Decision 07-01-014 January 11, 2007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Reclamation District No. 2038 and Lower Jones Company, Complainants, vs. Pacific Gas and Electric Company, Defendant.	Case 06-09-008 (Filed September 6, 2006)

OPINION GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

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OPINION GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Reclamation District No. 2038 and Lower Jones Company (Complainants) filed their complaint against Pacific Gas and Electric Company (PG&E) on September 6, 2006, seeking (a) an order finding PG&E is violating Public Utilities Code Section 1001[1] by not holding a certificate of public convenience and necessity (CPCN) for the construction of a natural gas pipeline (Pipeline 57C) connecting the utility's gas storage facility at McDonald Island in the Bay-Delta region to its backbone transmission system; and (b) an order finding PG&E is violating Section 625 by not having Commission authorization to condemn property necessary for the construction of Pipeline 57C.[2]

We affirm the assigned Administrative Law Judge's (ALJ) previous ruling denying Complainants a cease and desist order. We now grant PG&E's motion for summary judgment on the complaint, thereby concluding this proceeding. While we do not determine at this time whether PG&E's pipeline construction was reasonably planned and executed, we do conclude that the construction of

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[1] Unless otherwise indicated, all other statutory references are to the California Public Utilities Code.

[2] In their pleadings, Complainants also make other arguments based on alleged environmental problems and PG&E's failure to comply with the Reclamation District's permitting requirements. Since state-owned land is involved in the construction of Pipeline 57C, the State Land Commission (SLC) has been the lead agency and has issued a mitigated negative declaration under the California Environmental Quality Act. Complainants' challenges to the SLC's environmental review are pending before Superior Court. *See* Reclamation District No. 2024 v. California State Lands Comm'n, No. 06CS00727 (Sacramento County Super Ct.). While Complainants make these arguments, they do not specifically assert environmental or permitting issues in their complaint before the Commission.

Pipeline 57C is being undertaken solely because it is necessary for PG&E to continue to meet its Commission-ordered obligation to serve customers using the McDonald Island gas storage, transmission, and distribution complex. We acknowledge that PG&E may derive gas marketing benefits from Pipeline 57C, the implications of which will be addressed in PG&E's next gas general rate case. We are convinced, however, that PG&E would not be undertaking this pipeline construction project but for the need to ensure reliability.

I. Background

Reclamation District No. 2038 is a governmental entity organized pursuant to Water Code Section 50,000 *et seq.* The District operates and maintains levees and dredger cuts in the Lower Jones Tract in western San Joaquin County. Lower Jones Company is a general partnership owning land on Lower Jones Tract. Complainants' land and levees would be crossed by Pipeline 57C.

The McDonald Island complex provides approximately 25% of available natural gas supply during cold weather months for the 3.7 million customers in PG&E's service area. (Declaration of Gary Grelli (July 24, 2006).) PG&E asserts that Pipeline 57C (a 24-inch pipe running approximately 6.4 miles) is being constructed as a back-up facility to ensure that the utility could continue to provide natural gas to its customers if Pipeline 57B, the existing pipeline, were destroyed or damaged because of a levee failure or other event. PG&E proposes to use horizontal drilling to cross channels, levees, and islands. This method consists of drilling an underground route for the pipeline from one end and then pulling the pipeline back through the underground route from the other end. The horizontal bores are expected to be 90 feet below the toes of the levees.

In various judicial and administrative forums, Complainants have sought to prevent or postpone the construction of Pipeline 57C.[3] Their concern is that PG&E's construction methods will increase the risk of levee failure on the Lower Jones Tract, primarily by fracturing the formation under the levees and providing a channel along the underground length of the pipeline for water to seep — thereby weakening the stability of the overlying levees. Complainants point to recent levee failures in the Delta and general governmental and public concern about levee safety in the Delta.[4] Complainants also allege that once the horizontal boring is underway, levee failure and flooding could occur, for which money damages would not provide adequate relief.

Because PG&E had commenced pipeline construction, the Complainants also sought, as part of their complaint, an immediate cease and desist order from the Commission, as authorized by Section 1006 and the Commission's general powers. In a ruling issued on October 2, 2006, the assigned ALJ denied the request for a cease and desist order.

Upon the issuance of the ALJ ruling, PG&E immediately filed its Motion for Summary Judgment on Complaintants (Oct. 3, 2006). The assigned ALJ granted Complainants an opportunity to conduct discovery before filing their response to the motion. Complainants' response was filed on November 9, 2006, and PG&E filed its reply on November 13, 2006.

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[3] *E.g.,* Reclamation District No. 2024 v. California State Lands Comm'n, No. 06CS00727 (Sacramento County Super Ct.); PG&E v. Lower Jones Co., No. CV029978 (San Joaquin County Super. Ct.).

[4] *See* Proposition 1E, on the November 7, 2006, statewide ballot, authorizing $4 billion for levee improvements.

Because this proceeding is being resolved on a motion for summary judgment filed shortly after disposition of Complainants' request for a cease and desist order, a prehearing conference has not been held (although the assigned ALJ has held several telephonic status conferences with the parties), and a scoping memo has not issued. We, therefore, confirm the preliminary categorization of the proceeding as adjudicatory. A prehearing conference and scoping memo are not necessary in cases that we resolve by summary judgment. An evidentiary hearing is not required in this proceeding.

II. Standard for Granting Motion for Summary Judgment

A motion for summary judgment in a formal proceeding, comparable to a motion for summary judgment under state civil procedure, will be granted by the Commission if the declarations and affidavits, admissions, answers to interrogatories, depositions, and matters of which official notice may be taken show there is no triable issue as to any material fact, and the moving party is entitled to disposition of the proceeding in its favor as a matter of law. (*Westcom Long Distance, Inc. v. Pacific Bell,* D.94-04-082, 54 CPUC 2d 244, 249-50 (1994);[5] *cf.* CODE OF CIV. PROC. § 437c.) The affidavits and supporting documents of the moving party will be strictly construed; those of the party opposing the motion will be liberally construed. With this standard in mind, we review

[5] The *Westcom* decision construed a motion for summary judgment in that proceeding as a motion to dismiss, since the Commission's Rules of Practice and Procedure (Rules) do not specifically mention summary motions. Our *Westcom* interpretation was too narrow. Rule 11.1 is a general provision for filing motions in formal proceedings. Under its provisions, parties may file any motion, appropriate to the posture of the proceeding, commonly used under state civil procedure.

Complainants' assertions to determine whether there is a triable issue of material fact and whether PG&E is entitled to judgment as a matter of law.

III. Complainants' Arguments

A. CPCN Requirement

Complainants argue that PG&E needs a CPCN, issued pursuant to Section 1001, in order to construct Pipeline 57C. PG&E responds that, because the pipeline will simply support service to existing areas, a CPCN is unnecessary.

There is no triable issue of material fact concerning this issue. PG&E has previously secured CPCNs for the construction and operation of the gas storage facility on McDonald Island (*see* D.58706, 57 CPUC 231 (July 7, 1959), of which official notice is taken) and the installation and use of a gas distribution and transmission system in San Joaquin County (*see* D.69346, 64 CPUC 479 (July 7, 1965), of which official notice is taken).

Section 1001 provides that a utility is not required to secure a CPCN "for an extension within any city or county within which it has theretofore lawfully commenced operations . . . or for an extension within or to territory already served by it, necessary in the ordinary course of business." While the construction of a parallel pipeline may not actually extend further into the recognized service area, the situation is analogous to a utility replacing a deteriorated portion of an existing pipeline, a situation where a CPCN is not required.

When proceeding within the authority granted by an existing CPCN, the utility must still comply with General Order (GO) 112-E, "Rules Governing Design, Construction, Testing, Operation, and Maintenance of Gas Gathering, Transmission, and Distribution Piping Systems," in the installation of a pipeline. Part 125.1 of GO 112-E requires the utility to file a proposed installation report

30 days prior to construction. PG&E has complied with this requirement. (*See* Exhibit 2 to Complaint, Case 06-09-008; the Commission takes official notice of the filing of this report.) The Commission would take appropriate measures if the proposed installation report indicated that construction would not proceed in accordance with the GO. Based on the information in the record, that has not occurred.

Complainants also argue that a CPCN is necessary if the proposed work exceeds $50 million, relying on Section 1091. PG&E's proposed installation report does indicate that construction costs will be approximately $52 million. Complainants, however, misread Section 1091. This section does not impose a separate CPCN requirement. The section only indicates that *if* a CPCN is required under Article 1 of this portion of the Public Utilities Code *and* the project exceeds $50 million, then the provisions of Article 5, requiring additional information and reports, must be satisfied. Here, a new CPCN is not required.

In constructing Pipeline 57C, PG&E is proceeding pursuant to its existing CPCNs for storage, transmission, and distribution within San Joaquin County. There is no triable issue of material fact concerning this issue.

B. Eminent Domain Authority

Sections 612 and 613 grant electrical and gas corporations, such as PG&E, authority to condemn property necessary for the construction and maintenance of its utility plant. In preparation for Pipeline 57C, PG&E has acquired rights-of-way from consenting landowners and brought a Superior Court action against landowners, including Complainants, who have not consented to the acquisition

of rights-of-way.[6] In their complaint, Complainants argue that PG&E has violated Section 625 by not securing the Commission's specific authorization to exercise eminent domain to acquire rights-of-way for Pipeline 57C.

Section 625 is an exception to the general grant of eminent domain authority to utilities. In instances where a utility is offering competitive services, the utility may not exercise eminent domain unless the Commission finds the action to be in the public interest. Section 625(B), however, continues to recognize a utility's traditional eminent domain power in certain instances. Section 625 does "not apply to the condemnation of any property that is necessary solely for an electrical company or gas corporation to meet its commission-ordered obligation to serve." In determining whether the Section 625(B) exception applies, we first examine whether PG&E has a Commission-ordered obligation to serve. If so, we then determine whether Pipeline 57C is being undertaken "necessary solely" to satisfy that obligation or for some other purpose.

1. Commission-Ordered Obligation to Serve

As PG&E points out, Decision (D.) 93-02-013, the Commission's 1993 decision opening natural gas storage services to competition, imposes an obligation to serve both core and non-core customers. Three conclusions of law in that decision speak to this obligation:

> Conclusion of Law 5: "Under unbundled storage service, utilities are obligated to manage storage on behalf of core customers and are obliged to serve core customers by building and using storage

[6] Pacific Gas and Electric Company v. Lower Jones Company, No. 29978 (San Joaquin County Super. Ct.).

> facilities as necessary to provide reasonable core service at the lowest possible cost;"
>
> Conclusion of Law 6: "[U]tilities are obligated to offer firm service derived from existing facilities to noncore customers" after core customers' utilization; and
>
> Conclusion of Law 6: "[U]tilities are not obligated to expand or construct facilities to serve noncore customers unless customers will guarantee recovery of utility costs. Absent those guarantees, utilities may expand facilities at their own risk."

Considered together, these conclusions of law lead to this interpretation: Regardless of incidental effects on noncore customers, a utility is obligated to build and manage its facilities as necessary to provide reasonable service to its core customers. A necessary component of this obligation to serve is the continued reliability of facilities used to serve core customers.

Referring to D.04-09-022 and D.06-07-010, Complainants argue that the Commission has decided that PG&E should rely on third-party storage providers to assist it meeting this core customer obligation. An examination of these decisions indicates that the Commission intends for PG&E to rely on third-party providers to help it meet its *incremental gas storage needs*, including the needs for additional storage necessary to meet a one in ten year cold period rather than the previous one in four year planning parameter. These decisions do not address what is at issue here: the need for redundant pipeline capacity to avoid a *catastrophic failure* of existing Pipeline 57B, which disruption would potentially affect 3.7 million customers.

There is no triable issue of material fact concerning PG&E's obligation to serve using the McDonald Island gas storage and transmission facilities.

2. Project Purpose

Questioning the actual motive of PG&E's pipeline construction, Complainants weave a convoluted argument, using the Commission's gas storage decision, to the effect that PG&E, rather than ensuring the reliability of gas transmission from McDonald Island, actually seeks to compete with Lodi Gas Storage, LLC, and Wild Goose Storage, Inc. in the service of both core and non-core gas customers. (*See* Declaration of James Boothe, ¶¶ 12-17). Complainants, however, concede "that the Line 57C project is at the very least both a reliability and increased capacity project." (Reclamation District No. 2038, Response Brief at 8 (Nov. 9, 2006).)

In support of its competitive-intent theory, Complainants point to a PowerPoint slide produced during the deposition of Robert Howard, PG&E's general manager of gas transmission, that suggests PG&E had contemplated the construction of Pipeline 57C as a "storage expansion project" on several occasions between the 1980s and 2004. The slide, however, is part of a lengthier presentation on the need for Pipeline 57C as a *reliability* project. (Ex. 4 to Deposition of Robert Howard (Oct. 31, 2006) (Howard Deposition).) Other slides in the presentation document the downside risk of what PG&E elsewhere refers to as a "classic low probability, high consequence event."[7] These slides indicate, among other things, "A Line 57B outage during a cold wave would have major adverse consequences: Loss of approximately 30% of northern California gas supply[;] Noncore gas curtailments[;] Gas and electric price spikes[;] Estimated

[7] Ex. 1 to Howard Deposition (Bates Stamp 2).

societal costs of $300 million to $1.2 billion, depending on severity of the cold wave." (*Id.* at 5 (Bates Stamp 48).)

The Complainants appear to argue that if storage expansion was ever discussed in the past, or will result from Pipeline 57C construction, the project is tainted and can never be considered to be undertaken, in the words of Section 625, as "necessary solely" for reliability purposes. We reject an interpretation of Section 625 that would prevent a utility from using its eminent domain power for reliability purposes, even if the construction would have some competitive effect. Rather, we interpret "necessary solely" to require us to determine whether PG&E would undertake this pipeline construction project, but for the need to ensure reliability. Although Pipeline 57C may increase PG&E's outflow capacity and potentially impact the market, Complainants make only a theoretical argument in this regard, and the record is woefully deficient on any likely competitive impacts.[8] We conclude that, but for the need to ensure system reliability, PG&E would not be undertaking the construction of Pipeline 57C.

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[8] We note that PG&E's gas *competitors* are not bringing this complaint, invoking Section 625, and arguing that PG&E, by using eminent domain, is potentially gaining competitive advantage in the market—which Section 625 seeks to prevent. Rather, Complainants are *landowners* contesting the use of eminent domain because of a different assessment of the environmental risk of the project. We do require, however, an examination of market issues in PG&E's next general rate case for gas storage and transmission. *See* Ordering Paragraph 5.

Howard's deposition, the documents discussed during his deposition, the other declarations submitted by PG&E,[9] and other matters appropriately considered[10] — even when narrowly construed against PG&E — all indicate that PG&E's primary purpose in undertaking the construction of Pipeline 57C is to continue meeting its Commission-ordered obligation associated with McDonald Island gas storage, transmission, and distribution. The following are examples of this record:

- "The 57C project that I am building now is being built to improve the reliability. It is a reliability project. It does have additional pipeline take-away capacity for a portion of the mileage on the existing 57C system . . . . But the fact is that it is redundant and it is intended to be redundant so that I can provide a hundred percent of the capacity required to the core at any time when it is needed for reliability purposes." (Howard Deposition 79:24 to 80:10.)

- "Although the existing Line 57B is in good condition, failure of this pipeline near a levee or underwater at Mildred Island could require up to two months to repair. . . . The impetus for the Line 57 Project is a need to improve the reliability of storage withdrawals from the McDonald Island storage field." (PG&E's Request for Phase 1 Approval for the Line 57 Reliability Improvement Project (Nov. 1, 2004), Ex. 1 to Howard Deposition (Bates Stamp 2).)

- "The pipeline is critical to our normal year round operations and must be available at all times in order for PG&E to

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[9] *E.g.,* Declaration of Roger Graham ¶ 7 (Sept. 21, 2006); Declaration of Robert T. Howard ¶ 4 (Sept. 21, 2006); Declaration of Jay Brandli ¶ 8 (Sept. 21, 2006); Declaration of Gary Grelli ¶ 10 (July 24, 2006).

[10] *See, e.g.,* Ex. 2 to Complaint, Proposed Installation Report ("These facilities are designed to insure the reliability and security of natural gas in the Line 57 system . . . .").

reliably meet our customers' gas load demand, balance gas system placement needs and provide support for system demand due to planned or unplanned equipment or pipeline outages both inside and outside the State of California." (L-57B Probability of Failure Analysis (Nov. 4, 2004), Ex. 3 to Howard Deposition (Bates Stamp 26).)[11]

- "Although Line 57B is in reliable operating condition, it represents a vulnerable supply link. It could fail due to levee break, ground settlement, earthquake, or other causes. . . . . These consequences, even though low probability, drive the need for Line 57C between McDonald Island and Old River." (Line 57C Reliability Project (May 23, 2005), Ex. 6 to Howard Deposition (Bates Stamp 92).)

- "The most critical reliability objective is construction of a second pipeline where Line 57B crosses waterways, levees, and flooded Mildred Island. However, a continuous second pipeline that also crosses Bacon and McDonald Islands is inherently more reliable than a water-crossings-only alternative due to its physical separation and operational independence from Line 57B." (Line 57C Reliability Project Capital Project Submitted to the President and CEO of Pacific Gas and Electric Company for Approval (May 20, 2005), Ex. 7 to Howard Deposition (Bates Stamp 169).)

In conclusion, the prevention of a catastrophic failure in pipeline deliveries from McDonald Island, regardless of its incidental effects on storage expansion,

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[11] This risk assessment concludes that, compared with other segments in PG&E's gas transmission, 40% of the segments present a higher risk of failure than Line 57B. However, there is nothing in this report that indicates that the primary purpose of the Pipeline 57C project is other than reliability. Indeed, the risk assessment indicates that flooding of one or more of the islands along the pipeline would be the worst case scenario, making "any repair or replacement work very costly." (Ex. 3 to Howard Deposition (Bates Stamp 34).)

is PG&E's "solely necessary" reason for constructing Pipeline 57C.[12] There is no triable issue of material fact concerning this issue.

We conclude that Section 625 does not limit PG&E's construction of Pipeline 57C at this time, since the project is being undertaken to ensure the utility's continued obligation to serve. Complainants make other arguments premised on the application of this section (*e.g.,* a Commission determination that the project is necessary and in the public interest). Since Section 625 does not apply, we do not reach these arguments.

IV. Other Matters

We conclude there is no issue of material triable fact concerning PG&E's primary purpose—ensuring reliability—for constructing Pipeline 57C. Nevertheless, we recognize that Pipeline 57C is larger than existing Pipeline 57B and that, if Pipeline 57C is operated in place of or in conjunction with Pipeline 57A (if made operational) and/or 57B, PG&E may be able to withdraw larger volumes of gas from McDonald Island. If this does occur, this practice may interfere with the Commission's overall policy goals for gas transmission and storage.

Accordingly, in PG&E's next gas transmission and storage general rate case, the Commission will consider whether operational criteria should be imposed on Pipelines 57A, B, and C so that reliability is ensured and system

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[12] The Commission takes official notice of the June 2004 flooding of 11,000 acres on the Jones Tract in the Delta region. As California Secretary of Resources Mike Christianson testified to the Subcommittee on Water and Power, U.S. House Committee on Resources, on Oct. 20, 2005, "Last year, a single levee break on Jones Tract in the Delta cost nearly $100 million for emergency response, damage to public and private property, lost crop production, levee repair and pumping costs."

operation remains consistent with the Commission's overall policy goals for gas transmission and storage.

Similarly, while we conclude that PG&E has undertaken Pipeline 57C "necessary solely" for reliability purposes, we do not determine in this proceeding whether PG&E has been reasonable in its design, planning, and execution of the Pipeline 57C project. We also do not determine the ratesetting consequences for those components of the Pipeline 57C project found to be reasonable. These matters will also be addressed in PG&E's next gas transmission and storage general rate case.

V. Reduction of Comment Period

The proposed decision of the assigned ALJ in this matter was mailed to the parties in accordance with Section 311(d) of the Public Utilities Code and Rule 14.2(a) of the Rules of Practice and Procedure.

Because PG&E's pipeline construction is underway and is being undertaken by the utility to improve system reliability, time is shortened, pursuant to Rule 14.6(c)(9) (public necessity): Comments are due on December 29, 2006, and reply comments are due on January 5, 2007. Comments were filed by Reclamation District No. 2038 on December 29, 2006, and reply comments were filed by PG&E on January 4, 2007.

The comments retrace the arguments made earlier in this proceeding before the ALJ. In particular, Reclamation District No. 2038 argues that the recommended "but for" test (see page 11) to determine the application of the Section 625 exemption will eviscerate the requirements of that section. Reclamation District No. 2038 also comments that the proposed "but for" test is inconsistent with legislative intent, requesting official notice of a Senate Bill analysis of SB 177, the origin of this section. We decline to take official notice of

this bill analysis because it is not relevant in interpreting Section 625. The bill analysis refers to the use of eminent domain to engage in competitive telecommunications services—clearly not an issue in this proceeding.

The proposed decision requires the consideration, during PG&E's next general rate case, of "whether operational criteria should be imposed on Pipelines 57A, B, and C so that reliability is ensured and system operation remains consistent with the Commission's overall policy goals for gas transmission and storage." (Ordering Paragraph 5). Such consideration in the general rate case will afford the opportunity, based on actual pipeline operations, for the Commission to address any unfair marketing practices undertaken by PG&E as the result of this pipeline construction.

VI. Assignment of Proceeding

This proceeding is assigned to President Michael R. Peevey and ALJ John E. Thorson, who is also the Presiding Officer.

Findings of Fact

1. PG&E has begun constructing Pipeline 57C connecting the utility's gas storage facility at McDonald Island in the Bay-Delta region to its backbone transmission system. The land and levees of Reclamation District No. 2038 and the Lower Jones Company would be crossed underground by Pipeline 57C.

2. PG&E has previously secured CPCNs for the construction and operation of the gas storage facility on McDonald Island and the installation and use of a gas distribution and transmission system in San Joaquin County.

3. Pipeline 57C is being constructed within San Joaquin County, where PG&E has previously commenced service.

4. PG&E has filed its proposed installation report with the Commission, as required by GO 112-E.

5. The construction of Pipeline 57C is estimated to cost $52 million.

6. Pipeline 57C is being constructed as a back-up facility to ensure that PG&E can continue to provide natural gas to its customers if Pipeline 57B, the existing pipeline, were destroyed or damaged because of a levee failure or other event.

7. The materials properly and narrowly considered in support of PG&E's motion for summary judgment indicate that, but for the need to ensure system reliability, PG&E would not be undertaking the construction of Pipeline 57C. Complainants have presented nothing in their opposition to PG&E's motion indicating that this is a triable issue of material fact.

Conclusions of Law

1. This proceeding is properly categorized as adjudicatory. Because of the procedural posture, a prehearing conference, scoping, and evidentiary hearing are not necessary.

2. PG&E holds the necessary CPCNs for the construction of Pipeline 57C connecting the utility's gas storage facility at McDonald Island in the Bay-Delta region to its backbone transmission system.

3. PG&E has timely completed its filing of its proposed installation report under GO 112-E.

4. As an electrical and gas corporation, PG&E has authority to condemn property necessary for the construction and maintenance of its utility plant.

5. PG&E is constructing Pipeline 57C for the "solely necessary" purpose of meeting its Commission-ordered obligation to serve associated with McDonald Island gas storage, transmission, and distribution.

6. PG&E is not precluded by Section 625 from exercising its eminent domain power in construction of Pipeline 57C.

7. Other arguments, involving environmental review and local permitting authority, are not before the Commission.

8. There is no triable issue of any material fact in this proceeding, and PG&E is entitled to judgment as a matter of law.

9. PG&E's motion for summary judgment should be granted.

10. Because PG&E is proceeding lawfully, a cease and desist order is unavailable under Section 1006 or under the general powers provisions of the Commission.

11. The public interest in the Commission adopting this decision before the expiration of the normal 30-day review and comment period clearly outweighs the public interest in having the full 30-day period for review and comment. Due to this public necessity, the time for comments and replies should be shortened.

O R D E R

IT IS ORDERED that:

1. This proceeding is properly categorized as adjudicatory. The designation of President Michael R. Peevey as the assigned Commissioner and John E. Thorson as the assigned Administrative Law Judge and Presiding Officer are confirmed. A prehearing conference, scoping memo, and evidentiary hearing are not necessary.

2. Pacific Gas and Electric Company's (PG&E) Motion for Summary Judgment is granted.

3. The assigned Administrative Law Judge's ruling that no cease and desist order should issue is affirmed.

4. Complainants are afforded no relief on their complaint.

5. In PG&E's next gas transmission and storage general rate case, the Commission will review and consider (a) PG&E's reasonableness in its design, planning, and execution of the Pipeline 57C project; (b) ratesetting for those components of the Pipeline 57C project found to be reasonable; and (c) whether operational criteria should be imposed on Pipelines 57A, B, and C so that reliability is ensured and system operation remains consistent with the Commission's overall policy goals for gas transmission and storage. PG&E shall address these issues in its general rate case application and provide supporting testimony and materials.

6. Pursuant to Rule 14.6(c)(9) of the Rules of Practice and Procedure, time is shortened for comments and reply comments. Comments will be filed on or before December 29, 2006, and reply comments will be filed on or before January 5, 2007, so that this matter may appear on the Commission's agenda for January 11, 2007.

7. Case 06-09-008 is closed.

This order is effective today.

Dated January 11, 2007, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners