

**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) R.11-02-019
Regulations for Natural Gas Transmission and)
Distribution Pipelines and Related Ratemaking)
Mechanisms.)

**RESPONSE OF THE NORTHERN CALIFORNIA GENERATION COALITION
TO THE MOTION OF PACIFIC GAS AND ELECTRIC COMPANY
TO AMEND THE SCOPING MEMO AND REASSIGN TESTIMONY
ABOUT PG&E’S PAST PRACTICES**

Pursuant to CPUC Rules of Practice and Procedure Rule 11.1, the Northern California Generation Coalition (NCGC)¹ submits this response to PG&E’s February 3, 2012 *Motion to Amend the November 2, 2011 Amended Scoping Memo and Reassign Testimony About PG&E’s Past Practices to I. 11-02-016* (Motion). NCGC has not filed testimony in this docket, but is a party to both this proceeding (OIR) and I.11-02-016 (OII).

I. INTRODUCTION

NCGC joins the chorus of opposition to PG&E’s Motion, which seeks to exclude a substantial portion of intervenor testimony which is directly relevant to the issues in this OIR. PG&E’s motion asserts that testimony regarding its past practices is beyond the scope of the OIR, when just the opposite is true. Furthermore, the goals of the two proceedings are different. An important focus of the OIR relates to cost sharing and allocation issues with respect to PG&E’s Pipeline Safety Enhancement Plan (PSEP), while the focus of the OII, as garnered from the title of the proceeding, is on PG&E’s operations and practices relating to facilities records; the OII is generally referred to as the “record-keeping” proceeding.

¹ The members of NCGC are the City of Redding, the City of Santa Clara (doing business as Silicon Valley Power), Modesto Irrigation District, the Northern California Power Agency, and Turlock Irrigation District, all of which own and operate gas-fired electric generation in Northern California and obtain gas transportation services from PG&E.

II. IT IS CLEAR THAT EVIDENCE OF PG&E'S PAST PRACTICES IS DIRECTLY RELEVANT TO THE COMMISSION'S REVIEW OF THE PSEP

The November 2, 2011 Amended Scoping Memo in the OIR leaves no room for doubt that an *“in-depth analysis of [PG&E’s] historical safety practices”* is essential to an assessment of the PSEP’s far-reaching safety and rate proposals.² For example, the testimony of Thomas J. Long on behalf of TURN discusses the mandate of Public Utilities Code section 463(a) and (b) which requires disallowance of costs resulting from unreasonable errors or omissions of PG&E relating to the operation of its gas system (many of which are documented in the NTSB Report,³ the Independent Review Panel Report,⁴ and the Commission’s Consumer Protection and Safety Division Report regarding the San Bruno incident,⁵ as well as other documentation), and advocates that ratepayers should not be required to pay a second time for work which they previously funded but which PG&E did not perform, or was not done right.⁶

In this context, evidence of past practices is not only relevant, but essential to a determination concerning PG&E’s ratemaking proposals and cost sharing between shareholders and ratepayers. It is also essential to a determination of whether the work contemplated in the PSEP is truly “incremental;” i.e., consisting of new safety programs and investments that go above and beyond preexisting regulatory requirements not contemplated when PG&E’s existing rates for gas transmission service were established.⁷ Without a robust examination of PG&E’s past practices, no determination of the reasonableness of the PSEP or its ratemaking implications is possible. The “reassignment” of the intervenor testimony sought by PG&E would eviscerate the very purpose of the OIR.

III. THE RECORD-KEEPING PROCEEDING HAS SEPARATE AND DISTINCT ISSUES FROM THOSE IN THE OIR

² Amended Scoping Ruling, at p.2.

³ National Transportation Safety Board San Bruno accident report, (August 30, 2011).

⁴ Report of the Independent Review Panel, San Bruno Explosion, (June 24, 2011).

⁵ Incident Investigation Report, September 9, 2010 Pipeline Rupture in San Bruno, California, (January 12, 2012)

⁶ Testimony of Thomas J. Long on Cost Responsibility, at pp. 3-6.

⁷ PSEP, at p. 8-5.

The record-keeping OII is an investigative and enforcement proceeding, with a focus on matters not directly germane to the OIR. The OII specifically provides that:

“By this Order, the Commission institutes a formal investigation to determine whether...PG&E violated any...applicable rules or requirements pertaining to safety recordkeeping for its gas service and facilities...This investigation will assess PG&E’s compliance with the law pertaining to safety-related recordkeeping for natural gas pipelines.” (OII at p.1; emphasis added)

The singular nature of the OII is apparent by the potential remedies available to the Commission:

“If, after hearings, the Commission were to find that management practices and policies contributed towards recordkeeping violations of law that adversely affected safety, the Commission would have an obligation to consider the imposition of statutory penalties pursuant to Section 2107 of the California Public Utilities Code, and other appropriate relief under the law.” (OII at p.11; emphasis added)

The OIR, on the other hand, specifically determines that “[S]pecific investigations of PG&E’s conduct and any penalties will take place in a different docket.” (OIR at p.1). Clearly, PG&E’s past conduct (specifically related to record-keeping) which may give rise to statutory penalties is the focus of the OII, while PG&E’s past practices relevant to a “new model of natural gas pipeline regulation” and PSEP cost recovery and cost allocation is the focus of this OIR. To “reassign” testimony carefully crafted to address issues in the OIR to the OII is a fool’s errand and should be rejected outright.

IV. CONCLUSION

For the reasons stated herein, NCGC urges the Commission to deny PG&E’s Motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rule of Practice and Procedure, I have this day served a true copy of the **RESPONSE OF THE NORTHERN CALIFORNIA GENERATION COALITION TO THE MOTION OF PACIFIC GAS AND ELECTRIC COMPANY TO AMEND THE SCOPING MEMO AND REASSIGN TESTIMONY ABOUT PG&E'S PAST PRACTICES** on all parties on the Service List for R.11-02-019, on the Commission's website last revised February 8, 2012, by electronic mail, and by U.S. mail with first class postage prepaid on those Appearances that did not provide an electronic mail addresses.

Executed at San Jose, California this 16th day of February, 2012.



Katie Plaza

