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 CITY OF SAN BRUNO REQUESTING AN ORDER TO SHOW CAUSE WHY ASSIGNED COMMISSIONERS PEEVEY AND FLORIO SHOULD NOT BE RECUSED FROM THE "FORGING A NEW VISION OF SAFETY IN CALIFORNIA" SYMPOSIUM PURSUANT TO RULE 8.3, OR IN THE ALTERNATIVE, AN ORDER SUSPENDING THE SAFETY SYMPOSIUM UNTIL I.12-01-007, I.11-02-016, AND I.11-11-009 ARE FULLY ADJUDICATED

STEVEN R. MEYERS
BRITT K. STROTTMAN
JESSICA MULLAN
Meyers, Nave, Riback, Silver & Wilson
555 12th Street, Suite 1500
Oakland, CA 94607
Phone: (510) 808-2000
Fax: (510) 444-1108
E-mail: smeyers@meyersnave.co
Attorneys for CITY OF SAN BRUNO

April 24, 2013

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)
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Pursuant to Rule 11.1 of the California Public Utilities Commission's ("Commission" or "CPUC") Rules for Practice and Procedure ("Commission Rules"), the City of San Bruno ("San Bruno") moves for: (1) an order to show cause why Commission President Michael R. Peevey and Commissioner Michel Peter Florio should not be recused from attending and participating in the "Forging a New Vision of Safety in California" symposium on May 7-8, 2013 (the "PG&E-CPUC Safety Symposium"); (2) or in the alternative, an order suspending the PG&E-CPUC Safety Symposium until the three Orders Initiating Investigation ("OIIs"), I.12-01-007, I.11-02-016, and I.11-11-009 (the "Line 132 OIIs") have been fully adjudicated.

I. BACKGROUND

A. The Line 132 OIIs

The Commission instituted three formal investigations into Pacific Gas & Electric Company's (PG&E) operations after a PG&E-installed and operated 30 inch natural gas pipeline exploded in San Bruno killing eight people, injuring sixty-six people, and leveling thirty-eight homes. The first Commission-initiated investigation concerns PG&E's deficient recordkeeping practices and the safety implications of such practices for the utility's gas service and facilities (the "Recordkeeping OII").[1] The assigned presiding Commissioner in the Recordkeeping OII is Commissioner Florio. The second Commission investigation into the explosion of PG&E's Line 132 concerns PG&E's violations of state and federal laws in connection with the utility's operation of pipelines in high population consequence areas (the "HCA OII").[2] The assigned presiding Commissioner in the HCA OII is also Commissioner Florio. The third Commission-initiated investigation into PG&E misconduct is a comprehensive examination of PG&E's violations of federal and state safety laws applicable to its natural gas system (the "Root Cause OII").[3] In addition to the events of September 9, 2010, the Root Cause OII expressly includes all past operations, practices, and other events or courses of conduct that could have led to or contributed to the explosion of PG&E's Line 132.[4] The assigned presiding Commissioner in the Root Cause OII is Commission President Peevey.[5] The Commission has categorized all three Line 132 OIIs as "adjudicatory" pursuant to Rule 7.1(c) of the Commission's Rules.

B. The PG&E-CPUC Safety Symposium

The PG&E-CPUC Safety Symposium is scheduled for May 7-8, 2013 and will "explore solutions to safety within California's utility services and infrastructure sectors" and it "will

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[1] I.11-02-016

[2] I.11-11-009

[3] I12-01-007

[4] I12-01-007 at 2

[5] http://docs.cpuc.ca.gov/efile/NOTICE/157982.pdf

focus on natural gas safety issues."[6] It is also important to note that the victim in the Line 132 OIIs, and one of the key players in any safety discussion regarding natural gas explosions, the City of San Bruno, was not invited to this "important dialog" and only heard about it second-hand through an attorney from The Utility Reform Network (TURN). See Exhibit 2; Declaration of Britt Strottman.

II. DISCUSSION

On its face, the PG&E-CPUC Safety Symposium appears to be a step forward in promoting natural gas safety. Given the public disclosure of CPUC internal consultant reports[7] and recent legislation testimony[8] regarding the absence of a safety culture at the CPUC, such a conference would be timely. However, upon further scrutiny, this PG&E-CPUC Safety Symposium initiated by PG&E is nothing but a forum for PG&E to put on a self-serving dog and pony show in front of two out of the five Commission decision-makers charged with determining the fines and penalties warranted by PG&E's past misconduct, right in the middle of unprecedented and high-profile CPUC investigations into PG&E's deficient management and operation of its natural gas system. Furthermore, the PG&E-CPUC Safety Symposium is also a violation of the CPUC's own rules. Any communications between the defendant (PG&E) and the judges (President Peevey and Commissioner Florio) about the subject matter in the Line 132 OIIs constitutes an ex parte communication under Commission Rule 8.1. Per Commission Rule 8.3(b), ex parte communications are prohibited in each of the Line 132 OIIs, all of which have been characterized as adjudicatory proceedings.

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[6] See Exhibit 1; letter and invitation dated April 4, 2013 from Brigadier General Emory J. Hagan

[7] See Exhibit 3; CPUC Memorandum dated February 11, 2013

[8] http://calchannel.granicus.com/MediaPlayer.php?view_id=7&clip_id=1148

A. It is Inappropriate for the "Judges" and "Prosecutors" in an Ongoing Investigation to Participate in the PG&E-CPUC Safety Symposium

The PG&E-CPUC Safety Symposium, "Forging a New Vision of Safety in California," includes the following three panels[9]:

Panel 1: Building a Climate and Culture of Safety (Nick Stavropoulos, PG&E's Senior Vice President of Gas Operations, is a panel member)

Panel 2: Effectively Managing Pipeline Emergency Response

Panel 3: Leading Safety – What Does Regulatory Leadership Look Like – (panel members include Commissioner Florio and PG&E President Chris Johns)

The discussions in these panels will undoubtedly focus on the events leading up to and the aftermath of the explosion in San Bruno, the largest natural gas disaster in the state of California – also the focus of the most high-profile and high-stakes investigations in history at the CPUC. The panels will certainly cover lessons learned from the San Bruno explosion. The third panel will then discuss CPUC's regulatory leadership in the aftermath of the explosion, which will unquestionably cover the CPUC's investigations into the explosion.

In all three Line 132 OIIs, the presiding Commissioners, President Peevey and Commissioner Florio, will review the massive amount of evidence over a time period of two and half years, including over thirty volumes of evidentiary hearing transcripts; briefs from PG&E, CPSD, and the Intervenors; numerous data requests from all parties, and over 300 docket entries, etc. The Commissioners will review extensive testimony on the construction of Line 132, PG&E's integrity management program, PG&E's emergency response to the explosion, PG&E's recordkeeping practices, and among other things, PG&E's going-forward commitments.

As stated above, President Peevey and Commissioner Florio are among the final arbiters of the applicable fines and penalties in all three Line 132 OIIs relating to the PG&E explosion, not only in their role as the assigned Commissioners in the three investigations, but also as voting members of the Commission. Their roles in these investigations are akin to the role of a judge as they will make the very important decisions on which state and federal laws PG&E

[9] See Exhibit 1

violated and the subsequent penalties and fine. President Peevey and Commissioner Florio will assist the Administrative Law Judges ("ALJs") in crafting their proposed decisions on the violations and penalties. Once the ALJs issue the proposed decisions, President Peevey and Commissioner Florio will vote on the proposed decision, along with the three other acting Commissioners.

The "judges"/decisionmakers in the three OIIs, Commissioner Florio and President Peevey, will also participate in the symposium. The judge in two of the three OIIs, Commissioner Florio, will sit on the "Leading Safety – What Does Regulatory Leadership Look Like" panel with the defendant, PG&E's President Chris Johns.[10] Nick Stavropoulos, PG&E's Senior Vice President of Gas Operations will sit on a panel entitled "Building a Climate and Culture of Safety."[11] The judge in the root cause OII, President Peevey, will make closing remarks and will most likely attend the symposium.[12]

The "prosecutor" in the Line 132 OIIs, the Consumer Protection and Safety Division ("CPSD"), now "Safety and "Enforcement Division," is holding the PG&E-CPUC Safety Symposium and PG&E initiated the PG&E-CPUC Safety Symposium.[13] CPSD's safety director, Brigadier General Jack Hagan, announced the symposium and will make opening remarks.[14] The Executive Director of the CPUC, Paul Clanon, will be a panel member on the "Leading Safety – What Does Regulatory Leadership Look Like?" with the defendant, PG&E's President Chris Johns.[15]

The prosecutor (CPSD), the judges (President Peevey and Commissioner Florio), and the defendant (PG&E) in the three OIIs will be discussing throughout the two day symposium the

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[10] See Exhibit 1

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

very subject matter that is at issue in the three OIIs: gas safety. PG&E will undoubtedly argue that the symposium will discuss going-forward safety commitments, but any discussion of going-forward safety commitments relates back to PG&E's gross negligence in the first place. The evidence the CPUC considers as it reaches its conclusion regarding the scope of the violations and penalties sufficient to deter PG&E from similarly deadly lapses in operation of its system in the future should be heard in the courtroom, not through a public relations attempt by PG&E to tout its alleged safety commitments in a symposium.

B. The PG&E-CPUC Safety Symposium Violates Commission Rules Prohibiting Ex Parte Communication in Adjudicatory Proceedings

Not only is the participation of PG&E and the Commissioners in a PG&E-CPUC Safety Symposium on the very subject matter of three investigations unethical and inappropriate, the participation of the defendant and the judges is a violation of the law. The participation of PG&E, President Peevey, and Commissioner Florio in the PG&E-CPUC Safety Symposium on subjects germane to three major Line 132 OIIs amounts to a prohibited ex parte communication under Commission Rules. The orders in the three investigations categorized the three OIIs as "adjudicatory" pursuant to Rule 7.1(c) of the CPUC's Rules of Practice and Procedure. Pursuant to CPUC Rules of Practice and Procedure 8.3, in "any adjudicatory proceeding, ex parte communications are prohibited" with any decisionmaker.[16] Rule 8.1(c) defines "ex parte communication" as any written or oral communication that:

> (1) concerns any substantive issue in a formal proceeding
> (2) takes place between an interested person and a decisionmaker, and
> (3) does not occur in a public hearing, workshop, or other public forum noticed by ruling or order in the proceeding, or on the record of the proceeding

Under the above-cited rule, an ex parte communication is prohibited between a "decisionmaker" and an "interested party." A commissioner falls under the definition of "decisionmaker" under Rule 8.1(b). An "interested person" includes "any party to the proceeding or the agents or employees of any party, including persons receiving consideration to

[16] See also Public Utilities Code §§ 1701.1 to 1701.4

represent any of them" and "any person with a financial interest . . . in a matter at issue before the Commission" under Rule 8.1(d).

Under the CPUC's very own rule, President Peevey and Commissioner Florio are prohibited from discussing any subject matter related to the PG&E explosion when it does not occur in a public hearing, workshop, or other public forum noticed by the ruling or order in the proceeding, or on the record in the proceeding. The interested party, PG&E, will communicate orally with the decisionmakers, President Peevey and Commissioner Florio, about a substantive issue, natural gas safety and emergency response, and this communication will not occur on the record. It seems unfathomable that in the PG&E-CPUC Safety Symposium there will be no discussion of PG&E's emergency response and its safety culture in relation to the September 9, 2010 explosion: the substantive issues in the three investigations.

In Decision (D.) 07-07-020, the Commission found that merely attending a meeting can violate the ex parte rules.[17] In D.07-07-020, a meeting was held between representatives of two telecommunications utilities and the Commissioners' advisors on the topic of access to 911 emergency services under Public Utilities Code Section 2883. The topic of 911 access had been raised in two CPUC proceedings at the time, a rulemaking and adjudicatory compliant involving violations of Section 2883. The Commission found that the two telecommunication utilities violated the rule against ex parte communications in the adjudicatory cases and issued a $40,000 penalty on both companies.

Decision 08-06-023 denied rehearing of D.07-07-020 and upheld the decision that the communication violated the rule against ex parte communications.[18] The decision listed circumstances for parties to consider when identifying ex parte communications:

1. The temporal proximity between an ex parte communication and a relevant adjudicatory proceeding;

[17] http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/70330.PDF

[18] http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/84123.PDF

2. The degree of overlap between the issues and parties; and

3. The potential that relief sought via the ex parte communication could detrimentally impact parties in a related adjudicatory case.[19]

When applying the first consideration, it is important to note the peculiar timing of the PG&E-CPUC Safety Symposium. The three investigations have not been adjudicated and will not until sometime in the Fall of 2013. The prosecutor, CPSD, and the Intervenors, including San Bruno, will have filed briefs on the parties' position on the fines and remedies in three investigations the day before the PG&E-CPUC Safety Symposium, May 6, 2013. The PG&E-CPUC Safety Symposium will be held on May 7-8, 2013. PG&E's defense brief on fines and remedies is due on May 24, 2013.

PG&E's going forward safety commitments, which will be discussed during the symposium, will be considered in the fine and penalty phase of the three investigations. When determining the amount of the penalty, President Peevey and Commissioner Florio will consider the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, and *the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered.*"[20] During this PG&E-CPUC Safety Symposium, which will be held during a critical time in the litigation between the parties, PG&E will undoubtedly put on a performance in front of the judges, President Peevey and Commissioner Florio, that it is doing everything it could to fix its widespread and systemic negligence of its system: one of the three elements President Peevey and Commissioner Florio will have to consider when making its decision on the fine and penalties in the three investigations under Public Utilities Code Section 2104.5. PG&E gets to do so, not in the courtroom and through legal briefs, but in a "PG&E-CPUC Safety Symposium" in front of the very decisionmakers that will determine its fate in just a few months.

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[19] *Id.*, page 20

[20] Public Utilities Code Section 2104.5

C. The PG&E-CPUC Safety Symposium is Yet Another Example of the Commission's Ineffective Posture as a Regulator

The PG&E-CPUC Safety Symposium is yet another example of the Commission failing to recognize its role as a regulatory of the utilities as opposed to a facilitator of the utilities' economic interests. For San Bruno, the Commission's "cozy relationship" with PG&E, and vice versa, was a major contributor to the Line 132 explosion.[21] Furthermore, the inappropriate nature of the Commission's actions is consistent with recent and well-deserving criticism of the CPUC's lax oversight. An internal report commissioned by the CPUC revealed and exposed significant problems at the CPUC. Specifically, that the CPUC continues to have a cozy relationship with the utilities it regulates and that it doesn't make safety a priority.[22] The following statements in the report were compelling:

> *"An overly-cozy relationship with regulated utilities: Several respondents report that both Commissioners and PUC staff members have close ties to the industries they are supposed to be regulating. This has resulted in a reluctance on the part of the Commissioners and the PUC to impose significant fines and other consequences . . ."*[23]
>
> *"If we were enforcing the rules we would not have to worry about a safety culture. If we were holding the utilities accountable and doing what we were supposed to be doing, San Bruno would never have happened."*[24]
>
> *"The executive director's aversion to conflict discourages PUC staff from taking on tough issues."*[25]
>
> *"Some staff believe that it is the PUC's failure to thoroughly 'check the boxes' and enforce existing regulations that is at the root of the safety crisis."*[26]

Not only do CPUC's own staff members believe that the CPUC is lax in its oversight and is too cozy with utilities, the National Transportation Safety Board found that CPUC's lack of oversight was a contributing cause to the explosion: "Also contributing to the accident was the

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[21] See NTSB report at 122, 126; Independent Review Panel Report at 20-21

[22] See Exhibit 3; CPUC Memorandum dated February 11, 2013

[23] *Id.* at page 14

[24] *Id.* at page 2

[25] *Id.*

[26] *Id.*

CPUC's failure to detect the inadequacies of PG&E's pipeline integrity management program."[27] The NTSB further explained that: "The ineffective enforcement posture of the California Public Utilities Commission permitted PG&E's organizational failures to continue over many years."[28] NTSB Chairman Deborah Hersman further elaborated: "Our investigation revealed that for years, PG&E exploited weaknesses in a lax system of oversight . . . we also identified regulators that placed a blind trust in the companies that they were charged with overseeing to the detriment of public safety."[29] The Commission's blue ribbon panel also found that the CPUC failed to oversee PG&E's natural gas operations effectively finding that the Commission and PG&E "must confront and change elements of their respective cultures to assure the citizens of California that public safety is the foremost priority."[30]

III. CONCLUSION

San Bruno urges the CPUC to demonstrate to the Intervenors in these proceedings, the residents of San Bruno, and to the public at large that its commitment to accountability is more than mere posturing, and to do so in these cases that are gravely important to the residents of San Bruno and the ratepayers of the State of California. San Bruno has a strong and vested interest in a CPUC process that follows the rules. San Bruno has participated in these proceedings in good faith for over two years in reliance on the belief that a just, transparent, reasonable outcome which is in the public interest can be achieved. San Bruno cannot achieve this outcome when the very decisionmakers that are determining PG&E's fate will be in the same room with PG&E discussing natural gas safety in a forum other than the courtroom. San Bruno respectfully requests an order to show cause why Commissioners Peevey and Florio should not be recused from the "Forging a New Vision of Safety in California" symposium pursuant to Rule 8.3, or in

[27] http://www.ntsb.gov/doclib/reports/2011/PAR1101.pdf, page xii

[28] http://www.ntsb.gov/doclib/reports/2011/PAR1101.pdf, page 125

[29] http://www.ntsb.gov/news/2011/110830.html

[30] Independent Review Panel Report at 8 and 18-22

the alternative, for an order suspending the safety symposium until Line 132 OIIs I.12-01-007, I.11-02-016, and I.11-11-009 are fully adjudicated.

Respectfully submitted,

/s/ Steven R. Meyers

Steven R. Meyers
Britt K. Strottman
Jessica R. Mullan
Meyers, Nave, Riback, Silver & Wilson
555 12th Street, Suite 1500
Oakland, CA 94607
Phone: (510) 808-2000
Fax: (510) 444-1108
E-mail: smeyers@meyersnave.com
Attorneys for CITY OF SAN BRUNO

April 24, 2013

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EXHIBIT 1

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

April 4, 2013

Greetings,

On behalf of the California Public Utilities Commission (CPUC), I invite you to attend the first in a series of safety symposiums to explore solutions to safety within California's utility services and infrastructure sectors. This symposium, *Forging a New Vision of Safety in California*, will be held May 7-8, 2013, in downtown San Francisco and will focus on natural gas safety issues. Sessions will be held at the Milton Marks Auditorium in the Johnson State Office Building at 455 Golden Gate Avenue. Please see the agenda below.

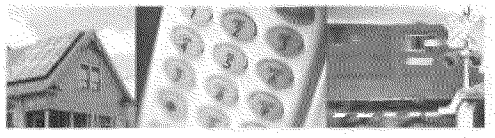
This symposium will allow representatives of the natural gas industry, government, and the public to convene and discuss ways to help create a climate and culture that embraces safety as an underlying and timeless principle in everything we do. The keynote speaker on the first day is Deborah A.P. Hersman, Chairman of the National Transportation Safety Board. Panels will follow Chairman Hersman's introduction to explore the climate and culture of safety, the regulator's role in leading safety change, and effective emergency response.

There is no charge to attend the conference, but reservations are requested so we can ensure space availability. Simply click on this symposium registration link and enter your information: http://events.signup4.com/cpucsafetysymposium. (Note that an optional dinner Tuesday evening at the Marines' Memorial Club requires an RSVP by May 1.)

As Director of the Safety and Enforcement Division of the CPUC, I believe our (industry and regulator) mission is to create a climate and culture that embraces safety as a tool and an enhancement to accomplish our organization's mission. This culture uses risk assessment and risk management as the foundation of assessing safety and the consequences of failure, and to assert that safety, with respect to human life and property, is non-negotiable. This symposium is an opportunity to establish collaborative relationships to develop solutions to the safety challenges we face in these dynamic times. I hope you will join me in this important dialog.

Sincerely,

Emory J. Hagan, III
Brigadier General (CA)
Director, Safety and Enforcement Division
California Public Utilities Commission



California Public Utilities Commission

Forging a New Vision of Safety in California

Natural Gas Safety Symposium

May 7-8, 2013, San Francisco

What: The first-ever gathering of California natural gas industry and regulatory leaders for a dialog about safety culture, the regulatory role in leading safety change, and effective emergency response.

Keynote speakers:

- Deborah A.P. Hersman, Chairman, National Transportation Safety Board
- Captain Chesley Sullenberger, *former US Air Captain*

Plus, panel discussions by industry and regulatory leaders

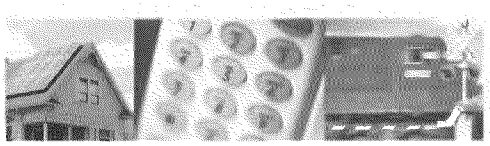
Where: Hiram Johnson State Building, Milton Marks Auditorium, 455 Golden Gate Ave., San Francisco

When: May 7, 2013, 1:30 – 4:45 p.m. and May 8, 2013, 8:30 a.m. – 12:30 p.m.

Agenda

Day 1: Tuesday, May 7, 2013, 1:30 p.m. – 4:45 p.m.

1:30 p.m.	**Welcome** Brigadier General (CA) Jack Hagan, *Director, Safety and Enforcement Division, California Public Utilities Commission*
2 p.m.	**Keynote** Deborah A.P. Hersman, *Chairman, National Transportation Safety Board*
3:15 – 3:30	**Break**



3:30 p.m.	**Panel 1: Building a Climate and Culture of Safety**
	Moderator: TBD
	TBD, Alaska Airlines
	Captain Jody Bridges, *USN, Director School of Aviation Safety, Pensacola FL*
	Robert C. Figlock, *President, Advanced Survey Design, LLC*
	Paul Levy, *former Chair of the Massachusetts Department of Public Utilities and former CEO of Beth Israel Deaconess Medical Center*
	Nick Stavropoulos, *Senior Vice President, Gas Operations, Pacific Gas and Electric Company*
5 p.m.	**Adjourn**

Evening Event (Optional)

6 p.m.	**Reception (cash bar), Marines' Memorial Club & Hotel, 609 Sutter St., San Francisco**
7 p.m.	**Dinner**
	Evening Keynote: Captain Chesley Sullenberger, *former US Air Captain, pilot of the "Miracle on the Hudson" aviation incident*

Day 2: Wednesday, May 8, 2013, 8:30 a.m. – 12:30 p.m.

8:30 a.m.	**Panel 2: Effectively Managing Pipeline Emergency Response**
	Moderator: TBD
	Jerry Schmitz, *Vice President, Engineering, SouthWest Gas*
	Joanne Hayes-White, *Chief, San Francisco Fire Department*
	Tim Butters, *Deputy Administrator, Pipeline and Hazardous Materials Safety Administration*
	Carl Weimer, *Executive Director, Pipeline Safety Trust*
10 a.m.	**Break**
10:15 a.m.	**Panel 3: Leading Safety – What Does Regulatory Leadership Look Like?**
	Moderator: Paul Clanon, *Executive Director, California Public Utilities Commission*
	Commissioner Mike Florio, *California Public Utilities Commission*
	Commissioner Paul J. Roberti, *Rhode Island Public Utilities Commission*
	Chris Johns, President, *Pacific Gas and Electric Company*
	Dennis Arriola, *President & Chief Operating Officer, Southern California Gas Company*
12 p.m.	**Concluding Remarks**
	President Michael R. Peevey, *California Public Utilities Commission*
	Brigadier General (CA) Jack Hagan, *Director, Safety and Enforcement Division, California Public Utilities Commission*
12:30 p.m.	**Adjourn**

EXHIBIT 2

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)
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DECLARATION OF BRITT K. STROTTMAN IN SUPPORT OF MOTION OF THE CITY OF SAN BRUNO REQUESTING AN ORDER TO SHOW CAUSE WHY ASSIGNED COMMISSIONERS PEEVEY AND FLORIO SHOULD NOT BE RECUSED FROM THE "FORGING A NEW VISION OF SAFETY IN CALIFORNIA" SYMPOSIUM PURSUANT TO RULE 8.3, OR IN THE ALTERNATIVE, AN ORDER SUSPENDING THE SAFETY SYMPOSIUM UNTIL I.12-01-007, I.11-02-016, AND I.11-11-009 ARE FULLY ADJUDICATED

STEVEN R. MEYERS
BRITT K. STROTTMAN
JESSICA R. MULLAN
Meyers, Nave, Riback, Silver & Wilson
555 12th Street, Suite 1500
Oakland, CA 94607
Phone: (510) 808-2000
Fax: (510) 444-1108
E-mail: smeyers@meyersnave.com
Attorneys for CITY OF SAN BRUNO

April 24, 2013

DECLARATION OF BRITT K. STROTTMAN

1. I am an attorney admitted to practice law in the State of California and serve as Special Counsel for the City of San Bruno, California ("San Bruno"). I make this declaration in support of the Motion of the City of San Bruno Requesting an Order to Show Cause Why Assigned Commissioners Peevey and Florio Should Not Be Recused From the "Forging a New Vision of Safety in California" Symposium Pursuant to Rule 8.3, or in the Alternative, an Order Suspending the Safety Symposium Until I.12-01-007, I.11-02-16, and I.11-11-009 are Fully Adjudicated. I have personal knowledge of the following facts and if called as a witness I could and would testify competently thereto.

2. San Bruno did not receive notice of the California Public Utilities Commission (CPUC) and Pacific Gas and Electric Company (PG&E) safety symposium (CPUC-PG&E Safety Symposium) "Forging a New Vision of Safety in California" until I received a copy of the invitation from Marcel Hawiger, counsel for The Utility Reform Network, on April 9, 2013 at 12:50 p.m., five days after the CPUC distributed the invitation.

3. The CPUC did not invite San Bruno to the CPUC-PG&E Safety Symposium, nor ask any San Bruno representatives to participate in the CPUC-PG&E Safety Symposium.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that if called upon to testify, I could and would competently do so. Executed this 24th day of April 2013 in Oakland, California.

Britt K. Strottman

EXHIBIT 3

State of California

Memorandum

Executive Sponsors
Paul Clanon
Michelle Cooke

Date: February 11, 2013

To: Directors

From: Paul Clanon, Executive Director
Amanda Hult, Safety Culture Change Project Co-Lead
Richard Oppenheim, Safety Culture Change Project Co-Lead

Subject: *CPUC Safety Culture Change Initial Discovery Report*

The attached report, completed by Business Advantage Consulting, outlines the results of the Initial Discovery stage of the Safety Culture Change project. This first stage involved two steps: interviews with senior leadership and focus groups with managers and staff. We are asking that you treat this report as Confidential and do not distribute to anyone else.

Business Advantage Consulting will be attending the Director's Meeting on Friday, February 15 to engage the Directors in a discussion about the results. As you review the report, consider the following questions as they will be discussed in the Director's Meeting:

- What surprised you about the report?
- What resonated for you?
- What can we do to maximize our chances of successfully changing the culture of the PUC?

As a recap, this project involves identifying safety culture issues; developing a strategy that identifies safety culture goals, objectives and action plans; and finally providing coaching to identified CPUC leaders to help meet goals, objectives and action plans. The specific steps of the safety culture change project scope include six stages:

1. Initial Discovery
2. Develop Strategy/Approach
3. Assessment
4. Initial Coaching Sessions
5. Follow-Up Coaching Sessions
6. Results of Safety Culture Change

Now that we have completed the Initial Discovery Stage, we will be moving into the Strategy/ Approach stage of the Safety Culture Change project.

California Public Utilities Commission
Safety Culture Change Project

Initial Discovery Report

January 25, 2013

What Does A Safety Culture Look Like?

"If this were a safety culture, when we found something that is an unsafe practice, we would take action and the Commissioners would support us."

"Everyone at PUC would know what their role is regarding safety."

"We'll know we have a safety culture when Commissioners say 'yes' to our recommendations and 'no' to utilities when they ask for things that do not include safety considerations."

"We would be making hard decisions about prioritizing safety beyond other priorities."

"We will know that safety has become a priority when a safety decision is made by the Commissioners with a 5-0 vote."

"If we were enforcing the rules, we would not have to worry about a safety culture. If we were holding the utilities accountable and doing what we were supposed to be doing, San Bruno would never have happened."

INTRODUCTION

The California Public Utilities Commission (PUC) is seeking to change its culture to one of enhanced commitment, focus, and accountability to safety throughout the organization. The desire to change its culture was sparked by the recent gas pipeline disaster in San Bruno, which revealed cultural shortcomings in safety enforcement and oversight at the PUC.

The PUC has engaged Business Advantage Consulting (BAC) to facilitate its Safety Culture Change project, which will undertake an immediate and sustained effort to help PUC leadership in a guided process of culture change to apply the lessons of San Bruno to all of the agency's regulatory programs, and leave a PUC safety culture that permeates all of the agency's work. This project began with Phase 1, Initial Discovery, which consisted of a document review, interviews and focus groups. The purpose of the Initial Discovery Phase was to uncover the culture changes needed and to develop a draft problem statement that would allow the PUC to plan its culture change strategy.

This report includes the following sections:

Introduction - this section briefly describes the Safety Culture Change Project.

Draft Safety Culture Problem Statement - this section presents the draft Safety Culture Problem Statement, developed based on the findings from the Initial Discovery Phase.

Cultural Issues and Challenges - this section presents respondent identified safety culture issues and challenges related to PUC culture.

Structural Issues and Challenges - this section presents respondent identified structural issues and challenges related to a PUC safety culture.

External Pressure Issues and Challenges - this section presents respondent identified issues and challenges to a PUC safety culture that come from external pressures.

Participants Ideas and Suggestions - this section includes respondent ideas and suggestions for creating a safety culture at PUC.

Next Steps - this section presents BAC's recommendations for next steps.

Appendix - the Appendix includes interview and focus group protocols used during the Initial Discovery Phase.

As the first step in the Initial Discovery Phase, BAC team members reviewed recent internal and external assessments relating to the PUC's culture and functioning. Some of these documents focused directly on the PUC's strengths and challenges as a safety

promoting and regulating entity (*Report of the Independent Panel: San Bruno Explosion (2011)*), while others assessed the PUC's strengths and challenges more broadly (*The Training Needs Assessment,* (June 2011); The *Pulse Employee Opinion Survey,* (February 2012).

During October through December 2012, BAC, in collaboration with PUC staff, developed an interview protocol to gather insights and observation from PUC leaders about safety at the PUC. BAC used the interview protocol to conduct fifteen interviews of PUC executives including the PUC Executive Director, Division Directors, and Legal Counsel during October, November and December of 2012. In January 2013, BAC team members conducted four focus groups comprised of PUC line staff, supervisors, and managers. BAC worked with PUC staff to develop three focus group protocols: one protocol for supervisor/manager focus groups, one protocol for line staff focus groups, and a separate protocol for Safety and Enforcement Division (SED) staff focus groups that addressed SED's unique mandate and issues regarding maintaining and sustaining a safety culture. The interview and focus group protocols can be found in the Appendix of this report.

The Initial Discovery Phase harvested a large amount of data and uncovered a wide range of issues and challenges to establishing a culture of safety at the PUC. BAC has organized these issues into three broad categories: cultural, structural and external pressures. We do not mean to imply that the issues are separate and discreet from each other. In fact, they are overlapping and interdependent. These categories are meant to organize the data into a high level structure to allow meaningful discussion, analysis, and strategic problem solving by PUC leadership.

DRAFT SAFETY CULTURE PROBLEM STATEMENT

The information gathered during the Initial Discovery Phase provides the backdrop and scope for the following problem statement:

> The current PUC culture has contributed to its past success. Leadership has determined that some aspects of this culture, however, need to change in order to promote a culture of safety. To make meaningful progress toward this goal, PUC leadership must confront issues in three categories of barriers to a culture of safety: cultural, structural and external pressures. PUC leadership must analyze these issues, develop strategic safety goals, and take strong, effective, consistent and sustained action to achieve these safety goals.

Each issue is discussed in more detail in the body of this report. Where appropriate, issues are followed by illustrative comments from PUC interviewees or focus group participants. We wish to make clear that the issues identified in this report represent the views and perceptions of the respondents. This report is not an evaluation of the

objective truth of those views and perceptions. To summarize, a non-prioritized list of all issues is included below:

I. Cultural
   A. A pragmatic culture that sees safety as "one of three competing priorities"
   B. Safety is considered less compelling than other priorities
   C. An "open" and "casual" culture sends conflicting messages about accountability
   D. Lack of follow up mechanisms and follow through consequences
   E. Lack of consistent safety modeling and messaging from PUC leadership
   F. Excessive process inhibits staff initiative
   G. The perception that safety culture is the "flavor of the month"
   H. Lack of individual assessment and accountability
   I. Lack of a unifying strategic vision
   J. PUC staff lack an understanding and appreciation of the goals, objectives, roles and responsibilities of divisions outside of their own
   K. Divergent views among PUC employees regarding the effectiveness of "carrot" versus "stick" regulatory approaches leads to a lack of consistency
   L. The Executive Director's aversion to conflict discourages PUC staff from taking "tough issues" head on
   M. An historic lack of advocacy for safety at the Commissioner level

II. Structural
   A. Staff lack the necessary tools and supports for effective safety analysis
   B. There are insufficient mechanisms for cross divisional communication and collaboration
   C. Cross divisional promotion depletes content-area expertise and experience
   D. PUC is not evaluating the outcomes of its policies and decisions
   E. Some staff believe that it is the PUC's failure to thoroughly "check the boxes" and enforce existing regulation that is at the root of the safety crises
   F. SED has lacked the power and influence necessary to serve as a safety leader
   G. Director meetings do not address shared safety goals
   H. PUC databases do not support effective analysis or information sharing
   I. PUC managers lack both supervisory and leadership skills

III. External Pressures
   A. An overly-cozy relationship with regulated utilities
   B. Pressure from the legislature and large number of environmental and rate payer lobbyists and activists keep focus on those areas

A detailed description of each issue is included in the next three sections of the report.

I. CULTURAL ISSUES & CHALLENGES

Cultural issues and challenges that emerged during the Initial Discovery Phase include basic assumptions, norms, behaviors, actions, and values that have developed over time.

A. **A pragmatic organizational culture in which safety is viewed as "one of three competing priorities":** Many PUC staff view themselves as analysts and pragmatists who understand accidents to be "inevitable". These respondents insist that safety goals and interests must be carefully balanced against the competing goals and interests of affordability and reliability in order for the PUC to succeed.

"We can't focus on one element of our mission to the detriment of the others."

Throughout the focus groups and interviews, respondents posed the question "How much money are we willing to spend to save one life?"

B. **Safety is considered less compelling than other priorities:** For many years, the PUC has been celebrated as a leader in representing ratepayers and for promoting innovative and green technologies. There has been little attention and limited resources directed toward reliability, and even fewer toward safety by the Legislature and the Commissioners. Historically, SED has received less personnel allocations and other resources and has brought fewer issues before the Commissioners than the Energy Division (Energy) or the Division of Ratepayer Advocates (DRA). Because safety is considered to be "off the radar screen" of most Commissioners and legislators, it is considered to have little cache for PUC staff and managers.

"We get focused on hot projects and priorities and safety does not usually get that much attention."

"Our values really get focused on ensuring low prices and supporting environmental attributes. We are very enamored with clean energy and low rates. They drive policy making, not safety concerns."

"For the past ten years we have been mostly focused on climate changes policies. Everything else takes a back seat. We have not been focused on creating the safest infrastructure."

C. **An "open" and "casual" culture sends conflicting messages about accountability:** While the PUC's open and casual culture (e.g. dress code, the Executive Director's open-door policy, San Francisco address, lack of employee evaluations, industry's easy access to the PUC), is credited with promoting open communication and innovation, it is also blamed for sending the wrong message to

both staff and regulated industries about accountability. Respondents reported that regulated industries have too much access to the PUC building, documents and personnel, and see too little in terms of significant fines and consequences to view the PUC as a serious regulator. Similarly, the casual approach of the Executive Director and other PUC senior leaders sends the message to staff that they will not be held accountable for their actions.

"The regulated industries and lobbyists come to the PUC and see how casual the attitude and culture is here. As a result, they don't feel that they have to comply – they are not worried. The message to them is that we are not paying attention."

"We are not disciplined. How can we expect to see discipline in the utilities?"

D. **Lack of follow up mechanisms and follow through consequences:** While the PUC can be highly effective at gathering and tracking essential safety data, identifying safety issues, and creative problem-solving, there is a lack of clear processes for following up and a lackadaisical attitude toward follow through. Respondents reported that meetings (from line staff meetings, to Division Director meetings to commission meetings) do not include sufficient mechanisms for tracking the implementation and outcomes of previous decisions, and that minimal resources are dedicated to evaluation or compliance at any level (i.e. review of how utilities actually spent money allocated to them for safety improvement projects). In addition, respondents report that there is little-to-no consequences for employees who fail to follow up, or for utilities who fail to follow through.

"We must make consequences more than a slap on the hand."

E. **Lack of consistent safety modeling and messaging from PUC leadership:** While most respondents believe that the Executive Director has a sincere desire to improve the safety outcomes of the PUC, many believe that he and other leaders are not providing the consistent messaging and behavior necessary to support fundamental change. Respondents point to several attitudes and behaviors displayed by the Executive Director that they consider to be "anti-safety". These include: resistance to challenging utilities, resistance to levying fines, unwillingness to re-allocate organizational resources, failure to complete employee evaluations, failure to provide consequences to staff, resistance to confronting internal conflicts.

"You lead from the top. Paul is not doing his evaluations and the people under him are not doing theirs."

"If Paul does not insist on change, there will be no change. There must be a constant reminder. We need to bring concrete and relevant information to the staff. We need to continually broach the issue – there is always a safety aspect to everything we do. It needs to be considered in all of our decisions."

"You need to have disciplined leadership – employees pick up on the cues and emulate what they see."

"We need consistent messaging from senior management that things need to be changed and management needs to show us support by responding to our needs and complaints…"

"There has been a lot of lip service for safety. I have not yet seen enough action yet to back up the talk."

F. **Excessive process inhibits staff initiative:** According to respondents, when staff identify issues or propose new approaches, those decisions/recommendations must be reviewed by numerous layers of management before reaching top leadership. Bottlenecks occur regularly in middle management and the initial issues or recommendations are considered too late in the process or else never reach decision-makers at all. Failing to see their ideas acknowledged, staff lose their initiative to be innovative or proactive in the future.

G. **The perception that safety culture is the "flavor of the month":** According to several respondents, PUC's culture is often resistant to change. Staff report receiving directives from upper management that they consciously ignore, believing that if they wait, "this too shall pass."

When presented with the Safety Culture Change Project several respondents indicated their belief, that it was a superficial response to outside pressures and, as a result, would be gone from the radar before long.

"Once there are no accidents again, safety will go on the back burner for the other divisions."

"There is a disincentive for staff to tackle safety, it would mean taking on more work by myself for no reason and without support."

H. **Lack of individual evaluations and accountability**: The majority of directors interviewed had not received a personnel evaluation in several years and had not conducted evaluations of their own staff. Neither staff nor leadership who participated in the discovery phase reported experiencing consequences for failure to complete employee evaluations outside of the probationary timeframe.

I. **Lack of a unifying strategic vision:** Many respondents believe that the PUC determines its priorities and allocates its resources solely in reaction to legislative

and media pressures, and that there is no larger, long-term vision guiding and unifying staff around safety and other shared goals.

Many of the staff and leadership interviewed expressed the belief that enforcing safety is strictly the job of the Commissioners and the SED.

> *"Commissioners should be watching the regulatory and safety piece. We shouldn't be doing this."*

Outside of the SED, many staff and managers do not believe they have a role in creating and sustaining a safety culture. Many PUC staff and managers see their division's individual goals as mutually exclusive from other divisions.

> *"In each division there's a different focus – for DRA it's cost, for Energy it's reliability, for Water, it's cost. Safety isn't inherent. Cost first, reliability second, safety is last. We need to change how we think. We need guidelines, we need to revise the mission."*

> *"There isn't enough about safety in our vision." We have to show people the importance of safety. We must make it relevant to people."*

> *"The problem here is not the staff, it is the system. Need to have a strategic plan about safety goals."*

J. **PUC staff lack an understanding and appreciation of the goals, objectives, roles and responsibilities of divisions outside of their own:** According to respondents, at the staff, supervisor, manager and even director level, there is a general lack of understanding of what other divisions do and why they do it. This lack of understanding reinforces silos, hording of resources, and the lack of communication currently experienced among PUC's divisions.

K. **Divergent perspectives among PUC employees regarding the effectiveness of "carrot" versus "stick" regulatory approaches leads to a lack of consistency:** PUC's employees do not agree on the most effective method for achieving compliance among the regulated utilities. While some staff firmly believe the PUC must use its significant financial and regulatory power to extract compliance, others believe that punishing the utilities with heavy fines does not work to either parties' benefit.

> *"If you punish your child (i.e., PG&E) all the time for speaking up, they're not going to come to you when there's a fire in the closet (a risk)."*

> *"If we don't levy real fines, this sends the messages to the utilities that they don't have to take us seriously."*

This inconsistency in vision and approach is seen throughout the PUC's divisions. Many employees consider compliance in very "black and white" terms. This schism appears to be due in part to an incomplete vision and message from PUC leadership regarding compliance:

"We are not being proactive. We are just dragging them (the utilities) with us."

"We were told to issue citations. We issued citations. Then we are told that we should meet with them to discuss how they could comply without complying to the law. We are told to be inconsistent. No matter what we do, they change it."

L. **The Executive Director's aversion to conflict discourages PUC staff from taking tough issues head on:** Several respondents reported that the Executive Director is hesitant to intervene in internal conflicts such as in disagreements over personnel and other resource allocations among division directors. In general, respondents report that PUC culture is very "risk averse" and works against "sticking your neck out".

"A don't 'upset the apple cart' mentality leads to people not challenging things, underperforming and not paying close attention, not showing the regulated industries that they are being watched and that the PUC is serious."

"I, as a director am told not to say anything, don't cause problems, how are we to regulate the utilities?"

"We need to be more transparent – open up to whistleblowers. Get away from 'the old boys network.' "

M. **An historic lack of advocacy for safety at the Commissioner level:** According to respondents, most Commissioners express minimal interest in or support for safety initiatives. Commissioners review few cases regarding safety on a pro-active basis and have minimal contact with SED personnel. The Commissioners' policy analysis and decision-making processes have historically not considered safety impacts, and there has been no evaluation of previous decisions to evaluate their long-term impacts on safety. In addition, the Commissioners have decided against several SED recommendations due to cost, political, and other considerations.

"Commissioners consider safety issues routine. They are not interested in discussing it."

"Commissioners need more political backbone to fine or punish utilities. They need to see its not just a cost of doing business."

"When Commissioners vote, they don't support safety, so there's no incentive for the utilities to be safer. If they knew they were 100% liable for safety problems, they'd take it more seriously. If the commission lets them put the burden on ratepayers, rather than shareholders, there is no incentive for the utilities to change."

II. STRUCTURAL ISSUES & CHALLENGES

Structural issues and challenges identified during the Initial Discovery Phase include resource, policy, process, communication, training, and technology barriers to creating a safety culture.

A. **Staff lack the necessary tools and supports for effective safety analysis:** Respondents indicated that PUC staff and managers lack the training, time, processes and management support to effectively identify, analyze and move forward safety concerns and considerations. There are no existing mechanisms for inserting safety concerns into the record. Often, when safety is considered in a case proceeding it is at the end of the process, when it is too late to make necessary changes. In addition, there are imbalances in personnel classifications. The PUC was previously staffed primarily by engineers, but over the past few decades, engineers have been replaced by policy experts, many of whom lack the training and orientation to conduct risk assessment/risk management.

"I don't know who to call when I don't understand a safety issue."

"Other divisions haven't been given a clear enough directive on what safety is."

"We have lack of expertise within the commission to evaluate safety. We prioritize for rates and affordability. DRA doesn't know how to analyze a dam. "

B. **There are insufficient mechanisms for cross-divisional communication and collaboration.** This was the most common complaint among division directors, managers, supervisors and staff. According to respondents, the PUC offers few opportunities for staff to collaborate across divisions on issues that affect them, Lack of cross divisional communication and collaboration was blamed for several of the PUCs current safety woes including: lack of access to critical data, ineffective risk assessment and planning, ineffective oversight, duplication of effort, and delays in response times. Respondents also noted that cross divisional collaboration is prevented in some case by inherent conflicts within the system, such as between SED, Energy and DRA when they are parties to a proceeding.

"If we all knew better what we were doing, we could share the load better. We could work smarter."

"Energy, DRA and SED need to interact with each other. They need to understand how they are all connected."

C. **Cross divisional promotion depletes content-area expertise and experience:** The regular practice of promoting across divisions rather than within divisions means that PUC staff take their subject matter expertise and insight out of the divisions to which it relates. Because there are few mechanisms supporting cross-divisional communication and collaboration, significant content knowledge is not often transferred to incoming staff members, making meaningful safety assessments more difficult.

D. **PUC is not evaluating the outcomes of its policies and decisions:** Respondents indicated that, from the Commissioners down to the staff level, there are few mechanisms for assessing or evaluating the outcomes of previous actions and decisions. There is no process or model for evaluating what worked and what did not and for creating recommendations regarding what should be done differently in the future. This is true both for decisions regarding issues internal to the PUC and for issues regarding external entities (utilities). While audits are regularly completed by SED and other divisions, there is no sharing of or follow up to findings.

"Commissioners don't see follow up regarding the decisions they make. They make a decision and then move on."

"If you are promoting safety, you have to have mechanisms for implementing safety strategies and evaluating them. You must have an auditing mechanism."

E. **Some staff believe that it is the PUC's failure to thoroughly "check the boxes" and enforce existing regulation that is at the root of the safety crises:** While most respondents concurred that the PUC must move towards a risk assessment approach, several respondents expressed their belief that it has been PUC's failure to adequately enforce compliance with current regulations that has been the true source of poor safety outcomes. Examples of this failure include failure to hire sufficient numbers of inspectors, failure to provide inspectors adequate training, and failure to place swift and significant fines on utilities that are out of compliance.

"It is not rocket science to do regulations. We have clear and explicit guidelines."

"PUC inspectors were not being trained properly. They were not even 'checking the boxes' because if they did, they would have noticed something was amiss."

"We need to check the box, before you can walk outside the box."

F. **SED has lacked the power and influence necessary to serve as a safety leader:** Respondents report that for many years, power and resources have been allocated inequitably at the PUC. While some divisions such as Energy and DRA have received significant resources and attention from the Commissioners, other divisions (namely SED and Water), have been treated as undervalued, and at times, invisible stepchildren.

> *"Safety staff doesn't feel like they are a valued part of the agency. Commissioners don't talk to them."*

According to several respondents, SED has been at times, both the perpetrator and the victim of this dynamic. By several accounts, SED has functioned for many years without the necessary staffing, resources and access to the Commissioners that it has needed to bring safety to the fore. At the same time, some respondents believe that SED has perpetrated its outsider status by functioning as a rigid and closed system. SED staff have been resistant to sharing data, enhancing processes, working proactively, and are reluctant to collaborate with other divisions.

> *"SED needs to realize that their role is to advocate for safety and think beyond doing safety inspections. They need to think more deeply about who needs the data they have collected."*

> *"When SED takes sole responsibility for safety, everyone else takes it off their plate."*

> *"SED needs to be telling us on a daily basis what they are finding. They should always be communicating what they are finding in terms of inspection."*

> *"SED has not been trained in risk assessment and mitigation, and is not geared in that direction."*

G. **Director meetings do not address shared safety goals:** Director meetings are viewed as ineffective in promoting cross division sharing, analyses or problem solving regarding safety issues. For example, according to one respondent:

> *"Paul has not led the directors in any shared goal setting or strategic planning" Safety is not an agenda item at the meetings."*

H. **PUC databases do not support effective analysis or information sharing:** According to respondents, PUC divisions host a set of disparate databases that are difficult to utilize for effective data sharing and data analysis. Challenges include: duplicate entries, difficulty in pulling clear and succinct reports, and data being input into different parts of the system where it cannot be seen together. To support safety

planning goals, staff require more flexible and integrated systems that are able to initiate data analysis. For example, staff should be able to give the system parameters of what types of data constitute an elevated risk to safety. When these parameters are reached from data entered by a regulator, the system should automatically generate and send out a report to key decision makers to flag a potential safety issue. Staff should be able to request risk profiles and receive notifications of potential issues.

I. **PUC managers lack both supervisory and leadership skills:** Respondents indicated that technical expertise, rather than leadership effectiveness has been the primary reason for promotion at the PUC. Following promotion to supervisory positions, new PUC managers do not participate in the mandatory supervisory training required by the State.

> *"Managers here are very weak. They are technical experts who don't know basic management skills. Many have not taken the mandatory 40 hour supervisor training, and most don't do evaluations."*

III. EXTERNAL PRESSURE ISSUES & CHALLENGES

External pressure raises issues and challenges to a safety culture. Issues identified by respondents include the low priority placed on safety by external PUC stakeholders as well as the influence of powerful industry and other advocates on PUC decision-makers.

A. **An overly-cozy relationship with regulated utilities:** Several respondents report that both Commissioners and PUC staff members have close ties to the industries they are supposed to be regulating. This has resulted in a reluctance on the part of t Commissioners and the PUC to impose significant fines and other consequences:

> *"For years, the Commissioners did not want to levy fines for safety violations. The culture was 'we will work with the utilities without using the stick...A decade of no fines."*

> *"Safety staff did not feel empowered to suggest large fines because the Commissioners would not approve them."*

B. **Pressure from the legislature and large number of environmental and rate payer lobbyists and activists keep focus on those areas.** There are numerous advocates for utilities and ratepayers. Substantial resources are devoted to safeguarding the interests of these groups and advocating for affordable rates and environmental concerns. There is not the same strength of advocacy for safety coming from outside the organization. According to respondents, safety is not

handled proactively. Rather, it tends to be addressed reactively after events. The current focus on job creation and boosting the economy makes over-regulation unpopular.

PARTICIPANT IDEAS AND SUGGESTIONS

The following is a list of ideas and suggestions for creating a safety culture gathered from PUC interviewees and focus group participants.

- Develop cross functional and cross divisional workgroups
- Develop safety panels within each division
- Develop an orientation program for new employees that introduces them to each of the PUCs divisions.
- Expand the risk assessment group to other divisions outside of the SED.
- Early in case proceedings, identify the need for cross-divisional participation. Provide access to needed staff.
- Hold regular inter-divisional meetings where staff can discuss the breadth of issues before the Commission.
- Utilize SED staff to provide training on safety analysis risk management.
- Make SED an active role in Administrative Law Judge (ALJ) cases. To get around legal barriers, have SED hire consultants to keep clear wall around cases.
- ALJ has been looking at procedures to support safety consideration at every step. To create a record to capture safety issues for each decisions. This will require that Commissioners are aware of the safety impacts.
- Hold a forum for SED to discuss issues on a regular basis with the energy and legal division. Build this into SED's strategic plan.
- Utilize the Safety Council as a clearinghouse for reviewing safety-related decisions and workplanning next steps.
- Provide training for all employees in risk assessment and risk analysis approach, philosophy and practices.
- Look at revamping the auditing process: SED is doing a lot of work with audits but they have not done follow up on their initial audits and looked at what are the

longer term results that their policies and decisions have created. It is very important that SED communicate with their state and federal colleagues regarding what they are finding and develop a collaborative strategy for responding to issues.

- All PUC leaders need help in translating the larger PUC goals and mission into their day-to-day work plans and connecting their work plans to larger goals and mission.

- Best Practice: Energy holds "First Friday Forum" in which one of its 15 sections does a "deep dive" into their topic.

- Look at ratio of PUC inspectors to other states in terms of pipeline to see if PUC is making the correct allocations in this area.

- Look closely at how the Safety Council is functioning and optimize its effectiveness. (e.g. make sure to include key players, provide processes and support for implementing decisions, needs an evaluation mechanism, needs process for communicating decisions to staff)

- Build protocol into the Commission's policy analysis and decision-making processes that looks at the longer term connections to impacts on safety ("the flow through to safety impacts")

- Set expectation by including safety in job descriptions, evaluations etc. Reward staff who meet safety goals/ display ideal safety behaviors.

- Provide directors, managers and supervisors training in, support for and consequences for not completing employee evaluations.

- Create a stronger integration between Commissioners and safety staff.

- Hold inter-division forums/meetings to educate staff on the goals and objectives of each PUC division.

- Require safety to be part of every work product. Embed safety criterion/considerations/analyses in all decision-making templates. Must be weighted equally to financial considerations.

- Hold additional directors meetings (once every 6 weeks) where directors can brainstorm and problem solve together regarding H.R.-related issues. This would take these issues off the table at the regular directors meetings.

- Connect the dots between what happened in San Bruno and the decisions that led to the accident. Expand staff understanding of what "safety" really is and their

connection to it. (look at National Transportation Safety Board example regarding Washington, D.C. train crash).

- Hold an off-site with the entire staff one time a year that focuses exclusively on safety and safety goals.

NEXT STEPS

The information derived from our Initial Discovery Phase will now be used in our Strategy Development Phase. During this phase, BAC will facilitate a culture change process that will help foster a safety culture at the PUC. This process will help leadership clearly define the desired change, identify strategies and actions to implement the change, and create a forum for reporting progress and ensuring accountability.

The culture of an organization is difficult to change because it is hard to see. Culture is the pattern of basic assumptions and norms developed over time in response to the specific needs of the organization. These assumptions constitute "the way we do things around here," and are taken as the facts of reality itself.

In this way, culture is like a computer's operating system. If you try to install a new program that is in conflict with an old operating system, it will be rejected. Similarly in culture change, if the change is implemented using the usual methods the organization is accustomed to ("the way we do things"), the change effort will likely be rejected by the culture.

The bottom line: you can't implement a new culture using only the typical methods of the old culture.

For these reasons, BAC will advise PUC leadership to implement its culture change using methods that may be different from those it has used in the past. These new methods will seem awkward and uncomfortable. This discomfort is actually a good sign because it means we are changing the operating system.

The Strategy Development Phase will be initiated by PUC leadership at a series of problem-solving meetings to interpret the Initial Discovery data and select safety goals. The roadmap for this process will be jointly created by BAC and PUC leadership. BAC suggests that the following change management best practices be considered as we design the change effort together:

1. Create a clear vision of what PUC is trying to achieve in a "safety culture."

2. Have a candid conversation of the current state of reality and the barriers to achieving this vision.

3. Increase the number of people, levels, divisions and units that participate in interpreting the data, selecting the goals, and planning the change.

4. Create a designated change team that guides the process and reports to the Executive Director. This team should be comprised of people who are engaged advocates for safety from multiple divisions and levels.

5. Select high level goals that if accomplished will achieve the vision. Include small wins and "low-hanging" fruit among these goals to build momentum.

6. Select metrics for each goal that will allow the organization to measure progress.

7. Ensure accountability by assigning executive level sponsors for each goal and metric and provide individual coaching as needed.

8. Develop strategies, activities and workplans for each goal with assigned staff and resources.

9. Create a forum and process for regular reporting and department-wide communication on the goal metrics. Include avenues for two-way communication to ensure that feedback is incorporated into modifications to the culture change plan.

Appendix

Interview Questions for PUC Leadership

1. PUC is focused on creating a safety culture. If that was successful, what would that look like?

Probes: *What would be done differently? What would be the most significant changes that would have to take place?*

2. What is helping and what is hindering the PUC in terms of creating a safety culture?

***Probes (1)**: Is safety a high priority of most leadership/of most staff? Why/why not? If not, what issues resonate most with leadership and staff right now?*

***Probes (2):** What role does PUC's current culture play in helping/hindering to develop a safety culture? How are decisions made? What do meetings look like? How do problems generally get solved? How do employees know if they are doing well or doing poorly? For what types of behavior are people rewarded and punished? What do people do here to deal with the unknowable and uncontrollable?*

3. What do you see as the core values of the PUC?

Probes: *Where are PUC leaders aligned with these values? What is enabling and encouraging this alignment? What best practices regarding safety culture are evident in your division? Across the organization? Where do you see leaders motivating their staff to engage in safety promoting behaviors? How are they doing this?*

4. What do you see as the greatest challenges for PUC leaders in creating a safety culture?

***Probes**: Where are leaders out of alignment with PUC values? Why is this happening? What tools do PUC leaders require that they do not have? What is the most effective strategy for providing them these tools?*

5. What are the most effective strategies for fostering collaboration and shared goals across divisions?

Probes: *How challenging is the issue of silos? Are there any current contexts in which leadership is successfully working together? How can the silos at PUC be broken down? Is working together rewarded? How can we encourage cross communication across silos and focus leaders on shared goals?*

6. What will be the most effective strategies for engaging PUC leaders in promoting a safety culture?

Probes: *What will convince leaders that engaging will make a difference? What data will be persuasive? What type of language should we be using to talk about safety culture?*

7. Which staff and managers do you think would be most helpful to include in a focus group dealing with these same issues?

Focus Group Questions for Line Staff

1. PUC is focused on moving from a "check the boxes" approach to a "risk management/mitigation" approach and creating a "safety culture." What is your understanding of the main differences between these two approaches? What do you think is meant by a safety culture?

2. What changes would have to be made at the PUC to switch to this new approach and move towards a safety culture?
   Probes: *What is helping and what is hindering the PUC in terms of creating a culture focused on safety? Is safety a high priority for most staff? To your managers? To you personally? Why or why not?*

3. How has the PUC handled goal setting regarding safety as an organization?
   Probes: *Do you feel the PUC is holding itself accountable? What is Leadership's role in safety? What changes need to be made to goal setting to support a safety culture?*

4. What messages about safety are you receiving from your supervisors/managers?
   Probes: *What information regarding safety initiatives is being passed to line staff? Are these messages consistent? How are these messages backed up with actions/resources etc?*

5. How is safety behavior/safety considerations incorporated into your daily work?
   Probes: *Are you able to contribute ideas about how to include safety in daily work/goals of your division? How are you getting support for safety initiatives from your managers? Are you being held accountable for the success of these initiatives? What else do managers need to be doing to support you/ to increase staff-buy in?*

6. What tools/resources do you need to support you in creating a more safety-focused work environment? What is the most effective strategy for providing you these tools?

7. How much communication, collaboration and shared goals are taking place with regard to safety at the PUC? Across the different divisions? What communication barriers have you seen between staff, managers and leadership? Can you think of any examples of where either staff, managers or leadership are successfully working together around safety goals? Why do you think this is able to happen?

8. Should there be any changes in how the agency disseminates safety information internally? Externally, to the public? What type of communication tools should be used to talk about safety culture at the PUC? (meetings, trainings, emails, memos, poster campaign, social networking, etc.)

9. What will convince you that a safety culture is a priority? What will convince your colleagues that safety is a priority? What would be most effective for creating buy-in and people's attention?

Focus Group Questions for PUC Managers/Supervisors

6. PUC is focused on moving from a "check the boxes" approach to a "risk management/mitigation" approach and creating a "safety culture." What is your understanding of the main differences between these two approaches? What do you think is meant by a safety culture? What changes would have to be made at the PUC to switch to this new approach and move towards a safety culture?

7. In your opinion, what is helping and what is hindering the PUC in terms of creating a culture focused on safety?
Probes: *In your opinion, is safety a high priority for most leaders/managers/staff? For you personally? Why or why not?*

3. *How has the PUC handled goal setting regarding safety as an organization? Do you feel the PUC is holding itself accountable? What changes need to be made to goal setting to support a safety culture?*

4. How are you incorporating safety behavior/safety considerations into your daily work and decision-making and in the work/decision-making of your staff?
Probes: *How are you getting support for safety initiatives from staff? What information regarding safety initiatives is being passed to line staff? What else do managers need to be doing to increase staff-buy in?*

5. What do you see as the greatest challenges for yourself and other PUC managers/supervisors to supporting safety behavior/considerations?

6. Are you getting the support you need from PUC leadership? What else do you need? What else should leadership be doing to support the creation of a safety-focused culture here?

7. What tools/resources do you need to support you in creating a more safety-focused work environment? What is the most effective strategy for providing you these tools?

8. How much communication, collaboration and shared goals are taking place with regard to safety at the PUC? Across the different divisions? What communication barriers have you seen between staff, managers and leadership? Can you think of any examples of where either staff, managers or leadership are successfully working together? Why do you think this is able to happen?

9. Should there be any changes in how the agency disseminates information internally? Externally, to the public?

10. What will convince you that a safety culture is a priority? What will convince managers/supervisors and staff that safety is a priority? What would be most effective for creating buy-in and people's attention? What type of communication tools should be used to talk about safety culture at the PUC? (meetings, trainings, emails, memos, poster campaign, social networking, etc.)

Focus Group Questions for SED Staff

1. PUC is focused on moving from a "check the boxes" approach to a "risk management/mitigation" approach and creating a "safety culture." What is your understanding of the main differences between these two approaches?

2. What changes would have to be made; 1) inside of the SED and 2) across the entire PUC, to switch to this new approach and move towards a safety culture?

3. What is helping and what is hindering the PUC in terms of creating a culture focused on safety? ***Probes:*** Is safety a high priority for staff and managers outside of the SED? What needs to be done to make safety a higher priority?

4. Has there been any change in how safety issues have been handled by SED post-San Bruno? ***Probes****: Did the PUC hold itself accountable enough for the incident? What have been the major changes? How effective have these changes been? What else needs to happen?*

5. What is helping and what is hindering the SED in supporting its safety goals? ***Probes****: Does SED have the resources it needs to meet its safety goals? What else does the SED need from PUC leadership?*

6. What messages about safety are you receiving from your supervisors/managers? ***Probes*** *Are you able to contribute ideas about how to include safety in daily work/goals of your division? How are you getting support for safety initiatives from your managers? What else do managers need to be doing to support you/ to increase staff-buy in?*

7. What tools/resources do you need to support you in creating a more safety-focused work environment? What is the most effective strategy for providing you these tools?

8. How much communication, collaboration and shared goals is taking place with regard to safety at the PUC? Across the different divisions? What communication barriers have you seen between staff, managers and leadership? Can you think of any examples of where either staff, managers or leadership are successfully working together around safety goals? Why do you think this is able to happen?

9. Should there be any changes in how the agency disseminates safety information internally? Externally, to the public? What type of communication tools should be used to talk about safety culture at the PUC? (meetings, trainings, emails, memos, poster campaign, social networking, etc.)

10. What will convince you that a safety culture is a priority? What will convince your colleagues that safety is a priority? What would be most effective for creating buy-in and people's attention?