



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company's Natural Gas Transmission Pipeline System in Locations with High Population Density.

Investigation 11-11-009
(Filed November 10, 2011)

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This scoping memo and ruling sets forth the category, need for hearing, issues to be addressed and schedule of the proceeding, and designates the Presiding Officer pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rule).

1. Background

The Commission opened this Order Instituting Investigation (OII) on November 10, 2011 to determine whether Pacific Gas and Electric Company (PG&E) violated any provision or provisions of the California Public Utilities Code, Commission general orders or decisions, or other applicable rules or requirements pertaining to the operation of its natural gas transmission pipeline system in or near locations of higher population density. PG&E was named as respondent to the investigation and the Commission's Consumer Protection and Safety Division (CPSD) as a party.

Pursuant to the directives of the OII, PG&E filed its initial response on January 17, 2012.¹ PG&E filed an updated response on February 2, 2012. A duly noticed prehearing conference (PHC) was held on February 3, 2012, to identify the parties and to address the scope of issues and the procedural schedule. Due to PG&E's request to update its response, a second PHC was held on April 17, 2012 to address the procedural schedule.

This Scoping Memo and Ruling summarizes the scope of issues to be addressed in this proceeding, sets forth the procedural schedule, and addresses related procedural matters.

2. Scope of Issues

The main issue in this proceeding is to consider whether PG&E violated any provision or provisions of the Public Utilities Code, Commission rules, general orders or decisions, federal regulations or other applicable rules or requirements pertaining to the operation of its natural gas transmission pipeline system in class 2 locations, class 3 locations, class 4 locations, or near High Consequence Areas. The OII includes a summary of CPSD's preliminary finding of violations related to PG&E's review and classification of its natural gas transmission pipelines in light of PG&E's June 30, 2011 *CPUC Class Location Study (Class Location Study)*. However, CPSD may bring assertions of additional violations to the Commission's attention as a result of PG&E's responses to CPSD data requests. If violations are found, the OII will also determine the appropriate penalty or other form of relief.

¹ The OII directed PG&E to file its response within 30 days after the OII was mailed. This would have been December 10, 2011. However, PG&E requested and was granted an extension of time to file its response to January 17, 2012.

3. Schedule

On January 26, 2012, the Administrative Law Judge (ALJ) sent an e-mail to the parties informing them that due to her availability, evidentiary hearings would need to be held between May 29 and July 13, 2012. At the February 3, 2012 PHC, PG&E stated that it was still reviewing those segments identified in the Class Location Study as not commensurate with their class location. Based on discussion at the February 3, 2012 PHC, it was determined that PG&E would file its update to the January 17, 2012 response on April 2, 2012 and that a subsequent PHC would be set to discuss the schedule for the proceeding. In her ruling noticing the April 17, 2012 PHC, the assigned ALJ again informed parties that she would prefer to have evidentiary hearings completed by July 13, 2012.²

PG&E and CPSD filed a proposed schedule on April 16, 2012. The proposed schedule, however, would have rebuttal testimony submitted on July 31, 2012, with hearings scheduled for some time afterwards. PG&E and CPSD both state that the primary reason evidentiary hearings cannot be completed prior to July 13, 2012 is because CPSD is unable to submit testimony prior to May 25, 2012.³ The ALJ provided parties time during the April 17, 2012 PHC to discuss whether it would be feasible to shorten the time to submit testimony. However, parties concluded that the schedule proposed by PG&E and CPSD would allow for development of a complete record.

² *Administrative Law Judge's Ruling setting Prehearing Conference*, filed March 29, 2012, at 2.

³ Reporter's Transcript PHC-2 at 27:17-25 & 33:22-23.

I have discussed with the ALJ the need to develop a full record while still resolving the proceeding in a timely manner. The schedule adopted today accommodates the requests of PG&E, CPSD and intervenors, while allowing the Commission to proceed without unnecessary delay. The dates set for evidentiary hearings also take into consideration the scheduled hearings in Investigation (I.) 11-02-016 and I.12-01-007, related investigations into PG&E’s practices that involve many of the same parties. Consequently, while the assigned Commissioner or ALJ may modify the schedule as necessary or appropriate, I do not expect parties to seek any changes to the schedule set forth below absent extraordinary circumstances.

At the PHC, there was discussion that it was possible that parties may stipulate to some or many of the facts or that discussion among the parties could lead to a resolution of all or a portion of this OII. The schedule adopted below sets a date on or before which any stipulation should be served. Further, if the parties believe that the Commission’s Alternative Dispute Resolution (ADR) process could assist in facilitating any settlement discussions, the parties should contact the ADR coordinator, ALJ Jean Vieth.

The following schedule is adopted:

EVENT	DATE
CPSD Testimony to be served	May 25, 2012
Prepared Intervenor Testimony to be served	June 25, 2012
PG&E Testimony to be served	July 23, 2012
CPSD Rebuttal Testimony to be served	August 15, 2012
Possible stipulation of facts served	On or before August 15, 2012

Joint Submission of witness schedule, time estimates for the cross-examination of witnesses, scheduling concerns, and the order of cross-examination	August 21, 2012
Evidentiary Hearings to be held at Commission Courtroom, State Office Building, 505 Van Ness Avenue San Francisco, CA 94102	August 23, 2012 at 10:00 a.m. and at 9:30 a.m. each weekday thereafter through August 31, 2012, as needed.
Opening Briefs to be filed	10 days after completion of evidentiary hearings
Reply Briefs to be filed and projected submission date	7 days after opening briefs
Presiding Officer Decision issued	Within 60 days of submission
Appeal or Review of the Presiding Officer's Decision	Within 30 days of the date the Presiding Officer's Decision is served
Presiding Officer's decision becomes final if no appeal or request for review is timely filed	December 2012

Pursuant to Pub. Util. Code § 1701.2(d), adjudication cases are to be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met. In light of the current schedule above, this proceeding is not anticipated to be completed within 12 months, but should be completed this year if there is no appeal to the Presiding Officer's Decision, or in the first quarter of 2013 if there is an appeal.

4. Motions for Party Status

On February 13, 2012, the City of San Bruno filed a motion for party status. On February 15, 2012, The Utility Reform Network filed a motion for party

status. The ALJ granted both motions by e-mail ruling dated February 16, 2012. The ALJ's e-mail ruling is hereby affirmed.

5. Presiding Officer

The Presiding Officer for this proceeding shall be ALJ Amy C. Yip-Kikugawa.

6. Categorization, *Ex Parte* Communications, and Intervenor Compensation

The OII categorized this proceeding as adjudicatory. Pursuant to Rule 7.1(c) and Rule 7.6(a), the time for appealing the categorization of this proceeding has passed.

Since this is an adjudicatory proceeding, *ex parte* communications are prohibited as provided for in Rule 8.2(b).

As provided for in Pub. Util. Code §§ 1802 and 1804, any "customer" who intends to seek intervenor compensation was required to file a notice of intent to claim intervenor compensation within 30 days of the date of the prehearing conference, i.e., by May 17, 2012, and meet the criteria for a "customer" as set forth in Pub. Util. Code § 1802(b) and in Rule 17.1.⁴

7. Filing, Service and Service List

The official service list is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the judge.

⁴ The filing of a notice of intent does not guarantee an award of intervenor compensation. In order to receive an award, the customer's presentation must make a substantial contribution to the adoption of the Commission's order or decision, and the customer must receive a finding of significant financial hardship. (See Pub. Util. Code §§ 1801.3, 1802(i), 1802.5, 1803, and 1804.)

Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission's web site meets that definition.

Electronic service is now the standard under Rule 1.10. All parties to this proceeding shall serve documents and pleadings using e-mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded that, when serving copies of documents, the document format must be consistent with the requirements set forth in Rule 1.10(a).

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Other documents, including prepared testimony, are served on the service list but not filed with the Docket Office. We will follow the electronic service protocols adopted by the Commission in Rule 1.10, whether formally filed or just served. This Rule provides for electronic service of documents, in a searchable format, unless the appearance or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by United States mail. Additionally, parties shall serve paper copies of all filings on the Presiding Officer and assigned Commissioner.

IT IS RULED that:

1. The issues to be resolved in this proceeding are listed in Section 2 of this Scoping Memo and Ruling.
2. Evidentiary hearings are necessary.

3. The procedural schedule is listed in Section 3 of this Scoping Memo and Ruling.

4. The prepared testimony in this proceeding shall be electronically served on the entire service list on the dates set forth in the adopted procedural schedule, and hard copies are to be provided to the assigned Commissioner and Administrative Law Judge.

5. Administrative Law Judge Amy C. Yip-Kikugawa is designated the Presiding Officer for this proceeding.

6. *Ex parte* communications are prohibited.

7. Any customer who intends to seek intervenor compensation in this proceeding shall have filed a notice of intent to claim compensation in this proceeding by May 17, 2012.

Dated April 26, 2012, at San Francisco, California.

/s/ MICHAEL P. FLORIO

Michael P. Florio
Administrative Law Judge