



Daniel F. Skopec
VP – Regulatory Affairs
601 Van Ness Avenue, Suite 2060
San Francisco, CA 94102-6316
Tel: 415-202-9986
Fax: 415-346-3630
DSkopec@semprautilities.com

August 31, 2015

Ms. April Mulqueen
Policy and Planning Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Reply Comments on SFI – Safety Intervenor

Dear Ms. Mulqueen:

San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) submit these reply comments to the responses submitted on August 19, 2015 to your Solicitation For Input (SFI) on the role of safety intervenors in relevant California Public Utilities Commission (Commission or CPUC) proceedings, dated July 30, 2015.

Safety is a top priority for the Commission, but is not a stand-alone topic—it needs to be balanced with cost, reliability and other issues. SDG&E and SoCalGas recommend the Commission address the role and functions of the Safety and Enforcement Division (SED) as the best “safety intervenor” and, at the same time, make best efforts to increase the “safety focus” of all other intervenors. A new stand-alone safety intervenor is not the best approach, nor is increased reliance on the Office of Ratepayer Advocates (ORA).

Role of Safety and Enforcement Division

SED should be divided into two groups: one advisory and the other safety advocacy (which would intervene in CPUC proceedings). Both groups should report to the same SED director for consistent policy.

Safety Focus Needed By All Parties

SDG&E and SoCalGas urge the Commission to require all organizations who participate in CPUC proceedings to focus on safety measures and the cost of implementing them. The CPUC should direct all intervenors to address safety issues when they arise in CPUC proceedings. ORA should be directed to address safety and rate advocacy together and to provide an analysis of the effects of its cost proposals on utility reliability and safety.

Safety Intervenors

Several commenters urge the Commission to have at least one “safety intervenor” in regulatory proceedings. SDG&E and SoCalGas believe that the Commission’s safety staff (*i.e.*, SED) is the most appropriate “safety intervenor.” If considering other options, the Commission should strictly evaluate the qualifications of safety intervenors, especially if a request for intervenor compensation is being made. Compensation should tie back to the safety intervenor’s competencies. At a minimum, a safety intervenor needs to understand and have competence in risk assessment and mitigation, identification and recognition of safety risks, risk modeling and related topics. Intervenor compensation definitely should not be split into safety and cost “buckets,” as these issues are interrelated. SDG&E and SoCalGas believe there are no significant barriers to safety advocate participation.

Response of SDG&E and SoCalGas to Other Comments on the SFI

The Utility Reform Network

The Utility Reform Network (TURN) comments that safety and cost issues are inextricably intertwined and that an organization “with a sole focus on utility safety” could probably help the CPUC prioritize safety risks but would be of little assistance to the CPUC’s more challenging task of optimizing safety programs and spending in light of limited ratepayer funds. TURN also comments that there is an inevitable trade-off between safety risk reduction and cost, and the CPUC must balance the competing objectives of safety and reasonable rates all the time; there is no conflict of interest in this. SDG&E and SoCalGas agree with TURN on these points.

Further, TURN comments that ORA’s statutory mandate includes both safety and cost considerations and states: “If adequately funded, ORA could be the organization that effectively advocates in all relevant proceedings for both safety and reasonable rates.” SDG&E and SoCalGas believe that ORA will continue to focus largely on costs, regardless of its internal funding, and SED is the more logical staff division to be assigned to focus on safety matters.

Coalition of California Utility Employees

Coalition of California Utility Employees (CUE) notes that CPUC proceedings have primarily focused on reducing costs while ignoring the consequences on safety. CUE also comments that ORA has not included safety analyses with its proposals in General Rate Cases (GRCs), and ORA’s historical focus in CPUC proceedings has been to obtain lower costs for utility service. CUE argues that creating a specific safety intervenor would give appropriate weight to the CPUC’s mandate to require utilities to provide safe and reliable service at just and reasonable rates. CUE also argues that an organization dedicated to safety issues should be singularly focused to avoid conflicting interests and that there are many ratepayer advocacy groups—there should be at least one dedicated to safety. SDGE and SoCalGas disagree with this rationale. As noted in our opening comments, there are numerous intervenor groups that are concerned with safety, and a focus only on safety (without regard to cost or other factors) would not provide a reasonable balance of all the goals the Commission must achieve.

The Utility Workers Union of America

The Utility Workers Union of America (UWUA) comments that the SED is specifically dedicated to utility safety issues, and they are crucial because they exercise the CPUC's powers of investigation and regulation of utility record-keeping and bookkeeping. UWUA recommends the following changes to SED: (1) enlarge scope of SED audits/investigative interactions; (2) systematize reporting of audit/investigation findings and responses, including publication of its reports; (3) include SED reports and audits in proceedings that lead to a formal decisions, including the record on which findings, conclusions and orders are based; and (4) clarify the advisory and other functions of SED, so that information generating processes and information filtering processes are made visible and transparent to Commissioners and the public.

SDG&E and SoCalGas agree with UWUA that the SED's functions should be not only clarified but separated; advisory and advocacy roles must be isolated from each other. This recommendation is consistent with the Strumwasser Report, Recommendation 4 at p. 148, which states: "The Commission should establish clearer institutional separation of functions to avoid the appearance of bias in advisory staff." SDG&E and SoCalGas also reiterate that due process must be provided if the Commission intends to include SED reports and audits in proceedings that lead to a formal decision.

UWUA comments that utility employees have a unique perspective on safety and service issues, so represented employee participation in CPUC proceedings should be institutionalized to improve the availability and quality of this information. However, several union groups already participate regularly in GRC and other proceedings, so SDG&E and SoCalGas see no need for further institutionalization.

Further, UWUA comments that ORA should continue with its primary mission of establishing revenue requirements for utility activities constituting adequate services but that SED participation is essential. UWUA comments that other participants can decide whether or not to couple service/safety proposals and discussions with cost/revenue analyses. SDG&E and SoCalGas agree with UWUA on these points.

City of Carmel-by-the-Sea, City of San Bruno and City of San Carlos

City of Carmel-by-the-Sea, City of San Bruno and City of San Carlos (jointly, "Cities") comment that the CPUC should encourage the participation of an organization that has its primary focus and mission on public safety and safe operation of the utilities regulated by the CPUC, in a role of "independent monitor." SDG&E and SoCalGas believe that the SED should fill this role, rather than a new organization.

Cities comment that public agencies charged with the protection of public safety at the state and local level, such as cities, counties, fire districts and the state fire marshal, should be informed of safety choices presented to the CPUC and be given the opportunity to provide comments and advice, formally and informally. SDG&E and SoCalGas agree with this comment.

Further, Cities comment that current rules prevent intervenor compensation to the public agencies charged with responding to public disasters, and the CPUC has not provided an equitable basis for compensation for public agencies even when their participation is found to have been necessary and valuable to the outcome. However, intervenor compensation is controlled by statute, which may not be modified indiscriminately. Public agency eligibility for intervenor compensation would require legislative action.

Cities accurately comment that there are varying degrees of “safe,” and where a utility is on that continuum is affected by cost considerations. Cities further state that “all intervenors must be able to quantify the costs and benefits of differentiating between the degrees of ‘safe.’” However, Cities make no proposals regarding how to achieve this goal, particularly in the near future. Cities comment that there should be an independent monitor (the safety advocate) to provide an objective and quantified risk vs cost assessment of utility proposals. Again, even if there were an independent monitor, it is unclear how such a monitor would operate, or be funded, or in which proceedings it would choose to participate. SDG&E and SoCalGas believe that the Commission’s safety branch (SED) is the appropriate “safety intervenor” once it has been separated into advisory and advocacy departments.

Rene Morales on behalf of Gas Pipe Safety First

Rene Morales (Gas Pipe Safety First or GPSF) comments that ratepayer advocacy and safety advocacy should be addressed separately, as there is a conflict of interest between parties trying to keep rates low and parties advocating for greater safety measures. GPSF also comments that the CPUC should require safety intervenors to have certain competencies, but other organizations should not be barred from participation in the proceedings and submission of comments if they fail to meet these competencies. The CPUC should clearly state what is expected of safety intervenors and also provide workshops to help develop those interested in becoming a safety intervenor. These are all valid points.

GPSF comments that the intervenor compensation program is insufficient to incent participation because only an established intervenor organization could work for two years in advance of compensation. Requests have been made in the past that intervenor compensation should be paid earlier due to the length of proceedings. The Commission has held that it is incapable of doing so based on the existing statutes.

Thank you very much for your consideration of these comments.

Sincerely,

/s/ Daniel F. Skopec
Daniel F. Skopec
VP – Regulatory Affairs