

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Application of San Diego Gas & Electric Company (U 902 M) for Authority, Among Other Things, to Update its Electric and Gas Revenue Requirement and Base Rates Effective on January 1, 2019.

Application No. 17-10-007
(Filed October 6, 2017)

Application of Southern California Gas Company (U904G) for Authority, Among Other Things, to Update its Gas Revenue Requirement and Base Rates Effective on January 1, 2019.

Application No. 17-10-008
(Filed October 6, 2017)

**APPLICATION OF THE UTILITY REFORM NETWORK
FOR REHEARING OF DECISION NO. 19-09-051**



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**APPLICATION OF THE UTILITY REFORM NETWORK
FOR REHEARING OF DECISION NO. 19-09-051**

I. INTRODUCTION

Pursuant to Public Utilities Code §1731 and Rule 16.1 of the Commission’s Rules of Practice and Procedure, The Utility Reform Network (TURN) submits this Application for Rehearing of Decision No. 19-09-051 (the Decision or D.19-09-051), issued on October 1, 2019.¹

Decision 19-09-051 resolved a multitude of disputed issues concerning the revenue requirements for test year 2019 for both San Diego Gas & Electric Company (SDG&E) and the Southern California Gas Company (SCG), the two investor-owned utilities that are subsidiaries of Sempra Energy (Sempra). As is typical in a rate case, the Commission had to weigh the evidence regarding literally hundreds of cost forecasts. TURN disputed many of the rate increases requested by the Sempra Utilities. While TURN continues to believe that many of the forecasts are of questionable accuracy, TURN requests that the Commission grant rehearing concerning issues where the Decision commits one of the following legal errors, as explained further in Section II:

- The Decision does not rely on substantial evidence to authorize spending for certain items, thus violating the legal requirements of §§ 1701.3, 1705 and 1757 of the Public Utilities Code²;

¹ Section 1731(b) requires an application for rehearing to be filed within 30 days of the “date of issuance,” which would be October 31, 2019.

² All statutory code references are to the Public Utilities Code, unless otherwise noted.

- The Decision fails to apply the Commission’s adopted burden of proof standard, which requires the utility to affirmatively demonstrate the reasonableness of its request by a preponderance of the evidence, and instead shifts the burden to TURN, thus constituting an abuse of discretion and arbitrary and capricious decision-making in violation of Section 1757 and established law regarding administrative agency decision-making.

As detailed in Section III, the Decision commits one or both of the above errors with respect to the following:

- The Decision ignores TURN’s unrebutted analysis, based on SDG&E’s own data, demonstrating that SDG&E’s forecast method for overhead pool capital expenditures was based on a factually erroneous assumption (Section 21.2.3.7)³;
- The Decision shifts the burden of proof onto TURN to determine the portion of Edison Electric Institute (EEI) Membership Dues that are eligible for cost recovery, even though SDG&E refused to provide TURN with the necessary data to make this allocation, and even though SDG&E failed to satisfy the standards this Commission has used for at least the past twenty-five years to authorize EEI dues (Section 33.2.4);
- The Decision disregards undisputed historical cost data showing a declining trend in costs and shifts the burden of proof to TURN in approving the forecast for fleet

³ All references to “section” numbers refer to sections of D.19-09-051, unless noted differently.

maintenance operations (Sections 24.1.4 and 24.2.5), for SoCalGas franchise fees (Section 38.1.4.1), and for SDG&E property taxes (Section 38.2.2.1).

In addition to these legal errors in decision-making, the Decision also violates Supreme Court precedent and thus commits legal error by authorizing cost recovery for voluntary dues donations, as discussed in Section V.

Furthermore, the Decision commits arbitrary and capricious decision-making, which is grounds for reversal by a reviewing court, by removing non-executive incentive compensation costs related to financial metrics from rates, but not doing the same for corporate center non-executive incentive compensation costs allocated to the utility; and also by failing to remove executive incentive compensation costs allocated to the utilities from the corporate center, as explained in Section IV. Lastly, the Commission should grant rehearing on the issue of the ratemaking treatment of customer deposits, since the Decision ignores Commission precedents concerning proper application of Standard Practice U-16 for customer deposits, as discussed in Section V.

TURN requests that the Commission grant rehearing in order to either modify D.19-09-051 to correct the legal and policy errors, or to obtain additional evidence if necessary to ensure that the Decision is consistent with the substantial evidence and the laws and properly applies the Commission's policies regarding the burden of proof.

II. LEGAL STANDARDS FOR REHEARING AND JUDICIAL REVIEW

The Commission must make decisions that both comply with the law and satisfy standards for reasoned decision-making. The Commission has addressed hundreds, if not

thousands, of applications for rehearing, based on many different legal grounds. The errors identified in this application for rehearing relate primarily to the statutory and legal standards for reasoned administrative decision-making, as summarized below.

A. Section 1757 Requires the Commission to Make Findings Based on “Substantial Evidence” in the Record, Which Requires At Least Enough Credible Evidence That a Reasonable Person Could Reach the Same Conclusion as the Agency

Section 1701.3(j) requires that in a ratesetting proceeding the Commission adopt a proposed decision “based on evidence in the record.” Section 1705 requires Commission decisions to be based on “findings of fact and conclusions of law on all issues material to the order or decision.” When a reviewing court undertakes consideration of the validity of Commission findings and conclusions, it will consider whether those findings are supported by “substantial evidence in light of the whole record.”⁴

The California Supreme Court has defined "substantial evidence" to mean evidence of "ponderable legal significance ... reasonable in nature, credible, and of solid value."⁵ The courts will review the Commission’s decision in light of “the record as a whole.”

Appellate courts give considerable deference to the Commission’s determination of what constitutes substantial evidence, and the Commission can satisfy the substantial evidence standard even when there may be conflicting evidence leading to different outcomes.⁶

Nevertheless, the substantial evidence standard is not a “toothless standard,” and there must be at least some credible evidence in the record to support the agency’s decision.

⁴ Section 1757(a)(3) and (4).

⁵ *People v. Basset*, 69 Cal.2d 122, 138-39 (1968).

⁶ *For example, Bowers v. Bernards*, 150 Cal.App.3d 870 (1984).

Appellate courts have reversed administrative agency decisions when the evidence is so lacking or poor that a reasonable person could not reach the same conclusion as the agency.⁷

A reviewing court's responsibility to consider the entire record evidence necessarily "involves some weighing of the evidence to fairly estimate its worth."⁸ Thus, even when the Commission purportedly has some "evidence" to support an outcome, rehearing is still appropriate where the probative value of that evidence is questionable. For example, this Commission has granted rehearing where evidence is not reliable and where it is premised on "incorrect assumptions" or is "too generalized or speculative" to be legally sufficient.⁹

As discussed below, several findings and conclusions in this case are based on erroneous assumptions and on evidence that is directly contradicted by the utility's own data, and thus cannot be found to constitute "substantial evidence" on which a reasonable person could accept the utility's cost forecast.

⁷ See, for example, *Paoli v. California Coastal Com.*, 178 Cal.App.3d 544, 550-551 (1986); *Sierra Club v. California Coastal Com.*, 12 Cal.App.4th 602, 610 (1993); *Hongsathavij v. Queen of Angels/Hollywood Presbyterian Medical Center*, 62 Cal. App. 4th 1123 (1998).

⁸ *County of San Diego v. Assessment Appeals Bd. No. 2*, 148 Cal. App. 3d 548, 555 (1983).

⁹ D.99-03-026, 85 CPUC 2d 304, 309 (citing to *Southern Pac. Co. v. PUC*, 41 Cal.2d 354, 369 (1953)).

B. The Commission Has Interpreted Section 451 to Require the Utility to Prove Its Case by a “Preponderance of the Evidence,” and Shifting the Burden of Proof to Intervenors Constitutes Arbitrary and Capricious Decision-Making and an Abuse of Discretion in Violation of Section 1757

This Commission has repeatedly held that to comply with the “just and reasonable” standard required to authorize rate increases under §§ 451 and 454, the utility must affirmatively justify the reasonableness of its showing by a “preponderance of the evidence.”¹⁰ The Commission has clarified that since the utility has the burden of proof, “intervenors do not have the burden of proving the unreasonableness of [the utility’s] showing.”¹¹

The “preponderance of the evidence” standard is a more stringent evidentiary burden than the “substantial evidence” standard, requiring a party to prove its case by evidence that makes the proposition more likely than not to be true. Having repeatedly affirmed this standard of proof, arbitrarily holding the utility accountable to a lesser standard, and even shifting the burden of proof to the intervenor to prove the unreasonableness of a utility’s showing, constitutes an “abuse of discretion” and arbitrary and capricious decision-making in violation of § 1757(a)(5) and established law regarding administrative due process and decision-making.¹²

¹⁰ See, for example, D.06-05-016, pp. 7-8; D.09-03-025, p. 8; D.11-05-018, pp. 68-70 (explaining why “preponderance of the evidence” not “clear and convincing” is the proper standard of proof); D.16-06-056, pp. 21-23; and D.19-05-020, pp. 6-7.

¹¹ D.06-05-016, p. 7.

¹² See, for example, *Cal. Hotel & Motel Assn. v. Indus. Welfare Comm’n*, 25 Cal.3d 200 (1979). See, also, *FCC v. Fox TV Stations, Inc.*, 556 U.S. 502, 515 (2009) (“An agency may not, for example, depart from a prior policy *sub silentio* or simply disregard rules that are still on the books.”)

C. Not Following Supreme Court Holdings Constitutes Legal Error

In addition to errors related to reasoned decision-making, erroneously interpreting legislation or not following relevant case law constitutes legal error that warrants judicial review. Section IV addresses one issue where the Decision reaches an outcome inconsistent with both Commission precedent and the 1965 Supreme Court decision upholding the exclusion from rates of charitable dues and donations voluntarily made by a monopoly utility.

III. IN NUMEROUS INSTANCES THE DECISION APPROVES FORECASTS THAT LACK SUBSTANTIAL EVIDENTIARY SUPPORT, OR ELSE FAIL TO HOLD THE UTILITY ACCOUNTABLE FOR PROVING ITS CASE BY A PREPONDERANCE OF THE EVIDENCE

A. This Decision Was Unusual in Its Erroneous Application of the Burden of Proof Standard to Numerous Issues

TURN has litigated numerous rate cases and applications for rate increases to cover proposed utility spending. We appreciate that evaluating whether a utility's showing satisfies the "preponderance of the evidence" standard is sometimes difficult, as the trier of facts must evaluate the credibility of witnesses, weigh the value of different pieces of evidence, and finally decide how the "entire record" stacks up. However, Decision 19-09-051 is unusual in the number of instances where the trier of facts simply "accepts" utility expert opinion while disregarding evidence in the record and failing to hold the utility accountable for meeting its burden to prove the reasonableness of its request.

The failings of this decision are illustrated in the comments of various parties. For example, the City of Long Beach stated the following in its comments on the proposed decision:

The Proposed Decision fails to demonstrate that the Applicants made an appropriate showing of need and fails to inquire about the evidentiary record supporting the significant rate increases. Instead, the Proposed Decision improperly rubber stamps the requests of the utilities regarding post-test year ratemaking. The Commission has numerous times stated that it cannot merely “rubber stamp” the requests of utilities without “thorough inquiry.” The Commission has also stated, “[i]f we are to be more than a rubber stamp, translating cost increases into rate increases, we must scrutinize and exercise our investigatory ingenuity to insure utilities operate productively and efficiently.” The Proposed Decision’s authorization of post-test year increases are demonstrative of the very “rubber stamping” the Commission strives to avoid.¹³

The Indicated Shippers stated the following in their comments:

The Proposed Decision purports to rely on “specific O&M and capital requests” authorizing “only necessary and reasonable costs.” The Proposed Decision is in error either factually, in relying on costs specifics which are not in the record, or legally, in relying on a sparse level of detail which does not meet the Commission’s standards. As Indicated Shippers’ witness pointed out, with a few exceptions “SoCalGas did not provide any cost models or cost/benefit justification that demonstrates the reasonableness of or need” for the 16 largest Risk Assessment and Mitigation Phase (RAMP) projects despite diligent discovery efforts. While the Indicated Shippers have not challenged each and every unexplained expense, this fact should bring skepticism in the Commission’s adoption of a final decision.¹⁴

In the following sections of this application for rehearing TURN provides several examples of the failure of the Decision to apply proper legal standards. Some issues, such as the issue of overhead pools, provide a clear example where the trier of fact accepted the utility’s expert opinion despite a lack of even “substantial evidence” to support the findings. Other examples illustrate areas where it appears that the Decision either does

¹³ Comments on the Proposed Decision of the City of Long Beach, September 11, 2019, p. 7 (footnotes omitted).

¹⁴ Indicated Shippers Comments on Proposed Decision, September 11, 2019, pp. 2-3 (footnotes omitted).

not require the utility to meet its burden of proof, or in fact erroneously shifts the burden to the opposing side. In those sections TURN believes that the utility has clearly failed to demonstrate its case by a preponderance of the evidence, and the Decision's authorization of the requested rate increases violates the Commission's own policies and constitutes arbitrary and capricious decision-making.

B. The Decision Approved a Cost Forecast For “Overhead Pools” That Was Based On a Factually Erroneous Premise and a Lack of Evidence, Thus Resulting in Unlawful Arbitrary Decision-Making (Section 21.2.3.7)

1. TURN'S Unrebutted Evidence Showed that the Requested Budget for Overhead Pools Was Based on an Erroneous Assumption

SDG&E requested \$162.491 million for “overhead pools,” an increase of 235% over the 2016 recorded cost of \$69.3 million. Overhead pools are capital costs for certain indirect costs, including local engineering, department overhead, substation engineering, and contract administration, which do not fit neatly into the tasks for a specific project and are allocated to capital projects based on one or more indirect factors. Almost 90% of the costs are for engineering design work related to electric distribution and substation capital projects.¹⁵

In its direct testimony, SDG&E stated that “the forecasts in the labor and non-labor areas of these local engineering pools are based on historical information with a trend applied to synchronize the pool forecasts with the overall increases in projected work for the entire Electric Distribution area and the distribution portion of the Electric Substation

¹⁵ Ex. 74, p. AFC-69, Table AFC-10. The entire portion of the Sempra direct testimony (Exhibit 74 in the record) addressing this issue is attached in Appendix A.

projects and related activities, respectively.”¹⁶ In subsequent sections addressing each of the four pools, SDG&E repeats the statement that the forecast “is derived from the base year expenditure with a net upward adjustment based on a historical relationship of Local Engineering – electric distribution capital overhead to capital expenditures.”¹⁷ The 45 pages of workpapers provide absolutely no additional explanation, as each of the four pools has the an almost identical explanation to the following: “The forecast for Local Engineering - Substation pool is derived from the Base year expenditures with a net upward adjustment based on the increase of Substation related capital expenditures in terms of percentages. The pool tracks the historical relationship between the engineering support requirement and the related capital driven projects.”¹⁸

Based on this language, one might assume that SDG&E did a study of the “historical relationship” between the overhead pool costs and the underlying capital expenditures. But no. SDG&E simply assumed a direct linear relationship and increased overhead pools by the percentage increase in forecast capital expenditures.¹⁹

To test SDG&E’s assumed linear relationship TURN obtained the actual cost data and analyzed the “historical relationship” between capital costs and pool costs for 2012-2016. The analysis showed that in reality there was little relationship in most years between capital cost increases or decreases and the costs attributed to a particular pool, and that

¹⁶ Appendix A, p. AFC-68.

¹⁷ Appendix A, p. AFC-70:16-18.

¹⁸ Ex. 75 in the record, p. 394. The entire pools section is contained at pages 382-427 of Exhibit 75. TURN does not attach this exhibit as there is no additional relevant information.

¹⁹ Ex. 490 (TURN-01, Borden Testimony), p. 13:20-26. The entire portion TURN’s direct testimony addressing this issue is attached in Appendix B.

historical growth in capital expenditures is essentially uncorrelated to growth in pool costs.²⁰ In fact, three of the four overhead pools had a negative correlation of capital to overhead pool expenses for 2012-2016 expenditures, indicating that even when relevant capital costs rise, overhead costs may go down, as illustrated in the following table:

Table 1: Calculated Correlation of Capital to Pool Overhead Costs 2012-2016²¹

Pool	Correlation Coefficient
Local Engineering Pool (901)	-0.30
Local Engineering Substation Pool (904)	-0.68
Department Overhead Pool (905)	-0.22
Contract Administration Pool (906)	0.90

The correlation coefficient of capital to overhead costs for 2012-2016 shows that the actual 2012-2016 correlations are weak *and negative* for all but the contract administration pool.²² While the contract administration pool shows a high positive correlation, even for this pool the correlation was slightly negative for two of the four periods of time examined. Moreover, almost 90% of the costs are associated with the local engineering pool and the local engineering substation pool, both of which showed negative correlations with capital expenditures.

²⁰ Appendix B, p. 14:1 – 19:17, and Figures 5 through 8.

²¹ Appendix B, p. 19, Table 5.

²² *Id.*

TURN's analysis showed that SDG&E's assumption of a linear relationship was entirely disproven by the historical data for 2012-2016, and SDG&E proffered no evidence suggesting that the future would be different. TURN thus recommended that the forecast be based on the five-year historical average of \$71.030 million, a reduction of \$91.461 million for the test year and \$49.356 million for 2018.²³

In its rebuttal testimony, included as Appendix C to this application, SDG&E asserted that it "believes" its method is more accurate and stated that "overhead pools are also expected to be substantially more than the historical average due to new projects" needed to address reliability and fire safety.²⁴ SDG&E did not dispute TURN's analysis; did not claim that the data set was too limited; did not claim that things have changed dramatically since 2016.²⁵ Rather, SDG&E completely ignored the factual analysis conducted by TURN and simply repeated its "belief" that overhead pools increase linearly with capital expenditures, despite concrete evidence disproving this belief.

2. The Commission Authorized SDG&E's Forecast of \$162 million for Overhead Pools Based on Erroneous Utility Assertions

The Decision addresses this entire dispute concerning the \$162 million in forecast 2019 capital costs for overhead pools in two sentences:

²³ Appendix B, p. 20, Table 6.

²⁴ Ex. 76, p. 46:14-20. The entire portion of the Sempra direct testimony (Exhibit 74 in the record) on this issue is attached in Appendix C.

²⁵ In direct testimony, SDG&E did claim that industry trends have increased the use of detailed engineering studies, rather than relying solely on standards. SDG&E did not provide any explanation of when such "industry trends" commenced or how they have impacted the supposed "historical relationship" between pools and capital expenditures.

TURN proposes using historical averages to calculate the forecast for Overhead Pools but we agree with SDG&E that because of an increase in construction activities, using historical values may not be reflective of projected costs for Overhead Pools.

Based on the above, we find SDG&E's forecast methodology to be reasonable.²⁶

Despite the direct factual evidence to the contrary, the decision simply accepts SDG&E's unsupported belief that "overhead pools are also expected to be substantially more than the historical average due to new projects forecasted and higher costs in this GRC cycle"²⁷

Adopting a forecast based on a false assumption or on evidence that is demonstrated to be false constitutes legal error. The Commission should grant rehearing to modify the decision to make it consistent with the record evidence and reduce the forecast for overhead pools.

C. The Decision Entirely Shifts the Burden of Proof onto TURN to Demonstrate How to Allocate Reasonable Edison Electric Institute (EEI) Membership Dues, When the Utility Refused to Provide the Necessary Data Concerning Those Dues (Section 33.2.4)

TURN challenged SDG&E's forecast of \$800,000 in membership dues for Edison Electric Institute (EEI) based on the utility's complete failure to disaggregate the amount of EEI costs associated with activities such as lobbying, legislative advocacy, regulatory advocacy, marketing, public relations, advertising, donations, and club dues. This

²⁶ D.19-09-051, p. 287.

²⁷ Appendix C, p. AFC-46:16-18.

Commission has denied funding of such activities by ratepayers for at least the past twenty-five years.²⁸ TURN had requested the information necessary to disaggregate the costs from SDG&E, but not only did SDG&E fail to provide it,²⁹ it appears that SDG&E never even asked EEI for the more detailed information.³⁰ SDG&E only researched its existing invoices to determine the amounts “relating to influencing legislation” (reported for tax deductibility purposes),³¹ without providing any information regarding all the other categories of previously disallowed costs (regulatory advocacy, marketing, public relations, advertising, donations, and club dues).

In the recent decision regarding SCE’s test year 2018 rate case, this Commission disallowed **all EEI dues** because it found that the EEI invoice is not sufficient to allocate costs to ratepayers:

The EEI invoice however, is insufficient evidence to establish the portion of the invoice which should be recovered from ratepayers. SCE has failed to present supporting evidence which would enable us to determine how much EEI’s beneficial services should cost ratepayers. We find SCE has not met its burden to establish any portion of the EEI dues are recoverable from ratepayers.³²

²⁸ See, D. 96-01-011 pp. 153-156 (Note that the Commission did not adopt an FEA-proposed adjustment for donations and club dues because SCE had already adjusted them out, not because such an adjustment was unwarranted.); See, also, D.14-08-032, p. 262 (denying rate recovery of 43.3% of EEI dues for the same categories of cost that were rejected in 1996); D.15-11-021, pp. 363-366 (authorized rate recovery of \$1 million for EEI dues, representing 49% of the total dues amount, and a reduction of 32% as compared to SCE’s original request); D.19-05-020, p. 250, Finding of Fact 189, and Conclusion of Law 158 (denying rate recovery of all dues because “[t]he EEI invoice ... is insufficient evidence to establish the portion of the invoice which should be recovered from ratepayers.”)

²⁹ Ex. 364 (SDG&E-230 – Human Resources Department, et al.), p. C-1 (TURN DR 19-07).

³⁰ Ex. 258 (SDG&E Response to TURN Data Request 74-2).

³¹ Ex. 364 (SDG&E-230 – Human Resources Department, et al.), Appendix C, pp. C-2 and C-4.

³² D.19-05-020, p. 250.

The Commission found that having an invoice concerning the amount of dues dedicated to taxable political advocacy is by itself not sufficient to determine the reasonableness of any amount of EEI dues, given all the other categories that should be disallowed.

In contrast, Decision 19-09-051 finds that SDG&E's presentation of invoices from EEI that indicate that 13% of the dues were spent on "lobbying activities" is sufficient to demonstrate the reasonableness of all remaining EEI dues, and the Decision authorizes \$774,000 of the \$800,000 requested for EEI dues, including an unexplained increase of \$200,000 above the base year recorded.³³

Even though TURN requested the necessary information from SDG&E, and SDG&E failed to provide such information, D.19-09-051 places the entire burden on TURN:

In this case however, TURN does not present any data or alternate means of calculating the portion of membership dues that is to be excluded because they are spent on activities that do not benefit ratepayers such as lobbying. TURN suggests other activities that may be performed which may be subject to exclusion but does not identify specific activities or a way to calculate the amounts that may correspond to these if they are being performed.³⁴

Faulting TURN for not providing an alternative means of calculating the proper amount of EEI dues that should be paid by ratepayers directly contravenes the Commission's ostensible use of the preponderance of the evidence standard for an affirmative utility showing of the reasonableness of its request, and thus constitutes legal error.

³³ D.19-09-051, p. 583.

³⁴ D.19-09-051, p. 583.

D. The Decision Disregards Undisputed Historical Cost Data and Shifts the Burden of Proof in Approving the Forecast for Maintenance Operations for Fleet Services (Sections 24.1.4 and 24.2.5)

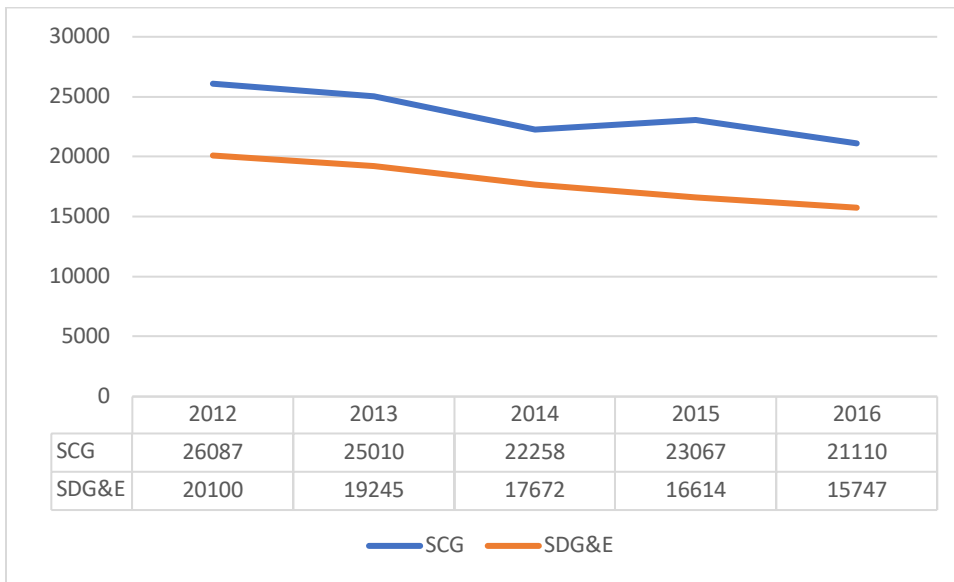
The maintenance operations forecast includes both the costs of routine maintenance of fleet vehicles and the fuel costs for the vehicles. The Decision adopted a forecast of \$24.421 million for SoCalGas³⁵ and \$18.514 million for SDG&E,³⁶ for a total of about \$42.9 million, based on a five-year (2012-2016) average of recorded costs, minus certain small adjustments. ORA, supported by TURN, had proposed using the three-year (2014-2016) average with certain small adjustments, resulting in a forecast of \$22.629 million for SoCalGas and \$17.182 million for SDG&E,³⁷ for a total of about \$39.8 million. The basis for the three year forecast was due to the significant five-year downward trend in costs after 2013, as illustrated in the Figure below:

³⁵ D.19-09-051, pp. 398-400.

³⁶ D.19-09-051, pp. 414-415.

³⁷ Ex. 413 (ORA-18), p. 10 (SDG&E) and Ex. 414 (ORA-19), p. 12 (SCG).

Figure 1: Maintenance Operations Expenses 2012-2016³⁸



The Decisions adopts Sempra’s forecasts for the following reasons: (1) “a five-year average better captures the highs and lows of historical costs as opposed to a three-year average since there are more years of data that are included and considered,” (2) the difference between 2012-13 and 2014-16 costs was “not significant enough to indicate that there was a drastic change in costs,” and (3) due to the fact that “Parties also did not cite to any change in operations or other reasons that would lead us to conclude that there has been a permanent shift in costs.”³⁹

The figure above clearly illustrates that any reasonable forecast should rely on the later years of the period or on a trend analysis, and that the annual cost differences are not at all random increases or decreases that would warrant a long-term average.⁴⁰ The

³⁸ Source: SDG&E and SCG work papers as reproduced in Ex. 413 (ORA-18), Table 18-14 and Ex. 414 (ORA-19), Table 19-14.

³⁹ D.19-09-051, pp. 398-399.

⁴⁰ For example, D.00-02-046, Sec. 7.2.3.4; D.04-07-022, pp. 215-216; .

difference between using a three-year versus a five-year average is about \$3 million.⁴¹

While TURN understands that this is small potatoes in the utility world, TURN suggests that “in the real world” a difference of three million dollars is “significant enough.” Most importantly, the Decision shifts the burden onto intervenors to demonstrate that “there has been a permanent shift in costs,” rather than requiring the utility to demonstrate that there is a basis to deviate from the clearly evident historical trend, presumably based on expected changes in underlying cost drivers.

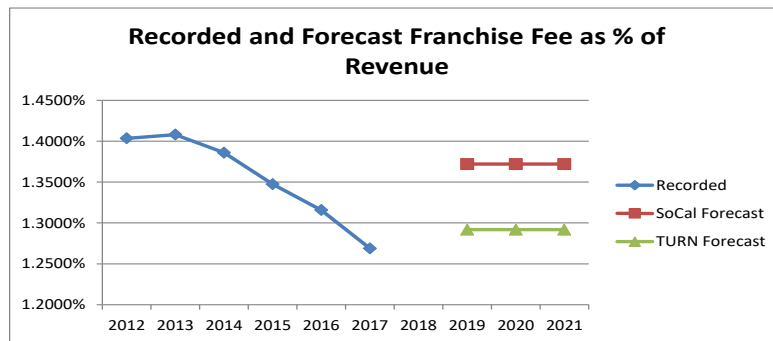
Arbitrarily shifting the burden onto intervenors is an abuse of discretion and constitutes legal error. The Commission should grant rehearing to properly apply the burden of proof and determine whether the utility had provided any data to warrant departing from a trend or three-year average forecasting method.

E. The Decision Disregards Undisputed Historical Cost Data and Shifts the Burden of Proof in Approving the Forecast for SoCalGas Franchise Fees (Section 38.1.4.1)

SoCalGas used a five-year average to determine a franchise fee percentage. TURN found that the recorded data demonstrate that actual franchise fees have consistently declined each year from 2013-2017:

⁴¹ Indeed, TURN could have calculated a lower forecast based on a trending analysis, but TURN has conservatively used a three-year average in situations where there is no clear explanation that the downward trend will continue. *See, for example*, D.06-05-016, pp. 97-98 (use of a three-year trend may be suspect in face of other evidence).

Figure 2: Franchise Fee Percentages 2012-2016⁴²



The recorded data for the 2012-2016 period demonstrate a marked and consistent downward trend, which would result in a lower franchise fee percentage and a reduction in the expense forecast of about \$2.335 million.⁴³ The Decision does not at all deny the facts, but simply concludes that SoCalGas’ five-year average is “reasonable” because it was the method applied in recent GRCs, and because TURN did not “provide a compelling reason to deviate from this practice.”⁴⁴

The fact that the five-year average was used in a prior GRC, where the factual evidence supported use of that method, does not establish the reasonableness of that method given the factual evidence in the present case. Once again, rather than requiring the utility to meet its burden to prove why the forecast should depart from the clear historical trend, the Decision inexplicably shifts the burden to the intervenor to explain the nature of the cost history and to prove that the future will correspond to the recent past.

⁴² Source: Ex. 494 (TURN-03 – Marcus Testimony), p. 96, Figure 4.

⁴³ Ex. 494, p. 97.

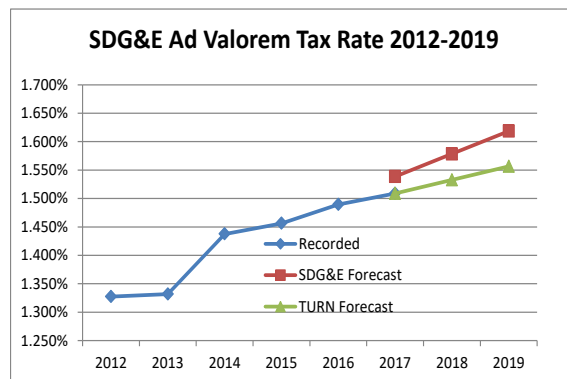
⁴⁴ D.19-09-051, p. 641.

Here, the Proposed Decision’s outcome and implicit finding are not supported by substantial evidence in the record, and the Commission should grant rehearing to properly apply the facts and the burden of proof.

F. The Decision Disregards Undisputed Historical Cost Data and Erroneously Shifts the Burden of Proof in Approving the Forecast for SDG&E Property Taxes (Section 38.2.2.1)

Similarly to the previous examples, SDG&E used a five-year average to calculate a tax rate to derive 2019 property taxes. TURN considered the recorded data and found that the jump from 2013 to 2014 appeared to be an unusual one-time event:

Figure 3: SDG&E Property Tax Rates 2012-2016⁴⁵



Based on these data, TURN recommended that the trend from 2014-2016 be used, rather than the trend from 2012 to 2016. The result would be a decrease of about \$4.2 million in the forecast tax expense.

The Decision acknowledges that reliance on a shorter period is appropriate in some circumstances, but finds TURN did not provide sufficient analysis “such as a comparison

⁴⁵ Ex. 494 (TURN-03, Marcus Testimony), p. 92, Figure 3.

of the different tax rates from year-to-year or an analysis as to why it considers the rate for 2013 to be unusually high or why the result falls outside normal fluctuations that may occur from year-to-year.”⁴⁶ But the historical data sufficiently illustrates that TURN’s recommended rate of 1.556% is consistent with normal fluctuations in all years other than the anomalous increase from 2013 to 2014. Once again, in the face of anomalous data, the Decision shifts the burden onto intervenors to prove the inconsistency was unusual rather than requiring SDG&E to demonstrate that a similarly large unusual increase would likely be experienced during this rate case cycle.

G. Not Holding the Utility Accountable for Meeting Its Burden to Demonstrate the Reasonableness of Its Request Will Have Serious Negative Consequences for Utility Showings in Future Rate Cases

TURN regularly litigates the rate cases of all four major energy utilities. We have consistently found the showings of the Sempra energy utilities to be the least informative and transparent. In this case, one of TURN’s witnesses recommended that the Commission instruct the utility to provide such basic minimum information as the recorded costs and number of units installed for electric distribution capital projects in work papers, to make evaluation of “budget-based” requests even possible.⁴⁷ The utility’s showing, at least in some areas, appeared designed to hide the ball rather than to provide the evidence to support the utility’s requests for higher spending. The Decision does not even address this basic issue.

⁴⁶ D.19-09-051, p. 644.

⁴⁷ Ex. 490 (TURN-01, Borden Testimony), pp. 5-7.

Instead of holding the utility accountable, D.19-09-051 rewards the utility by consistently “agreeing” with utility expert opinions and assertions, even when the utility failed to support those assertions. TURN understands there is a certain chicken and egg problem at work. The “forecast test year” rate case is a regulatory device intended primarily to reduce cost risk for the utility by authorizing rate increases based on utility projections, rather than simply using a “historic test year” as is done in many jurisdictions. Obviously, a utility may not always be able to “prove” its future intentions or plans, when those involve increased work. However, the utility can and should provide at least some data or evidence regarding cost drivers - demonstrating the need for installing more widgets than has ever been done before, or the need for hiring new staff to provide service at levels not achieved before. The Commission should not take any and every utility “forecast” as reliable, just because it comes from the utility. One would hope the Commission would be especially sensitive when the utility has repeatedly forecast higher costs in the past, and has repeatedly spent less than those forecasts.⁴⁸

By agreeing with utility unsubstantiated assertions and forecasts, the Commission is rewarding the utility for its poor showing, and for its failure to provide the best available relevant data. The forecast test year ratemaking process is different from the historic test year process, in that the Commission must evaluate the reasonableness of a forecast. Historically, such forecasts primarily entailed the evaluation of historic data using appropriate averaging or trending methods. However, the utilities have more and more

⁴⁸ Just as one example, TURN provided data showing that SDG&E spent \$275 million less than authorized for electric distribution capital in the last rate case cycle, but is now requesting **more than a doubling** of expenditures in 2019 than spent in 2016. Ex. 490, p. 2.

“adjusted” those historic data by claiming the need for significant cost increases due to “new” programs or due to large “expansions” of existing programs, resulting in “budget-based forecasting.” Evaluating the validity of those claims requires accurate and complete historical data, as well as historic and forecast data on the “cost drivers” which ostensibly require the program expansion. Unfortunately, it is TURN’s impression that other utilities may be more inclined to follow in Sempra’s path, and provide less meaningful data and information. Decision 19-09-051 provides the utilities with the green light to hide behind their “subject matter expert opinion,” rather than to justify their requests with meaningful information and evidence.

IV. THE DECISION COMMITS ARBITRARY AND CAPRICIOUS DECISION-MAKING AND IS CONTRARY TO FACTUAL EVIDENCE IN ITS RATEMAKING TREATMENT OF SHORT TERM INCENTIVE COMPENSATION COSTS ALLOCATED FROM THE CORPORATE CENTER FOR BOTH EXECUTIVE AND NON-EXECUTIVE COMPENSATION (SECTIONS 29.3.6 AND 31.1.6)

The Decision appropriately disallows that portion of the costs of SDG&E’s and SCG’s non-executive Incentive Compensation Plan (ICP) that is tied to financial metrics, finding that these metrics “primarily benefit the utilities and its shareholders.”⁴⁹ However, the Decision apparently declines to reduce the portion of the non-executive ICP costs allocated from the Sempra Corporate Center to the utilities based entirely on the contention that TURN “did not elaborate what components or what percentage thereof of the Corporate Center ICP are to be excluded.”⁵⁰

⁴⁹ D.19-09-051, p. 543.

⁵⁰ D.19-09-051, p. 544.

This finding constitutes factual error, since TURN actually did specify what components of Corporate Center ICP allocations should be disallowed, both in its direct testimony⁵¹ as well as in its Opening Brief.⁵² TURN's Opening Brief explained that Corporate Center non-executive ICP allocations should be reduced by \$4,148,000 for SDG&E and \$5,198,000 for SCC.⁵³

Moreover, even if TURN had not provided specific recommendations on amounts to disallow, this outcome would be legal error for two reasons. First, it is legal error to arbitrarily require ratepayers to pay for incentive compensation related to financial metrics when it is allocated from Corporate Center costs, while the Decision finds that such compensation is inappropriate to include in rates when paid to utility employees. Second, it is erroneous to require ratepayers to pay costs *deemed unreasonable* by the Decision simply because the Commission concludes that the intervenor who raised the issue did not calculate the amount of costs to be excluded. Of course, as explained above, this was not the case here.

The Decision is also arbitrary in not addressing executive ICP allocated from the Corporate Center. While Section 706 disallows cost recovery of utility executive compensation, the Commission has interpreted the statute to apply only to utility executives, not to the executives of the parent company, Sempra Energy.⁵⁴ The Decision

⁵¹ Ex. 498 (TURN-05, Jones Testimony), p. 65, 74-75 (Table 23 & 24) and p. 77 (Table 27 & 28).

⁵² See, TURN Opening Brief, pp. 233-235 and 238-240 (TURN explained that "because 100% of the non-executive ICP target at Sempra Energy is weighted on Sempra Energy earnings, TURN recommends no ratepayer funding for these activities.")

⁵³ See TURN Opening Brief, p. 233, Table 5 and p. 235, Table 7.

⁵⁴ Resolution E-4963.

appears to ignore TURN's arguments on this issue,⁵⁵ which were provided in both testimony and briefs.⁵⁶ The Decision's outcome is thus not supported by substantial evidence, and is contrary to the Decision's finding that "financial metrics primarily benefit the utilities and their shareholders."⁵⁷ TURN's testimony provided analysis justifying a reduction of the Corporate Center executive ICP allocated to the utilities by \$789,000 for SDG&E and \$1,012,000 for SCG,⁵⁸ resulting in a reasonable allocation of \$0.89 million to each utility.

V. THE DECISION COMMITS LEGAL ERROR BY AUTHORIZING COST RECOVERY FOR VOLUNTARY DONATIONS (SECTIONS 34.1.6 AND 34.2.6)

The California Supreme Court held in 1965 that "the policy adopted by the commission to exclude such contributions from operating expenses for rate-fixing purposes is correct."⁵⁹ The Supreme Court explained why this Commission was correct in excluding various charitable contributions, dues and donations from rates, since it would be unfair to force ratepayers of a monopoly utility to pay for the monopoly's charitable contributions, and that a utility is not "authorized to exact from its customers payments in lieu of taxes."⁶⁰ The Commission has consistently complied with this Supreme Court

⁵⁵ D.19-09-051, p. 517, Section 29.3.6.1. The omission may have been inadvertent given the confusing juxtaposition of Corporate Center costs (Section 29) and Compensation (Section 31.1); however, TURN did flag this very issue in our comments on the proposed decision.

⁵⁶ Ex. 499 (TURN-05 Atch), p. 129; and TURN Opening Brief, p. 239-240, Tables 10 & 11.

⁵⁷ D.19-09-051, p. 752, FOF 234.

⁵⁸ See TURN Opening Brief, p. 239-240, Tables 10 & 11.

⁵⁹ *Pacific Tel. & Tel. Co.*, 62 Cal.2d 634, 669 (1965).

⁶⁰ *Id.* at 668-669.

holding by excluding from rates charitable donations and miscellaneous dues to charitable and civic organizations.⁶¹

The Decision finds that “reasonable memberships in certain clubs and chamber of commerce groups help foster SoCalGas’ relationships with local businesses, chamber of commerce groups, and the local community,”⁶² and permits the Sempra Utilities to recover in rates costs associated with miscellaneous dues and donations and costs of sponsoring charitable and civic events.⁶³ For more than a half century the Commission has recognized that “fostering relationships” with local communities is not a sufficient rationale to warrant including such costs in the authorized revenue requirement. The Decision runs contrary to a long line of precedent and to the Supreme Court’s holding, and thus constitutes legal error.

VI. THE DECISION IGNORES COMMISSION PRECEDENT IN ITS TREATMENT OF CUSTOMER DEPOSITS

This Commission has repeatedly authorized deviating from the rules regarding the treatment of interest-bearing accounts in the working cash calculation as adopted by Standard Practice U-16, adopted in 1969. The Commission explained in the 2004 SCE decision:

As the Commission has previously held, U-16 is only a guide, and deviations are appropriate where circumstances warrant. TURN has demonstrated that such is the case here, since customer deposit

⁶¹ D.04-07-022 (SCE 2003 GRC), pp. 34 (“It is well established that dues, donations, and contributions are not eligible for ratepayer funding.”) and 199.

⁶² D.19-09-051, p. 590.

⁶³ D.19-09-051, pp. 590-591 and 596-597.

amounts are no longer small, while interest rates are relatively low compared to rates of return.⁶⁴

The Commission thus modified the treatment of customer deposits for SCE (since 2004) and for PG&E (since 2014), based on the fact that two key factual elements – the spread between short term interest rates and utility rates of return and the large and consistent balances of customer deposits – have changed dramatically since 1969 and warrant deviating from SP U-16. The undisputed evidence in this case establishes that SoCalGas has access to consistent monthly balances of over \$73 million, SDG&E has consistent monthly balances that exceed \$65 million, and the commercial paper rate is in the 2% range.⁶⁵ Like PG&E, SoCalGas and SDG&E each have a consistent monthly balance of customer deposits that can and should be treated as a source of capital. The utilities' rebuttal testimony fails to provide any evidence to support their contention that the Sempra utilities should be treated differently from either SCE or PG&E.⁶⁶

The Decision in this case ignores this entire factual and policy history, and dismisses the issue in two sentences: "However, the ratemaking treatment for customer deposits provided in SP U-16 remains unchanged as of this time and we find it more reasonable to simply apply this rule. Therefore, we find that properly excluded [sic?] interest-bearing customer deposits from working cash."⁶⁷ While TURN does not suggest that this conclusion is necessarily arbitrary and capricious, it certainly ignores the valid factual

⁶⁴ D.04-07-022, pp. 253-254. The Commission reaffirmed this outcome for SCE this past May. D.19-05-020, pp. 310-311.

⁶⁵ Ex. 494 (TURN-03 – Testimony of William Marcus), pp. 116-117.

⁶⁶ Ex. 175 (SCG-238 – Working Cash Rebuttal), p. 9; Ex. 178 (SDG&E-236 – Working Cash Rebuttal), p. 11.

⁶⁷ D.19-09-051, p. 655.

justifications for deviating from SP U-16 that have guided the Commission in its decisions concerning SCE and PG&E. TURN notes that SCE is already claiming, in its current rate case A.19-08-013, that D.19-09-051 constitutes a policy reversal that warrants reconsidering the outcome reached in D.19-05-020.

VII. CONCLUSION

Consistent with the above discussion, TURN respectfully requests that the Commission grant rehearing of D.19-09-051 in order to: 1) modify the findings concerning the identified issues so as to reach outcomes consistent with the substantial record evidence, 2) properly apply the burden of proof, and 3) correct other identified legal errors. Alternatively, TURN recommends that the Commission grant rehearing to obtain additional evidence on the relevant issues to ensure that the findings are consistent with the law.

TURN looks forward to a response from the Commission in accordance with the sixty-day timeline established by § 1733(b).

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October 31, 2019

Respectfully Submitted



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APPENDIX A

Sempra Direct Testimony re. Overhead Pools (Ex. 74)

Company: San Diego Gas & Electric Company (U 902 M)
Proceeding: 2019 General Rate Case
Application: A.17-10-_____
Exhibit: SDG&E-14

SDG&E

DIRECT TESTIMONY OF ALAN F. COLTON

(ELECTRIC DISTRIBUTION CAPITAL)

October 6, 2017

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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I. Overhead Pools

1. Introduction

Capital projects incur certain costs that originate from central activities, which are subsequently distributed to those capital projects based on one or more factors, such as project direct labor, contracted invoice amounts, or total project direct costs. Examples of costs included in this category are engineering capacity studies, reliability analysis and preliminary design work. Many of these costs cannot be attributed to a single capital project and are thus spread to those projects that are ultimately constructed and placed into service. These central activity costs are also called ‘pooled’ or ‘indirect’ costs. My Electric Distribution capital project testimony presents capital project forecasts as direct labor and non-labor costs. SDG&E has shown pool costs as separate components starting in the TY 2008 GRC. The mechanics of the distribution of indirect costs onto these project direct costs, resulting in total project costs, is performed in the rate base model. The source of Contract Administration and Department Overhead indirect costs originating in the Electric Distribution functions at SDG&E are presented in my testimony and address those pooled costs that are ultimately distributed over capital projects, including both electric and gas distribution. I also present the source of capital indirect costs related to Local Engineering - Electric Distribution (ED) Pool and the distribution portion of the Local Engineering - Substation Pool. Indirect capital costs are applied consistently and uniformly to work done within a given category, such as Electric Distribution, for both collectible and non-collectible jobs.

Internally at SDG&E, more detailed engineering is being done for new facilities and for rebuilding electric infrastructure. Historically, distribution has been a standards-based business. With regulation changes and an increased focus on risk reduction, the need has arisen to perform more engineering than in the past. The forecasts in the labor and non-labor areas of these local engineering pools are based on historical information with a trend applied to synchronize the pool forecasts with the overall increases in projected work for the entire Electric Distribution area and the distribution portion of the Electric Substation projects and related activities, respectively. The forecasted increases in the three other major categories described above will have a significant impact on the Local Engineering - Distribution Pool.

Additional details including description, forecast method and cost drivers for each capacity/expansion project can be found in each budget code below.

TABLE AFC-10
Summary of Overhead Pools Budgets (\$'s in Thousands)

Budget Code	Description	ESTIMATED 2017	ESTIMATED 2018	ESTIMATED 2019
901	LOCAL ENGINEERING - ELECTRIC DISTRIBUTION POOL	60,788	81,200	97,618
904	LOCAL ENGINEERING - SUBSTATION POOL	13,948	25,924	48,346
905	DEPARTMENT OVERHEAD POOL	4,495	5,870	7,157
906	CONTRACT ADMINISTRATION POOL	5,872	7,392	9,370
	Totals	85,103	120,386	162,491

2. 901 - Local Engineering –ED Pool

The forecasts for the Local Engineering – Electric Distribution (ED) Pool for 2017, 2018, and 2019 are \$60,788, \$81,200, and \$97,618, respectively.

a. Description

This budget provides funding for the Local Engineering - ED Pool. This pool consists of planners, designers, and engineers, and support personnel who research, analyze, and design the facilities needed to serve customers. These persons address the engineering needs for new services, facilities relocations, overhead-to-underground conversions, capacity, and reliability projects. These persons also address the interaction with internal and external customers in preparing a work order package for construction. This pool includes the costs that will be allocated to electric distribution capital activities. Typical activities included in this account are:

- Communicating with internal and external customers to collect information necessary to prepare a work order package for construction;
- Performing load and sizing studies to determine the design characteristics to apply to a construction project;
- Developing a design for the construction project that meets the customer needs for service and the overall system design requirements. This design identifies the material, labor and equipment requirements necessary to complete the construction project;
- Coordination of the permitting and rights of way requirements;

- Preparing cost estimates per the line extension rules and presenting these estimates to the internal or external customer for their approval;
- Preparing contracts and processing fees for new business construction projects; and
- Preparing work order packages and transmitting them to the internal and external groups.

Local Engineering activities are required to see a project from inception to completion. Due to the volume of capital work that takes place on the distribution system, the most effective and efficient way to allocate the planning and engineering activities is using the overhead pools. It is not feasible to charge directly for each electric distribution job due to the tremendous volume of work orders. These capital overhead pool forecast values are referenced in the Rate Base testimony of Craig Gentes in Exhibit SDG&E-33, under budget code 901.

Information regarding the Local Engineering - ED Pool budget is found in the capital workpapers. *See* SDG&E-14-CWP at section 00901 – Local Engineering - ED Pool.

b. Forecast Method

The forecast for this pool is derived from the base year expenditures with a net upward adjustment based on a historical relationship of Local Engineering – electric distribution capital overhead to capital expenditures. Local Engineering – electric distribution support tracks the historical relationship between the engineering and support requirements and the related capital of Capacity/Expansion, Mandated, Reliability/Improvements, and Transmission/FERC Driven Projects (Expenditures for Meters & Regulators, Capital Tools, and the Smart Meter Program are excluded).

c. Cost Drivers

The underlying cost driver in the growth of expenditures for this Pool is due to industry trends increasing the use of detailed engineering studies or designs, instead of relying solely on standards. New advanced tools, like LiDAR and PLS-CADD, are also changing the way engineering and design work is done for electric distribution facilities.

3. 904 - Local Engineering -Substation Pool

The forecasts for the Local Engineering – Substation Pool for 2017, 2018, and 2019 are \$13,948, \$25,924, and \$48,346, respectively.

1 **a. Description**

2 This budget provides funding for the Local Engineering – Substation Pool. This pool
3 consists of planners, designers, engineers and support personnel who research, analyze, and
4 design the facilities needed to serve customers. These persons address the engineering needs for
5 substation projects. These persons also address the interaction with internal and external
6 customers in preparing a work order package for construction. This pool includes the costs that
7 will be allocated to electric distribution and transmission substation capital activities. Typical
8 activities included in this account are:

- 9 • Communicating with internal and external customers to collect
10 information necessary to prepare a work order package for construction;
11 • Performing load and sizing studies to determine the design characteristics
12 to apply to a construction project;
13 • Developing a design for the construction project that meets the customer
14 needs for service and the overall system design requirements. This design
15 identifies the material, labor and equipment requirements necessary to
16 complete the construction project;
17 • Coordination of the permitting and rights of way requirements;
18 • Preparing cost estimates according to the line extension rules and
19 presenting these estimates to the internal or external customer for their
20 approval;
21 • Preparing contracts and processing fees for new business construction
22 projects; and
23 • Preparing work order packages and transmitting them to the internal and
24 external groups.

25 Local Engineering activities are required to see a project from inception to completion.
26 Due to the volume of capital work that takes place on the distribution system, the most effective
27 and efficient way to allocate the planning and engineering activities is using the overhead pools.
28 It is not feasible to charge directly for each electric distribution/substation job due to the
29 tremendous volume of work orders. In the case of the Local Engineering – Substation Pool, only
30 the related substation activities are charged to this project. These capital overhead pool forecast

values are referenced in the testimony of Craig Gentes (Exhibit SDG&E-33, under budget code 904).

Information regarding the Local Engineering - Substation Pool budget is found in the capital workpapers. *See* SDG&E-14-CWP at section 00904 – Local Engineering - Substation Pool.

b. Forecast Method

The forecast for this pool is derived from the base year expenditures with a net upward adjustment based on a historical relationship of Local Engineering – substation capital overhead to capital expenditures. Local Engineering – substation support tracks the historical relationship between the engineering and support requirements and the related capital of Capacity/Expansion, Mandated, Reliability/Improvements, and Transmission/FERC Driven Projects (Expenditures for Meters & Regulators, Capital Tools, and the Smart Meter Program are excluded).

c. Cost Drivers

The underlying cost driver for this budget is capital substation work.

4. 905 - Department Overhead Pool

The forecasts for the Local Engineering – Overhead Pool for 2017, 2018, and 2019 are \$4,495, \$5,870, and \$7,157, respectively.

a. Description

This budget provides funding for Department Overheads. Costs included in this budget are for supervision and administration of crews in the SDG&E Construction and Operation (C&O) districts. Department Overhead is charged for expenses that are not attributable to one project, but benefit many projects, or the C&O districts. C&O managers, construction managers, construction supervisors, dispatchers, operations assistants and other clerical C&O employees charge this account. Construction field employees charge this account when meeting on multiple projects. The non-labor piece consists of administrative expenses such as: office supplies, telephone expenses, mileage, employee uniforms and professional dues. This pool includes the costs that will be allocated to distribution electric capital activities. These capital overhead pool forecast values are referenced in the testimony of Craig Gentes (Exhibit SDG&E-33, under budget code 905). Typical activities included in this account are:

- Management and supervision of construction personnel; and
- Scheduling, material ordering, and dispatching for construction personnel.

1 Information regarding the Department Overhead Pool budget is found in the capital
2 workpapers. *See* SDG&E-14-CWP at section 00905 – Department Overhead Pool.

3 **b. Forecast Method**

4 This forecast is derived by taking the base year expenditures and applying a net upward
5 adjustment based on a historical relationship of electric and gas distribution capital overhead to
6 capital expenditures. Department Overhead support tracks the historical relationship between the
7 support requirements and the related capital of Capacity/Expansion, Franchise, Mandated,
8 Materials, New Business, Reliability/Improvements, Safety and Risk Management, and
9 Transmission/FERC Driven Projects (Expenditures for Meters & Regulators, Capital Tools, and
10 the Smart Meter Program are excluded).

11 **c. Cost Drivers**

12 The underlying cost drivers in the Department Overhead Pool follow the costs in the
13 other capital categories.

14 **5. 906 - Contract Administration Pool**

15 The forecasts for the Local Engineering – Contract Administration (CA) Pool for 2017,
16 2018, and 2019 are \$5,872, \$7,392, and \$9,370, respectively.

17 **a. Description**

18 This budget provides funding for the CA Pool and consists of those expenses necessary
19 for the administration of projects that are performed by contractors at SDG&E. The expenses to
20 this pool consist of labor for Contract Administrators (CAs), Field Construction Advisors and
21 support personnel, as well as the associated non-labor support costs such as office and field
22 supplies. This pool includes the costs that will be allocated to contracted work. These capital
23 overhead pool forecast values are referenced in the testimony of Craig Gentes (Exhibit SDG&E-
24 33, under budget code 906). Typical activities included in this account are:

- 25 • Working with contractors to develop fixed price bids for construction
26 projects;
- 27 • Overseeing the contractor work to remove obstacles and verify work is
28 completed and complies with company standards;
- 29 • Approving contractor invoices for completed work; and
- 30 • Developing and administering contract units for unit priced contracts.

- The CA Pool consists of those expenses necessary for the administration of projects that are performed by contractors for SDG&E. Due to the volume of capital work that takes place on the electric distribution system, the most effective and efficient way to allocate the contract administration costs is using the CA Pool. It is not feasible to charge directly for each electric distribution job due to the tremendous volume of work orders.

Information regarding the CA Pool budget is found in the capital workpapers. *See* SDG&E-14-CWP at section 00906 – Contract Administration (CA) Pool.

b. Forecast Method

This forecast is derived from the base year Recorded expenditures with a net upward adjustment based on a historical relationship of contract administration overhead to capital expenditures. CA support tracks the historical relationship between the support requirements and the related capital of Capacity/Expansion, Franchise, Mandated, New Business, Reliability/Improvements, Safety and Risk Management, and Transmission/FERC Driven Projects (Expenditures for Meters & Regulators, Capital Tools, and the Smart Meter Program are excluded).

c. Cost Drivers

The underlying cost drivers for this budget follow the cost drivers described in all other capital categories.

APPENDIX B

TURN Direct Testimony re. Overhead Pools (Ex. 490)



CPUC Docket: A.17-10-007/008
Exhibit Number: TURN-01
Witness: Eric Borden

**PREPARED TESTIMONY OF
ERIC BORDEN**

**ADDRESSING THE PROPOSALS OF
SAN DIEGO GAS & ELECTRIC COMPANY AND
SOUTHERN CALIFORNIA GAS COMPANY IN THEIR
TEST YEAR 2019 GENERAL RATE CASE
RELATED TO ELECTRIC DISTRIBUTION CAPITAL, GAS TRANSMISSION OPERATION,
GAS MAJOR PROJECTS, CASH WORKING CAPITAL, AND CUSTOMER FORECAST**

Submitted on Behalf of

THE UTILITY REFORM NETWORK

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May 14, 2018

1 **c. Overhead Pools – Local Engineering (901), Local Engineering – Substation Pool**
2 **(904), Department Overhead Pool (905), and Contract Administration Pool**
3 **(906)**
4

5 SDG&E requests substantial increases in overhead “pool” costs, which SDG&E describes as
6 follows:

7
8 Capital projects incur certain costs that originate from central activities, which are
9 subsequently distributed to those capital projects based on one or more factors, such as
10 project direct labor, contracted invoice amounts, or total project direct costs. Examples
11 of costs included in this category are engineering capacity studies, reliability analysis and
12 preliminary design work. Many of these costs cannot be attributed to a single capital
13 project and are thus spread to those projects that are ultimately constructed and placed
14 into service. These central activity costs are also called ‘pooled’ or ‘indirect’ costs.²³
15

16 It is important to note that most individual project budgets include labor and non-labor costs to
17 accomplish the project. The costs at issue for the four overhead pools – local engineering,
18 department overhead, substation engineering, and contract administration - do not fit neatly
19 into the tasks of a specific budget item or project.

20 SDG&E’s forecasting methodology for each pool scales costs in a linear fashion
21 according to the requested capital cost increases.²⁴ Specifically, for each pool SDG&E sums the
22 total capital projects relevant to the pool for 2016 (recorded) and 2017-2019 (forecasted) on an
23 annual basis, and then calculates the growth in capital expenditures on a percentage basis for
24 each year. These percentage growth estimates are then applied to the 2016 (recorded) and
25 2017-2019 (forecasted) pool figures on an annual basis to derive the pool forecast budget
26 requests. This process is the same for all of the four overhead pools.²⁵

27 SDG&E assumes that each percentage increase forecasted for relevant capital
28 expenditures results in a percentage increase in pool overhead costs. It is akin to drawing a line
29 between data points and assuming the line itself represents the relationship between the two
30 variables, without taking into account any additional variables to indicate how well the line

²³ SDG&E-14 Testimony, p. AFC-68, lines 3-9.

²⁴ SDG&E-14 Testimony, p. AFC-68, lines 24-29.

²⁵ See SDG&E-14-R-CWP, pp. 394, 404, 414, and 422.

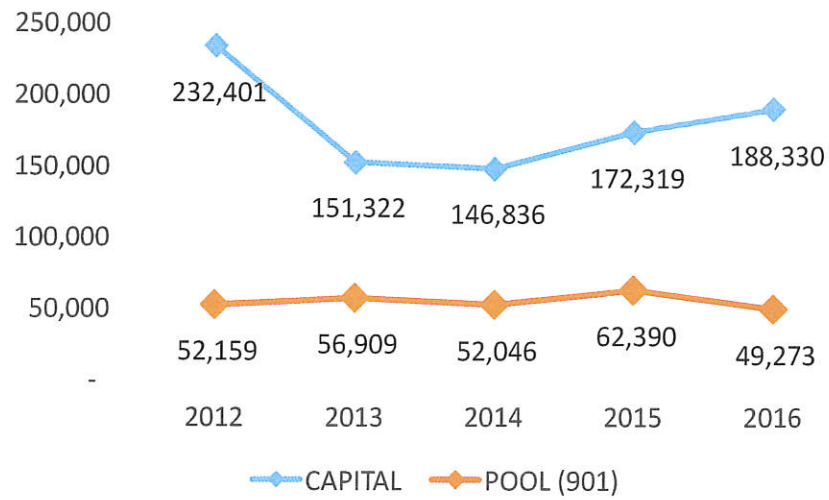
1 represents the actual relationship between the two points. TURN demonstrates below that this
2 assumed relationship is spurious – analysis of historical growth in capital expenditures
3 compared with growth in pool costs is essentially uncorrelated. In fact, the correlation is
4 negative for many years, indicating that even when capital costs rise, overhead costs may go
5 down. There is little relationship in most years between capital cost increases or decreases and
6 the costs attributed to a particular pool.

7 This is demonstrated in the figures below, where TURN presents historical data on the
8 relevant capital costs for each pool and the recorded pool costs for each year.²⁶ TURN then
9 calculated the percentage change from year to year for relevant capital costs versus the
10 overhead pool.

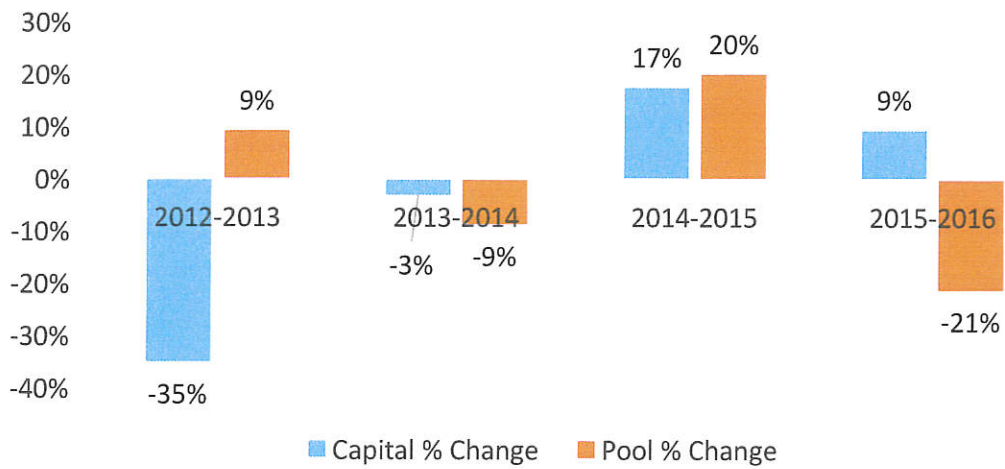
²⁶ Each overhead pool has specific budget codes designated as relevant capital costs. These budget codes overlap. TURN identified relevant budget codes from TURN-03, question 18, “OH Pools Supporting Tables” Excel attachment. Budget codes were used to identify historical costs presented by SDG&E in TURN-03, question 1, “ED Capital expenses” attachment. There are a few instances where SDG&E’s 2016 total capital expenditure did not match between these two sources. This was due to relatively minor internal inconsistencies between the OH Pool attachment and ED Capital Expense attachment. For example, budget code 81650 (Cleveland National Forest) shows \$7.2 million of capital spend in the TURN-03, question 1, “ED Capital expenses” attachment, but \$1.8 million in the “Detail May-17” tab of TURN-03, question 18, “OH Pools Supporting Tables.” TURN uses the “ED Capital expenses” totals for both capital and pool costs for consistency, unless otherwise noted.

1
2

Figure 5. Local Engineering Pool (901)
Relevant Capital versus Pool Costs (\$ 2016, Thousands)



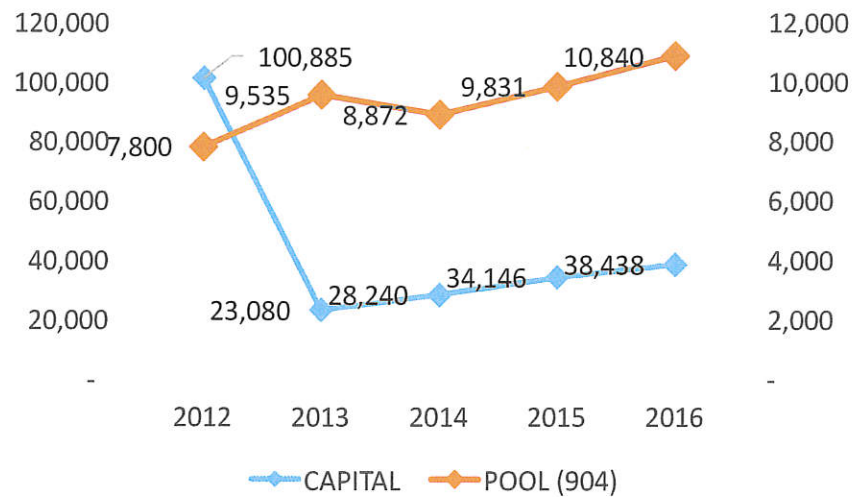
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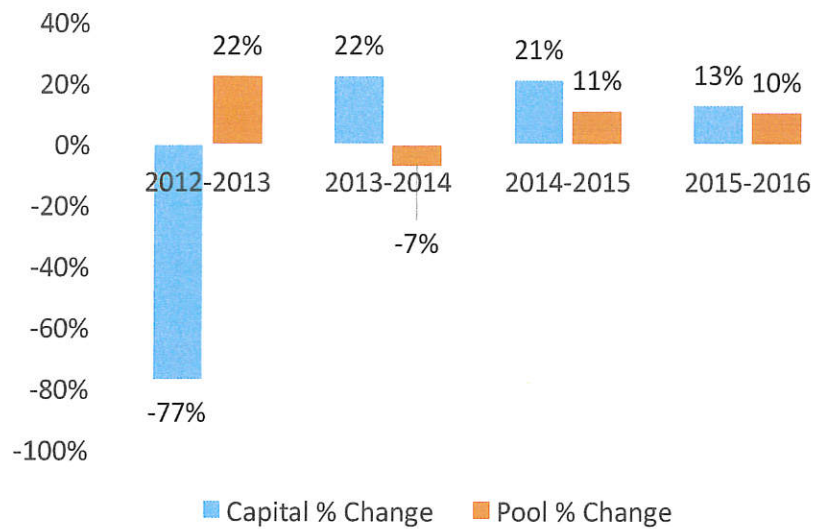
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Figure 6. Substation Pool (904)
Relevant Capital versus Pool Costs (\$ 2016, Thousands)

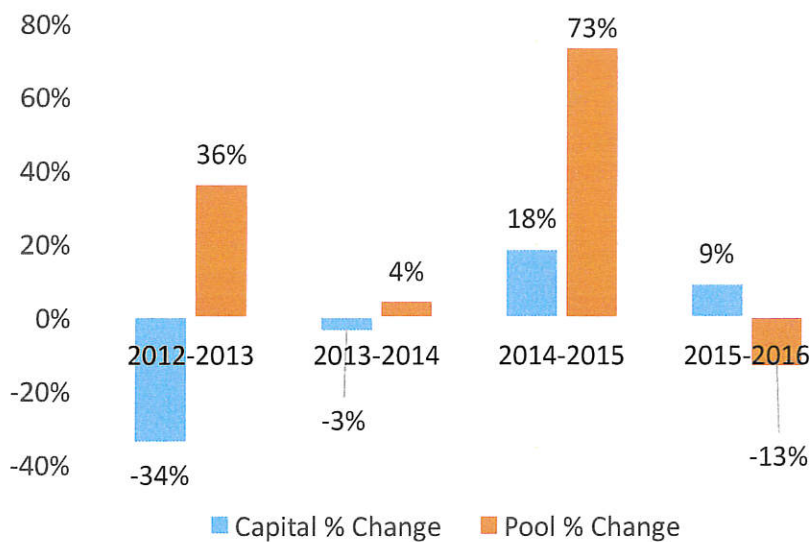
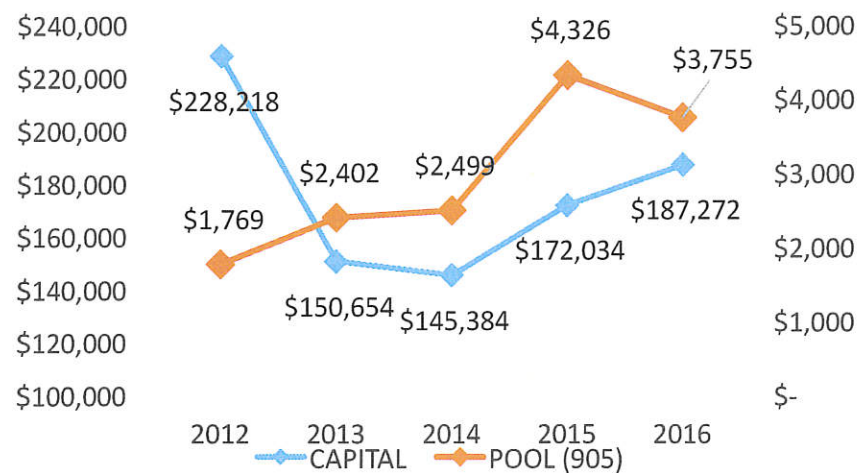


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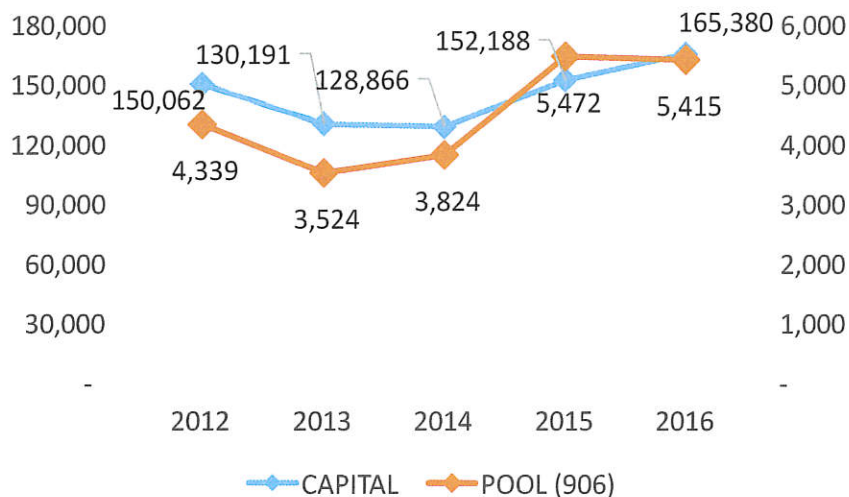
6
7

Figure 7. Department Overhead Pool (905)
Relevant Capital versus Pool Costs (\$ 2016, Thousands)

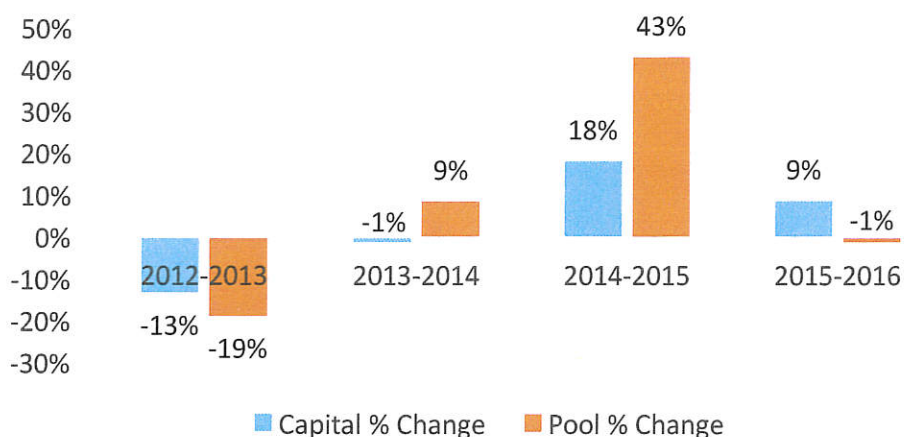


1
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Figure 8. Contract Administration Pool (906)
Relevant Capital versus Pool Costs (\$ 2016, Thousands)²⁷



3



4
5
6

SDG&E states for each of the four overhead pools that it “tracks the historical relationship between the engineering support requirement and the related capital driven projects.”²⁸

However, the historical relationship between capital cost increases (or decreases) and pool

overhead cost increases (or decreases), as shown above, does not demonstrate any consistent

²⁷ Contract Administration Pool (906) historical costs from DR TURN-037, question 1b, attachment and converted to 2016 dollars using the conversion factors provided in this DR. These historical costs were not included in the TURN-03, “ED Capital Expenses” attachment.

²⁸ See SDG&E-14-R-CWP, pp. 394, 404, 414, and 422.

positive correlation, as assumed by SDG&E in its forecast. For example, the local engineering pool's (901) relevant capital costs increased from 2013-2016 by 24%, while pool costs over the same time period actually went down 13%.

The lack of correlation between pool and capital costs was seen for all of the pools. TURN calculated the correlation coefficient of capital to overhead costs for 2012-2016, which examines the overall relationship (correlation) between two data sets, and found that the actual 2012-2016 correlations are weak *and negative* for all but the contract administration pool:

Table 5. Calculated Correlation of Capital to Pool Overhead Costs
2012-2016²⁹

Local Engineering Pool (901)	-0.30
Local Engineering Substation Pool (904)	-0.68
Department Overhead Pool (905)	-0.22
Contract Administration Pool (906)	0.90

The contract administration pool shows a high positive correlation. However, even for this pool the correlation was slightly negative for two of the four periods of time examined (see Figure 8 above), even though the overall correlation between the two data sets is strong based on this measure. However, given that three of the four overhead pools show a negative correlation to capital spending, SDG&E's methodology should not be utilized to forecast overhead costs.

Given the nature of historical data, the most appropriate method for forecasting a reasonable and sufficient overhead is to use a five-year historical average for each overhead pool, as calculated below.

²⁹ TURN identified relevant budget codes from DR TURN-03, question 18, "OH Pools Supporting Tables" Excel attachment. Budget codes were used to identify historical costs presented by SDG&E in TURN-03, question 1, "ED Capital expenses" attachment. TURN compared relevant capital costs to pool costs from this same attachment. Contract Administration Pool (906) historical costs from TURN-037, question 1b, attachment and converted to 2016 dollars provided in this DR. These historical costs were not included in the TURN-03, "ED Capital Expenses" attachment.

Table 6. Overhead Pool Disallowance Recommendation
Budget Codes 901, 904, 905, 906
\$ 2016, Thousands

<u>SDG&E</u>	<u>2018</u>	<u>2019</u>
Local Engineering Pool (901)	81,200	97,618
Local Engineering Substation Pool (904)	25,924	48,346
Department Overhead Pool (905)	5,870	7,157
Contract Administration Pool (906)	7,392	9,370

<u>TURN</u>	<u>2018</u>	<u>2019</u>
Local Engineering Pool (901)	54,555	54,555
Local Engineering Substation Pool (904)	9,010	9,010
Department Overhead Pool (905)	2,950	2,950
Contract Administration Pool (906)	4,515	4,515

<u>TURN-SDG&E</u>	<u>2018</u>	<u>2019</u>
Local Engineering Pool (901)	(26,645)	(43,063)
Local Engineering Substation Pool (904)	(16,915)	(39,337)
Department Overhead Pool (905)	(2,920)	(4,207)
Contract Administration Pool (906)	(2,877)	(4,855)
Total TURN-SDG&E	(49,356)	(91,461)

d. 4kV Substation Modernization (6260)

SDG&E states the 4kV substation modernization budget will be implemented over a 27 year period and “provides funding to remove from service a matured class of infrastructure that is often regarded throughout the utility industry as obsolete. Retaining 4 kV substations would exacerbate existing safety, operation and maintenance issues. Half of the substations are more than 50 years old, and replacement components for those substations are no longer available.”³⁰ SDG&E states safety issues arise because “the company is facing a shortage of

³⁰ SDG&E-14-R, p. AFC-84, lines 27-31.

APPENDIX C

Sempra Rebuttal Testimony re. Overhead Pools (Ex. 76)

Company: San Diego Gas & Electric Company (U 902 M)
Proceeding: 2019 General Rate Case
Application: A.17-10-007/008 (cons.)
Exhibit: SDG&E-214

SDG&E
REBUTTAL TESTIMONY OF ALAN COLTON
(ELECTRIC DISTRIBUTION CAPITAL)
JUNE 18, 2018

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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2. TURN

TURN takes issue with the capital forecast for the Overhead Pools category of capital projects, proposing that SDG&E's Overhead Pools be based on five-year historical averages for all four of the overhead pools.¹⁴⁵ TURN referenced actual expenditures in 2017, however, they made no recommendation regarding adjustments to SDG&E's 2017 forecast request in their testimony. Thus, it is assumed that TURN does not take issue with SDG&E's overall 2017 forecast request. TURN's proposed Overhead Pools budgets are shown in the table below:

**Table 16 – Summary of TURN's proposed
Overhead Pools budgets in comparison to SDG&E's request**

Overhead Pool	TURN Proposed 2018 - 2019	SDG&E Request 2018 - 2019	Variance 2018 - 2019
Local Engineering ED Pool (BC901)	\$109,110	\$178,818	-\$69,708
Local Engineering Substation Pool (BC904)	\$18,020	\$74,270	-\$56,250
Department Overhead Pool (BC905)	\$32,000	\$13,027	-\$7,127
Contract Admin. Pool (BC906)	\$9,030	\$16,762	-\$7,732

SDG&E believes its forecast methodology of calculating the growth in capital expenditures on a percentage basis for each year is the more accurate and appropriate methodology for Overhead Pools. Using historical average when forecasting for Overhead Pools is not the most accurate process, because the expected amount of work in the future may not be taken into account with an historical average. As discussed in Section IV.F (New Business) above, SDG&E has observed an uptick in construction work through the CU forecasts in 2017 that appears to be continuing in 2018 and into the foreseeable future. Overhead pools are also expected to be substantially more than the historical average due to new projects forecasted and higher costs in this GRC cycle for fire safety, risk mitigation and reliability capital projects. TURN's use of a longer term historical average is therefore inconsistent with SDG&E's expected need.

3. CUE

Although CUE does not propose specific expenditure increase/decrease recommendations for this category, CUE does propose increases to SDG&E's overall electric-related capital expenditures for 2019, which total \$97.185 million. CUE states that any of their proposals that

¹⁴⁵ Ex. TURN-01 (Borden) at 13.