

BEFORE THE PUBLIC UTILITIES COMMISSION OF STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's own motion into Pacific Gas and Electric Company's (PG&E) compliance with Commission Decision D.09-10-049, granting PG&E's request for a Permit to Construct for the Seventh Standard Substation Project, to determine if PG&E violated the laws, rules and regulations of this State; Order to Show Cause why Respondent should not be subject to penalties for such violations.

FILED
PUBLIC UTILITIES COMMISSION
JUNE 9, 2011
SAN FRANCISCO OFFICE
I.11-06-010

**ORDER INSTITUTING INVESTIGATION
INTO PACIFIC GAS AND ELECTRIC COMPANY'S
COMPLIANCE WITH COMMISSION DECISION (D.) 09-10-049**

I. SUMMARY

By this Order, the Commission institutes a formal investigation to determine whether the named Respondent, Pacific Gas and Electric Company (PG&E), violated any provisions of the California Public Utilities Code, Commission general orders or decisions, or other applicable rules or requirements in regards to its alleged failure to comply with Commission Decision (D.) 09-10-049, granting PG&E's request for a Permit to Construct (PTC) for the Seventh Standard Substation Project. The Commission orders PG&E to show cause why it should not be subject to penalties for violation of California statutes and/or Commission rules, which require compliance by all entities subject to the Commission's jurisdiction with all of the terms and conditions of Commission decisions applicable to such entities.

This order provides notice that the Assigned Commissioner and/or assigned Administrative Law Judge will set a hearing to determine whether Respondent PG&E has violated the general orders, statutes, decisions, or other applicable authority pertaining to PG&E's actions pursuant to Public Utilities Code §702, General Order 131-D, and

issuance of D.09-10-049. This order also directs PG&E to identify any portions of the Consumer Protection and Safety Division (CPSD) report that it believes should remain unavailable for public review, and to do so by filing a written motion for a protective order which identifies the specific portions of the report and/or attachments to be considered confidential and identifies the legal support for its request.

II. BACKGROUND

PG&E is an investor-owned public utility that, inter alia, provides retail electric and gas service to customers in California at rates established by this Commission. As such, PG&E is subject to Commission General Order 131-D¹, which prohibits electric public utilities from beginning construction in this state of any new electric generating plant, or of the modification, alteration, or addition to an existing electric generating plant, or of electric transmission/power/distribution line facilities, or of new, upgraded or modified substations without first complying with the provisions of said General Order.

Section III.B of General Order 131-D mandates that no electric public utility shall begin construction in this state of any electric power line facilities or substations, which are designed for immediate or eventual operation at any voltage between 50 kV or 200 kV or new or upgraded substations with high side voltage exceeding 50 kV without this Commission's having first authorized the construction of said facilities by issuance of a Permit to Construct (PTC) in accordance with the provisions of Sections IX.B, X, and XI.B of said General Order. Any project proposed by an electric public utility that is subject to the provisions of Section IX.B of General Order 131-D is also subject to the requirements of the California Environmental Quality Act (CEQA), Public Resources Code § 21000, *et seq.*

On March 2, 2009, PG&E filed with the Commission an Application for a

¹ General Order 131-D was issued pursuant to California Public Utility Code Sections 451, 701, 702, 761, 768, 770, and 1001.

PTC for the Seventh Standard Substation Project (hereafter, "Project") pursuant to General Order 131-D. The stated purpose of the Project was to enable PG&E to serve the increased demand forecast in the Urban Bakersfield Northwest Distribution Planning Area. The major components of the Project consist of a new substation, a transmission interconnection with the existing Rio Bravo–Kern Oil 115 kV Power Line, new distribution lines, and development of staging areas and temporary and permanent access to the new substation. In compliance with General Order 131-D and CEQA, PG&E filed a project proponent's Preliminary Environmental Assessment (PEA) at the time it filed its Application for the Project.

The Commission's Energy Division (Energy Division) reviewed PG&E's PEA and on April 1, 2009, informed PG&E by letter that the Application was deemed complete for purposes of reviewing environmental impacts. Thereafter, on August 11, 2009, the Energy Division released for public review a Proposed Mitigated Negative Declaration (Draft MND) for the Project. The Draft MND included a Mitigation Monitoring Plan (MMP), as required by CEQA.²

The MMP described the mitigation measures that PG&E must implement as part of the Project, the actions required to implement each mitigation measure, how implementation would be monitored, and the timing of implementation for each mitigation measure. The Commission uses the MMP as a manual for required performance and has Commission-designated environmental monitors record such performance. PG&E agreed to each of the mitigations in the MMP. Consistent with CEQA,³ the Commission adopted the final statement of the MMP when it approved the Project in D. 09-10-049 on October 29, 2009. (See D.09-10-049, Ordering Paragraph 5.) D.09-10-049 was formally issued by the Commission on November 2, 2009. PG&E is obligated to comply with the conditions and terms of D.09-10-049 pursuant to Public

² Public Resources Code, § 21081.6(a)(1); State CEQA Guidelines, Title 14, California Code of Regulations, Chapter 3, at Section 15097(a)

³ State CEQA Guidelines, Title 14, California Code of Regulations, Chapter 3, at Section 15074(d).

Utilities Code §702.

III. STAFF INVESTIGATION AND FACTUAL ALLEGATIONS

Between November 2, 2009 and December 4, 2009, Energy Division attempted to coordinate a Project kick-off meeting, but PG&E failed to respond. Energy Division did not become aware of PG&E's construction activities, which started on November 19, 2009, until December 4, 2009, at which time Energy Division halted PG&E's work on the Project. Since then, Energy Division has worked with PG&E to maintain compliance with the mitigation measures set forth in the MMP.

In March 2010, Energy Division requested that CPSD look into PG&E's initial construction activities in connection with the Project to ascertain whether there were any violations of CEQA and/or the Commission's Decision granting PG&E's application for a PTC for the Project, resulting from PG&E's failure to properly implement certain Commission-mandated mitigation measures. CPSD thereupon conducted an investigation into PG&E's compliance with D.09-10-049. Based on its investigation, CPSD staff has concluded that PG&E failed to comply with D.09-10-049 Ordering Paragraph (OP) 5, which granted PG&E a PTC subject to PG&E's compliance with the mitigation measures in the MMP that accompanied the Commission's Decision in the following specific respects:

1. PG&E failed to notify the Commission's Energy Division prior to construction in order for a CPUC-authorized environmental monitor to carry out all necessary construction/field monitoring in order to ensure compliance with CEQA.
2. PG&E failed to utilize a qualified biologist expert in kit fox and burrowing owl biology and in the regulatory protection afforded to these species in order to explain the restrictions applicable to these protected species to PG&E employees and contractor personnel, and failed to produce any training documentation relevant to such applicable protections and restrictions.
3. PG&E conducted biological surveys 10 days, instead of the required minimum 14 days, prior to construction as is required by U.S. Fish and Wildlife Service

Standardized Recommendations for Protection of the
San Joaquin Kit Fox Prior to or During Ground
Disturbance.

IV. DISCUSSION

Ordering Paragraph 5 of D.09-10-049, states that the PTC is granted to PG&E subject to PG&E's compliance with the mitigation measures set forth in the MMP, which is Section C of the final MND that accompanied the Commission's Decision. The CPSD report alleges the below facts and conclusions in regards to PG&E's compliance with OP 5 of D.09-10-049. The Commission has reached no findings or conclusions about the facts asserted by any party but concludes that the information set forth by the CPSD report is sufficient to commence a formal investigation. According to CPSD, the following events occurred:

A. PG&E Failed to Notify the Commission's Energy Division Prior to the Start of Construction, which was Necessary in Order for the Commission's Environmental Monitor to Ensure Compliance of the Project with CEQA

A utility's notification to the Commission's Energy Division that construction of an approved project is ready to begin is a vital occurrence in the implementation of the Commission's CEQA obligations. Once the Commission adopts a Decision granting a PTC, Energy Division staff continues to work with the utility to assure that the utility will properly implement the Commission's Decision and all applicable mitigation measures. Public Resource Code Section 21081.6 requires a public agency to adopt a mitigation monitoring program to ensure implementation and enforcement of the mitigation measures. Energy Division staff and the utility typically hold a kick-off meeting to discuss pre-construction requirements, such as whether the utility has implemented any required pre-construction mitigation measures (e.g., training for construction crews and monitors), and to discuss what constitutes a violation of a mitigation measure and the reporting and documentation of such violations.

Prior to the beginning of construction on a given project, Energy Division expects numerous interactions with the utility as to how the project will proceed. Such

interaction typically includes meetings and site visits with the utility's monitors and Commission monitors. On this Project, however, PG&E did not work with Energy Division either to schedule or to hold a kick-off meeting prior to the commencement of project construction.

CEQA states that the public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation.⁴

Ordering Paragraph 5 of D.09-10-049 states that the PTC is granted to PG&E subject to PG&E Company's compliance with the mitigation measures set forth in the MMP, which is Section C to the final MND. Ordering Paragraph 6 of D.09-10-049 states that PG&E must secure, prior to commencing construction, all of the necessary permits, easements, rights, or other legal authorization to develop the Project. The MMP states that a CPUC-designated environmental monitor will carry out all construction field monitoring to ensure full implementation of all measures.⁵

The MMP clearly identified numerous mitigation measures, such as the environmental awareness training mitigation measure, that were required to be implemented prior to construction and clear monitoring requirements that could only be implemented if there is someone on site to monitor the implementation of that requirement. The PTC granted by the Commission is conditional on PG&E's compliance with the MMP, which can only be determined if a Commission-designated monitor is informed in advance of any work on the project that is subject to any of the provisions of the MMP.

The MMP explicitly requires that a Commission-designated environmental monitor carry out all construction field monitoring to ensure full implementation of all

⁴ Public Resources Code, § 21081.6(1).

applicable mitigation measures.⁶ PG&E's failure to respond and agree to Energy Division's request to set up a kick-off meeting prior to the commencement of any construction, or other ground altering activities, prevented Energy Division from implementing this requirement.⁷ PG&E stated that it notified Energy Division staff, via electronic-mail (e-mail) in September 2009 of its desire to start construction as soon as it received Commission approval and in an October 2009 e-mail of its desire to start construction, before it rains. However, the terms used by PG&E, "as soon as we get CPUC approval" and "before it rains" do not contain a specific date of when construction would start and hence do not provide meaningful notice to anyone who would be responsible for setting up a kick-off meeting or coordinating a Commission-appointed monitor to be present at the Project site to monitor PG&E's construction activities.

The Energy Division project manager informed PG&E, well before the actual commencement of project construction, that the Commission's Decision would not be issued before early November (after the beginning of the rainy season). Thus, PG&E should have known before it actually began construction that it was unlikely to be able to legally commence construction before the beginning of the rainy season and it should have remained in close contact with the Energy Division's project manager on this point of scheduling. PG&E failed to do this.

PG&E knew well ahead of time when it wanted to start construction but did not relay any detailed information about its specific planned start date to the Energy Division's project manager nor to anyone else in the Energy Division. Furthermore, the Energy Division's project manager specifically informed PG&E well before the commencement of construction on the project that until the requirements of CEQA and

(Continued footnote from previous page)

⁵ PG&E Seventh Standard Project Final MMP, p. C-1

⁶ PG&E Seventh Standard Project Final MMP, p. C-1.

⁷ See, November 20, 2009 email from ED project manager to PG&E's Jo Lynn Lambert. (See attached Staff report, at p 6.)

the Commission's procedural requirements were met, a decision on whether PG&E could begin the removal of almond trees at the site, which was the first phase of construction, would not be forthcoming.⁸

PG&E knew in early November of 2009, when Project construction would start but failed to notify Energy Division's project manager. PG&E's e-mail to the Energy Division project manager on November 16, 2009, included an electromagnetic frequency checklist but no mention of construction start date.⁹ Moreover, PG&E's internal e-mails show that as early as November 3, 2009, PG&E had initiated a contract to remove the almond trees and expected to have them cleared two weeks later.¹⁰ In addition, PG&E's internal e-mail on November 11, 2009, identifies that the contractor will be ready to start in a week.¹¹

Moreover, PG&E's chief Project point of contact with Energy Division was not available for two weeks prior to PG&E's start of construction, which, in itself, was a major contributor to PG&E's failure to communicate with Energy Division on the project start date and on the subsequent CEQA violations.

In conclusion, PG&E failed to notify the Commission's Energy Division project manager prior to the commencement of construction on the Project so that a Commission-approved environmental monitor would be available to carry out all construction field monitoring needed to ensure compliance with CEQA.

⁸ See, August 28, 2009 email from ED project manager to PG&E's Jo Lynn Lambert. (See attached Staff report, at p. 4)

⁹ PG&E September 3, 2010 supplemental response to DR1, Timeline/Chronology of PG&E Contact with ED Staff, p. 4. (See attached Staff report, at p. 6)

¹⁰ PG&E internal email from PG&E project manager, bate stamped PGE/7STD 000363, PG&E September 3, 2010, response to DR1 dated November 3, 2009. (See attached Staff report, at p 7)

¹¹ PG&E internal email from PG&E project manager, bate stamped PGE/7STD 000297, PG&E September 3, 2010, response to DR1 dated November 11, 2009. (See attached Staff report, at p. 7)

B. PG&E Failed to Provide Employees with Environmental Awareness Training on Reducing Impacts to Endangered Species prior to Excavation of the Almond Tree Orchard which Did not Safeguard Endangered Species as Required by State Law

The Commission's approval of PG&E's PTC for the Project was conditioned on PG&E's compliance with the Applicant's Proposed Measures (APM) identified in the MMP.¹² Two of the mitigation measures proposed by PG&E, which PG&E was required to implement, directed PG&E to conduct environmental awareness training to safeguard endangered species.¹³ These measures explicitly require all employees of PG&E and contractor employees working on the Project to be trained by a person knowledgeable in kit fox biology, and proof of awareness training completion is required.

The California Endangered Species Act (CESA) prohibits "take" of any species that the commission determines to be an endangered species or a threatened species. Take is defined in Section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."¹⁴ CEQA emphasizes early consultation to avoid potential impacts to rare, endangered, and threatened species and to develop appropriate mitigation planning to offset project caused losses of listed species populations and their essential habitats.

MMP mitigation measure APM Bio-10 requires that environmental awareness training be conducted for all laborers by a person knowledgeable in kit fox biology. The training is intended to explain measures necessary to prevent impacts to the kit fox, as well as its protection under the federal Endangered Species Act. Moreover, PG&E must demonstrate proof of completion of such environmental awareness training. The environmental awareness training must occur prior to construction and for all

¹² D.09-10-049, Ordering Paragraph 5

¹³ PG&E Seventh Standard Final MMP, APM Bio-10, Pg. C-6

¹⁴ California Fish and Game Code, Section 2080, *et seq.*

laborers prior to work on the Project.¹⁵

The MMP mitigation measure Special Status Animal Species, B-1, requires PG&E to implement the U.S. Fish and Wildlife Service Standardized Recommendations for Protection of the San Joaquin Kit Fox which states, an employee education program should be conducted for any project that has expected impacts to kit fox or other endangered species. This training program should include all of the following: (1) a description of the San Joaquin kit fox and its habitat needs; (2) a report of the occurrence of kit fox in the project area; (3) an explanation of the status of the species and its protection under the Endangered Species Act; and (4) a list of measures being taken to reduce impacts to the species during project construction and implementation. Moreover, a fact sheet conveying this information should be available for distribution to all employees of PG&E and contractor employees working on the Project, as well as to anyone else who may enter the project site.¹⁶

PG&E may have provided some training to its employees and handed out a one-page flyer, but PG&E did not provide the level of adequate training by a person knowledgeable in kit fox biology required by the MMP, nor provide sufficient documentation to its employees, nor show proof of completion of the environmental awareness training prior to construction. Rather, PG&E relied on the contractor's superintendent, who was trained in kit fox biology through another construction company four years ago. Such past training, by itself, does not make the superintendent knowledgeable in kit fox biology and in the scope of regulatory protections applicable to such species, nor does the mere fact of such past training make that individual, who was not a wildlife biologist, qualified to explain endangered species concerns to employees.

¹⁵ PG&E Seventh Standard Final MMP, APM Bio-10, Pg. C-6

¹⁶ U.S. Fish and Wildlife Service, Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS, 1999), p.6.

PG&E did ultimately hire a biologist with Blue Rock Services Inc., on March 9, 2010, after removal of the almond trees.¹⁷ As such, PG&E implicitly acknowledged the need for review in connection with the almond tree orchard removal, and demonstrated that it was aware of the qualifications needed in the person whom it should hire to provide proper training.

PG&E also failed to provide any kind of proof of completion of environmental awareness training, prior to the hiring of Blue Rock Services Inc., for its employees in its response to Staff's data request seeking documentation of the environmental awareness training. PG&E did not provide a sign-in sheet or similar supporting documentation that would demonstrate who was trained and when, but only submitted the one-page training flyer. PG&E should have been able to produce the required documentation at Staff's request. Finally, PG&E acknowledged its non-compliance with the environmental awareness training mitigation measure by the fact that it did provide such awareness training after the initial phase of construction, after the almond trees had been removed and excavation had begun.¹⁸

In conclusion, PG&E failed to comply with the environmental awareness mitigation measures, in that PG&E did not utilize a person knowledgeable in kit fox biology to train its employees prior to the commencement of Project construction and failed to provide proof of environmental awareness training for all laborers working on the Project.

¹⁷ PG&E response to CPUC data request DR1, question #11, August 30, 2010. (See attached Staff report, at p. 10)

¹⁸ The Aspen Environmental Group Project Memorandum, Weekly Report #1, March 15, 2010, PG&E Seventh Standard Substation Project, states that during this time prior to construction, all personnel received environmental training by a representative of Transcon, a PG&E consultant. This training included all subjects included in the mitigation measures for the project. Thirty-one employees were trained on Tuesday, March 9, 2010. Four were trained later in the week. The training materials are available on a daily basis onsite. The sign-up sheets were reviewed by CPUC staff. (See attached Staff report, at p. 11)

C. PG&E Started Construction After Only 10 Days from the Biological Survey, in Contravention of the USFWS's Minimum Standard of 14 Days

The Commission's approval of PG&E's PTC for the Project was conditioned on PG&E's compliance with the APMs identified in the MMP.¹⁹ One of these mitigation measures requires PG&E to conduct biological surveys²⁰ no less than 14 days and no more than 30 days prior to the beginning of ground disturbance.²¹

The MMP mitigation measure, Special Status Animal Species: B-1 Eliminate injury or mortality to kit foxes during construction, states that PG&E shall implement the U.S. Fish and Wildlife Service Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS, 1999). In addition, the mitigation measure states that PG&E shall provide the results of the surveys to the Commission, U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Game (CDFG) prior to ground disturbance, which was required prior to and during construction.²² Furthermore, USFWS Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance states that preconstruction/pre-activity surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities or any project activity likely to impact the San Joaquin Kit Fox.²³

PG&E performed the biological survey through its consultant, M.H Wolfe and Associates Environmental Consulting Inc., on November 9, 2009, as set forth in a

¹⁹ D.09-10-049, Ordering Paragraph 5

²⁰ A biological survey is conducted by qualified biologists who walk the entire project site taking notes and photographs of the land conditions noting any sign of wildlife via observations, tracks, feather/fur, prey remains, burrows/nests, grazing, or any other signs of life.

²¹ PG&E Seventh Standard Final MMP, Special Status Animal Species B-1, Pg. C-6

²² Final MMP Special Status Animal Species: B-1 Eliminate injury or mortality to kit foxes during construction, pg. C-6.

²³ U.S. Fish and Wildlife Service, Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance, Prepared by the Sacramento Fish and Wildlife Office 1999, p.2.

report dated November 11, 2009, and transmitted the survey results via fax to the USFWS and the CDFG, and via e-mail to the Commission on November 12, 2009, in advance of construction.²⁴ However, instead of waiting 14 days from November 9, 2009 before beginning of ground disturbance and/or construction activities, PG&E started construction activities on November 19, 2009, 10 days from when the survey was conducted. Based on the USFWS requirement that preconstruction/pre-activity surveys shall be conducted no less than 14 days from construction, PG&E started construction work 4 days too early on November 19, rather than on November 23.

In conclusion, PG&E failed to comply with the environmental awareness mitigation measure, Special Status Animal Species: B-1 Eliminate injury or mortality to kit foxes during construction, requiring biological surveys to be conducted at a minimum of 14 days prior to beginning construction activities but instead began construction 10 days after conducting the survey.

V. SCHEDULE

The Assigned Commissioner and/or the assigned Administrative Law Judge will set hearings to review the issues raised by this matter. It is expected that the Assigned Commissioner and/or the assigned Administrative Law Judge will set a prehearing conference to consider and adopt a hearing schedule and schedule other matters for this proceeding.

VI. CATEGORIZATION

This proceeding is categorized as adjudicatory. *Ex parte* communications are prohibited. The determination as to category is appealable under Rule 7.6 of the Commission's Rules of Practice and Procedure

Therefore, **IT IS ORDERED** that:

1. An investigation is instituted on the Commission's own motion to determine.

²⁴ PG&E response to CPUC data request DR1, question #12, August 30, 2010. (See attached Staff report, at p. 13)

whether Respondent violated any provision of the Public Utilities Code or our general orders, statutes, other rules, or requirements by failing to comply with the terms of Commission Decision 09-10-049 and/or of the Mitigation Monitoring Plan that was adopted as part of that decision.

2. PG&E is named as Respondent to this investigation.

3. The CPSD report and supporting documents prepared or attached by CPSD will be entered into the record for this proceeding. The Commission directs PG&E to identify any portions of the CPSD report which PG&E requests confidential treatment and to provide a written motion for a protective order within fourteen (14) days of this Order is mailed for continued confidential treatment of such portions in accordance with Commission's rules and policies. PG&E's motion for a protective order must identify specific portions of the report and attachments, and must identify the support for its request. CPSD and other interested parties may provide responses within ten (10) days of the written motion. Any party opposing the confidential treatment that PG&E requests shall provide justifications for making the relevant parts of the report public. This enforcement proceeding shall be open to the public and transparent because it involves issues affecting the public interest.

4. Respondent Pacific Gas & Electric Company shall appear and show cause why the Commission should not find that:

- a. it is in violation of the statutes and other authority cited herein requiring compliance with the terms of a Commission decision which granted it a permit to construct under specified terms and conditions; and
- b. it should be fined pursuant to P.U. Code §§ 2107 and 2108 for the above-described violations of the Public Utilities Code and related Orders, Decisions, and Rules.

5. PG&E is hereby given notice that fines may be imposed in this matter pursuant to Public Utilities Code §§ 2107 and 2108.

6. PG&E is hereby given notice that the Commission may order the implementation of operational and policy measures to designed to prevent future environmental impacts performed without proper mitigation.

7. Pursuant to Rule 7.1(c) of the Commission's Rules of Practice and Procedure, this proceeding is categorized as adjudicatory, and this Order constitutes a preliminary scoping memo. The categorization of this Order is appealable under Rule 7.6.

8. A prehearing conference shall be convened before an Administrative Law Judge for the purpose of establishing a schedule in this matter including (if necessary) dates for the exchange of additional written testimony, and (to the extent necessary) dates for evidentiary hearings and briefing in this matter.

9. To facilitate the completion of this investigation, and consistent with the provisions of P.U. Code § 314, respondents are ordered to preserve until further notice all documents, regardless of age, which might relate to this action, including but not limited to all internal accounting, inter-company transfers and the like.

10. The Staff shall continue to investigate the operations of Respondent in connection with the construction of the Seventh Standard Substation Project. The cutoff date for advancing evidence of additional violations, and for the exchange of testimony, shall be determined by the Assigned Commissioner or Assigned Administrative Law Judge.

11. Staff shall be subject only to discovery relating to the specific violations alleged in this order, or those added by subsequent motion.

12. Any person filing a response to this OII/OSC shall state in the response any objections to the order regarding the need for hearings, issues to be considered, or proposed schedule. Such objections should be confined to jurisdictional issues that could nullify any Commission decision on the issues set out herein, and not consist of factual assertions more properly the subject of evidentiary hearings.

13. The Executive Director shall cause a copy of this Order to be served by certified mail on Respondent Pacific Gas and Electric Company:

Pacific Gas and Electric Company
77 Beale Street, # 100
San Francisco, CA 94105
Attention: Agent for Service of Process

In addition, Staff shall serve by electronic service copies of this OII and the attached Staff Report on Pacific Gas and Electric Company's counsel of record in this matter. Jo Lynn Lambert (JLLm@pge.com); David Kraska (DTK5@pge.com); and Brian Cherry (BKC7@pge.com)

This order is effective today.

Dated June 9, 2011, in San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners