Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Amend Rule 2.1 of the Rules of Practice and Procedure to Require Detailed Showing of Relevant Safety Considerations in Applications.	Rulemaking 15-07-024 (Filed July 23, 2015)

DECISION APPROVING AMENDMENT TO RULE 2.1

Summary

This decision approves an amendment to Rule 2.1 of the Commission's Rules of Practice and Procedure (Title 20, Division 1, of the California Code of Regulations) to require all applications to identify all relevant safety considerations implicated by the application.

1. Procedural Background and Discussion

Since 2010, the Commission has undertaken a number of steps to strengthen our regulatory decision-making process to advance our ongoing safety role. In the July 2014 Safety Policy Statement, the Commissioners committed to certifying through his/her signature that safety will be properly scoped in the assigned Commissioners' scoping memos and will be fully considered in Commission decisions as appropriate. This amendment will facilitate that effort.

Notice of these amendments, and comment on them, are governed by Government Code §§ 11346.4 and 11351, and California Code of Regulations, Title 1, §§ 1-120. Notice of these amendments as originally proposed was

published in the California Regulatory Notice Register on August 14, 2015. In addition, on August 3 and August 19, 2015, notice was served on the Commission's service list of persons requesting notice of proposed rules changes.

Comments on the originally proposed amendments were received from San Diego Gas & Electric Company, Southwest Gas Corporation, and Southern California Gas Company (filing jointly as the Joint Utilities), Southern California Edison Company (SCE), Coalition of California Utility Employees, Mussey Grade Road Alliance, and the California Water Association (CWA).[1] All commenters supported the Commission's goal of addressing relevant safety considerations in applications. However, Joint Utilities and SCE expressed concern that the originally proposed amendment was overbroad because there are many types of proceedings in which there are no relevant safety considerations, and suggested that a detailed showing of relevant safety considerations should only be required in any application in which safety issues or concerns are identified.

In response, the assigned Commissioner issued a ruling on October 27, 2015, recognizing the Joint Utilities' and SCE's concerns and proposing modifications to the originally proposed amendment to address the concerns. The October 27 ruling solicited parties' comments on the proposed modifications.

The assigned Commissioner's ruling was filed and served on the official service list for the proceeding and on the Commission's service list of persons requesting notice of proposed rules changes. No further comments were received.

[1] CWA provided its comments informally by email service on the assigned Administrative Law Judge. All other comments are formally filed.

As the assigned Commissioner ruling notes, the scope of issues, including relevant safety considerations, is ultimately determined by the assigned commissioner's scoping memo, which issues after the filing of the application (and any protests or responses thereto) and (normally) a prehearing conference. (*See* Rule 7.3(a).) Furthermore, although applications (and any protests or responses thereto) are required to include the proposed issues to be considered (*see* Rules 2.1(c) and 2.6(d)), such pleadings are generally not the platform for a party to offer its substantive showing; that generally occurs in the course of developing the evidentiary record and in legal briefs. While it is appropriate to require applications to identify safety considerations, it is not reasonable to require an applicant to make its substantive showing on safety considerations in the application itself.

Accordingly, we approve the following amendments to Rule 2.1 (insertions and deletions as originally proposed are shown in single underline and ~~single strikethrough~~, and insertions and deletions modifying the originally proposed amendment are shown in double underline and ~~double strikethough~~):

2.1. (Rule 2.1) Contents.

All applications shall state clearly and concisely the authorization or relief sought; shall cite by appropriate reference the statutory provision or other authority under which Commission authorization or relief is sought; shall be verified by at least one applicant (*see* Rule 1.11); and, in addition to specific requirements for particular types of applications, shall state the following:

a. The exact legal name of each applicant and the location of principal place of business, and if an applicant is a corporation, trust, association, or other organized group, the State under the laws of which such applicant was created or organized.

b. The name, title, address, telephone number, facsimile transmission number, and, if the applicant consents to e-mail service, the e-mail address, of the person to whom correspondence or communications in regard to the application are to be addressed. Notices, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon applicant.

c. The proposed category for the proceeding, the need for hearing, the issues to be considered including relevant safety considerations, and a proposed schedule. (*See* Article 7.) The proposed schedule shall be consistent with the proposed category, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding).

d. ~~A detailed showing of relevant safety considerations~~.

~~e~~. Such additional information as may be required by the Commission in a particular proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

Pursuant to Pub. Util. Code § 311(h), these amendments shall be submitted to the Office of Administrative Law for review and publication in the California Code of Regulations, and for transmittal to the Secretary of State. We authorize and direct the Chief ALJ to take all appropriate steps to submit and obtain approval of the approved amended rule to the Office of Administrative Law pursuant to Pub. Util. Code § 311(h) for purposes of approval and printing it in the California Code of Regulations, including authority to make non-substantive changes as may be required for such approval.

2. Assignment of Proceeding

President Michael Picker is the assigned Commissioner and Hallie Yacknin is the assigned Administrative Law Judge in this proceeding.

3. Category and Need for Hearing

The category of this proceeding is quasi-legislative. There is no need for evidentiary hearing.

4. Waiver of Comment Period

This is a matter subject to the Administrative Procedure Act. Accordingly, as provided by Rule 14.6(c)(8) of the Commission's Rules of Practice and Procedure, we waive the otherwise applicable 30-day public review and comment period for this decision.

Finding of Fact

Amending Rule 2.1 to require all applications to identify all relevant safety considerations implicated by the application will facilitate the Commissioners' effort to properly scope safety considerations in assigned Commissioners' scoping memos and thereby fully considered in Commission decisions as appropriate.

Conclusions of Law

1. Rule 2.1(c) should be amended to read:

   The proposed category for the proceeding, the need for hearing, <u>the issues to be considered including relevant safety considerations,</u> and a proposed schedule. (See Article 7.) The proposed schedule shall be consistent with the proposed category, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding).

2. The Chief Administrative Law Judge should be directed to take all appropriate steps to submit the approved amendment to Rule 2.1 to the Office of Administrative Law pursuant to Pub. Util. Code § 311(h) for purposes of approval and printing them in the California Code of Regulations, thereby giving them effect, including making non-substantive changes as may be required for such approval.
3. The proceeding should be categorized as quasi-legislative.
4. Evidentiary hearings are not needed.
5. The proceeding should be closed.
6. This order should be effective immediately.

THEREFORE, IT IS ORDERED that:

1. The Chief Administrative Law Judge shall take all appropriate steps to submit the following proposed amendment to Rule 2.1(c) to the Office of Administrative Law pursuant to Pub. Util. Code § 311(h) for purposes of approval and printing them in the California Code of Regulations, including making non-substantive changes as may be required for such approval, thereby giving them effect:

> The proposed category for the proceeding, the need for hearing, <u>the issues to be considered including relevant safety considerations,</u> and a proposed schedule. (*See* Article 7.) The proposed schedule shall be consistent with the proposed category, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting).

2. This proceeding is categorized as quasi-legislative.
3. Evidentiary hearings are not needed.

4. The proceeding is closed.

This order is effective today.

Dated _____, 2016, at San Francisco, California