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Subject: CPUC Begins Penalty Consideration Regarding Muni Safety Issues: CPUC Press Release

FOR IMMEDIATE RELEASE

PRESS RELEASE

Media Contact: Terrie Prosper, 415.703.1366, news@cpuc.ca.gov
Docket #:
I.11-02-017

**CPUC BEGINS PENALTY
CONSIDERATION REGARDING MUNI SAFETY
ISSUES**

SAN FRANCISCO, February 24, 2011 - The California Public Utilities Commission (CPUC) today began penalty considerations based on CPUC staff allegations of pervasive safety concerns regarding the San Francisco Municipal Transportation Agency's (SFMTA or Muni) light rail system. This action was taken after CPUC safety inspectors found numerous safety violations on Muni's light rail system in San Francisco. In their report to the CPUC, the inspectors have alleged that SFMTA has been chronically unresponsive to alleged violations and other findings.

The CPUC has exclusive jurisdiction over rail transit safety in California. The CPUC's Consumer Protection and Safety Division (CPSD) staff conduct regular inspections of SFMTA's light rail system. CPUC staff have become increasingly concerned with public safety issues throughout the Muni system. In particular, CPUC staff are concerned with the material condition of the light rail system, SFMTA's failure to initiate or complete Corrective Action Plans to address known problems, late reporting or non-reporting of incidents, and failure to respond to CPUC staff inspection findings. These preliminary findings, if proven, may violate state and federal regulations, violate SFMTA's own internal regulations, and raise serious safety concerns for the public as well as SFMTA employees.

Based on the CPUC staff findings, CPSD today asked the CPUC's Commissioners to vote to open a penalty consideration proceeding during which an Administrative Law Judge (ALJ) will hear testimony on safety concerns regarding the SFMTA light rail system. Based on the record that will be developed, the ALJ will prepare a Proposed Decision for consideration by the CPUC's Commissioners, which could include fines and penalties against SFMTA, if warranted.

"It is important to public safety and to SFMTA employees that we determine whether Muni is operating according to our regulations," said CPUC President Michael R. Peevey. "Our safety inspectors allege a number of deficiencies in Muni's operations and we must now determine whether SFMTA's behavior violates the law, and if so, whether fines and penalties are appropriate."

CPUC staff recommended that the CPUC open a penalty

consideration phase into SFMTA because of the following allegations:

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The track at Church and Duboce Streets has deteriorated and has numerous defects. The track was inspected on August 12, 2009, and re-inspected on October 20, 2009. CPUC staff have yet to receive any plan for correction.

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Sunset Tunnel has numerous violations including that the Automatic Train Control System (ATCS) is not operating in the tunnel. The SFMTA is not following its own regulations regarding speed restrictions in a non-functioning ATCS area. The SFMTA responded to a CPUC staff inquiry stating that the ATCS never functioned in the tunnel; however, the SFMTA did not provide any documentation to verify the claim. The SFMTA has yet to provide a plan for restoration of the ATCS.

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A June 3-4, 2010, inspection of the Church Portal noted numerous deficiencies including induction damaged loop cable supports, cable not properly supported, cables rubbing switch rods, junction box problems, and others. A follow-up inspection on January 7, 2011, noted the same deficiencies.

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The ATCS functions poorly in the Market Street Tunnel and appears not to operate at the Embarcadero Station. The SFMTA continues to delay replacing the induction loop cable. This situation may have contributed to an incident on October 1, 2010, in which one Light Rail Vehicle (LRV) hit another LRV at the Embarcadero Station. This accident caused major damage to both LRVs. Both train operators had minor injuries and were transported to a hospital.

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SFMTA did not have a blue flag/blue light procedure in place until January 2011. This is a safety procedure required to prevent injury to personnel working underneath or around LRVs. Despite a May 12, 2010, SFMTA bulletin and a December 7, 2010, SFMTA memorandum requiring this procedure, on December 14, 2010, CPUC staff witnessed Muni employees working without a blue flag or blue light.

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The last Triennial Audit of the SFMTA occurred in October 2008. Of the 49 Corrective Action Plans created by the SFMTA, 17 remain open. Several of these are significant and relate to the SFMTA's track inspection program and the documentation of that program. In several recent meetings with CPUC staff, the SFMTA has not been able to provide a status report on the open Corrective Action Plans.

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In the CPUC staff inspections of SFMTA from July 17, 2009, through January 2011, numerous material problems with SFMTA are documented. Of the 29 inspections, 26 required responses and Corrective Action Plans, which have not yet been received. The inspection reports required a response within 30 days.

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SFMTA must submit final accident investigation reports within 60 calendar days of the accident. The SFMTA has eight accident investigation reports still outstanding for 2009 (some 13 months late) and 25 accident reports from 2010. Each of

these late reports is a separate violation.

The CPUC ordered SFMTA to file a response within 30 days. A Pre-Hearing Conference before an ALJ will be set to establish a schedule for this proceeding, including the date of an evidentiary hearing. If CPUC staff allegations are proven, the CPUC may impose substantial fines or other penalties, as well as implement remedial action.

The order voted on today is available at http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/131214.htm.

For more information on the CPUC, please visit www.cpuc.ca.gov.

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