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To: Prosper, Terrie D. (terrie.prosper@cpuc.ca.gov)
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Subject: CPUC Opens Case to Consider Penalties Against PG&E for Kern Power Plant Fatality Following Staff Investigation: CPUC Press Release

**FOR IMMEDIATE RELEASE
PRESS RELEASE**

Media Contact: Terrie Prosper, 415.703.1366, news@cpuc.ca.gov
Docket #: I.14-08-022

**CPUC OPENS CASE TO CONSIDER PENALTIES AGAINST
PG&E FOR KERN POWER PLANT FATALITY
FOLLOWING STAFF INVESTIGATION**

SAN FRANCISCO, August 28, 2014 - The California Public Utilities Commission (CPUC), following a staff investigation, today said it will consider penalties against Pacific Gas and Electric Company (PG&E) for a contract worker fatality that occurred while he was dismantling an unused fuel oil tank at the Kern power plant in Bakersfield.

PG&E hired Cleveland Wrecking Company to dismantle four empty fuel storage tanks at its retired Kern power plant. On June 19, 2012, a Cleveland Wrecking Company employee did not survive injuries he sustained when a portion of a fuel tank wall he was dismantling collapsed inward. The CPUC's Safety and Enforcement Division's investigation determined that PG&E failed to accurately and adequately evaluate safety in contract bid proposals; did not provide adequate contractor project safety review and oversight; and neglected to evaluate safer alternatives to manually torch cutting unsupported, weakened tank walls from an elevated man-lift.

The Safety and Enforcement Division alleges that PG&E sought to delegate its duty to maintain a safe system to a third party contractor, and that the utility failed to monitor and achieve a safety culture at Kern necessary to proactively identify and mitigate hazards. Further, the Safety and Enforcement Division alleges that PG&E failed to conduct a prompt and thorough incident root cause analysis, as requested by the Safety and Enforcement Division, in order to assist in identifying and implementing

effective corrective actions to improve safety and reduce the likelihood of future incidents.

The Safety and Enforcement Division concludes that PG&E: 1) violated California Public Utilities Code Section 451, which requires every public utility to furnish and maintain its facilities as necessary to promote the safety of its employees, patrons, and the public, and 2) improperly delegated to an independent contractor the duties or liabilities imposed on PG&E by state law and CPUC rules, general orders, and decisions.

Based on the Safety and Enforcement Division's staff investigation, the CPUC's Commissioners today voted to open a formal proceeding to consider penalties against PG&E for its role in the incident, as well as consider additional remedies to require PG&E to correct identified deficiencies and to further improve the safety culture throughout its operations.

Said Interim Director of the Safety and Enforcement Division, Denise Tyrrell, "The Safety and Enforcement Division conducts an investigation following a utility incident to determine the cause. We then assess whether any safety regulations were violated. We may also find that improvements to rules are needed. As a result of our investigation of the 2012 Kern incident, we take on a role similar to a prosecutor in a criminal case. We have asked the Commissioners to open a formal case. This enables us to bring our evidence before a judge for penalty consideration. A CPUC Administrative Law Judge will consider the merits of our case, consider PG&E's defense to the allegations, and hear from other parties to the proceeding before making a decision for Commission consideration."

A violation of the Public Utilities Code or a CPUC decision or order is subject to fines of \$500 to \$50,000 for each violation, for each ongoing day. The CPUC may also order the implementation of operational and policy measures designed to prevent future incidents.

Following staff investigations for which it believes penalties are warranted, the Safety and Enforcement Division can ask the CPUC's Commissioners to open a formal case to consider penalties. For certain industries, such as natural gas, the Safety and Enforcement Division has the authority to issue staff citations up to a certain amount,

and may utilize that option rather than seeking the opening of a formal case, if appropriate. The option of issuing a staff citation to PG&E in this case does not exist because the CPUC has not yet considered a safety citation program for electric generation. The Commissioners are scheduled to consider an electric safety citation program by the end of the year.

The Safety and Enforcement Division's staff investigation into a 2013 incident at the Kern plant is ongoing.

The document voted on is available at <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M103/K053/103053407.PDF>.

For more information on the CPUC, please visit www.cpuc.ca.gov.

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