

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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.

Rulemaking 11-02-019
(Filed February 24, 2011)

APPLICATION FOR REHEARING

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1. INTRODUCTION

Pursuant to Article 16 of this Commission's Rules of Practice and Procedure, Californians for Renewable Energy, Inc. (CARE), a party to this proceeding, hereby seeks rehearing and reconsideration of D.12-12-030 which approved the *Decision mandating pipeline safety implementation plan, disallowing costs, allocating risk of inefficient construction management to shareholders, and requiring ongoing improvement in safety engineering*. The decision commits clear legal error under California Public Utilities Code Section 328(b), is not supported by the substantial evidence in the record, is prejudicial to the parties because it is based on hearsay evidence, and is also prejudicial to the public. CARE's rehearing request seeks reversal of D.12-12-030.

2. DISCUSSION

Essentially the Decision is fatally flawed for violating California Public Utilities Code Section 328(b) "No customer should have to pay separate fees for utilizing services that protect public or customer safety" because it allows without any supporting evidence PG&E to file and the Commission to approve Natural Gas Transmission Pipeline Replacement and Testing Implementation Plans based on an unproven Maximum Allowable Operating Pressure Methodology.

As CARE stated in its April 13, 2011 OIR comments “The PG&E pipeline survey sheet^[1] provided to the NTSB shows at page 10 that segment 180 was never pressure tested but that nearby segment 181.2 was pressure tested at 1407 PSIG on 1/1/1994, and segment 178.5 was pressure tested at 1431 PSIG on 1/1/1995. Notably on page 2 of PG&E’s pipeline survey report it lists that at segment 103.11 and 103.44 a pressure test was conducted on 6/21/2007 at 1120 PSIG, but what is odd is that the maximum allowable operating pressure (MAOP) is erroneously reported as 720 PSIG?...Because Line 132 was clearly subject to repeated testing under an ineffective protocol necessary to prevent Line 132 from failing, therefore there is no comprehensive catastrophic risk assessment at this time available to contain the risk of reoccurrence of the tragedy that occurred in San Bruno.” [CARE comments on OIR p. 4]

On April 21, 2011, Pacific Gas and Electric Company (PG&E) filed and served its Motion for Adoption of a Maximum Allowable Operating Pressure Validation Methodology and also requested that the time for responding to the motion be shortened to five days. PG&E stated that a Commission response to the motion was purportedly urgently required as it is in the midst of the Commission-ordered validation effort and needs immediate guidance as to whether its validation methodology is acceptable to the Commission.

Oddly D.12-12-030 ignores CARE’s April 28, 2011 response to PG&E’s Motion. “PG&E’s motion itself provides incontrovertible evidence that PG&E does not have any Quality System, Process validation, Installation qualification, Process performance qualification, Product performance qualification, Prospective validation, Retrospective validation, or a Validation protocol in place to allow the determination of “whether its validation methodology is acceptable to the Commission”.

¹ <http://dms.nts.gov/public%2F49500-49999%2F49896%2F459557.pdf>

The Quality System (QS) defines process validation as establishing by objective evidence that a process consistently produces a result or product meeting its predetermined specifications. The goal of a quality system is to consistently produce products that are fit for their intended use. Process validation is a key element in assuring that these principles and goals are met.

Processes are developed according to the design controls and validated and the process specifications, hereafter called parameters, are derived from the specifications for the device, component or other entity to be produced by the process. The parameters are documented in the device master record. The process is developed such that the required parameters are achieved. To ensure that the output of the process will consistently meet the required parameters during routine production, the process is validated.

The basic principles for validation may be stated as follows:

1. Establish that the process equipment has the capability of operating within required parameters;
2. Demonstrate that controlling, monitoring, and/or measuring equipment and instrumentation are capable of operating within the parameters prescribed for the process equipment;
3. Perform replicate cycles (runs) representing the required operational range of the equipment to demonstrate that the processes have been operated within the prescribed parameters for the process and that the output or product consistently meets predetermined specifications for quality and function; and
4. Monitor the validated process during routine operation. As needed, requalify and recertify the equipment.

3. SPECIFIC ERRORS IN D.12-12-030

Violations of California Public Utilities Code Section 328(b)

Under California Public Utilities Code Section 328(b) "No customer should have to pay separate fees for utilizing services that protect public or customer safety ." Decision 12-12-030² issued on December 28, 2012; the purported *Decision Mandating Pipeline Safety Implementation Plan, Disallowing Costs, Allocating Risk of Inefficient Construction Management to Shareholders, and Requiring Ongoing Improvement in Safety Engineering* ; is in violation of this Code Section because it does the exact opposite of the statutory mandate under Section 328(b); making PG&E's customers pay separate fees for utilizing services that protect public or customer safety while recognizing knowingly PG&E's "shareholders have reaped profits of over \$500 million above the authorized return on equity, deferred maintenance of system facilities, and neglected safety improvements" as reported by the CPUC's own Division of Ratepayer Advocates ["DRA"].³

Examples of the Commission unlawfully making PG&E's customers pay separate fees for utilizing services that protect public or customer safety are as follows:

Under Section 5.2.2.1; **Pipeline Replacements** the Decision errors "In denying "TURN's request that PG&E's proposed decision tree be modified and the costs associated with the M2 Action Box be disallowed"⁴ the Commission instead approved "to replace 185.5 miles of mostly older pipeline at a total cost of **\$818.7 million during 2012, 2013 and 2014**. All of these

² [Exhibit 1] to Complaint See <http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=40630686>

³ Rulemaking 11-02-019 Decision 12-12-030 P. 25.

⁴ D.12-12-030 at P. 73

costs will be capitalized."⁵ "The M2 Action Box includes 100 miles of pipeline with an estimated replacement cost \$450 million."⁶

In-line Inspection Costs the Decision states "PG&E estimates that it will spend \$38.8 million for pipeline retrofits to enable in-line inspection in 2012, 2013, and 2014. Of this amount, \$29.2 million will be capitalized and \$9.6 million will accounted for as expense."⁷ The Commission again unlawfully approved separate fees for safety measures PG&E should have already had in place. "We find that PG&E has justified its proposal to increase its in-line inspection program by **\$38.8 million**"⁸

Valve Automation Proposal the Decision states "PG&E proposes to replace, automate, and upgrade 228 valves in Phase 1 of the Implementation Plan"⁹... "PG&E estimates that the overall valve program for Phase 1 will cost **\$128.3 million** which PG&E requests authorization to include in revenue requirement. This total is comprised of \$118.8 million to be capitalized and \$9.5 million in expenses for 2012, 2013, and 2014."¹⁰

Interim Safety Measures the Decision states "No party objected to PG&E's proposed **interim safety measures of pressure reductions and increased patrols of pipeline**, at an estimated total cost of **\$3.2 million** for 2012, 2013, and 2014. Similarly, PG&E's proposed **\$30.2 million total cost for extra management of the Implementation Plan programs** was not disputed as a separate line item. We, therefore, approve these requested elements." CARE's silence on these so-called interim safety measures cannot be inferred to mean PG&E's customers

⁵ *Id.* at P. 70

⁶ *Id.* at P. 73

⁷ *Id.* at Pp. 73-74

⁸ *Id.* at P 75

⁹ *Ibid.*

¹⁰ *Id.* at P 76

must pay separate fees for utilizing services that protect public or customer safety in violation of California Public Utilities Code Section 328(b).

PG&E failed to “maintain the facilities for which a certificate is requested in accordance with Federal safety standards.

The record presented by the NTSB demonstrates beyond any reasonable doubt that PG&E failed to “maintain the facilities for which a certificate is requested in accordance with Federal safety standards.” According to the NTSB report ¹¹ [P-11-008-020] on the San Bruno events provides ample evidence of violations by PG&E in concert with CPUC issued September 26, 2011 stating [P. 5] “*The NTSB concludes that the 95 minutes that PG&E took to stop the flow of gas by isolating the rupture site was excessive.*”

This delay, which contributed to the severity and extent of property damage and increased risk to the residents and emergency responders, in combination with the failure of the SCADA center to expedite shutdown of the remote valves at the Martin Station, contributed to the severity of the accident....

Federal regulations prescribe, at Title 49 *Code of Federal Regulations* (CFR) 192.179, the spacing of valves on a transmission line based on class location.

However, other than for pipelines with alternative maximum allowable operating pressures (MAOP),^[12] the regulations do not require a response time to isolate a ruptured gas line, nor do they explicitly require the use of ASVs or RCVs. The

¹¹ Exhibit 2.

¹² Under 49 CFR 192.620, "Alternative Maximum Allowable Operating Pressure for Certain Steel Pipelines," issued in 2008, an operator is allowed to operate a pipeline at up to 80 percent specified minimum yield strength (SMYS) in class 2 locations as long as it meets a very specific and stringent set of criteria. Section 192.620(c)(3) states that an RCV or ASV is required for such pipelines if the response time to mainline valves exceeds 1 hour under normal driving conditions and speed limits.

regulations give the pipeline operator discretion to decide whether ASV5 or RCVs are needed in HCAs as long as they consider the factors listed under 49 CFR 192.935(c). [¹³]7

Therefore, *there is little incentive for an operator to perform an objective risk analysis, as illustrated by PG&E's June 14, 2006, memorandum-which was issued after the CPUC 2005 audit identified PG&E's failure to consider* the issue and does not directly discuss any of the *factors listed in section 192.935(c)*. Rather, it cites industry references to support the conclusion that most of the damage from a pipeline rupture occurs within the first 30 seconds, and that the duration of the resulting fire "has (little or) nothing to do with human safety and property damage." The memorandum concludes that the use of an ASV or an RCV as a prevention and mitigation measure in an HCA would have "little or no effect on increasing human safety or protecting properties." In the case of the San Bruno transmission line break, nearby RCVs could have significantly reduced the amount of time the fire burned, and thus the severity of the accident...."

This shows that as far back as June 14, 2006 the CPUC recognized that for PG&E "there is little incentive for an operator to perform an objective risk analysis".

Decision 12-12-030 is in error because the CPUC knowingly authorized, through rates; PG&E's on going maintenance and pipeline replacement programs without any objective risk assessment

¹³ Those factors are (1) the swiftness of leak detection and pipe shutdown capabilities; (2) the type or gas being transported; (3) the operating pressure; (4) the rate of potential release; (5) the pipeline profile; (6) the potential for ignition; and (7) the location of nearest response personnel.

Decision 12-12-030 is in error because knowing this fact the CPUC knowingly authorized, through rates; PG&E's on going maintenance and pipeline replacement programs without any objective risk assessment, enabling PG&E to violate the terms and conditions of their FERC authorized blanket certificate's "authority to maintain the pipeline [18 C.F.R. § 157.14(a)(9)(vi)] which requires that "an applicant for a certificate of public convenience and necessity shall certify in its application, among other things, that it will "maintain the facilities for which a certificate is requested in accordance with Federal safety standards."

On April 28, 2011 CARE attempted to request CPUC provide a proper risk assessment¹⁴ of PG&E's maintenance programs, pressure testing methodology and plans, and pipeline replacement activities to be conducted, along with an assessment of PG&E's entire natural gas transmission system explaining "PG&E's motion itself provides incontrovertible evidence that PG&E does not have any Quality System, Process validation, Installation qualification, Process performance qualification, Product performance qualification, Prospective validation, Retrospective validation, or a Validation protocol in place to allow the determination of "whether its validation methodology is acceptable to the Commission".¹⁵ Further explain the importance of such measures CARE further explained "The Quality System (QS) defines process validation as establishing by objective evidence that a process consistently produces a result or product meeting its predetermined specifications.[¹⁶]2 The goal of a quality system is to consistently

¹⁴ Rulemaking 11-02-019 CARE response to Pacific Gas and Electric's (PG&E's) April 21, 2011 Motion asking the Commission make a finding regarding "whether its validation methodology is acceptable to the Commission" See <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/RESP/134297.PDF>

¹⁵ *Id.* P. 4

¹⁶ REFERENCES

1. Guideline on General Principles of Process Validation, May 1987, FDA, CDRH/CDER
2. Journal of Validation Technology, Vol. 1, No. 4, August 1995

produce products that are fit for their intended use. Process validation is a key element in assuring that these principles and goals are met."¹⁷

4. VIOLATIONS & ARGUMENT

Pacific Gas and Electric Company ["PG&E"]; enabled by California Public Utilities Commission; miss-appropriated ratepayers' funded maintenance funding intended for CPUC approved PG&E's pipeline maintenance programs and pipeline replacements that never occurred.

As stated by the CPUC's own Division of Ratepayers Advocates "DRA recommends that the Commission disallow ratemaking recovery for any of the costs associated with the Implementation Plan. DRA implores the Commission to stop PG&E's mismanagement of the natural gas system when the shareholders have reaped profits of over \$500 million above the authorized return on equity, deferred maintenance of system facilities, and neglected safety improvements. ...PG&E enjoyed several years where its profits were higher than anticipated in the test year revenue requirement, which PG&E shareholders retained, and that the unanticipated costs of the Implementation Plan should similarly be borne by PG&E shareholders without an increase in rates . DRA concludes that PG&E bears the burden of justifying its proposed rate increase as just and reasonable, and that it has not.... ..

"DRA next turns to PG&E's gas pipeline record improvement proposal. DRA explains that PG&E seeks over \$200 million to comply with the purportedly "new" requirement to maintain accurate records of its natural gas transmission pipeline system. DRA cites to reports which conclude that PG&E's inadequate records have resulted in a "dysfunctional pipeline integrity management system so that PG&E does not know enough about its pipeline system to

¹⁷ Rulemaking 11-02-019 CARE response to Pacific Gas and Electric's (PG&E's) April 21, 2011 Motion P. 4

prioritize inspection, repair, and replacement."¹⁸ DRA argues that PG&E has a long-standing obligation to *maintain* complete, accurate and accessible records, and that it has received substantial funding from ratepayers over the decades for just that purpose. DRA concludes that all costs for PG&E's record correction programs should be allocated to shareholders.

"DRA next challenged the specifics of PG&E's Implementation Plan, focusing on the decision tree and the data used. DRA's outside expert reviewed PG&E's decision tree analysis and concluded that with improved decision-making protocols and procedures, rather than relying on practical judgment, the number of pipeline segments requiring replacement could be reduced, with the number of segments to be pressure tested increased, and overall Phase I mitigation costs reduced. DRA also contended that PG&E's Implementation Plan included unnecessary upgrades in pipeline diameter (37% of the replaced pipeline has an increased diameter) and excessive modifications for in-line inspection tools."

According to Blanket Certificates §157.208(d)¹⁹ Construction, acquisition, operation, replacement, and miscellaneous rearrangement of facilities. *Limits and inflation adjustment.* The limits specified in Tables I and II shall be adjusted each calendar year to reflect the "GDP implicit price deflator" published by the Department of Commerce for the previous calendar year. The Director of the Office of Energy Projects is authorized to compute and publish limits for future calendar years as a part of Tables I and II, pursuant to 18 CFR §375.308(x)(1) of this chapter.

Year	Limit	
	Automatic project cost limit	Prior notice project cost limit
2012 <small>FDE</small>	\$10,800,000	\$30,800,000

¹⁸ DRA Opening Brief at 25, *citing* Hearing Exh. 45 at 49 and NTSB Report at xi.

¹⁹ See <http://www.ferc.gov/industries/gas/indus-act/blank-cert/facilities.asp>

2011	\$10,600,000	\$30,200,000
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According to DRA however "PG&E seeks over \$200 million to comply with the purportedly "new" requirement to maintain accurate records of its natural gas transmission pipeline system..."

Response by the CPUC and NTSB and the results of their purported investigation in concert with PG&E

Regarding CPUC purported investigation "On September 23, 2010, the Commission created an Independent Review Panel of experts to conduct a comprehensive study and investigation of the September 9, 2010, explosion and fire. The Commission directed the Panel to make a technical assessment of the events, determine the root causes, and offer recommendations for action by the Commission to best ensure such an accident is not repeated elsewhere." [Decision 12-12-030 at P. 6] "The Independent Review Panel issued their final report on June 8, 2011... .. Specifically, the Panel found numerous deficiencies in PG&E's data collection and management, with resulting defects in Integrity Management, that undermine the safety of PG&E's gas system operations. The Panel's recommendations include instituting state-of-the-art risk analysis to evaluate the likelihood of various possible failures and to establish a culture of pipeline integrity. The Independent Review Panel's recommendation 5.4.4.5 captures the comprehensive and long-term perspective needed, and is the source of our description of safety as journey:

PG&E should develop and adopt a maturity framework that reflects the importance and advancement of thinking of pipeline integrity and safety as a journey, which is coherently applied across the enterprise, where

progress is transparent and measurable, and is consistent with the best thinking on pipeline integrity and process safety management.

The Independent Review Panel declared that the goal of natural gas pipeline engineering design is zero significant incidents. To attain this goal, the pipeline operator must consistently practice the following:

1. Identify pipeline segments and threats; assume threats to exist until demonstrated otherwise;
2. Inspect and assess the segments;
3. Mitigate and/or remediate identified threats; and
4. Generate new data and analysis, then repeat entire process.²⁰

The Independent Review Panel Report concluded that PG&E's Integrity Management Program lacked effective executive leadership, and that "perpetual organizational instability," including corporate bankruptcy, had undermined PG&E's ability to meet its integrity management responsibilities.²¹ The Panel found that PG&E had excessive levels of management, comprised largely of non-engineering personnel including telecommunications, legal and finance executives, who primarily focused on financial performance.²² The Panel found that PG&E lacked robust data and document information management systems that impeded the needed quality assurance/quality control to accurately characterize pipeline threats and risk.²³ Addressing multiple threats to a particular pipeline and monitoring third-party activities were also noted as deficiencies." [Decision 12-12-030 at Pp. 7-8]

²⁰ Independent Review Panel Report at 65-66.

²¹ Independent Panel Report at 50, 73.

²² Id. at 54.

²³ Id. at 64.

NTSB chooses to focus on the CPUC's **risk assessment** "The National Transportation Safety Board (NTSB) issued its report on August 30, 2011. The NTSB made many recommendations related to the investigation of the San Bruno explosion.

The NTSB report concluded that the Commission should do the following:

- With assistance from the Pipeline and Hazardous Materials Safety Administration, conduct a comprehensive audit of all aspects of Pacific Gas and Electric Company operations, including control room operations, emergency planning, record-keeping, *performance-based risk and integrity management programs*, and public awareness programs. (P 11-22.)

- Require PG&E to correct all deficiencies identified as a result of the San Bruno, California, accident investigation, as well as any additional deficiencies identified through the comprehensive audit recommended in Safety Recommendation (P-11-22.), and verify that all corrective actions are completed. (P-11-23.)

Among the many recommendations for PG&E, the NTSB issued this comprehensive directive regarding PG&E's integrity management program and risk analysis:

- Assess every aspect of your integrity management program, paying particular attention to the areas identified in this investigation, and implement a revised program that includes, at a minimum, (1) a *revised risk* model to reflect PG&E's actual recent experience data on leaks, failures, and incidents; (2) consideration of all defect and leak data for the life of each pipeline, including its construction, in risk analysis for similar or related segments to ensure that all applicable threats are adequately addressed; (3) a *revised risk analysis methodology* to ensure that assessment methods are selected for each pipeline segment that address all applicable integrity threats, with particular emphasis on design/material and construction threats; and (4) an

improved self-assessment that adequately measures whether the program is effectively assessing and evaluating the integrity of each covered pipeline segment. (P-11-29.)

- Conduct threat assessments using the *revised risk analysis methodology* incorporated in your integrity management program, as recommended in Safety Recommendation (P 11-29), and report the results of those assessments to the California Public Utilities Commission and the Pipeline and Hazardous Materials Safety Administration. (P-11-30.)" [Decision 12-12-030 at Pp. 8-9]

But neither CPUC; nor the NTSB; ever assessed external threats in PG&E integrity management program as identified in *CARE's Motion to provide supplemental information to CARE's Application 10-09-012* filed January 28, 2011²⁴ with CPUC.

CARE's April 11, 2011 Oral Arguments and April 12, Motion to provide exhibits²⁵
in Rulemaking 11-02-019.

On April 11, 2011 Mr. Boyd of CARE made the following oral argument on the San Bruno disaster excerpted from the transcript²⁶ [RT Pp. 404 -408] as follows:

14 ALJ BUSHEY: Oh, Mr. Boyd, you weren't

15 here when we signed up. Okay.

16 ARGUMENT OF MR. BOYD

17 MR. BOYD: I guess I'm the newest

18 party, so, new to the party.

19 My name is Mike Boyd, and I'm the

²⁴ See <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/MOTION/130619.PDF>

²⁵ See <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/MOTION/133727.PDF>

²⁶ Exhibit 5

20 President of Californians for Renewable
21 Energy, Inc., CARE. And I was at your
22 meeting last week and spoke to you, and I
23 have some follow-up information to provide
24 you.

25 First, on the Stipulation. CARE
26 believes that a stipulation is unlawful, and
27 here's why. First, in order for you to enter
28 into an agreement for compliance you have to
1 have either evidence of compliance or a
2 schedule of compliance. By a schedule of
3 compliance I mean an approved schedule of
4 compliance. You approve the schedule, not
5 CPSD, to my knowledge. So without either, I
6 don't see how you're in a legal position to
7 approve the stipulated agreement because PG&E
8 certainly hasn't provided you that and nor
9 has CPSD.

10 So without that, I don't see how you
11 can do it. And as I said before at the
12 meeting last week, you're not my only relief.
13 I can go to the FERC, and the FERC does have
14 a million dollar a day fine. And I believe
15 this is a federal compliance issue as well as
16 a state compliance issue. And therefore, I
17 would ask that you support what CARE is

18 saying and go for the federal standard, a
19 million dollars a day, until they establish
20 compliance through evidence or a schedule
21 that you've approved for compliance. Okay.

22 Because we believe Pacific Gas and
23 Electric Company, PG&E, cannot or will not
24 produce the required records to complete the
25 validation of pipeline Maximum Allowable
26 Operating Pressures as well as to complete
27 the pipeline testing and repairs promised by
28 PG&E, Californians for Renewable Energy and
1 CARE hereby submits two Google Earth pictures^[27]
2 of the site of the San Bruno natural gas
3 pipeline explosion that killed eight of
4 PG&E's natural gas service customers to
5 define the exclusion zone necessary to,
6 quote, "avoid potential high risk for
7 fatalities in future pipeline explosions."

8 The line pictured in yellow measures
9 a distance of approximately 600 feet. I
10 provided a picture from October 1st, 2009,
11 for the fire to show you the homes that were
12 present there. The next figure shows you
13 after the fire, two days after the fire, that
14 there were some homes there that were

²⁷ See pictures in Exhibits A and B to April 12, 2011 Motion to accept Exhibits in Rulemaking 11-02-019 [Pp. 6 & 7] See <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/MOTION/133727.PDF>

15 destroyed 600 feet from the fire, from the
16 explosion source. And if you look to the
17 south on the road in the picture, you'll see
18 the section of pipeline that exploded is
19 still present there on the 11th sitting
20 there.

21 Without these necessary records to
22 determine safe operating pressures for PG&E's
23 continued operations of natural gas pipelines
24 in its service territory, the Commission is
25 not in a position to say that any of those
26 pipelines PG&E is operating are safe to the
27 general public and PG&E's customers. But
28 PG&E is not alone in its liability because
1 the local government, the city or county
2 issued building permits for all the homes
3 that burned in San Bruno, likely after the
4 pipeline was built. Where were our elected
5 local leaders then?

6 I have attached a copy of Robert
7 Sarvey's rebuttal testimony, Exhibit 405, on
8 hazardous materials before the California
9 Energy Commission on the Mariposa Natural Gas
10 Turbine Project in CEC Docket 09-AFC-03 on
11 two other high risk natural gas pipelines at
12 PG&E where Mr. Sarvey states:

13 The combination of these
14 two projects and their
15 impact [to degrade] -- to
16 the degraded PG&E Line 002
17 are not addressed or
18 analyzed in staff's
19 testimony. A significant
20 increase in natural gas
21 volume will occur because
22 of the addition of the MEP
23 and the conversion of the
24 Tracy Peaker Project to
25 combined cycle. Pipeline
26 pressure fluctuation from
27 the cycling of these
28 projects will cause
1 additional stress to Line
2 002. Given the significant
3 risk of a natural gas line
4 failure as evinced by the
5 recent San Bruno Tragedy,
6 this impact needs to be
7 addressed. We certainly
8 cannot rely on PG&E's
9 incomplete and inaccurate
10 records and inadequate

11 safety practices.

12 Mr. Sarvey has provided on page 5
13 of his testimony a picture of a temporary
14 fence PG&E erected at the site of a proposed
15 sports park in Tracy where apparently PG&E
16 allowed heavy equipment to operate unattended
17 as an offer of proof to PG&E's safety
18 practices or lack thereof.

19 Therefore, first we need to know
20 what is the safe zone where residential
21 dwellings, parks and recreation facilities
22 and businesses can be built? The City and
23 County then must change its general plans and
24 zoning designations to exclude any
25 development where there is a high risk
26 pipeline where high risk may be based on the
27 lack of recordkeeping by PG&E. PG&E must buy
28 out all those affected landowners along the
1 exclusion zone along the line under eminent
2 domain exercised by authorization of this
3 Commission, if necessary, at fair market
4 value.

5 In absence of knowing the root
6 cause of the failure that caused PG&E's
7 pipeline to explode, the Commission has no
8 choice but to exclude future development and

9 remove existing developments from the safety
10 exclusion zone. Otherwise, the question will
11 not be if this will ever happen again, but
12 when is the next pipeline explosion going to
13 occur?

14 Thank you.

15 ALJ BUSHEY: Thank you, Mr. Boyd.

16 Other parties that wish to present
17 oral argument?

18 (No response)

Mr. Sarvey's Exhibit C "Robert Sarvey's Rebuttal Testimony Exhibit 405 on Hazardous Materials before the California Energy Commission ("CEC") on the Mariposa natural gas turbine project in CEC Docket 09-AFC-03 –January 21, 2011 from [California Energy Commission] regarding Tracy Sports Park over PG&E transmission line there are also included in an CARE's April 12, 2011 Motion to incorporate those documents CARE had presented the CPUC at its April 11, 2011 Oral Arguments.

April 11, 2011 is where we can establish we provided advanced notice to PG&E and CPUC that we could and would go to the FERC if PG&E and CPUC under their fiduciary duties to the public did not act immediately to protect the public and ratepayers from PG&E's failures to comply with FERC's authority stating [Mr. Boyd speaking for CARE] "I can go to the FERC, and the FERC does have a million dollar a day fine. And I believe this is a federal compliance issue as well as a state compliance issue. And therefore, I would ask that you support what

CARE is saying and go for the federal standard, a million dollars a day, until they establish compliance through evidence or a schedule that you've approved for compliance."

CARE's April 12, 2011 Motion to incorporate documents also included three earlier data requests as follows:

QUESTION 1²⁸

Provide a list or chart of all natural gas transportation or storage facilities (facilities) that are included in the scope of OII 11-02-016. A reference to proceedings of the National Transportation Safety Board, California Energy Commission or California Public Utilities Commission websites is sufficient. CARE needs a list of all facilities and a note explaining their ownership.

A. Provide a list of insurance coverage purchased by PG&E or other relevant insurance coverage corresponding to each facility.

B. Provide copies of the insurance documents together with all other relevant documents that will allow CARE to determine whether any of the insurance coverage is still active.

ANSWER 1

PG&E objects to this data request on the grounds that it seeks information that is beyond the scope of this proceeding as described by the Commission in the OII:

By this order, the Commission institutes a formal investigation to determine whether the named Respondent, Pacific Gas and Electric Company (PG&E), violated any provision or provisions of the California Public Utilities Code, Commission general orders or decisions, or other applicable rules or

²⁸ See <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/MOTION/133728.PDF>

requirements pertaining to safety recordkeeping for its gas service and facilities.

This proceeding will pertain to PG&E's safety recordkeeping for the San Bruno, California gas transmission pipeline that ruptured on September 9, 2010, killing eight persons. This investigation will also review and determine whether PG&E's recordkeeping practices for its entire gas transmission system have been unsafe and in violation of the law.

Notwithstanding this objection, PG&E responds as follows:

PG&E understands this OII to apply to its recordkeeping policies and practices as they relate to all its gas transmission facilities.

PG&E's general liability insurance policy covers all its gas transmission facilities.

In response to CARE's statement at the March 17, 2011, prehearing conference, PG&E's insurance policies cover events that occur during the term of the policies. In the situation referenced by CARE during the prehearing conference regarding the Hazardous Substance Mechanism, insurance coverage was matched with the time in prior years during which the environmental damage occurred. As regards the San Bruno incident, the only insurance policies "active" are those that were in effect on the date of the incident.

QUESTION 2²⁹

Please provide copies of documents showing the engineers who signed the drawings or other documents providing final natural gas transportation or storage designs or inspections.

Were these engineers registered or certified by the state licensing authority for the

²⁹ See <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/MOTION/133729.PDF>

physical location for these facilities?

Were these engineers insured or did they provide bonds or other guarantees for their work?

ANSWER 2

PG&E objects to this data request on the grounds that it is vague and overbroad. Also, it seeks information that is beyond the scope of this proceeding as described by the Commission in the OII:

By this order, the Commission institutes a formal investigation to determine whether the named Respondent, Pacific Gas and Electric Company (PG&E), violated any provision or provisions of the California Public Utilities Code, Commission general orders or decisions, or other applicable rules or requirements pertaining to safety recordkeeping for its gas service and facilities.

This proceeding will pertain to PG&E's safety recordkeeping for the San Bruno, California gas transmission pipeline that ruptured on September 9, 2010, killing eight persons. This investigation will also review and determine whether PG&E's recordkeeping practices for its entire gas transmission system have been unsafe and in violation of the law.

QUESTION 3³⁰

Were the natural gas transportation or storage facilities that are included in the scope of OII 11-02-016 licensed and permitted by the applicable local licensing authorities (sic)? If not, provide a list of facilities not properly licensed and an explanation of which permits, etc. were omitted.

³⁰ See <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/MOTION/133730.PDF>

What insurance coverage would these licensing authorities have that could provide coverage for expenses for natural gas facilities that were improperly installed or that did not conform with the best engineering practices that were applicable at the time that the facilities were installed and inspected by these local authorities?

ANSWER 3

PG&E objects to this data request on the grounds that it seeks information that is beyond the scope of this proceeding as described by the Commission in the OII:

By this order, the Commission institutes a formal investigation to determine whether the named Respondent, Pacific Gas and Electric Company (PG&E), violated any provision or provisions of the California Public Utilities Code, Commission general orders or decisions, or other applicable rules or requirements pertaining to safety recordkeeping for its gas service and facilities.

This proceeding will pertain to PG&E's safety recordkeeping for the San Bruno, California gas transmission pipeline that ruptured on September 9, 2010, killing eight persons. This investigation will also review and determine whether PG&E's recordkeeping practices for its entire gas transmission system have been unsafe and in violation of the law.

PG&E failed to provide [any] information on their insurance coverage, bonding, and licensing in construction in regards to the section of pipeline that exploded in San Bruno and it was clear at all times that CPUC would not require PG&E to produce the records requested; thereby enabling an opaque investigation of the root cause of the San Bruno disaster.

PG&E's threat decision tree fails to assess external threats identifying the possible motive for an opaque investigation outcome for PG&E's bottom line.

According to D. 12-12-030 [P. 15] "PG&E used three unique threats as the analytical framework for its decision tree – manufacturing threats, fabrication and construction threats, and corrosion and latent mechanical damage threats.³¹" But this decision tree is purposely opaque so as to obscure the analysis of three external risks CARE had identified 1) risk of arc flash ignition source for fire proceeding explosions induced from wireless SmartMeters™; 2) a risk of intentional sabotage or terrorist attack; and 3) the risk of intentional use or employment of a device, scheme, or artifice to defraud. None of these reasonably foreseeable external risks were part of the risk assessment adopted by D. 12-12-030.

What motive could PG&E and CPUC have for the opaque investigation outcome found in Decision 12-12-030 that clearly was beneficial for PG&E's bottom line; except to violate California Public Utilities Code Section 328(b) "No customer should have to pay separate fees for utilizing services that protect public or customer safety"; knowing that PG&E had not adequately maintain its records regarding the San Bruno pipeline; and knowing that PG&E's entire gas transmission system was in a state of high risk for not maintaining its lines under the terms and conditions of its blanket certificate on file with the Federal Energy Regulatory Commission ("FERC")?

5. CONCLUSION AND SUMMARY

For the reasons presented; CARE respectfully request reversal of D.12-12-030.

³¹ PG&E asserts that weather, human error, equipment failure and third-party damage were addressed either in its Integrity Management Program or operating procedures. PG&E stated that Stress Corrosion Cracking has never been found in its system, and if it is, federal regulations specify measures to be taken.


Without passing PG&E's intrastate natural gas pipeline safety cost on to ratepayers in violation of California Public Utilities Code Section 328(b) as described in more detail above; the Commission; in order to establish compliance with federal law; must adopt a methodology for process validation as establishing by objective evidence that a process consistently produces a result meeting its predetermined specifications for determining the following; because none of these requirements are demonstrated to be effective or even necessary to mitigate the risk of pipeline failure by objective evidence that a process consistently produces a result meeting its predetermined specifications:

1. Maximum Allowable Operating Pressure Methodology
2. PG&E should be required to complete its MAOP determination based on pipeline features and should be allowed to use engineering-based assumptions for pipeline components where complete records are not available.
3. A pressure test record must include all elements required by the regulations in effect when the test was conducted. For pressure tests conducted prior to the effective date of General Order 112, one hour is the minimum acceptable duration for a pressure test.

By the Decision failing to include as part of the PG&E's Implementation Plans; Process validation, Installation qualification, Process performance qualification, Product performance qualification, Prospective validation, Retrospective validation, or a Validation protocol is in place to allow the determination of whether its validation methodology is acceptable, the requirement that the investor owned utilities (IOUs) file Natural Gas Transmission Pipeline Replacement or Testing Implementation Plans, based on an unproven Maximum Allowable Operating Pressure Methodology; the Decision allows a huge waste of time and money while failing to insure the safety and reliability of the IOUs' gas transmission system.

In fact it gives the false impression to the public that the IOUs' gas transmission pipelines are safe when at best the safety testing methodology that has been used to date has been proven to be ineffective in containing the risk of a reoccurrence of the pipeline explosion that occurred in San Bruno California on September 9, 2010 killing eight.

Respectfully submitted,



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January 27, 2013

Verification

I am an officer of the Intervening Corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except matters, which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 27th day of January 2013 at Soquel, California.



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