

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 DIVISION OF RATEPAYER ADVOCATES
TO MOTION BY THE CONSUMER PROTECTION AND SAFETY DIVISION TO
SUSPEND PROCEEDINGS
IN I.12-01-007, I.11-02-016, I.11-11-009 AND R.11-02-019**

In response to the deadly explosion of a PG&E gas transmission pipeline in San Bruno in September 2010, the Commission opened three enforcement proceedings,

Investigation (I.) 11-02-016 (“Records Investigation”), I.11-11-009 (“Classification Investigation”), and (I.12-01-007 (“San Bruno Investigation”)) (together “Enforcement Cases”). In addition, the Commission opened a forward-looking rulemaking proceeding to determine what work must be done by PG&E to bring its pipeline system up to safety standards and how much of the cost of that work should be borne by its shareholders rather than its ratepayers -- Rulemaking (R.) 11-02-019 (“Safety Rulemaking”).¹ The pipeline safety plans of certain other gas utilities and industry-wide changes to improve safety are also being considered in this Rulemaking.

DRA has submitted testimony and briefs in the Safety Rulemaking, as have several other parties. DRA has intervened in the three Enforcement Cases and although it is not actively participating in the hearings, it plans to file briefs (unless proceedings are suspended). Concurrent with the hearing and briefing schedules in these four cases, DRA has also been involved, for some time, with other parties in exploring the possibility of settlement with PG&E.

Last Friday, October 5, 2012, shortly before 5 p.m., a motion was filed on behalf of the Commission's Consumer Protection and Safety Division (CPSD) requesting the immediate suspension of all activities in all four of these proceedings “in order to facilitate good-faith negotiations among the parties toward a stipulated outcome.” Although the motion states that “good cause exists to grant this request,” the only reason articulated in the half-page motion is that “the pendency of ongoing proceedings, particularly evidentiary hearings, is impeding the ability of parties to engage fully” in settlement negotiations.

The timing and substance of this motion, which was filed at the direction of the Commission’s General Counsel, raise grave concerns. First we address our concerns about suspending the Rulemaking, then the Enforcement Cases.

¹ R.11-02-019 is categorized as ratesetting, except for an earlier adjudicatory phase.

CPSD's Request to Suspend the Safety Rulemaking Should Be Denied

CPSD is not a party to the Safety Rulemaking and therefore does not have standing to ask that it be suspended.² For the Administrative Law Judge to grant suspension at the request of a non-party would violate the due process rights of the active parties to the Safety Rulemaking, who submitted testimony and completed hearings and briefing on PG&E's pipeline safety plan (and shareholder cost responsibility) several months ago. The record is well developed in this part of the case and a Proposed Decision is expected shortly.

Further, PG&E's plan is not the sole focus of the Safety Rulemaking. Whistleblower protection rules for all gas utilities have been proposed and vetted in the Safety Rulemaking. It is also the vehicle for implementing Senate Bill 705.³ That legislation, signed by the Governor in October 2011, requires each gas utility to develop a plan for the safe and reliable operation of its gas pipeline system, and requires the Commission to accept, reject, or modify each plan by December 31, 2012. CPSD has shown no reason to suspend these worthwhile efforts. In fact, it boggles the mind that the *Commission's Consumer Protection and Safety* Division would call for the suspension of these efforts to make utility operations safer!

The Assigned Commissioner in R.11-02-019 should deny CPSD's motion with respect to the Safety Rulemaking.

CPSD Has Not Justified Suspension of Hearings in the Enforcement Cases

The hearings on the Enforcement Cases are nearly completed. Only two more weeks, perhaps less, are needed to complete hearings in the San Bruno Investigation, and only one witness remains to be cross-examined in the Recordkeeping Investigation. Several PG&E witnesses who have not yet testified were scheduled to be cross-examined under oath this week and next. Given the limited amount of hearing time remaining, why does CPSD seek to suspend all further process in these proceedings? And why now, and with such extreme urgency?

It is common for parties, including DRA, to jointly request a suspension or a stay of the litigation schedule when they have reached a settlement in principle, or at least have reason to

² DRA understands that CPSD was a party only to an earlier Order To Show Cause phase of the proceeding for the limited purpose of presenting the case for the Order To Show Cause, which was an adjudicatory phase of this Rulemaking. CPSD serves in an advisory capacity for the rest of the proceeding; thus, it cannot also be a party.

³ Codified at Public Utilities Code §§ 961 and 963.

believe that they are getting close to that point. Here, a settlement in principle has not been reached, and of all the parties engaged in settlement negotiations, only PG&E has supported CPSD's motion.

Granted, it is next to impossible for parties to participate fully in hearings and intensive settlement talks at the same time. But parties could be given time to focus on settlement *after the hearings*, by suspending the briefing schedule for a specified period of time. At the hearing on the motion held on Monday October 8, counsel for CPSD was asked if that would be an acceptable alternative. Apparently it is not, for reasons that are unclear.

As DRA stated at the hearing on CPSD's motion on October 8th, in these cases there is a particularly strong public interest in getting the evidence into the record. That record development is not inconsistent with settlement. Several PG&E witnesses have yet to testify under oath, and the hearings are only two weeks from completion. At this late juncture, they should be cut short only for a very good reason. CPSD has not offered one.

Respectfully submitted,

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