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)

PETITION OF THE UTILITY REFORM NETWORK AND THE DIVISION OF RATEPAYER ADVOCATES FOR MODIFICATION OF DECISION 12-12-030

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I. INTRODUCTION AND SUMMARY OF PROPOSED MODIFICATIONS

Pursuant to Rule 16.4 of the Commission's Rules of Practice and Procedure, the Commission's Division of Ratepayer Advocates ("DRA") and The Utility Reform Network ("TURN") (together "Joint Parties") submit this Petition for Modification of Decision 12-12-030 ("Decision").

The Decision, issued on December 28, 2012, approves a "Phase 1" Implementation Plan ("IP") for Pacific Gas and Electric Company ("PG&E"). The ratepayer-funded work in Phase 1 of the IP is to be completed by the end of 2014 and includes primarily: (1) pressure testing or replacing transmission pipelines located in Class 3 and Class 4 locations and Class 1 and 2 high consequence areas (collectively "HCAs)", and for which PG&E is unable to locate pressure test records; and (2) installation of automated shut off valves.

The Decision approves a not-to-exceed budget of $1.169 billion for the costs of this work to be paid by ratepayers.[1] In addition, the Decision adopts various measures designed to ensure that ratepayers do not pay for work that is not performed or pay excessive costs for work that is performed. These measures include a prohibition on recovering cost overruns from ratepayers, and a requirement to reduce the ratepayer cost cap by the cost of any projects not completed by the end of 2014. In addition, the Decision requires PG&E to update the pipeline data that was used to determine the projects that need to be performed in Phase 1, revise the scope of work and costs of Phase 1 accordingly, and submit the updated plan in an application. Because PG&E has located records of pressure tests since the time of its original proposal, it is expected that the updated data will reduce the scope – and hence the cost to ratepayers – of the work that needs to be performed in Phase 1.

This Petition seeks to clarify three important technical details of the Decision. First, the provision requiring PG&E to file the update application, Ordering Paragraph ("OP") 11, should be modified to require PG&E to submit its update application as soon

[1] Decision, Table E-4, page E3.

as possible and, in any event, by a date certain no later than 30 days after the decision on this Petition. This change reflects the fact that PG&E has already completed the requisite search for Phase 1 records and is now able to reduce the scope of the Phase 1 work to reflect those pipeline segments for which records have been located. This change is necessary to ensure that PG&E focuses on the highest priority projects and reduces the Phase 1 cost cap to cover only that work authorized for Phase 1, based on updated pipeline data.

Second, the Decision should be clarified regarding the extent to which non-HCA Class 1 and 2 pipeline segments may be included in Phase 1 of the IP. Although the Decision text and Finding of Fact ("FOF") 22 clearly state that PG&E must remove from Phase 1 any such segments that are not adjacent to other Phase 1 projects – and hence justified for efficiency reasons – Conclusion of Law ("COL") 20 could be interpreted to allow other non-HCA Class 1 or 2 segments to remain in Phase 1. To address this discrepancy and avoid uncertainty and disputes about which pipeline segments may properly remain in Phase 1, the Commission should conform COL 20 to the rest of the Decision. In addition, to prevent ratepayers from paying for work that will not be performed in Phase 1, the Commission should further modify OP 11 to require the update application to remove all non-adjacent, non-HCA Class 1 and Class 2 pipeline segments.

Third, the Decision should be modified to clarify an important provision that requires PG&E to reduce the Phase 1 budget by the cost of any authorized project that is not completed by the end of 2014. This requirement prevents PG&E from imposing on customers costs for work that is not performed, and from shifting cost overruns to ratepayers. However, the Decision creates an exception to this safeguard: PG&E is not required to reduce the cost limits if it replaces authorized projects with "other higher priority projects." To prevent PG&E from circumventing an important cost control, the exception should be limited to projects that meet the Decision's approved criteria for Phase 1 projects.

The specific changes requested and the accompanying modifications to the findings of fact, conclusions of law and ordering paragraphs, are set forth in Appendix A to this Petition.

II. PROPOSED MODIFICATIONS TO THE DECISION

A. The Commission Should Require PG&E To Update The IP Database By A Date Certain As Soon As Possible So That Ratepayers Will Not Be Required To Pay For Projects That Will Not Be Performed

1. The Database Update Ordered In OP 11 Impacts the Approved Scope of Work and Therefore the Approved Cost Caps and Revenue Requirement

The Decision authorizes PG&E to recover $165 million in expenses and $1 billion in capital expenditures.[2] Most of these costs result from the Decision's "mandate" that PG&E pressure test 783 miles of pipeline and replace another 186 miles, precisely the scope of work PG&E proposed in its August 26, 2011 submission.[3] Based on this authorized cost recovery, the Decision approves revenue requirements and associated gas service rate increases for 2012, 2013 and 2014.[4] The Decision addresses the stale data on which PG&E based its IP scope of work in OP 11, a provision added on the eve of the Commission's vote in response to comments on the proposed decision. OP 11 states:

> 11. Pacific Gas and Electric Company must file an application within 30 days after the completion of its Maximum Allowable Operating Pressure validation and records search to present the results of those efforts and update its Implementation Plan authorized revenue requirements and related budgets, consistent with this decision.[5]

In support of OP 11, the Decision recognizes that, based on the updated information, further disallowances to the adopted scope of work may be appropriate.[6] However, the Decision states that "we will not know the exact number of pipe segments

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[2] Decision, pp. E2-E3 (Tables E-2 and E-3).
[3] Decision, p. 3.
[4] Decision, pp. 3-4. The Decision makes this rate recovery subject to refund pending the outcome of Investigations I.11-02-016, I.11-11-009 and I.12-01-007. Decision, p. 4.
[5] Decision, p. 129.
[6] Decision, p. 115.

PG&E lacks the test records for and their associated disallowance *until [PG&E's] MAOP validation and records search is completed.*"[7]

The Joint Parties strongly support the requirement for PG&E to re-run its Decision Tree analysis based on updated data and expect the updated data to yield a significantly reduced scope of work for replacement and pressure testing projects. This reduced scope of work should, in turn, lead the Commission to reduce PG&E's authorized cost recovery, consistent with the Commission's pledge not to allow cost recovery for unnecessary work. The Joint Parties further support the statement in the Decision that, once filed, this should be an "expedited application."[8]

However, OP 11 fails to require PG&E to file its application with new data *by a date certain.* Instead, OP 11 leaves it to PG&E to determine when its MAOP Validation Project is "complete" and then file its application with updated data 30 days after that determination. In this respect, OP 11 fails to take into account the fact that PG&E long ago completed its MAOP validation and records search work for the pipeline in Phase 1 of the IP.[9]

2. PG&E's Phase 1 Records Validation Was Completed More Than A Year Ago

PG&E's August 26, 2011 IP used a Decision Tree analysis to determine which pipeline segments needed pressure testing, replacement or other work.[10] By applying its Decision Tree to its database of information regarding its pipeline segments, PG&E estimated that it should pressure test 783 miles of pipeline and replace 186 miles of pipeline.[11]

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[7] Decision, p. 115.
[8] Decision, p. 115. In addition, the Joint Parties strongly support the workshop the Decision orders (to be held no later than 90 days after the Decision effective date of December 20, 2012) to discuss the specific showing that PG&E must make in its application. (*Id.*) The Joint Parties urge the Commission to schedule that workshop as soon as possible.
[9] Ex. 21 (PG&E), p. 1-24, lines 9-12.
[10] Ex. 2 (PG&E), p. 3-3. The Decision Trees PG&E relied upon are reproduced in Attachment C to the Decision.
[11] Ex. 2 (PG&E), pp. 1-4 to 1-5. PG&E also proposed the installation of automated valves, upgrades to pipeline to allow in-line inspection, and other measures not relevant to this Petition. Ex. 2 (PG&E), pp. 1-5 to 1-11.

However, in its testimony, PG&E acknowledged that these IP estimates were based on an out-of-date snapshot from its Geographic Information System ("GIS") database as of January 2011.[12] After that date, through the company's continuing search for pressure test records as part of the Commission-mandated maximum allowable operating pressure ("MAOP") validation project, PG&E had located additional pressure test records.[13] Accordingly, PG&E acknowledged that, before carrying out IP projects, it would need to re-run the Decision Tree analysis with updated data and that the use of such updated data could change the scope of work identified in its initial IP proposal. PG&E explained that the potential scope modifications included changing replacement projects to pressure testing and deferring some Phase 1 projects to Phase 2.[14] Based on the record, TURN estimated (without challenge from PG&E) that, as of September 2011, PG&E had found complete test records for an additional 157 miles of pipeline,[15] rendering pressure testing or replacement unnecessary for that pipeline. It is undisputed that PG&E long ago completed its records search for Phase 1 pipeline segments. When PG&E submitted its rebuttal testimony on February 12, 2012, the company stated that the MAOP validation work for the Phase 1 HCA segments – to ensure updated and accurate data for use in the Decision Tree analysis – was "now complete."[16]

3. OP 11 Requires Clarification To Ensure The Phase 1 Update Is Not Delayed

Under the current language of OP 11, PG&E could indefinitely delay reductions to the overstated revenue requirements and budgets until it determines that it has completed its MAOP validation and records search for its *whole system, including the lower priority segments to be addressed in Phase 2.* However, because this Decision only relates to

[12] PG&E Reply Brief, p. 64.
[13] Ex. 2 (PG&E), pp. 5-8 to 5-9.
[14] Ex. 21 (PG&E), p. 3-10, lines 5-20.
[15] TURN Opening Brief, p. 19. PG&E did not challenge this estimate in its reply brief.
[16] Ex. 21 (PG&E), p. 1-24, lines 9-12.

Phase 1, waiting for records work on Phase 2 segments to be complete is not necessary. PG&E has all the Phase 1 records it needs to update its database.

Joint Parties are concerned that, absent clarification of OP 11, reduction of the IP budget and revenue requirement to account for the reduced scope of the Phase 1 work will be unnecessarily delayed and cause problems going forward. Indeed, given the uncertain due date for the filing of the application and, further, given the time that may be required to address it, a decision on the update application could even be delayed until after the conclusion of the Phase 1 IP work at the end of 2014. Such a delay would increase the need for careful scrutiny of each of PG&E's projects and associated expenditures to ensure that PG&E does not use excess funding from Phase 1 to pay for cost overruns.[17]

There is no reason to allow an indefinite delay to the necessary reductions to the scope and approved budget of PG&E's IP. PG&E has completed its MAOP validation efforts for the Phase 1 segments and should be able to file the application required by OP 11 in a matter of weeks. Thus, the Joint Parties urge the Commission to set a date certain for PG&E to file its update application that is no later than 30 days after the effective date of the decision addressing this Petition.

[17] For example, a PG&E "project" may include some eligible segments for which PG&E continues to lack records – and hence should be addressed in Phase 1 – and other segments that are included in the approved Phase 1 scope, but for which PG&E has located the requisite records and should be removed from Phase 1 under OP 11. In this situation, even with the best (and highly time-consuming) monitoring efforts by the Commission, it would be extremely difficult, if not impossible, to ensure that PG&E does not take advantage of the inclusion of the ineligible segments in the cost cap as a means to recoup cost overruns for the eligible segments.

B. The Commission Should Clarify That Non-Adjacent Class 1 and 2 Pipe Segments Must Be Removed from the Scope of PG&E's Phase 1 Implementation Plan[18]

1. The Decision Only Permits HCA or Adjacent Class 1 and 2 Pipeline Segments To Remain in Phase 1

Based on D.11-06-017, the Decision correctly adopts a "general rule … that pipeline segments in Class 1 or 2 locations will not be included in Phase 1."[19] As an exception to this general rule, for purposes of "sound engineering" or "economic reasons", the Decision allows PG&E to include Class 1 or 2 segments in Phase 1 that are *adjacent* to priority locations.[20] Similarly, Finding of Fact ("FOF") 22 finds that the goal of economic and engineering efficiency may be achieved by addressing segments that are "adjacent to high priority segments."[21] The Decision text appropriately concludes: "Pipeline segments in Class 2 or Class 1 locations which are not high consequence areas, or *adjacent to* Class 3 or 4 locations or high consequence areas, *must be deferred* to Phase 2 of the Implementation Plan."[22]

2. Phase 1 Still Includes Non-HCA and Non-Adjacent Class 1 and 2 Pipeline Segments

Based on this clear language in the Decision, also reflected in Finding of Fact ("FOF") 22, the Commission should have ordered PG&E to remove from Phase 1 all non-adjacent, non-HCA Class 1 and Class 2 segments. There is no dispute that the 783 miles of hydrotesting and 186 miles of replacement upon which the authorized revenue requirement increases are based include such non-adjacent, non-HCA Class 1 and 2 segments. PG&E acknowledged that these non-HCA Class 2 segments added 38.4 miles of replacement and 147 miles of pressure testing to PG&E's IP.[23] Of these

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[18] In order to preserve its legal rights, DRA also raised this issue in its Application for Rehearing of the Decision filed on January 28, 2013.
[19] Decision, p. 66.
[20] Decision, p. 66.
[21] Decision, p. 118.
[22] Decision, p. 67 (emphases added).
[23] Ex. 21 (PG&E), p. 1-26, lines 26-32. PG&E's testimony did not indicate how many non-HCA Class 1 segments it included in its IP.

amounts, PG&E did not indicate the miles of segments that were adjacent to other HCA segments identified for pressure testing or replacement in the IP; however, PG&E did not contest TURN's estimate that only 10 percent of these non-HCA segments were included for project efficiency reasons.[24]

3. The Decision Should Be Clarified To Require PG&E to Remove Non-HCA and Non-Adjacent Class 1 and 2 Pipeline Segments From Phase 1

Notwithstanding the clear language in the text of the Decision and FOF 22, COL 20 creates some confusion because it suggests that Phase 1 may include not only adjacent Class 1 or 2 segments, but also Class 1 or 2 segments "with economic or engineering supporting rationale."[25] In contrast, the text and FOF 22 indicate that adjacency is the only economic or engineering rationale recognized by the Decision.

Contrary to the Decision text and FOF 22, COL 20 could be read to expand the scope of Phase 1 in a vague and undefined manner. The phrase "economic or engineering supporting rationale" offers no objective standard by which Commission staff or parties can assess which, if any, non-adjacent Class 1 and 2 segments would be appropriate to include in Phase 1. Such vague language will surely foster significant controversy that the Commission will be called upon to resolve.

Accordingly, the Decision should be modified in two respects. First, COL 20 should be clarified to conform to the Decision text and FOF 22. Second, OP 11 should be modified to require PG&E to remove all non-adjacent Class 1 and 2 segments from Phase 1 in the application presenting its IP database update. In this way, the Phase 1 scope will be reduced to include only the Class 1 and 2 segments that are adjacent to the priority segments the Commission intended to target in Phase 1. In addition, the revenue requirements and Phase 1 budgets will be reduced to match the actual scope of Phase 1 work that the Decision authorizes PG&E to perform.

[24] TURN Opening Brief, pp. 23-24. PG&E did not challenge TURN's 10% figure in its reply brief.
[25] Decision, p. 123, COL 20.

C. The Commission Should Clarify That "Higher Priority" Work Must Meet the Criteria for Phase 1 Projects

While continuing to recognize the paramount importance of safety, the Decision reaffirms the Commission's commitment to "closely scrutinize" the costs to be imposed on ratepayers, to require that the proposed IP expenditures obtain "the greatest safety value" for ratepayers, and to ensure that customers pay "only for necessary safety improvements."[26] The Decision states, "To meet our constitutional and statutory duties, we must create powerful incentives for PG&E to manage this program efficiently and to aggressively identify and capture cost savings."[27]

In support of these goals, the Decision adopts several important measures designed to ensure that ratepayers pay only reasonable and necessary costs. Key among them, in response to concerns that PG&E "would overspend on individual projects" and shift projects to Phase 2 to avoid exceeding cost caps, the Decision requires PG&E to reduce its expense and capital cost recovery limits by the amount associated with any authorized Phase 1 project that is not completed by the end of 2014.[28]

However, the Decision creates a large and undefined exception to this protection by allowing PG&E to substitute "other higher priority projects" for uncompleted projects in Phase 1.[29] Without defined limitations for "other higher priority projects," PG&E could circumvent the Decision's cost containment provisions by using Phase 1 funding for non-Phase 1 projects that have not even been considered by the Commission in this proceeding, or, worse, that are already funded by ratepayers. For example, PG&E could attempt to offset required reductions to the Phase 1 cost caps by using projects potentially

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[26] Decision, pp. 13, 83 (referencing D.11-06-017). *See also* p. 4 (requiring PG&E to demonstrate "good value" for ratepayers.

[27] Decision, p. 99.

[28] Decision, pp. 108, 127 (OP 6). This is just one of several important cost containment provisions in the Decision, all of which are undermined by the "other higher priority project" exception. The other provisions include: (1) the Decision's rejection of PG&E's request for a contingency allowance, in order to prevent PG&E from "shift[ing] the risk of potential cost overruns to ratepayers (p. 100); (2) the Decision's imposition of "program-based" caps on the amount of expense and capital costs that PG&E may recover from ratepayers, which are set forth in Attachment E (pp. 108, 127(OP 6)); and (3) the Decision's requirement that cost recovery be permitted only "for projects allowed by this decision." (p. 108).

[29] Decision, pp. 108, 127 (OP 6).

within the scope of the work that was funded in PG&E's last gas transmission and storage rate case (decided in D.11-04-031).[30] Similarly, PG&E could claim that this language allows it to effectively use Phase 1 funding to pay for Phase 2 projects that have not even been reviewed by the parties or found eligible for cost recovery by the Commission. In short, "other higher priority projects" could become a loophole that allows PG&E to avoid making otherwise required deductions to the cost caps by carrying out projects outside the scope of Phase 1.

There is a simple solution to this problem. The Decision should be modified to provide that PG&E may only substitute "other higher priority projects" for Phase 1 work if PG&E can demonstrate that the substituted project meets the Commission's approved criteria for Phase 1. This modification gives PG&E the flexibility to include projects that meet the Commission's approved criteria for Phase 1 that PG&E may have inadvertently omitted from its Implementation Plan request,[31] while ensuring that the Commission's cost containment measures designed to protect ratepayers are effective.

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[30] One focus of the Commission's review of PG&E's IP has been to prevent double recovery from ratepayers, and the Commission has defined the allowed projects and cost recovery in Phase 1 to prevent this result. If "higher priority projects" are allowed to stray outside the confines of the approved scope of Phase 1, the risk of such double recovery increases.

[31] Item 14 in the Specifications for PG&E Implementation Plan Compliance Reports in the Decision's Attachment D (p. D2) appears to anticipate that PG&E's original request may have left out projects that are within the scope of work approved by the Decision for Phase 1 and that such projects would be appropriate candidates for the "other higher priority projects" exception. As long as such projects are within the approved scope of Phase 1, the Joint Parties would agree.

III. CONCLUSION

For all the foregoing reasons, the Joint Parties request that the Decision be modified as set forth in Appendix A.

Respectfully submitted,

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