

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the
Commission's Own Motion to Adopt New
Safety and Reliability Regulations for
Natural Gas Transmission and Distribution
Pipelines and Related Ratemaking
Mechanisms.

R. 11-02-019
(Filed February 24, 2011)

**REPLY COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO
ON THE PROPOSED DECISION OF ALJ BUSHEY IMPOSING SANCTIONS FOR
VIOLATION OF RULE 1.1 OF THE COMMISSION'S RULES OF PRACTICE AND
PROCEDURE**

DENNIS J. HERRERA
City Attorney
THERESA L. MUELLER
AUSTIN M. YANG

Attorneys for:
THE CITY AND COUNTY OF
SAN FRANCISCO
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
Telephone: (415) 554-6761
Facsimile: (415) 554-4763
E-Mail: austin.yang@sfgov.org

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I. INTRODUCTION

Pursuant to the Commission’s Rule of Practice and Procedure Rule 14.3(d), the City and County of San Francisco (“San Francisco”) submits these reply comments on the Proposed Decision of Administrative Law Judge Bushey Imposing Sanctions For Violation Of Rule 1.1 Of the Commission’s Rules of Practice and Procedure (the “Proposed Decision”). San Francisco responds to comments filed by PG&E, San Bruno, the Office of Ratepayer Advocates (“ORA”), and TURN. San Francisco supports the comments made by San Bruno, ORA and TURN that sanctions should begin on the date upon which PG&E senior management became aware that some of the records supporting the Commission’s decision to allow PG&E to raise the maximum allowable operating pressure on Line 147 were incorrect. San Francisco also rebuts PG&E’s assertions that after it informed SED advisory staff of the “known errors” on March 20, 2013, PG&E had no further obligations under Rule 1 to the Commission or the public.

A. PG&E Should Have Disclosed Its Discovery of “Known Errors” to the Commission No Later Than November 16, 2013.

San Bruno, ORA and TURN each argue that PG&E should have disclosed the “known errors” to the Commission and the public when its senior management became aware of the records discrepancy for segment 109 of Line 147. San Francisco agrees with this recommendation.

The record indicates that the pipeline engineer who discovered the pipeline discrepancy on segment 109 of Line 147 shared his discovery with others in PG&E via email on November 14, 2012. According to PG&E, “the pipeline engineer sent an email notification of the leak repair and his observation of a potential discrepancy with the PFL [Pipeline Features List] for Line 147 to various departments, including MAOP Validation, Integrity Management, Operations, PSEP, Hydrotest, and Gas Planning.”¹ Based on this discovery, PG&E then began

¹ August 30, 2013 Verified Statement of PG&E at ¶ 33.

to take a number of remedial actions, including an investigation of why the records were incorrect, a re-review of the specifications for Line 147, and revalidation of the appropriate MAOP.² When PG&E took these actions, it knew it had a problem and it should have disclosed these issues to the Commission and the public.

Instead, the Proposed Decision finds that PG&E's violations should begin on March 20, 2013, the date when PG&E had completed its investigation and had reported this information to SED advisory staff. The Proposed Decision then assesses violations on a continuing basis until PG&E attempted to file its "Errata" on July 3, 2013. The Proposed Decision fails to recognize that by not informing SED advisory staff of the potential safety issues prior to March 20, 2013, PG&E was not providing "forthright and timely explanations of the issues, as well as comprehensive analysis of the advantages and disadvantages of potential actions."³ There is nothing timely about waiting nearly five months to inform SED advisory staff of a potential safety issue.

PG&E should have informed SED advisory staff, the Commission and the public of these "known errors" when it discovered them in November 2012. PG&E's decision to wait until March 20, 2013 to inform staff of the issue inappropriately infringes upon the role of SED to determine the presence of a safety risk by depriving SED of the opportunity to perform any investigation into the record keeping errors. By waiting until it had completed its investigation, PG&E ensured that it could present staff with the "known errors" accompanied by an explanation of why the discrepancies did not present a safety risk.

If the Proposed Decision is not modified, the Commission will not encourage utilities to report potential safety errors to the Commission as soon as possible. Therefore, the appropriate date to begin counting the continuing violation should be no later than November 16, 2012.

² *Id.*

³ D.11-06-017 at pp. 16 - 17.

B. PG&E Did Not Discharge Its Obligations Under Rule 1 On March 20, 2012.

PG&E attempts to argue that by informing the SED advisory staff on March 20, 2013, “PG&E discharged its obligation to the Commission and its staff.”⁴ This assertion lacks merit because it conflates the purpose served by informing Commission staff of potential safety hazards and the purpose served by informing the Commission that fundamental assertions upon which it had allowed PG&E to raise the maximum allowable operating pressures were incorrect. Informing Commission staff of a potential safety risk is intended to allow staff to further investigate the issue. Informing the Commission that one of its decisions is based on incorrect information serves to inform the Commission and the public that there are potential errors in the Commission decision.

PG&E does not dispute that it had a duty to inform the parties of this discovery,⁵ but asserts that Rule 1 does not require it to disclose the “known errors” to the public. This narrow reading of Rule 1 is illogical and fails to consider the purpose of the Rule. Because the Commission had already issued a final decision relying on the incorrect information, the Commission and the public should have been made aware of these “known errors” as soon as possible because of the impact the “known errors” could have on the Commission’s final decision. As the Proposed Decision states “At a minimum the record needed to be re-opened and corrected, and for a more complete resolution, D.11-12-048 should have been modified to reflect the correct maximum allowable operating pressure.”⁶

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⁴ PG&E Opening Comments at p. 5.

⁵ PG&E Opening Comments at pp. 5 - 6 (“It is true as the PD observes, that PG&E acknowledged that it had an ‘absolute obligation’”).

⁶ Proposed Decision at p. 9.

PG&E did not discharge its obligations under Rule 1 until it notified SED advisory staff, the Commission and the public of the “known errors.” Therefore the Commission should reject PG&E’s arguments regarding the significance of informing Commission staff of the “known errors” on March 20, 2013.

November 25, 2013

Respectfully submitted,

DENNIS J. HERRERA
City Attorney
THERESA L. MUELLER
Chief Energy and Telecommunications Deputy
AUSTIN M. YANG
Deputy City Attorney

By: _____/S/
AUSTIN M. YANG

Attorneys for:
CITY AND COUNTY OF SAN FRANCISCO
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
Telephone: (415) 554-6761
Facsimile: (415) 554-4763
E-Mail: austin.yang@sfgov.org

Attachment A

Findings of Fact

8. Technical workshops are needed to establish standards for developing minimum requirements for interim safety measures, determining whether pipeline segments should be replaced or tested, and the priority to be assigned to pipeline segments with different characteristics.

10. Allowing public comment on the proposed Implementation Plans is appropriate and will allow the Commission to develop a robust record.

11. The State Fire Marshall, Division of Pipeline Safety maintains a list of independent third-party companies approved by the State Fire Marshall to perform hydrostatic pressure tests.

Conclusions of Law

12. It is beneficial to require that hydrostatic pressure tests be performed by independent third-party companies approved by the State Fire Marshall.

Ordering Paragraph

14. Within 30 days following the service and filing of a natural gas transmission pipeline operator's Implementation Plan, parties to this proceeding may file comments on the Implementation Plan.

15. All California natural gas transmission pipeline operators are directed to use independent third-party companies approved by the State Fire Marshall to perform hydrostatic pressure tests.