

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company to Determine Violations of Public Utilities Code Section 451, General Order 112, and Other Applicable Standards, Laws, Rules and Regulations in Connection with the San Bruno Explosion and Fire on September 9, 2010.

I.12-01-007
(Filed January 12, 2012)

(Not Consolidated)

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company with Respect to Facilities Records for its Natural Gas Transmission System Pipelines.

I.11-02-016
(Filed February 24, 2011)

(Not Consolidated)

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company's Natural Gas Transmission Pipeline System in Locations with Higher Population Density.

I.11-11-009
(Filed November 10, 2011)

(Not Consolidated)

**MOTION OF THE CONSUMER PROTECTION AND SAFETY DIVISION
FOR PERMISSION TO FILE A SINGLE COORDINATED BRIEF
REGARDING FINES AND REMEDIES IN PROCEEDINGS I.11-02-016,
I.11-11-009, AND I.12-01-007**

I. INTRODUCTION

Pursuant to Rule 11.1 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure, the Consumer Protection and Safety Division (CPSD) hereby requests permission to file a single, coordinated brief regarding fine and remedies in the three above-captioned proceedings. Concurrent with this motion, CPSD is also

filing a motion for leave to file supplemental direct testimony that pertains to PG&E's financial resources and ability to pay fines. Because of the potential liability involved in the San Bruno-related proceedings, CPSD believes the Commission and the assigned Administrative Law Judges (ALJs) will greatly benefit from a consolidated, comprehensive brief on CPSD's recommendations for fines and remedies in one coordinated request. This coordinated effort will greatly benefit from the supplemental direct testimony that CPSD also requests leave to serve, as the supplemental report will form the basis for an important part of CPSD's fine recommendation.

Although the three OIIs are separate proceedings, CPSD has always believed these three cases are inextricably linked by facts and circumstances. CPSD's request for a coordinated brief on fines and remedies is reasonable in that the recommendation for fines and remedies should be viewed as a comprehensive whole. The overall goal has never changed – to provide for a safer and more reliable natural gas system.

Understandably, the assigned ALJs have ordered CPSD to provide its recommendations regarding fines and remedies in its Opening Briefs in the three OIIs. CPSD fully intends, and always intended, to provide its recommendations in its briefing. However, CPSD believes it is procedurally desirable to coordinate the three separate recommendations into one comprehensive recommendation on fine and remedies.

This request pertains to all of the three above-captioned cases. This single motion consolidates what would otherwise be separate motions in each of the above-captioned proceedings.

II. SUPPLEMENTAL REPORT REGARDING PG&E'S FINANCES

Filed concurrently with this motion is CPSD's request for leave to file additional supplemental direct testimony. The focus of the additional testimony is PG&E's financial resources. Specifically, the report focuses on PG&E's ability to pay fines and/or remedies up to a certain amount without directly or indirectly harming ratepayers. CPSD believes the Commission and the assigned Administrative Law Judges (ALJs) will greatly benefit from the information contained in the report, especially as it relates to the utility's ability to pay substantial fines. (See D.98-12-075.)

This supplemental report will provide important and relevant information regarding PG&E's ability to fines, and will form part of the basis upon which CPSD will base its recommendations for fines and remedies. Moreover, because PG&E's financial resources are an important consideration in each proceeding, there is necessarily a good deal of overlap between the three OIIs with regards to fines and remedies. One coordinated brief on fines and remedies will reduce the overlap, consolidating CPSD's recommendations into one comprehensive whole.

III. MOTION TO FILE A SINGLE COORDINATED BRIEF REGARDING FINES AND REMEDIES IN PROCEEDINGS I.11-02-016, I.11-11-009, AND I.12-01-007

Therefore, CPSD requests that the procedural schedule be altered in this proceeding. In lieu of three separate recommendations in the three OIIs, CPSD requests permission to file a single, coordinated recommendation on fines and remedies that would include all three OIIs. In essence, CPSD is also requesting additional time in the procedural schedules of the three OIIs to brief the issues of fines and remedies. In proceeding I.11-11-009, briefing is due on September 14th, 2012. In I.12-01-007, briefing is currently due 10 after the last day of evidentiary hearings.¹ In I.11-02-016, a due date for opening briefs has not yet been scheduled.

CPSD would require additional time to prepare its coordinated recommendation, because it will take a substantial amount of coordination to make a comprehensive recommendation in all three proceedings at one time, although CPSD believes the Commission will greatly benefit from such coordination. Also, the evidentiary hearings in I.12-01-007 are not scheduled to end until October 19th; thus the record will not be complete until that date. CPSD believes that 45 days from the last day of hearings in I.12-01-007 is a reasonable amount of time to prepare the coordinated brief on fines and remedies.

¹ At the prehearing conference on August 29th, CPSD, DRA, TURN, CCSF, and the City of San Bruno requested that parties be given at least 30 days for opening briefs. The parties' request was taken under consideration by ALJ Wetzell. The last day of hearings is currently set for October 19th.

CPSD proposes that the coordinated brief on fines and remedies would be filed as a separate brief from the opening briefs on violations in the three OIIs. CPSD proposes that the opening briefs be essentially bifurcated into violations and fines/remedies. If CPSD's proposal is adopted, CPSD would file its briefs on violations on the due dates in each proceeding. However, the recommendations on fines and remedies would be combined into one brief, to be served after the close of evidentiary hearings in I.12-01-007 (which is scheduled last out of the three).

A. Request for Order Shortening Time to Respond

CPSD requests that parties' time for responding to this motion be limited to 3 days. Pursuant to Rule 11.1, parties typically have 15 days to respond. CPSD has informed the parties in advance of this request and no parties indicated that they would oppose the motion.

IV. ADDITIONAL TIME FOR OPENING BRIEFS IN I.12-01-007

In addition, CPSD reiterates its request for additional time for opening briefs in I.12-01-007. CPSD recommends that its opening brief on violations be due on the same date as the opening brief on fines and remedies (if the recommendation is adopted). Currently, the Scoping Memo provides for only 10 days for opening briefs. This investigation lasted over a year and a half and involved dozens of investigators and engineers working on behalf of both the NTSB and CPSD. CPSD's Report and Rebuttal Testimony consist of hundreds of pages of facts and evidence. CPSD's investigation gathered and examined hundreds of exhibits. It is simply not possible to prepare a review of the evidence and recommendations on findings of violations in only 10 days, without causing substantial prejudice to the depth and quality of the analysis. CPSD understands that this case is governed by Public Utilities Code Section 1701.2(d), but considering the size and complexity of the case, good cause exists to provide the parties with more than 10 days to prepare opening briefs.

Respectfully submitted,

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