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, Law, 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)

JOINT RESPONSE OF THE DIVISION OF RATEPAYER ADVOCATES AND THE UTILITY REFORM NETWORK TO THE CONSUMER PROTECTION AND SAFETY DIVISION'S MOTION TO FILE AN AMENDED REPLY BRIEF

THOMAS J. LONG
Legal Director

THE UTILITY REFORM NETWORK
115 Sansome Street, Suite 900
San Francisco, CA 94104
Phone: (415) 929-8876
Fax: (415) 929-1132
E-Mail: TLong@turn.org

KAREN PAULL
TRACI BONE
Attorneys for the Division of Ratepayer Advocates

CALIFORNIA PUBLIC UTILITIES COMMISSION
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2048
E-Mail: tbo@cpuc.ca.gov

July 10, 2013

I. INTRODUCTION

Pursuant to Rule 11.1(e) and the Administrative Law Judges' email ruling of July 9, 2013, the Division of Ratepayer Advocates ("DRA") and The Utility Reform Network ("TURN") (collectively "Consumer Parties") file this Joint Response to the July 8, 2013 Consumer Protection and Safety Division's ("CPSD") Motion to file an Amended Reply Brief on fines and remedies in the above-captioned proceedings ("San Bruno Investigations"). CPSD's Motion is based on certain "unorthodox events"[1] that have occurred during its briefing of the fines and remedies phase of the San Bruno Investigations.

The Consumer Parties reserve the right to file a Response to CPSD's remaining procedural requests in its Motion no later than July 23, 15 days after the CPSD Motion was filed.

II. CPSD'S REQUEST TO SUBMIT AN AMENDED REPLY BRIEF AND TO CLARIFY ITS OPENING BRIEF IS APPROPRIATE AND NECESSARY

The CPSD Motion accurately reflects that the San Bruno Investigations have been thoroughly briefed.[2] Under normal circumstances no further briefing should be necessary or permitted. But the circumstances surrounding CPSD's briefing in the fines and remedies portion of these cases have been anything but normal, and given what has occurred, CPSD's request to file an Amended Reply Brief – actually an Amended Rebuttal Brief – on the fines and remedies portion of these proceedings is justified.

The "unorthodox events" prior to the filing of CPSD's Reply Brief on June 5, 2013, have been, among other things, the subject of numerous press articles, a speech given at a national conference of regulators, and requests for investigations addressed to the State Attorney General. Further, the fact that no attorney signed General Hagan's Opening Brief on fines and remedies suggests that these "unorthodox events" were not limited to CPSD's Reply Brief. Indeed, CPSD states at least twice in its Motion that the "CPSD Amended Reply Brief would have implications for CPSD's positions in its Opening Brief."[3] Thus, CPSD's Motion appears to be both a request to file an Amended Reply Brief – or more appropriately an Amended Rebuttal Brief – and to clarify its Opening Brief.

---

[1] CPSD Motion, p. 2.

[2] CPSD Motion, p. 1, note 2.

[3] CPSD Motion, p. 3.

III. ANY SUPPLEMENTAL BRIEFING PROCESS SHOULD BE CONSISTENT WITH THE INTIAL BRIEFING SEQUENCE

The Consumer Parties agree that clarifications to CPSD's Opening Brief and submission of an Amended Reply Brief are not only appropriate, but necessary given the possible influence of the "unorthodox events" on CPSD's legal positions in these proceedings. However, the Consumer Parties believe that any supplemental briefing should be consistent with the initial briefing format established for this phase of the proceedings. That format preserved CPSD's and the intervenors' rights to open and close the briefing: CPSD and the intervenors filed Opening Briefs, PG&E filed a Reply Brief, and CPSD and the intervenors filed Rebuttal Briefs to PG&E's Reply. PG&E was not permitted a second bite at the apple under the adopted briefing schedule, consistent with the briefing rules generally applied in Commission enforcement proceedings.

Notwithstanding this standard procedure for briefing investigations, the CPSD Motion proposes that all parties, including PG&E, be provided an opportunity to comment on its Amended Reply Brief, which "would have implications for CPSD's positions in its Opening Brief."[4] Presumably, since PG&E did not have a right to comment on CPSD's initial Reply/Rebuttal Brief, CPSD proposes a comment opportunity here on its Amended Reply Brief because of the "implications for CPSD's positions in its Opening Brief." CPSD proposes that all parties be allowed to file concurrent briefs seven days after CPSD files its amended position.

The Consumer Parties do not support this aspect of CPSD's request. Rather, the Consumer Parties propose that the Commission authorize a procedural schedule consistent with the procedure already prescribed in this investigation. The Consumer Parties propose that CPSD be permitted to file corrections or clarifications to its Opening and Reply Briefs on June 15, 2013, that PG&E be permitted to reply to those corrections or clarifications seven days later, and that CPSD and the intervenors be permitted to file rebuttal briefs seven days after PG&E's filing. All pleadings, other than CPSD's July 15 filings, should be limited to 10 pages.

This proposal ensures that CPSD has the opportunity to mitigate any possible influence of the "unorthodox events" while preserving the sequence of briefs for fines and remedies that has already been ordered and followed in these proceedings.

[4] CPSD Motion, p. 3.

However, should the Commission adopt CPSD's recommendation of allowing all parties to file a single round of concurrent briefs in response to CPSD's amended positions, Consumer Parties request that such briefs be due 10 days (rather than 7) after CPSD's amended filing. TURN's attorneys are busy with other proceedings – including PG&E's 2014 General Rate Case which has four weeks of evidentiary hearings beginning July 15, 2013 – and will need additional time to prepare a response.

IV. CONCLUSION

For the reasons set forth herein, the Commission should permit CPSD to amend its fines and remedies briefs. Consistent with the previously adopted schedule for the fines and remedies briefs, PG&E should be permitted to file a brief in response to CPSD's amended pleadings within seven days, and CPSD and the intervenors should be permitted to file rebuttal briefs seven days after PG&E's brief.

Respectfully submitted,

/s/ **THOMAS J. LONG**

Thomas J. Long

Legal Director
The Utility Reform Network
115 Sansome Street, Suite 900
San Francisco, CA 94104
Phone: (415) 929-8876
Fax: (415) 929-1132
E-Mail: TLong@turn.org

/s/ **KAREN PAULL**
TRACI BONE

Traci Bone

Attorneys for the Division of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2048
E-Mail: tbo@cpuc.ca.gov

July 10, 2013