

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion to Adopt
New Safety and Reliability Regulations
for Natural Gas Transmission and
Distribution Pipelines and Related
Ratemaking Mechanisms.

Rulemaking 11-02-019
(Filed February 24, 2011)

**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES
ON ORDER INSTITUTING RULEMAKING**

In accordance with Rule 6.2 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission") and with the schedule set forth in the Order Instituting Rulemaking on the Commission's Own Motion to Adopt New Safety and Reliability Regulations for Natural Gas Transmission and Distribution Pipelines and Related Ratemaking Mechanisms ("Rulemaking" or "OIR"), issued on February 24, 2011, and subsequently revised in the Assigned Commissioner's Ruling¹ issued on April 7, 2011, the Division of Ratepayer Advocates ("DRA") hereby offers its preliminary comments regarding the Rulemaking.

DRA generally supports the Rulemaking and the Commission's overarching goal to "establish a new model of natural gas pipeline safety regulation applicable to all California pipelines"² and foster a "culture of safety"² among the California natural gas utilities within this Commission's purview.

¹ Rulemaking ("R.") 11-02-019, Assigned Commissioner's Ruling Requesting Comment on Proposal from Congresswoman Speier, Adding Topic to Report from Pacific Gas and Electric Company, and Revising Schedule for Filing Comments on Order Instituting Rulemaking, April 7, 2011, pp. 2, 3.

² R.11-02-019, Order Instituting Rulemaking on the Commission's Own Motion to Adopt New Safety and Reliability Regulations for Natural Gas Transmission and Distribution Pipelines and Related Ratemaking Mechanisms ("OIR"), Feb. 24, 2011, p. 1.

The OIR asks parties to describe their interest in this proceeding and to identify any issues that should be included within its scope that have not already been identified in the order.⁴ The primary objectives listed on pages 4-5 of the OIR and the questions posed on page 8 provide an adequate identification of some of the issues that should be addressed in this proceeding. DRA is particularly interested in the ratemaking implications of implementing and monitoring compliance with any new or modified rules (such as for pressure testing requirements) or a “comprehensive infrastructure upgrade and replacement policy and program”⁵ that may result from this proceeding. DRA appreciates the Commission’s recognition that a balance must be struck between “the potential cost [and] the likelihood of danger to public safety.”⁶

One of the primary objectives of this proceeding is to “[c]onsider available options for the Commission to better align ratemaking policies, practices, and incentives to elevate safety considerations, and maintain utility management focus on the ‘nuts and bolts’ details of prudent utility operations.”⁷ DRA notes that general rate cases (“GRCs”) provide all the utilities regulated by this Commission with the ability to seek funding from ratepayers for ongoing utility operations and maintenance costs and capital projects on a forward-looking, comprehensive basis. Moreover, the Commission’s application process provides an existing procedural avenue for utilities to seek rate recovery of extraordinary expenses in unique circumstances outside of the rate case cycle.

The OIR states that when PG&E submits the reports required by Resolution L-410, the Commission “will need to begin a process to prioritize the need for additional testing on segments for which records are not adequate or where previous testing was not

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³ See OIR at 10: “The pipeline operators must have a corporate ethic and workplace culture that places safety as their first responsibility.”

⁴ See OIR at 16 and Ordering Paragraph 6.

⁵ OIR at 13.

⁶ OIR at 13.

⁷ OIR at 4.

sufficient or conclusive about the appropriate pressures to be maintained on those pipelines. Depending on the types of tests required, expenses will likely be non-trivial.”⁸ DRA supports the concept of potentially “reduc[ing] PG&E’s rate of return on specific plant investments or impos[ing] a cost sharing requirement on shareholders.”⁹ The Commission pursuant to its ratemaking authority clearly can establish this and other ratemaking mechanisms for PG&E, and for the other utilities as their individual circumstances and the public safety interest warrant. Ratemaking mechanisms that balance the cost burden between ratepayers and shareholders could be effective tools for the Commission to ensure “that each investment in safety that we order provides value to customers.”¹⁰

Whether to adopt a ratemaking “feedback loop”¹¹ pertaining to certain authorized expenditures on needed maintenance and capital projects is worth consideration within the context of the Rulemaking. However, the Commission should balance such potential policy with the fact that the utilities are ultimately responsible for ensuring that their systems are operated in a safe and reliable manner. The Commission in this Rulemaking can also give consideration to accomplishing its objectives through additional (semi-annual or annual) reporting requirements on the utilities’ spending and capital investment programs. The Commission could also consider implementation of one-way balancing accounts for specific safety and/or maintenance related expense categories and investment programs. If the utilities do not spend the authorized amounts, the funds will be returned to ratepayers. For some utilities, this policy has been applied to certain expenses such as the distribution integrity management program (for Southern California

⁸ OIR at 12.

⁹ OIR at 11-12.

¹⁰ OIR at 12.

¹¹ See OIR at 12: “This proceeding will consider whether to adopt a special ratemaking ‘feedback loop’ for safety-justified expenditures to ensure that such expenditures are made or only higher priority safety projects are substituted, and any other ratemaking mechanisms that may be useful in promoting prudent utility operations.”

Gas Company (“SoCalGas”) and San Diego Gas & Electric Company (“SDG&E”); see Decision 08-07-046) and vegetation management (for PG&E and SDG&E).

The OIR states that “comments should address whether to adopt the rules set forth in Attachment A,”¹² which includes, among other draft revisions to General Order (“G.O.”) 112-E, a new section setting out strength test requirements for certain PG&E pipelines. The Assigned Commissioner’s Ruling issued on March 24, 2011, also asks parties to provide comments on certain proposed new or revised rules to be included in G.O. 112-E and a new rule requiring inspection of certain types of pipe.¹³ At this time, DRA defers to the Consumer Protection and Safety Division and its consultants’ expertise on the technical aspects (such as operational impact) of proposed additions or revisions to G.O. 112-E. DRA generally supports new or enhanced reporting requirements to the extent they would serve to improve the flow of information relevant to the Commission in its investigations or in determining utility compliance with safety requirements.

The Commission in this proceeding “will also consider whether the rules and requirements we adopt in the safety phase of PG&E’s gas transmission and storage rate case, A.09-09-013, should apply to the state’s other gas utilities.”¹⁴ The proposed decision (“PD”) in A.09-09-013 requires PG&E to submit to the Commission a semi-annual “Gas Transmission and Storage Safety Report” beginning on August 1, 2011.¹⁵ The report would provide details of: “(1) ... storage and pipeline-related safety, reliability and integrity capital projects and maintenance activities are being undertaken by PG&E

¹² OIR at 16.

¹³ See R.11-02-019, Assigned Commissioner’s Ruling Adding Items to Previously-Scheduled Comment Cycle, Addressing Ex Parte Contacts, Scheduling Public Participation Hearings, Setting Prehearing Conference and Encouraging Participation by Pipeline and Hazardous Material Safety Administration, March 24, 2011, pp. 2-5.

¹⁴ OIR at 9.

¹⁵ See Proposed Decision of ALJ Wong in A.09-09-013 regarding the Gas Accord V Settlement, mailed March 15, 2011, pp. 3-4, 55-56, Appendix C. PG&E in its opening comments on the PD requests that the report’s due date be revised to November 1, 2011.

and the amounts spent on such activities; (2) ... whether projects which have been identified by PG&E with high risk assessments are being carried out or whether other higher risk projects have been undertaken instead; (3) ... PG&E's rationale for reprioritization of projects; and (4) ... the status of PG&E's compliance with [49 C.F.R. Part 192, Subpart O – Pipeline Integrity Management].”¹⁶ DRA has expressed its support for the PD in A.09-09-013. The Commission could consider similar reporting by the other gas utilities in either this OIR or in those utilities' current or ensuing GRCs.

The OIR also states that the Commission will evaluate PG&E's proposed Pipeline 2020 Program (and any similar proposals by the other gas utilities) in this proceeding.¹⁷ Although it is within the Commission's prerogative to review PG&E's Pipeline 2020 Program in this Rulemaking, DRA maintains that the more appropriate venue for reviewing such programs is within a utility's GRC. PG&E has the authority to pursue reasonable projects and investments that serve to enhance the safe and reliable operation of its gas pipeline and storage operations between GRCs. In its pending GRCs, PG&E requested funding for its distribution pipeline replacement program, capital investment for various transmission projects and other reliability related investments. There are two proposed decisions pertaining to PG&E's GRC applications which provide substantial funding for capital investment, pipeline integrity and other maintenance expenses based on comprehensive settlement agreements in the cases. On a similar note, SoCalGas and SDG&E have a pending GRC application filed with the Commission and those utilities' capital investments and expense requests are currently being reviewed in those cases.

DRA appreciates the opportunity to comment on the Rulemaking and requests that, in considering how to make ratemaking policy “better reflect safety concerns and ensure ongoing commitments to public safety,”¹⁸ the Commission maintain a focus on

¹⁶ A.09-09-013 PD, p. 56.

¹⁷ See OIR at 13.

¹⁸ OIR at 11.

achieving an effective balance between potential ratepayer costs and public safety concerns.

Respectfully submitted,

/s/ MARION PELEO

Marion Peleo

Attorney for the Division of Ratepayer
Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2130
Fax: (415) 703-2262

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