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)

JOINT MOTION OF THE DIVISION OF RATEPAYER ADVOCATES AND THE UTILITY REFORM NETWORK TO STRIKE REFERENCES OUTSIDE THE RECORD CONTAINED IN PACIFIC GAS AND ELECTRIC COMPANY'S RESPONSE TO SECTION 3 OF ADMINISTRATIVE LAW JUDGES' JULY 30, 2013 RULING REQUESTING ADDITIONAL COMMENT AND MOTION TO SHORTEN TIME FOR RESPONSES

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September 9, 2013

Pursuant to Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the Division of Ratepayer Advocates ("DRA") and The Utility Reform Network ("TURN") (collectively "Joint Parties") hereby move to strike references to evidence outside the record contained in "Pacific Gas and Electric Company's Responses to Questions in Section 3 of Administrative Law Judges' July 30, 2013 Ruling Requesting Additional Comments" filed by Pacific Gas and Electric Company ("PG&E") in these proceedings on August 21, 2013 ("PG&E § 3 Comments"). Specifically, Joint Parties move to strike the first two sentences on page 7 of the PG&E § 3 Comments and accompanying footnote 14, as quoted below.

PG&E filed the PG&E § 3 Comments in response to an Administrative Law Judges' Ruling issued July 30, 2013 requesting additional comment in these proceedings in various, but mostly, tax-related issues. On August 12, 2013, TURN filed a motion requesting, among other things, clarification that "parties may not introduce new evidence that could circumvent the Ruling Denying PG&E's Motion to reopen the record." TURN August 12, 2013 Motion, p. 1.

In an e-mail ruling dated August 13, 2013, the Administrative Law Judges in this proceeding granted this TURN request and clarified that parties responding to the July 30 Ruling "may not introduce new evidence that would circumvent the August 1, 2013 ruling Denying PG&E's motion to reopen the record" ("August 13 E-Mail Ruling"). The August 12 E-mail Ruling further clarified that "we seek further *briefing* with comments based on the existing record of these proceedings; no new facts are to be introduced." *Emphasis in original.*

The PG&E § 3 Comments violate the August 13 E-Mail Ruling at page 7 where PG&E asserts:

> PG&E estimates that its annual revenue requirement could increase by $800 million due to increases in its cost of capital and other costs. [Footnote omitted] This would correspond to roughly a 4% increase in the average residential gas and electric bill.

The accompanying footnote 14 states:

> This assumes a 200 basis point return on equity increase (10.4% to 12.4%) and a 78 basis point authorized cost of debt increase (5.52% to 6.30%) on PG&E's rate base at the midpoint of guidance for 2014 (i.e., $28.75 billion). The $800 million annual revenue requirement increase includes $150 million in short term borrowing, procurement and collateral costs.

Footnote 14 merely explains the assumptions embedded in its $800 million calculation; it provides no references that establish that either of the facts asserted in the sentences above are in the record of these proceedings – or that the bases for these calculations are in the record. In fact, as far

as Joint Parties are aware, there is no evidence in the record that quantifies any projected increase in PG&E's annual revenue requirement, or translates that into a specific impact to ratepayer bills. Any such "facts" would have been highly scrutinized and litigated to test their accuracy. Joint Parties, the Commission's Consumer Protection and Safety Division, and the other intervenors have had no opportunity to conduct discovery or cross-examination regarding these factual assertions.

Adjudicators who are required to decide a case after a hearing may not consider evidence that was not introduced at the hearing, and of which parties were never given notice. *English v. City of Long Beach* (1950) 35 Cal. 2d 155, 158; Rondon *v. Alcoholic Beverage Control Appeals Bd.* (2007) 151 Cal. App. 4th 1274, 1289; *Clark v. City of Hermosa Beach* (1996) 48 Cal. App. 4th 1152, 1173.

The Commission is required by statute as well as due process to make its decisions in these cases based on the record. Public Utilities Code § 1701.2 (a).

For all of these reasons, and consistent with the August 13 E-Mail Ruling, this Joint Motion to Strike should be granted.

Further, the Joint Parties request that the time to provide responses to this Joint Motion should be shortened to this Friday, September 13, so that a ruling can issue on this Joint Motion prior to the next round of comments due on Friday, September 20. An early ruling would obviate the need for parties to respond to PG&E's extra-record factual assertions and would hopefully discourage such assertions in future pleadings.

Respectfully submitted,

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