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)**

REPLY BRIEF OF SOUTHWEST GAS CORPORATION (U 905 G)

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I. Introduction

In accordance with the Rules of Practice of the California Public Utilities Commission (Commission), and pursuant to the procedural schedule established by the Administrative Law Judge, Southwest Gas Corporation (Southwest Gas or Company) submits its Reply Brief regarding its Natural Gas Transmission Pipeline Comprehensive Pressure Testing Implementation Plan (Implementation Plan), and refutes the recommendation of the Division of Ratepayer Advocates (DRA) that ratepayer funding for the Implementation Plan be denied.

As set forth in the Implementation Plan, Southwest Gas operates approximately 15.4 miles of transmission pipeline in California, which can generally be described as the Victor Valley System and the Harper Lake System.[1] In accordance with D.11-06-017, which ended the historic exemptions, or "grandfathering" for establishing Maximum Allowable Operating Pressure (MAOP) for certain pipelines and required California gas utilities to submit plans for the pressure testing or replacement of all transmission pipelines not previously tested or for which records are not available, Southwest Gas' Implementation Plan proposes to replace its Victor Valley System.[2] The

[1] Implementation Plan, pg 5-6.

[2] Id. at 6-12. Southwest Gas identified both testing and replacement as viable options for the Victor Valley System, but selected replacement as the "best option". The Consumer Protection and Safety Division

Implementation Plan also explains that the Company's Harper Lake System complies with the pressure test requirements of D.11-06-017, and proposes only the installation of a remote control shut-off valve (RCV) to minimize the time to shut off gas flow in the event of an unanticipated release of gas.[3]

DRA's argument that all costs associated with the Implementation Plan (regardless of whether the pipe is tested or replaced) should be disallowed stems from a wholly erroneous interpretation of D.11-06-017, which fails to acknowledge the Commission's efforts to promulgate new and unprecedented safety regulations for gas utilities. In fact, DRA opines that Southwest Gas' Implementation Plan serves the sole purpose of correcting alleged non-compliance with pre-existing regulations. As detailed more fully herein, pre-existing regulations did not require Southwest Gas to conduct a strength test (i.e. pressure test) on the pipe in its Victor Valley System – as is required by D.11-06-017. Nor did pre-existing regulations require Southwest Gas to maintain traceable, verifiable, and complete records to substantiate the MAOP of its transmission facilities. Accordingly, the Company's Implementation Plan was not designed, nor should it be construed, as a remedial measure. The Implementation Plan is a forward-looking plan to enhance the safety and reliability of the Company's transmission pipeline system in accordance with the directives of D.11-06-017, and Southwest Gas is entitled to recover the associated costs.

II. DRA Misstates and Misapplies D.11-06-017 and the Pre-Existing Regulations

DRA's fundamental misunderstanding of the purpose, scope and applicability of D.11-06-017 is most clearly reflected in the unsupported notions that Southwest Gas "has a long-standing obligation to maintain traceable, verifiable and complete records", and that its "failure to produce

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(CPSD) agreed that replacement of the Victor Valley System "is reasonable when considering all factors". *See*, CPSD Technical Report, January 3, 2012, pg. 9.

[3] Id. at 16-17.

adequate pressure test records is why it now proposes to test or replace pipe on its system."[4] DRA incorrectly equates the new standards adopted in D.11-06-017 with the requirements set forth in pre-existing regulations. It then relies on the same faulty logic to assert that Southwest Gas shareholders should bear the cost of pressure testing or replacing the pipe at issue. The gist of DRA's argument is that cost recovery should be denied in every instance where Southwest Gas is unable to provide documentation of a pressure test on pre-1970 pipe.

A. Traceable, Verifiable and Complete Records

It is undisputed that the concept of traceable, verifiable and complete records was discussed for the first time in the January 3, 2011 recommendations issued by the National Transportation Safety Board (NTSB) to Pacific Gas and Electric Company (PG&E).[5] Contrary to DRA's implication, the NTSB's goal was not to redefine (or even address) general recordkeeping requirements, but rather, to articulate a specific requirement for the documentation of MAOP on transmission pipelines.[6] In fact, the NTSB plainly stated that traceable, verifiable and complete records should be used "…to determine the valid maximum allowable operating pressure…to ensure safe operation of…natural gas transmission lines…"[7]

It is also undisputed that D.11-06-017 did not seek to examine pre-existing recordkeeping obligations. To the contrary, it sought to introduce new and unparalleled safety standards for California's transmission pipeline operators. The Commission therefore ordered gas utilities to develop plans for bringing all transmission pipelines into compliance with modern safety standards through either pressure testing or replacing segments that were not previously pressure tested, or for

[4] DRA Brief, pg. 2,3.
[5] http://ntsb.gov/investigations/summary/PAR1101.html
[6] D.11-06-017, pg.3.
[7] Id.

which sufficient details relating to the performance of a pressure test are not available.[8] It is also readily apparent that the Commission recognized "traceable, verifiable and complete records" as a new concept, as its Decision went on to direct that "**at the completion of the implementation period**, all…transmission pipeline segments must be (1) pressure tested, (2) have traceable, verifiable, and complete records readily available, and (3) where warranted, be capable of accommodating in-line inspection devices."[9] (Emphasis added).

DRA's effort to retroactively apply the concept of traceable, verifiable and complete records is further defeated by the recent Advisory Bulletin issued by the Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA).[10] The Advisory Bulletin, for the first time, offers guidance on what the terms "traceable", "verifiable" and "complete" are intended to encompass.[11] If, as DRA would have this Commission believe, the concept of traceable, verifiable and complete records is longstanding and broadly applied to all utility recordkeeping, it would be wholly unnecessary for PHMSA to offer guidance on the meaning and applicability of the terms at this juncture.

B. Pre-Existing Pressure Test Requirements

In establishing the new standard for validating MAOP using traceable, verifiable and complete records, the NTSB and the Commission singled out strength testing as the only means of establishing MAOP, thereby eliminating the use of other methods condoned under pre-existing regulations. Prior to the January 2011 NTSB recommendations and the approval of D.11-06-017, MAOP could be established not only through strength testing, but through: (1) design calculations; (2) the highest actual operating pressure during the five years preceding July 1, 1970; or (3) the

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[8] Id. at 18-19.
[9] Id. at 19-20.
[10] PHMSA Advisory Bulletin ADB-2012-06, issued May 7, 2012.
[11] Id.

maximum safe pressure, as determined by the operator after considering the history of the segment.[12] In addition, neither GO 112, nor the federal regulations that took effect in 1970 were applied retroactively; and the federal regulations specifically exempted previously installed pipelines from pressure testing requirements, thereby "grandfathering" the pipelines into compliance with the then-current standards.[13]

The Commission acknowledged that pre-1970 pipelines were often exempted from pressure testing requirements and that, because of their age, these pipelines were often "more likely to lack a complete set of documents allowing pipeline feature documents to be established without the use of assumptions."[14] Indeed, it was upon this premise that the Commission directed Southwest Gas and other utilities to prepare implementation plans that would, through testing or replacement, bring these pipelines in-line with current standards.[15] Southwest Gas' Victor Valley System falls squarely within the category of pipe that D.11-06-017 seeks to address. When the federal pipeline safety regulations took effect in 1970, Southwest Gas established an MAOP of 175 psig using the 5-year historical operating pressures for the 1957 and 1965 pipe installed in the Victor Valley System, as permitted by 49 C.F.R.§192.619(c).[16] Because a pressure test for these pipelines was not required prior to 1970 as discussed below, Southwest Gas' Implementation Plan was designed to bring the Victor Valley System into compliance with modern standards, as directed in D.11-06-017. Notwithstanding, and without any supporting evidence, DRA claims that Southwest Gas' Implementation Plan is focused only on remediating prior compliance issues – issues that DRA mistakenly frames as violations of pre-existing pressure testing requirements.

[12] 49 C.F.R.§192.619 (2011).
[13] Id.
[14] D.11-06-017, pg. 17-18.
[15] Id.
[16] Implementation Plan, pg. 5.

1. Victor Valley System - 1957 Installation

The majority of the Victor Valley System (approximately 35,325 feet) was installed in 1957.[17] At that time, there were no binding regulations requiring pressure tests or the retention of records related to such tests, but there were voluntary industry guidelines offered by the American Standards Association (ASA) [18]. DRA's claim that Southwest Gas failed to comply with the 1955 ASA standards by not producing pressure test records for the 1957 installation[19] fails for multiple reasons.[20]

The 1955 ASA guidelines[21] recommended pressure testing and retention of the pressure testing documents.[22] However, contrary to DRA's assertion, the ASA pressure testing recommendations did not apply to all classes of pipe.[23] The ASA guidelines only suggested pressure testing in instances where the pipe was operating above 100 psig in Class 2, 3 or 4 locations and in such cases, it was sufficient to conduct a leak test.[24] Further, DRA misconstrues the Company's Implementation Plan, which discusses the segment's **current** Class 3 location. Although the relevant pipe segment is currently located in a Class 3 location (as determined by Department of Transportation Class definitions), Southwest Gas maintains that the segment was in a Class 1 location (as determined by ASA Class definitions) when it was installed in 1957, thereby rendering the ASA recommendations inapplicable.

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[17] Id.

[18] The ASA guidelines were, at all times, voluntary industry standards. DRA's repeated references to what the ASA recommendations "required", or to the "obligations" the ASA recommendations imposed are incorrect and misleading.

[19] DRA Brief, pg. 5.

[20] Although not applicable to the Victor Valley System, DRA is also incorrect in its claim that the ASA standards recommended pressure testing since 1935. *See*, DRA Brief, pg. 5-6. The 1935 ASA standards do not require post-installation pressure testing.

[21] Subsequent versions of the ASA standards were adopted in 1958 and 1963.

[22] ASA B31.1.8-1955.

[23] Id.

[24] Id.

Even assuming the pipe was in a Class 3 location at the time of installation, the fact that Southwest Gas was unable to produce records in 2011 (in response to D.11-02-017) relative to pressure testing performed in accordance with the ASA standard that existed in 1957, does not mean a pressure test was never performed; nor is it an indication of non-compliance or imprudence. Because the ASA standards were voluntary and because the Victor Valley System was appropriately "grandfathered" into compliance under the federal pipeline regulations adopted in 1970, it is not unusual that pressure test records from 1957 are unavailable. This is exactly why the Commission directed utilities to develop implementation plans to bring their "grandfathered" pipe into compliance with its newly articulated standards:

> The Commission's GO 112, which became effective on July 1, 1961, mandated pressure test requirements for new transmission pipelines…after the effective date. Similar federal regulations followed in 1970, but exempted pipeline installed prior to that time from the pressure testing requirement. Such pipeline is often referred to as "grandfathered" pipeline, because pursuant to 49 CFR 192.169(c), **pressure testing was not mandated**. (Emphasis added).[25]

Finally, as CPSD points out, a pressure test conducted in 1957 in accordance with the 1955 ASA standards, would not alleviate the Company's current need to test or replace the pipe. According to CPSD, the 1955 ASA standards would have required a pressure test to a minimum of 263 psig – a pressure lower than the 394 psig currently required to establish MAOP.[26] Thus, it is clear that the 1957 segment is included in Southwest Gas' Implementation Plan because testing or replacement is necessary to satisfy the requirements of D.11-06-017 – and not as a corrective measure, as DRA contends.

[25] D.12-04-010 in R.11-02-019 (April 20, 2012), fn. 6. *See also*, D.11-06-017, pg. 17.
[26] CPSD Technical Report, pg. 7-8.

2. Victor Valley System - 1965 Installation

Southwest Gas installed another 2,175 feet of pipe in its Victor Valley System in 1965.[27] At that time the governing regulation was GO 112, adopted by the Commission in 1961. GO 112 required pressure testing and record retention for all pipe operating at or above 20% Specified Minimum Yield Strength (SMYS) in a Class 1 location. However, the 1965 segment operated at 16.3% SMYS at the time of installation,[28] and was therefore exempted from the pressure testing requirements of GO 112.

3. GO 28

DRA also asserts that Southwest Gas was obligated to retain pressure tests records pursuant to GO 28.[29] However, GO 28 discusses the preservation of records created to support entries in a utility's "general books", such as its accounts payable, accounts receivable, and journals and cash books.[30] And while GO 28 requires the retention of records documenting the "original cost" and "depreciation and replacement" of property, it does not contain a requirement for the preservation of pipeline documents, such as pressure test records. Further, even if GO 28 were applicable to the instant proceeding, Southwest Gas cannot be accused of running afoul of the regulation where, as discussed above, the applicable pipeline safety regulations did not require the Company to conduct pressure tests.

III. Southwest Gas Should Recover its Implementation Plan Costs

In order to further its goal of "[o]btaining the greatest amount of safety value…for ratepayer expenditures…", the Commission directed the utilities to include ratemaking proposals in their

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[27] Implementation Plan, pg. 5.
[28] Southwest Gas Response to CPSD Technical Report, pg.5.
[29] DRA Brief, pg. 6-7.
[30] GO 28 (reissued December 22, 1947).

plans that included specific rate base and expenses amounts, as well as proposed rate impacts.[31] The one exception related to PG&E, which was the only utility directed to submit a proposed cost allocation between shareholders and ratepayers.[32] As demonstrated above, Southwest Gas' Implementation Plan is entirely consistent with the Commission's directives, and DRA offers no credible evidence to suggest that cost recovery should be denied. In fact, DRA acknowledges that cost recovery for the proposed pipe replacement is appropriate because the older pipe will be "replaced with a new transmission pipeline constructed using modern materials and construction techniques."[33] Moreover, D.11-06-017 directly addresses missing pressure test records - the very issue that DRA attempts to create with respect to Southwest Gas:

> [T]his project to validate MAOP was set in motion by the NTSB's justifiable alarm at PG&E's records being inconsistent with the actual pipeline found in the ground in Line 132. The pipeline features data for Line 132 were not missing; the recorded data were factually inaccurate. **Records containing inaccurate pipeline features are fundamentally different from simply missing records. Curing…unreliable natural gas pipeline records was the obvious goal of the NTSB's recommendation to obtain "traceable, verifiable and complete" records** and, with reasonably accurate data, calculate a dependable MAOP. (Emphasis added).[34]

Southwest Gas established and maintains dependable MAOPs for its Victor Valley System based upon reasonably accurate data, including conservative engineering estimates.[35] Upon replacing the Victor Valley System, Southwest Gas will no longer need to rely on industry minimums and conservative engineering estimates. The Company further anticipates that, as a result, the new System will operate at only 6% SMYS, thereby allowing the Company to reclassify it as a

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[31] D.11-06-017, pg. 23, 28 ("The unique circumstances of PG&E's pipeline records, the costs of replacing the San Bruno line, and the public interest require that PG&E's rate Implementation Plan include a cost sharing proposal").
[32] Id. at 23.
[33] DRA Opening Brief regarding PG&E's Implementation Plan, pg. 20.
[34] Id. at 17.
[35] Implementation Plan, pg. 5, 15.

distribution system.[36] Although certain records from pre-1970 pipe installations may now be unavailable, DRA has not offered any arguments, nor introduced any evidence, to suggest that Southwest Gas' calculation of the MAOP is not dependable and not based upon reasonably accurate data. As such, there is no basis to deny cost recovery for Southwest Gas' Implementation Plan.[37]

IV. Harper Lake System

Despite its repeated assertion that Southwest Gas should bear all costs associated with its Implementation Plan, DRA agrees that Southwest Gas' remote control valve installation proposal for the Harper Lake System is reasonable, and concedes that the installation should be funded with ratepayer dollars.[38] DRA recommends that the valve installation be treated as a capital addition that is booked to plant upon becoming operational, with the costs embedded in rate base such that Southwest Gas will begin earning a return in its upcoming rate case, which will be filed in late 2012 with a 2014 test year.[39] The Company does not oppose DRA's recommendation.

IV. Southwest Gas' Implementation Plan Could be Addressed in its General Rate Case

DRA suggests that, as an alternative to ruling on the reasonableness of Southwest Gas' Implementation Plan in this docket, the Commission could defer consideration of the Implementation Plan and the associated cost recovery to the Company's next general rate case, which will be filed later this year.[40] Southwest Gas does not oppose DRA's proposal.

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[36] Id. at 15.

[37] Nevertheless, should the Commission decide that some form of shareholder/ratepayer allocation is warranted, the shareholder responsibility should be no greater than the disallowance recommended by CPSD with respect to the 2,175 feet of pipe installed on the Victor Valley System in 1965.

[38] DRA Brief, pg. 7.

[39] Id.

[40] Id.

V. Conclusion

Based upon the foregoing, Southwest Gas submits that its Implementation Plan is consistent with D.12-06-017 and should be approved, and that the costs associated therewith should be recovered in rates.

Dated this 29th day of June 2012 at Las Vegas, Nevada.

Respectfully submitted,
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