

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)

**JOINT PARTIES' MOTION FOR AN ADJUSTED HEARING SCHEDULE
AND FOR PRODUCTION OF TRANSCRIPTS OF
EXAMINATIONS UNDER OATH**

KAREN PAULL
TRACI BONE

Attorneys for
Office of Ratepayer Advocates
California Public Utilities
Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-2048
E-Mail: tbo@cpuc.ca.gov

THOMAS J. LONG
The Utility Reform Network
785 Market Street, Suite 1400
San Francisco, CA 94103
Telephone: (415) 929-8876
E-mail: tlong@turn.org

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

Attorneys for
CITY AND COUNTY OF SAN
FRANCISCO
1 Dr. Carlton B. Goodlett Place,
Room 234
San Francisco, CA 94102-4682
Telephone: (415) 554-6761
Email: austin.yang@sfgov.org

November 15, 2013

Pursuant to Rules 11.1 and 11.6 of the Commission’s Rules of Practice and Procedure, the Office of Ratepayer Advocates (“ORA”), the City and County of San Francisco (“San Francisco”), and the Utility Reform Network (“TURN”) (collectively, “Joint Parties”) submit this Motion for Adjusted Hearing Schedule and Production of Examinations Under Oath (“Motion”).

I. MOTION

A. The Commission should continue the hearing on the MAOP for Line 147 for at least two days.

The Joint Parties formally request that the Commission continue the hearing on the issue of the safe Maximum Allowable Operating Pressure (MAOP) of Line 147 to a date to be determined in order to provide adequate time to respond to the Commission’s Safety and Enforcement Division’s (SED) report that was served at the end of the day on November 14, 2013, without the supporting documentation.¹ Absent an adjustment to the hearing schedule – which is currently set for this coming Monday, November 18, 2013, parties will have only one business day to review a key piece of evidence on the issue of setting the appropriate MAOP for Line 147, and no time at all to review the information upon which the SED report relies. This is clearly an insufficient opportunity to review and prepare for hearings on SED’s report.

SED was initially scheduled to produce this “concurrence”² on Tuesday, November 12, 2013. On Monday, November 11, however, the assigned ALJ informed the parties that she was granting SED’s request to file its report on November 14, 2013. No parties received a motion from SED requesting such a continuance. Because SED only produced its report at the end of the day on Thursday, November 14, 2013, the Joint Parties will have only one business day to prepare for the hearing on November 18, 2013.

¹ On Friday November 15, after this motion had been finalized, parties received from PG&E electronically multiple large files containing information “that had been provided to SED.” These files may include supporting information that SED used in preparing its report. Parties will need to review these voluminous files to determine what, if any, of this information was relied upon by SED.

² The term “concurrence” was used five times in the October 21, 2013 pre-hearing conference to refer to SED’s forthcoming work product. PHC-3 RT 78. 95 (3 times), and 110.

The Joint Parties therefore request that the hearing to determine the safe MAOP for Line 147 be re-scheduled to allow for at least two additional business days to review the SED report and supporting documents. Adequate time to prepare for the one-day hearing on the correct MAOP for Line 147 is particularly important because this hearing is the only venue currently provided for the Joint Parties to demonstrate the numerous errors they have discovered in PG&E's documents supporting its proposed MAOP for Line 147, and one day of hearing may not be sufficient. Delaying the hearings for two days would make up for the days lost by the extension granted to SED on November 11, 2013. However, it is essential that parties also be given at least two days to review the information SED relied upon to produce the report, which has not yet been provided.

B. The Commission should order SED to produce complete unredacted transcripts of its examinations under oath.

SED's report relies in part upon "examinations under oath" conducted by SED of PG&E staff. The transcripts of these "examinations under oath" are critical evidence that must be examined to determine whether PG&E's requested MAOP for Line 147 is appropriate. In order to fully understand the SED "concurrence," the Joint Parties are entitled to full unredacted copies of these transcripts. These transcripts have not been provided to the parties in this proceeding.

There is simply no way that a meaningful cross examination of PG&E's witnesses can occur under the current schedule and without full access to the transcripts of the examinations under oath and any other information used to prepare the report. Meaningful cross examination requires significant preparation and the ability to understand the underlying facts in support of any conclusions proffered. Given that the current schedule for this Order to Show Cause proceeding does not allow post-hearing briefing and provides minimal time to comment on the proposed decision,³ if any party seeks to probe assertions in SED's concurrence, it must have the opportunity before the

³ PHC-3 RT 110-111.

hearing to fully digest that report and to review the information that is the basis for its conclusions.

Absent a reasonable opportunity to review SED's report and the examinations under oath before the hearings, the currently effective schedule will deprive the Joint Parties of their due process rights to test PG&E's assertions regarding its proposed MAOP for Line 147, and to present evidence in support of their positions. The Joint Parties, therefore, request that SED be directed to provide without further delay the complete unredacted transcripts of all of the examinations under oath that it conducted in preparation of its report.

C. No party will be prejudiced by a continuance of a few days.

The current schedule serves no one, not even PG&E. It is in the best interests of all parties, the Commission, and most of all the public, to have a record on which the Commission can reliably determine whether PG&E has demonstrated that Line 147 is safe at an MAOP of 330 psi. A decision on public safety issues based on an inadequate record would contravene the Commission's constitutional and statutory obligations. And it cannot be justified on the basis of PG&E's untested assertions of potential inconvenience to customers until the Joint Parties have a chance to cross-examine PG&E's witnesses and present their evidence.

This Motion supplements the November 7, 2013 e-mail request by the City of San Carlos for a continuance to the week of December 2, 2013. San Carlos requested this continuance in order to allow time for fracture testing of a portion of Line 147, and explained why this testing is needed. As of the date of this motion, there has been no ruling on this request.

II. CONCLUSION

For all of the foregoing reasons, the OSC hearings currently scheduled for November 18, 2013 should be adjusted to allow at least a few days to review the SED "concurrence" and the examinations under oath upon which it relies, plus any other supporting information not previously provided to the parties. SED should be directed to

make the full transcripts of all of the examinations under oath available to the parties in this proceeding immediately, and a new hearing date should be set that allows parties a minimum of two business days to review them.

Respectfully submitted,

DENNIS J. HERRERA
City Attorney
THERESA L. MUELLER

Chief Energy And Telecom Deputy
AUSTIN M. YANG
Deputy City Attorney

/s/ Austin M. Yang

Austin M. Yang

Attorneys for
CITY AND COUNTY OF
SAN FRANCISCO
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
E-mail: austin.yang@sfgov.org

KAREN PAULL
TRACI BONE

/s/ Traci Bone

Traci Bone

Attorneys for
The Office of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-204
Email: traci.bone@cpuc.ca.gov

THOMAS J. LONG

/s/ Thomas J. Long

Thomas J. Long

Director for
The Utility Reform Network
785 Market Street, Suite 1400
San Francisco, CA 94103
Tel: (415) 929-8876
Fax: (415) 929-1132
E-mail: tlong@turn.org

November 15, 2013