



FILED

11-02-11
12:26 PM

MF1/avs/jt2 11/2/2011

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)

**AMENDED SCOPING MEMO AND RULING
OF THE ASSIGNED COMMISSIONER**

Pursuant to Rule 7.3(a) of the Commission's Rules of Practice and Procedure, this ruling amends the procedural schedule adopted in the initial scoping memo issued on June 16, 2011, grants motions for party status, and denies a motion to establish a fund for expert witnesses.

1. Revised Schedule

On September 20, 2011, the Division of Ratepayer Advocates (DRA) moved for reconsideration and modification of the procedural schedule adopted in the initial scoping memo. DRA recommended that the schedule for intervenor testimony be extended 120 days to February 15, 2012, to allow DRA and other parties sufficient time to fully analyze the technical and ratemaking proposals contained in the gas system operators' Implementation Plans.

Pacific Gas and Electric Company (PG&E) opposed DRA's request and contended that prompt Commission action is required on its safety proposals as well as the associated ratemaking.

The Utility Reform Network, City and County of San Francisco, City of San Diego, Southern California Generation Coalition, and Southern California Edison all supported DRA's motion. The Plumbers, Pipe Fitters, and Steamfitters Local Unions 246 and 342 and their members also supported DRA's motion, and requested that the five gas pipeline safety bills recently signed into law by Governor Brown should also be considered in this proceeding.

For good cause shown, I am modifying the schedule for this proceeding. The parties and the Commission will be reviewing extraordinary safety and ratemaking issues in this proceeding. This review must be thorough and reflect the long-term duration of the Implementation Plans.

I am modifying the schedule in order to allow the parties sufficient time to obtain such expert assistance as is needed to prepare the highest quality testimony. In these Implementation Plans, the gas system operators, this Commission, and parties will consider and evaluate far-reaching safety and rate proposals. The issues in this proceeding require an in-depth analysis of historical safety practices and ratemaking treatment, as well as innovative proposals to address prospectively safety and ratemaking. The testimony that will be most useful to the Commission as it considers these issues will include an assessment of past practices and proposals for future operations and ratemaking based on rigorous analysis. Vague policy recommendations without quantitative support and evaluation of ratemaking consequences will be of little assistance to the Commission. I am extending the schedule to enable parties to prepare the high-quality analytical product the Commission requires for these critical issues.

The ratemaking testimony should address the following general topics:

1. Revenue Requirements – reasonableness of the utilities’ Implementation Plans and the associated cost estimates, including the time period over which safety improvements should be implemented, similar historical expenditures, and calculation of annual revenue requirements. Any recommendations that utility shareholders bear a portion of the costs of future safety-related expenses and investments must be well supported, and address the safety implications of the proposed ratemaking treatment.
2. Rate Design – cost allocation methodology, and the mechanism(s) by which the costs will be recovered from the end-use and other customers that use gas transmission facilities.
3. Rate of Return – the appropriate cost of equity and cost of debt for capital expenditures, and appropriate capital structure, including an assessment of the safety implications of any changes to current rates of return.

To assist the parties in preparing their testimony on these general topics, the Energy Division has developed a detailed list of issues that is Attachment A to this ruling. Parties should carefully review this list for ideas and beginning points in their analysis, and are encouraged to develop other issues as well.

The Commission when initiating this Rulemaking also set out specific ratemaking directives, which should also be addressed in the testimony:

Given the economic challenges confronting California’s families and businesses, we must be certain that each investment in safety that we order provides value to customers. We also need to be certain that authorized expenditures on needed maintenance and capital projects are implemented. This proceeding will consider whether to adopt a special ratemaking “feedback loop” for safety-justified expenditures to ensure that such expenditures are made or only higher priority safety projects are substituted, and any

other ratemaking mechanisms that may be useful in promoting prudent utility operations.¹

To further assist the parties in preparing their testimony, the Commission's Consumer Protection and Safety Division (CPSD) will be preparing reports on the technical aspects of the Implementation Plans. The schedule for the reports on PG&E's, Southern California Gas Company (SoCalGas) and San Diego Gas & Electric's (SDG&E's), and Southwest Gas Corporation's (Southwest Gas') Implementation Plans is set out below.

I am also considering narrowing the scope of the ratemaking issues in this proceeding by transferring ratemaking issues for the SoCalGas and SDG&E Implementation Plan to a separate phase of their ongoing general rate cases (GRCs) or to their next GRCs. After CPSD has completed its review of the technical components of the SoCalGas and SDG&E Implementation Plan, I intend to address their request for a memorandum account for the expected costs of the Plan. To assist in evaluating whether to transfer ratemaking for SoCalGas and SDG&E's Implementation Plan out of this proceeding, these gas system operators shall supplement their request for a memorandum account with an estimate of the costs expected to be incurred prior to the resolution of such an additional phase of their current GRCs (assumed to be no later than December 2012) and/or prior to their next anticipated GRC decision, along with an assessment of the feasibility of transferring the ratemaking issues associated with the Implementation Plan to those cases.² Parties may respond to the

¹ Rulemaking 11-02-019 at 11.

² Parties should also comment on whether cost allocation and rate design issues should be transferred to the Sempra Utilities' soon-to-be-filed Triennial Cost Allocation Proceeding application.

supplemented request, and I plan to bring a decision forward for Commission action soon after the responses are filed and served. At this point, I will adopt a testimony schedule for PG&E's Implementation Plan only, and will adopt a schedule for testimony on the SoCalGas and SDG&E Implementation Plan after resolution of the memorandum account and GRC option. Southwest Gas may also file a ratemaking procedural proposal.

In addition, Energy Division staff has reported that the cost allocation and rate design proposals submitted by the utilities in their Plans diverge in certain respects from the principles applied in recent past decisions for these companies. To provide the Commission with a basis for comparison, each of the utilities must serve no later than December 2, 2011, supplemental testimony that illustrates the rate impacts on various classes of customers if the same cost allocation and rate design principles used in the most recently adopted cost allocation or gas accord decision for those companies were to be employed here. Such testimony should treat the costs proposed in the Implementation Plans as normal backbone or local transmission costs, as appropriate, consistent with past practices. To the extent that these issues remain in this docket, parties are invited to address them in their direct testimony, and may respond to other parties' proposals in rebuttal testimony.

I have also scheduled a formal report from PG&E on its hydrotesting efforts and any preliminary results that may be available. PG&E shall provide its most senior engineer in charge of the hydrotesting efforts, and the report shall take the form of testimony under oath before the Commission. The report should include a summary of the hydrotesting efforts, any preliminary or tentative results, planned further efforts, any potential remedial measures being considered, and any fact or issue discovered that may affect public safety.

Schedule

EVENT	DATE
Discovery	On-going, with 10-day turn around
PG&E Report on Hydrotesting	November 22, 2011, following Evidentiary Hearing on Lines 101, 132a, and 147 10:00 a.m. Commission Courtroom, State Office Building 505 Van Ness Avenue San Francisco, CA
PG&E, SoCalGas, SDG&E, and Southwest serve supplemental testimony that illustrates the rate impacts on various classes of customers if the same cost allocation and rate design principles most recently adopted for those companies in cost allocation or gas accord decisions were to be applied to Implementation Plan costs	December 2, 2011
CPSD Report on Review of PG&E Implementation Plan	December 21, 2011
CPSD Report on Review of SoCalGas/SDG&E's, and Southwest's Implementation Plans	January 3, 2012
SoCalGas/SDG&E file and serve supplement to Motion for Memorandum Account proposing schedule for GRC consideration of ratemaking issues; Southwest file and serve ratemaking procedural proposal	January 13, 2012
Parties Responses to Supplemented Memorandum Account Request	January 24, 2012
Resolution of whether to transfer out SoCalGas/SDG&E Implementation Plan	As soon as practicable
Parties Serve Testimony on PG&E Implementation Plan and Associated Ratemaking Issues	January 31, 2012

PG&E Serves Rebuttal Testimony	February 28, 2012
Evidentiary Hearings on PG&E Implementation Plan	March 12 - 23, 2012 10:00 a.m. Commission Courtroom, State Office Building 505 Van Ness Avenue San Francisco, CA
Briefing Schedule	To be set at the conclusion of hearings.

If so required, the presiding officer may alter this schedule. I expect that that further amended scoping memos will be issued to address other matters in this proceeding. At this point, I anticipate the proceeding will conclude with 18 months of the issuance of this amended scoping memo pursuant to Public Utilities Code § 1701.5.

2. Motions for Party Status

On May 18, 2011, the Engineers and Scientists of California, Local 20, International Federation of Professional & Technical Engineers, AFL-CIO & CLC moved for party status stating that the organization is a progressive labor union organizing an representing technical and professional employees in Northern California. The union and its members are interested in the ability and obligation of PG&E to provide safe, adequate and reliable service to its customers. No party opposed the motion, and it is granted.

On September 27, 2011, the Center for Accessible Technology filed and served its motion for party status and notice of intent (NOI) to claim intervenor compensation. The Center stated that it seeks to act as the successor to Disability Rights Advocates, which is currently a party to this proceeding. Upon grant of the motion for party status, Disability Rights Advocates will cease its active participation in this proceeding. The Center for Accessible Technology also filed

its NOI to claim intervenor compensation and included its showing of significant financial hardship.

The motion for party status of The Center for Accessible Technology is granted. The NOI is accepted, with the finding that The Center for Accessible Technology has demonstrated significant hardship. The Center for Accessible Technology and Disability Rights Advocates³ are cautioned to carefully coordinate and document their activities in this proceeding to ensure that no duplication of effort occurs.

On October 6, 2011, the City of San Diego filed its motion to intervene and stated its interests in protecting local regulations, ordinances, and requirements to manage and maintain the public roadways and other public infrastructure. The City stated that it will provide testimony on how these regulations can be implemented without denying or causing significant delay in the proposed pipeline upgrades. The City of San Diego's motion for party status is granted.

On October 26, 2011, Calpine Corporation moved for party status and stated that it is an independent wholesale power company that owns and operates natural gas-fired power plants in California. Calpine Corporation explained that it is a customer of PG&E and thus has an interest in the safety investments and resulting rates. Calpine Corporation's motion is granted.

3. Motion for Ratepayer Confidence Fund

On October 4, 2011, the Black Economic Council, Latino Business Chamber of Greater Los Angeles, and the National Asian American Coalition moved for a Commission order establishing a ratepayer confidence fund of up to one million

³ On August 25, 2011, Disability Rights Advocates moved for leave to late-file its NOI to claim intervenor compensation. The unopposed motion is granted.

dollars to allow parties to hire experts on the technical aspects of this case. SoCalGas and SDG&E opposed the proposal as contrary to the requirements of intervenor compensation program. PG&E also opposed the “upfront fund” and stated that intervenor compensation program provides a means for qualified parties to obtain reimbursement of their reasonable costs.

The motion is denied. The Commission’s existing intervenor compensation program provides funding to parties in Commission proceedings pursuant to a detailed set of requirements and conditions. Several parties to this proceeding have filed a NOI to seek compensation pursuant to that program, such as the Center for Accessible Technology, discussed above. The moving parties have not shown that a special program is required for this proceeding.

IT IS RULED that:

1. The amended schedule for this proceeding is as set forth herein, and may be modified by the Administrative Law Judge if needed.
2. The parties will prepare the highest quality testimony to address the extraordinary safety and ratemaking issues in this proceeding.
3. The motions for party status of the Engineers and Scientists of California, Local 20, International Federation of Professional & Technical Engineers, AFL-CIO & CLC, Center for Accessible Technology, the City of San Diego, and Calpine Corporation are granted.
4. The notices of intent to claim intervenor compensation by Disability Rights Advocates and The Center for Accessible Technology are accepted. The Center for Accessible Technology has demonstrated significant financial hardship.

5. The motion to establish a ratepayer confidence fund is denied.

Dated November 2 , 2011, at San Francisco, California.

/s/ MICHEL PETER FLORIO

Michel Peter Florio
Assigned Commissioner

Attachment A

Revenue Requirements

A. Cost Forecasts

1. Forecasts of the costs of the Implementation Plans appear to be somewhat uncertain. For example, PG&E expects that its actual costs may be 30% lower or 50% higher than its estimated costs. How should the Commission consider the considerable level of uncertainty of the Implementation Plan cost estimates when adopting revenue requirements and rates associated with the plans? Can the uncertainty be reduced to a lower level?
2. Utilities propose that they should be allowed to recover actual costs of the Implementation Plan to the extent that actual costs are higher than forecasted. Should the utilities have an opportunity to be compensated for expenditures that exceed the revenue requirements authorized in this proceeding? If the Commission allows recovery of actual costs, how should each utility be held accountable for properly managing the actual expenditures of implementation? Should a reasonableness review proceeding be established to review the costs and expenses actually incurred under the plans? If so, should such a review be conducted in a separate proceeding, or as part of an existing proceeding? Is an advice letter an appropriate vehicle?
3. If a reasonableness review is not established, how should the Commission be assured that the costs and expenses were reasonably incurred?
4. If a reasonableness review is established, does the Commission need to be concerned about the accuracy of estimated expenditures at this time?
5. Are the utilities' estimated expenditures of their proposed plans reasonable?
6. Are the estimates of overheads, loading factors, and escalation factors reasonable?
7. Are the estimates of contingency factors reasonable? Should the Commission adopt authorized expenditures and revenue requirement for the utilities that include a contingency cost amount? If so, what are the appropriate contingency amounts?
8. Are the utilities' calculations of revenue requirements correct and reasonable?
9. Should each utility be required to demonstrate that their proposed projects haven't been previously funded in rates? How should the Commission

determine that the funding requested by the utilities is for work that is incremental to prior funding authorizations and that the utilities will not receive funds for work that should have been done in the past?

B. Ratemaking Mechanisms

10. PG&E has a one-way balancing account for O&M expenses, and thus may recover from ratepayers no more than authorized O&M expenses, and must return unused amounts. Should such an approach be adopted for Sempra as well? Should such an approach also be adopted for the revenue requirement associated with capital cost projects as well?
11. Would a mechanism to share cost over-runs between utility shareholders and ratepayers be appropriate? How should this mechanism be designed?
12. What types of incentives can the Commission adopt to ensure that the utilities implement their plans cost effectively, consistent with the goal of ensuring the safety of the public?

Cost Allocation and Rate Design

13. How should the costs of the Implementation Plans be recovered through rates (e.g., volumetric, fixed amount, etc.)? Are the utility calculations of rates/surcharges correct and appropriate? What are alternative forms of rate recovery? Southern California Gas Company and SDG&E propose a flat monthly charge for residential customers to recover the costs incurred under their proposed plan. Is a monthly flat charge for residential customers reasonable? PG&E proposes a volumetric rate that is part of the Customer Class Charge. Is this rate method appropriate?
14. Should the costs of the gas safety plan be recovered via a separate surcharge (whether flat or volumetric) specifically noted on utility bills, or should it be incorporated in the gas utility transportation rate?
15. What is the proper and equitable allocation of adopted revenue requirements among different customer classes? Is using allocation factors taken from recent cost allocation proceedings a reasonable approach? What factors be taken into account in determining a fair allocation?

16. Should different customer classes face a similar level of rate increase? Are there reasons why different customer classes should face different percentage rate increase amounts?
17. Should only utility end-users be assessed the costs of the implementation plans? Marketers subscribe to PG&E backbone transmission capacity and SoCalGas receipt point capacity. Should some of the costs be recovered from users of the backbone/receipt point capacity?

Rate of Return

18. Are the proposed rates of return reasonable? Are the proposed rates of return appropriate for the gas safety implementation plans? Should the utilities' authorized rate of return for their Implementation Plans correspond to the level of risk that the utilities assume for the recovery of Implementation Plan costs (e.g., a lower rate of return if the utilities can be compensated for cost overruns)?

PG&E

19. Should PG&E provide an estimate of the total cost of their Implementation Plans, beyond 2014?
20. Is PG&E's proposed shareholder sharing of expenditures reasonable? What factors should be considered in determining a fair amount of shareholder sharing? What is a reasonable basis for determining the level of costs shareholders should absorb? What are alternative forms or mechanisms of shareholder sharing?
21. Should parties and the Commission examine the history of PG&E's past expenditures, management practices with regard to safety, and record keeping practices that has led to the necessity for gas safety implementation plans and possibly new safety regulations, in order to determine a fair sharing of costs?

Southern California Gas, SDG&E, and Southwest

22. Should SoCalGas' "proposed" plan be adopted or the "base case" plan? What specific elements and costs are included in SoCalGas' "proposed" plan and "base case" plan?
23. Should shareholders absorb a portion of Implementation Plan costs? If so, why? What criteria should the Commission use to determine whether it is reasonable for utility shareholders to absorb Implementation Plan costs?
24. Should the ratemaking for these operators' Implementation Plans be transferred to another proceeding or a later phase of this proceeding?

Implementation Plans

25. Is the pace of each utility's plan reasonable? Should it be slowed down or speeded up?
26. Are the utilities' prioritizations of their Implementation Plan work reasonable? What discretion should the utilities have, if any, to reprioritize their plans in the future?
27. Should the utilities regularly report to the Commission on the progress of their Implementation Plans and spending amounts? If so, what specific information should be reported? Should such reports be examined in a proceeding, and approved by the Commission?
28. Should a separate proceeding be established for future consideration of these costs and the plan, after the initial few years, or should they be considered in established proceedings (e.g. the Gas Accord for PG&E and the GRC for SoCalGas/SDG&E/Southwest Gas)?
29. How can the Commission be assured that the utilities achieve the goals and specific targets of their plans, and in an efficient manner?
30. Should outside engineers involved in the preparation of Implementation Plan cost estimates be available as witnesses in the proceeding (e.g., PG&E Chapter 3 lists only a PG&E employee as a witness)?

(End of Attachment A)