

Decision 12-02-025 February 16, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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.

Investigation 11-02-016
(Filed February 24, 2011)

ORDER EXTENDING STATUTORY DEADLINE

Summary

Pub. Util. Code § 1701.2(d) provides that adjudication proceedings shall be resolved within 12 months after they are initiated, unless the Commission makes findings why that deadline cannot be met and issues an order extending the 12-month deadline.

In this proceeding, the 12-month deadline for resolving the case is February 24, 2012. On November 21, 2011, the Assigned Commissioner's Scoping Memo and Ruling (Scoping Ruling) was issued. Based on the circumstances surrounding the proceeding, a Presiding Officer's Decision (POD) on the first phase of the proceeding is not anticipated to be issued until January 2013. Additional time would then be needed for the Commission and parties to decide whether to adopt the POD or to consider an appeal. Thus, it would not be possible to resolve this case within the one-year period provided in Pub. Util. Code § 1701.2(d). Because of these circumstances, we have concluded that it is appropriate to extend the 12-month deadline in this case for 24 months, until February 24, 2014.

Background

The Commission opened this Order Instituting Investigation (OII) on February 24, 2011 to determine whether Pacific Gas and Electric Company (PG&E) violated any provision or 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 facilities. The proceeding pertains to both PG&E's safety recordkeeping for the San Bruno, California gas transmission pipeline that ruptured on September 9, 2010 and PG&E's recordkeeping practices for its entire gas transmission system.

This OII was commenced based on statements concerning the adequacy of PG&E's records made by the National Transportation Safety Board (NTSB) as part of its preliminary investigation into the San Bruno explosion. The OII directed PG&E to submit documents responsive to directives set forth in the OII. PG&E has and continues to provide responsive documents, as authorized by the Administrative Law Judge (ALJ) in Rulings issued on March 24, 2011 and June 8, 2011. Prehearing conferences (PHC) were noticed and held on March 17, May 9, June 6, September 6, and November 1, 2011. The Scoping Ruling was issued on November 21, 2011.

Discussion

This proceeding is divided into two phases. The first phase of the proceeding would consider whether PG&E violated federal or state statutes, orders, or standards with respect to its gas system recordkeeping. However, the schedule for this first phase could not be set until PG&E had submitted its responses to the directives in the OII and Legal Division submits its report of its review of PG&E's recordkeeping practices. PG&E requested and was granted multiple extensions of time to retrieve and submit its records. Additionally, due

to the volume of data to be reviewed and the length of time to receive approval to hire outside consultants, Legal Division will not be able to submit the report of its findings until February, 2012. In order to provide intervenors sufficient time to file their testimony and to allow for evidentiary hearings, the Scoping Memo does not anticipate that a POD will be issued until January 2013. If the first phase of this proceeding finds that PG&E had violated any federal or state statutes, orders, or standards, a second phase would determine whether penalties were warranted, and the appropriate amount. This second phase would likely take an additional 12 months to complete.

Under all the circumstances of this case, we believe that a 24 month extension of time, until February 24, 2014, should be sufficient to allow for the completion of both phases of this proceeding.

Waiver of Comments on Proposed Decision

Under Rule 14.6(c)(4) of the Rules of Practice and Procedure, the Commission may waive the otherwise applicable 30-day period for public review and comment on a decision that extends the 12-month deadline set forth in Pub. Util. Code § 1701.2(d). Under the circumstances of this case, it is appropriate to waive the 30-day period for public review and comment.

Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Amy C. Yip-Kikugawa is the assigned ALJ in this proceeding.

Findings of Fact

1. The investigation in this case was filed on February 24, 2011.
2. PG&E requested and was granted multiple extensions of time to retrieve and submit its records.

3. In order to provide parties sufficient time to comment on PG&E's records and for evidentiary hearings, the Scoping Memo does not anticipate that a POD will be issued until January 2013.

4. If the first phase of this proceeding finds that PG&E had violated any federal or state statutes, orders, or standards, a second phase would be needed to determine if penalties are warranted and the appropriate amount.

5. An extension of time until February 24, 2014 should allow the ALJ adequate time to complete both phases of this proceeding.

Conclusions of Law

1. Because of the complexity of the proceeding and the separate phases to consider potential violations and penalties, it will not be possible to resolve this case within the 12-month period provided for in Pub. Util. Code § 1701.2(d).

2. The 12-month statutory deadline should be extended for 24 months to allow for resolution of this proceeding.

O R D E R

IT IS ORDERED that the 12-month statutory deadline in this proceeding, February 24, 2012, is extended to and including February 24, 2014.

This order is effective today.

Dated February 16, 2012, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners