

**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)

**REPLY COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO
ON ADMINISTRATIVE LAW JUDGE BUSHEY'S PROPOSED DECISION MANDATING
PIPELINE SAFETY IMPLEMENTATION PLAN, DISALLOWING COSTS, IMPOSING
EARNINGS LIMITATIONS, ALLOCATING RISK OF INEFFICIENT CONSTRUCTION
MANAGEMENT TO SHAREHOLDERS, AND REQUIRING ON-GOING IMPROVEMENT
IN SAFETY ENGINEERING**

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I. INTRODUCTION

Pursuant to the Commission's Rule of Practice and Procedure Rule 14.3, the City and County of San Francisco (CCSF or San Francisco) submits these reply comments on the Proposed Decision of Administrative Law Judge Bushey (Proposed Decision). These comments reply to: (1) PG&E's comments seeking to reduce public access to required reports, (2) comments on the appropriate oversight of PG&E's implementation of the Pipeline Safety Enhancement Program (PSEP), (3) comments related to the Proposed Decision's technical error in failing to require the use of accurate data in the PSEP, and (4) comments on the Proposed Decision's technical error in failing to require that Phase I of the PSEP prioritize safety work in the most densely populated areas. The Commission should modify the Proposed Decision as discussed below to ensure safety and accountability to the ratepayers and the public.

II. DISCUSSION

A. **The Proposed Decision Should Be Modified to Provide Greater Transparency In PG&E's Reporting Of Progress To Improve Public Safety.**

PG&E asserts that in lieu of the reporting mechanism proposed in Attachment D to the Proposed Decision, the Commission should simply accept PG&E's current internal monthly reports, which will be provided only "to the Commission, the Energy Division and CPSD."¹ PG&E's proposal does not contemplate sharing the results of the PSEP with outside parties, even parties to the proceeding, making it patently unacceptable.

The Commission should reject PG&E's attempt to make it more difficult for parties to this proceeding and the public to obtain information on the progress of the PSEP. In this proceeding, the Commission has sought public participation, and invited parties to "obtain such expert assistance as is needed to prepare the highest quality testimony" on PG&E's PSEP proposal.² Many parties did retain experts and submitted expert testimony probing and questioning many aspects of PG&E's PSEP. The

¹ PG&E Opening Comments on Proposed Decision at p. 22.

² November 2, 2011 Amended Scoping Memo and Ruling of the Assigned Commissioner in this docket.

parties are entitled to be kept apprised of PG&E's progress in carrying out this important work. Likewise, members of the public who are not parties to this proceeding may be affected by PG&E's work proposals and are entitled to know the status of those projects and the progress of PG&E's efforts to become a safe gas utility. Given the strong public interest in this proceeding, the Commission should reject PG&E's proposal.

In addition, the Commission must correct a clerical error regarding the compliance reports. Currently, the Proposed Decision states "we will require PG&E to file and serve compliance reports. Such reports shall include the information and be in the form set out in Attachment D."³ However, regarding the availability of the reports, Attachment D currently states "Availability: Posted on PG&E website, and served on all parties and Directors of Energy Division and CPSD." The Commission should modify the language of Attachment D to be consistent with the language of the Proposed Decision and require PG&E not only to post the Implementation Plan Compliance Reports on PG&E's website, but also to file the reports in this docket in addition to serving the reports on parties to this proceeding. San Francisco strongly believes that the compliance reports should be filed as part of the record of this proceeding and made publicly available.

B. Independent Oversight Of PG&E's Implementation Is Necessary.

Regarding the appropriate level of oversight, PG&E suggests that it "and CPSD will work together regarding the appropriate level of oversight."⁴ This proposal is insufficient to satisfy the public interest and ensure the public safety. PG&E "working with" CPSD to establish "appropriate levels of oversight" only propagates the insular and cozy relationship that has been criticized by both the Commission's Independent Panel and the NTSB. While the Proposed Decision cites the Independent Panel and NTSB reports to identify PG&E's failings,⁵ it fails to recognize that the Commission enabled those failings. Each failing by PG&E occurred under the Commission's oversight of PG&E. In short, the public has many reasons to question the Commission's long term

³ Proposed Decision at p. 88 (emphasis added).

⁴ PG&E Opening Comments on Proposed Decision at pp. 22-23.

⁵ Proposed Decision at pp. 6-11.

commitment and ability to supervise PG&E in the manner necessary to ensure both safety and reasonable rates.

San Francisco, San Bruno and DRA all recommended independent oversight of the implementation of the PSEP.⁶ In opening comments San Bruno expressed concern “that the Commission lacks the resources, expertise and capacity to independently analyze PG&E’s execution of its Implementation Plan without outside assistance.”⁷ DRA proposed that the Commission “establish a PSEP oversight process that employs independent monitors who report publicly on their findings until the Commission has found that Phase I of the PSEP has been successfully implemented.”⁸ As DRA notes, independent monitors were used following other similar pipeline disasters.⁹ An independent monitor is appropriate here.

DRA also notes that the Proposed Decision inappropriately finds that “changes to the Implementation Plan do not warrant any type of Commission review.”¹⁰ San Francisco continues to take issue with many aspects of the PSEP, but granting PG&E unfettered discretion to make changes is not the appropriate remedy. For example, San Francisco continues to believe that it is error for the Proposed Decision to approve PG&E’s Decision Trees that are essentially unchanged from when they were first proposed as part of Pipeline 2020.¹¹ PG&E has never made any substantive improvements to the Decision Trees. The Proposed Decision, however, does not order PG&E to make any substantive improvements to its Decision Trees, and instead blesses this inaction by approving them as “promising beginnings of analysis.”¹² The record in this proceedings contains expert testimony

⁶ San Francisco Opening Comments on Proposed Decision at p. 10; San Bruno Opening Comments on Proposed Decision at pp. 16-19; DRA Opening Comments on Proposed Decision at pp. 14-16.

⁷ San Bruno Opening Comments on Proposed Decision at p. 18.

⁸ DRA Opening Comments on Proposed Decision at p. 15.

⁹ *Id.*

¹⁰ *Id.* at p. 13.

¹¹ See Cross Examination Exhibits 33 (CCSF Data Request 005-03 “the Decision Trees [for the valve automation program] included in the PSEP filing are identical to those developed by Pipeline 2020, as are the 80 identified Phase 1 project sites for valve automation work”) and Exhibit 34 (CCSF Data Request 005-05 PG&E made “only minor adjustments to the program from the completion of development as part of Pipeline 2020 to the PSEP Implementation Plan filing.”).

¹² Proposed Decision at p. 51.

questioning the reasonableness of the PSEP. Even more questions were raised about the soundness of PG&E's proposals during hearings in March and in briefs. And yet, the Proposed Decision did not require PG&E to make one change to its Decision Trees, and now proposes to allow PG&E to make "improvements, efficiencies, and adjustments to the Implementation Plan based on sound engineering data." In light of PG&E's struggle to properly manage its gas pipeline operations, it is inappropriate to give PG&E such discretion, and particularly so without providing for additional effective oversight. Given the public safety implications and the large ratepayer dollars at stake, the public deserves the assurances of a knowledgeable and independent source that PG&E is properly doing the work that it has been ordered to do, and that PG&E is not recovering from ratepayers more than authorized based on accounting complexities. Independent oversight will also assist the Commission in properly prioritizing pipeline safety work.

If the Commission seeks to rebuild the public trust, and dispell the public perception of coziness between the regulators and the utility, then the Commission must bring in an outside entity to provide oversight of, and report publicly on PG&E's implementation of the PSEP.

C. The Commission Should Modify the Proposed Decision to Require PG&E to Use The Results of the MAOP Validation Project In Its Decision Trees.

The Commission must modify the Proposed Decision to require PG&E to use the most accurate information in its decision trees.¹³ As TURN noted, "it is undisputed that, since January 2011, PG&E had located complete pressure test records that would obviate the need to test or replace at least 157 miles of pipeline in the PSEP."¹⁴ PG&E even admits that "the miles of pipeline that need to be strength tested or replaced in Phase I will undoubtedly be less than the mileage noted in the PD – for example, because PG&E locates records of an adequate prior strength test, or because work on non-contiguous segments of Class 1 and 2 pipelines can be deferred in accordance with the decision."¹⁵ There is no principled reason to not require PG&E to use the most accurate data available

¹³ As noted in opening comments and briefs, San Francisco continues to assert that PG&E's Decision Trees are flawed.

¹⁴ TURN Opening Comments on the Proposed Decision at p. 2.

¹⁵ PG&E Opening Comments on Proposed Decision at pp. 24 (emphasis added).

in its Decision Trees. In addition to the cost concerns raised by TURN, there are obvious safety implications to using older, inaccurate data.¹⁶ The Commission should modify the Proposed Decision to require PG&E to re-run the decision trees with the verified data to ensure that the scope of work proposed is complete and that the prioritization of work is proper.

D. The Commission Must Ensure That Phase I Prioritizes The Proper Scope of Work.

The Proposed Decision fails to address PG&E's decision to alter the scope of Phase 1, resulting in an unjustified deprioritizing of pipelines in densely populated areas. San Francisco has noted this problem from the outset.¹⁷ In comments, both TURN and DRA point out that rather than requiring PG&E to quantify the number of Class 2 pipeline segments should be removed, the Proposed Decision simply approves wholesale PG&E's proposal to pressure test 783 miles of pipeline, replace 186 miles of pipeline, and retrofit 199 miles of pipeline.¹⁸ Both TURN and DRA assert that the Commission must ensure that PG&E only recovers costs for work that is properly included in Phase I.

The Proposed Decision fails to make clear that it approves PG&E's decision to deprioritize 176 miles of pipeline segments in more densely populated areas.¹⁹ Even though the Proposed Decision states that non-contiguous Class 2 pipeline segments must be excluded from Phase I, the Proposed Decision does nothing to require PG&E to test, replace or retrofit the 176 miles of pipeline in more densely populated areas that it inappropriately deprioritized.²⁰ As San Francisco witness Gawronski testified "PG&E's plan will delay testing pipelines with the highest risk in class 3 and 4 locations and will have their remedial actions delayed until pipelines with lower risk class 2 locations are worked on."²¹ There is no justification for the Commission to not correct this error. To ensure that pressing

¹⁶ See CCSF Opening Brief at p. 21.

¹⁷ Comments of San Francisco on the Technical Report of CPSD Re: PG&E's Implementation Plan at p. 3 (filed January 13, 2012); CCSF Testimony at p. 7 (filed January 31, 2012).

¹⁸ TURN Opening Comments on Proposed Decision at p., 4; DRA Opening Comments on Proposed Decision at pp.11, 13.

¹⁹ CCSF Opening Brief at p. 11.

²⁰ CCSF has shown that PG&E's asserted reason for modifying the scope of work is infirm. CCSF Opening Brief at p. 10.

²¹ Exhibit 137 (CCSF Direct Testimony) at p. 7, Table 1.

safety work is performed expeditiously, the Commission should order PG&E to start with the 630 miles of pipelines in High Consequence Areas for which PG&E has admitted it lacks pressure test records.

III. CONCLUSION

The Commission should modify the Proposed Decision as set forth above.

Dated: November 29, 2012

Respectfully submitted,

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