

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the
Commission's Own Motion into the
Operations and Practices of Pacific Gas
and Electric Company with Respect to
Facilities Records for its Natural Gas
Transmission System Pipelines.

I.11-02-016
(Filed February 24, 2011)

**CONSUMER PROTECTION AND SAFETY DIVISION RESPONSE TO PACIFIC
GAS AND ELECTRIC COMPANY'S MOTION FOR RECONSIDERATION OF
ADMINISTRATIVE LAW JUDGE'S MARCH 28 RULING DENYING IN PART
REQUEST FOR OFFICIAL NOTICE OR, IN THE ALTERNATIVE, DIRECTING
OTHER PARTIES TO REFILE THEIR OPENING BRIEFS DELETING
REFERENCE TO MATERIALS NOT IN THE RECORD OF THIS PROCEEDING;
REQUEST FOR ORDER SHORTENING TIME FOR RESPONSE**

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April 9, 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 with Respect to Facilities Records for its Natural Gas Transmission System Pipelines.

I.11-02-016
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CONSUMER PROTECTION AND SAFETY DIVISION RESPONSE TO PACIFIC GAS AND ELECTRIC COMPANY'S MOTION FOR RECONSIDERATION OF ADMINISTRATIVE LAW JUDGE'S MARCH 28 RULING DENYING IN PART REQUEST FOR OFFICIAL NOTICE OR, IN THE ALTERNATIVE, DIRECTING OTHER PARTIES TO REFILE THEIR OPENING BRIEFS DELETING REFERENCE TO MATERIALS NOT IN THE RECORD OF THIS PROCEEDING; REQUEST FOR ORDER SHORTENING TIME FOR RESPONSE

Pursuant to Rule 11.1 of the California Public Utilities Commission Rules of Practice and Procedure, the Consumer Protection and Safety Division (CPSD) responds to PG&E's Motion, filed April 5, 2013. CPSD asserts that there is no valid reason for PG&E to request that the Administrative Law Judge (ALJ) reconsider her March 28 ruling, nor are there valid grounds for PG&E's alternative request to the ALJ to direct CPSD to delete reference to any of the CPSD materials identified in PG&E's motion.

In its Motion, PG&E asserts that "CPSD cites an interview conducted by the NTSB that is an exhibit in the San Bruno OII, but not in evidence in this proceeding, and to a handbook that it is not in either evidentiary record:

- NTSB Record #455567, Sept. 17, 2010 (National Transportation Safety Board investigation. Pacific Gas and Electric Company Natural Gas Transmission Pipeline Rupture and Fire, San Bruno, California, September 9, 2010.) : Interview of M. Hickey, 16 Sep 2010 (CPSD OB at 69 & n.188).
- Pipeline Rules of Thumb Handbook, 7th Edition, 2009 (CPSD OB at 159 & nn.514-16)." (See PG&E Motion Page 4).

In fact, the first bulleted item was referenced by CPSD in CPSD Exhibit 4, footnotes 87, 88 and 89. The actual reference was provided by CPSD on its external hard drive provided to Your Honor and to PG&E under the following path. At the top level, select folder entitled “CPUC_Duller_North_Felts_Master_2012_11”. Next, select the subfolder entitled “Felts-Public”. Then, select the subfolder entitled “6-Rebuttal_Exhibits_and_Other_Evidence”. Within that subfolder, the document has the number in it “10087.NTSB.455567”.

Item 2 was referenced by CPSD in CPSD Exhibit 4, footnotes 193, 194 and 195. CPSD purposely did not seek to enter the document referenced into the record because of concerns with breaching copyrights. However, the text that cites footnotes 514-516 in CPSD’s opening brief capture the same text, verbatim, as CPSD Exhibit 4, footnotes 193, 194, 195.

As shown by a copy of an email attached to the end of this response, CPSD informed PG&E of these oversights yesterday, but CPSD has not heard a response from PG&E about whether it intends to correct these points in its Motion. In light of CPSD’s understanding that a response on this motion is due tomorrow, CPSD is submitting its response now.

In short, CPSD believes that PG&E has incorrectly claimed that “CPSD provided no notice to PG&E” of these references.

There is no valid reason for PG&E to request that the Administrative Law Judge (ALJ) reconsider her March 28 ruling, nor are there grounds for PG&E’s alternative request to the ALJ to direct CPSD to delete reference to any of the CPSD materials identified in PG&E’s motion.

Respectfully submitted,

/s/ DARRYL J. GRUEN
DARRYL J. GRUEN

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Advocates

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April 9, 2013

ATTACHMENT

From: Gruen, Darryl
Sent: Monday, April 08, 2013 3:12 PM
To: 'Jordan, Lise (Law)'; 'Malkin, Joseph M (Law)'
Cc: Cagen, Robert
Subject: FW: I11 02 016, PG&E's Motion

Lise:

I see that PG&E's motion asserts that the following two items are not in the record to this proceeding.

- NTSB Record #455567, Sept. 17, 2010 (National Transportation Safety Board investigation. Pacific Gas and Electric Company Natural Gas Transmission Pipeline Rupture and Fire, San Bruno, California, September 9, 2010.) : Interview of M. Hickey, 16 Sep 2010 (CPSD OB at 69 & n.188).
- Pipeline Rules of Thumb Handbook, 7th Edition, 2009 (CPSD OB at 159 & nn.514-16)." (See PG&E Motion Page 4).

In fact, both citations are to things that are in the record of this proceeding, as explained here.

The first bulleted item was referenced by CPSD in CPSD Exhibit 4, footnotes 87, 88 and 89. The actual reference was provided by CPSD on the final external hard drive PG&E under the following path.

Top folder-CPUC_Duller_North_Felts_Master_2012_11

Subfolder-Felts-Public

Subfolder-6-Rebuttal_Exhibits_and_Other_Evidence

On that subfolder, the document has the number in it 10087.NTSB.455567.

The second item was referenced by CPSD in CPSD Exhibit 4, footnotes 193, 194 and 195. CPSD purposely did not seek to enter the document referenced into the record because of concerns with breaching copyrights. However, footnotes 514, 515, and 516 in CPSD's opening brief recite the same text, verbatim, as the text in CPSD Exhibit 4 that cites footnotes 193, 194, and 195.

Darryl Gruen

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From: Kokason, Patricia [<mailto:PAK8@pge.com>]

Sent: Friday, April 05, 2013 10:43 AM

To: RegRelCPUCCases; Donnelly, Katherine E; Seager, Jonathan; Smith, Bruce T; Cherry, Brian K; Johns, Christopher; Jordan, Lise (Law); JMalkin@Orrick.com; Bruno, Kenneth; Cadenasso, Eugene; Colvin, Michael; Cooke, Michelle; Dorman, Elizabeth; Gruen, Darryl; Johnson, Catherine A.; Kotch, Andrew; MD7@cpuc.ca.gov; Lee, Kelly C.; Morris, Harvey Y.; Myers, Richard A.

Cc: Jordan, Lise (Law); Malkin, Joseph M (Law)

Subject: I11 02 016, PG&E's Motion

Attached is *Pacific Gas and Electric Company's Motion for Reconsideration of ALJ's March 28 Ruling Denying in Part Request for Official Notice or, in the Alternative, Directing Other Parties to Refile Their Opening Briefs Deleting Reference to Materials Not in the Record of this Proceeding; Request for Order Shortening Time for Response*, in pdf format, which was filed on

April 5, 2013, with the California Public Utilities Commission in Docket No. I11 02 016.

Patricia A. Kokason, on behalf of

Lise H. Jordan

Pacific Gas and Electric Company

If you have any difficulty opening the attachment(s), please notify Patricia A. Kokason, tel (415) 973-6668, fax (415) 973-0516, pak8@pge.com

NOTE: The recipient portion of this e-mail may not reflect all the addressees who are being served. The service list has been split into 20-addressee groups, to avoid rejection by CPUC and other e-mail servers.

Please note that the PG&E law department does not maintain the official service list for docket no. I11 02 016. If you would no longer like to receive documents regarding this docket, please contact the CPUC Process Office directly via email at Process_Office@cpuc.ca.gov or by phone at 415-703-2021 to remove yourself from the official service list.

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