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R2001007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and perform Long-Term Gas System Planning.

Rulemaking 20-01-007

**ADMINISTRATIVE LAW JUDGE'S RULING
DIRECTING PARTIES TO FILE COMMENTS
ON PROPOSED GENERAL ORDER RE GAS INFRASTRUCTURE**

1. Background

Section 2.1 (a) of the Amended Scoping Memo issued on October 14, 2021 includes the following topic for consideration in Phase 2 of this proceeding:

Should the Commission consider adopting a General Order (GO) analogous to GO 131-D for electric infrastructure projects, that would require site-specific approvals for gas infrastructure projects that exceed a certain size or cost?

To facilitate consideration of this topic, Energy Division staff has drafted a proposed GO establishing rules for site-specific approvals of gas infrastructure projects meeting certain specified criteria. The proposed GO is attached to this ruling.

This ruling directs parties to file comments on all aspects of the proposed GO and specifically seeks comments on the following questions (Section references hereafter are to sections of the proposed GO):

1. Section IV(A)(1) sets out a \$100 million dollar threshold for review of certain projects under this GO. It also sets out an environmental impact threshold.

- a. Should different dollar thresholds be provided for different types of gas infrastructure projects? If so, how should these thresholds be determined, and what should they be?
 - b. Should other types of parameters (e.g., project size) be included in addition to, or instead of, the triggers specified in Section IV(A)(1)?
2. Should significant localized environmental impacts from a proposed gas infrastructure project beyond exposure to criteria air pollutants trigger review under the General Order as specified in Section IV(A)(1)? If so, what types of environmental impacts should be considered?
3. Section IV(A)(3)(f) provides that the construction and maintenance of distribution main pipelines less than 12 inches in diameter should be exempt from this General Order. Should this exemption be modified? If so, how? Should other parameters such as pipeline length, volume of gas delivered or pipeline operating pressure also be considered in determining whether a distribution pipeline should be exempt?
4. Should certain types of infrastructure projects be exempt from any of the notification requirements in Section V? If so, what types of projects should be exempt?
5. Should certain types of infrastructure projects be exempt from the reporting requirements in Section X? If so, what types of projects should be exempt?
6. Should any modifications be made to the notification and reporting requirements provided in Section V and Section X?
7. In addition to providing comments on the above questions, Southern California Gas Company, San Diego Gas & Electric Company and Pacific Gas and Electric Company shall each provide a list of all gas infrastructure projects completed over the last 10 years that exceeded \$100 million in capital expenditure and the capital expenditure incurred for each such project.

Parties may file comments on the attached draft GO by July 18, 2022.

Reply comments may be filed by July 25, 2022.

IT IS SO RULED.

Dated June 27, 2022, at San Francisco, California.

/s/ KARL J. BEMESDERFER

Karl J. Bemederfer
Administrative Law Judge

ATTACHMENT

**(PROPOSED) GENERAL ORDER ESTABLISHING RULES
RELATING TO THE PLANNING AND CONSTRUCTION
OF GAS INFRASTRUCTURE LOCATED IN CALIFORNIA**

SECTION I. GENERAL

Pursuant to the provisions of Sections 451, 701, 702, 761, 762, 768, 770, and 1001 of the Public Utilities Code:

IT IS HEREBY ORDERED that except as specifically provided herein, no gas utility as defined in Public Utilities Code Section 891, now subject, or which hereafter may become subject, to the jurisdiction of this California Public Utilities Commission, shall begin construction in this state of any new plant, or modification, alteration, or addition to an existing plant, or facilities, without first complying with the provisions of this General Order.

SECTION II. PURPOSE OF THIS GENERAL ORDER

The Commission has adopted this General Order to be responsive to:

- the requirements of the California Environmental Quality Act (CEQA) (Public Resources (Pub. Res.) Code § 21000 et seq.);
- the need for public notice and the opportunity for affected parties and members of the public to be heard by the Commission;
- the obligation of the utilities to serve their customers in a timely and efficient manner; and
- the need to review significant investments in gas infrastructure for consistency with California's long-term greenhouse gas emission reduction and safety and reliability goals.

SECTION III. DEFINITIONS

Criteria pollutant – A pollutant for which there is an established National Ambient Air Quality Standard (40 C.F.R. Part 50). The criteria pollutants are carbon monoxide (CO), particulate matter, ozone (O₃), sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide (NO₂).

Environmental Resource of Hazardous or Critical Concern – This term applies to a specific geographic area or location with toxic contamination or unique habitat or environmental characteristics which has been “designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.” (CEQA Guidelines, § 15300.2(a).) Locations which have been designated in this manner do not qualify for an exemption listed in Section IV(A)(3) of this General Order and are therefore deemed a “location exception” to the exemption.

Negative Declaration – A written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and does not require the preparation of an environmental impact report (Public Resources Code Sections 21064 and the guidelines for implementation of CEQA, California Code of Regulations, Title 14, Sections 15000 et seq.)

Non-attainment area – An area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard designated by the National Ambient Air Quality Standards.

Proponent’s Environmental Assessment (PEA) - A document prepared by an applicant which includes all information and studies required under the Commission’s Information and Criteria List adopted pursuant to Chapter 1200 of the Statutes of 1977 (Government Code Sections 65940 through 65942), which is published on the Commission's website (Section 1701, Public Utilities Code).

Sensitive Receptors include but are not limited to any living quarters such as private homes, condominiums, apartments, retirement homes, prisons, dormitories, or other temporary or permanent housing; education institutions, including preschools and schools operating kindergarten or any of grades 1 to 12, inclusive, day care centers, and health care facilities, including hospitals, nursing homes, and long-term care and hospice facilities.

Severe and extreme non-attainment areas - Non-attainment areas designated by the US Environment Protection Agency (EPA) in the “Green Book” of National Ambient Air Quality Standards (NAAQS). The “Severe” and “Extreme” classifications are reached when numeric threshold levels are exceeded for a specific criteria pollutant type.

SECTION IV. NEED FOR COMMISSION AUTHORIZATION

For purposes of this General Order, construction does not include any installation of environmental monitoring equipment, or any soil or geological investigation, or work to determine feasibility of the use of a particular site for the proposed facilities, which does not result in a serious or major disturbance to an environmental resource.

Emergency projects as defined by CEQA Guideline § 15269 and Pub. Res. Code § 21060.3 are not covered by this General Order. Gas utilities invoking this exemption for emergency projects shall comply with the notification requirements set forth in Section V(C).

A. Permit to Construct (PTC)

1. No gas corporation shall begin construction or modification in this state of any plant, line or extension meeting either of the two criteria below without this Commission having first found that the project is necessary to promote the safety, health, comfort, and convenience of the public, and is required by the public convenience and necessity:
 - a. project cost exceeds \$100 million; or
 - b. project is located within 1,000 feet of a sensitive receptor, and operation of the relevant plant, line or extension is likely to result in an increase in criteria air pollutants in a severe or extreme non-attainment area.
2. The Commission may change the \$100 million threshold in Section IV(A)(1) from time to time, as appropriate, based on changes to the Consumer Price Index, or for other reasons.
3. Compliance with Section IV(A)(1) is not required for any of the following exemptions:
 - a. replacement of existing facilities or structures with equivalent facilities or structures in a manner consistent with CEQA Guidelines §§ 15300.4 and 15302(c); or
 - b. minor relocation, repairs, maintenance or alterations of existing facilities in a manner consistent with CEQA Guidelines §§ 15300.4 and 15301(b); or

- c. the placing of new equipment on or replacement of supporting structures already built consistent with CEQA Guidelines §§ 15300.4, 15301(b), and 15302(c); or
 - d. facilities to be relocated, modified or constructed which have undergone environmental review pursuant to CEQA as part of a larger project, and for which the final CEQA certified document (Environmental Impact Report (EIR) or Negative Declaration) finds no significant unavoidable environmental impacts caused by the proposed line or substation; or
 - e. any plant, line or extension that is required by the California Geologic Energy Management Division (CalGEM) or the Pipeline and Hazardous Materials Safety Administration (PHMSA) for safety or reliability reasons; or
 - f. construction, replacement or repair of distribution pipelines that are 12 inches in diameter or less; or
 - g. projects previously approved in a General Rate Case or other Commission decision which are currently underway.
4. Exceptions to the exemptions listed in Section IV(A)(3)

The foregoing exemptions listed in Section IV(A)(3) shall not apply when any of the following conditions apply. These exceptions are intended to be consistent with the exceptions provided in CEQA Guidelines § 15300.2. In addition to the exceptions listed below, any future exceptions added to the CEQA guidelines shall be valid exceptions to the exemptions in Section IV(A)(3). The exceptions to the exemptions are as follows:

- a. there is a reasonable possibility that the project may impact an environmental resource of hazardous or critical concern designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies; or
- b. the cumulative impact of successive projects of the same types, in the same place, over time is significant; or

- c. there is a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances; or
- d. the project may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. However, this exception does not apply to improvements which are required as a mitigation by an adopted negative declaration or certified EIR; or
- e. the project is located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code; or
- f. the project may cause a substantial adverse change in the significance of a historical resource.

B. Certificate of Public Convenience and Necessity (CPCN)

Any entity seeking to operate a new gas storage field or to expand Commission-authorized footprint for an existing gas storage field, shall submit an application for a CPCN.

SECTION V. NOTICE

A. Provision of Notice of a project requiring a CPCN or PTC

Notice of a project requiring a CPCN or PTC shall be provided as follows:

1. By electronic service to the planning commission and the legislative body for each county or city or tribal land in which the proposed facility would be located, the California Energy Commission (CEC), the State Department of Transportation and its Division of Aeronautics, the Secretary of the California Natural Resources Agency, the Department of Fish and Wildlife, the Department of Health Services, the State Water Resources Control Board, the California Air Resources Board, and other interested parties having requested such notification. The utility shall also give notice to the following agencies and subdivisions in whose jurisdiction the proposed facility would be located: the Air Pollution Control District,

the California Regional Water Quality Control Board, the State Department of Transportation's District Office, and any other State or Federal agency, including but not limited to PHMSA and CalGEM, which would have jurisdiction over the proposed construction;

2. By mail to all owners of land on which the proposed facility would be located and owners of property within 300 feet of the right-of-way as determined by the most recent local assessor's parcel roll available to the utility at the time notice is sent;
3. By advertisement, not less than once a week, two weeks successively, in a newspaper or newspapers of general circulation in the county or counties in which the proposed facilities will be located, the first publication to be not later than ten days after filing of the application; and
4. By posting a notice on-site and off-site where the project would be located. A copy of the notice shall be delivered to the Commission's Public Advisor and the Energy Division on the same day it is mailed. A declaration of mailing and posting as required by this subsection shall be filed with the Commission within five (5) days of completion; and
5. By publishing the notice prominently on the website of the entity seeking a PTC or CPCN.

B. Contents of Notices

Each gas corporation shall consult with the Commission's Energy Division and Public Advisor to develop and approve a standard for the notice required by Section V(A) and Section V(C) , which shall contain, at a minimum, the following information:

1. The Application Number assigned by the Commission;
2. A concise description of the proposed construction and facilities, its purpose and its location in terms clearly understandable to the average reader;
3. A summary of the measures taken or proposed by the utility to reduce potential emissions from the proposed facilities;

4. Instructions on obtaining or reviewing a copy of the Application, including the Proponent's Environmental Assessment or available equivalent, from the utility;
5. The applicable procedure for protesting the Application; and
6. A summary of information provided to the Commission under Section VI below.

C. Notification Requirements for Claimed Exemptions

1. Gas corporations invoking any of the exemptions listed under Section IV(A)(3) shall comply with the following notification requirements:
 - a. notify the Commission through the submittal of an information-only filing pursuant to General Order 96-B, or its successor;
 - b. inform relevant governmental entities, including the planning commission and the legislative body for each county or city in which the proposed facility would be located or the work would occur, any other agency that would have jurisdiction over the proposed action, and any other entities that have requested such notifications by direct mail, or otherwise requested means; and
 - c. notify the general public by direct mail to all owners and occupants of land on which the proposed facility or action would be located, and the owner and occupants of property within 300 feet of the facilities or action as determined by the most recent local assessor's parcel roll available to the utility at the time notice is sent.
2. Notices of exemptions shall contain, at a minimum, the following information:
 - a. Any relevant Commission application or advice letter number, and information on how to contact the Commission's Consumer Affairs Branch;
 - b. A concise description of the proposed construction, facilities or other action, its purpose and its location;

- c. A summary of any measures taken or proposed by the utility to reduce potential environmental impacts;
- d. An explanation of why the construction, facilities or other action is exempted under this General Order; and
- e. Information on ways to obtain more information from the utility about the proposed construction, facilities or other action.

SECTION VI. INFORMATION REQUIRED FOR PTC OR CPCN APPLICATIONS

- A. An application for a PTC or CPCN shall include or have attached to it the following:
 - 1. Statement of the reasons why and facts showing that the completion and operation of the proposed facility is necessary to promote the safety, health, comfort, and convenience of the public;
 - 2. Safety and reliability information, including planned provisions for emergency operations and shutdowns;
 - 3. Analysis of non-pipeline alternatives;
 - 4. A schedule showing the program for design, material acquisition, construction, and testing and operating dates;
 - 5. Available site information, including maps and description; present, proposed, and ultimate development; as appropriate, geological, aesthetic, ecological, tsunami, seismic, water supply, population, and load center data; locations and comparative availability of alternate sites; and justification for adoption of the site selected;
 - 6. A map of suitable scale of the proposed routing showing details of the right-of-way in the vicinity of settled areas, parks, recreational areas, scenic areas, and existing electrical transmission lines within one mile of the proposed route;
 - 7. A detailed statement of the budgetary estimate, i.e., the actual capital allocated for the proposed facilities;

8. Reasons for adoption of the route selected, including comparison with alternative routes, including the advantages and disadvantages of each;
 9. A schedule showing the program of right-of-way acquisition and construction; and
 10. A listing of the governmental agencies with which proposed route reviews have been undertaken, including a written agency response to the applicant's written request for a brief position statement by that agency. (Such listing shall include The Native American Heritage Commission, which shall constitute notice on California Indian Reservation Tribal governments.) In the absence of a written agency position statement, the utility may submit a statement of its understanding of the position of such agencies.
 11. A detailed statement on:
 - a. consistency with the goals of the Commission's Environmental and Social Justice Action Plan
 - b. outreach to, and engagement with, local communities (including relevant community-based organizations), likely to be impacted by the proposed project;
 - c. potential environmental impact of the proposed project in the context of the state's greenhouse gas emission reduction and carbon neutrality goals;
 - d. consistency with applicable long-term gas infrastructure orders adopted by the Commission including in the Commission's Long-Term Gas Planning proceeding (R.20-01-007) and successor proceedings;
 - e. estimated useful life of project; and
 - f. impact of the proposed project on expected future gas demand.
 12. Proponent's Environmental Assessment.
- B. No later than 30 days after the filing of the application, the Commission staff shall review it and notify the utility of any deficiencies in the

information and data submitted in the application. The utility shall correct any deficiencies within 60 days thereafter or explain in writing to the Commission staff why it is unable to do so. It shall include in any such written response an estimate of when it will be able to correct the deficiencies. Upon correction of any deficiencies in the application, the Commission staff shall determine whether CEQA applies, and if so, whether a Negative Declaration or an EIR has been or will be prepared, and the process required by CEQA and Commission Rule 17.1 will be followed in addition to the Commission's standard decision-making process for applications. The Commission shall issue a decision within the time limits prescribed by Government Code Section 65920 et seq. (the Permit Streamlining Act).

- C. At the request of the applicant, the Commission may hold a prefiling meeting 30-60 days prior to filing of the application to assist with ensuring the completeness of the PTC or CPCN filing.

SECTION VII. COMPLAINTS AND PREEMPTION OF LOCAL AUTHORITY

- A. Complaints may be filed with the Commission for resolution of any alleged violations of this General Order pursuant to the Commission's Rules of Practice and Procedure. A complaint which does not allege that the matter has first been brought to Commission staff for informal resolution may be referred to staff to attempt to resolve the matter informally.
- B. This General Order clarifies that local jurisdictions acting pursuant to local authority are preempted from regulating gas utility facilities constructed by public utilities subject to the Commission's jurisdiction. However, in locating such projects, the public utilities shall consult with local agencies regarding land use matters. In instances where the public utilities and local agencies are unable to resolve their differences, the local agency should promptly file a complaint with the Commission.

SECTION VIII. REVIEW OF GAS INFRASTRUCTURE PROJECTS BY OTHER STATE OR FEDERAL AGENCIES

Nothing in this General Order shall be construed to preempt or otherwise limit the jurisdiction of state agencies other than this Commission, or federal agencies, to exercise the full range of their jurisdiction under state or federal law over facilities subject to this General Order.

SECTION IX. CEQA COMPLIANCE

Construction of facilities for which a CPCN or PTC is required pursuant to this General Order shall not commence without either a finding that it can be seen with certainty that there is no possibility that the construction of those facilities may have a significant effect on the environment or that the project is otherwise exempt from CEQA, or the adoption of a final EIR or Negative Declaration.

SECTION X. REPORT OF PLANNED GAS INVESTMENTS

- A. Subject to any new reporting requirements that may be established in the Commission's Long-Term Gas Planning proceeding (R.20-01-007) or a successor proceeding, every gas corporation is required to submit a report of planned gas investments for any system expansions or projects that are expected to exceed \$100 million providing a 15-year forecast for CPCN investments and a 10-year forecast for PTC investments on or before March 1 of each year.
- B. The report shall include the following:
 1. A list of facilities, arranged in chronological order by planned service date, for which a CPCN or a PTC has been received but which have not yet been placed in service;
 2. A list of planned facilities, arranged in chronological order by the planned service date, on which proposed route or corridor reviews are being undertaken with governmental agencies or for which applications have already been filed; and
 3. A list of planned facilities or planning corridors, arranged in chronological order by the planned service date, on which planning corridor or route reviews have not started, which will be needed during the forecast periods.
- C. For each facility listed in the report under Section X(B), the report should include the following information:
 1. relevant size parameters (e.g., length in miles);
 2. planned service date;
 3. cities and counties involved;

4. cumulative impact of successive projects of the same types, in the same place; and
 5. other relevant information
- D. For each facility listed in the report under Section X(B) that is expected to be in service within the next 5 years, the report should include the following additional information:
1. analysis of non-pipeline alternatives; and
 2. projected construction expenditures and operating costs as of the year the report is filed.

(END OF ATTACHMENT)