

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Own Motion to Adopt New  
Safety and Reliability Regulations for  
Natural Gas Transmission and Distribution  
Pipelines and Related Ratemaking  
Mechanisms.

Rulemaking 11-02-019  
(Filed February 24, 2011)

**THE DIVISION OF RATEPAYER ADVOCATES'  
MOTION TO ENTER EVIDENCE INTO THE RECORD OF THE  
RULE 1.1 ORDER TO SHOW CAUSE PROCEEDING IN THIS DOCKET  
AND MOTION TO SHORTEN TIME FOR RESPONSES**

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September 30, 2013

## I. INTRODUCTION

In accordance with the oral ruling made in the Order to Show Cause Hearing on September 6, 2013<sup>1</sup> and Article 13 of the Commission’s Rules of Practice and Procedure, the Division of Ratepayer Advocates (“DRA”) submits this “Motion To Enter Evidence Into The Record of the Rule 1.1 Order To Show Cause Proceeding In This Docket.”

The record in the Rule 1.1 Order to Show Cause (“OSC”) Proceeding is still open. As the Assigned Administrative Law Judge (“ALJ”) stated at the conclusion of the September 6, 2013 morning hearing:

ALJ BUSHEY: Very good. All right. We'll have opening recommendations, brief recommendations focused on exactly what the Commission should do on September 26th, the responsive pleadings filed and served on October 1st. With the filing of the replies, the matter will be considered submitted to the Commission and the record will be closed on this issue.<sup>2</sup>

As the ALJ implicitly recognized, parties did not have a meaningful opportunity to prepare exhibits to be entered into the record during the hearing because parties did not know who would be testifying for Pacific Gas and Electric Company (“PG&E”), or what PG&E’s witness(es) would say. Therefore, additional time was left to submit evidence into the record.

After reviewing PG&E’s testimony in both of the OSCs, and preparing its Recommendations on the Rule 1.1 OSC, which were filed on September 26, 2013 (“DRA Recommendations”),<sup>3</sup> DRA now seeks to enter the following documents into the record of the Rule 1.1 OSC:

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<sup>1</sup> 16A RT 2415: 16-24.

<sup>2</sup> 16A RT 2415: 16-24.

<sup>3</sup> DRA has requested permission to file a corrected version of its Recommendations. The filed version inadvertently omitted the footnotes in Sections II.C and II.D. Those footnotes, among other things, include citations to PG&E’s Verified Statement, the transcript in the companion OSC, and provide context for Attachment B of the DRA Recommendations.

1. PG&E's Verified Statement, dated August 30, 2013 ("Verified Statement")
  - Among other things, the Verified Statement reflects that the initial data error on Segment 109 was discovered on October 18, 2012;
  - The Verified Statement also reveals a number of other data errors found in PG&E's system, which are discussed in DRA's Recommendations.
2. PG&E's partial response to SED-006-01 – attached to the DRA Recommendation as Exhibit B
  - Among other things, PG&E's partial response to SED-006-01 is partially responsive to questions asked by Commissioner Ferron at the afternoon OSC hearing and reflects that PG&E witness Sumeet Singh notified PG&E executives Nick Stavropoulos and Jesus Soto of the discovery of the data error on Segment 109 via e-mail on November 16, 2011.
3. The PSEP Database submitted with PG&E's original PSEP Application in August of 2011, which was an attachment to Exhibit 56 in the PSEP Proceeding
  - Among other things, the PSEP Database shows that Segment 109 was identified as "SMLS," which stands for seamless in the PSEP database
  - Notwithstanding the fact that the PSEP database is an attachment to Exhibit 56, it is not clear that the PSEP database is considered part of the record in R.11-02-19.
4. The transcript from the companion OSC held on September 6, 2013 regarding staying the Maximum Allowable Operating Pressure ("MAOP") of certain gas transmission lines
  - Among other things, this transcript reflects that the PG&E witnesses failed to answer questions about who knew what and when regarding PG&E's recordkeeping failures. This is relevant to the current Rule 1.1 OSC.
5. An excerpt from DRA's Opening Brief in the Fines and Remedies portion of the San Bruno Investigations, dated May 6, 2013 and attached to DRA's Recommendations as Exhibit A
  - Among other things, this excerpt demonstrates that DRA has previously requested an independent monitor for PG&E's

PSEP activities, and sets forth the most current iteration of that request

All of the documents listed above are relevant to this Rule 1.1 OSC proceeding because they provide context for the totality of the circumstances that demonstrates PG&E's Rule 1.1 violations. They have all been relied upon in the DRA Recommendations.

All of the documents are either in the record or docket of other San Bruno-related proceedings, or should become part of the record of those proceedings in due course. For example, it is not clear whether the Verified Statement has been entered into the record of either this Rule 1.1 OSC, or the companion OSC. It is highly likely it was intended to be part of the record of both OSCs.

Among other things, it would be helpful for an ALJ ruling to clarify:

1. That all documents in the record of this docket (R.11-02-019), including the records and transcripts from the afternoon MAOP OSC, are considered to be in the record of this Rule 1.1 Proceeding;
2. That the PSEP database is part of Exhibit 56 in this docket, or is otherwise considered part of the record of the PSEP Proceeding;
3. That this Rule 1.1. Proceeding will take official notice of the record in the other San Bruno-related proceedings, including Investigations 11-02-016 ("Recordkeeping"), 11-11- 009 ("Class Location") and 12-01-007 ("San Bruno Explosion").<sup>4</sup>

This request is highly prescient in light of PG&E's Recommendation that the Commission should conclude that PG&E did not violate Rule 1.1 because of the limited evidence before the Commission:

The only evidence before the Commission is that the decision to use the word "Errata" in the title of Exhibit OSC-1 reflects the good faith

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<sup>4</sup> As the Commission determined in the Order Instituting Rulemaking 11-02-019, p. 12, note 6: "We will take official notice of the record in other proceedings, including the investigation of PG&E's gas system record-keeping, in our ratemaking determination." This determination was affirmed in D.11-06-017, p. 23: "As we indicated in [the Order Instituting Rulemaking 11-02-019], we intend to take official notice of the record in other proceedings, including the investigation of PG&E's gas system record-keeping (R.11-02-016), in our ratemaking determination."

professional judgment of PG&E's counsel, and that PG&E served and submitted the pleading for filing on July 3 because the work underlying it had been completed the day before.<sup>5</sup>

For all of these reasons, DRA requests that the documents described above be entered into the evidentiary record of this Rule 1.1 proceeding and that a ruling issue explaining what other documents are considered part of the record of this Rule 1.1 proceeding, as set forth above.

Finally, DRA requests that the time to provide responses to this Motion be shortened to this Tuesday, October 1, 2013 by 12:00 p.m. (noon), so that a ruling can issue prior to the submission of the Rule 1.1 Replies. Alternatively, DRA requests that the ALJ extend the date for closing the record until a ruling is issued on this Motion. In that event, the time to provide responses could be extended a few more days to allow parties time to file their Rule 1.1 Replies tomorrow, and then turn to the merits of this Motion. DRA also does not object to an extension of the date to file Rule 1.1 Replies to a date later this week.

Respectfully submitted,

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<sup>5</sup> PG&E Recommendations, R.11-02-019, September 26, 2013, p. 2.