BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company with Respect to Facilities Records for its Natural Gas Transmission System Pipelines.	I.11-02-016 (Filed February 24, 2011)

PACIFIC GAS AND ELECTRIC COMPANY'S RESPONSE TO LEGAL DIVISION'S "NOTICE AND DISCLOSURE OF SAFETY EVIDENCE AND COMPANION MOTION FOR PUBLIC RELEASE OF EVIDENCE"

LISE H. JORDAN
Law Department
Pacific Gas and Electric Company
77 Beale Street, B30A
San Francisco, CA 94105
Telephone: (415) 973-6965
Facsimile: (415) 973-0516
Email:LHJ2@pge.com

JOSEPH M. MALKIN
COURTNEY LINN
Orrick, Herrington, & Sutcliffe LLP
The Orrick Building
405 Howard Street
San Francisco, CA 94105
Telephone: (415) 773-5505
Facsimile: (415) 773-5759
Email:jmalkin@orrick.com

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

October 20, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company with Respect to Facilities Records for its Natural Gas Transmission System Pipelines.	I.11-02-016 (Filed February 24, 2011)

PACIFIC GAS AND ELECTRIC COMPANY'S RESPONSE TO LEGAL DIVISION'S "NOTICE AND DISCLOSURE OF SAFETY EVIDENCE AND COMPANION MOTION FOR PUBLIC RELEASE OF EVIDENCE"

PG&E takes safety issues very seriously. We fix any imminent safety threat immediately. That is why, after receiving Legal Division's pleading, we asked Legal Division last night to provide PG&E with details regarding any specific and immediate safety issue to enable us to take appropriate action. Had Legal Division identified a specific safety issue to PG&E, we would have addressed the issue.

Instead, without any prior discussion with PG&E, Legal Division filed this "notice and disclosure of safety evidence" and companion motion for public release of evidence declaring that a "significant safety issue has arisen." (Notice & Motion at 1.) If it believes it has evidence of an imminent safety threat, Legal Division – as a division of the agency charged with safety regulation of gas transmission lines – has an overriding responsibility to bring that to the attention of the operator so the safety issue can be immediately addressed. Yet, when we contacted Legal Division shortly after receiving the filing last night asking them to provide PG&E with evidence of a specific, immediate safety concern so we could take action, Legal Division merely repeated the generalized assertions contained in its pleading. Legal Division declined to identify any specific document it claims raises a significant safety issue.

SB_GT&S_0675053

Generically, neither of the issues Legal Division mentions – the reuse of pipe salvaged from earlier jobs and 1948 welds – is new to PG&E or the industry.[1] PG&E is actively addressing both issues through its MAOP validation, hydro testing, Pipeline Safety Enhancement Plan and other safety enhancements. PG&E's actions are consistent with the Commission's ongoing safety directives and policy guidance.

Thus, it appears the essence of Legal Division's filing is a desire to make additional documents it has received from PG&E public. The motion suggests that PG&E has claimed some form of "blanket confidentiality" over its documents. (Notice & Motion at 4.) Legal Division is wrong; PG&E does not claim "blanket confidentiality" for its documents.

PG&E has provided a public version of every document it has produced in response to the OII directives. The only difference between the public version and the version submitted to Legal Division under Public Utilities Code § 583 is the redaction on the public version of: (1) employee identifying information, such as the names, email and physical addresses, and telephone numbers of non-management PG&E employees; and (2) the specific locations of critical gas transmission infrastructure, such as valves and regulators. ALJ Yip-Kikugawa's April 21, 2011 email ruling authorized the redaction of non-management employee names and information, and the redaction of the exact location of critical gas infrastructure is consistent with the practice followed by ALJ Bushey in R.11-02-019 in connection with PG&E's request to restore pressure on the Topock Compressor Station. *See also* D.11-07-004, p. 9 n. 4 ("Due to the sensitive nature of the locations of the GT&S facilities, PG&E shall ensure that the fire departments and agencies who are to receive the maps are the entities authorized to respond to fire-related emergency situations. In addition, PG&E shall convey to these fire departments and agencies the sensitive nature of these maps.").

---

[1] The reuse of salvaged (not "junked," as Legal Division's motion suggests) pipe was a common practice throughout the industry at least through the 1950s. Reused pipe would be cleaned, inspected, and, if in satisfactory condition, recoated prior to use. Any pipe – reused or otherwise – installed in California from 1961 on would have required a pressure test. The 1948 Line 132 documents Legal Division refers to appear to be the very ones the NTSB already commented on.

SB_GT&S_0675054

Legal Division's motion does not concern any of the hundreds of thousands of pages of documents PG&E has provided in response to the OII directives. Rather, it is directed to the more than 2 million pages of scanned documents in ECTS, a real-time electronic database of the documents gathered as part of PG&E's MAOP validation work. In early September, PG&E provided ECTS access to Legal Division staff (although staff has yet to log on to the database) and its consultant, Margaret Felts. Legal Division has access to the same source documents in the ECTS database as PG&E's employees and contractors working on the MAOP validation project.

ECTS is a "living" database that is constantly being updated with new documents and is used by PG&E in its daily MAOP validation work. The specific location of valves, regulators and other critical infrastructure on the pipeline system is necessary for the MAOP validation work and cannot be redacted from the ECTS database without undermining its utility for the purpose for which it was created. When it provided Legal Division access to ECTS, PG&E invoked the protections of Public Utilities Code § 583 because many documents in the database contain non-management employee names and information and the specific location of valves and other critical infrastructure. PG&E invoked section 583 protection over the entire database because it is impossible to redact all confidential information or mark each applicable page with a section 583 notation given the volume of documents and the fact that the database changes as it is used in the MAOP validation effort. PG&E's approach is consistent with ALJ Yip-Kikugawa's April 21st ruling that unredacted documents "shall be provided to Legal Division staff in this proceeding under Pub. Util. Code section 583."

If Legal Division wishes to disseminate specific documents contained in the ECTS database, it need only identify them to PG&E and we will promptly redact the documents consistent with the prior practice in this proceeding to protect non-management employees and critical infrastructure locations. Had Legal Division asked before filing its motion, we would have told them that.

SB_GT&S_0675055

Legal Division's motion for public release is analogous to a motion seeking to compel discovery. It is analogous except there is nothing to compel: PG&E has already provided access to ECTS, will continue to do so, and is willing to facilitate further dissemination of ECTS-based documents by redacting them at Legal Division's request. Legal Division should have at least abided by the Commission's Rules of Practice and Procedure, which require Legal Division to try to resolve the discovery issue with PG&E before bringing it to the Commission. *See* CPUC Rules of Practice & Procedure, Rule 11.3(a) ("A motion to compel or limit discovery is not eligible for resolution unless the parties to the dispute have previously met and conferred in a good faith effort to informally resolve the dispute").

Legal Division's motion should be denied as unnecessary. Notwithstanding denial of the motion, PG&E urges Legal Division to provide detail regarding any specific and immediate safety issue so we can immediately address it.

Respectfully submitted,

/s/ Lise H. Jordan

LISE H. JORDAN
Law Department
Pacific Gas and Electric Company
77 Beale Street, B30A
San Francisco, CA 94105
Telephone: (415) 973-6965
Facsimile: (415) 973-0516
Email: LHJ2@pge.com

/s/ Joseph M. Malkin

JOSEPH M. MALKIN
COURTNEY LINN
Orrick, Herrington, & Sutcliffe LLP
The Orrick Building
405 Howard Street
San Francisco, CA 94105
Telephone: (415) 773-5505
Facsimile: (415) 773-5759
Email: jmalkin@orrick.com

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

October 20, 2011

SB_GT&S_0675056