

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  
(Filed February 24, 2011)

**COMMENTS  
OF THE DIVISION OF RATEPAYER ADVOCATES  
ON THE PROPOSED DECISION  
OF ADMINISTRATIVE LAW JUDGE BUSHEY**

**I. INTRODUCTION**

In accordance with Rule 14.3(a) of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the Division of Ratepayer Advocates ("DRA") hereby submits its comments on the proposed decision of Administrative Law Judge (ALJ) Bushey ("PD") establishing a Maximum Allowable Operating Pressure ("MAOP") methodology and requiring each California natural gas transmission pipeline operator to file a pipeline replacement or pressure testing implementation plan.<sup>1</sup>

The PD errs in permitting the utilities to submit ratemaking proposals with their implementation plans. While it may be useful to include cost estimates for activities described in the plans, a determination at this time of the appropriate rate treatment of those costs would be premature, particularly in the case of Pacific Gas and Electric

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<sup>1</sup> See Rulemaking ("R.") 11-02-019, Decision Determining Maximum Allowable Operating Pressure Methodology and Requiring Filing of Natural Gas Transmission Pipeline Replacement or Testing Implementation Plans, Proposed Decision of ALJ Bushey ("PD"), May 10, 2011.

Company (“PG&E”), prior to the issuance of the National Transportation and Safety Board’s (“NTSB’s”) report on the cause of San Bruno explosion.

## II. DISCUSSION

The PD directs California transmission pipeline operators to submit a multi-year, “comprehensive Implementation Plan to replace or pressure test all natural gas transmission pipeline in California that has not been tested or for which reliable records are not available.”<sup>2</sup> The PD requires that the implementation plans include ratemaking proposals with the following information:

- a. For PG&E only, proposed cost allocation between shareholders and ratepayers;
- b. Specific rate base and expense amounts for each year proposed to be included in regulated revenue requirement;
- c. Proposed rate impacts for each year and each customer class; and
- d. Other such facts and demonstrations necessary to understand the comprehensive rate impact of the Implementation Plan.<sup>3</sup>

The PD states: “A key question regarding the Implementation Plans is how the costs, which are expected to be significant, will be funded. We, therefore, direct the plans as set forth above must include cost estimates and rate impacts to enable the Commission to fully consider the impacts of the final adopted plan.”<sup>4</sup> DRA agrees that cost estimates could be provided. However, DRA is opposed to utility requests for memorandum accounts and for recovery of any expenditures outside of the general rate case process. Here, allowing ratemaking proposals to be included in the implementation plans invites the utilities to request ratepayer funding for costs that more appropriately should be borne by shareholders or can be subsumed within existing program funding. It would be more logical to wait for the NTSB report to be released, so that the Commission

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<sup>2</sup> PD, p. 19.

<sup>3</sup> PD, pp. 23-24, Conclusion of Law 7, Ordering Paragraph 10.

<sup>4</sup> PD, p. 22.

and the parties have in hand the NTSB's analysis and determination of the cause(s) of the San Bruno explosion and be better informed to consider what appropriate activities should be undertaken by PG&E and the other utilities to make or keep their systems safe and what new rules should be adopted in this rulemaking.

In particular, for PG&E, it seems very premature to determine the appropriate cost allocation between shareholders and ratepayers before the causes of the San Bruno explosion are known. As the PD notes, "PG&E needs to rebuild the Commission's and the public's trust in the safety of its operations. The directives in today's decision are necessary steps to ensure safe operations and to restore public trust."<sup>5</sup> If PG&E wants to restore public trust, then its proposed cost allocation should be that PG&E shareholders will bear 100 percent of the costs of its implementation plan. Making ratepayers shoulder any portion of costs now seems unlikely to restore public confidence in PG&E, and jumps the gun from a ratemaking perspective. Moreover, the Commission's investigation into PG&E's records keeping related to San Bruno is pending, and the Commission presumably could open its own investigation as to the causes of the San Bruno explosion following release of the NTSB's report or incorporate the issue into the current rulemaking at a later date. Any penalties that could result from these investigations and rulemakings should logically flow through following the Commission's conclusions rather than speculation.

### **III. CONCLUSION**

For the foregoing reasons, DRA respectfully recommends that the PD be modified as shown in Appendix A to these comments.

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<sup>5</sup> PD, p. 17.

Respectfully submitted,

/s/ MARION PELEO

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Marion Peleo  
Staff Counsel

Attorney for the Division of Ratepayer  
Advocates

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-2130  
Fax: (415) 703-2262  
E-mail: [map@cpuc.ca.gov](mailto:map@cpuc.ca.gov)

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## APPENDIX A

The PD should be modified as follows.

### Pages 23-24:

Therefore, each natural gas transmission operator in California must include in its implementation plan ~~a ratemaking proposal with~~ the following:

- a. For PG&E only, proposed cost allocation between shareholders and ratepayers;
- b. ~~Specific rate base and expense amounts for each year proposed to be included in regulated revenue requirement;~~ Specific estimates of capital investment, rate base, expense amounts and resulting revenue requirement for each year.
- c. ~~Proposed rate impacts for each year and each customer class; and~~
- d. ~~Other such facts and demonstrations necessary to understand the comprehensive rate impact of the Implementation Plan.~~

We anticipate that extensive hearings will be necessary to fully vet the plans ~~and to evaluate the rate impacts.~~

### Conclusion of Law 7:

The Implementation Plan should include ~~a rate proposal with~~ the following:

- a. For PG&E only, proposed cost allocation between shareholders and ratepayers;
- b. ~~Specific rate base and expense amounts for each year proposed to be included in regulated revenue requirement;~~ Specific estimates of capital investment, rate base, expense amounts and resulting revenue requirement for each year.
- c. ~~Proposed rate impacts for each year and each customer class; and,~~
- d. ~~Other such facts and demonstrations necessary to understand the comprehensive rate impact of the Implementation Plan.~~

Ordering Paragraph 10:

10. The Implementation Plan must also include ~~a rate proposal with~~ the following:

- a. For PG&E only, proposed cost allocation between shareholders and ratepayers;
- ~~b. Specific rate base and expense amounts for each year proposed to be included in regulated revenue requirement;~~ Specific estimates of capital investment, rate base, expense amounts and resulting revenue requirement for each year.
- ~~c. Proposed rate impacts for each year and each customer class; and~~
- ~~d. Other such facts and demonstrations necessary to understand the comprehensive rate impact of the Implementation Plan.~~