

**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)

(Not Consolidated)

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company's Natural Gas Transmission Pipeline System in Locations with Higher Population Density

I.11-11-009  
(Filed November 10, 2011)

(Not Consolidated)

Order Instituting 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)

**PACIFIC GAS AND ELECTRIC COMPANY'S RESPONSE TO MOTION  
OF THE CONSUMER PROTECTION AND SAFETY DIVISION TO  
STRIKE REFERENCES IN PACIFIC GAS AND ELECTRIC  
COMPANY'S COORDINATED REMEDIES BRIEF TO ALLEGED  
FACTS OUTSIDE THE RECORD**

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May 31, 2013

PG&E's May 16, 2013 submittal was in response to a direct request for information from the Director of the Safety and Enforcement Division. PG&E referred to this information in its May 24, 2013 Coordinated Remedies Brief. In its brief, PG&E did not ask the Commission to make any finding of the actual amounts that PG&E shareholders have spent or will spend on the safety-related activities discussed. Thus, there is no need or basis on which to strike portions of PG&E's brief, as CPSD requests.<sup>1</sup>

CPSD's remedies brief on May 6, 2013, for the first time recommended a \$2.25 billion penalty in the form of shareholder-funded safety investments. Then, on May 9, 2013 General Hagan wrote to PG&E's CEO Tony Earley – and served on all parties to the three OIIs – a request to provide a list “comprehensive in scope, and should include projects and activities approved by the Commission in Decision No. (‘D’) 12-12-030 as part of the Pipeline Safety Enhancement Plan (‘PSEP’), projects and activities approved by the Commission in the Gas Accord V decision, D.11-04-031, and projects and activities intended to remediate encroachments on PG&E's right-of-ways for its gas pipelines.”<sup>2</sup> (Emphasis added.) General Hagan requested that Mr. Earley personally “sign an attestation, under oath, verifying the accuracy and completeness of the information provided, in your capacity as the senior officer of the Company.”<sup>3</sup>

On May 16, 2013, PG&E complied with General Hagan's request and provided the spending information he had asked for. Just as General Hagan had done, PG&E served its response on all parties to the three OIIs.

The information provided to General Hagan on May 16 was a more comprehensive and up-to-date compilation of information already in the record,<sup>4</sup> and was provided “to enable me

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<sup>1</sup> CPSD claims consideration of the challenged material would violate the due process rights of CPSD and the intervenors who supported it in prosecuting PG&E. Mot. at 2. Contrary to CPSD's apparent belief, the due process clause protects the accused, not the accusers. It provides: “A person may not be deprived of life, liberty, or property without due process of law . . .” Cal. Const., Art. I, § 7(a). *See also Ryan v. Cal. Interscholastic Fed'n*, 94 Cal. App. 4th 1048, 1059 (2001) (“[T]he strictures of due process apply only to the threatened deprivation of liberty and property interests deserving [constitutional] protection . . .”). The only party in these proceedings that stands to be deprived of property is PG&E.

<sup>2</sup> CPSD's motion spends more space on the right-of-way issue than any other. Mot. at 4-6. Yet, General Hagan specifically asked PG&E to provide information about the right-of-way costs.

<sup>3</sup> PG&E included a copy of General Hagan's letter in Appendix A to its May 24, 2013 brief. For the convenience of the ALJs, PG&E attaches another copy as Exhibit A.

<sup>4</sup> For example, in her June 26, 2012 testimony, PG&E Vice President Jane Yura provided information about PG&E's gas transmission safety-related expenditures to that time. San Bruno Ex. PG&E-1a at

[General Hagan] to provide a complete accounting to the Commission in its consideration of the penalties recommendation I have made . . .” PG&E, therefore, thought it appropriate to refer to the information in its own brief. CPSD then filed this motion to strike the information that General Hagan had specifically requested. Since CPSD’s recommendation is that the Commission set a penalty amount and require PG&E’s shareholders to spend that amount without rate recovery, it is implicit in CPSD’s proposal that CPSD will audit PG&E’s unreimbursed gas safety spending. PG&E expects no less.

In sum, PG&E cited information it provided under oath to CPSD and all parties pursuant to a specific request from General Hagan for spending data relevant to the penalty recommendation CPSD made on May 6<sup>th</sup>. PG&E did not ask the Commission to make any finding at this time on the actual amount of such spending and there is no basis for striking any portion of PG&E’s remedies brief. CPSD’s motion should be denied.

Respectfully submitted,

By: /s/ Lise H. Jordan

By: /s/ Joseph M. Malkin

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App. C (PG&E/Yura). Similarly, an excerpt of PG&E’s 2012 annual report and its fourth quarter 2012 earnings call presentation that provided information about gas transmission costs that shareholders have incurred and were forecast to incur going forward were introduced into evidence at the March 4<sup>th</sup>-5<sup>th</sup>, 2013 hearings. Joint Ex. 57; Joint Ex. 58.

# EXHIBIT A

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
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May 9, 2013

Anthony F. Earley Jr.  
PG&E Corp. Chairman, CEO, and President  
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Re: PG&E Expenditures on Pipeline Safety since the San Bruno Pipeline Rupture and Explosion of September 9, 2010

Dear Mr. Earley:

As you know, in my capacity as the Director of the Safety and Enforcement Division at the California Public Utilities Commission, on May 6, 2013, I recommended in the penalty phase of the pending San Bruno-related enforcement proceedings that PG&E be penalized by our Commission in the amount of \$2.25 billion.

I have recommended that this penalty be assessed against PG&E in the form of shareholder-funded safety investments in PG&E's natural gas transmission pipeline system. If approved by the Commission, this will be by far the largest penalty ever assessed against a public utility by a state regulatory commission in the United States, and among the largest penalties of any kind in the nation's history.

My recommendation is based on the seriousness of the violations we have found in our investigation and alleged against PG&E in the pending proceedings.

In order to enable me to provide a complete accounting to the Commission in its consideration of the penalties recommendation I have made, I request that PG&E provide the information listed below. I further request that you sign an attestation, under oath, verifying the accuracy and completeness of the information provided, in your capacity as the senior officer of the Company.

Specifically, please provide a chart listing by major category (e.g., pipe replacement, in-line inspections, installation of automatic or remote control valves) all of the gas transmission system safety projects and activities undertaken by PG&E since the accident in San Bruno on September 9, 2010, the dollars expended for each category, and an accounting breakdown showing (i) any such dollars the Commission has authorized PG&E to recover in its gas rates, and (ii) any such dollars for which PG&E has not received Commission authorization