

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)

**OPENING COMMENTS OF
SOUTHWEST GAS CORPORATION (U 705 G)
ON THE PROPOSED DECISION MANDATING
SAFETY IMPLEMENTATION PLAN, DISALLOWING COSTS,
AND AUTHORIZING MEMORANDUM ACCOUNT**

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7 **ON THE PROPOSED DECISION MANDATING**
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9 **AND AUTHORIZING MEMORANDUM ACCOUNT**

10 Southwest Gas Corporation (Southwest Gas or Company) hereby submits its Opening
11 Comments to the California Public Utilities Commission (Commission) concerning the
12 Proposed Decision Mandating Safety Implementation Plan, Disallowing Costs, and Authorizing
13 Memorandum Account (Proposed Decision), in accordance with Rule 14.3 of the
14 Commission's Rules of Practice and Procedure.

15 The evidence undisputedly demonstrates that Southwest Gas' Implementation Plan
16 was designed to enhance the safety and reliability of the Company's transmission pipeline
17 system in accordance with the Commission's directives, and that Southwest Gas is entitled to
18 recover the associated costs. Notwithstanding, the Proposed Decision contains multiple errors
19 of both law and fact that, if adopted, will result in a punitive disallowance of over 52 percent of
20 the Implementation Plan costs.

21 As set forth more fully herein, the Proposed Decision misinterprets the 1955 American
22 Standards Association (ASA) guidelines and inappropriately applies findings of fact and
23 conclusions of law stemming from Pacific Gas & Electric's (PG&E) implementation plan
24 proceeding, to reach the erroneous conclusion that Southwest Gas had "missing but required"
25 records, and that a portion of the Implementation Plan costs should be assigned to the
Company's shareholders. Further, the Proposed Decision is inconsistent with the
Commission's goals and directives, and thwarts the Commission's efforts to improve public

1 safety, end historic exemptions and ensure compliance with modern standards for
2 transmission pipelines.

3 **I. Introduction and Procedural History**

4 On February 24, 2011, the Commission adopted its Order Instituting Rulemaking on the
5 Commission's Own Motion to Adopt New Safety and Reliability Regulations for Natural Gas
6 Transmission and Distribution Pipelines and Related Ratemaking Mechanism (OIR), in what it
7 called a "forward-looking effort to establish a new model of natural gas pipeline safety
8 regulation".¹ On June 9, 2011, the Commission issued Decision No. 11-06-017 (D.11-06-017),
9 which ended the historic exemptions, or "grandfathering" for establishing Maximum Allowable
10 Operating Pressure (MAOP) for certain pipelines, and required California gas utilities to submit
11 plans for the pressure testing or replacement of all transmission pipelines that were not
12 previously tested or for which records are not available.² In order to further its goal of
13 "[o]btaining the greatest amount of safety value...for ratepayer expenditures...", the
14 Commission directed utilities to include ratemaking proposals in their plans that included
15 specific rate base and expenses amounts, as well as proposed rate impacts.³ The one
16 exception related to PG&E, which was the only utility directed to submit a proposed cost
17 allocation between shareholders and ratepayers.⁴

18 Southwest Gas submitted its Natural Gas Transmission Pipeline Comprehensive
19 Pressure Testing Implementation Plan (Implementation Plan) on August 26, 2011.⁵ Southwest
20 Gas operates approximately 15.4 miles of transmission pipeline in California, which can
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22 ¹ OIR, at 3.

² D.11-06-017, at 18-19.

23 ³ Id. at 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").

⁴ Id. at 23.

24 ⁵ PG&E, Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E)
25 also filed pipeline safety implementation plans in this proceeding on August 26, 2011. Thereafter, the review
and consideration of SoCalGas and SDG&E's was transferred to their Triennial Cost Allocation proceeding
(A.11-11-002).

1 generally be described as the Victor Valley System and the Harper Lake System. Consistent
2 with the directives in D.11-06-017, Southwest Gas proposed replacing the Victor Valley
3 System. Because the Harper Lake System complies with the pressure test requirements of
4 D.11-06-017, the Company proposed only to install a remote control shut-off valve (RCV) to
5 minimize the time to shut off gas flow in the event of an unanticipated release of gas.⁶ The
6 Company's Implementation Plan and the associated ratemaking treatment were supported by
7 Company witnesses Lynn Malloy and Edward Giesecking, respectively.⁷ The Division of
8 Ratepayer Advocates (DRA) opposed Southwest Gas' proposed recovery of Implementation
9 Plan costs based on what it described as the Company's "failure to produce adequate
10 pressure test records".⁸ DRA offered no testimony concerning Southwest Gas' Implementation
11 Plan, and the Implementation Plan was not the subject of a hearing. DRA filed an Opening
12 Brief on June 16, 2012, and the Company filed a Reply Brief on June 29, 2012.

13 The Proposed Decision in this case recommends approval of Southwest Gas'
14 Implementation Plan, yet wrongly concludes that the unavailability of certain pressure test
15 records constitutes imprudence.⁹ As a result, and despite the fact that PG&E was the only
16 utility instructed to provide a proposed cost allocation between customers and shareholders,
17 the Proposed Decision inappropriately and unreasonably allocates the Implementation Plan
18 costs such that Southwest Gas' shareholders are responsible for nearly 52 percent of the
19 total.¹⁰

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⁶ Implementation Plan, at 16-17.

23 ⁷ See, Prepared Direct Testimony of Lynn A. Malloy, Prepared Direct Testimony of Edward Giesecking, and
Supplemental Prepared Direct Testimony of Edward Giesecking.

24 ⁸ DRA Brief, at 3.

25 ⁹ Proposed Decision at 16, Conclusion of Law 6.

¹⁰ The Proposed Decision recommends a disallowance of \$3.75 million, which is approximately 52 percent of
the Company's total estimated Implementation Plan costs of \$7.1 million.

1 **II. Discussion**

2 As detailed below, the Proposed Decision contains several errors in both law and fact
3 that, without modification, stand to deprive Southwest Gas of its due process rights by denying
4 it a full and fair decision based on the merit of its arguments and the strength of its evidence.
5 Moreover, the Proposed Decision thwarts the Commission's efforts to bring the state's natural
6 gas pipeline systems into compliance with modern safety standards.

7 **A. The Proposed Decision Erroneously Relies Upon Facts and Findings Specific**
8 **to PG&E's Plan¹¹ and Ignores Evidence Pertaining to Southwest Gas' Plan**

9 The majority of the Victor Valley System (approximately 35,325 feet) was installed in
10 1957. At that time, there were no binding regulations requiring pressure tests or the retention
11 of records related to such tests, but voluntary industry guidelines were offered by the ASA.
12 The Proposed Decision suggests that the cost allocation related to Southwest Gas' Victor
13 Valley System is warranted because:

14 In D.12-12-030, [the Commission] found that industry practices commencing
15 no later than 1955 required pre-service pressure testing. Here, Southwest
16 Gas installed the earliest portions of the Victor Valley system in 1957 and,
17 thus, should have pressure tested the pipe prior to placing it in service. Now
18 Southwest Gas cannot locate the records. Also in D.12-12-030, [the
19 Commission] found that where a natural gas operator **was required to
20 conduct pre-service pressure tests but is unable to provide records** of
21 such a test in the past, the operator will be required to perform such tests at
22 the expense of its shareholders. (Emphasis added)¹²

19 **Application of the ASA Guidelines**

20 The above-referenced finding incorrectly interprets the ASA guidelines to apply across
21 the board to all installations occurring after 1955. While Southwest Gas acknowledges a
22 general testing recommendation under the guidelines,¹³ the guidelines only suggested a 1.5

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24 ¹¹ On December 20, 2012, the Commission approved PG&E's implementation plan, but disallowed recovery
25 for certain costs, including but not limited to costs associated with pressure testing pipe installed after 1955
but before 1970 (D.12-12-030).

¹² Proposed Decision, at 12.

¹³ ASA B31.1.8-1955, at §841.31.

1 times maximum operating pressure test (i.e., a pre-service strength or pressure test) in
2 instances where the pipe was operating less than 30% of the Specified Minimum Yield
3 Strength (SYMS) above 100 psig in Class 2, 3 or 4 locations.¹⁴ The ASA guidelines **did not**
4 provide testing specifications or record keeping requirements for similar pipe located in Class 1
5 locations. This is a significant distinction between the evidence presented in Southwest Gas'
6 case compared to that in the PG&E case. As demonstrated in Southwest Gas' Reply Brief,
7 when the 1957 segment of the Victor Valley System was installed, it was located in a Class 1
8 location (as defined by the ASA).¹⁵ The fact that the pipe is currently in a Class 3 location (as
9 defined by Department of Transportation standards) is irrelevant to the determination of
10 whether the ASA recommended pressure testing at the time of installation. Accordingly, the
11 Proposed Decision not only misinterprets the scope of the ASA guidelines as they applied to
12 the 1957 Victor Valley System installation, but penalizes the Company for failing to retain
13 strength test (pressure test) records when the ASA never recommended such testing or record
14 keeping for this pipe.

15 This important factual error highlights the even greater legal error found in the
16 Proposed Decision. The Proposed Decision fails to distinguish between the application of the
17 1955 standards in Class 1 versus Class 2, 3 or 4 locations because it fails to distinguish the
18 facts and circumstances unique to each utility. In concluding that Southwest Gas' lack of
19 records indicated an error in the operation of its system, the Proposed Decision makes no
20 reference to the Southwest Gas evidentiary record and instead, cites the Commission's
21 findings in the PG&E case.¹⁶ This error is critical because a proper review of the evidence
22 presented by Southwest Gas would have clarified that the Company, unlike PG&E, installed its
23 pipe in a Class 1 location and therefore the pressure testing and record keeping requirements

24 ¹⁴ Id. at §841.42.

25 ¹⁵ Southwest Gas Reply Brief, at 7.

¹⁶ Proposed Decision, at 15, Findings of Fact Nos. 5-6.

1 contained within the standards cannot be applied to Southwest Gas in the same manner as
2 they were applied in the PG&E case.

3 The Proposed Decision contains a similar error with respect to the second segment of
4 pipe (2,175 feet) that Southwest Gas installed in its Victor Valley System in 1965. At that time
5 the governing regulation was GO 112, adopted by the Commission in 1961. GO 112 required
6 pressure testing and record retention for all pipe operating at or above 20% Specified
7 Minimum Yield Strength (SMYS) in a Class 1 location. Based on the recommendation of the
8 Consumer Protection and Safety Division (CPSD), now known as the Safety Enforcement
9 Division (SED), the Proposed Decision disallows cost recovery for this pipe segment.
10 However, the Proposed Decision overlooks the Company's evidence and argument that the
11 1965 segment operated at 16.3% SMYS at the time of installation,¹⁷ and was therefore
12 exempted from these requirements.¹⁸

13 Cost Allocation

14 The Proposed Decision also contains errors with respect to cost allocation. Just as the
15 Proposed Decision incorrectly assumes that the ASA guidelines applied to Southwest Gas in
16 the same manner that they applied to PG&E, it also incorrectly assumes that the same cost
17 allocation philosophy found in the PG&E case applies here. The Proposed Decision states:

18 Southwest Gas proposes to replace, rather than pressure test the Victor
19 Valley system. CPSD and DRA recommend that shareholders also bear the
20 costs of replacement due to the imprudent absence of pressure test from the
21 records. **We considered this same issue in D.12-12-030 and determined
22 that where missing but required pressure test records require that the
23 pipe be pressure tested, shareholders must bear these costs.** (Emphasis
24 Added).¹⁹

25 ¹⁷ Southwest Gas Response to SED Technical Report, pg.5.

¹⁸ As stated in the Company's Reply Brief, should the Commission determine that some form of
shareholder/customer allocation is warranted, the shareholder responsibility should be no greater than the
disallowance recommended by SED with respect to the 2,175 foot segment installed in 1965.

¹⁹ Proposed Decision, at 12.

1 As explained above, it is erroneous and inequitable to apply the findings and
2 conclusions from D.12-12-030 to Southwest Gas' Implementation Plan, as the underlying
3 differences in facts and circumstances between the two companies cannot be ignored. Simply
4 put, the Commission **did not** "consider this same issue in D.12-12-030", and it should not
5 uniformly apply the findings and conclusions resulting from PG&E's evidentiary record to
6 utilities like Southwest Gas that are not similarly situated. Indeed, had the Proposed Decision
7 properly taken into account the evidence presented by Southwest Gas regarding the Class 1
8 location, it would have also acknowledged that the Southwest Gas records cannot possibly be
9 characterized as "missing but required" (since they were not required under the ASA
10 guidelines) and, by extension, that the Company's shareholders should not be responsible for
11 a portion of the Implementation Plan costs. Moreover, the Proposed Decision incorrectly
12 characterizes SED's recommendations on cost allocation.²⁰ SED never suggested that the
13 entirety of the Company's Implementation Plan costs should be denied, nor did it label the
14 Company as imprudent.²¹

15 **B. The Proposed Decision Contains Unsupported Findings and Conclusions**
16 **that Result in Unwarranted and Excessive Penalties**

17 The Proposed Decision correctly maintains that Southwest Gas held the burden of
18 proving by preponderance of the evidence that its Implementation Plan is reasonable, and in
19 approving the Implementation Plan, the Proposed Decision acknowledges that the Company
20 has satisfied that burden.²² However, once Southwest Gas met its burden of establishing the
21 reasonableness of its Implementation Plan and the related costs, DRA bore the burden of
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24 ²⁰ Id.

25 ²¹ See generally, Technical Report of the SED regarding Southwest Gas Corporation's Pipeline and Safety Plan.

²² Proposed Decision, at 10-11.

1 demonstrating that a disallowance was warranted.²³ The Proposed Decision does not cite any
2 evidence provided by DRA as support for its findings that Southwest Gas acted imprudently
3 and that a portion of the Implementation Plan costs should be disallowed. Indeed, the **only**
4 evidence referenced in support of the disallowance is the SED recommendation (which, as
5 discussed above, is inaccurately summarized in the Proposed Decision) and the Commission's
6 findings in the PG&E case. As discussed above, it is clear that the Proposed Decision does
7 not reflect a fair and balanced weighing of the evidence provided with respect to Southwest
8 Gas' Implementation Plan; but rather a blanket application of the findings and conclusions in
9 the PG&E case, which were specifically derived from the evidence presented in that
10 proceeding and wholly unrelated to Southwest Gas' Implementation Plan. Without a sound
11 legal basis to support the disallowance, the Proposed Decision should not be adopted.

12 Even assuming the Proposed Decision correctly disallows certain Implementation Plan
13 costs, the manner in which the Proposed Decision determined those costs is unsound and
14 results in an excessive penalty to Southwest Gas. Following the Proposed Decision's logic, in
15 the absence of test records customers are assumed to have paid for pre-service pressure
16 testing at the time the pipe was installed. Therefore, if shareholders are going to be assessed
17 a penalty, they too should pay for pre-service pressure testing – not for the type of hydrostatic
18 pressure test that the Company evaluated as part of its Implementation Plan (hydrostatic
19 pressure testing in lieu of replacing the pipe). This is especially true since the Proposed
20 Decision adopts the Company's recommendation that the Victor Valley System be replaced.

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25 ²³ In re Pacific Bell, 27 CPUC 2d, 1; D.87-12-067, at p. 297 ("where other parties challenge the utility's showing, such parties have the burden of producing evidence in support of such challenge and in support of adoption of their recommended ratemaking disallowance or adjustment").

1 **C. The Proposed Decision Thwarts the Commission’s Goal of Bringing**
2 **California’s Natural Gas Pipelines into Compliance with Modern Safety**
3 **Standards**

4 In addition to its erroneous findings and conclusions, the Proposed Decision proves
5 inconsistent with the goals and directives articulated by the Commission in D.11-06-017. The
6 Commission acknowledges that pre-1970 pipelines were often exempted from pressure testing
7 requirements and that, because of their age, these pipelines are often “more likely to lack a
8 complete set of documents allowing pipeline feature documents to be established without the
9 use of assumptions.”²⁴ In fact, it was upon this premise that the Commission directed
10 Southwest Gas and other utilities to prepare plans that would, through testing or replacement,
11 bring these pipelines in-line with current standards. Southwest Gas’ Victor Valley System falls
12 squarely within the category of pipe that D.11-06-017 seeks to address. When the federal
13 pipeline safety regulations took effect in 1970, Southwest Gas established an MAOP of 175
14 psig using the 5-year historical operating pressures for the 1957 and 1965 pipe installed in the
15 Victor Valley System, as permitted by 49 C.F.R.§192.619(c).²⁵ Because a pressure test for
16 these pipelines was not required prior to 1970, Southwest Gas’ Implementation Plan was
17 designed to bring the Victor Valley System into compliance with modern standards, as directed
18 in D.11-06-017. Indeed, as demonstrated herein and in the evidence provided by Southwest
19 Gas, all of the costs associated with the Implementation Plan are necessary in order for the
20 Company to comply with the higher standards adopted by the Commission.

21 Nevertheless, the Proposed Decision undermines the Commission’s directives and
22 stalls the Commission’s progress toward improved public safety, the end of historic
23 exemptions and compliance with modern standards for transmission pipelines. By incorrectly

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25 ²⁴ D.11-06-017, at 17-18.

²⁵ Implementation Plan, at 5.

1 equating the new standards adopted in D.11-06-017 with the requirements set forth in prior
2 regulations, the Proposed Decision takes Southwest Gas' Implementation Plan from a forward-
3 looking plan, aimed at enhancing pipeline safety and reliability to a corrective action plan,
4 aimed at penalizing Southwest Gas (in today's dollars) for every instance where
5 documentation of a pressure test on pre-1970 pipe is not produced. This result is wholly
6 inconsistent with the Commission's directives, and the Proposed Decision should be rejected.

7 **D. The Proposed Decision's Findings Regarding the Memorandum Account**
8 **Require Modification**

9 The Proposed Decision grants Southwest Gas' request for a memorandum account to
10 record Implementation Plan expenditures "prior to the 2014 test year"²⁶, with "any accumulated
11 balance on December 31, 2013, plus interest, amortized in the 2014 test year general rate
12 case"²⁷. Although the Proposed Decision reflects Southwest Gas' original request when
13 Implementation Plan testimony was submitted, circumstances have changed such that the
14 original memorandum account request requires modification. Southwest Gas anticipated
15 approval of its Implementation Plan by the end of 2011, to be well underway with construction
16 by the time it filed its test year 2014 general rate case, and to have completed its
17 Implementation Plan prior to the 2014 rate case test period. However, Southwest Gas filed its
18 test year 2014 general rate case in December 2012.²⁸ Therefore, the Company seeks
19 modification of the Proposed Decision such that it authorizes a memorandum account that
20 allows the Company to record expenditures during and after the 2014 test year.

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²⁶ Proposed Decision, at 17.

25 ²⁷ Id.

²⁸ A.12-12-024.

1 **III. Conclusion**

2 The evidence clearly demonstrates that Southwest Gas' Implementation Plan is entirely
3 consistent with D.11-06-017. The evidence also demonstrates that the costs associated with
4 the Implementation Plan are reasonable and should be fully recovered through rates.

5 As set forth herein, the Proposed Decision fails to consider the facts, circumstances
6 and evidence applicable to Southwest Gas' Implementation Plan and instead, "cuts and
7 pastes" findings and conclusion stemming from the record in PG&E's case. As a result,
8 Southwest Gas is not only denied its right to a fair and balanced review of its evidence and
9 arguments, but the Company's Implementation Plan is wrongly framed as a corrective
10 measure for perceived violations of pre-existing pressure test requirements, thereby thwarting
11 the Commission's efforts to bring the state's transmission pipelines into compliance with
12 current standards. Based upon the foregoing, Southwest Gas submits that the Proposed
13 Decision is erroneous and should not be adopted.

14 DATED this 29th of April 2013.

15 Respectfully submitted,
16 SOUTHWEST GAS CORPORATION

17 

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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.~~

5. The American Standard Association (ASA) guidelines adopted in 1955 did not provided testing specifications or record keeping requirements for pipe operating at less than 30% SYMS above 100 psig in Class 1 locations.

~~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.~~

6. When Southwest Gas installed its Victor Valley natural gas transmission pipeline in 1957, the pipe was located in a Class 1 location.

7. Southwest Gas' Implementation Plan is designed to bring its natural gas transmission pipelines into compliance with new safety standards.

Proposed Conclusions of Law

6. It is ~~would not be~~ reasonable for the shareholders of ~~to deny~~ Southwest Gas 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 **rate recovery for the costs associated with its Implementation Plan since the Plan brings the Company's natural gas transmission pipelines 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

2. Southwest Gas Company is authorized to file a Tier 1 Advice Letter to create a memorandum account in which to record expenditures pursuant to the Implementation

Plan from the effective date of today's decision ~~through December 31, 2013.~~ Any ~~accumulated balance on December 31, 2013, plus interest, will be amortized in the 2014 test year general rate case.~~

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.~~