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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)

THE DIVISION OF RATEPAYER ADVOCATES' COMMENTS REGARDING PROPOSED CHANGES TO GENERAL ORDER 112-E

KAREN PAULL
TRACI BONE
Attorneys For The Division Of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-2048
E-Mail: tbo@cpuc.ca.gov

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I. INTRODUCTION

Pursuant to the Assigned Commissioner's Revised Scoping Memo issued on May 2, 2013, the Division of Ratepayer Advocates ("DRA") submits these comments on the Commission's Safety and Enforcement Division's ("SED") proposed changes to General Order ("GO") 112-E, which sets forth the State of California rules governing the design, construction, testing, operation, and maintenance of gas gathering, transmission, and distribution piping systems.

DRA has the statutory obligation to represent and advocate on behalf of the interests of ratepayers under the Commission's jurisdiction with the goal of obtaining the lowest possible rate for service consistent with reliable and safe service levels.[1] To this end, DRA has consistently supported and advocated for policies, rules and programs promoting safety by treating the goal of safety as integral to any cost-effectiveness and rate case analysis. When the Commission opened this rulemaking, R.11-02-019, in February 2011, DRA expressed support for the Commission's goals of making gas pipeline safety the top priority.[2] DRA has consistently taken advantage of every opportunity to provide its views and comments on gas pipeline safety matters.[3] In October 2011, DRA welcomed the opportunity to provide comments on Draft Resolution ALJ-274,[4] expressing its support for the directives and policy established therein – granting gas safety citation authority to SED – and proposing additional enhancements to the Draft Resolution.[5]

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[1] Cal. Pub. Utils. Code § 309.5 (a).

[2] See DRA Comments in R.11-02-019 dated April 13, 2011 where DRA expresses support for the Rulemaking and the Commission's overarching goal to "establish a new model of natural gas pipeline safety regulation applicable to all California pipelines" and to foster a "culture of safety" among the California natural gas utilities within this Commission's purview.

[3] DRA is an active participant in this gas pipeline rulemaking and the GO 112-E workshops sponsored by SED, the three San Bruno-related investigations, and the order to show cause proceedings opened in this docket on August 19, 2013.

[4] ALJ-274 established a citation program for certain gas safety violations.

[5] See DRA Comments on Draft Resolution ALJ-274, October 21, 2011. Resolution ALJ-274 authorizes CPSD Staff (now SED) to administer a gas safety citation program.

DRA's comments on the proposed SED changes to GO 112-E are primarily suggestions for clarification and are intended to strengthen the Commission's oversight and authority to ensure the safety of California's natural gas pipeline infrastructure. To this end, in addition to comments on these proposed changes, these comments also propose new rules to ensure that recordkeeping and notification requirements are clear to gas system operators. DRA also believes that SED should consider revisions to GO-112 an iterative process and that certain issues which may not lend themselves to resolution at this time, such as "one-class-out" pipeline operations pursuant to 49 CFR 192.611 (which have recently come up in the Order to Show Cause proceedings), should be considered by the Commission in further revisions to GO 112-E in the near future.

SED is in the unique role of conducting inspections of the gas pipeline facilities, records, and operations of California intrastate gas pipeline operators in order to determine compliance with state and federal gas pipeline safety regulations. These regulations are embodied in the Commission's GO 112-E, and 49 Code of Federal Regulations (49 CFR) Parts 192, 193, and 199, which are incorporated by reference into GO 112-E. DRA offers the following specific comments on the Proposed Rule Changes ("PRC") circulated by SED on August 15, 2013.

II. DISCUSSION

A. COMMENTS ON SED PROPOSED RULE CHANGES

PRC-3 (Section 105 - Definitions)

The rationale for PRC-3 is to "provide clarification on existing GO 112-E terms and define new terms related to new metrics or more stringent requirements than otherwise required by 49 CFR, Part 192."[6] In this regard, DRA proposes clarifying language and the inclusion of relevant cross references where definitions from another source are relied upon, as set forth below:

[6] See SED Staff Proposal for Changes to GO 112-E, August 15, 2013.

1. "Incident" should be "incidents" as defined in 49 CFR 192;
2. Large numbers of people should be defined as "the lesser of 10 or more persons, or a level appropriate to the location and grouping of reports";
3. "Reports" (under public attention, exclusive of media coverage already identified under 49 CFR 192), should be cross-referenced. DRA understands reports to include any form of communication by which the operator becomes aware;
4. "Operator" requires its own definition as it is unclear if references to "Operator" include either, the utility, contractors undertaking activities for the utility, or both. The definition should be clarified to read: "'Operator' means any utility, person, or entity, <u>including contractors working on behalf of the utility</u>, operating..." unless this distinction can be clearly drawn to the relevant code sections, in which case it should be cross-referenced;

As a result of the SED proposed changes in the methodology to determine what counts as High Consequence Areas ("HCAs"), there may be an expansion of HCAs, thereby likely causing an expansion in the number of projects for which the utilities will request additional revenue requirements. The cost consequence of this proposed change is presently unknown, but should be evaluated to ensure a commensurate public safety benefit. This is consistent with DRA's view that the Commission should achieve an effective balance between potential ratepayer costs and public safety concerns.[7]

Consistent with the goal of achieving clarity, SED needs to work with parties to develop a clear definition of "near-miss events." From the workshop it appears that the Code of Federal Regulations itself does not speak to this point and that a clear definition and examples should be established to minimize problems of interpretation. For instance,

[7] *See* DRA Comments in R.11-02-019, April 13, 2011, p. 6.

in considering "near miss events," how would situations of erroneous records on pipeline features be considered?

PRC-4 (Section 122 – Gas Incident Reports)

The stated rationale for PRC-4 is to require the reporting of overpressure and underpressure events on all gas pipeline systems. DRA proposes providing additional clarity to Sections 122.2(a)(3) and (4) regarding the meaning of "any other event". Absent further clarification, the phrase "any other event" serves as a vague catch-all phrase that could result in confusion or misunderstanding which we all want to avoid. For instance, would events such as those highlighted by the August 19, 2013 Orders to Show Cause in R.11-02-019[8] be covered under the definition of "any other event"? In addition, Section 122.2(a)(3) in the final documentation (but not within the General Order) should lay out the current standards for "allowable limitations" under 49 CFR § 192.201. Section 122.2(a)(4) should explicitly exclude scheduled maintenance if that is the intent. And finally, Section 122.2(d)(6) appears to be missing a word. See the text at "or any other event other excavation." DRA understands that SED is reviewing these terms to define them better and anticipates the opportunity to provide further comment once better definitions are available.

PRC-5 (Section 123 – Annual Reports and Mechanical Fitting Failure Reports)

The stated rationale for PRC-5 is to incorporate minor updates in federal regulations and implement requirements for the reporting of metrics discussed in the June 27, 2013 Metrics Workshop.[9] Section 123 requires each operator to submit annual reports and mechanical fitting failure reports required by 49 CFR, Part 191, §§191.11, 191.12, and 191.17. Reports should basically present the required information in a standard comparable format across the different operators. Hence, DRA proposes the adoption of a standardized template for these reports. Section 123 should include a formal process for SED to adopt a standardized template. The process should provide an

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[8] Two rulings directing PG&E to show cause regarding errors identified with regard to Lines 147 and 101 were issued in this docket on August 19, 2013:
http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M075/K768/75768093.PDF
http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M075/K768/75768199.PDF

[9] Proposed SED Changes to GO 112-E.

opportunity for comment by all parties on the template, and should reflect that SED, not the utilities, ultimately controls the format of the template. A standardized template would enable easier tabulation of comparative reports involving metrics across different operators. In addition, DRA proposes that for response times, Section 123.2(c) should reflect that mitigation times also starts from "the reports of leaks or damages reported to the Operator by its own employees or the public".

At the Workshop, it was clarified that public liaison activities pertain specifically to liaison with First Responders. Given the important role of First Responders and their presence in so far as public liaison activities are concerned, the reporting language in 123.2(j) should be strengthened to better explain what leads to significant discrepancies between the numbers of scheduled meetings and those that actually occurred. For instance, if the scheduled is 100 liaison meetings versus the actual of 50 liaison meetings, then it makes sense to provide a brief explanation on why there is such a wide difference. In particular, DRA proposes the following:

- (j)(1) should require explanation for differences between scheduled and reported liaison activities.

PRC-7 (Section 125 – Proposed Installation Report)

In PRC-7, SED seeks to clarify the requirements for proposed installation reports and inflation adjust the cost thresholds for reporting, that were determined many decades ago, for inflation. DRA understands that field personnel assigned to work on specific pipelines are provided information on the pipelines, such as manufacturer's information on pipe characteristics, based on the work the personnel are conducting.

Given that cost-based triggers contained in in Section 125.2 are from 2008, DRA posits that it is appropriate to update the values in 125.2 a and b to 2012 or 2013 values, and that there should be notations to provide future clarity that these values are nominal prices updated as of a given year using annual rates of inflation as published by the United States Bureau of Labor Statistics.

The term "Services" should be defined under Section 105 or defined here unless it is renamed. If the term "Services" is being used here consistent with how it is referenced in the Code of Federal Regulations, then those federal code definitions should be cross-referenced here.

Section 125.4 pertains to the filing of a report that outlines the proposed route and general specifications for the construction of a new pipeline, reconstruction, or reconditioning of an existing pipeline. The specifications covered by Section 125.4 provide solid information for decision-making and review. However, certain areas could be strengthened.

- To the extent that the project involves the construction of new pipelines, reconstruction, and reconditioning of existing pipelines, the reports should include a project identifier to trace back the project to the source of funding; and

- SED should consider that a consistent report format or template, developed through this proceeding, would greatly facilitate review by the Commission.

PRC-10 (Section 143 – Distribution and Transmission Systems)

In the rationale for PRC-10, SED states that it seeks to provide clarification, to specify requirements related to the prioritization and repair of leaks, and confirm that employees performing covered tasks are qualified using equipment similar to that used in operations. In Section 143.2, SED proposes to add leak classification and action criteria, grade definition and priority of leak repair.

For greater clarity, DRA suggests that the subsections of Section 143.2 should be renumbered to follow the convention of 143.2(a) then (b), etc. rather than 143.2(1) then (2), etc.

DRA did not find any definition or cross reference to the acronym "LEL." In Section 143.2(1)(b)(v), the acronym "LEL" should be spelled out. DRA's understanding is that LEL stands for Low Explosive Limit. This Section should cross reference the code section that is the source of the definition.

For Grade 2 leaks, Section 143.2(2)(e) indicates that Grade 2 leaks are those requiring action within six months. DRA proposes that the 6 month reference date in this section should be clarified to be within 6 months from the date of first reporting of the leak.

PRC-12 (Section 145 – Transmission Lines: Recordkeeping)

Section 145.1(a) evidently permits destruction of repair records if a pipe is no longer in use or if there is no longer similar pipe in the system. Given that pipeline

records may be missing, incomplete or inaccurate, what verifications are there that a pipe is no longer in use or that there is no other pipe of that type in the system? The continuing uncertainty about the accuracy of pipeline records is a concern that leads DRA to recommend a cautious approach. In this section, DRA proposes to have the records retained for 10 years after the last known instance of that pipe being removed or taken out of service, with a permanent record retained showing when the pipe was removed from the system or taken out of service.

In Section 145.1(b), SED proposes to include the date, location, and description of each repair made to parts of the pipeline system other than pipe retained for at least 75 years. For the sake of clarity, DRA proposes this section should also include "types of repairs" as a record to be maintained since the type of repair is not specified. Likewise, if a certain type of repair is intended to be excluded by this rule, then those exclusions should be specified here.

During the workshop, some parties suggested that Section 145.1 be identified as a "new" requirement. DRA would oppose identifying this as a "new" requirement, as suggested by some parties at the Aug 20-21 workshops. While the express language imposing a 75 year recordkeeping requirement for maintenance records is a new section in these rules, good industry practices require that records be retained for the life of a facility. For instance, pressure testing of pipelines prior to placing them in service has been industry standard practice since 1935 and gas operators should have complied with this practice and retained the records of such tests. The pipeline record-keeping matter has been thoroughly litigated and briefed in this docket, as well as in the ongoing record-keeping investigation.[10] The record in those proceedings makes clear that this pipeline record-keeping requirement is not a "new" requirement.

Finally, consistent with DRA's recommended addition to Section 125, the following subsection (d) should be added to Section 145.1:

- Copy of manufacturer's information on pipe characteristics should be made available to workers in the field.

[10] See DRA Opening Briefs in R.11-02-019, dated May 14, 2012 (re-served on May 15, 2013) and PG&E's PSEP Phase 1 and DRA Reply Briefs dated May 31, 2012 in the same proceeding.

Field personnel making pipeline repairs are in the frontline of the Commission's efforts to ensure gas pipeline safety. It is not entirely clear whether the personnel in the field for California gas utilities who are asked to make the repairs on the pipes currently have access to relevant information regarding the pipes they are assigned to work on. DRA proposes to specifically make the copy of manufacturer's information on pipe characteristics accessible and available to the field personnel.

III. DRA PROPOSED RULE CHANGES

DRA-PRC-1

DRA proposes the following additional rule changes to GO 112-E to address pressure testing requirements and notice of MAOP changes:

Rationale for DRA-PRC-1: D.11-06-017 stated that "historic exemptions [from pressure testing] must end,"[11] and ordered that all in-service natural gas transmission pipeline in California be pressure tested in accord with 49 CFR 192.619, excluding subsection 49 CFR 192.619(c). This requirement is not currently reflected in GO112-E. DRA recommends that this requirement be added as section 126.3 of GO 112-E, and provides recommended language below.

In addition, the current rules do not require utilities to notify the CPUC when the maximum allowable operating pressure (MAOP) is lowered based on updated utility pipeline information. DRA recommends adding section 126.4 to GO 112-E to require this information. See recommended language for proposed section 126.4 below:

Proposed Section 126.3: All in-service natural gas transmission pipelines in California shall be pressure tested in accordance with 49 CFR 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 per 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

[11] Page 18.

class location are not known, such that the design MAOP cannot be calculated pursuant 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.

Proposed Section 126.4: 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:

1) A pipeline found to be operating above the lowest of the four categories identified in 49 CFR 192.609 (a); or
2) A Line or Segment for which the Commission has established a maximum allowable operating pressure.
3) The report shall include:
    a) The new maximum allowable operating pressure,
    b) The reasons for the change,
    c) The applicable methodology from 49 CFR 192 used to establish the decrease in the maximum allowable operating pressure (e.g. 192.619(a)(1)),
    d) A complete record of the pipeline features list and the changes to that pipeline features list since installation,
    e) Explanation of how the change impacts TIMP, and
    f) 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.

IV. CONCLUSIONS

DRA appreciates the opportunity to provide its comments on the proposed SED changes to GO 112-E.

Respectfully submitted,

KAREN PAULL
TRACI BONE

/s/ Traci Bone
TRACI BONE

Attorneys for
The Division of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-2048
Email: traci.bone@cpuc.ca.gov

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