

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

Order Instituting Rulemaking to Develop a Risk-Based Decision-Making Framework to Evaluate Safety and Reliability Improvements and Revise the General Rate Case Plan for Energy Utilities.

R.13-11-006
(Filed November 14, 2013)

OPENING COMMENTS OF TESORO REFINING & MARKETING COMPANY LLC

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I. INTRODUCTION

Tesoro Refining & Marketing Company LLC ("Tesoro") hereby submits opening comments in accordance with the *Order Instituting Rulemaking to Develop a Risk-Based Decision-Making Framework to Evaluate Safety and Reliability Improvements and Revise The General Rate Case Plan for Energy Utilities*, issued November 22, 2013 ("OIR").

II. ABOUT TESORO

Tesoro Corporation is an independent refiner and marketer of petroleum products and through its subsidiaries, operates six refineries in the western United States with a combined capacity of approximately 850,000 barrels per day. Tesoro, a subsidiary of the Tesoro Corporation, owns and operates the Golden Eagle Refinery near Martinez, California and the Los Angeles Refinery in Wilmington and Carson, California. Tesoro is the second largest refiner of clean petroleum-based products¹ in California and supplies low-cost gasoline directly to California consumers as well as to high volume, discount retailers such as Costco and Safeway.

As a refiner, Tesoro is critically sensitive to safety and reliability issues, both in its own operations as well as in the operations of energy utilities that serve its requirements for electric power, natural gas, refined products and crude petroleum delivered by Commission-regulated utilities.

¹ "Clean products" includes transportation fuels such as diesel, jet, and gasoline plus butanes and propanes.

III. SUMMARY OF COMMENTS

Tesoro applauds the Commission’s intent in this OIR to focus on the need for greater energy utility system safety and reliability through use of the Commission’s rate case process, rate incentives and other mechanisms. Tesoro’s comments herein will concentrate on three points:

(1) Utility service, especially electric power service, is essential to the safe and efficient operation of refineries. The Commission has recognized refineries as essential use customers exempt from service curtailments during outages.² Disruption of electric power service to refineries, even for short periods, has severe economic, operational and environmental consequences. As such, the highest level of transparency and scrutiny is appropriate where investment in or operation of electric utility facilities necessary for safe and reliable service to essential use customers is at issue.

(2) The Commission must address safety and reliability issues in **all** energy utilities and not just large electric and natural gas systems. Crude oil and refined pipe lines are a critical component of the California energy market.³ Pipe line outages resulting from safety and reliability issues have a significant and adverse impact on pipe line customers such as refineries and, consequently, California consumers. Thus, the scope of the OIR should be expanded to

² D.02-04-060, *Order Instituting Rulemaking into the Operation of Interruptible Load Programs Offered by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the Effect of these Programs on Energy Prices, other Demand Responsiveness Programs, and the Reliability of the Electric System*, 2002 Cal. PUC LEXIS 300, Appendix B, **206, 208-209; *see also*, D.01-06-085, *Order Instituting Rulemaking into the Operation of Interruptible Load Programs Offered by Pacific Gas & Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the Effect of These Programs on Energy Prices, Other Demand Responsiveness Programs, and the Reliability of the Electric System*, 2001 Cal. PUC LEXIS 593, *7 (stating that petroleum refineries should receive exemptions during the energy crisis for curtailments of electricity as “transportation fuels are critical to public health and safety . . .”); *see also*, D.01-07-035, *Order Instituting Rulemaking into the Operation of Interruptible Load Programs Offered by Pacific Gas & Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the Effect of These Programs on Energy Prices, Other Demand Responsiveness Programs, and the Reliability of the Electric System*, 2001 Cal. PUC LEXIS 538, *4 (noting that the California Energy Commission recommended that the Commission exempt all fossil fuel infrastructure and ancillary services, including refineries, from electricity curtailment).

³ Public Utilities Code section 227 defines “Pipe line” as “all real estate, fixtures, and personal property, owned controlled, operated or managed in connection with or to facilitate the transmission, storage, distribution, or delivery of crude oil or other fluid substances except water through pipe lines.

include consideration of safety and reliability issues, and related requirements, pertinent to oil and product pipe lines.

(3) Rate incentives and penalties related to operating performance by energy utilities are appropriate within certain limitations and only to the degree that the Commission establishes appropriate performance metrics. Safety and reliability metrics should facilitate assessment of: (1) utility implementation of Commission approved plans for replacement, maintenance of or additions to utility plant for the purpose of ensuring safety and reliability; (2) utility investigation, reporting and resolution of outages and other events impacting safety or reliability; and (3) cause, frequency and duration of outages and other events impacting safety or reliability.

IV. COMMENTS

A. **The Commission should require a high level of safety and reliability for certain types of essential customers or ratepayers exempt from planned outages by rule or statute.**

As the Commission is well aware, safety and reliability are essential elements of all types of utility service. As with the need to reflect the difference between energy utilities based on size, there is also a need to reflect the need for safe and reliable service by customer type. As was the case in the energy crisis of 2000-2001, there was the recognition that certain categories of ratepayers required higher levels of service due to rule and statutory considerations. Hospitals and other entities were exempt from certain types of service reductions due to the recognition of the greater impact on the public from loss of service to such entities than to the other types of ratepayers by class. During the crisis, the Commission also recognized that a short outage at the average residence had a lesser impact than at a residence at which the occupants were more sensitive to a power outage – such as a resident with a breathing device.

Like hospitals, pipe lines and refineries have been included as essential customers and exempted from certain planned outages. With this in mind, the OIR should subject all energy utilities to a higher level of scrutiny of operations and investment in plant as to safe and reliable service to essential customers and ratepayers. Tesoro is not suggesting that service

should be degraded for any ratepayer. Tesoro is simply proposing that energy utilities be required to provide detailed information on the extent of service reliability and the planning and investment in plant utility necessary for safe and reliable service to essential customers. The Commission should also consider establishing standardized requirements to require that utilities provide reports on all significant reliability events and provide detail regarding causation, economic impact and costs to affected essential customers, and steps taken to prevent future reoccurrences.

B. The OIR should include all energy utilities in safety and reliability requirements.

As stated above, Tesoro operates two refineries in the State that rely on the safe and reliable provision of utility service. Safe and reliable electric power service is critical to safe and reliable refinery operations. Indeed, even a momentary loss of power could cause plant slowdowns or potentially a total plant shut down. Unplanned slowdowns or shut downs can have a significant and adverse impact on both refinery operators and California consumers. When a refinery experiences unplanned slowdowns or shut downs, refinery operators can incur millions of dollars in cost and lost profits. Such events can harm California consumers by reducing supply of refined products and can have adverse air quality impacts.

Refineries are also dependent on non-electric energy utilities such as pipe line entities. As recognized by section 4.5 to this OIR, “there are many differences between energy utilities. The Commission asks in this section whether there are other relevant differences.”⁴ Limiting the scope of the OIR to electric and natural gas utilities is too narrow in light of the significant impact that pipe line safety and reliability events have on California consumers and the public generally.

As an example, Chevron Pipe Line Company (“CPL”) experienced a major system outage in late 2012 due to contamination in one of its pipe line systems. That outage resulted in a shutdown of pipe line service for several months and contributed to a product

⁴ OIR, p. 15.

shortage. To remedy the resulting shortage the Governor directed the California Air Resources Board to take emergency steps to increase the state's gasoline supply and bring down fuel prices by converting early to winter grade gasoline.⁵ CPL subsequently filed both a rate case application and separate advice letters to increase rates and make modifications to its tariff to address “lessons learned” from the outage. Despite repeated requests to do so, CPL never met jointly with its customers and has failed to provide any report regarding causation or steps taken to prevent a reoccurrence. To date, the Commission has declined Tesoro’s requests to address safety and reliability issues, and related necessary modifications to the CPL tariff, addressed as part of the GRC. The Commission should not continue to ignore safety and reliability issues on pipe lines. Pipe line entities are indisputably “energy utilities.” As such, the instant rulemaking should include consideration of pipe line safety and reliability issues.

Tesoro, however, recognizes that the level of investment in safety and reliability and the scope of reporting requirements for major energy utilities may differ from what is appropriate for smaller entities such as oil or product pipe line entities. While oil or product pipe lines are certainly critical energy providers, they often have smaller plant and lesser rate case requirements. As such, Tesoro suggests that the Commission establish separate requirements relating to reliability and safety for oil pipeline rate case from the requirements established for larger utilities.

However, while Tesoro believes the level of detail may be reduced in compliance with Commission guidelines for smaller utilities, Tesoro stresses that the need for regulation and scrutiny of smaller utilities’ service for safety and reliability issues is not any less than for the larger utilities.

C. Incentive and penalty rate mechanisms are appropriate for safety and reliability performance by all energy utilities.

Safety and reliability considerations have always been a key component of utility

⁵ Governor Brown’s October 7, 2012 Letter to Mary Nichols, Chair of California Air Resources Board, *available at* <<http://gov.ca.gov/news.php?id=17775>> (as of January 14, 2014).

regulation. Each utility plans its capital additions and operations in a way that maximizes safety and reliability. Therefore, a utility's existing rates and potential return reflect its efforts and investments in providing safe and reliable service. Safe and reliable service is already a concept embedded in existing utility rates and Tesoro assumes that the development of safety, reliability and security assessments are already performed by each utility and already recovered in rates as are the costs of any facility construction and investment. Only the review and reporting of such efforts has been missing from the process.

Tesoro supports the concept of addressing rate incentives and penalties for performance but in ways that do not double collect for existing activities and investments in plant. Clearly, funds received for facility additions should be reviewed as to how or whether such funds are expended and what guidelines utilities used to plan and implement such facility additions. Further, any potential incentive rates should reflect equally balanced awards or penalties for safety and reliability of service measured by outages at specific locations and in service overall. Repeated outages or outages caused by utility failures should bring stiff penalties. The review suggested above will also require the adoption of incident reports and material to form the basis of the showing required in the General Rate Case ("GRC") submittals.

Tesoro does not now propose a specific list of metrics beyond the concepts in these comments, but will continue to participate in the OIR to potentially comment on the metrics proposed by others. The OIR, at page 9, provides a good start for a working list of the information not currently provided by any energy utility, regardless of size or commodity provided, that must be provided in any rate case filing such that safety and reliability can be effectively addressed.

"There is a great deal of crucial information that is not typically included in the utilities' filings in a GRC. The Commission does not have a way of knowing how utilities value information on safety and risk and new technology as part of their overall investment strategy, how utilities define the likelihood of a substantial impact event occurring and the consequences of it happening; how they may use advanced technologies, either already in the field or proposed

to further reduce the risk of a substantial event on their grid or system; what kind of methodologies they use to assess and to prioritize risks and technology, and based on that methodology, explain how far along they are in implementing the prioritization.”⁶

Tesoro believes that this list should be the beginning of the analysis, as we understand it to be. Other items to be included in the above list of what must be required for support of the utilities’ rate requests are:

(1) how the utility implemented plans from previous rate cases and expended funds to address identified potential and substantial safety and loss of service events,

(2) what documentation is needed for individual safety and reliability events in any rate case submittal and what reports should be prepared and provided to both the Commission and the public as to any event,

(3) what protocols has the utility established to inform ratepayers during and after an event, are the protocols adequate, and has the utility complied with those protocols,

(4) how quickly the issues from any event are addressed by restoration of operations and facilities, and whether there has been any pattern of or repetition of any type of event after the first major event is reported.

V. CORRESPONDENCE

All correspondence and communications in this regard and the official service list of the Commission should include the following on behalf of Tesoro: Mr. Huard should be designated as party and Mr. Magee, Mr. Miller and Mr. Stoddard should be designated as information only.

⁶ OIR, p. 9.

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Respectfully submitted,

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