

**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 THE PROPOSED DECISION CONCERNING  
SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA GAS  
COMPANY PIPELINE SAFETY IMPLEMENTATION PLANS**

**I. INTRODUCTION**

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the City and County of San Francisco (San Francisco) submits these comments on the Proposed Decision of Administrative Law Judge Bushey (the Proposed Decision) concerning the pipeline safety implementation plans of San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas), which was issued on March 20, 2012.

San Francisco takes no position on the findings and conclusions of the Proposed Decision regarding how the Commission will proceed with review of the implementation plans proposed by SDG&E and SoCalGas. San Francisco submits these comments to urge the ALJ and the Commission to make two changes to the language of the Proposed Decision in order to avoid the appearance of prejudging issues that are contested on the record of this proceeding. One issue is whether and to what extent the Commission imposed "new" obligations on the gas utilities in D.11-06-017.<sup>1</sup> The second issue concerns the appropriate weight to be given to the Technical

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<sup>1</sup> Proposed Decision at p. 7.

Report of CPSD on the utilities' implementations plans.<sup>2</sup> San Francisco and other parties have addressed these issues in the context of PG&E's implementation plan both in filed testimony and in evidentiary hearings. For this reason, it would be inappropriate for the commission to adopt language here that could be read to suggest the Commission has already reached a conclusion on these issues.

**II. THE LANGUAGE OF THE PROPOSED DECISION SHOULD BE CHANGED IN TWO PLACES TO AVOID THE APPEARANCE OF PREMATURELY DECIDING ISSUES THAT HAVE BEEN CONTESTED ON THE RECORD IN THIS PROCEEDING**

**A. Whether D. 11-06-017 imposes "new" obligations on operators is a highly contested issue in PG&E's case.**

In considering whether to establish memorandum accounts for SDG&E and SoCalGas, the Proposed Decision states on page 7: "Because that Plan, as set forth in D.11-06-017, imposes new obligations on these operators which could not have been foreseen in the last general rate case, these direct costs appear to be incremental to adopted revenue requirement . . . ." Among the most heavily contested issues in PG&E's case is whether D. 11-06-017 imposed "new" obligations on the gas utilities and which costs of the implementation plan are "incremental." While San Francisco is not involved in reviewing the implementations plans of SDG&E and SoCalGas, we suspect that these issues will also be central to the outcome in those cases.

The Commission should not, therefore, adopt language here suggesting it has already reached a decision on these issues, without regard to the record in the PG&E case and prior to completion of a record in the SDG&E and SoCalGas cases. Moreover, the Commission does not need to adopt this language in order to accomplish the result recommended by the Proposed Decision, which is to establish memorandum accounts and provide for review in later cases.

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<sup>2</sup> Proposed Decision at p. 4-5, fn. 2.

**B. The evidentiary weight to be afforded the CPSD Technical Reports should be determined by evidence in the record rather than by an unnecessary footnote in this decision.**

The Proposed Decision states in footnote 2: “The Commission will give great weight to the recommendations contained in these reports and parties disagreeing with any recommendation should put forward compelling evidence demonstrating a superior means to achieve the Commission’s goal of public and employee safety.” San Francisco is not aware of any discussion by the Commission of how it intended to treat the CPSD Technical Report on PG&E’s implementation plan. The Assigned Commissioner’s Ruling dated November 2, 2011, indicates only that Technical Reports are “[t]o further assist the parties . . .”<sup>3</sup> San Francisco submitted comments on the Technical Report on January 13, 2012, and identified a key issue that the report failed to address.

The Technical Report was not offered into evidence in the PG&E case. If the Commission intends to rely on the Technical Report, it should provide proper notice and an opportunity to be heard by the parties. This should include the opportunity for discovery and cross-examination of the experts sponsoring the report. On the current record, the Commission has no basis for giving great weight to the Technical Report, given the lack of evidentiary foundation for its findings. In fact, giving great weight to the Technical Report on PG&E’s Implementation Plan “absent compelling evidence demonstrating superior means” of achieving safety is prejudicial to the parties who participated in the hearings on PG&E’s Implementation Plan.

As for the PD, the second sentence of footnote 2, quoted above, is not necessary for the decision and should be deleted.

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<sup>3</sup> Proposed Decision at p. 4.



## Attachment A: Proposed Modifications

1. Page 7: “Because that Plan, as set forth in D.11-06-017, imposes new obligations on these operators which could not have been foreseen in the last general rate case, these direct costs appear to be incremental to adopted revenue requirement and may be properly recorded in the memorandum account for subsequent ratemaking review by the Commission.”

Modify as follows:

~~“Because that Plan, as set forth in D.11-06-017, imposes new obligations on these operators which could not have been foreseen in the last general rate case, these direct costs appear to be incremental to adopted revenue requirement and~~ These costs may be properly recorded in the memorandum account for subsequent ratemaking review by the Commission, including determination of which obligations are new and which costs are incremental.”

2. Footnote 2: “At the direction of the Assigned Commissioner, CPSD prepared Technical Reports on each of the Implementation Plans submitted by the gas system operators pursuant to Decision (D.) 11-06-017. The Commission will give great weight to the recommendations contained in these reports and parties disagreeing with any recommendation should put forward compelling evidence demonstrating a superior means to achieve the Commission’s goal of public and employee safety.”

Modify as follows:

~~“At the direction of the Assigned Commissioner, CPSD prepared Technical Reports on each of the Implementation Plans submitted by the gas system operators pursuant to Decision (D.) 11-06-017. The Commission will give great weight to the recommendations contained in these reports and parties disagreeing with any recommendation should put forward compelling evidence demonstrating a superior means to achieve the Commission’s goal of public and employee safety.”~~

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 9, 2012, I served:

**COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO  
ON THE PROPOSED DECISION CONCERNING  
SAN DIEGO GAS & ELECTRIC COMPANY AND SOUTHERN CALIFORNIA GAS  
COMPANY PIPELINE SAFETY IMPLEMENTATION PLANS**

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 9, 2012, at San Francisco, California.

/S/

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KIANA V. DAVIS

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