

**PACIFIC GAS AND ELECTRIC COMPANY
Data Response**

PG&E Data Request No.:	CPSD_001-03		
PG&E File Name:	PacificGasAndElectricCompany_DR_CPSD_001-Q03Supp01		
Request Date:	September 2, 2011	Requester DR No.:	CPSD-001
Date Sent:	October 14, 2011	Requesting Party:	Consumer Protection and Safety Division
PG&E Witness:		Requester:	Michelle Cooke

QUESTION 3

Copies of complaints by PG&E employees filed in house which may allege that the corporation, any officer of the corporation, any manager of the corporation, or any contractor working on behalf of PG&E has committed fraud (in particular to avoid making repairs, changing corporate policy, or bearing additional expense), covered up and/or committed safety violations.

- a. Include the status of each complaint
- b. How the report was escalated
 - i. Who (name and position) was involved in researching and escalation of the report
- c. How was the report resolved
- d. If there was no resolution or correction made, an explanation

The attachments to this response are being provided pursuant to Public Utilities Code Section 583. The attachments cover many aspects of PG&E's operations and contain employee names and vendor information.

Answer 3 – Supplement to the response sent on September 23, 2011.

PG&E is providing additional material that is responsive to this request. As noted in the initial response, PG&E interpreted the language “the corporation, any officer of the corporation, any manager of the corporation” to mean the leadership of the utility and thus focused on allegations of fraud, cover-up or safety violations made against members of the Boards of Directors, officers of the utility and directors (the next level of leadership after officer). In order to preserve employee privacy, the names of employees who raised concerns or are the subject of, or key witnesses in, these investigations have been redacted.

Formal Mechanisms:

- PG&E is providing copies of 91 additional complaints that are responsive to this request. Please see Attachment CPSD_001-Q03Supp01-1, which is a DVD containing copies of these complaints. There are limited portions of these complaints that contain material that is subject to the attorney-client and attorney work-product privileges. PG&E has made limited redactions to reflect this. PG&E is also withholding one of the responsive complaints on the basis of attorney-client and attorney work-product privileges. PG&E is also providing a spreadsheet that lists the complaints provided on the DVD and provides additional information related to these complaints, including escalation, status and resolution of substantiated allegations where such information is available. (See Attachment CPSD_001-03-Supp01-2.)
- PG&E is also providing the attached spreadsheet that summarizes the responsive items raised in the Business Conduct Questionnaire (BCQ) and the Code of Conduct Certification Questionnaire. (See Attachment CPSD 001-Q03Supp01-3.) Resolution information from the 2005 and 2006 BCQs is not readily available because of organizational and staffing changes. PG&E continues to review cases in its databases to determine if the resolution of these eight cases can be determined.
- In reviewing material for this supplemental response, PG&E would like to clarify its discussion of the Diablo Canyon Corrective Action Program (CAP) Database provided in the initial response. The NRC requires licensees to ensure that “issues potentially impacting nuclear safety are promptly identified, fully evaluated, and that actions are taken to address safety issues in a timely manner, commensurate with their significance.” NRC Inspection Procedure 0310, p.4. The CAP database is the mechanism utilized by all personnel at Diablo Canyon to identify, evaluate and resolve any issue potentially affecting nuclear safety. The threshold for entering an issue into the CAP database is low; all personnel are expected to enter issues into the CAP, relying on the CAP process, rather than their subjective judgment, to determine the appropriate significance level assigned to an issue. Action is taken on all notifications entered into the CAP. Annually, approximately 20,000 notifications are initiated in the CAP data base. PG&E believes that this database is more appropriately categorized as a “formal tracking mechanisms whose primary purpose is not to capture allegations, but may contain relevant information.” Accordingly, PG&E does not believe that it is appropriate to search this database for responsive material. PG&E will work with CPSD if they are interested in a review of this database.

Demand letters Received by the Law Department:

PG&E is providing two potentially responsive letters, with all attachments – see Attachment CPD_001-Q03Supp01-1. In order to preserve employee privacy, the names of employees who are the subject of, or key witnesses in, these complaints have been redacted.

- The first letter was received by PG&E on April 2, 2009, was signed by counsel for the employee-complainant, and enclosed a Complaint that was submitted to the U.S. Department of Labor on April 3, 2009. PG&E worked with counsel for plaintiff, and in consultation with the U.S. Department of Labor, reached a confidential resolution of this matter in July, 2009.
- The second letter was received on August 13, 2010, was signed by a U.S. Department of Labor Investigator, and enclosed a letter sent to the Department of Labor on July 21, 2010 by counsel for the employee-complainant as well as a redacted copy of the Complaint. (Please note that the D.O.L. made several redactions in the Complaint, which appear to be the names of witnesses). This matter is currently the subject of ongoing litigation and has not been resolved.

PG&E also located three additional potentially responsive pre-litigation letters from counsel for former employees who requested mediation of their claims. In response to each of these letters, PG&E and the employee in question successfully completed the mediation process and reached confidential resolutions. PG&E believes these letters are governed by the strict confidentiality provisions set forth at California Evidence Code Section 1115 *et seq.* Specifically, Evidence Code Section 1119 provides, in relevant part, that

(a) No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation is admissible or subject to discovery, and disclosure of the evidence shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(b) No writing, as defined in Section 250, that is prepared for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation, is admissible or subject to discovery, and disclosure of the writing shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(c) All communications, negotiations, or settlement discussions by and between participants in the course of a mediation or a mediation consultation shall remain confidential.

In addition, Evidence Code Section 1126 provides that:

Anything said, any admission made, or any writing that is inadmissible, protected from disclosure, and confidential under this chapter before a mediation ends, shall remain inadmissible, protected from disclosure, and confidential to the same extent after the mediation ends.

Accordingly, PG&E cannot disclose these three letters in response to this request.

Ad Hoc Complaints

PG&E is continuing to research and gather this information and will provide responsive material by October 28.