

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

Application of Pacific Gas and Electric
Company for Authority, Among Other Things,
to Increase Rates and Charges for Electric and
Gas Service Effective on January 1, 2014.
(U 39 M)

Application 12-11-009
(Filed November 15, 2012)

And Related Matter.

Investigation 13-03-007

**REPLY COMMENTS OF THE UTILITY REFORM NETWORK
ON THE PROPOSED DECISION OF ALJ PULSIFER**

Hayley Goodson, Staff Attorney
Robert Finkelstein, General Counsel
Matthew Freedman, Staff Attorney
Marcel Hawiger, Staff Attorney

The Utility Reform Network
785 Market Street, Suite 1400
San Francisco, CA 94103
Phone: (415) 929-8876
Fax: (415) 929-1132
E-mail: hayley@turn.org

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**REPLY COMMENTS OF THE UTILITY REFORM NETWORK
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I. INTRODUCTION

Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, The Utility Reform Network (TURN) submits this reply to the comments of Pacific Gas and Electric Company (PG&E) and the Coalition of California Utility Employees (CUE) on the Proposed Decision (PD) of ALJ Pulsifer.

II. COMMENTS ON THE PROPOSED DECISION

A. Policy and Legal Issues

1. The PD Appropriately Emphasizes Safety As A Top Priority.

PG&E argues that the PD fails to give full effect to SB 705 because it occasionally refers to safety as merely “a foundational priority” and “a priority,” rather than consistently parroting the “top priority” language found in SB 705.¹ This is nonsense. By its logic, PG&E should also be calling for adding the full context so that every time the word “priority” appears, the statutory language “consistent with the principle of just and reasonable rates” is given equal standing.² The statute says what it says, the PD fully acknowledges what the statute says, and, by seeking to balance the principle of safety as a top priority with the principle of just and reasonable rates, the PD is fully consistent with SB 705.

2. The PD Appropriately Treats Questions of Deferred Maintenance.

PG&E accuses the PD of failing to recognize that there may be circumstances under which a utility might reasonably seek funding for the same project in consecutive GRCs, even though the serial funding may warrant the label “deferred maintenance” for the project.³ A few pages later, PG&E states, “The PD acknowledges that a utility can re-request work in reasonable situations in approving the Electric [DCC] Consolidation Project,” and quotes a lengthy passage of the PD that does just that.⁴ In the one instance, PG&E failed to demonstrate that its multiple trips to the trough for a single project were reasonable, while in the latter the PD would conclude that the utility met its burden of presenting such a demonstration. The Commission cannot permit the utility to cite one as a violation of the utility’s constitutional rights,⁵ while touting the other as an appropriate outcome. The PD would merely have the Commission do its job with regard to such projects; rather than unduly restricting the utility from re-

¹ PG&E Comments, pp. 2-3.

² SB 705, adding Section 963(b)(3) to the Public Utilities Code.

³ PG&E Comments, pp. 3-4.

⁴ PG&E Comments, p. 11.

⁵ PG&E overstates the *Hope* and *Bluefield* decisions in claiming they stand for the utility having a Fourteenth Amendment “right” (rather than reasonable opportunity) to earn their rate of return. PG&E Comments, p. 4.

prioritization, it permits rate recovery of the costs where PG&E has demonstrated the reasonableness of its actions. That's regulation in action, not any undue limitation on management discretion.

3. The PD Correctly Characterizes the Record Concerning The Use Of Cost-Benefit Comparisons.

PG&E strenuously disagrees with the accuracy of the PD's reliance on the utility's policy witnesses embracing the principle that there is a role for cost-benefit analysis and a showing of cost-effectiveness even for programs justified on the basis of safety or risk reduction.⁶ But the source materials are lengthy quotes from PG&E's CEO Tony Earley, as well as testimony of other high-ranking members of PG&E's team.⁷ The PD reminds all parties that it is not enough to slap a "safety" or "risk reduction" label on a proposal; a comparison of costs to benefits is still essential in most if not all cases.

B. Natural Gas Distribution - PD Section 3.4.2 – Leak Survey Cycle

Both PG&E and CUE argue that the PD errs in rejecting PG&E's proposed three-year survey cycle. PG&E's arguments misstate the record, while CUE simply engages in fear mongering. Neither party responds to the PD's fundamental points that the combination of PG&E's multiple programs to enhance leak detection results in *performance* that represents best industry practices, and that additional analysis is needed before making costly program changes.

PG&E asserts that leak cluster surveying and the use of the Picarro Surveyor "do not meaningfully affect the analysis."⁸ PG&E is wrong as a matter of fact. TURN demonstrated that the combination of cluster surveying, which targets the portion of the system with the most leaks, with the use of Picarro, which finds leaks at more than twice the normal rate, plus accelerated rechecks, results in a leak find rate which is similar to using a three-year survey cycle with no other improvements.⁹ The PD appropriately finds that "industry best practice" does not mean just copying a practice without analyzing and integrating all programs designed to accomplish the same goal of leak detection. The PD correctly concludes that best practices must reflect actual performance, not just individual programs, and provides more than adequate funding for increased leak surveying and leak repair.

CUE does not allege any error, and simply argues that the Commission cannot reject a proposal that would "enhance system safety for just \$24.3 million per year."¹⁰ CUE warns "how will the

⁶ PG&E Comments, pp. 5-6.

⁷ PG&E Comments, p. 6; TURN Opening Brief, pp. 7-9, quoting PG&E CEO Anthony Earley, and citing testimony of PG&E VP and Chief Risk and Auditing Officer Anil Suri, and Shelly Sharp, GRC Senior Director.

⁸ PG&E Comments, p. 7.

⁹ PD, p. 76; Ex. 180 (PG&E Response to TURN-104-02); and TURN Opening Brief, p. 51.

¹⁰ CUE Comments, p. 5. CUE's number apparently reflects an \$8.66 million reduction for leak surveying (from

Commission explain itself” if there is a future accident that could have been prevented with more money.¹¹ The Commission should not succumb to such veiled threats. One of the lessons of the San Bruno disaster is that simply authorizing the utility’s funding requests does not guarantee either proper spending or proper management; rather, real risk reduction requires an “engineering-based safety program” that properly analyzes and integrates data.¹² The PD properly found that PG&E’s proposal is premature, as PG&E should first conduct “an evaluation of how best to phase in an accelerated survey frequency integrated with all of its other strategies from a cost and risk reduction perspective.”¹³

C. Natural Gas Distribution - PD Section 3.8.1 – Gas Pipeline Replacement

Only CUE challenges the PD’s reduction of PG&E’s capital request from \$329 million to \$305 million in 2014. CUE does not allege any error, but reiterates its policy position that replacement rates for steel and plastic pipes are simply too long. CUE also blatantly misstates the record by alleging that the PD “asks the utility to maintain status quo.”¹⁴ Nothing could be further from the truth. Rather than the 260% increase requested, the PD authorizes a 240% increase from 2011 to 2014 in capital for pipe replacement, and authorizes a much greater amount of plastic pipe replacement than forecast by PG&E. As noted in the PD, all three of the distribution pipe explosions in 2009 and 2011 involved plastic Aldyl-A pipe.¹⁵ Similarly as for the leak survey issue discussed above, the PD finds that “PG&E’s strategy of doing everything at once diverges from a strategy focused primarily on reducing risk.”¹⁶ CUE offers no evidence of risk reduction other than simply pushing for spending more on everything.

D. Electric Distribution – PD Section 4.7 – Pole Replacement

CUE argues that the PD should be modified to adopt CUE’s proposal to double PG&E’s forecast of pole replacements, whereas the PD would adopt PG&E’s 2014 forecast.¹⁷ CUE merely repeats verbatim the arguments it made in its reply brief and fails to demonstrate error in the PD’s conclusion that the additional cost is not justified in terms of reliability benefits.¹⁸ CUE’s comments should be afforded no weight, consistent with Rule 14.3(c).

\$33.8 million requested for MWC DE) and a \$13.7 million reduction for leak repair (from \$102.1 million requested for MWC FI).

¹¹ CUE Comments, p. 4.

¹² See, for example, D.12-12-030, pp. 2, 47-50.

¹³ PD, p. 75.

¹⁴ CUE Comments, p. 8.

¹⁵ PD, p. 95.

¹⁶ PD, p. 96.

¹⁷ CUE Comments, pp. 10-11.

¹⁸ Compare CUE Comments, pp. 10-11 (starting with “While true that pole replacements...), with CUE Reply Brief, pp. 23-24 (starting with “While true that pole replacements).

E. Human Resources - PD Section 8.3.2 – Short-Term Incentive Plan (STIP)

The Commission has repeatedly rejected arguments that rely on claims that reduced ratepayer funding for STIP “runs afoul of a long history of cost-of-service ratemaking decisions.”¹⁹ PG&E’s arguments here deserve no greater weight than they were accorded in the past. For instance, in D.12-11-051 the Commission rejected SCE’s position that ratepayers should fully fund executive incentive compensation because its “compensation levels are statistically at market, incentive bonuses are a standard of executive pay, ... and limiting rate recovery is at odds with cost-of-service ratemaking.”²⁰ The Commission concluded that ratepayers should only pay 50% of forecast costs and explained:

In our decision today, we are not recommending reduced compensation for executive officers. We are merely assigning certain costs to shareholders based on what is just and reasonable to assign to ratepayers. The TCS did not specify or differentiate between ratepayer and shareholder funding for either comparator company compensation or SCE compensation.²¹

The Commission addressed this issue again in D.13-05-010, where SDG&E/SoCalGas had argued that short-term incentive compensation “should not be treated any differently than base pay for cost recovery,” especially since the TCS found their respective total compensation to be competitive. But as the Commission explained, the fact that a utility’s total compensation is competitive with the market

does not mean that the Commission should ignore the individual components that make up the compensation and employee benefits packages, and simply approve the entire amounts that SDG&E and SoCalGas have requested. Each of the components of such packages still need to be examined to ensure that the costs are related to the provisioning of utility services, and that the costs are reasonable to ratepayers.²²

PG&E also errs in criticizing the PD for asking whether ratepayers or shareholders benefit more from certain STIP metrics as part of assessing the reasonable level of ratepayer funding,²³ as the Commission has on many occasions considered just that question for this purpose. This is not a new approach, as the Commission applied similar logic in PG&E’s 1987 GRC in concluding that shareholders should bear 50% of an incentive compensation program’s costs.²⁴ Similarly:

[A]s a matter of equity and fairness, we also feel that it is important to consider the benefits and costs of Results Sharing as they relate to ratepayers and shareholders. ... In

¹⁹ PG&E Comments, pp. 18-20.

²⁰ D.12-11-051, issued in SCE’s TY 2012 GRC, p. 449.

²¹ D.12-11-051, p. 450. PG&E likewise included ratepayer as well as shareholder-funded sources of cash compensation and benefits in the calculation of Total Compensation for purposes of the Total Compensation Study. Ex. 35 (PG&E-8), p. 3-4 (Figure 3-1), p. 4-11 (Summary of Study Results).

²² D.13-05-010, issued in the SDG&E/SoCalGas TY 2012 GRC, pp. 872, 875, and 880-881.

²³ PG&E Comments, p. 19.

²⁴ D.86-12-095, issued in the PG&E TY 1987 GRC, pp. 54-56.

general, we are concerned with employee incentive compensation proposals that provide shareholder value without imposing shareholder costs.²⁵

Most recently in D.13-05-010, the Commission reduced the cost to ratepayers of the short term incentives for both SDG&E and SoCalGas by 25% “to reflect the benefits that shareholders receive from having a financially strong company.”²⁶ The PD’s analysis is consistent with Commission precedent.

F. Results of Operations – PD Section 10.2 - Depreciation

PG&E argued for “gradual” changes from one depreciation study to the next for purposes of limiting the extension of service lives.²⁷ The Commission adopted PG&E’s call for gradualism, but applied it to both service lives and net salvage values.²⁸ PG&E now complains that the PD’s approach is “too gradual.”²⁹ The Commission should reject PG&E’s suggestion that only the utility can determine the outcomes that are sufficiently “gradual” for ratemaking purposes.

PG&E also attempts to demonstrate that the PD’s approach puts the Commission at risk of underfunding future removal costs by resuscitating its illogic that such an underfunding could occur even if the utility collects \$406 million in 2014 in the face of \$176 million of expected recorded removal costs.³⁰ PG&E has acknowledged that PG&E had collected from ratepayers pre-funded removal costs in the amount of \$3.4 billion as of the end of 2011.³¹ TURN debunked PG&E’s underlying logic both through cross-examination and in its opening brief.³² The Commission should decline the utility’s invitation to embrace its illogical and poorly supported analysis.

G. Rate Base, Working Cash and Finance Issues - PD Sections 11.2 and 11.3 - Nuclear Fuel and Customer Deposits

PG&E argues that the PD errs in maintaining the status quo treatment of nuclear fuel while making a ratemaking adjustment for customer deposits, repeating its earlier appeals to treat nuclear fuel and customer deposits “consistently.”³³ PG&E overlooks the Commission’s repeated rejection of the “consistency” theory and demonstrates no error in the PD’s approach to these two ratemaking issues.³⁴

²⁵ D.06-05-016, issued in the SCE TY 2006 GRC, pp. 129, 132.

²⁶ D.13-05-010, p. 882.

²⁷ PG&E Reply Brief, p. 10-39.

²⁸ PD, pp. 586-588 and 594.

²⁹ PG&E Comments, p. 21.

³⁰ *Id.*, pp. 21-22.

³¹ TURN Reply Brief, p. 156, citing Table 10-5 of PG&E’s Opening Brief, p. 10-31.

³² Marre, PG&E, 30 RT 4164, ll. 20-22; TURN Opening Brief, pp. 338-341.

³³ PG&E Comments, pp. 23-24.

³⁴ See TURN’s Reply Brief, pp. 165-169 (discussing D.04-07-022, D.06-05-016, D.09-03-025).

