

## **(APPENDIX A)**

### **GENERAL ORDER 177 ESTABLISHING RULES FOR APPLICATION, NOTIFICATION, AND REPORTING REQUIREMENTS FOR GAS INFRASTRUCTURE LOCATED IN CALIFORNIA**

#### **SECTION I. GENERAL**

Pursuant to the provisions of Sections 451, 454, 701, 702, 761, 762, 768, 770, and 1001 of the Public Utilities Code:

IT IS HEREBY ORDERED that 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 General Order 177 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, air quality, equity, 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 (O<sub>3</sub>) sulfur dioxide (SO<sub>2</sub>), lead (Pb), and nitrogen dioxide (NO<sub>2</sub>).

**Expansion of an existing gas storage field** – This means the expansion of the property boundary of a Commission-authorized storage field to increase natural gas storage inventory capacity.

**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.<sup>1</sup>

**Non-attainment area** – The term “non-attainment area” means, for any air pollutant, an area which is designated “non-attainment” with respect to that pollutant within the meaning of Section 7407(d) of the Clean Air Act (CAA). CAA Section 7501(2).

**Project** – construction or physical modification of any gas plant with independent utility in the gas system, including compressor or regulator stations, any pipeline or pipeline extension, and any expansion of an existing gas storage field.<sup>2</sup>

**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

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<sup>1</sup> See Pub. Res. Code Sections 21064 and the guidelines for implementation of CEQA, California Code of Regulations, Title 14, Sections 15000 *et seq.*

<sup>2</sup> Does not include: (a) 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 that does not result in a serious or major disturbance to an environmental resource; (b) gas service pipelines connecting to customer facilities, service laterals, and/or service pipes, as used in utility Tariff Rule 16, or work on customer meters; (c) gas corporation office buildings; (d) replacement of an emergency diesel back-up generator with a lower-emission emergency back-up generator.

12, inclusive; day care centers; and health care facilities, including hospitals, nursing homes, and long-term care and hospice facilities.

**Serious, severe and extreme non-attainment areas** – Non-attainment areas designated as “serious,” “severe” or “extreme” by the US Environment Protection Agency in the “Green Book” of National Ambient Air Quality Standards (NAAQS) based on the area’s design value for a specific criteria pollutant type.

**Toxic air contaminant** – an air pollutant which may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health, pursuant to Section 39655 of the California Health and Safety Code.

#### **SECTION IV. NEED FOR COMMISSION AUTHORIZATION**

##### **A. Certificate of Public Convenience and Necessity (CPCN)**

1. No gas corporation shall begin any gas project meeting the criteria below without first submitting an application for a CPCN:
  - a. project cost exceeds \$75 million;<sup>3</sup> or
  - b. (1) the project is located within 1,000 feet of a sensitive receptor; and (2) operation of the completed project by the gas corporation requires a permit from the relevant local air quality district for: (a) an increase in levels of a toxic air contaminant;<sup>4</sup> or (b) an increase in levels of a

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<sup>3</sup> Applicants shall determine project costs using a cost estimate consistent with Association for the Advancement of Cost Engineering methodologies appropriate to the project’s stage of development and anticipated technical construction or scope change risk. Cost estimates shall include direct and indirect costs. Direct costs are costs for labor, material, services and other expenses incurred to design, engineer, plan, permit, execute and document a project. This includes the development costs, project management, material, construction, inspection, environmental and other project execution activities. Indirect costs are for Administrative & General, purchasing, warehousing, pension and benefits, payroll tax and other costs that are overhead in nature, as well as Allowance for Funds Used During Construction (AFUDC) and property taxes. Cost estimates shall take into consideration the design of the project, the expected duration of construction, an estimate of the effects of economic inflation, and any known engineering difficulties associated with the project.

<sup>4</sup> Increase in levels of a toxic air contaminant is defined as an increase exceeding (1) de minimis levels or (2), where relevant, allowable limits set by the local air quality district.

criteria air pollutant, if the area is listed as a serious, severe, or extreme non-attainment area for that pollutant.

2. The Commission may, via decision, change the \$75 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.

B. Compliance with Section IV(A)(1) is not required for any of the following exemptions:

- a. any plant, line, extension, repair, replacement, or modification of existing facilities or structures that is required pursuant to a California Geologic Energy Management Division (CalGEM) Emergency Order or regulation, the Pipeline and Hazardous Materials Safety Administration (PHMSA), this Commission, or any other regulatory agency for safety reasons; or
- b. projects that have a scheduled in-service date occurring before January 1, 2024 and projects for which an application for approval has been submitted to an air quality management district for compliance with an environmental rule prior to the effective date of this General Order; or,
- c. emergency projects (for example: repairs, upgrades, replacements, restorations) as defined by CEQA Guideline § 15269 and Pub. Res. Code §§ 21060.3 and 21080(b)(2) & (4) to ensure safe and reliable gas supplies.

## SECTION V. NOTICE

A. Provision of Notice of a project requiring a CPCN

Notice of a project requiring a CPCN shall be provided as follows:<sup>5</sup>

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, the State Department of Transportation and its Division of Aeronautics, the Secretary of the California Natural Resources Agency, the Department

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<sup>5</sup> To the extent possible, notices should be provided in a format accessible to the visually impaired.

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;
5. By publishing the notice prominently on the website of the entity seeking a CPCN; and
6. By serving the notice to relevant service lists, including Rulemaking 20-01-007, or a successor proceeding, and the gas corporation's most recent general rate case application proceeding.

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:<sup>6</sup>

1. The application number assigned by the Commission;
2. A concise description of the proposed project, its purpose and its location in terms clearly understandable to the average reader;
3. A summary of potential environmental impacts including criteria air pollutant, toxic air contaminant and greenhouse gas emissions from the proposed project and any measures taken or proposed by the utility to reduce potential environmental impacts;
4. Instructions on obtaining or reviewing a copy of the application, including the Proponent's Environmental Assessment (PEA) or available equivalent, from the utility;
5. The applicable procedure for protesting the application, including how to electronically file comments; and
6. A short summary of information provided to the Commission under Section VI below.

#### C. Notification Requirements for Claimed Exemptions

1. Gas corporations invoking exemptions (a) – (b) listed under Section IV(B) shall comply with the following notification requirements no later than 60 days prior to commencing the project. Gas corporations invoking exemption (c) shall comply with the following notification requirements no later than 60 days of initiating the project:
  - a. notify the Commission through the submittal of an information-only Tier 1 advice letter 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

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<sup>6</sup> Commission Staff shall post submitted notices to the Commission's webpage on Long Term Gas Planning within 30 days of receiving it.

- 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 project, its purpose and its location;
    - c. A summary of potential environmental impacts including emissions from the proposed facilities and any measures taken or proposed by the utility to reduce potential environmental impacts;
    - d. An explanation of why the project is exempted under General Order 177; and
    - e. Information on ways to obtain more information from the utility about the proposed project.

## **SECTION VI. INFORMATION REQUIRED FOR CPCN APPLICATIONS**

- A. An application for a CPCN shall include or have attached to it the following:<sup>7</sup>
  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, including:
    - a. an explanation of why existing facilities are inadequate or need repair to meet applicable safety or reliability standards;

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<sup>7</sup> CPCN applications for storage expansion projects are not required to include an analysis of non-pipeline alternatives, as outlined in Section VI(A)(4)(a), nor an analysis of alternative routes, as outlined in Sections VI(A)(4)(b), VI(A)(4)(d) and VI(A)(5)(c).

- b. need for the project when accounting for projected declines in gas demand over the project's estimated useful life;
  - c. impact of the proposed project on expected future gas demand;
  - d. estimated useful life of the project;
  - e. consistency with applicable long-term gas infrastructure orders adopted by the Commission including in the Commission's Long-Term Gas Planning proceeding (Rulemaking 20-01-007) and successor proceedings;
2. Safety and reliability information, including planned provisions for emergency operations and shutdowns, and affected infrastructure locations;
3. Summary of the potential environmental impact of the proposed project, including in the context of the state's greenhouse gas emission reduction and carbon neutrality goals;
4. Analysis of alternatives, including non-pipeline alternatives, and a demonstration that no reasonable alternatives to the proposed project exist.
  - a. Examination of non-pipeline alternatives shall consider:
    1. The customers to be served by the proposed project, and whether direct support for electrification, consumption reduction (energy efficiency, conservation and demand response), and/or alternative methods to provide necessary energy supplies for these customers could be accomplished at a lower cost and/or with lesser environmental impact than the proposed project;
    2. The potential environmental impacts of alternatives, including emissions; and
    3. An estimate of the costs of the environmental and health impacts of the project, as well as the direct and indirect costs of the project.
  - b. Reasons for adoption of the route or location selected, including comparison with alternative routes or locations, the advantages and disadvantages of each, the comparative availability of alternate



routes or locations, and justification for the proposed route or location;

- c. If the proposed project is located within an Environmental and Social (ESJ) Community as defined in the most recent version of the Commission's ESJ Action Plan, the discussion of alternatives shall discuss whether it is possible to relocate the project and, if so, steps taken to locate the project outside such areas;
  - d. 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 each agency.<sup>8</sup> In the absence of a written agency position statement, the utility may submit a statement of its understanding of the position of such agencies;
  - e. The discussion of alternatives shall include a cost analysis comparing the proposed project with any feasible alternatives, including non-pipeline alternatives, calculated over the lifetime of the project; and,
  - f. The discussion of alternatives shall consider pollution burden in the project location and shall discuss steps taken to minimize gas infrastructure density and/or ensure substantial economic benefits to local residents.
5. Basic project information, including:
- a. A schedule showing the program for right-of-way acquisition, design, material acquisition, construction, testing and operating dates;
  - b. 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;
  - c. A map of suitable scale of the proposed routing showing details of the right-of-way in the vicinity of settled areas, parks, recreational

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<sup>8</sup> Such listing shall include the Native American Heritage Commission, which shall constitute notice on California Indian Reservation Tribal governments.

areas, scenic areas, and existing electrical transmission lines within one mile of the proposed route;

- d. Preliminary engineering and design information on the project; and,
  - e. A project implementation plan showing how the project would be contracted for and constructed. This plan shall show how all major tasks would be integrated and shall include a proposed timetable identifying the design, construction, completion, and operation dates for each major component of the plant, line, or extension.
6. Cost information:
- a. An estimate of “fully loaded” costs, including direct and indirect costs, taking into consideration the design of the project, the expected duration of construction, an estimate of the effects of economic inflation and any known engineering difficulties associated with the project, and including preliminary estimates of the costs of financing, construction, and operation, including fuel, maintenance, and dismantling or inactivation after the useful life of the plant, line, or extension;
  - b. A demonstration of the financial impact of the plant, line, or extension construction on the utility’s ratepayers, stockholders, and on the cost of the utility’s borrowed capital. The cost analyses shall be performed for the projected useful life of the plant, line, or extension, including dismantling or inactivation after the useful life of the plant, line, or extension;
  - c. A design and construction management and cost control plan which indicates, to the extent feasible, the contractual and working responsibilities and interrelationships between the utility’s management and other major parties involved in the project. This plan shall also include a construction progress information system and specific cost controls; and
  - d. An estimate of the guaranteed cost of capital investment benefit to the utility from the project.
7. Equity information:
- a. A detailed statement explaining how the project is consistent with the goals of the Commission’s ESJ Action Plan; and,

- b. A summary of outreach to, and engagement undertaken with, local communities (including relevant community-based organizations), likely to be impacted by the proposed project.
- 8. A PEA, prepared according to the most recent version of the Commission's *Guidelines for Energy Project Applications Requiring CEQA Compliance: Pre-filing and Proponent's Environmental Assessments* (PEA Guidelines).<sup>9</sup>
- 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. 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. Pursuant to the most recent version of the Commission's PEA Guidelines, applicants shall initiate a pre-filing meeting with Commission CEQA Staff no later than 60 days prior to filing of the application to assist with ensuring the completeness of the CPCN filing. With the exception of CPCN applications filed within 120 days from issuance of the decision adopting this General Order, applicants shall submit a draft PEA to Commission CEQA Staff at least three months prior to application filing.

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<sup>9</sup> 2019 Version available as of September 13, 2022 at: <https://www.cpuc.ca.gov/-/media/cpuc-website/files/legacyfiles/c/6442463239-ceqa-pre-filing-guidelines-pea-checklist-nov-2019.pdf>.

Applicants may provide Section VI required information elements within the PEA so long as a clear mapping to the location of the required information within the PEA is also provided.

## **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 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 Rulemaking 20-01-007, or a successor proceeding, every gas corporation is required to serve and file, in Rulemaking 20-01-007 or a successor proceeding, a Report of Planned Gas Investments for any project expected to exceed \$50 million or meeting the criteria in Section IV(A)(1)(b), using a 10-year forecast for investments, on or before March 1 of each year,

starting March 1, 2023.<sup>10</sup> Gas corporations shall include in each annual report the planned investments meeting the criteria included in Section IV(A)(1) that they anticipate claiming as exempt under Section IV(B) above.

B. The report shall include the following:<sup>11</sup>

1. A list of projects, arranged in chronological order by planned service date, for which a CPCN has been received but which have not yet been placed in-service;
2. A list of planned projects, arranged in chronological order by the planned in-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 projects or planning corridors, arranged in chronological order by the planned in-service date, on which planning corridor or route reviews have not started, which will be needed during the forecast periods.

C. For each project 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; including whether the planned project is located with an ESJ community as defined in the Commission's ESJ Action Plan;

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<sup>10</sup> Cost estimates for purposes of this reporting threshold shall include direct and indirect costs. Direct costs are costs for labor, material, services and other expenses incurred to design, engineer, plan, permit, execute and document a project. This includes the development costs, project management, material, construction, inspection, environmental and other project execution activities. Indirect costs are for Administrative & General, purchasing, warehousing, pension and benefits, payroll tax and other costs that are overhead in nature, as well as AFUDC and property taxes. Cost estimates for reporting purposes shall take into consideration the design of the project, the expected duration of construction, an estimate of the effects of economic inflation, and any known engineering difficulties associated with the project.

<sup>11</sup> For planned investments meeting the criteria included in Section IV(A)(1) that they anticipate claiming as exempt under Section IV(B) above, gas corporations are not required to include in their annual reports information required under Section X(C)(6) and under Section X(D).

4. detailed description of the gas infrastructure project including information on what will be modified or constructed, what specific actions will be taken, and why the project will be conducted;
  5. the projected capital expenditure;
  6. cumulative environmental impact of successive projects of the same types, in the same place;
  7. a description of the cost drivers; and
  8. other relevant information.
- D. For each project listed in the report under Section X(B) that is expected to be in-service within five years of the date the report is submitted, the report should include the following additional information:
1. high level analysis of non-pipeline alternatives considered;<sup>12</sup>
  2. total projected quantified reliability cost savings over the expected life of the project;<sup>13</sup>
  3. projected construction expenditures; and
  4. projected operating costs over the expected life of the asset as of the year the report is filed (in both nominal and net-present value terms).

**(END APPENDIX A)**

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<sup>12</sup> Annual Reports of Planned Gas Investments served and filed by independent storage providers are not required to include the information required in Section X(D)(1).

<sup>13</sup> Based on inclusion of an appropriate number of 1 in 10 days. The definition of the gas demand on a 1-in-10 winter day shall reflect the approach used by the gas utility in its design standard, including adjustment based on changing weather patterns, adapted to extend over the life of the project. Methods and assumptions used to make the projection shall be included in the application.