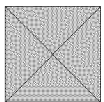


From: Cherry, Brian K
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To: tdp@cpuc.ca.gov (tdp@cpuc.ca.gov)
Cc:
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Subject: FW: Forbes article - Making Things Right in San Bruno

FYI

FORBES



Brigham A. McCown, Contributor – *I cover the intersection of law, politics and public policy*

September 17, 2013

Making Things Right In San Bruno

A little over three years ago, a high-pressure natural gas transmission line erupted in the quiet neighborhood of Crestmoor, in San Bruno, California. The resulting explosion and fire was catastrophic. Eight people died and thirty-eight homes were destroyed.

The company held responsible, Pacific Gas and Electric (PG&E PCG +0.17%), has paid a heavy price, but is it enough? To date, the company has paid approximately \$565 million to compensate victims and their families and more than \$100 million to rebuild the city it scarred. In addition, PG&E's shareholders have financed over \$1 billion of infrastructure improvements and the company has undergone a vast corporate shakeup.

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Short of traveling back in time, how much is enough to make things right? Some in California believe PG&E has already learned from its past mistakes. Others believe a much larger fine is in order and are lobbying regulators to impose fines and penalties totaling nearly \$4 billion.

As the former head of the federal Pipelines and Hazardous Materials Safety

Administration (PHMSA), I know first-hand the importance of imposing tough penalties on any company not living up to their obligations. I helped implement some of the largest fines in history in order to punish offenders and to protect both people and the environment.

Regulators must keep the goal of enforcement in mind whenever considering action. Voluntary compliance with the law is the objective, and penalties and fines rarely, if ever, achieve this goal.

Safety is only effectively achieved when regulators utilize a combination of available tools to bring about a true cultural change in the regulated entity. Enforcement is important, but so is effective and continuous oversight by regulators.

Regulatory enforcement must focus on changing a company's culture to embrace safety as a core value. Don't get me wrong, PG&E's past lack of attentiveness is inexcusable, a point I made publically shortly after the incident. That said, however, they have clearly taken steps to improve and no fine or penalty will undo the event. A punishment that is too severe could have the perverse impact of undermining the very safety sought through enforcement. In other words, safety cannot take a back seat to those seeking to punish a company, no matter how satisfying.

Take for example Standard and Poor's revised outlook on PG&E, from stable to negative earlier this month in anticipation of the company having to pay the proposed fine. Moody's, one of the nation's top credit agencies, also hinted at the full implications of enacting this fine; "[the fine] does not bode well for the regulatory environment in California, which is being adversely affected by political considerations."

PG&E argues that the proposed fine is excessive. While such an argument is to be expected from the company, it does hold some merit. In 2000, the El Paso EP NaN% Natural Gas Company was fined \$100 million for a pipeline explosion that killed 12 campers in New Mexico. That fine is still the largest gas penalty on record.

PG&E should pay a substantial fine, but not to the point where it endangers the company's long-term health. Extracting that extra pound of flesh may seem appealing, but such an approach is contrary to the basic tenants of safety. In this scenario, PG&E would likely be forced to forgo capital improvements and safety upgrades in other areas. Even assuming they can borrow additional funds to pay the penalty, they will pay a much higher borrowing rate which ultimately results in higher energy costs for the very last group of people who should be impacted; PG&E's own customers.

Let me be clear – PG&E was wrong and must endure the appropriate financial and legal consequences. For these reasons, I believe the CPUC got it right when it initially proposed fines and penalties that recognized investments made to improve the safety of the system and dedicate 100 percent of the penalty toward system improvements, not the general fund. To the contrary, the way the current penalty is structured would undermine safety for Californians.

For this reason, cooler heads should prevail, and the CPUC should ultimately choose maximizing safety over those who seek to maximize retribution. Like them or not, PG&E is not optional for the millions of Californians who rely upon the company being able to deliver electricity and natural gas.

Brigham McCown is a former U.S. energy transportation safety chief appointed by the Hon. Norman Y. Mineta (D-CA) who served in both terms of President George W. Bush's Administration. He is also a retired Naval Aviator and an avid baseball fan who calls it as he sees it, right down the middle. To learn more, visit him on Forbes and National Journal, or follow him on Twitter and Facebook.