

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Legal Division

San Francisco, California

Date: October 14, 2010

Resolution No. L-405

RESOLUTION

DECLARING AN EMERGENCY UNDER PUBLIC UTILITIES CODE SECTION 632, PUBLIC CONTRACTS CODE SECTION 1102, AND STATE CONTRACTING MANUAL SECTIONS 3.10.1 AND 4.05, PERMITTING THE IMMEDIATE HIRING OF EXPERT CONSULTANTS TO THE INDEPENDENT REVIEW PANEL CREATED PURSUANT TO RESOLUTION L-403.

SUMMARY

The Commission established an Independent Review Panel (“Independent Review Panel” or “Panel”) in Resolution L-403 to investigate, among other things, the explosion of Pacific Gas and Electric Company’s (“PG&E’s”) natural gas transmission pipeline 132 and into the general safety risks associated with PG&E’s other gas transmission lines in the State. Resolution L-403 also ordered PG&E to reduce the operating pressure on PG&E’s Line 132 to “a pressure level of 20% below the operating pressure at the time of the failure and retain the lower pressure level until such time as the Commission allows PG&E to return Line 132 to normal operating pressure.” (Res. L-403 at p. 3.) With winter approaching, it will be necessary for the Commission to immediately hire expert consultants to investigate the safety of increasing the pressure of Pipeline 132 to its normal operating pressure prior to the San Bruno explosion to meet the normal natural gas requirements for PG&E’s San Francisco and San Francisco Peninsula customers. This Resolution declares that an emergency exists requiring the Commission to hire expert consultants immediately outside the normal state contracting requirements. Pursuant to Resolution L-403, the costs of the Panel and its experts and consultants will be funded by PG&E.

JURISDICTION AND AUTHORITY

The Commission may hire expert consultants outside the normal state contracting requirements of Government Code §§ 11042 and 14615 and Public Contract Code §§ 10295 and 10318, pursuant to the powers provided under Public Utilities Code

§ 632 following the Commission’s finding of “extraordinary circumstances justifying expedited contracting for consultant or advisory services.”

The Commission order to reduce the operating pressure of Pipeline 132 in Resolution L-403 presents a potential impairment to essential natural gas service to PG&E customers located on the San Francisco Peninsula and the City and County of San Francisco during the winter of 2010 through 2011. The Commission determines in this Resolution that this potential service impairment constitutes an “emergency” under the State Contracting Manual section 3.10.1.A and “extraordinary circumstances” as described in Public Utilities Code § 632. Consequently, the hiring of the Panel’s expert consultants by the Commission is not subject to the normal requirements of obtaining three bids and advertising the expert consultant positions prior to the Commission entering into contracts with the consultants.

THE “EMERGENCY” CREATED BY THE REDUCTION IN GAS PRESSURE ON PG&E’S PIPELINE 132

The Commission ordered a 20% reduction in the normal operating pressure of Pipeline 132 in Resolution L-403 until such time as the Commission permits PG&E to return to the pre-incident normal operating pressure of the Pipeline. This operating reduction in Pipeline 132 necessarily will impair delivery of normal natural gas quantities to PG&E customers on the San Francisco Peninsula and in the City and County of San Francisco. To the degree that this pressure reduction and natural gas supply reduction will affect these customers in the winter of 2010 through 2011, it constitutes an emergency requiring immediate action to hire consultants to assist the Panel in determining whether increasing the pressure on Pipeline 132 during this period is safe.

WAIVER OF COMMENT PERIOD

The tragic San Bruno explosion and the need to immediately hire consultants to investigate the safety of increasing the pressure of Pipeline 132 to pre-accident operating pressure is an unforeseen emergency of local and statewide importance requiring immediate action by the Commission. The normal 30-day comment period for the issuance of an order or resolution may be waived in circumstances such as these. (Pub. Util. Code §§ 311, subs. (d) & (g)(2); see also *Resolution E-3731, Pacific Gas and Electric Company* (April 3, 2001) 2001 Cal. PUC LEXIS 659.) The Commission’s Rules of Practice and Procedure also permit such a waiver.¹

¹ “In an unforeseen emergency situation, the Commission may reduce or waive the period for public review and comment on proposed decision, draft resolutions, and alternates. “Unforeseen emergency situation” means a matter that requires action or a decision by the Commission more quickly than would be permitted if advance publication were made on the regular meeting

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FINDINGS OF FACT

1. The Commission finds that the San Bruno explosion of September 9, 2010, the reduction in the gas pressure on PG&E's Pipeline 132 ordered by the Commission on September 13, 2010, and the potential reduction in natural gas supplies to certain PG&E customers during the winter of 2010 through 2011, are "unforeseen emergencies" under Public Utilities Code sections 311(d) and 311(g)(2).
2. The Commission finds that these unforeseen emergencies require that it hire expert consultants to assist the Independent Review Panel in determining whether the pressure in PG&E's Pipeline 132 may safely be increased to normal operating pressures during the winter of 2010 through 2011, or whether other measures should be taken to ensure a sufficient supply of natural gas to PG&E customers on the San Francisco Peninsula and in the City and County of San Francisco.
3. The Commission finds that the San Bruno explosion of September 9, 2010, the reduction in the gas pressure on PG&E's Pipeline 132 ordered by the Commission on September 13, 2010, and the potential reduction in natural gas supplies to certain PG&E customers during the winter of 2010 through 2011, are sudden, unexpected occurrences that pose a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services as described in Public Contracts Code § 1102.
4. The Commission finds that it is reasonable and necessary to hire expert consultants for the Panel under the "extraordinary circumstances" provisions of Public Utilities Code § 632 permitting the Commission to contract with these experts outside normal state contracting rules.
5. The Commission finds that it is reasonable and necessary for the expenses of these expert consultants to the Panel to be paid by PG&E. Issues regarding the allocation of the costs and expenses of the Panel between shareholders and customers shall be determined in a later proceeding. PG&E is instructed to pay the costs and expenses, and record those costs and expenses in a memorandum account.

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agenda. Examples include, but "are not limited to...[a]ctivities that severely impair or threaten to severely impair[,] public health or safety[,]...[c]rippling disasters that severely impair public health or safety[,]...[u]nusual matters that cannot be disposed of by normal procedures if the duties of the Commission are to be fulfilled." (Cal. Code of Regs., tit. 20, § 14.6 subds. (1), (2) and (8).)

6. The Commission finds that the normal 30-day comment period for the issuance of an order or resolution should be waived. (Pub. Util. Code § 311(d) and 311(g)(2).)

CONCLUSIONS OF LAW

1. The San Bruno explosion, the reduction in the gas pressure on PG&E's Pipeline 132 ordered by the Commission on September 13, 2010, and the potential reduction in natural gas supplies to certain PG&E customers during the winter of 2010 through 2011, are "unforeseen emergencies" under Public Utilities Code sections 311(d) and 311(g)(2).
2. It is reasonable and necessary to hire expert consultants to assist the Panel in determining whether the pressure in PG&E's Pipeline 132 may safely be increased to normal operating pressures during the winter of 2010 through 2011, or whether other measures should be taken to ensure a sufficient supply of natural gas to PG&E customers on the San Francisco Peninsula and in the City and County of San Francisco.
3. The San Bruno explosion of September 9, 2010, the reduction in the gas pressure on PG&E's Pipeline 132 ordered by the Commission on September 13, 2010, and the potential reduction in natural gas supplies to certain PG&E customers during the winter of 2010 through 2011, are sudden, unexpected occurrences that pose a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services as described in Public Contracts Code § 1102.
4. It is reasonable and necessary to hire expert consultants for the Panel under the "extraordinary circumstances" provisions of Public Utilities Code § 632 permitting the Commission to contract with these experts outside normal state contracting rules.
5. It is reasonable and necessary that PG&E fund the costs and expenses of the Panel because of these emergency circumstances.
6. It is reasonable and necessary to waive the normal 30-day comment period for the issuance of this Resolution pursuant to Public Utilities Code sections 311(d) and 311(g)(2).

ORDER

1. Staff shall hire expert consultants to assist the Panel, among other things, in determining whether the pressure in PG&E's Pipeline 132 may safely be increased to normal operating pressures during the winter of 2010 through 2011, or whether other measures should be taken to ensure a sufficient supply

- of natural gas to PG&E customers on the San Francisco Peninsula and in the City and County of San Francisco.
2. The expert consultants for the Panel shall be hired by staff under the “extraordinary circumstances” provisions of Public Utilities Code § 632 permitting the Commission to contract with these experts outside normal state contracting rules.
 3. PG&E shall pay the costs and expenses and record those costs and expenses in a memorandum account. Issues regarding the allocation of costs and expenses of the Panel between shareholders and customers shall be determined later.
 4. The normal 30-day comment period for the issuance of this Resolution shall be waived pursuant to Public Utilities Code sections 311(d) and 311(g)(2), *Resolution E-3731, Pacific Gas and Electric Company* (April 3, 2001) 2001 Cal. PUC LEXIS 659, and Cal. Code of Regs., tit. 20, §§ 14.6 subd. (1), (2) and (8).

This Order is effective today.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting of October 14, 2010. The following Commissioners approved it:

PAUL CLANON
Executive Director