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March 8, 2021**

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Executive Division

Date: March 4, 2021
Resolution M-4850

R E S O L U T I O N

RESOLUTION M-4850: RATIFIES THE EXECUTIVE DIRECTOR'S LETTER TO SOUTHERN CALIFORNIA GAS COMPANY GRANTING, WITH CONDITIONS, A THREE-MONTH EXTENSION TO COMPLETE GAS TRANSMISSION PIPELINE INSPECTION AND MAINTENANCE, WHERE THE COVID-19 PANDEMIC MAKES SUCH WORK IMPOSSIBLE, WITH NOTICE REQUIREMENTS AND AN EXPIRATION DATE

SUMMARY

This Resolution is issued to ratify the Executive Director's action taken by letter dated January 11, 2021, granting Southern California Gas Company (SoCalGas) a three-month waiver, with conditions, of compliance with specific sections of 49 C.F.R. Parts 190 through 199, promulgated by the Pipeline and Hazardous Materials Safety Administration (PHMSA), for certain SoCalGas gas pipeline facilities in its service territory due to the COVID-19 pandemic. The specific PHMSA regulations for which this waiver is applicable are identified in a table in the Executive Director's January 11, 2021 letter, entitled "ATTACHMENT 1 (Revised)." The Executive Director's January 11, 2021 letter modifies the interim approval granted in her previous letter dated October 8, 2020.¹

The effect of the waiver will be to allow SoCalGas a three-month extension, beginning January 11, 2021, to perform certain required inspection, maintenance and other compliance activities required by PHMSA regulations, where COVID-19 makes compliance impossible or where the risk to human health and safety due to COVID-19 outweighs the safety risk due to the compliance delay.

¹ The Executive Director's January 11, 2021 letter is attached as Appendix A to this Resolution, which attaches the Executive Director's October 1, 2020 letter and SoCalGas' August 14, 2020 request for waiver. The Executive Director's January 11, 2021 letter specifically grants SoCalGas's modified request for waiver in its letter dated December 7, 2020, which is attached as Appendix B to this Resolution.

BACKGROUND

On August 14, 2020, SoCalGas submitted a waiver request to SED, which followed several months of discussion about SoCalGas' asserted need to extend natural gas pipeline safety inspections and maintenance due to the COVID-19 pandemic. Initially, SoCalGas requested three-month extension of all compliance activity, but through discussions with SED, narrowed its request to that stated in its August 14, 2020 letter.

SoCalGas stated the following in its August 14, 2020 letter:

- SoCalGas will continue to work toward completion of all safety and compliance activities as we are currently doing.
- If COVID-19 begins to impact [SoCalGas's] operations, and a need arises to re-allocate resources in order to continue safe and reliable service, [SoCalGas] will utilize the list in Attachment 1 and defer some or a combination of the compliance activities listed in [Attachment 1 thereto], based on workforce needs (i.e. operator qualification requirements); not to exceed three months.
- Should compliance activity deadline(s) be missed, SoCalGas will proactively track and complete the missed work order(s) by flagging them in our work management systems (i.e. Maximo or SAP), and establish a new "compliance due-date" (within the three month extended timeline) whereby operational personnel can then be re-dispatched to complete them once resources are available.
- [SoCalGas] will utilize [its] current formalized procedures to communicate with, and report deviations to the SED.

Following discussion between SED and SoCalGas, the Executive Director issued a letter dated October 8, 2020, tentatively approving the request for waiver, with certain conditions and subject to ratification by the Commission.

PHMSA received a copy of this letter granting tentative approval, and after review, requested SoCalGas identify the specific Part 192 code sections for which the waiver will be applicable. On October 19, 2020 SoCalGas provided a table of compliance activities and corresponding applicable code sections. On November 16, 2020 SED and PHMSA met with SoCalGas to discuss its October 19th response. After discussions, all parties agreed that not all the Code sections for which SoCalGas had originally requested a waiver should be included in the waiver request.

On December 7, 2020 SoCalGas submitted a letter modifying its request for waiver. This letter included a revised table, marked as Attachment 3 thereto, which significantly reduced the number and scope of code sections for which the waiver will be applicable. On December 10, SED submitted its comments to PHMSA, stating that based on its review, the revised code section request appeared to be reasonable. On December 16, PHMSA indicated that it had no further comments on the request for waiver.

On January 11, 2021, the Executive Director issued a letter granting SoCalGas's modified request for waiver, as specified in its letter dated December 7, 2020. The letter identified the specific PHMSA regulations for which the waiver is applicable in a table identified therein as "ATTACHMENT 1 (Revised)."

DISCUSSION

General Order (GO) 112-F is the "State of California Rules Governing Design, Construction, Testing, Operation, and Maintenance of Gas Gathering, Transmission, and Distribution Piping Systems."² The rules build upon the Federal Pipeline Safety Regulations, specifically, 49 CFR Parts 191, 192, 193, and 199.³ Section 101.3 of GO 112-F allows for a utility, in special circumstances, to submit an application to waive compliance with specific rules in accordance with Section 3(e) of the Natural Gas Pipeline Safety Act of 1968.

This Resolution ratifies the actions taken by the Executive Director in her letter dated January 11, 2021. The waiver originally requested in SoCalGas' August 14, 2020, as modified by its December 7, 2020 letter, is approved in part, subject to the following conditions:

1. The waiver only applies to facilities and activity as to which COVID-19 makes compliance impossible or as to which the risk to human health and safety due to COVID-19 outweighs the safety risk due to the compliance delay.
2. The waiver granted herein expires on the earlier of the following:
 - (a) six months from the date of this letter, or
 - (b) the COVID-19 pandemic no longer restricts SoCalGas' compliance activity.SoCalGas will be required to submit a new waiver request upon expiration of the waiver.

² GO 112-F, Section 101.1.

³ GO 112-F, Section 101.2.

3. No inspection or other required action shall be delayed more than three months from its current due date, with the due date falling on the last day of the third month. That is, if an action is due by August 31, 2020, it shall be completed no later than November 30, 2020. Similarly, if an action is required in September 2020, it shall be completed no later than December 31, 2020. No compliance activity shall be delayed once the approval in item 2 expires.
4. On a monthly basis, starting on the 30th day following issuance of this letter, SoCalGas shall report each activity affected by a delay in detail. For each activity delayed, the report shall specify (a) the location and identifying features of the facilities at issue, (b) the inspections and other activity required, (c) the date the action is due without benefit of this letter, (d) the date the action will be completed, not to exceed three months from the due date (with the three months expiring on the last day of the third month); (e) the reason for the delay, (f) the linkage of that reason to the COVID-19 disaster; (g) any safety impact of missing the deadline, (h) how resources were re- allocated, and (i) how SoCalGas intends to catch up with the missed deadline. If no activity is delayed, SoCalGas shall so state in its report.
5. The extension granted in this letter does not apply to any device/equipment with a history of significant (more than minor) adjustments, including facilities that SoCalGas places on “special schedules” for follow-up.

SED and the Commission retain discretion to rescind the right to delay inspection or other required activity. Further, SED or the Commission may cancel or modify the permission given in this Resolution at any time.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission.

Protect Our Communities Foundation (PCF) submitted comments recommending that the Commission consider and address the impact of an up to three-month extension on the need for SoCalGas to avoid planned inspections and other maintenance during periods of high demand. PCF also recommends the Commission avoid authorizing any delays to federally required pipeline safety maintenance activities in the absence of specific facts

justifying the delay. PCF states that it is unaware of other gas corporations requesting delays in their routine maintenance schedules, and questions why the waiver is necessary for SoCalGas. PCF notes that as of November 6, 2020, SoCalGas has not experienced any delays in complying with the regulations that are the subject of the request for waiver.

SoCalGas timely submitted reply comments on March 1, 2021, in which SoCalGas clarifies that “[t]he purpose of the request was not because SoCalGas had experienced a delay; but, rather to prudently and transparently operate our system by engaging in early and regular contact with our regulators about potential impacts of the COVID-19 pandemic, as requested by PHMSA on March 19, 2020 in guidance to Operators.” SoCalGas noted that “PCF’s comments make no specific recommendation for revising the Draft Resolution, and that its allegations lack support and disregards the careful deliberation Commission and PHMSA staff gave the request for waiver.” SoCalGas further argues that PCF’s comments include allegations that are “incorrect, incomplete, and unrelated to the waiver request.”

Safety is a paramount priority, and we acknowledge the importance of PHMSA’s regulatory requirements in promoting the safety of the Natural Gas pipeline infrastructure. We also observe that COVID-19 has not impaired SoCalGas’s ability to comply with these requirements to date. As SoCalGas notes in its reply comments, the purpose of the Executive Director’s January 11, 2021 letter granting SoCalGas’s request for waiver was to create a framework for SoCalGas to quickly notify the Commission, if COVID-19 prevents SoCalGas from complying with certain PHMSA regulatory requirements. The current request was the subject of extensive discussion between staff of the Safety Division and PHMSA and is narrowly crafted to cover only those activities which have the potential to be impacted by COVID-19, taking into consideration the safety needs of the system.

FINDINGS

1. The COVID-19 pandemic has affected many business activities in California.
2. The COVID-19 pandemic may make impossible SoCalGas’ ability to perform certain inspection and maintenance activities on its gas pipelines, or create risks to human health and safety due to COVID-19 that outweigh the safety risk due to the compliance delay.
3. The Executive Director’s Waiver of certain PHMSA requirements, as conditioned here, was appropriate pursuant to Commission Policy CL-1 of the Commission Policies and Priorities for the Executive Director, which provides:

It is the Commission’s policy that . . . [t]he Executive Director shall have the authority to act expeditiously and in coordination with other agencies of the State of California in emergencies endangering the public health, safety, and the environment. . . .

California Public Utilities Commission, *Strategic Directives, Governance Process Policies, and Commission-Staff Linkage Policies*, page 33.⁴

THEREFORE, IT IS ORDERED that:

1. The Commission ratifies the actions taken by the Executive Director through her letter dated January 11, 2021, attached as Appendix A, granting SoCalGas a three-month waiver, with conditions, of compliance with the specific sections of 49 C.F.R. Parts 190 through 199 identified in the table included therein entitled “ATTACHMENT 1 (Revised),” for certain SoCalGas gas pipeline facilities in its service territory due to the COVID-19 pandemic.
2. The waiver granted herein does not extend to activities or facilities not set forth in the Executive Director’s letter dated January 11, 2021.
3. This waiver is conditioned on the following requirements:
 - a. The waiver granted herein only applies to facilities and activity as to which COVID-19 makes compliance impossible or as to which the risk to human health and safety due to COVID-19 outweighs the safety risk due to the compliance delay.
 - b. The waiver granted herein expires on the earlier of the following dates: (a) six months from October 8, 2020, or (b) the date the COVID-19 pandemic no longer meets the requirements Ordering Paragraph 3(a). SoCalGas will be required to submit a new waiver request upon expiration of the waiver if it requests additional time for compliance.
 - c. No inspection or other required action shall be delayed more than three months from its current due date, with the due date falling on the last day of the third month. That is, if an action is due by August 31, 2020, it shall be completed no later than November 30, 2020. Similarly, if an action is required in September 2020, it shall be completed no later than December 31, 2020. No compliance activity shall be delayed once the approval in Ordering Paragraph 3(b) expires.

⁴ The California Public Utilities Commission, *Strategic Directives, Governance Process Policies, and Commission-Staff Linkage Policies* is available at https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Mission_and_Values/Strategic_Directives_and_Governance_Policies_Revised_February%2020%202019.pdf.

- d. On a monthly basis, starting on the 30th day following October 8, 2020, SoCalGas shall report each activity affected by a delay in detail. For each activity delayed, the report shall specify (a) the location and identifying features of the facilities at issue, (b) the inspections and other activity required, (c) the date the action is due without benefit of this letter, (d) the date the action will be completed, not to exceed three months from the due date (with the three months expiring on the last day of the third month); (e) the reason for the delay, (f) the linkage of that reason to the COVID-19 disaster, (g) any safety impact of missing the deadline, (h) how resources were re-allocated, and (i) how SoCalGas intends to catch up with the missed deadline. If no activity is delayed, SoCalGas shall so state in its report.
 - e. The extension granted in this Resolution does not apply to facilities, devices or equipment with a history of significant (more than minor) adjustments, including facilities that SoCalGas places on “special schedules” for follow up.
4. This waiver does not extend to any state gas pipeline facilities requirements of the California Department of Conservation, Geologic Energy Management Division (CalGEM), or its predecessor the Division of Oil, Gas, and Geothermal Resources (DOGGR).
 5. The Commission or its Safety and Enforcement Division may rescind the right to delay inspection or other required activity, or cancel or modify the permission given in this Resolution at any time.
 6. The Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA) was given the required 60 days’ notice of this waiver in the Executive Director’s January 11, 2021 letter.

This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on March 4, 2021, the following Commissioners voting favorably thereon:

/s/ RACHEL PETERSON

RACHEL PETERSON
Executive Director

MARYBEL BATJER
President

MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE L. HOUCK
Commissioners