

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)

**COMMENTS OF
THE OFFICE OF RATEPAYER ADVOCATES
REGARDING REVISED PROPOSED CHANGES TO
GENERAL ORDER 112-E**

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I. INTRODUCTION

Pursuant to Administrative Law Judge Bushey’s Ruling, issued July 8, 2014, setting a schedule for filing comments on proposed rule changes to General Order (“GO”) 112-E, the Office of Ratepayer Advocates (“ORA”)¹ submits these comments on the Safety and Enforcement Division’s (“SED”) proposed changes to GO 112-E. GO 112-E sets forth the State of California rules governing the design, construction, testing, operation, and maintenance of gas gathering, transmission, and distribution piping systems.

On September 27, 2013, ORA provided comments on the Proposed Rule Changes to GO 112-E circulated by SED on August 15, 2013. These comments follow up on those comments, and SED’s most recent proposal to amend GO 112-E, as the Commission moves to finalize changes to that Order.

II. DISCUSSION

A. **The Commission Should Codify Its Elimination of the Grandfather Clause and Enhance Record-Keeping Requirements Regarding Reduced MAOPs**

In the wake of the deadly San Bruno explosion of September 9, 2010, the Commission issued Decision (“D.”) 11-06-017, which ended the practice of relying upon the “Grandfather Clause” in the Federal Gas Safety Regulations (49 CFR § 192.619(c)) to operate vintage gas transmission pipelines at historical operating pressures without the need for a pressure test or full records. Decision 11-06-017 stated that “historic exemptions [from pressure testing] must end,”² and ordered that all in-service natural gas transmission pipeline in California be pressure tested or replaced.

¹ ORA previously filed comments in this proceeding as the “Division of Ratepayer Advocates.” On September 26, 2013, Governor Edmund G. Brown signed Senate Bill (SB) 96 into law, which, among other things, amends Public Utilities Code § 309.5 to change the name of the Division of Ratepayer Advocates to the Office of Ratepayer Advocates. ORA’s goal remains “...to obtain the lowest possible rate for service consistent with reliable and safe service levels.”

² Decision 11-06-017, p. 18.

The National Transportation Safety Board’s Report (“NTSB Report”) on the reasons for the explosion found that PG&E’s reliance on the Grandfather Clause contributed to the San Bruno explosion:

Grandfathering of Line 132 by the CPUC in 1961 and then by RSPA in 1970 resulted in missed opportunities to detect the defective pipe. ... [P]ursuant to the 1970 grandfather clause, Line 132 and other existing gas transmission pipelines with no prior hydrostatic test were permitted to use as their MAOP the highest operating pressure recorded during the previous 5 years (that is, between 1965–1970) and allowed to continue operating with no further testing. Thus, **the NTSB concludes that if the grandfathering of older pipelines had not been permitted since 1961 by CPUC and since 1970 by the DOT, Line 132 would have undergone a hydrostatic pressure test that would likely have exposed the defective pipe that led to this accident.**³

The NTSB summarized the serious safety concerns raised by gas operators’ continued reliance on the Grandfather Clause,⁴ and commended the Commission for its decision to eliminate reliance on it:

The state of California has already taken action to address grandfathering for pipelines within its jurisdiction. In its June 9, 2011, order requiring PG&E and other gas transmission operators regulated by the CPUC to either hydrostatically pressure test or replace certain transmission pipelines with grandfathered MAOPs, the CPUC stated that natural gas transmission pipelines “must be brought into compliance with modern standards for safety” and “historic exemptions must come to an end.” **The NTSB agrees and concludes that there is no safety justification for the grandfather clause exempting pre-1970 pipelines from the requirement for post construction hydrostatic pressure testing.**⁵

In light of the determination made in D.11-06-017 and the NTSB’s express support for that decision, ORA proposed that the Commission revise GO 112-E to

³ 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, pp. 106-107 (NTSB Report) (emphases added). The NTSB Report is available at <http://www.nts.gov/doclib/reports/2011/PAR1101.pdf>.

⁴ NTSB Report, pp. 106-107.

⁵ NTSB Report, p. 107(emphases added).

reflect the Commission's elimination of the Grandfather Clause. Yet, inexplicably, there is no such Proposed Rule Change in the latest version of the proposed changes to the GO.

Consistent with its determinations in D.11-06-017, its representations to the NTSB, and its new Safety Policy issued on July 10, 2014,⁶ the Commission should permanently and clearly close this loophole in the federal regulations. Consequently, ORA renews its proposal for changes to GO 112-E to codify the Commission's elimination of the Grandfather Clause; ORA's Proposed Rule Change is provided in Section D below.

The latest version of the proposed changes to GO 112-E also fail to include recordkeeping requirements that recent events have demonstrated a need for. As the PG&E Order to Show Cause proceedings in this docket revealed, new information necessitating a change in a pipeline's Maximum Allowable Operating Pressure ("MAOP") may be discovered over the course of time. In that instance, PG&E determined that the MAOP for Line 147 should be reduced from 365 psig to 330 psig.⁷

Federal regulations anticipate that a line's MAOP should only decrease under narrow and limited circumstances, such as a class location change driven by increased land use near a pipeline,⁸ or the discovery of weaker pipeline features than were thought to exist.⁹ Because such findings may be an indicator of other problems with pipeline conditions or records, the Commission should require clear and consistent reporting of these MAOP changes. ORA previously offered a Proposed

⁶ The Safety Policy Statement of the California Public Utilities Commission was adopted on July 10, 2014. See, http://www.cpuc.ca.gov/NR/rdonlyres/967047D4-19CE-45B1-8766-057F1D7FF1CD/0/VisionZero4Final621014_5_2.pdf

⁷ See, e.g., 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.

⁸ 49 CFR § 192.609 and 611.

⁹ 49 CFR § 192.619(a).

Rule Change to implement this recommendation, and provides it again here in Section D below.

B. The Increased Inspection Requirements Proposed in § 143.1 May Not Be Feasible And Have No Demonstrated Safety Benefits Justifying The Costs

Section 143.1 has been added to the proposed changes to GO 112-E, mandating twice yearly gas pipeline inspections that shall not be more than 7.5 months apart. This new standard would cut in half the 15 month time frame required for current inspections required under the federal regulations.¹⁰

It is unclear what impact this shortening of time would have on utility operations and if the inspection timeframe is even feasible. Further, ORA is unaware of any cost-benefit analysis demonstrating that this change provides significant benefits to offset the costs. At a minimum, if the Commission believes the current federal standards fall short of providing the desired level of safety, then, in lieu of an impromptu rule change, this proceeding should provide the opportunity for additional discussion and analysis to determine what the appropriate mechanisms, tools, and timing of inspections should be.

C Changes in Encroachment Requirements

ORA supports the proposed rule change on encroachments at § 143.5, which requires swift correction by the utility after it discovers an encroachment upon its pipeline. Such an express requirement serves to clarify Commission expectations. Further, swift action against encroachments will enhance the safety of the natural gas system and create public awareness so that future encroachments are less likely.

¹⁰ 49 CFR § 192.706 requires annual inspections, not more than 15 months apart. There are further requirements in Class 3 and 4 locations if an odorant is not utilized. See <http://www.ecfr.gov/cgi-bin/text-idx?SID=b7235a217b217d304abe370d8a6c794d&node=49:3.1.1.1.8.13.8.4&rgn=div8>

D. ORA Proposed Rule Changes

1. ORA Proposed Rule Change To Implement The Commission's Elimination Of The Grandfather Clause

All in-service natural gas transmission pipelines in California shall be pressure tested in accordance with 49 CFR Part 192 subpart J, and the operator shall retain all records of the test required by this subpart. The schedule for conformance with this requirement will be determined for each operator according to the plan submitted per D.11-06-017 and approved by the Commission.

MAOP for these pipelines will be established pursuant to 49 CFR § 192.619(a) as the lowest MAOP determined by each of the four methods provided in that subpart, except that Subsection 49 CFR § 192.619(c) is not applicable. Where pipe characteristics and class location are not known, such that the design MAOP cannot be calculated pursuant to Section 192.105, the operator will:

to Section 192.105, the operator will:

- 1) Maintain a list of all such pipes,
- 2) Report the pipe to the CPUC, including the following information:
 - a) Identify missing information,
 - b) Identify conservative engineering assumptions proposed to substitute for the missing information,
 - c) Provide and maintain evidence supporting the conservative engineering assumptions,
 - d) Follow all industry practices that define "conservative" in this instance,
 - e) Calculate the MAOP based on the engineering assumptions
 - f) Provide a plan for phasing out the need for assumed pipe specifications.

The CPUC will verify the operator report and shall adopt the MAOP proposed, or adopt a lower MAOP if required.

2 ORA Proposed Rule Change To Require Reporting On Lowered MAOPs

No later than 30 days after a decrease in the maximum allowable operating pressure of a pipeline, a report shall be filed with the Commission for:

- a) A pipeline found to be operating above the lowest of the four categories identified in 49 CFR § 192.609 (a); or
- b) A Line or Segment for which the Commission has established a maximum allowable operating pressure.

The report shall include:

- 1) The new maximum allowable operating pressure,
- 2) The reasons for the change,
- 3) The applicable methodology from 49 CFR Part 192 used to establish the decrease in the maximum allowable operating pressure (e.g. § 192.619(a)(1)),
- 4) A complete record of the pipeline features list and the changes to that pipeline features list since installation,
- 5) Explanation of how the change impacts TIMP, and
- 6) If the reason for the change has implications for the maximum allowable operating pressures of other pipelines, what the next steps will be taken to verify their current maximum allowable operating pressures.

III CONCLUSION

The Commission should close the gaps in General Order 112-E by adopting the two proposals set forth in Section II.D above to codify the Commission's elimination of the Grandfather Clause and to impose additional reporting requirements when MAOP is lowered. The Commission should also defer adoption of the Proposed Rule Change increasing the number and frequency of line inspections until such time as the feasibility and safety benefits of such a rule can be established.

Respectfully submitted,

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