

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



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Order Instituting Rulemaking to Refine the  
Risk-Based Decision-Making Framework for  
Electric and Gas Utilities.

Rulemaking 26-04-016  
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**OPENING COMMENTS OF THE UTILITY REFORM NETWORK  
ON THE ORDER INSTITUTING RULEMAKING**

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## **OPENING COMMENTS OF THE UTILITY REFORM NETWORK ON THE ORDER INSTITUTING RULEMAKING**

In accordance with Ordering Paragraph 7 of the Order Instituting Rulemaking (OIR) and Rule 6.2 of the Commission's Rules of Practice and Procedure, The Utility Reform Network (TURN) submits these opening comments on the OIR.

### **1. SUBSTANTIVE COMMENTS**

The OIR describes the issues the Commission intends to address in this proceeding and invites parties to respond to questions related to those issues in Appendix A.<sup>1</sup> Owing to resource limitations and the demands of other cases, TURN is not able to provide detailed responses to each Appendix A question, but provides the following general responses for three of the four issue areas identified in the Preliminary Scoping Memo and Appendix A.<sup>2</sup>

#### **1.1 Risk Tolerance**

TURN is highly skeptical that an effort to develop a Risk Tolerance Standard or Framework will prove fruitful, unless it is anchored in the affordability needs of vulnerable customers. Otherwise, TURN is concerned that an effort to develop such a Standard or Framework will require an unwise commitment of extensive Commission and party resources with little resulting benefit to the public interest.

TURN recognizes the theoretical appeal of the concept of risk tolerance: determining the point at which residual risk has been lowered sufficiently such that additional risk mitigation efforts are no longer needed. However, based on the risk tolerance discussion in the predecessor

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<sup>1</sup> OIR, p. 18.

<sup>2</sup> TURN does not address SMJU Reporting, the fourth issue in the Preliminary Scoping Memo.

proceeding, R.20-07-013, TURN believes that the real-world work to achieve that goal would be mired in intractable problems. TURN addressed those problems in its January 3, 2025 comments in R.20-07-013, from which a relevant excerpt is attached as Appendix A. While some of those comments were directed at the specific Safety Policy Division (SPD) proposal under consideration, most are germane to the general question of whether a Risk Tolerance Standard should be pursued. Those comments are incorporated by reference here.

In summary, TURN raised in those comments, and continues to hold, the following concerns:

- Because energy is an essential service, for many customers, the question of how much risk they can tolerate is tied up with the question of how much risk mitigation investment they can afford. If an additional investment to reduce risk will make energy service difficult or impossible to afford for a household, those customers would not be expected to consider that risk reduction activity to be tolerable.
- Risk tolerance varies considerably among California utility customers and cannot be reduced to a single value purporting to capture customers' attitude to risk. The many complex and inter-related factors that would affect attitude toward risk include level of income or wealth, proximity to high-risk utility assets, and, of course, personality characteristics -- the latter being particularly difficult to assess.
- The utilities will seek a risk tolerance outcome that serves their financial interests in avoiding constraints on the growth of rate base, which fuels utility profits. The combined resources of four of the largest utilities in the nation in developing and implementing a Risk Tolerance Framework have the potential to overwhelm those of the Commission and interested parties.
- Translating a Risk Tolerance standard or benchmark into actionable numbers that guide CPUC decision-making has the potential to require a black box of highly complex assumptions and calculations – an impenetrable process that the utilities could dominate to serve their interests. Unlike the efforts in the predecessor proceedings (A.15-05-002 and R.20-07-013) that has led to Risk Spend Efficiency (RSE) values and Benefit Cost Ratios (BCRs), for which TURN offered detailed

and concrete proposals, TURN has no roadmaps or proposals to offer for a Risk Tolerance Framework.

For these reasons, TURN continues to believe that the best risk tolerance-informed path for constraining the utilities' incentive to maximize risk mitigation spending is to recognize that, for the customers who most need regulatory protection,<sup>3</sup> risk tolerance is highly dependent on affordability. A good way to address customers' risk tolerance from an affordability perspective would be to recognize that to achieve risk tolerance objections, what is most needed is an affordability benchmark or standard to constrain utility spending, not a more abstract risk tolerance standard that purports to capture a myriad of factors that defy expression in a single attitude or number. TURN therefore recommends that the Commission focus its efforts on ensuring that utility spending levels are affordable and having the utilities show how they would optimize spending within those affordable levels. Such optimized portfolios inform the key question of how best to mitigate utility risk while meeting the critical goal of enabling essential energy services to be affordable and accessible to all Californians.

The Commission has already taken an important step in this direction in D.25-08-032 by requiring utilities to present in RAMP and GRC filings optimized portfolios of risk mitigation activities within a series of budget constraints.<sup>4</sup> This proceeding provides an opportunity to build on these requirements, for example, by constraining the utilities' ability to set the starting point

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<sup>3</sup> As TURN noted in its January 3, 2025 comments attached as Appendix A, the Commission's Environmental and Social Justice (ESJ) Action Plan recognizes that the needs of ESJ communities must be prioritized. Appendix A, TURN Jan. 3, 2025 Comments in R.20-07-013, pp. 17, 19.

<sup>4</sup> D.25-08-032, pp. 38-44.

for the budget constraints,<sup>5</sup> and by expanding the portfolios to include all utility (CPUC-jurisdictional) spending, not just expenditures on programs addressing RAMP risks.<sup>6</sup>

If the Commission nevertheless chooses to pursue in this proceeding an abstract Risk Tolerance Standard or Framework that is not rooted in affordability needs, TURN offers the following caution. If presenting proposals is left solely to the parties, then it is entirely possible that only the utilities will present such proposals. As previously noted, whether they acknowledge this reality or not, the utilities can be expected to base their proposals on a view of risk tolerance that centers the utilities' financial objectives, not the wide-ranging attitudes toward risk of their customers and not their customers' affordability concerns. Rather than focus on such utility proposals, the Commission should instead direct the Commission Staff to try again to develop a comprehensive Risk Tolerance proposal, taking into account the comments on SPD's previous proposal in R.20-07-013. By comprehensive, TURN means a proposal that provides a clear roadmap – with associated assumptions and computations -- for how a Risk Tolerance standard or benchmark would be translated into actionable numbers to guide CPUC decision-making. If the Commission Staff is not able to come up with such a proposal that it can recommend for adoption, that would be an important indicator that the effort to develop an abstract Risk Tolerance Standard or Framework should be abandoned.

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<sup>5</sup> Under the revised RDF attached to D.25-08-032 (“Revised RDF”), Row 25.1 allows the utility to determine the starting point based on its “Baseline Cost Forecast”.

<sup>6</sup> In the Revised RDF, the definition of Baseline Cost Forecast is limited to RAMP-related mitigation and control programs. This limitation excludes other utility spending which would be useful to consider when determining the universe of expenditures that can be controlled to meet spending constraints that optimized risk mitigation portfolios must meet.

In addition, if the Commission wishes to adopt an abstract Risk Tolerance Standard or Framework, with its associated complex assumptions and computations, the Commission should anticipate the need for significant additional staff to scrutinize utility submissions that implement the Framework, and not expect intervenors to be able to do so.

## **1.2 RAMP Schedule and Process**

TURN is sympathetic to SPD's need for sufficient time to prepare its RAMP evaluation reports. In any schedule changes, TURN strongly supports continuing the now well-established policy of inviting non-utility parties to submit informal comments on the utility's RAMP report in advance of the SPD evaluation report. These informal comments provide important analysis and alternative perspectives for SPD's consideration as it prepares its report. TURN looks forward to addressing this issue in more detail in this proceeding.

## **1.3 Improvements to BCR Calculations**

TURN supports updating the RDF to require a standardized approach to treating O&M expenses. As the OIR notes, such standardization would reduce the inconsistency in utility BCR calculations and decrease the resource demands on the Commission and intervenors in having to learn and scrutinize the different utility approaches.

TURN also supports basing costs in the denominator of the BCR on the Present Value Revenue Requirement (PVRR). With respect to capital costs, rates are based on utility revenue requirements, not direct capital costs. Over the life of an asset, total revenue requirements will significantly exceed direct costs due to utility rate of return components, taxes, salvage values, and other loaders. As a result, total lifetime revenue requirement is a more accurate representation of utility costs.

From lifetime revenue requirement, PVRR should be calculated using the same discount rate that is used for the numerator (benefits) of the BCR calculation, in order not to bias the calculation. In applying discount rates, inflation and the real discount rate must be taken into account separately, although they can be combined in a single discount rate number. In R.20-07-013, TURN presented a white paper regarding best practices for inclusion of program costs in the denominator, including discount rate practices, which should be relevant for this OIR issue.<sup>7</sup>

## **2. PROCEDURAL COMMENTS**

### **2.1 Schedule and Process for Risk Tolerance**

As discussed in Section 1.1, TURN urges the Commission to give particularly careful thought to whether and how to structure a Risk Tolerance inquiry in this proceeding. As noted, TURN advocates focusing any exploration of Risk Tolerance on the affordability needs that prevent customers from being able to tolerate incremental utility investment in risk mitigation, not on the development of an abstract Risk Tolerance Standard. If the Commission wisely elects to pursue an affordability-based risk tolerance approach, TURN supports the OIR's proposed plan of issuing a ruling seeking proposals that focuses the goals for the effort, then holding a workshop, and then having parties submit proposals that would be subject to opening and reply comments.

However, if the Commission chooses not to center the Risk Tolerance issue on affordability while pursuing what TURN here is referring to as an abstract Risk Tolerance Standard or Framework, TURN reiterates its point in Section 1.1 that the starting point should be

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<sup>7</sup> Synapse Energy Economics on behalf of TURN, *Application of Discount Rates for Assessing Cost-effectiveness of Utility Risk Related Investments*, October 2023, [https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/safety-policy-division/meeting-documents/discount-rates-and-risk-modeling\\_synapse\\_101123.pdf](https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/safety-policy-division/meeting-documents/discount-rates-and-risk-modeling_synapse_101123.pdf).

a Staff proposal. TURN recognizes that SPD put forth a proposal in R.20-07-013 that was unsuccessful. It may have been unsuccessful because there is no good proposal that is understandable, transparent in implementation, and accurately reflects the risk tolerance views of the broad pantheon of California utility customers. If a proposal that meets these criteria exists, Commission Staff, not the utilities, is in the best position to present it.

Under this scenario, the initial ruling on an abstract Risk Tolerance Standard or Framework would present the Staff's comprehensive proposal, to serve as the starting point for the discussion. A workshop on the Staff proposal should then ensue, followed by an opportunity for any party to submit alternative proposals. At any time before the comment period, the Staff could modify its proposal as it deems appropriate. Opening and reply comments should then be allowed on the Staff proposal and any other proposals.

## **2.2 Schedule and Process for Other Issues**

With respect to the BCR Modification issue, TURN observes that the OIR's proposed schedule does not include a workshop and the solicitation of party proposals before parties submit opening and reply comments. While TURN thinks this somewhat streamlined process could suffice, TURN would prefer to digest the comments of other parties before offering a final position.

With respect to the RAMP Schedule and Process issue, TURN does not see a need for a workshop or party proposals, but at this time recommends a CPUC ruling followed by opening and reply comments.

With respect to the timing in the overall schedule, TURN urges the Commission to be mindful that intervenors such as TURN are resource-constrained and need to juggle the demands



## **APPENDIX A**

**Excerpt from TURN's January 3, 2025 Comments in R.20-07-013 on Risk Tolerance**

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OF THE STATE OF CALIFORNIA**



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Develop a Risk-Based Decision-Making  
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**OPENING COMMENTS OF THE UTILITY REFORM NETWORK  
ON WORKSHOP 2 ISSUES**

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**APPENDIX A - TURN’s Recommended Changes to the RDF**

### **3. TURN OPPOSES SPD'S RISK TOLERANCE PROPOSAL**

#### **3.1 Reasons for TURN's Position**

The SPD proposal attempts to reflect in “exceedance curves” a view of risk tolerance that is somehow representative of “the residents of California,” as determined in a working group process.<sup>11</sup> While TURN appreciates the theory of why achieving this outcome would be useful in Commission decision-making, the reality is that SPD's proposal is not workable, for the several reasons discussed below. The better approach for the Commission to understand how the risk reduction portfolios differ based on risk tolerance -- which for most residents is inextricably bound up with what those portfolios would cost and whether they are affordable – is to require optimized portfolios based on budget constraints, as contemplated by Question 19 in the ALJ Ruling.

##### **3.1.1 Utilities Have Strong Incentives to Drive Risk Tolerance as Low as Possible**

The first problem with the SPD proposal is that it seems to incorrectly assume that utilities would be unbiased participants in an effort to ascertain the risk tolerance of California residents. Investor-owned utilities (IOU) have a strong incentive to present GRC proposals that reduce risk as low as possible. In other words, their risk tolerance for purposes of GRC requests is as close to zero as they can get it.<sup>12</sup> There are two reasons.

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<sup>11</sup> The heading of SPD's Recommendation 5 is “Establish risk tolerance representing the residents of California.” By “residents of California,” TURN understands SPD to be proposing that the relevant risk tolerance is not the risk tolerance of the investor-owned utilities.

<sup>12</sup> This section addresses IOU incentives regarding the risk reduction proposals *to request* in GRCs. After the GRC decision is made and the amount of ratepayer funding for the GRC period has been determined, an IOU's incentives can change – and in a well-designed regulatory framework – would change. Once an IOU knows its GRC budget, it should have an incentive to carry out the approved work as efficiently as possible, as explained in D.96-12-066, 1996 Cal. PUC LEXIS 1111, \*5, quoting D.85-03-042, 17 CPUC 2d 246, 254. TURN notes, however, that

First, the money that IOUs use to carry out their GRC proposals comes from ratepayers, not shareholders. In other words, IOUs are spending someone's else's money. In this respect the "Three Venturer" examples in SPD's proposal are irrelevant, as IOUs would not have to pay anything to avoid the risk event and so, in those examples, would always choose to pay for the helicopter. Because they are not spending their own money and have a virtually guaranteed funding stream resulting from their monopoly status,<sup>13</sup> utilities have an incentive to seek funding for activities – even if not cost-effective and unaffordable to many of their customers -- that provide an extra protective cushion against events that could have adverse effects on shareholders. For example, a utility may seek to underground its overhead wires in many locations not because it is more cost-efficient than alternatives like covered conductor, but because, by making tree trimming unnecessary, the utility reduces potential financial risks to its shareholders from performing vegetation management negligently.

Second, IOUs have an incentive to engage in capital spending, which increases rate base, which in turn increases profits. As a result, utilities are motivated to seek regulatory outcomes – such as a determination of an extremely low tolerance of utility risk – that would justify more capital spending.

Thus, utilities have every reason to state a preference for extreme risk aversion and extremely low risk tolerance. Mitigations that cost too much to be justified based on a risk-neutral attitude can be justified using a risk-averse risk attitude and a low risk tolerance. This

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this incentive is undermined by memorandum and balancing accounts that allow utilities the opportunity to recovery overspending of GRC authorized funding.

<sup>13</sup> And because of "decoupling" policies – decoupling utility revenues from sales -- long ago adopted in California for energy utilities.

would be true even though the actual consequences of the risk event are the same. The utility's preferred attitude toward risk would justify an otherwise unjustifiable expenditure.

For these reasons, IOUs cannot be expected to have an unbiased view of the risk attitude of the residents of California -- the ones who would be paying for the risk mitigations. It would be unreasonable to expect utilities to put aside their incentives and financial self-interests in any undertaking to adopt the risk tolerance standard that would shape how much risk utilities can avoid and how much profit they can make.<sup>14</sup> Indeed, it is precisely because investor-owned utilities have these incentives that regulation by the CPUC is necessary to achieve outcomes that benefit the public interest, not the financial interests of utility shareholders.

### **3.1.2 For Many Customers, Especially Low-Income Customers, Their Tolerance of Risk in Utility Operations Is Heavily Influenced By Affordability Considerations**

For most California residents, their tolerance of utility risk is likely to be significantly influenced by how much utility spending they feel they can afford, for a service they cannot do without. The Commission has frequently articulated the tradeoff between risk reduction and affordability in its GRC decisions. In its decision on PG&E's test year 2023 GRC, the Commission quoted from a prior 2015 GRC decision:

It is well-settled that 'One of the central tasks facing the Commission in this proceeding is to balance safety and reliability risks in comparison with cost. [The utility] is required by law to 'promote the safety, health, comfort, and

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<sup>14</sup> In this respect, it is troubling that SPD's proposal sometimes uses language suggesting that risk aversion and risk tolerance should be matters of *utility choice*. For example, in the illustration given on page 43, whether the portfolio is acceptable or not based on risk tolerance depends on whether *the utility* "chooses" to be risk-neutral or risk-averse. As discussed, for their own understandable financially motivated reasons, IOUs can be expected to always state a preference for as much risk aversion as possible. But that utility preference should not be confused with the preference of the utility's customers, who are paying for the mitigation portfolios proposed by the utility.

convenience of its patrons, employees, and the public’ while including only ‘just and reasonable’ charges in its rates [*citing to* Pub. Util. Code Section 451]. Our fundamental challenge in many disputed areas of this case is to reach an outcome consistent with these twin objectives. This is a familiar challenge that has been present in countless previous GRCs and other proceedings, even though the approach, framework, and language surrounding the issues continue to evolve.’ ”<sup>15</sup>

Thus, the Commission has recognized that how much utility risk ratepayers can tolerate is bound up with the affordability of the costs to reduce utility risk, and acknowledged that striking a balance between risk reduction and affordability is a “familiar challenge” the Commission has faced in “countless previous GRCs.”

Most of us understand and experience this tradeoff in our everyday decisions about how much risk to tolerate. Such choices are often heavily influenced by affordability -- such as how safe a car to buy or how safe a neighborhood to live in. Those who feel they cannot afford the safer car or the neighborhood with the low crime rate will necessarily have a higher tolerance for risk. Affordability also demonstrably affects California residents’ tolerance of earthquake risk. In part because of cost concerns, only 13% of California homeowners have earthquake insurance even in the face of the potentially catastrophic impacts of an earthquake on their homes.<sup>16</sup>

In sum, risk tolerance is inextricably intertwined with the affordability of the measures to reduce risk, particularly when access to essential utility services is at stake.

The close relationship between risk tolerance and affordability of utility service is particularly true for the Environmental and Social Justice (ESJ) communities who are targeted by

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<sup>15</sup> D.23-11-069, p. 36, citing D.15-11-021, p. 9.

<sup>16</sup> ["Why Only 13% of California Homeowners Have Earthquake Insurance"](#), NPR, July 9, 2019 (“... basically it boils down to, people don’t think it’s going to happen to them, and they think it costs too much.”)

the CPUC’s ESJ Action Plan, which include low-income communities and households in low-income census tracts.<sup>17</sup> For ESJ low income households, affordability is the key determinant of how much risk they can tolerate, precisely because electricity and gas are essential services that households cannot live without. This fact is reflected in statute. Public Utilities Code Section 739(d)(2)<sup>18</sup> requires CPUC decisions to “. . . observ[e] the principle that electricity and gas services are necessities, for which a low affordable rate is desirable . . .” Similarly, Section 382(b) recognizes that “electricity is a basic necessity and that all residents of the state should be able to afford essential electricity and gas supplies . . .”

This is not to say that tolerance of utility risk is unaffected by other things. For example, one would expect the proximity of one’s home or work to risky assets, such as power lines in high fire threat districts (HFTDs), dams, or power plants to lead someone to have a lower tolerance for risk associated with those assets than those living farther away. But, even so, part of what affects the tolerance for utility risk of those households is California’s current policy of socializing the costs to mitigate those risks to all of a utility’s ratepayers. If the localized beneficiaries of the risk mitigation efforts were required to pay most or all of the costs,<sup>19</sup> the risk tolerance of many people living near high risk utility assets would be likely to increase. This expectation is borne out by, as previously noted, the low take-up rate for earthquake insurance (for which each homeowner must pay the full cost of mitigating the risk). In the utility space, there is a similar low take-up rate for Rule 20B and 20C undergrounding programs, which enable

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<sup>17</sup> CPUC, *Environmental & Social Justice Action Plan*, Version 2.0, April 7, 2022 (ESJ Plan), p. 2.

<sup>18</sup> All statutory citations are to the California Public Utilities Code.

<sup>19</sup> To be clear, TURN is not proposing such a change in these comments.

municipalities and customers who are concerned about the safety of overhead lines to pay most or all of the costs to move them underground. People in neighborhoods that have a history of wildfires, such as the Oakland and Berkeley hills, feel they must tolerate the risk of another wildfire rather than pay the high cost of undergrounding. The point here is that affordability is a key determinant of risk tolerance even for those who are located near high-risk utility assets.

Thus, most residents' risk tolerance will increase as the cost they will be asked to pay to mitigate the risk increases. For low-income customers, the amount of risk they can tolerate is determined by how much risk mitigation they can afford.

### **3.1.3 There Is a Broad Diversity of Views Regarding the Tolerable Amount of Risk from Utility Operations**

Because affordability is a key factor in determining risk tolerance, it follows that people's perspectives regarding risk tolerance is likely to be highly influenced by their level of income and wealth. Because of the wide range of household income and wealth in California -- from extreme poverty to great affluence -- tolerance of utility risk is likely to vary from very high for the lowest income residents to a much lower risk tolerance for wealthy residents who would find it easier to afford costly mitigations.

As discussed, proximity to risky utility assets is likely another factor that can be expected to influence risk tolerance. Because of California's size, there is also a huge range for this factor, running from households that live close to high risk assets to those that live several hundred miles away. In addition, this factor would lead to varying attitudes depending on the risk under consideration. Someone living in a wildfire HFTD may have relatively low tolerance of wildfire risks in her vicinity, but have a high tolerance for risks associated with gas transmission pipelines

or storage fields located far away. Personality characteristics that may affect risk tolerance are also likely to vary widely in the population of California residents.

The upshot is that there is likely to be an extremely broad range of tolerance of utility risk among California residents – varying based on income and wealth (the primary factor), geography, personality, and likely other factors. The premise of SPD’s proposal – that there is such a thing as a “risk tolerance representing the residents of California” – conflicts with this reality.

#### **3.1.4 SPD’s Working Group Proposal Is Unworkable**

SPD proposes that a “forum of key stakeholders” should be established “whose consensus on risk tolerance would represent the residents of California.”<sup>20</sup> The working group members would include parties to this proceeding, which presumably would include representatives of each utility governed by the RDF. This proposal is unworkable, for the reasons discussed below.

The primary problem with the SPD proposal is the inclusion of the utilities as members of the working group, who presumably would need to be included for a consensus to be achieved. The working group should determine the risk tolerance of *ratepayers, the people who would be paying for the risk reduction activities*. In trying to reach such a consensus, utilities should not have a “vote.” As noted in Section 3.1.1 above, because the utilities are able to use ratepayer money to pay for risk reduction programs, they would bring an entirely different perspective to the working group that is not grounded in the reality of having to pay for the work. Their duty to advance the interests of their shareholders would obligate them to pursue an

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<sup>20</sup> SPD Proposal, p. 58.

extremely low risk tolerance. They would have no incentive to meaningfully consider anything but highly risk averse attitudes.

In addition, utilities would have a large resource and expertise advantage over the other non-utility members of the working group. Utilities would literally make it their business to understand the financial implications to their shareholders of any proposal the working group considers. As discussed below in Section 3.1.6, translating opinions about risk tolerance into exceedance curves and understanding the repercussions (*e.g.*, on rates) of any risk tolerance proposal under consideration is likely to be an opaque and challenging exercise. Utilities would be sure to find a way to master this challenge and would know how to best pursue their financial interests. Meanwhile, non-utility participants may not be able to determine the implications on rates and affordability of what they are considering and thus would be at a severe disadvantage.

Even if the utilities were not required to be part of the consensus, TURN is concerned with the challenge of making the working group sufficiently representative of the vast diversity of attitudes depending on the risk under consideration, as discussed in Section 3.1.3. No customer representative or group of customer representatives can confidently speak for all of the possible attitudes toward risk tolerance.

In fact, through the work of Nobel laureate Kenneth Arrow,<sup>21</sup> it has been shown that it would not be possible for a working group to come to a consensus on a matter such as the risk attitude for California residents, without violating conditions that we would want such a

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<sup>21</sup> This work is now known as Arrow's Impossibility Theorem, which is discussed, *e.g.*, in this [article](#).

consensus to satisfy.<sup>22</sup> Based on Dr. Arrow's work, it is unrealistic to expect a working group to be able to fairly and reasonably determine the attitude toward risk of the entire population.

For these reasons, it would be wrong to expect any working group, especially one in which the utilities were required to be part of the consensus, to agree on the right approach to risk tolerance to use in CPUC decision-making. The best that could be anticipated would be for the working group to have divided opinions that would need to be resolved by the Commission.

### **3.1.5 Decisions About How Much Utility Risk to Tolerate Must Be Made by the CPUC and Should Be Focused on the Needs of the Low-Income Communities Targeted by the Commission's ESJ Action Plan**

For the reasons discussed above, issues related to how much utility risk should be tolerated are highly dependent on the impacts of risk reduction efforts on the affordability of utility service. These issues are best resolved by – indeed can only be resolved by -- the Commission. This has been the Commission's longstanding role and responsibility, as recognized by the GRC decisions quoted above in which the Commission has articulated the tradeoff between risk reduction and affordability.

We understand why the Commission would find appealing a proposal to transfer a key element of that responsibility to another entity, but SPD's risk tolerance proposal is not realistic, as discussed in Section 3.1.4. The Commission was created to serve as a regulatory check on the

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<sup>22</sup> The conditions are: *Transitivity* (if x is preferred to y and y is preferred to z, then x is preferred to z); *Monotonicity*: If alternative x moves up in every individual ranking, then x cannot go down in the social choice; *Independence of Irrelevant Alternatives*: If the preferences between x and y are unchanged, then introducing alternative z cannot change the social preference between x and y; *Citizen Sovereignty*: choice depends on individual preferences (which leads to the Pareto principle: if everyone prefers x to y, then social choice must have x preferred to y); and *Non-dictatorship*: social choice does not depend only on one individual's preferences.

profit-maximizing incentives of investor-owned utilities with monopoly control of systems needed to deliver essential services. That is *the Commission's* fundamental regulatory responsibility, not the job of a working group that has no authority to regulate the utilities.

Consistent with the Commission's statutory responsibilities and its ESJ Action Plan, the Commission's resolution of the tradeoff between risk reduction and affordability should focus on the needs of low-income customers and other communities targeted by the ESJ Plan. In fact, protecting the ability of low-income customers to afford energy services is one of the Commission's key statutory duties. Public Utilities Code Section 382(b) states, “. . . recognizing that electricity is a basic necessity and that all residents of the state should be able to afford essential electricity and gas supplies, *the Commission shall ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures.*”<sup>23</sup> (Emphasis added.) Thus, any process the Commission adopts in this proceeding must focus on the affordability needs of low-income customers and not allow risk tolerance determinations to increase affordability challenges.

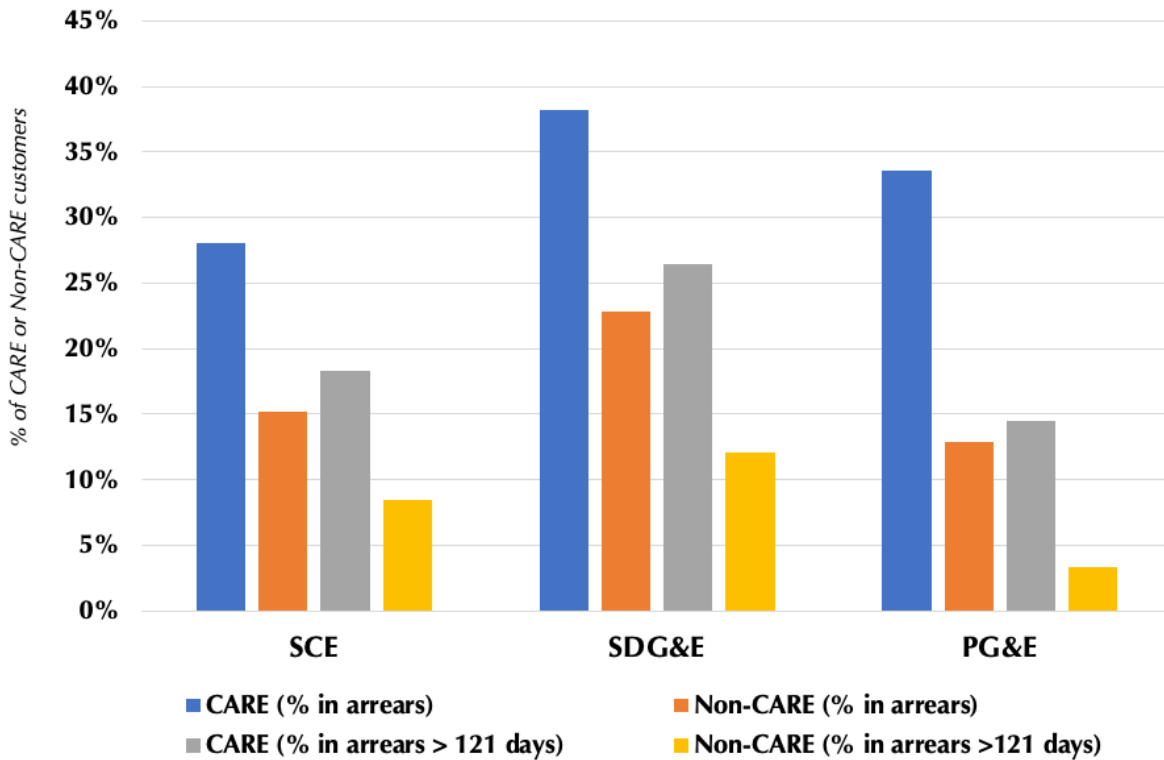
These challenges are real and widespread. One measure is the high level of customers who are in arrears in paying their utility bills, as shown in the chart below.<sup>24</sup>

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<sup>23</sup> In addition, in Public Utilities Code Section 747, the Legislature stated its intent “that the commission reduce rates for electricity and natural gas to the lowest amount possible.”

<sup>24</sup> Source: IOU monthly disconnect data reports in R.18-07-005.

## Residential customer electricity bill arrearages by IOU *January 2024*



The chart shows that over one-third of PG&E and SDG&E low-income CARE customers are struggling with affording their energy bills. Even for non-CARE customers, over 20% of SDG&E and approximately 15% of SCE customers are experiencing arrearages. Clearly, affordability challenges are threatening the access to essential energy services for far too many utility customers.

In addition to the Commission’s statutory duties, the Commission’s ESJ Plan documents the imperative to focus on the needs of ESJ communities. The Plan identifies the following

communities as its intended targets: disadvantaged communities;<sup>25</sup> all tribal lands;<sup>26</sup> low-income households;<sup>27</sup> and low-income census tracts.<sup>28</sup> The ESJ Plan makes a powerful case for why the needs of these ESJ communities must be prioritized:

The CPUC is tasked with serving all Californians, and to do so equitably while reaching the state’s climate goals, it must acknowledge that *some populations in California face higher barriers to access to clean, safe, and affordable utility services*. To fulfill its mission, *the CPUC acknowledges it must focus resources on communities that have been underserved, as this plan outlines*. Additionally, the CPUC acknowledges that its decisions have the potential to perpetuate and exacerbate existing disparities in ESJ communities. As such, the ESJ Plan serves as an ongoing commitment to mitigate and eliminate, harms to these communities.<sup>29</sup>

The ESJ Plan further states that it reflects a commitment to “embedding ESJ principles into [the Commission’s] work.”<sup>30</sup>

TURN submits that this proceeding, which directly implicates how the Commission will balance risk reduction and affordability, is precisely the type of case in which the Commission must focus its analysis on how to protect communities that have been underserved and face significant barriers to gaining and retaining access to affordable utility services. To fulfill its statutory mandates and the goals of the ESJ Plan, the Commission’s revisions to the RDF should

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<sup>25</sup> Defined as census tracts that score in the top 25% of CalEnviroScreen 3.0, along with those that score within the highest 5% of CalEnviroScreen 3.0’s Pollution Burden but do not receive an overall CalEnviroScreen score. ESJ Plan, p 2.

<sup>26</sup> Defined as land within any Indian reservation as defined in 18 U.S.C. 1151 subsection (a). *Id.*, p. 2, fn. 3.

<sup>27</sup> Defined as households with incomes below 80 percent of the area median income. *Id.*, p. 2.

<sup>28</sup> Defines as census tracts where aggregated household incomes are less than 80 percent of area or state median income. *Id.*

<sup>29</sup> ESJ Plan, p. 9 (emphasis added).

<sup>30</sup> *Id.*

put front and center the needs of ESJ communities to have access to essential electric and gas service. Unless service is affordable to the members of those communities, their needs are not being met.

Rather than pursue SPD's risk tolerance proposal, the best way for the Commission to honor the needs of ESJ communities is to adopt SPD's proposal for optimized risk reduction at various affordability levels, as discussed in Section 4.

### **3.1.6 The Mechanics of SPD's Risk Tolerance Proposal Are Highly Complex and Opaque Regarding How the Requisite Risk Exceedance Curves Would Be Determined and Potentially Allow for Utilities to Manipulate this Aspect of the Process to Their Advantage**

In addition to the aforementioned problems, the Staff's Risk Tolerance proposal is complex, potentially opaque in how the utilities would implement it, and provides an opportunity for utilities to take advantage of their resource and expertise advantage to game the results of the process.

The SPD Proposal gives examples of risk exceedance curves and how they could be used once generated,<sup>31</sup> but does not explain the mechanics of how the curves would be derived. Proposed new Row 6.1 would require, *for each attribute for each risk event*, a curve depicting the maximum level of acceptable consequence for the associated probability that a given consequence occurs. This would be a highly complex undertaking with many unanswered questions. The Proposal does not explain how the maximums would be determined in these curves – both at the aggregated level for each risk event, and separately for each attribute for each risk event. It is extremely unrealistic to expect the working group members to understand

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<sup>31</sup> SPD Proposal, pp. 13-16.

how to discern and express their acceptable tolerance levels for each attribute for each risk, let alone to reach agreement on those values.

Even if reasonable and thoughtful conclusions of such a detailed nature could be reached, how are such determinations to be translated into exceedance curves? Lay working group members representing the interests of different groups of California residents would not express their views in terms of exceedance curves. Only experts would be able to do that, in a way that would be opaque and non-verifiable by non-experts. As a result, this new exercise would provide opportunities for utilities to steer the development of these exceedance curves to achieve their desired interests, which as discussed should not be expected to coincide with the public interest.

In addition, intervenors with limited resources and without sophisticated modeling tools would have difficulty predicting the impact of risk tolerance exceedance curves on the Commission's decision-making process and the ultimate rates that would be adopted. Intervenors would find it difficult, if not impossible, to predict whether the GRC outcomes that would derive from different risk tolerance levels would actually be tolerable. In contrast, as noted, utilities would make it their business to know exactly how a given risk tolerance exceedance curve would affect their ability to pursue their goals. This disparity in ability to predict the impact of competing risk tolerance proposals would increase the likelihood that utilities would be able to exploit this process to serve their financial interests.

In sum, the risk tolerance process outlined in the SPD Proposal has many qualities of the dreaded black box, qualities that would hinder, rather than foster transparency. The Proposal would provide utilities another playing field on which to leverage their resource advantage, and

only exacerbate the challenges that overmatched intervenors face in trying to serve as watchdogs on behalf of ratepayers.

### **3.2 Responses to Questions in ALJ Ruling**

TURN responds as follows to the questions in the ALJ Ruling related to the risk tolerance issue.

Question 9: Should the Commission establish the California Utility Risk Tolerance Stakeholders (CURTS) Working Group whose recommendation on risk tolerance would represent the ratepayers of California and inform the utilities' RAMP and GRC filings? Explain your answer.

Answer to Question 9:

For the reasons given in Section 3.1, the Commission should not establish this working group. TURN does not believe it would be able to achieve the objective stated in SPD's Proposal.

Question 10: What are the advantages and disadvantages of hosting the CURTS Working Group in the following proceedings:

- a. Each utility's RAMP proceeding.
- b. The RDF proceeding or its successor.
- c. A different proceeding not listed above.

Answer to Question 10:

As discussed in Section 3.1, TURN does not support creating this working group and therefore sees no advantages from pursuing this aspect of SPD's proposal.

Question 11: Should the Commission require Southern California Edison (SCE) to integrate risk tolerance into its next RAMP application? Explain your answer.

- a. If so, under which proceeding should the CURTS Working Group be hosted to ensure that risk tolerance is properly addressed within SCE's RAMP application?

Answer to Question 11:

As explained in Section 3.1, TURN does not believe that any entity can determine a single representative risk tolerance for the residents of California. Accordingly, TURN does not recommend that this proposal be pursued as an element to be addressed in SCE's upcoming RAMP.

However, as discussed in Section 4, TURN believes that the best way to make progress on achieving the risk tolerance goals in the SPD Proposal is to require utilities to present budget-constrained mitigation portfolios at a range of affordability levels. TURN recommends that the Commission integrate the budget-constrained optimization requirement, as described by TURN in Section 4, in SCE's upcoming RAMP.

Question 12: What method should be used by the CURTS Working Group to generate risk tolerance thresholds for use in RAMP and GRC applications? Explain why you recommend this method.

Answer to Question 12:

As discussed in Section 3.1, TURN recommends against creation of such a working group.

Question 13: How does requiring the risk tolerance of ratepayers to be stated in a RAMP and GRC application help decision-makers determine if a utility's mitigation proposals are an appropriate strategy for reducing risk to acceptable levels?

Answer to Question 13:

As explained in Section 3.1, TURN does not believe a risk tolerance representing all ratepayers can be determined. Instead, as discussed in Section 3.1.5, the focus should be on

determining the risk tolerance of the low-income customers addressed in the Commission's ESJ Plan, which is based primarily on the affordability of essential energy services. The budget-constrained optimization proposal discussed in Section 4 below is the best way to make progress toward determining which portfolio of mitigations maximizes risk reduction within a budget that low-income customers can afford.

Question 14: Should risk tolerance be established at the overall residual risk level in dollars? Should tolerance be set at the attribute level, in natural units and/or dollars? Explain your answers.

Answer to Question 14.

For the reasons given in Section 3.1, TURN does not believe there are risk tolerance values of the type contemplated by the question (at any level) that would be representative of the risk tolerance of all ratepayers. Accordingly, TURN recommends against pursuing this endeavor.

Question 15: Should the Commission require risk tolerance be established for each risk event?

- a. If yes, explain if the Commission should immediately or gradually require risk tolerances be established for every risk submitted to a RAMP filing?
  - i. If gradually, for which risks should a risk tolerance be established?
- b. If no, why not?

Answer to Question 15:

See the answer to question 14.

Question 22: What are the advantages and disadvantages of the process for developing a risk tolerance framework described by the Mussey Grade Road Alliance’s proposal?

Answer to Question 22:

TURN agrees with MGRA’s identification of problems with SPD’s risk tolerance proposal. However, TURN does not believe the process MGRA proposes is worth pursuing because the goal of the process is vague and the results are likely to be unsatisfying in improving how tradeoffs between risk reduction and affordability are made. The better use of the Commission’s and parties time is the pursuit of budget-constrained optimization, as discussed in Section 4, which focuses risk tolerance attention where it belongs – on determining how much risk reduction can be achieved without jeopardizing access to affordable, essential utility services.

With respect to MGRA’s identification of problems with SPD’s working group-based proposal, TURN agrees with MGRA’s list of concerns, which are very similar to the issues that TURN discusses in Section 3.1, namely: the fact that utilities’ interests lie in a near-zero risk tolerance policy;<sup>32</sup> the broad diversity of views and divergent interests regarding risk tolerance;<sup>33</sup> the inability to convene a truly representative working group and to ensure that less-well funded representatives would have the resources to participate;<sup>34</sup> and the inability to reach a true consensus.<sup>35</sup>

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<sup>32</sup> MGRA Proposal, pp. 4-6.

<sup>33</sup> *Id.*, pp. 7-8.

<sup>34</sup> *Id.*, pp. 6-7. TURN would add that the closer the working group came to representing the broad range of interests, the more unwieldy it would become.

<sup>35</sup> *Id.*, pp. 7-8.

MGRA proposes what it thinks would be a more workable process, one that ends in a CPUC determination. However, MGRA’s proposal is extremely unclear about the objective of the process. MGRA describes the output as “both quantitative and qualitative guidelines for risk reduction and spending that can be incorporated by utilities into their RAMP filings.”<sup>36</sup> This is extremely vague. The vagueness of the objective is encapsulated by the proposal’s acknowledgement that one of the scoping questions in the proposed process should be: “What will the output of the risk tolerance proceeding look like?”<sup>37</sup>

MGRA is thus proposing a resource-intensive process without sufficient clarity about the goal and output. Without more clarity about the goal, the process will likely bog down and make little, if any, progress. Therefore, TURN does not see MGRA’s process as a good use of the parties’ and the Commission’s resources. In contrast, the ultimately successful proceeding (R.08-11-005) to improve General Orders in relation to the wildfire risk and to adopt HFTD maps – which MGRA cites as inspiration for its proposal – had well-defined and achievable goals, modifying relevant CPUC General Orders and creating HFTD maps.

In addition, MGRA’s proposal does not explain how its proposal would deal with the reality of the diversity of risk attitudes among California residents. As discussed above in Section 3.1.5, TURN recommends that we be honest about the fact that there is no such thing as a single representative risk attitude or risk tolerance in California (especially in a state as large as California) and that the Commission’s statutory duties and its ESJ Plan argue for focusing on the

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<sup>36</sup> *Id.*, p. 11.

<sup>37</sup> *Id.*, p. 16.

risk tolerance of the low-income customers who are in danger of losing access to essential energy services.

TURN submits that the budget-constrained optimization proposal discussed in Section 4 is much more focused than MGRA's proposal, with a clear view of the output of the process – a series of optimized portfolios that would provide the maximum risk reduction at the prescribed budget constraints. This invaluable information places the risk tolerance focus on affordability, where it belongs, and would provide the utilities and parties a clear choice regarding which affordability/risk reduction option represents the best tradeoff given the affordability needs of low-income customers. This would be significant and achievable progress in improving the risk-based decision-making process.

#### **4. TURN SUPPORTS ADOPTION OF SPD'S BUDGET-CONSTRAINED OPTIMIZATION PROPOSAL, WITH MODIFICATIONS**

TURN supports most aspects of SPD's Recommendation 6 to require utilities to present budget-constrained, optimized portfolios of mitigations. Below, TURN explains the benefits of SPD's proposal in providing important information to support the Commission's decision regarding how much risk reduction is affordable and tolerable, particular to the ESJ communities that the Commission has committed to prioritize in its deliberations. In addition, TURN recommends some modifications and clarifications to SPD's proposal that will improve the information that is provided to the Commission.