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)

CITY OF SAN BRUNO'S REQUEST FOR OFFICIAL NOTICE

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May 9, 2013

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

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CITY OF SAN BRUNO'S REQUEST FOR OFFICIAL NOTICE

I.   INTRODUCTION

Pursuant to Rule 13.9 of the California Public Utilities Commission's

("Commission") Rules of Practice and Procedure ("Commission Rules"), the City of San

Bruno ("San Bruno") requests that the Commission take official notice of the following

documents:

- PG&E Corporation Earnings Conference Call, Quarter 1, 2013, (Thursday, May 2, 2013 11:00 a.m. ET)[1]

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[1] available at:
http://investor.pgecorp.com/phoenix.zhtml?c=110138&p=iroleventDetails&EventId=4941305

1

- CPUC Memorandum and Associated Report re: Safety Culture: "CPUC Safety Culture Change Initial Discovery Report"[2]

Commission Rule 13.9 authorizes the Commission to take official notice of "such matters as may be judicially noticed by the courts of the State of California pursuant to Evidence Code section 451 *et seq.*" When determining the propriety of taking judicial notice, a court can look to "any source of pertinent information."[3]

Judicial notice by the courts, and official notice by this Commission, may be taken when a fact is not subject to dispute and is accurate.[4] In other words, judicial or official notice is proper for: "facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy."[5]

Furthermore, a request for judicial notice by the courts, and, by extension a request for official notice by the Commission *must* be granted where the requestor: "(a) gives each adverse party sufficient notice of the request, through the pleadings or otherwise, to enable such adverse party to prepare to meet the request; and (b) furnishes the court with sufficient information to enable it to take judicial notice of the matter."[6]

II.   DISCUSSION

A.   PG&E Corporation's First Quarter 2013 Earnings Conference Call Held May 2, 2013

Pacific Gas and Electric Corporation's Earnings Conference Call regarding the First Quarter of 2013 ("PG&E Q1 2013 Earnings Call") is highly pertinent to the Commission's consideration of applicable fines, remedies or other penalties in the three

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[2] attached hereto as Exhibit 1 and available at: *http://www.sfgate.com/file/504/504-Safety%20Culture%20Change%20Project%20Report.pdf*

[3] Cal. Evidence Code section 454.

[4] Cal. Evidence Code section 452(h).

[5] Cal. Evidence Code section 452(h).

[6] Cal. Evidence Code section 453.

ongoing Commission investigations into Pacific Gas and Electric Company's (PG&E) past and present violations of applicable laws and regulations in connection with the Line 132 Explosion: the Root Cause Order Instituting Investigation ("OII") ("I.12-01-007"), the Recordkeeping OII ("I.11-02-016") and the High Consequence Area ("HCA") OII ("I.11-11-009") (the "Line 132 Explosion Proceedings").

In order to assess fines and penalties in the Line 132 Explosion Proceedings, the Commission must consider "…the appropriateness of such penalty to the size of the business of the person charged."[7] Commission decisions further mandate that the "financial resources of the utility" also be considered in connection with the assessment of fines and penalties.[8] For these reasons, PG&E's current financial status and stability, and the utility's own interpretation of its financial status and stability are directly pertinent to the Commission's determination of the scope, magnitude and structure of the fines and penalties imposed in the Line 132 Explosion Proceedings.[9]

The PG&E Q1 2013 Earnings Call is "accurate" and "not subject to dispute." San Bruno requests official notice of the audio recording of the PG&E Q1 2013 Earnings Call. The PG&E Q1 2013 Earnings Call is "accurate" and "not subject to dispute" because it (1) is a recording derived directly from PG&E Corporation's website; and (2) is based on public, audited reports that PG&E has filed with the United States Securities and Exchange Commission, further enhancing its accuracy and veracity. For these

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[7] Cal. Pub. Util. Code section 2104.5.

[8] Commission Decision 98-12-075.

[9] Section 2104.5 of the California Public Utilities Code also requires the Commission to consider the "good faith of the person charged," when assessing fines and penalties in these Line 132 Explosion Proceedings. PG&E's continued reference on the Q1 2013 Earnings Call to San Bruno, and the other Intervenors as "extreme" is directly pertinent to PG&E's good faith, or lack thereof, towards San Bruno, the Intervenors and these proceedings in general.

3

reasons, the PG&E Q1 2013 Earnings Call and all information contained therein is also properly the subject of official notice.

Finally, each adverse party has sufficient notice of San Bruno's request based on the content of section 2104.5 of the California Public Utilities Code. PG&E, and the other Intervenors in the Line 132 Explosion Proceedings are well aware that the utility's financial status, stability and capacity would be a central issue in resolution of the fines and penalties phase of the Line 132 Explosion Proceedings. In addition, San Bruno is providing PG&E with notice of its request for Official Notice by filing this motion two weeks before PG&E's brief on the fines and remedies is due, and within a week of the broadcast of the PG&E Q1 2013 Earnings Call. The audio recording of the PG&E Q1 2013 Earnings Call is readily available to all Intervenors and this Commission, providing sufficient information to enable the Commission to take judicial notice of the matter.

B.   The "CPUC Safety Culture Change Initial Discovery Report"

On April 17, 2013 the Committee No. 3 (Resources and Transportation) of the California Assembly Budget Committee held a hearing concerning Safety Culture Changes at the Commission. (the "Budget Committee Hearing")[10] According to the Assembly Budget Committee Agenda, the CPUC engaged an independent consulting firm to facilitate its "Safety Culture Change" project in Fall, 2012, which released its "CPUC Safety Culture Change Initial Discovery Report" (the "CPUC Safety Culture Report") report to the Commission on January 25, 2013.[11] The Assembly Budget

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[10] Assembly Budget Committee No. 3 (Resources and Transportation), Agenda, Item No. 8660 (April 17, 2013) available at: http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/April%2017-Agenda.pdf
[11] *Id.* at 14.

Committee Agenda makes clear that the CPUC Safety Culture Report would be a central

focus of the Budget Committee Hearing.[12]

The CPUC Safety Culture Report is pertinent to the Line 132 Explosion

Proceedings and is therefore a proper subject for official notice. San Bruno, and other

Intervenors expressly request that the Commission direct PG&E shareholders to pay for

an Independent Monitor to evaluate the utility's compliance with its Pipeline Safety

Enhancement Plan ("PSEP"), and any and all fines and remedies imposed by the

Commission in the Line 132 Explosion Investigatory Proceedings. The City of San

Bruno requested an independent monitor because PG&E's failure to operate and manage

a safe system and the Commission's inability to supervise PG&E are well documented.[13]

The CPUC Safety Culture Report bears directly on the (1) Commission's past history and

current capacity for actively monitoring compliance in these areas independently; and (2)

the need for an independent monitor to supplement the Commission's oversight role

going forward. In short, CPUC Safety Report concerns whether the Commission has

adequate resources *and the administrative will* to oversee and regulate PG&E in the

future.

The CPUC Safety Report is "accurate" and "not subject to dispute." The sources

for the CPUC Safety Culture Report are Commission employees themselves.

Furthermore, the CPUC Safety Culture Report was the subject of proceedings before the

State Assembly.

Finally, each adverse party has been provided with sufficient notice of San

Bruno's request based on the City's Opening Brief in the Root Cause OII (I.12-01-007).

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[12] *Id.* at 14.
[13] Opening Brief of San Bruno in I.12-01-007 at Section IV (Commission's Failure to Oversee PG&E Operations), Section V (PG&E Violations and Misconduct) (March 11, 2013).

In San Bruno's Opening Brief, the City specifically made the Commission's dysfunctional safety culture a central factor in the Line 132 Explosion. For this reason, the Commission, PG&E and the other Intervenors to the Line 132 Explosion Proceedings were well aware that San Bruno would not only raise the independent monitor remedy, but also rely on evidence such as the CPUC Safety Culture Report in making its argument. As with the PG&E Q1 2013 Earnings Call, San Bruno provides PG&E with notice of its request for Official Notice of the CPUC Safety Culture Report by filing this motion almost two weeks before PG&E's brief on the fines and remedies is due. The Consumer Protection and Safety Division has notice of the same nearly a month before its reply brief is due.

San Bruno has attached a copy of the CPUC Safety Culture Report to this Request for Official Notice as Exhibit 1. In addition, the Commission itself commissioned the report, possesses the report, selected the consultants to prepare the report, and is aware of the facts and employees upon which the report is based. Finally, the CPUC Safety Culture Report is readily available to all Intervenors and this Commission, and the Commission has been provided with sufficient information to enable it to take official notice thereof.

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III. CONCLUSION

For the reasons set forth herein, San Bruno respectfully requests that the Commission take official notice of the above-cited documents.

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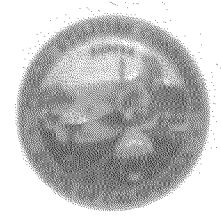Respectfully submitted,

/s/ Steven R. Meyers

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May 9, 2013

EXHIBIT 1

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.

Business Advantage Consulting

California Public Utilities Commission
Safety Culture Change Project

Initial Discovery Report

January 25, 2013

1

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

6

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."*

9

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."

12

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

13

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

14

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

16

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:

17

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.

18

Appendix

19

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?

20

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?

21

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?*

23

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?