

**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

R.11-02-019
(Filed February 24, 2011)

**PACIFIC GAS AND ELECTRIC COMPANY'S RESPONSE TO CITY OF
SAN CARLOS AND OFFICE OF RATEPAYER ADVOCATES' JOINT
APPLICATION FOR REHEARING OF DECISION NO. 13-12-042
ESTABLISHING MAXIMUM OPERATING PRESSURE FOR PACIFIC
GAS AND ELECTRIC COMPANY'S NATURAL GAS TRANSMISSION
LINE 147**

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I. INTRODUCTION

Decision No. 13-12-042 (the Decision) authorizes PG&E to operate Line 147 “no higher than 330 pounds per square inch gauge [(psig)]”.¹ The Decision is supported by both the facts and the law. Contrary to the Rehearing Application, the Commission's pressure restoration process was not intended to set an MAOP for PG&E's pipelines, but to determine whether those pipelines whose **operating pressure** had been reduced at Commission direction could safely have that pressure increased.² By setting a “maximum operating pressure,” the Decision prohibits PG&E from operating Line 147 above 330 psig **regardless of what the MAOP may be**. Under the Decision, 330 psig – a more conservative pressure than otherwise permitted under federal pipeline safety regulations – is the maximum pressure at which PG&E can operate Line 147 without obtaining permission from the Commission.

The Decision is based on an extensive evidentiary record demonstrating that Line 147 can safely operate at 330 psig. That evidence includes PG&E's proof that Line 147 has been hydrostatically tested in its entirety, a report by the Commission's own Safety and Enforcement

¹D.13-12-042, *Decision Establishing Maximum Operating Pressure for Pacific Gas and Electric Company's Natural Gas Transmission Line 147*, at 1.

²D.11-09-006, *Decision Adopting Procedure for Lifting Operating Pressure Restrictions*.

Division (SED) concurring that the line can operate safely at 330 psig, the opinion of leading pipeline consultant Michael Rosenfeld affirming the safety of the line, and three days of evidentiary hearings. In light of this broad record, the assertion that all of PG&E's supporting materials should be formally entered into evidence should be rejected. The pressure restoration process provided ample opportunity for the parties to inspect PG&E's safety certification materials, and there remains no legitimate question as to the ability of Line 147 to operate safely at 330 psig, as Mr. Rosenfeld phrased it, "without doubt."

Moreover, the Commission has demonstrated proper respect for the interests of San Carlos throughout this proceeding. In fact, San Carlos' concerns and the *ex parte* temporary restraining order (TRO) it obtained from the San Mateo Superior Court are largely responsible for the Commission holding this special Line 147 proceeding. The evidentiary hearing was delayed for a week at San Carlos' request.³ The Decision took into account written testimony from San Carlos' expert witness⁴ and considered San Carlos' comments challenging the Commission's reliance on hydrostatic testing.⁵ The Decision found that expert testimony supported the Commission's conclusion that hydrostatic testing confirms a pipeline's fitness for service and the ability of Line 147 to operate safely at 330 psig.⁶ While San Carlos may not agree with the Decision, it is the Commission that has the experience, expertise, and exclusive authority to determine matters of pipeline safety which extend far beyond the borders of any individual jurisdiction. Accordingly, and as discussed in the following pages, the Commission should reject the Rehearing Application and uphold the Decision in its entirety.

II. THE DECISION PROPERLY SETS A MAXIMUM OPERATING PRESSURE

As reflected in its prior pressure restoration decisions, the Commission has not been in the business of setting pipeline MAOPs. It is the responsibility of PG&E and the other pipeline operators to set their MAOPs in accordance with the governing regulations.⁷ The pressure

³ PHC-3 R.T. 95 (Oct. 21, 2013).

⁴ See D.13-12-042 at 8.

⁵ See D.13-12-042 at 14.

⁶ See D.13-12-042 at 14.

⁷ As Commissioner Peterman stated during discussions prior to the Commission's unanimous adoption of the Decision, "I am uncomfortable with the Commission being in the position of needing to vote to authorize specific pipeline pressures at all. There are complex engineering and public safety considerations that go into the operation of pipelines, and the regulatory process is not a great fit for this task. It is too slow and too lacking in timely and detailed operational and engineering information. I believe we need to think carefully about how we can return the responsibility for these sorts of

restoration decisions consider whether previous Commission -imposed restrictions on **operating pressures** may safely be lifted. ⁸ Consistent with the purpose of the pressure restoration proceedings,⁹ the Decision authorizes PG&E to “operate natural gas transmission Line 147, with associated shorts, with a maximum operating pressure of 330 pounds per square inch gauge.”¹⁰

The effect of the Decision is to allow PG&E to restore the operating pressure of Line 147. In this case, the authorized maximum operating pressure is the same as PG&E’s established MAOP. But, contrary to the semantic confusion the Rehearing Application attempts to create, no matter what MAOP PG&E may establish in the future, PG&E cannot operate Line 147 at an operating pressure greater than 330 psig without further order of the Commission.

The Rehearing Application’s complaint about the Decisions use of the term “maximum operating pressure” is baseless.

III. THE PROCEDURE FOR VALIDATING MAOP UNDER D.11-06-017 IS MORE CONSERVATIVE THAN FEDERAL REGULATIONS

The Rehearing Application reiterates arguments that San Carlos and ORA raised in comments on the Proposed Decision and in post-hearing briefs on the Substantive Order to Show Cause in R.11 -02-019. These arguments are more properly raised in the broader R.11 -02-019 proceeding, rather than in a proceeding relating to one natural gas pipeline operated by a single utility.¹¹ Moreover, the procedure for validating MAOP that the Commission established in

operational decisions to the pipeline operator, in this case PG&E, and restore public confidence in their work. Of course it is our job to hold them accountable for operating their pipelines safely, a job we take seriously; and I do not think we should be, in general, substituting our judgment for theirs on operational matters, especially when the pipeline operators have the ability to react faster with more up to date and real time information.”

⁸ See D.11-09-006.

⁹ As the October 8, 2013 *Ruling of Assigned Commissioner and Assigned Administrative Law Judge Directing Pacific Gas and Electric Company to File and Serve Updated Safety Certification for Line 147 and Setting Prehearing Conference* made clear, this proceeding was to “supplement and update the record” of the prior pressure restoration proceeding. Ruling at 2.

¹⁰ D.13-12-042, Ordering Paragraph 1.

¹¹ See, e.g., R.T. 2736 (ALJ Bushey) (“We’ve been applying this same protocol for two years, and it’s not just in a Line 147 issue. If you’re right, then everything in the PSEP is wrong. So it’s a much, much bigger issue than just Line 147, and that’s why it’s – I don’t see how we resolve it in this re-pressurization proceeding, which is the narrow issue before us at the moment.”); *id.* at 2742 (“[I]f PG&E is mistaken, then the Commission has been mistaken for two years. And if it’s mistaken, it’s not just Line 147 and it’s not just PG&E. It’s every natural gas operator in the state. So if you want to pursue that issue, it needs to be pursued in the sort of overall perspective in this proceeding. That’s the place to make that argument and get everybody – get every natural gas system operator’s safety enhancement plan revised in accord with your perspective on the regulation, because right now all of the operators are using the rules as adopted by the Commission over the last two years.”).

D.11-06-017 is more conservative than the minimum safety standards in the federal pipeline regulations, including 49 C.F.R. § 192.619. Federal regulations allow operators without complete pipeline records to establish MAOP for lines installed prior to the 1970s at the highest pressure experienced during the five years prior to July 1, 1970. The Commission, by contrast, requires operators to hydrostatically test pre-1970 pipelines to validate an MAOP previously established by the historic operating pressure, or replace them. By adopting this additional condition, the Commission has imposed more stringent requirements for establishing MAOP than are required under the federal regulations.

A. The Commission Previously Rejected San Carlos's ORA's and Arguments That 49 C.F.R. § 192.619(a) Must Be Applied to Pre-1970 Pipelines

The Rehearing Application challenges the framework the Commission established in D.11-06-017 for all California pipeline operators to follow to validate the MAOP of “grandfathered” pipelines.¹² The Rehearing Application argues that (1) Commission regulations for establishing MAOP are less conservative than what is required under federal law; and (2) the Commission allows operators to establish MAOP based solely on a hydrostatic test.¹³ San Carlos and ORA have unsuccessfully raised these arguments in comments on the Proposed Decision, and ORA raised the same arguments in post-hearing briefing on the Substantive Order to Show Cause in R.11-02-019.¹⁴

The Rehearing Application argues – again – that the Commission is less stringent than federal regulations because the Commission improperly applies § 192.619.¹⁵ This argument contends that the Commission must apply § 192.619(a) to all pipelines regardless of when they were constructed. The Commission considered and rejected this argument:

Both the City [of San Carlos] and ORA advanced the proposition that [D.11-06-017,] requiring that all natural gas transmission lines in California be pressure tested or replaced[,] also mandated that these lines become subject to the federal requirements for post-1970 gas transmission lines addressed in 49 CFR, Part 192, Section 192.619(a). . . . That subsection is applicable to pipelines installed beyond the effective date of these regulations since all pipelines [installed after the effective date] are expected to be designed per these regulations. The Commission adopted a specific pipeline

¹² Rehearing Application at 13-19.

¹³ Rehearing Application at 15.

¹⁴ ORA OB at 15-18.

¹⁵ Rehearing Application at 16.

features analysis methodology for PG&E to use in its Pipeline Safety Enhancement Program with the older in-service pipeline.¹⁶

As explained in the following sections, the Decision follows the federal regulations and PHMSA guidance and imposes additional requirements on California pipeline operators. Under the Commission's ruling in D.11 -06-017, if an operator has traceable, verifiable, and complete records for all pipeline features then the operator must establish MAOP pursuant to § 192.619(a).¹⁷ If the operator lacks these records, as is the case for Line 147, the operator may establish an MAOP at a pressure up to the historic operating pressure pursuant to § 192.619(c), provided the operator validates the historic operating pressure through hydrostatic testing.¹⁸

B. Federal Regulations Allow Reliance on Historic Operating Pressure Alone

Under the federal pipeline safety regulations, pipelines must have an MAOP that is the lowest of four values: (1) the design pressure of the weakest element in the segment; (2) the pressure obtained by dividing the post-construction pressure test by a factor tied to the segment's class location; (3) the highest actual operating pressure to which the segment was subjected between July 1, 1965 and June 30, 1970; and (4) the pressure determined by the operator to be the maximum safe pressure after considering the history of the segment, particularly known corrosion and the actual operating pressure.¹⁹ However, pipelines that were designed and installed prior to July 1, 1970 (pre -1970 pipelines) do not have to follow this provision. As stated in 49 C.F.R. § 192.619(c) (emphasis added),

The requirements on pressure restrictions in this section do not apply in the following instance. An operator may operate a segment of pipeline found to be in satisfactory condition, considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the 5 years preceding [July 1, 1970].

Thus, under the federal pipeline regulations, pre -1970 pipelines may operate at the highest pressure experienced in the five years prior to July 1, 1970 even if that pressure exceeds the design pressure calculated under 49 C.F.R. § 192.105. As explained by PHMSA's Associate Administrator for Pipeline Safety, Jeffrey D. Wiese:

¹⁶ D.13-12-042 at 13-14

¹⁷ D.11-06-017, *Determining Maximum Allowable Operating Pressure Methodology and Requiring Filing of Natural Gas Transmission Pipeline Replacement or Testing Implementation Plans*, at 19-20.

¹⁸ D.11-06-017 at 18 & n.22

¹⁹ 49 C.F.R. § 192.619(a).

When these rules were first promulgated in 1970, PHMSA recognized that an operator may not have all the pressure data needed for existing pipelines. Therefore, we included in the rules a “grandfather clause” to allow pipeline operators to establish the MAOP of an existing pipeline segment in satisfactory condition, and considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the 5 years prior to July 1, 1970. This “grandfather clause” is codified in § 192.619(c). . . .²⁰

Mr. Wiese’s correspondence is consistent with PHMSA’s formal instruction to operators in establishing MAOP:

For transmission pipelines, under certain circumstances a design pressure limit (or lack of information on which to set a design pressure limit) may be overridden by Part 192.619(c). This regulation allows systems components installed prior to July 1, 1970, to remain in service at the same pressure they were subjected to between July 1, 1965, and June 30, 1970, even if that pressure exceeds the pressure rating for the component. If that is the case, *the historic operating pressure may be used to set the MAOP in lieu of the design pressure.*²¹

Although the Rehearing Application acknowledges that the § 192.619(c) exception exists,²² it fails to explain why this exception does not apply to Line 147, or how an operator may apply § 192.619(c) simultaneously with § 192.619(a). Line 147 was initially constructed prior to implementation of the federal regulations in 1970, and lacks traceable, verifiable, and complete pipeline specification and historical hydrostatic strength test records for every pipeline feature. If Line 147 were operated solely under federal regulations, applying § 192.619(c), PG&E would establish MAOP at the historic operating pressure of 400 psig.

C. California Regulations Require Operators to Validate Historic Operating Pressures Through Strength Testing

California pipeline operators must follow the federal pipeline safety regulations, as supplemented by Commission general orders and decisions. In D.11 -06-017, the Commission supplemented the federal regulations by directing that California gas utilities may not establish

²⁰ Ex. OSC-13 (March 17, 2008 letter from Jeffrey D. Wiese to Dennis Fothergill).

²¹ Ex. OSC -12 (Determination of Maximum Allowable Operating Pressure in Natural Gas Pipelines – PHMSA Instructions) (emphasis added).

²² Rehearing Application at 16.

the MAOP of pipelines under § 192.619(c) based solely on their historical operating pressure.²³ Instead, all pre -1970 pipelines without records of past pressure tests must be strength tested to validate the historical operating pressure, or replaced.²⁴ The requirement that operators validate historic operating pressures through hydrostatic testing makes California pipeline regulations more stringent than federal regulations. Pursuant to D.11 -06-017 and D.11 -09-006, PG&E hydrostatically tested all of Line 147 before applying to restore pressure.

IV. THE REHEARING APPLICATION'S CLAIM THAT ALL PG&E'S SUPPORTING INFORMATION MUST BE PART OF THE FORMAL RECORD IS A TECHNICAL LEGAL ARGUMENT

The Commission requires PG&E to make substantial pipeline information available to SED and the parties during pressure restoration applications. This information includes pipeline features lists (PFLs) that detail the pipeline on a foot -by-foot basis, as well as strength test pressure records linked in the PFL to each feature in the line. As ALJ Bushey and the parties recognize, much of the information contains critical infrastructure information that would have to be redacted before the document could be made public, but is of limited or no value when redacted.²⁵

Rather than require the supporting information to be placed into the record under seal, ALJ Bushey relied on the facts that all parties had the information and that the hearing testimony was informed by and based on it.²⁶ The Rehearing Application acknowledges that the witnesses testified about the information,²⁷ but raises a complaint that can best be characterized as a “best evidence” objection.²⁸ Of course, the technical rules of evidence do not apply in Commission proceedings,²⁹ and the Rehearing Application does not show any prejudice from the procedure ALJ Bushey followed.

In the event the Commission decides to include all the supporting information in the formal record, that information should be maintained under seal.

²³ D.11-06-017 at 18 & n.22.

²⁴ D.11-06-017 at 19.

²⁵ R.T. 2776 (ALJ Bushey); Rehearing Application at 7.

²⁶ R.T. 2766 (ALJ Bushey) (The safety certification information “is the documentation that we have not – specifically decided not to include in the record in all of our past pressure restorations[. . .] And the information has been provided to the parties for their inspections and clarification questions on, but not included in the record[.]”).

²⁷ Rehearing Application at 4.

²⁸ See Evid. Code §§ 1521, 1523.

²⁹ See Rules Prac. & Proc., Rule 13.6(a).

VI. SAN CARLOS PARTICIPATED ACTIVELY AND CONTRIBUTED TO DEVELOPMENT OF THE EVIDENTIARY RECORD OF THE LINE 147 PRESSURE RESTORATION PROCEEDINGS

The Rehearing Application claims that the Decision “never once addressed any of the issues raised by San Carlos” and that the Commission “ignored local government in the Line 147 pressure restoration proceedings.”³⁰ The discussion and analysis in the Decision paints a different picture. The *ex parte* TRO San Carlos obtained from the San Mateo Superior Court provided part of the impetus for this Line 147 proceeding. San Carlos became a formal party to the Line 147 pressure restoration proceeding on October 21, 2013.³¹ San Carlos served discovery and received responses to discovery requests. San Carlos entered the written testimony of Dr. Glen Stevick into the record, and cross-examined PG&E witnesses and pipeline industry expert Michael Rosenfeld.³² Mr. Rosenfeld described performing a fitness for service analysis that found Line 147 is safe to operate at 330 psig “without a doubt.”³³ The Decision cites this analysis in support of the conclusion that even though complete records for each pipeline segment may not be available, passing a properly conducted hydrostatic test confirms a pipeline’s fitness for service.³⁴ In short, San Carlos participated actively in this proceeding,³⁵ and helped develop the record upon which the Commission, in reliance upon its internal expertise and sole authority to regulate matters of pipeline safety, determined that Line 147 can operate safely at 330 psig.

VII. CONCLUSION

The record in the Line 147 pressure restoration proceeding contains ample evidence upon which the Commission relied in establishing a maximum operating pressure of 330 psig. Regardless of the MAOP, PG&E cannot operate Line 147 above 330 psig without Commission approval.

³⁰ Rehearing Application at 26-27.

³¹ PHC-3 R.T. 46 (Oct. 21, 2013).

³² R.T. 2541-66, 2586-88, 2668-70, 2778-826, 2916-30.

³³ Declaration of Sumeet Singh Supplementing the Verified Statement of Pacific Gas and Electric Company’s President of Gas Transmission Maintenance and Construction, Exhibit F at 1 (Oct. 18, 2013).

³⁴ D.13-12-042 at 14.

³⁵ During discussion prior to unanimously adopting the Decision, the Commission recognized San Carlos’ contribution to the proceeding. As stated by Commissioner Florio, “I think [San Carlos] should be recognized for the great efforts they put forth on behalf of their citizens and doing what they should be doing as public officials.”

Respectfully submitted,

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