

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

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

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

**COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES  
ON THE PROPOSED DECISION DECLINING TO STAY DECISIONS  
AUTHORIZING INCREASED OPERATING PRESSURE**

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## I. OVERVIEW

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure (Rules), the Office of Ratepayer Advocates (ORA) files these Comments on the Proposed Decision of Administrative Law Judge (ALJ) Maribeth A. Bushey mailed on April 25, 2014 (PD).

The PD proposes to close the portion of this proceeding initiated by the *Ruling Of Assigned Commissioner And Assigned Administrative Law Judge Directing Pacific Gas And Electric Company To Appear And Show Cause Why All Commission Decisions Authorizing Increased Operating Pressure Should Not Be Stayed Pending Demonstration That Records Are Reliable* issued on August 19, 2013 (OSC). The PD concludes that those 2011 and 2012 pressure restoration decisions<sup>1</sup> need not be stayed, based on these findings:

- In those earlier proceedings, Pacific Gas and Electric Company (PG&E) showed that it pressure tested Lines 101, 132A, 131-30 and the line on the suction side of the Topock Compressor Station (together "OSC Lines") in compliance with Decision 11-09-006;<sup>2</sup> and
- In the current proceedings, no party presented a factual basis for staying the pressure restoration decisions.<sup>3</sup>

In resolving the OSC on this basis, the PD commits factual and legal error and fundamentally misses the mark. The question posed by the OSC was not whether PG&E had pressure tested the OSC Lines. The OSC sought to address the safety concerns triggered by PG&E's discovery in October 2012 that the *pipeline features records* PG&E had used to "validate" MAOP of Line 147 in 2011 was inaccurate, like the pipeline records about the segment of Line 132 that blew up in San Bruno. The OSC thus demanded that PG&E produce evidence (presumably, accurate, verifiable and complete records for the lines in question) showing that the maximum allowable operating pressure (MAOP) of the OSC Lines had been correctly determined based on accurate and reliable information.

Specifically, in light of the Line 147 data errors, which were discovered in the course of a leak repair in 2012, *after* PG&E had reportedly validated the pipeline features of that line, the

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<sup>1</sup> Those Commission decisions lifting pressure restrictions and approving MAOPs of the OSC Lines include Decision (D.) 11-10-010, D.12-09-003, and D.11-12-048.

<sup>2</sup> PD, p. 12 and Conclusion of Law (COL) no. 1.

<sup>3</sup> PD, p. 12 and Finding of Fact (FOF) no. 4.

OSC ordered PG&E to “show cause why *all orders* issued by this Commission authorizing increased operating pressures should not [be] immediately suspended pending competent demonstration that PG&E’s natural gas system records are reliable.” The PD acknowledges that the issue of inaccurate pipeline records “has dominated this proceeding since the Commission issued this Order Instituting Rulemaking in February 2011”<sup>4</sup> and it correctly finds that PG&E does not have traceable, verifiable, and complete records for all of its transmission system (Finding of Fact 1). It does not, however, answer the OSC’s question about whether the currently authorized MAOPs of the OSC Lines are correct and therefore reasonably safe.

That question cannot be answered based on the existing record. Though there were days of hearings and hundreds of data requests, PG&E never made *any verifiable showing* regarding *any* of the OSC Lines. The only “evidence” PG&E offered regarding the OSC Lines is Mr. Singh’s claim during the September 6, 2013 OSC hearing that PG&E revalidated the MAOPs for some of those lines in 2012 or 2013.<sup>5</sup>

PG&E is correct that no party identified “discrepancies” in its OSC Line records, but that is because no such records were produced.<sup>6</sup> It was PG&E’s burden to produce these records and to show they were accurate, and it did not meet this burden. Instead of producing verifiable evidence, PG&E has essentially asked the Commission to take PG&E’s word that PG&E performed this data review, and to trust PG&E’s conclusion that there are no significant errors in the data.<sup>7</sup> This does not come close to the showing the OSC required.

Absent verifiable evidence that the MAOPs were correctly determined, the Commission cannot have confidence that its 2011 and 2012 MAOP pressure restoration decisions were based on reliable data. Moreover, the evidence PG&E *did* provide in response to the OSC shows that its records are *not* reliable. Among other things, the evidence demonstrates that PG&E’s own

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<sup>4</sup> PD, pp. 12-13.

<sup>5</sup> 16B RT 2467-2468 (PG&E/Singh).

<sup>6</sup> PG&E’s Opening Brief implies that the parties somehow had the obligation to request the data on these lines from PG&E and perform their own review of the data. The OSC required PG&E to show that it had reliable data to support the Commission-approved MAOP of the lines. The burden of producing evidence of reliable pipeline records was squarely (and appropriately) on PG&E.

<sup>7</sup> As NTSB Chairman Deborah A.P. Hersman said in concurring statements on the NTSB Accident Report for the PG&E San Bruno Pipeline issued on Sept. 12, 2011, p. 135: “For government to do its job – safeguard the public – it cannot trust alone. It must verify through effective oversight.”

purported 0.9% error rate shows that there are 37 to 185 “type 5” errors in its pipeline data – the type of errors that mandate a reduction in the MAOP of a line.<sup>8</sup> In response to this and other uncontroverted evidence of pipeline data errors throughout PG&E’s system,<sup>9</sup> every party except PG&E urged audits and/or the appointment of an independent monitor to address PG&E’s continuing recordkeeping problems.<sup>10</sup> The PD does not address those recommendations.

The PD acknowledges that PG&E’s recordkeeping problems are ongoing but finds that the company is “continuously reviewing and improving the reliability” of its pipeline records – a finding arguably not supported by substantial evidence.<sup>11</sup> And although PG&E provided no verifiable evidence confirming that the current MAOPs of the OSC Lines are based on accurate pipeline data, as required by the OSC, the PD concludes that the OSC should be closed because (1) PG&E demonstrated in 2011 and 2012 (in the *original* pressure restoration proceedings) that it pressure tested the OSC Lines, and (2) in *this* OSC proceeding no other party presented evidence to support a stay.<sup>12</sup>

The PD commits factual and legal error by determining that a pressure test is dispositive of whether the MAOP has been correctly calculated, and by improperly shifting the burden to the non-PG&E parties to provide evidence to support a stay of the Commission’s prior orders. The PD is also deficient in that it does not address whether PG&E has made the “competent demonstration” it was ordered to make, or whether the currently authorized MAOPs for the OSC Lines are correct and adequately supported.

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<sup>8</sup> See, e.g. TURN Opening Brief (OB), pp. 11-12 and ORA Reply Brief (RB), pp. 2-3. Consider also that the Commission’s Safety and Enforcement Division (SED) recently issued a report wherein it discovered one Type 5 error after examining only 20 pipeline features lists, equating to a 5% error rate for a material and consequential error requiring a reduction in the subject line’s MAOP. See “Safety Review Report of PG&E’s PSEP Update Application,” A.13-10-017, Safety and Enforcement Division, April 25, 2014, p. 11.

<sup>9</sup> See, e.g., ORA testimony in the record as Exhibits OSC-8, OSC-9 (testimony and exhibits regarding PG&E’s data management systems) and Exhibits P and Q (testimony and exhibits regarding inaccuracies in the PG&E data provided in support of the MAOP for Line 147).

<sup>10</sup> See, e.g., City of San Bruno OB, pp. 8-9; TURN OB, p. 18-19; City and County of San Francisco (CCSF) RB, p. 3; and ORA RB, p. 9.

<sup>11</sup> PD, FOF no. 3.

<sup>12</sup> PD, p. 16, COL 1 (“PG&E complied with the Supporting Information requirements of D.11-09-006 in its presentations that led to D.11-10-010, D.12-09-003, and D.11-12-048.”) and COL 2 (“No party presented evidence to support a finding of good cause to stay D.11-10-010, D.12-09-003, and D.11-12-048.”).

These questions should be answered in the interest of public safety. For this reason only, and because the existing record is deficient, ORA recommends that the PD be revised to give PG&E one more opportunity to make the showing required by the OSC. The revised order should give PG&E express direction on what that showing should contain. If PG&E cannot make such a showing, the Commission can decide how to act on that information. ORA sees no other way to obtain the record the Commission needs to determine whether or not it is safe to operate the OSC Lines at the currently authorized MAOPs.

## **II. THE PD FAILS TO RESOLVE THE INQUIRY REQUIRED BY THE ORDER TO SHOW CAUSE**

### **A. The OSC Was Issued To Determine Whether Prior Commission Decisions Approving MAOPs Of Certain PG&E Gas Lines Were Based On Accurate Pipeline Data**

On August 19, 2013, the Assigned Commissioner and Administrative Law Judge in this proceeding issued an order requiring PG&E to “show cause why all orders issued by this Commission authorizing increased operating pressures should not [be] immediately suspended pending competent demonstration that PG&E’s natural gas system records are reliable.”<sup>13</sup> In sum, the OSC required PG&E to make an *affirmative* and *current* showing that the data the Commission relied upon in 2011 and 2012 to authorize pressure increases for Lines 101, 132A, 147, 131-30, and the line on the suction side of the Topock Compressor Station is accurate and the current MAOPs for those lines are appropriate.<sup>14</sup>

The OSC was issued in the wake of PG&E’s disclosure that its pipeline features records (also called “pipe design” records) for Line 147, which the Commission relied upon to authorize an increased MAOP to 365 psi in 2011, were inaccurate. Those PG&E “validated” records that the Commission relied upon to set the 365 psi MAOP showed that that Segment 109 of Line 147 was Double Submerged Arc Weld (DSAW) pipe, when in fact the Commission learned in July 2013 that the segment was made of weaker “AO Smith” pipe.<sup>15</sup> This new information required that the MAOP for Line 147 be reduced from 365 psig to 330 psig.

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<sup>13</sup> OSC, p. 6.

<sup>14</sup> The Commission’s prior pressure restoration orders in this docket are Decisions (D.) 11-10-010, D.11-12-048, and D.12-09-003.

<sup>15</sup> Verified Statement, ¶¶ 27-28.

The Commission relied on similar data when it issued the three orders allowing PG&E to raise the pressure on five gas lines in the Bay Area, including Line 147.<sup>16</sup> Concerned that PG&E's prior showings regarding these other four lines had similarly inaccurate design information, the OSC sought *new* evidence to confirm that the MAOPs set for the lines in those 2011 and 2012 pressure restoration decisions were accurate.

The OSC focused on whether there were inaccurate records for the OSC Lines that may have resulted in incorrect MAOP calculations for those lines. It noted PG&E's failure to provide accurate records for its October 2011 request to raise the MAOP for Line 147, notwithstanding that PG&E was under intense review at that time regarding its poor recordkeeping practices. The OSC clearly contemplated that PG&E would need to make a *new* showing to ensure the accuracy of the prior records relied upon to allow the higher MAOPs for the other OSC Lines. The OSC stated:

Despite [the] intense level of interest and review [regarding PG&E's historic recordkeeping errors], on October 31, 2011, PG&E filed a pipeline features analysis which it now acknowledges was based on erroneous pipeline records, and those errors included showing pipeline as being seamless or double-arc welded when the pipeline actually included components that used welds for which PG&E reduces the joint efficiency factor by 20%, and a reduction in the maximum allowable operating pressure, of the segment subject to the errata, of 35 psig.

More troubling is the means by which PG&E came to realize its error – a fortuitous leak repair. .... Thus, but for the happenstance of a leak and astute observations by repair technicians, this error would not have come to light.

Nearly three years on San Bruno tragedy and the expenditure of hundreds of millions of dollars for record review and validation, the facts set forth in PG&E's July filing are profoundly troubling.

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<sup>16</sup> The Commission's prior pressure restoration orders in this docket are Decisions (D.) 11-10-010, D.11-12-048, and D.12-09-003. The MAOP for Line 147 was raised to 365 psi in D.11-12-048 and was reduced to 330 psi in an earlier phase of the OSC in D.13-12-042.



### **Order to Show Cause**

Due to the serious issues raised in the attempted July filing, PG&E is ordered to appear at the hearing scheduled below and show cause why all orders issued by this Commission authorizing increased operating pressures should not immediately suspended pending competent demonstration that PG&E's natural gas system records are reliable.<sup>17</sup>

PG&E has not made such a demonstration.

#### **B. The PD Relies On PG&E's Assertions That Pressure Tests Were Performed And That Its Showing In The *Prior* Restoration Proceedings Was Complete, But No Substantive Review Of That Showing Has Been Done In This Proceeding**

The PD ostensibly resolves the OSC. However, it fundamentally fails to address the inquiry ordered by the OSC – which was to determine whether the data the Commission relied upon to set the MAOP for the OSC Lines was accurate.

Instead of focusing on the inquiry required by the OSC, the PD, relying only on the prior record – in other words, no new information – concludes that all of the OSC Lines were pressure tested by PG&E, and on this basis concludes that the prior orders need not be suspended:

This decision finds that Pacific Gas and Electric Company has pressure tested Lines 101, 132A, Lines 131-30, and the Topock Compressor Station in compliance with Decision 11-09-006 and that the Commission decisions lifting operating pressure restrictions on these Lines need not be suspended.<sup>18</sup>

Again, the PD bases this finding that PG&E pressure tested the four OSC Lines on the showing PG&E made in the *original* pressure restoration proceedings in 2011 and 2012.<sup>19</sup>

The PD's reliance on these two "facts" – that PG&E previously pressure tested the OSC Lines, and that PG&E's prior showing in the pressure restoration proceedings was complete – presents at least two significant problems.

First, the fact that PG&E may have pressure tested the OSC Lines does not answer the OSC inquiry, and does not confirm that the MAOPs for the OSC Lines are safe. As former

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<sup>17</sup> OSC, pp. 5-6 (footnotes omitted).

<sup>18</sup> PD, p. 1.

<sup>19</sup> See PD, p. 16, COL 1: "PG&E complied with the Supporting Information requirements of D.11-09-006 in its presentations that led to D.11-10-010, D.12-09-003, and D.11-12-048."

Commissioner Ferron aptly noted in the Line 147 Order to Show Cause: “[t]his argument that we had hydrostatic tests, therefore, there's no safety issue, therefore, there's no need to report is completely illogical.”<sup>20</sup> The illogic referred to by Commissioner Ferron is the fact that while Line 147 *had* been pressure tested, the pipeline features data error discovered *after* that test required that the MAOP be reduced. Thus, regardless of the validity of the earlier pressure test, the later-discovered pipeline features data error was dispositive.

Contrary to the PD’s determination that a pressure test trumps bad data, the colloquy between Commissioner Ferron and PG&E’s Executive Vice President of Gas Operations, Nick Stravopoulos, demonstrates that Commissioner Ferron understood that the existence of a valid pressure test is “not the sole determinant” of MAOP and cannot trump the line’s design features:

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

COMMISSIONER FERRON: Right. And that hydrotest was available to the Commission in December 2011. So we took that into consideration when we set the MAOP at 3 – at 360. When we -- but that was not the sole determinant. The Pipeline Features List was an important part of that decision. And then when we determined that one of the factors that went into that determination was materially wrong, and you know, PG&E's own calculations said based on that information we should operate at 330. On what basis can you in good faith say that the fact that there's a hydrotest trumps the fact that the Pipeline Features List was incorrect?<sup>21</sup>

In other words, a valid hydrotest is only one part of the equation, and the focus of the OSC was on the second part of the equation – the pipeline features records. The OSC sought to determine whether the decisions to allow pressure restoration were based on accurate records; if not, then PG&E must re-determine the correct MAOP for the line, based on accurate information about the line’s design features.<sup>22</sup> This approach is also consistent with the federal gas safety regulations, which in no event allow the MAOP of a line to be established solely on the results of a pressure test.<sup>23</sup>

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<sup>20</sup> 19 RT 3032:16-19.

<sup>21</sup> 19 RT 3033:23- 3034:12 (emphases added).

<sup>22</sup> The CCSF made nearly identical points in its Reply Comments in this proceeding. CCSF RB, pp. 3-4.

<sup>23</sup> 49 CFR Part 192.

Second, as a practical matter - and assuming that the existence of pressure tests is relevant for purposes of the OSC – it is ORA’s understanding that the actual record of the original pressure restoration proceedings contains no verifiable evidence of the pressure tests that PG&E conducted, or of the pipeline features that PG&E relied upon to set the MAOPs for the OSC Lines. The only evidence of the pressure tests is testimony from PG&E. Thus, there is no way for any party to review the record of the prior proceeding and find verifiable corroborating evidence (i.e. something other than PG&E testimony) that the tests were properly conducted and covered the entire length of each of the OSC Lines. There is also no verifiable record evidence to determine whether PG&E relied upon accurate design information in setting the MAOPs for the OSC Lines.

**C. PG&E Provided No Verifiable Evidence That It Reviewed Its Records For the OSC Lines And Found That They Did Not Contain Errors Similar To Those Found For Line 147**

Notwithstanding the OSC’s directive to PG&E to revisit and potentially supplement the evidentiary showings made in the earlier pressure restoration proceedings, with a focus on the design features of the OSC Lines, PG&E *did not provide any verifiable evidence* regarding any of the OSC Lines in this OSC proceeding. To be clear:

1. PG&E did not provide any verifiable evidence addressing, much less supporting, the current MAOPs of the OSC Lines;
2. PG&E did not provide design data about the OSC Lines or any verifiable evidence that it reviewed the design data of the OSC Lines to confirm that the MAOPs were accurate; and
3. PG&E did not provide pressure test records that supported the existing MAOPs of the OSC Lines.

PG&E’s position is that it did provide evidence, but none of PG&E’s “evidence” was material, substantial, or verifiable. In its Opening Brief, PG&E asserted that it “performed a thorough review of the PFLs for [those lines] to determine whether any similar errors were present. This review did not identify any records discrepancies on [those lines].”<sup>24</sup> PG&E then

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<sup>24</sup> PG&E OB, p. 6.

states: “The parties did not identify additional records discrepancies on the other Pressure Restoration Lines.”<sup>25</sup>

In this artful phrasing, PG&E makes an unverifiable assertion *after the hearings have concluded*, and then shifts the burden of proof to the parties. Instead of rejecting this manoeuver, the PD embraces it<sup>26</sup> (thereby committing legal error).

As ORA observed in its Opening Brief, PG&E provided no documentation to demonstrate that the data for the other pressure restoration lines is accurate.<sup>27</sup> The only “evidence” of PG&E’s “thorough review” of those records is Mr. Singh’s claim during the September 6, 2013 OSC hearing that the review was performed.<sup>28</sup> PG&E is correct that no party identified discrepancies in these records, but that is because no such records were produced.<sup>29</sup> It was PG&E’s burden to produce these records and show they were accurate, and it did not meet this burden. Now PG&E is asking the Commission to take PG&E’s word that PG&E performed this data review, and to trust its conclusion that there were no errors in the data.<sup>30</sup> This does not come close to the showing the OSC required. In short, there is no basis for the PD to reach any conclusions about the OSC Lines because PG&E provided no evidence to address the OSC inquiry, other than assurances of PG&E senior management.

The PD should be rewritten based on the actual evidence presented – uncontroverted evidence which identifies numerous problems with PG&E’s gas pipeline data and current mapping programs – and the PD should require PG&E to make the showing ordered by the OSC.

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<sup>25</sup> Id.

<sup>26</sup> See pp. 14-15, Finding of Fact no. 4, and Conclusion of Law no. 2.

<sup>27</sup> ORA OB, p. 2.

<sup>28</sup> 16B RT 2467-2468 (PG&E/Singh).

<sup>29</sup> PG&E’s Opening Brief implies that the parties somehow had the obligation to request the data on these lines from PG&E and perform their own review of the data. The OSC required PG&E to show that it had reliable data to support the Commission-approved MAOP of the lines. The burden of producing evidence of reliable pipeline records was squarely (and appropriately) on PG&E.

<sup>30</sup> As NTSB Chairman Deborah A.P. Hersman said in concurring statements on the NTSB Accident Report for the PG&E San Bruno Pipeline issued on Sept. 12, 2011, p.135: “For government to do its job – safeguard the public – it cannot trust alone. It must verify through effective oversight.”

#### **D. The PD Improperly Shifts The Burden Of Proof To The Intervenor**

It is self-evident that a party responding to a Commission OSC bears the burden of proof.<sup>31</sup> Consequently, there should be no question that PG&E bore the burden of proof to respond to the OSC.

With the record lacking any showing by PG&E responding to the issues raised by the OSC, the PD shifts the burden of proof to the intervenors in the case. Conclusion of Law 2 provides: “No party presented evidence to support a finding of good cause to stay D.11.10-010, D.12-09-003, and D.11-12-048.”<sup>32</sup> The text of the PD provides more insight into the conclusion:

As required by D.11-09-006, PG&E has submitted valid and verified pressure test results in support of its requests to lift maximum operating pressure limitations for Lines 131-30, Lines 101 and 132A, and the Topock Compressor Station. No party has presented a factual basis for staying D.11-10-010, D.12-09-003, and D.11-12-048. We, therefore, decline to stay these decisions.<sup>33</sup>

Evidently, the PD closes the OSC proceeding *with no further action* because no one has shown that the OSC Lines were not subjected to a valid pressure test. As discussed in Section II.B above, such a finding is illogical and irrelevant. It is also unlawful. To reiterate, the OSC was not opened to determine whether PG&E performed a valid pressure test for each of the OSC Lines. The OSC launched an inquiry into the quality of the pipeline features data supporting the 2011 and 2012 MAOP determinations for the OSC Lines, to determine if the MAOPs were set correctly. However, PG&E did not provide any evidence to support a finding that the data is reliable. And in fact, the parties adduced material and uncontroverted evidence that PG&E’s pipeline features data is unreliable.

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<sup>31</sup> See, e.g., I.02-03-023, 2002 Cal. PUC LEXIS 208, \*11 (“An order to show cause has been described as ‘in the nature of a citation to a party to appear at a stated time and place to show cause why the requested relief should not be granted.’ (Difani v. Riverside County Oil Co. (1927) 201 Cal.210, 213-214; 6 Witkin, Cal Proc. (4th ed. 1997) Proceedings Without Trial, § 55, at 454.) In an order to show cause proceeding, the burden is on the respondent to show good cause why the proposed legal action should not go forward.”); reiterated in D. 02-09-004, 2002 Cal. PUC LEXIS 525, \*11.

<sup>32</sup> PD, p. 16, COL 2.

<sup>33</sup> PD, p. 12.

Given the parties' uncontroverted showings, described below, it is likely that a review of PG&E's OSC Line data would reveal even more troubling errors than the Line 147 errors that triggered the OSC.

The PD should be corrected to reflect that PG&E has the burden of proof in this OSC, and that it has failed to meet that burden.

**E. The Parties Demonstrated That PG&E's Records Were Unreliable And Contained Substantive Errors That Could Require MAOP Reductions**

ORA, TURN, and San Bruno all presented uncontroverted evidence that PG&E's pipeline records were unreliable and should be further examined by the Commission. Among other things, ORA demonstrated in its Opening Brief that:

- PG&E has ongoing recordkeeping problems that were evidenced in PG&E's October 11, 2013 Safety Certification for Line 147;<sup>34</sup>
- PG&E is not complying with Federal Safety Regulations to establish MAOP, including regulations that require certain records before PG&E can operate under those regulations;<sup>35</sup>
- PG&E is mischaracterizing its data assumptions as "conservative" when more conservative assumptions may be required by Federal regulations;<sup>36</sup> and
- PG&E's new data management programs are not state of the art and will not facilitate employee discovery of data errors, or prevent future data errors from being made.<sup>37</sup>

TURN demonstrated that PG&E misrepresented its data error rate in the OSC proceeding, and that PG&E's own evidence showed that there were 37 to 185 lines with Type 5 errors - design errors that would require MAOP reductions. As TURN explained in its Opening Brief, the record shows that the "less than one percent error rate" (actually 0.9%) that PG&E repeatedly referred to in its Opening Brief and testimony only applies to Type 5 errors – the most

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<sup>34</sup> ORA, OB pp. 8-9 and Exhibits P and Q (ORA Testimony and Exhibits regarding inaccuracies in the PG&E data provided in support of the MAOP for Line 147).

<sup>35</sup> ORA, OB pp. 15-16.

<sup>36</sup> ORA, OB pp. 16-18.

<sup>37</sup> ORA, OB pp. 9-10 and Exhibits OSC-8, OSC-9 (ORA Testimony and Exhibits regarding problems observed in PG&E's data management systems).

significant errors in PG&E's system and what PG&E refers to as "hits" that require a reduction in the MAOP of a line.<sup>38</sup> Further, the 0.9% error rate was only based on a statistical sample, so that PG&E's witness was forced to acknowledge that there were many Type 5 errors *not yet identified* in PG&E's system.<sup>39</sup> In fact, cross examination established that there is a 99% probability that there are 37 to 185 more Type 5 errors (and thus lines operating above a safe MAOP) in PG&E's gas transmission system.<sup>40</sup>

San Bruno demonstrated that there was a 25% error rate for the Line 147 pipeline features list.<sup>41</sup> This suggests that that the error rate for the OSC Lines is likely to be similarly substantial.

Based on these showings, ORA recommended that PG&E be required to submit updated Safety Certifications for the OSC Lines, as set forth in Section V below. TURN advocated for appointment of an Independent Monitor. However, the PD ignores the parties' recommendations for addressing the uncontroverted evidence of PG&E data problems identified in the OSC proceeding.

Presumably in response to these demonstrated data problems, the PD acknowledges that PG&E's data has errors. Finding of Fact 1 provides:

PG&E does not possess traceable, verifiable, and complete records of each of [sic] pipeline segment and fitting in its natural gas transmission and distribution system.

However, the PD minimizes the import of this finding by adding a finding that "PG&E is continuously reviewing and improving the reliability of its natural gas transmission recordkeeping programs"<sup>42</sup> – a finding with questionable support in the record. The PD also downplays the import of PG&E's recordkeeping errors by characterizing the evidence as unsurprising:

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<sup>38</sup> TURN OB, pp. 11-13. See also 20 RT 3124-3128 (Singh/P&G&E), 3127:23-27 ("So when you talk about the 0.9 percent error rate, you're only talking about one of the five categories of errors, the Type 5 errors; right? A Yes.").

<sup>39</sup> TURN OB, pp. 11-13. See also 20 RT 3124-3132 (Singh/P&G&E).

<sup>40</sup> Id.

<sup>41</sup> San Bruno OB, p. 4 and 17 RT 2648: 9-23 (Singh/P&G&E).

<sup>42</sup> FOF no. 3.

The end result is that we have confirmed what we found three years ago – PG&E has decades-old natural gas transmission pipelines with less than perfect documentation of what is in the ground. Moreover, even with available records, there is no way to know what one does not know because of the absence of any particular records.<sup>43</sup>

While this conclusion may be accurate, the Commission cannot simply throw up its hands in the face of evidence that PG&E’s new recordkeeping programs are not as robust as they should be. The PD should be revised to reflect the actual record of the OSC proceedings, and to consider the recommendations of the parties aimed at correcting the identified deficiencies.

### **III. THE COMMISSION SHOULD ORDER PG&E TO MAKE THE SHOWING REQUIRED BY THE OSC AND SHOULD THOROUGHLY REVIEW THAT SHOWING**

The law requires that Commission decisions be based on record evidence,<sup>44</sup> and that the entity responding to an order to show cause bear the burden of proof.<sup>45</sup> Absent any new evidence resolving the inquiry ordered by the OSC, the Commission should, consistent with the original intent of the OSC, order PG&E to submit new Safety Certifications for all of the OSC Lines. To ensure the accuracy of those Safety Certifications, and PG&E’s compliance with state and federal laws and regulations, the Commission should require:

1. That PG&E support its Safety Certifications with information that is accurate, verifiable, and complete, including as-built drawings where appropriate. Any contradictory information provided in the Safety Certifications must be explained in a Verified Statement.
2. To the extent that PG&E relies upon a hydrotest to support its requested MAOP, PG&E’s Safety Certification for the line should include testimony that demonstrates that the hydrotest was performed to the standards set by applicable federal regulations and that all of the line was tested. The testimony must also address any post-test developments (e.g., new information) that may impact the proper MAOP for the line.

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<sup>43</sup> PD, p. 14.

<sup>44</sup> California Public Utilities Code §§ 1705, 1706, and 1757.

<sup>45</sup> I.02-03-023, 2002 Cal. PUC LEXIS 208, \*11 (“In an order to show cause proceeding, the burden is on the respondent to show good cause why the proposed legal action should not go forward.”).



3. That PG&E include an explanation of the basis for concluding that the requested MAOP is consistent with Subpart L of the minimum federal safety standards codified at 49 CFR Part 192.

PG&E's Safety Certifications should not be taken at face value. The Commission should review PG&E's Safety Certifications for each OSC Line to confirm that that PG&E has properly determined the MAOP consistent with 49 CFR Part 192. Further, to ensure the availability of the record relied upon by the Commission to make important safety determinations, PG&E's Safety Certifications, including all supporting information, should be made part of the record in all MAOP-related proceedings, including this one.

TURN provides a "Summary of Recommendations" at the beginning of its Opening Brief, and ORA supports those recommendations in conjunction with its own recommendations, outlined above. As recommended by TURN, the Commission should order PG&E's shareholders to fund a thorough and independent third-party review of the reliability of PG&E's documented pipeline specifications. That review should include, among other things, a top-to-bottom assessment of where errors or unduly aggressive assumptions could have entered into PG&E's MAOP Validation process, and should recommend measures to identify, at a minimum, all "Type 4" and "Type 5" errors, and not solely Type 5 errors where the MAOP for an entire segment or line must be lowered.

In ordering this third-party review, the Commission should also communicate clearly to PG&E that a pressure test is not a substitute for accurate records, that both state and federal laws and regulations require accurate records to operate and maintain a gas transmission system safely over time, and that the Commission expects PG&E to develop a reliable records management system. PG&E is unlikely to meet these challenges successfully unless the Commission clearly articulates these expectations and has PG&E's progress monitored by an independent third party.

Pursuant to Rule 14.3(b), ORA's proposed changes to the findings and conclusions of the PD, are set forth in Appendix A hereto. They are offered to assist the Commission in finding a responsible, lawful, and effective way to address the recordkeeping issues raised by the OSC.

Respectfully submitted,

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# **APPENDIX A**

## **PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Findings of Fact and Conclusions of law in the Proposed Decision should be entirely replaced with the following Findings of Fact and Conclusions of Law.

### **FINDINGS OF FACT**

1. PG&E has provided no substantive, material, or verifiable evidence which would permit the Commission to determine that the data supporting the MAOPs for the OSC lines has been properly established.
2. PG&E has provided no evidence which would permit the Commission to close the OSC at this time.
3. PG&E has not met its burden of proof in this OSC.
4. PG&E does not possess traceable, verifiable, and complete records of each pipeline segment and fitting in its natural gas transmission and distribution system.
5. As demonstrated by ORA in its testimony regarding PG&E's October 11, 2013 Safety Certification for Line 147, PG&E has ongoing recordkeeping problems.
6. PG&E is not complying with Federal Safety Regulations to establish MAOP, including regulations that require certain records before PG&E can operate under those regulations.
7. PG&E is mischaracterizing its data assumptions as "conservative" when more conservative assumptions may be required by Federal regulations.
8. ORA has demonstrated that PG&E's new data management programs are not state of the art and will not facilitate employee discovery of data errors, or prevent future data errors from being made.
9. PG&E misrepresented its data error rate in the OSC proceeding because the 0.9% error rate PG&E repeatedly referred to as "less than one percent" only applied to Type 5 errors.
10. The 0.9% error rate was only based on a statistical sample, so that that there were many Type 5 errors *not yet identified* in PG&E's system.
11. PG&E's own evidence showed that there were 37 to 185 lines with Type 5 errors - design errors that would require MAOP reductions.
12. There was a 25% error rate for the Line 147 pipeline features list.
13. This high error rate for the Line 147 pipeline features suggests that that the error rate for the OSC Lines may be similarly high.

### **CONCLUSIONS OF LAW**

1. The law requires that Commission decisions be based on record evidence.
2. The Commission requires that the entity responding to an order to show cause bear the burden of proof.

3. Because PG&E provided no substantive, material, or verifiable evidence in response to the OSC, it has not met its burden of proof in this OSC and there is no basis to close the inquiry ordered by the OSC.
4. Given the evidence of ongoing recordkeeping problems adduced in this proceeding, it is possible that the MAOPs for the OSC Lines have not been properly established and it is appropriate for PG&E to be required to make the showing required by the OSC by submitting updated Safety Certifications for the OSC Lines.
5. Because of PG&E's history of recordkeeping errors, any PG&E Safety Certifications provided in response to the OSC should be thoroughly reviewed by the Commission.
6. The Commission should review PG&E's Safety Certifications for each OSC Line to confirm that that PG&E has properly determined the MAOP consistent with 49 CFR Part 192.
7. To ensure the accuracy of those Safety Certifications, and PG&E's compliance with state and federal laws and regulations, the Commission should require:
  - a) That PG&E support its Safety Certifications with information that is accurate, verifiable, and complete, including as-built drawings where appropriate. Any contradictory information provided in the Safety Certifications must be explained in a Verified Statement.
  - b) To the extent that PG&E relies upon a hydrotest to support its requested MAOP, PG&E's Safety Certification for the line should include testimony that demonstrates that the hydrotest was performed to the standards set by applicable federal regulations and that all of the line was tested. The testimony must also address any post-test developments (e.g., new information) that may impact the proper MAOP for the line.
  - c) That PG&E include an explanation of the basis for concluding that the requested MAOP is consistent with Subpart L of the minimum federal safety standards codified at 49 CFR Part 192.
8. To ensure the availability of the record relied upon by the Commission to make important safety determinations, PG&E's Safety Certifications, including all supporting information, should be made part of the record in all MAOP-related proceedings, including this one.
9. Because of the evidence of continuing recordkeeping problem adduced in this proceeding, the Commission should order PG&E's shareholders to fund a thorough and independent third-party review of the reliability of PG&E's documented pipeline specifications. That review should include, among other things, a top-to-bottom assessment of where errors or unduly aggressive assumptions could have entered into PG&E's MAOP Validation process, and should recommend measures to identify, at a minimum, all "Type 4" and "Type 5" errors, and not solely Type 5 errors where the MAOP for an entire segment or line must be lowered.
10. A pressure test is not a substitute for accurate records.

11. The federal gas safety regulations do not permit MAOP to be established based solely on a pressure test.
12. Both state and federal laws and regulations require accurate records to operate and maintain a gas transmission system.
13. The Commission expects PG&E to develop a state of the art records management system to meet both its legal and regulatory requirements as well as going forward needs and expectations.