

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)

**RESPONSE OF
SOUTHWEST GAS CORPORATION (U 905 G)
TO THE OFFICE OF RATEPAYER ADVOCATES' APPLICATION
FOR REHEARING OF DECISION 13-10-024**

SOUTHWEST GAS CORPORATION
Catherine M. Mazzeo, Esq.
5241 Spring Mountain Road
P.O. Box 98510
Las Vegas, Nevada 89193-8510
Telephone No. (702) 876-7250
Facsimile No. (702) 252-7283
E-mail: catherine.mazzeo@swgas.com
Attorney for Southwest Gas Corporation

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Pursuant to Rule 16.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), Southwest Gas Corporation (Southwest Gas or Company) hereby submits its Response to the Application for Rehearing of Decision (D.) 13-10-024 filed by the Office of Ratepayer Advocates (ORA). D.13-10-024 correctly concludes that Southwest Gas should enact its Natural Gas Transmission Pipeline Comprehensive Pressure Testing Implementation Plan (Implementation Plan), and appropriately allocates the Implementation Plan costs between the Company's shareholders and its customers. As set forth more fully herein, ORA fails to demonstrate that the Commission's allocation of costs in D.13-10-024 was unlawful or erroneous¹, and rehearing of D.13-10-024 is therefore unwarranted.

I. Introduction and Procedural History

The Commission adopted its 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 Mechanism (OIR), in what it called a "forward-looking effort to establish a new model of natural gas pipeline safety regulation".² On June 9, 2011, the Commission issued D.11-06-017, which ended the historic exemptions, or "grandfathering" for establishing Maximum Allowable Operating Pressure (MAOP) for certain pipelines, and required California gas utilities to submit plans for the pressure testing or

¹ Rule 16.1(c).

² OIR, at 3.

1 replacement of all transmission pipelines that were not previously tested or for which records
2 are not available.³ In order to further its goal of “[o]btaining the greatest amount of safety
3 value...for ratepayer expenditures...”, the Commission directed utilities to include ratemaking
4 proposals in their plans that included specific rate base and expenses amounts, as well as
5 proposed rate impacts.⁴ The one exception related to Pacific Gas & Electric Company
6 (PG&E), which was the only utility directed to submit a proposed cost allocation between
7 shareholders and ratepayers.⁵

8 Southwest Gas submitted its Implementation Plan August 26, 2011. Southwest Gas
9 operates approximately 15.4 miles of transmission pipeline in California, which can generally
10 be described as the Victor Valley System and the Harper Lake System. Consistent with the
11 directives in D.11-06-017, and as discussed more fully below, Southwest Gas proposed
12 replacing the Victor Valley System.⁶ ORA opposed Southwest Gas’ proposed recovery of
13 Implementation Plan costs based on what it described as the Company’s “failure to produce
14 adequate pressure test records”.⁷ The Implementation Plan was not the subject of a hearing.
15 ORA filed an Opening Brief on June 16, 2012, and the Company filed a Reply Brief on June
16 29, 2012.

17 D.13-10-024 approves, and authorizes Southwest Gas to enact, its Implementation
18 Plan. With respect to the Victor Valley System, the Commission concluded that the
19 replacement costs of approximately \$7.1 million should be borne by ratepayers, with the
20 exception of the replacement costs associated with approximately 2,175 feet of pipe installed
21 in the Victor Valley System in 1965.⁸ This result is consistent with the recommendation made
22

23 ³ D.11-06-017, at 18-19.

24 ⁴ Id. at 23, 28.

25 ⁵ Id. at 23 (“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”).

26 ⁶ Because the Harper Lake System complies with the pressure test requirements of D.11-06-017, the
Company proposed only to install a remote control shut-off valve (RCV) to minimize the time to shut off gas
flow in the event of an unanticipated release of gas.

27 ⁷ DRA Brief, at 3.

⁸ D.13-10-024, at p. 14. The majority of the Victor Valley System (approximately 35,325 feet) was installed in
1957.

1 by the Commission's Safety Enforcement Division (SED) after it evaluated Southwest Gas'
2 Implementation Plan.⁹

3 **II. Discussion**

4 ORA alleges that D.13-10-024 commits legal error by failing to follow the Commission's
5 decision regarding Pacific Gas & Electric's (PG&E) implementation plan (D.12-12-030). ORA
6 also asserts that D.13-10-024 is inconsistent with Public Utilities Code §451. However, both
7 assertions appear to stem not from error on the part of the Commission, but from ORA's own
8 misinterpretation of the applicable legal standards.

9 **A. D.12-12-030**

10 ORA criticizes the Commission for not following the "precedent" established in D.12-12-
11 030; specifically, the portion of that decision requiring PG&E's shareholders to absorb costs of
12 re-testing or replacing segments of pipe for which PG&E committed "record retention errors".¹⁰
13 However, ORA fails to acknowledge that the Commission's findings and conclusions in D.12-
14 12-030 were based on the testimony and evidence related to PG&E's transmission pipeline
15 system, and not the testimony and evidence related to Southwest Gas' transmission pipeline
16 system. The Commission appropriately rendered its decision in D.13-10-024 based on "...the
17 record presented by Southwest Gas in this proceeding..."¹¹, which clearly establishes that the
18 American Standards Association (ASA) guidelines provided different testing and record
19 keeping requirements based on the class location and operating pressure of the pipe.
20 Moreover, the record in Southwest Gas' case establishes that the ASA guidelines did not
21 provide pressure testing or record retention requirements that were applicable to the Victor
22 Valley System when it was installed in 1957.¹² Accordingly, the Commission correctly declined
23 to penalize Southwest Gas for the same "record retention errors" cited in D.12-12-030. ORA's
24 argument that the Commission should have applied both the ASA guidelines, and the findings

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26 ⁹ Id. at pp. 8-9. SED was formerly known as the Consumer Protection and Safety Division (CPSD).

27 ¹⁰ ORA Application, at p. 2. See also, D.12-12-030, at p. 58.

¹¹ D.13-10-024, at p. 11.

¹² Southwest Gas Reply Brief, at p. 7.

1 and conclusions set forth in D.12-12-030 in “cookie cutter” fashion and without regard for the
2 specific facts and circumstances that distinguish one utility’s operations from another’s, lacks
3 both evidentiary and legal support and should be rejected.

4 **B. Public Utilities Code §451**

5 ORA also contends that D.13-10-024 is inconsistent with Public Utilities Code §451
6 because it allocates certain Implementation Plan costs to the Company’s customers.
7 According to ORA, the Commission erred in making the cost allocation because, “SWG’s
8 failure to maintain records for the 7.1 miles of pipe in its Victor Valley system means that the
9 cost of replacing those facilities is not a just and reasonable cost of providing utility service.”¹³

10 First, in making this assertion, ORA cites once again to the Commission’s decision in
11 D.12-12-030.¹⁴ As established above, the Commission correctly distinguished Southwest Gas’
12 evidence from that which was considered in rendering D.12-12-030. Second, there is no legal
13 authority that supports ORA’s blanket assumption that every instance of unavailable records
14 should result in a denial of cost recovery. For the Commission to properly find that a cost is
15 not just and reasonable, it must examine the Company’s prudence and reasonableness of
16 utility conduct based on the facts that are known or should have been known to utility
17 management at that time.¹⁵ Based upon its examination of Southwest Gas’ evidentiary record,
18 including the Company’s Implementation Plan and SED’s evaluation, the Commission correctly
19 determined that the unavailability of certain records related to the 1957 Victor Valley System
20 installation did not reflect any imprudence or irresponsibility on the part of Southwest Gas that
21 would justify denying the cost recovery associated with the replacement of that segment of
22 pipe. The Commission also correctly noted that the absence of complete and accurate as-built
23 records was only one of several factors considered by the Company in making the
24 recommendation, as part of its Implementation Plan, that the pipe be replaced.¹⁶ Indeed,

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¹³ ORA Application, at p. 4.

26 ¹⁴ Id.

27 ¹⁵ *Weitbrecht Communications, Inc. v. Pacific Bell*, 36 CPUC2d 583, 600 (D. 90-06-031)(1990). *See also*, In
re Southern California Edison Co., 24 CPUC2d 476 (D. 87-06-021)(1987).

¹⁶ D.13-10-024, at p. 13.

1 Southwest Gas' recommendation to replace the Victor Valley System was the result of sound
2 engineering analysis, which considered a number of factors, including but not limited to the
3 ability to accommodate in-line inspection tools and enhance the integrity of the Southwest Gas
4 system by removing pipe that is over 50 years old.¹⁷ As such, the Commission's conclusion
5 that the costs of replacing the 1957 pipe should be recovered in rates is wholly supported by
6 the evidence and entirely consistent with Public Utilities Code §451.

7 **III. Conclusion**

8 D.13-10-024 is consistent with the goals and directives articulated in the Commission's
9 OIR and in D.11-06-017. The Decision appropriately analyzed the evidence presented by
10 Southwest Gas and ORA with respect to Southwest Gas' Implementation Plan, and applied
11 the specific facts and circumstances of Southwest Gas' operations and Implementation Plan to
12 the applicable law. The Decision contains no improper or erroneous application of the law and
13 ORA's Application should therefore be denied.

14 DATED this 5th day of December, 2013.

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16 Respectfully submitted,

17 SOUTHWEST GAS CORPORATION

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19 Catherine M. Mazzeo, Esq.
20 5241 Spring Mountain Road
21 P.O. Box 98510
22 Las Vegas, Nevada 89193-8510
23 Telephone No. (702) 876-7250
24 Facsimile No. (702) 252-7283
25 E-mail: catherine.mazzeo@swgas.com
26 *Attorney for Southwest Gas Corporation*

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¹⁷ Implementation Plan, at 8-11.