Date of Issuance 4/20/2012

Decision 12-04-047 April 19, 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 RESOLVING ORDER TO SHOW CAUSE

1. Summary

This decision orders Pacific Gas and Electric Company to pay $3 million to the General Fund of the State of California, and closes this adjudicatory phase of the proceeding.

2. Background

On March 24, 2011, in Decision (D.) 11-03-047, the Commission issued its Order to Show Cause Why Pacific Gas and Electric Company Should Not Be Found in Contempt, and Why Penalties Should Not Be Imposed, For Failure to Comply with Commission Order. The Commission found that Pacific Gas and Electric Company (PG&E) appeared to have failed to comply with Commission Resolution L-410 and Rulemaking (R.) 11-02-019. The Resolution and Rulemaking decision required PG&E to review "traceable, verifiable, and complete" as-built drawings and pipeline system components and, based on the reliable pipeline specifications, calculate the Maximum Allowable Operating Pressure (MAOP). The Order to Show Cause set a hearing for PG&E to present

evidence. At the hearing on March 28, 2011, PG&E and the Commission's Consumer Protection and Safety Division (CPSD) announced that they had reached a stipulation that provided for a detailed compliance plan for PG&E as well as an immediate fine of $3 million, with an additional $3 million payment for any failure to conform to the compliance plan. On March 30, 2011, PG&E and CPSD filed separate motions for Commission approval of the stipulation.

The Commission categorized the Order to Show Cause as adjudicatory and, consistent with Rules 1.3(a) and 8.2(b), *ex parte* communications regarding the Order to Show Cause were prohibited.

On January 19, 2012, the assigned Commissioner issued a ruling finding that the Commission and the public would benefit from a status report on PG&E's compliance with Resolution L-410 and R.11-02-019 and, based on this status, recommendations from PG&E and CPSD as to next steps in furtherance of the public interest. On February 3, 2012, PG&E and CPSD filed their joint status report and stated that PG&E stated that it has completed the MAOP validation on the schedule and as set forth in the Compliance Plan attached to the March 24, 2011 Stipulation between CPSD and PG&E. CPSD also stated that it had quality checked some of PG&E's work but planned to do additional such checks.

PG&E and CPSD agreed that PG&E should pay the $3 million penalty provided for in the Stipulation. PG&E further agreed not to seek recovery of any portion of the penalty in rates, and that this penalty will have no effect on any other penalties the Commission may impose in this proceeding or other proceeding for matters. other than PG&E's compliance with the Commission's directives concerning the National Transportation Safety Board urgent safety recommendations.

The Assigned Commissioner's Ruling set February 17, 2012 as the date for the parties to file comments, but no comments were filed.

3. 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.

Since initiating this proceeding, our primary efforts have been focused on ensuring that California's natural gas transmission system operators are properly calculating the 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 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

---

[1] The Commission's General Order 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

Footnote continued on next page

traceable, verifiable, and complete records readily available, and (3) where warranted, be capable of accommodating in-line inspection devices. The gas system operators have filed their Implementation Plans which propose multi-year programs with proposed costs of hundreds of millions of dollars. The evidentiary record is being prepared for Commission consideration of these Plans. 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.

Apart from the comprehensive Implementation Plan, PG&E also brought forward specific requests necessary to prepare for the winter heating season. PG&E requested Commission authorization to lift operating pressure restrictions that had been imposed on certain lines following the San Bruno rupture. To consider such requests, the Commission adopted a public process for PG&E to make its demonstration that the line could be safely operated at a higher pressure. The Commission required that PG&E provide documentation showing that it had gone beyond a rote pressure test of the line in question, and include a responsible engineer's review of the pipeline construction and assessment of the results in a Safety Certification. Specifically, the PG&E officer responsible for gas system engineering was required to provide a verified statement showing the following information:

---

referred to as "grandfathered" pipeline, because pursuant to 47 CFR 192. 619(c), pressure testing was not mandated.

a. that PG&E has validated the pipeline engineering and construction;
b. that PG&E has reviewed pressure tests results and can confirm that a strength test was preformed on the segment in accord with federal regulations; and
c. in the professional judgment of the engineering officer, the system it safe to operate at the proposed pressure levels.[2]

As the subsequent history summarized above shows, during the year since issuing the Order to Show Cause, this Commission has been resolutely focused on improving PG&E's operating performance of its natural gas transmission system. We have taken significant actions already, and anticipate further long-term measures to improve safety. We are also well underway with three separate investigations of PG&E's operations of its natural gas transmission system.[3]

As set forth above, we have ordered pressure testing or replacement of all natural gas transmission pipelines that have not been tested in California and have instituted a public process for PG&E to publicly take responsibility for safe natural gas transmission system operations. We are pursuing penalties and ratemaking consequences in several proceedings.

In light of the subsequent and on-going regulatory and enforcement proceedings, we find that the public interest would be best served by concluding

---

[2] D.11-09-006 at 18.

[3] Where the Commission finds good cause to believe that a public utility has violated a Commission order or California law, the Commission may open an investigation to consider imposing fines or other penalties for any such violations. The Commission has opened investigations into PG&E's operations regarding the San Bruno rupture, Investigation (I.) 12-01-007, PG&E's recordkeeping, I.11-02-106, and the High Consequence Areas, I.11-11-009.

this portion of this proceeding and allowing PG&E, the parties, and the Commission to focus on the other efforts. This outcome is also reasonable in light of the record in this proceeding and consistent with the law, as required by Rule 12.1(d) of the Commission's Rules of Practice and Procedure.

Therefore, we find that PG&E should be fined $3 million for its actions prior to March 24, 2011, regarding compliance with Commission Resolution L-410, that all allegations put forth in the Commission's Order to Show Cause issued on March 24, 2011, should be considered resolved, and that CPSD should continue quality checks of PG&E's work.

4. Reduction of Comment Period

Because this is now an uncontested matter granting the relief requested, the proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and the parties were allowed to file and serve comments and reply comments on a shortened schedule as provided in Rule 14.6(c)(2).

The Utility Reform Network (TURN) filed comments supporting the result in the proposed decision but requesting that the decision be clarified to close the Order to Show Cause but not adopt the 2011 stipulation. In reply comments, the Division of Ratepayers Advocates agreed with TURN. The proposed decision has been clarified as requested. TURN and DRA also raised issues that are being addressed in the on-going hearings for PG&E's implementation plan, and are not resolved here.

5. Assignment of Proceeding

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

Findings of Fact

1. On March 24, 2011, the Commission issued its Order to Show Cause regarding potential penalties against PG&E for its response to Commission Resolution L-410 and R.11-02-019.

2. Also on March 24, 2011, PG&E and CPSD filed and served their stipulation regarding the Order to Show Cause which included a compliance plan for PG&E to complete its MAOP validation efforts with a timetable and project milestones, as well as PG&E's agreement to pay a fine of $3 million to the General Fund of the State of California.

3. On February 2, 2012, PG&E and CPSD filed and served a joint status report in which PG&E stated that it had met the timeline and project milestones set forth in the compliance plan, and CPSD has quality checked some PG&E's work and plans more such checks.

4. No party currently opposes the resolution of this matter proposed in the February 2, 2012, status report.

Conclusions of Law

1. It is reasonable in light of the record, consistent with law, and in the public interest to adopt the resolution of the Order to Show Cause issues as set forth in the February 2012, status report.

2. PG&E should pay a fine of $3 million to the General Fund of the State of California.

3. The Order to Show Cause Portion of this proceeding should be completed.

4. Today's decision resolves an uncontested matter by granting the relief requested and, pursuant to Rule 14.6(c)(2), the Commission may reduce the comment period on the proposed decision.

O R D E R

THEREFORE, IT IS ORDERED that:

1. The resolution of the Order to Show Cause proposed in the February 2, 2012, joint status report is adopted and the parties shall comply with its terms.

2. Pacific Gas and Electric Company must pay a fine of $3 million by check or money order payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Ave., Room 3000, San Francisco, CA 94102, within 10 days of the effective date of this order. Write on the face of the check or money order "For deposit to the General Fund per Decision 12-04-047."

3. The Order to Show Cause portion of this proceeding is closed.

4. The Rulemaking portion of this proceeding shall remain open.

This order is effective today.

Dated April 19, 2012, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners