

Decision **PROPOSED DECISION OF ALJ BUSHEY** (Mailed 4/8/2013)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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)

**DECISION MANDATING PIPELINE SAFETY IMPLEMENTATION PLAN,
DISALLOWING COSTS, AND AUTHORIZING
MEMORANDUM ACCOUNT**

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ATTACHMENT A - Appearances

DECISION MANDATING PIPELINE SAFETY IMPLEMENTATION PLAN,
DISALLOWING COSTS, AND AUTHORIZING
MEMORANDUM ACCOUNT

Summary

This decision requires Southwest Gas Corporation to enact its Natural Gas Transmission Pipeline Comprehensive Pressure Testing Implementation Plan, to replace 7.1 miles of natural gas pipeline in its Victor Valley natural gas transmission system and add a remote controlled shut-off valve to its Harper Lake natural gas transmission system. The cost of the pipeline replacements will be shared between ratepayers and shareholders, and the costs of the shut-off valve will be included in revenue requirement.

1. Background

Pursuant to Pub. Util. Code § 451, each public utility in California must “furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, . . . as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.” Ensuring that the management of investor-owned gas utility systems fully performs its duty of safe operations is a top priority of this Commission, and the California Legislature has recently confirmed this critical function of the Commission.¹

To meet this obligation with added urgency after the tragic and catastrophic San Bruno events, the Commission expanded its safety efforts in the

¹ Pub. Util. Code § 963(b)(3) finds that: It is the policy of the state that the commission and each gas corporation place safety of the public and gas corporation employees as the top priority. The commission shall take all reasonable and appropriate actions necessary to carry out the safety priority policy of this paragraph consistent with the principle of just and reasonable cost-based rates.

following areas: (1) natural gas rate cases, (2) this Rulemaking, and (3) enforcement proceedings.

We initiated this Rulemaking to consolidate and coordinate our efforts, obtain public input, and propose rule and policy changes as necessary.

Since opening this rulemaking, our primary efforts have been focused on ensuring that California's natural gas transmission system operators are properly calculating the Maximum Allowable Operating Pressure for each segment of the natural gas transmission system.

In Decision (D.) 11-06-017, this Commission declared an end to historic exemptions from pressure testing for natural gas transmission pipeline and ordered all California natural gas transmission pipeline operators to prepare Natural Gas Transmission Pipeline Comprehensive Pressure Testing Implementation Plans (Implementation Plans) to either pressure test or replace all segments of natural gas pipelines which were not pressure tested or lack sufficient details related to performance of any such test.² As set forth in that decision, the Commission found that 1970 federal and 1961 California requirements for pressure testing natural gas transmission pipeline applied only to new pipeline and exempted all existing in-service pipeline from the pressure test requirement. Accordingly, all pipeline installed after those dates were pressure tested, with the result that some of the oldest in-service natural gas

² The Commission's General Order 112, which became effective on July 1, 1961, mandated pressure test requirements for new transmission pipelines (operating at 20% or more of Specified Minimum Yield Strength (SMYS) installed in California after the effective date. Similar federal regulations followed in 1970, but exempted pipeline installed prior to that time from the pressure test requirement. Such pipeline is often referred to as "grandfathered" pipeline, because pursuant to 47 CFR 192. 619(c), pressure testing was not mandated.

pipeline has not been subjected to pressure testing to determine its Maximum Allowable Operating Pressure. Instead, the Maximum Allowable Operating Pressure for these untested pipeline segments is set by the highest recorded operating pressure on the segment.³ Consequently, the operational records for the exempted pipeline segments are critical to determining Maximum Allowable Operating Pressure.

After review of the detailed record both in this proceeding and before the National Transportation Safety Board regarding the records and vintage pipeline, the Commission concluded that the historic exemption and the utilities' record-keeping deficiencies had resulted in circumstances inconsistent with the safety, health, comfort, and convenience of utility patrons, employees, and the public. The Commission ordered all natural gas transmission pipelines in service in California to be brought into compliance with modern standards for safety, and all California natural system operators to file and serve a proposed Implementation Plan to comply with the requirement that all in-service natural gas transmission pipeline in California has been pressure tested in accord with 49 CFR 192.619, excluding subsection 49 CFR 192.619 (c).

The Commission required that the Implementation Plans include interim safety enhancement measures, and that the analytical focus be a list of all transmission pipeline segments that have not been previously pressure tested, with pipeline that must run at or near operating pressures that result in hoop stress levels at or above 30% SMYS to receive prioritized designations for replacement or pressure testing. The Commission required the operators to also give high priority to pipeline segments located in Class 3 and Class 4 locations

³ 47 CFR 192.619(c).

and Class 1 and Class 2 high consequence areas, with pipeline segments in other locations given lower priority for pressure testing.⁴ The operators were required to set forth the criteria on which pipeline segments were identified for replacement instead of pressure testing.

The Commission also required each operator to include in the Implementation Plan a priority-ranked schedule for pressure testing all pipeline not previously so tested, and to provide for pressure reductions where necessary. The Implementation Plan also must address retrofitting pipeline to allow for in-line inspection tools and, where appropriate, automated or remote-controlled shut-off valves.

While emphasizing the importance and need to make these safety improvements in California's natural gas transmission systems, the Commission also stressed that it will closely scrutinize the costs to be imposed on ratepayers. In D.11-06-017, the Commission required that the Implementation Plans explicitly analyze cost and demonstrate that the proposed expenditures obtain the greatest safety value for ratepayers. The Commission stated its commitment to ensuring that California's working families and businesses pay only for necessary safety improvements, and encouraged customers to participate in the process for reviewing the Implementation Plans.

⁴ The Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations define the four class locations by number of human-occupied buildings located within 220 yards of the pipeline: Class 1, 10 or fewer buildings; Class 2, 10 to 45 buildings; Class 3, 46 or more buildings, or with a place of public assembly; and, Class 4, where buildings with four or more stories are prevalent. (49 CFR § 192.5.)

In today's decision, we only consider Southwest Gas Company's (Southwest Gas) Implementation Plan.⁵

2. Description of the Proposed Natural Gas Transmission Pipeline Pressure Testing Implementation Plan of Southwest Gas

On August 26, 2011, Southwest Gas filed and served its Implementation Plan. The Implementation Plan showed that Southwest Gas proposed the following safety improvements for its two natural gas transmission systems in California:

	Miles	Install Date	Pressure Test Records?	Proposed Actions & Cost
Victor Valley Transmission System	7.1	1957, 1965	No	Cost for pressure testing = \$3.75 million, cost for replacement = \$7.1 million
Harper Lake Transmission System	8.3	1989	Yes	Install remote shut-off valve, cost=\$250,000

Southwest Gas proposes to replace the Victor Valley system despite the higher cost due to the risk that pressure testing will cause leaks that will drive up costs, but because new pipe will offer the greatest improvement in pipeline integrity and public safety. The Commission's Division of Consumer Protection

⁵ In D.12-04-021, the Commission transferred consideration of Southern California Gas Company's and San Diego Gas & Electric Company's Implementation Plans to Application (A.) 11-11-002, and in D.12-12-030 the Commission addressed Pacific Gas and Electric Company's Implementation Plan.

and Safety supported Southwest Gas' proposal to replace the Victor Valley pipeline.

Southwest Gas explained that due to proximity its staff will be able to manually shut down the Victor Valley system in about 25 minutes but the distance to the Harper Lake system would result in an approximately 60 minute time for manual shut down. Accordingly, Southwest Gas proposes to add a remote controlled shut off valve for the Harper Lake system.

In its Implementation Plan, Southwest Gas sets out its multi-step decision analysis. The company began by establishing the objectives for evaluating alternatives; the alternatives must meet the requirements of D.11-06-017, improve the integrity and safety of the pipe, be capable of accepting in-line inspection tools, minimize service interruptions, and be cost effective.

Southwest Gas next identified and evaluated three primary alternatives for achieving these objectives: (1) pressure testing the pipe, (2) replace the existing pipe with new pipe, and (3) reduce system pressure. Southwest Gas immediately eliminated alternative 3 as reducing system pressure would undermine Southwest Gas' ability to meet customer demand.

In evaluating alternative 1, pressure testing, Southwest Gas found that unknown material specifications of the pipe as well as unknown fittings and lateral pipelines created risk of increased costs. In addition, certain pipeline segments would require modification to ensure that water from the pressure test can be removed completely. Southwest Gas also noted that pressure testing would not enable in-line inspection tools to be used. The primary benefit of pressure testing was its lower cost, as compared to replacement.

Pipeline replacement, the second alternative, had the highest cost at \$7.1 million, and also numerous benefits: fewer unknowns, new pipeline would

be capable of in-line inspection and would be constructed to modern standards, with resulting traceable, verifiable, and complete records. In addition from a customer perspective, replacement would be more desirable as no service outages would be required.

Based on the risk of additional costs caused by the unknown elements, as well as the customer impacts of option 1, Southwest Gas determined that, option 2, replacement would be the preferable alternative.

Southwest Gas developed its replacement schedule by selecting the segments with the greatest percentage of population as the first priority. Southwest Gas proposes to replace 1.33 miles of pipe located in High Consequence Areas as part of its Priority One schedule which will include a total of 3.1 miles. Then, the Priority Two schedule will replace 4.0 miles of pipeline in Class 3 and Class 1 areas without High Consequence Areas. Southwest Gas provided system maps to show the exact location of the areas scheduled in the two priority scheme.

For interim safety measures, Southwest Gas considered but rejected pressure reductions. Due to customer impacts of reduced gas flow and the fact that the system operates well below 30% hoop stress, Southwest Gas instead proposes to double the frequency of leak surveys and patrols.

Southwest Gas proposes to set up a memorandum account for Implementation Plan expenditures pending its 2014 test year general rate case. Southwest Gas estimates a total annual increase in revenue requirement of approximately \$1.5 million, with residential ratepayers having a monthly bill impact of \$0.72 for primary and \$0.56 for secondary service.

3. Evaluation of Consumer Protection and Safety Division (CPSD)⁶

On January 3, 2012, the Commission's CPSD filed and served its technical report evaluating Southwest Gas' Implementation Plan and generally supporting the proposals in the Plan. The technical report found that replacement of the Victor Valley Transmission System pipeline is reasonable when considering all factors, but that pressure testing is also feasible. CPSD also suggested that air/nitrogen mixtures as a testing medium in Class 3 locations, rather than water as a medium might be feasible. On the issue of pressure test records, CPSD explained that part of the Victor Valley system was constructed in 1965, when CPUC General Order 112 required pipeline segments operating at or above 20% of SMYS in Class 1 locations to be pressure tested when installed. Due to Southwest Gas' inability to provide these records, CPSD recommended that shareholders bear the cost of replacement or testing.

4. Position of Division of Ratepayer Advocates (DRA)

DRA recommends that the Commission disallow ratemaking recovery for any of the costs associated with the Implementation Plan.

Turning to specific costs in the Implementation Plan, DRA argues that Southwest Gas shareholders should be responsible for the costs of pressure testing all pipeline installed after 1935. DRA argues that pressure testing pipeline prior to placing it in service has been industry standard practice since 1935, and that Southwest Gas should have complied with this practice and retained the records of such tests. DRA contends that even though the 1961 Commission and 1970 federal pressure testing directives did not require testing of pipe already in

⁶ This division of the Commission is now known as Safety and Enforcement Division.

service, this exclusion did not override the industry practice of testing.

Consequently, DRA recommends that where pipeline installed prior to 1955 must be replaced due to absent pressure test documentation, the shareholders should bear the costs of such replacement.

DRA next turns to the remote controlled shut off valve proposed by Southwest Gas for the Harper Lake system. DRA agrees that the valve should be installed, but recommends that it be treated for ratemaking purposes as a capital investment made between general rate cases and be excluded from rate base until the next plant in service update in the next general rate case.

5. Burden and Standard of Proof

Pursuant to Pub. Util. Code § 451 all rates and charges collected by a public utility must be “just and reasonable,” and a public utility may not change any rate “except upon a showing before the commission and a finding by the commission that the new rate is justified.” (§ 454.) The Commission requires that the public utility demonstrate with admissible evidence that the costs which it seeks to include in revenue requirement are reasonable and prudent. The Commission is charged with the responsibility of ensuring that all rates demanded or received by a public utility are just and reasonable.

Southwest Gas must meet the burden of proving that it is entitled to the relief sought in this proceeding, and has the burden of affirmatively establishing the reasonableness of all aspects of the application.⁷

⁷ See generally Application of Southern California Edison Company for Authority to, Among Other Things, Increase Its Authorized Revenues For Electric Service in 2009, And to Reflect That Increase In Rates (Decision 09-03-025, *mimeo.* at 8) (March 12, 2009) and Decisions cited therein.

With the burden of proof placed on Southwest Gas, the Commission has held that the standard of proof Southwest Gas must meet is that of a preponderance of evidence. Preponderance of the evidence usually is defined "in terms of probability of truth, e.g., 'such evidence as, when weighed with that opposed to it, has more convincing force and the greater probability of truth'"⁸

Pursuant to the schedule adopted at the prehearing conference on May 23, 2012, Southwest Gas filed a motion to have its testimony included in the record. On June 8, 2012, DRA filed and served its brief on June 15, 2012, with the reply of Southwest Gas following on June 29, 2012. With the filing of the reply brief the proceeding was submitted. We have analyzed the record presented by Southwest Gas in this proceeding within these parameters.

6. Discussion

As set forth above, no party opposes the Southwest Gas' Proposed Implementation Plan. We have reviewed it and find that complete replacement of the Victor Valley system and the addition of a remote-controlled shut-off valve to the Harper Valley system is consistent with the safety objectives we adopted in D.11-06-017. Accordingly, we approve the Implementation Plan and order Southwest Gas to proceed with these system improvements.

The only dispute regarding the Southwest Gas Implementation Plan is whether shareholders should bear some of the costs associated with the Implementation Plan. DRA recommends that the shareholders fund all of the

⁸ In the Matter of the Application of San Diego Gas & Electric Company for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project, Decision 08-12-058, *citing* Witkin, Calif. Evidence, 4th Edition, Vol. 1, 184.

pipeline replacement and remote controlled valve. As explained below, we allocate Implementation Plan costs between ratepayers and shareholders.

Replacing the Victor Valley System

As CPSD noted, portions of this system were installed after the Commission's regulations required pressure testing prior to placing a new natural gas transmission line in service. Southwest Gas is unable to provide records of these required tests. In D.12-12-030, we found that industry practices commencing no later than 1955 required pre-service pressure testing. Here, Southwest Gas installed the earliest portions of the Victor Valley system in 1957 and, thus, should have pressure tested the pipe prior to placing it in service. Now, Southwest Gas cannot locate these records. Also in D.12-12-030, we found that where a natural gas system operator was required to conduct pre-service pressure tests but is unable to provide records of such a test in the past, the operator will be required to perform such tests at the expense of its shareholders.⁹

Southwest Gas proposes to replace, rather than pressure test the Victor Valley system. CPSD and DRA recommend that shareholders also bear the costs of replacement due to the imprudent absence of pressure test from the records. We considered this same issue in D.12-12-030 and determined that where missing but required pressure test records require that pipe be pressure tested, shareholders must bear these costs. However, where sound engineering or economic reasons support replacing the pipeline, ratepayers should be allocated the difference between the cost of pressure testing and the cost of replacement. In other words, the cost of pressure testing should be deducted from the cost of

⁹ D.12-12-030 at 58-59.

replacement pipe and only the difference recorded in plant in service. Therefore, we conclude that shareholders are responsible for the \$3.75 million in estimated pressure testing costs, which must be deducted from the \$7.1 million in replacement costs, leaving approximately \$3.4 million to be recorded in plant in service for inclusion in revenue requirement.

To enable Southwest Gas to commence work on its Implementation Plan immediately, we will authorize a memorandum account until its 2014 test year.

Adding Valve in Harper Valley System

As set forth above, we approve the addition of a remote controlled shut-off valve in the Harper Valley System. DRA's request that shareholder's fund this addition is not persuasive because the need for this valve arose outside of the rate case cycle. Therefore, we will authorize Southwest Gas to record any 2013 costs in its memorandum account and to include 2014 costs in the 2014 test year.

Safety and Enforcement Division (SED) Oversight

Southwest Gas must keep SED fully informed of all changes it proposes to make to the program, and must obtain SED's concurrence in any proposed change to the Implementation Plan. We delegate authority to SED to exercise oversight of all Southwest Gas' activities, including those conducted by contractors, pursuant to the Implementation Plan. SED is authorized to inspect, inquire, review, examine and participate in all activities of any kind related to the Implementation Plan. Such request need not be in writing. Southwest Gas and its contractors shall immediately produce any document, analysis, test result, or plan, of any kind, related to the Implementation Plan as requested by SED.

The Director of SED is authorized to order Southwest Gas to take such actions as may be necessary to protect immediate public safety. The Director of SED is specifically authorized to issue immediate stop work orders to Southwest

Gas and all its contractors when necessary to protect public safety. The Director of SED, the Commission's Executive Director, and the Chief Administrative Law Judge shall offer Southwest Gas, parties to this proceeding, and the public such procedural opportunities as may be feasible under the specific circumstances of any instance in which SED is required to exercise its delegated authority.

7. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Maribeth A. Bushey is the assigned Administrative Law Judge (ALJ) in this proceeding.

8. Comments on Proposed Decision

The proposed decision of ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on ____, and reply comments were filed on ____ by ____.

Findings of Fact

1. In D.11-06-017, the Commission declared an end to historic exemptions from pressure testing for natural gas pipeline and ordered all California natural gas system operators to file Natural Gas Transmission Pipeline Testing Implementation Plans.
2. On August 26, 2011, Southwest Gas filed and served its Implementation Plan required by D.11-06-017.
3. The Implementation Plan is comprised of replacing the Victor Valley transmission system and adding an automatic shut-off valve to the Harper Lake system.
4. Southwest Gas' Implementation Plan identifies and prioritizes pipeline replacement and addresses interim safety improvements and in-line inspection.

5. In D.12-12-030, the Commission determined that, adopted in 1955, the American Standard Association Code for Pressure Pipeline (ASA B31.8) required pre-service pressure testing for natural gas pipelines.

6. The lack of pressure test records for pipeline placed into service after January 1, 1956, reflect an error in Southwest Gas' operation of its natural gas system.

Conclusions of Law

1. As required by § 451 all rates and charges collected by a public utility must be "just and reasonable," and a public utility may not change any rate "except upon a showing before the commission and a finding by the commission that the new rate is justified," as provided in § 454.

2. The burden of proof is on Southwest Gas to demonstrate that it is entitled to the relief sought in this proceeding, including affirmatively establishing the reasonableness of all aspects of the application.

3. The Implementation Plan of Southwest Gas should be approved.

4. Southwest Gas' proposal to replace 7.1 miles of the Victor Valley natural gas transmission pipeline system should be approved.

5. Southwest Gas' proposal for a remote controlled shut-off valve in the Harper Lake natural gas transmission pipeline system should be approved.

6. It is reasonable for the shareholders of Southwest Gas to absorb the cost of pressure testing the Victor Valley natural gas transmission pipeline because the absence of pressure test records was caused by imprudent management.

7. It is reasonable to impose an equitable adjustment to the replacement cost of the Victor Valley natural gas transmission pipeline for which pressure test records are not available, but which require replacement rather than pressure testing. Such an equitable adjustment shall be equal to the forecasted cost of

pressure testing the pipeline, \$3.75 million, and shall reduce the cost of the pipeline replacement included in rate base and revenue requirement.

8. Authority should be delegated to the Director of SED, or designee, to oversee all Southwest Gas' work performed pursuant to the Implementation Plan, including:

- A. SED shall review all changes to the Implementation Plan proposed by Southwest Gas shall require such modifications as are necessary to ensure public safety, and may concur in such proposals.
- B. SED may inspect, inquire, review, examine and participate in all activities of any kind related to the Implementation Plan. Southwest Gas and its contractors shall immediately produce any document, analysis, test result, plan, of any kind related to the Implementation Plan as requested by SED, and such request need not be in writing.
- C. SED may take and order Southwest Gas to take such actions as may be necessary to protect immediate public safety.
- D. SED may issue immediate stop work orders to Southwest Gas and all its contractors when necessary to protect public safety, and Southwest Gas must comply immediately and consistent with any needed safety protocols.
- E. The Director of SED, the Commission's Executive Director, and the Chief Administrative Law Judge shall offer Southwest Gas, parties to this proceeding, and the public such procedural opportunities as may be feasible under the specific circumstances of any instance in which SED is required to exercise its delegated authority.

9. A memorandum account should be approved for all Implementation Plan projects prior to the 2014 test year.

10. Testimony of Southwest Gas witnesses Malloy and Giesecking should be accepted into the record.

O R D E R

IT IS ORDERED that:

1. The Natural Gas Transmission Pipeline Comprehensive Pressure Testing Implementation Plan of Southwest Gas Company is approved.
2. Southwest Gas Company is authorized to file a Tier 1 Advice Letter to create a memorandum account in which to record expenditures pursuant to the Implementation Plan from the effective date of today's decision through December 31, 2013. Any accumulated balance on December 31, 2013, plus interest, will be amortized in the 2014 test year general rate case.
3. Southwest Gas Company must limit the amounts recorded in the memorandum account authorized in Ordering Paragraph 2 to \$250,000 for the remote controlled shut-off valve in the Harper Lake system, and the actual capital cost and expense of replacing the Victor Valley system, less \$3.75 million.
4. The Director of the Commission's Consumer Safety and Enforcement Division (SED), or designee, SED is delegated the following authority:
 - A. SED shall review all changes to the Implementation Plan proposed by Southwest Gas Company (Southwest Gas), shall require such modifications as are necessary to ensure public safety, and may concur in such proposals.
 - B. SED may inspect, inquire, review, examine and participate in all activities of any kind related to the Implementation Plan. Southwest Gas and its contractors shall immediately produce any document, analysis, test result, plan, of any kind related to the Implementation Plan as requested by SED, and such request need not be in writing.
 - C. SED may take and order Southwest Gas to take such actions as may be necessary to protect immediate public safety.
 - D. SED may issue immediate stop work orders to Southwest Gas and all its contractors when necessary to protect public safety,

and Southwest Gas must comply immediately and consistent with any needed safety protocols.

- E. The Director of SED, the Commission's Executive Director, and the Chief Administrative Law Judge shall offer Southwest Gas, parties to this proceeding, and the public such procedural opportunities as may be feasible under the specific circumstances of any instance in which SED is required to exercise its delegated authority.

5. Southwest Gas Company must submit Tier 1 compliance advice letter containing a statement and accounting when it has completed the work authorized in today's decision.

6. Testimony of Southwest Gas Company witnesses Malloy and Giesecking is accepted into the record.

This order is effective today.

Dated _____, at San Francisco, California.

Attachment A : Appearances

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**Last Updated on 10-OCT-2012 by: JVG
R1102019 LIST**

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