



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Application 22-05-015

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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, 2024.

AND RELATED MATTER.

Application 22-05-016

**RESPONSE OF THE PUBLIC ADVOCATES OFFICE TO
PETITION OF SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) AND
SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M) FOR
MODIFICATION OF DECISION 24-12-074**

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I. INTRODUCTION

Pursuant to Rule 16.4(f) of the Rules of Practice and Procedure (Rules) of the California Public Utilities Commission (Commission), the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) responds to the petition of Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) (collectively, Sempra) for modification of Decision (D.) 24-12-074,¹ which addressed the Test Year 2024 general rate cases of SoCalGas and SDG&E.

In its Petition for Modification (PFM), Sempra requests that the Commission modify D.24-12-074 and use a seven-year average for Operations and Maintenance (O&M) expenses and capital-related costs for the post-test years 2025, 2026, and 2027, using recorded and forecasted capital additions for 2018 to 2024. Cal Advocates opposes Sempra's PFM because it requests that the Commission re-litigate issues already addressed in Sempra's general rate case (GRC) proceeding. Specifically, the parties

¹ Decision (D.)24-12-074, *Decision Addressing The 2024 Test Year General Rate Cases of Southern California Gas Company and San Diego Gas & Electric Company*, issued on December 23, 2024.

litigated the issue of Post-Test Year (PTY) funding in this GRC through testimony, an evidentiary hearing, briefing, and comments to the proposed decision. This request runs counter to the Commission's policy to only modify a decision in the presence of significant new facts or a major change in material circumstances, which are not present in this case.²

Additionally, Sempra's request to re-litigate the issue of PTY capital additions through its PFM also violates the due process of the parties to the GRC proceeding. Accordingly, the Commission should deny Sempra's PFM.

II. DISCUSSION

A. The Commission should deny the PFM because no new facts warrant its modification.

A petition for modification must comply with Rule 16.4 of the Commission's Rules of Practice and Procedure.³ Under Rule 16.4, a petition must:

...concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed.⁴

Allegations of new or changed facts must be supported by an appropriate declaration or affidavit.⁵ The Commission may only modify a decision if: (1) new facts are brought to the attention of the Commission, (2) conditions have undergone a material change, or (3) the Commission proceeded on a basic misconception of law or fact.⁶ The Commission has interpreted section 1708, which authorizes Rule 16.4 (b), in light of its

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² D.17-120006 at 10; see D.92058, 1980 Cal. PUC LEXIS 785, *26.

³ D.17.12.006, *Decision Denying Petition for Modification of Decision 14-08-057*, issued on December 21, 2017, at 9.

⁴ CPUC Rule 16.4.

⁵ Rule 16.4 (b).

⁶ D.97-04-049, 1997 Cal. PUC LEXIS 427, *17.

discretion to reopen proceedings.⁷ The Commission has long recognized that this broad authority should be exercised with great care and justified only by extraordinary circumstances to protect parties from endless re-litigation of the same issues.⁸ The Commission “particularly disfavor[s] re-litigating issues due to the waste of Commission and parties’ resources.”⁹ Only a persuasive indication of significant new facts or a major change in material circumstances, which would create a strong expectation that the Commission would make a different decision based on these facts or circumstances, warrants the reopening of the proceedings.¹⁰

Sempra’s PFM does not satisfy the substantive requirements that originate in Section 1708.¹¹ The PFM fails to show how the alleged new facts would change the Commission’s decision on the seven-year average for capital additions. The parties already addressed the issue of PTY capital additions in their testimony, at the evidentiary hearing, in their briefing, and in their comments on the proposed decision (PD).¹² In the PD, the Commission states,

We adopt Cal Advocates’ and TURN-SCGC’s recommendations with a modification to increase the PTY GRC base margin revenue (O&M and capital revenue requirement) by 4 percent each year for years 2025, 2026, and 2027. This additional 1 percent increase provides SDG&E and SoCalGas with a reasonable opportunity to earn their respective authorized rate of return during the post-test year. This adjustment strikes a balance between denying utility-specific PTY attrition indices, and granting additional basis

⁷ Compare *City of Los Angeles v. Pub. Util. Comm’n*, 15 Cal. 3d 680, 707-08 & fn.45 (1975) (Section 1708 relates to reopening final decisions) with *N. Cal. Ass’n to Preserve Bodega Head & Harbor, Inc. v. Pub. Util. Comm’n*, 61 Cal. 2d 126, 135-136 & fn.5 (1964) (discretion to reopen proceeding under Section 1708).

⁸ D.17-12-006 at 9.

⁹ D.17-12-006 at 10.

¹⁰ D.17-120006 at 10; see D.92058, 1980 Cal. PUC LEXIS 785, *26.

¹¹ See PFM at Attachment A at A-1.

¹² See Docket A.22-05-015 consolidated with A.22-05-016; 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, 2024.

points, ensuring both just and reasonable returns for the utilities and affordable rates for ratepayers.”¹³

The Commission reasons that “. . . continuing to allow for automatic escalation of PTY O&M and capital costs in attrition years using the Global Insight index would allow rates to continue to increase unsustainably at an unjust and unreasonable pace, contrary to statutes requiring greater scrutiny of rates. . .”¹⁴ The PD further reasons, “. . . PTY revenue increases guided by the CPI [Consumer Price Index] serve as a reasonable benchmark, helping to moderate Utilities’ proposed cost increases.”¹⁵ Thus, the PD, after considering Sempra, Cal Advocates, and TURN-SCGC’s recommendations, among other factors, provides comprehensive reasons for its findings regarding PTY O&M and capital costs.

In addition to testimony, briefs, and evidentiary hearings, Sempra further advocated its position in its comments on the PD. Among other things, Sempra states, “the PD’s blanket O&M and capital 4% attrition rate is insufficient to fund incremental capital additions and is particularly concerning for the Gas Integrity Management and Wildfire Mitigation programs that are essential for infrastructure safety”.¹⁶ Sempra argues that “Escalating the TY 2024 revenue requirement fails to account for forecasted, required new capital spending and assets placed in service in the attrition years.”¹⁷

B. The Commission has already considered the issue and the facts presented in the PFM.

In D.24-12-074, issued on December 23, 2024, the Commission revised the PD to “to increase the PTY GRC base margin revenue (O&M and capital revenue requirement)

¹³ Proposed Decision Addressing The 2024 Test Year General Rate Cases of Southern California Gas Company and San Diego Gas & Electric Company (PD), Chapter 47 “Escalation and Post Test Year Ratemaking” at 889.

¹⁴ PD at 888.

¹⁵ PD at 889.

¹⁶ Opening Comments of Southern California Gas Company (U 904 G) and San Diego Gas & Electric Company (U 902 M) On the Proposed Decision in the Test Year 2024 General Rate Case (Sempra Opening Comments) at 9-10.

¹⁷ Sempra Opening Comments at 9-10.

by 3 percent each year for years 2025, 2026, and 2027 **plus additional increases for PTY wildfire mitigation capital exceptions.**” (Emphasis added.)¹⁸ The Commission changed a 4 percent escalation for PTYs in the PD to 3 percent in the final decision, but also added increases for PTY wildfire mitigation capital exceptions “for Sempra to fund incremental capital additions for wildfire mitigation programs that are important for infrastructure safety.”¹⁹ Further, the Commission provides a mechanism to fund Gas Integrity Management Programs in the post-test years when it authorizes “SoCalGas and SDG&E to record costs in the gas integrity memorandum accounts for TIMP, DIMP, and SIMP in amounts prudently incurred to comply with regulatory standards.”²⁰ In its final decision the Commission explicitly notes that Sempra did not substantiate additional funding for capital additions in excess of depreciation in the PTYs and emphasized that both Sempra entities earned more than their authorized rate of return in earlier GRCs.²¹ Thus, the issue was exhaustively litigated and carefully considered in D.24-12-074. Sempra’s PFM does not demonstrate the change in fact required to re-litigate these issues.

III. CONCLUSION

The Commission considered and addressed Sempra’s stated PFM concerns in its final decision.²² Here, Sempra’s claim of an alleged misunderstanding of facts regarding the PTY mechanism fails to constitute an extraordinary circumstance that would warrant

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¹⁸ D.24-12-074 at 901 (emphasis added).

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ D.24-12-074 at 900; The Commission states “Sempra also has not demonstrated the need for additional funds to account for anticipated growth in capital additions in excess of depreciation in the post-test year period, especially since SoCalGas and SDG&E have earned in excess of their authorized rate of return in previous rate cycles.”; Compare with PD at 888.

²² D.24-12-074 at 891-909.

re-litigation of the same issues.²³ Given that the Commission already exhaustively considered and adjudicated the PTY issues in the PFM, the Commission should reject Sempra's PFM.

Respectfully submitted,

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²³ See D.17-12-006 at 9-11.