

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
ENERGY DIVISION  
I.D. # 10291  
RESOLUTION G-3453  
May 5, 2011

**R E S O L U T I O N**

**Resolution G-3453.** Pacific Gas and Electric Company (PG&E) seeks authorization to establish the Natural Gas Transmission Pipeline Safety Memorandum Account to track costs associated with: 1) programs to implement new governmental regulatory mandates and requirements related to gas transmission pipeline safety, and 2) gas transmission pipeline safety programs undertaken on its own initiative.

PROPOSED OUTCOME: PG&E's request is denied without prejudice. The utility may seek approval of its proposed memorandum account in Commission Rulemaking (R.) 11-02-019.

ESTIMATED COST: None.

By PG&E Advice Letter (AL) 3171-G, filed December 1, 2010.

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**SUMMARY**

**PG&E's request to record costs it incurs implementing new transmission pipeline safety regulations and utility initiatives such as its Pipeline 2020 Program in a memorandum account is denied without prejudice. The utility may seek approval of its proposed memorandum account in R.11-02-019.**

In R.11-02-019, the Commission will consider how to better incorporate pipeline safety considerations in its ratemaking practices and policies as well as evaluate utility programs such as PG&E's Pipeline 2020 Program. PG&E's proposed memorandum account involves a subject matter that is best addressed in the rulemaking proceeding.

The protest of the Division of Ratepayer Advocates (DRA) and the joint protest of The Utility Reform Network (TURN) and Disability Rights Advocates (DisRA) are moot.

## **BACKGROUND**

**On February 24, 2011, the Commission adopted R. 11-02-019. The rulemaking was opened to establish a new model of natural gas pipeline safety regulation applicable to California pipelines.**

R.11-02-019 is categorized as ratesetting and it will consolidate and coordinate the Commission's efforts regarding new rules and policies related to pipeline safety. One primary rulemaking objective is to:

“Consider available options for the Commission to better align ratemaking policies, practices, and incentives to elevate safety considerations, and maintain utility management focus on the “nuts and bolts” details of prudent utility operations.” (R.11-02-019, p. 4)

The rulemaking also acknowledged that PG&E has proposed to implement a program called the “Pipeline 2020 Program” and that it as well as any other similar programs will be evaluated in the proceeding.<sup>1</sup>

**Before R.11-02-019 was opened, PG&E filed AL 3171-G requesting approval of a memorandum account to record costs of implementing new governmental transmission pipeline requirements and utility pipeline safety initiatives such as its Pipeline 2020 Program.<sup>2</sup>**

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<sup>1</sup> For more information about PG&E's Pipeline 2020 Program go to:  
[http://www.pge.com/about/newsroom/newsreleases/20101012/pge\\_announces\\_pipeline\\_2020\\_program\\_for\\_enhancing\\_natural\\_gas\\_pipeline\\_safety\\_and\\_reliability.shtml](http://www.pge.com/about/newsroom/newsreleases/20101012/pge_announces_pipeline_2020_program_for_enhancing_natural_gas_pipeline_safety_and_reliability.shtml)

<sup>2</sup> “A memorandum account allows a utility to track costs arising from events that were not reasonably foreseen in the utility's last general rate case. By tracking these costs in a memorandum account, a utility preserves the opportunity to seek recovery of these costs at a later date without raising retroactive ratemaking issues. However, when the Commission authorizes a memorandum account, it has not yet determined whether recovery of booked costs is appropriate, unless so specified.” (D.10-04-031, mimeo, pp. 43-4)

PG&E filed the AL in anticipation of new government requirements prompted by the San Bruno pipeline rupture and for safety programs undertaken by the utility. The utility said in the AL that recovery of the costs recorded to the memorandum account would be considered in a future Commission proceeding.

## **NOTICE**

Notice of AL 3171-G was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

## **PROTESTS**

**On December 21, 2010, DRA protested the AL and recommended that it be denied.** DRA claimed that none of the functions PG&E indentified in the AL should require any additional funding and that the utility is seeking to track costs for activities that it is already required to perform. It also asserted that the memorandum account lacks details about the costs to be tracked and is unnecessary for PG&E to implement its Pipeline 2020 Program. The protest takes issue with recording R&D program costs in the memorandum account and said it should be fully funded by PG&E shareholders. Furthermore, DRA believed it is prudent to postpone any large-scale spending until the cause of the San Bruno pipeline rupture is known.

**On December 21, 2010, TURN and DisRA jointly protested the AL and recommended that it be denied.** TURN/DisRA said that the memorandum account does not clearly show what costs would be recorded and that some Pipeline 2020 Program costs should already be funded through existing rates. They also assert that PG&E's request is premature and is more appropriate if and when any new regulatory requirements are known. TURN/DisRA also noted that the Pipeline 2020 Program may prove costly and that it should be considered through an application. As a compromise to approving the AL in full, TURN/DisRA suggested that the Commission only approve the tracking of new governmental safety regulations incremental to the activities included in the rates adopted in A.09-09-013.

**On December 28, 2010, PG&E responded to the protests.** PG&E stated that it will only record costs for activities not already included in rates. For clarification, the utility said that the memorandum account is mostly for

transmission pipeline related costs, although emergency response plan enhancements may also be applicable to gas distribution pipeline incidents. On DRA's R&D issue, PG&E stated that the non-profit R&D institute will be funded by \$10 million in shareholder funds and it did not propose in AL 3171-G to track these program costs in the memorandum account. The utility cautioned that rejecting the memorandum account would impact its efforts to comply with new pipeline safety regulations and essentially be a ruling on the merits of its Pipeline 2020 Program.

## **DISCUSSION**

**PG&E's proposal in AL 3171-G to establish a memorandum account is denied without prejudice. The utility may seek approval of the proposed memorandum account in R.11-02-019.**

In R.11-02-019, the Commission will explore ways to better align its ratemaking policies with pipeline safety considerations and also evaluate utility safety initiatives such as PG&E's Pipeline 2020 Program.

PG&E's proposed memorandum account to record costs to implement new pipeline safety regulations and its Pipeline 2020 Program involves subject matter under consideration in R.11-02-019. Additionally, the protestants raised issues that are more suited to be examined within the framework of the comprehensive policy review being undertaken in the rulemaking. Therefore, R.11-02-019 is the appropriate venue to consider PG&E's proposed memorandum account filed in AL 3171-G. Accordingly, we deny PG&E AL 3171-G without prejudice. If PG&E wants to pursue our approval of the memorandum account denied herein, the utility should do so in R.11-02-019.

**Although we deny PG&E's memorandum account request without prejudice, the utility is bound by Public Utilities Code section 451 to maintain safe operations.**

PG&E said that the memorandum account will allow it to comply with new government safety mandates and that rejecting it "would thwart and delay [its]

efforts to comply with new pipeline safety requirements and implement new and enhanced safety programs on its transmission system.”<sup>3</sup>

Pursuant to Public Utilities (P.U.) Code section 451, PG&E is required to maintain and operate its gas system safely. This P.U. Code section states:

“Every public utility shall furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

The provisions of P.U. Code section 451 are clear and unconditional. PG&E is bound by this statute to keep its gas system safe regardless of our decision on the proposed memorandum account. We also note that PG&E said that it is already making expenditures to implement its Pipeline 2020 Program.<sup>4</sup>

**The protests of DRA and TURN/DisRA are moot.**

The issues raised in the protests may be raised in R.11-02-019 as appropriate.

### **COMMENTS**

Public Utilities Code section 311(g)(1) generally provides that resolutions must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Accordingly, this draft resolution was mailed to parties for comment, and will be placed on the Commission's agenda no earlier than 30 days from April 4, 2011.

### **FINDINGS AND CONCLUSIONS**

1. In AL 3171-G, PG&E seeks approval of a memorandum account to record its costs of implementing new government transmission pipeline safety

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<sup>3</sup> *Response of Pacific Gas and Electric Company to the protest of Division of Ratepayer Advocates and the Joint Protest of The Utility Reform Network and Disability Rights Advocates to PG&E Advice 3171-G, dated December 28, 2010, p. 4.*

<sup>4</sup> *Ibid.*

requirements and utility sponsored initiatives such as its Pipeline 2020 Program.

2. R.11-02-019 was opened after PG&E filed AL 3171-G and is categorized as ratesetting.
3. PG&E's proposed memorandum account filed in AL 3171-G should be considered in R.11-02-019 because in that proceeding the Commission will address ways to better align its ratemaking practices and policies with pipeline safety considerations as well as consider PG&E's Pipeline 2020 Program and similar utility programs.

**THEREFORE IT IS ORDERED THAT:**

1. PG&E AL 3171-G is denied without prejudice.
2. PG&E may seek approval of the memorandum account it proposed in AL 3171-G in R.11-02-019.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on May 5, 2011; the following Commissioners voting favorably thereon:

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Paul Clanon  
Executive Director

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



April 4, 2011

RESOLUTION G-3453

May 5, 2011 Commission Meeting

I.D. 10291

TO: Parties to Pacific Gas and Electric Company (PG&E) Advice  
Letter (AL) 3171-G

Enclosed is draft Resolution G-3453 of the Energy Division. It will be on the agenda at the next Commission meeting which is at least 30 days after the mailing date of this letter. The Commission may then vote on this Resolution or it may postpone a vote until later.

The draft resolution denies without prejudice PG&E's request to record costs it incurs implementing new transmission pipeline safety regulations and programs such as its Pipeline 2020 Program in a memorandum account. PG&E may pursue approval of its proposal in Commission Rulemaking (R.)11-02-019.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the draft Resolution. An original and two copies of the comments, with a certificate of service, should be submitted to:

Honesto Gatchalian  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Fax: 415-703-2200

A copy of the comments should also be submitted **in electronic format** to:

Eugene Cadenasso and Richard Myers

Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
e-mail: [cpe@cpuc.ca.gov](mailto:cpe@cpuc.ca.gov) and [ram@cpuc.ca.gov](mailto:ram@cpuc.ca.gov)

Any comments on the draft Resolution must be received by the Energy Division by April 28, 2011. Those submitting comments must also serve a copy of their comments on the : 1) the entire service list attached to the draft Resolution, 2) all Commissioners, 3) the Chief Administrative Law Judge, 4) the General Counsel, and 5) the Director of the Energy Division, on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to fifteen pages in length plus a listing of the recommended changes to the draft Resolution and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the draft Resolution. Comments that merely

reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Replies to comments on the draft Resolution will not be accepted.

/s/ Richard A. Myers  
**Richard A. Myers**, Program and Project Supervisor  
Energy Division

1.1 *Enclosure: Certificate of Service and Service List*

**CERTIFICATE OF SERVICE**

I certify that I have served a true copy of Draft Resolution G-3453 on the attached service list via electronic mail.

Dated April 4, 2011 at San Francisco, California.

/s/ Honesto Gatchalian

*Honesto Gatchalian*

**NOTICE**

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.

**RESOLUTION G-3453  
SERVICE LIST**

Pacific Gas and Electric Company  
Attn: Jane K. Yura, Vice President, Regulation and Rates  
77 Beale Street, Mail Code B10B  
P.O. Box 770000  
San Francisco, CA 94177  
[PGETariffs@pge.com](mailto:PGETariffs@pge.com)

Mark Pocta  
Program Manager, Energy Cost of Service & Natural Gas Branch  
Division of Ratepayer Advocates  
505 Van Ness Avenue  
San Francisco, CA 94102  
[RMP@cpuc.ca.gov](mailto:RMP@cpuc.ca.gov)

Haley Goodson  
Staff Attorney  
The Utility Reform Network  
115 Sansome Street, Suite 900  
San Francisco, CA 94104  
[hayley@turn.org](mailto:hayley@turn.org)

Karla Gilbride  
Disability Rights Advocates  
2001 Center St., Fourth Floor  
Berkeley, CA 94704  
[pucservice@dralegal.org](mailto:pucservice@dralegal.org)

