3	126-150	45%	55%
4	151-175	55%	45%
5	176-200	65%	35%
6	201-300	75%	25%
Outer	More than 300	100%	0%

DRA, UCAN and TURN proposed a different mechanism and Aglet opposed any earnings sharing. Ratepayers currently share earnings that exceed authorized rates of return by more than 50 basis points. (D.05-03-023, Appendix C, pp. 11-12.)

Aglet argues here that there is "no sound policy justification for symmetrical earnings sharing" mechanisms and the Commission should instead ensure "the overall ratemaking package for each utility is fair and reasonable." (Aglet Opening Brief, p. 24.) Aglet links this recommendation to its concerns with the Utility of the Future and with the extended 6-year rate case cycle proposed by SDG&E and SoCalGas.

8.3. Discussion

Earnings sharing mechanisms have been adopted by the Commission in some cases. Here we have utilities that have favored them and proposed them for this case. However, the settlement does not include an earnings sharing mechanism. It is not a necessary item, and since we will adopt the settlement, we will not force an earnings sharing mechanism on the applicants.

Regardless of any ratesetting mechanism, the utilities are obliged to prudently manage the operations for the shareholders' long-term financial best interests and provide safe and reliable service to customers. This is the classic utility obligation to exercise expert judgment and management where the Commission does not "micromanage" every action and decision on a daily basis.

Aglet proposes that the Commission should make a finding that the rates adopted ensure that SDG&E and SoCalGas are financially healthy. In fact, when we adopt rates, which must be just and reasonable, those rates are sufficient to allow the companies a reasonable opportunity to earn a fair return after providing safe and reliable service. We recently addressed this issue in the PG&E general rate case:

> We agree with Aglet that PG&E is financially healthy. PG&E does not need all of the test-year and attrition year revenues it requested in A.05-12-002 to maintain the financial health that PG&E requires to provide good, safe, and reliable service. This is demonstrated by the fact that the Settlement Agreement provides less revenue to PG&E than it requested in A.05-12-002. Obviously, PG&E would not have settled for less revenue if it believed that doing so would harm its financial health. (D.07-03-044, *mimeo.*, p. 243.)

In these proceedings, where SDG&E and SoCalGas proposed settlements for Test Year 2008 and post-test year ratemaking, we believe the companies would not have settled if the expert opinions of SDG&E and SoCalGas management thought that doing so would harm the financial health of either company.

9. Ensuring Accurate and Fair Incentives

We note that another utility, SCE, recently informed the Commission that it had determined there was an internal breakdown of controls which permitted

employees to falsify data and this in turn led to the company receiving unwarranted incentives.[29] No one alleged here that either SDG&E or SoCalGas received unwarranted incentives in the past (distinct from objecting to incentives in principle or the adopted incentives in detail). Nevertheless, we would remiss if we did not, as a matter of good regulatory oversight, impose an increased vigilance over all incentives authorized by the Commission. We believe that SDG&E and SoCalGas already have a competent internal audit department as an integral part of internal controls and that department is adequately funded by the test year revenue requirement. Therefore we will impose the following requirements:

- SDG&E and SoCalGas shall undertake annual internal audits to ensure that the incentive mechanisms are implemented, operated, and are calculated correctly and fairly.
- The internal audits shall specifically examine for indications of deception, falsification, or any manipulation of data.
- The internal audits shall specifically examine the internal controls and management oversight of the calculations for the incentive mechanisms. The internal audit reports shall disclose all audit findings and recommended remediation, as appropriate.
- The internal audits shall be held confidential and submitted to the Director of the Energy Division, Director of the Consumer Protection and Safety Division, and the Director of the Division of Ratepayer Advocates pursuant to the

[29] Investigation 06-06-014, filed June 15, 2006: Investigation on the Commission's Own Motion into the Practices of the SCE to Determine the Violations of the Laws, Rules, and Regulations Governing Performance Based Ratemaking, its Monitoring and Reporting to the Commission, Refunds to Customers and other Relief, and Future Performance Based Ratemaking for this Utility.

Commission's General Order (GO) 66-C and Pub.Util. Code § 583.

- Executive management of SDG&E and SoCalGas shall report all remedial actions taken in response to the internal audits. This report shall be an attachment to the internal audit reports submitted to the Commission staff.

The reports on a calendar-year basis are due May 1st of the following year. This audit and reporting requirement applies to every incentive mechanism adopted in this decision for safety, customer service, and reliability.

10. Safety Incentives and Settlements

10.1. Summary

We expect SDG&E and SoCalGas to use the best practices available to ensure the safety of the workers and the general public. We therefore find that the expense levels adopted in this proceeding (as proposed in settlements by the applicants) are sufficient to provide safe service. The purpose of a safety incentive is to improve upon the already existing levels of worker safety. The targets are different for SDG&E and SoCalGas because of the historical difference in accident rates for the two service territories. In this instance we adopt for SDG&E the CCUE target recommendation modified for the entire rate case cycle, and the proposed settlement between Local 132 and SoCalGas, as discussed below. The safety targets measure the rate of injuries which are reportable to the Occupational Safety and Health Administration (OSHA), as a rate per hundred: thus a rate of five would be five reportable injuries per hundred workers per year.

10.2. Proposed SDG&E and CCUE Settlement (Appendix 5)

The terms of the proposed incentives as litigated and as settled are shown below:

SDG&E Safety Incentive Proposals							
OSHA Recordable Rate	**Target**	**Penalty Live Band**	**Dead Band**	**Reward Live Band**	**Change Increment**	**Reward Penalty per Increment**	**Maximum Reward Penalty**
Application	5.09		4.45/5.61		+/- 0.01	$12,500	$1.5 million
DRA	4.90		4.26/5.54		+/- 0.01	$2,500 Reward $12,500 Penalty	$0.560 million reward $2.8 million penalty

SDG&E SAFETY - Ex. CCUE-4 Settlement						
	2008	**2009**	**2010**	**2011***	**2012***	**2013***
OSHA Rate	5.11	4.92	4.74	4.55	4.55	4.55
Deadband	4.45-5.61	4.34-5.50	4.21-5.37	3.87-5.03	3.87-5.03	3.87-5.03
Reward Band	2.44-4.44	2.33-4.33	2.20-4.20	1.86-3.86	1.86-3.86	1.86-3.86
Penalty Band	5.62-7.62	5.51-7.51	5.38-7.38	5.04-7.04	5.04-7.04	5.04-7.04
Increment	0.01	0.01	0.01	0.01	0.01	0.01
Reward/Penalty Per Increment	$12,500	$12,500	$12,500	$12,500	$12,500	$12,500
Maximum Reward penalty	$2.5 million	$2.5million	$2.5 million	$2.5 million	$2.5 million	$2.5 million

* Assuming a six-year rate cycle.

The lower limit of SDG&E's proposed dead band in its application is its best performance in the period 2003 to 2005, while the upper limit of its proposed dead band is its worst performance in that period.[30] DRA argues that it used the Commission's prior calculation methodology (unlike SDG&E) where the lower limit of the dead band was the average of the best two performance years over the past five years and the upper limit of the dead band was the

[30] Ex. DRA-24, p. 24-9.

average of the past five years.[31] Further, DRA proposes a live band, and a reward/penalty calculated in .01 increments at a rate of $2,500 and $12,500, respectively, with a maximum allowable reward of $560,000 and penalty of $2.18 million. (DRA Opening Brief, § 28.3.1.) Thus, DRA would penalize failures to meet the target more severely than it would reward exceeding the target. We have consistently rejected DRA's unbalanced incentive/penalty proposals and we do so here.

By the end of evidentiary hearings, CCUE states that "SDG&E's proposed employee safety incentive measure had evolved to be nearly identical to CCUE's proposal." Subsequently, SDG&E and CUE reached a settlement[32] (Ex. CCUE-4). We will adopt the CCUE agreement with SDG&E. We note that it begins with a slightly higher target in 2008 (compared to DRA) but quickly moves to ever-lower targets. The annual adjustment to the rate is approximately 0.19 reportable events per 100 employees per year for 2009 - 2011, and is then constant for 2012 and 2013. We propose a Test Year 2012 in this decision, but we can adopt the targets through 2013, subject to modification by a later proceeding.

10.3. Proposed SoCalGas and Local 132 Settlement (Appendix 6)

The following table summarizes the proposals by SoCalGas and DRA, as well as the proposed settlement between SoCalGas and Local 132:

[31] D.05-03-023, p. 42.

[32] Joint Motion filed by CCUE and SDG&E on October 10, 2007.

SoCalGas Safety Incentive							
OSHA Recordable Rate	**Target**	**Penalty Live Band**	**Dead Band**	**Reward Live Band**	**Change Increment**	**Reward Penalty per Increment**	**Maximum Reward Penalty**
Applicant	6.26		6.02/5.53		+/- 0.01	$25,000	$5.0 million
DRA	5.98		5.71/6.25		+/- 0.01	$2,500 Reward $12,500 Penalty	$5.0 million penalty $1 million reward
Local 132 Settlement	6.10	6.28/7.48	5.93/6.27	4.72/5.92	+/- 0.01	$25,000	$3.0 million

Local 132 did not submit prepared testimony for a safety incentive with SoCalGas and so we must consider the proposed settlement in contrast to the company's proposal, DRA's proposal, and the CCUE proposal for SDG&E. This consolidated proceeding is unusual in that five separate labor organizations were parties.[33] Unlike the rejected settlement with Local 483, there was testimony by both applicant and an active intervenor, DRA, directly addressing the issue. We will therefore consider the proposed settlement with the DRA position as a reference point. As a matter of policy, we are concerned that there is a settlement without testimony by the settling party – thus we have no litigation position from this party to serve as a benchmark for comparative analysis. However, we do have the testimony of DRA and we can consider that proposal in contrast to the proposed settlement with Local 132. We adopt base rates expecting the company to operate safely and in compliance with all laws and regulations and adopt the Local 132 settlement with SoCalGas because we believe a balanced incentive/reward mechanism is reasonable.

[33] Local 132, Local 483, International Chemical Workers Union, ICWUC Local 350, and CCUE.

The target measures the number of reportable events per 100 workers. As the number declines, the rate improves, i.e., there are fewer injuries. Surrounding the adopted Local 132's target is a dead band (+/- 0.17 from target) where there is no penalty or reward. The next increment of 1.2 above or below the dead band earns an annual penalty or reward. The Local 132/SoCalGas settlement will annually penalize or reward SoCalGas $25,000 for each 0.01 change in the OSHA reportable rate up to a maximum of $3,000,000. ((1.2/0.01) x $25,000.)

We find that the Local 132 settlement reduces the ratepayer exposure by $2 million for the maximum incentive, as compared SoCalGas' proposal, and sets the target almost mid-way between DRA and SoCalGas, (mid-way would be 6.12) and does not adopt DRA's unbalanced reward/penalty rate per 0.01 increment of change.

We will defer to the union, for the appropriate target to be set, because it represents a significant number of workers whose injuries are the embodiment of a "rate" of injury. We note there is no annual adjustment factor to stretch SoCalGas to improve annually. For SDG&E, the stretch factor to the rate is an approximate 0.19 improvement annually through 2011. With a maximum reward or penalty of $3 million, we believe we should have an annual improvement to the target. We will adopt an annual improvement factor of 0.15, which is the difference between the original request by SoCalGas for a 2008 rate of 6.26, and the settlement rate for 2008 of 6.10. We note that SDG&E will begin 2008 with a lower target (5.11) than SoCalGas (6.10) but nevertheless provides for an annual improvement of 0.19 reportable events. Thus, we will continue to make the same compromise as the annual adjustment. Without an adjustment

SoCalGas would have a static target which would not require continued improvement.

11. Incentive Mechanisms

11.1. The Role of Incentives

The Commission has the authority and discretion to adopt incentive mechanisms when it finds that by providing specific, measurable targets, the utility can intentionally improve performance and thereby increase customer satisfaction or employee safety. (Pub. Util. Code § 701.) We are not required to approve incentive mechanisms because properly determined rates are sufficient to provide safe and reliable service. We believe the record for SDG&E and SoCalGas demonstrates that they have continuously improved operations, increased reliability, and improved safety as a result of the prior authorized incentive mechanisms. Earning an incentive requires specific improvements or changes by SDG&E and SoCalGas to try and meet the target. If SDG&E or SoCalGas so choose, they may decline any of the discretionary incentives adopted herein if they are unprepared to undertake those changes likely to achieve the targeted improvement in exchange for the offered reward (or penalty). SDG&E and SoCalGas must affirmatively accept or decline the adopted incentive mechanisms, for the duration of this rate cycle, within 30 days of the date of this decision.[34] Acceptance must be for a complete set of customer service incentives or the complete set of reliability incentives, and both safety

[34] SDG&E and SoCalGas must affirm or decline the incentives by letter to the Commission's Executive Director within 30 days of this decision. This notice must be served on the proceeding's service list.

incentives, because we believe the incentives as proposed are a balanced between the goals – for example an improvement in the number of service interruptions as a single incentive could somehow lead to an unintended increase in the duration of outages. The adopted set of incentives strike a balance between the goals. For the safety incentives we see no merit or justification to adopt a static incentive for one company and an annually adjusted incentive for the other: both companies share essentially the same management team, should logically follow the same or similar policies and practices on safety, and should be equally interested in the safety of the workers of both companies.

In this decision we adopt the settlements on safety incentive mechanisms (discussed separately), and we adopt customer service incentives and service reliability incentives based on the litigated positions of parties.

We also take the opportunity to inform the parties herein when we see an unacceptable litigation position so that subsequent proceedings are not burdened with the same unpersuasive showings. There are many possible alternatives for incentive mechanisms, including no incentives, but we find the unbalanced incentive proposals as litigated by DRA in this proceeding to be without merit.

Aglet opposed any incentive mechanisms as a matter of policy:

> If the Commission approves any corporate performance incentives – which Aglet does not recommend – it should eliminate deadbands, adopt tough but realistic performance targets that include stretch goals, and cap overall financial impacts for each major incentive program (customer service, employee safety and service reliability). The Commission should end the "easy pickings" that SDG&E and SoCalGas enjoy under the current incentive system. (Aglet Opening Brief, pp. 40–41.)

Aglet further argues "SDG&E and SoCalGas have not met their burden of proving that corporate performance incentives are necessary, cost effective or otherwise reasonable." Aglet is consistent in opposing the current proposed incentives as it did in A.02-12-027 and A.02-12-028, the prior rate cases for SDG&E and SoCalGas. As discussed below, we adopt realistic targets and smaller overall rewards and penalties for some measures. We are not convinced to eliminate dead bands: there is likely always a role for chance in the number of injuries (safety) or mechanical failures (performance/outages) which defy management control. A dead band lessens the overall size of penalties or rewards and eliminates some allowance for random chance to affect the incentive. We know not all parties agree with this finding and they may offer any compelling arguments in the future after fully addressing our current conclusions.

As discussed for every incentive, we include an appropriate annual adjustment to raise the bar for rewards and penalties. Without an adjustment the utilities would not continually "stretch" to improve performance.

12. SDG&E Customer Service Incentives

SDG&E requests incentive mechanisms for Customer Satisfaction that are similar to previously authorized incentives for (1) phone/office contact satisfaction, (2) field visit satisfaction, (3) Call Center Responsiveness, and (4) field service order appointment timeliness.

In the prior proceedings for SDG&E and SoCalGas the Commission granted the companies substantial reward/penalty incentives over the objections of several intervenors, and stated "…we already adopt just and reasonable rates [in the GRC] that are sufficient to fund safe and reliable service; therefore any reward or penalty is solely an incentive to improve (or not backslide)."

(D.05-03-023, p. 53.) In the same order, the Commission concluded: "The four Customer Service incentives for both SoCalGas and SDG&E should be adopted because they provide an incentive to improve service." (*Ibid.*, Conclusion of Law 18.)

We find nothing has changed: the rates adopted for Test Year 2008 are reasonable to provide SDG&E and SoCalGas an opportunity to earn a fair return in the course of providing safe and reliable service. Therefore, when we set reasonable targets for incentives, and a sufficient reward or penalty allowance, we expect service (or safety) to improve because the companies wish to avoid penalties and achieve financial rewards as well as less tangible rewards from improved (or safer) service.

DRA proposed an "equalizing factor" to achieve what it described as neutrality – where long-term gains and penalties would offset. This proposal is discussed in several exhibits including Ex. DRA-24:

> DRA proposes, as a general approach … , that the relative size of rewards and penalties be adjusted by an equalizing factor which retroactively balances their average over the historical period. This general approach is based on the expectation that such an adjustment should have the same balancing effect over the long run in the future. In this proceeding, DRA recommends that this adjustment be modified slightly in favor of the utilities to ensure that the utilities still have an incentive to improve. Specifically, DRA recommends that the adjustment be made by simply using an equalization factor of 0.2 throughout. (p. 24-6.)

The rewards for good performance proposed by DRA are much smaller than the proposed penalties for each increment of change from the target. DRA contends that over time a few (large) penalties would offset the more frequent (small) rewards for a neutral outcome. We believe this proposal is unreasonable – it implies random chance to meeting or failing to meet goals or unfairly to offer

the illusion of rewards which are then offset by disproportionate penalties based on the historical trends where SDG&E and SoCalGas having achieved rewards more often than having suffered penalties. (Ex. DRA 24, p. 24-6.)

We did not find that DRA presented any compelling analysis in support of the proposal for an "equalizing factor" for any of the proposed incentive or sharing mechanisms. (DRA does derive specific equalizing factors for each individual incentive but the object is the same for each incentive.) If the outcome were truly random there is no need for any incentive – events happen. If the outcome is dependent on, or strongly influenced by, utility actions, then an incentive to encourage the right kind of action with a reward should not be offset by penalties in the long run. We expect the rewards to be sufficient to induce improvements and the penalties to be a comparable inducement to avoid back-sliding or declining performance. We do not agree that over time all rewards in some timeframes should be offset by penalties in others.

We believe that the company's actions tend to determine whether it generally warrants a reward or a penalty. In other words, the deliberate actions and choices of management, in response to either financial incentives or, doing the right thing in the best way possible, should result in improved performance.

SDG&E Customer Service Incentives

The Phone/Office Contact and the Field Visit Satisfaction targets measure the percentage of customers who are satisfied with the service during the contact, based on a survey of customers. The Call Center Response target measures the percentage of calls answered within 60 seconds, and the final measure, the Field Service Order Appointment target measures the parentage of on-time appointments. In Ex. DRA-39, (pp. 39-12 forward) DRA proposes several separate targets for Field Service Order Appointments. We are not

convinced that this incentive needs to be segmented and will consider the single measure proposed by SDG&E in order to simplify the mechanism. The targets are separately determined for SDG&E and SoCalGas.

SDG&E Customer Service Incentives[35]

Phone/Office Contact	*SDG&E Proposed*	*DRA Alternative*	*Adopted*
Target	78.3%	84.0%	84.0%
Dead Band	+/- 1.0%	+/- 1.0%	+/- 1.0%
Increment	+/- 0.1%	+/- 0.1%	+/- 0.1%
Reward Incr.	$10,000	$2,000	$10,000
Penalty Incr.	$10,000	$10,000	$10,000
Maximum	$500,000	$500,000	$500,000
Equalizer	N/A	0.2	None
Annual Improvement			0.5%
Field Visit Satisfaction			
Target	93.7%	95.0%	95.0%
Dead Band	+/- 1.0%	+/- 1.0%	+/- 1.0%
Increment	+/- 0.1%	+/- 0.1%	+/- 0.1%
Reward Incr.	$10,000	$2,000	$10,000
Penalty Incr.	$10,000	$10,000	$10,000
Maximum	$500,000	$500,000	$500,000
Annual Improvement			0.5%
Equalizer	N/A	0.2	None
Call Center Response			
Target	80%/60 sec	84.2%/60 sec	84.2%/60 sec
Dead Band	+/- 2.0%	+/- 2.0%	+/-2.0%
Increment	+/- 0.1%	+/- 0.1%	+/-0.1%
Reward Incr.	$30,000	$6,000	$30,000
Penalty Incr.	$30,000	$30,000	$30,000
Maximum	$1,500,000	$1,500,000	$1,500,000
Equalizer	N/A	0.2	None
Annual Improvement			1.0%

[35] DRA Opening Brief, p. 527. DRA's recommendations are in Ex. DRA-39, and the historical equalizer in the above table is discussed and derived at Ex. DRA-39, pp. 39-2 - 39-6.

Phone/Office Contact	*SDG&E Proposed*	*DRA Alternative*	*Adopted*
Field Service Order Appt.			
Target	40.0%	varies	40.0%
Dead Band	+/- 1.0%	varies	+/- 1.0%
Increment	+/- 1.0%	+/- 0.1%	+/- 0.1%
Reward Incr.	$24,000	$2,000	$24,000
Penalty Incr.	$24,000	$10,000	$24,000
Maximum	$264,000	$500,000	$264,000
Annual Improvement			0.5%
Equalizer	N/A	0.2	None

UCAN supports DRA's 84% target for phone/office contact and 95% target for field visit satisfaction. On the other hand, it supports SDG&E's proposed 80% target for call center response, rescinds its original recommendation on field service order appointments and now supports SDG&E's proposal. UCAN is opposed to rewards, but supports penalties. (UCAN Opening Brief, pp. 348–349.)

DRA points out that SDG&E has received customer service performance incentive awards from 1999 to 2006, and recommends using a three-year not five-year average. (DRA Opening Brief, p. 527.) DRA believes the three-year averages are more indicative of recent performance than five-year averages and are consistent with the previous adopted methodology for service quality targets. (*Ibid.*, citing Ex. DRA-24, p. 24-29.)

We continue to believe we were on the right path in our last decision, D.05-03-023 when we found that incentives, with reasonable targets, benefit ratepayers by improving service. We agree with DRA that when SDG&E has been successfully achieving rewards – by improving its performance – we should use the most recent 3-year average instead of the five-year average: the longer average dilutes the target, which is to "stretch" to achieve a reward for

performance beyond base expectations at base funding.[36] We suggest that parties study historical trends, including, for example, regression analysis, rather than arithmetic averages, as a measure of the correct target for the next GRC. As noted, lower levels of past performance dilute averages and could understate the likely target.

We also agree with DRA to continue to include field office visits in the phone/office contact measurements. DRA points out that if we exclude office visits from this incentive then there is no measurement of branch office performance. (DRA Opening Brief, p. 528.) As noted already, we reject unbalanced incentives or limiting the mechanisms only to penalties: without rewards for marked improvement there is a lesser likelihood that the company will strive to exceed the target and only minimize the risk of penalty. We will adopt SDG&E's (and SoCalGas') single measure, not DRA's multiple measures, for field service appointments. DRA proposes a different dead band coupled with its unbalanced penalty/reward. We will not attempt to partially adopt DRA's proposal.

An Annual Improvement adjustment for each of these incentives is useful to ensure continued improvement and to ensure that rewards or penalties are not assessed for several years over a static target. We will modestly adjust the annual customer service incentives' targets by moving the target by one-half of the dead-band. For the phone/office contact satisfaction, field visit satisfaction, and field service order appointment timeliness incentives the annual target

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[36] In D.05-03-023 we discussed a 'stretch" factor in relation to productivity and attrition (*mimeo.*, pp. 19–20.) The principle still applies: any incentive based on averages can be weakened when any poor performance in included in deriving the average.

change is 0.5% and for the call center response incentive this is a 1.0% increase to the targets. We note the range of initial targets as proposed by SDG&E and DRA (shown above in the table) had much larger gaps than these relative small adjustments. In the next GRC parties should address in greater detail appropriate annual improvements to targets as well as the question of continuing the incentives and the various features of the incentive.

13. SoCalGas Customer Service Incentives

SoCalGas Customer Service Incentives[37]

Phone/Office Contact	*SoCalGas Proposed*	*DRA Alternative*	*Adopted*
Target	84.6%	87.5%	87.5%
Dead Band	+/- 1.0%	+/- 1.0%	+/- 1.0%
Increment	+/- 0.1%	+/- 0.1%	+/- 0.1%
Reward Incr.	$30,000	$2,000	$10,000
Penalty Incr.	$30,000	$10,000	$10,000
Maximum	$1,500,000	$500,000	$500,000
Equalizer	N/A	0.2	None
Annual Improvement			0.5%
Field Visit Satisfaction			
Target	94.1%	94.8%	94.8%
Dead Band	+/- 1.0%	+/- 1.0%	+/- 1.0%
Increment	+/- 0.1%	+/- 0.1%	+/- 0.1%
Reward Incr.	$30,000	$2,000	$10,000
Penalty Incr.	$30,000	$10,000	$10,000
Maximum	$1,500,000	$500,000	$500,000
Equalizer	N/A	0.2	None
Annual Improvement			0.5%
Call Center Response			
Target	80%/60 sec	81.2%/60 sec	81.2%/60 sec
Dead Band	+/- 2.0%	+/- 2.0%	+/-2.0%
Increment	+/- 0.1%	+/- 0.1%	+/-0.1%
Reward Incr.	$90,000	$6,000	$30,000
Penalty Incr.	$90,000	$30,000	$30,000
Maximum	$4,500,000	$1,500,000	$1,500,000
Equalizer	N/A	0.2	None
Annual Improvement			1.0%
Field Service Order Appt.			
Target	51.5%	varies	51.5%
Dead Band	+/- 1.0%	varies	+/- 1.0%
Increment	+/- 1.0%	+/- 0.1%	+/- 0.1%
Reward Incr.	$75,000	$2,000	$24,000
Penalty Incr.	$75,000	$10,000	$24,000

[37] DRA Opening Brief, p. 532.

Phone/Office Contact	*SoCalGas Proposed*	*DRA Alternative*	*Adopted*
Maximum	$825,000	$600,000	$264,000
Equalizer	N/A	0.2	None
Annual Improvement			0.5%

DRA notes correctly (Opening Brief, p. 531) that the prior proceeding found the incentives for SDG&E and SoCalGas need not be different because of the sizes of the companies.[38] SoCalGas' proposed dollar reward incentive increments are approximately three-times the size proposed for SDG&E. We reject this out of hand noting that SoCalGas was able to achieve improvements and earn incentives based on the same dollar reward rates for incremental improvement as applied to SDG&E. The essential difference that we do recognize is the differing beginning values, and varied historical performances, which result in different targets for SDG&E and SoCalGas.

We again find DRA's three-year average is more appropriate than a five-year average, which is diluted by earlier years' lower performances. Consistent with SDG&E, we will adopt a simple, single target Phone/office Contact satisfaction. Also, as noted, we adopt balanced incremental payments for rewards and penalties. Also, as noted, we adopt balanced incremental payments for rewards and penalties.

An annual improvement adjustment for each of these incentives is useful to ensure continued improvement and to ensure that rewards or penalties are not assessed for several years over a static target. Consistent with the annual

[38] D.05-03-023, *mimeo.*, p. 53: Customer satisfaction … ought to be more closely aligned considering the companies have essentially one management structure. … we already adopt just and reasonable rates that are sufficient to fund safe and reliable service; therefore any reward or penalty is solely an incentive to improve (or not backslide).

improvement factors discussed for SDG&E, above, we will adjust SoCalGas' targets by one-half of the dead band.

14. SDG&E Service Reliability Incentives

14.1. Summary

This section of the decision addresses several tried and several new indices with incentives to improve or enhance the electric system reliability for SDG&E's customers. It is also the most jargon-intense section of the decision. We adopt updated targets and incentives for all existing incentives, agree to delete one existing incentive, and adopt two new indices with incentives.

SDG&E presently has three reliability incentives, which it proposes to continue, based on a System Average Interruption Duration Index (SAIDI), System Average Interruption Frequency Index (SAIFI), and Momentary Average Interruption Frequency Index (MAIFI) which have specific quantitative performance targets and reward/penalty mechanisms, last adopted in D.05-03-023.[39] SDG&E argues the SAIDI and SAIFI results "put SDG&E in the top quartile of utilities using similar performance indicators." (Sempra Opening Brief, p. 418.) The two new incentives are the System Average Interruption Duration Index Exceeding Threshold (SAIDET) and the Estimated Restoration Time (ERT), which we discuss below.

As already noted, we believe incentives can improve the quality (or safety) of service beyond the base line level funded in the rate case. We will therefore

[39] SAIDI is the system average sustained (five minutes or greater) outage **duration** a customer experiences annually; SAIFI is the system average number of sustained outages a customer experiences annually (**frequency**); and MAIFI is the average number of momentary (less than five minutes) outages a customer experiences annually.

consider the parties' recommendations and adopt a set of reliability incentives with the belief that we expect to see significant improvements in exchange for the offered rewards.

We note that CCUE agrees with SDG&E and that we should not have dead bands (CCUE Opening Brief pp. 17–19) believing the dead band "dampen" the effect of an incentive. As already noted, we disagree: dead bands eliminate the random difference in results immediately around the target and therefore we adopt dead bands for the reliability incentives consistent with the customer service incentives.

The following table summarizes the proposed and adopted incentives:

SDG&E Reliability Performance Incentives[40]

	SDG&E Proposed	Alternatives	Adopted
1. SAIDI - System Average Interruption Duration Index			
Target	77 minutes	DRA - 68 minutes CCUE 68 min. 20008 CCUE 65 min. 2009	68 minutes
Dead Band	0	+/- 2	+/- 2
Increment	1	1	1
Reward Incr.	$250,000	$50,000	$250,000
Penalty Incr.	$250,000	$250,000	$250,000
Maximum	$2,000,000	$2,000,000	$2,000,000
Equalizer	N/A	0.2	None
Annual Improvement		CCUE: 5%	5%

[40] Ex. DRA-24 Table 24-6.

	SDG&E Proposed	Alternatives	Adopted
2. SAIDET - System Average Interruption Duration Index Exceeding Threshold			
Target	43 minutes	DRA: 34 minutes CCUE: 31 minutes	34 minutes
Dead Band	0	+/- 2	
Increment	1	1	
Reward Incr.	$250,000	DRA: $0 CCUE: $100,000	$175,000
Penalty Incr.	$250,000	DRA: $0 CCUE: $100,000	$175,000
Maximum	$2,500,000		$1,750,000
Equalizer	N/A	0.2	None
Annual Improvement			5%
3. SAIFI - System Average Interruption Frequency Index			
Target	0.65 outages	DRA 0.61 outages CCUE 0.56 outages	0.61 outages
Dead Band	0	+/- 0.02	+/- 0.02
Increment	0.01	0.01	0.01
Reward Incr.	$250,000	DRA: $50,000 CCUE: $450,000	$250,000
Penalty Incr.	$250,000	DRA: $50,000 CCUE: $450,000	$250,000
Maximum	$3,750,000	$3,750,000	$3,750,000
Equalizer	N/A	0.2	None
Annual Improvement		CCUE: 0.3	0.03
4. ERT - Estimated Restoration Time			
Target	50% accurate	DRA: 50% accurate CCUE: None	50% accurate
Dead Band	0	+/- 3%	+/- 3%
Increment	1%	1%	1%
Reward Incr.	$200,000	$10,000	$200,000
Penalty Incr.	$200,000	$50,000	$200,000
Maximum	$2,000,000	$250,000	$1,000,000
Equalizer	N/A	0.2	None
Annual Improvement			1%
5. MAIFI - Momentary Average Interruption Frequency Index			
Target	None	DRA: 0.61 outages CCUE: None	None
Dead Band		+/- 0.020	
Increment		+/ 0.015	
Reward Incr.		$10,000	
Penalty Incr.		$50,000	
Maximum	$0	$1,000,000	$0
Equalizer			

14.2. Excludable Major Events

SDG&E proposes to modify the method for outage event exclusion, when calculating the rates or incurrence of outages, starting in 2008 "to provide a more standardized approach to address events like storms, fires, etc."

The current definition of an excludable major event is:

> Each utility will exclude from calculation of its reliability indices major events that meet either of the two following criteria: (a) the event is caused by earthquake, fire or storms of sufficient intensity to give rise to a state of emergency being declared by the government, or (b) any other disaster not in (a) that affects more than 15% of the system facilities or 10% of the utility's customers, whichever is less for each event. (D.96-09-045, Appendix A.)

SDG&E proposes to exclude events as defined by IEEE 1366-2003, which is a statistical method. Applying this new definition SDG&E believes "will help minimize variations in SAIDI and SAIFI values caused by factors beyond SDG&E's control." (Sempra Opening Brief, p. 420.)

DRA recommends that the Commission continue to use the present definition for excludable major events adopted in D.96-09-045, to preserve consistency in comparing SDG&E's future performance with its past performance.

CCUE argues that there is no need to change the definition of excludable events (CCUE Opening Brief pp. 14–16) arguing persuasively that the IEEE-1366-2003 method is a complex calculation unlike the current Commission exclusion based on actual events.

We agree with DRA and CCUE: we believe we are better-served with a lifetime consistency of results (including rewards and penalties) and we are less concerned about comparison to other non-jurisdictional utilities. We will

therefore continue with our existing definition for excludable major events for incentive purposes. SDG&E has not persuaded us that the current method is wrong, only that IEEE has a new standard. SDG&E (or others) may always present a translation of historical results in order to draw a comparison between SDG&E and others who may comply with IEEE 1366-2003, but we have no control over the accuracy or inevitable interpretive application of IEEE 1366-2003 by non-jurisdictional utilities. We may only hope to be consistent in our application of our own standard over time.

14.3. System Average Interruption Duration Index

SDG&E proposes performance targets for SAIDI based on a new methodology. The proposed performance target for 2008 uses a five-year historical average (including the proposed IEEE 1366-2003 and government event exclusions) plus a predicted increase in cable failures (Ex. SDG&E-4). The 77.0 minutes performance target is the rounded total of the annual average performance for the five most recent complete years of SDG&E (using the IEEE Standard 1366-2003 and the government event exclusions criteria), plus a predicted increase in SAIDI due to cable failures, less a stretch factor of 1.0 minute. This stretch factor of one minute is based upon the SAIDI stretch factor adopted in D.05-03-023. (Sempra Opening Brief, p. 425.)

DRA argues that SDG&E inappropriately added 9.45 minutes to the last-adopted SAIDI target of 68 minutes. While SDG&E states that the predicted increase is due to cable failures, DRA believes SDG&E did not provide any statistical basis for its methodology for predicting SAIDI increases resulting from cable failures, or provide any rationale for its incremental SAIDI per failure formula. The additional minutes appear to DRA to be an overestimation. DRA

recommends a SAIDI target of 68 minutes based on the five-year average from 2002 – 2006, equal to 68.9 minutes, less a one-minute stretch factor.[41] DRA also opposed adopting IEEE 1366-2003. (DRA Opening Brief, p. 535.) We agree we should continue with the established measures for excludable events.

CCUE also objects to SDG&E's cable failure rates included in the SAIDI calculation (CCUE Opening Brief pp. 7-10) and states that failure rates have been consistent with customer growth so failures per customer have remained constant. CCUE also points out that DRA's estimate of a target does not allow for continued improvement and recommends annual targets with a 5% annual improvement:[42]

2008 – 68 minutes

2009 – 65 minutes

2010 – 61 minutes

2011 – 58 minutes

As explained above, we reject SDG&E's proposal to revise the definition of excludable events. Furthermore SDG&E has not justified its prediction of an increase in the duration of cable failures on a per customer basis. Therefore, we will adopt the 2008 DRA/CCUE target of 68 minutes and CCUE's 5% annual

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[41] We can use 2006 operational data for SAIDI, as proposed by DRA, because it is not subject to any adjustments comparable to the adjustments necessary for 2006 financial data to be comparable with the presentation of prior years' financial data.

[42] The annual Improvement factor is similar to a "stretch factor," *i.e.*, a requirement to improve. This is consistent with SDG&E's incentives adopted in D.05-03-023, although the incentives here have a small annual increase which makes all of the incentives, including the safety incentives, slightly harder to earn a reward annually. The record showed that SDG&E and SoCalGas were successful at earning rewards under the terms of D.05-03-023, where there were not annual improvements to modestly improve the targets in successive years but only an initial "stretch" to the base target.

improvements requirement, but with a dead band. Consistent with our approach for annual targets and our preference for including dead bands, we will adopt the SDG&E balanced $250,000 incentive per increment of change with a maximum reward or penalty at $2,000,000.

14.4. System Average Interruption Duration Index Exceeding Threshold

SDG&E argues, based on customer studies, that it found customers are less likely to be satisfied when they experience more than two outages annually or if the outages last for more than two to three hours, and that they want to know a timeframe when their electric power will be restored. This matters because SDG&E has found for example in 2004, only 10% of SDG&E's customers experienced approximately 60% of the SAIDI minutes. (Sempra Opening Brief, p. 418.)

SDG&E has therefore developed and proposed a new "customer focused" performance indicator System Average Interruption Duration Index Exceeding Threshold (one hundred and fifty minutes or greater) (SAIDET), which is "SAIDI exceeding a threshold." Thus, SAIDET represents the SAIDI minutes experienced by customers for outage durations beyond an annual interruption minute threshold. SDG&E recommends implementation of SAIDET for three reasons:

1) SAIDET is a "customer focused" index rather than a system wide average index;
2) SAIDET will focus company resources on customers who are experiencing more frequent or longer outages, and
3) SAIDET is more likely to improve customer satisfaction.

SDG&E argues SAIDET, in conjunction with the continued use of SAIDI and SAIFI, will allow it to work on the overall goal of improved reliability, yet

allow SDG&E to focus on customers who experience a disproportionate share of the outages.

DRA argues that "in terms of reliability improvements, there is no essential difference between SAIDI at the 150 minute threshold [*i.e.,* SAIDET] and SAIDI. The two indicators are mathematically very similar and statistically very highly correlated." (Ex. DRA-24, p. 24-21.) DRA recommends that the Commission not adopt a SAIDET incentive.

CCUE supports the adoption of SAIDET (CCUE Opening Brief, p. 20.) because it focuses on those customers who experience the most outages. CCUE also suggests an initial incentive amount of $100,000 per increment for the reward or penalty, compared to either SDG&E's $250,000 and DRA's unbalanced incremental proposals.

We agree that the measures appear to be very close. We therefore propose to adopt both measures but essentially divide the potential reward/penalty between the two. SDG&E previously had a maximum reward of SAIDI of $3,750,000. It now proposes a SAIDI reward of $2,000,000 and $2,500,000 for SAIDET, for a total of $4,500,000 for two very similar mechanisms. We note with concern that SDG&E assigns the largest maximum reward to the new and untested SAIDET. We will therefore allocate a maximum total reward/penalty of $3,750,000 with a $2,000,000 limit to the existing SAIDI measure and $1,750,000 to the new SAIDET measure. SDG&E offered no persuasive argument to raise the combined total of the incentive and therefore we can gain experience with the new measure without increasing the cost to the ratepayers.

14.5. System Average Interruption Frequency Index

The SAIFI is the annual system average number of sustained outages a customer experiences, distinct from the separate measure of momentary interruptions (MAIFI). SDG&E proposes a SAIFI performance target of 0.65 outages per year; a 0.15 outage live band[43]; no dead band, and a reward/penalty calculated at 0.01 outage increments at a rate of $250,000 per increment for a maximum allowable reward/penalty of $3,750,000 starting in 2008. SDG&E's performance target of 0.65 outages per year is the rounded total of the annual average performance for the five most recent complete years of SDG&E performance (using the proposed IEEE Standard 1366-2003) and the government event exclusions, plus a predicted increase in SAIFI due to cable failures, less a stretch factor of 0.0110 outages.[44] (Sempra Opening Brief, p. 431.)

DRA states that the current SAIFI target is 0.67 outages, which was based on a five-year average (1999 – 2003) less a stretch factor of 0.01 outages, as adopted in D.05-03-023. DRA objects to SDG&E's use of the IEEE Standard 1366-2003, and argues SDG&E has not justified the increased cable failure factor. Consistent with its positions on other incentives, DRA proposes unbalanced reward/penalties and continued use of the dead bands. DRA calculates a target of 0.61 outages, based on the five-year (2002 - 2006) average. DRA argues it used the formula the Commission used in the prior proceeding to determine the SAIFI target. (DRA Opening Brief, p. 536.)

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[43] A live band represents the range where a penalty or reward can be earned.

[44] Stretch factor of 0.01 outages is based upon the SAIFI stretch factor applied in D.05-03-023.

CCUE supports adoption of a SAIFI and proposes a 2008 target of 0.56 outages with annual improvements of 0.03 outages (thus, 2009 would be 0.56 – 0.03 = 0.53, etc.). CCUE would set a higher target incentive for SAIFI (and SAIDI) and would set the incremental SAIFI rate at $450,000, which is higher than SDG&E's proposed $250,000. (CCUE Opening Brief, p. 13.) Even if CCUE is right, that inflation and customer growth affect the incentive, CCUE has not shown that it would be reasonable to adopt a rate greater than SDG&E's proposal, and the company is prepared to accept the lower amount as a reasonable incentive. Parties may revisit this in greater depth in subsequent proceedings.

We will adopt a balanced reward/penalty, using our prior formula (not including the IEEE Standard 1366-2003) and we will adopt the DRA target of 0.61 outages with a 0.02 dead band because it reflects the more recent data and the dead band is consistent with our general intent. We will also adopt CCUE's annual improvement factor of 0.03 outages because we do not want static targets that reward subsequent years for prior year's results. We believe consistency in the mechanism is critical to our long-term evaluation of this mechanism.

14.6. Momentary Average Interruption Frequency Index

Although SDG&E believes that MAIFI has proven to be a useful performance indicator, SDGE proposes to discontinue MAIFI for several reasons. First, SDG&E believes that MAIFI will begin to increase as a result of future improvements in SAIDI, SAIDET and SAIFI. As Supervisory Control and Data Acquisition (SCADA) equipment proliferates, SDG&E believes its distribution system customers may see an increased number of shorter duration outages with a commensurate decrease in longer outages. Second, the vast majority of MAIFI

events are linked to the overhead electrical system. With the gradual transition to an underground system, SDG&E believes there may be a subsequent decline in MAIFI events in the long term.

CCUE concur with ending MAIFI, and its elimination is consistent with DRA's antipathy to incentives generally proposing rewards smaller than penalties.

We find that SDG&E essentially expects that short duration interruptions may increase while concurrently there will be a notable decrease in the number of longer outages – thus an incentive reducing momentary interruptions may conflict with the goal of reducing the durations of outages generally. SDG&E is proposing incentives geared towards a system where outages are shorter in total duration, but not necessarily fewer in number. The next new incentive mechanism (ERT) is clearly focused on quick fixes for outages, at least within the estimated restoration time.

We will not adopt a MAIFI in this proceeding because: a continuation of MAIFI may create a perverse incentive; there is a new incentive designed with similar goals as the MAIFI did; and we are reluctant to require an incentive where the company no longer endorses the mechanism.

14.7. Estimated Restoration Time

SDG&E proposes a second new reliability indicator, Estimated Restoration Time (ERT), with the target of providing 50% of affected customers with an estimated time of service restoration that is within one hour of the actual restoration time. DRA is concerned about the adequacy of the data to set a benchmark. (Ex. DRA-24, p. 24-22.) The difference in the proposed incentive is significant: SDG&E seeks a maximum of $2,000,000 and DRA recommends

one-eighth of that, or $250,000. This is due to DRA's proposal for all incentives to be weighted by its equalization factor. (DRA Opening Brief, p. 538.)

We agree with DRA that we should be conservative with new mechanisms. With the new SAIDET, above, we limited its maximums for reward/penalty and preserved the SAIDI. We could consider either reducing the incentive incremental amount – SDG&E proposes $200,000 per 1% change in accuracy – or the overall range of the incentive. If we reduce the incremental reward value, we risk under-rewarding or penalizing SDG&E: the company describes its proposed incremental incentive amounts as sufficient or necessary to induce changed behavior.

CCUE opposes the adoption of ERT (CCUE Opening Brief, pp. 24–26.) and the value of knowing when service will be restored when customers are mainly concerned about actual restoration. We think there is some value to a reliable estimate of restoration. CUEE also warns of the potential for SDG&E to game the incentive. We are concerned, therefore, that this mechanism rewards SDG&E for restoring service within the time it forecasts. Thus by under-promising (exaggerating how long a repair may take) SDG&E directly affects the likelihood of beating an exaggerated estimate. We will ask DRA to examine in the next proceeding the care and precision with which SDG&E forecasts service restorations.

While we agree with the need for an adequate incremental incentive amount, the option of reducing the over-all range of the incentive mechanism would allow an appropriate reward (if we accept the $200,000/1% as appropriate) but protect ratepayers from a large exposure should the ERT improvements prove to be easily obtainable. As noted already, we expect adequate service as a part of the adopted revenue requirement; incentives must

result in significant verifiable improvements. We will therefore adopt a limit of $1,000,000 for the penalty/reward, so that the eligible range is limited to a 5% change around a dead band.

Consistent with our intent to have an annual improvement to raise the bar, we will adjust the ERT by 1% annually, which is the incentive reward/penalty increment. We expect parties to address an appropriate stretch factor in the next GRC as a part of evaluating the continuation of ERT. These incentive mechanisms are discretionary and we should be conservative in exposing ratepayers to additional costs.

We will adopt the 3% dead band proposed by DRA for two reasons: we are still convinced that dead bands eliminate unnecessary rewards or penalties due to changes in the indicators caused by chance rather than corporate actions; and because there is no history to this incentive and its measurement that would provide complete confidence in the target. We also adopt a 1% annual improvement factor so the 2009 target, for example, is 51% (50% in 2008 + 1%). We believe that a beginning target of only 50% accuracy is a very low objective and raising the target by the 1% dead band is a reasonable adjustment that should be achievable by the company.

15. Proposed Six-Year Leadership Agreement with the Greenlining Institute (Appendix 7)

15.1. Summary

SDG&E and SoCalGas signed a "Six-year Leadership" agreement with Greenlining as late-served Ex. SDG&E/SCG-280,[45] a proposed settlement. As

[45] On October 31, 2007, the Greenlining Institute filed a motion seeking leave to late file a bilateral agreement with SDG&E and SoCalGas.

discussed herein we will not adopt the settlement agreement under our settlement rules. The proposed agreement addresses two issues: corporate philanthropy by SDG&E and SoCalGas, and a commitment to improved diversity. In addition, in this section we will address two related issues, corporate image-enhancement funding and the funding included in the SDG&E and SoCalGas' revenue requirements for funding compliance with Commission guidelines on diversity as embodied in G.O. 156.

As discussed below we find that the Commission has no authority to make a lawful order to either SDG&E or SoCalGas to adopt the Greenlining agreement's provisions on philanthropy, and the agreement provides no specific enforcement provisions to improve the diversity of either SDG&E or SoCalGas and thus the agreement provides no public benefits exceeding those benefits already included in G.O. 156. No order by this Commission is necessary or lawful for SDG&E and SoCalGas to choose to honor the agreement with Greenlining as a matter of corporate policy.

With respect to corporate image-enhancement, we raise the issue here because, like philanthropy, such costs have long been deemed to be corporate shareholder costs and not recoverable from ratepayers. We raise the issue of existing funding for G.O. 156-related efforts because it is a way in which we can directly and measurably contribute to improving the diversity of operations for both SDG&E and SoCalGas.

15.2. Philanthropy

Philanthropy is not an allowable cost in SDG&E and SoCalGas' revenue requirement: this Commission cannot and will not include in rates collected from customers any payments by a regulated utility for philanthropic purposes.

The nature, amount and recipients of any shareholder philanthropic activities are not within the ratesetting scope of any general rate proceeding. In the most recent GRC for PG&E, PG&E entered into a voluntary accord which addressed some philanthropic issues but had no impact on the adopted test year revenue requirements or attrition mechanism (D.07-03-044). In the most recent GRC for SCE, the Commission found it had no authority to compel SCE or its parent Edison International (EIX) to take any involuntary action and stated:

> For many reasons, including good corporate citizenship, social responsibility, and public perception, philanthropy is an important consideration for SCE/EIX and corporations in general. However, as we have previously indicated, we have no jurisdiction to order a change in SCE's giving practices.[46] Instead, we urge EIX/SCE to give due consideration to President Peevey's stated opinions and preferences in this area when determining its philanthropic goals. (D.06-05-016, *mimeo.*, p. 183.)

The philanthropy portion of Ex. SDG&E/SCG-280 was excluded by ALJ ruling dated November 2, 2007 as beyond the scope of this proceeding, and we affirm that ruling.

Any action by SDG&E or SoCalGas involving shareholder money can only be a voluntary act of good corporate citizenship and social responsibility, or to influence public perception of the corporation and cannot be addressed within the broader parameters of the adopted test year rates as ordered by this Commission.

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[46] *See* D.04-07-022, Section 6.7.2.2.3. (Footnote 78 in D.06-05-016.)

15.3. Diversity – Greenlining

We will not adopt the proposed settlement because the diversity portion is unenforceable rhetoric. The proposed settlement is an expression of SDG&E and SoCalGas' intentions to make progress in work force diversity and commit to "a minimum of 30% of its contracts to women, minorities and disabled veteran-owned businesses" (p. 2) within the next six years. SDG&E and SoCalGas make a similar six-year promise to improve the diversity of the work force. Such commitments are laudable but unenforceable within the rate case process, however, because these two commitments are made without recourse or penalty if either or both companies fall short.

We therefore deny the proposed settlement on diversity because it lacks specific enforceable objectives and has no quantifiable effect on test year or post-test year revenue requirements, and it is therefore not in the public interest. We nevertheless emphasize that SDG&E and SoCalGas are expected to be good corporate citizens and achieve the goals in GO 156.

It is within the discretion of SDG&E and SoCalGas' management to honor this commitment to Greenlining. There are no revenue requirements or tariff provisions related to this agreement which fall within our jurisdiction and authority and there is no enforceable order necessary for this agreement.

15.4. Corporate Image Enhancement

DRA proposed a disallowance of certain public affairs costs where it found the activity directed primarily to corporate image enhancement rather than providing any specific service or value to ratepayers.

We will not adopt this disallowance (regardless of the test year settlement) because we believe there is ratepayer benefit from access to the company in an informal setting. But we will require SDG&E and SoCalGas to maintain detailed

contemporaneous documentation of the actual activities, the service or information provided, including data on the numbers of customers who receive this service or information, as a part of the documentation for the next GRC if the companies wish ratepayer funding for these activities. In effect, the companies are on notice that the bar has been raised and a more detailed justification is required for all public affairs and outreach expense to demonstrate genuine customer benefit that outweighs any incidental corporate image1 enhancement.

15.5. Funding of G.O.156-Related Efforts

SDG&E and SoCalGas presented testimony on efforts in response to GO 156 – Rules Governing the Development of Programs to Increase the Participation of Women, Minority and Disabled Veteran Business Enterprises in Procurement of Contracts from Utilities as Required by Public Utilities Code Sections 8281-8286 (WMDVBE)[47] and the diversity of the utility workforce. As a part of the revenue requirements for Test Year 2008, SDG&E and SoCalGas requested in the original applications additional funding for WMDVBE activities. There are no GRC obligations for SDG&E and SoCalGas to achieve specific WMDVBE goals or to reach specific goals in either vendor or employment diversity. The companies are expected to otherwise offer a discrimination-free workplace and comply with all civil rights, state and federal employment laws, etc. Thus, the Commission strongly urges SDG&E and SoCalGas – and all other

[47] GO 156: "Purpose-These rules implement Pub. Util. Code § 8281-8286 which require the Commission to establish a procedure for gas, electric, and telephone utilities with gross annual revenues exceeding $25,000,000 and their Commission-regulated subsidiaries and affiliates to submit annual detailed and verifiable plans for increasing women, minority and disabled veteran business enterprises' (WMDVBE) procurement in all categories."

jurisdictional utilities – to strive for work-force parity with the served-community for all levels of employees, officers, and directors, and to meet or exceed the GO 156 WMDVBE goals as adopted elsewhere by this Commission.

We do not adopt the Greenlining settlement on diversity, instead, we emphasize that all funding included in the adopted Test Year 2008 revenue requirements settlements that supports either WMDVBE activities, or work force diversity, must be fully and only utilized as adopted and not subject to diversion or reallocation as might reasonably happen with other funding to meet the actual operational needs of SDG&E and SoCalGas to provide safe and reliable service to ratepayers.

We expect the companies to make every effort to competently staff at all times the full forecast of positions for WMDVBE activities and diversity. Diversity is good public policy and we believe it is good for SDG&E and SoCalGas.[48] If SDG&E or SoCalGas fail to show the promised progress, or fail to fully expend all authorized funds for WMDVBE and work force diversity, then we will consider specific ratemaking mechanisms in the next GRC to return to ratepayers any unspent funds authorized in the future. We may also consider other enforcement options if SDG&E and SoCalGas are unable or unwilling to comply with the intent of the Commission's diversity goals in GO 156.

16. Proposed Settlement with Local 483 (Appendix 8)

[48] For example on September 25, 2007, the Commission held its 5th annual *En Banc* Hearing on diversity issues affecting regulated utilities. The Commission introduced the California Aspire Achieve Lead Pipeline Project (CaAAL) – a joint partnership with California Public Employment Retirement System (CalPERS), California Department of Insurance (CDI), and the California State Bar.

SoCalGas and Local 483 offered Ex. SDG&E/SCG-255 as a proposed settlement. (Appendix 8.) The agreement would grant certain preferential treatment to the union. We reject this settlement as not in the public interest and unsupported by the record.

Although Local 483 never filed a protest it appeared at the prehearing conference. It never served testimony, never cross-examined a single witness (applicant or intervenor) and provided no factual basis for the adoption of the proposed settlement. SoCalGas did sponsor a settlement witness at the request of the assigned ALJ. The settlement would grant Local 483 preferential treatment by funding new positions not otherwise requested in the application; would perform staffing studies to possibly up-grade some incumbent employees, and fill certain vacant positions. (Ex. SDG&E/SCG-255, pp. 1–3, paragraphs 2–9.)

We find this proposal fails to constitute a true settlement: there is no defined dispute between SoCalGas and Local 483 supported by testimony or examination of witnesses; the remedies within the settlement, an increase in positions or re-evaluation of classifications, are items most appropriately be addressed through collective bargaining.

There was no request for these labor concessions in the application and the agreement itself says "The parties agree that actions listed in paragraphs 2 through 9 of this Settlement Agreement will be funded within the overall revenue requirement authorized in the GRC." We find that SoCalGas unreasonably proposes to fund the settlement from the adopted rates – rates based either on the litigated outcome when this settlement was first proposed, or now, presumably, under the Test-Year 2008 settlement rates adopted herein. We find the terms of the settlement are not in response to any litigated issue which

needs to be resolved, and impinges upon collective bargaining between SoCalGas and a labor union.

Finally, we believe this proposal would unreasonably address matters which are properly within the scope of collective bargaining. SoCalGas and Local 483 are in fact "negotiating" a labor agreement as part of a rate case - Local 483 "agreed" to a lesser outcome if the adopted rates are lower than requested by SoCalGas. Therefore, we reject the proposed settlement between SoCalGas and Local 483 as not in the public interest and not supported by the evidentiary record of the proceeding.

17. Proposed Settlement with Pest Control Operators (Appendix 9)

SDG&E and SoCalGas have a proposed settlement with PCOC addressing conditions for gas shut-off and service restoration. The settlement resolves ongoing disagreements between PCOC and the utilities as described in detail by PCOC in its protest.

The settlement includes measurable or quantifiable performance requirements and we can therefore evaluate how well SDG&E and SoCalGas comply with the settlement. The issues involve rules for service which are includable in SDG&E and SoCalGas' tariffs, and, therefore, are within the scope of this proceeding for reliable service. The terms of the settlement (Ex. SDG&E/SCG-259, Appendix 9) will ensure safe and timely gas shut-off and service restoration and the settlement should therefore be adopted because it is in the public interest. We therefore require SDG&E and SoCalGas to file appropriate tariff language to clearly reflect the service commitment by the applicants to PCOC.

18. Proposed Settlement - Disability Rights Advocates (Appendix 10)

This settlement[49] addresses a number of issues including public access and right of way access to streets and sidewalks. etc., affected by permanently installed utility property or during construction, internet access, emergency communications with customers, the structure of branch offices, and non-utility payment locations authorized to accept payment for the utility.[50] The last item is still disputed by other parties and thus we adopt the settlement as modified for this last item. We note that Disability Rights Advocates entered into a similar agreement with PG&E in its recent GRC.[51]

The proposed settlement was unopposed by any party.

SDG&E and SoCalGas will, with the help of a consultant, as described in the settlement, revise its standards and practices to ensure that it incorporates the standards, practices, guidelines and training materials of the Public Rights-of-Way Access Advisory Committee into the companies' various manuals, policies and standards, etc. (Settlement § 6.)

The companies agree (Ex. SDG&E/SCG-256 at § 5) to install additional TTY[52] equipment for communicating with disabled customers during emergencies.

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[49] Ex. SDG&E/SCG-256, admitted to the record on August 15, 2007.

[50] The term "authorized payment location" refers to the utility's and not the Commission's authorization for a non-utility party to act as a payment receipt location.

[51] D.07-03-044, *mimeo.*, pp. 247–249.

[52] A telecommunications device for the deaf (TDD) is an electronic device for text communication via a telephone line, used when one or more of the parties has hearing or speech difficulties. Other names for TDD include TTY (telephone typewriter or

Footnote continued on next page

The proposed settlement has a provision for SDG&E and SoCalGas to engage a consultant to review the remaining branch offices and all payment locations to address the adequacy of these locations' accessibility.

Disability Rights Advocates was an active participant: it filed a protest and demonstrated that in recent proceedings other utilities[53] made comparable undertakings to more carefully and thoughtfully ensure anyone could reasonably interact with the companies' web sites, or offices, and that facilities would be accessible.

We find the terms of the settlement are clearly in the public interest and should be adopted. Although there are no specific performance metrics in the settlement, we will require SDG&E and SoCalGas to document and demonstrate in the next GRC that there were significant and useful changes made to utility operations and facilities.

19. Memorandum Accounts

19.1. Summary

This proceeding has been delayed, and part of the delay is the result of the discovery of two reports entitled "Utility of the Future Program" and "Managing Costs Initiative," collectively referred to as "Utility of the Future." We do not find that the delay in our decision is primarily due to the actions of the Applicants. In D.07-12-053, the Commission adopted memorandum accounts but deferred to here the determination of the effective date for the change in

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teletypewriter, although TTY is also a term used for teletypes in general). (http://en.wikipedia.org/wiki/Telecommunications_device_for_the_deaf)

[53] See for example, PG&E, in D.07-03-044.

revenue requirements to affect rates. We find the effective date of the revenue requirement changes to be January 1, 2008.

19.2. Background

The assigned Commissioner's Scoping Memo, dated February 27, 2007, set forth a schedule which could likely have resulted in a final decision before January 1, 2008, based on a scheduled submittal on September 21, 2007. (Scoping Memo, p. 9.) On April 16, 2007, SDG&E and SoCalGas filed a motion to establish memorandum accounts in the event a final decision was delayed beyond the nominal starting date of January 1, 2008 for changed test year revenue requirements.

On May 15, 2007, pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure (Rules), UCAN, TURN, Aglet, and California Farm Bureau Federation (collectively, Moving Parties) requested a ruling directing SDG&E and SoCalGas to serve supplemental testimony. They also requested schedule modifications as necessary to enable intervenors to fully account for that supplemental testimony, and subsequent related discovery, in their own testimony, then scheduled for service on June 1, 2007.

According to Moving Parties, on May 7, 2007, in response to discovery dated February 28, 2007, SDG&E and SoCalGas produced copies of two reports titled "Utility of the Future Program" and "Managing Costs Initiative" and approximately 2,500 pages of documents (collectively, Utility of the Future). On May 22, 2007, in consultation with the assigned Commissioner, the assigned ALJ issued a ruling modifying the schedule and requiring SDG&E and SoCalGas to serve substantial additional testimony. The ALJ's ruling found that Utility of the Future was an existing program or programs that may have both costs and

benefits within the proposed test year and post-test year ratemaking cycle, *i.e.*, within the scope of the consolidated applications and investigation.

> If approved and implemented, the most current projections indicate the OpEx 20/20[54] net benefits on an annual basis begin in 2011, but true breakeven for the 15-year project is estimated to occur in 2015. There would be costs involved in implementing the project and the hope is there would be savings as well. (Applicants' Reply, p. 4.)

It is also likely, based on Moving Parties' motion, that the Commission might have otherwise adopted test year and post-test year rates and mechanisms without knowing of this program. (Ruling, p. 4.) The ruling required detailed specific testimony and allowed time for parties to complete discovery. Rejecting the applicants' bifurcation scheduling proposal, the ALJ found:

> Applicants acknowledge that some impact is inevitable to allow intervenors time to review the new materials and testimony. Two factors contribute to the delay – the time taken to provide a response to UCAN, and the failure to explicitly address the program in the rate case. Therefore the burden of the delay should fall primarily on SDG&E and SoCalGas. (Ruling, p. 6.)

By compressing the schedule and eliminating one mandatory settlement conference, the modified schedule still allowed for submission on September 21, 2007 and a likely decision before January 1, 2008.

Following service of the testimony on Utility of the Future issues, parties again sought either a delay or bifurcation and other changes to the post-test year ratemaking schedule. By Ruling dated June 21, 2007, the assigned ALJ

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[54] As the projects evolved, SDG&E and SoCalGas use the term OpEX 20/20 for the current versions of the programs identified by the ALJ's rulings as Utility of the Future. Both terms are interchangeable as a collective term for various programs.

determined that the new testimony was not easily dissected in order to identify and separate the likely operational impacts (Ruling p. 6). That ruling, again issued after consulting with the assigned Commissioner, adopted a further schedule delay and required specific testimony by all parties on Utility of the Future issues so as "to provide parties with further schedule relief in order to develop an adequate record." (Ruling, p. 7.) Submission was scheduled for October 19, 2007. Following the end of evidentiary hearings, the ALJ granted parties further schedule relief, twice extending the schedule for briefs with submission ultimately occurring on November 5, 2007.

19.3. Decision 07-12-053

The Commission determined in D.07-12-053 that there is no statutory obligation to grant SDG&E and SoCalGas, or their customers, any relief for the revenue requirement shortfall or over-collection which may result from an effective date after the nominal January 1 date used as a part of the ratemaking exercise of forecasting test year rates.[55] The issue of an effective date for the revenue requirement change arose because of the delays encountered in the consolidated proceedings.

19.4. Discussion

This decision is not timely for a test year beginning January 1, 2008. Therefore parties were directed to address when the memorandum account should be effective and they were allowed to file specific factual and legal argument on this question.

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[55] D.07-12-053, *mimeo.*, p. 8.

D.07-12-053 adopted memorandum accounts to record the difference between the rates currently in effect for natural gas and electrical service and the final rates adopted in these consolidated proceedings based on these conclusions of law:

1. SDG&E and SoCalGas have no automatic right to rate relief under the schedule of the rate case plan.
2. The Commission has discretionary authority to establish memorandum accounts to refund or collect the revenue requirement difference between existing rates and the rates to be adopted in these consolidated proceedings. (*Mimeo*., 10.)

D.07-12-053 also concluded that the effective date of the revenue requirement change recovered by memorandum accounts was a discretionary act relying on this conclusion of law:

4. The Commission has the discretionary authority to determine the reasonable effective date of the revenue requirement change. (*Id*. at 10.)

SDG&E and SoCalGas argued that the effective date should be January 1, 2008 and that any other date was an unfair punishment because intervenors and ratepayers were not harmed by the omission of the Utility of the Future from the applications or by the delay in providing the information during protracted discovery. Intervenors argue there was harm, and regardless, SDG&E and SoCalGas should not benefit from the delay. D.07-12-053 made the following Findings of Fact:

6. SDG&E and SoCalGas did not disclose the existence of the Utility of the Future in A.06-12-009 and A.06-12-010 as filed.
7. Utility of the Future was not disclosed until provided in response to discovery requests on May 7, 2007, five months after the filing of these applications. (*Id*. at 9.)

There is no factual dispute that SDG&E and SoCalGas did not disclose the Utility of the Future reports in their initial filings and data production as part of their case in chief. Applicants argue the program was not sufficiently developed to warrant its inclusion in the initial filings and data production. The Utility of the Future reports were produced in response to the eleventh set of data requests on SDG&E and SoCalGas from UCAN. The data response from SDG&E and SoCalGas was extensive, consisting of 132 documents and totaling over 2,500 pages. According to Applicants' opening comments, many pages of the response to UCAN's eleventh data request pertained to the Utility of the Future program, which was then in the conceptual stages of development at the utilities. According to testimony, some senior officers at the utilities were involved in the development of this program, while others were not involved.[56]

It is clear that the Utility of the Future program became a substantial and important matter in the proceeding. Despite the protestations of SDG&E and SoCalGas, if the reports had been produced at the beginning of production, it is likely they would not have become the center of focus and possible delay in the outcome of the case. As TURN points out:

> Even if everything the utilities have subsequently alleged concerning the [Utility of the Future] program is true - that the program was sufficiently uncertain and incomplete to include its costs and benefits in the rate case – there is absolutely no doubt that a major cost cutting initiative was well underway in 2006 and would significantly impact cost and rates during the six-year rate case

[56] Several witnesses testified they had no knowledge of the Utility of Future when they prepared their testimony and we believe this to be true. Other witnesses, however, and numerous officers of the company responsible for these applications, did know of the program and chose not to disclose the program in the rate case applications.

period proposed by the utilities. (TURN Comments, p. 2, dated December 10, 2007.)

There were other reasons for delay in this proceeding, including schedule relief from the initial calendar, which proved too ambitious. We do not find that SDG&E's and SoCalGas' delay in providing discovery on the Utility of the Future program is specifically responsible for any determinable amount of the delay in these consolidated proceedings.

19.5. Conclusion

We recognize that we must take into account an important omission when considering rate relief in the form of a memorandum account intended to offset the effect of procedural delay. We conclude that that there were many causes of delay in these consolidated proceedings. Even with these delays, these consolidated proceedings have been processed in less time than most other recent energy general rate cases. Therefore, we will adopt the effective date of January 1, 2008 as the effective date for the memorandum account.

While we do not conclude that SDG&E's and SoCalGas' delay in disclosing the Utility of the Future program was the cause of delay in these consolidated proceedings, we are mindful that that in a general rate case, utilities must address and justify their cases in direct testimony.[57] Specifically, as noted in a recent Commission decision, ". . . when there is a proposed rate change, new policy proposals or ideas, business changes that could or should influence the treatment of historic data, dramatic regulatory or environmental events and/or

[57] See 07-11-037, pp.115-118; D.99-04-060, 86 CPUC2d 54, 62, quoting Suburban Water Co., 60 CPUC 183, 200 (1962) (emphasis added); Southern California Edison Company and San Diego Gas and Electric Company, FERC Docket No. EC89-5-000, 50 FERC ¶ 63,012, p. 65,065.

significant additions to the employee base or the capital budget, the burden is particularly obvious."[58] We remind SDG&E and SoCalGas that they have the burden of addressing and justifying significant issues in their cases in direct testimony. Failure to do so in the future may result in a fine or other remedy the Commission deems appropriate.

20. Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Douglas M. Long is the assigned ALJ in this proceeding.

21. Comments on Proposed Decision

The proposed decision of the ALJ and concurrent alternate of Commissioner Bohn in this matter were mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Combined comments on both the proposed decision of the ALJ and the concurrent alternate of Commissioner Bohn were timely filed on June 26, 2008 by SDG&E and SoCalGas; on June 27, 2008 by CCUE, DRA, Farm Bureau, Greenlining, and UCAN; and on June 30, 2008 by Aglet, Disability Rights Advocates, FEA, Southern California Generation Coalition, and TURN; and Western Manufactured Housing Community Association, was allowed to late-file on July 1, 2008. Reply comments were timely filed on July 7, 2008 by Greenlining, PG&E, SCE, TURN, and SDG&E and SoCalGas.

Where appropriate and necessary various revisions and corrections were made to this decision. These changes result in no changes to final conclusions,

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[58] D.07-11-037, *Opinion Granting Rate Increases for the Region II Service Area and General*

Footnote continued on next page

however, the decision benefits by incorporating various corrections or clarifications in response to the thoughtful and thorough comments of parties.

We note in particular DRA's concern, echoed by TURN, that the decision would abridge the right of parties to petition the Commission. We neither make nor intend any such abridgement: DRA may, in future proceedings, make any argument or factual assertion it believes will benefit the record at that time. This decision provides guidance to all parties where, regardless of the settlements before us, we found herein various litigation positions to be unpersuasive. SCE and PG&E correctly point out the settlements were contested by UCAN and that resolving issues litigated by UCAN, and unresolved by the settlements, was a necessary party to analyzing the settlements themselves in light of the whole record. The adoption of settlements, which embodies numerous compromises necessarily confidential to those negotiations, should not preclude the Commission from providing guidance on specific issues which the settlements themselves identified as policy disputes unresolved between the settling parties. Settlements are not precedential: but they are confidential and parties cannot rely on a current settlement in future proceedings. By informing parties when we find the arguments put to us to be unpersuasive, in a contested proceeding, especially with a contested settlement between only a few parties, the parties are under notice that they must look for better or more persuasive evidence and analysis in order to prevail on the merits of the argument in future proceedings. Adopting a settlement cannot silence the Commission from offering guidance for the future, and we do not have to choose between adopting a settlement in silence and rejecting the settlement primarily to provide future guidance.

Office Operations of Golden State Water Company, p. 122.

FEA and UCAN should be assured that the Commission was cognizant of the full record when weighing the settlements but we need not provide a full recital of the analysis of every position by every party as a necessary part of adopting a settlement. Additionally, this decision reviewed and resolved several of the contested issues raised by UCAN (and others) which were otherwise not settled as a part of the review the proposed settlements.

Findings of Fact

Record

1. There is a full and complete record composed of testimony, work papers, examination of witnesses, as well as full and complete opening and reply briefs.

Accounting

2. SDG&E and SoCalGas made numerous complex adjustments to recorded financial data to translate its cost center accounting system to the FERC Uniform System of Accounts.

3. The 2006 recorded data is not reliably adjusted to be comparable to 2005 and earlier data as presented in the applications.

4. The cost center accounting system changes as accounts are added or deleted over time which reflects the actual operations of SDG&E and SoCalGas.

5. The 2012 test year GRC will be less complex and not require significant adjustments of updated data if it is filed based on the existing accounting system used by SDG&E and SoCalGas for daily control of operations and planning, *e.g.*, cost center control accounts.

6. SDG&E and SoCalGas can file the rate case using the cost center accounting system without affecting financial reporting formatted to comply with the FERC uniform system of accounts.

7. Both companies are subsidiaries of Sempra Energy and many functions are performed either by a "corporate center" for both utilities, or within the structure of either one of the two utilities on behalf of both companies.

8. A single application with separate revenue requirements for SDG&E and SoCalGas could reduce duplication and expedite the next GRC.

Settlements - Generally

9. The parties to the settlements adopted in this decision had a sound and thorough understanding of the application, and all of the underlying assumptions and data included in the record and could make informed decisions in the settlement process.

10. The adopted settlements are between competent and well-prepared parties who were able to make informed choices in the settlement process.

Test Year 2008 Settlements

11. The intervening parties that settled with SDG&E and SoCalGas represented a broad range of customers.

12. The 2008 test year revenue requirement settlement for SDG&E is a balance of the positions advocated by SDG&E and intervenors.

13. The end-of litigation position advocated by SDG&E included specific concessions to the positions advocated by UCAN. These concessions reduced SDG&E's proposed revenue requirement, before settling with DRA, by $17 million.

14. The settlement proposed by SDG&E and DRA includes $14 million in further adjustments attributed to adjustments advocated by UCAN.

15. The 2008 test year revenue requirement settlement for SoCalGas is a balance of the positions advocated by SoCalGas and intervenors.

16. The test year revenue requirement settlements for SDG&E and SoCalGas reflect the concerns of other parties that did not settle.

17. The 2008 test year settlement agreements reflect commitments by SDG&E and SoCalGas to certain expected levels of maintenance, repair, capital additions, and customer service and the related comparison exhibits provide the detailed descriptions of those commitments.

Unresolved Issues

18. The test year settlements' revenue requirements are unaffected by resolving open policy disputes between applicants and other intervenors.

19. The unresolved issues include issues litigated by parties opposed to the test year 2008 revenue requirement settlements.

20. There are unresolved problems with closing existing branch offices. Some customers are likely to be underserved.

21. There are unresolved problems with non-utility payment locations. Some customers are likely to be precluded from access to utility service representatives and unable to pay the utility directly.

22. A moratorium on closing branch offices and opening new non-utility payment locations at "payday lender" businesses will allow an opportunity to reexamine how to reasonably provide services to all customers.

23. The incentive compensation of certain employees is an integral part of employee total compensation. Total compensation studies show both SDG&E and SoCalGas are at-market. Incentive compensation is reasonably included in the test year forecast.

24. SDG&E and SoCalGas correctly applied depreciation standard practice U-4 to determine depreciation expense.

25. The alternative net-salvage methodology used by UCAN and TURN is not supported by fact and does not comport with standard practices for depreciation.

26. The settlements for SDG&E and SoCalGas include a reasonable study of depreciation-related practices for the next GRC. Parties should also analyze actual removal and net salvage for specific asset groups, and the accrual in rates over the assets' service lives, to determine whether there are over or under-accrual allowances.

27. DRA's proposed exclusion of cash deposits is not consistent with the intent of working cash standard practice U-16.

28. The tax deduction for dividends paid on employee-owned stock held in the employee stock option plan does not affect correctly calculating test year revenue requirement.

Post Test Year Settlements

29. The intervening parties that settled with SDG&E and SoCalGas represented a broad range of customers.

30. The post-test year settlements for SDG&E and SoCalGas contain fixed attrition amounts to provide rate relief for changes in both operating expenses and capital expenditures. The settlements provide discretion to SDG&E and SoCalGas to use the fixed amount as needed for either operating expenses or capital expenditures.

31. Adopting a fixed amount for attrition provides more latitude or discretion to the companies on how to reasonably use the revenue to provide safe and reliable service.

32. The post-test year settlements do not resolve the duration of the rate cycle. Settling parties DRA and Aglet deferred to the Commission to select either a four

or five-year cycle instead of the proposed six-year cycle requested by SDG&E and SoCalGas.

33. A four-year cycle is the earliest reasonable interval to schedule a general rate case with a Test Year 2012.

34. It may not be possible to schedule the next rate case without overlapping rate cases with either PG&E or SCE.

Sharing Mechanism-Earnings Cap

35. The settling parties in the two settlements each for both SDG&E and SoCalGas propose a balanced package for each company which includes a test year revenue requirement and a fixed amount for attrition. This package terminates the existing earnings sharing mechanisms for both companies as a part of the settlement process compromise.

Other Settlements

CCUE – Safety SDG&E

36. The proposed settlement with CCUE sets annual targets which are more stringent over the rate cycle than the flat rate proposed by DRA.

37. The settlement limits the maximum reward or penalty to $2.5 million, with an equal incremental allowance for exceeding or failing to meet the target.

Local 132 – Safety SoCalGas

38. The proposed settlement with Local 132 reduces the ratepayer exposure by $2 million for the maximum incentive, and sets the target almost mid-way between the litigation positions of DRA and SoCalGas.

Greenlining

39. The proposed settlement with Greenlining on corporate philanthropy is outside the scope of the proceeding and beyond the Commission's authority to impose a lawful order on SDG&E and SoCalGas.

40. The proposed settlement with Greenlining on diversity contains no measurable or enforceable goals.

41. GO 156 embodies the only applicable, measurable diversity goals for SDG&E and SoCalGas to achieve.

42. Diversity is good public policy, therefore SDG&E SoCalGas should competently staff at all times the full forecast of positions for WMDVBE activities and diversity.

Local 483

43. There is no record to support the proposed settlement terms between SoCalGas and Local 483.

44. The proposed settlement with Local 483 would grant Local 483 preferential treatment by funding new positions requested in the application; would perform staffing studies to possibly up-grade some incumbent employees, and fill certain vacant positions.

45. The issues addressed in the proposed settlement with Local 483 embody specific employment terms and conditions, which belong in collective bargaining and not in the GRC.

Pest Control Operators of California

46. The proposed settlement with the PCOC resolves procedural issues to ensure safe and reliable gas service shut-off and restoration.

47. The issues resolved in the proposed settlement address rules for service which are includable in SDG&E and SoCalGas' tariffs, and, therefore, are within the scope of this proceeding to set rates for safe and reliable service.

Disability Rights Advocates

48. The proposed settlement with Disability Rights Advocates provides reasonable and useful improvements to SDG&E and SoCalGas' facilities, web

sites and customer practices. These improvements are within the scope of the proceeding to set rates for safe and reliable service.

Incentive Mechanisms

49. Incentive mechanisms provide SDG&E and SoCalGas motivation to improve service beyond the reasonable level as otherwise funded in base rates.

50. Balanced mechanisms reward improvement and penalize lowered performance, unlike unbalanced mechanisms which do not provide an adequate incentive to improve performance.

51. Dead bands eliminate the effect of random chance affecting rewards or penalties.

52. The beginning points for incentives differ for SDG&E and SoCalGas because of the original difference in performance when the incentives were started. These differences reflect the unique natures of SDG&E and SoCalGas.

53. There have been problems with incentives for another utility. A prudent policy to avoid or deter problems with SDG&E and SoCalGas would add internal audits with reporting to the Commission to safeguard ratepayers.

54. An annual improvement factor to adjust the incentive target of all incentive mechanisms will ensure that SDG&E and SoCalGas must continually improve performance to earn a return or avoid a penalty.

Customer Service Incentives

55. SDG&E has received rewards for customer service incentives from 1999 to 2006. DRA's proposed three-year average performance standard indicates recent performance whereas the companies' five-year average dilutes the target.

56. SoCalGas has consistently earned incentives for improvements based on equal increments with SDG&E. DRA's three-year average performance standard is not diluted by earlier years' results.

57. SoCalGas has not justified the need for higher incremental incentive payments than SDG&E for filed service order appointment performance.

Definition of Major Events

58. The Commission's existing definition for excluding major event outages for performance incentive provides a consistent definition to compare performance over time.

59. The Commission's current definition measures only actual events.

60. The new IEEE 1366-2003 standard is subject to interpretation by utilities and regulators outside our jurisdiction and therefore provides no reliable comparison over time or between companies.

61. The continued use of the Commission's current exclusion standards does not preclude SDG&E from using the new definition for non-incentive mechanism purposes.

System Average Interruption Duration Index – SAIDI

62. DRA's target for SAIDI reflects the Commission's existing major event exclusion standard.

System Average Interruption Duration Exceeding Threshold SAIDET

63. SAIDET is a new measure that is a modification of SAIDI.

64. SAIDET is likely to be a useful measurement of customer satisfaction that focuses on reducing the longest outages.

65. The combined proposed maximum reward or penalty for SAIDI and SAIDET exceed the prior $3,750,000 maximum for SAIDI alone.

66. Adopting SDG&E's proposed $2,000,000 SAIDI maximum and $1,750,000 as the maximum for the new, related SAIDET, prevents ratepayer exposure to a higher maximum total incentive or reward for similar performance indicators.

System Average Interruption Frequency Index - SAIFI

67. DRA's target reflects the same formula for the prior SAIFI incentive and uses the current Commission definition for major event exclusions, not the IEEE Standard 1366-2003.

Momentary Average Interruption Index - MAIFI

68. SDG&E no longer requests a MAIFI incentive. SDG&E's shift in emphasis is to reduce the number of interruptions rather than focus on the duration of short interruptions.

Estimated Restoration Time - ERT

69. The ERT will measure the percentage of service restorations that occur within the scheduled timeframe.

70. SDG&E has the ability to influence the incentive by over-estimation of the time to restore service, thus increasing the chance of meeting or exceeding the schedule.

71. A dead band and a limit on the total incentive will allow the Commission an opportunity to judge the effectiveness of a new incentive.

Memorandum Account

72. SDG&E and SoCalGas did not disclose the existence of the Utility of the Future in A.06-12-009 and A.06-12-010 as filed.

73. Utility of the Future was disclosed when SDG&E and SoCalGas provided their response to discovery requests on May 7, 2007, five months after the filing of these applications.

74. While the failure to disclose The Utility of the Future may have contributed to some delay in this proceeding, it is not by any specific determinable time.

Conclusions of Law

Subsequent Rate Cases

1. The Commission has the discretion and authority to authorize related entities to file a single GRC to achieve potential savings in time and effort by all parties.

2. The Commission has the discretion and authority to authorize a regulated utility to file its GRC using the accounting format that is used to operate and control the entity to avoid duplication of effort and unnecessary conversions and allocations to the FERC Uniform System of Accounts.

Settlements

3. Applicants alone bear the burden of proof to show that its forecasts are reasonable.

4. The Test Year 2008 revenue requirements settlements are reasonable because they fairly balance intervenor interests and provide sufficient revenue to safely provide reliable service.

5. The Commission has the discretion and authority to resolve open policy disputes which were not addressed in the settlements and were part of the litigated positions of parties opposing the settlements.

6. The post test year ratemaking settlements are reasonable because they fairly balance intervenor interests and provide sufficient revenue to safely provide reliable service.

7. The settlements, except for the two with Local 483 and Greenlining, are reasonable in light of the whole record.

8. The settlements with Local 483 and Greenlining are not reasonable when examined in the light of the whole record.

9. The settlements, excluding the two with Local 484 and Greenlining, are consistent with the law, and do not contravene or compromise any statutory provision or Commission decision.

10. The settlements, except for the two with Local 483 and Greenlining, are in the public interest.

11. The settlement with Local 483 is not supported by the evidentiary record.

12. The settlement with Local 483 is not in the public interest.

13. The settlement with Greenlining is beyond the authority of the Commission to regulate, direct, or require, shareholder philanthropy. The Commission cannot lawfully order SDG&E or SoCalGas to pursue philanthropic giving of shareholder monies.

14. Philanthropy was properly excluded from the scope of the proceeding.

15. There are no enforceable components to the proposed agreement on diversity that require an order by the Commission.

16. SDG&E and SoCalGas may implement the settlement with Greenlining without an order of the Commission.

17. The adopted settlements provide sufficient information for the Commission to discharge its future regulatory obligations.

18. The Commission has the discretion and authority to adopt fixed dollar amounts for attrition adjustments and is not required to adopt specific allowances or adjustment mechanisms for either expense and capital items.

19. The Commission can allow parties to file proposed settlements and waive Rule 12.1(b).

Unresolved Issues

20. The Commission has the discretion and authority to protect ratepayers with a moratorium on branch office closures and new authorized payment locations within "payday lenders."

21. The Commission has the discretion and authority to adopt reasonable compensation estimates that include an incentive component when the total compensation is reasonable.

22. The Commission has the discretion and authority to adopt the test year 2008 settlements' proposal and require a specific study of cost of removal to enhance the record of the next general rate case.

23. The tax benefits associated with dividends paid on stock held in the Employee Stock Ownership Plan are not the property of ratepayers.

24. The Commission has the discretion and authority to direct SDG&E and SoCalGas to fully fund all positions and programs that manage G.O. 156 and diversity-related activities at the levels included in the revenue requirement settlements.

Objections to the Settlements

25. The ratemaking Settlements for SDG&E and SoCalGas fully address the contested issues and are reasonable based on the whole record, as modified herein.

26. The Commission can resolve the disagreement between the settling parties and the other intervenors and find a four-year rate cycle is reasonable based on the record.

Sharing Mechanism-Earnings Cap

27. The Commission has the authority and discretion to eliminate the existing earnings sharing mechanisms as a part of adopting the test year revenue

requirement settlements and the post-test year ratemaking settlements for SDG&E and SoCalGas.

Incentive Mechanisms

28. Incentive mechanisms are a discretionary choice, allowable by Pub.Util. Code § 701, where the Commission finds that by providing specific, measurable targets, the utility can intentionally improve performance and thereby increase customer satisfaction or employee safety.

29. The Commission has the discretion and authority to impose internal audits and reports to the Commission to safeguard ratepayers when authorizing incentive mechanisms.

30. The Commission may provide for the internal audit reports to be confidential pursuant to GO 66-C and Pub.Util. Code § 584.

31. The Commission has the discretion and authority to adopt new incentive mechanisms, when reasonable, and terminate incentives that are no longer necessary or reasonable.

Memorandum Account

32. SDG&E and SoCalGas have no automatic right to rate relief under the schedule of the rate case plan.

33. The Commission has discretionary authority to establish memorandum accounts to refund or collect the revenue requirement difference between existing rates and the rates to be adopted in these consolidated proceedings.

34. There is no causal link between Applicants' delay in disclosing the Utility of the Future program and any delay in these consolidated proceedings.

35. The Commission has the discretionary authority to determine the reasonable effective date of the change in revenue requirements is January 1, 2008.

36. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. The Test Year 2008 Settlement for San Diego Gas & Electric Company (SDG&E), in Appendix 1, is adopted without modification.

2. The Test Year 2008 Settlement for Southern California Gas Company (SoCalGas), in Appendix 2, is adopted without modification.

3. The SDG&E Post-Test Year Ratemaking Settlement, Appendix 3, is adopted without modification.

4. The SoCalGas Post-Test Year Ratemaking Settlement, Appendix 4, is adopted without modification.

5. The California Coalition of Utility Employees' Settlement with SDG&E, Appendix 5, is adopted without modification.

6. The Utility Workers Union of America, Local 132 settlement with SoCalGas, Appendix 6, is adopted without modification.

7. The Greenlining Institute settlement with SDG&E and SoCalGas, Appendix 7, is rejected.

8. The Utility Workers Union of America, Local 483 settlement with SoCalGas, Appendix 8, is rejected.

9. The Pest Control Operators of California (PCOC) settlement with SoCalGas, Appendix 9, is adopted without modification.

10. The Disability Rights Advocates Settlement with SDG&E and SoCalGas, Appendix 10, is adopted without modification.

11. There is a moratorium imposed on SDG&E and SoCalGas precluding any further branch office closures or new authorized payment locations within "payday lenders." SDG&E and SoCalGas may file a separate application on these issues after meeting and conferring with interested parties.

12. The change in revenue requirement for SDG&E, as recorded in the memorandum account authorized in D.07-12-053, is effective January 1, 2008.

13. The change in revenue requirement for SoCalGas, as recorded in the memorandum account authorized in D.07-12-053, is effective January 1, 2008.

14. Within 10 days from the effective date of this Order, SDG&E shall file a Tier 1 advice letter with revised tariff sheets to implement (i) the revenue requirement authorized by this Order, and (ii) all settlements authorized by this Order. The revised tariff sheets shall (a) become effective within 45 days of the date of this Order, subject to a finding of compliance by the Commission's Energy Division, (b) comply with General Order (GO) 96-B, and (c) apply to service rendered on or after their effective date. Balances recorded in the General Rate Case Revenue Requirements Memorandum Account from January 1, 2008 until the effective date of new tariffs required by this Order shall be amortized in rates over a one year period beginning January 1, 2009.

15. Within 10 days from the effective date of this Order, SoCalGas shall file a Tier 1 advice letter with revised tariff sheets to implement (i) the revenue requirement authorized by this Order, and (ii) all settlements authorized by this Order. The revised tariff sheets shall (a) become effective within 45 days of the date of this Order, subject to a finding of compliance by the Commission's Energy Division, (b) comply with General Order (GO) 96-B, and (c) apply to service rendered on or after their effective date. Balances recorded in the General Rate Case Revenue Requirements Memorandum Account from January

1, 2008 until the effective date of new tariffs required by this Order shall be amortized in rates over a one year period beginning January 1, 2009.

16. SDG&E and SoCalGas shall affirmatively accept or decline each adopted incentive mechanism, for the duration of this rate cycle, within 30-days of the effective date of this decision, by letter to the Executive Director, with a copy served on the parties.

17. SDG&E is authorized the following incentive mechanisms, as described in the decision:

a. Customer Service Incentives for:
   i. Phone and office contacts,
   ii. Field visit satisfaction,
   iii. Call Center response, and
   iv. Field service order appointments.
b. Service for Reliability Incentive for:
   i. System Average Interruption Duration Index,
   ii. System Average Interruption Duration Index Exceeding Threshold,
   iii. System Average Interruption Frequency Index, and
   iv. Estimated Restoration Time.
c. Safety Incentive.

Within 10 days from the effective date of this order, SDG&E shall file a Tier 1 advice letter with revised tariff sheets modifying its preliminary statement to add language describing the operation of each incentive mechanism listed above. The revised tariff sheets shall become effective on the effective date of this order subject to Energy Division determining that they are in compliance with this order.

18. SoCalGas is authorized the following incentive mechanisms, as described in the decision:

a. Customer Service Incentives for:
   i. Phone and office contacts,
   ii. Field visit satisfaction,

iii. Call Center response, and
iv. Field service order appointments.

b. Safety Incentive.

Within 10 days from the effective date of this order, SoCalGas shall file a Tier 1 advice letter with revised tariff sheets modifying its preliminary statement to add language describing the operation of each incentive mechanism listed above. The revised tariff sheets shall become effective on the effective date of this order subject to Energy Division determining that they are in compliance with this order.

19. The Momentary Average Interruption Frequency Index incentive mechanism for SDG&E is terminated effective December 31, 2007.

20. SDG&E and SoCalGas shall perform annual internal audits on all incentive mechanisms and report annually no later than May 1st, of the subsequent year, as described in the decision. These reports will be confidential pursuant to GO 66-C and Pub.Util. Code § 584.

21. SDG&E and SoCalGas may file a single application for the next general rate case (GRC), with separate revenue requirements for both companies, in order to reduce duplication of testimony and expedite the proceeding. SDG&E and SoCalGas may also choose to file separate applications.

22. SDG&E and SoCalGas shall file the next GRC using the then-current "cost center" system of internal accounting and control rather than convert and allocate the data to approximate the Federal Energy Regulatory Commission's Uniform System of Accounts.

23. SDG&E and SoCalGas shall amend their preliminary statements to implement the terms of the settlement with Pest Control Operators.

24. SDG&E and SoCalGas shall perform the studies as identified in the settlement with Disability Rights Advocates. SDG&E and SoCalGas shall include this information on this study in testimony and work papers in the next general rate cases.

25. SDG&E and SoCalGas shall include five years of historical data for all cost center accounts in the work papers for the subsequent general rate cases.

26. SDG&E and SoCalGas shall perform the depreciation studies as identified in the settlements and this decision and shall present that information in testimony and work papers in the next general rate cases.

27. SDG&E shall thoroughly document all activities associated with the Estimated Restoration Time (ERT) reliability indicator adopted herein. SDG&E shall document all procedures and processes used to implement, manage, and improve the procedures and processes for the ERT. SDG&E shall include this information in testimony and work papers in the next general rate case.

28. SDG&E and SoCalGas shall maintain detailed records of all public affairs outreach efforts for educational and other purposes. SDG&E and SoCalGas shall include this information in testimony and work papers in the next general rate cases.

29. SDG&E and SoCalGas shall full fund all G.O 156 and diversity-related activities as included in the revenue requirements of the adopted Test Year 2008 Settlement for each company. SDG&E and SoCalGas shall include this information in testimony and work papers in the next general rate cases.

30. We affirm all rulings by the assigned Administrative Law Judge on scope, admissibility, and acceptance of late-filed exhibits and late-filed settlements. All outstanding motions, not otherwise addressed, are denied.

31. Application (A.) 06-12-009, A.06-12-010 and Investigation 07-02-013 are closed.

This order is effective today.

Dated _____, at San Francisco, California.