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)

REPLY BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

TABLE OF ACRONYMS

CCSF	City and County of San Francisco
CPSD	Consumer Protection and Safety Division
DRA	Division of Ratepayer Advocates
GARP	Generally Accepted Record-Keeping Principles
Generator Representatives	Northern California Indicated Producers, Dynegy, and Northern California Generation Coalition
GIE or Gulf	Gulf Interstate Engineering
GIS	Geographic Information System
GTAM	Gas Transmission Asset Management
HCA	High Consequence Area
MAOP	Maximum Allowable Operating Pressure
MOP	Maximum Operating Pressure
NTSB	National Transportation Safety Board
NCGC	Northern California Generation Coalition
NCIP	Northern California Indicated Producers
PG&E	Pacific Gas and Electric Company
PHMSA	Pipeline and Hazardous Materials Safety Administration
PNNL	Pacific Northwest National Laboratory
PSEP	Pipeline Safety Enhancement Plan
ROE	Return On Equity
RT	Reporter's Transcript
San Bruno	City of San Bruno
SCE	Southern California Edison Company
SDG&E	San Diego Gas & Electric Company
SCADA	Supervisory Control and Data Acquisition
Sempra Gas Companies	Southern California Gas Company and San Diego Gas & Electric Company
SoCal Gas	Southern California Gas Company
TIMP	Transmission Integrity Management Program
TURN	The Utility Reform Network

I. INTRODUCTION

Pursuant to Rule 13.11 of the Commission's Rules of Practice and Procedure (Rules), and the schedule set by Administrative Law Judge Maribeth Bushey, the Division of Ratepayer Advocates (DRA) submits this Reply Brief on Pacific Gas and Electric Company's (PG&E) application for approval of and ratepayer funding for its Natural Gas Transmission Pipeline Replacement or Testing Implementation Plan (PSEP) submitted on August 26, 2011 pursuant to Commission Decision (D.) 11-06-017.

PG&E's Opening Brief largely reiterates the arguments made in its application and testimony that the Commission should approve Phase 1 of its "Pipeline Safety Enhancement Plan" (PSEP) and authorize ratepayer funding of approximately $5 billion, including $768.7 million between 2012 and 2014 over and above the revenue requirement already authorized for those years. PG&E makes little effort to address the analyses presented by DRA, The Utility Reform Network (TURN), and other parties that identify material deficiencies in the PSEP impacting both safety and costs. For the reasons set forth in DRA's testimony, its opening Brief and this Reply Brief, the Commission should require PG&E to correct the deficiencies in its PSEP, and should deny rate recovery at this time.

II. THE COMMISSION SHOULD REQUIRE PG&E TO CORRECT THE DEFICIENCIES IN ITS PIPELINE SAFETY PLAN AND SHOULD DENY RATEPAYER FUNDING AT THIS TIME

As the Opening Briefs reveal, many parties agree with DRA that the Commission should approve Phase 1 of PG&E's PSEP only with significant modifications, and authorize *no* ratepayer funding at this time because PG&E has failed to show that the PSEP is anything more than a remedial program to achieve an acceptable level of safety in the operation of its gas pipeline system.

A. The Deficiencies In PG&E's PSEP Must Be Corrected

DRA, TURN, the City and County of San Francisco (CCSF), and the City of San Bruno (San Bruno) all agree that PG&E's PSEP is deficient and cannot be approved without significant modification.

In investigating the root causes of the San Bruno explosion, both the National Transportation Safety Board (NTSB) and the Independent Review Panel (IRP) Reports found that a variety of serious mistakes and omissions by PG&E, occurring over several decades, contributed to the tragedy.[1] Both reports made recommendations to prevent such a tragedy from happening again.

The PSEP should be a response to that tragedy and should include a plan to implement the recommendations made by NTSB and the Independent Review Panel. Instead, the PSEP, which was prepared before the issuance of those two reports, fails to take the findings and recommendations in those reports into consideration, and proposes a costly pipeline testing and replacement plan based on the same gas transmission system information those reports found "deficient" and unreliable. Based on these observations, CCSF concludes that there is no way that the PSEP could be an adequate "response" to the PG&E failures identified in those reports.[2] The City of San Bruno expresses similar concerns that the PSEP is deficient and not sufficiently responsive to the NTSB Report:

> The City recommends that PG&E develop a more comprehensive PSEP and implement the plan without delay ....
>
> The PSEP must include all of the recommendations set forth in the National Transportation Safety Board's Pipeline Accident Report issued on September 26, 2011 ....[3]

These are not the only failings of the PSEP. TURN and DRA have expended considerable effort analyzing the PSEP, and experts retained by both groups identified many failings. In summary, TURN, like DRA, explains that the PSEP is both over and under-inclusive. For example, P&E proposes to test or replace over 960 miles of pipeline, while only 630 miles of High Consequence Area (HCA) pipelines have

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[1] National Transportation Safety Board, Pipeline Accident Report, Pacific Gas and Electric Company, Natural Gas Transmission Pipeline Rupture and Fire, San Bruno, California, September 9, 2010, adopted August 30, 2011 ("NTSB Report"); Report of the Independent Review Panel, San Bruno Explosion, Prepared for California Public Utilities Commission, revised copy, June 24, 2011.

[2] CCSF Opening Brief, p. 14-15.

[3] San Bruno Opening Brief, p. 2.

incomplete records.[4] Thus, more than one third of the activities included in PG&E's PSEP are not necessary to address the concerns raised by the investigations of the San Bruno explosion. At the same time, the PSEP targets pipelines in Class 2 non-HCA areas for testing or replacement based on unsupported claims of increased efficiency, but fails to focus on Class 3 areas that might produce more safety benefits.[5] The PSEP also relies on PG&E's old pipeline records, which are demonstrably unreliable.[6] Again, this results in PG&E including in the PSEP work which may be unnecessary or not high priority, and not performing work that may be more critical from a safety standpoint. All of these issues need to be addressed before the Commission authorizes PG&E to move forward with its PSEP.

B. Because PG&E's PSEP Is Remedial Work Made Necessary By Decades Of Mismanagement, The Financial Burden Should Be Borne By The Company

As the Northern California Indicated Producers (NCIP) correctly observes, every party except the Coalition of California Utility Employees - and including PG&E - agrees that ratepayers should not be responsible for remedial costs.[7] PG&E asserts, however, that most of the PSEP consists of activities that are not remedial, a view not shared by other parties that have briefed the issue. And at no point does PG&E explain what portions of the PSEP *are* remedial.[8] The key disagreement is whether the obligation to

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[4] TURN Opening Brief, p. 5.

[5] TURN Opening Brief, p. 5.

[6] CCSF Opening Brief, p. 21 ("Just as the PSEP is flawed because it does not incorporate the most recent analysis, the PSEP is equally flawed because it does not use most the accurate information to plan and prioritize the safety projects to be performed. Despite PG&E's repeated statements that safety is its top priority, the company relied on its existing, flawed records system to develop the scope of work for the PSEP."); TURN Opening Brief, p. 6.

[7] NCIP Opening Brief, p. 2. NCIP's Opening Brief contains two significant errors. NCIP says at p. 11 that that California Public Utilities Code § 451 was adopted in 1951. A version of § 451 has been in place since 1909. NCIP says at p. 15 that the Commission's General Order 28 was approved in 1912 and took effect in 1947. General Order 28 has been effective since October 10, 1912. It was reissued in 1947. Both the 1912 and 1947 versions, available at Ex. 150, state that it was "Effective October 10, 1912."

[8] NCIP Opening Brief, p. 2. NCIP's Opening Brief contains two significant errors. NCIP says at p. 11 that that California Public Utilities Code § 451 was adopted in 1951. A version of § 451 has been in

maintain "traceable, verifiable and complete" records is a new standard articulated by NTSB after the San Bruno explosion, or reiteration of an existing standard.

PG&E persists in making the implausible argument that the requirement to maintain certain information about its pipelines - including information to validate the MAOP of pipelines - is new. PG&E contends that it had no previous obligation to maintain "traceable, verifiable and complete" pipeline records, and that most of the PSEP, including its Records Correction Program, is therefore incremental to activities already funded as part of normal operations through its regular rate cases. But how can a gas utility operate safely if its pipeline information is incomplete or inaccurate?

As CCSF astutely summarized:

> The current state of PG&E's gas transmission system is the result of many years of operational neglect.
>
> …
>
> [The NTSB, CPSD, and Independent Review Panel] reports make clear that many of the safety actions PG&E is now proposing (record keeping modernization, testing, replacement, use of automated valves) are necessary because of the historic failings identified. …. Even if PG&E cannot now admit that the need for this unprecedented testing and replacement program is caused by historic failures, this Commission can and should make such a finding based on the public record.[9]

CCSF is correct. The Commission must look behind PG&E's rhetoric and recognize that its PSEP is necessary because of its historic failures. PG&E ratepayers have for decades paid rates that the Commission deemed adequate to fund safe, reliable service, and PG&E does not contend that those rates were inadequate. But PG&E failed to meet its fundamental obligation to maintain and operate its system safely. PG&E, therefore, must

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place since 1909. NCIP says at p. 15 that the Commission's General Order 28 was approved in 1912 and took effect in 1947. General Order 28 has been effective since October 10, 1912. It was reissued in 1947. Both the 1912 and 1947 versions, available at Ex. 150, state that it was "Effective October 10, 1912."

[9] CCSF Opening Brief, pp. 29 and 31.

bear the costs of bringing its system to an acceptable level of safety and reliability. The Commission can not legally require ratepayers to pay these costs.

1. Most Parties Other Than PG&E Can See That The PSEP Is A Remedial Program

DRA, TURN, CCSF, and NCIP all agree that there is no legitimate question about whether the PSEP is remedial. As both TURN and CCSF point out, the PSEP is predominantly comprised of PG&E's Pipeline 2020 plan, which PG&E developed in the immediate aftermath of the San Bruno explosion to respond to PG&E's basic safety deficiencies revealed by that incident.[10] It contains the same pipeline and valve programs as PG&E's PSEP. The records validation and database update components were added to the PSEP as it became evident that PG&E's pipeline records were incomplete and unreliable and that these deficiencies contributed to the incident. Thus, the PSEP is responsive to PG&E's deficiencies, not "new" regulatory requirements. Consequently, "PG&E has not met, and cannot meet, its burden of showing that the PSEP work is not remedial in nature."[11] Rather, as NCIP explains: "the record demonstrates that[] PG&E's mismanagement is responsible for a large portion of the PSEP costs and that PG&E has profited from this mismanagement."[12]

With regard to record keeping, PG&E's own auditors agree. Their "Summary of Current State Observations" corroborates the CPSD consultant findings that "PG&E's recordkeeping was in a mess and had been for years."[13] Among other things, PG&E's consultants found:

- Information is often incomplete, unreliable, and not fully traceable

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[10] TURN Opening Brief, p. 3; CCSF Opening Brief, p. 16.

[11] TURN Opening Brief, p. 3.

[12] NCIP Opening Brief, p. 3.

[13] Ex. 46, Duller & North Report, p. 1-10.

- Clearly defined [Records and Information Management] procedures and quality controls are lacking within key work processes;
- Employees have challenges easily and efficiently identifying and accessing key records for their work
- There are numerous and disparate technology applications and systems where data is stored in parallel to paper-based records. Both paper and electronic populations contain gaps and errors**14**

The PG&E consultants' report also corroborates the CPSD consultants' reliance on Generally Accepted Record-Keeping Principles (GARP).[15] The PG&E consultants' report confirms that such basic recordkeeping principles are not "new" and are appropriate to use both to manage information going forward and to assess PG&E's past practices.

2. Because PG&E's PSEP Is Remedial, PG&E Cannot Obtain Ratepayer Funding For It

As discussed above, nearly every party in the proceeding, including PG&E, agrees that ratepayers are not responsible for remedial work. PG&E's PSEP is primarily a response to its longstanding deficiencies revealed by the investigations following the San Bruno explosion. The evidence demonstrates that the PSEP is almost entirely remedial. Consequently, no ratepayer funding should be granted at this time.

To the extent the Commission finds that any portion of the PSEP is not entirely remedial, TURN, CCSF, and NCIP all take the position that rate recovery cannot legally be granted in this proceeding until the issues of PG&E's multiple deficiencies and statutory and regulatory violations are resolved in the Commission's San Bruno, Record Keeping, and Classification investigations, respectively I.12-01-007, I.11-02-016, and

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[14] Ex. 155, "Gas Operations Records and Information Management Assessment", March 31, 2012 (PwC Report), p. 8.

[15] Ex. 155, PwC Report, pp. 10-25.

I.11-11-009.[16] As NCIP explains: "[T]he full extent of PG&E's mismanagement will not be clear until the conclusion of the Commission's three pending investigations into PG&E's past practices …"[17] DRA agrees with TURN that granting rate recovery here without considering the evidence of imprudent management being adduced in those investigations would constitute legal error.[18]

PG&E's only argument to support its contention that the PSEP is not remedial is that it had no obligation to maintain "traceable, verifiable, and complete" records before the issuance of D.11-06-017. In its latest iteration of this argument, PG&E suggests that the May 7, 2012 Advisory Bulletin issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA) somehow supports its position because it "further defines the terms traceable, verifiable, and complete."[19] The Sempra Gas Companies[20] also make this argument.[21]

However, a review of both the May 7, 2012 advisory,[22] and its January 2011 precursor demonstrate that PHMSA does *not* consider the requirement to maintain "traceable, verifiable, and complete" records to be a "new" requirement. Rather, the May Advisory Bulletin states that in January 2011 it *reminded* operators that records relied on to establish MAOP must be "traceable, verifiable, and complete":

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[16] TURN Opening Brief, pp. 114-118; CCSF Opening Brief, p. 3 (Recommending that the Commission "Find that cost recovery and allocation decisions are premature pending the

completion of the investigations into PG&E's past practices. Alternatively,

ensure that any costs included in rates are subject to refund") NCIP Opening Brief, p. 22.

[17] NCIP Opening Brief, p. 22.

[18] TURN Opening Brief, p. 116.

[19] PG&E Opening Brief, p. 41.

[20] Southern California Gas Company and San Diego Gas & Electric Company (together "Sempra Gas Companies").

[21] Sempra Gas Companies Opening Brief, pp. 11-13.

[22] Department Of Transportation, Pipeline and Hazardous Materials Safety Administration, Docket No. PHMSA-2012-0068, Pipeline Safety: Verification of Records, 77 Fed. Reg. 26822 (May 7, 2012) (77 Fed. Reg. 26822).

> On January 10, 2011, PHMSA issued Advisory Bulletin 11-01. This Advisory Bulletin *reminded* operators that if they are relying on the review of design, construction, inspection, testing and other related data to establish MAOP and MOP, they must ensure that the records used are reliable, traceable, verifiable, and complete.[23]

The January 10, 2011 PHMSA advisory reminding pipeline operators of their regulatory obligations is Ex. 48 in this proceeding and is also available at 76 Fed. Reg. 1504. Among other things, the January 2011 advisory, which was issued to comply with NTSB recommendations, advises that "Operators should thoroughly review their current [Integrity Management] programs and make any changes necessary *to become fully compliant with the Federal pipeline safety regulations.*"[24] There is no reference to any *new* pipeline safety regulations or requirements.

A careful review of the May 7, 2012 PHMSA advisory reflects that PHMSA sought to put pipeline operators on notice that it intends to start enforcing the requirement to maintain "verifiable" records. It states that PHMSA "intends to require" pipeline operators to submit "data regarding mileage of pipelines with verifiable records and mileage of pipelines without records in the annual reporting cycle for 2013."[25] It explains that PHMSA intends to pursue a rulemaking proceeding to clarify what should be done where records are insufficient, and it advises operators to "consider the guidance in this advisory for all pipeline segments and take action as appropriate to assure that all MAOP and MOP are supported by records that are traceable, verifiable and complete."[26] The May Advisory Bulletin then proceeds to explain what constitutes a traceable record, a verifiable record, and a complete record. It does not suggest, in any way, that

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[23] 77 Fed. Reg. 26822, 26822 (emphasis added).

[24] 76 Fed. Reg. 1504, 1506 (emphasis added).

[25] 77 Fed. Reg. 26822, 26823.

[26] 77 Fed. Reg. 26822, 26823.

regulations will be considered to further define these terms, or that these terms somehow impose "new" requirements.[27]

Both the January 2011 and May 2012 advisories demonstrate that the regulator does not consider "traceable, verifiable, and complete" to be a new standard. If it did, PHMSA would be considering regulations to implement it. Instead, PHMSA is putting operators on notice that it is going to start enforcing the *existing* standard pursuant to *existing* pipeline regulations.

C. By Disallowing PSEP Costs The Commission Will Signal That It Will No Longer Tolerate Utilities Putting Profits Before Safety

The proposals by DRA, TURN, CCSF, and NCIP to deny rate recovery to PG&E are supported by the law and the facts and reflect sound ratemaking policy. As TURN observed in its Opening Brief, if full disallowance "seems like a harsh result, the Commission should re-read the NTSB and IRP Reports and ask the question of whether a company in a competitive sector of the economy that so fundamentally mismanaged its operations and misperceived its priorities would even be able to survive in the marketplace.[28]

Disallowance would require PG&E to refocus on its core safety mission and to belatedly invest, at its cost, in the safety of a system that it has run into the ground. Disallowance will also send a strong message to other California gas utilities and the investment community that the Commission intends to hold utilities accountable for their mistakes and that failure to maintain and invest in infrastructure as required to provide safe and reliable service will not be tolerated.

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[27] 77 Fed. Reg. 26822, 26823.

[28] TURN Opening Brief, pp. 3-4.

1. PG&E Management Has Put Profits Over Safety For Over a Decade

Relying on the findings in the IRP Report, the CPSD San Bruno Report devotes a chapter to examining PG&E's safety culture and concludes that PG&E Management has emphasized a culture of profits over safety for over a decade.[29] While the CPSD San Bruno Report acknowledges that it is understandable for PG&E to want to grow its "financial performance" and to focus on being "financially healthy," it accurately observes that PG&E's "primary and overarching focus should be on the safe and reliable operation" of its facilities.[30]

But this was not the case. Instead, PG&E reaped massive profits for more than a decade to benefit its shareholders and top executives, while deferring maintenance and capital spending.[31] As TURN explains:

> During the same time period as it was reducing O&M costs and limiting capital spending, PG&E spent money to enrich shareholders and corporate executives. PG&E authorized cash dividends of $2.7 billion in 2005-2009, authorized a stock repurchase[] of $2.3 billion, and spent over $50 million per year in 2008-2010 in stock incentives for top executives and managers.[32]

We now know that these multi-million dollar payouts to shareholders and executives were at the expense of investments in system safety. For example, as of 2010 less than 22% of PG&E's transmission pipeline system located in HCAs could be inspected using modern In-Line Inspection (ILI) tools, compared to a 60% average for cross-country natural gas transmission and a 40% average for utilities with transmission

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[29] California Public Utilities Commission, Consumer Protection and Safety Division, Incident Investigation Report, September 9, 2010 PG&E Pipeline Rupture in San Bruno, California, released January 12, 2012 (CPSD San Bruno Report), pp. 126-161.

[30] CPSD San Bruno Report, p. 130.

[31] CPSD San Bruno Report, pp. 132-133 (providing a summary of the Overland Report).

[32] TURN Opening Brief, p. 119, citing to the CPSD San Bruno Report.

and distribution facilities.[33] The IRP Report explained: "While it is difficult to compare efforts on the basis of percentages, all of the other utility companies with whom we spoke *have made the investments* to improve detection of threats."[34] PG&E also made hazardous changes to its integrity management program to reduce costs. The assessment methods for some projects were changed from ILI to less expensive, and less informative, External Corrosion Direct Assessments (ECDA).[35] Other integrity management projects, such as replacement of the San Bruno line,[36] were simply deferred to future years.[37] In some cases, PG&E changed the definition of the line covered by the integrity management rules to reduce the scope of the integrity management program.[38]

As the CPSD San Bruno Report summarized: "The IRP concluded that the capital investment by PG&E in the gas transmission pipeline system has been minimal. The IRP found that there was no plan to modernize the system and seek opportunities to improve the risk associated with operating the system."[39]

It is now time for PG&E to adopt a renewed commitment to safety by investing its profits and executive bonuses back into the business to remedy its historic omissions and to bring its system and recordkeeping up to applicable safety standards.

2. The Commission Should Use Its Ratemaking Authority To Prevent PG&E From Profiting From The San Bruno Explosion

DRA agrees with TURN that the Commission needs to use its ratemaking authority to ensure that PSEP work, necessitated by the San Bruno Explosion, does not

[33] CPSD San Bruno Report, p. 134.

[34] IRP Report, p. 51 (emphasis added).

[35] CPSD San Bruno Report, p. 134.

[36] Ex. 45, Felts Report, pp. 21-22 (the San Bruno line is Line 32)..

[37] CPSD San Bruno Report, pp. 134-135

[38] CPSD San Bruno Report, p. 135.

[39] CPSD San Bruno Report, p. 135, citing to the IRP Report, p. 82.

result in extra profit for PG&E shareholders and incentive bonuses to PG&E executives and managers.[40] Thus, DRA supports:

- Some form of reduced return on equity;
- Removing amounts for incentive compensation overheads applied to PSEP costs;[41] and
- Ordering PG&E to first use certain internal sources of funding before raising rates, including bonus funds from accelerated depreciation, overearnings in its gas transmission and storage business, and executive bonuses already included in rates.[42]

DRA also supports TURN's proposal to apply a longer depreciable life to transmission mains, though DRA suggests that something even longer than TURN's proposed 65 year life may ultimately be appropriate.[43]

In summarizing PG&E's enormous profits and rich incentive programs, the CPSD San Bruno Report observed that there were no employee bonuses for discovering and reporting gas safety problems because PG&E views this as part of an employee's job:

> PG&E does not provide a special reward for the discovery of a gas pipeline weakness, bad weld, or safety risk. According to PG&E, "discovering and correcting a pipeline weakness, a bad weld or a safety issue or risk is a core part of an employee's job function. PG&E's Reward and Recognition Program is not to recognize employees for meeting the essential functions of their job responsibilities."[44]

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[40] TURN Opening Brief, p. 120.

[41] See TURN Opening Brief at Section 7.2.

[42] See TURN Opening Brief at Section 7.4.

[43] See TURN Opening Brief at Section 7.3.

[44] CPSD San Bruno Report, p. 143, quoting a PG&E data response.

3. Reducing PG&E's Return On Equity Will Send The Right Safety Message To Utilities And Investors

Southern California Edison Company (SCE) argues that lowering PG&E's return on equity will demonstrate "that California's regulatory climate is risky and uncertain" and will therefore limit the ability of all California utilities to raise capital.[45] DRA does not agree.

As a review of the CPSD San Bruno Report reveals, the utilities' primary occupation with finances and rate of return have contributed to the culture of profits over safety. For example, the IRP Report explains, when asked which factors would most positively affect safety in the future, that one PG&E executive said that the provision for *the recovery of costs* for safety improvements would be the most important factor![46] Ironically, we now know that PG&E has recovered *more* than its already generous authorized rate of return for most of the past decade – but this certainly didn't deliver a safe system. There is no reason to believe that continuing the California utilities' high returns on equity will result in safer systems. In fact, there seems to be no correlation between returns on equity and safety, unless it is an inverse one.

In sum, PG&E must be held accountable for its prior errors and omissions, and if reducing PG&E's return on equity will ensure PG&E does not profit from its mistakes, then it must be done. Investors understand certainty, and they understand incentives. If the Commission takes decisive action that results in safety investments, even at the cost of PG&E shareholders, the investment community will understand and *respect* that California is holding PG&E accountable for its prior acts. Moreover, effective action to make PG&E's system safer will reduce financial risk for the company and its shareholders. To the extent this encourages other California utilities to proactively

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[45] SCE Opening Brief, p. 6.

[46] IRP Report, p. 50.

ensure the safety of their systems, it will create stronger, safer utilities throughout California that investors can have confidence in.

4. PG&E Can Absorb The Costs Of Phase 1 And Still Remain Financially Healthy

PG&E has the financial resources to absorb the costs of the first phase of the PSEP without additional ratepayer funding. As described in the Overland Report,[47] the CPSD San Bruno Report, and TURN's summary of those findings in its Opening Brief quoted above, PG&E's gas transmission and storage business has been extremely profitable for over a decade, earning well above its authorized rate of return in almost every year, and generating millions in shareholder dividends and management bonuses.

PG&E earned $233 million in the first quarter of this year, up from $199 million from the same quarter last year, while covering $104 million in pipeline safety costs, and $70 million for a settlement with San Bruno.[48] Given that these payouts have had *de minimus* impact on PG&E's earnings, there is no reason to believe PG&E cannot afford to continue to pay PSEP costs until its next GRC. Further evidence of PG&E's financial stability is its continued access to capital markets. It issued $400 million in equity in the first quarter of this year, and intends to issue up to a total of $700 million in 2012. PG&E also has the option of raising capital by reducing or suspending dividends for a period of time.

Further, to the extent PG&E's PSEP costs are inflated, as reflected in DRA's analysis, and can be paid for through incentive savings and other funds, PG&E has the ability to significantly limit their impact.

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[47] Ex. 42, "Focused Audit of Pacific Gas and Electric Gas Transmission Pipeline Safety-Related Expenditures for the Period 1996 to 2010" by Overland Consulting, dated December 30, 2011 (Overland Report).

[48] PG&E Corporation Reports First Quarter Results, PG&E Press Release, May 2, 2012. PG&E Corporation First Quarter Earnings Call, May 2, 2012, available at http://www.pgecorp.com/news/press_releases/Release_Archive2012/120502press_release.shtml

D. To Achieve Pipeline Safety The Commission Must Change The Way It Regulates Gas Utilities.

Several of the parties' Opening Briefs recognize that the Commission must change the way it regulates gas utilities if it is going to be successful in ensuring that a tragedy like San Bruno cannot happen again. In other words, business as usual must end. In addition to stepping up inspections and safety enforcement, the CPUC must rigorously review cost recovery requests, like the PSEP request, and require the utilities to submit defensible requests with sufficiently detailed workpapers to allow DRA and other parties to verify the requested costs and the risks and benefits of the projects. PG&E has not met this standard here.

As CCSF observes, the time for this regulatory change is *now*:

> If it hopes to avoid re-creating the mistakes of the past, [the Commission] must change the rigor with which it views PG&E's applications. .... The Commission bears the responsibility to approve only those costs demonstrated to be necessary to ensure the public safety. Before the Commission can approve PG&E's request for unprecedented sums of ratepayer funds, the Commission must find that PG&E's request is reasonable.[49]

San Bruno urges the Commission to require PG&E to develop the best PSEP possible:

> A robust pipeline safety plan that is subject to renewed and meaningful regulatory oversight is essential to restoring badly damaged public confidence in the utility system and its regulators.[50]

In the next section DRA discusses proposals to make Commission oversight of PG&E's pipeline projects more effective going forward.

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[49] CCSF Opening Brief, p. 48.

[50] San Bruno Opening Brief, p. 2.

III. PG&E'S PIPELINE PLAN IS NEITHER THE SAFEST NOR THE MOST COST EFFECTIVE WAY TO BRING PG&E'S PIPELINE SYSTEM INTO COMPLIANCE WITH SAFETY STANDARDS

PG&E insists that its Pipeline Modernization Plan should be approved as proposed,[51] despite the numerous deficiencies identified by DRA[52] and parties such as TURN[53] and CCSF[54] which render PG&E's proposal neither the safest nor the most economical approach to achieve PG&E compliance with safety standards consistent with the Commission's directives in D.11-06-017. PG&E has failed to show that its "proposed threat model and decision criteria methodology … should be adopted by the Commission as an efficient and sound means to prioritize work…."[55]

A. PG&E Has Failed To Provide A Priority-Ranked Schedule For Testing And Replacement

PG&E incorrectly asserts that it has provided a priority-ranked schedule for pressure testing and replacement as required by D.11-06-017.[56] As shown by DRA, TURN and CCSF, the scope of the PSEP was developed based on incomplete, inaccurate and/or outdated data, and therefore the PSEP does not accurately prioritize mitigation.[57] The PSEP recommends the incorrect mitigation for certain threats.[58] Prioritization based on incorrect data could delay mitigation of the highest-risk segments.[59] Pressure test data should not be used to delay needed replacement of construction threats.[60]

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[51] PG&E Opening Brief, pp. 4-5.

[52] DRA Opening Brief, pp. 49-123.

[53] TURN Opening Brief, pp. 16-43.

[54] CCSF Opening Brief, pp. 9-25.

[55] PG&E Opening Brief, p. 6.

[56] PG&E Opening Brief, p. 4; D.11-06-017, Ordering Paragraph 7.

[57] DRA Opening Brief, pp. 51-53; TURN Opening Brief, pp. 20-26; CCSF Opening Brief, pp. 21-23.

[58] DRA Opening Brief, pp. 54-57.

[59] Ex. 144, DRA Testimony, Chap. 3, pp. 40-44; CCSF Opening Brief, p.2 ("Rather than following the Commission's direction to test pipeline segments in the highest risk areas, PG&E has modified the scope without coherent explanation resulting in a much larger program that may delay the most pressing work.).

[60] Ex 145, DRA Testimony, Chap. 4, p. 12.

Because of the information deficiencies underlying the PSEP, there can be no assurance that the PSEP will mitigate all threats. There can be no assurance that the PSEP has accurately scheduled the highest priority threats. There can be no assurance that the correct mitigation has been planned. In short, there is no assurance that the PSEP as proposed by PG&E provides the required level of safety or the lowest, or even the most reasonable, cost. Given this uncertainty, there is a spectrum of actions available, from proceeding with the PSEP as proposed to halting all work until the San Bruno-related investigations have been resolved. Seeking a middle ground that is pragmatic and at the same time responsible, DRA has recommended resolving controversial issues now, such as unit costs and criteria for accelerating segments into Phase 1, and reviewing project scope and aggregate costs on an ongoing basis.[61] There is a tension between doing the PSEP work as quickly as possible, and doing it right and for the best price, but it is nevertheless very important that work needs to be prioritized to mitigate the highest-risk threats first.

Contrary to PG&E's arguments, there is no Commission requirement to retrofit pipeline for ILI.[62] PG&E is correct that DRA recommends against replacement based on the current undefined plan to increase piggability.[63] Decision 11-06-017 directs the respondent utilities to "consider" ILI, not to make over 30 percent of all pipe piggable. PG&E should upgrade for piggability only after the determination of "alternatives" is made and specific ILI tools are known.

PG&E generally mischaracterizes DRA's testimony as reducing the scope of Phase 1.[64] However, while DRA challenges the PSEP and suggests alternatives to be included in a revised implementation plan, DRA does not provide an alternative scope of

[61] DRA Opening Brief pp. 50-51, 58, 66; Ex. 144, DRA Testimony, Chap. 3, pp. 114-120.

[62] PG&E Opening Brief, p. 4.

[63] DRA Opening Brief, pp. 62-65, 121-122.

[64] PG&E Opening Brief, pp. 14-15.

work.[65] DRA does not propose that the current plan be completely "scrapped." But as already demonstrated the current plan has serious flaws, the most important of which is that it was not based on completed MAOP validation and other accurate data, and thus cannot be relied on to correctly prioritize mitigation for particular lines. In addition, the plan is based on many preliminary engineering assumptions that were not guided by written criteria.[66] DRA's recommendations would have PG&E focus on mitigating the riskiest segments first. If PG&E is able to demonstrate it is capable of cost-effectively doing more in Phase 1, then it would be acceptable to expand the scope according to DRA's proposal (i.e., the Commission approves unit costs; scope is reviewed on an ongoing basis until completion of Phase 1).

B. PG&E Has Failed To Provide Criteria For Selecting Pipeline Segments For Replacement Versus Hydrotesting

Decision 11-06-017 requires PG&E to "set forth criteria on which pipeline segments were identified for replacement instead of pressure testing."[67] In hearings, TURN raised the issue of whether PG&E's decision tree is based on "objective criteria,"[68] and PG&E subsequently indicated that the entire decision tree could be overridden by PG&E's subjective "engineering judgment."[69] In addition, PG&E fails to define other criteria which impact the timing, type, and cost of mitigation. As DRA has noted, accelerated segments add significantly to the cost of the PSEP.[70] At best, PG&E provides limited economic rationale for accelerating segments into Phase 1 replacement

[65] DRA Opening Brief, pp. 60-61 ("To be clear, DRA is not opposed to expanding the scope of Phase 1 if that is necessary from a safety perspective. In fact, DRA supports selective acceleration of segments into Phase 1, but only where a logical and defensible justification is provided.").

[66] DRA Opening Brief, pp. 57-60.

[67] D.11-06-017, p. 29, Conclusion of Law 6.

[68] 8 RT 802-804, Stavropoulos/Bottorff/PG&E.

[69] 12 RT 1507-08, Hogenson/PG&E; DRA Opening Brief, p. 59.

[70] DRA Opening Brief, p. 60.

projects.[71] PG&E also provides no criteria for replacing or enlarging lines to increase piggability and capacity.[72]

C. PG&E Has Failed To Show That Its Plan Is Cost Effective

DRA in its opening brief discussed how accelerating segments into Phase 1 is much more likely to be cost-effective for hydrotest as opposed to pipe replacement projects.[73] PG&E has made no showing that its Plan achieves Phase 2 cost savings by accelerating segments into Phase 1. PG&E does not account for the potential development of more cost-effective alternatives such as ILI.[74] PG&E's blanket inclusion of Class 2 segments as high priority is contrary to the Commission's directives in D.11-06-017, and appears to increase costs without justification.[75]

The PSEP recommends replacement for manufacturing threats where it is not required. The PSEP calls for replacement of about 30 miles of pipe (decision tree outcomes C4 to C7) that already have been pressure tested, for a cost of $200 million.[76] There has been no showing by PG&E that the probability of hydrotest failure in these pipe segments makes replacement more cost-effective, or that 50 year old pipe is beyond the service life of a well-maintained pipe.[77] And diameter increases, which are expensive, are included in the PSEP without justification.[78]

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[71] DRA Opening Brief, pp.60-62, 109-110; TURN Opening Brief, pp. 28-29 ("PG&E's entire direct showing provides no explanation for why replacement is necessary, or why the 30% SMYS criterion should be used to differentiate between testing and replacement.").

[72] DRA Opening Brief, pp. 62-66.

[73] DRA Opening Brief, pp. 60-61, 109-110.

[74] DRA Opening Brief, pp. 61-62.

[75] DRA Opening Brief, p. 55; TURN Opening Brief, pp. 22-24.

[76] DRA Opening Brief, p. 60.

[77] TURN Opening Brief, pp. 28-30 ("[P]ipeline installed in the 1930's, 1940's and 1950's can operate perfectly well if the operator has sufficient records to identify pipeline characteristics and properly evaluate the pipeline for any existing threats.").

[78] DRA Opening Brief, p. 62-64.

Moreover, PG&E's unit costs[79] are poorly supported compared to DRA's. DRA in its opening brief discussed at length why the hydrotest and replacement costs it developed should be adopted if the Commission were to authorize ratepayer recovery of PSEP costs.[80] DRA will not repeat the entire discussion here, but responds briefly to the erroneous statements made by PG&E in its opening brief. Contrary to PG&E's claim,[81] its consultant Gulf Interstate Engineering used PG&E's historic costs for only a small portion of the unit costs that Gulf developed.[82] Indeed, PG&E has an extremely limited historic basis for hydrotest costs.[83] PG&E criticizes the PNNL and UC Davis studies used by DRA in evaluating replacement costs as "industry cost projections for interstate pipelines in primarily rural areas,"[84] even though no evidence was provided that interstate pipelines are located primarily in rural areas. PG&E notes that its actual 2011 hydrotest costs were higher than estimated.[85] But rather than comprising proof that PG&E's estimates are valid, the inflated price of 2011 hydrotests signals the lack of experience at PG&E in conducting hydrotests, and highlights the need for continuing Commission oversight of PG&E's PSEP activities. Indeed, PG&E itself "believes that it can drive down strength testing costs in 2012 and beyond through competitive bidding and given longer planning horizons…."[86]

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[79] PG&E Opening Brief, p. 22.

[80] DRA Opening Brief, pp. 67-108.

[81] PG&E Opening Brief, pp. 22-23.

[82] DRA Opening Brief, p. 73

[83] DRA Opening Brief, p. 73.

[84] PG&E Opening Brief, p. 24.

[85] PG&E Opening Brief, pp. 27-28.

[86] PG&E Opening Brief, p. 28.

D. Ongoing Commission Oversight Is Required To Ensure The Pipeline Plan's Scope And Costs Are Reasonable

Even PG&E acknowledges that the scope of the PSEP will change.[87] An ongoing Commission process should be established to ensure the reasonableness of the scope and costs of the PSEP as it evolves over time. If the proposed PSEP is adopted, the Commission should adopt a process to ensure projects are efficiently designed, engineered and executed.

PG&E states that Jacobs Consultancy performed a "thorough" review of the PSEP, and implies that Jacobs concluded that the PSEP adequately addresses safety while minimizing customer disruptions.[88] PG&E mischaracterizes both the nature and the findings of the Jacobs report.[89] First, Jacobs did not conduct a thorough review of the "pipeline modernization" portion of the PSEP. TURN stated in its comments on CPSD's technical report on PG&E's PSEP, which included the Jacobs report, that the reports provided "a concise and useful summary" of the PSEP but their conclusions were "not supported by any separate analyses or evaluations, calling into question the weight that should be given such conclusions."[90] TURN is correct. Regarding pipeline

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[87] DRA Opening Brief, p. 53 ("On cross examination, PG&E acknowledged that pending changes in HCA classifications 'will change the scope of Phase 1.'"); PG&E Opening Brief, pp. 12-13 ("…the sequence of project completion will change based on other factors…."), 20 ("PG&E will *mitigate any inaccuracies* in the GIS database during the preliminary project engineering … *Variances from the work* as forecasted in August, 2011 will be shared with the Commission…."), emphasis added.

[88] PG&E Opening Brief, p. 5.

[89] The report also does not address the PSEP's cost-effectiveness.

[90] R.11-02-019, Comments of The Utility Reform Network on the CPSD and Jacobs Consultancy Reports Regarding PG&E's Pipeline Safety Enhancement Plan, Jan. 13, 2012, p.2. With regard to the Sempra Utilities' pipeline plan, CPSD reviewed four projects and found that "considerable portions of these estimated costs are attributable to addressing lower priority sections of pipe and to increasing pipeline capacity." R.11-02-019, Technical Report of the Consumer Protection and Safety Division Regarding the Southern California Gas Company and San Diego Gas and Electric Company Pipeline Safety Enhancement Plan, Jan. 17, 2012, p. 13. TURN noted that "It is apparent … from even a cursory reading the CPSD report [on Sempra's Plan], that it includes much more significant independent review and evaluation of Sempra's proposal than the Jacobs Consultancy report on PG&E's implementation plan." R.11-02-019, Comments of The Utility Reform Network on the CPSD Report Regarding the Sempra Pipeline Safety Enhancement Plan, Jan. 27, 2012, p. 2. DRA concurs with this assessment.

modernization, Jacobs does not describe the steps it took to review the plan, its report presents no results based on review of specific hydrotest or replacement projects, and its findings and conclusions provide no criticism of the PSEP.[91] In contrast, DRA and CCSF submitted testimony documenting systematic problems and specific errors based on detailed review of a sample of PG&E projects.[92]

Moreover, both Jacobs Consultancy and CPSD conclude that the PSEP must be updated regularly to integrate new information. For example, CPSD recommends quarterly audits "to confirm that PG&E continues to update its PSEP and decision trees to reflect new knowledge."[93] Jacobs recommends "periodically an audit of a small number of projects should be undertaken to verify the [decision tree and prioritization] process results,"[94] and that "PG&E should revisit its cost estimates for GTAM and MAOP at least annually" and provide a report to the Commission in a format to be specified.[95] PG&E accepted each of these recommendations.[96]

DRA supports periodic reporting and auditing as recommended by CPSD, Jacobs and other parties, but DRA recommends that annual cost audits should not be limited to only the GTAM and MAOP portions of the PSEP. In addition, the Commission should specify in its decision how it will use reports and audits when it considers project scope and cost recovery.[97] Clarification on this point would provide important direction to PG&E and to Commission staff, particularly if the Commission adopts DRA's

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91 Jacobs Consultancy Report, pp. 25-26.

92 Ex. 144, DRA Testimony, Chap. 3, pp. 49-58; Ex. 137, CCSF Testimony, pp. 3, 10-18.

93 R.11-02-019, Technical Report of the Consumer Protection and Safety Division Regarding Pacific Gas and Electric Company's Pipeline Safety Enhancement Plan, Dec. 23, 2011, p. 3.

94 Jacobs Consultancy Report, p. 26, Recommendation 5.4.1.

95 Jacobs Consultancy Report, p. 47, Recommendation 7.4.3.

96 R.11-02-019, Pacific Gas and Electric Company's Response to Technical Report of the Consumer Protection and Safety Division Regarding PG&E's Pipeline Safety Enhancement Plan, Jan. 13, 2012, Appendix A, pp. 1, 4.

97 The format of PG&E's reports also should be defined such that information obtained in Phase 1 can be used to accurately estimate the costs of Phase 2 work.

recommendations regarding pipeline modernization to pre-authorize only unit costs and criteria/procedures that define the scope of projects, including a decision tree and criteria for acceleration of segments, diameter increases and other activities that increase scope and cost.[98] Periodic reports will form the basis for confirming 1) PSEP scope based on preliminary engineering (i.e., PG&E is performing the correct mitigations, on the correct number of segments, in the correct priority); and 2) project costs based on the Commission-approved scope of work. To date, the record has not been clear on the most appropriate process by which to take action on the periodic reports PG&E has agreed to provide; the Commission should address and resolve this issue with input from the parties.

IV. PG&E HAS FAILED TO SHOW THAT ITS VALVE AUTOMATION PROGRAM IS COST EFFECTIVE OR WILL PRODUCE THE CLAIMED BENEFITS

Throughout this proceeding parties have raised a number of legitimate concerns regarding PG&E's valve automation program. Among them, that PG&E has failed to explain how the benefits of its $140 million program justify the costs,[99] and whether the program will address one of the primary reasons why it took PG&E 95 minutes to shut off the gas after the San Bruno explosion – the fact that its control room operators didn't know what was going on. Absent these showings, PG&E's valve replacement program cannot be justified.

PG&E's Opening Brief describes PG&E's valve automation program and summarily concludes: "The Commission should approve PG&E's Valve Automation Program because it provides an important safety benefit."[100] However, at no point does PG&E explain how this "important safety benefit" – presumably quicker shut off times – justifies the $140 million cost of the program. PG&E claims such a cost/benefit analysis

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[98] DRA Opening Brief, p. 66.

[99] PG&E Opening Brief, p. 39 ("PG&E forecasts spending $132.5 million in capital and $11.1 million in expenses for 2011-2014 for the Valve Automation Program.").

[100] PG&E Opening Brief, p. 33.

is not possible because it "would require PG&E to place a dollar value on the potential loss of life and property."[101] However, no one analyzing the program agrees with PG&E's assessment that such an analysis cannot be done. Even the Jacob's Consultancy Report recommended, among other things, that "PG&E should further define the benefits of the proposed Valve Automation Program…"[102]

Instead of addressing the valid criticisms of its valve automation program, PG&E adopts in a squid-like approach of squirting ink everywhere in an attempt to misdirect and confuse the reader. A significant portion of this effort is focused on misrepresenting DRA's positions and testimony on the value automation project. Virtually every time PG&E's asserts in Section III of its Opening Brief that DRA "admitted" or "stated" something, it is a mischaracterization of the testimony.[103]

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[101] Ex. 21, PG&E Rebuttal Testimony, p. 6-15.

[102] Jacobs Consultancy Assessment of Pacific Gas & Electric Company's Pipeline Safety enhancement Plan, prepared for Consumer Protection & Safety Division, R.11-02-019, December 23, 2011 (Jacobs Consultancy Report), p. 35, Recommendation 6.4.1.

[103] PG&E mischaracterizes a number of statements by DRA witness Jerry Oh to support PG&E's false claims that DRA did not consider public safety or customer impacts in its review of PG&E's valve automation proposal. See PG&E Opening Brief, p. 34. As an initial matter, Mr. Oh is not an engineer; this was clear on cross examination. 14 RT 2045, lines 19-20. This did not stop PG&E from asking Mr. Oh engineering questions, or attributing engineering opinions to Mr. Oh. For example, in support of its automated valve spacing proposal, PG&E states at page 34: "As DRA's valve witness, Jerry Oh, testified, tighter automated valve spacing results in a 'higher level of safety,' than greater valve spacing." This is not true. Mr. Oh's testimony was qualified, assuming automated valves "worked right" and pointed out that manual valves also provide a level of safety. He stated: "Well, I think if you had a 7-mile spacing and everything worked right that was automatic, then I agree that you're at a higher level of safety. However, the manual valves are still existing at those places you're not replacing those. So safety still remains." 14 RT 2041, lines 5-10. PG&E asserts at page 34 that DRA did not take customer impacts into account. In support, it cites cross examination where Mr. Oh says that he is not an engineer and did not do a engineering study. 14 RT 2045, lines 15-20. This testimony does not support PG&E's assertion. Nowhere does Mr. Oh suggest that DRA did not take customer impacts into account. At page 37 PG&E claims: "DRA's valve witness Oh admitted that PG&E's proposal results in an appropriate prioritization under Public Utilities Code Section 957(a)(1)(A)." Mr. Oh, who is not a lawyer, assiduously avoided providing legal interpretations of § 957. Instead, he stated: "I agree with the Class 3 and 4 HCA classification as being in Phase 1, yes." 14 RT 2037, lines 22-23. Thus, Mr. Oh agreed that he personally believed the classification is appropriate, but did not agree that it was appropriate under the statute. PG&E makes another assertion on page 37 that makes no sense. It states: "DRA's proposal did not consider whether it was appropriate to automate valves in rural areas before urban and suburban areas; in fact, DRA's valve witness testified that that would not be the right safety priority." PG&E is proposing in Phase 1 to install automated valves in Class 3 and 4 areas. DRA agrees this is the right priority. Nothing

To be clear, DRA agrees with PG&E and many of the intervenors that installation of automated valves has the potential to result in a safer PG&E system.[104] However, many of the intervenors also agree with DRA that PG&E's proposal is materially deficient and must be revisited before those benefits will materialize.[105]

Among other things, PG&E fails to provide any evidence that it will realize the control room response times necessary to generate any benefits from remote-controlled valves.[106] This issue is significant given that the NTSB's chronology of events shows that PG&E's control room operators were the last to know that there was a gas pipeline rupture and where it was located.[107] It was only through the efforts of two off-duty PG&E engineers, acting on their own initiative and consulting paper maps of PG&E's system, that the relevant valves were identified and shut off.

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in its proposal to reduce Phase 1 of PG&E's plan would require PG&E to install automated valves in rural areas. It is a mystery why PG&E would suggest that DRA proposes that automated valves be placed in rural areas.

PG&E also engages in misrepresentations that amount to scare tactics. In arguing against DRA's proposal to lengthen the spacing of Phase 1 automated valve installations, PG&E gives the impression that you must have two automated valves to shut down a line and that without these two automated valves, thousands of customers would unnecessarily have their service shut off during a rupture. See PG&E Opening Brief, p. 35 ("Many more neighborhoods would be without gas and isolated under these circumstances."). This is simply not the case. You just need two valves to shut down a line and manual valves will continue to be there to shut off of a line – and that is what Mr. Oh's testimony was pointing out at 14 RT 2045-2046, lines 25-28: "Again, you have manual valves out there. So it doesn't prevent you from initiating a closing valve. Just pick up the phone and have somebody go out there and close it. The time might be slower, but the valve still exists."

[104] PG&E Opening Brief, p. 33; CCSF Opening Brief, p. 26 ("CCSF supports the use of automatic shut-off valves …, or remote controlled valves … to improve safety and reduce the likelihood of serious harm from leaks or ruptures.").

[105] CCSF Opening Brief, pp. 26-28, quote from 26 ("The PSEP consideration of valves is insufficient and the Commission should require PG&E to develop a strategic plan to deploy automated valves"); TURN Opening Brief, pp. 44-61.

[106] TURN Opening Brief, p. 50 ("It is impossible to evaluate the potential for the new Control Room Management system to fundamentally solve the many problems identified in the NTSB Report. …. PG&E has not provided sufficient evidence to conclude that the new system will be sufficient to meet the fifteen minute operator response time target.").

[107] NTSB Report, pp. 12-16.

Presumably, PG&E's proposed SCADA enhancements will resolve the problem revealed by the San Bruno explosion; however, the current record provides no assurance the San Bruno control room situation will not be replicated again and that any "benefits" from the valve automation program will be lost.

State law requires that the Commission require the use of automated valves in high consequence areas, but only if the Commission makes a finding that automated valves "are necessary for the protection of the public."[108] Decision 11-06-017 further requires that "Given the economic challenges confronting California's families and businesses, we must be certain that each investment in safety that we order provides value to customers.[109]

For the reasons set forth above, and in various parties' testimony and Opening Briefs, the current record does not support such findings.

Thus, DRA agrees with CCSF that the Commission should direct PG&E to develop a strategic plan to implement automated valves in a manner that provides the highest degree of safety at a reasonable cost.[110] Among other things, the Commission should:

- Require PG&E to do the additional analyses recommended by the Jacobs Consultancy Report;[111]
- Require PG&E to address the valve automation considerations set forth in federal Transmission Integrity Management Program regulations at 49 CFR § 192.935(c);[112]
- Ensure that any valve automation proposal will meet appropriate rupture identification time frames to ensure the benefits of the automation program are realized; and
- Require on-going independent auditor review of PG&E's SCADA system upgrades and control room operation proposals to ensure

[108] Pub. Utils. Code § 957(a)(1).

[109] Order Instituting Rulemaking 11-02-019, p. 12.

[110] CCSF Opening Brief, p. 16.

[111] Jacobs Consultancy Report, pp. 27-35.

[112] CCSF Opening Brief, pp. 26-27.

effective design and execution and to identify additional improvement opportunities.

V. THE ARGUMENT THAT THE COMMISSION SHOULD NOT DECIDE NOW WHETHER "TRACABLE, VERIFIABLE, AND COMPLETE" IS A NEW STANDARD HAS NO MERIT

Southern California Gas Company and San Diego Gas & Electric Company (together the "Sempra Gas Companies") raise two issues in their joint Opening Brief. First, they claim that the Commission cannot find in this proceeding that the obligation to maintain "traceable verifiable and complete" records is an existing standard because they intend to introduce evidence in their own rate cases that it is a new standard. The Sempra Gas Companies advise:

> Specifically, the Commission should not render a determination of the definition and applicability in the natural gas industry of the term "traceable, verifiable and complete" and should not yet rule on the historic and current recordkeeping requirements and industry best practices for pipeline segments installed prior to July 1, 1970, the date the provisions of 49 CFR 192.619 went into effect.[113]

Second, the Sempra Gas Companies claim that it would be premature for the Commission to determine the definition and applicability of the term "traceable, verifiable, and complete" because PHMSA is likely to "adopt Federal regulations determining this same issue."[114]

The Sempra Gas Companies' arguments have no merit. This proceeding is both a rulemaking proceeding of general applicability to all gas utilities, as well as a potential ratesetting proceeding as to PG&E. While facts entirely specific to the Sempra Gas Companies cannot be decided in the PG&E portion of this proceeding, the issue of whether California gas utilities had an obligation to maintain "traceable, verifiable, and complete" records prior to the San Bruno explosion is an issue of general applicability properly addressed in the rulemaking context. Further, this issue is ultimately a question

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[113] Sempra Gas Companies Opening Brief, pp. 9-10.

[114] Sempra Gas Companies Opening Brief, p. 13.

of law, not fact. While a Commission determination on this issue may be based on certain general facts – such as the fact that no pipeline system can be operated safely without traceable, verifiable, and complete records – these types of facts are not specific to PG&E, or to the Sempra Gas Companies. These are facts of general applicability that may be determined in this proceeding to reach a legal determination.

To the extent that the Sempra Gas Companies sought to influence the determination on this question of law, this was the proceeding to address the issue and nothing precluded the Sempra Gas Companies from making their case *in this proceeding*. They were both named as respondents in this proceeding when it was opened in February 2011 and D.12-04-021 only transferred "the reasonableness and the cost allocation of the [Sempra Gas Companies'] proposed Pipeline Safety Enhancement Plan to the Triennial Cost Allocation Proceeding."[115] Thus, the Sempra Gas Companies remain respondents in this proceeding. Further, the Sempra Gas Companies' due process concerns run counter to the purpose of rulemaking proceedings – which is to identify standards or rules of general applicability. The Commission may make determinations here regarding issues such as the definition and applicability of "traceable, verifiable, and complete" records and need not relitigate these issues of law in the Sempra Gas Companies' own ratesetting proceedings.

The Sempra Gas Companies' concern that the Commission might reach a "premature" determination of the definition and applicability of the phrase "traceable, verifiable and complete" is similarly misplaced. As an initial matter, this issue is a restatement of the first one. The Sempra Gas Companies seek to preserve their right to "offer testimony into evidence demonstrating … that the phrase 'traceable, verifiable and complete' was not part of any regulatory requirements that existed prior to that date."[116] Again, this is ultimately a question of law which the Sempra Gas Companies should have addressed here; these issues can be resolved in this proceeding, and applied to the Sempra

[115] D.12-04-021, p. 6.

[116] Sempra Gas Companies Opening Brief, p. 11.

Gas Companies' in their ratesetting proceedings. Further, as set forth in Section II.B.2 above, the Sempra Gas Companies misrepresent the May 7, 2012 PHMSA Advisory Bulletin which they cite in support of this argument. Nothing in that Advisory Bulletin suggests that "traceable, verifiable, and complete" is a new standard or that PHMSA intends to issue regulations further defining those terms.

VI. ARGUMENTS TO REVISIT THE GAS ACCORD V COST ALLOCATION HAVE NO MERIT

NCIP, Dynegy, and the Northern California Generation Coalition (NCGC) (together "Generator Representatives") all advocate that the Commission reject PG&E's rate design based on Gas Accord V and instead adopt a rate design based on an equal percentage of authorized margin (EPAM). The Generator Representatives all argue that an EPAM approach will ensure that noncore ratepayers (such as gas-fired generators) will pay less in increased rates than core customers and that this is appropriate because noncore customers will not realize the same safety benefits from the PSEP that core customers will.[117]

The Generator Representatives' proposal to allocate costs among ratepayers based on EPAM has no merit. It is based on the assumption that the only ratepayers who benefit from PSEP safety upgrades are those most likely to be harmed in an explosion.[118] However, as NCGC recognizes, "PG&E needs to make significant PSEP investments now just to meet the statutory requirement that it operate a safe gas system"[119] and "PG&E's responsibility to maintain its system in a manner that ensures safety is not a new obligation."[120]

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[117] See, e.g. Dynegy Opening Brief, p. 4; NCGC Opening Brief, p. 6.

[118] Dynegy Opening Brief, p. 4 ("… nearly all of the structures within the Potential Impact Radius of pipelines are structures for residential or small commercial customers."); NCGC Opening Brief, p. 6 ("NCGC believes that all PSEP charges that the Commission determines to be allocable to PG&E's ratepayers should be allocated amongst such ratepayers based on PIR studies similar to those conducted by the Sempra Utilities.")

[119] NCGC Opening Brief, p. 3.

[120] NCGC Opening Brief, p. 3, quoting Ex. 123, NCIP Testimony, p. 7, lines 13-14 (emphases removed).

The PSEP is needed to bring PG&E's system into compliance with existing safety requirements. These repairs, which should have been undertaken previously, will benefit the entire gas transmission system and all of PG&E's gas customers. For example, all customers will benefit from a functional TIMP that properly prioritizes maintenance and replacements on the system. To the extent that ratepayers are required to pay for any portion of PSEP – which DRA does not recommend – the allocation should be consistent with Gas Accord V, as PG&E proposes.

For the same reasons, SCE's request that the Commission clarify that the cost allocation here is not precedent for the cost allocation established for the Sempra Gas Companies is inappropriate.[121] To the extent that a cost allocation decision made here properly recognizes that all customers will benefit from safety enhancements to the gas utilities' systems, distinctions between core and noncore customers are not appropriate, and should not be permitted in the other rate cases.

VII. CONCLUSION

For the reasons set forth in its testimony and briefs, DRA recommends that the Commission:

- Require PG&E to correct the deficiencies in Phase 1 of its PSEP;
- Ensure that PG&E correctly prioritizes the most urgent safety work;
- Provide ongoing oversight of PG&E's PSEP implementation; and
- Deny PG&E's request for ratepayer funding of its proposed pipeline plan.

[121] SCE Opening Brief, pp. 6-7.

Respectfully submitted,

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