

**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.

R. 11-02-019  
(Filed February 24, 2011)

**COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO  
ON ORDER INSTITUTING RULEMAKING**

**I. INTRODUCTION**

Pursuant to the Order Instituting Rulemaking ("OIR") and the March 24, 2011 Assigned Commissioner's Ruling Adding Items to Previously-Scheduled Comment Cycle (the "Assigned Commissioner's Ruling" or "ACR"), the City and County of San Francisco ("CCSF") submits these comments.

This OIR was opened in response to the tragic natural gas explosion in San Bruno. The explosion and subsequent inquiry revealed the critical need to reevaluate the current rules governing pipeline safety and ratemaking policies. As part of this rulemaking, the Commission should exercise its authority to create additional safety requirements that are more stringent than the federal regulations. By doing so, the Commission will uphold its duty to ensure that utilities are providing safe and adequate services necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public, as required by Public Utilities Code Section 451. CCSF commends the Commission for undertaking a thorough review of gas pipeline safety throughout the state. In addition to establishing stringent rules, the Commission also must improve its enforcement of those rules, including ensuring a sufficient number of adequately trained Commission enforcement staff and adopting meaningful penalties for utilities

who do not maintain adequate safety practices. Improving the safety of natural gas transmission and distribution pipelines should be this Commission's first priority.

The OIR and ACR seek public comment on rules proposed in the OIR and ACR, and ask parties to address any other procedural or substantive issues germane to gas safety and reliability. CCSF supports many of the proposals identified in the OIR and ACR, and offers modifications to several specific proposals and suggests additional rules and issues the Commission should address

## **II. DISCUSSION**

### **A. The Commission Should Modify and Adopt the Immediate Rule Changes Proposed in Attachment A to the OIR.**

The Commission proposes to develop or implement immediate changes to General Order ("GO") 112-E to (1) require that pipeline installed prior to 1970 in high consequence areas ("HCA") for which the utility lacks reliable, verifiable, and complete records of strength testing be operated at 80% of the Maximum Allowable Operating Pressure ("MAOP"); (2) amend the reporting requirements in GO 112-E; (3) revise the reporting rules governing installation, replacement, repair and structural reinforcement of pipeline and fittings; and create a new rule governing the inspection of low-frequency electric resistance welded pipe, and (4) realign ratemaking incentives for prudent utility operations. CCSF urges the Commission to adopt these additional safety regulations immediately with the modifications identified below.

#### **1. Proposed Rule 145.**

Proposed Rule 145.1 would prohibit PG&E from operating any natural gas transmission line above 80% of the actual MAOP reliably and verifiably recorded during the period from February 15, 2006 to February 15, 2011 for pipelines with characteristics listed in proposed rule 145.2. Adopting this rule immediately makes sense in view of the difficulty in obtaining complete records from PG&E.

Under proposed Rule 145.3, PG&E could seek exemptions to increase pressure above 80% of the actual MAOP. The Commission should modify this proposal in two ways. First, proposed Rule 145.3.1 should state that interested parties and affected municipalities may submit comments on PG&E's letter request to the Executive Director within 20 days of receiving it. It is important for affected municipalities to be able to identify priorities or needs that should be considered by the Commission staff and the Executive Director when deciding whether to grant such a request.

Second, the rule should specify that any request for an exemption pursuant to proposed Rules 145.3.1 or 145.3.2 must be supported by good cause. PG&E's showing of good cause must justify the need to increase pressure and include an explanation of why that need for increased pressure cannot be met in an alternative manner and why the increased pressure will not pose undue risks to safety.

As drafted in the OIR, new Rule 145 would apply only to PG&E. However, the ACR asks whether this requirement should be applied to other pipeline operators. CCSF has insufficient knowledge about the gas pipelines of other utilities to support a position on this question. The Commission should adopt prudent safety rules for all utilities, and to the extent that PG&E's gas system suffers from demonstrated problems, the Commission should develop specific rules to address such deficiencies.

## **2. Proposed Amendments to Rule 122.2.**

Increased reporting requirements in tandem with increased oversight and enforcement are critical components of a robust regulatory regime. CCSF supports the proposed additions to Rule 122.2(a) as formulated in the ACR. The proposed Rule 122.2(a)(3) would require utilities to report any incident where the pipeline pressure exceeds the established MAOP or any lower established Maximum Operating Pressure ("MOP"), including MOP established under proposed Rule 145. Because exceeding MAOP can stress pipeline features, the Commission should be aware of any such occurrence. In addition, proposed Rule 122.2(a)(4) would require operators to

report any incident where any part of the gas pipeline system is shut down. CCSF supports this reporting requirement as well.

CCSF recommends an additional modification to Rule 122.2(b). The rule should require all reportable incidents in Rule 122.2(a) to be reported within two hours after the utility is aware of the incident and personnel are on the scene. Currently, Rule 122.2(b) provides that if the utility is notified of the incident outside of normal working hours, the report must be made as soon as practicable, but no longer than four hours after the utility is aware of the incident and its personnel are on the scene. Given the ability of utilities to report via the internet, this requirement should not be overly burdensome or time consuming. Therefore, the Commission should remove the distinction between reporting during normal business hours and outside normal business hours and simply require all incidents to be reported within two hours after the utility is aware of the incident and its personnel are on the scene.

The ACR also asks parties to comment on proposed changes to Rule 122.2(d). CCSF supports these changes. The federal rules exempt an operator from reporting a safety-related incident if the condition is repaired or replaced prior to deadline for filing the report. See 49 C.F.R. § 191.23(b)(4). Safety-related incidents in the federal regulation include instances where: (1) corrosion has reduced pipeline wall thickness to less than that required for the MAOP; (2) unintended movement impairs the serviceability of a pipeline; (3) a crack or material defect impairs the structural integrity of the pipeline; (4) a material defect or physical damage impairs the serviceability of the pipeline; (5) the pressure exceeds MAOP; (6) a leak in the pipeline exists, and (7) any safety-related condition could lead to imminent hazard and cause a 20% reduction in pressure or shutdown of a pipeline. See 49 C.F.R. § 191.23(a). Clearly, the Commission should be aware of any safety-related incident because, by definition, the incident affects the integrity or serviceability the pipeline.

It is important to ensure the Commission is informed of factors that may impact safety going forward, even though the initial incident was quickly resolved. Because CPUC enforcement depends on robust records and a wide foundation of knowledge with regards to both

the condition of the utility's gas system and maintenance of that system, all safety-related incidents as defined by 49 C.F.R. § 191.23 should be reported.

**3. Proposed Rule Requiring Inspection for Certain Types of Pipe.**

The ACR proposes a rule under which all operators must select an assessment technology or technologies capable of assessing seam integrity and seam corrosion anomalies for pipelines subject to section 192.917(e)(4). Pipeline segments subject to 49 C.F.R. § 192.917(e)(4) include those that contain "low-frequency electric resistance welded pipe, lap welded pipe, or other pipe that satisfies the conditions specified in ASME/ANSI B.31.8S, Appendices A4.3 and A4.4." This section also requires hydrostatic testing when any segment experiences seam failure or the operating pressure exceeds the MOP experienced during the preceding five years.

Public reports indicate that PG&E has been performing non-operationally required pressure increases in order to avoid performing hydrostatic testing on pipelines subject to section 192.917(e)(4). This new rule would require PG&E to actually test the strength of the welds instead of continually avoiding the rule by claiming that the MAOP is never exceeded. CCSF strongly supports this proposed rule.

**4. Realignment Of Ratemaking Policies.**

CCSF supports realigning ratemaking policies, priorities, and incentives to require operators to spend funds approved in rates cases for safety and maintenance items. The Commission must better use its ratemaking authority to ensure safe and reliable gas operations. The Commission and the public must rely on the technical knowledge and ability of utility personnel to ensure safe and reliable operations. However, the Commission's policies are crucial to ensuring that utility management properly prioritizes safety by providing proper equipment, personnel, and training, as recognized by the OIR. The Commission cannot do this only through adopting additional rules or providing for additional inspections, or increasing its own enforcement staff, although it needs to do all of these things.

In order to ensure "utility management attention to the 'nuts and bolts' of prudent utility operations" the Commission must follow the money. OIR at p. 11. In other words, the Commission must be prepared to impose significant fines, disallow cost recovery, reduce utility rates of return, and require shareholders to share costs, as suggested by the OIR. While utilities obviously want safe and reliable operations, as investor-owned companies they face constant pressure to reduce costs and increase earnings. The Commission must use its authority to ensure that meaningful financial consequences for failures to follow safety requirements are a regular part of every ratemaking scheme. These are measures squarely within the Commission's constitutional and legislative authority.

The OIR asks parties to address what requirements the Commission should adopt to ensure that natural gas pipeline operators possess and are maintaining traceable, verifiable, and complete pipeline records. The Commission must regularly audit utility records to ensure they are adequate and impose significant penalties—including fines and rate sanctions—where the records fall short.

In addition, the OIR asks if the should Commission adopt rules for enhanced penalties for life-threatening violations. CCSF strongly believes that enhanced penalties for life-threatening violations are appropriate. Even though the Commission's existing policies and the law provide broad discretion to the Commission to impose a range of penalties, violations that risk loss of life or serious injury merit enhanced penalties.

The OIR also seeks input on whether the Commission should use its existing enforcement authority earlier or more aggressively as part of its graduated enforcement program for safety-related violations. It is obvious that early attention to safety-related violations may prevent continuing or additional violations and may help avert serious incidents that threaten life, health, and property. Therefore, the Commission should encourage its staff to act early and often to prevent problems from compounding.

Finally, the OIR asks whether the Commission should seek additional legislative authority for an enhanced enforcement regime for safety related matters. If the Commission

believes that it needs additional state legislation in order to adequately ensure safe and reliable gas operations, then it should seek such authority. The Commission should also redesign its own policies and practices to use the authority it currently has, which is substantial.

**B. Additional Proposed Rules and Issues to Be Addressed In This Proceeding.**

CCSF has identified several additional safety concerns and issues to assist the Commission in its holistic review of gas pipeline safety. In addition to the rules proposed in the OIR, the Commission should implement: (1) rules concerning the periodic performance of class location studies, (2) rules governing construction on pipelines, (3) gas distribution safety rules analogous to those required for electric distribution in GO 165, and (4) rules coordinating utility efforts with first responders and local communities.

**1. Periodic Class Location Study.**

The Commission should amend GO 112-E to require utilities to regularly perform class location studies. Determining the proper class location is important because the federal regulations provide limitations on MAOP and pipe hoop stress corresponding to the class location of the pipeline. See 49 C.F.R. § 192.611. In addition, reviewing class location may reveal that certain segments of pipeline should be more properly classified as being in high consequence areas and would therefore need to be included in the utility's integrity management program. See 49 C.F.R. § 911(a). Furthermore, inspection requirements may vary depending on the class location. See 49 C.F.R. § 192.241(d). As communities evolve and develop, the class location associated with a certain segment of pipeline may change.

The federal rules only require utilities to perform a class location study "whenever an increase in population density indicates a change in class location," and that each operator "have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning changes in location." 49 C.F.R. §§ 192.609, 192.613. Whenever there is a change in class location, operators are required to confirm or revise the MAOP for that pipeline. 49 C.F.R. § 192.611. Rather than leaving the determination of when to perform this study to the utilities,

the Commission should add a new rule which requires the local operator to perform the requisite study on a periodic basis, perhaps every 3 years. This rule change will ensure that designations of class locations will be updated to reflect recent growth.

## **2. Construction Requirements.**

Additionally, the Commission should ensure that any work performed on gas pipelines is performed to the highest standard. This includes supplementing the federal and state rules governing the quality of work performed, the qualifications of those performing the work, inspection of any work performed, and the types of equipment used. The federal regulations provide some requirements in this regard. However, GO 112-E should be amended to provide guidelines on digging performed near pipelines, require that the name, qualifications and certification of any individual performing work on a gas pipeline are recorded, and require that instruments used to perform any construction are maintained and calibrated according to industry specifications.

As part of this review, the Commission should provide guidelines for any digging in proximity to a pipeline. Any digging should take into account the existence of other utility infrastructure in the ground. It is essential to develop rules that preserve safety and minimize the structural and financial impact to other adjacent underground utilities.

The Commission should also require inspection and verification of pipeline integrity before a trench is backfilled. For example, some existing metallic pipelines are coated and may be cathodically protected so that they do not deteriorate over time. Adjacent work may damage the coating, so inspection routines and documents should be required. Utilities should have specially trained employees to check for harm to cathodically protected pipeline and to ensure that potential harms are not backfilled without being inspected and recorded.

Furthermore, the Commission should develop rules that make it easy to verify that any maintenance work is performed by qualified individuals. Currently, the federal regulations require minimum qualifications for welders and that welds must be inspected. See 49 C.F.R.



Subparts E and F. However, these regulations do not require utilities to keep a record of the name of individual performing the weld or their certification or the name of the individual performing the inspection. The Commission should require such records.

Finally, the Commission should amend GO 112-E to address the proper maintenance and calibration of equipment used to maintain gas pipelines. For example, although 49 C.F.R. § 192.283 describes heat fusion joints, that section does not require the work to be performed with equipment that has been properly calibrated and tested within proper specifications. The Commission should require that any work performed meets certain minimum standards.

### **3. Minimum Safety Requirements For Distribution Lines.**

Currently GO 112-E provides only minimal additional safety requirements for gas distribution lines. While it is clear that gas transmission lines pose a more significant risk, distribution lines also pose serious safety concerns, particularly in view of their proliferation in close proximity to homes and businesses. CCSF suggests that the Commission should treat these lines with the same level of regulatory detail as it treats electric distribution systems in GO 165. GO 165 establishes "minimum requirements for electric distribution facilities, regarding inspection (including maximum allowable inspection cycle lengths), condition rating, scheduling and performance of corrective action, record-keeping, and reporting, in order to ensure safe and high-quality electrical service." GO 112-E should contain similar requirements for gas distribution. The Commission can accomplish this through an additional phase of this proceeding or another proceeding.

### **4. Emergency Plans, and Coordination With First Responders.**

Gas utilities should have a media and public communication plan specific to the communities served as part of any emergency plan, as media communications play an important role in preparing for and responding to disasters.

A common request at the San Bruno public participation hearing was for operators or the Commission to empower local communities by providing information concerning local gas

transmission and distribution systems. If local residents know that a gas line runs nearby, this may affect how conditions are reported to first responders. For example, in San Francisco, this could also include coordinating with local Neighborhood Emergency Response Teams ("NERT"). NERT is a community-based program dedicated to a neighbor-helping-neighbor approach. Working with NERT-certified groups may be one way utilities can bridge the gap between the utility, first responders and local communities, and develop a coordinated emergency plan between the operator and the community served.

As part of any coordination with first responders, utilities should provide the most detailed information available regarding the location of major transmission lines, including depth with GPS coordinates. This will allow first responders to consider pipeline safety when responding to any emergency. Emergency natural gas pipeline planning should include operation practices, scenario plans, communication plans and training approved by each community served by PG&E.

## **5. Commission Enforcement and Processes**

Increasing utility reporting requirements provides an opportunity for greater Commission oversight. However, the reporting requirements will be meaningless unless the Commission has staff that is able to audit the reporting for both detailed and systemic discrepancies. This also includes reviewing Commission processes to ensure that enforcement actions are aggressive and coordinated to adequately sanction violations of these rules with commensurate penalties. The proposed reporting requirements, in addition to existing requirements, will provide the Commission with ample opportunity to oversee utility operations. The Commission must commit to enforcing these safety requirements vigorously.

### **C. Other Procedural Suggestions.**

The Commission should grant leave to file reply comments. It is likely that the parties to this proceeding will raise diverse concerns regarding pipeline safety. The Commission could allow parties to file reply comments on May 27, 2011 when parties will be filing additional

comments on Congresswoman Speier's proposal to the Commission. See April 7, 2011 Assigned Commissioner's Ruling Requesting Comment on Proposal from Congresswoman Jackie Speier. Allowing reply comments will create a robust record from which the Commission may draft a scoping memo, and ease the administrative burden of individual parties seeking leave to file reply comments.

Moreover, as this proceeding and the related gas proceedings develop, additional gas safety issues may come to light. For example, the reports from the Commission's Independent Panel, or recommendations from the National Transportation Safety Board are likely to identify other issues that impact gas safety. The Commission will need to establish a process for parties to comment on the appropriate treatment of those reports and their implications for gas safety rules.

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### III. CONCLUSION

The Commission should immediately implement the rule changes proposed in Attachment A of the OIR, and begin consideration of the additional issues highlighted by CCSF. The success of any new rules will depend on the Commission's ability and willingness to enforce the rules and deter violations with meaningful consequences. To ensure public safety, it is essential for the Commission to craft rules that impose safety requirements and allow for proper oversight through reporting, record keeping and auditing.

Dated: April 13, 2011

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, KIANA V. DAVIS, declare that:

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen years and not a party to the within action. My business address is City Attorney's Office, City Hall, Room 234, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102; telephone (415) 554-4698.

On April 13, 2011, I served:

**COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO  
ON ORDER INSTITUTING RULEMAKING**

by electronic mail on all parties in CPUC Proceeding No. R.11-02-019

The following addresses without an email address were served:

- BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

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I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on April 13, 2011, at San Francisco, California.

/s/  
\_\_\_\_\_  
KIANA V. DAVIS