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Sent: 9/13/2013 8:28:26 AM
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Subject: SFO Business Times

FYI

Penalty Should Humble PG&E, but not Hobble It

San Francisco Business Times – Editorial
September 13, 2013

Let's be clear: **PG&E** deserves to be hit — and hit hard — over the tragic San Bruno pipeline explosion that happened three years ago this week.

After all, a year-long federal investigation called the accident, which killed eight people and destroyed a neighborhood in a massive fireball, “clearly preventable.” It faulted PG&E for widespread management failures, including lax supervision and inadequate pipe inspection. A damning state audit criticized PG&E for prizing profitability above safety, highlighting that the utility had over several years diverted \$100 million from funds collected for pipeline safety to other corporate purposes — including, the state concluded, executive bonuses.

It's fair to note that there's new top management at PG&E since the pipeline explosion. Starting with CEO Tony Earley, it has squarely addressed the urgent need to forge a new safety culture. Still, the company as a whole must accept responsibility for the San Bruno tragedy — and that includes paying a reasonable penalty for the many documented shortcomings that led up to it. So, is the recommended multi-billion-dollar punishment — \$2.25 billion by the California Public Utilities Commission's reckoning, \$4 billion as tallied by the company — reasonable? Or is it more likely to cripple PG&E?

The latter concern should stretch well beyond the company and its shareholders. PG&E is and will remain the dominant custodian of our electric grid and infrastructure in Northern California. Here, as elsewhere, that system is long overdue for upgrades. They are an unavoidably expensive undertaking that will require a financially healthy utility. So whether you love PG&E or loathe it, we all nonetheless have a stake in ensuring it emerges from the penalty process humbled but not hobbled.

It would be easier to have confidence that the CPUC had reached the right decision on a penalty were it not for indications that it had done so for the wrong reasons. A proposal that would have credited PG&E \$1.8 billion in recent pipeline upgrades, reducing the actual penalty to nearer \$350 million, was withdrawn after it sparked a revolt among the CPUC's legal staff as too lenient.

The second proposal is substantially tougher: PG&E would get zero credit for work already done. The new agreement also would split \$300 million off from pipeline upgrades and turn that amount instead into a fine payable to the state's general fund. While converting this money from a “penalty” to a “fine” may satisfy the CPUC that it's now being appropriately punitive, this reduces the amount of money available for pipeline upgrades by \$300 million.

There's been little rationale from the CPUC for the amount it has settled upon, other than that it's within PG&E's ability to pay, at least according to an independent securities expert testimony that the company could “probably” sustain such a penalty.

We put no stock in the argument by some PG&E defenders that any penalty beyond nominal might result in PG&E providing fewer jobs. Yes, it would, but that misses the point: A penalty's got to hurt, or it fails to modify behavior.

Still, it's worth the CPUC pausing before it adopts the staff recommendation to ensure the ultimate punishment is reasonable — with as much of an eye toward the future as the past. Specifically, \$4 billion is in a league of its own compared to what has been assessed for similar incidents around the country. And no company can shrug off a \$4 billion hit without serious consequences. So make the penalty heavy enough to sting PG&E — but not so heavy