

Decision 98-05-058 May 21, 1998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Selwyn and Loretta Vos,

Complainants,

vs.

Pacific Gas and Electric Company,

Defendant.

Case 95-09-030  
(Filed September 5, 1995)

FINAL OPINION

**Procedural Background**

Selwyn and Loretta Vos (the Voses) filed this complaint on September 5, 1995, asserting that Pacific Gas and Electric Company (PG&E) violated various required mitigation measures when it built its Bethany Compressor Station as part of the Pacific Gas Transmission (PGT)/PG&E natural gas pipeline expansion project Application (A.) (89-04-033). The compressor station is located directly across the street from property owned by the Voses. In Decision (D.) 97-01-043, as later modified in D.97-12-054, the Commission found that PG&E had violated several of the mitigation measures required as part of the Certificate of Public Convenience and Necessity (CPCN) granted for the pipeline expansion project in D.90-12-119. The Commission found that PG&E had failed to comply with its requirements to appropriately consider the likely uses of the land adjacent to its planned compressor station and specifically inform neighbors of the company's plans before they were largely locked into place. The Commission found that PG&E evaded specific questions that, if answered in a frank manner, could have enabled neighbors to meaningfully participate in the planning process. In further violation of its mitigation requirements, PG&E was found to have failed to negotiate with the Voses for the purpose of identifying any potential conflicts between the land

uses planned by PG&E and those planned by the Voses. PG&E failed to provide the Voses with the required advance notice of its plans to commence construction of the compressor station. In addition, the Commission found that PG&E had failed to create a meaningful buffer zone around the compressor station, as it had stated it would in its initial project description, and had failed to maintain required landscaping at the station site.

We directed PG&E to develop and implement a new landscaping plan. Because of PG&E's failure to talk to the Voses openly and frankly about its plans for building a compressor station next door and because of its failure to provide advance notice of the commencement of construction of the compressor station, we concluded that we should fine the company and identified a potential maximum fine of \$752,000. Before determining the final amount of the fine, we wanted to know whether these failures were isolated, or whether they represented a pattern of misconduct affecting property owners across the length of the pipeline project. We directed the Consumer Services Division (CSD) to investigate these questions and report back to us. In addition, the Voses had raised various safety concerns about the compressor station that we were unable to answer based on the record before us. We directed Utilities Safety Branch (USB) to investigate those concerns and to report its findings to us. USB issued its report on April 22, 1997. CSD issued its report on November 14, 1997.

On November 20, 1997, the assigned Administrative Law Judge (ALJ) issued a ruling seeking comment from PG&E and the Voses on the two reports. The Voses filed comments on December 9, 1997. PG&E filed its comments on December 10, 1997. Consistent with the ALJ's ruling, PG&E filed responsive comments on December 30, 1997. Consistent with our treatment of other documents in this proceeding, we will consider the reports as evidence and will include them in the formal file. We will discuss the findings of the two reports, the comments of the parties, and our conclusions as to further steps, including the proper fine to impose in these circumstances.

## **The Staff Reports**

### ***The USB Report on Various Safety Issues At the Bethany Compressor Station***

In response to specific issues identified in Conclusions of Law 5 through 9 of D.97-01-043, staff from USB met with PG&E representatives at the compressor station site to inspect the facilities and discuss each issue. A discussion of the USB's findings in each of these areas follows:

- 1. The Effectiveness of the Notification Procedure for Scheduled and Emergency Natural Gas Releases**

USB reports that there are two types of natural gas releases which can occur at the Bethany Compressor Station: pipeline blow-downs and station piping blow-downs. The term blow-down is used to describe the process of venting compressed natural gas to the atmosphere to remove gas from a section of pipeline to eliminate the possibility of the natural gas igniting.

PG&E performs pipeline blow-downs when it is necessary to evacuate gas from a portion of the pipeline to allow for maintenance or repair. This procedure lasts for approximately an hour and is extremely loud. More natural gas is released during a pipeline blow-down than during a station piping blow-down. PG&E has a written procedure in effect for notifying residents in proximity of the compressor station of a scheduled pipeline blow-down. According to USB, PG&E provides this notification primarily because the noise is loud enough to disturb livestock and worry nearby residents. Only one pipeline blow-down has occurred at the Bethany Compressor Station.

Station piping blow-downs, in contrast, last for about 11 minutes, are silenced through mechanical means, and can be scheduled or unscheduled. Scheduled blow-downs are a regular part of station operation and PG&E might perform them for a variety of reasons, such as when it takes a compressor off-line, or when maintenance is done. Various alarms at the station can trigger unscheduled station piping blow-downs. Although, under some conditions, people in the vicinity of the compressor

station may be able to smell natural gas during these blow-downs, USB found that the gas released in such circumstances does not constitute a threat because it rises and disperses readily into the atmosphere. PG&E does not notify residents of station piping blow-downs because, according to USB, they pose a negligible risk, and are not audible. Also, the staff says, since notification is only possible for station piping blow-downs that are scheduled, if notice were normally given prior to such events, residents may become unduly concerned when an unscheduled blow-down occurs.

PG&E reports that its representatives met with Mrs. Vos at the Bethany Compressor Station on March 10, 1997, in an attempt to discuss her concerns and that the company agreed to provide notification of scheduled pipeline blow-downs by placing a note in the Voses' mailbox.

USB concluded that public notification is neither necessary nor practical for station piping blow-downs since they are often unpredictable and pose a negligible threat. However, because of the startling noise that results, PG&E should continue to notify residents of pipeline blow-downs. In addition, because people are often concerned about occasional natural gas odors, the staff recommends that PG&E periodically undertake an effort to familiarize members of the public with the operation of the compressor station and recommends ordering PG&E to contact each neighbor in writing or by telephone by a certain date to offer to meet and discuss issues of concern and to provide a tour of the facility.

## 2. Adequacy of On-Site Water

At issue is whether the absence of water at the station site constitutes an unacceptable fire hazard. USB states that it undertook a thorough review of PG&E's fire protection and mitigation strategy at the Bethany Compressor Station to determine its adequacy. According to the staff, PG&E plans to respond to a fire at the compressor station in a manner that varies, depending on the source and magnitude of the fire. Scenarios include natural gas ignition, wildfire, and ignition of oil.

According to PG&E, the standard industry method for combating a natural gas fire is to isolate it, which involves stopping the flow of gas to the fire and allowing it to burn off. This is the method that would be employed at the Bethany Compressor

Station should such an event take place. The Alameda County Fire Department confirmed that isolation is the appropriate means of handling a gas fire, since the possibility of a secondary gas explosion exists if the fire is extinguished before the flow of gas is stopped. USB agrees with this fire suppression strategy.

Station managers use station piping blow-downs to reduce the risk and impact of a natural gas ignition. A blow-down removes all the natural gas from the station, thus eliminating the possibility of a sustained fire. Sensors at the station will activate a station piping blow-down under certain conditions:

- a) high discharge pressure,
- b) high discharge temperature,
- c) excess rotor vibration,
- d) low lube oil level,
- e) high lube oil temperature,
- f) high bearing temperature, and
- g) gas seal failure.

The compressor building is equipped with area-wide gas detectors, which will initiate a blow-down if gas is detected in the building. The structures at the compressor station are made from noncombustible materials. USB finds that a sufficient setback is maintained between the compressor building and the nearest adjacent property. PG&E removes all combustible materials from the setback area, which reduces the possibility of a fire moving between the compressor and adjacent properties. According to the staff, PG&E has situated the compressor building on the site so that should a natural gas fire occur, the heat intensity at the property line would be well below the guideline requirements of the National Fire Protection Association (NFPA).

Combustible oil is contained in each of the compressors, the oil coolers, and in several outside transformers. Equipment containing oil is designed and located such that if a fire were to occur, it would be isolated and unlikely to spread. In the event of an oil fire, heat, ultra-violet, and/or smoke detectors would initiate a station piping blow-down, thus eliminating the only other significant fuel source. Wherever oil is

present, concrete walls, trenches, and/or floor slope all provide secondary containment, which would reduce the possibility of a fire spreading. PG&E designed the equipment containing combustible materials to maintain separation distances well in excess of those specified by the NFPA. The separation area does not contain any combustible materials. PG&E employees are instructed to immediately call the fire department in the event of an oil fire. Employees can use fire extinguishers to stop small fires, while the fire department would handle larger fires. Firefighters would provide water to fight an oil-based fire by using booster tanks and tanker trucks. If needed, the firefighters could refill their trucks from a canal which is located a ¼ mile away. The Alameda County Fire Department indicated that it had the resources available to suppress a fire with a continual supply of water until the fuel is consumed or the fire is extinguished.

The staff investigated the likelihood of either a wildfire starting at the compressor station and propagating to adjacent properties, or a wildfire from an adjacent property initiating a fire at the compressor station. PG&E maintains a vegetation-free zone around the compressor station which, according to PG&E, is well in excess of the area required by NFPA and the Urban-Wildlife Interface Code. In this vegetation-free zone there are no combustible materials that could sustain a fire and allow it to spread.

General Order (GO) 112-B Section 192.171 (a) states:

"Each compressor station must have adequate fire protection facilities. If fire pumps are a part of these facilities, their operation may not be affected by the emergency shutdown system."

The staff believes that the availability of on-site water is not a necessary part of a successful fire protection and mitigation program and concludes:

" Fire protection at the Bethany compressor station is achieved through removal of all unessential combustion sources, isolation of essential combustion sources, careful monitoring, and, most importantly, blow-downs of gas inventories in the event of a Hazardous condition occurring. Furthermore, in the event of a worst case scenario, the fire would be contained through the passive design

of the facility, and resulting damage would be solely to PG&E's property. The USB has determined the fire protection system at the Bethany Compressor Station to be adequate and makes no further recommendations."

### 3. Sufficiency of Site Security

There are employees at the station during normal working hours. The USB reports that the entrance gates and building doors are locked when no one is working on site. In addition, the station site is surrounded by an 8-foot chain link fence topped with barbed wire, there is automatic lighting that illuminates the perimeter and interior at night, and the facility is equipped with interior intruder motion detection alarms. Recently, PG&E has added entry alarms to the control building door, and motion detectors with audible alarms on the perimeter fencing as well as alarms on both gates. The USB believes that the present security system is adequate and makes no further recommendations.

### 4. The Use of Audible Alarms

Neighbors report that the various audible alarms at the station have frequently sounded at all hours of the day and night, causing unnecessary disturbances. The USB reports that PG&E has taken several steps to reduce the number of times that the alarms are activated without good purpose. The staff concludes as follows:

"The audible alarms presently installed must be audible to accomplish their stated purpose. At night, the alarm bell serves to deter thefts, and as such must be audible. During the day, the audible alarms are designed to alert staff to potentially hazardous situations, and again must be heard at any point in the station. Rationale exists for maintaining the audible alarms presently installed.

"In the past, Bethany has experienced a high incidence of nuisance alarms. USB's findings indicate, however, that PG&E has made extensive efforts to eliminate such alarms. Given the efforts undertaken to eliminate them, USB feels that this problem has been adequately addressed. USB believes the present system to be adequate, and makes no further recommendation pertaining to the design of the alarm system.

"USB recommends that PG&E perform public education with nearby residents regarding the use of the alarm system in improving station security and safety."

5. Adequacy of Emergency Response Plans

Fire, police, and medical personnel are most likely to respond to an emergency. Upon identifying a fire, PG&E instructs its employees to call the Livermore Fire Department. PG&E informed USB that the response time of the Livermore Fire Department is 20 minutes. Livermore Fire Department can seek assistance from the Tracy and East Diablo Fire Departments (10 to 15- minute response time) if necessary. Tracy Community Hospital can provide medical response and, in the case of a serious injury, Air Medical Response. In addition, PG&E has an agreement with the Alameda County Sheriffs Department to provide assistance as needed.

Among other things, GO 112-E requires that the utility do the following:

- a. establish and maintain adequate means of communication with appropriate fire, police, and other public officials,
- b. notify appropriate fire, police, and other public officials of gas pipeline emergencies and coordinate with them both planned responses and actual responses during an emergency, and
- c. establish and maintain liaison with appropriate fire, police, and public officials.

The USB observed that Commission rules do not specify a maximum response time for emergency personnel and concluded that given the probability of an emergency event occurring, and the location of the station, the response time appeared to be adequate. USB recommended that PG&E coordinate drills with local emergency response providers on a periodic basis (once every five years) to ensure an effective response to an actual emergency.

**The Consumer Services Division Report**

The Enforcement Branch of the Consumer Affairs Division (Enforcement) attempted to determine if PG&E failed to provide proper notification to other landowners, tenants, and land managers along the right-of-way. Enforcement also



looked at PG&E's record of notifying people with property located within 50 feet of the right-of-way whose safety, property, business, or operations might have been adversely affected by any construction activity. Enforcement reviewed PG&E's property line lists, which include each parcel crossed by the pipeline, specifying the name of the owner, the addresses, names of people to contact prior to construction, special conditions and permit references. These lists also set forth terms and conditions governing pipeline construction activities.

The 410-mile gas expansion pipeline project traverses the following California counties: Modoc, Siskiyou, Shasta, Tehama, Glenn, Colusa, Yolo, Solano, Sacramento, Contra Costa, Alameda, San Joaquin, Stanislaus, Merced, and Fresno. PG&E gave the staff approximately 1,441 right-of-way property line listings, which should comprise all of the permitted land users, landowners, and land managers along the right-of-way and all residents within 600 feet of the right-of-way affected by any construction activity from the Oregon-California border to Kern River Station, San Joaquin County.

Enforcement developed a questionnaire containing various questions related to Mitigation Measures 27 (which directs PG&E to contact neighboring property owners to discuss land-use planning conflicts) and 28a (which directs PG&E to notify neighboring property owners of the beginning of construction activities at least two weeks in advance). The staff administered the questionnaire by telephone to randomly-selected permitted users, landowners, and land managers. Those selected for telephone contacts were spread evenly through all 15 counties. Of the 570 contacts made, 475 elected to take part in the interview process.

Enforcement reports the results of the survey as follows:

- At least 98% of the participating landowners had received notice through the mail at least 15 to 30 days in advance of construction.
- Each landowner or landowner's representative was given the name of a contact agent with whom to discuss any question or problem which might arise.
- Prior to construction, PG&E obtained all necessary permits to cross public lands.

- In almost all cases, the pipeline crossed open land, in which cases PG&E did not obtain additional permits or meet with the landowner.
- Landowners reported attending meetings sponsored by PG&E in advance of construction.
- PG&E explained rights-of-way to landowners in detail.
- Landowners initially received notice of construction through letters, local media, newsletters, flyers, brochures or door hangers.
- PG&E representatives or their agents followed the initial notice with telephone calls and visits.
- PG&E representatives talked to several attorneys who represented landowners. In each instance counsel stated that PG&E's representatives made every effort to accommodate the landowners; were extremely cooperative in providing requested documentation; and gave prompt attention to any complaints or problems.

Based on these observations, Enforcement concluded that PG&E effectively sought to comply with the notice requirements of D. 90-12-019.

#### **Comments from the Parties on the Staff Reports**

##### ***PG&E***

PG&E offered no specific comments on the USB report. Its comments on the CSD report were limited to arguing that since the report found no violations of mitigation measures related to notice and land-use planning other than those related to the Voses, the \$752,000 fine against PG&E should be reduced to zero.

##### ***The Voses***

The Voses have offered comments related to these issues in the form authorized by the ALJ in his ruling on November 20, 1997. However they have also offered comments at various times in the form of substantive ex parte letters and pleadings that were neither solicited by the Commission nor proper in other ways. Despite repeated efforts by the ALJ to provide procedural guidance or to encourage the Voses to rely on the advice of the Public Advisor, the Voses have chosen to follow procedures of their own making. For instance, rather than filing the reply comments

authorized by the ALJ, the Voses waited until they received PG&E's reply comments and then attempted to file a rebuttal to PG&E's reply. We will give no weight to these and other unauthorized substantive communications from the Voses. Instead, we will focus on the comments which the Voses appropriately filed on December 9, 1997.

In that filing, the Voses offer no specific comments on the USB report, but ask the Commission to consider "the Voses' comments, and the USB responses to the Voses' comments." However, in that it has not submitted any such comments and responses for our consideration, we are not in a position to rely on them. The Voses criticize the CSD report as being unrelated to the Voses' complaint. The complaint addresses issues related to the Bethany Compressor Station, while the CSD report focuses exclusively on issues related to the pipeline and does not address the compressor station.

The Voses argue that the Commission should impose the full amount of the conditional fine because of the company's size and because of its "total disregard for complying with the CPUC's mitigation measures." They go on to argue that the conditional fine is not enough because it would have little impact on PG&E's "bottom line", offering the conjecture that the "money and time saved by omitting the buffer zone and avoiding public discussion on the Bethany Compressor Station, in Alameda County should more than cover any fine the Commission would impose." The Voses also stated as follows:

"The Commission should consider stepping back and determining how to more effectively protect the interest of the public at large. The Commission regulates utilities for the benefit of the citizens of the State of California.

"Commission actions are ineffective if a utility can, to enhance its profits, choose to blatantly ignore the Commission's requirements.

"The Commission needs to fully understand the reality of an individual citizen challenging a large utility. The Commission needs to fully comprehend how much effort is required of the individual citizen to bring a fully documented and supported

complaint before the Commission. Finally, the Commission needs to appreciate that, irrespective of the merits of the citizen's case, the resources of a large utility will fully overwhelm the citizen in any court of law."

The Voses then request that the Commission order PG&E to create a buffer zone around the compressor station and "provide that level of compensation to the Voses that the Commission deems appropriate."

### **Discussion**

In the initial complaint proceeding, the Voses raised questions related to safety procedures at the compressor station which we were unable to resolve. Thus, we asked USB to investigate the Voses' concerns. In the report based on its investigation, the USB has given PG&E passing grades in each of the areas that it studied. The Safety Branch found PG&E's procedures for notifying neighbors about natural gas releases at the plant to be adequate. The staff concluded that the availability of on-site water is not a necessary part of a successful fire protection and mitigation program and found that PG&E's fire protection efforts at the site are sufficient. The USB believes that the present security system and audible alarm system are adequate and makes no further recommendations. The staff also reviewed PG&E's Emergency Response Plan and found it adequate. Based on these findings, we are persuaded that no additional major changes to PG&E's safety systems at the Bethany Compressor Station are required at this time. However, we will direct PG&E to undertake the several minor improvements that USB recommends in its report. Within the next six months, PG&E must contact each neighbor in writing or by telephone to offer to meet and discuss issues of concern and to provide a tour of the facility. PG&E must develop and implement a public education program for nearby residents regarding the use of the alarm system in improving station security and safety. In addition, within the next 12 months and then at least once every 5 years, PG&E must undertake drills in cooperation with local emergency response providers to ensure an effective response to an actual emergency. We direct the Safety Branch to ensure that PG&E meets these additional requirements.

In order to consider the results of the CSD report, it is important to remember the context in which we asked for it. In D.97-01-043, we concluded that PG&E had violated certain mitigation measures attached to its certificate to construct the pipeline expansion and the compressor station by failing to notify and work with the Voses in designing and constructing the compressor station. We identified a potential fine of \$752,000 resulting from these violations and expressed the concern that such violations may have occurred elsewhere on the project. In asking CSD to investigate this issue, we discussed the results that could flow from CSD's findings. If we found a pattern of noncompliance, we would direct staff to prepare an Order Instituting Investigation, if necessary, and consider imposing an even greater fine. If CSD found that there was no broader pattern of violations, we would consider the appropriate level of fine in that light. The resulting fine might be significantly less than \$752,000.

CSD was unequivocal in stating that it uncovered no evidence of further violations. Thus, we have no reason to open a more formal investigation, or to consider increasing the fine. The Voses are critical of CSD's findings because the staff focused on activities related to the planning and construction of the pipeline and not the compressor station. CSD's broader focus is understandable, because the project mostly involved the construction of pipeline. Bethany is the only new compressor station PG&E built in conjunction with this project. It is also not surprising that CSD did not uncover problems related to notification and planning for the pipeline itself, since the pipeline also passes across the Voses' land and they have raised no objections related to the way they were treated in that regard. However, it does not appear that CSD specifically tried to interview other neighbors in the vicinity of the Bethany Compressor Station. It would be useful to know if PG&E made the same mistakes with other Bethany neighbors that it made with the Voses.

Regardless of what discussion with other Bethany neighbors might reveal, we are not persuaded that we should reduce the fine to zero in response to CSD's findings, as PG&E proposes. Section 2107 of the Public Utilities Code states:

"Any public utility which violates or fails to comply with...any part or provision of any order, decision, decree, rule, direction, demand, or

requirement of the commission, in a case in which a penalty has not otherwise been provided, is subject to a penalty of not less than five hundred dollars (\$500), nor [at the time of these violations] more than two thousand dollars (\$2,000) for each offense."

Since we already determined in D.97-01-043 that PG&E has violated its mitigation requirements, the question before us now is not whether there should be a fine, but how much it should be.

Even if § 2107 did not impose a minimum penalty, PG&E should face a fine for having violated its mitigation requirements unless those violations are reasonable and trivial. Here, PG&E has not demonstrated that it made any effort to specifically notify the Voses or any other owners of adjacent property of their plans to construct a compressor station. The notices offered by PG&E appear to refer only to the pipeline. In addition, PG&E could have responded to early inquiries from the Voses by providing direct and specific information about their plans for the compressor station, but chose not to do so. In addition, PG&E did not merely fail to provide proper notice of its plans. It failed to take the affirmative step of working with the Voses to resolve any potential land use planning conflicts. While it is possible for a utility to have performed in a reasonable matter and still have neglected to appropriately serve a notice on a particular property owner, it is not reasonable to fail to issue an adequate notice, fail to respond to inquiries in a complete and frank manner and fail to inquire about the existence of land use planning conflicts.

In D.97-01-043, we found that PG&E had violated Mitigation Measure 27 on 362 occasions, and Mitigation Measure 28a on 14 occasions, exposing the company to a maximum penalty of \$752,000 (376 X \$2,000). The minimum penalty would be \$118,000 (376 X \$500).

The level of the fine should bear some relationship to the seriousness of the violation. As we found in D.97-01-043, after having failed to confer with the Voses, PG&E placed the facility in the portion of its 100-acre parcel closest to the Voses' land. On this basis, alone, the violations are not trivial. We do not know where PG&E should have placed the station on the 100-acre parcel. After a more complete inquiry, PG&E

may have ended up placing the station exactly where it is. It is the failure to appropriately consult with the Voses that makes the current location of the compressor station a significant problem.

In this instance, we find it most appropriate to reduce the maximum penalty due to CSD's finding of no pattern of inappropriate behavior. We will reduce the penalty by half, to \$376,000, for this reason. This amount still represents a substantial penalty that is appropriate for the severity of the violations we found in D.97-01-043. To impose the minimum penalty would be to tell PG&E that the cost for siting a permanent facility in disregard of its mitigation requirements is less than \$200,000. To impose a \$376,000 penalty, which is well above the minimum, is to tell PG&E that we take seriously the mitigation requirements with which we condition the approval of a project, we expect PG&E to vigorously comply with those requirements, and we will take appropriate action when they do not.

Finally, we address the Voses' request that we require PG&E to create a buffer zone around the compressor station and award the Voses damages. We considered and rejected the first part of this request in D.97-01-043. The Voses have offered us no reason to reconsider that decision. We reject the second part of this request as well. In D.97-01-043 while rejecting PG&E's Motion to Dismiss, we stated that we would not consider any reparations for the Voses: "Our interest at this point is solely in considering PG&E's compliance with the pipeline expansion project EIR mitigation measures. Essentially, the Voses bring this case to us as citizen prosecutors." That conclusion still applies.

### Conclusion

With this decision, we have completed our extensive consideration of the issues raised in this complaint. We have directed PG&E to develop new landscaping at the Bethany Compressor Station, reviewed various safety procedures at the station and reviewed PG&E's conduct in notifying and working with property owners all along the 410-mile pipeline expansion project. We have closely examined PG&E's conduct in conjunction with the Voses and their property interests. Finally, we are imposing a

substantial penalty on PG&E for its failure to properly notify the Voses and work with them to resolve any potential land use conflicts. We will now close this proceeding.

Judicial review of the Commission decisions is governed by Division 1, Part 1, Chapter 9, Article 3 of the PU Code. The appropriate court for judicial review is dependent on the nature of the proceeding. This is a complaint case not challenging the reasonableness of rates or charges, and so this decision is issued in an "adjudicatory proceeding" as defined in § 1757.1 Therefore, the proper court for filing any petition for writ of review is the Court of Appeal. (See PU Code § 1756(b).)

### Findings of Fact

1. No additional major changes to PG&E's safety systems at the Bethany Compressor Station are required at this time.
2. PG&E could improve its safety procedures at the Bethany Compressor Station by undertaking the following additional activities:
  - a. Within the next six months, contacting each neighbor in writing or by telephone to offer to meet and discuss issues of concern and to providing a tour of the facility,
  - b. developing and implementing a public education program for nearby residents regarding the use of the alarm system in improving station security and safety, and
  - c. within the next 12 months and then at least once every 5 years, undertaking drills in cooperation with local emergency response providers to ensure an effective response to an actual emergency.
3. PG&E's conduct in developing and constructing the pipeline expansion project does not manifest a pattern of instances in which it failed to provide proper notice or sufficient confer with affect property owners.
4. PG&E did not take reasonable steps to ensure that the Voses were adequately informed of its plans to build the Bethany Compressor Station or of its date for commencing construction and did not take reasonable steps to work with the Voses to discover and resolve any conflicting land use plans.
5. The imposition of a minimal penalty in response to these failures would send an inappropriate signal to the company.



6. The imposition of a penalty greater than the minimum penalty would send an appropriate signal to PG&E that we take seriously the mitigation requirements with which we condition the approval of a project, we expect PG&E to vigorously comply with those requirements, and we will take appropriate action when they do not.

#### **Conclusions of Law**

1. PG&E should take additional steps, as described in this order, to improve its safety procedures at the Bethany Compressor Station.
2. PG&E should pay a penalty of \$376,000 for its failure to properly notify and consult with the Voses concerning the timing of construction and the appropriate design and placement of the Bethany Compressor Station.
3. This proceeding should be closed.
4. This is a complaint case not challenging the reasonableness of rates or charges, and so this decision is issued in an "adjudicatory proceeding" as defined in PU Code § 1757.1. Therefore, the proper court for filing any petition for writ of review will be the Court of Appeal.

#### **FINAL ORDER**

##### **IT IS ORDERED that:**

1. Pacific Gas and Electric Company (PG&E) shall be fined \$376,000 for its ongoing failure to work with Selwyn and Loretta Vos (the Voses) to discover and resolve any potential land use conflicts related to the construction, design and location of the Bethany Compressor Station and for its failure to notify the Voses at least 14 days in advance of the commencement of construction work at the station.
2. PG&E shall pay to the California State Treasury, to the credit of the General Fund, the sum of \$376,000 and shall file with the Commission proof of such payment no later than 90 days after the effective date of this order.
3. To improve its safety procedures at the Bethany Compressor Station, PG&E shall undertake the following additional activities:

- a. Within the next six months, contact each neighbor in writing or by telephone to offer to meet and discuss issues of concern and to providing a tour of the facility,
  - b. develop and implement a public education program for nearby residents regarding the use of the alarm system in improving station security and safety, and
  - c. within the next 12 months and then at least once every 5 years, undertake drills in cooperation with local emergency response providers to ensure an effective response to an actual emergency.
4. Case 95-09-030 is closed

This order becomes effective 20 days from today.

Dated May 21, 1998, at San Francisco, California.

RICHARD A. BILAS  
President  
P. GREGORY CONLON  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
Commissioners