



FILED
08-19-13
03:58 PM

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)

**RULING OF CHIEF ADMINISTRATIVE LAW JUDGE AND
ASSIGNED ADMINISTRATIVE LAW JUDGE DIRECTING
PACIFIC GAS AND ELECTRIC COMPANY TO SHOW CAUSE WHY IT
SHOULD NOT BE SANCTIONED BY THE COMMISSION FOR VIOLATION OF
RULE 1.1 OF THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE**

Background

On July 3, 2013, Stephen L. Garber, Alejandro T. Vallejo, Jonathan D. Pendleton, and Joseph M. Malkin, representing Pacific Gas and Electric Company (PG&E), presented for filing with the Commission a document entitled "Errata to Pacific Gas and Electric Company's Supporting Documentation for Lifting Operating Pressure Restrictions on Line 101 and 147."

That document stated that the supporting information PG&E filed with the Commission on October 31, 2011, to justify its request to lift operating pressure restrictions on Line 147 and 101 contained errors. Specifically, the 2011 pipeline features calculation for Line 147 relied on PG&E records showing the pipeline contained Double Submerged Arc Welds or was seamless, with a resulting joint efficiency factor of 1.0. In its July 2013 document, PG&E revealed it had

subsequently discovered that the pipeline actually had Single Submerged Arc Welds, with a joint efficiency factor of 0.8. The lower joint efficiency factor reduced the pipeline's Maximum Allowable Operating Pressure (MAOP) from 365 pounds per square inch gauge (psig), as approved in Decision (D.) 11-12-048, to 330 psig.

The 2013 document also stated that the pipeline had been pressure tested to a minimum of 612 psig, and a spike test of 669 psig, in 2011 and that PG&E was operating it at an MAOP of 330 psig.

The 2013 document stated that the Line 101 features MAOP of 365 relied on a 1989 pressure test to 650 psig. PG&E explained that under a then-applicable but subsequently repealed section of federal regulations it should not have relied on the 1989 pressure test. Consequently, PG&E concluded that the correct pipeline feature MAOP was 300 psig, not the 365 approved by the Commission in D.11-12-048.

The Commission's Docket Office rejected the July 3, 2013, document for filing on August 2, 2013, as untimely to the extent that it sought to make a substantive change to issues in a previously filed document which the Commission had resolved by decision.

Public Safety of Lines 147 and 101

Prior to issuing this ruling, we immediately conferred with the Commission's Safety and Enforcement Division to confirm the representations by PG&E that the lines have been pressure tested and are being operated at the reduced MAOP. The Safety and Enforcement Division has confirmed PG&E's representations and agrees that so long as properly conducted pressure tests were performed as represented, Lines 147 and 101 can be operated consistent with General Order 112-E at the reduced MAOP. The assigned Commissioner

and Administrative Law Judge are holding a separate hearing to address the substantive issues raised by the July document.

Having addressed the public safety issue, we now turn to the issues of regulatory compliance.

The Commission's Rules of Practice and Procedure

Rule 1.1 of the Commission's Rules of Practice and Procedure states that any person who transacts business with the Commission agrees to "never mislead the Commission or its staff by an artifice or false statement of law or fact."

Rule 1.12(a) of the Commission's Rules of Practice and Procedure defines an amendment to a document as making "a substantive change to a previously filed document" and requires that all amendments be filed prior to issuance of the scoping memo. The time for other parties to file responsive documents to amendment runs from the date of filing the amendment as provided in Rule 1.12(b).

Rule 1.12(c) prohibits the filing of documents that correct minor typographical or wording corrections that do not alter the substance of the previously filed document.

Rule 16.4 sets forth the procedure for seeking to modify an issued Commission decision based on allegations of new or changed facts.

Issues Revealed in PG&E's July Document

PG&E's July document raises procedural and substantive issues. Procedurally, parties are not allowed to file pleadings for the purpose of correcting minor typographical or computational errors in previously filed applications. Parties are allowed to file pleadings for the purpose of making substantive changes to a previously filed application, and such filing triggers the

opportunity for other parties to file a responsive pleading (unless limited or prohibited by the Administrative Law Judge). Here, PG&E appears to be revealing a substantial error in an application upon which the Commission has relied in issuing a decision. Attempting to correct an application eighteen months after the Commission issued a decision appears to be an unreasonable procedural choice and could be interpreted as attempting to create an inaccurate impression of a routine correction. The timing of the attempted filing, the day before a summer holiday weekend, also raises questions.

Substantively, as the record shows in this proceeding and others, the accuracy of PG&E's natural gas transmission pipeline records has been and remains an extraordinarily controversial issue in which the public has an intense interest. The facts stated in PG&E's July filing appear to directly implicate this issue, particularly the continuing inaccuracy of PG&E's records and the happenstance means by which this most recent instance of erroneous records was discovered. Submitting this provocative information in a routine-appearing document could be seen as an attempt to mislead the Commission and the public on the significance of this new information.

Order to Show Cause

Due to the serious issues raised by the attempted July filing, PG&E is ordered to appear at the hearing scheduled below and show cause why it should not be sanctioned for violating Rule 1.1 of the Commission's Rules of Practice and Procedure. Pursuant to Public Utilities Code Section 2107 the Commission may impose penalties for each offense, if found to be supported by evidence at the hearing, of not less than \$500 nor more than \$50,000 for each offense.

The hearing¹ before the Chief Administrative Law Judge and assigned Administrative Law Judge is set for:

**Friday, September 6, 2013
10:00 a.m.
Commission Hearing Room
505 Van Ness Avenue
San Francisco, CA 94102**

Ensuring that parties understand the importance of complying with the letter and spirit of the Commission's Rules of Practice and Procedure is a duty of the Chief Administrative Law Judge. The facts of this matter appear to implicate core principles upon which the Rules are based. For that reason, the undersigned Chief Administrative Law Judge is taking the unusual step of co-presiding with the assigned Administrative Law Judge at this important hearing.

IT IS SO RULED.

Dated August 19, 2013, at San Francisco, California.

/s/ KAREN V. CLOPTON
Karen V. Clopton
Chief Administrative Law Judge

/s/ MARIBETH A. BUSHEY
Maribeth A. Bushey
Administrative Law Judge

¹ A quorum of the Commission may attend the hearing.