

**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)

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)

**RESPONSE OF THE
SACRAMENTO MUNICIPAL UTILITY DISTRICT**

William Westerfield
Sacramento Municipal Utility District
6201 S Street
Sacramento, CA 95817-1899
(916) 732-6123
William.Westerfield@smud.org

October 15, 2012

Kelly A. Daly
Stinson Morrison Hecker LLP
1775 Pennsylvania Avenue, NW, Suite 800
Washington, DC 20006
202-728-3011
KDaly@stinson.com
Attorney for
Sacramento Municipal Utility District

**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)**

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)**

**RESPONSE OF THE
SACRAMENTO MUNICIPAL UTILITY DISTRICT**

In accordance with Rule 11.1(f) of the Rules of Practice and Procedure of the California Public Utilities Commission (“CPUC”), the Sacramento Municipal Utility District (“SMUD”), having obtained the requisite advanced (verbal) authorization from Administrative Law Judge

Amy C. Yip-Kikugawa, on behalf of herself and her colleagues, Administrative Law Judges Mark S. Wetzell and Maribeth A. Bushey on October 12, 2012, respectfully submits the instant Response to Pacific Gas and Electric Company's ("PG&E") opposition to SMUD's Motion for Party Status Out-Of-Time. SMUD is authorized by PG&E counsel to represent that PG&E will not oppose SMUD's request to file the instant responsive pleading.

SMUD has been actively monitoring these proceedings and admittedly did not intervene at an earlier stage because it did not intend to file testimony or to influence the outcome of the litigation in these proceedings. Rather, SMUD's interest was to closely follow the proceedings (including the procedural orders and testimony) to insure that its interests were in no way impacted by these proceedings. As an equity owner of one of PG&E's transmission pipelines, not associated with the San Bruno pipeline that ruptured, SMUD did not believe that it was likely that the scope of the planned evidentiary hearings could impact SMUD's interests. As a result, the observer role that SMUD intended to play in this litigation did not seem consistent with the intent of CPUC's guidance for an active party.¹ However, on the eve of the evidentiary proceedings a motion was filed seeking to suspend the procedural schedule in order to facilitate settlement discussions. SMUD is not taking a position on the merits of that motion. But immediately upon the filing of that motion, SMUD realized the implications of these changed circumstances and filed its Motion for Party Status. SMUD is concerned that the granting of the motion to suspend the proceedings could significantly change the posture of the proceedings and impact SMUD's rights and obligations associated with its ownership share of PG&E's transmission system. Contrary to PG&E's contention,

¹ Generic language in CPUC order's define a "Party" as "one who actively participates in the proceeding by filing comments or appearing at workshops or hearings." *See, e.g., Order Instituting Rulemaking to Improve Public Safety by Determining Methods for Implementing Enhanced 9-1-1 Services for Business Customers and for Multi-line Telephone System Users, Notice of Assignment to ALJ*, 2010 Cal. PUC LEXIS 95 at *19-20 (Apr. 14, 2010)

SMUD is not trying to "advance its interests under a commercial agreement" or "provide a forum for the determination of private contract rights." Rather, SMUD merely seeks to protect its interest. Because settlements, by their very nature are unstructured, SMUD is concerned that a resolution in the settlement proceedings could involve a commitment by PG&E to the CPUC or to interested parties that inadvertently or deliberately restricts SMUD's rights or obligates SMUD to engage in certain activity or cost responsibility by virtue of its co-ownership interests. In order to protect SMUD and, if necessary, to explain to parties how a resolution with PG&E in settlement could impact SMUD, SMUD needs to be in attendance as its interest cannot be adequately protected by any other party. For example, if a settlement is reached and presented to the Commission for approval, SMUD would be concerned with how monies or penalties shall be recovered or where such amounts shall come from. SMUD believes that it is important to insure that SMUD would not be responsible for such settlement costs and that the wording of any settlement is clear so as to prevent any future interpretation that SMUD, as a co-owner of another PG&E pipeline asset, would have liability under such settlements. Similarly, there are allegations of gross negligence and misconduct in these proceedings. SMUD is concerned that any language in a settlement used to admit such allegations on the part of the pipeline ownership be carefully tailored so as not to impute wrongful activity to SMUD's passive ownership in other PG&E facilities.

Finally, PG&E's suggestion that SMUD be denied party status at this early stage of negotiations and instead wait until the settlement is presented to the Commission for approval to seek party status and to raise its concerns at that time, pre-supposes that SMUD would be granted party status at that late date and seems to be contrary to an efficient process as it could

involve a considerable waste of resources to correct errors so late in the process rather than get any resulting stipulation prepared correctly the first time.

IV. CONCLUSION

SMUD believes its designation of party status as this point in the proceeding will not prejudice any party, delay the schedule or broaden the scope of the proceeding. For the reasons stated above, SMUD respectfully requests that the Commission grant this Motion for Party Status Out-Of-Time, and designate SMUD as an interested party.

Respectfully submitted,

William W. Westerfield, III
Sacramento Municipal Utility District
6201 S Street
Sacramento, CA 95817-1899
(916) 732-6123
(916) 732-6581 (Fax)
William.Westerfield@smud.org

/s/ Kelly Daly
Kelly A. Daly
Stinson Morrison Hecker LLP
1775 Pennsylvania Avenue, NW
Suite 800
Washington, DC 20006
202-728-3011
KDaly@stinson.com

Attorney for
Sacramento Municipal Utility District

October 15, 2012