

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)

**OPENING BRIEF OF THE OFFICE OF RATEPAYER ADVOCATES
REGARDING ORDER TO SHOW CAUSE REGARDING WHY ALL
COMMISSION DECISIONS AUTHORIZING INCREASED OPERATING
PRESSURE SHOULD NOT BE STAYED PENDING DEMONSTRATION THAT
RECORDS ARE RELIABLE**

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January 17, 2014

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I. INTRODUCTION

Pursuant to Rule 13.11 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure (Rules), and the oral ruling of the Assigned Administrative Law Judge (ALJ),¹ the Office of Ratepayer Advocates (ORA) files this Opening Brief on the issues raised in the August 19, 2013 Order to Show Cause (OSC), which directed Pacific Gas and Electric Company (PG&E) to demonstrate why the Commission's prior pressure restoration orders should not be stayed pending a demonstration by PG&E that its gas pipeline records are reliable.² The OSC was issued after PG&E disclosed, in July 2013, that information about certain gas transmission pipelines that PG&E had provided to the Commission in 2011 to support one of its pressure restoration decisions was incorrect.

The Commission's prior pressure restoration orders in this docket are Decisions (D.)11-10-010, D.11-12-048, and D.12-09-003. These three orders, taken together, addressed five PG&E transmission lines: 101, 132A, 147, 131-30, or the line on the suction side of the Topock Compressor Station. Although the OSC did not identify these orders by their decision numbers, it placed on PG&E the burden of demonstrating why all of these orders should not be stayed.³ Staying those orders would have the effect of requiring PG&E to revert to the lower pressure limits established on an emergency basis immediately after the San Bruno explosion in September 2010. What PG&E was required to demonstrate, to avoid the stay, is that its gas pipeline records are reliable and can be relied upon to reaffirm the Maximum Allowable Operating Pressure (MAOP) adopted in those decisions.

¹ 20 RT 3186 and 3259 (ALJ).

² August 19, 2013 Ruling Of Assigned Commissioner And Assigned Administrative Law Judge Directing Pacific Gas And Electric Company To Appear And Show Cause Why All Commission Decisions Authorizing Increased Operating Pressure Should Not Be Stayed Pending Demonstration That Records Are Reliable (OSC).

³ Although the OSC did not expressly say so, presumably the Commission would determine later whether those orders should be rescinded or modified based on corrected information obtained from PG&E.

Unfortunately, at this juncture in the OSC proceeding, the Commission does not have that demonstration or the record it needs to make a decision with respect to all of the lines addressed in the prior orders. PG&E's showing only addressed Lines 147 and 101; PG&E has made no showing regarding Lines 132A, 147, 131-30, and the line on the suction side of the Topock Compressor Station. Consequently, the Commission has no evidence upon which to make any determination regarding those lines. Nor is there an adequate record on Line 101. Although the OSC opened an inquiry into the correct MAOP for Line 101, and PG&E proposed a *reduced* pressure for that line (based on the company's new interpretation of the federal safety regulations), limitations placed on the OSC proceeding (discussed below) foreclosed any inquiry into the correct MAOP for Line 101. As a result, there is no evidence to make any determination regarding what the correct MAOP for Line 101 should be.

PG&E did make a showing regarding Line 147, and the Commission has now issued a decision that authorizes PG&E to operate that line at a maximum pressure of 330 psig. That decision does not, however, resolve the question of whether 330 psig is the MAOP of that line, pursuant to federal safety regulations.⁴

Setting aside Line 147, the Commission does not have the evidence called for in the OSC. It has no evidence before it demonstrating that PG&E's records may be relied upon to support the MAOPs adopted in its pressure restoration orders.

So what should the Commission do next? Stay the pressure restoration orders because it still does not have evidence confirming that the currently authorized MAOPs are supported by reliable records? The Commission would presumably want to weigh the safety and reliability consequences of such a decision -- but it does not have the record needed for that inquiry, either.

Candidly, given the limitations of the record and of the OSC proceeding, ORA has struggled to develop constructive and realistic recommendations on how best to proceed. In our Summary of Recommendations below we offer specific recommendations aimed

⁴ See D.13-12-042.

at improving the quality of the information provided by PG&E and ensuring that the MAOPs of PG&E's lines are calculated consistent with federal safety regulations. Before we turn to those specific recommendations for the OSC proceeding, however, ORA wishes to emphasize the larger lesson of the proceeding, which is that there is a serious and ongoing need for active oversight of PG&E's gas operations, and specifically, of its recordkeeping.

The OSC proceeding, even with its limitations, cracked open a window onto PG&E's current efforts "to bring its gas operations up to the highest quality."⁵ What parties have seen through this small opening concerns ORA, and should concern the Commission. It appears that the pressure restoration process that the Commission has employed has overlooked certain problems. These problems fall into two categories: PG&E's recordkeeping and its compliance with federal safety regulations.

ORA submitted prepared testimony on the recordkeeping issues demonstrating that PG&E's records submitted in support of its Safety Certification were inaccurate, unreliable, and incomplete.⁶ ORA also submitted prepared testimony in the later December hearing suggesting that PG&E's new document management systems are substandard.⁷ This and other evidence obtained during the proceeding (only some of which is in the record) raises questions about PG&E's current recordkeeping practices and whether efforts underway to improve its recordkeeping are yielding satisfactory results.

Further inquiry into this aspect of PG&E's operations is needed. ORA is not suggesting that the OSC proceeding is necessarily the right venue for this broader inquiry. Our point is simply this: If in fact there are significant implementation problems with PG&E's efforts, surely the Commission would rather know that now? Surely it

⁵ Opening Brief, Pacific Gas and Electric Company, p. 1, I. 11-02-016, filed March 25, 2013.

⁶ Exhibits P and Q.

⁷ Exhibits OSC-8 and OSC-9.

would rather address any problems proactively rather than remain in the dark until the next disaster strikes?

ORA does not offer an opinion on what is the best venue for this inquiry, but recommends that the Commission take a step back and think anew about how to provide the level of oversight that is needed.

The second area of concern is compliance with federal safety regulations, specifically, the regulations that govern how MAOP is determined. Evidence adduced in the hearings suggests that PG&E is not properly applying federal safety regulations regarding the calculation of MAOP. For example, evidence presented by PG&E and discussions in the hearings about Line 101 suggest that PG&E has been incorrectly applying at least one section of the regulations regarding the calculation of MAOP for over 40 years, resulting in MAOPs that are higher than permitted under those regulations.⁸ ORA estimates that this issue may impact up to 13% of PG&E's gas transmission system.⁹ Recommendations to address this problem are included in our recommendations with respect to the OSC, which follow.

II. SUMMARY OF RECOMMENDATIONS

1. The Commission should clarify that PG&E is required to do the following:
 - Support its Safety Certifications with information that is accurate, verifiable, and complete, including as-built drawings where appropriate. Any contradictory information provided in the Safety Certifications must be explained in a Verified Statement.
 - To the extent that PG&E relies upon a hydrotest to support its requested MAOP, PG&E's Safety Certification for the line should include

⁸ See, e.g., Verified Statement Of Pacific Gas And Electric Company's Vice President Of Gas Transmission Maintenance And Construction In Response To Ruling Of Assigned Commissioner And Assigned Administrative Law Judge, August 30, 2013 (Verified Statement), passim and ¶¶ 4, 63-64; 16B RT 2502-2504 (Johnson/P&G&E); and 20 RT 3133-3135: 22-18 (Singh/P&G&E); Ex. OSC-5; and 20 RT 3172-3184.

⁹ ORA bases this calculation on information contained in confidential Attachment 1, contained in a data response PG&E provided to SED-5, Q 13. It was ruled during hearings that the issue of PG&E's compliance with 49 CFR § 192.611 was not within the scope of this proceeding, as described in the text and footnotes below.

testimony that demonstrates that the hydrotest was performed to the standards set by applicable federal regulations and that all of the line was tested. The testimony must also address any post-test developments (e.g., new information) that may impact the proper MAOP for the line.

- Include in any request for approval of a gas transmission line’s MAOP an explanation of the basis for concluding that the requested MAOP is consistent with Subpart L of the minimum federal safety standards codified at 49 CFR Part 192.
2. The Commission’s review of PG&E’s Safety Certifications should include verification that PG&E has properly determined the MAOP consistent with 49 CFR Part 192.
 3. The Safety Certifications, including the supporting information, should be made part of the record in this proceeding, and any future pressure restoration proceedings.

III. DISCUSSION

A. The Hearings Did Not Address The Issues Raised By The OSC

1. The OSC Was To Address All Of The Commission’s Prior Pressure Restoration Orders, Not Just The MAOP Of Line 147

The OSC was prompted by PG&E’s attempt to file an “errata” on July 3, 2013 seeking to revise the MAOPs of two gas transmission lines – 101 and 147 – because information provided by PG&E, that the Commission had relied upon to set those MAOPs at 365 psig in D.11-12-048, was inaccurate. PG&E’s “errata” proposed an MAOP of 330 psig for both lines based on corrected information. Regarding Line 101, the OSC explained:

The 2013 document stated that the Line 101 MAOP of 365 psig relied on a 1989 pressure test to 650 psig. PG&E explained that according to its interpretation of a then-applicable but subsequently repealed section of federal safety regulations it should not have relied on the 1989 pressure test. Consequently, PG&E concluded that the correct pipeline

feature MAOP was 330 psig, not the 365 approved by the Commission in D.11-12-048.¹⁰

While the OSC then focused on the specifics of the Line 147 error, the questions it presented were not limited to Line 147. The OSC considered the public safety of both Lines 101 and 147¹¹ and ordered PG&E to show cause “why *all orders* issued by this Commission authorizing increased operating pressures should not immediately [be] suspended pending competent demonstration that PG&E’s natural gas system records are reliable.”¹² The OSC continued:

No later than August 30, 2013, PG&E shall file and serve a verified statement of its Vice President of Gas Transmission Maintenance and Construction setting forth the exact events, with dates, which revealed PG&E’s errors, and PG&E’s subsequent actions.

At the hearing, other parties may appear and cross examine PG&E’s Vice President and any other witnesses. A quorum of the Commission may attend the hearing.

Thus, the OSC required PG&E: (1) to explain *all* of its errors in its “errata”; and (2) to “competently” show that *all* of the Commission’s pressure restoration orders were supported by accurate records. Thus, the hearings should have permitted examination regarding *all* lines addressed in those orders, and *all* of the errors PG&E identified in its “errata.” While PG&E arguably made this showing for Line 147 (belatedly, after hearings had begun) – and ORA does not agree that it did – this showing was, without question, not made for Lines 132A, 131-30, the line on the suction side of the Topock Compressor Station, or Line 101.¹³

¹⁰ OSC, p. 3.

¹¹ OSC, p. 3 (Heading “Public Safety of Lines 147 and 101”).

¹² OSC, p. 6 (emphases added).

¹³ PG&E’s showing regarding Line 101 was limited and cross examination related to the Line 101 errors was prohibited as outside the scope of the OSC. See extended discussion at 20 RT 3172-84.

2. PG&E's Showing Only Addressed Lines 147 and 101

PG&E filed its Verified Statement pursuant to the OSC on August 30, 2013 and was cross examined regarding this Verified Statement at hearings held on September 6, 2013. PG&E's Verified Statement, like the OSC, focused on both Lines 101 and 147.¹⁴

On October 8, 2013, the Assigned Commissioner and ALJ ordered PG&E to provide an updated "Safety Certification" for Line 147. PG&E made most of its showing regarding Line 147 in this "Safety Certification," which was served on October 11 and 16. PG&E's "Safety Certification" included a four-page cover note, including a one-page verified statement, and two confidential Appendices, A and B, which were supposed to contain the data necessary to support the statements made in the one-page verified statement. Confidential Appendix A includes, among other things, hydrotest information on the mainline portion of Line 147. Confidential Appendix B includes, among other things, hydrotest information on the "shorts" related to Line 147.¹⁵ In this brief, "Safety Certification" includes both the declaration and the supporting Appendices (which are not voluminous; together they are approximately one inch thick).

3. The Scope Of The Hearings Was Limited

Hearings to address the issues raised by the OSC (and the testimony provided by PG&E in response to the OSC) were held on November 18 and 20, and December 16. However, not all of these hearings were considered OSC hearings; parties learned on the second day of the November hearings that the purpose of the November hearings was to restore the pressure of Line 147, that those hearings would be governed by the procedures adopted in D.11-09-006, and were not OSC hearings.¹⁶

¹⁴ Verified Statement, *passim*.

¹⁵ PG&E's October 16, 2013 filing in this proceeding defined shorts as follows: "Along the route of Line 147, there are 15 smaller diameter pipelines tapped off the mainline that supply gas to individual customers, feed the distribution system (DFMs) or are required for pipeline operations (such as blow-downs or drips). Even though some of the DFMs may not be short in an absolute sense, all of these appurtenances to the mainline pipe are referred to as 'shorts.'"

¹⁶ 18 RT 2761: 16-19 (ALJ): "The narrow issue in front of us today is Line 147 and whether PG&E has met the requirements of Decision 11-09-006. That's all." See also 2763: 4-7 (ALJ): "This is not an Order

Parties were advised that any issues outside the list of items PG&E needed to produce to support a pressure restoration decision pursuant to Ordering Paragraph 4 of D.11-09-006 – issues such as whether PG&E had determined the MAOP of Line 147 in the manner required by the federal safety regulations – would not be addressed here, but could be addressed in the “broader rulemaking” or brought to the Commission’s attention in a complaint.¹⁷

The scope of the December 16, 2013 OSC hearing was similarly circumscribed. Parties were not permitted to cross examine PG&E on how it arrived at its MAOP for Line 101, or whether that MAOP calculation complied with the federal safety regulations, specifically 49 CFR § 192.611, which PG&E refers to as “one class out.”¹⁸ Thus, notwithstanding the clear OSC language including Line 101,¹⁹ it remains to be determined what the proper MAOP for Line 101 should be, how PG&E was interpreting § 192.611 prior to the change of interpretation disclosed in the July 3, 2013 errata, how it is now interpreting § 192.611, and whether any of this complies with federal law or the federal minimum safety standard codified at 49 CFR Part 192.

4. ORA Provided Unrebutted Evidence Of PG&E’s Ongoing Recordkeeping Problems

Because the OSC demanded evidence of the reliability of PG&E’s records, ORA focused its efforts on examining PG&E’s Safety Certification to determine if the data

to Show Cause proceeding. This component is a pressure restoration proceeding.” The ALJ also clarified, in response to questions from the parties, that the pressure restoration component of the proceeding is categorized as rulemaking, while the OSC proceeding is adjudicatory. 18 RT 2770: 4-12.

¹⁷ 18 RT 2761-2763: 2-12.

¹⁸ See 20 RT 3179-3185: 2-19. See specifically 20 RT 3180: 21-26 ALJ (“The only thing that we're focusing on is their recordkeeping errors and whether everything else should be suspended because of lack of reliability of the records. So I don't know how –[49 CFR 192.]611 has anything to do with that.”). “611” refers to 49 CFR § 192.611, which is the federal safety regulation governing how to address the MAOP that incurs a change in class location. The ALJ’s point was that PG&E’s changed interpretation of that regulation was not the type of error intended to be explored by the OSC. See also 3183-3184: 18-8 and 3184: 2-8 (“[The MAOP for Line 101 is] most certainly an issue that needs to be addressed by the Commission, but it's not teed up as an issue within the scope of this order to show cause. So when that issue comes up, you should bring all this information forward and present it to the Commission.”).

¹⁹ OSC, pp. 2-3.

provided in that certification supported PG&E's requested MAOP for Line 147. ORA submitted testimony and exhibits demonstrating that PG&E's Line 147 Safety Certification *did not* support its requested MAOP because, among other problems, it did not support PG&E's repeated assertions that *all* of Line 147 had been hydrotested. ORA's testimony and exhibits were entered into the record of the November 18 and 20 pressure restoration hearings as Exhibits P and Q respectively. At the November 18 hearing the non-PG&E parties established that PG&E's Safety Certification records contained errors. PG&E acknowledged errors in its Safety Certification, but maintained that it had in fact tested all of Line 147. The ALJ ordered the parties to attend a "workshop" at PG&E's records center the next day to resolve those differences. At that workshop, PG&E walked the parties through a set of as-built drawings of Line 147. The participating parties agreed that these as-built drawings appeared to demonstrate that all of Line 147 had been hydrotested. These records, however, were never offered into the record of the proceeding. This agreement by the parties was reported at the hearings the next day, and ORA's recordkeeping concerns were characterized as a "documentation problem" and a "missing paperwork" issue,²⁰ which would not preclude ratification of PG&E's requested 330 psig MAOP for Line 147.

Notwithstanding ORA's agreement that PG&E's as-built drawings reviewed at the workshop (but not offered into the record of the proceedings), appeared to confirm that PG&E had hydrotested all of Line 147, the workshop raised other significant recordkeeping issues. Based on its review of the as-built drawings at the workshop, and discussions with PG&E staff about its mapping systems, ORA served testimony and exhibits in preparation for the December 16 hearing suggesting that PG&E's new document management procedures appeared to be substandard and should be reviewed by the Commission. This testimony and exhibits were admitted as Exhibits OSC-8 and OSC-9, respectively. PG&E elected not to cross examine ORA's witness at that hearing,

²⁰ 18 RT 2754-2755; 26-17; 18 RT 2754 2-5 ("The only dispute is about what's been presented, that they haven't presented the correct paper to the Commission?").

and ORA was not permitted to cross examine PG&E’s witnesses regarding the questions raised about PG&E’s document management system. Rather, PG&E was advised that it may respond to this ORA testimony in its briefs, and through declarations attached to those briefs.²¹

5. The Commission Should Not Lightly Dismiss “Documentation Problems” and “Missing Paperwork” in PG&E’s Safety Certification

This Commission has conducted a multi-year investigation into PG&E’s recordkeeping practices wherein all the evidence demonstrates that PG&E has not maintained accurate records of its system for decades, and that these poor recordkeeping practices contributed to the San Bruno explosion.²² While the Commission’s formal determinations on these matters are pending, PG&E’s recordkeeping failures figured prominently in the National Transportation Safety Board (NTSB) Report on the San Bruno explosion. The NTSB determined that one probable cause of the explosion was PG&E’s “inadequate pipeline integrity management program” – a records-based program – which “failed to detect and repair or remove the defective pipe section.”²³ The NTSB found that PG&E’s pipeline integrity management program, which should have ensured the safety of the system, was deficient and ineffective because its data was inaccurate and incomplete, it was missing mission critical information, and it was not designed to consider the most relevant information – such as pipeline design, materials, and repair history – when determining how to prioritize repairs and replacements.²⁴ The NTSB concluded that as a result, PG&E’s integrity management program “led to internal

²¹ 20 RT 3167-3168; 14-15.

²² See Investigation 11-02-016 (the “Recordkeeping Investigation”).

²³ See National Transportation Safety Board, Pipeline Accident Report, Pacific Gas and Electric Company, Natural Gas Transmission Pipeline Rupture and Fire, San Bruno, California, September 9, 2010, adopted August 30, 2011 (NTSB Report), p. xii. The NTSB Report is available at <http://www.nts.gov/doclib/reports/2011/PAR1101.pdf>.

²⁴ NTSB Report, p. xi.

assessments that were superficial and resulted in no improvements.”²⁵ Yet PG&E has denied almost every allegation in the Commission’s Recordkeeping Investigation, while assuring the Commission that “PG&E has taken and continues to take significant steps to bring its gas operations up to the highest quality.”²⁶

This OSC presents the first opportunity for the Commission to examine how PG&E is performing on a going forward basis, and the results are not promising.

As described above, on October 8, 2013 the Assigned Commissioner and ALJ ordered PG&E to file and serve an updated Safety Certification for Line 147. ORA performed extensive discovery on this Safety Certification and submitted unchallenged testimony that shows that the data submitted in Appendices A and B supporting that certification were inaccurate, unreliable, and incomplete. Among other things, ORA’s testimony painstakingly describes how the pressure test records provided in those Appendices contain contradictory information regarding where PG&E’s hydrotests of Line 147 began and ended, so that no one reading PG&E’s Safety Certification could know with any certainty where those tests began and ended, or whether PG&E had hydrotested all of the line. ORA’s testimony summarized:

The overarching conclusion of my testimony is that PG&E’s recordkeeping is so flawed that even when tasked by Commission order with the discrete issue of providing accurate records to demonstrate the safety of a single line – Line 147 – spanning approximately four miles, PG&E is unable to perform the task.²⁷

Despite ORA’s considerable efforts to have PG&E explain, in discovery responses, discrepancies in the hydrotest information provided in Appendices A and B of its Safety Certification, it was only during the first day of hearings that PG&E divulged that it relies primarily upon as-built drawings of a line to identify where hydrotests of that line start and stop (drawings that were not included in the supporting information for its Safety Certification, notwithstanding representations to the contrary during the

²⁵ NTSB Report, p. xi.

²⁶ Opening Brief of Pacific Gas and Electric Company, p. 1, I.11-02-016, filed March 25, 2013.

²⁷ Ex. P, ORA Testimony, p 1.

hearings).²⁸ PG&E's disclosure regarding its drawings was late in coming. It should have disclosed this information at least a month before, in response to discovery requests. In an early data request ORA specifically identified discrepancies in PG&E's hydrotest start and end points and directly asked PG&E: "Please explain which record DRA should consider accurate for understanding where hydrotests were performed on PG&E's system and how much mileage the hydrotests covered, and provide supporting documentation," **PG&E did not tell ORA to look at the as-built drawings, or offer to provide those drawings to ORA – which would have been the proper response to a very direct question.** Instead PG&E answered: "The PFLs are up to date with the most current information for 2011 tests performed on L-147. This is corroborated by the STPRs, as-built drawings, and the Data in the Update PSEP filing due October 29th."²⁹ Therefore, ORA focused on the PFLs and the STPRs referenced in the PFLs, where it discovered the numerous inconsistencies identified in its testimony.³⁰

In fact, it turns out that only by reviewing PG&E's as-built drawings, with guidance from PG&E, can one determine whether all of a line has been hydrotested.

While PG&E's as-built drawings may well be (and hopefully are) accurate, a number of "documentation" or "paper work" issues remain which should concern the Commission:

- Why did PG&E, after years of inquiry into its faulty recordkeeping practices, submit a Safety Certification to the Commission with inaccurate, incomplete, and contradictory data?
- If the as-built drawings are PG&E's primary and only reliable record for identifying where hydrotests are performed, why didn't PG&E provide them in its Safety Certification since its Safety Certification is based primarily on the premise that every foot of Line 147 has been hydrotested?

²⁸ 17 RT 2600-2601: 17-2 (Singh/PG&E). See 17 RT 2597-259: 4-9 wherein PG&E's Mr. Malkin makes several representations that all of the records (which include the as-built drawings) were provided to the parties prior to the hearing.

²⁹ See Exhibit Q, Supporting Documentation to ORA Testimony, at Exhibit 5, answer to question 2(g).

³⁰ See Exhibits P and Q.

- If PG&E knew that its hydrotest documents were inconsistent, contradictory and inaccurate, why did it submit those as part of its Safety Certification, instead of as-built drawing, to demonstrate that all of Line 147 had been hydrotested? And why didn't PG&E acknowledge that the hydrotest reports and STPRs could not be relied upon for start and end points for the tests?
- How does PG&E expect the Commission to make record findings based on inaccurate, incomplete, and contradictory data?
- Finally, given PG&E's historic recordkeeping challenges, and efforts underway to address them, why wouldn't the Commission require PG&E to go back and correct its Safety Certification to be accurate and complete, and include the full Safety Certification, including supporting data, in the record of the proceeding?³¹

At this critical juncture, when hundreds of millions of dollars are being spent to develop new recordkeeping programs, practices and procedures, the Commission should be taking a very hard look at PG&E's current recordkeeping practices and verifying that they meet clearly defined standards. PG&E should be paving a new path for utility recordkeeping. Instead, what ORA has documented with regard to the Safety Certification for Line 147 is shoddy practices that will likely result in inaccuracies and inconsistencies in both the old and new data, and document management programs, practices, and procedures that are far from state of the art. As ORA's witness summarized his concerns after viewing PG&E's Line 147 as-built drawings:

The overarching conclusion of my testimony is that the drawings for Line 147, as reviewed on November 19, 2013, do not represent a modern drawing or document control system. I recommend that the CPUC review PG&E's overall pipeline mapping, recordkeeping, and document control systems for traceability, verifiability, completeness, robustness, and accuracy.³²

³¹ Notwithstanding the fact that Appendices A and B to PG&E's Safety Certification totaled approximately 1" of paper and could be filed under seal, and PG&E stipulated to their entry into the record, they were excluded from the record on the basis that it was too cumbersome to do, was made available to the parties for inspection, and had never been done in prior pressure restoration proceedings. 18 RT 2752: 1-23; 18 RT 2765-2767: 20-22; 18 RT 2775-2776: 26-18.

³² Ex. OSC-8, p. 1.

and

I was surprised that there was not a master sheet that showed the entirety of this short line – approximately 4 miles long – nor one which documented the history of the line and its component features. I also did not expect that the workshop would require a guided tour through the drawings by PG&E’s contractor GTS, yet without this assistance it would not have been possible to verify that the entire line had been hydrotested. This expectation was based on my experience with numerous drawing control systems and this impression was shared by other attendees.³³

Given the extensive attention to PG&E’s recordkeeping since the San Bruno explosion, the Commission should expect better, and this OSC is the place to make that expectation clear. Instead of turning a blind eye to what has been revealed, the Commission should, as described in Section B below, order PG&E to provide accurate and complete Safety Certifications for all of the lines addressed by the OSC, and review those Safety Certifications to ensure they meet and exceed going forward recordkeeping expectations. The Commission should also perform an audit of PG&E’s proposed electronic geographic information system (eGIS) to determine if it meets and exceeds standards. ORA’s testimony at OSC-8 provides a checklist of the issues that the Commission should address in such an audit, which should be performed before it becomes more difficult (and more expensive) to make changes.³⁴

B. The Commission Should Direct PG&E To Provide Safety Certifications For All Of The Lines Implicated By The OSC

As described above, because of PG&E’s failure to fully respond to the OSC, and the narrow scope of the November and December hearings, there is no evidentiary showing that justifies allowing the Commission’s pressure restoration orders to stand. However, staying the orders, as envisioned in the OSC, is not ideal because it would

³³ Ex. OSC-8, pp. 4-5.

³⁴ Ex. OSC-8, pp. 10-11

require PG&E to operate those lines at reduced pressures – below what the appropriate MAOPs are likely to be.

The Commission should look beyond the procedural limitations of the OSC, and directly address the evidence adduced in the various hearings that PG&E’s current recordkeeping practices are not meeting standards. Consistent with the original intent of the OSC, PG&E should be required to submit Safety Certifications for all of the lines approved in the pressure restoration orders, and the Commission should use that opportunity to focus on PG&E’s recordkeeping practices as a form of “case study.” This PG&E showing should be made consistent with ORA’s recommendations set forth in Section II above, which also address some of the infirmities revealed in the hearings.

C. The Commission Needs To Enforce Compliance With Federal Safety Regulations

The Commission is certified, pursuant to federal law, to enforce the “Minimum Federal Safety Standards”³⁵ and other federal gas safety regulations.³⁶ As part of enforcing those regulations, the Commission must enforce standards consistent with or more stringent than the safety standards in the federal safety regulations.³⁷ Federal law prohibits the Commission from adopting standards *lower* than the federal safety regulations.³⁸

³⁵ The “Minimum Federal Safety Standards” are codified at 49 CFR Part 192.

³⁶ See, e.g., 49 USC § 60105(a). This is reflected in the Commission’s General Order 112, and there is a state law enforcement obligation as well in Public Utilities Code § 2101.

³⁷ 49 USC § 60104(c): “Preemption. A State authority that has submitted a current certification under section 60105(a) of this title may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed under this chapter. ...” See also, 49 USC 60121(c): “State Violations As Violations Of This Chapter. In this section, a violation of a safety standard or practice of a State is deemed to be a violation of this chapter or a regulation prescribed or order issued under this chapter only to the extent the standard or practice is not more stringent than a comparable minimum safety standard prescribed under this chapter.

³⁸ *Id.*

As a result of evidence adduced during the OSC hearings, ORA has identified at least three areas where the Commission may not be meeting its obligation to enforce the minimum federal safety standards set forth at 49 CFR Part 192.

First, as alluded to above, when approving the MAOP for a line, the Commission has a legal obligation to ensure that the MAOP is consistent with federal safety regulations, including specifically subpart L of the regulations governing the MAOP calculation. ORA learned during hearings that the Commission's pressure restoration proceedings do not include that inquiry.³⁹

Second, as also discussed above, PG&E has admitted that it has not been calculating MAOP properly pursuant to 49 CFR § 192.611 – what PG&E refers to as the “one class out” rule.⁴⁰ The Commission has an obligation to ensure that PG&E is properly applying the federal safety regulations – including § 192.611. While the issue was raised in the OSC hearings, and could potentially impact up to 13% of PG&E's gas transmission system⁴¹ – the parties were informed during hearings that this issue was being addressed between PG&E and SED outside of this proceeding.⁴²

It also became evident during the hearings that although PG&E claims to use “conservative assumptions” – as every operator is required to do when it does not have records to confirm a pipeline feature – the assumptions PG&E is using are not, in fact, as conservative as the federal minimum standards set forth at 49 CFR § 192.107.⁴³ Further,

³⁹ See 18 RT 2748-2750: 20 -16; 18 RT 2768- 2769: 3-8.

⁴⁰ By PG&E's own admission, it has changed its interpretation of 49 CFR § 192.611. See Verified Statement, ¶¶ 4 and 63-64.

⁴¹ ORA bases this calculation on information contained in confidential Attachment 1, contained in a data response PG&E provided to SED-5, Q 13. Cross examination on this issue was not permitted on the basis that PG&E's compliance with 49 CFR § 192.611 was not within the scope of this proceeding, as described in the text and footnotes above. See, e.g., 20 RT 3180-3184: 21-25.

⁴² 20 RT 3173:20-24; 3176: 20-21; and 3184: 18-25 (ALJ).

⁴³ Compare PG&E's PRUPF, Ex. R, with 49 CFR § 192.107, section II-D of appendix B. The CFR requires the use of a SMYS of 24,000 psi when calculating the MAOP of a line where the actual SMYS is not known. While PG&E provided tensile test reports it claims support a higher SYMS than 24,000 psi, it provided no evidence that these tests were representative of all pipe in line 147 for which it had incorrect

there were repeated assertions throughout the hearings that the Commission had approved PG&E's assumptions in prior decisions.⁴⁴ ORA is unaware of any prior decision approving PG&E's Procedure for Resolving Unknown Pipeline Features (PRUPF), or any other PG&E assumptions regarding unknown features. It is unlikely that any Commission decision could have approved PG&E's assumptions because, by PG&E's own admission, its assumption procedures, reflected in its PRUPF, have been revised over time so that its current PRUPF varies from the one used at the beginning of the PSEP.⁴⁵ Rather, as ORA explained in the hearing, prior Commission decisions have only endorsed the general view that PG&E should use conservative engineering assumptions on an interim basis when data was missing.⁴⁶ This is confirmed by Ordering Paragraph 1 of D.11-06-017, which PG&E was presumably alluding to:

PG&E should be required to complete its MAOP determination based on pipeline features and should be allowed to use engineering-based assumptions for pipeline components where complete records are not available. Such assumptions must be clearly identified, based on sound engineering principles, and, where ambiguities arise, the assumption allowing the greatest safety margin must be adopted. The calculated values should be used to prioritize segments for interim pressure reductions and subsequent pressure testing.⁴⁷

Certainly, this language does not approve a specific PG&E proposal for making assumptions for unknown features, and it certainly would not support an argument that PG&E may use something other than the federal minimum standards when "ambiguities arise." In that situation, the express language of the Ordering Paragraph requires that "the assumption allowing the greatest safety margin must be adopted." However, the evidence suggests that PG&E is not even following this broad guidance from the

records, nor that this test complied with section II-D of appendix B to § 192.107. *See, e.g.*, 17 RT 2695-2698; 18-8.

⁴⁴ *See, for example*, 18 RT 2721 (ALJ and Malkin/PG&E): 3-28; 2723: 8-12 (ALJ).

⁴⁵ 18 RT 2723: 1-7 (Malkin/PG&E).

⁴⁶ 18 RT 2722:1-5 (Roberts/ORR).

⁴⁷ D.11-06-017, p. 28, Ordering Paragraph 1.

Commission. Among other things, PG&E’s PRUPF does not provide for *any* SMYS value below 32,000 when the federal minimum standards go to 24,000 (which is substantially more conservative).⁴⁸

In sum, the evidence shows that (1) PG&E is mischaracterizing its assumptions as “more conservative” than required when more conservative assumptions exist under the federal code; and (2) given the federal minimum standards, it is not clear that PG&E’s PRUPF standards are appropriate or even could be adopted by the Commission without violating federal law. Consider that PG&E has explained that it applies the federal minimum standards when it acquires a pipeline system from another operator because it has no certainty regarding what is in the ground.⁴⁹ However, for its own system, less conservative assumptions are appropriate because it can make assumptions about the quality of the pipe in its system.⁵⁰ Applying this logic, PG&E explains that it will assume the federal minimum standard of 24,000 SMYS for pipe acquired from another operator.⁵¹ However, if it knows there is AO Smith pipe in a line that it owns, it will apply a SMYS of 33,000 because it has purchase records documenting that all of its AO Smith pipe had a 33,000 or greater SMYS.⁵² PG&E’s logic concerns ORA as it does not account for the fact that PG&E’s system contains segments of pipe that meet *no known pipeline specifications*,⁵³ and that all it takes is a few feet of this type of pipe in the system to prove PG&E’s “more conservative” assumptions wrong.

The Commission is legally obligated to consider all three of these issues to ensure PG&E’s compliance with the federal safety regulations and such an inquiry should occur in a public forum.

⁴⁸ 17 RT 2694: 24-27 (Singh/PG&E).

⁴⁹ See, e.g., 17 RT 2691-2692 (Singh/PG&E): 10-4; 18 RT 2738: 12-15 (Malkin/PG&E).

⁵⁰ See, e.g., 17 RT 2691-2693: 10-12 (Singh/PG&E); 18 RT 2738: 15-19 (Malkin/PG&E).

⁵¹ See, e.g., 17 RT 2691-2692 (Singh/PG&E).

⁵² See, e.g., 17 RT 2695-2697: 8-10 (Singh/PG&E); 18 RT 2836: 11-17 (Singh/PG&E).

⁵³ NTSB Report, p. 116. (“The accident pipe segment did not meet any known pipeline specifications”)

IV. CONCLUSION

For the reasons set forth above, in ORA's related briefs in these proceedings, and in the record of these proceedings, the Commission should implement ORA's proposals as set forth in Section II above.

Respectfully submitted,

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January 17, 2014