

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

COMMISSIONER MICHEL PETER FLORIO and
ADMINISTRATIVE LAW JUDGE MARIBETH A. BUSHEY,
co-presiding

)	PREHEARING
)	CONFERENCE
)	
)	
Order Instituting Rulemaking on the)	
Commission's Own Motion to Adopt New)	
Safety and Reliability Regulations)	Rulemaking
for Natural Gas Transmission and)	11-02-019
Distribution Pipelines and Related)	
Ratemaking Mechanisms.)	
)	
)	

REPORTER'S TRANSCRIPT
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PUBLIC UTILITIES COMMISSION, STATE OF CALIFORNIA
SAN FRANCISCO, CALIFORNIA

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I N D E X

PARTY STATUS GRANTED

City of San Carlos

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1 SAN FRANCISCO, CALIFORNIA

2 21 OCTOBER, 2013 - 10:00 A.M.

3 * * * * *

4 ADMINISTRATIVE LAW JUDGE BUSHEY: The
5 Commission will come to order.

6 This is the time and place set for
7 the prehearing conference in Order
8 Instituting Rulemaking on the Commission's
9 own motion to adopt new safety and
10 reliability regulations for natural gas
11 transmission and distribution pipelines, and
12 related ratemaking mechanisms. This is
13 Rulemaking 11-02-019.

14 Good morning. I'm Administrative
15 Law Judge Maribeth Bushey, the assigned
16 administrative law judge to this proceeding.

17 Also presiding with me this morning
18 is the assigned commissioner, Commissioner
19 Florio.

20 Procedurally, the one thing that we
21 can do right off the bat is deal with a new
22 party who has joined us, the City of San
23 Carlos. We will formally welcome them to the
24 proceeding by granting their Motion For Party
25 Status.

26 I guess I should have asked. No
27 party has filed an objection. Is there
28 anyone that has one?

1 (No response)

2 ALJ BUSHEY: Hearing none, thank you.
3 Then City of San Carlos will be joining
4 the record as a party to this proceeding.

5 (City of San Carlos was granted
6 Party Status.)

7 ALJ BUSHEY: All right. We have
8 several procedural issues that we will need
9 to address this morning.

10 When we last gathered, the issues
11 at hand were cross-examination of Mr. Johnson
12 and evolving after that were some discovery
13 disputes.

14 I had directed the parties to meet
15 and confer. I haven't had a satisfactory
16 response on the results of those meet and
17 confers, so I have concluded that they have
18 not been successful.

19 So I consider those two issues to
20 be our primary issues to address this morning
21 as we set a procedural schedule for the next
22 part of this proceeding.

23 But to get a start to understand
24 where we all are, I was thinking that we
25 would have a status report from each party or
26 group of parties as to where they see
27 the current status on these events and what
28 their recommendations for procedural schedule

1 are. So I'll start with PG&E.

2 MR. MALKIN: Thank you, your Honor.

3 I think the first matter that we
4 would like to address is the current status
5 of Line 147 because that is something that is
6 of enormous concern to PG&E as well, we know
7 as to the City of San Carlos.

8 The current status is that the line
9 is shut in. That is, it is not receiving any
10 gas. It is -- still has it gas in it at
11 a pressure approximately 125 psig which
12 corresponds to a distribution level pressure.
13 The four district regulators, distribution
14 regulators that feed off of Line 7 --
15 Line 147 are currently shut off and PG&E is
16 serving the distribution customers that are
17 normally served off of those lines by
18 work-arounds. This leaves the system in what
19 PG&E's system operators consider to be
20 a marginal condition. The system was
21 designed to have Line 147 operating at
22 transmission level pressures.

23 So the system today is, in the view
24 of the system operators, of marginal
25 reliability because of that.

26 ALJ BUSHEY: Excuse me, Mr. Malkin.
27 But just to clarify though, when you say
28 "marginally" that only goes to reliability

1 and usefulness operationally in the system,
2 it has no reference to safety?

3 MR. MALKIN: Correct. The system is
4 safe in PG&E's view, was safe at 300 psig,
5 and it is definitely safe at marginal -- I'm
6 glad you clarified that -- marginal in
7 reliability terms.

8 While Line 147 remains in its
9 current state, in addition PG&E is restricted
10 in carrying out some of its planned safety
11 improvements because some of those
12 improvements require shutting down portions
13 of other pipelines which would normally then
14 be made up for by using Line 147. So as long
15 as Line 147 remains in its current condition,
16 those safety-related projects must be
17 deferred. That being the case, PG&E is
18 obviously concerned about the current
19 situation with a directive from the Safety &
20 Enforcement Division to maintain this current
21 situation.

22 SED's directive did acknowledge
23 that in the event of an emergency, PG&E
24 should advise SED and take appropriate
25 action. We would like to propose that
26 pending the determination by SED of
27 the safety of Line 147, that PG&E will
28 maintain the status quo by keeping the line

1 shut in at a pressure not to exceed 125 psig
2 with one exception in addition to
3 the exception that SED put into its
4 directive.

5 I would like to, if I may approach
6 the Bench, your Honor, give your Honor and
7 Commissioner Florio a writing of this
8 proposal that we can then talk about.

9 We shared this orally with the
10 active parties on Friday and e-mailed it them
11 this writing over the weekend.

12 ALJ BUSHEY: You may approach,
13 Mr. Malkin.

14 MR. MALKIN: Thank you.

15 We also shared it with SED Advisory
16 staff.

17 So as you can see from this, in
18 addition to the kind of emergency exception
19 that SED had already included in its
20 directive, we are proposing that maintaining
21 the status quo also be recognized by your
22 Honors as including the ability in the event
23 of forecast cold weather for PG&E to in
24 effect, operate Line 147 as a distribution
25 line. That is, that the company be permitted
26 to open valves to allow gas to flow into
27 Line 147 to maintain a pressure at or below
28 125 psig. That would allow the opening of

1 the distribution regulator valves that's come
2 off of Line 147 and the ability to continue
3 to serve those customers.

4 In the absence of that in the event
5 of cold weather, curtailments would become
6 necessary, including curtailment of
7 a hospital that is in I believe San Carlos.

8 And the paper that we handed out
9 explains we're proposing that PG&E be
10 authorized to do this when the forecast daily
11 average temperature 24 hours in advance is 50
12 or below. And the reason for choosing 50 is
13 that we all know the accuracy of Bay Area
14 weather forecasts. And while action might
15 not be actually necessary unless
16 the temperature were going to hit 47 or 48
17 because plans have to be put into effect in
18 advance and because of the normal
19 inaccuracies of forecasting, the company
20 wants to be able to start doing that with the
21 forecast temperature of 50.

22 And there's a lengthy footnote in
23 this document that explains the statistical
24 based weighting that the company uses to
25 determine what that daily average forecast
26 temperature is.

27 So we think that having clarity
28 around this that we can operate this way

1 provides more reliability while we wait for
2 the Safety & Enforcement Division to complete
3 its investigation and report to the
4 Commission and the parties.

5 ALJ BUSHEY: Thank you, Mr. Malkin.

6 And I'm going to sort of interrupt
7 your status report so we can address this,
8 and then we will return to you and consider
9 the other issues.

10 One thing I do need to clarify with
11 you, though, is that we're not in any
12 position today to authorize PG&E to do this.
13 What we can do, however, is accept PG&E's
14 voluntary agreement to operate within these
15 parameters pending further order of
16 the commission.

17 I've been advised by the Safety &
18 Enforcement Division that they have no
19 objection to this. So that's the most we can
20 do today. We can't get you a Commission
21 order on the spot. Sorry.

22 MR. MALKIN: Okay. That's okay.
23 I probably was using "authorized" loosely
24 because we are -- we do have a directive from
25 SED.

26 ALJ BUSHEY: Right.

27 MR. MALKIN: So we just want to make
28 sure nobody's going to say we're violating

1 anything if we do this.

2 ALJ BUSHEY: Right. So let's hear from
3 the other parties, and then we'll decide
4 where we're going to go with this document.

5 Other parties, who would like to go
6 first?

7 We can work our way down the line.
8 How about starting on the right hand.

9 MR. GRUEN: Your Honor, just on the
10 point of schedule which I think was your --

11 ALJ BUSHEY: No. No. No. Not
12 schedule. Right now I just want to talk
13 about this.

14 MR. GRUEN: Okay.

15 ALJ BUSHEY: Let me just ask this. Do
16 any parties have any objection to PG&E
17 voluntarily operating under these parameters
18 pending further order of the Commission?

19 MS. STROTTMAN: Yes.

20 ALJ BUSHEY: We'll let Ms. Strottman go
21 first so that Mr. Rubens can go second.

22 MS. STROTTMAN: Thank you, your Honor.

23 We do have an objection to this.
24 And this is kind of an interesting situation
25 because we, the law firm Meyers Nave may be
26 representing San Carlos, so I wanted to
27 inform you of that potential, I guess that
28 piece of information.

1 But it's my position as
2 city counsel for City of San Bruno that an
3 independent engineer take a look at this. We
4 have seen throughout the proceedings that
5 some assertions that PG&E have made about the
6 safety of their lines has not been accurate.

7 So I do feel like we -- it would be
8 in San Carlos' best interests, and I'll let
9 Mr. Rubens speak to that, that an independent
10 pipeline engineer take a look at this line
11 and look at these two exceptions to make sure
12 that the line can be operated safely under
13 those two exceptions.

14 ALJ BUSHEY: But this is essentially
15 the status quo.

16 MS. STROTTMAN: Well --

17 MR. RUBENS: Your Honor, it's not
18 the status quo. The status quo is the line's
19 shut in and there are no exceptions for
20 operating it as a distribution line.
21 The only exception that the SED has from
22 the e-mail from October 7 is in an emergency
23 situation they might be able to do something.

24 This is I think opening up a whole
25 different set of scenarios, and I have a lot
26 questions about how it would function, you
27 know on the first exception which sounds
28 innocuous and sounds like it's okay to

1 operate it as a distribution system for these
2 four reducers. I'm not sure of the right
3 phrase for that.

4 ALJ BUSHEY: Regulators.

5 MR. RUBENS: Regulators, thank you.

6 The problem is we don't really know
7 how the lines -- how the shutdown has
8 affected it, how the -- how they're going to
9 operate under this 50-degree thing. Are they
10 going to turn it on and off? Are they going,
11 like, okay on day one is it going to be "okay
12 it's 50 degrees so we're going to operate it
13 as distribution," then two days later, "okay,
14 we're having a warm spell, it's 65, so we
15 don't need to do it and we're going to shut
16 it down again."

17 I have of a lot of questions that
18 are really technical in nature. I do need to
19 have our experts look at this to see how that
20 would operate and some of the assumptions
21 that go with that. And I'd like to have
22 the opportunity to bring that back to you at
23 a future meeting.

24 The second one I think for the City
25 of San Carlos has because of the serious
26 concerns we have about the trustworthiness of
27 the records and what's in the ground, I just
28 don't see how operating this even at the

1 300-degree, 300 pounds per square inch
2 pressure level is safe. That hasn't been
3 established. This has not been established
4 in this segment.

5 I don't even know. In an emergency
6 situation, are you going to create another
7 emergency situation by upping the pressure
8 here?

9 I mean, some pretty simple
10 questions that I have.

11 Again, I need to have that looked
12 at. And we have to -- underlying in
13 the proceeding the declarations that have
14 been filed, we need time. That's really
15 the issue there is under what circumstances
16 could this line ever be operated at 300.

17 ALJ BUSHEY: Right. But Mr. Rubens,
18 that goes to the bigger proceeding. We need
19 to back up, focus on operating the system
20 right now. And we're going into the winter
21 heat heating season. Shutting off this line,
22 not allowing it to operate even at this
23 completely reduced pressure has operational
24 impacts in the cold and in the cold season.
25 We can't just say no and let it go from
26 there.

27 MR. RUBENS: Well, there are
28 alternatives that I think are available to

1 supply the areas where there might be a
2 shortfall too.

3 ALJ BUSHEY: Do you know what these
4 alternatives are?

5 MR. RUBENS: Yeah. They bring in a CNG
6 truck and --

7 ALJ BUSHEY: No. It's LNG. It's a
8 liquefied natural gas.

9 MR. RUBENS: According to what PG&E
10 provided me a few weeks ago, it's either CNG
11 or LNG.

12 ALJ BUSHEY: Okay.

13 MR. RUBENS: They have two different
14 types of tanks they could bring in.

15 ALJ BUSHEY: I was going to suggest
16 maybe a briefing with PG&E's engineers to
17 help you understand exactly operationally why
18 they're making this request. But it sounds
19 like you already had that.

20 MR. RUBENS: We had a meeting two weeks
21 ago with PG&E and they handed out a piece of
22 paper that had a flow chart of what they do
23 in the event of a shortage. And that was one
24 of the alternatives, is bring in the trucks.

25 I'm just asking -- all I'm asking
26 for is time to study the proposal. I do not
27 have -- I'm so new to --

28 ALJ BUSHEY: Right. But how much time

1 do you think you're going to need in order to
2 do that?

3 MR. RUBENS: I just started -- excuse
4 me, your Honor. I didn't mean to interrupt.

5 I just started interviewing my own
6 experts. I've interviewed several of them.
7 I have not been able to retain them yet. I'm
8 thinking I'm probably going to need about 30
9 days to get them to be able to review
10 the information and then make -- be able to
11 comment on that. And we can decide then
12 whether we're going to have to take any
13 further action.

14 But I just don't -- I don't feel
15 comfortable at this stage of the proceeding
16 just agreeing to this, which I think is
17 a substantial change, operating the line is a
18 substantial change from the current SED
19 order.

20 ALJ BUSHEY: Okay. Thank you,
21 Mr. Rubens.

22 Mr. Malkin, do you have a response

23 MR. MALKIN: I do. A couple of things,
24 your Honor.

25 First of all, on Friday, we may
26 have filed but certainly attempted to serve
27 a declaration by Mr. Singh, updating some of
28 the information from the verified statement

1 that had been submitted August 30.

2 And one of the updates is that on
3 Friday, we received from one of the leading
4 experts in the industry, Michael Rosenfeld of
5 Kiefner & Associates a letter report on
6 the results of his examination of the fitness
7 of service on Line 147. That was served on
8 all the parties. Among other things, he has
9 a conclusion stated on the first page which
10 is: The October 2011 hydrostatic pressure
11 spike test confirmed the fitness for service
12 of the pipeline for its MAOP without doubt.

13 And there's 13 pages of detail here
14 of what Mr. -- 12 pages what Mr. Rosenfeld
15 did, what he found in terms of an independent
16 expert. There is no one more expert than
17 Mr. Rosenfeld.

18 And if this does not give
19 the parties, the Commission confidence that
20 this line can safely be operated at 125 which
21 is what we're talking about for getting
22 through cold weather, let alone at its MAOP
23 of 330, then I don't see the parties ever
24 being satisfied with anything. And --

25 ALJ BUSHEY: Well, Mr. Malkin, and that
26 goes to the bigger issue. I'm just trying to
27 focus on making four regulators operational
28 in the next 60 to -- 30 to 60 days. I'm just

1 trying to take this one step at a time.

2 MR. MALKIN: Okay.

3 ALJ BUSHEY: So focusing on those four
4 regulators.

5 MR. MALKIN: Focusing on those four
6 regulators, PG&E obviously thinks they are
7 absolutely safe to operate as they had been
8 being operated and certainly at this reduced
9 pressure that we are proposing.

10 Mr. Rosenfeld's report I believe
11 absolutely confirms that for the proposal of
12 how we're going to maintain the status quo to
13 be held in abeyance for 30 to 60 days while
14 San Carlos studies the issue means that we
15 are likely to have curtailments. We're now
16 in the second half of October. As we all
17 know, the cold wear in starts in November and
18 only gets more cold in December and January.
19 Thirty days from now would be approximately
20 November 20. Between now and then, who knows
21 how many cold days there will be when the
22 citizens of San Carlos and Redwood City and
23 other areas will be curtailed.

24 And these curtailments are not just
25 noncore customers. If this happens, core
26 customers will be curtailed. And
27 the alternative that Mr. Rubens' described
28 which is one that PG&E did explain to the

1 city, the injection points for whether it's
2 LNG or CNG, the injection points in the City
3 of San Carlos are in residential
4 neighborhoods. And one of them is, I've seen
5 the pictures, right in front of a house. It
6 would entail blocking an entire street and
7 setting up an operation there to be pumping
8 gas into the system in front of this house.

9 The other injection point is at an
10 intersection in a residential neighborhood
11 that would also entail blocking streets, not
12 to mention the noise.

13 And if the citizens of San Carlos
14 are concerned about the safety of a buried
15 pipe 125 psig, I can't imagine how they are
16 going to feel about having big tanks of
17 either compressed natural gas or liquefied
18 natural gas being turned back into gas and
19 injected at those points.

20 And the injection winds up putting
21 the gas into the same Line 147 where it gets
22 taken off again by the same four district
23 regulators. So the only difference between
24 the injection and the operating valves is how
25 does the gas get into Line 147 to maintain
26 the 125 psig so that it's drawn off by
27 the distribution system, the pipe isn't
28 emptied out.

1 MS. STROTTMAN: Your Honor, I'm sorry.
2 I was just wondering, I thought it might be
3 useful to hear SED's position on this.
4 I thought -- I'm not sure if Mr. Shori was
5 looking into this issue. I think it would be
6 helpful for us to --

7 ALJ BUSHEY: Yes.

8 MS. STROTTMAN: -- know what SED is
9 doing.

10 ALJ BUSHEY: Well, SED Advisory is
11 a different component of the operation and
12 SED Advocacy --

13 MS. STROTTMAN. That's right.

14 ALJ BUSHEY: -- who is a party to this
15 proceeding.

16 I have been advised by SED Advisory
17 that they have no objection to this voluntary
18 operation of Line 147.

19 Does SED Advocacy -- I asked if any
20 parties had any objections and you did not
21 indicate.

22 MR. GRUEN: Thank you for clarifying,
23 your Honor. I was thrown when you pointed
24 out that SED had no objections. And now that
25 I see that it's SED Advisory, it indeed has
26 none.

27 I'll just point out a couple of
28 things.

1 Hearing the City of San Carlos
2 identify its need for time, I just might put
3 this point in a bit more context that, you
4 know, PG&E has put itself and the Commission
5 in the position of considering immediate
6 curtailment possibilities. If PG&E had in
7 fact disclosed the discrepancies on Line 147
8 prior to July 3rd in a somewhat ambiguous
9 procedural maneuver, then had done so,
10 disclosed the problems on Line 147 even in
11 the spring time and it seems to me they could
12 have done so even last year, then the request
13 that San Carlos is making would have been
14 made without the winter months looming. But
15 nonetheless here we are.

16 So I just -- the other point
17 I might make is that I received PG&E's
18 proposal that I think they handed out
19 yesterday identifying the exception,
20 the 50-degree exception just to use
21 shorthand, and I'm not entirely clear.
22 I might just ask for clarification as to
23 whether 50 degrees is indeed the sum, perhaps
24 threshold or cutoff that in and of itself
25 leads to curtailment.

26 I haven't seen and SED Advocacy
27 staff has not seen any scenarios that are
28 linked to consideration that show curtailment

1 that's linked to a 50 degree or lower
2 threshold that's identified here. So perhaps
3 just clarification on that point to better
4 understand why PG&E is proposing a 50 degree
5 or lower threshold.

6 ALJ BUSHEY: But Mr. Malkin just told
7 us they did that because of curtailments.

8 Isn't that what you said,
9 Mr. Malkin?

10 MR. MALKIN: There's a continuum of
11 curtailments, obviously.

12 And as I explained, 50 degrees it's
13 really 50 degrees actually that probably the
14 line doesn't need to be operated. But
15 the decisions about what to do have to be
16 made in advance based on a forecast. And
17 it's because of the inherent variability
18 between forecast and actual that the company
19 is proposing to do this with a forecast of
20 50 degrees.

21 With a forecast of 50 degrees, the
22 temperature may actually turn out to be
23 warmer but it may also turn out to be colder.
24 And if company has not taken steps to be able
25 to open up those regulator valves and
26 the temperature is colder, it becomes too
27 late to do anything to meet the morning
28 peaks.

1 At 47 degrees, I believe
2 curtailments are possible, not certain. As
3 you go below that, they become more certain.
4 The lower it goes, the more curtailments.

5 ALJ BUSHEY: Okay. So it's
6 a probability analysis; is that a fair
7 summary?

8 MR. MALKIN: Yes.

9 MR. GRUEN: And understood, your Honor.
10 Thank you for the clarification.

11 And I don't know if it's been
12 shared, but perhaps we could receive
13 the underlying information behind
14 the probability analysis and having our
15 witness --

16 ALJ BUSHEY: We'll get to that in
17 a minute because we need to figure out
18 a way to get this into the record because
19 it's just been circulated. We don't actually
20 have it into the record yet.

21 And maybe Mr. Malkin can take that
22 as a data request for the underlying analysis
23 that came up with the 50 degrees.

24 MR. MALKIN: I will.

25 And I would ask, your Honor, ask
26 Mr. Gruen to put it into an e-mail.

27 ALJ BUSHEY: Put it into an e-mail.

28 MR. MALKIN: My notes are very

1 horrible.

2 ALJ BUSHEY: Just to make sure you get
3 everything that you want.

4 MR. GRUEN: Yes, your Honor. We
5 certainly will.

6 And I have one other clarification.
7 And I note that the narrowness of the scope
8 of your guidance at this point, it seems that
9 we're talking about Line 147 specifically at
10 this point.

11 ALJ BUSHEY: We're talking specifically
12 four regulators operating at 125 pounds per
13 square inch gauge. That's all we're talking
14 about.

15 MR. GRUEN: Understood.

16 ALJ BUSHEY: That's all we're talking
17 about. We're just talking about this
18 document. We've got lots of big issues to
19 take on, but right now we got a real focus.

20 MR. GRUEN: I'm tracking, your Honor.
21 Thank you.

22 ALJ BUSHEY: Anyone else?

23 MS. BONE: Yeah, your Honor. We're
24 really concerned about this discussion of
25 curtailment because we've done discovery on
26 PG&E on the issue of the curtailments that
27 they raised during the September hearings,
28 and thus far we have gotten nothing from

1 PG&E. And I believe they actually responded
2 to our question and said that they provided
3 no analysis behind their curtailment claims
4 from September. So we're very concerned that
5 they're now raising the issue again when we
6 are not getting the analysis that supports
7 their claims.

8 ALJ BUSHEY: Okay. So we can take that
9 up.

10 I know we have some discovery
11 disputes that we need to address. And you
12 can join in the data request for
13 the information underlying this.

14 Mr. Rubens.

15 MR. RUBENS: Your Honor, I was going to
16 say one more thing.

17 I think the discussion that we just
18 had about the statistical analysis underlies
19 one of my concerns about being able to
20 understand the proposal and then the need for
21 Line 147 to even be operated. I just --
22 I don't have a lot of confidence that being
23 presented something verbally on a Friday and
24 then delivered on a Sunday is going to --
25 gives me the time to review the basis for
26 the change.

27 I think curtailments, they may --
28 that may turn out to be true. I just don't

1 know it right now and I don't have anybody
2 other than PG&E telling me that and --

3 ALJ BUSHEY: Well, the Commission's
4 advisory, Safety & Enforcement Advisory
5 Division has reviewed this and has no
6 objections to PG&E operating voluntarily on
7 this basis.

8 And recall, of course PG&E is
9 the operator of the line. It is their
10 responsibility to operate it in a safe manner
11 at all times. So that's, it's on them. So
12 keep that in mind.

13 But we need to have some sort of
14 ground rules so that we can go forward with
15 this proceeding, taking on the much larger
16 issues.

17 MR. RUBENS: Well, your Honor, as long
18 as I have the ability to -- if that's your
19 Honor's position, as long as I have
20 the ability to bring evidence forward
21 questioning this protocol in the future, I'd
22 like to still be able to have the opportunity
23 to do that.

24 ALJ BUSHEY: Yes. We're going to get
25 a procedural schedule for the bringing
26 forward of evidence.

27 So right now the only question
28 before us is do we accept PG&E's voluntary

1 agreement to operate in this manner. And I'd
2 like to just a couple of minutes to confer
3 with the assigned commissioner and go forward
4 from there.

5 So we'll be off the record.

6 (Off the record)

7 ALJ BUSHEY: We'll be back on the
8 record.

9 While we were off the record,
10 the Commissioner and I conferred with Safety
11 and Enforcement Division Advisory. It would
12 be their preference to remove the regulator
13 limitations to item 1 and simply operate
14 Line 147 at 125 psig and not turn it on and
15 off it. And it will save all the probability
16 analysis and it would just be a simple --
17 treat it like a distribution line.

18 MR. MALKIN: Okay. So we can just keep
19 it at 125?

20 ALJ BUSHEY: Open.

21 MR. MALKIN: Operating at 125 all
22 the time?

23 ALJ BUSHEY: Is "open" the right word?

24 MR. MALKIN: Whatever regulator --

25 ALJ BUSHEY: Not shut in.

26 MR. MALKIN: Not shut in, okay.

27 ALJ BUSHEY: Is that acceptable to

28 PG&E?

1 MR. MALKIN: That is absolutely
2 acceptable.

3 ALJ BUSHEY: Parties have comments to
4 that?

5 MS. PAULL: Yes, your Honor. Karen
6 Paull for the Office of Ratepayer Advocates.

7 Unfortunately, this is part of
8 a pattern we've been seeing in this
9 proceeding of PG&E making assertions, and
10 then before we're able to get any support for
11 the assertions, we -- there's supposedly an
12 urgent decision has to be made.

13 Now, it may be that as a matter of
14 safety, operating at 125 psig is reasonable
15 but we don't have the information to
16 support -- we cannot make our own independent
17 determination. Which is the same thing as
18 the City of San Carlos was just saying. We
19 don't have the information that we can
20 confirm.

21 And when we spoke with PG&E, when
22 the parties had a conference call with PG&E
23 on Friday, if I remember correctly, PG&E
24 committed to provide us with the supporting
25 information underlying its proposal that it
26 gave us today, that it gave us yesterday, and
27 we would like?

28 ALJ BUSHEY: Ms. Paull, we have just

1 greatly simplified this proposal.

2 And I understand that the parties
3 have issues with representations that PG&E
4 has made and with the evidentiary
5 presentations that they have made, and
6 I would very much like to get us moving
7 towards setting a procedural schedule so we
8 can address those. That's what our main
9 purpose is here today.

10 And the issue that we're wrestling
11 with right now is just a matter of
12 maintaining the status quo so that we can go
13 forward and in a less time sensitive way to
14 address those issues on an evidentiary
15 record.

16 So that's all we're trying to do.
17 So let's not blow this -- let's not take this
18 issue out of context and make it bigger than
19 it is.

20 MS. PAULL: Your Honor, all I'm saying
21 is the decision that you make today, that you
22 and Assigned Commissioner make today will be
23 in reliance on PG&E's assertions and SED
24 Advisory's advice to you.

25 ALJ BUSHEY: Yes.

26 MS. PAULL: ORA and the other parties
27 have not had an opportunity to independently
28 verify anything related to this although, as

1 Ms. Bone said earlier, multiple parties have
2 asked for -- asked PG&E for information about
3 the threat of curtailment and not received
4 it.

5 ALJ BUSHEY: I understand that,
6 Ms. Paull. But we need to have a status quo
7 operating the system in the real world so
8 that we can go forward and have our
9 evidentiary hearings that everyone seems to
10 want.

11 So this is -- the level that this
12 line is going to be operated on,
13 representations have been made by PG&E,
14 they're willing to voluntarily operate it at
15 this reduced pressure. It's on them to
16 operate it safely. The Commission will
17 accept their voluntary agreement to do that.
18 That's all we're doing. This is pending
19 further order of the Commission and so that
20 we can get down to business on our other
21 issues.

22 MS. PAULL: Thank you, your Honor.

23 I'm glad you were making it clear
24 on the record that PG&E is taking
25 responsibility for this course of action and
26 that it's their responsibility.

27 ALJ BUSHEY: PG&E takes responsibility
28 for every course of action in operating their

1 natural gas system.

2 Yes, Mr. Yang.

3 MR. YANG: Your Honor, I just had
4 a question --

5 ALJ BUSHEY: Okay.

6 MR. YANG: -- regarding the new
7 proposal.

8 It sounds -- are you changing -- is
9 the status quo now that the regulators will
10 be open at 125 --

11 ALJ BUSHEY: That is the proposal --

12 MR. YANG: -- psig?

13 ALJ BUSHEY: -- that has been accepted
14 by PG&E.

15 MR. YANG: Okay. That's the
16 Commissions proposal?

17 ALJ BUSHEY: Yes.

18 When you say "commission" you mean
19 the --

20 MR. YANG: Yes.

21 ALJ BUSHEY: Yes.

22 MR. YANG: And I just want to clarify,
23 it's my understanding that currently the line
24 is shut in. So we will be changing
25 the status quo to be -- so is that the line
26 is now open if the proposal is accepted?

27 ALJ BUSHEY: Right, because the season
28 has changed.

1 MR. YANG: Okay, thank you.

2 ALJ BUSHEY: Okay.

3 MR. RUBENS: Your Honor, can I just
4 make one comment?

5 I think that's the point that
6 I want to bring. This is now a total change
7 in what was proposed Friday. And now what
8 PG&E initially proposed is by turning on
9 the line at certain temperature thresholds
10 and turn it back off is now unsafe and we
11 have to keep it on at all times. That's the
12 way I'm interpreting this.

13 ALJ BUSHEY: You shouldn't interpret it
14 that way, Mr. Rubens. They made a proposal.
15 You came in here and objected to the
16 regulators going on and off. SED has advised
17 us that operating it at distribution level
18 pressures is safe. And we've made that
19 proposal to PG&E, which they've accepted.

20 MR. RUBENS: So --

21 ALJ BUSHEY: So the regulators will not
22 be going on and off as you feared. There
23 will not be calculations about probabilities
24 as other parties raised objections to.

25 MR. RUBENS: Well, my point is that
26 what PG&E proposed was unsafe, and I pointed
27 it out today. And so now what they're
28 proposing is just to keep it on. And we

1 still don't have the assurances that that
2 proposal is safe. That's why I wanted to
3 have the time to have an expert look at it.

4 This is what I am came up as
5 a layperson, non-engineer lawyer this weekend
6 when I was looking at the proposal. I just
7 didn't understand how it would possibly work
8 and it didn't seem thought through, and just
9 me figuring it out.

10 So, now you're going to have
11 the pipeline being operated as a distribution
12 network. I understand that. But that's
13 the new status quo. It's a significant
14 change from the prior order of October
15 the 7th. And I'm not sure that the citizens
16 of San Carlos are going to accept that the
17 line be operated at all under these
18 circumstances.

19 And then looking at the chart that
20 PG&E proposed, one of the things I need to
21 have looked at is threshold.

22 I think there is time, if you look
23 at their own chart, to give us the time to
24 get the experts there. Because the November
25 number, if I'm reading this correctly, is
26 still a positive number. It doesn't start to
27 go into the negative when we see these 50
28 degree days until December.

1 So I think we do have time to give
2 us the opportunity to bring -- get an expert
3 on to satisfy ourselves. And that may be
4 what happens. It may be this is okay but it
5 may not be.

6 ALJ BUSHEY: Okay.

7 MR. RUBENS: We may have some
8 significant questions.

9 ALJ BUSHEY: Mr. Rubens, I really
10 appreciate your confidence in our ability to
11 have evidentiary hearings and get
12 a Commission decision out --

13 MR. RUBENS: We will get the
14 information to you, your Honor.

15 ALJ BUSHEY: -- in a couple of weeks.

16 Yeah, but just getting it to me
17 isn't enough. We need to have something in
18 place now that's going to work for the next
19 couple of months at least because you get us
20 through the end of the year. We need --
21 realistically, we need something in place to
22 do that so that we can have any amount of
23 time to focus on our evidentiary hearings.

24 So that's where our focus needs to
25 be.

26 I think at this point, the best
27 thing for us to do is for us to accept PG&E's
28 voluntary agreement, and to now turn our

1 attention to setting the procedural schedule
2 that we need for this proceeding. Okay?

3 Commissioner.

4 COMMISSIONER FLORIO: Could I just ask
5 a question, I guess to PG&E.

6 My understanding is gas is not
7 flowing through the line now, but it's
8 sitting there at a pressure of 125.

9 MR. MALKIN: That's right, Commissioner
10 Florio, which is basically a bottle at 125.

11 COMMISSIONER FLORIO: What we're
12 talking about now is some gas going out, some
13 gas coming in, but it never goes above
14 the level that it's sitting at now.

15 MR. MALKIN: That is correct.

16 COMMISSIONER FLORIO: Okay, thank you.

17 ALJ BUSHEY: That's a good
18 clarification. From a operating pressure
19 limitation perspective, it is exactly
20 the status quo.

21 MR. MALKIN: Exactly.

22 ALJ BUSHEY: Okay. All right, so let's
23 now turn our attention to the reason we all
24 came here today.

25 We need -- when we last were
26 together on the 6th of September, the one
27 issue that we had left over was setting
28 a cross-examination date for Mr. Johnson.

1 That was the thing that -- the one date that
2 we hadn't scheduled.

3 Since then, events have unfolded
4 and I think that Mr. Johnson's
5 cross-examination date has both expanded in
6 scope and expanded in purpose. The scope
7 that has expanded is that Mr. Johnson's
8 representations have been supplemented by
9 further representations from Mr. Singh as
10 well as Mr. Rosenfeld. So we have more
11 information.

12 And the purpose of Mr. Johnson's
13 testimony is also sort of expanded in that we
14 are now in the process of -- we've initiated
15 the process of reviewing a request to
16 increase the pressure of Line 147.

17 The commissioner and I issued
18 a ruling recently directing PG&E to update
19 Mr. Johnson's safety certification.

20 And I assume, Mr. Malkin, that
21 Mr. Singh's and Mr. Rosenfeld's information
22 is also a part of that. You were envisioning
23 it serving two purposes.

24 MR. MALKIN: Yes.

25 ALJ BUSHEY: Okay.

26 MR. MALKIN: It does also go to
27 the supporting information for the safety of
28 Line 147.

1 ALJ BUSHEY: So what I'm envisioning
2 happening in addition to what we had talked
3 about at the September 6 hearing is that we
4 now go through our established process for
5 increasing pressures in lines. And that
6 begins with the supporting information which
7 we already have. Then we would have
8 a concurrence and review by SED of that
9 filing. Then there will be a hearing and
10 then a short cycle of PD and comment -- for
11 parties' comment on the proposed decision and
12 a final decision. That's the vision that
13 I have of how this is going to work.

14 So there would be one hearing that
15 would have two purposes, one would be to
16 increase the pressure and the other would be
17 to complete our record on the OSC.

18 So the dates that -- the date that
19 we really need to worry about is the date for
20 cross-examination of those three witnesses.

21 Right, Mr. Malkin, that would be
22 your intention to put all three of them
23 forward?

24 MR. MALKIN: Yes.

25 ALJ BUSHEY: Okay.

26 MS. STROTTMAN: Your Honor, I'm sorry
27 to interrupt.

28 We may propose that the City

1 of San Carlos have an expert that will
2 testify at the hearing as well. As
3 Mr. Rubens said, we're in the process of
4 interviewing experts. So did you want me to
5 tell you within the next two weeks or what
6 can I do to make it easier for you and the
7 schedule?

8 ALJ BUSHEY: Thank you for considering
9 that.

10 MS. STROTTMAN: Especially since we're
11 springing this on you right now.

12 But I think that San Carlos may
13 have an expert that will testify.

14 ALJ BUSHEY: Now bear in mind, we have
15 one hearing but we have two purposes.

16 MS. STROTTMAN: Yes.

17 ALJ BUSHEY: Would San Carlos's witness
18 be going to the broader issue of the accuracy
19 of PG&E's records or focusing narrowly on the
20 wisdom of repressurizing -- or increasing
21 the pressure in Line 147?

22 MS. STROTTMAN: I think it will have to
23 do with the latter issue of focusing --

24 ALJ BUSHEY: Just 147 --

25 MS. STROTTMAN: -- solely on Line 147.

26 ALJ BUSHEY: Solely on Line 147.

27 Yeah, that will have to be part of
28 our very expedited schedule for Line 147. So

1 yes, as soon as possible, you need to let all
2 the parties know that you intend to present a
3 witness, and then we need draft testimony or
4 direct testimony circulated as soon as
5 possible.

6 MS. STROTTMAN: Okay. Thank you.

7 MR. GRUEN: Your Honor, may I? Just
8 touching upon San Carlos, the City of San
9 Carlos's request for a witness.

10 SED has a witness that it would --
11 we would propose to have as well related to
12 your question about the breadth of PG&E's
13 records for specifically Line 147.
14 Certainly, the witness would testify about
15 the problems that we have noted with PG&E's
16 records and --

17 ALJ BUSHEY: So this is the broader
18 issue?

19 MR. GRUEN: This is the broader issue.

20 ALJ BUSHEY: Okay.

21 MR. GRUEN: I would reserve too that
22 the witness may also wish to testify about
23 Line 147 specifically but --

24 ALJ BUSHEY: As to the repressurizing
25 of it?

26 MR. GRUEN: As to the repressurize --
27 having just heard this, I'd like to
28 coordinate with her and see if that's

1 something that's of interest. I suspect it's
2 not.

3 ALJ BUSHEY: Okay.

4 MR. GRUEN: -- just to be --

5 ALJ BUSHEY: Well, if it is of
6 interest, it's got to join the expedited
7 schedule --

8 MR. GRUEN: Understood.

9 ALJ BUSHEY: -- for pressure increases.
10 So that's our process.

11 MR. GRUEN: Understood.

12 ALJ BUSHEY: Okay.

13 MS. BONE: Yes, your Honor. ORA is
14 also reserving the right to put on a witness.
15 We're not sure whether we will or not, but we
16 will inform PG&E on Friday. And frankly, we
17 won't know the extent of our testimony until
18 we receive discovery from PG&E.

19 ALJ BUSHEY: Okay. So let's go back to
20 focusing on the one date when we have
21 the three witnesses from PG&E be subject to
22 cross-examination. Let's focus on this date.

23 MR. LONG: Your Honor, I'm sorry.
24 I know you have -- you want to go in a
25 certain direction now, but I do feel the need
26 to raise an issue.

27 I think we need more clarity about
28 the scope. It calls for PG&E -- it's the

1 pleadings on the Rule 1.1 sanctions. It's
2 clear there's just not a meeting of the minds
3 about what the scope of these proceedings is.

4 ALJ BUSHEY: That's correct. That's
5 why we're here.

6 MR. LONG: Okay. And it seems like
7 figuring out the scope should come before
8 figuring out the schedule.

9 From what I'm hearing, it sounds
10 like there are certain narrow issues relating
11 to operating pressure that are time sensitive
12 and that are -- need to be addressed
13 expeditiously. And then there are other
14 issues, broader safety issues about accuracy
15 of records, PG&E's conduct, and the like that
16 don't have the same need for expedition. And
17 that it might make sense to have a bifurcated
18 schedule, depending on the scoping of
19 the issues.

20 ALJ BUSHEY: Yes, that's exactly right.
21 That's exactly right.

22 MR. LONG: Good.

23 ALJ BUSHEY: A bifurcated schedule to
24 some extent except that there's overlap with
25 these three witnesses.

26 MR. LONG: Okay.

27 ALJ BUSHEY: Because their testimony
28 goes to both things.

1 MR. LONG: I was concerned that you
2 were suggesting that parties -- because
3 I understand CPSD wants to put up a witness
4 on the broader issues of the accuracy of
5 the records, et cetera and I don't think they
6 should be rushed to put on that testimony,
7 et cetera.

8 ALJ BUSHEY: Exactly.

9 MR. LONG: Okay, good.

10 ALJ BUSHEY: That's exactly correct.

11 The dates that we have available to
12 do cross-examination, and Mr. Malkin is
13 hearing this for the first time, is it
14 possible that your witnesses might be
15 available on November 1st?

16 MR. MALKIN: I don't know the answer to
17 that, but I know I'm not available on
18 November 1st.

19 ALJ BUSHEY: Okay. How about
20 October 29th?

21 MR. MALKIN: I know our witnesses are
22 currently -- at least one of them is
23 currently not available on that date.

24 ALJ BUSHEY: Okay. All right,
25 November 4th?

26 MR. MALKIN: To make this easy, I am
27 unavailable October 30 through the 7th.

28 ALJ BUSHEY: Through when?

1 MR. MALKIN: Through November 7th.
2 October 30 through November 7.

3 ALJ BUSHEY: November 7th.

4 MR. MALKIN: Yes. I'm available the
5 8th through whenever.

6 ALJ BUSHEY: I haven't gone out that
7 far.

8 Friday is -- how about November 8th
9 then, first day back?

10 MR. MALKIN: Nothing I'd rather do.

11 ALJ BUSHEY: Keep your associates busy
12 while you're gone.

13 Let's talk. Does anyone else
14 object to November 8?

15 That will be cross-examination of
16 those three witnesses.

17 MR. MALKIN: I have to say --

18 MS. BONE: Yeah.

19 MR. MALKIN: I'll have to check
20 the availability of witnesses.

21 MS. BONE: Subject to them providing
22 discovery in a sufficient time for us to
23 prepare for cross-examination.

24 ALJ BUSHEY: What discovery do you
25 want?

26 MS. BONE: We have outstanding --

27 MS. PAULL: Outstanding.

28 MS. BONE: -- several.

1 ALJ BUSHEY: On Johnson's testimony?

2 MS. BONE: It covers a wide range of
3 things, including Mr. Johnson's testimony.

4 ALJ BUSHEY: Well, this is just
5 the 147. Just 147.

6 MR. LONG: I think some of the concerns
7 may be alleviated if we're understanding that
8 there will be a fairly narrow scope of this
9 hearing you're proposing for November 8 so
10 that Mr. Johnson and Mr. Singh and
11 Mr. Rosenfeld -- maybe not Mr. Rosenfeld, but
12 Mr. Johnson and Mr. Singh who testified on
13 the broader issues would be available for
14 hearings later to address those other issues.

15 ALJ BUSHEY: If necessary, yes.

16 MR. LONG: Okay.

17 ALJ BUSHEY: We can talk about -- right
18 now, the expedited schedule is focusing on
19 Line 147. It would be really nice if we
20 could address all of the issues that were
21 raised on September 6th as well.

22 MR. LONG: That's where the discovery
23 issues come up. That just may be somewhat
24 problematic, as long as there is an
25 opportunity in the event that discovery
26 doesn't work out on schedule for these -- for
27 cross-examination to happen at a later point
28 on broader scope issues and probably that

1 concern can be alleviated.

2 ALJ BUSHEY: Why are we having
3 discovery problems? We're a month-and-a-half
4 from the hearing. When was the discovery
5 propounded?

6 MR. LONG: Some of it was right
7 after -- within a week after the hearing.

8 And from TURN's perspective, we
9 only finally got answers that we're still
10 reviewing at the end of the day Friday. So
11 over a month.

12 ALJ BUSHEY: So thirty -- yeah.

13 MR. MALKIN: I'll comment on that, your
14 Honor.

15 The discovery that we received went
16 beyond our wildest imagination and I think
17 went beyond what you anticipated when you
18 told the parties they could do discovery.

19 We have received over 300 separate
20 questions. We have pulled to review over
21 a million and a half e-mails alone to try to
22 respond to these questions. We've produced
23 thousands of documents. We have been buried
24 in discovery. And the same people who have
25 to respond to discovery are actually trying
26 to run the gas system. And it's the same
27 people who then had to turn to the Line 147
28 issues when those arose and getting the

1 supporting information together.

2 And we're -- yes, we are way behind
3 where we thought we would be in responding,
4 I think your Honor thought we would be. And
5 all I can say is we just -- as big a company
6 as PG&E is, the same people who run the
7 business are the ones who have to respond to
8 the discovery and we have not just been able
9 to keep up.

10 ALJ BUSHEY: Right. When do you think
11 you can get current? How soon can you get
12 that?

13 MR. MALKIN: We talked to the parties
14 on Friday. We had told them previously we
15 thought we could respond to one big batch of
16 the data requests by October 14. We missed
17 that date. We complete those on
18 October 18th.

19 We had forecast we would complete
20 another big batch by October 22. On Friday,
21 we changed that to October 31st.

22 And that does cannot include
23 a series of data requests that we received
24 after we set that initial schedule that at
25 this point we don't have an estimate when we
26 will complete. And it's partly because of
27 the scope. The scope of the questions that
28 we had been getting is not limited to

1 the three pressure restoration orders that
2 were the subject, as we understood, of
3 the Order to Show Cause. We've gotten
4 a range of data requests. We kind of alerted
5 you to some of them we think overlap
6 the PSEP. Others sound, to those of us who
7 were involved in the records OII, like deja
8 vu all over again.

9 And we just have a different view
10 of scope from the parties. We have been
11 trying to respond notwithstanding our view of
12 the scope. But it's just huge.

13 So that's kind of where we are on
14 this discovery.

15 And I cannot as I sit here today
16 beyond the batch that we're pretty of
17 confident will get done October 31st, I don't
18 know when we'll get the more recent ones
19 done.

20 ALJ BUSHEY: Okay. And can the parties
21 prioritize things that they need for
22 Line 147?

23 MS. BONE: Your Honor, we will attempt
24 to do so.

25 But we just want to note that as
26 recently as Saturday, we were getting
27 information that the pipeline features were
28 changing from Line 147. So part of

1 the problem is that new data is coming in all
2 the time and change data is coming in all
3 the time, and it makes it difficult for us to
4 even track what reality is week to week.

5 MR. MALKIN: Your Honor, in a sense,
6 that's a very good point. I mean, PG&E has
7 a ton of work going on, the PSEP, other
8 routine work is going on.

9 And no, nobody in this proceeding
10 or at the commission disputes the fact that
11 the older records are not completely
12 accurate. So yes, when PG&E goes out and
13 works on pipelines, it looks at them, cuts
14 things out, it has them analyzed, it finds
15 that what is in the ground is different than
16 what it may have interpreted from those
17 records and it changes it. And that is going
18 to happen as long as this work goes on until
19 probably 50 years from now when it's all
20 brand new pipe. Until then, this will
21 happen.

22 And because of the pending
23 proceedings, we filed that declaration by
24 Mr. Singh on Friday because we feel in
25 the context of the proceeding every time we
26 find something new, we should advise
27 the parties.

28 But this happening all over

1 the system every day and it's exactly what
2 the Commission wants PG&E and every other gas
3 operator in the state to do.

4 And you know, that is a reality.
5 And it's a good thing. That is how
6 the safety of the system is being enhanced.

7 And yes, it makes it is messier to
8 have an adjudicatory proceeding about that.

9 And part of what the Commission,
10 your Honors have to decide both in this
11 narrow context and in the broader context is
12 does it make sense to have an adjudicatory
13 proceeding every time PG&E or any other
14 pipeline operator finds that the pipe that's
15 in the ground when analyzed destructively or
16 radiographically is different from what
17 50-year old records reflected.

18 If so, my great-great-great
19 grandchildren are going to be fully employed
20 for the next -- for generations to come. It
21 may be a good for the Malkin family but
22 I don't think it's a good thing for pipeline
23 safety or for the commission.

24 MR. LONG: I'm sorry, your Honor.
25 I just can't let that pass without a comment,
26 which is a theme of the September 6, if I'm
27 remembering right, and what Mr. Malkin just
28 said right now is that "Oh, errors will

1 happen. No worries. When we discover them,
2 we'll fix our mistakes." And that's not what
3 the MAOP validation process was about.

4 The process was to figure out
5 conservative values where we don't know and
6 to make sure that we're operating our
7 pipelines at the correct maximum allowable
8 operating pressures.

9 We know for Line 147 PG&E found
10 errors. Those are errors they knew about for
11 a long time. And those errors caused
12 the MAOP to be too high. And we need to know
13 whether that's going on with other pipelines.

14 That's not safe when you're
15 operating pipelines above what the law says
16 their MAOP should be.

17 And so there's a big disconnect
18 here between what Mr. Malkin says is "Oh, let
19 boys be boys. Pipeline operators have
20 problems," and what is necessary in order to
21 comply with the law and to operate pipelines
22 safely.

23 ALJ BUSHEY: Thank you, Mr. Long.

24 Back to Ms. Bone.

25 The corrections that were put
26 forward on Saturday were laid out, and
27 mathematically the answer was right there.
28 It was an immaterial difference. Immaterial

1 in the arithmetic sense, not because it was
2 in fact related to the materials.

3 But that sort of evaluation is
4 something that your experts are going to have
5 to be able to address and deal with.

6 MS. BONE: Right.

7 ALJ BUSHEY: We can't stop
8 the proceeding every time some immaterial
9 number changes. So we have to get -- we have
10 to be able to move forward so.

11 MS. BONE: We appreciate, your Honor.
12 But I will point out that it's not just this
13 example. We also have examples, for example,
14 in Exhibit A where the amount of pipe for
15 Line 147 that was hydrotested differs from
16 one page to another. So we also have
17 inconsistent data which is coming in without
18 explanation that we don't understand.

19 ALJ BUSHEY: That should be a simple
20 data request. We need to get forward -- we
21 need to get -- we need to move forward in
22 setting a schedule or this is never going to
23 be done, okay?

24 MS. BONE: We agree that a schedule is
25 appropriate.

26 ALJ BUSHEY: Okay.

27 MS. BONE: We are just pointing out
28 that there are very some significant problems

1 with the discovery we are receiving. And
2 discovery that we are receiving with
3 consistencies like this require more
4 discovery.

5 ALJ BUSHEY: I understand that. I'm
6 sure Mr. Malkin will do -- use every power he
7 can to bring to bear on his client to get
8 consistent numbers from page to page.

9 MR. MALKIN: We will certainly endeavor
10 to do that.

11 And I think if the parties will Do
12 what your Honor suggests which is to
13 prioritize, particularly now that we're
14 talking about an accelerated schedule for
15 Line 147, at least as I recall the discovery,
16 relatively little of it seems to be focused
17 on that. But if the parties will tell us
18 what the priorities are, that will be help in
19 getting them what they want.

20 ALJ BUSHEY: Right. The highest
21 priority discovery has to be Line 147,
22 specific information about that line, not big
23 philosophical issues about recordkeeping
24 accuracies and all of that stuff. Specific
25 information relative to operating that line
26 right now, that's the type of information.
27 And it should be a specific request for
28 a number, an amount, a study, something like

1 that. It shouldn't require a big, long
2 discussion on their part.

3 MS. PAULL: Your Honor, ORA has
4 propounded discovery that is exactly that.

5 ALJ BUSHEY: Could you identify
6 the numbers of those?

7 MS. PAULL: Very specific information
8 related to --

9 ALJ BUSHEY: Let them know. Let them
10 know which ones are your priority responses
11 so that you could -- so that they can get
12 them to you on an expedited basis so we can
13 be prepared for our November 8 hearing.

14 MS. STROTTMAN: Your Honor, I'm sorry
15 again to muck up the schedule, but the City
16 of San Carlos and the City of San Bruno were
17 worried -- at least the City of San Carlos
18 about this expedited schedule because we
19 don't even have an expert yet. So we need to
20 have an expert go out and review the records,
21 review all the information and then give us
22 that information before we're able to
23 cross-examination Mr. Johnson.

24 So I don't know if we could have an
25 extra few weeks or an extra week at least.

26 ALJ BUSHEY: Let's see. The schedule
27 for these on repressurization, usually have
28 the hearing earlier because we don't have

1 comments or briefs. We just go straight to
2 a PD.

3 So if we -- let's see. If we move
4 you from November 8. You want to wait to the
5 15th?

6 If we go to the 15th, well one
7 advantage you would have there, SED is hoping
8 to have their concurrence done by the 12th.
9 So you would have that before the hearing.
10 That could be helpful.

11 So we can go to the 15th. I was
12 targeting then the PD on the 22nd with the --
13 and comments on December 2nd and then hit
14 the agenda the 5th.

15 MS. STROTTMAN: If we can do the 15th,
16 we would appreciate an extra week.

17 ALJ BUSHEY: All right.

18 MS. STROTTMAN: Thank you.

19 ALJ BUSHEY: So the hearing will be on
20 the 15th. Hopefully we can get court
21 reporters and a hearing room. And everyone
22 should expect -- I will make arrangements so
23 that we can have extra court reporter time.
24 So expect a long day if we need to go on
25 the 15th.

26 Okay. And then just to read it,
27 then the rest of the schedule is the 12th for
28 SED's concurrence. That concurrence will

1 also include the report on the investigation
2 of Line 147; and then the 22nd, that's my
3 target date to mail the PD; and December 2nd
4 comments and then we hit the meeting of
5 the 5th.

6 Okay, so that takes care of
7 Line 147. Now, let's go to our bigger
8 issues.

9 Now this started out, the scope of
10 this should be derived from the Order to Show
11 Cause ruling that the assigned commissioner
12 and I issued and the hearing that we had on
13 September 6. So the scope of this hearing
14 flows from that.

15 So we need -- let me ask the
16 parties this. Do you think we should set
17 a separate date to cross-examination
18 the three witnesses on the broader issues or
19 should we wait and see what happens after
20 the 15, the hearing on the 15th to see what
21 you have left?

22 Mr. Long.

23 MR. LONG: Your Honor, I think we
24 should set a separate date. And I think we
25 should also clarify what those broader issues
26 are.

27 As I mentioned, we've seen already
28 in the Rule 1.1 pleadings that parties on

1 different sides of the table read the exact
2 same Order to Show Cause and had very
3 different understandings of what the scope
4 was.

5 One of the issues where there
6 seemed to be a complete disconnect on is
7 whether PG&E should be called to account for
8 submitting its filing, its submission over
9 eight months after discovery of the errors.
10 PG&E says that was outside the scope because
11 the only timing issue, according to PG&E, was
12 the July 3rd date being the day before
13 the July 4th holiday whereas other parties
14 saw the timing issue as the timing of failing
15 to present the information in a timely
16 fashion after discovery of the error. That
17 needs to be resolved.

18 ALJ BUSHEY: Mr. Long, the record's
19 closed on the Rule 1.1. I expect to mail a
20 PD soon.

21 MR. LONG: Okay. Well, here's
22 the concern. PG&E raises due process on
23 their -- from their side. And if the
24 Commission agrees with PG&E, then does that
25 mean then that the parties don't have an
26 opportunity to address those issues that
27 would -- it needs to be addressed somehow?

28 And I guess my suggestion would be

1 that these broader issues for the next round,
2 and just because there's no real time
3 sensitivity to this sanctions issue, be
4 clearly scoped for that issue. The parties
5 didn't have a meeting of the minds and let's
6 scope it as one of the issues for the next
7 round so we can be clear.

8 ALJ BUSHEY: Mr. Long, you're arguing
9 Mr. Malkin's position.

10 MR. LONG: I'm arguing to make sure we
11 don't have a due process, in the event the
12 Commission agrees with TURN's position, we
13 don't have a due process challenge at the
14 end. There's -- nobody is benefited from
15 that. Let's give them an opportunity if they
16 think that they have, if they were deprived
17 of due process to put on whatever they want
18 to put on, and then we'll have a clearly
19 scoped opportunity to address that issue.

20 So I think that's the same thing.
21 I raise that also because I think that's
22 where we may be headed on this second set of
23 OSCs, what people are referring to
24 the substantive OSC.

25 ALJ BUSHEY: Right.

26 MR. LONG: The OSC jointly issued by
27 the two of you.

28 And I think, again, there's a lack

1 of meeting of the minds as to what
2 the document meant. For instance, we just
3 heard Mr. Malkin say that the OSC's only
4 relate to the pressure restoration orders.
5 But the OSCs also and PG&E testimony related
6 to the broader issue of the accuracy of
7 the records that have been supposedly
8 validated through the MAOP validation
9 process. So does that mean that parties can
10 make recommendations only limited to
11 the pressure restoration orders?

12 Parties would like to and think
13 it's within the scope of the OSC to be able
14 to urge other changes or ask other questions
15 about whether the MAOP validation work is
16 going along properly, whether changes need to
17 be made, whether the Commission should do
18 other things besides dealing with those few
19 pressure restoration orders.

20 PG&E is ready to tell us after
21 we've put on a case, filed briefs, "Oh,
22 that's outside of -- that's outside of
23 the four corners of the OSC due process
24 violation," and we may find ourselves having
25 gone through an exercise of all for naught.

26 So it's to our benefit to be clear
27 about what the scope is now. That's
28 the point I'm trying to make.

1 MR. MALKIN: I would take issue with
2 one thing that Mr. Long said. We told
3 the parties clearly in advance, not after
4 briefing, that the Order to Show Cause says
5 that the issue is whether or not to suspend
6 those three pressure restoration orders.

7 What Mr. Long has just described
8 for you, when I said before it's déjà vu all
9 over again, this is it's the records OII,
10 it's the PSEP case that was already tried,
11 it's the PSEP update application that's
12 coming in later this month. It's turning
13 what was known to noticed out as a fairly
14 narrow inquiry into three specific commission
15 orders into now a new megaproceeding that,
16 you know, rehashes 2-1/2 years of records
17 OII, two years of PSEP, and rolls in the next
18 update application.

19 ALJ BUSHEY: Okay. Let me tell you
20 what I think the scope is. And when we
21 issued the OSC -- well first of all, let's
22 back up a minute.

23 An Order to Show Cause is an
24 unusual procedural mechanism at the
25 Commission. It is directed specifically at
26 specific actions, and the respondent is
27 directed to show cause why something
28 shouldn't be done to them. It is by

1 definition narrow because you basically
2 propose the action at the get-go. That's --
3 and when you propose the action, that sets
4 the scope.

5 So as far as the OSC is concerned,
6 it's exactly what we said it was: Whether
7 those three pressure restoration orders
8 should be suspended. That's all. That's all
9 that's in the OSC.

10 That said though, we are part of
11 a broader proceeding here that's looking at
12 rulemaking for natural gas pipelines in the
13 state of California. If there are issues
14 that have come to light as part of either of
15 these OSCs or part of any other proceeding
16 have come to light where additional or
17 different regulation of natural gas pipelines
18 should be proposed for this state, then this
19 is exactly the proceeding where those
20 recommendations should be made.

21 When I say "proceeding," I'm
22 talking about the big proceeding, the entire
23 proceeding, not the Order to Show Cause
24 litigation. That's something different and
25 it's narrowly focused.

26 Do you have anything you'd like to
27 add to that?

28 COMMISSIONER FLORIO: No. Sounds right

1 to me.

2 MR. LONG: That's helpful. So then, so
3 when we talk about scheduling later testimony
4 at hearings, it sounds like it could serve
5 two purposes. It would be within proper
6 scope if it (a) related to the OSC as you've
7 just described it, and (b) related to broader
8 issues that are within the scope of
9 the rulemaking.

10 ALJ BUSHEY: We have to be separate.
11 We will need to get this OSC done. Focus on
12 that. If you want to bring forward other
13 issues -- right now we have pending revisions
14 to General Order 112-E. If you think based
15 on what you've seen in this proceeding that
16 further revisions or additions to Rule 112-E,
17 General Order 112-E should be proposed, this
18 is the time to bring them forward based on
19 this. And it will be something like "Based
20 on what we discovered in the OSC, we really
21 need the following rules, and here they are.
22 Assigned administrative law judge, please set
23 a schedule to consider this."

24 MR. LONG: What if the parties want to
25 propose that the Commission do other things
26 with respect to overseeing PG&E's MAOP
27 validation process?

28 ALJ BUSHEY: Bring it on.

1 MR. LONG: Bring it on when?

2 ALJ BUSHEY: That's a proposal in
3 a rulemaking proposal. That's a new
4 proposal. Bring it forward as you have it
5 developed and we'll try and set a schedule
6 for it. But don't bring it forward in
7 the OSC as to whether we should lift those
8 other three pressure restoration orders.

9 MR. LONG: Here's the problem. PG&E
10 puts on testimony supported by declarations
11 where they say the MAOP validation process is
12 working just fine. I think its the view of
13 the parties on this side of the table that
14 there's serious problems. We have serious
15 concerns that goes to the safety of
16 the system. It seems that we should be able
17 to raise those issues somewhere and do it in
18 an evidentiary forum because we want to probe
19 what PG&E's representations of the MAOP
20 validation process is working just fine. But
21 if we don't want to do it in the context of
22 the suspension of the restoration orders
23 because that to us, some of us, seems like
24 a very limited inquiry.

25 ALJ BUSHEY: As it should be. It's an
26 Order to Show Cause.

27 MR. LONG: Okay. But when do we get
28 a chance to respond to, to test

1 the assertions of PG&E that MAOP is working
2 just the way it should and there's no reason
3 to worry when people on this side of
4 the table are very worried. When do we get
5 to do that?

6 ALJ BUSHEY: How do you wish to test it
7 or probe it? Do you want to --

8 MR. LONG: That's what we've been doing
9 our discovery about.

10 ALJ BUSHEY: Okay.

11 MR. LONG: That's why we want to do
12 cross-examination. And I understand other
13 parties have the intention of presenting
14 witnesses for that very purpose.

15 MR. MALKIN: And that, your Honor --

16 MR. LONG: And to make recommendations
17 about what the Commission should do.

18 ALJ BUSHEY: And that last part is the
19 most important.

20 MR. LONG: Yes.

21 ALJ BUSHEY: Recommendations for
22 actions that the Commission should take.

23 MR. LONG: Right.

24 ALJ BUSHEY: We need that so that we
25 have something that we can take forward.
26 Because remember this is a rulemaking. So we
27 need something that the Commission can act
28 on. And as soon as you have this prepared,

1 bring it forward.

2 MR. LONG: Okay.

3 ALJ BUSHEY: And we will set a schedule
4 and we'll get a schedule for that.

5 It sounds like you need to do some
6 discovery.

7 MR. LONG: And cross-examination of the
8 witnesses going to the very issues that they
9 raised in their defense on the OSC, and on
10 the basis of that record make recommendations
11 that may be other than dealing with
12 the suspension orders.

13 ALJ BUSHEY: Well, before --

14 MR. MALKIN: This --

15 ALJ BUSHEY: Just a second.

16 Before you -- we can't just have an
17 abstract cross-examination of Mr. Johnson and
18 Mr. Singh on whatever you -- well, actually,
19 now that I'm thinking, do you want to do
20 a deposition of them?

21 MR. LONG: We'd like to be able to
22 address -- they turned a net -- what you're
23 calling a narrow issue into a broader defense
24 of the entire MAOP validation effort. And we
25 would like to be able to respond to that.
26 That's why we've been doing the discovery.

27 ALJ BUSHEY: Okay, that's fine. But
28 the Kiefner report is specifically focused on

1 Line 147 and that's all. That's what they're
2 focused on and this is the cornerstone.

3 Is that a fair assertion,
4 Mr. Malkin?

5 MR. MALKIN: Yeah, with respect to
6 Line 147.

7 If I may comment more broadly on
8 what Mr. Long has said.

9 What he describes sounds like
10 there's a group of parties, as he put it, on
11 that side of the table that in effect want to
12 start their own OII. They think there ought
13 to be some additional investigation of PG&E's
14 MAOP validation beyond what was contained
15 within the Order to Show Cause. That doesn't
16 sound like a rule of generic applicability to
17 all gas operators. It sounds like another
18 attempt to do what the records OII already
19 did, what the examination of the PSEP plan
20 did, what the examination of the PSEP update
21 application is going to do with respect to
22 assessing the priorities set as a result, in
23 part, of that MAOP validation. And I don't
24 believe that is an appropriate use of the
25 Commissions resources.

26 I never heard of parties
27 instigating an OII that the Commission didn't
28 itself instigate.

1 ALJ BUSHEY: Well, Mr. Malkin, I'll
2 just stop you there. This is an absolutely
3 appropriate use of the Commission's
4 resources. If there are parties who believe
5 that unsafe and dangerous activities are
6 going on in the state of California with
7 regard to the operation of natural gas
8 pipelines, then this is exactly the place
9 where they bring those issues. They stylize
10 them not as an OII but as a complaint. If
11 that's what they want to do, then they file
12 the complaint, identify the law that's being
13 violated, and put on their evidence. That is
14 exactly how the resources of this agency are
15 used to address those type of allegations.

16 If instead they -- sounded to me
17 like they wanted to make recommendations
18 about regulations. If that's what they wish
19 to do, then this is the exact proceeding to
20 do that.

21 However, the segment of
22 the proc- -- I shouldn't use that word.
23 The portion of this proceeding that would
24 encompass those types of proposals is not
25 the OSC on the three pressure restoration
26 decisions. So that's all we need to be clear
27 about.

28 So, back to our schedule.

1 When do we -- let's pick a day.
2 Let's get something on the calendar for
3 the OSC cross-examination of Johnson, Singh,
4 and Rosenfeld.

5 Oh, that's right. Not Rosenfeld.

6 MR. LONG: This colloquy started with
7 you asking the question should we try to set
8 the dates now or should we try to wait.

9 ALJ BUSHEY: Wait until after --

10 MR. LONG: I think given what you just
11 said, I think we need to wait.

12 I think there's something that
13 needs to be ironed out here still.

14 I think the Commission's missing
15 a great opportunity to use the record that
16 PG&E started through your OSC to do a broader
17 assessment of the MAOP validation process and
18 therefore look into one of the important
19 elements.

20 And by the way, MAOP validation is
21 PG&E specific only. It's a red herring when
22 they talk about other operators. It only
23 applies to PG&E.

24 This is a golden opportunity
25 especially in light of e-mails that we all
26 know about, the one that talks about we may
27 be sitting on another San Bruno situation.
28 This is important and should not be left to

1 happen at some long-distant future point. We
2 need to cease the opportunity now to deal
3 with these issues, assess the MAOP validation
4 process, let parties present recommendations.
5 Give PG&E notice that that's what we're
6 dealing with.

7 And it's not a matter of
8 violations. I don't think that's what
9 parties are necessarily talking about. But
10 it's an opportunity to examine whether
11 the MAOP validation process is working the
12 way it should be working or whether changes
13 need to be made and not just circumscribed by
14 the operating pressure orders of the
15 Commission.

16 ALJ BUSHEY: Thank you, Mr. Long.

17 I think the Commission is seeing
18 this opportunity to look at exactly
19 the precise pipelines that allegations have
20 been made about. We're looking narrowly
21 focusing on them and gathering all of
22 the experts to focus just on that particular
23 pipeline. That's the issue. And that's what
24 we need to stay focused. Bigger issues we
25 can deal with on a different schedule.

26 MR. LONG: But we learned about these
27 errors through, as the OSC said, through
28 happenstance. We need to know whether there

1 are other errors like this lurking, and
2 that's the question.

3 ALJ BUSHEY: Mr. Singh just told you
4 about several more of them.

5 MR. LONG: Right. And are they doing
6 what they need to do to make sure that all
7 the pipelines are operating at the proper
8 MAOPs?

9 ALJ BUSHEY: Okay. Right now, we're
10 focusing on Line 147.

11 So why don't we set the schedule
12 for Line 147. At the conclusion of
13 the hearing on November 15th, we'll see where
14 we are. That will give our new party some
15 opportunity to gather their experts and get
16 a better assessment of where we need to go
17 from there.

18 So in conclusion, we have set
19 the following procedural schedule:

20 On November 12th, SED will file and
21 serve its concurrence and its report on
22 the investigation regarding Line 147.

23 On November 15th, we will convene
24 an evidentiary hearing. We're going to start
25 at 9 a.m. The parties should be prepared to
26 stay for a long day.

27 Tentatively, I will commit to
28 mailing the proposed decision on November

1 22nd.

2 Comments will be scheduled soon
3 thereafter, most likely on December 2nd. If
4 that date changes, it will be on the cover
5 letter for the PD.

6 Our target will be that the
7 proposed decision will be on the December 5th
8 Commission agenda.

9 Further procedural steps in this
10 proceeding will be set at the conclusion of
11 the November 15th hearing.

12 Is there anything else to come
13 before the Commission?

14 (No response)

15 ALJ BUSHEY: Hearing none, this
16 prehearing conference is adjourned and the
17 Commission is concluded.

18 Thank you.

19 (Whereupon, at the hour of 11:22 a.m.,
20 this Prehearing Conference was concluded.)

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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)	Rulemaking
Distribution Pipelines and Related)	11-02-019
Rate-making Mechanisms.)	
)	
)	

CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, Alejandrina E. Shori, Certified Shorthand Reporter No. 8856, in and for the State of California do hereby certify that the pages of this transcript prepared by me comprise a full, true and correct transcript of the testimony and proceedings held in the above-captioned matter on October 21, 2013.

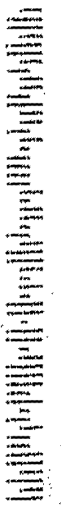
I further certify that I have no interest in the events of the matter or the outcome of the proceeding.

EXECUTED this 21st day of October, 2013.



Alejandrina E. Shori
CSR No. 8856

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PUBLIC UTILITIES COMMISSION

STATE OF CALIFORNIA

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