

**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)

**MOTION OF THE CITY OF SAN CARLOS FOR PARTY STATUS
AND AN ORDER DIRECTING PG&E TO MAINTAIN REDUCED PRESSURE
ON NATURAL GAS PIPELINE 147 AND TO COMPENSATE THE CITY OF
SAN CARLOS FOR ALL ITS COSTS ASSOCIATED WITH PARTICIPATION
IN R.11-02-019**

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October 11, 2013

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Pursuant to Rule 1.4 and Rule 11.1 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure (“Commission Rules”), the City of San Carlos (“San Carlos”) submits this motion requesting party status in Rulemaking 11-02-019 (“R.11-02-019”). In addition, the City respectfully requests that the Commission order Pacific Gas and Electric Company (“PG&E”) to maintain PG&E Line 147 at a reduced pressure of 125 pounds per square inch gauge (“psig”) until such time as the safety of PG&E Line 147 can be independently established, either through full adjudication of the pending order to show cause proceedings concerning Line 147 before the Commission¹ or, in the alternative, with a Commission ruling on a petition to modify D.11-12-048 to be subsequently filed by San Carlos and any other interested Intervenors. Finally, San Carlos requests that the Commission, pursuant to its equitable powers² and California Public Utilities Code § 6296 direct PG&E to reimburse

¹ *Ruling of Assigned Commissioner and Assigned Administrative Law Judge Directing Pacific Gas and Electric Company to Appear and Show Cause Why all Commission Decisions Authorizing Increased Operating Pressure Should Not be Stayed Pending Demonstration That Records are Reliable* (August 19, 2013).

² *See, e.g.* Cal. Pub. Util. Code § 701 and *Consumers Lobby Against Monopolies v. CPUC*, 25 Cal. 3d 891, 905-907 (1979).

San Carlos for all costs the City incurs in connection with its participation in R.11-02-019.

San Carlos has a compelling and unique interest in the safe maintenance and operation of PG&E natural gas pipeline Line 147, which is almost entirely within its City limits. Each of the factual and legal contentions San Carlos identifies below are “reasonably pertinent” to the issues already presented in R.11-02-019.

I. SAN CARLOS REQUESTS PARTY STATUS IN R.11-02-019

A. DESCRIPTION OF SAN CARLOS

San Carlos is a general law city and political subdivision of the State of California, existing under and by virtue of the laws of the State of California. The City is located in San Mateo County, approximately twenty-five (25) miles south of San Francisco, with a population of approximately 28,000 residents.

PG&E owns and operates Line 147, a high pressure gas transmission line, that traverses through the City of San Carlos from west to east roughly parallel with Brittan Avenue in densely developed areas that include numerous businesses, approximately 3,000 to 5,000 nearby residences, two parks and community facilities.

B. STATEMENT OF INTEREST

On September 9, 2010, PG&E’s high pressure gas line 132 (“Line 132”) exploded in the City of San Bruno, resulting in 8 deaths, widespread injuries and the destruction of 38 homes (the “Line 132 Explosion”). The Commission’s Consumer Protection and Safety Division (“CPSD”)³ determined that PG&E was at fault for the Line 132 Explosion, finding that, among

³ CPSD became the Safety and Enforcement Division (“SED”) effective January 1, 2013; however for the sake of consistency in R.11-02-019, the former is used herein.

numerous violations of state and federal law,⁴ PG&E (1) relied on records that did not represent the actual conditions of the pipe that exploded,⁵ and (2) did not run tests that could have determined the pipeline vulnerability to failure.⁶ CPSD's conclusions regarding PG&E's culpability for the Line 132 Explosion are not isolated. According to the National Transportation Safety Board ("NTSB"), the probable cause of the Line 132 Explosion was PG&E's:

(1) inadequate quality assurance and quality control in 1956 during its Line 132 relocation project, which allowed the installation of a substandard and poorly welded pipe section with a visible seam weld flaw that, over time grew to a critical size, causing the pipeline to rupture during a pressure increase stemming from poorly planned electrical work at the Milpitas Terminal; and (2) inadequate pipeline integrity management program, which failed to detect and repair or remove the defective pipe section.⁷

PG&E Line 147 traverses San Carlos from west to east roughly parallel with Brittan Ave in a neighborhood and with geography and topography that bears a strong resemblance to those areas devastated by the Line 132 Explosion. It has come to the City's attention that PG&E is operating Line 147 based upon assumptions concerning the strength of the pipe, its welds, design and fabrication which are incorrect and not consistent with actual field survey, or "as built" information. In the interest of protecting the safety of those people that live, work and visit San

⁴ See, e.g. Opening Brief of the Consumer Protection and Safety Division in I. 12-01-007 at Appendix C (March 11, 2013).

⁵ See, e.g. Opening Brief of the Consumer Protection and Safety Division in I.12-01-007 at 18 (March 11, 2013) ("Segment 180 [of Line 132] originally was documented in PG&E records as being 30-inch diameter seamless steel pipe with a 0.375 inch wall thickness and having a Specified Minimum Yield Strength (SMYS) of 52,000 psi, installed in 1956. PG&E obtained this material specification information for Segment 180 from accounting records rather than engineering records. (CPSD-1, p.16.) PG&E's identification of the entire length of Segment 180 as a seamless pipe was incorrect. (CPSD-1, p.7, p.47.)"); see also, *Id.* at 42 (cataloguing numerous errors in PG&E records with respect to Line 132).

⁶ See, e.g. Opening Brief of the Consumer Protection and Safety Division in I. 12-01-007 at 15 (March 11, 2013) ("visual examination of the pipe would have detected the anomalous and defective welds."); see also, *Id.* at 50 (describing PG&E avoidance of hydrostatic testing or in-line inspections on Line 132); see also, *Id.* at 108 ("In 2008 and 2010, PG&E also considered upgrading Line 132 for ILI from MP 0.00 to MP 32.93, but the project was delayed due to lack of resources to perform engineering work and PG&E's changing criteria for choosing ILI/ECDA"(citations omitted)).

⁷ NTSB Report at 127.

Carlos in proximity to Line 147 every day, the City seeks party status in R.11-02-019. The City's concerns regarding Line 147 are real and immediate.

On October 31, 2011, PG&E submitted pipeline features data required by Commission decisions⁸ in support of the utility's request for Commission authorization to increase the pressure on Line 147 and other related natural gas pipelines.⁹ Based on PG&E's representations, the Commission authorized PG&E to increase pressure on Line 147 to as much as 365 psig on December 15, 2011.¹⁰ As early as October and November of 2012, PG&E determined that the information it had provided the Commission on Line 147 was not correct.¹¹

PG&E waited months to bring the Line 147 errors to the Commission's attention.¹² Specifically, PG&E did not inform the Commission of the errors in the data the utility had used to support increased pressure on Line 147 until July 3, 2013 (the "Line 147 Errata").¹³ The Commission deemed the facts in PG&E's Line 147 Errata "profoundly troubling," and directed PG&E to appear and show cause why all prior Commission decisions authorizing increased pressures on utility gas lines should not be stayed on August 19, 2013.¹⁴

⁸ D.11-09-006 at OP 4; D.11-10-010 at OP 3 - 5.

⁹ Pacific Gas and Electric Company's Supporting Information for Lifting Operating Pressure Restrictions on Lines 101, 132A and 147 (October 31, 2011).

¹⁰ D.11-12-048.

¹¹ Verified Statement of Pacific Gas and Electric Company's Vice President of Gas Transmission Maintenance and Construction in Response to Ruling of Assigned Commissioner and Assigned Administrative Law Judge ("Verified Statement"), p. 6, ¶ 25 and p.7, ¶ 27 and 28 (R.11-02-019, August 30, 2013); *See also*, Verified Statement at p.8, ¶ 33.

¹² Errata to Pacific Gas and Electric Company's Supporting Information for Lifting Operating Pressure Restrictions on Lines 101 and 147 (July 3, 2013).

¹³ *Id.*

¹⁴ *Ruling of Assigned Commissioner and Assigned Administrative Law Judge Directing Pacific Gas and Electric Company to Appear and Show Cause Why all Commission Decisions Authorizing Increased Operating Pressure Should Not be Stayed Pending Demonstration That Records are Reliable* at 6 (August 19, 2013). PG&E and its legal team also faces sanctions for violation of Commission Rule 1.1 in connection with the utility's filing of the Line 147 Errata. *See, Chief Administrative Law Judge and Assigned Administrative Law Judges' Ruling Directing Pacific Gas and Electric Company to Show Cause Why it Should Not be Sanctioned by the Commission for Violation of Rule 1.1 of the Commission's Rules of Practice and Procedure* (August 19, 2013).

On October 3, 2013, PG&E provided San Carlos with copies of intra-utility email exchanges that call into question the safety of said Line 147 and PG&E's representations to the Commission concerning the safety of the line, all of which contradict prior assurances from PG&E to San Carlos that Line 147 is safe (the "PG&E Emails").¹⁵ In the PG&E Emails obtained by San Carlos, a PG&E employee whose name was redacted with expertise in the gas transmission field went beyond expressing mere concern about Line 147, to raise a horrifyingly real fear that visitors and residents of San Carlos might be "sitting on a San Bruno situation" due to the condition of Line 147.¹⁶ According to the PG&E Emails:

- Line 147 consisted of AO Smith seamed pipe that did not conform with PG&E's records for Line 147.¹⁷
- Sections of Line 147 were comprised of pipe from 1929, which was only tested by the utility to 1.5 times the Maximum Allowable Operating Pressure ("MAOP") in 2011;¹⁸
- The section of Line 147 pipe in question was a thin wall pipe, with evidence of external corrosion that had been determined to be the cause of a leak that had to be repaired in October 2012;¹⁹ and
- A PG&E employee questioned whether the hydrostatic testing that was performed in 2011 could have contributed to additional cracking in Line 147 and activated a threat of failure.²⁰

San Carlos requests party status in R.11-02-019 to ensure that PG&E recordkeeping, maintenance and operation of Line 147 satisfies the utilities obligations under the Public Utilities Code (including Section 451), Commission General Order 112-E and PG&E's franchise

¹⁵ The PG&E emails are attached hereto as Exhibit A.

¹⁶ Exhibit A at A-1.

¹⁷ Exhibit A at A-2.

¹⁸ Exhibit A at A-1.

¹⁹ Exhibit A at A-1.

²⁰ Exhibit A at A-1.

agreement with the City, and that the Line does not present a public safety threat to the community.

C. NOTICE

Service of notices, orders, and communications and correspondence in this proceeding should be directed to the City of San Carlos City Manager Jeff Maltbie and the City Attorney Gregory J. Rubens at the addresses as set forth below.

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For the reasons set forth herein, San Carlos respectfully requests that the Commission expeditiously grant its motion for party status in R.11-02-019.

II. SAN CARLOS REQUESTS THAT THE COMMISSION ORDER PG&E TO MAINTAIN LINE 147 AT A REDUCED DISTRIBUTION LINE PRESSURE OF 125 PSIG

San Carlos also requests that the Commission order PG&E to keep Line 147 isolated from its high pressure gas transmission network and maintain a lower, distribution level pressure on Line 147 until Commission staff and Intervenors in R.11-02-019 can independently assess

whether Line 147 is indeed safe. Specifically, San Carlos requests that Line 147 remain isolated and its pressure remain at 125 psig until:

- *The Ruling of Assigned Commissioner and Assigned Administrative Law Judge Directing Pacific Gas and Electric Company to Appear and Show Cause Why all Commission Decisions Authorizing Increased Operating Pressure Should Not be Stayed Pending Demonstration That Records are Reliable* (the “PG&E OSC”) is fully adjudicated, including cross examination of Vice President of Gas Transmission Maintenance and Construction or, in the alternative;
- San Carlos files a petition to modify D.11-12-048 to permanently reduce the pressure on Line 147 until PG&E can conclusively demonstrate to the Commission and Intervenors that Line 147 is completely characterized and safe or the line replaced, and the City’s petition is fully adjudicated before the Commission.

San Carlos is not satisfied that the Commission’s informal conference with CPSD staff prior to issuance of the PG&E OSC is sufficient, on its own, to protect public safety. According to the PG&E OSC,

Prior to issuing this ruling, [Commissioner Florio and Administrative Law Judge Bushey] immediately conferred with the Commission’s [CPSD] to confirm the representations by PG&E that the lines have been pressure tested and are being operated at reduced MAOP. The Safety and Enforcement Division has confirmed PG&E’s representations and agrees that **so long as properly conducted pressure tests were performed as represented, Lines 147 and 101 can be operated consistent with General Order 112-E at the reduced pressures.**²¹

As a threshold matter, the assurance concerning safe operations of Line 147 that CPSD provided to Assigned Commissioner Florio and Administrative Law Judge Bushey is contingent on significant, and unconfirmed assumptions – namely that (1) PG&E performed pressure tests as represented; and (2) Line 147 can be operated consistent with Commission General Order 112-E at reduced pressures. Neither CPSD assumption has been tested for truthfulness and accuracy by CPSD or the Intervenors before the Commission in R.11-02-019.

²¹ PG&E OSC at 3 (August 19, 2013). (emphasis added).

Although the PG&E OSC gives the impression that the Commission is satisfied that Line 147 is safe, other representations made by Commission staff suggest the opposite. It is the City's understanding that on October 7, 2013, CPSD staff directed PG&E to "keep Line 147 shut-in and not above the current pressure of 125 psig until [CPSD] notifies PG&E of the next steps."²² According to CPSD that direction was necessary, "[c]onsidering the extent of public concern."²³

San Carlos shares that "public concern." On behalf of its residents, San Carlos will not accept the risks associated with continued operation of Line 147 lightly and will not stand by and allow PG&E to operate Line 147 using materials of unknown origin that do not match utility records in close proximity to residents and businesses. In addition to the informal directive to maintain the reduced 125 psig pressure on Line 147 that Commission staff saw fit to issue privately and only amongst PG&E and Commission personnel, rather than all of the participants in R.11-02-019, San Carlos requests an immediate and formal order from the Commission, circulated to all parties in R.11-02-019, directing PG&E to retain the "shut in" or isolated status and maintain the reduced 125 psig pressure on Line 147, that can only be lifted by Commission order once Line 147 has been deemed safe.

III. SAN CARLOS REQUESTS THAT THE COMMISSION ORDER PG&E TO REMIBURSE THE CITY FOR ALL ITS COSTS ASSOCIATED WITH PARTICIPATION IN R.11-02-019

Pursuant to Section 1801 *et seq.* of the California Public Utilities Code, certain "customers" are eligible to receive "compensation for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to public utility customers of participation or intervention in any proceeding of the commission."²⁴ San Carlos is well aware that the definition

²² Exhibit B at B-1. Note that the names of PG&E Employees have been redacted.

²³ Exhibit B at B-1.

²⁴ Cal. Pub. Util. Code § 1801.

of “customers” eligible to receive Intervenor compensation excludes, “any state, federal, or local government agency, any publicly owned public utility, or any entity that, in the commission’s opinion, was established or formed by a local government entity for the purpose of participating in a commission proceeding.”²⁵

San Carlos is also well aware that, notwithstanding the express exclusion of state agencies from the definition of “customer” in the applicable sections of the California Public Utilities Code, Commission staff regularly requests, and indeed is granted reimbursement for its expenses in connection with its participation in Commission proceedings.²⁶ As recently as October 1, 2013, CPSD filed a *Motion for PG&E to Reimburse Expenses Incurred Through the Commission’s Order to Show Cause*, to recover “costs accrued by the Commission staff, staff attorneys, and by its consultants for all expenses accrued in the Orders to Show Cause (“OSC”) in R.11-02-019”²⁷ on the grounds that the Commission previously required “PG&E to reimburse the State for staff and consultant related expenses in I.11-02-016.”²⁸ According to CPSD, “[a]s was the case with the San Bruno Recordkeeping investigation, PG&E’s actions have not justified charging taxpayers, ratepayers, or any utility other than PG&E for the costs incurred in this investigation.”²⁹ San Carlos simply makes the same request for costs that would otherwise be borne by City taxpayers.

²⁵ Cal. Pub. Util. Code § 1802(b)(2).

²⁶ See, e.g. D.11-12-021 at 6, OP 3 (affirming settlement that includes reimbursement of CPSD costs).

²⁷ *Motion for PG&E to Reimburse Expenses Incurred Through the Commission’s Order to Show Cause* at 1 (October 1, 2013).

²⁸ *Motion for PG&E to Reimburse Expenses Incurred Through the Commission’s Order to Show Cause* at 2 (October 1, 2013).

²⁹ *Motion for PG&E to Reimburse Expenses Incurred Through the Commission’s Order to Show Cause* at 3 (October 1, 2013).

The Commission's broad equitable powers³⁰ afford it sufficient flexibility to grant both CPSD and San Carlos' request for reimbursement. Equitable remedies are "cognate and germane" to the Commission's authority when they are designed to redress harm committed by a violation.³¹ As a guardian of public welfare and safety of its residents and visitors, PG&E's mismanagement, misrepresentations and the very real threat posed by Line 147 compel San Carlos to participate in R.11-02-019. Becoming a party is not optional for the City. As a result, the costs associated with City staff time, City attorneys and special counsel, and necessary consultants and experts will not be incurred by San Carlos voluntarily, but out of necessity in order to participate fully in R.11-02-019. But for PG&E's inaccurate records and utilization of faulty materials in Line 147, San Carlos would not be compelled to participate in R.11-02-019, and therefore suffer harm in the form of additional, otherwise unnecessary expense.

Beyond the Commission's broad equitable power to compel reimbursement of San Carlos costs, the California Public Utilities Code makes clear that PG&E, as the franchise holder operating within City limits, "shall indemnify and hold harmless the municipality and its officers from all liability for damages proximately resulting from any operations under the franchise."³² As noted above, City staff time, City attorneys and special counsel, and necessary consultants and experts are damages San Carlos will incur as a result of PG&E's impermissible and unsafe operations under its franchise with the City.

³⁰ See, e.g. Cal. Pub. Util. Code § 701.

³¹ *Consumers Lobby Against Monopolies v. CPUC*, 25 Cal. 3d 891, 905-907 (1979) (recognizing the breadth of Commission authority, "[t]he commission often exercises equitable jurisdiction as an incident to its express duties and authority. For example, the commission may issue injunctions in aid of jurisdiction specifically conferred upon it. [Citations omitted] It may direct that a trust fund be created to conserve potential refunds during a stay of an order lowering rates. [Citations omitted] Its power to reform contracts of public utilities to make them conform to the public interest has been recognized. [Citations omitted] And the commission itself has relied on equitable precedent in implementing its authority to issue cease and desist orders. [Citations omitted]."

³² Cal. Pub. Util. Code § 6296.

For these reasons, it should be PG&E shareholders that bear the costs associated with San Carlos' participation R.11-02-019, not the innocent City residents and businesses PG&E has placed at risk.

IV. CONCLUSION

PG&E has been aware of another round of deficiencies in its records and pipeline materials since October and November 2012. PG&E continued to insist that Line 147 and the remainder of its system is safe. PG&E continued to operate Line 147 at roughly 300 psig. PG&E refused requests from San Carlos to shut down Line 147 pending review by the Commission.

The Commission issued two orders to show cause against PG&E in connection with PG&E's erroneous data on Line 147 on August 19, 2013. At the time of issuance of those orders, the Commission took PG&E at its word that Line 147 is safe. The Commission did so in the wake of yet more evidence that PG&E lacks fundamental information concerning the makeup and operation of its system. The Commission did so after discovering PG&E's efforts to shade the truth, minimize responsibility and delay disclosure of damaging information about Line 147. Since July 3, 2013, the Commission has allowed PG&E to continue to operate Line 147 at high pressure based on inaccurate information. While it was business as usual on PG&E transmission lines, both the utility and the Commission in reliance on PG&E, effectively crossed their fingers and hoped there wouldn't be another explosion.

In the wake of the Commission's and PG&E's *inaction* with respect to Line 147, San Carlos took matters into its own hands. The City took the extraordinary step of Proclaiming the Existence of a Local Emergency on October 4, 2013. San Carlos sought and obtained a temporary injunction to shut down Line 147 on the same day. The City did so in order to protect

San Carlos residents, homes, churches, parks, businesses, and major thoroughfares. San Carlos did so because it was clear that no one else, neither PG&E nor the Commission, was willing to step up and do so on the City's behalf.

San Carlos will not sit idly by while PG&E defends its inaccurate and incomplete recordkeeping before the Commission or its staff, continues to proclaim "we would not operate Line 147 if it was not safe" or wait until PG&E properly identifies reconditioned and flimsy pipe. The Line 147 experience is enough for the City. PG&E has no idea what is underneath the ground in San Carlos. In response to the City's actions, the Commission ordered PG&E to update its prior Safety Certification for Line 147 in advance of a scheduled prehearing conference on October 21, 2013,³³ but other than insisting on additional paperwork from the utility, the Commission is apparently willing to ultimately allow PG&E to operate as normal. Between now and the prehearing conference on October 21, 2013, there is no formal Commission order preventing PG&E from increasing the pressure on Line 147. San Carlos will not stand by and hope the line is safe while PG&E and the Commission try, once again, to figure out whether the line is "safe".

If PG&E cannot affirmatively demonstrate that it can operate safely in San Carlos, it cannot continue to operate Line 147. San Carlos cannot and will not abide by business as usual with respect to Line 147 or tolerate lax regulatory oversight, continuing utility gamesmanship, public relations campaigns and obfuscation that run afoul of San Carlos' solemn duty to protect the health and welfare of City residents, businesses and visitors.

³³ Ruling of Assigned Commissioner and Assigned Administrative Law Judge Directing Pacific Gas and Electric Company to File and Serve Updated Safety Certification for Line 147 and Setting Prehearing (October 8, 2013).

For the reasons set forth herein, San Carlos respectfully requests that the Commission grant the City's motion for party status and issue an immediate order directing PG&E to maintain the isolated status and reduced 125 psig pressure on Line 147 until the PG&E OSC is adjudicated fully or, in the alternative until San Carlos has submitted a petition to modify D. 11-12-048 and the Commission has ruled thereon. San Carlos also requests that the Commission direct PG&E to compensate the City for all costs incurred in associated with its participation in R.11-02-019.

Respectfully submitted,

/s/ Gregory J. Rubens

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