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 DYNEGY INC. ON THE PROPOSED DECISION ON THE PIPELINE SAFETY IMPLEMENTATION PLAN

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The Proposed Decision (PD) of Administrative Law Judge Maribeth Bushey understandably devotes most of its 126 pages to the Pipeline Safety Implementation Plan (PSIP) proposed by Pacific Gas and Electric Company (PG&E), the allocation of the costs of the PSIP between PG&E's shareholders and ratepayers, and the broader issue of how to ensure that events like the San Bruno pipeline explosion never happen again. The issue of how responsibility for ratepayers' share of the PSIP's costs will be allocated among the various customer group garners less than two pages of the PD. The allocation of the PD's costs will have implications that extend beyond the PSIP and the gas utilities to the wholesale electricity market. Dynegy Inc. is directly affected by the PD's resolution of this issue, and for that reason these comments address only the PD's provisions on cost allocation.[1]

I. THE PD FAILS TO RECOGNIZE THAT THE EXISTING COST ALLOCATION ORIGINATED IN A SETTLEMENT

The PD quickly and without much discussion endorses PG&E's proposal to allocate ratepayers' share of the costs of the PSIP to core and noncore customers based on each customer group's percentage of Backbone Transmission and Local Transmission revenue requirement responsibility, as agreed to in the Gas Accord V settlement that resolved PG&E's last gas transmission and storage rate case and approved in Decision (D.) 11-04-031. Dynegy was a party to the Gas Accord V settlement.

The problem with using the allocation of the Gas Accord V in this way is that Gas Accord V was a settlement. The rate allocation was not the product of costs reviewed and approved by the Commission or policies and principles adopted by the Commission. It was an element of a settlement in a proceeding that included an array of diverse parties, a resolution that these diverse parties could accept, with varying degrees of enthusiasm.

The use of the allocation methodology adopted in the PD in this proceeding is problematic due to the simplifications that PG&E made to develop single core and

[1] Through its subsidiaries, Dynegy Inc. owns and operates the 2529 MW Moss Landing Energy Facility and the 650 MW Morro Bay Energy Facility. Both of these gas-fired generating facilities receive gas transportation service from PG&E. (Dynegy also owns the 165 MW Oakland Energy Facility, which uses oil as its fuel.) Dynegy is thus directly affected by the safety and operation of PG&E's gas transmission system and by the proposals presented in this proceeding that call for PG&E's gas transportation customers to bear some of the costs of upgrading PG&E's system.

noncore rates. For simplicity, PG&E developed two average pipeline safety surcharges, one for core customer classes and another for noncore customer classes. This simplification, however, means that the allocation is not intended or designed to directly relate to the costs each customer class will cause PG&E to incur under its PSIP. The transmission system enhancements proposed in the PSIP are not necessarily related to the cost allocation agreed to in Gas Accord V, which aggregated a variety of costs to arrive at the final agreement on allocation.

In addition, the effects of PD's proposed allocation are particularly harsh on the few large electric generation facilities, like Dynegy's Moss Landing plant, that are served by pipelines classified as Local Transmission pipelines. The tables attached to the PD show that electric generators on the Local Transmission system will receive a 28.5% rate increase in 2012.[2] Those increased gas transportation costs will eventually be reflected in the costs ratepayers pay for electricity.

II. THE PD FAILS TO CONSIDER THE BENEFITS OF OTHER COST ALLOCATION METHODOLOGIES

An alternative cost allocation approach was advocated by Dynegy, the Northern California Indicated Producers, and the Northern California Generation Coalition, based on a proposal of Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E). This approach, referred to as the equal percentage of authorized margin (EPAM) methodology, provides an available alternative methodology that results in less disruptive transitional rate impacts that are also more

[2] PD, Table F-2.

closely linked with the benefits of PG&E's PSEP.

The PD fails to evaluate the merits or disadvantages of SoCalGas and SDG&E's proposed EPAM allocation methodology. The EPAM methodology allocates costs equitably across different customer classes. In addition, nearly all of the structures within the Potential Impact Radius of pipelines are structures for residential or small commercial customers.[3] Noncore customers will receive little of the direct safety benefit of the PSIP.

Instead of seriously considering the advantages of using the EPAM methodology to allocate the costs of the PSIP, the PD determines not to reopen the rate case and to "follow the existing structure." The problem with this approach is that the Gas Accord V settlement, which established "the existing structure," also provided that "[t]he rates specified in this Settlement Agreement are not subject to adjustment during the Settlement Period except as provided herein, or as agreed to by the Settlement Parties and approved by the Commission."[4] PG&E tried to evade this provision by proposing a surcharge, rather than a change to the rates agreed to in Gas Accord V, to collect PSIP costs, but the effect is the same: higher rates than those agreed to in Gas Accord V that the parties to Gas Accord V (including PG&E) agreed "are not subject to adjustment."

Thus, the PD's explanation that it is merely "following the existing structure" provides no support for the PD's proposed cost allocation, because the

[3] Exh. 123, p. 15 (Beach/NCIP).
[4] D.11-04-031, Appendix A, § 12.1.

"existing structure" included a stipulation that the agreed-on rates were not to be adjusted.

To be clear, Dynegy is not proposing that the parties to Gas Accord V should be exempt from responsibility for the costs of the PSIP. Dynegy understands the need for all concerned to bear their fair share of the authorized costs. The PD, however, evades the responsibility to determine what a fair share of the implementation costs would be for each customer class by mechanically applying the allocation negotiated in Gas Accord V. By contrast, the EPAM methodology is a rational way to determine each customer class's "fair share" of the PSIP costs. As mentioned above, an EPAM-based allocation more closely links the costs of increased pipeline safety to the core customers that will be the primary beneficiaries of the improvements. Noncore customers also bear their fair share of the costs of the PSIP: under an EPAM-based allocation, noncore customers retain responsibility for a considerable portion of the revenue requirement; in fact, the percentage rate increases for noncore customers are higher than for core customers, and the large volumes noncore customers consume translate into large contributions toward the revenue requirement for the PSIP.

For all these reasons, the cost allocation resulting from the EPAM methodology is more equitable than the PD's proposed allocation.

III. THE PD FAILS TO CONSIDER THE EFFECT OF GAS RATE INCREASES ON PRICES FOR ELECTRICITY

Some of the largest noncore customers are electric generators. Gas-fired generation is still the marginal supply resource for many hours of the year, and any increases in gas transportation costs are, by necessity, converted into higher costs for electricity to extent that market pressures permit suppliers to increase their prices.

As discussed above, the PD mistakenly assumes that it can apply the existing cost allocation approach to the PSIP costs and consequently fails to give serious consideration to other cost allocation approaches. As a result, the PD fails to consider the effect of its proposed cost allocation methodology on electric generators and on prices in electricity markets, or to consider how other methodologies like the EPAM have the additional benefit of limiting the effects of gas rate increases on electricity markets.

IV. TRANSITIONAL RATES SHOULD AVOID LARGE DISRUPTIVE CHANGES

Any rates the Commission adopts for PG&E's PSIP will be in effect only for the interim period until PG&E files a new Gas Transportation and Storage rate case for 2015-2017[5] and the Commission acts on that proposal. Thus, any cost allocation and resulting rates adopted in this proceeding will be transitional and will be in effect for only about two years. In addition, because the focus of this proceeding has been on safety and reliability, rather than on cost allocation and rates, the record in this proceeding has not explored the full implications of the significant rate increases, especially on noncore electric generation customers, resulting from implementation of the PSIP.

For these reasons, the Commission should resist adopting rates that are dramatically different from the rates in effect today. Rather than adopting rates that are

[5] Gas Accord V requires PG&E to file its next Gas Transmission and Storage rate case no later than February 3, 2014.

disproportionately high now (as the PD proposes), only to lower them when the next rate case is adopted, the Commission should strive for a smooth transition as the reasonable costs of the enhancements needed for improved safety and reliability are added to the system. The EPAM methodology results in more moderate transitional rate impacts that are also more closely linked with the benefits of PG&E's PSIP.

V. CONCLUSION

For the reasons stated in these comments, Dynegy Inc. respectfully urges the Commission to modify the PD to adopt the EPAM methodology to allocate ratepayers' share of the costs of PG&E's PSIP.

Respectfully submitted this 16th day of November, 2012 at San Francisco, California.

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