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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.)

21                           \* \* \* \* \*

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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.

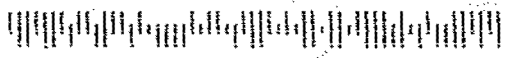
I further certify that I have no interest in the events of the matter or the outcome of the proceeding.

EXECUTED this 21st day of October, 2013.

  
\_\_\_\_\_  
Alejandrina E. Shori  
CSR No. 8856

REC'D  
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meyers@...





**PUBLIC UTILITIES COMMISSION**

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