

**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)

**OPENING COMMENTS OF
SOUTHERN CALIFORNIA GAS COMPANY (U 904 G)
AND SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M)
ON PROPOSED DECISION MANDATING PIPELINE SAFETY
IMPLEMENTATION PLAN, DISALLOWING COSTS,
AND AUTHORIZING MEMORANDUM ACCOUNT**

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cites to D.12-12-030, the decision resolving PG&E's implementation plan, in support of its conclusion that Southwest Gas should be denied recovery of the costs of pressure testing its Victor Valley System and ignores undisputed evidence and legal arguments presented by Southwest Gas. This results in a legally unsound, factually unfounded and unfair decision that should not be adopted by the Commission.

On February 24, 2011, the Commission adopted 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 (OIR) instituting this Rulemaking. In the OIR, the Commission described this Rulemaking as "a forward-looking effort to establish a new model of natural gas pipeline safety regulation applicable to all California pipelines."¹

The Commission declared on June 9, 2011, that "all natural gas transmission pipelines in service in California must be brought into compliance with modern standards of safety. Historic exemptions must come to an end with an orderly and cost-conscience implementation plan."² To accomplish this mandate, the Commission directed all California natural gas pipeline operators to file and serve "a proposed Natural Gas Transmission Pipeline Comprehensive Pressure Testing Implementation Plan (Implementation Plan) to comply with the requirement that all in-service natural gas transmission pipeline in California has been pressure tested in accord with 49 CFR 192.619, excluding subsection 49 CFR 192.619 (c)."³

As directed, on August 26, 2011, PG&E, SoCalGas, SDG&E and Southwest Gas filed proposed plans to meet the Commission's objectives. The Commission initially contemplated considering all of the proposed plans simultaneously in this Rulemaking, but later determined it should consider PG&E's and Southwest Gas' proposed plans in this rulemaking and transfer

¹ OIR at 3.

² D.11-06-017 at 18.

³ D.11-06-017 at 31, Ordering ¶ 3.

consideration of SoCalGas and SDG&E's proposed plan to their Triennial Cost Allocation Application Proceeding (TCAP) (A.11-11-002).⁴

Hearings on PG&E's proposed plan took place from March 19 through March 29, 2012 and opening and reply briefs were filed on May 14, 2012 and May 31, 2012, respectively.

Because our plan was scheduled to be heard after PG&E's, in our May 14 Opening Brief on PG&E's plan SoCalGas and SDG&E urged the Commission in this proceeding to refrain from determining material issues that may apply to our plan until we have had an opportunity to fully present our case and submit evidence supporting our plan.⁵ In particular, SoCalGas and SDG&E asked the Commission to refrain from adopting parties' ratemaking proposals that were based on historic recordkeeping and pressure testing practices:

Should DRA and TURN set forth similar proposals with respect to SoCalGas and SDG&E's plan, SoCalGas and SDG&E intend to offer evidence regarding historic natural gas industry pressure testing and recordkeeping practices and standards in support of their proposed plan. SoCalGas and SDG&E will effectively be deprived of a full and fair opportunity to present their case, if the Commission renders factual determinations regarding historic recordkeeping and pressure testing standards and practices in the industry solely based on the record created during the review of PG&E's Implementation Plan.⁶

Hearings were not conducted on Southwest Gas' proposed plan. An opening brief was filed by the Division of Ratepayer Advocates on June 16, 2012 and Southwest Gas submitted a reply brief on June 29, 2012. No other briefs were filed.

In its opening brief on the Southwest Gas plan, DRA proposed that Southwest Gas be denied cost recovery for its entire plan, arguing that all of the costs of the plan were a result of Southwest Gas' failure to retain historic pressure testing records. In reply, Southwest Gas pointed out that DRA's argument ignored the directives of the Commission in D.11-06-017 and

⁴ See D.12-04-021.

⁵ Opening Brief of SoCalGas and SDG&E on PG&E's Implementation Plan, May 14, 2012, at 9.

⁶ *Id.* at 11.

further, ignored the evidence presented by Southwest Gas with respect to applicable industry standards:

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.

Hearings on SoCalGas and SDG&E's plan did not take place until late August, and opening briefs were not filed until October 20, 2012.

On October 12, 2012, assigned Administrative Law Judge Maribeth Bushey issued a proposed decision in this rulemaking, which, among other things, approved PG&E's proposed implementation plan, but disallowed the recovery of costs for pressure testing pipelines installed after 1955. The proposed decision was based on findings that “[t]he evidentiary record supports the factual finding that from 1956 on, PG&E's practice was to comply with then-applicable industry standards for pre-service pressure testing, and that retaining records of such testing was part of the industry standard. As it was PG&E's practice to incur these pre-service test costs, we would expect that absent unusual circumstances such costs would be included in revenue requirement and recovered from ratepayers.”⁷

⁷ *Id.* at 61.

SoCalGas and SDG&E submitted comments on the October 12 proposed decision, urging the Commission to refrain from making a final determination on this issue without taking into consideration the recordkeeping and industry standard evidence presented in the TCAP in support of our plan. We pointed out that because PG&E did not oppose this aspect of the proposed decision, there was no reason for the Commission to pre-determine these factual issues before considering the evidence presented by SoCalGas and SDG&E in the TCAP.

On December 20, 2012, the Commission unanimously adopted Decision (D.) 12-12-030, and approved PG&E's approved implementation plan, but disallowed the recovery of pressure testing costs for pipelines installed after 1955. D.12-12-030 did not address the evidence submitted by SoCalGas and SDG&E in their TCAP.

If adopted by the Commission, the Proposed Decision would undermine the Commission's determination in D.11-06-017 that historic exemptions must come to an end, by adopting a new grandfathering provision for older pipelines. The underlying premise of the disallowance of the recovery of Southwest Gas' pressure-testing costs from customers in the Proposed Decision is the assumption that had the Victor Valley System been pressure-tested back in 1957, more than a decade before modern pressure testing standards were even adopted, Southwest Gas would not need to pressure test that pipeline to achieve compliance with D.11-06-017. This is in direct conflict with the Commission's mandate that "all natural gas transmission pipelines in service in California must be brought into compliance with modern standards of safety,"⁸ and essentially creates a new grandfathering provision for pipelines installed prior to 1970. It is also inconsistent with the Commission's express objective in this Rulemaking "to better align ratemaking policies, practices, and incentives to elevate safety considerations, and maintain utility management focus on the 'nuts and bolts' details of prudent utility operations."⁹

Moreover, adoption of the Proposed Decision would deprive Southwest Gas of a full and fair opportunity to have the evidence submitted in support of its plan carefully considered and

⁸ D.11-06-017 at 18.

⁹ Order Instituting Rulemaking at 4.

reviewed by the Commission. Indeed, the Proposed Decision ignores the uncontested evidence presented by Southwest Gas which conclusively demonstrates that the voluntary industry standards cited in the Proposed Decision were inapplicable to the lines addressed under the Southwest Gas plan. Thus, the Proposed Decision holds Southwest Gas accountable for pressure test costs for failing to conduct testing that was not required by any law, regulation or industry standard.

II. DISCUSSION

A. The Proposed Decision Errs by Exempting Older Pipelines from the Commission’s New Pressure Testing Requirements.

The Proposed Decision cites to D.12-12-030 to exclude the costs of pressure testing Southwest Gas’ Victor Valley System, stating that “[i]n D.12-12-030, we found that industry practices commencing no later than 1955 required pre-service [sic] pressure testing. Here, Southwest Gas installed the earliest portions of the Victor Valley system in 1957 and, thus, should have pressure tested the pipe prior to placing it in service.”¹⁰ Because Southwest Gas could not locate pressure test records for the Victory Valley System, the Proposed Decision states that under D.12-12-030, Southwest Gas is required to fund those pressure tests at the expense of its shareholders.¹¹

The corollary to this conclusion is necessarily that had Southwest Gas located a pressure test record from 1957, the Commission would not require Southwest Gas to pressure test the line to satisfy modern standards of safety. But this is contrary to the Commission’s express direction in D.11-06-017 that “all natural gas transmission pipelines in service in California must be brought into compliance with modern standards of safety.”¹² As noted by the Commission in D.11-06-017, California natural gas transmission pipelines installed prior to July 1, 1970, were

¹⁰ Proposed Decision at 12.

¹¹ *Id.*

¹² D.11-06-017 at 18.

exempted from Federal pipeline safety regulations that require new transmission pipelines to be pressure tested prior to being placed in service.¹³ The Commission expressed concern about these exemptions in D.11-06-017, stating:

Consequently, the untested pipelines are also some of the oldest in the natural gas transmission system and the more likely to lack a complete set of documents allowing pipeline feature documents to be established without the use of assumptions. We find that this circumstance is not consistent with this Commission's obligations to promote the safety, health, comfort, and convenience of utility patrons, employees, and the public.¹⁴

That is why the Commission ordered that *all* transmission pipelines must now be tested to modern standards, and that “[h]istoric exemptions must come to an end”¹⁵ The Commission expressly and unambiguously eliminated grandfathering with its bold move to modern testing standards in D.11-06-017. It is legal error for the Proposed Decision to reinstitute “grandfathering,” by now concluding that pressure testing from the 1950s would be sufficient to satisfy the requirements of D.11-06-017.

Pressure test standards have changed over time: the pressure testing requirements in the 1950s do not meet modern standards (also referred to as Subpart J standards, which are codified at 49 CFR 192). No party has disputed this point and SoCalGas and SDG&E provided additional evidence in the TCAP proceeding that demonstrates the differences between pre-1970 pressure testing requirements and modern standards. For example, SoCalGas and SDG&E introduced the following table, which summarizes the strength testing and associated record keeping requirements of industry standards and regulatory requirements:

¹³ *Id.* at 5, n. 3.

¹⁴ *Id.* at 18.

¹⁵ *Id.* at 31, Ordering ¶ 4.

Summary Table of Post Construction Pressure Tests and Duration¹⁶

Post Construction Strength Test Duration and Record Specification				
	Industry Standard		Regulatory Requirement	
	Pre-1955	1955 - 1961	GO 112 1961 - 1970	GO 112 Post 1970 (49 CFR 192)

N/S = Not Specified

N/A = Not Applicable

Strength Test Requirement and Duration when Specified				
30% and more of SMYS	N/A	Yes - N/S	Yes - 1 Hour	Yes - 8 Hour
20% SMYS up to 30% SMYS	N/A	Yes - N/S	Yes - 1 Hour	Yes - 1 Hour
100 psig to 20% SMYS*	N/A	Yes - N/S	Yes - N/S	Yes - 1 Hour

Documentation Requirements - 30% and more of SMYS				
Operator Information	No	No	No	Yes
Test Medium	No	Yes	Yes	Yes
Test Pressure	No	Yes	Yes	Yes
Test Duration	No	No	No	Yes
Record of Pressure Readings	No	No	No	Yes
Significant Elevation Changes	No	No	No	Yes
Disposition of Leaks and Failures	No	No	No	Yes

Documentation Requirements - 20% SMYS to < 30% SMYS				
Operator Information	No	No	No	Yes
Test Medium	No	No	Yes	Yes
Test Pressure	No	No	Yes	Yes
Test Duration	No	No	No	Yes
Record of Pressure Readings	No	No	No	Yes
Significant Elevation Changes	No	No	No	Yes
Disposition of Leaks and Failures	No	No	No	Yes

Documentation Requirements - 100 psig to < 20% SMYS*				
Operator Information	No	No	No	Yes
Test Medium	No	No	No	Yes
Test Pressure	No	No	No	Yes
Test Duration	No	No	No	Yes
Record of Pressure Readings	No	No	No	Yes
Significant Elevation Changes	No	No	No	Yes
Disposition of Leaks and Failures	No	No	No	Yes
* Some editions of the code refer to pressures in excess of 100 psig, while others including current code, refer to at or above 100 psig.				

¹⁶ A.11-11-002, Ex. SCG-18 (Schneider) at 9 (Figure DMS-2).

The implication of exempting pipelines installed prior to 1970 from the Commission’s new modern pressure testing standards is that the very pipelines the Commission expressed most concern about may still be grandfathered, just under a new “pressure test records” exception presumably created by the Commission in D.12-12-030. If the Commission truly believes that exempting older transmission pipelines from modern safety standards is “not consistent with [its] obligations to promote the safety, health, comfort, and convenience of utility patrons, employees, and the public,”¹⁷ then it must remain steadfast in its determination that all such “historic exemptions must come to an end.”¹⁸ Adoption of the Proposed Decision will undermine this policy, and demonstrate that the Commission is not committed to eliminating the grandfathering of older transmission pipelines.

B. The Proposed Decision Errs By Ignoring Undisputed Evidence and Legal Arguments Submitted by Southwest Gas, SoCalGas and SDG&E Regarding Applicable Industry Standards and Regulations.

The Proposed Decision cites to D.12-12-030 in support of a finding that “adopted in 1955, the American Standard Association Code for Pressure Pipeline (ASA B31.8) required pre-service pressure testing for natural gas pipelines” and leaps to the conclusion that “[t]he lack of pressure test records for pipeline placed into service after January 1, 1956, reflect an error in Southwest Gas’ operation of its natural gas system.”¹⁹

These factual findings are based on an incorrect assumption that under the voluntary industry standards that existed between 1956 and 1961, all transmission pipelines installed between 1956 and 1961 were required to be pressure tested. This is not the case. The voluntary industry standards that existed then did not call for pre-service pressure testing of all pipeline installed during that time. The American Standard Code, as it existed in 1955, provided exceptions to its hydrotesting requirements. For example, hydrotesting was not required where

¹⁷ D.11-06-017 at 18.

¹⁸ *Id.*

¹⁹ Proposed Decision at 15, Findings of Fact Nos. 5-6.

there was a lack of sufficient water to carry out the pressure test because water of satisfactory quality was often not available in sufficient quantity to perform such testing.²⁰ Similarly, the 1955 voluntary industry standard's recordkeeping recommendations, as shown in the table above, only applied to pipelines operated at or above 30% of SMYS.²¹ Therefore, if no pressure test documentation exists for a pipeline installed between 1956 and 1961, it is possible that a test was not performed because it was never required to be performed.

This is precisely the set of circumstances presented by Southwest Gas. Southwest Gas conclusively demonstrated that the 1955 voluntary industry standards did not even apply to this pipeline when it was installed in 1957. As explained by Southwest Gas in its Reply Brief:

[T]he ASA pressure testing recommendations did not apply to all classes of pipe. 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. 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.²²

The Proposed Decision does not take any of this into consideration when it disallows recovery of the costs of pressure testing Southwest Gas' Victor Valley System. That is in error.

The Proposed Decision also ignores the fact that the 1955 voluntary industry standard was superseded by General Order 112 in 1961. General Orders 112, 112-A and 112-B, under "General Provisions and Definitions," Section 104.3, all expressly state that "[i]t is not intended

²⁰ See ASA B 841.413 ("Requirements of 841.412(c) for hydrostatic testing of mains and pipelines in Location Classes 3 and 4 **do not apply** if at the time the pipeline or main is first ready for test, one or both of the following conditions exist: (a) The ground temperature at pipe depth is 32°F, or less, or might fall to that temperature before the hydrostatic test could be completed, or (b) Water of satisfactory quality is not available in sufficient quantity.") (emphasis added)

²¹ See A.11-11-002, Ex. SCG-17 (Rosenfeld) at 20 ("In Chapter IV 'Design, Installation, and Testing' § 841.417 requires maintaining records showing the type of fluid used for pressure testing and the test pressure of pipelines that operate at a hoop stress of 30% or more of SMYS.").

²² Reply Brief of Southwest Gas at 7.

that these rules be applied retroactively to existing installations in so far as design, fabrication, installation, established operating pressure, and testing are concerned. It is intended, however, that the provisions of these rules shall be applicable to the operation, maintenance, and up-rating of existing installations.” Because General Order 112 expressly stated that its provisions were not to be applied retroactively, once General Order 112 went into effect, and because the 1956 to 1961 Code provisions were entirely voluntary, a pipeline operator may not have retained the original records of pressure tests that pre-dated General Order 112. SoCalGas and SDG&E presented evidence in the TCAP that once the MAOP was established the pressure test record had little operational value.²³ Similarly, Southwest Gas pointed out that:

[T]he 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.²⁴

Denying cost recovery because a pipeline operator does not now have pressure test records for pressure tests conducted under voluntary standards would establish unsound public policy by discouraging utilities from voluntarily complying with industry standards. A pipeline operator should not be penalized for taking a proactive approach to safety.

III. CONCLUSION

For the reasons set forth above, the Commission should remain steadfast in its commitment to eliminate historic exemptions in order to bring the State’s natural gas transmission system into compliance with modern standards of safety. Consistent with the Commission’s stated objective in this Rulemaking of aligning its ratemaking and safety policies,

²³ See A.11-11-002, Ex. SCG-17 (Rosenfeld) at 28-30.

²⁴ Reply Brief of Southwest Gas at 8.

Appendix of Proposed Revisions to Findings of Fact, Conclusions of Law and Ordering Paragraphs

Proposed Findings of Fact

~~5. In D.12 12 030, the Commission determined that, adopted in 1955, the American Standard Association Code for Pressure Pipeline (ASA B31.8) required pre-service pressure testing for natural gas pipelines.~~

~~6. The lack of pressure test records for pipeline placed into service after January 1, 1956, reflect an error in Southwest Gas' operation of its natural gas system.~~

5. Natural gas transmission pipelines placed in service prior to 1970 were not required to be pressure tested, and were exempted from then-new federal regulations requiring such tests. These regulations allowed operators to operate a segment at the highest actual operating pressure of the segment during the five-year period between July 1, 1965 and June 30, 1970.

6. Natural gas transmission pipeline operators should be required to replace or pressure test all transmission pipeline that has not been tested in accordance with these modern standards.

Proposed Conclusions of Law

~~6. It is would not be reasonable for the shareholders of to deny Southwest Gas the ability to recover from its customers to absorb the cost of pressure testing the Victor Valley natural gas transmission pipeline because the absence of pressure test records was caused by imprudent management to bring the line into compliance with new safety standards.~~

~~7. It is reasonable to impose an equitable adjustment to the replacement cost of the Victor Valley natural gas transmission pipeline for which pressure test records are not available, but which require replacement rather than pressure testing. Such an equitable adjustment shall be equal to the forecasted cost of pressure testing the pipeline, \$3.75 million, and shall reduce the cost of the pipeline replacement included in rate base and revenue requirement.~~

Proposed Ordering Paragraphs

3. Southwest Gas Company must limit the amounts recorded in the memorandum account authorized in Ordering Paragraph 2 to \$250,000 for the remote controlled shut-off valve in the Harper Lake system, and the actual capital cost and expense of replacing the Victor Valley system, less \$3.75 million.