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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Adopt
Rules and Procedures Governing
Commission-Regulated Natural Gas
Pipelines and Facilities to Reduce
Natural Gas Leakage Consistent with
Senate Bill 1371.

Rulemaking 15-01-008

AMENDED SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

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AMENDED SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

Pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules),¹ this Amended Scoping Memo and Ruling sets forth the scope and procedural schedule for the second phase of this proceeding, and addresses other procedural matters following the Prehearing Conference (PHC) held on August 24, 2017.

1. Background

On January 15, 2015, the Commission opened Rulemaking (R.) 15-01-008 to implement the provisions of Senate Bill (SB) 1371 (Statutes 2014, Chapter 525). SB 1371 requires the adoption of rules and procedures to minimize natural gas leakage from Commission-regulated natural gas pipeline facilities consistent with Public Utilities (Pub. Util.) Code § 961(d), § 192.703(c) of Subpart M of Title 49 of the Code of Federal Regulation, the Commission's General Order (GO) 112-F, and the state's statutory greenhouse gas (GHG) emissions reduction targets under AB 32, SB 32, and SB 1383. SB 1371 also requires the gas corporations to file an annual report about their natural gas leaks, and their leak management practices. (Consistent with SB 1371 and preliminary scoping memo requirements, respondents named in this proceeding filed an annual report on May 15, 2015, June 17, 2016, and June 16, 2017.)² SB 1371 directs the Commission,

¹ All references to rules are to the Commission's Rules of Practice and Procedure, which are available on the Commission's website at http://docs.cpuc.ca.gov/WORD_PDF/RULES_PRAC_PROC/136861.pdf.

² Order Instituting Rulemaking (OIR) at 7-9.

in consultation with the California Air Resources Board (CARB), to achieve the goals of the statute.

SB 1371, which became effective on January 1, 2015, added Article 3 to the Public Utilities Code.³ Article 3, which is entitled Methane Leakage Abatement, consists of §§ 975, 977, and 978.

In Section 1(e) of SB 1371, the Legislature declares in part that “[r]educing methane emissions by promptly and effectively repairing or replacing the pipes and associated infrastructure that is responsible for these leaks advances both policy goals of natural gas pipeline safety and integrity and reducing emissions of greenhouse gases.”

2. Overview of Phase One Decision

On June 15, 2017, the Commission unanimously approved Decision (D.) 17-06-015 (Decision) establishing the Natural Gas Leak Abatement Program, which includes:

- Annual reporting for tracking methane emissions with emphasis on transparency of data to the public;
- Twenty-six best practices for minimizing methane emissions pertaining to gas meters, pipelines, storage facilities, compressors and other infrastructure; compliance categories also included leak detection, leak repair, and leak prevention, and also policies and procedures, recordkeeping, training, and experienced trained personnel.
- Biennial compliance plans that must be incorporated into gas-utility safety plans required by the Commission’s General Order 112-F;

³ Unless stated otherwise, all code section references are to the Public Utilities Code.

- “Soft” methane reduction targets to support California’s statutory methane emissions reduction target of 40% below 2013 levels by 2030. (SB 1383, Lara, Chapter 395, Statutes of 2016); and
- Cost recovery process to facilitate Commission review and approval of incremental expenditures to implement best practices, Pilot Programs, and Research & Development.

This proceeding remains open for a second phase to address a limited set of implementation issues for the Natural Gas Leak Abatement Program which is the subject of this Amended Scoping Ruling.

3. Joint Prehearing Conference Statement

On July 21, 2017, the Assigned Administrative Law Judge (ALJ) issued a Ruling setting a Phase Two PHC for August 24, 2017, and directing the respondents to this rulemaking to meet and confer, and to file and serve a Joint Prehearing Conference Statement on or before August 18, 2017. On August 18, 2017, the following parties filed a joint PHC statement (the Joint Statement): Southwest Gas Corporation (Southwest Gas), Southern California Gas Company (SoCalGas), San Diego Gas & Electric Company (SDG&E), Pacific Gas and Electric Company (PG&E), Central Valley Storage, L.L.C., Gill Ranch Storage LLC, Lodi Gas Storage L.L.C., Wild Goose Storage, Environmental Defense Fund (EDF), and the Coalition of California Utility Employees (CUE) (collectively, Parties). In their Joint Statement, Parties emphasized that a number of topics were “out of scope” for Phase Two including ongoing work of the technical working group, management and revision of the annual reporting template and related technical definitions, development of a Compliance Plan Framework consistent with the directives of D.17-06-015, and establishment of reporting requirements for the gas corporations’ 2020 Compliance Plans.

In the Joint Statement, Parties stated that the following issues should be addressed in Phase 2: 1) cost recovery; 2) regulatory alignment of 26 Best Practices with other state and federal existing and emerging regulations (e.g., DOGGR (Division of Oil, Gas and Geothermal Resources), CARB, U.S. EPA (U.S. Environmental Protection Agency)); and 3) incentives and use of performance metrics as they would apply to system-wide or specific sources where emissions are known with greater certainty (EDF, CUE, and PG&E). At the PHC, the Office of Ratepayer Advocates (ORA) stated that they supported Item 3.

Other issues that various parties raised include: 1) defining a process for consideration of cost effectiveness of best practices and future rules; 2) addressing some other unresolved issues pertaining to the goals and objectives of SB 1371 (e.g., best practice-related metrics to be reported in annual reports, consideration of how a soft target could become a hard target for 2030 after the 2020 compliance plans are developed); 3) developing a process and methodology for evaluating utilities' compliance with their approved plans; and 4) re-evaluating the ratemaking treatment of lost and unaccounted for gas (LUAF).

4. Phase Two Scope

After considering the Joint Statement, the PHC, and consultation with CARB, we have determined that the second phase of this proceeding shall consider the following broad policy issues:

- 1) What data is necessary in order for the Commission to consider a "cost-effectiveness" framework in this proceeding?
- 2) How should the Commission's Annual Report Requirements and 26 Best Practices be harmonized with

- information or action required by other entities such as PHMSA (Pipeline and Hazardous Materials Safety Administration), DOGGR, CARB, and local air quality management districts?
- 3) Pursuant to 975 (f), how should rules and procedures, including best practices and repair standards developed in this proceeding, be incorporated into the applicable general orders (e.g., GO 112-F)?
 - 4) How should ratemaking treatment for LUAF be structured and evaluated?

Following is a brief discussion of these four questions.

First, during Phase One of this proceeding, parties had several opportunities to address various policy frameworks to address cost effectiveness.⁴ However, in D.17-06-015 the Commission determined that there is not enough quantifiable information to evaluate the cost-effectiveness of the required Best Practices at this time. Therefore, cost-effectiveness was not evaluated in the selection of Best Practices adopted in the Decision. Even in the absence of a specific framework, utilities have the discretion to focus on the most cost-effective means to reduce emissions (while meeting their requirements under all the Best Practices.) The Commission may benefit from further data and evaluation before it can determine how to implement a formal cost-effectiveness framework in this proceeding.

Second, “harmonization” of the 26 Best Practices with other state and federal agencies (e.g., DOGGR, CARB, U.S. EPA) is an ongoing issue and it is appropriate to address it in Phase Two. According to D.17-06-015, if a Best Practice ends up as part of CARB, DOGGR, or local district rule, then those

⁴ See D.17-06-015 at 10.

entities will have independent authority to inspect and enforce progress with that requirement.

Third, D.17-06-015 updated General Order (GO) 112-F, Section 123-K Gas Safety Plan to reflect that each Utility Operator would submit a Gas Safety Plan consistent with SB 1371 and consistent with D.12-04-010 and D.17-06-015. However, it is possible that further refinements could be made to GO 112-F to reflect changing annual report requirements (Section 123, Annual Reports); leak survey cycles (Section 143.1 Distribution and Transmission Leakage Surveys and Procedures); and Leak Classification and Action Criteria Grade Definition of Priority of Leak Repair. Alternatively, after an initial grace period between 2018 and 2020, all climate change requirements that are not safety driven procedures, could be incorporated into a separate GO for the sake of clarity.

Fourth, several Parties raised the issue of re-evaluating ratemaking treatment for LUAF. This should also be included in the scope of Phase Two.

We also agree with parties that associated implementation activities related to the Annual Report Template and ongoing revisions, Biennial Compliance Plan, and Technical Working Group activities (mentioned above), while they are important, can proceed informally without being included in the Phase Two scope. D.17-06-015 delegated the resolution of these specific implementation issues to the Commission's Safety and Enforcement Division (SED) and/or Energy Division (ED).⁵ Based on the delegation of authority contained in the Decision, "Cost Recovery" activities should also be added to this list of issues that will be resolved through ongoing, informal activities.⁶

⁵ See D.17-06-015 OPs 2 and 6.

⁶ See D.17-06-015 OPs 11, 12, and 13.

(See Appendix A that highlights SED/ED key milestones to be achieved during the first compliance period of this program. These activities will occur in tandem with complementary activities highlighted in the Phase Two “Proceeding Schedule.”)

Like Phase One, it is anticipated that Phase Two will be primarily resolved through comments and replies, workshops, and ongoing work of the Technical Working Group.

Because the Natural Gas Leak Abatement Program is still in a nascent stage, several long-term issues should only be addressed after the Commission completes the first two-year cycle during the first Quarter of 2020. For this reason, we defer addressing the following questions until after the Commission completes a full evaluation of the program in 2020:

1. Should hard targets be set for 2030 based on information in the 2020 reports, additional emission factor revisions, and other data?
2. Should the Commission establish performance incentives or disincentives in the context of the proceeding goals?

A Phase Two decision in this proceeding shall determine whether the proceeding should remain open to address any additional issues.

5. Workshop Topics

According to the OIR, pursuant to § 975(g) and consistent with § 961(e), the Commission is to facilitate the “robust ongoing participation of the workforce of gas corporations and those state and federal entities that have regulatory roles of relevance in all aspects of the proceeding to ensure that the rules and procedures it adopts are not inconsistent with the regulations and procedures adopted by those agencies.”⁷

⁷ OIR at 11.

As directed by D.17-06-015, SED, in consultation with CARB, will continue to hold workshops and technical working group meetings as necessary to discuss issues associated with Annual Reports for both large and small utilities, Biennial Compliance Plans (including Pilot and R & D activities), Emission Factors, and Technical Working Group activities (including direction on how to use new technology and scientific information toward emissions reductions, and best practices). In addition, ED, in cooperation with SED, shall conduct necessary follow up workshops to resolve outstanding cost recovery and cost allocation issues, and provide guidance regarding the interaction of compliance filings and the utilities' future GRCs.

6. Air Resources Board Jurisdiction and Role⁸

We will continue our interagency coordination and collaboration with CARB, as required by Pub. Util. Code § 975(d). This coordination includes developing and coordinating reporting and data-sharing duties for regulated entities as feasible. (*See id.* § 975(e)(5)-(6).) CARB staff and the Commission will continue to conduct these consultations under a non-disclosure agreement, but the results of the consultation, including (as appropriate) separate statements of CARB's views, will be presented in the staff reports shared for comment and further discussion with parties to this proceeding. The parties should also note that the statute preserves CARB's authority to develop its own regulations for GHG's, including for the natural gas sector which is the subject of this rulemaking. (*See id.* § 975(h).)

⁸ *See* June 8, 2015 PHC Transcript at 5-8 and Appendix.

As stated in the Phase One Scoping Memo, CARB will continue to take a leading role in quantifying and evaluating emissions, analyzing trends, and developing quantification protocols. CARB will provide its feedback and recommendations to the Commission which will be presented in the public process for consideration by the Commission. As part of this role, CARB will utilize its expertise in analyzing and regulating GHG emissions to:

- Compare the data collected under SB 1371 with the Mandatory Reporting Regulation;
- Analyze incoming data to determine potential mitigation priorities based on emissions. For example, older pipelines of any material may have more leaks or pipelines of a certain material may have more leaks;
- Identify any remaining data gaps;
- Establish procedures for the development and use of metrics to quantify emissions; and
- Review and evaluate the operation, maintenance, repair, and replacement of natural gas pipeline facilities to determine if existing practices are cost effective in reducing methane leaks and where alternative practices may be required.

7. Categorization

This scoping memo confirms the Commission's preliminary categorization in R.15-01-008 that the category of this proceeding is quasi-legislative and that hearings are not necessary. Most of the issues to be addressed pertain to broad policy. However, we may re-evaluate the need for hearings after parties have submitted comments about the policy frameworks the Commission should adopt throughout the course of the proceeding.

8. Proceeding Schedule

The schedule below is adopted for this proceeding and may be modified by the Commissioner and/or ALJ as required to promote the efficient and fair resolution of identified issues. If it is later determined that evidentiary hearings, testimony, and briefs, are needed to establish a record, then the schedule may be extended for several months. Due the complexity and unique nature of this proceeding, including long lead time for utilities to submit Compliance Plans and for SED to evaluate the Compliance Plans, the second phase of this proceeding will require more than 18 months to conclude. Therefore, this proceeding shall conclude within 24 months of the date of this Scoping Memo.

Procedural Schedule (if no evidentiary hearings held)

Event	Date
Workshop on Compliance Plans and Cost Recovery	August 1, 2017
Joint PHC Statement	August 18, 2017
Prehearing Conference	August 24, 2017
Amended Scoping Memo	September 20, 2017
Technical Working Group submits recommendations on the content and format of the Compliance Plan	September 30, 2017*
ALJ Ruling seeking parties' comments on SED/CARB Joint Staff Report in response to Respondents' June 15, 2017 reports	November 15, 2017*
Comments and Replies to SED/CARB Joint Staff Report	November/December 2017
Workshop/s on: <ol style="list-style-type: none"> 1. Cost-Effectiveness; 2. Harmonization of 26 Best Practices with federal, state, and local regulations; 3. Potential Update to GO 112-F; and 4. How to evaluate LUAF 	After SED/CARB June 2018 Evaluation of Respondents' 2018 Compliance Plans
Initial and Reply Comments on Workshop Topics	September 2018

ALJ Ruling seeking parties' comments regarding any proposed changes to the Compliance Plan Template, Annual Report Framework and Accompanying Spreadsheet Template, and Pilot Projects and R & D Requirements.	Thirty days after SED/CARB Evaluation of Compliance Plans on or before annual data request issued before March 31, 2019*
Proposed Decision on Phase Two	Third Quarter 2019

**As required by D.17-06-015. (See Attachment A for a list of complementary industry division activities during this time frame.)*

9. Intervenor Compensation

The PHC in this matter was held on August 24, 2017. Pursuant to Pub. Util. Code § 1804 (a)(1), a party who intends to seek an award of compensation must have filed and served a notice of intent to claim compensation by September 25, 2017. Under the Commission’s Rules, future opportunities may arise for such filings but such opportunity is not guaranteed.

In this proceeding, parties intending to seek an award of intervenor compensation must maintain daily record keeping for all hours charged and a sufficient description for each time entry. Sufficient means more detail not just “review correspondence” or “research” or “attend meeting.” In addition, intervenors must classify time by issue. When submitting requests for compensation, the hourly data should be presented in an Excel spreadsheet.

As reflected in the provisions set forth in Pub. Util. Code § 1802.5, all parties seeking an award of intervenor compensation must coordinate their analysis and presentation with other parties to avoid duplication.

10. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or who has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission’s Public

Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

11. Ex Parte Communications

In a quasi-legislative proceeding, *ex parte* communications with the assigned Commissioner, other Commissioners, and their advisors are allowed without restriction or reporting requirements as described at Public Utilities Code Sections 17-1.1 and 1701.4.

12. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner. Colette E. Kersten is the assigned Administrative Law Judge.

IT IS RULED that:

1. The scope and schedule are set forth in the body of this ruling unless amended by a subsequent ruling of the assigned Commissioner or assigned Administrative Law Judge.
2. The second phase of this proceeding may be resolved through comments and workshops without the need for evidentiary hearings.
3. The category of this rulemaking is quasi-legislative as defined in the Commission's Rules of Practice and Procedure Rule 1.3(d). The ruling is appealable within 10 days under Rule 7.6.
4. Pursuant to Article 8 of the Commission's Rules of Practice and Procedure, *ex parte* communications in this proceeding are permitted without restriction or reporting requirements.
5. Any person expecting to file an intervenor compensation claim for participation in this proceeding shall file a notice of intent to claim intervenor compensation consistent with the Commission's Rules of Practice and Procedure Rule 17.1.

6. Parties shall adhere to the instructions provided in Appendix B of this ruling for submitting testimony and/or work papers, if required. Parties must also submit provide hard copies of testimony or work papers to the assigned ALJ. Parties are instructed to label their testimony using a three- or four-letter structure followed by the exhibit number (e.g., SCE-1, TURN-1).

This order is effective today.

Dated September 20, 2017, at San Francisco, California.

/s/ CLIFFORD RECHTSCHAFFEN

Clifford Rechtschaffen
Assigned Commissioner

APPENDIX A

Natural Gas Leak Abatement Program

Key Industry Division Implementation Milestones (2018-2020)

As directed by D.17-06-015

Annual Report Template

- Safety and Enforcement Division (SED) submits an annual data request to respondents by March 31, 2018 that covers the previous calendar year.
- Respondents submit a response to data request by June 15, 2018.
- SED and California Air Resources Board (CARB) Staff (Joint Staff) post a draft annual Joint Staff Report by November 15, 2018.
- Based on parties' comments, Joint Staff post a final draft report by December 31, 2018 or as soon as practicable.

Biennial Compliance Plan

- Respondents submit Biennial Compliance Plans as part of its required annual Safety Plans commencing March 15, 2018.
- SED convenes a public workshop to discuss Biennial Compliance Plans in April 2018.
- Staff complete a formal evaluation of Compliance Plans and provide a written response and direction for improvements in June 2018.

Resolution of Cost Recovery, Cost Limits, and Cost Allocation Issues

- Utilities submitted Tier 1 Advice Letters establishing memorandum account for incremental administrative costs associated with the Natural Gas Leak Abatement Program and one-way balancing account for the costs of Pilot Projects and Research and Development activities by July 15, 2017.

- Utilities file Tier 3 Advice Letters to establish the 2018 and 2019 ratemaking forecasts and caps for the Natural Gas Leak Abatement Program on or prior to October 31, 2017.
- Via Draft Resolution, the Director of Energy Division recommends a process for reviewing cost forecasts, including the development of cost limits, and the methods for cost recovery, in response to the Tier 3 Advice Letters.¹

Natural Gas Leak Abatement Program Evaluation

- SED, in consultation with CARB, conduct a comprehensive evaluation of the program no later than 2020 and submit a report with recommendations to the Commission.

(END OF APPENDIX A)

¹ Respondents shall not begin to recover Natural Gas Leak Abatement Program costs in rates until the Commission has adopted cost forecasts and cost limits in response to the Tier 3 Advice Letters and approved Compliance Plans.

APPENDIX B

Electronic Submission and Format of Supporting Documents

The Commission's web site now allows electronic submittal of supporting documents (such as testimony and work papers). Parties should not mail hard copies of filings to any Commissioner Offices.

Parties shall submit their testimony or work papers in this proceeding through the Commission's electronic filing system.¹ Parties must adhere to the following:

- The Instructions for Using the "Supporting Documents" Feature, (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546>) and
- The Naming Convention for Electronic Submission of Supporting Documents (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=100902765>).
- The Supporting Document feature does not change or replace the Commission's Rules of Practice and Procedure. Parties must continue to adhere to all rules and guidelines in the Commission's Rules of Practice and Procedures including but not limited to rules for participating in a formal proceeding, filing and serving formal documents and rules for written and oral communications with Commissioners and advisors

¹ These instructions are for submitting supporting documents such as testimony and work papers in formal proceedings through the Commission's electronic filing system. Parties must follow all other rules regarding serving testimony.

Any document that needs to be formally filed such as motions, briefs, comments, etc., should be submitted using Tabs 1 through 4 in the electronic filing screen.

(i.e. “*ex parte* communications”) or other matters related to a proceeding.

- The Supporting Document feature is intended to be solely for the purpose of parties submitting electronic public copies of testimony, work papers and workshop reports (unless instructed otherwise by the Administrative Law Judge), and does not replace the requirement to serve documents to other parties in a proceeding.
- Unauthorized or improper use of the Supporting Document feature will result in the removal of the submitted document by the CPUC.
- Supporting Documents should not be construed as the formal files of the proceeding. The documents submitted through the Supporting Document feature are for information only and are not part of the formal file (i.e. “record”) unless accepted into the record by the Administrative Law Judge.

All documents submitted through the “Supporting Documents” Feature shall be in PDF/A format. The reasons for requiring PDF/A format are:

- Security – PDF/A prohibits the use of programming or links to external executable files. Therefore, it does not allow malicious codes in the document.
- Retention – The Commission is required by Resolution L-204, dated September 20, 1978, to retain documents in formal proceedings for 30 years. PDF/A is an independent standard and the Commission staff anticipates that programs will remain available in 30 years to read PDF/A.
- Accessibility – PDF/A requires text behind the PDF graphics so the files can be read by devices designed for those with limited sight. PDF/A is also searchable.

Until further notice, the “Supporting Documents” do not appear on the “Docket Card”. In order to find the supporting documents that are submitted electronically, go to:

- Online documents, choose: “E-filed Documents ”,
- Select “Supporting Document” as the document type, (do not choose testimony)
- Type in the proceeding number and hit search.

Please refer all technical questions regarding submitting supporting documents to:

- Kale Williams (kale.williams@cpuc.ca.gov) 415 703- 3251 and
- Ryan Cayabyab (ryan.cayabyab@cpuc.ca.gov) 415 703-5999

(END OF APPENDIX B)