

**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 UTILITY REFORM NETWORK
ON THE PROPOSED DECISION
RESOLVING ORDER TO SHOW CAUSE**



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Pursuant to Rule 14.3, the Utility Reform Network (“TURN”) respectfully submits these comments on the proposed “Decision Resolving Order to Show Cause” (“PD”), issued by ALJ Bushey February 22, 2012.

I. SUMMARY

TURN does not oppose the main outcome of the proposed decision – the closing of the Order to Show Cause, as long as the Commission does not “accept” or “adopt” the March 24, 2011 Stipulation submitted by PG&E and CPSD. Such action is unnecessary, goes beyond the recommendations in the Joint Status Report, sets a bad policy precedent and conflicts with the purpose of the implementation plans submitted pursuant to D. 11-06-017. This Order to Show Cause can be closed given the findings that PG&E has met the timeline of the compliance plan without any separate findings accepting the entirety of the “Stipulation.”

Second, TURN recommends that the Commission require PG&E to amend its Implementation Plan based on the results of the Maximum Allowable Operation Pressure (“MAOP”) Validation effort. The purpose of the MAOP

validation effort would be undermined if the results are not used to inform the prioritization of work in the Implementation Plan.

Last, while not technically part of the Order to Show Cause, TURN recommends that the Commission put PG&E on notice that it will review the hydrotesting conducted in 2011 pursuant to PG&E's own Compliance Plan submitted as part of the Order to Show Cause. This hydrotesting was supposed to substantiate the safety of the pipeline most similar to the San Bruno Line 132. However, TURN is extremely concerned that PG&E's hydrotesting test pressures are designed simply to validate the MAOP (by testing to 1.5 times the MAOP), not to validate the safety of the pipeline under normal operating conditions that involve pressure cycling. PG&E should be required to disclose its hydrotesting data and its normal pipeline operating data, and the Commission should ensure a frank and complete discussion of the proper level of pressures that should be used for hydrotesting pipe that *has not been previously tested*.

II. DISCUSSION

A. The Order to Show Cause Was Needed to Ensure Compliance with NTSB Recommendations to Obtain Records for MAOP Validation

The Commission issued the order to show cause because PG&E failed to comply with Resolution L-410, directing PG&E to implement the safety recommendations of the NTSB by March 15, 2011. The NTSB recommended that

PG&E search for traceable, verifiable and complete records of its pipeline system. The goal was not merely an accounting exercise. In lieu of the existence of valid hydrotesting results, such records could be used to set maximum allowable operating pressures (“MAOP”) of a pipeline pursuant to the “weakest element” method authorized by 49 C.F.R. 192.619(a)(1).

Instead of producing accurate records as directed, PG&E reiterated its reliance on the “grandfathering” clause for MAOP validation and claimed it would produce all the records by end of 2011.¹ PG&E claimed that its lack of timely compliance with the March 15th deadline resulted from communications with CPSD staff concerning a compliance timeline.² PG&E proposed its own Compliance Plan.³ PG&E and CPSD then submitted a Stipulation with an attached MAOP Validation Plan.⁴ The Stipulation contained the following primary elements:

- A method for calculating the MAOP using records that also allowed for using “assumptions” if records were missing;

¹ R.11-02-019, PG&E Report, March 15, 2011.
² R.11-02-019, RT 152-155, Bottorff, PG&E.
³ R.11-02-019, PG&E Request for Approval of Compliance Plan, March 21, 2011.
⁴ R.11-02-019, PG&E and CSPD Stipulation, March 24, 2011.

- A timeline for PGE to complete the records search and validate the MAOP for 705 miles of specified pipeline at identified deadlines, with final completion by August 31, 2011
- A penalty payment of \$3 million up front, with another \$3 million if the timelines in the Compliance Plan were missed.

B. TURN Protested the Stipulation, and the Commission Superseded its Terms with D.11-06-017

TURN protested the Stipulation for two main reasons:

- The \$3 million penalty for missing the deadline was insufficient;
- The Stipulation did not include PG&E's promise to hydrotest or replace the 152 miles of pipeline most similar to the San Bruno line.

There was strong criticism of the proposal to use “engineering assumptions” when records were missing to validate the MAOP. As a result, the Commission issued D.11-06-017, which ordered PG&E to test or replace pipeline for which PG&E could not locate prior hydrotest records, rather than attempt any ‘records-based MAOP validation.’

Furthermore, the Commission independently ordered PG&E to conduct the MAOP validation described in the Stipulation as a tool to prioritize pipeline

segments for testing or replacement.⁵ The Commission also instructed PG&E to continue the hydrotesting of the 152 miles of pipeline that PG&E had committed to test in its own March compliance plan filed on March 21, 2011.⁶

In essence, the Commission's Decision 11-06-017 made moot the terms of the Stipulation by mandating records collection and requiring testing or replacement of all pipeline that had been covered by the Stipulation.

PG&E filed its final Report on the "Status of Maximum Allowable Operating Pressure Validation Project as of August 31, 2011" on September 12, 2011, in this docket. The Report asserted that PG&E had completed the records validation process as set out in its compliance plan. The Report stated that PG&E had found pressure test records for 97 miles out of the 705 miles in the compliance plan. The report stated that PG&E would provide CPSD with the detailed MAOP validation information, but that the information contained "sensitive infrastructure information" and would not be made public.⁷

C. The Joint Status Report Recommended Closing the Order to Show Cause, But Did Not Recommend Adopting the Stipulation

On January 19, 2012 the Assigned Commissioner issued a Ruling ("Ruling" or "ACR") requesting a status report and directing CPSD to "address

⁵ D.11-06-017, OP No. 1 at p. 30.

⁶ D.11-06-017, *slip op.* at 19.

⁷ R.11-02-019, PG&E Report, September 12, 2011, p. 1.

whether it believes that PG&E's actions subsequent to the March order and hearing have achieved the purpose of the MAOP validation requirements set forth in the Resolution and Rulemaking, and whether the specific terms of the stipulation remain necessary to achieve CPSD's enforcement objectives."⁸ The Ruling further directed PG&E and CPSD to consider "whether in light of subsequent developments, including the filing of the Implementation Plan, the provisions of the stipulation are still necessary or if other superior alternatives exist for achieving CPSD's enforcement goals."

The ACR appropriately placed the March order in the context of "the MAOP validation requirements." Both the Commission and PG&E have clearly concluded that MAOP validation through a records-based 'weakest element' analysis is not adequate in and of itself.

On February 3, 2012, the CPSD and PG&E filed a Joint Status Report consisting of three paragraphs. CPSD and PG&E stated that PG&E had completed the MAOP validation on the schedule established in the compliance plan. They stated that PG&E should pay the \$3 million penalty as provided in the Stipulation, which resolves only the issue of PG&E's compliance with the directives concerning the NTSB safety recommendations and does not limit any additional penalties not related to completion of the Compliance Plan. The third

⁸ R.11-02-019, ACR, January 19, 2012, p. 2.
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paragraph reiterated that none of the three enforcement proceedings “are impacted by the closing of this Order to Show Cause proceeding.” CPSD and PG&E recommended that the Order to Show Cause proceeding be closed.

The Joint Status Report did not recommend that the Commission “adopt” the Stipulation, presumably at least partly because the terms of the Stipulation had been mooted by time. PG&E and CPSD did not state anything concerning PG&E’s violation of Resolution L-410, even though CPSD had testified that it believed PG&E violated Resolution L-410.⁹

TURN did not submit comments on the Joint Status Report because nothing in the Joint Status Report conflicted with our earlier opposition to the Stipulation. While we believe that PG&E violated the explicit terms of Resolution L-410, proving this violation should not be a priority at this time. As TURN stated in our response to the Stipulation, we would rather focus our efforts, as well as those of the Commission, on ensuring public safety and determining how to redress PG&E’s past record-keeping and integrity management failures, not in litigating the question of “who said what when” concerning Resolution L-410. We thus do not object to closing the Order to Show Cause, as long as there is absolutely no prejudice to the ongoing issues concerning PG&E’s past practices as they relate to both this proceeding, the three open enforcement dockets, and

⁹ R.11-02-019, RT 178, Halligan, CPSD.
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other dockets the Commission may open to examine PG&E's management of its gas pipelines.

D. Adopting the Entire Stipulation is Unnecessary and Bad Policy

The Proposed Decision appropriately adopts the recommendations in the Joint Status Report to close the Order to Show Cause and to require PG&E to pay the \$3 million penalty. However, the Proposed Decision goes beyond the narrow recommendations in the Joint Status Report and adopts the entire Stipulation submitted on March 24, 2011. Such an action is unnecessary to close this Order to Show Cause. The Stipulation was designed to ensure PG&E's compliance with a records-based MAOP validation on a set time schedule. PG&E has already complied with the time schedule. The underlying goal of the Stipulation and the NTSB safety recommendations has been supplanted by D.11-06-017.

Adopting the Stipulation would be bad public policy. TURN continues to believe that the penalty provisions and the terms of the Stipulation were inadequate. The fact that these issues have been mooted by time in no way makes it acceptable to "adopt" the Stipulation.

E. The Proposed Decision Should Be Modified in Two Ways to Align with the Underlying Goals of the NTSB Safety Recommendations

1. The Implementation Plan Should be Updated Based on the MAOP Validation Completed by PG&E

The original goal of the NTSB safety recommendations was to ensure the collection of records sufficient to validate MAOP pursuant to the “weakest element” method. In D.11-06-017 the Commission directed PG&E to use the results of a records-based MAOP validation to prioritize testing and replacement work.

PG&E has *not* complied with this additional goal in its Pipeline Implementation Plan. Understandably, PG&E’s Implementation Plan as filed on August 26, 2011 could not utilize the results of the MAOP validation. Instead, PG&E used data available in April 2011 for its work prioritization. PG&E’s final MAOP validation report shows that PG&E located complete pressure test records for 14% of the 705 miles of pipeline included in its Compliance Plan.¹⁰ These miles could thus effectively be eliminated from Phase 1 of the Implementation Plan. It is unclear how the other results of the MAOP validation process would impact prioritization of work.

PG&E, however, has refused to amend its Implementation Plan based on MAOP validation prior to its evaluation by all parties.¹¹

The Commission, either in this proposed decision or in a separate Ruling of the Presiding Officer of Assigned Commissioner, should order PG&E to

¹⁰ R.11-02-019, PG&E Report, September 12, 2011, p. 3 (97/705=0.137).

¹¹ R.11-02-019, PG&E Rebuttal Testimony, p. 1-24, A41.

immediately update its Implementation Plan using the results of its MAOP validation process.

2. The Commission Should Ensure that the Future Hydrotesting Done by PG&E is Not a Waste of Time and Money

Three days before CPSD and PG&E filed the Stipulation and associated work plan for MAOP validation, PG&E filed its own Compliance Plan for work in 2011.¹² In its Compliance Plan, PG&E explicitly committed to testing or replacing in 2011 the 152 miles of pipeline most similar in characteristics to Line 132. The Stipulation did not include this commitment, but the Commission instructed PG&E to continue this hydrotesting.¹³

PG&E reports that it spent \$231 million in 2011 to “test” about 163 miles of pipeline.¹⁴

While TURN applauds PG&E for conducting this work, we remain extremely concerned that PG&E is not testing its pipelines at sufficiently high pressures to evaluate the potential threat of manufacturing and construction defects resulting in failure due to pressure cycling. If this concern proves to be

¹² R.11-02-019, PG&E Request for Approval of Compliance Plan, March 21, 2011.

¹³ D.11-06-017, *slip op.* at 19.

¹⁴ R.11-02-019, PG&E Rebuttal Testimony, p. 4-2, A3. This number differs from the 102.3 miles of Priority 1 pipeline reported as hydrotested in PG&E’s Final Hydrostatic Pressure Testing Report, December 30, 2011, p. 2.

well-founded, the hydrotesting will not provide valid data about potential failure risk of the pipelines. Future low pressure hydrotesting may waste ratepayer money and provide an illusion of safety.

In the hearing addressing PG&E's pressure lifting the pressure operating restrictions at the Topock Compressor Station, PG&E provided a Table with relevant hydrotest information, including the percent of SMYS (" % SMYS")at the test pressure and at MAOP. PG&E's witness Yura agreed that the table provided "essentially the key information" necessary to evaluate the MAOP, and PG&E agreed to provide such data in future requests for lifting operating pressure restrictions.¹⁵

The Commission explicitly directed PG&E to provide the % SMYS at MAOP¹⁶ and "complete pressure test results" for each segment when requesting the lifting of operating pressure restrictions. PG&E provided the requisite data on %SMYS at test pressure in its public compliance filing.¹⁷ The data showed that the following concerning the pressure ranges on mainline segments:¹⁸

¹⁵ R.11-02-019, RT 634:11-23, Yura, PG&E, September 19, 2011.

¹⁶ D.11-09-0006, OP 4A and 4D.

¹⁷ R.11-02-019, PG&E Supporting Information for Lifting Operating Pressure Restrictions, October 31, 2011, Attachment B.

¹⁸ TURN does not include data on the "shorts." TURN has not conducted a detailed evaluation of the data to determine which segments involve primarily components, versus longer sections of actual mainline pipeline.

Line	Lowest segment % SMYS at minimum indicated test pressure	Highest segment % SMYS at minimum indicated test pressure
Line 101	31.79%	93.12%
Line 132A	33.07%	70.86%
Line 147	24.90%	79.49%

Regrettably, PG&E's reporting in response to the CPUC directive was very narrowly limited. When PG&E provided its final report on the status of 2011 hydrotesting, it did not provide this same information concerning test pressures.¹⁹

TURN obtained the "confidential" data concerning these hydrotests on February 21, 2012. The data show that of the 100 hydrotests, approximately 51 had mainline segments tested at less than 90% SMYS, and approximately 23 had mainline segments tested at less than 70% SMYS.²⁰

The issue of hydrotest pressures is directly related to the MAOP validation and the future safe operations of this pipeline. The Commission should ensure that, either as part of its review of the Implementation Plan, or as a separate item addressed in this proceeding related to the MAOP validation,

¹⁹ R.11-02-019, PG&E Report, December 30, 2011.

²⁰ The numbers are approximate because TURN used raw data to approximate the pressures only on large mainline segments, not small diameter segments or segments comprising primarily components. But our analysis is approximate.

PG&E should fully disclose the data on test pressures and explain the basis for its pressures. The Commission should develop an expeditious process to provide for expert input on the question of proper test pressures.

This is an issue of paramount importance to safe operations. As well, it is a question of wise use of money to conduct strength tests that will be meaningful and provide useful long-term data.

III. CONCLUSION

TURN recommends that the Proposed Decision be modified to make clear that it is not “adopting” the original March 24, 2011 Stipulation. The PD should also be modified to direct PG&E to update its Implementation Plan based on its MAOP validation effort. The Commission should separately order a complete evaluation of hydrotesting procedures, to ensure that future hydrotests improve safety and are not a waste of money. These changes are summarized in the proposed findings and orders provided in Appendix A.

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Respectfully submitted,

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Appendix A

Proposed Modifications to Conclusions of Law:

- ~~1. It is reasonable in light of the record, consistent with law, and in the public interest to accept the March 24, 2011, stipulation as resolving the issues raised in the Order to Show Cause.~~
2. PG&E should pay a fine of \$3 million to the General Fund of the State of California.
- ~~3. The March 24, 2011, stipulation should be accepted.~~
4. The Order to Show Cause Portion of this proceeding should be completed.
- ~~5. Today's decision resolves an uncontested matter by granting the relief requested and, pursuant to Rule 14.6(c)(2), the Commission may reduce the comment period on the proposed decision.~~

Proposed Modifications to Orders:

- ~~1. The March 24, 2011, stipulation between Joint Status Report submitted by Pacific Gas and Electric Company and the Commission's Consumer Protection and Safety Division on February 3, 2012 is adopted and the parties shall comply with the terms of the stipulation.~~

New OP 5: PG&E shall update its filed Pipeline Safety Implementation Plan based on the results of the MAOP in time to allow parties to evaluate the revised costs and scope of work.

New OP 6: The Commission shall convene a technical workshop with relevant subject matter experts to discuss proper test pressures and test procedures for conducting a high pressure strength test designed to evaluate the threat posed by manufacturing or construction defects.