

**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)

**PACIFIC GAS AND ELECTRIC COMPANY'S RESPONSE TO JOINT
MOTION OF THE DIVISION OF RATEPAYER ADVOCATES AND THE
UTILITY REFORM NETWORK TO STRIKE PORTIONS OF PG&E'S
RESPONSE TO SECTION 3 OF THE ADMINISTRATIVE LAW JUDGES'
JULY 30, 2013 RULING REQUESTING ADDITIONAL COMMENT**

The ALJs' July 30th Ruling directed PG&E to address, among other things, the question of what rate impacts might flow from adoption of the CPSD and/or Intervenor recommendations. That is what PG&E did, using a hypothetical calculation to illustrate the impact on customer rates of the potential increase in PG&E's cost of capital resulting from an excessive penalty. In their zeal to inflict the maximum financial harm on PG&E, TURN and DRA, who are supposed to represent ratepayer interests, would have the Commission turn a blind eye to the potential cost to customers of the multi-billion dollar penalty recommendations CPSD and Intervenors have

advanced. TURN and DRA attempt to limit the Commission’s full consideration of this issue by moving to strike two sentences and an accompanying footnote from PG&E’s Responses to the Section 3 Questions¹ on the grounds that those sentences violate the ALJs’ August 13, 2013 ruling and represent an improper attempt to introduce new evidence in the record. DRA and TURN are wrong on both counts and their motion should be denied.

DRA and TURN’s motion addresses a portion of PG&E’s response to Section 3, Question 5, which asks (among other things): “Would PG&E’s plan to issue equity to finance any fines and disallowances have any other impact on rates?” (Emphasis added.) In response, PG&E explained that the need to raise large amounts of equity to fund fines or penalties could increase PG&E’s cost of financing, which, in turn, could affect customer rates.² To illustrate the potential effect on rates – the focus of the ALJs’ question – PG&E estimated the increases to PG&E’s revenue requirement and an average residential customer’s bill based on possible increases in PG&E’s cost of equity and debt.³ It is this illustrative information that DRA and TURN seek to strike.

In their August 13 ruling, the ALJs explained that in asking PG&E and the other parties to respond to questions about the potential impacts of fines and penalties and related issues, they are seeking “further *briefing* with comments based on the existing record” and that “no new facts are to be introduced.”⁴ The illustrative example that DRA and TURN seek to strike does not violate this ruling or implicate the requirement in Public Utilities Code § 1701.2(a) that “[t]he commission decision shall be based on the record.”⁵ In response to the ALJs’ question about effects on rates, PG&E explained, as Mr. Fornell of Wells Fargo testified, that fines and penalties that exceed investors’ expectation and are perceived to be excessive could have the effect of raising PG&E’s cost of capital.⁶ The ALJs, however, expressly asked about impacts on customer

¹ PG&E’s Responses to Questions in Section 3 of the Administrative Law Judges’ July 30, 2013 Ruling Requesting Additional Comment, filed August 21, 2013 (Responses to Section 3 Questions).

² Responses to Section 3 Questions at 6-7.

³ Responses to Section 3 Questions at 7 & n.14.

⁴ ALJs’ Ruling of August 13, 2013.

⁵ The cases cited by DRA and TURN are not relevant to the issues here, as they merely stand for the proposition that the respondent in proceedings such as these OIIs must be given a fair hearing.

⁶ Responses to Section 3 Questions at 6-7; *see also* Ex. Joint-66 at 16, 21-22, 27 (PG&E/Fornell).

rates, not PG&E's cost of capital. Thus, to answer the question the ALJs asked, PG&E included the sentences that DRA and TURN want to have stricken.

PG&E is not seeking to introduce this illustration into evidence.⁷ Since information relating to potential effects on customer rates was not the subject of PG&E's motion to reopen the record, PG&E cannot be attempting to circumvent the ALJs' ruling denying that motion, as TURN and DRA claim.⁸

As PG&E explained in its responses to the ALJs' Section 3 questions, the questions on their face ask for information that is not in the record.⁹ PG&E tried to respond fully to the questions while relying to the extent possible only on information in the record. The ALJs should deny DRA and TURN's motion to strike illustrative information called for by the ALJs' question.

Respectfully submitted,

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⁷ TURN and DRA say such evidence "would have been highly scrutinized and litigated to test [its] accuracy." Motion at 3. TURN and DRA cannot dispute the direction of the effect on rates, and PG&E is not asking the Commission to make any finding with respect to the magnitude.

⁸ See PG&E's Motion to Reopen the Evidentiary Record in the Coordinated Penalty Phase at 5-6.

⁹ Responses to Section 3 Questions at 2.