

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



August 16, 2012

TO ALL PARTIES IN L.11-11-009

The Consumer Protection and Safety Division of the California Public Utilities Commission is withdrawing the Rebuttal Testimony of Ken Bruno served yesterday, August 15, 2012, and replacing it with the attached testimony.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patrick S. Berdge".

Patrick S. Berdge  
Staff Counsel  
Consumer Protection and Safety Division, CPUC  
(415) 703- 1519

cc: ALJ Amy Yip-Kikugawa  
Julie Halligan, Acting Director, CPSD  
Harvey Y. Morris, Asst. Gen. Counsel

**Exhibit Number** :  
**Commissioner** : Michel Peter Florio  
**Admin. Law Judge** : Amy C. Yip-Kikugawa

**Gas Safety and Reliability Branch  
Consumer Protection and Safety Division  
California Public Utilities Commission  
State of California**

**REBUTTAL TESTIMONY OF  
KEN BRUNO**

**CLASS LOCATION OII  
Investigation 11-11-009  
(November 10, 2011)  
*San Francisco, California  
August 16, 2012***

Q. Please state your name and address.

A. My name is KEN BRUNO and my business address is California Public Utilities Commission (“CPUC” or “Commission”), 505 Van Ness Avenue, San Francisco, California 94102.

Q. Please briefly describe your present position and your professional and educational background.

A. I am presently employed in the Risk Assessment Unit (RAU) of the Consumer Protection and Safety Division (“CPSD”), as a Senior Regulatory Analyst. The RAU is responsible for improving the CPUC’s ability to prevent high-profile accidents and incidents by developing a system of risk identification, risk analysis, and risk management.

My educational background includes a Bachelor’s Degree in Finance from San Francisco State University. My relevant work history includes Corporate Finance, Auditing, and Investigations. I was hired by the California Public Utilities Commission in December of 2006 in the Utility Audit, Finance, and Compliance Branch and joined CPSD in April 2008.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to rebut the explicit and implicit statements of the Pacific Gas and Electric Company (“PG&E”) in response to this proceeding and to support Staff’s Report in the Class Location OII, I.11-11-009. In PG&E’s Prepared Testimony submitted July 23, 2012, Ms. Jane K. Yura agreed with “most of the facts” of CPSD’s May 25, 2012 Report<sup>1</sup> with the exception of the “Assumed SMYS value” issue which PG&E first raised in the San Bruno OII. Consequently, CPSD and PG&E entered into negotiations for the submission of a Joint Stipulated Findings of Fact. Those negotiations failed. However, CPSD has entered into a more limited stipulation regarding this single issue in the “Stipulation Regarding Use of Assumed Values” moving the issue out of this proceeding into the San Bruno OII (I.12-01-007).

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<sup>1</sup> PG&E’s July 23, 2012 Prepared Testimony at p. 1-1.

1 Because PG&E and CPSD have not been able to agree on a Stipulated Findings of  
2 Facts, the purpose of my testimony is to summarize the class location incidents identified  
3 by PG&E, to clarify that these incidents are violations of state and federal pipeline safety  
4 regulations, and to explain that some of these alleged violations may continue to exist.

5 Q. Do you have any other comments on PG&E's July 23, 2012 served testimony?

6 A. Yes, footnote 31 on Page 1-14, of PG&E's reply testimony, and supplemental data  
7 response<sup>2</sup> indicates that PG&E believes their audited Patrolling and Class Location  
8 procedures suffice for the Continuing Surveillance procedures required by 49 CFR §  
9 192.613. CPSD disagrees as discussed in CPSD's May 25, 2012 testimony.<sup>3</sup>

10 Q. What are the alleged violations committed by PG&E in complying with state and federal  
11 law concerning class location practice in the operation of natural gas transmission  
12 systems?

13 A. They are:

#### 14 **RECORDKEEPING & RECORDS AVAILABILITY**

- 15 1. PG&E violated Subparts L and M of 49 CFR §§ 192.603 and 192.609 in failing to  
16 make construction records, maps, and operating history its transmission pipeline  
17 system available to operating personnel involved in assessing the change in  
18 classification of its pipelines. The 172 miles of misclassified transmission pipeline  
19 segments evidences PG&E's lack of compliance with these two regulations.<sup>4</sup>

23 <sup>2</sup> PG&E's 8/7/12 Response to CPUC 022-01 entitled GasTransmissionGT-  
24 SystemClassLocationOII\_DR\_CPSD\_022-Q01

25 <sup>3</sup> CPSD Report at pp. 52-53.

26 <sup>4</sup> PG&E's Response to OII (Jan. 17, 2012), at p. 2, "The June 30th Report identified  
27 approximately 172 miles, or 3%, of transmission lines as being in a higher class location than  
28 recorded in PG&E's Geographical Information System (GIS)." Without an electronic data  
storage system and the lack of properly maintained hardcopy records prevented PG&E from  
complying with 49 CFR §§192.603 and 192.609. CPSD Report at pp. 48-49.

1 **PG&E's GEOGRAPHIC INFORMATION SYSTEM ("GIS")**

- 2 2. PG&E's GIS was intended to store all of PG&E's records used to identify and  
 3 classify transmission pipelines but this system was never adequate to identify the  
 4 pipeline segment specifications on which class changes could be determined. (*Ibid.*)  
 5 3. Before September 9, 2010, PG&E's GIS was wholly inadequate and unreliable.<sup>5</sup>  
 6 4. From 2000 to present, PG&E's official place of record for class location designations  
 7 has been PG&E's GIS.

8 **CLASS LOCATION STUDY**

- 9 5. PG&E failed to make an immediate study in violation of 49 CFR § 192.609 of 224  
 10 segments of its transmission pipeline system operating at a hoop stress greater than  
 11 40% of SMYS when evidence demonstrated that an increase in population density  
 12 required a change in classification. PG&E admits that "[w]here PG&E had not  
 13 identified a change in class location that occurred prior to the June 30, 2011, Class  
 14 Location Study Report, it did not perform a class location study under Section 609 at  
 15 the time of the class location change."<sup>6</sup>  
 16 6. PG&E committed the following violations of the requirements to make a study of  
 17 class location changes under 49 CFR § 192.609:  
 18 a. 55 daily violations from 1971 to 1979;<sup>7</sup>  
 19 b. 39 daily violations from 1980 to 1989 (*ibid.*);  
 20 c. 44 daily violations from 1990 to 1999 (*ibid.*); and  
 21 d. 86 daily violations from 2000 to 2010 (*ibid.*).

22 (See also: Table 10 at page 50 of CPSD's Report and Attachment 13.)  
 23

24 <sup>5</sup> PG&E's Response to OII (Jan. 17, 2012), at p. 2, "The June 30th Report identified  
 25 approximately 172 miles, or 3%, of transmission lines as being in a higher class location than  
 26 recorded in PG&E's Geographical Information System (GIS)." "Without an electronic data  
 storage system and the lack of properly maintained hardcopy records prevented PG&E from  
 complying with 49 CFR §§192.603 and 192.609." (CPSD Report at pp. 48-49.)

27 <sup>6</sup> PG&E's February 2, 2012 response to CPUC\_184 entitled CPUC\_184-Q03Supp01.

28 <sup>7</sup> PG&E's Second Update to Response to OII, April 2, 2012, Table at p. 5.

- 1 7. PG&E classified 172.1 miles , or 3%, of its transmission pipeline system in a class  
 2 lower than the segments actual classification, i.e., these miles were operated in a class  
 3 lower than required under 49 CFR § 192.611.<sup>8</sup>
- 4 8. In failing to identify 898 pipeline segments with class location changes on its gas  
 5 transmission system (PG&E's Second Update to Response to OII, April 2, 2012),  
 6 PG&E violated 49 CFR § 192.611 in failing to confirm or revise the Maximum  
 7 Allowable Operating Pressure ("MAOP") of 224 pipeline segments operating at hoop  
 8 stress of 40% or more.<sup>9</sup>
- 9 9. PG&E failed to make an immediate study in violation of 49 CFR § 192.609 of 224  
 10 segments of its transmission pipeline system operating at a hoop stress greater than  
 11 40% of SMYS when evidence demonstrated that an increase in population density  
 12 required a change in classification. PG&E admits that "[w]here PG&E had not  
 13 identified a change in class location that occurred prior to the June 30, 2011, Class  
 14 Location Study Report, it did not perform a class location study under Section 609 at  
 15 the time of the class location change."<sup>10</sup>
- 16 10. PG&E committed the following violations of the requirements to make a study of  
 17 class location changes under 49 CFR § 192.609:
- 18 a. 55 daily violations from 1971 to 1979;<sup>11</sup>
  - 19 b. 39 daily violations from 1980 to 1989 (*ibid.*);
  - 20 c. 44 daily violations from 1990 to 1999 (*ibid.*); and
  - 21 d. 86 daily violations from 2000 to 2010 (*ibid.*).
- 22 (See also: Table 10 at page 50 of CPSD's Report and Attachment 13.)

25 <sup>8</sup> PG&E's January 17, 2012 Response to OII at p. 2.

26 <sup>9</sup> See PG&E's February 2, 2012 response to CPUC\_184 entitled CPUC\_184-Q03Supp01 and  
 Table 10 of CPSD's Report at page 50 and Attachment 13.

27 <sup>10</sup> PG&E's February 2, 2012 response to CPUC\_184 entitled CPUC\_184-Q03Supp01.

28 <sup>11</sup> PG&E's Second Update to Response to OII, April 2, 2012, Table at p. 5.

1 11. PG&E classified 172.1 miles , or 3%, of its transmission pipeline system in a class  
2 lower than the segments actual classification, i.e., these miles were operated in a class  
3 lower than required under 49 CFR § 192.611. <sup>12</sup>

4 12. In failing to identify 898 pipeline segments with class location changes on its gas  
5 transmission system (PG&E's Second Update to Response to OII, April 2, 2012),  
6 PG&E violated 49 CFR § 192.611 in failing to confirm or revise the MAOP of 224  
7 pipeline segments operating at hoop stress of 40% or more. <sup>13</sup>

#### 8 CONTINUING SURVEILLANCE

9 13. PG&E violated 49 CFR § 192.613 in failing to have an effective procedure to provide  
10 continuing surveillance which resulted in ineffective class location designations  
11 "CPSD views each and every class location misclassification as a breakdown in  
12 PG&E's continuing surveillance practices and procedure." <sup>14</sup>

13 14. PG&E's "...surveillance is accomplished primarily through regular pipeline patrols,  
14 as set forth in Standard 4127." <sup>15</sup>

15 15. PG&E's primary means of practicing continuing surveillance, pipeline patrolling,  
16 failed to adequately observe, report, and review development on the pipeline which  
17 resulted in errors in its class location designations.

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25 <sup>12</sup> PG&E's January 17, 2012 Response to OII at p. 2.

26 <sup>13</sup> See PG&E's February 2, 2012 response to CPUC\_184 entitled CPUC\_184-Q03Supp01 and  
Table 10 of CPSD's Report at page 50 and Attachment 13.

27 <sup>14</sup> CPSD Report at p. 53.

28 <sup>15</sup> Answer 6 c., SanBrunoGT-LineRuptureInvestigation\_DR\_CPUC\_196-Q06.

1       **FAILURE TO COMPLY WITH UTILITY’S OWN GAS SAFETY PROCEDURES**

2       16.     PG&E violated 49 CFR § 192.613 in failing to have an effective procedure to provide  
3             continuing surveillance which resulted in ineffective class location designations  
4             “CPSD views each and every class location misclassification as a breakdown in  
5             PG&E’s continuing surveillance practices and procedure.”<sup>16</sup>

6       **NONCOMMENSURATE MAOP FOR CURRENT CLASS LOCATION**

7       17.     57 segments (9.1 miles) had an MAOP inappropriate for their current class location  
8             (including 14 segments (2.8 miles) that did not go up in class).<sup>17</sup>

9       18.     PG&E operated 6.2 miles of pipeline (43 segments) at an MAOP above that permitted  
10            by class locations regulations. (*Ibid.*)

11      19.     Operation of 6.2 miles of pipeline (43 segments) at an MAOP above that permitted by  
12            class locations regulations is a violation of Public Utilities Code § 451. (*Ibid.*)

13      **CONDUCTING CLASS LOCATION STUDIES**

14      20.     Although a number of personnel provide information used during Section 609 class  
15            studies, as described in Utility Procedure TD-4127P-01, the pipeline engineering  
16            department is responsible for completing these studies. PG&E has not found any  
17            record of a Section 609 class study completed between September 1, 2009 and  
18            August 31, 2010. Although not documented as a formal 609 study, PG&E pipeline  
19            engineers analyzed sections of pipeline that changed in class and created projects that  
20            resulted in pipe being replaced or hydro-tested due to class location changes between  
21            September 1, 2009 and August 31, 2010.<sup>18</sup>

22      21.     “Whenever an increase in the building count or the other factors described in the  
23            Class Location definition in 49 CFR Part 192.5 indicate a change in class location, a  
24            study shall be conducted in accordance with 49 CFR Part 192.609 and 611.”<sup>19</sup>

25      \_\_\_\_\_  
26      <sup>16</sup> CPSD Report at p. 53.

27      <sup>17</sup> GTSClassLocationOII\_DR\_CPSD\_015-006.

28      <sup>18</sup> GTSClassLocationOII\_DR\_CPSD\_015-001.

<sup>19</sup> GTSClassLocationOII\_DR\_CPSD\_015-002.



**PIPELINE PATROLLING**

22. As a “ballpark” estimate, PG&E patrols approximately 10% of its gas transmission pipeline system by ground patrol and approximately 90% by aerial patrol methods.
23. PG&E utilizes its Operator Qualification (OQ) program to ensure competency of aerial personnel and their familiarity with PG&E’s patrolling procedures (OQ 08-01 and 08-02, see response to GTSCClassLocationOII\_DR\_CPSD\_009-005). These OQ requirements cover the tasks required for patrol.<sup>20</sup>
24. PG&E violated 49 CFR § 192.705 by failing to patrol 120.6 miles of pipeline and an additional 51.5 miles of pipeline that it contends it patrolled but has no records for such patrols.<sup>21</sup>
25. PG&E violated 49 CFR § 192.709 by failing to retain patrol records for the previously-mentioned 172.1 miles for at least five years. (*Ibid.*)
26. During patrols, the pilot conducting an air patrol must document any observed construction or maintenance work being done by others along the pipeline (extends at least 220 yds. on either side) or encroachments on the right-of-way.<sup>22</sup>
27. 49 CFR § 192.705(a) requires each pipeline operator to have a “patrol program to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affect safety and operation.” (Id. at p. 7.)
28. The patrol intervals required under 49 CFR § 192.705(b) are:

<sup>20</sup> GTSCClassLocationOII\_DR\_CPSD\_009-004.

<sup>21</sup> See Data Response to GTSCClassLocationOII\_DR\_CPSD\_016. “On May 21, 2012, PG&E submitted its Data Response to this Data Request stating that it has identified 120.6 miles of transmission pipelines that were not patrolled and an additional 51.5 miles which were patrolled but for which PG&E has no records.” CPSD’s Report at p. 53, footnote 92.

<sup>22</sup> GTSCClassLocationOII\_DR\_CPSD\_012-002A4ch01.

	Maximum interval between patrols <sup>23</sup>	
Class location of line	At highway and railroad crossings	At all other places
1, 2	7 ½ months; but at least twice each calendar year	15 months; but at least once each calendar year
3	4 ½ months; but at least four times each calendar year	7 ½ months; but at least twice each calendar year
4	4 ½ months; but at least four times each calendar year	4 ½ months; but at least four times each calendar year

### CHANGES IN CLASS LOCATION

29. The fundamental concept underlying the class location regulations is that operators should apply a higher safety margin to pipelines operating in areas where the consequences of failure are higher. Thus, in areas of greater population density, the regulations require pipelines to operate at a lower hoop stress and require operators to patrol the lines more frequently.<sup>24</sup>

30. 49 CFR § 192.5 classifies pipeline locations based upon a “class location unit” consisting of an area extending 220 yards on either side of the centerline of any continuous one-mile length of pipeline. The greater the population density (i.e., the number of buildings intended for human occupancy), the higher the class location designation. (*Ibid.*)

31. The application of Section 192.5 requires the use of a “sliding mile.” Dividing a pipeline into fixed one-mile segments and counting the buildings in each segment will often result in a lower population density. The “sliding mile,” on the other hand, requires moving or sliding the one-mile segment along the pipeline to identify the one-mile segment with the greatest population density. (*Ibid.*)

<sup>23</sup> PG&E’s Response to OII (Jan. 17, 2012), Table at p. 28.

<sup>24</sup> PG&E Jan. 17, 2012 Response to OII, p. 6.

32. When a class location changes, within 24 months of the change, an operator must limit the hoop stress (percentage of SMYS) corresponding to the established MAOP of a pipeline segment based on class location as follows:<sup>25</sup>

Class	%SMYS	%SMYS with valid pressure test
1	72%	72%
2	60%	72%
3	50%	60%
4	40%	50%

33. Thus, correctly identifying the class location is important to maintaining both an MAOP appropriate to the class location and a patrol schedule at the appropriate intervals. (*Id.* at p. 8.)

34. 140 miles of PG&E's transmission pipelines that went up in class (898 segments) were due to errors in PG&E's GIS.<sup>26</sup>

35. A total of 544 miles of PG&E's pipelines (2,837 segments) changed classification up or down. (*Id.* at App. A.)

36. PG&E found that 544 miles, 9.4% of PG&E's gas transmission pipelines (2,837 segments), changed in class location designation from that in its GIS – approximately one-third up and two-thirds down.

37. 159 miles, 2.8% of PG&E's gas transmission pipelines (1,192 segments) went up in class.

38. 140 of the 159 miles that went up in class (898 segments) were due to errors in PG&E's GIS.

<sup>25</sup> PG&E's Response to OII (Jan. 17, 2012), Table at p. 18.

<sup>26</sup> PG&E's Second Update to Response to OII submitted April 2, 2012, at p. 1.

1 39. PG&E's Class Location Procedures in effect between 2000 and the present do not  
2 incorporate outside information from the following sources into the company's class  
3 location determinations: Information received from builders, developers, other  
4 organizations and individuals that are planning new construction and that anticipate a  
5 need for service for the proposed development; city and county general and specific  
6 plans and information on growth land use; local government association reports on  
7 growth and land use; news articles; builders, developers, other organizations and  
8 individuals that are requesting service for new developments or that have become  
9 aware of the proposed or new construction's proximity to a transmission line; the  
10 public, usually through Underground Service Alerts, regarding excavation activities  
11 near pipelines; or outside sources.

12 40. Despite PG&E having access to this information as the provider of gas and electric  
13 service, when CPSD sought discovery of this "hook-up" or service connection  
14 information, PG&E stated "Although the date of beginning service to any customer is  
15 in PG&E's system, that customer information is not linked to transmission pipeline  
16 segments or to which development may have resulted in a class change, making the  
17 correlation of this information extremely difficult and requiring significant resources  
18 and time to prepare."<sup>27</sup>

19 41. 9.1 miles, 0.2% of PG&E's gas transmission pipelines (57 segments), had a  
20 Maximum Allowable Operating Pressure (MAOP) inappropriate for their current  
21 class location (including 2.8 miles (14 segments) that did not go up in class. (*Id.* at p.  
22 41.)

23 42. PG&E has reduced pressure, conducted hydro tests, replaced pipe and has taken other  
24 action as necessary to assure safety on these segments. (*Ibid.*)

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27 <sup>27</sup> See Attachment 10 - E-mail from Lisa Lieu (PG&E) to Michelle Cooke (CPUC) sent  
28 August 12, 2011 at 4:55 PM.

1 43. The table below summarizes PG&E's current conclusions about the reasons the 159  
2 miles (1,192 pipeline segments) have a higher class designation today than was  
3 reflected in GIS, along with a code indicating whether the change is due to an error  
4 (E) or the use of more conservative criteria (C).

5 Reasons for class change up:  
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Reason Number	Description	Change Type (E, C)	Segment Number (1%)	Miles (%)
1	Buffers added to 220 yard and 100 yard distances described in 49 C.F.R. § 192.5	C	114 (9.6%)	4.3 2.7%
2	Application of the Cluster Rule	E	223 (18.7%)	4.8 (3.0%)
3a	Other (Consistency) – If a small portion of lower-class pipeline was in the midst of higher-class pipeline, the lower class area was changed to match the higher class on either side of it.	C	94 (7.9%)	4.8 (3.0%)
3b	Other (Future Development) – Although the current class location designation is accurate, area has high potential for growth in the near future that would cause a class change.	C	11 (0.9%)	1.0 (0.6%)
3c	Other (Different structure used for clustering) – A different structure used for clustering	E	23 (1.9%)	1.4 (0.9%)
4	Expansion – development caused by class change	E	339 (28.4%)	73.1 (45.9%)
5	WDA (Well Defined Area) – PG&E’s contractor identified a WDA not previously identified	E	224 (18.8%)	18.5 11.6%
6	Shorts – decision to make shorts match the class location designation of their source route	E	89 (7.5%)	0.6 (0.4%)
7	Sliding mile performed			

1		in all directions at an intersection of pipelines to determine most conservative	C	75 (6.3%)	8.7 (5.5%)
2					
3	8	Field Verification provided additional information		0 (0.0%)	0 (0.0%)
4					
5		<b>TOTAL</b>		1,192 (100.0%)	159.3
6					

7 44. PG&E determined that there were 277 segments that went up in class and had an  
8 MAOP greater than 40% of its Specified Minimum Yield Strength (SMYS).

9 45. Where PG&E had not identified a change in class location that occurred prior to the  
10 June 30th Report, it did not perform a class location study under Section 609 at the  
11 time of the change.

12 46. Under PG&E's patrol procedure, Utility Procedure TD-4412P-07, each local PG&E  
13 office is required to annually review and update a report listing transmission lines to  
14 be patrolled, and the method for patrolling that pipeline (ground, fixed wing plane,  
15 helicopter). "This report would be used in setting the quarterly patrol schedule.  
16 PG&E's review found that this procedure has not been followed by all local offices,  
17 and, as a result, some segments of transmission pipeline...have [not] been patrolled."

18 47. Historically, PG&E had procedures for patrolling...[and] class location studies that, if  
19 followed, should have identified changes in population density affecting class  
20 location in a timely manner and resulted in class location designations being updated  
21 as necessary. The results of the June 30th Report, however, indicate the previous  
22 procedures were not effective in identifying all class location changes.

#### 23 **YEAR OF CLASS CHANGE**

24 48. PG&E's contractor determined the most likely year of change for the segments that  
25 went up in class due to Reasons 2, 3c, 4,2 5, and 6, as follows:  
26  
27  
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	<b>TOTAL</b>		
<b>Date</b>	<b>Miles</b>	<b>% of Miles</b>	<b>Segments</b>
By 1971	22.4	16%	162
1972-1979	12.1	9%	71
1980-1989	28.2	20%	164
1990-1999	34.1	24%	198
2000-2008	41.4	29%	264
2009-2011	2.3	2%	39
<b>TOTAL</b>	140.4	100.0%	898

49. CPSD's Summary of Alleged PG&E Violations in Table 12 and Attachments 11, 12, 13, 14, 15, and 16 of its May 25, 2012 investigative report in this proceeding are accurate and correct.

#### **POTENTIAL ON-GOING VIOLATIONS**

50. Because PG&E did not dispute any specific allegations in CPSD's May 25, 2012 Report, CPSD has no way of knowing whether PG&E's corrections to the admitted violations have been completed. The following allegations in that Report are:

- a. Recordkeeping under Subparts L and M;
- b. Commencement of immediate class studies upon discovery of increased population density adjacent to transmission pipelines;
- c. Timely confirmation or revision of MAOP where class of the transmission segments have potentially changed;
- d. Use of PG&E electric and gas hook-ups, local government building permits, and other similar sources of information concerning increased population density adjacent to transmission pipelines;



- 1 e. Corrections of internal regulations, policies, and training programs to ensure that  
2 all PG&E employees who operate in the field are on the look out for possible dig-  
3 ins, encroachments, and new construction adjacent to transmission pipelines;  
4 f. Corrections to PG&E practice with respect to the discovery and operation of  
5 transmission pipeline segments operating above MAOP;  
6 g. Corrections to regulations, policies, training, and practice concerning the  
7 patrolling of transmission pipelines; and  
8 h. Corrections to regulations, policies, training, and practice concerning  
9 improvements necessary to meet federal and state regulations for “continued  
10 surveillance.”

#### 11 **COMMISSION’S PENALTY CONSIDERATIONS**

12 51. PG&E contends that the days of violations provided in CPSD’s May 25, 2012 report  
13 are “based on individual pipe segments...[and] the number and identity of pipeline  
14 segments is not fixed.” (PG&E Prepared Testimony of Jane K. Yura, dated July 23,  
15 2012, page 1-1.) I would like to make clear that while PG&E contends that “the  
16 number of segments [in violation] are constantly changing” (Yura Testimony at page  
17 1-1, footnote 2), PG&E’s admissions to the serious violations of state and federal gas  
18 safety laws detailed in my original testimony are fixed and fully admitted by PG&E,  
19 are violations of law or regulation, and require the Commission to impose significant  
20 penalties on the utility under California Public Utilities Code § 2104.5, which  
21 particularly provides that:

22 “Any penalty for violation of any provision of this act, or of any  
23 rule, regulation, general order, or order of the commission,  
24 involving safety standards for pipeline facilities or the  
25 transportation of gas in the State of California may be  
26 compromised by the commission.”

27 And further provides:  
28

1 “In determining the amount of such penalty, or the amount agreed  
2 upon in compromise, the appropriateness of such penalty to the  
3 size of the business of the person charged, the gravity of the  
4 violation, and the good faith of the person charged in attempting  
5 to achieve compliance, after notification of a violation shall be  
6 considered.”

7 Q. On what do you base your contention that the penalty that the Commission should assess  
8 against PG&E should be significant?

9 A. First, the gravity of PG&E’s failure to properly assess and mitigate the risks of its  
10 natural gas transmission system was extremely high resulting in the death of eight  
11 residents and the destruction of 38 homes in San Bruno, California.

12 Second, in assessing its good faith in achieving compliance with federal and state  
13 gas safety regulations, PG&E admits that in the past:

- 14 a) it failed to properly begin a study to consider the proper classification of  
15 its pipelines by confirming or revising the Maximum Allowable Operating  
16 Pressure in locations with increased population density in violation of 49  
17 CFR §§ 192.609 and 192.611;
- 18 b) it failed to maintain proper recordkeeping for its class location duties in  
19 violation of 49 CFR §§ 192.603, 192.605, and 192.709(c);
- 20 c) it also failed comply with its own safety rules in violation of 49 CFR §  
21 192.113(c);
- 22 d) it failed to provide continuing surveillance of its pipeline system in both  
23 practice and procedure in violation of 49 CFR § 192.613;
- 24 e) it failed to patrol its pipeline system for class location changes and  
25 maintain those records for at least five years in violation of 49 CFR  
26 §§ 192.705 and 192.709; and
- 27 f) finally, PG&E failed to furnish and maintain such adequate, efficient,  
28 instrumentalities, equipment, and facilities to promote the safety, health, of

1                   its patrons, employees, and the public in violation of California Public  
2                   Utilities Code § 451.

3 Q.     Do you have any other grounds for contending that the penalties assessed by the  
4           Commission should be substantial?

5 A.     Yes. This proceeding is an Order Instituting Investigation which is an advocacy  
6           proceeding looking to determine violations committed by PG&E in gas safety in the past.  
7           There is a related Rulemaking proceeding, R.11-02-019, which is intended to implement  
8           corrections to PG&E operations on a going-forward basis. This OII, instead, is the proper  
9           place for the Commission to consider past errors and violations of the utility and to ensure  
10          PG&E and other gas utilities do not commit similar dangerous and fatal violations  
11          through the imposition of significant, serious, and substantial penalties as appropriate  
12          pursuant to California Public Utilities Code § 2104.5.

13 Q.     Does this conclude your prepared direct testimony?

14 A.     Yes.

15 Q.     Does this conclude your prepared direct testimony?

16 A.     Yes.

17                   Ken Bruno  
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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing document, **“REBUTTAL TESTIMONY OF KEN BRUNO FOR THE UTILITIES SAFETY AND RELIABILITY BRANCH OF THE CONSUMER PROTECTION AND SAFETY DIVISION”** in I.11-11-009 on all the parties to this proceeding by first-class mail as well as the assigned Administrative Law Judge, Amy Yip-Kikugawa, by personal delivery.

Executed in San Francisco, California, on the 16<sup>th</sup> day of August, 2012.

/s/ NELLY SARMIENTO  
NELLY SARMIENTO



California Public  
Utilities Commission

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