

The decision does not commit legal error because the finding or conclusion Vernon asks for is not required. Vernon did not meet its burden of proof as the complainant to show that the project was unsafe at the 42-48 inch depth or that placement at that depth created an unreasonable risk to public safety. It provided only the unsubstantiated opinion that the project would be safer at a 96 inch depth. Vernon admits that placing the line at 96 inches does not eliminate all risk. There is no such thing as an absolutely safe high pressure gas line. The findings and conclusions in the decision are accurate and cover all material issues.

General Order 112-D governing construction and placement adequately fulfills our public safety obligations by imposing reasonable and standardized measures to protect the public safety, consistent with the public necessity for gas service. The decision is adequately supported by our conclusion that the project "meets or exceeds" federal and state standards. Those standards are specifically intended to protect the public safety. (G.O. 112-D, Sec. 102.1.) Vernon has failed to demonstrate an unreasonable risk to the health or safety of the public, or prove a basis for ordering a deviation from the generally applicable rules, accepted by every other city on the line's route. Concluding that the line is "safe" or "unsafe" would be misleading to a reviewing court, and would fail to inform such court about the nature of the review conducted to consider Vernon's requested deviation.

If Vernon does not believe the line safe enough at 42-48 inches, it should pay the \$270,000 to place the line at its preferred depth. Otherwise, Vernon should rely, as does every other city, upon the common law precepts that provide an evidentiary presumption when compliance with federal and state safety standards are met.

IT IS ORDERED that:

1. The application for rehearing of Decision 97-01-009 filed by the City of Vernon is denied.

This order is effective today.

Dated March 18, 1997, at San Francisco, California.

P. GREGORY CONLON

President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners