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)

CALIFORNIANS FOR RENEWABLE ENERGY REBUTTAL TO THE AMENDED REPLY BRIEF OF THE CONSUMER PROTECTION AND SAFETY DIVISION

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CALIFORNIANS FOR RENEWABLE ENERGY REBUTTAL TO THE AMENDED REPLY BRIEF OF THE CONSUMER PROTECTION AND SAFETY DIVISION

CAlifornians for Renewable Energy (CARE) hereby submits its rebuttal to the Consumer Protection and Safety Division's (CPSD) Amended Reply Brief on Fines and Remedies pursuant to the rulings issued by the assigned Administrative Law Judges on July 12, 2013, and August 15, 2013, and the requirements of the California Public Utilities Commission (CPUC or Commission)'s Rule of Practice and Procedure ("Rule") 13.11. CARE disagrees with the recommended remedies proposed in the Consumer Protection and Safety Division (CPSD) amended reply brief that was submitted on July 16, 2013 (CPSDARB).

CPSD states[1] that the CPSDARB differs from CPSD's earlier filings by the following major differences:

1) $300 million should be the minimum fine paid to the General Fund
   and,
2) $1.950 billon should be applied to the costs required by the Decision (D.)12-12-030.

CARE disagrees with item 1 because the cost of the fine will not be applied to making PG&E's utility system safer for ratepayers. CARE recommends that all funds be spent on improving PG&E's utility services to its ratepayers.

The City of San Bruno and other parties recommended a fine to be paid to the State general fund to punish PG&E for its actions of installing the gas pipeline that leaked the natural gas that resulted in the September 2010 fire. However building permits were issued allowing residential development close to the gas pipeline after it was installed and began operation. Therefore the tragedy is also the fault of the governmental entities issuing those building permits, the City of San Bruno and San Mateo County. If the City of San Bruno and San Mateo County had acted responsibly, they would have issued building permits outside a safety corridor along the gas pipelines within their jurisdiction. CARE believes that the City of San Bruno and San Mateo County should consider changing their building permit requirements to provide a safety corridor along pipelines conveying hazardous materials as well as other dangerous facilities.

There is also a dispute about the Overland testimony that PG&E can absorb a $2.25 billion fine[2]. CARE's understanding[3] is that PG&E can absorb the $2.25 billion as its total cost but not additional costs such as lawsuit settlements. CARE recommends that this $2.25 billion be used to improve PG&E's utility system.

CARE disagrees with item 2 because D.12-12-030 determined PG&E's liability for maintaining and operating its gas system. This proceeding should not be reopened and reargued

[1] CPSDARB p. 1
[2] CPSDARB p. 3
[3] http://www.bloomberg.com/news/print/2013-08-20/california-considers-if-pg-e-penalty-is-worth-bankruptcy.html

in the I.12-01-007 *et al.* proceedings. If CPSD disagrees with D.12-12-030, the proper[4] procedure is to file a petition for modification of that decision.

The CPUC's Gas Section developed a code prescribing standards for construction, maintenance, and operation of gas transmission lines. The Public Utilities Commission Annual Report issued in 1957 stated that the Gas Section had enforced these new standards by a physical examination of all the regulated facilities. The CPUC had authority to oversee PG&E's work and operations throughout the period that line 132 was planned, installed, and operated. Merely sitting on the sidelines without exercising that authority does not give the CPUC the right to now fine PG&E. The problem with that approach is that it does not make the CPUC a responsible governmental oversight agency. CARE fears that unless the CPUC learns how to oversee regulated utilities' operations, a new tragedy could occur in the future.

The National Transportation Safety Board (NTSB) final report on the San Bruno gas leak states that the maximum operating pressure established for line 132 in 1970 was faulty[5] but neither the CPUC nor the NTSB exercised their regulatory authority to inspect it. CARE believes that the reason is that these governmental agencies had no reason to expect there to be a problem, just as PG&E had no reason to either.

CARE believes that the CPUC did not issue an order specifying the required practices for maintaining and managing PG&E's gas system records because the CPUC depended on periodic CPUC staff reviews of PG&E's records during general rate cases to ensure that PG&E was properly operating its gas transmission facilities. In fact, the CPUC staff has had opportunities to review PG&E's practices since 1955 and never identified any problems. The CPUC staff includes personnel with current status as professional engineers who reviewed everything and found nothing to be improper. Any finding of problems would be communicated to the CPUC commissioners who had the authority to order corrections and changes in record management practices and yet did not do so.

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[4] CPUC Rule 16.4

[5] Page 106, Pipeline Accident Report
Pacific Gas and Electric Company
Natural Gas Transmission Pipeline Rupture and Fire
San Bruno, California
September 9, 2010
Accident Report NTSB/PAR-11/01 PB2011-916501

CARE believes that a penalty would not change PG&E's operations without an incentive to reduce the penalty because there is nothing that PG&E can do to reduce the likelihood of new pipeline leaks except by replacing the old natural gas pipelines now in service. The CPUC audited PG&E gas system manuals and operational practices frequently during the period from 1955 before the gas pipeline ruptured and caused the San Bruno tragedy. The first complete review was reported in the Public Utilities Commission Annual Report issued in 1957 and was followed by reviews during general rate cases and Energy Cost Adjustment Clause[6] proceedings in the years preceding the San Bruno event. None of these reviews identified irregularities or non-compliance with CPUC requirements, orders, rules, or regulations.

If PG&E caused failures in its gas pipeline operations and maintenance it is not because of violations of CPUC orders, rules, or regulations, it is because the operations and maintenance procedures PG&E chose did not prevent leaks and damage. The CPUC reviews, safety personnel inspections, and other proceedings all provided opportunities for the CPUC to exercise its authority yet nothing was done by the CPUC, the regulatory agency with the primary oversight authority.

This lack of oversight is continuing with the electric smart grid installation and operations. The California Public Utilities Code provides a mandate to the Commission to regulate the transmission and wires of the California electric system in code section 364, and the smart meters, synchrophasers of the smart grid have been installed and are operating yet the Commission has not begun a proceeding to specify the appropriate record keeping practices. The Commission has the authority to do so in PU Code section 761, and yet has chosen not to.

California PU Code section 451[7] states that PG&E is to provide utility service in a manner necessary to promote the safety, health, comfort, and convenience of its patrons,

[6] The accounts in which fuel and purchased power costs used to be tracked prior to the electric deregulation occurred.

[7] All charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful.

Every public utility shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

employees, and the public. The CPUC is the governmental agency mandated to determine whether PG&E provided utility service in the required manner. The CPUC's Gas Section inspected the facilities in question in 1956 or 1957[8], after they were installed and began operations, and determined that the pipeline facilities and their installation met the requirements of that time. Additionally, the CPUC required PG&E to provide reports prepared by qualified outside inspectors of inspections made at ten and twenty year intervals. The CPUC kept copies of these reports after reviewing and accepting them. Routine daily, weekly, monthly, quarterly, and annual inspections were made by the utility employees[9] and not submitted to the CPUC.

In conclusion, the CPSDARB recommendations should be ignored. CARE recommends that all funds be spent on improving PG&E's utility services to its ratepayers.

Respectfully submitted,

_____/S/_____

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All rules made by public utility affecting or pertaining to itscharges or service to the public shall be just and reasonable.

[8] Public Utilities Commission Annual Report for 1956-1957 on page 53.
[9] Public Utilities Commission Annual Report for 1949-1950 on page 57.