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

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.

Application 22-05-015
(Filed May 16, 2022)

Related Matter

Application 22-05-016
(Filed May 16, 2022)

**THE PROTECT OUR COMMUNITIES FOUNDATION
RESPONSE TO PETITION OF
SOUTHERN CALIFORNIA GAS COMPANY AND
SAN DIEGO GAS & ELECTRIC COMPANY
FOR MODIFICATION OF DECISION 24-12-074**

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Dated: January 16, 2026

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Pursuant to Rule 16.4 of the Commission's Rules of Practice and Procedure (Rules),¹ The Protect Our Communities Foundation (PCF) timely files this Response addressing the Petition of Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) (collectively, the Utilities) for Modification of Decision 24-12-074 (Joint PfM).²

¹ Cal. Code Regs., tit. 20, § 16.4, subd. (f).

² A.22-05-015/-016, 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 (December 17, 2025) (Joint PfM).

I. INTRODUCTION

The Commission should reject the Utilities' Joint PfM, which seeks increased capital-related revenue requirements. The Commission is obligated to protect ratepayers against the Utilities' inherent incentives to increase profits. Although the Commission's decision in D.24-12-074 allowed substantial exceptions to the 3% post-test year (PTY) escalation rates—which already exceeded the Consumer Price Index (CPI)—the Utilities now ask the Commission to award them even more ratepayer funds. In the Joint PfM, the Utilities complain about missing money, but they fail to even mention – much less account for – the fact that each year the Utilities have access to billions of dollars in cash provided by ratepayers – cash that ratepayers provide at zero-cost. SDG&E's and SoCalGas's proposal would unacceptably increase utility bills for ratepayers while increasing profitability for shareholders.

Although SDG&E and SoCalGas filed multiple declarations in support of their Joint PfM, the Utilities failed to provide any new facts or circumstances justifying the petition. Instead, the Utilities impermissibly attempt to relitigate their already rejected proposals. Moreover, the Utilities' arguments for a PTY ratemaking mechanism that authorizes more ratepayer expenditures are legal arguments, but the Utilities' deadline to file an Application for Rehearing (AfR) has long passed.

Despite their repeated advocacy for exceptions to the PTY ratemaking mechanism for new capital additions, the Utilities have never examined whether some capital additions or large capital projects will be reduced or eliminated. Nor have the Utilities provided any evidence of the ratepayer-provided cash flow that the Utilities have available to use for capital projects. In sum, the Utilities failed to consider critical rate base components which renders their rate base calculations unjustified and their requests for additional funds unreasonable. The Commission

should not give in to the Utilities' demands for ever-increasing, unnecessary, and unjustified ratepayer funding.

II. THE PETITION FOR MODIFICATION MUST BE DENIED BECAUSE SDG&E AND SOCALGAS ARE SEEKING TO RELITIGATE PREVIOUSLY DECIDED ISSUES.

The Commission has been clear that it "will not consider issues which are simply re-litigation of issues that were decided in [the original decision]."³

The Commission's authority under section 1708 to alter and amend its decisions exists "only as an 'extraordinary remedy' that must be sparingly and carefully applied."⁴ To change D.24-12-074, the Commission would first be required to provide notice and an opportunity to be heard, including providing an opportunity to present evidence.⁵ Granting the Utilities' PfM would constitute a due process violation because the parties have been provided no opportunity to present evidence or cross-examine the witnesses submitting declarations.⁶

SDG&E and SoCalGas argue that the "stated facts and conclusions, which expressly formed the basis for the Decision's post-test year mechanism, are demonstrably incorrect."⁷ But

³ D.22-04-043, Decision Denying Petition for Modification of OhmConnect, Inc. (April 27, 2022).

⁴ D.15-12-053, Order Modifying Decision (D.) 15-05-004 And Denying Rehearing of the Decision as Modified (December 18, 2015), p. 5.

⁵ *California Trucking Assn. v. Public Utilities Com.* (1977) 19 Cal.3d 240, 244–245; *see, also*, Pub. Util. Code, § 728 ("Whenever the commission, after a hearing, finds that the rates or classifications, demanded, observed, charged, or collected by any public utility for or in connection with any service, product, or commodity, or the rules, practices, or contracts affecting such rates or classifications are insufficient, unlawful, unjust, unreasonable, discriminatory, or preferential, the commission shall determine and fix, by order, the just, reasonable, or sufficient rates, classifications, rules, practices, or contracts to be thereafter observed and in force..."); Pub. Util. Code, § 729 ("The commission may, upon a hearing, investigate a single rate, classification, rule, contract, or practice, or any number thereof, or the entire schedule or schedules of rates, classifications, rules, contracts, and practices, or any thereof, of any public utility, and may establish new rates, classifications, rules, contracts, or practices or schedule or schedules in lieu thereof.").

⁶ *Caesar's Restaurant v. Industrial Accident Com.* (1959) 175 Cal.App.2d 850, 855 ("The right to [a fair and open hearing] is one of 'the rudiments of fair play'[] assured to every litigant by the Fourteenth Amendment as a minimal requirement.[] The reasonable opportunity to meet and rebut the evidence produced by his opponent is generally recognized as one of the essentials of these minimal requirements").

⁷ Joint PfM, p. 3.

SoCalGas and SDG&E are merely reiterating their previous position that a two-part mechanism based on historic average costs should be adopted.⁸ In D.24-12-074, the Commission considered and rejected SDG&E and SoCalGas’s arguments, stating that it had reviewed the “O&M and capital costs for each project and cost category,” “past Commission decisions,” and “cost forecasts,” before rejecting SoCalGas and SDG&E’s proposed two-part mechanism.⁹ The Commission even went so far as to authorize large exceptions to the PTY ratemaking mechanism for capital expenditures like undergrounding and covered conductor capital expenditures, and authorized memorandum accounts for SDG&E and SoCalGas in response to SDG&E and SoCalGas’s arguments.¹⁰

SoCalGas and SDG&E now argue that the Commission’s adopted PTY revenue requirements will not allow for recovery of the Utilities’ capital-related costs.¹¹ But the Utilities’ declarations provide little more than one-sided calculations supporting their already rejected proposals.¹² SDG&E and SoCalGas’s attempt to repackage their proposals with additional and biased calculations must be rejected.¹³

The Commission should also refuse the Utilities’ misleading attempts to portray a recent SCE decision, D.25-09-030, as a new development. D.25-09-030, which was directed to a different utility and based on a wholly different record, adopted a two-part attrition mechanism.¹⁴

⁸ D.24-12-074, p. 934.

⁹ D.24-12-074, p. 934-935.

¹⁰ D.24-12-074, p. 935.

¹¹ Joint PfM, p. 3.

¹² See, e.g. Joint PfM, p. B-4 (Tables 2 and 3)(Tables 2 and 3 present SoCalGas’s revenue requirement using a two-part mechanism based on a 5-year and 7-year average of capital additions. Tables similar to Table 2 and 3 could have been presented in testimony and are additional support for SoCalGas’ proposals, not new facts).

¹³ See Joint PfM, p. B-2-B-3. (In their Joint PfM, SDG&E and SoCalGas propose a two-part mechanism, dividing O&M and capital costs, which uses a seven-year average, or alternatively a five-year average, of capital additions to calculate revenue requirements. As acknowledged in the Joint PfM, SoCalGas and SDG&E already submitted these proposals in their settlement agreement and in their testimony.).

¹⁴ Joint PfM, p. 38.

But, the Commission has already rejected similar decisions based on the record of this proceeding. In SDG&E and SoCalGas’s Opening Comments on the Proposed Decision for D.24-12-074, SDG&E and SoCalGas provided other examples of decisions that adopted two-part attrition mechanisms.¹⁵ The Commission must reject the attempt by the Utilities to retroactively support their proposals with decisions similar to those already in the record.

Although SDG&E and SoCalGas characterize the impacts of the PTY rate of return authorized in D.24-12-074 as “unintended,”¹⁶ the Commission was very clear in D.24-12-074 that it rejected SDG&E’s proposals to authorize separate mechanisms for capital and O&M costs to avoid undue burden on ratepayers.¹⁷ And the Commission remains legally required to avoid undue burdens on ratepayers.¹⁸ The Utilities may disagree with the Commission, but such disagreement does not mean that the Utilities have the grounds to file a PfM. Accordingly, the Commission must reject SDG&E and SoCalGas’s blatant attempts to relitigate D.24-12-074.

Moreover, the Utilities’ legal dispute with the Commission over whether the PTY ratemaking mechanism satisfies the regulatory compact and sections 451, 454, and 728¹⁹ is not

¹⁵ A.22-05-015, -016, 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 (November 7, 2024), p. 9, fn 63 (Citing to various decisions that approved separate escalations for capital and O&M costs).

¹⁶ Joint PfM, p. 3.

¹⁷ D.24-12-074, p. 4 (“Today’s decision does not adopt the PTY Ratemaking framework that SDG&E and SoCalGas have proposed. Our decision is based on the principle that utilities should be provided with a fair opportunity to earn their authorized rate of return, while ensuring rates are just and reasonable and do not impose any undue burden on ratepayers.”).

¹⁸ Pub. Util. Code, §§ 451, 747 (“It is the intent of the Legislature that the commission reduce rates for electricity and natural gas to the lowest amount possible.”); U.S. Const., Amend. V (“...nor shall private property be taken for public use, without just compensation.”); *Id.* at Amend. XIV, § 1 (“...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”); *see, also, Koontz v. St. Johns River Water Management Dist.* (2013) 570 U.S. 595, 616 (“monetary exactions are subject to scrutiny under *Nollan* and *Dolan*”).

¹⁹ *See, e.g.* Joint PfM, p. 3 and 8.

the appropriate subject of a PfM, which is intended to focus on a review of facts and circumstances. The Commission has explained that the appropriate remedy for claims of legal error is an AfR,²⁰ and that parties may not avoid the thirty-day time limitation for AfRs by characterizing their claim as a PfM.²¹ When the Commission has already rejected a request and explained the basis for the rejection, parties must file an AfR, rather than a PfM.²² The Utilities failed to file an AfR, and their attempt to relitigate D.24-12-074 at this late date must be rejected.

III. THE JOINT PFM SHOULD BE DENIED BECAUSE THE UTILITIES FAIL TO ACCOUNT FOR CRITICAL RATE BASE COMPONENTS AND PROVIDE INSUFFICIENT SUPPORT FOR THEIR FORECASTING METHODS.

The Commission should deny the Joint PfM because the Utilities have failed to provide the Commission with any information that would allow the Commission to conclude that the Utilities' proffered forecasting methods would not unnecessarily fund shareholder profits at the expense of ratepayers. Although the Utilities complain that D.24-12-074 does not allow them to cover all of their capital-related costs, they failed to provide any evidence of their five-year capital spending plans, much less evidence of their actual operational needs for the PTYs.²³ The

²⁰ D.20-11-025, Decision Granting in Part and Denying in Part Petition for Modification of Decision 20-04-008 (November 20, 2020), p. 3.

²¹ D.25-04-004, Decision Denying Petition For Modification Of Pacific Gas And Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, And Southern California Edison Company (April 9, 2025), p. 3.

²² See D.25-07-012, Decision Denying Petition for Modification of Suburban Water Company (July 28, 2025), p. 13 (“However, in the original decision states that the Commission rejected Suburban’s request and explains the basis for the rejection. If Suburban disagrees with the denial of its budget for the pipeline replacement program, rather than filing a PFM, Suburban should have filed a request for rehearing, which it failed to do.”); see also D.25-04-004, p. 3 (“Therefore, this issue was already considered and decided by the Commission. The Large IOUs could have filed an application for rehearing within 30 days of the decision’s issuance, but did not do so.”).

²³ A.22-05-016/016, PCF Opening Brief (August 14, 2023), p. 61-62; *compare, e.g.*, D.14-12-025, p. 44 (referring to “program by program” and “project by project” comparisons; “...the Risk Spending Accountability Report would compare the utility’s GRC projected spending for approved risk mitigation projects to the actual spending on those projects, and to explain any discrepancies between the two.”); D.20-01-002, p. 36 (“...the utilities must reciprocate by more openly engaging in an ongoing dialog throughout the GRC cycle that enables the Commission to review their activity in a transparent manner and ensure the utilities are held accountable for how they spend ratepayer funds.”).

Joint PfM does nothing to cure the Utilities' failure to make any reference to, much less consider, their actual cash flows.²⁴

In this proceeding, the Utilities have wavered between zero-based forecasts, five-year historic averages, and seven-year historic averages.²⁵ In the Joint PfM, the Utilities argue for a seven-year average, without providing the details of any projects in their already completed five year capital plans.²⁶

SDG&E and SoCalGas's forecasting methods erroneously assume that capital investments must be provided by ever increasing private investment. While SDG&E and SoCalGas raise concerns about lack of funding for new projects,²⁷ they fail to mention the evidence in this proceeding²⁸ that established that ratepayers contribute large sums of money for the purposes of paying taxes that the Utilities are not required to actually pay. Specifically, ratepayers provide utilities with billions of dollars in the form of deferred taxes, which the Utilities are allowed to collect in advance from ratepayers but are not required to pay at the time the Utilities collect the estimated taxes from ratepayers.²⁹ In other words, ratepayers provide the Utilities with cash on hand that the Utilities can – and do – use for capital expenditures. Given that these are ratepayer-provided funds, the Utilities lack any need to seek additional funds from debt or equity investors for these expenditures. Yet the Utilities do not even mention these

²⁴ PCF-35, p. F-16 [pdf page 140] (SDG&E's Consolidated Statements of Operations); *id.* at p. F-20 [pdf page 144] (SDG&E's Consolidated Statements of Cash Flows); *id.* at p. F-22 [pdf p. 146] (SoCalGas's Statement of Operations); *id.* at p. F-26 [pdf page 150] (SoCalGas's Consolidated Statements of Cash Flows).

²⁵ See Joint PfM, p. 45 (citing to Settlement Agreement where the Utilities proposed a 7-year average); see also Joint PfM, p. B-3 (citing to Ex. SCG-240-E where the Utilities proposed a 5-year average); see also p. 973

²⁶ Joint PfM, p. 48.

²⁷ Joint PfM, p. 2.

²⁸ See, e.g., A.22-05-015/016, Transcript, Vol. 18, p. 3168, l. 20-22 (Dais Moersen).

²⁹ PCF Opening Brief, p. 60-61; PCF Reply Brief, p. 21-22.

ratepayer-provided funds when they make their boogeyman arguments about “missing money.”

The Commission must reject the Joint PfM because of this large evidentiary hole.

Additionally, the Utilities omit any explanation regarding the various historical projects that have already been fully depreciated or that are no longer in service, and that can be removed from the revenue requirement. In other words, the Utilities proceed as if revenue requirements must always increase, contrary to the regulatory compact which is supposed to work in both directions.³⁰

Whether the rate of capital additions is expected to be reduced in the PTYs is especially relevant because the last few years were very capital intensive due to the Pipeline Safety and Enhancement Plan (PSEP) and Wildfire Mitigation Plan (WMP) programs. The PSEP program began in 2011 in response to the San Bruno pipeline explosion.³¹ Subsequently, the Utilities were required to either test or replace all of their pipelines which had not been pressure tested.³² Given that the San Bruno pipeline explosion was over fifteen years ago now, capital expenditures should have peaked and be on a downwards trend in the PTYs.

The cost of SDG&E’s wildfire mitigation programs – if its initial efforts were actually effective – would also be expected to be on a downwards trend in the PTYs. The WMP program was implemented in 2019, and as SDG&E acknowledged in their Track 2 Brief, SDG&E first created their wildfire mitigation program in response to the 2007 Witch/Guejito Fire.³³ But the Utilities conduct no analysis to justify their capital needs for the PTYs, much less justify

³⁰ D.93-12-043, 1993 Cal. PUC LEXIS 728, 39 (rejecting SoCalGas’ position that attrition year adjustments only work in one direction); D.20-01-002, Decision Modifying the Commission’s Rate Case Plan for Energy Utilities (January 16, 2020) p. 8, fn. 13 (“attrition” refers to both increases and decreases), p. 11.

³¹ See PCF-48, p. 3 (discussing the implementation of the Natural Gas Pipeline Safety Act of 2011).

³² PCF-48, p. 3.

³³ A.22-05-015,-016, Opening Brief of San Diego Gas & Electric Company (U 902-E) In Track 2 Of The Test Year 2024 General Rate Case, p. 11.

increases from what should be out-of-the ordinary historic spending that was necessary in the wake of devastating utility errors. Given the lack of any specific evidence or analysis as to the Utilities' capital plans, the Commission should not revisit its rejection of the 5- and 7-year averages in the decision.

IV. THE PROPOSED BILL IMPACTS ARE EXCESSIVE AND UNACCEPTABLE.

The Commission should reject the Utilities' proposals to further increase already too high bills for customers. Instead, the Commission must look for ways to reduce those rates to the lowest amount.³⁴ According to SDG&E and SoCalGas, if their proposal was implemented, SDG&E non-California Alternate Rate for Energy electric residential customers would see increased rates of \$1.37 per month in 2025, \$3.23 per month in 2026, and \$5.11 per month in 2027.³⁵ These increased rates would be in addition to the increases already authorized in D.24-12-074. Moreover, the 3% escalation rate is already an increase above the CPI's measure of inflation,³⁶ and the Commission granted large capital exceptions for the undergrounding and covered conductor programs.³⁷ Another substantial additional increase lacks any justification and would contravene legislative intent to "reduce rates for electricity and natural gas to the lowest amount possible"³⁸ and legislative prohibitions against unjustified and unreasonable rates.³⁹

In an environment where SDG&E customers pay among the highest rates in the country,⁴⁰ and where the Utilities have consistently exceeded the Commission's authorized rates

³⁴ Pub. Util. Code, §747.

³⁵ Joint PfM, p. H-3.

³⁶ CA-20 (S. Hunter), p. 2 (the CPI forecasted 2.3% for 2024, 2.2% for 2025, 2.1% for 2026, and 2.2% for 2027).

³⁷ D.24-12-074, p. 935.

³⁸ Pub. Util. Code, § 747.

³⁹ Pub. Util. Code, § 451, 454.

⁴⁰ See D.24-12-074, p. 369 ("SDG&E already has some of the highest rates in the country.").

of return,⁴¹ no plausible argument can exist for continuing to pad SDG&E's rate base. As the record in this proceeding shows, the Commission-authorized rates of return already far exceed the market-based return investors expect to receive when they invest in the Utilities at the rates they pay for their investments in the market.⁴² The Commission should reject the attempt to further increase rates as suggested in the Joint PfM.

V. THE COMMISSION MUST GUARD AGAINST THE UTILITIES' INHERENT FINANCIAL INCENTIVES TO GROW RATE BASE.

As the Commission has recognized, the Utilities are inherently incentivized to maximize their capital-related revenue requirement because doing so directly relates to profitability.⁴³ The Utilities' return on rate base is calculated by multiplying the Utilities' respective authorized rate of returns by their rate bases.⁴⁴ Utility management has a fiduciary duty to maximize shareholder value, as well as personal financial incentives to maximize revenues and profits.⁴⁵

The Utilities can increase their profits by growing rate base, by seeking to increase their rate of return, or both. The Utilities were recently disappointed⁴⁶ by a cost of capital decision that

⁴¹ Auditor of the State of California, Electricity and Natural Gas Rates: The California Public Utilities Commission and Cal Advocates Can Better Ensure that Rate Increases are Necessary (August 2023), p. 36, available at <https://information.auditor.ca.gov/pdfs/reports/2022-115.pdf>.

⁴³ CPUC, *Utility Costs and Affordability of the Grid of the Future* (Feb. 2021), p. 19, 24 available at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/en-banc/feb-2021-utility-costs-and-affordability-of-the-grid-of-the-future.pdf>; *see, also*, PCF-01, Attachment 5, p. 20-25 [M. Ellis testimony in A.22-04-008 et seq.]; PCF-01, Attachment 6, p. 7-10 [M. Ellis reply testimony in A.22-04-008 et seq.]; PCF-01, Attachment 7, p. 7-19 [M. Ellis testimony in A.21-08-013 et seq.]; *see also* A.25-03-010 et seq., The Protect Our Communities Foundation Opening Brief (September 19, 2025), p. 10-14.

⁴⁴ D.25-12-043, p. 4; CPUC, *Utility Costs and Affordability of the Grid of the Future* (Feb. 2021), p. 19.

⁴⁵ *See* PCF-01, Attachment 5, p. 20-25 [M. Ellis testimony in A.22-04-008 et seq.]; PCF-01, Attachment 6, p. 7-10 [M. Ellis reply testimony in A.22-04-008 et seq.]; PCF-01, Attachment 7, p. 7-19 [M. Ellis testimony in A.21-08-013 et seq.]; *see also* A.25-03-010 et seq., The Protect Our Communities Foundation Opening Brief (September 19, 2025), p. 10-14; *see also* Securities And Exchange Commission Form 10-K Annual Report Pursuant To Section 13 Or 15(D) Of The Securities And Exchange Act Of 1934. For The Fiscal Year Ended December 31, 2024 Sempra, San Diego Gas & Electric Company, Southern California Gas Company at p. F-118; *id.* at Exhibits 10.8, 10.9, 10.10, 10.11, 10.64, 10.71; *id.* at p. 120 (index to exhibits).

⁴⁶ A.25-03-010 et seq., SDG&E Comments on Proposed Decision (December 4, 2025); A.25-03-010 et seq., Opening Comments of SoCalGas on the Proposed Decision (December 4, 2025).

did not increase the Utilities' rate of return to the extent that the Utilities had requested.⁴⁷ In the instant motion, the Utilities seek to grow rate base. In both instances, only the Commission can guard against the Utilities' natural incentives to increase profits.

The Commission should protect ratepayers and reject the Joint PfM.

VI. THE COMMISSION SHOULD DISREGARD THE SDG&E AND SOCALGAS FUNDED STUDY ATTACHED TO THE JOINT PFM.

The Commission should disregard the study attached to the end of the Joint PfM, because it was funded by SDG&E and SoCalGas⁴⁸ and has not been subject to cross-examination.⁴⁹ Additionally, the Utilities overstate the conclusions of this study. Although the Utilities cite the document for the conclusion that changes to the utility industry require "a capital-specific component of the mechanism as a sound policy approach"⁵⁰ the study actually does not comment on the relative effectiveness of a two-part mechanism. The Utilities also cite the document as evidence that choosing the appropriate mechanism for calculating PTY requirements is more important than the escalation factor or the level of capital additions.⁵¹ However, the page cited does not even discuss choosing the appropriate mechanism for PTY ratemaking nor the relative importance of escalation factors or capital additions.

VII. CONCLUSION

The Commission should deny the Utilities' request to revise the PTY ratemaking mechanism to allow additional capital-related PTY revenue. The Utilities failed to file an AfR

⁴⁷ D.25-12-042, Decision Addressing Test Year 2026 Cost Of Capital For Pacific Gas And Electric Company, Southern California Gas Company, Southern California Edison Company, And San Diego Gas & Electric Company (December 22, 2025) (SoCalGas was authorized 7.52% as their rate of return (p. 71) but requested a rate of return of 8.15% (SoCalGas Opening Brief, p. 2); SDG&E was authorized 7.41% as their rate of return (p. 72) but requested a rate of return of 8.19% (SDG&E Opening Brief, p. iii)).

⁴⁸ Joint PfM, pdf p. 318.

⁴⁹ See Section II, *supra*.

⁵⁰ Joint PfM, p. 41.

⁵¹ Joint PfM, p. 39.

and cannot now relitigate their already rejected 5- and 7-year historic average proposals. The Joint PfM lacks sufficient support for the Utilities' proposed forecasting methods, and no information whatsoever has been provided regarding depreciated or decreased capital expenditures. The proposed change to the PTY ratemaking mechanism will unacceptably increase customer rates, and only the Commission can protect ratepayers from the Utilities' natural incentives to grow their rate base.

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