

From: Cherry, Brian K  
Sent: 9/23/2013 8:28:35 AM  
To: Prosper, Terrie D. (terrie.prosper@cpuc.ca.gov)  
Cc:  
Bcc:  
Subject: Press Democrat

## How Much of a Penalty Should PG&E Pay?

PressDemocrat-Editorial  
September 23, 2013

When a high-pressure natural gas transmission line erupted in San Bruno three years ago, the damage from the explosion and fire was horrific. Eight people were killed, 38 homes were reduced to ashes and hundreds of lives were ruptured forever.

This catastrophic event also exposed something else — a culture within **Pacific Gas and Electric Co.** that, as state investigators later concluded, “emphasized profits over safety.”

Federal investigators slammed PG&E for everything from shoddy welding to incomplete record-keeping to lax supervision of pipe inspections. Meanwhile, state auditors concluded that the company had diverted funds intended for pipeline safety and used them for such things as executive bonuses.

At the same time, one can hardly accuse the utility of being unresponsive in the aftermath of this catastrophe. Since the explosion and fire, PG&E has paid roughly \$565 million to compensate victims and their families; \$170 million to the city of San Bruno for rebuilding; and funded — through shareholders — more than \$1 billion in infrastructure improvements.

Moreover, the company has acknowledged its mistakes and undergone a corporate shake-up, demonstrating its commitment to change.

Last week, the utility announced that it is nearing settlement on the last of its remaining claims. The big uncertainty at this point is what the penalty from the state will be.

Given the utility's willful disregard for public safety, it certainly needs to be substantial. But this summer, the staff of the state Public Utilities Commission came out with its recommendation — a breathtaking \$2.25 billion penalty. This does not include the funds listed above in repairs, settlements and improvements. This would include an additional \$1.95 billion for shareholder-funded modernization projects and a \$300 million fine paid directly to the state of California.

PG&E and many in financial circles call the penalty excessive. They have a good argument.

In 2007, the El Paso Natural Gas Company received the largest penalty on record for a pipeline explosion that claimed the lives of 12 New Mexico campers. The judgment was for roughly \$100 million, including \$86 million in system upgrades and a \$15 million penalty. This would be 22 times the size of that record fine.

While we have made no bones about the need to penalize PG&E, it makes little sense to punish a company — particularly a public utility — to the point of damaging its ability to borrow money and operate competitively.

And that is a risk. In light of this potential judgment, Standard and Poor's recently revised PG&E's outlook from stable to negative. Meanwhile, Moody's has hinted that the fine could damage the company's credit rating, noting the penalty, "does not bode well for the regulatory environment in California, which is being adversely affected by political considerations."

We don't know what the right amount is. But it's fair to say that exacting a fine so heavy as to threaten the company's long-term viability does little to improve public safety or improve an economy still emerging from a historic downturn.

We encourage the PUC to ratchet down the fine and make clear that any penalty to be paid to the state be designated for public safety improvements, parks or some other clear public benefit — and not be allowed to simply be absorbed into the general fund. This penalty needs to foster change, not hobble a company's ability to improve.

<http://www.pressdemocrat.com/article/20130923/opinion/130929937#page=0>