

**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 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)

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 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

R.11-02-019  
(Filed February 24, 2011)

(Not Consolidated)

**PACIFIC GAS AND ELECTRIC COMPANY'S RESPONSE TO MOTION  
FOR PARTY STATUS OUT-OF-TIME OF THE SACRAMENTO  
MUNICIPAL UTILITY DISTRICT**

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Having sat on the sidelines for the 20 months these proceedings have been pending, the Sacramento Municipal Utility District (SMUD) now seeks party status "to participate as an active party in settlement discussions, and if necessary, further proceedings." (SMUD Motion at 3.) The expressed reason for SMUD's late interest is its desire "to preserve its rights under the Co-ownership Agreement" between it and PG&E. (*Id.*) Because SMUD seeks at this late date to

use the Commission proceedings to advance its interests under a commercial agreement between it and PG&E, the motion should be denied.

While asserting – as it must under the Commission’s Rules of Practice and Procedure – that its interests (and those of its customers) “are not represented by any other party to these proceedings, and SMUD’s participation will be directly relevant to the issues raised in these cases and ensuing settlement discussions” (*id.*), SMUD makes clear that it desires to participate in settlement negotiations “to protect its ownership interests.” (*Id.*) That SMUD is pursuing its commercial interests is made abundantly clear by its detailed recitation of its “direct interest in any outcome of these proceedings” (*id.* at 2):

(1) this investigation into PG&E’s past operating practices could reveal how PG&E operated the pipelines that SMUD co-owns; (2) findings of compliance with applicable standards, laws, rules and regulations could affect the rights of the parties under the Co-ownership Agreement; (3) settlement of claims in these proceedings could affect the rights of the parties under the Co-ownership Agreement; and (4) any proposals presented in these proceedings could directly affect the safety and operation of PG&E's gas transmission system in which SMUD has an equity interest. (*Id.*; emphasis added.)

The Commission has consistently held that it does not have jurisdiction over and does not provide a forum for the determination of private contract rights. *See, e.g., Windmill v. Alco Transportation Co.*, D.86-05-044, 1986 Cal. PUC LEXIS 321 at \*9 (“The Commission has no jurisdiction to hear and determine contract disputes.”).

The rationale behind the Commission’s declining to become embroiled in contractual disputes applies with particular force here. These proceedings have been going on for more than a year and a half. They are already complex enough. They involve multiple active parties, and difficult issues of law and fact. At a time when the parties who have been involved from the beginning are seeking to focus on negotiations toward a stipulated resolution, the last thing that process needs is a new party with entirely different interests.

SMUD states that it was content until now to watch the proceedings as an interested party because the proceedings are public. The proceedings will continue to be public. If the parties are able to reach a stipulated resolution, they will present it to the Commission in a public filing. The Commission will then conduct a public proceeding to examine the stipulation before the Commission considers it.

SMUD should not be allowed to attempt to use settlement discussions among the active parties to these proceedings to advance its commercial interests. The motion for party status should be denied.

Respectfully submitted,

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