BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Adopt New Safety and Reliability Regulations for Natural Gas Transmission and Distribution Pipelines and Related Ratemaking Mechanisms.	Rulemaking 11-02-019 (Filed February 24, 2011)

COMMENTS OF THE UTILITY REFORM NETWORK

ON THE INDEPENDENT REVIEW PANEL REPORT

TURN
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COMMENTS OF THE UTILITY REFORM NETWORK ON THE INDEPENDENT REVIEW PANEL REPORT

Pursuant to the schedule set in the June 16, 2011 "Scoping Memo and Ruling of the Assigned Commissioner," the Utility Reform Network (TURN) submits these comments on the June 8, 2011 Report of the Independent Review Panel ("IRP Report").

When the Commission established the Independent Review Panel ("IRP"), with members to be selected by the President, we were frankly somewhat suspicious that the IRP would rubber stamp the President's own opinions. We continue to believe that any such 'blue ribbon' panel cannot replace a thorough and public investigation of the San Bruno explosion, including an evaluation of the events and circumstances related to PG&E's pipeline installation, maintenance and emergency response practices. Some of these factors and issues will hopefully be addressed in this proceeding, Rulemaking 11-02-019.

We were thus pleased to find that the June 8, 2011 Report of the Independent Review Panel ("IRP Report") reflects a fairly unbiased review of PG&E's historical practices and operations concerning pipeline maintenance and risk management and the impacts of PG&E's management and organizational culture on this business segment. The Report also addresses the organizational culture and resource allocations at the CPUC, the agency charged with inspecting and enforcing PG&E's compliance with applicable state and federal regulations governing pipeline installation, inspection and operation.

TURN fully agrees with many of the conclusions and findings of the IRP Report, especially those findings, based on extensive interviews with staff and management, that show:

- PG&E top management has been overly focused on financial performance to the detriment of operational safety;
- PG&E top management in the past decade has been dominated by personnel with background in telecommunications, legal and finance sectors and an under representation of engineers and professionals with operational background;
- PG&E's multiple reorganizations and excessive levels of management contributed to lack of understanding and / or communication of safety risks;
- PG&E's risk management for pipeline safety has been inadequate given the extremely high percentage of older transmission pipeline miles located in high consequence areas in PG&E's service territory;
- PG&E's specific lack of on-site presence during the 2008 sewer work excavation in San Bruno indicates a significant breakdown in integrity management quality control;
- PG&E's proposed "Pipeline 2020" program is a reactive response that lacks a solid engineering and economic underpinning.

TURN will not dwell on the findings and conclusions that we agree with in these comments. Rather, we focus on two areas where we believe the IRP Report contains factual flaws: 1) the potentially faulty assumptions in the root cause analysis in Appendix F, and 2) a misleading statement concerning one-way

balancing account ratemaking in Appendix Q. We also suggest some prioritization of the recommendations of the IRP Report, to be pursued either in this Rulemaking or through other efforts.

[illegible]

One of the questions that the IRP was directed to consider was "what are the root causes of the incident?" However, the principal agency in charge of the root cause analysis is the National Transportation Safety Board ("NTSB"). The role of the NTSB is to independently investigate, gather relevant information, analyze, determine, and then impartially report on the possible root cause of the San Bruno pipeline failure. The NTSB is in possession of the pipe segment that failed and has conducted certain metallurgical and other analyses of the pipe. The NTSB has periodically released certain preliminary information into the public domain, including the release of two Material Laboratory Factual Reports.[1]

While the IRP Report acknowledges the "principal jurisdiction" of the NTSB, the panel made some preliminary observations concerning the cause of the explosion. The IRP relied on certain publicly released information from the NTSB as well as on the May 5, 2011 Report of the Interstate Natural Gas

[1] These include the January 21, 2011 Report No. 10-119 (Exhibit 3-A in Docket SA-534) and the February 9, 2011 Report No. 11-005 (Exhibit 3-B in Docket SA-534). TURN notes that some confusion may have been caused by the fact that starting at page 8, Report No. 11-005 is incorrectly labeled (on at least one version) by the old No. 10-119.

Association of America (INGAA), an industry trade group.[2] The Panel's consultant conducted an "independent parallel analysis to that conducted by the INGAA." Appendix F details that analysis. The IRP Report states that "this work confirm INGAA's findings" that an external force from the 2008 sewer replacement project undertaken by the City of San Bruno triggered the propagation of a pre-existing manufacturing weld defect and played a role in transforming a "stable" threat to an "unstable" threat in the pipe pup seam that ruptured. The IRP Report recommends that "the CPUC to submit Appendix F of our report to the NTSB for its consideration."[3]

TURN suggests that the conclusions in Appendix F and the observations concerning the root cause analysis should be given very little weight at this stage. Indeed, it was probably inappropriate to charge the IRP with an evaluation of the "root cause" of the explosion. Such a task is best left first to the NTSB, and the CPUC can and should initiate its own public Investigation after the NTSB releases its final report. The IRP was much better equipped and designed to address the broader issues related to management practices and systemic problems that impact pipeline safety.

Appendix F of the IRP Report relies too much on the results of the INGAA Report, which are incomplete and based on assumptions not representative of the full facts supplied by the NTSB to date. The following points highlight the

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[2] *Preliminary Analysis of Publicly Available Evidence Supporting a Failure Cause of the PG&E San Bruno Incident*, Prepared by the INGAA Pipeline Safety Committee, May 5, 2011 (hereinafter "INGAA Report").

[3] Report of the Independent Review Panel: San Bruno Explosion, Prepared for the CPUC, June 8, 2011, p. 6.

faulty assumptions and incomplete evidence that form the basis of the INGAA and IPR Report conclusions on root cause:

1. One of the primary assumptions of the INGAA Report is that the characteristics of several of the six "Pups" are similar and that compared to Pup #1 the "other pups had the same or greater weld defect problems."[4] This assumption underlies the conclusion that an external pressure applied to Pup #1 was the cause of defect propagation that occurred apparently only on Pup #1. This assumption does not fully account for the variable chemical and strength characteristics of the different pups.[5] Moreover, while all the pups showed weld defects, in each pup the seam weld is slightly different in penetration depth, the weld passes, and length of incomplete weld.[6] Seam welds on different pipe segments will exhibit different failure signs, and any conclusions should await additional metal analyses by the NTSB.

2. Similarly, the INGAA report dismisses the role of pressure cycling by noting that striated features were only observed on Pup #1. The NTSB data show multiple "striations" on Pup #1, indicative of multiple load cycling.[7] The INGAA Report posits that these striations were not caused by operational pressure cycles since then "similar striated regions should have been observed along some of the other incomplete penetration defects in Pups #2 and #3."[8] This conclusion again discounts variations among the pups, as discussed in the first point above. Pressure cycling is not adequately analyzed in either report. The NTSB has observed problems with gas pipeline operators underestimating both the magnitude and the number of cycles associated with normal operation pressure changes on gas pipelines, and their possible role in other pipeline ruptures.[9]

3. Critical assumptions or comments in the INGAA study related to "stability" determinations associated with gas pipelines fail to mention that apparently the unusually small segment of pipe, or pup, where the

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[4] INGAA Report, May 5, 2011, p. 15.

[5] See NTSB Material Laboratory Factual Report No. 11-005; Table 1 on p. 8 shows a wide variation in chemical compositions. Table 3 on p. 9 shows the variation in strengths, with Pups #1-3 all exhibiting lower strengths.

[6] See, NTSB Report No. 10-119, p. 63-70.

[7] NTSB Material Laboratory Factual Report No. 10-119, dated 1/21, 2011, page 57.

[8] INGAA Report, May 5, 2011, p. 11.

[9] NTSB Pipeline Accident Report "Texas Eastern Transmission Corporation Natural Gas Pipeline Explosion and Fire Edison New Jersey March 23, 1994," PAR-95-01, page 11.

rupture initiated has not previously been hydrotested, or at least records or evidence of such an important test cannot be found as of this date. Hydrotesting is an important factor when considering if certain pipeline seam threats should be assumed to be "stable."

4. A clear simple diagram / drawing showing the most likely maximum loading forces on the pipe from all "pipe bursting" activities near the pipe is missing or misrepresented in the reports. Such an analysis is critical in arriving at any third party loading risk conclusions near a pipeline.[10] In fact, when provided additional information, it is our understand that the author of Appendix F has retracted his early conclusions as to the impact that his cited cause from pipe blasting may have played on the pipeline.

The above are just some of the failings or shortcomings in the Panel Report, Appendix F, and the INGAA analyses that indicate these specific studies and their conclusions are at best extremely premature, and in all probability incorrect. We are confident that the NTSB independent investigation process should be able to perform a separate and thorough analysis that will include more relevant critical information, not contained in either Appendix F or the INGAA Report. A load analysis for all pipe bursting activities as well as photos of the pipe failure site, beyond that included in the Panel and INGAA reports will be critical to a thorough and complete NTSB independent investigation.

3. The Description of the Impact of a One-Way Balancing Account in Appendix Q Is Misleading

In appendix Q the Report discusses the ratemaking in the adopted Gas Accord V settlement agreement and compares current ratemaking policies for pipeline integrity management expenses and capital in California with other states and the FERC. The IRP Report states the following regarding the impact of

[10] Such "don't have to hit the pipe" threat of abnormal loading analysis is usually performed by a pipeline operator and retained in engineering records.

a one-way balancing account, which was adopted for integrity management expenses in the Gas Accord V settlement:

> "A key characteristic of one-way balancing accounts is that they **preclude the utility** from recovering integrity management expenses that exceed authorized forecasted amounts, even if those costs are prudent. The practice of using one-way balancing account treatment for expenses associated with compliance with federally mandated integrity management safety programs does not appear to be widespread.259" (emphasis added)

The conclusion that one-way balancing "precludes" the utility from recovering expenses that exceed the forecasted amount is misleading. Essentially, the impact of a one-way balancing account with respect to overspending is **absolutely the same** as the impact of any forecast adopted for a particular spending category (generally a FERC account or other designated category) which is part of the total utility revenue requirement. If actual recorded spending in that particular category exceeds the forecast, the IOU either has to shift money from other accounts (if those are underspent) or reduce shareholder earnings. The IOU is not "precluded" from spending more, but cannot collect additional revenues to cover the spending. This is the same whether there is a one-way balancing account or no balancing account at all.

The one-way balancing account only impacts the utility if they underspend – actual spending is less than forecast. With a one-way balancing account the IOU cannot shift any excess revenue to other accounts, or to shareholder profit, but must return the money to ratepayers. The Commission has typically used one-way balancing accounts either (1) when it did not want

the utility to profit if it reduced spending in an area of significant importance (e.g., energy efficiency, research and development, safety-related spending), (2) where costs are uncertain (for example gas integrity management programs, where some costs were likely to appear, but the regulations and the roll-out process was not known at the time of past rate cases) or (3) where costs vary from year to year with environmental conditions (e.g., tree trimming for SDG&E, where a relatively high number has been adopted in the past, but the expected underrun when drought conditions appear is flowed to ratepayers).

So from the point of view of overspending, there is no difference between conventional ratemaking and a one-way balancing account. The only significant difference would be if there was a "two-way" balancing account, which would specifically allow PG&E to collect additional incremental revenues if actual spending exceeds the forecast, presumably after some type of reasonableness review. The CPUC has not generally instituted two-way balancing account for utility operations.[11]

,ffl [illegible]

The IRP Report makes numerous recommendations to improve PG&E's performance and CPUC oversight. TURN does not disagree with the recommendations, though some may take several years to implement. Rather, we suggest that in each of those two categories the Commission should prioritize four recommendations for action by the CPUC and / or P&GE, as shown in

[11] We believe that a two-way balancing account is analogous to a "tracker" as adopted in other states. The CPUC has adopted two-way balancing account for CARE, which are generally beyond utility management control, costs and for fuel and purchased power expenses.

Attachment A. TURN suggests that consideration of these recommendations, and how to implement them, should be part of the scope of subsequent phases of this rulemaking.

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Respectfully submitted,

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ATTACHMENT A: PRIORITIZATION OF RECOMMENDATIONS

Recommendation	Priority	Panel Recommendation	TURN Comments on Panel Recommendations
Section 5 – Review of PG&E's Performance as an Operator			
5.3.4.1	1	PG&E should conduct a comprehensive review of its data and information management systems to validate the completeness, accuracy, availability, and accessibility to data and information and take action through a formal management of change process to correct deficiencies where possible.	Serious deficiencies in data retention, validation, and field confirmation. Valid data is a core Integrity Management requirement.
5.6.4.1	2	PG&E should take a fresh look at the budgets for pipeline integrity efforts and make informed judgments about how to address the quality and timeliness of efforts to improve its system.	The company appears to be behind in implementing Integrity Management requirements. Gas Transmission IMP efforts should be focused on looking forward with major enhancements to present IMP approach.
5.5.3.1	3	Review and restructure all division, regional and company emergency plans for consistency in presentation and feel, while incorporating best practices observed from Pipeline 2020.	Should be given highest priority, and fairly easy to address in a timely manner.

Recommendation	Priority	Panel Recommendation	TURN Comments on Panel Recommendations
5.4.4.1	4	The pipeline and distribution integrity management programs should be separated organizationally with dedicated resources to manage and execute both programs	Valid given the complexities of these two very different gas systems, both for PG&E and Sempra.
Section 6 – Review of CPUC Oversight			
6.2.4.1	1	Adopt as a formal goal, the commitment to move to more performance-based regulatory oversight of utility pipeline safety.	Pipeline safety should be prioritized at all levels within the organization. Must have adequate number of trained, experienced, qualified inspection staff before making this transition. Need a workforce plan. The basic understanding of the elements of the IMP in regulation (192.911) needs to be grasped and instilled in all levels of the organization.

Recommendation	Priority	Panel Recommendation	TURN Comments on Panel Recommendations
6.3.3.1	2A	The CPUC should develop a plan and scope for future annual California utility initiated independent integrity management program audits. The results of these audits should be used to provide a basis for future CPUC performance based audits on a three-year basis.	Special attention should be focused on making more gas transmission audits through the next 5 years to assure the operators are properly embracing the concepts in the regulations. Follow-up on findings, closure of findings, and change in enforcement policy must be made. Should target "hotlist" highest risk gas transmission subsystems within each company that are most critical (i.e. SF, LA, SD), until this situation is brought under control given the apparent shortcomings in IMP over the past ten years.
6.5.3.2	2B	Develop a holistic approach to identifying pipeline segments for integrity management audits based on intrastate pipeline risk as opposed to simply auditing each operator's pipeline.	Valid, though focus of integrity management is on the impacts of each gas transmission pipeline segment on the pipeline system. Start with transmission pipelines with unusually low MAOP (MOP) for a particular large pipe diameter (greater than 24 inch diameter). Also start with a list of major power plant gas consumers and pipeline segments.
6.3.3.5	3	Focus field audits based on an internally ranking of the most risk segments of the gas transmission system assets in the state, regardless of the operator.	

Recommendation	Priority	Panel Recommendation	TURN Comments on Panel Recommendations
6.3.3.6	4	To raise the profile of the audits among all the stakeholders, add the following requirements to the safety and pipeline integrity audits of the utilities that includes the following features: (1) posting of audit findings and company responses on the CPUC's website; (2) use of a "plain English" standard to be applied for both staff and operators in the development of their findings and responses, respectively; and (3) a certification by senior management of the operator that parallels that certifications now required of corporate financial statements pursuant to Sarbanes-Oxley.	