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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)

ORDER MODIFYING DECISION (D.) 13-10-024 AND DENYING REHEARING, AS MODIFIED

I. INTRODUCTION

In this Order, we dispose of the application for rehearing of Decision (D.) 13-10-024 (or "Decision") filed by the Office or Ratepayer Advocates ("ORA").

In D.11-06-017, the Commission ordered all California natural gas transmission operators to develop and file Natural Gas Transmission Comprehensive Pressure Testing Implementation Plans ("Implementation Plans" or "Plans").[1] The Plans must propose multi-year implementation schedules to accomplish pressure testing and/or replacing all natural gas transmission line in California that has not been tested or for which reliable records are not available.

The Decision considered Southwest Gas Corporation's ("SWG") Implementation Plan. In pertinent part, the Plan requested approval of costs to replace all natural gas pipelines in SWG's Victor Valley natural gas transmission system.[2] The

[1] *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* [D.11-06-017] (2011) __Cal.P.U.C.3d__, at pp. 1, 18-19, 31 [Ordering Paragraph Number 4] (slip op.).

[2] Notice of Filing and Request for Approval of Southwest Gas Corporation's Natural Gas Transmission Pipeline Comprehensive Pressure Testing Implementation Plan ("SWG Implementation Plan"), dated August 26, 2011. The Plan also requested approval of the cost to add a remote shut-off valve to the

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Victor Valley system is comprised of 7.1 miles of 6-inch and 8-inch steel pipeline. Most of the system was installed in 1957. However, approximately 2,175 feet of pipeline was installed later in 1965. (D.13-10-024, at pp. 12-13.)[3] SWG did not have complete, as-built records of the materials, construction and fittings for any of the Victor Valley system. (D.13-10-024, at pp. 12, 16 [Finding of Fact Numbers 5-7].) It also had no readily available pressure test records.[4]

The Decision approved rate recovery for all but the cost to replace the 2,175 feet of pipeline installed in 1965. (D.13-10-024, at pp. 1, 11-14, 17 [Conclusion of Law Numbers 3-5, 7].) We allocated the cost to replace that segment to shareholders. (D.13-10-024, at pp. 1, 13-14, 17-18 [Conclusion of Law Numbers 6 & 8].)

ORA filed a timely application for rehearing asserting that the Decision contravened: (1) Commission precedent; and (2) Public Utilities Code section 451.[5] Responses were filed by SWG and Southern California Gas Company and San Diego Gas & Electric Company (jointly).

We have carefully considered the arguments raised in the application for rehearing, and are of the opinion that our Decision should be modified to elaborate on the reason for finding it reasonable to approve the cost to replace all pipeline installed in 1957. We find that otherwise, good cause has not been established to grant rehearing. Accordingly, we deny the application for rehearing of D.13-10-024, as modified, because no legal error has been shown.

II. DISCUSSION

A. Commission Precedent

ORA agrees with the Decision's disallowance of costs to replace the 1965-installed pipeline. (ORA Rhg. App., at p. 3.) However, ORA argues that for

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Harper Lake system.

[3] See also SWG Implementation Plan, dated August 26, 2011, at p. 5.

[4] SWG Implementation Plan, dated August 26, 2011, at p. 5.

1957-installed pipeline, we also should have imposed an equitable adjustment like the one recently ordered in D.12-12-030.[6] (ORA Rhg. App., at pp1-2.)

Decision 12-12-030 considered the Implementation Plan filed by Pacific Gas and Electric Company ("PG&E"). The referenced equitable adjustment reduced the amount approved for replacement of certain pipeline by the forecasted amount of pressure testing. In imposing that adjustment the Commission stated:

> It is reasonable to impose an equitable adjustment to the replacement cost of pipeline installed from January 1, 1956, to July 1, 1961, for which pressure test records are not available, but which require replacement rather than pressure testing. Such equitable adjustment shall be equal to the forecasted cost of pressure testing the pipeline and shall reduce the cost of the pipeline replacement included in rate base and revenue requirement.

(*PG&E Implementation Plan Decision* [D.12-12-030], at p. 122 [Conclusion of Law Number 16] (slip op.).)

ORA asserts that an equitable adjustment is required here because SWG also had no pressure test records although it was obligated to conduct pressure tests since 1956. (ORA Rhg. App., at pp. 2-3, citing the American Standards Association ("ASA") industry code for gas transmission and distribution systems.) We disagree that an adjustment here was warranted.

We are not strictly bound by any prior decision, and in any particular case the outcome is properly guided by the unique facts and circumstances that case.[7] Thus, even if we considered the *PG&E Implementation Plan Decision*, it would not necessarily

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[5] All subsequent section references are to the Public Utilities Code, unless otherwise specified.

[6] *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* ("*PG&E Implementation Plan Decision*") [D.12-12-030] (2012) __ Cal.P.U.C.3d__.

[7] See e.g., *Postal Telegraph-Cable Company v. Public Utilities Commission* (1925) 197 Cal. 426, 436; *Folsom Estate Unit No. 2B & 3 Homeowners Association v. Citizens Utilities Company* [D.93-12-051] (1993) 52 Cal.P.U.C.2d 677, 679.

dictate the outcome for SWG. For example, in PG&E's case the outcome was driven by the fact that: (1) it had been PG&E's practice to pressure test pipeline during the relevant time period; and (2) PG&E had received the money to do so in revenue requirement.[8] The same facts were not established here. Nothing in the record proved it was SWG's practice in 1957 to pressure test pipeline.[9] Nor was there anything to support a conclusion that SWG received money for testing in its revenue requirement.

ORA also overstates SWG's legal obligation in 1957. The ASA standards ORA relies on were voluntary consensus standards.[10] No mandated State or federal pressure test or record retention requirements were in place at that time.

Commission General Order 112, which did impose relevant requirements, was not adopted and effective until 1961. And it was not until 2011 that the Commission declared an end to the pre-existing exemptions from pressure testing for natural gas transmission pipelines. (D.13-10-024, at p. 3, citing D.11-06-017, *supra.*)[11] Until that point all pipeline installed before 1970 was exempt from pressure test requirements under both Commission General Order 112 and applicable federal regulations. (D.13-10-024, at p. 3, fn. 2.) Thus, even if industry standards did recommend pressure tests and record retention as far back as 1957, there was no legal obligation to do so.

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[8] PG&E Implementation Plan Decision, [D.12-12-030], *supra,* at pp. 58-60, 117 [Finding of Fact Number 17] (slip op.).

[9] ORA claims that it was SWG's practice to pressure test pipeline in 1957. (ORA Rhg. App., at p. 3, relying on D.61269 ("*General Order No. 112 Adopted Promulgating Rules Governing Design, Construction, Testing, Maintenance and Operation of Utility Gas Transmission and Distribution System*") (1960) 58 Cal.P.U.C 413.) Although D. 61269 broadly states that "the California gas utilities" said they voluntarily followed the ASA standards, it was not clear what the Decision relied on to support that statement and whether it specifically included a representation by SWG. (*Id.* at p. 415.) Nothing in this proceeding allowed for a conclusive determination that it was SWG's practice. And even if SWG had said that it was in 1960 when that case occurred, it is not clear that was also true in 1957.

[10] The American National Standards Institute develops voluntary consensus standards for various industries, products, services, and systems. (See e.g., www.ANSI.org; http://en.wikipedia.org/wiki/American_National_Standards_Institute. See also D.61269, *supra*, at p. 419 (slip op.) [Noting in 1960 that it was only being considered whether to make mandatory provisions of the ASA code.].)

[11] See D.11-06-017, *supra,* at pp. 27-28 [Finding of Fact Numbers 5 & 6] (slip op.).

For these reasons, it was reasonable to adopt the Consumer Protection & Safety Division ("CPSD")[12] recommendation to disallow only the cost to replace the 2,175 feet of 1965- installed pipeline. That is because by 1965 General Order 112 was in place which did impose pressure test requirements and SWG could produce no records that it complied.[13]

While there was no legal error, we agree the Decision would benefit from clarification concerning why it was reasonable to replace costs for the 1957-installed pipeline. Accordingly, we will modify D.13-10-024 as set forth in the Ordering Paragraphs below.

B. Section 451

Section 451 provides that a utility may only demand and receive charges that are "just" or "reasonable."[14] ORA contends that because SWG failed to maintain records for the entire Victor Valley system, the cost to replace all pipeline is an unjust and unreasonable cost of providing utility service. Thus, ORA argues that all replacement costs should have been allocated to shareholders. (ORA Rhg. App., at pp. 4-5.)

In determining what is "just" and "reasonable," we often look to whether a utility's conduct was reasonable in light of facts and circumstances that were known or should have been known at the time.[15] Here, that inquiry would suggest that replacement costs might be unjust or unreasonable if facts or circumstances showed that

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[12] CPSD is now known as SED (Safety and Enforcement Division.)

[13] Technical Report of the Consumer Protection & Safety Division Regarding Southwest Gas Corporation's Pipeline Safety Implementation Plan, dated January 3, 2012, at pp. 2-3, 12.

[14] Section 451 states: "All charges demanded or received by any public utility, or by any two public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful." (Pub. Util. Code, § 451.)

[15] See e.g., *Weitbrecht Communications, Inc.* [D.90-06-031] (1990) 36 Cal.P.U.C.2d 583, 600; *Re Southern California Edison Company* [D.87-06-021] (1987) 34 Cal.P.U.C.2d 476, 486.

SWG failed to do something that it knew or should have known it was obligated to do in 1957. As discussed above, the facts do not support such a finding.

The Decision is consistent with our prior recognition of the fact that complete records often don't exist for older pipelines since many were exempt from pressure test requirements.[16] The Implementation Plans are intended, at least in part, to bring all transmission pipeline up to modern safety, installation, and testing standards.[17] (D.13-10-024, at pp. 3-4.) The need to achieve that goal does not necessarily mean that a utility's past conduct was imprudent or unreasonable.

Finally, we disagree with the suggestion that pipeline replacement is needed only because there was a lack of records. As noted in our Decision, several reasons supported replacement. These include that replacement: (1) presents less risks and challenges; (2) allows for in-line inspection tool capability; (3) enables reduced operating stress levels; (4) allows x-ray verification of weld integrity; (5) ensures modern installation practices; and (6) offers no or reduced customer outage periods.[18] (D.13-10-024, at p. 13.) Accordingly, we find no error.

III. CONCLUSION

For the reasons stated above, D.13-10-024 is modified as set forth in the below Ordering Paragraphs. The application for rehearing of D.13-10-024, as modified is denied because no legal error has been shown.

THEREFORE, **IT IS ORDERED** that:

1. D.13-10-024 is modified as follows:

   a. Decision13-10-024, at p 13, is modified to add the following statement between the third and fourth paragraphs:

      It is reasonable to approve the cost to replace the pipeline installed in 1957 because Southwest Gas

[16] D.11-06-017, *supra,* at pp. 17-18 (slip op.).

[17] *Id.*

[18] SWG Implementation Plan, dated August 26, 2011, at p. 10. (See also D.13-10 -024, at p. 13.)

established that pipeline replacement is reasonable, the pipeline was exempt from subsequent State and federal pressure test requirements, and replacement will bring SWG into compliance with modern safety standards.

b. Decision13-10-024, at page 18, is modified to add the following Conclusion of Law:

It is reasonable to approve the cost to replace the pipeline installed in 1957 because Southwest Gas established that pipeline replacement is reasonable, the pipeline was exempt from subsequent State and federal pressure test requirements, and replacement will bring SWG into compliance with modern safety standards.

2. The application for rehearing of D.13-10-024, as modified, is denied.

This order is effective today.

Dated February 27, 2014, at San Francisco, California.

MICHAEL R. PEEVEY
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
MICHAEL PICKER
Commissioners