

Decision **PROPOSED DECISION OF ALJ BUSHEY** (Mailed 3/20/2012)**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)

**DECISION TRANSFERRING CONSIDERATION OF
NATURAL GAS TRANSMISSION PIPELINE COMPREHENSIVE
PRESSURE TESTING IMPLEMENTATION PLANS OF SAN DIEGO
GAS & ELECTIC COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY
TO THE TRIENNIAL COST ALLOCATION PROCEEDING**

Summary

This decision transfers the reasonableness and ratemaking review of the Natural Gas Transmission Pipeline Comprehensive Pressure Testing Implementation Plan of San Diego Gas & Electric Company and Southern California Gas Company from this proceeding to the Triennial Cost Allocation Proceeding, Application 11-11-002.

This decision also authorizes a memorandum account for both companies, but does not change rates. This proceeding remains open.

1. Background

Since initiating this proceeding, our primary efforts have been focused on ensuring that California's natural gas transmission system operators are properly calculating the Maximum Allowable Operating Pressure (MAOP) for each segment of the natural gas transmission system. Our review caused us, on June

9, 2011, to order all California natural gas transmission pipeline operators to prepare Natural Gas Transmission Pipeline Comprehensive Pressure Testing Implementation Plans (Implementation Plan) to either pressure test or replace all segments of natural gas pipelines which were not pressure tested or lack sufficient details related to performance of any such test.¹ We required that the Plans provide for testing or replacing all such pipeline as soon as practicable, and that at the completion of the implementation period, all California natural gas transmission pipeline segments would be (1) pressure tested, (2) have traceable, verifiable, and complete records readily available, and (3) where warranted, be capable of accommodating in-line inspection devices. In addition, the Commission required the operators to implement interim safety enhancement measures, including increased patrols and leak surveys, pressure reductions, prioritization of pressure testing for critical pipelines that must run at or near MAOP values which result in hoop stress levels at or above 30% SMYS, and other such measures that will enhance public safety during the implementation period.

On August 26, 2011, San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas), as well as Pacific Gas and Electric Company (PG&E) and Southwest Gas Company, filed and served their comprehensive plans. On December 2, 2011, SDG&E and SoCalGas filed and served their amended plan, called the Pipeline Safety Enhancement Plan (Plan).

¹ The Commission's General Order (GO) 112, which became effective on July 1, 1961, mandated pressure test requirements for new transmission pipelines (operating at 20% or more of Specified Minimum Yield Stress (SMYS)) installed in California after the effective date. Similar federal regulations followed in 1970, but exempted pipeline installed prior to that time from the pressure test requirement. Such pipeline is often referred to as "grandfathered" pipeline, because pursuant to 47 Code of Federal Regulations (CFR) 192. 619(c), pressure testing was not mandated.

The Plan called for a phased approach over a time horizon extending beyond 2023, with up to \$4.5 billion in total additional revenue requirement for SoCalGas and \$2.4 billion for SDG&E. The Plan focused on the nearer term and forecasted \$1.2 billion in capital costs and \$255 million in operations and maintenance for SoCalGas during Phase 1A (2012-2015), with \$229 million in capital and \$7 million in operations and maintenance for SDG&E in Phase 1A. SDG&E and SoCalGas sought Commission approval of the costs for Phase 1A immediately.

On December 21, 2011, the assigned Commissioner to this rulemaking, who is also the assigned Commissioner for the Triennial Cost Allocation Proceeding, Application (A.) 11-11-002, issued his Assigned Commissioner Ruling. In that Ruling, the assigned Commissioner stated that A.11-11-002 appeared to be the more logical proceeding to consider reasonableness and ratemaking review for the Plans of SDG&E and SoCalGas as that proceeding will address cost allocation and rate design and reassigning these Plans to A.11-11-002 would allow the parties and the Commission to use the existing evidentiary record and policy decisions emerging there. The assigned Commissioner sought comment on the possible reassignment.

On January 13, 2011, SDG&E and SoCalGas filed their comments supporting the transfer of the Plan to the Triennial Cost Allocation Proceeding and providing further detail on their proposed memorandum accounts. The utilities explained that their current general rate cases are well underway and using those proceedings to evaluate the Plan would require that a new phase be added to the schedule.

For the proposed memorandum accounts, the utilities offered two attachments to their filing. Attachment A reflected an “aspirational scope of work” to be done during the first 12 months of implementing the Plan. The

utilities offered three versions of the cost estimates. The first page showed direct costs only, with \$47 million in capital and \$23 million of operations and maintenance for SoCalGas, and \$9 million of capital and \$0.0 in operations and maintenance for SDG&E, for an overall total of \$79 million. The second page escalated the direct costs to 2012 dollars, increasing the total to \$80 million. The third and final page added in overhead loadings to the escalated costs to bring the total to \$88 million. SDG&E and SoCalGas proposed to submit monthly updates to the Commission's Energy Division as it implements the Plan, and to submit a Tier 1 Advice Letter if projected costs increase by more than 10%.

Attachment B to the January 13, 2012, filing showed the costs for records review as required by Commission Resolution L-410 and the interim safety measures. Of the \$11.8 million total for SoCalGas, the vast majority, \$10.2 million, is for records review. For SDG&E, all but a trivial amount of the \$1.3 million is for records review.

On January 17, 2012, the Commission's Consumer Protection and Safety Division (CPSD) filed and served its Technical Report on Pipeline Safety Enhancement Plan submitted by SDG&E and SoCalGas. The Technical Report is generally supportive of the SDG&E and SoCalGas Plan, but raised issues regarding pipeline that should be included in the program, the prioritization of certain pipeline, and the cost responsibility for work necessitated by missing documentation.

On January 27, 2012, the Division of Ratepayer Advocates (DRA) filed and served its opposition to the memorandum accounts requested by SDG&E and SoCalGas. DRA contended that no such account is needed now because the utilities "have an ongoing obligation to provide safe and reliable service," and a memorandum account would only be justified if and when the Commission

adopts “new mandates or requirements” with costs that are incremental to existing programs.² The Southern California Generation Coalition (Coalition) did not oppose creating the memorandum accounts, but recommended that the accounts be “limited to work that is undertaken in direct response to D.11-06-017.”³ The Coalition also cautioned the Commission against creating a presumption that all costs booked to the memorandum accounts would be recovered from ratepayers, and noted that CPSD had identified certain costs that should be absorbed by shareholders. The Coalition supported transferring the Plan to the Triennial Cost Allocation Proceeding.

2. Discussion

Pursuant to Pub. Util. Code § 451, each public utility in California must:

... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, . . . as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

Ensuring that the management of investor-owned gas utility systems fully performs its duty of safe operations is a core obligation of this Commission.

As set forth below, we authorize the transfer of the reasonableness and the cost allocation of the proposed Pipeline Safety Enhancement Plan to the Triennial Cost Allocation Proceeding, A.11-11-002, and authorize SDG&E and SoCalGas to create a memorandum account in which to record the demonstrably incremental costs of: (1) implementing the Plan, and (2) ~~New~~new record-keeping

² DRA Response at 2 - 3.

³ Coalition Response at 5.

requirements. The memorandum account only provides an opportunity to recover costs, but does not guarantee any recovery.

2.1. Transfer to the Triennial Cost Allocation Proceeding

Due to the magnitude of the costs and the duration of the Implementation Plans, each gas system operator's Plan requires detailed review and consideration. In this Rulemaking, PG&E's Implementation Plan is being carefully scrutinized by the parties and will soon be the subject of extended evidentiary hearings. Most of the parties to this proceeding are fully occupied with unique issues raised by PG&E's Plan in this proceeding. Therefore, to afford the SDG&E and SoCalGas Implementation Plan the same level of scrutiny and review, the assigned Commissioner has proposed that this Plan be moved to another proceeding, the Triennial Cost Allocation Proceeding. All parties support this transfer and we approve it. We note that on February 24, 2012, the assigned Commissioner issued a scoping memorandum in A.11-11-002 which determines the scope of the proceeding, sets a schedule for workshops, testimony, hearings, and briefs, in anticipation of this decision. That step will help expedite preparation of the record for the Commission's review of the Plan presented by SDG&E and SoCalGas.

2.2. Memorandum Account

As explained above, SDG&E and SoCalGas present two groups of costs to include in its proposed Pipeline Safety and Reliability Memorandum Account. The first group, shown in Attachment A to the January 13, filing, are the costs that SDG&E and SoCalGas preliminarily estimate that they will incur during the first 12 months of implementing their Pipeline Safety Enhancement Plan. Because we are not yet ready to decide whether these costs are incremental to

adopted revenue requirement but wish to preserve the opportunity for the utilities to recover these costs in rates, we will authorize the utilities to record these costs in a memorandum account for subsequent review by the Commission.⁴ Therefore, we authorize SDG&E and SoCalGas to create a memorandum account in which to record the incremental costs of implementing the Pipeline Safety Enhancement Plan. The Commission will consider whether such properly recorded costs are reasonable and incremental as well as which costs, if any, may be recovered from ratepayers in revenue requirement at a later time in the Triennial Cost Allocation Proceeding. SDG&E and SoCalGas should submit monthly updates to the Energy Division and the CPSD as it implements the Plan. SDG&E and SoCalGas should also file a Tier 1 Advice Letter should cost forecast increase by more than 10%. We again caution that any such Advice Letter would simply document a change in cost estimates and not approval of any costs recorded in the memorandum account.

The second group of costs for which SDG&E and SoCalGas request authority to record in the proposed memorandum account are tabulated in ~~their~~ Attachment B to the January 13, 2012, filing and relate to compliance with the record review directive in Commission Resolution L-410. The Commission issued the record review directive in response to the National Transportation Safety Board's (NTSB) safety recommendations following discovery of deficient pipeline recordkeeping by PG&E. In response to this directive, SoCalGas and SDG&E reported that as of April 15, 2011, 73% of SoCalGas pipelines and pipeline segments met the NTSB standard of "traceable, verifiable, and complete

⁴ Incremental costs may only include overhead costs not already included in the revenue requirement adopted in the most recent general rate case.

records,” and 69% of SDG&E pipeline and pipeline segments did so. SoCalGas and SDG&E also explained that they did not follow the two-step MAOP calculation approach set out in NTSB directives but rather these utilities stated that “traceable, verifiable, and complete records” for pipeline installed over 50 years ago was “a very difficult, if not infeasible threshold to achieve” and instead focused on demonstrating that the specified margin of safety had been achieved by some type of pressure test.⁵ These operators committed in their April 15, 2011, report to complete an action plan for the pipeline segments lacking sufficient pressure test documentation, and pending completion, to subject the pipeline to bimonthly patrols and leakage surveys.

~~To the extent SDG&E and SoCalGas needed to take remedial measures to bring their records into compliance with existing federal and Commission regulations, the costs of such efforts are not incremental to authorized revenue requirements.~~ In Attachment B to the January 13, 2012, filing, SDG&E and SoCalGas propose to include in their requested memorandum account about \$12 million for SoCalGas and \$1 million for SDG&E for records review and interim safety measures during 2012 and the first quarter of 2013. To preserve the issue of which ~~record review the~~ costs, if any, set forth in Attachment B should be added to revenue requirement, ~~and~~ we will grant the request of SDG&E and SoCalGas to include the costs shown in Attachment B to their January 13, 2012, filing in the pipeline safety memorandum account.

⁵ Report of SoCalGas and SDG&E at 9.

3. Comments on Proposed Decision

The proposed decision of Administrative Law Judge (Judge) Bushey in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on April 9, 2012, and reply comments were filed on April 16, 2012. Comments [and reply comments](#) were filed by SoCalGas and SDG&E, ~~r~~ DRA, TURN, and the City of San Bruno [filed comments only](#).

SoCalGas and SDG&E supported the transfer of their Implementation Plans to the Triennial Cost Allocation Proceeding, but sought clarification on three points. First, SoCalGas and SDG&E contend that they included only incremental overhead costs in their memorandum account, and excluded all costs previously included in revenue requirements. Second, the gas system operators argue that whether they were required to maintain "traceable, verifiable, and complete" records is an unsettled question pending in this docket which should not be predetermined in this decision. Finally, SoCalGas and SDG&E request that the Commission designate a Tier 1 advice letter filing to establish the memorandum account authorized in this proceeding.

DRA also supported the transfer of the Implementation Plans, but opposed any memorandum account. DRA explained that the Commission has not yet approved the Implementation Plans such that no new requirements exist that could justify authorizing a memorandum account. DRA opposed as premature the proposed decision's statement that the reports prepared by CPSD would be given great weight.

TURN did not oppose the outcome of the proposed decision, but offered clarifying text for two sentences and requested that the footnote regarding the

weight to be accorded CPSD's reports be eliminated. TURN's comments were succinct and persuasive; accordingly, the proposed decision has been modified as requested.

In reply, SoCalGas and SDG&E noted that all parties submitting opening comments recommended clarifying the proposed decision to make clear that the proposed decision does not predetermine issues to be resolved in this proceeding. These operators also opposed DRA's revision.

The City of San Bruno took no position on the transfer of the Implementation Plans but also contended that two changes were required to avoid the appearance of prejudging issues in the proceeding.

4. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Maribeth A. Bushey is the assigned Judge in this proceeding.

Findings of Fact

1. On August 26, 2011, SDG&E and SoCalGas, as well as PG&E and Southwest Gas Company, filed and served their comprehensive plans for pressure testing or replacing natural gas transmission pipeline.
2. Most of the parties to this proceeding are fully engaged with evidentiary hearings regarding PG&E's plan.
3. On December 2, 2011, SDG&E and SoCalGas filed and served their amended plan, called the Pipeline Safety Enhancement Plan.
4. The Triennial Cost Allocation Proceeding is the most appropriate forum to carefully and timely review the extensive proposals in the SDG&E and SoCalGas Plan.
5. SDG&E and SoCalGas estimate that over the first 12 months of the implementing the Plan, they will spend \$48 million in capital and \$23 million of

operations and maintenance for SoCalGas, and \$9 million of capital and \$0.0 in operations and maintenance for SDG&E, for an overall total of \$80 million, in 2012 dollars above the amounts previously authorized in revenue requirement, and are appropriate for recording in a memorandum account for the Pipeline Safety Enhancement Plan.

6. SDG&E and SoCalGas estimate that they will spend \$1 million and \$12 million, respectively, on interim safety measures and record review during 2012 and the first quarter of 2013.

Conclusions of Law

1. Commission review of the Pipeline Safety Enhancement Plan originally submitted by SG&E and SoCalGas on August 26, 2011, as amended on December 2, 2011, should be transferred to the Triennial Cost Allocation Proceeding.

2. The technical report of the CPSD regarding SoCalGas and SDG&E Pipeline Safety Enhancement Plan should be transferred to the Triennial Cost Allocation Proceeding.

3. SG&E and SoCalGas should be authorized to file a Tier ~~4~~2 Advice Letter creating a memorandum account in order to record for later Commission ratemaking consideration the costs of its Pipeline Safety Enhancement Plan⁷, and document review costs.

4. Authorization of the memorandum account does not ensure any recovery from ratepayers.

O R D E R

IT IS ORDERED that:

1. Commission review of the Pipeline Safety Enhancement Plan originally submitted by San Diego Gas and Electric Company and Southern California Gas

Company on August 26, 2011, as amended on December 2, 2011, is transferred to the Triennial Cost Allocation Proceeding, Application 11-11-002.

2. The Technical Report of the Consumer Protection and Safety Division Regarding Southern California Gas Company and San Diego Gas and Electric Company Pipeline Safety Enhancement Plan is transferred to the Triennial Cost Allocation Proceeding.

3. San Diego Gas and Electric Company and Southern California Gas Company must file a Tier 12 Advice Letter creating a memorandum account to record for later Commission ratemaking consideration the escalated direct and incremental overhead costs of its Pipeline Safety Enhancement Plan, as described in Attachment A to their January 13, 2012, filing, and costs of document review [and interim safety measures](#) as set forth in Attachment B to the January 13, 2012, filing.

4. San Diego Gas and Electric Company and Southern California Gas Company must submit monthly updates to the Commission's Energy and Consumer Protection and Safety Divisions as the Plan is implemented, and must file a Tier 1 Advice Letter to inform the Commission should cost estimates increase by more than 10%.

5. Rulemaking 11-02-019 remains open, and San Diego Gas and Electric Company and Southern California Gas Company remain respondents for matters other than the Implementation Plan.

This order is effective today.

Dated _____, at San Francisco, California.

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