

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)

**THE OFFICE OF RATEPAYER ADVOCATES'  
APPLICATION FOR REHEARING OF DECISION 13-10-024**

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November 20, 2013

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**I. INTRODUCTION**

In accordance with Rule 16.1 of the Rules of Practice and Procedure of the California Public Utilities Commission, the Office of Ratepayer Advocates (ORA) hereby requests rehearing of Decision (D.) 13-10-024, which approves Southwest Gas Corporation's (SWG's) natural gas transmission pipeline safety implementation plan and allocates the associated costs between ratepayers and shareholders. D.13-10-024 was mailed on October 21, 2013; therefore, this application for rehearing is timely filed.

D.13-10-024 erroneously assigns to ratepayers the cost responsibility of pressure-testing pipeline in SWG's Victor Valley transmission system for which SWG has failed to maintain records. D.13-10-024's allocation of such costs to ratepayers is contrary to the Commission's decision in D.12-12-030 and to Public Utilities Code section 451 and, therefore, constitutes legal error that must be corrected.

**II. THE DECISION COMMITS LEGAL ERROR**

**A. The Decision is inconsistent with the Commission's own precedent.**

In D.12-12-030, issued in the same rulemaking proceeding, the Commission approved Pacific Gas and Electric Company's (PG&E) gas transmission pipeline safety plan and addressed, among other things, the appropriate treatment of costs associated

with pressure-testing and replacing pipeline facilities in PG&E's service territory.<sup>1</sup> The Commission found that, "[w]here PG&E's record retention errors have led to re-testing pipeline installed between 1955 and 1961, the costs of such re-testing is not a just and reasonable cost of providing utility service. Such costs, therefore, should be excluded from authorized revenue requirement to be recovered from ratepayers."<sup>2</sup> Accordingly, the Commission concluded:

It is reasonable for shareholders to absorb the costs of pressure testing pipeline placed into service after January 1, 1956, or for which PG&E has no known installation date, and for which PG&E is unable to produce pressure test records.

It is reasonable to impose an equitable adjustment to the replacement cost of pipeline installed from January 1, 1956, to July 1, 1961, 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 and shall reduce the cost of the pipeline replacement included in rate base and revenue requirement.<sup>3</sup>

Here, D.13-10-024 similarly approves SWG's pipeline safety plan, which includes the replacement of 7.1 miles of pipeline in SWG's Victor Valley transmission system, with an associated cost of \$7.1 million. Of the 7.1 total miles of pipeline to be replaced, 6.69 miles were installed in 1957 and 0.41 mile in 1965. SWG has no readily available pressure test records for the entirety of its 7.1 mile Victor Valley system.<sup>4</sup> SWG has a long-standing obligation to maintain traceable, verifiable and complete records. Indeed, in the Commission's investigation into the need for a general order governing

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<sup>1</sup> D.12-12-030 in R.11-02-019, Decision Mandating Pipeline Safety Implementation Plan, Disallowing Costs, Allocating Risk of Inefficient Construction Management to Shareholders, and Requiring Ongoing Improvement in Safety Engineering, Dec. 20, 2012.

<sup>2</sup> D.12-12-030, p. 58.

<sup>3</sup> D.12-12-030, p. 122, Conclusions of Law 15 and 16.

<sup>4</sup> See D.13-10-024, pp. 12 and 16 (Findings of Fact 6 and 7); R.11-02-019, Brief of the Division of Ratepayer Advocates on Southwest Gas Corporation's Implementation Plan (ORA Brief), June 15, 2012, p. 2.

transmission pipeline construction, maintenance and operations (which eventually became General Order 112), SWG was among the utilities that “assert[ed] that no general order on this subject is necessary ... They claim ... that the gas utilities in California voluntarily follow the American Standards Association (ASA) code for gas transmission and distribution piping systems.”<sup>5</sup> Those industry standards have required pressure testing and retention of test records since at least 1955.<sup>6</sup>

Consistent with the rationale expressed in D.12-12-030, the Decision correctly concludes that SWG “imprudently failed to retain complete and accurate as-built record of the materials, construction and fitting for the 1965 installation of 2,175 feet [0.41 mile] of its 7.1 mile Victor Valley Transmission System.”<sup>7</sup> But as to the 6.69 miles of pipe segments installed in 1957, the replacement of which comprises over 94 percent of the replacement costs under SWG’s safety plan, the Decision provides no similar conclusion, or any conclusion at all regarding SWG’s failure to maintain records for said facilities, even though the Commission previously held in D.12-12-030 that such a failure to maintain records justifies the imposition of an equitable adjustment to the replacement cost of the pipeline installed in 1957 for which pressure test records are not available, but which require replacement rather than pressure testing. Instead, the Decision directs SWG to record in the authorized memorandum account “the actual capital cost and expense of replacing the Victor Valley system, less the cost of replacing 2,175 feet of [1965-installed] pipeline,”<sup>8</sup> thereby effectively allocating all costs related to the 1957-installed pipeline to ratepayers. This contravenes the Commission’s conclusions of law set forth in D.12-12-030 and must be corrected to reflect an equitable adjustment to the

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<sup>5</sup> D.61269, Investigation into Need of a General Order Governing Design, Construction, Testing, Maintenance and Operation of Gas Transmission Pipeline Systems, Dec. 28, 1960 (effective Jan. 17, 1961), p.4, citing ASA B31.8-1958. The 1958 version of the code mandated the same strength testing and record keeping requirements as the ASA B31.8 standards issued in 1955. *See* ORA Brief, pp. 4-6.

<sup>6</sup> See footnote 5, above. The ASA first issued the American Standard Code for Pressure Piping in 1935.

<sup>7</sup> D.13-10-024, p. 17, Conclusion of Law 6.

<sup>8</sup> D.13-10-024, p. 19, Ordering Paragraph 3.

costs authorized to be recorded for pipe segments installed in 1957. The equitable adjustment established in D.12-12-030 “shall be equal to the forecasted cost of pressure testing the pipeline and shall reduce the cost of the pipeline replacement included in rate base and revenue requirement.”<sup>2</sup>

**B. The Decision is inconsistent with Public Utilities Code section 451.**

Section 451 of the Public Utilities Code requires that “all rate and charges collected by a public utility must be ‘just and reasonable,’ and a public utility may not change any rate ‘except upon a showing before the commission and a finding by the commission that the new rate is justified,’ as provided in § 454.”<sup>10</sup> As the Decision correctly states, “[t]he burden of proof is on Southwest Gas to demonstrate that it is entitled to the relief sought in this proceeding, including affirmatively establishing the reasonableness of all aspects of the application.”<sup>11</sup> SWG’s failure to maintain records for the 7.1 miles of pipe in its Victor Valley system means that the cost of replacing those facilities is not a just and reasonable cost of providing utility service.<sup>12</sup> Therefore, the Decision errs in allocating those costs to ratepayers.

As discussed above, the Decision provides no specific findings or conclusions regarding SWG’s failure to maintain records for the 1957-installed pipe in its Victor Valley system. The entirety of the Decision’s “discussion” of the issue consists of the following two sentences:

In comments on the proposed decision, Southwest Gas emphasized that the lack of complete as-built records was only one of several reasons supporting [its] determination to replace the Victor Valley line, rather than pressure test it. Southwest Gas also claimed that it had no opportunity to litigate the issue of whether the lack of as-built drawings from 1957 violates Pub. Util. Code § 451.<sup>13</sup>

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<sup>2</sup> D.12-12-030, p. 122, Conclusion of Law 16.

<sup>10</sup> D.13-10-024, p. 17, Conclusion of Law 1.

<sup>11</sup> D.13-10-024, p. 17, Conclusion of Law 2.

<sup>12</sup> See D.12-12-030, p. 58.

<sup>13</sup> D.13-10-024, p. 13.

Again, the Decision does not explain or provide its rationale for assigning to ratepayers the entirety of the costs of replacing the 1957 pipe. In any event, the two sentences quoted above do not demonstrate that those costs are a just and reasonable cost that should be paid by ratepayers.

### III. CONCLUSION

For the foregoing reasons, ORA respectfully requests that its rehearing application be granted, and the legal errors in D.13-10-024 be corrected.

Respectfully submitted,

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