



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

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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

**COMMENTS OF THE COALITION OF CALIFORNIA UTILITY  
EMPLOYEES ON THE PROPOSED DECISION DETERMINING MAXIMUM  
ALLOWING OPERATING PRESSURE METHODOLOGY AND REQUIRING  
FILING OF NATURAL GAS TRANSMISSION PIPELINE REPLACEMENT  
FOR TESTING IMPLEMENTATION PLANS**

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Pursuant to Administrative Law Judge Bushey's May 10, 2011 Decision Determining Maximum Allowable Operating Pressure Methodology and Requiring Filing of Natural Gas Transmission Pipeline Replacement or Testing Implementation Plans ("Proposed Decision"), the Coalition of California Utility Employees ("CUE") offers these comments.

**I. INTRODUCTION**

The Proposed Decision would order all California natural gas transmission operators to develop and file implementation plans for replacing or testing all natural gas transmission pipelines that have not been pressure tested or which lack sufficient details related to a pressure test. CUE wholly supports the Proposed Decision's important goal of improving the safety of all natural gas transmission pipelines in California. Further, CUE generally agrees with the methods prescribed in the Proposed Decision to achieve that goal, including determining valid

maximum allowable operating pressure (“MAOP”) for natural gas transmission pipelines via pressure testing and replacing pipeline where necessary.

However, CUE believes that the Proposed Decision’s requirement that PG&E, and only PG&E, allocate the costs of testing and replacing pipeline between ratepayers and shareholders is misplaced. The requirement intertwines assessing PG&E’s culpability for its *past* failure with *future* costs for improving the safety of California’s gas system. Moreover, the requirement gives shareholders a disincentive to undertake the necessary work to ensure a safe system. Instead, the Commission should determine PG&E’s fault and appropriate penalty for its past failure separately from assessing the cost of future work required to achieve a safe gas system for Californians.

In addition, CUE understands that the Proposed Decision is just the start to making California’s gas systems safe and reliable. There are other pieces to this Rulemaking that must follow the Proposed Decision. This Rulemaking, “will consider what aspects of the Commission’s regulation of natural gas transmission and distribution pipelines should change, e.g., siting, maintenance, inspections, best operating practices, ratemaking, and safety audits.”<sup>1</sup> Thus, future phases of this Rulemaking must include requirements for ongoing transmission pipeline inspections and maintenance, as well as inspection, maintenance and operating requirements for distribution pipelines.

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<sup>1</sup> 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, p. 7.

## II. DISCUSSION

Among other things, the Proposed Decision orders *all* California natural gas transmission operators to develop and file implementation plans for replacing or testing all natural gas transmission pipelines that have not been pressure tested or which lack sufficient details related to a pressure test.<sup>2</sup> The Proposed Decision requires that the implementation plans include rate setting proposals.<sup>3</sup> The Proposed Decision then goes one step further, requiring *only* PG&E's implementation plan to, "include a cost-sharing proposal between ratepayers and shareholders"<sup>4</sup> due to "[t]he unique circumstances of PG&E's pipeline records, the costs of replacing the San Bruno line, and the public interest..."<sup>5</sup> By requiring PG&E, and only PG&E, to allocate costs between ratepayers and shareholders, the Proposed Decision muddles two necessarily separate paths – one for determining PG&E's liability for its past failure, and another for determining the future costs to improve the safety of California's gas transmission systems. For several reasons, these are two distinct tasks that the Commission should undertake separately.

First, the Commission has already provided a vehicle and proceeding for penalizing PG&E for the San Bruno rupture. The Commission instituted a formal investigation to determine whether PG&E violated any provisions of the California Public Utilities Code, Commission general orders or decisions, or other applicable rules or requirements pertaining to safety recordkeeping for its gas service and

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<sup>2</sup> Proposed Decision, p. 29.

<sup>3</sup> *Id.*, pp. 30-31.

<sup>4</sup> *Id.*, p. 23.

<sup>5</sup> *Id.*, p. 26.

facilities in general, and the San Bruno pipeline specifically.<sup>6</sup> If the Commission finds that management practices and policies contributed towards violations of law that adversely affected safety, the Commission could impose statutory penalties pursuant to Section 2107 of the California Public Utilities Code, and other appropriate relief under the law. According to the Order Instituting Investigation,

[t]he Commission is prepared to impose very significant fines if the evidence adduced at hearing establishes that PG&E's recordkeeping policies and practices contributed to the loss of life and injuries that occurred at San Bruno. We also note that it appears that any PG&E recordkeeping violations of safety law and standards found by the Commission may have occurred over long periods of time. If supported by the evidence, the Commission will consider ordering daily fines for a significant period of time.<sup>7</sup>

Investigation 11-02-016 is the proper forum for the Commission to penalize PG&E for any management practices and policies that contributed to violations of law and the San Bruno rupture. It would be duplicative to do the same in Rulemaking 11-02-019.

Second, the jury is still out on what exactly is PG&E's past failure. The Commission has not made a decision in Investigation 11-02-016, and thus has not determined whether PG&E violated any laws which adversely affected safety and contributed to the San Bruno rupture. Thus, it would be premature to put a price tag on PG&E's punishment.

Third, even if PG&E's past failure were already determined, its liability for that failure is a wholly separate question from who should be paying for

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<sup>6</sup> See Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company with Respect to Facilities Records for its Natural Gas Transmission System Pipelines (I.11-02-016), February 24, 2011.

<sup>7</sup> *Id.*, pp. 11-12.

modernizing the system. Although the San Bruno incident was the catastrophic alarm that PG&E's gas system has severe problems, it was also the warning that all of California's gas systems need serious attention. Indeed, PG&E is not the only utility that, "has stated that it is not able to provide specific records of every component in its natural gas transmission pipelines."<sup>8</sup> "SoCalGas and SDG&E have" also "stated that it is very difficult, if not infeasible, to locate records for all pipeline materials in the specified areas."<sup>9</sup> Accordingly, the Proposed Decision did not limit the requirement to pressure test or replace natural gas transmission pipelines to PG&E. Likewise, the rate setting proposals to cover the costs of testing and replacement should apply equally across the board to the gas utilities.

Finally, by requiring shareholders to pay for upgrading PG&E's gas system, the Commission would be undercutting shareholders' incentives to quickly perform the necessary work. CUE understands the impulse to penalize PG&E, and CUE is not opposed to the sentiment *per se*, but the Commission must think carefully about how best to implement a penalty. The Commission has an important goal here – to get California's gas systems up to standards. But, the potentially undesirable effect of requiring shareholders to pay for the work for which they will see no return is that there is less incentive for shareholders to provide the money to do the work.

If the Commission is steadfast on punishing PG&E for the San Bruno rupture in *this* proceeding, the Commission should consider a system whereby PG&E is penalized up front, but not on the margin. For example, for the first

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<sup>8</sup> Proposed Decision, p. 25.

<sup>9</sup> *Id.*

million dollars of capital investment, the return on equity (“ROE”) would be zero, but for each million dollars of capital investment after that, the ROE would be 12 percent. Such a system would achieve the desired effect of punishing PG&E, but would eliminate the negative side effect of discouraging investment. In fact, it would provide shareholders with an incentive to supply the capital quickly in order to get some return on their investment.

### III. CONCLUSION

CUE wholly supports the Proposed Decision’s important goal of improving the safety of all natural gas transmission pipelines in California. CUE also agrees that pressure testing and replacing pipeline where necessary are proper methods to achieve that goal. However, CUE urges the Commission to think carefully about requiring PG&E shareholders to pay for testing and pipeline replacement.

The Commission should not mix PG&E’s culpability for its past failure with future costs for improving the safety of California’s gas system. The Commission already has a proceeding to hold PG&E accountable for whatever poor management practices may have led to the San Bruno rupture. In addition, PG&E’s past failure is separate from determining what future work must be done to upgrade PG&E’s gas system, and it is not just PG&E’s gas system that needs attention here. Rather, the Proposed Decision requires *all* gas utilities to test and replace gas pipelines which have not been pressure tested or which lack verifiable information for testing. Finally, the requirement gives shareholders a disincentive to undertake the necessary work to ensure a safe system. Instead, the Commission should determine



## CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing **COMMENTS OF THE COALITION OF CALIFORNIA UTILITY EMPLOYEES ON THE PROPOSED DECISION DETERMINING MAXIMUM ALLOWING OPERATING PRESSURE METHODOLOGY AND REQUIRING FILING OF NATURAL GAS TRANSMISSION PIPELINE REPLACEMENT FOR TESTING IMPLEMENTATION PLANS** to be served upon all parties to R.11-02-019 via email, mail or messenger pursuant to the Commission's Rules of Practice and Procedure.

Dated at South San Francisco, California, this 31<sup>st</sup> day of May, 2011.

/s/

Valerie Stevenson

Via Courier

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