

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE

STATE OF CALIFORNIA

COMMISSIONERS MICHAEL R. PEEVEY, MICHEL P. FLORIO,
CATHERINE J. K. SANDOVAL, MARK J. FERRON and
CARLA J. PETERMAN, in attendance

CHIEF ADMINISTRATIVE LAW JUDGE KAREN V. CLOPTON and
ADMINISTRATIVE LAW JUDGE MARIBETH A. BUSHEY,
co-presiding

) ORAL
) ARGUMENT
)

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.)
)

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1 SAN FRANCISCO, CALIFORNIA
2 2 DECEMBER, 2013 - 3:05 P.M.
3 * * * * *
4 ADMINISTRATIVE LAW JUDGE BUSHEY:
5 The Commission will come to order. This is
6 the time and place set for oral argument in
7 Order Instituting Rulemaking on the
8 Commission's own motion to adopt new safety
9 and reliability regulations for natural gas
10 transmission and distribution pipelines, and
11 related rulemaking mechanisms. This is
12 Rulemaking 11-02-019.
13 Good afternoon. I'm Administrative

14 Law Judge Maribeth Bushey. I am the assigned
15 administrative law judge to this proceeding.
16 Also presiding with me this afternoon is
17 Chief Judge Karen Clopton as well as all of
18 the commissioners.

19 Our order of events for this
20 afternoon, we'll begin with a presentation by
21 PG&E. It will last 15 minutes. Then we will
22 have a 20-minute presentation by the other
23 parties divided up amongst themselves as they
24 have seen fit to do so. Then PG&E will have
25 a five-minute rebuttal. Questions from
26 the Commissioners may occur during
27 the presentations or afterwards.

28 I also wanted to let the

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1 participating parties know that we have
2 finalized our date for the continued
3 cross-examination of PG&E's witnesses. That
4 will be December 16 starting at 9:00 a.m.

5 Before we begin, we'll start with
6 statements from the commissioners. I know
7 Commissioner Ferron has something he would

8 like to say. Then we will turn to the other
9 commissioners.

10 Commissioner Ferron.

11 STATEMENT OF COMMISSIONER FERRON

12 COMMISSIONER FERRON: Thank you very
13 much. And thank you all for coming to appear
14 before the Commission today.

15 We have all been profoundly
16 affected by the terrible tragedy in San Bruno
17 on September 9, 2010. The Commission is
18 going through itself some sweeping changes
19 internally to ensure that as regulators we're
20 doing everything feasible to protect
21 the public not just against accidents
22 the magnitude of the San Bruno tragedy, but
23 across the breadth of utility services and
24 companies that operate under our
25 jurisdiction.

26 PG&E itself has reorganized its gas
27 business and has brought in new people,
28 including Mr. Earley as chairman and CEO and

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1 Mr. Stavropoulos as executive vice president

2 gas operations, neither of whom worked for
3 PG&E at the time of the explosion.

4 You have both promised to usher in
5 a new focus on safety and transparency to
6 a company that you describe as having lost
7 its way. But based on my personal experience
8 in corporate management in a time of crisis,
9 it's inconceivable that the new management
10 team you two gentlemen brought into
11 the company in the wake of San Bruno would
12 fail to monitor closely every discovery in
13 the field in relation to pipeline integrity.

14 You must have known or should have known
15 almost immediately that there was a specific
16 problem with Line 147, and that more
17 generally there were problems with the
18 process for validating pipeline records. You
19 must have recognized this as a significant
20 safety matter in the public's interest and
21 that this Commission would need to know this
22 new piece of important information
23 immediately. And yet, this didn't happen.

24 The leak and pipeline records
25 discrepancy on Line 147 was discovered in
26 October 2012, but PG&E did not fully inform
27 the Commission of the full circumstances of
28 the discovery until August 2013, over ten

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1 months later. I cannot understand how any
2 organization that is committed to public
3 safety and transparency, especially one that
4 was affected by a tragedy like San Bruno,
5 would have allowed the facts to lie hidden
6 for so long unless it were part of a, quote,
7 deliberate and calculated attempt to mislead
8 the Commission, as stated in my alternate
9 proposed decision.

10 Obviously, the safety and integrity
11 of the line is paramount. However,
12 the safety status of the line is not what's
13 at question here. Rather, I find fault in
14 the decision making process that led to the
15 manner in which this important issue was
16 communicated to the Commission and to
17 the public.

18 At the heart of this matter is the
19 credibility of the management team at PG&E
20 and how you responded to the first
21 significant test of PG&E's so-called new
22 safety culture post San Bruno. I'd like to
23 understand how PG&E came to the decision to

24 withhold the discovery of the pipeline
25 records discrepancy.
26 Who in the management team knew
27 about the leak and the records discrepancy on
28 Line 147? When did they know?

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1 What discussions occurred
2 internally concerning when and how the CPUC
3 should be informed of the records
4 discrepancy?
5 Who decided on the strategy to
6 communicate this finally to the Commission,
7 to the public?
8 And why was it not decided to
9 inform the Commission immediately upon
10 discovery?
11 In short, I'd like to understand
12 how these important decisions regarding
13 safety were made within the management ranks
14 of PG&E and who was responsible. If we're
15 ever going to change the safety culture in
16 the PG&E, it must begin at the top.
17 I'm told that final oral arguments

18 are the last opportunity for us to hear about
19 any mitigating or aggravating factors that
20 might affect the penalty, so I'm looking to
21 understand the decision making process within
22 PG&E to see if my presumption of deliberate
23 and calculated dishonesty is correct. I hope
24 that through today's discussion we will
25 better understand PG&E's internal decision
26 making process as it relates to public safety
27 and transparency.

28 Thanks again for coming.

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1 ALJ BUSHEY: Thank you, Commissioner
2 Ferron.

3 Other commissioners have opening
4 comments?

5 (No response)

6 ALJ BUSHEY: No. All right. We'll
7 begin then with the presentation by PG&E.

8 ARGUMENT OF MR. EARLEY

9 MR. EARLEY: Thank you very much. My
10 name is Tony Earley. I'm chairman and CEO of
11 PG&E. And I thank you for the opportunity to

12 speak today. I know it's unusual for a CEO
13 to speak to you at a forum like this, but
14 I hope it underscores how seriously we take
15 the issues at hand today.

16 Of all of PG&E's commitments to our
17 customers in the state of California, none is
18 more important than our commitment to act
19 with integrity in everything that we do.
20 Nothing less is acceptable to me and I'm sure
21 nothing less is acceptable to you. And
22 that's why I wanted to give you my personal
23 assurance that the leadership at PG&E is
24 firmly committed to doing the right thing
25 when it comes to safety and doing the right
26 thing when it comes to interacting with our
27 regulators.

28 You know, I joined PG&E just over

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1 two years ago to lead the effort to fix
2 the gas system at PG&E and to reestablish
3 trust with our customers in the wake of
4 the tragedy at San Bruno. Since then, we've
5 supported your efforts to implement new

6 safety standards that are the most demanding
7 in the nation. To meet those standards, we
8 recruited the very best talent in the nation,
9 including Nick Stavropoulos who is here with
10 me today and will comment in a minute. We're
11 investing billions of shareholder dollars to
12 achieve our goal of being the safest and most
13 reliable gas system in the country.

14 In my career, I've had the good
15 fortune to lead three large utilities, each
16 with significant gas operations. When I came
17 here, I acknowledged that we have a lot of
18 work to do. But in my experience, I am
19 confident in saying that this effort that's
20 going on at PG&E right now is unprecedented
21 in our industry. We're not finished yet, but
22 the progress that we have made is simply
23 remarkable.

24 Our journey to operate the safest
25 gas system in the country depends on many
26 things. Depends on having the right people
27 in place, having the right resources, having
28 the right skills, and most importantly it

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1 depends on having a culture that embraces
2 safety as a core value. And that requires
3 a culture where every employee feels free to
4 speak up and raise issues.

5 From my very first day at PG&E,
6 I talked about celebrating the gaps to
7 excellence. Without understanding the gaps,
8 we won't know how to get better. We cannot
9 have a successful safety culture unless our
10 employees have a questioning attitude and
11 unless they have the confidence that it's
12 safe to bring issues out in the open. And
13 we're seeing changes take hold. I want to
14 publicly thank those employees who have
15 brought issues forward.

16 I was particularly pleased to see
17 in a recent Safety and Enforcement Division
18 report, they specifically noted that
19 the employees they interviewed talked about
20 the dramatic change in the safety culture at
21 PG&E and the feeling that they could bring
22 issues to management.

23 Our responsibility as leaders is to
24 make sure that we continue to support that
25 change through our actions, and we're doing
26 that. Our mantra today is, Find it and fix
27 it. And I want to underscore that, that's

28 exactly what we did with Line 147. When

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1 a leak was discovered, we fixed it. When
2 a discrepancy in the records was identified,
3 we investigated and corrected it. And when a
4 question was raised about safety by one of
5 our employees, we listened, we addressed
6 the question directly to the satisfaction of
7 all the engineers involved. And that is
8 exactly what a safety culture is all about.
9 So looking back at the actions of our team,
10 I'm convinced they took the right steps
11 with respect to ensuring safety.

12 And Commissioner Ferron, to address
13 your issue, once we determined, which was
14 immediately, that a hydrostatic test was done
15 within the prior year at a pressure that was
16 twice the operating pressure of that line, it
17 no longer becomes a safety issue.

18 I've been involved in hydrostatic
19 tests for almost 40 years starting when I was
20 an officer in the Navy and we used to
21 hydrostatically test all of our pipes to

22 ensure that it was safe to dive that
23 submarine. And in fact, the hydrostatic test
24 is the gold standard. Once you determine
25 that, then the issue is a compliance issue
26 around what the standard -- what the -- is
27 required by the regulations and whether or
28 not it is reportable.

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1 So I think from a safety
2 standpoint, there is not an issue. But when
3 I assess how we interacted with the
4 Commission on the issue of communications,
5 I am clearly disappointed. The fact that I'm
6 here today means that we failed to meet your
7 expectations in how we communicated with you,
8 beginning with the length of time that we
9 initially took to discuss this issue with
10 the staff and later in the filing of an
11 errata in order to formally notify in
12 the Commission.

13 The message that I've delivered to
14 the staff and I've delivered it again is that
15 we need to go above and beyond in our efforts

16 not only to find and fix problems with
17 the gas system but also to go above and
18 beyond in our efforts to communicate in
19 a timely and clear fashion that meets
20 the expectations of this Commission.

21 Given the exceptional nature of the
22 concerns you've expressed, Commissioner
23 Ferron, I want to address some of your
24 statements directly.

25 I've looked back carefully and
26 reviewed the actions that were taken in
27 notifying the Commission. As I said, that in
28 looking back from a safety standpoint,

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1 I think that our staff did all the right
2 things. I found no action that constituted
3 an intentional effort to mislead the
4 Commission. And I can assure you that any
5 such actions would have been wholly and
6 completely unacceptable to me and to our
7 leadership team. But because of the serious
8 nature of these particular assertions by
9 a sitting commissioner, I've also asked our

10 audit committee of the PG&E board to conduct
11 its own independent review, and it is doing
12 that.

13 In closing, I would note that we've
14 made more than 60 self-reports on gas-related
15 issues in the past two years. This is far
16 more than any other utility in the state of
17 California. And I believe it's a powerful
18 demonstration of our commitment to do
19 the right thing and to act in a transparent
20 manner with this Commission. And given our
21 reporting track record, there's no reason to
22 conclude we would intentionally single this
23 particular issue out for different treatment.

24 I really hope that the Commission
25 recognizes all of the safety enhancements
26 that have taken place in PG&E's gas business.
27 The NTSB has closed out nine of its twelve
28 recommendations and noted progress on

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1 the other three. The former chair of the
2 NTSB, Jim Hall, is monitoring the company's
3 work on gas safety matters and has advised

4 Nick and his team on the progress he's seen.

5 We are working on a journey to
6 become the safest utility in the United
7 States, so I thank you for the opportunity to
8 come before you today and to assure the
9 Commission and the 15 million Californians
10 that we have the privilege to serve that
11 safety is and always will be our highest
12 priority.

13 And now I'd like to ask Nick
14 Stavropoulos, PG&E's executive vice president
15 for gas, just to make a few remarks in
16 the remainder of our time.

17 MR. STAVROPOULOS: Thank you. Thank
18 you, Tony.

19 Good afternoon, everybody.

20 UNIDENTIFIED SPEAKER: Could you move
21 your mike better?

22 ARGUMENT OF MR. STAVROPOULOS

23 MR. STAVROPOULOS: Thank you.

24 Good afternoon. Thank you for
25 opportunity to come before the Commission
26 here today.

27 When I first joined PG&E two years
28 ago, my commitment to Tony and the board was

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1 to do what you've suggested, Commissioner
2 Ferron, everything feasible, everything
3 feasible to assure the safety and reliability
4 of our gas network. And that's what we've
5 done for the last two years. The first
6 priority is safety, and it's our top and only
7 priority. I want to publicly assure you and
8 all our customers that I'm personally
9 satisfied that Line 147 has been maintained
10 and operated safely and is fit for service.
11 My confidence in this statement is based upon
12 the work of PG&E's engineers and experts in
13 the field and that of other third parties.
14 The second point concerns our
15 records. We've had an exceptional focus on
16 digitizing and validating records throughout
17 our system, almost 40 million data points,
18 five million specifications on 500,000
19 separate features of our pipeline network.
20 As Tony indicated in his remarks, this effort
21 is unparalleled throughout the natural gas
22 utility industry. We are the leaders. We
23 believe this effort has already resulted in
24 our records being better than most in
25 the country. We are committing to making it

26 the standard in the industry.
27 That's not to say that we are not
28 going to find discrepancies in what our

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1 records show and what's in the ground.
2 That's why we've always maintained that
3 the establishment of the MAOP by our records
4 is an interim safety measure until a
5 hydrostatic test can be undertaken.
6 In its November 14th report on
7 Line 147, the SED recognized the challenges
8 associated with keeping records of facilities
9 50-plus years old and noted that it would be
10 impractical without any quantifiable increase
11 in safety to excavate all the transmission
12 pipe. Therefore the SED noted that
13 expectations of pipe records need to be
14 tempered, and that even after records have
15 been validated, something could be later
16 identified different in the ground than was
17 expected by the records review. The
18 Commission knows that accurate records are
19 only the beginning of assuring a safe gas

20 system and that's why it has ordered
21 the hydrostatic testing of gas transmission
22 systems in California. We're in complete
23 agreement with this directive and that's why
24 we are leading the country in hydrotesting of
25 all pre-existing gas transmission pipe.
26 My third point concerns safety
27 culture we are nurturing at PG&E: An open
28 honest and transparent culture, a questioning

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1 culture. These are the bedrock of an
2 effective safety system within a company.
3 The leadership of PG&E has worked
4 exceptionally hard from day one since we came
5 here to create such a culture.
6 I'm delighted to see this
7 acknowledged in the November 14th SED report.
8 As Tony noted, five engineers who were
9 involved with Line 147 were interviewed.
10 According to the report, all engineers were
11 asked how they felt about the ability to
12 bring safety concerns to their management and
13 all the engineers stated they believed that

14 the process had dramatically improved within
15 the last three years and in a way that
16 encourages reporting without punishment.

17 This is not the first significant
18 safety event that we've reported at PG&E.
19 This is over 60 separate reports that we have
20 filed. The first one resulted in
21 a \$17 million fine. Despite that \$17 million
22 fine, I issued an e-mail to all of our
23 employees encouraging them to continue to
24 self-report these items.

25 Commissioners, those individuals
26 included David Harrison, a former employee
27 working as a contractor for the company whose
28 questions have been highlighted in public

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1 forums and media. Mr. Harrison's questions
2 and concerns for Line 147 were taken
3 seriously at the time and were promptly
4 addressed. More importantly, Mr. Harrison
5 shared with the Commission and swore under
6 oath to the SED that he believed in
7 the safety of Line 147.

8 I've repeatedly reinforced to my
9 staff in one-on-one communication,
10 communication with small groups and
11 companywide communications to every PG&E
12 employee my unwavering support for the
13 questioning attitude that was represented in
14 Mr. Harrison's memo. My message has been
15 very simple: The only problem we can't fix
16 is the one we don't know about.

17 My fourth and final point has to do
18 with integrity, my integrity and the
19 integrity of all PG&E employees. If we
20 misunderstood your expectations and didn't
21 meet them, that's my fault. That's my
22 responsibility. It's up to me to know what
23 you expect and to meet that. And that
24 clearly didn't happen in this case. As Tony
25 said, we've reset those expectations to raise
26 the bar on the manner in which we communicate
27 with the Commission.

28 And we've heard your concerns.

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1 I fully accepted and agree with the

2 Commission's criticism on the communications
3 of this issue, but I disagree vehemently that
4 our intent was to act without integrity or in
5 any way that was less than fully transparent.
6 Our record clearly demonstrates otherwise.]

7 We have been the most transparent
8 company reporting more than those things that
9 are required to be reported in our
10 self-reports.

11 I personally championed the open
12 and transparent culture. And I would note
13 that a major reason why we have so many
14 self-reports, that unlike other utilities in
15 the state we don't just self-report
16 violations based upon CPU standards. We set
17 ourselves a higher bar with standards that
18 are more stringent than the Commission
19 requirements.

20 We have 80,000 miles of underground
21 pipeline, transmission, distribution, and
22 service lines. That's enough to circle the
23 world three times plus. We now have
24 technology that allows us to see more, and I
25 expect we're going to continue to find more
26 problems. That's what you're paying me to
27 do. We're going to find them, and we're
28 going to fix them, and we'll report them.

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1 And in doing so, it's my expectation that the
2 Commission will see more, not fewer of these
3 self-reports in the future.

4 I invite each and every one of you
5 to take the time, come to the field, see our
6 work, see the amazing work that the IBEW and
7 the ESC and the contractors that we have, the
8 hydrotesting program that is the envy of the
9 country, a pipe replacement program that is
10 ten times more pipe per year than we've ever
11 replaced before, a automatic and remotely
12 controlled valve program that is
13 unprecedented, that no other company is
14 undertaking, a records validation process
15 that is second to none in this country and
16 probably the world.

17 In closing, I want to thank all the
18 PG&E employees that will embrace our safety
19 culture and come to work every day with a
20 questioning attitude. They are the
21 consummate professionals and their commitment
22 is the key for us to achieve our goal of
23 having the safest, most reliable gas system

24 in the country.

25 Thank you for your time.

26 ALJ BUSHEY: Thank you. Our next

27 presentation will be by the parties. I

28 understand Mr. Long is going to begin, and he

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1 will give us a brief sequence of speakers.

2 MR. LONG: Yes, your Honor. I will

3 turn this on.

4 Thank you, your Honor. Speaking on

5 behalf of the other parties, I will begin for

6 TURN, and then Ms. Paul will speak for ORA,

7 and then the other two parties that wish to

8 speak are the Safety and Enforcement Division

9 and the City of San Bruno. And they may want

10 to speak to the order in which they make

11 their presentations.

12 ARGUMENT OF MS. STROTTMAN

13 MS. STROTTMAN: Your Honor, good

14 afternoon. Good afternoon, your Honor

15 Clopton and the Commissioners. I'm Britt

16 Strottman on behalf of the City of San Bruno,

17 and I'd like to introduce you to Mayor Jim

18 Ruane.

19 UNIDENTIFIED SPEAKER: Can you speak
20 up, please. I can't hear you.

21 MS. STROTTMAN: I'd like to introduce
22 to you the City of San Bruno Mayor Jim Ruane,
23 who would like to make a presentation on
24 behalf of the City of San Bruno. It is San
25 Bruno's preference to be last, but it's my
26 understanding that SED would also prefer to
27 be last.

28 ALJ BUSHEY: Mr. Gruen, I'm sure you

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1 will accede to Ms. Strottman's request?

2 MR. GRUEN: Yes, your Honor, we
3 certainly will.

4 ALJ BUSHEY: So SED then will go second
5 to the last. And we'll conclude then with
6 the Mayor of San Bruno.

7 Mr. Long.

8 MR. LONG: Thank you, your Honor.
9 Before I begin, may I distribute a brief
10 handout that will summarize the chronology
11 that I'm going to be discussing in my

12 remarks.

13 ALJ BUSHEY: All right.

14 MR. LONG: May I approach the dais?

15 (Document distributed)

16 ARGUMENT OF MR. LONG

17 MR. LONG: Commissioners, Chief ALJ

18 Clopton, ALJ Bushey, thank you for this

19 opportunity.

20 The best response to PG&E is to let

21 the undisputed facts speak for themselves.

22 So I'm going to go through the chronology of

23 relevant events based on undisputed facts

24 taken from PG&E's own documents and

25 testimony, primarily the August 30th, 2013

26 verified statement of PG&E's engineering

27 officer Kirk Johnson.

28 These undisputed facts show that

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1 every time PG&E's upper management and legal

2 team were faced with a choice that implicated

3 their ethical responsibilities under Rule

4 1.1, they chose not to reveal the truth but

5 rather to conceal and obfuscate the truth.

6 What happened here was not find it and fix it
7 but rather find it and conceal it.

8 So starting with the chronology, the
9 chronology begins in October and November of
10 2011. That was when PG&E certified to the
11 Commission that the Maximum Allowable
12 Operating Pressure or MAOP of Line 147 should
13 be 365 pounds per square inch. This MAOP was
14 based in part on the features of the Line 147
15 segments that had come out of PG&E's MAOP
16 validation process. Under MAOP validation if
17 PG&E did not have verifiable records of the
18 characteristics of any pipe segments it was
19 supposed to use conservative assumptions.
20 Conservative assumptions meant that PG&E
21 would never assume more robust --

22 ALJ BUSHEY: I'm sorry. We're going to
23 go off the record for a minute to find out
24 what --

25 (Off the record)

26 ALJ BUSHEY: We'll be back on the
27 record.

28 Mr. Long.

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1 MR. LONG: So I was talking about
2 conservative assumptions. Conservative
3 assumptions meant that PG&E would never
4 assume more robust pipeline features than it
5 could prove. For example, it would never
6 assume a stronger seam weld than it could
7 establish by records. So this certification
8 in October, November of 2011 was made in the
9 formal record of this docket both by a filed
10 pleading and by oral testimony by Mr. Johnson
11 at an evidentiary hearing.

12 The next date in the chronology is
13 December 2011. That was when the Commission
14 issued Decision 11-12-048 in which it relied
15 on PG&E's information and established an MAOP
16 for Line 147 of 365 pounds. Then in
17 mid-October 2012 while monitoring Line 147
18 during a nearby project by a water utility
19 PG&E learned of a leak on Segment 109. PG&E
20 excavated that leak and discovered --
21 excavated that pipeline, that segment of the
22 pipeline and discovered the pipe had an
23 inferior and weaker seam weld than what their
24 MAOP validation records showed.

25 Because of this weaker seam weld,
26 the design MAOP calculation went down to 330
27 pounds, lower than the MAOP they had

28 certified to the Commission, and this became

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1 the controlling calculation for MAOP. They
2 learned about this very serious mistake
3 through the happenstance of a water company
4 doing nearby work, not through MAOP
5 validation.

6 November 14th, 2012 is a very
7 important date in this record. PG&E sent an
8 internal e-mail on that date about the MAOP
9 validation error to several departments
10 within PG&E including MAOP Validation,
11 Integrity Management, Operations, Gas
12 Planning, PSEP, and Hydrotest. So if top
13 management didn't know about the error before
14 this, they certainly knew about it by
15 November 14th, 2012. And that fact is
16 corroborated by Mr. Johnson's own testimony
17 in which he says he learned about the Segment
18 109 discrepancy in late October or early
19 November.

20 So at this point, November 14th,
21 2012, PG&E's upper management and legal team

22 were confronted with a choice. They knew
23 that the supposedly validated information
24 they gave to the Commission about Line 147
25 was wrong, and most important, because of the
26 error, the MAOP that the Commission adopted
27 in Decision 11-12-048 needed to be reduced
28 from 365 to 330.

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1 At this point PG&E had a clear
2 ethical duty under Rule 1.1 to own up to this
3 very significant error and inform the
4 Commission that it needed to modify its
5 decision. But what did PG&E do? Absolutely
6 nothing. Faced with a choice to reveal or
7 conceal, it chose to conceal an embarrassing
8 error.

9 So this is the date November 14th,
10 2013, when PG&E's continuing violation of
11 Rule 1.1 began. On this point Commissioner
12 Ferron's alternate, which conservatively uses
13 November 16th as the start date, is accurate
14 and the proposed decision is inaccurate.

15 Also in mid-November of 2012 PG&E

16 decided it should re-review the supposedly
17 validated features for the rest of Line 147.
18 And based on that re-review, by January of
19 2013 they learned that two other segments on
20 Line 147 had seam weld errors and that the
21 MAOP for these segments also needed to be
22 reduced below the 365 number they had
23 certified to the Commission.

24 So by January of 2013 PG&E had
25 learned that its MAOP validation errors were
26 not limited to just one isolated segment but
27 applied to several segments. This was
28 another opportunity for PG&E to reveal its

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1 errors, but again, it chose to conceal this
2 information.

3 And you should understand,
4 Commissioners and Judges, that this was all
5 going on in the middle of the pipeline safety
6 enforcement cases including an OII
7 specifically devoted to PG&E's recordkeeping.

8 In September and October of 2000 --
9 of 2012 evidentiary hearings in the

10 recordkeeping OII began, but then they were
11 suspended for settlement negotiations. In
12 January 2013 evidentiary hearings resumed.
13 And on March 5th, 2013, we had the last day
14 of evidentiary hearings in those proceedings.

15 So if PG&E filed a pleading
16 admitting its MAOP validation errors and
17 seeking to modify Decision 11-12-048, that
18 surely would have raised issues in the
19 recordkeeping case that parties would have
20 wanted to explore on that record.

21 So with that in mind, it's not until
22 March 20th after that last day of evidentiary
23 hearings that PG&E even brings this to the
24 attention of the Safety and Enforcement
25 Division staff. They do that in a private
26 conference call, private in the sense that
27 the parties to the investigations are not
28 privy to this discussion, and it keeps it out

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1 of the public record. This private meeting
2 did not satisfy PG&E's Rule 1.1 obligations
3 because it did not correct the evidentiary

4 record that the Commission relied upon. As
5 far as the record in the decision showed,
6 Line 147 had stronger seam welds than was
7 actually true and the Line 147 MAOP was
8 higher than it really should be.

9 Finally, it's not until July 3rd,
10 2013, after all the briefs were filed in the
11 recordkeeping investigation and the day
12 before the July 4th holiday that PG&E finally
13 filed something. Here again PG&E had
14 choices. And again PG&E chose not to reveal
15 but to conceal and obfuscate the truth.
16 Rather than initiate a process to modify the
17 erroneous decision, PG&E filed something
18 called an errata. Erratas are not provided
19 for in the rules. The title and the content
20 downplay the significance of the errors, and
21 there was no opportunity for any party to
22 respond, unlike a motion or a petition.

23 The content of the pleading
24 obfuscated the truth. It said nothing about
25 the fact that PG&E had known about the MAOP
26 error for over eight months. It said that
27 PG&E discovered the Segment 109 error during
28 a scheduled leak survey when in fact there

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1 was nothing scheduled about it. If the water
2 company had not been working near the line
3 that leaked that led to the discovery, the
4 MAOP error would not have been detected.
5 Misleading statement was part of PG&E's
6 longstanding effort to hide its MAOP
7 validation problems from the Commission and
8 the parties.

9 In conclusion, at a time when the
10 Commission was calling on PG&E to be as
11 transparent as possible about pipeline
12 safety, PG&E went into cover-up mode. Rather
13 than admit the very embarrassing fact that
14 its MAOP validation program had failed in its
15 basic purpose with Line 147, PG&E concealed
16 its errors.

17 Even when PG&E knew that a
18 Commission decision was materially wrong
19 because PG&E had supplied incorrect
20 information, PG&E waited more than eight
21 months to correct the record until it would
22 be less damaging to the company's interests
23 in the enforcement cases. And even then it
24 chose to submit an errata filing calculated
25 in title, timing and tone to obfuscate the

26 significance of its MAOP validation errors.

27 These are serious Rule 1.1

28 violations that call for maximum fines.

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1 Thank you.

2 ALJ BUSHEY: Thank, Mr. Long.

3 Ms. Paull.

4 ARGUMENT OF MS. PAULL

5 MS. PAULL: Thank you, your Honor.

6 Judge, Chief Judge Clopton, President Peevey,

7 Commissioners, Mr. Long has walked us

8 through, summarized the facts very well, very

9 clearly, and we, ORA, it's a completely clear

10 and accurate and compelling summary of the

11 facts. This is what's important. And so

12 that allows me to keep my remarks very brief.

13 I just came prepared to make a few points,

14 but before I go to that, I just wanted to

15 make two observations about comments that

16 PG&E just made.

17 The first observation is that PG&E

18 has not answered Commissioner Ferron's

19 questions, not a single one of them, about

20 who made the decision, how, when, why, where,
21 how was that decision made. Questions have
22 not been answered.

23 And the second observation is that
24 Mr. Stavropoulos says that PG&E's withholding
25 of the information for such a long time was
26 not -- there was no intent to mislead. It's
27 incomprehensible to me. How do you reconcile
28 that with these facts that Tom Long just

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1 summarized that show that there was a
2 decision made to withhold this information
3 from the Commission for months? The decision
4 clearly was made. It's by management. We
5 don't know how, when, where because
6 Commissioner Ferron's questions haven't been
7 answered, but clearly management made the
8 decision to conceal, to not communicate that
9 information about the errors that were
10 discovered to the Commission. How can that
11 be not -- not be intentional?

12 So I will now just make a couple of
13 other points. And one is, the first -- the

14 San Bruno disaster reminded us that ensuring
15 safe utility service is one of this
16 Commission's primary responsibilities. The
17 Commission cannot meet that responsibility if
18 it doesn't get accurate and timely
19 information from the utilities. I know that
20 you already know this, but it seems important
21 to say it publicly. The Commission cannot
22 ensure public safety if it doesn't get the
23 straight story from the public utilities that
24 it regulates.

25 Second, it's hard to imagine a more
26 compelling case for Rule 1.1 sanctions than
27 this one based on the facts that Mr. Long
28 summarized. In my mind, withholding the

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1 critical safety information for eight or nine
2 or ten months, whatever, this is the most
3 serious aspect of PG&E's conduct. And
4 Commissioner Ferron's alternate proposed
5 decision gets this exactly right that PG&E's
6 obligation to disclose the information,
7 information that the previous information had

8 given to the Commission was incorrect, that
9 obligation to disclose began as soon as
10 senior management knew that it had given the
11 wrong information to the Commission in 2011.
12 And that as we now know was by November 14th
13 or November 15th, 2012, more than a year ago.

14 So to finish, I think I'd like to go
15 back for just a minute to, what have we
16 learned from the San Bruno disaster? One
17 thing we learned, and this is mainly from the
18 NTSB accident report, that PG&E has serious
19 organizational problems that need to be
20 addressed. Another thing we learned is that
21 this Commission needs to be taken more
22 seriously by PG&E in order to be effective in
23 its oversight of PG&E's gas operations.

24 Clearly, part of that is that the
25 Commission needs to verify what PG&E
26 management says consistently on an ongoing
27 basis. And the Commission also needs to send
28 a clear message to PG&E and, I might add to

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1 the other utilities who are also watching,

2 that it expects the utilities to provide good
3 information, accurate, truthful, timely
4 information as Commissioner Ferron's
5 alternate states.

6 That's exactly why, Commissioner
7 Ferron, your alternate gets it exactly right.
8 ORA supports your alternate for that reason.

9 And last of all, PG&E says that the
10 discovery of the errors about Line 147 raise
11 no safety issue and try somehow to say that
12 this made it all right to not disclose the
13 information to the Commission. But first of
14 all, whether it raises a safety issue or not,
15 isn't that for the Commission to decide? How
16 can the Commission decide if it doesn't know?

17 Second, what does that mean to say
18 that there was no safety issue? Commissioner
19 Sandoval probed this question at the hearing
20 on September 6th. We have heard now,
21 confirmed, Mr. Earley confirmed that what
22 PG&E means by that is apparently that Line 47
23 was pressure tested so the engineers are
24 reasonably confident that it can be operated
25 safely at an MAOP of 330 at this time. And
26 that's good to know.

27 But do we know whether the pressure
28 test was done consistent with safety

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1 standards for the type of pipe that is
2 actually in the ground? And what about
3 integrity management of the line going
4 forward? What does the change in information
5 tell us about that? When should the line be
6 inspected, replaced? And what about
7 compliance with the federal safety
8 requirements about how to determine the MAOP?
9 I believe Mr. Earley acknowledged that there
10 is a compliance issue related to that
11 information that was discovered.]

12 So to say that there was no safety
13 issue doesn't cover all of that, isn't it
14 the utility's job to inform the Commission so
15 that the Commission can make that
16 determination for itself?

17 And I will pass the baton now to my
18 colleague from SED.

19 Again, ORA supports Commissioner
20 Ferron's excellent alternate proposed
21 decision.

22 ALJ BUSHEY: Mr. Gruen.

23 ARGUMENT OF MR. GRUEN

24 MR. GRUEN: Thank you, your Honor.
25 Administrative Law Judge Bushey,
26 Chief ALJ Clopton, President Peevey,
27 Commissioners, my name is Darryl Gruen and
28 I represent the Safety and Enforcement

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1 Division Advocacy team, which is a party to
2 this proceeding. We have a few comments.
3 SED as the Commission's enforcement
4 arm supports the alternate proposed decision.
5 SED recognizes the Commission has complete
6 discretion based upon the evidence and issues
7 to come up with the fine. And in particular,
8 SED underscores its support of the alternate
9 PD through the following points.
10 First, regarding the March 20th,
11 2013 conference call that Mr. Long
12 identified, the alternate mentions that
13 the call with Commission staff did not
14 provide adequate notice to the Commission or
15 its staff regarding the errors in Line 147
16 pipeline specifications. SED supports that
17 point and think that -- believes that's

18 correct.

19 Also, another point. The Order to
20 Show Cause did in fact give proper notice of
21 the violations identified in the alternate
22 proposed decision. The Order to Show Cause
23 was getting at PG&E's failure to inform
24 the Commission of critical safety facts in
25 a timely and procedurally appropriate manner.

26 And related to that, when the
27 Commission issued the OSC, it did not know
28 what the critical safety facts were. And

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1 rather than disclosing those facts promptly
2 as PG&E should have done, PG&E failed to
3 disclose them until Mr. Johnson's August 30th
4 verified statement. This is not simply
5 a communications issue. It is a safety-
6 related issue because of the safety-critical
7 facts that were pertaining to this matter.

8 The Commission was exactly right in
9 both the proposed and the alternate decisions
10 finding that PG&E's Rule 1 violations to be
11 bad pursuant to Decision 98-12-075 and was

12 justified in maximizing the daily fines as
13 a result. PG&E has been on notice since at
14 least 1998 from that decision that
15 safety-related violations are the most
16 important and heavily fined.

17 And lastly, SED supports TURN's
18 presentations of the undisputed facts and
19 believes that TURN has done an accurate job
20 of presenting them.

21 Thank you.

22 ALJ BUSHEY: Thank you, Mr. Gruen.

23 We will turn to Mr. Ruane.

24 ARGUMENT OF MR. RUANE

25 MR. RUANE: Thank you very much.

26 Good afternoon. I am Jim Ruane,
27 the very proud mayor of the wonderful City
28 of San Bruno. I am pleased to be here today

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1 to share a city's deep and ongoing concerns
2 about public safety and the regulatory
3 integrity of the CPUC in the wake of this
4 Order to Show Cause and the San Carlos
5 situation. I am grateful for the opportunity

6 to let you know San Bruno's perspective on
7 PG&E's most recent recordkeeping failures as
8 well as the failure by the CPUC to provide
9 oversight and public disclosure regarding
10 Line 147.

11 All of us recall the horrific PG&E
12 gas line explosion that ripped through
13 the city of San Bruno on September 9, 2010.
14 The devastating explosion killed eight
15 people, destroyed dozens of homes, and left
16 a hole in the heart of our city. This
17 tragedy was entirely preventable and was due
18 to the gross negligence and bad recordkeeping
19 of PG&E compounded by a lack of regulatory
20 oversight by the CPUC.

21 The explosion in San Bruno should
22 have served as a wake-up call to both PG&E
23 and the CPUC. Apparently it has not.
24 Instead, three years later, and after PG&E
25 announced a new safety culture and allegedly
26 spent billions of dollars on safety according
27 to its own account, we remain faced with the
28 same deficient pipeline system and a utility

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1 that continues to not know what it has in the
2 ground.

3 State and federal investigations
4 determined that the tragic explosion in
5 San Bruno was largely the result of PG&E's
6 flawed or nonexistent records, and the lack
7 of CPUC oversight that allowed PG&E to
8 operate with bad data for more than one
9 thousand miles of its natural gas pipelines
10 in California. PG&E could and it should have
11 tested its system to prevent a defective
12 pipeline from running until failure.

13 Hydrotesting is the gold standard
14 for safety. PG&E repeatedly chose not to
15 hydrotest its system, instead relying on
16 legal technicalities to grandfather
17 the testing of this faulty transmission line.
18 Had Line 132 been tested, eight San Bruno
19 citizens would still be alive today and none
20 of us would be here. Yet today, we are
21 discovering the unnerving truth that those
22 same flawed, erroneous and missing records
23 have once again jeopardized the lives of
24 Californians and the lives of PG&E customers
25 in San Carlos.

26 It gets worse. Not only did PG&E
27 allow another potentially defective pipe to

28 operate at dangerously high operating

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1 pressures than the specifications for
2 the actual line in the ground would warrant,
3 but it took PG&E eleven months to disclose
4 this information to San Carlos officials,
5 the public, and the parties to this
6 proceeding. Of equal concern, the CPUC, the
7 regulatory agency that is supposed to serve
8 as our watchdog for public safety also
9 similarly failed to notify San Carlos leaders
10 and the public of the potential dangers.

11 Was PG&E hiding the ball for fear
12 of adverse publicity? Now they have reaped
13 what they sowed. This is unacceptable.

14 We stand here today to call on PG&E
15 and the CPUC to remedy these persistent
16 threats to the safety in our communities and
17 the confidence of our citizens. The conduct
18 we saw with regard to Line 132 in San Bruno
19 and the conduct we are now seeing with regard
20 to Line 147 does not demonstrate a new safety
21 culture as PG&E wants us to believe.

22 Just recently, PG&E took out
23 millions of dollars of advertisements to tell
24 the public, and I quote: We're building
25 a new company, really, around a culture of
26 safety. If that advertisement were true,
27 then why didn't PG&E disclose the San Carlos
28 situation instead of attempting to hide it in

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1 a last-minute filing before a three-day
2 holiday in what could only be understood as
3 an effort to have it overlooked.

4 Despite what you heard from PG&E
5 today, their action or lack of action in
6 disclosure demonstrates more of the same
7 reckless behavior from the utility and the
8 CPUC that has caused tragedy and death
9 before.

10 San Bruno's committed to ensuring
11 that the legacy of our city becomes an
12 opportunity to prevent future negligence by
13 PG&E and stronger active oversight by the
14 CPUC. As a result, we are asking for this
15 Commission to uphold the recommended sanction

16 against PG&E so that going forward PG&E takes
17 immediate action upon knowledge of
18 the potentially serious threat to public
19 safety.

20 We are also asking, as we have done
21 repeatedly, for an independent monitor to
22 reinstall the public's faith that what
23 happened in our city will not happen again in
24 San Bruno, in San Carlos, or in any other
25 community. This independent monitor would
26 verify that PG&E follows its own safety plan
27 in the face of possible lax enforcement.
28 Only an independent monitor free of

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1 the CPUC's conflicts of interest and cozy
2 relationships with PG&E that have jeopardized
3 pipeline safety can now guarantee that PG&E
4 maintains good records and open communication
5 with local government and ensures that
6 the CPUC provides an adequate and consistent
7 oversight needed to keep our communities
8 safe.

9 I thank you for listening to our

10 concerns today. We appreciate the attention
11 you are giving to this important issue and we
12 urge you to take action to protect
13 communities statewide and to restore
14 the public's trust regarding the safety of
15 gas pipelines beneath the ground.

16 Thank you.

17 ALJ BUSHEY: Thank you, Mr. Ruane.

18 We'll now have a five-minute
19 rebuttal from PG&E, and that will be followed
20 by questions from the commissioners.

21 MR. EARLEY: Thank you.

22 I will finish in just a second, but
23 I'll ask Mr. Stavropoulos to comment on some
24 of the comments that were made.

25 REBUTTAL ARGUMENT OF MR. STAVROPOULOS

26 MR. STAVROPOULOS: Thank you.

27 So, I certainly appreciate Mayor
28 Ruane's comments about his concerns,

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1 certainly putting myself in his shoes and
2 those of San Bruno and the greater community.
3 That's what we try to do every day. That's

4 why we are doing the hydrotest work, almost
5 600 miles that we've completed in the last
6 couple of years. I think Mayor Ruane called
7 it the gold standard for safety.

8 And I think when you asked,
9 Commissioner Ferron, what were we thinking,
10 we had applied the gold standard for safety
11 to Line 147. We knew we had a 2011 hydrotest
12 test. When we recalculated the MAOP of that
13 pipeline, it was revised from 365 pounds to
14 330 pounds, but yet that pipe never operated
15 more than 300 pounds from the time we dropped
16 the pressure. So we knew based upon this
17 gold standard for safety, this hydrotest,
18 that we did not have a safety issue. It
19 certainly was in our minds.

20 As Tony said, Should we have known?
21 Should we have communicated this earlier?
22 Absolutely.

23 Was this an embarrassing error for
24 PG&E compared to the 60 self-reports that we
25 filed, this error in records which we
26 acknowledge we have and will continue to have
27 like every gas operator in the world, in the
28 world?

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1 There is no gas operator that can
2 assure the hundred percent accuracy of its
3 records. What I can tell you is gas
4 companies nationally don't even, in many
5 cases, include the specifications of
6 the appurtenances of their gas system. We
7 have gone and not only taken a look at the
8 specification pipe but all the appurtenances
9 associated with it.

10 So that's just in my mind in terms
11 of we never felt that this was a safety
12 issue, ever.

13 REBUTTAL ARGUMENT OF MR. EARLEY

14 MR. EARLEY: So if I could wrap up and
15 just to answer Commissioner Ferron's
16 question, Chris Johns, our president, found
17 out about this in August of 2013 just before
18 the Order to Show Cause was issued, but
19 obviously conducted extensive reviews and
20 discussions with Nick Stavropoulos and his
21 team.

22 In my experience, over 25 years in
23 this industry, the fact that we did
24 a hydrotest at 700 pounds-plus in 2011 and
25 that the pipe had never operated above

26 300 pounds gives you the ability to then try
27 and understand what do the regulations
28 require in terms of the MAOP classification.

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1 And in fact, it is not a simple answer.
2 We concede that we should have been
3 more sensitive to these issues and
4 communicated in a more timely fashion. We
5 attempted to work through the appropriate
6 MAOP calculation with staff. And again, we
7 probably should have filed something sooner.
8 Our commitment is to do a better job on
9 transparency but there's nothing -- I repeat,
10 nothing -- that I have found in my reviews
11 that would suggest there was an intentional
12 effort to deceive or to hide the fact that we
13 found an error. Because as Nick says, every
14 day, every day when we dig up pipes, we find
15 something that's different than what's in
16 the records. And every gas operator in
17 the United States finds the same thing.
18 What we have is a much more
19 sophisticated and comprehensive system to

20 make sure that we get those records corrected
21 and we analyze the safety implications of
22 those changes.

23 So, I am very proud of the fact
24 that we have developed a most comprehensive
25 gas safety program of any company in the US
26 notwithstanding what the other folks on this
27 panel have said. We are safer today than we
28 were three years ago and we will be safer

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1 tomorrow than we are today and we will be
2 safer in a year than we are today.

3 We continue to improve the system
4 and I think the company is committed to
5 continuing that level of safety improvement
6 and to continue to be as transparent as we
7 have been with over 60 self-reports when we
8 find indications that there is some issue.

9 So again, I thank you for your time
10 and attention on this very important matter.

11 ALJ BUSHEY: Thank you.

12 Now, time for questions from the
13 commissioners. Who would like to begin?

14 Commissioner Ferron.

15 COMMISSIONER FERRON: Well, I think
16 since I asked a series of questions to begin
17 with, only one of which was answered, I'm
18 happy to let someone else go before me.

19 ALJ BUSHEY: All right. Commissioner
20 Florio.

21 COMMISSIONER FLORIO: I'm not sure if
22 there's a question at the end of this or not.
23 But you know, I found this whole recent
24 affair to be tremendously disheartening.
25 I don't -- I see no evidence thus far that
26 there is a safety problem with Line 147.
27 There certainly is an enormous public
28 confidence problem and, you know, that makes

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1 it our problem. And I'm -- I don't know
2 the exact sequence of events of how PG&E
3 attempted to work with the city, but clearly
4 the city even today is not convinced that
5 the line is safe to operate, and that's a big
6 problem. And I've listened to several days
7 of testimony and read the records and have

8 heard the foremost hydrotesting expert in
9 the country say the line is safe. But if
10 the people that you serve don't believe that,
11 we've got a problem here.

12 And you know, I've watched you
13 gentlemen since you arrived do what I think
14 in many ways is very good work. I have on
15 a couple of occasions highlighted it from
16 this dais because I think you have done a lot
17 of good things. The fact that Mr. Harrison
18 felt free to express his concerns and that
19 they were acted upon is exactly what we want
20 in terms of safety culture. And yet, you
21 know, we find ourselves here today with
22 a public that doesn't believe you and in many
23 respects doesn't believe us.

24 So we've got a big problem that
25 we've got to figure out how to turn around
26 here. And all I can think of is that I think
27 back to Watergate where somebody put in
28 a two-bit burglary, brought down a president.

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1 I mean here, I don't think we even had

2 a two-bit burglary. We had something
3 discovered that was unexpected and actions
4 were taken.

5 But you know, the engineering all
6 happened the way it should but the public
7 relations and the regulatory relations fell
8 down somewhere. And I don't know how it
9 happened or why it happened, but we've got
10 a big job in front of all of us if we're
11 going to restore the public confidence that
12 both the company and this commission need to
13 function effectively, and to have the public
14 reach some level of calm and confidence about
15 what's going on.

16 I didn't get to a question mark but
17 if either of you would like to comment, I'd
18 be interested in your thoughts.

19 MR. EARLEY: Well, Commissioner,
20 I think you're right in terms of the lack of
21 sensitivity to the public relations issue
22 here. But I think to put it in context of
23 the massive scope of the work that's going on
24 and that's why I think Nick's invitation to
25 come out and see the scope because, as I
26 said, every day we find things. Like every
27 operator when they dig up a line, they find
28 a dig in the line, they find the coating on

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1 the pipe is not the way it should be, it's
2 not laid out exactly where it should be.
3 I think here it's an issue of being more
4 sensitive at the operating level. And we're
5 looking at ways of how we can make sure that
6 where something is the subject of
7 a Commission order we are more sensitive.

8 Now, the reality is every single
9 one of our pipelines is the subject of
10 commission order at some time and tested when
11 it was put into service, but to be sensitive
12 to pipelines that certainly relate to or in
13 the area of San Bruno as a kind of a first
14 test of we ought to be much faster in making
15 sure that we work through the issues. And
16 again, that -- not to excuse it, but the fact
17 that there was not a safety issue, people
18 just kind of worked through the issues the
19 way engineers normally would work through it
20 to make sure they had the right answer.

21 MR. LONG: Commissioner Florio, could
22 I speak briefly to your comments?

23 COMMISSIONER FLORIO: Sure.

24 MR. LONG: I think it's important to
25 understand that there was a problem with this
26 MAOP validation program. And what's troubled
27 me about this episode is this "find it and
28 fix it" mantra that they're trying to tell us

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1 was -- is the way they do business.
2 It wasn't the way they did
3 business. It was they found something that
4 was contrary to what they represented to
5 the Commission and the parties the way they
6 would do MAOP validation. It goes back to
7 this point about conservative assumptions.
8 If they didn't know for sure what a pipeline
9 feature was, if they didn't know for sure
10 what the seam weld was or the pipeline on a
11 weld basis or the diameter of the pipe, they
12 were supposed to make a conservative
13 assumption. And that's engineering. That's
14 not PR. That's engineering. And the
15 engineers said, "We're not going to assume
16 anything that isn't conservative. We're not
17 going to be surprised when we dig up

18 a pipeline and find out that a seam weld was
19 not what we thought it was." That's an
20 engineering problem.

21 That's a fundamental problem with
22 the program that they represented to this
23 Commission was going to be an important
24 safety check, a safety program. MAOP
25 validation was not an idle exercise just to
26 have PG&E spend money for no purpose. It was
27 a safety program and it messed up. If they
28 had come to the Commission right away and

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1 said the program didn't work the way it was
2 supposed to, we're looking into the problem,
3 we're doing what we need to do to rectify it,
4 it won't happen again or we'll do everything
5 we can to keep it from happening again, that
6 was the way to be transparent. That's the
7 way they should have done it.]

8 But instead they sat on this
9 information and kept it from us because it
10 was indeed embarrassing because their program
11 didn't work the way it was supposed to work.

12 And that's the problem here.

13 MS. STROTTMAN: Your Honor, may I

14 also -- oh, I'm sorry.

15 MR. STAVROPOULOS: Yeah. What I'd add

16 is we've been very transparent that the MAOP

17 process is an interim safety measure. We've

18 been very upfront that the conservative

19 assumptions that we make will not be a

20 hundred percent accurate, that I think we've

21 demonstrated that 94 or 96 percent of the

22 conservative assumptions that we make are

23 backed up with the field records. That's

24 been on the table. We expect to find issues.

25 If I didn't find issues, I would be surprised

26 and I would be asking questions.

27 It's interesting we're having this

28 discussion because records validation weren't

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1 even required to be filed as part of

2 establishment of the MAOP of this line. This

3 line's MAOP was based upon the hydrotest that

4 was established. We provided that records in

5 addition to what was required.

6 So to represent that the records
7 were the primary determining factor of the
8 MAOP of this line is just not correct. That
9 was information that we provided
10 supplementing the hydrotest information. So
11 just wanted to share that.

12 COMMISSIONER FERRON: Sorry. Can I ask
13 a follow-up question to that?

14 ALJ BUSHEY: Please do so.

15 COMMISSIONER FERRON: Because this to
16 me is completely illogical. This argument
17 that we had hydrostatic tests, therefore,
18 there's no safety issue, therefore, there's
19 no need to report is completely illogical,
20 because when this Commission voted on the
21 decision, what was it, 11-12 -- I always get
22 the numbers so wrong, but when we voted in
23 December 2011 to set the MAOP for Line 147,
24 the hydrostatic test was already done. It
25 was known. It was an input into the process.
26 And the other input into that process was
27 Pipeline Features List and other things.

28 Now, between December 2011 and

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1 October 2012 the only thing that changed was
2 the realization that the Pipeline Features
3 List that we relied on in December was wrong.
4 That's the only thing that changed. It
5 wasn't like we suddenly discovered that we
6 had a hydrostatic test in the drawer and we
7 can pull it out and say, oh, that trumps the
8 Commission's decision. It was already known.

9 So I don't understand the logic
10 whereby because -- you know, and the records
11 were not only wrong. They were wrong in a
12 way which was materially worse than what we
13 relied upon in the calculation of MAOP in
14 December 2011. So I don't -- I don't buy
15 that argument at all. It just makes no
16 logical sense to me whatsoever.

17 COMMISSIONER PEEVEY: Comment?

18 MS. STROTTMAN: Your Honor. I'm sorry.
19 May I answer --

20 COMMISSIONER PEEVEY: Wait just a
21 minute. We want comment on what was just
22 said.

23 MR. STAVROPOULOS: Yeah. So the
24 hydrotest is the primary tool used to
25 establish the MAOP for Line 147.

26 COMMISSIONER FERRON: Right. And that
27 hydrotest was available to the Commission in

28 December 2011. So we took that into

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1 consideration when we set the MAOP at 3 -- at
2 360. When we -- but that was not the sole
3 determinant. The Pipeline Features List was
4 an important part of that decision. And then
5 when we determined that one of the factors
6 that went into that determination was
7 materially wrong, and you know, PG&E's own
8 calculations said based on that information
9 we should operate at 330. On what basis can
10 you in good faith say that the fact that
11 there's a hydrotest trumps the fact that the
12 Pipeline Features List was incorrect?

13 MR. STAVROPOULOS: Well, based upon the
14 study by Kiefner & Associates, they lay out
15 in detail how you can rely on that hydrotest,
16 and that's what he relies on primarily.

17 COMMISSIONER FERRON: And again that
18 was available to the Commission at the time
19 of the decision. So again I'm just looking
20 at the timeline, right. What changed in
21 October 12th was the Pipeline Features List,

22 which showed the pipeline as seamless or as
23 double submerged arc weld in fact was wrong.
24 It was substantially inferior pipe at that
25 time, single seam. And that's the only thing
26 that changed.

27 MR. STAVROPOULOS: Right. But it
28 didn't change. If -- aside from this other

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1 technical aspect of the application, this one
2 class out rule, that the MAOP wouldn't have
3 even changed based upon the revised Pipeline
4 Features List, right. So it's --

5 I think I go back to what Tony was
6 saying. We're moving so fast here. We're
7 trying to get so much done. And our primary
8 focus here is on the safety aspects of this.
9 We acknowledge that we should have reported
10 this earlier, that your expectations were
11 different than we thought they were. And we
12 should have done that.

13 But I think it's a function of
14 focusing on the safety of the line, the
15 safety of the system. We get information

16 every day. We're going to do an inline
17 inspection today. I'm probably going to get
18 a report 30 days from now that's going to
19 tell me about anomalies of that pipe. We're
20 going to reduce the pressure of that pipe
21 down to what we think is a safe operating
22 level until we fix and resolve all the
23 anomalies. You know, how do we report those?
24 What do we report? That's really sort of our
25 challenge.

26 COMMISSIONER FERRON: Okay. And I'm
27 sorry, but I need to follow up on this.

28 COMMISSIONER PEEVEY: All right.

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1 COMMISSIONER FERRON: They're kind of
2 hiding behind the law of large numbers, that
3 there's so much going on. This is a singular
4 event.

5 MR. STAVROPOULOS: Yeah. I'm not
6 hiding behind anything, Commissioner Ferron.
7 It's my responsibility. I made that very
8 clear. I should have understood your
9 expectations. I should have communicated

10 those expectations to my team. And we should
11 have reported them in a timely manner to meet
12 your expectations.

13 COMMISSIONER FERRON: I don't think
14 this is about the Commission's expectations
15 being unreasonable. I think they're just
16 what common sense would require.

17 Now, it's interesting that
18 Commissioner Florio brought up the whole
19 issue of Watergate, because as I remember
20 Watergate, the reason why Nixon went down was
21 because his ally, Tennessee Republican Howard
22 Baker, kept asking the question, what did the
23 President know and when did he know it? And
24 I think that's at the heart of this case here
25 too. I'm astonished that the first time
26 that --

27 COMMISSIONER PEEVEY: Sam Ervin.

28 COMMISSIONER FERRON: Sorry?

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1 COMMISSIONER PEEVEY: It was Sam Ervin.

2 COMMISSIONER FERRON: Well, I think it
3 was Howard Baker as well.

4 The thing I'm aston --

5 COMMISSIONER PEEVEY: I'm old enough to
6 remember.

7 COMMISSIONER FERRON: The thing I'm
8 astonished by is that Mr. Earley and Mr.
9 Johns, seriously guys, Mr. Earley and Mr.
10 Johns didn't know about this until August
11 2013 when the OSC was filed. So they didn't
12 even know when the errata was sent. So I
13 don't -- I find that incomprehensible.

14 I mean I guess the question is, how
15 often do you, Mr. Earley, participate in
16 meetings around the Pipeline Safety
17 Enhancement Program and what do you discuss
18 there if you're not discussing these kinds of
19 things found in the field?

20 MR. EARLEY: I participate frequently,
21 and that could be, depending on what's going
22 on, could be once a week, certainly once a
23 month. But you focus on safety issues. And
24 as I said before, in my experience when you
25 have a hydrostatic test done within a year
26 before, that's not a safety issue. And the
27 fact that the pipe was operating at 300
28 pounds pressure, which is below even the

1 revised MAOP, it isn't a safety issue.

2 And I concede that that's
3 something -- would I have liked to have known
4 about that and be able to make a judgment
5 that, yeah, this is something we ought to
6 flag even though it's not a safety issue and
7 even though maybe it's technically not
8 reportable? But would I have liked to have
9 known? Of course I would have liked to have
10 known. But the reality is, as Nick says,
11 every day we're finding things. And you
12 can't get every single detail. You have to
13 trust your team that's in place.

14 And as I said, this is, we've tried
15 to get the best team in the industry. And on
16 this one they made a judgment error. But I
17 can tell you, and I've talked to Nick and
18 talked to his team, it is not an error that
19 somebody decided to hide something. They
20 just failed to recognize that this would be a
21 significant issue because Line 147 is in the
22 vicinity of San Bruno and it had been subject
23 to a Commission order on MAOP even though
24 there had been this hydrotest at almost twice
25 that pressure.

26 COMMISSIONER PETERMAN: Commissioner
27 Ferron, may I interject with a clarifying
28 question? Based on your comment, getting

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1 back to the timeline, why then did you decide
2 to submit the corrected information in July?

3 MR. EARLEY: I'll let Nick talk about
4 that because again I was not aware of that
5 we're submitting corrected information.

6 MR. STAVROPOULOS: And I'm sorry. What
7 was the question again?

8 COMMISSIONER PETERMAN: Why then did
9 you decide to eventually submit the
10 information and why was it in July?

11 MR. STAVROPOULOS: So we provided a lot
12 of timeline information on the discussion
13 that went on. It had to do with the
14 interpretation of something called one class
15 out and a portion of the federal regulation
16 that there's still concern about what the
17 right interpretation is. So we've taken an
18 incredibly conservative interpretation of the
19 view of this one class out rule.

20 It wasn't until we looked at the
21 other potential pipelines that might be
22 impacted by one class out. We received the
23 information, my understanding, in early July
24 and then made the filing the next day on this
25 line. But it related to the one class out
26 application.

27 Another mistake that I made was I
28 knew that we had set up and were having

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1 meetings with the Safety Enforcement
2 Division. Where I come from in the other
3 states where I operated and federally, when
4 you meet with the Senior Gas Safety Engineer,
5 you've made a report. You've provided the
6 information. And in my mind, that's what I
7 had in my mind, that we had provided that
8 information. We had dug out the line.
9 Clearly that was a mistake on my part, not
10 understanding the implications of the special
11 order raising the pressure on 147.
12 If this was a federal pipeline, a
13 FERC-regulated pipeline and this issue a

14 concern, this is not a reportable event.
15 There's no other long haul pipeline company
16 in the country that would report this. Most
17 of the people that I brought in come from
18 that environment. That's not the first bell
19 that goes on in their head. The first bell
20 that goes off in their head is, what's the
21 right pressure to operate this line? Are we
22 safe? Are we doing the right thing?

23 So, you know, trying to answer your
24 question, Commissioner Ferron, to the best of
25 my ability here.

26 COMMISSIONER FERRON: I appreciate
27 that.

28 MR. STAVROPOULOS: Yeah.

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1 COMMISSIONER FERRON: I notice you're a
2 bit puzzled on the one class out, and I spent
3 a lot of time trying to understand how that
4 rule applies. I put it in the same bucket,
5 in the same logic as the hydrotest. You
6 know, the fact that a hydrotest existed in
7 the past means I don't need to report the

8 change in circumstance. And in end it was
9 determined that this rule couldn't apply. I
10 think one class out applies to situations
11 where the population density changes over the
12 pipeline after it had been put in. Of course
13 that is not the case, right. The pipeline
14 has had the same kind of classification since
15 the 1950s.

16 So the thing I'm puzzled by is if
17 you, you know, recognize that you needed to
18 figure out this one class out issue, why
19 couldn't you report to the Commission this
20 material fact and then sort out the one class
21 out rule subsequently? Why wait, you know,
22 wait until coincidentally you've got an
23 answer on one class out on July 2nd so you
24 could file on July 3rd?

25 MR. STAVROPOULOS: Yeah. You know, I
26 think it goes back to what the expectation is
27 here versus expectations in other places.

28 COMMISSIONER FERRON: Yeah. I'm

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1 detecting that you somehow don't think that

2 this was -- that somehow we had unreasonable
3 expectations.

4 MR. STAVROPOULOS: Not at all.

5 COMMISSIONER FERRON: We had an
6 extraordinary event happen in San Bruno
7 directly related to pipeline features being
8 incorrectly known to the company. Here you
9 have a similar situation. As I understand it
10 from Mr. Johnson in his testimony is the only
11 such example that you have found in your
12 miles and miles of pipeline of an instance
13 like this. So it's highly unique. And the
14 fact that it just didn't occur to anyone to
15 report it to the Commission until 3rd of July
16 is just astonishing.

17 ALJ BUSHEY: Questions from other
18 commissioners? Commissioner Sandoval.

19 COMMISSIONER SANDOVAL: Thank you. So
20 I have a couple of questions. So part of
21 what Mr. Earley and Mr. Stavropoulos have
22 said several times is that they believe that
23 the discrepancy with regard to Line 147 was
24 not reportable, or certainly that other
25 utilities would not have had to report it.

26 Can you amplify. Do you actually
27 mean that it was not reportable, that this
28 discrepancy was not actually a violation of

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1 the Commission's rules given that General
2 Order 112 creates a recordkeeping duty? So
3 are you saying that that discrepancy was not
4 reportable?

5 MR. STAVROPOULOS: No. I'm not
6 implying that it wasn't reportable here.
7 I'll leave that to the interpretation of
8 whatever particular requirements. What I'm
9 saying is that if this was a FERC -- I mean a
10 federal pipeline, interstate pipeline, the
11 fact that you find a discrepancy between your
12 records and what you actually find in the
13 ground in most cases is probably not a
14 reportable event unless there was an imminent
15 safety issue.

16 But here clearly understand with the
17 special decision related to setting the
18 pressure on Line 147 that we should have
19 known that we should have reported this in a
20 timely fashion. I don't want to confuse the
21 two. I'm not saying that this wasn't
22 reportable.

23 COMMISSIONER SANDOVAL: All right. So

24 General Order 112 creates a number of duties
25 for gas corporations. Among -- and so it was
26 first adopted in 1960 and has been revised.
27 So it prescribes rules concerning the design,
28 construction, testing, maintenance and

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1 operation of utility gas gathering
2 transmission and distribution piping system,
3 and among other things that it contains rules
4 about recordkeeping. So that it has specific
5 rules under about recordkeeping.

6 So you acknowledge you're aware that
7 there are duties regarding recordkeeping.
8 This is part of why there's a separate OII
9 about recordkeeping violations.

10 MR. STAVROPOULOS: Yes.

11 COMMISSIONER SANDOVAL: Right? So. I
12 mean recordkeeping is part of why the two of
13 you are here. So, you know, I remember when
14 I was -- I first had the honor of being
15 nominated to the PUC by Governor Brown, you
16 know, sadly, the San Bruno explosion had
17 happened just a couple of months before. And

18 you know, I remember just watching with just
19 horror as this all was unfolding and then
20 talking to my class, because I was teaching a
21 class at the time about the lawyers who were
22 supposedly at the Cow Palace and going
23 through the records.

24 And when I first joined the
25 Commission along with Commissioner Florio and
26 President Peevey, that whole process was
27 going on about the whole recordkeeping
28 effort. And really because of just the

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1 issues with that, this is part of why the
2 whole MAOP validation was launched was
3 because of the recordkeeping issues. And
4 this is also why there's a separate
5 recordkeeping OII going on.

6 So what I'm trying to get to, this
7 is why I'm trying to ask like what you seem
8 to think was not reportable, because whether
9 or not you're talking about any FERC duties
10 to report, General Order 112 created
11 recordkeeping duties and created duties with

12 regard to maintenance and operation of the
13 system.

14 So was this reportable under 112,
15 that there was what Mr. Malkin admitted to be
16 a material distinction between the difference
17 between a DSAW pipe as it was represented to
18 be before the Commission order regarding the
19 pressure and single weld pipe, an SSAW pipe?

20 MR. STAVROPOULOS: Yeah. I'm not the
21 expert on 112 or any of that. And I've never
22 suggested that this wasn't a reportable event
23 here. I'm just trying to address
24 Commissioner Ferron's question about why
25 didn't that immediately come to people's
26 knowledge. And what I'm explaining is that
27 the people that we brought here, many of them
28 a long haul pipeline company, company

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1 employees, they are some of the best in the
2 business, that this would not be a reportable
3 event on an interstate pipeline company
4 that's regulated by FERC and PHMSA. That's
5 all I'm saying.

6 But it was an order. Line 147,
7 establishing the pressure. The information
8 we found was different from what was in
9 there. We should have reported it. No doubt
10 about it.

11 MR. EARLEY: Commissioner, we agree
12 that recordkeeping is very important. And we
13 have done more than I think any utility I
14 have ever been at to get our records in one
15 place, get them digitized, and to have a
16 process of updating those records. So every
17 time we dig up a pipeline to do work on it,
18 to do hydrostatic testing, we test what's in
19 the -- check what's in the ground versus
20 what's in the records. If the standard is if
21 anything is different between what's in the
22 ground and what's in your records, then every
23 utility, certainly in California, certainly
24 in the U.S., is in violation of that. So we
25 don't disagree. Records are extremely
26 important.

27 COMMISSIONER SANDOVAL: Well, Mr.
28 Earley, I don't think I'm suggesting that

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1 anything and everything is reportable. That
2 is a question of what is the threshold. In
3 previous questioning in the Order to Show
4 Cause hearing when I asked Mr. Malkin, did
5 you believe that the differences in the
6 condition of the pipe were minor or material,
7 he said that he believed that they were
8 material, right, that this particular -- you
9 know.]
10 This particular you know -- and
11 I also asked questions that -- to Mr. Johnson
12 that also the difference between a single
13 submerged arc weld and a double submerged arc
14 weld is material.
15 Mr. Stavropoulos is nodding. It's
16 usually an important difference.
17 MR. STAVROPOULOS: You're getting very
18 good at this.
19 COMMISSIONER SANDOVAL: We've had
20 the pleasure of studying this.
21 So I think that this -- we're not
22 talking about a distinction that was minor.
23 This is a distinction that was recognized as
24 material. So in fact, we'll get --
25 the people on the ground immediately
26 recognized it as material. So whatever
27 caused them to first look at this, there was

28 a leak, correct?

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1 So it caused them to look at the
2 leak. Then when they dug it up, they
3 immediately recognized the difference. And
4 it's probably because of the cell phones,
5 Mr. Earley got them, that they were probably
6 able to take pictures in the field and e-mail
7 it back. So it seems like people digging up
8 the pipe immediately recognized that this was
9 an important discrepancy.

10 So I've got a couple of other
11 foundational questions about the rules, but
12 then this gets to the timelines. So let me
13 establish a couple of foundations first.

14 So when we go back to also one of
15 the implementing things for General Order 112
16 is we adopted ALJ Resolution 274. And under
17 this ALJ Resolution 274, we established
18 the citation program and gave to the Safety
19 and Enforcement Division the duty to be able
20 to issue citations more promptly without
21 having to go through a large procedure with

22 the Commission, although of course they also
23 are appealable. But I noticed that under
24 Section 16 and 17, it says to the extent that
25 violations are self-identified, and that is
26 violations of Section 112 -- or General Order
27 112 are self-identified and self-corrected
28 and no injury or damage has resulted from

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1 these violations, staff should take these
2 factors into account.

3 It also says it is reasonable to
4 require gas corporations to provide notice of
5 any self-identified and self-corrected
6 violations as described in Finding 19 to
7 Commission staff and to local authorities
8 within ten calendar days of self-
9 identification of violation.

10 So I think one of the concerns
11 here, there are a number of other orders.
12 For example in General Order 112, it also
13 says it is -- part of it says: In order that
14 the Commission may be informed concerning
15 the operation and status of the more

16 important facilities of the utilities, then
17 there are certain duties.

18 And then of course, Rule 1.1
19 requires that the utilities not mislead, you
20 know, not engage in any artifice.

21 So this gets to the question of
22 I think the triggering point, right? So what
23 triggers the duty to notify the Commission of
24 the difference in the condition, in
25 the difference between DSAW and SSAW?

26 Now, one reading of Section 112
27 says that the Commission should have been
28 notified ten days after that discovery. And

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1 we're talking closer to ten months here than
2 ten days. So this seems to actually create
3 a bright-line rule in ALJ Resolution 274 of
4 ten days whereas the Commission's orders like
5 Section 451 and Rule 1.1 create broader
6 standards about candor.

7 So let me just pause there and ask
8 you, what do you think is the triggering
9 event? Because it sounds like you're not

10 debating that there actually were reporting
11 requirements related to this discrepancy
12 under the CPUC's General Order 112 initially
13 adopted in 1960. So what was the triggering
14 event that should have triggered some
15 reporting?

16 MR. EARLEY: Yes, Commissioner. Not
17 being familiar with the history of how that
18 particular provision has been applied, it's
19 hard to say what the triggering event could
20 be.

21 And again, just from reconstructing
22 what I have discovered in talking to all
23 the people involved, the feeling was given
24 that this was not a safety issue and given
25 that there was a healthy internal debate
26 about how the one class rule ought to have
27 applied -- and I agree with Commissioner
28 Ferron that when you look at some of

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1 the rules, some of them do appear illogical.
2 In fact, some of the rules have actually been
3 repealed since the time that that pipeline

4 was put in. So there was a healthy internal
5 professional debate about what rules apply
6 and what didn't apply.

7 And I think you could argue that it
8 applies when the company determined that,
9 yes, in fact, the one class out rule didn't
10 apply and therefore you did have to change
11 the MAOP. But in hindsight, it probably
12 should have been reported when you find
13 something like we found there, which
14 the different type of pipe, and given
15 certainly that it was the subject of
16 a Commission rule, you could say, well, we
17 probably should have reported within ten
18 days.

19 COMMISSIONER FERRON: Can I just cut in
20 here?

21 MR. EARLEY: But again though,
22 the issue is did the company intentionally
23 not report it. And that's what we're saying,
24 there may have been bad judgment involved but
25 it is not an intentional effort to somehow
26 mislead the Commission on this.

27 COMMISSIONER FERRON: Again, that's
28 the thing I don't understand here. We're --

1 Mr. Stavropoulos is saying it never even
2 occurred to these engineers to report, and
3 yet there's this healthy debate that's taking
4 place around one class out, which is about as
5 lawyerly and complicated a thing you can
6 possibly come up with.

7 It's also clear from the e-mail
8 traffic that immediately followed the famous
9 November 14th e-mail that people within the
10 organization were saying we need to report
11 this to the CPUC. So there were voices
12 within the company who are saying this.

13 So again, I just don't buy that,
14 golly, it just never occurred to us that we
15 should pick up the phone. Or better still,
16 we need to consult with our attorneys and
17 determine whether this is a reportable event.

18 COMMISSIONER SANDOVAL: Just some
19 follow-up on that.

20 So we agreed that the difference
21 between DSAW and SSAW is material.

22 Do you agree, the difference
23 between a double submerged arc welded pipe --

24 MR. STAVROPOULOS: Yes.

25 COMMISSIONER SANDOVAL: -- and single

26 submerged arc welded that is material?

27 Can you repeat that for

28 the reporter?

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1 MR. STAVROPOULOS: Yes.

2 COMMISSIONER SANDOVAL: Okay, thank

3 you.

4 So when material discrepancies in

5 the pipeline are found, how are they

6 generally reported to the Commission and

7 when?

8 MR. STAVROPOULOS: So I'd have to check

9 with my team to see what we do and when we

10 report them subject to which requirements.

11 Because as I've said, we've got 500,000

12 specifications now on our records. 500,000.

13 And when we open up a pipe, we'll have a --

14 we might have a discrepancy. And you know,

15 what we have to report, when we have to

16 report it, what's material, what's not

17 material, that's the question.

18 COMMISSIONER SANDOVAL: Okay. Just

19 a couple of other things.

20 MR. STAVROPOULOS: But it didn't change
21 the MAOP.

22 COMMISSIONER SANDOVAL: Yeah.

23 MR. STAVROPOULOS: It changed the MAOP
24 from 365 to 330. We were operating the line
25 at 300 pounds. That's sort of the issue.

26 COMMISSIONER SANDOVAL: I see some
27 movement over here.

28 Do you have a question about the

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1 MAOP or response to that?

2 MR. LONG: I think Mr. Stavropoulos
3 corrected himself. But it did change
4 the MAOP. That's the point. That's what
5 triggered the obligation to report. The
6 Commission had adopted in Ordering
7 Paragraph 1 of Decision 11-12-048 a finding
8 that an MAOP of 365 was appropriate.

9 PG&E finds out information under
10 the federal regulations that require the MAOP
11 to go down to 330 because the regulations say
12 the MAOP shall be the lowest of MAOP
13 established by hydrotest or MAOP established

14 by design records. They found out from this
15 excavation that records were wrong. Their
16 conservative assumptions were wrong. They
17 weren't conservative at all and in fact,
18 the MAOP had to go down.

19 That's what triggered the
20 obligation to report because it was something
21 different than what the Commission had
22 adopted in Ordering Paragraph 1 in Decision
23 11-12-048. And they knew that in November
24 and they sat on this information, didn't hear
25 about it until July.

26 MR. STAVROPOULOS: How do you interpret
27 Ordering Paragraph 2?

28 MR. LONG: I interpret Ordering

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1 Paragraph 2 as boilerplate, that PG&E shall
2 comply with all regulations. That's just
3 boilerplate language.

4 MR. STAVROPOULOS: So you don't think
5 it means --

6 ALJ BUSHEY: Gentlemen. Gentlemen.
7 This isn't an -- this is an opportunity for

8 you to present oral argument to the
9 Commission and to answer the Commission's
10 questions.

11 MR. STAVROPOULOS: I'm sorry.

12 ALJ BUSHEY: Not to have policy -- you
13 can feel free to find an appropriate
14 establishment to endeavor on that.

15 Do the commissioners have further
16 questions?

17 Commissioner Sandoval.

18 COMMISSIONER FERRON: I just want to --
19 sorry. I just wanted to make one point in
20 answer to Mr. Stavropoulos' claim that
21 the revised MAOP was 330 and we're operating
22 at 300 so no harm, no foul.

23 The issue is really, as I
24 understand it on May 19, 2013, so after
25 the decision was rendered, the line is
26 operating at 355.4 pounds. So, well above
27 the 330. That would have been established
28 had we known about it. I mean, there is

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1 the potential here for considerable concern

2 about what level of pressure that this pipe
3 has been subjected to.

4 COMMISSIONER SANDOVAL: So, let me just
5 ask Mr. Stavropoulos. I'm surprised by your
6 answer that you are not sure about how and
7 when and under what circumstances material
8 differences would be reported.

9 So given what I know is your
10 experience and command of the industry and
11 your knowledge of the recordkeeping OII, that
12 you as the head of the gas division are not
13 aware under what circumstances and how
14 material changes are to be reported is
15 actually surprising to me.

16 MR. STAVROPOULOS: Well, every state's
17 rules are different. And I don't want to
18 make -- give you an answer without analyzing
19 it and understanding the hypothetical you
20 gave me and how it applies to the particular
21 rules here in California.

22 I've only been here a short period
23 of time and I would ask the question if
24 something would arise and get the information
25 and guidance from those with more experience
26 here than me.

27 COMMISSIONER SANDOVAL: Okay. Let me
28 try to rephrase it in way I hope you can

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1 answer because you didn't arrive last week.
2 So you've been here for over a year and we're
3 glad to have your expertise here. But if
4 somebody came to you and said look, here's
5 something that is materially different from
6 what we believed it to be, let alone from
7 what we informed the Commission that it was
8 relevant to a request to be able to increase
9 the pressure, what would you expect would
10 happen?

11 I mean, I'm not looking for, you
12 know, Joe is going to tell Mary on this
13 Form 260 whatever --

14 MR. STAVROPOULOS: Right.

15 COMMISSIONER SANDOVAL: -- would be
16 filed. I'm making up form numbers; right?

17 I'm trying to understand what is
18 your general sense of what kind of
19 differences are going to trigger notice.

20 MR. STAVROPOULOS: Yeah. I think
21 understanding the accepted condition,
22 understanding the problem vis-à-vis
23 the operation. So was the pressure of this

24 line where we're operating at 300 pounds and
25 the MAOP was a thousand? And was the records
26 discrepancy, did it move the MAOP, didn't it
27 move the MAOP? That's all I'm getting at
28 here.

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1 We're saying I think in agreement
2 here that we're saying we should have filed
3 notice. We should have provided that
4 information in a very timely fashion.
5 COMMISSIONER SANDOVAL: And just
6 the last thing I really -- well, a couple of
7 things. I think that we keep going back here
8 to I hear both of you gentlemen saying over
9 and over again this was not a safety issue.
10 And I'll just say very frankly, Mr. Earley,
11 I was very disappointed to hear you say in
12 the press and you said it again here that
13 this is a compliance issue. So I'm trying to
14 understand what distinction you're trying to
15 draw there. Because for one thing, General
16 Order 112 as well as ALJ Resolution 274 does
17 make safety issues specifically reportable

18 and even creates an even faster reporting
19 trigger than ten days. So I'm not sure if
20 you're trying to -- if this is trying get out
21 of that box by recharacterizing it as not a
22 safety issue.

23 But as I said to Mr. Johnson, what
24 I worry is that this -- does this reflect
25 once again this division between
26 records-keeping discrepancies are not
27 a safety issue?

28 And I'm just troubled by the

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1 repeated characterization of this as not only
2 not a safety issue but only a compliance
3 issue.

4 MR. EARLEY: No. Absolutely not.
5 Records issues can be safety issues. And but
6 in this case, it turned out that it was not
7 a safety issue because of the fact that we
8 had had the very recent hydrotest and
9 the fact that the system was operating below
10 even the ultimately adjusted MAOP that it
11 wasn't a safety problem.

12 Now, there are records issues that
13 can be safety issues. In fact, that's why we
14 do take safety issues very seriously. That's
15 why we have a process where when we open up
16 a pipe, we make sure that we understand that
17 that's what in the ground matches what's in
18 our safety records because it could be
19 a safety record -- safety issue but you've
20 got to analyze the situation.

21 In this situation, then it became
22 an issue of so what does the -- what do
23 the requirements say we have to do, including
24 the very difficult to understand one class
25 out rule. And there was, as I said,
26 a healthy internal debate about that.

27 That's what we want is once we
28 determine that there isn't a safety issue to

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1 let people have their say on what do they
2 think is the right interpretation of
3 the regulations. But we concede that this is
4 where we erred in judgment in not reporting
5 this sooner.

6 COMMISSIONER SANDOVAL: I think this
7 goes back to a point which I believe Mr. Long
8 raised or maybe it was somebody else, that
9 you refer to this healthy internal debate but
10 this debate that lasted many, many months.
11 It seems that PG&E was putting itself in
12 the position to decide whether or not this is
13 a safety issue, not reporting it to the
14 Commission and giving the Commission
15 the opportunity to decide whether or not this
16 was a safety issue. And particularly since
17 this was -- this happened during the course
18 of the recordkeeping OII, I'm very troubled
19 by this debate not entering that particular,
20 that particular OII. So again, I'm not
21 really sure that --

22 Well, Mr. Long, actually let me ask
23 you that question. I mean, so what do you
24 think of this distinction here between
25 a safety issue versus a compliance issue and
26 then the triggers of a duty to inform
27 the Commission of any material discrepancy?

28 MR. LONG: Right. Well, as I said,

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1 I think what happened, what triggered
2 the compliance -- I'm sorry, what triggered
3 the reporting requirement here was the fact
4 that PG&E discovered a difference in the seam
5 weld. They had a weaker seam weld that
6 caused them to do a different design pressure
7 calculation. And under the regulations, you
8 take a lower of the hydrotest MAOP and
9 the design pressure MAOP, and that's what
10 changed everything.

11 And MAOP is all about safety,
12 the maximum pressure you can operate
13 a pipeline. And if the design pressure goes
14 down and causes it to reduce your MAOP, that
15 means the pipe cannot be operated safely
16 under the federal regulations, under our
17 regulations here at the Commission above that
18 level.

19 And as Commissioner Ferron pointed
20 out, PG&E had in the past operated that
21 pipeline above 330. And unless and until the
22 Commission's order was changed that said 375
23 was acceptable, PG&E would be free to run it
24 above 330 again. So that order needed to be
25 changed and that's what triggered
26 the compliance requirement. The disclosure
27 requirement, I should say.

28 ALJ BUSHEY: Further questions from

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1 commissioners?

2 COMMISSIONER FLORIO: Yes.

3 I think we're still kind of talking

4 past each other here.]

5 And this issue of safety issue

6 versus compliance issue, Mr. Long just

7 described this, that MAOP should be the lower

8 of the tested level or the features-driven

9 level. Do you agree with that, Mr.

10 Stavropoulos?

11 MR. STAVROPOULOS: We reestablish a

12 MAOP of 330, and we would not have been free

13 to operate that line above 330 because we

14 would have been out of compliance with our

15 own requirements. Just because it said 365,

16 Ordering Paragraph No. 2, although it might

17 be described as boilerplate, is a very

18 important part of that order. It says you

19 operate it at 365 or at some lower pressure

20 based upon something that you know. And that

21 we knew was 330. So we had no ability to

22 operate that line above 330. It's an
23 important part of that order.
24 COMMISSIONER FLORIO: Now, given that
25 it had been hydrottested to a higher level,
26 would you say that it was safe to operate at
27 a higher level even if the features dictated
28 something lower?

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1 MR. STAVROPOULOS: We -- so it's -- I'm
2 not sure. I'm sorry.
3 COMMISSIONER FLORIO: Okay. You just
4 said it would be out of compliance to operate
5 it above 330. Would it be unsafe to operate
6 it above 330?
7 MR. STAVROPOULOS: Well, that would be
8 the MAOP that we've established, and that's
9 what -- that's the limit at which we would
10 operate it in that area.
11 COMMISSIONER FLORIO: Okay. But as an
12 engineer, having had a hydrottest in the line
13 to 600 or something, would, setting aside
14 regulations, would you think that operating
15 at 355 or 360 was unsafe?

16 MR. EARLEY: So Commissioner, as I
17 said, I've been involved with hydrostatic
18 testing for almost 40 years. And yes, the
19 answer, as an engineer, if you've tested it
20 at almost twice the MAOP, it would be safe.
21 But you -- that's why I made the distinction
22 between safety and compliance issues. The
23 compliance issue is, are you operating below
24 the allowed MAOP.

25 COMMISSIONER FLORIO: Okay. Yeah. I
26 think I get it now. There's sort of the
27 engineer's definition and the lawyers's
28 definition and they're different.

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1 MR. LONG: But if I could follow up.
2 Then it begs the question, why have the MAOP
3 validation program at all, which this
4 Commission order, PG&E has tried to take
5 credit for it, but it's the Commission
6 ordered it, and it was an outflow of what the
7 NTSB found was a significant problem. And so
8 the idea that safety is only determined by
9 hydrotesting would tend to suggest that

10 records are irrelevant. And that's not --
11 that's not what the rules say. The rules say
12 we need to compare the MAOP established by a
13 hydrotest against the MAOP established by the
14 design characteristics of the pipeline.

15 And so, and as PG&E's expert
16 admitted when I asked him questions last
17 week, those rules are all about safety as
18 well. So you know, I don't get this
19 distinction that people are trying to make
20 between safety and compliance. The
21 regulations are all about safety.

22 COMMISSIONER PETERMAN: I have a
23 follow-up question, a couple of quick ones if
24 you don't mind.

25 Mr. Stavropoulos, you mentioned
26 self-reporting a couple of times. And I was
27 wondering if you could just explain what
28 self-reporting means to you because the word

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1 that I'm not hearing as you're talking about
2 it is mandatory, that it's mandatory to
3 self-report.

4 And then my follow-up question is
5 you also mention that in retrospect you would
6 have been -- considered reporting in a more
7 timely manner. And so looking back, when in
8 the timeline is that now after your
9 reflection and hindsight?

10 MR. STAVROPOULOS: Yeah. So
11 self-reporting, I think, is in the context of
12 the required self-reporting that we do here.
13 And so really it's typically any time we're
14 in violation of our own procedures even when
15 those procedures exceed those of any state or
16 federal requirement. And so we try to make
17 those and do those within ten days of when we
18 understand that condition here.

19 You know, I think, in retrospect,
20 you know, we clearly should have identified
21 and flagged this issue within a very short
22 period of time, within ten days, once we
23 knew, I think, what we were -- what we were
24 dealing with and what we were facing.

25 COMMISSIONER PETERMAN: Thank you.

26 MS. STROTTMAN: Your Honor, may I
27 please --

28 COMMISSIONER PEEVEY: I'd like to ask a

1 question if you don't mind.

2 MS. STROTTMAN: Oh, I'm sorry. Go
3 ahead.

4 COMMISSIONER PEEVEY: I haven't asked
5 any questions.

6 MS. STROTTMAN: I just -- go ahead.

7 COMMISSIONER PEEVEY: Go ahead if you
8 have something urgent.

9 MS. STROTTMAN: No, no. I would just
10 like to address Commissioner Florio's earlier
11 question since I didn't get an opportunity to
12 do that about restoring the public trust in
13 this Commission and PG&E. And San Bruno
14 doesn't relish being the broken record on
15 this important issue, but the answer to that
16 question is an independent monitor. I
17 believe that if an independent monitor had
18 been in place in October of 2012, this issue
19 would have been flagged and we wouldn't be
20 sitting here wasting significant time, money
21 and resources.

22 One would think that if PG&E is
23 truly committed to safety they would
24 wholeheartedly agree to an independent
25 monitor that would serve as another set of

26 eyes and ears to ensure public safety.

27 Thank you.

28 COMMISSIONER PEEVEY: No questions.

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1 CHIEF ALJ CLOPTON: Do any of the other
2 commissioners have questions? Hearing
3 none --

4 COMMISSIONER SANDOVAL: Sorry. So I'm
5 trying to understand just a little bit more
6 about what happened between the times of the
7 discrepancy between the pipeline not being
8 single submerged arc welded, not double
9 submerged arc welded was initially discovered
10 in October of 2012, and then there were some
11 additional reports apparently that went
12 through November.

13 So at what time did you learn about
14 this discrepancy, Mr. Stavropoulos?

15 MR. STAVROPOULOS: In November.

16 COMMISSIONER SANDOVAL: November of
17 2012?

18 MR. STAVROPOULOS: Yes.

19 COMMISSIONER SANDOVAL: Okay. So what

20 happened between November and March that led
21 to the decision not to report this
22 discrepancy to the Commission until the
23 informal conversation with an engineer in SED
24 until March of 2013?

25 MR. STAVROPOULOS: I think our goal was
26 to gather more information around the leak.
27 We decided to cap the leak so that we could
28 continue to provide service over the course

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1 of the winter, cut it out, analyze the
2 situation and provide a complete package of
3 information to SED.

4 COMMISSIONER SANDOVAL: So how big was
5 that leak and was the leak itself reportable
6 to the Commission under General Order 112?

7 MR. STAVROPOULOS: I think the size of
8 the leak, you know, hard for me to describe a
9 leak, the size of a leak.

10 COMMISSIONER SANDOVAL: I remember
11 looking at --

12 MR. STAVROPOULOS: I don't know whether
13 it was reportable or not.

14 COMMISSIONER SANDOVAL: -- 2, 3, 4.

15 MR. STAVROPOULOS: Yeah. 1, 2, or 3.

16 Yeah. I'm not sure if it was reportable or

17 not.

18 COMMISSIONER SANDOVAL: But some gas

19 did leak?

20 MR. STAVROPOULOS: Yes.

21 COMMISSIONER SANDOVAL: So I think

22 there's a threshold that basically if it's a

23 thousand dollars worth of gas leaks that

24 that's reportable? Yes. Incidents which

25 involve escaping gas from the operator's

26 facilities and property damage including loss

27 of gas in excess of a thousand dollars.

28 Would you have any guesstimate as to

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1 whether or not a thousand dollars worth of

2 gas?

3 MR. STAVROPOULOS: I have no --

4 COMMISSIONER SANDOVAL: No sense of the

5 money to --

6 MR. STAVROPOULOS: I have no

7 information on that.

8 COMMISSIONER SANDOVAL: -- the ratio.

9 Okay. So all right. Well, again, I'm just
10 trying to understand. So then you said that
11 during that time period you were focusing on
12 the leak and understanding what needed to be
13 done to deal with the leak.

14 MR. STAVROPOULOS: No. It was to
15 understand the cause of the leak.

16 COMMISSIONER SANDOVAL: The cause of
17 the leak.

18 MR. STAVROPOULOS: We needed to cut it
19 out to take a better look at it.

20 COMMISSIONER SANDOVAL: Okay. So you
21 were doing a root cause assessment as to what
22 happened that led to the leak, but neither
23 the leak itself, to your knowledge, nor the
24 difference between SSAW and DSAW were
25 reported to the Commission in any fashion
26 until the conversation with an engineer in
27 SED in March?

28 MR. STAVROPOULOS: I don't know if the

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1 leak was or not.

2 COMMISSIONER SANDOVAL: Okay. Did any
3 one have information if the leak was reported
4 before March of 2012? Ms. Paull or Mr. Long?

5 MS. PAULL: I don't have any
6 information that it was reported, but that's
7 not something I would necessarily know. We
8 know that it was -- if I'm remembering
9 correctly, PG&E, in March PG&E did tell the
10 SED engineer that it was because of a leak
11 that they discovered the errors in Line 147,
12 but beyond that I don't know.

13 COMMISSIONER SANDOVAL: And just the
14 last thing I want to address is that PG&E has
15 raised a question about procedural due
16 process of whether or not the Order to Show
17 Cause actually adequately informed PG&E that
18 not only of concern was the characterization
19 of the issue as an errata but also the timing
20 of the reporting.

21 So I would note that in the errata
22 itself the errata does not identify when PG&E
23 first found out about these differences. So
24 on page 1 of the errata it says after
25 receiving Decision 11-12-048 PG&E identified
26 errors in some of the supporting information
27 for Lines 147 and 101. But it doesn't
28 actually give the date when these errors were

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1 identified. So you know, the Commission is
2 left in the position where the utility in
3 fact has the information about when the
4 errors were identified, and we rely on and
5 have rules which require you to disclose to
6 us material things that happened.

7 So you know, one of the issues here
8 is, part of what might not have triggered the
9 notice that there was a concern about what
10 happened starting in October of 2012 is
11 there's nothing in this errata that says that
12 these errors were identified in October 2012.

13 So you know, so I think that we're
14 in a position, I think that this really
15 raises the issue of what is the duty of
16 candor, what is the duty to be forthcoming.
17 We've talked about duties like Order 112 and
18 the duty to disclose material differences
19 within ten days, but in general that there's
20 also a broader duty of candor and to be
21 forthcoming.

22 So this is where I'm asking you is,
23 you know, what do you two gentlemen, I mean

24 this is very important I think to your
25 leadership, what do you believe is your duty
26 to candor and to be forthcoming to this
27 Commission with regard to information that is
28 material, you know, whether it be about a

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1 material difference and something that could
2 be relevant to safety and certainly should
3 have been relevant as well to the
4 recordkeeping OII? What do you believe is
5 your duty of candor?

6 MR. EARLEY: I think we ought to hold
7 ourselves to very high standards. And I
8 think you're pointing out that we failed in
9 holding ourselves to those standards in terms
10 of making very clear what happened, when it
11 happened. The fact that we originally
12 notified the Commission through working with
13 the staff, which I think as early as January
14 we were trying to set up that meeting. But
15 still that was a significant time after we
16 discovered the issues.

17 Consistent with Nick's ex -- my

18 experience is when you meet with the staff
19 and you talk about that that's tantamount to
20 notice. But the formal notice came later,
21 and it was an errata which gave people the
22 wrong impression. And I think, I mean in
23 hindsight obviously we'd do that differently.
24 And we didn't hold ourselves to a high enough
25 standard to make it absolutely clear what
26 everything, all the facts were relating to
27 that particular issue.
28 COMMISSIONER SANDOVAL: I would just

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1 like to say in closing, you know, I think, I
2 am concerned here that I want to agree with
3 you that the PG&E workers get -- in this case
4 people with shovels got it. The people, the
5 guys and gals with shovels in their hands
6 immediately recognized the discrepancy, which
7 is why they took pictures and sent it to you,
8 that they recognized that it was material.
9 We're waiting for the day when people, when
10 management including senior management gets
11 it as quickly as the people with shovels.

12 MR. STAVROPOULOS: I would say to that,
13 made a mistake here. There has been no more
14 transparent company. We filed 62
15 self-reports. The very first one we filed we
16 had \$17 million fine. We have filed and
17 continue to file even though it took almost
18 two years to get the next fine. We didn't
19 know if the next fine was going to be 17
20 million or a hundred and 7 million. Didn't
21 matter to us. Let's be open. Let's be
22 transparent. Let's provide all that
23 information.

24 I think our track record shows. I
25 urge you to come to the company and see, see
26 and talk to the people and ask them directly,
27 is there a difference? There's a huge
28 difference in the safety culture of this

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1 company, where the people on the ground, they
2 feel free to report, which they didn't
3 before. The people in the middle level feel
4 comfortable not to squash that but to provide
5 that and bubble up that information. That's

6 what's going on at PG&E.

7 Did we make a mistake here?

8 Absolutely. I take complete responsibility
9 for that. You know, are we learning from
10 this mistake? Yes. You know. But I think
11 we have shown through our behavior. Again,
12 the first time was \$17 million. We filed 61
13 of the self-reports before we got \$140,000
14 fine. For all we knew, we were going to get
15 another 61, \$17 million fines. Didn't stop
16 us from filing. And we still have others in
17 the queue and will continue to file those.

18 So I think that's been our track
19 record. And I think we've really tried to do
20 a good job. Are we perfect? No. But you
21 know, we're going to learn from our mistakes.

22 CHIEF ALJ CLOPTON: Do any of the
23 commissioners have further remarks or
24 questions of the parties?

25 Commissioner Ferron?

26 COMMISSIONER FERRON: I just want to
27 make just a brief closing remark, and that is
28 I think there was -- I think there was

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1 perhaps a failure to understand the
2 expectations here, but again, I don't think
3 that our expectations in the light of San
4 Bruno and in the light of the way that the
5 MAOP was set were in any way unreasonable.

6 The thing I am really disheartened
7 by is the apparent lack of intellectual
8 curiosity within management. I mean I would
9 say that if I were in this situation having
10 been brought into the company because of the
11 tragedy, I would want to know of every
12 significant finding in the field and, you
13 know, be all over, all over that in a very
14 aggressive way. And it seems just
15 incomprehensible to me that, you know, the
16 only way you're informed of some of these
17 things are by what you read in the newspaper.
18 That is no way to manage a company that so
19 many people rely on for safe service.

20 CHIEF ALJ CLOPTON: Anything further?

21 (No response)

22 CHIEF ALJ CLOPTON: I'll put this in
23 the form of a question. I have just three
24 things that I'd like to ask, and that the
25 first one is about the -- you have repeatedly
26 said you have filed 62 self-reports.
27 Commissioner Peterman asked what you thought

28 a self-report is. It isn't voluntary. You

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1 have a mandatory duty of full and complete
2 disclosure. Is that your understanding?

3 MR. STAVROPOULOS: Yes.

4 CHIEF ALJ CLOPTON: I also have heard
5 the word "errata" a few times today. There
6 is no such thing as an errata filing here at
7 the Commission. Are you aware of that?

8 MR. EARLEY: Yeah. I was not aware of
9 that at the time. Since subsequent to that
10 filing and all the filings in this
11 proceeding.

12 CHIEF ALJ CLOPTON: That actually
13 wasn't a filing. Just to clarify. It was an
14 attempted piece of paper that was submitted.
15 Okay. I just wanted to clarify that. There
16 is no such thing.

17 And the appropriate mechanism when
18 there's a change in the basis of a Commission
19 decision is a petition for modification.

20 MR. EARLEY: I will take that as the
21 correct way to do that, yes.

22 CHIEF ALJ CLOPTON: Do you feel, Mr.
23 Stavropoulos and Mr. Earley, that you should
24 be aware of the Commission's rules, general
25 orders, and resolutions that affect your Gas
26 Division?

27 MR. STAVROPOULOS: Yes, to the best of
28 our ability, yes.]

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1 CHIEF ALJ CLOPTON: Are there any other
2 questions from the Commissioners?

3 (No response)

4 CHIEF ALJ CLOPTON: Hearing none,
5 the record is now closed on the OSC.

6 Thank you.

7 (Whereupon, at the hour of
8 5:05 p.m., this Oral Argument on the
9 Order to Show Cause was concluded.)

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SAN FRANCISCO, CALIFORNIA

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

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)
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.)
)

)

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 December 2, 2013.

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

EXECUTED this 2nd day of December, 2013.

Alejandrina E. Shori
CSR No. 8856

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

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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.)
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CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, Thomas C. Brenneman, Certified Shorthand Reporter No. 9554, 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 December 2, 2013.

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

EXECUTED this 2nd day of December, 2013.

Thomas C. Brenneman
CSR No. 9554