



Fact Sheet: The PG&E Penalty Decision Explained

Overview

On Sept. 2, 2014, the California Public Utilities Commission's Administrative Law Judges (ALJs) levied a recommended \$1.4 billion penalty and fine against the Pacific Gas & Electric Co. stemming from the 2010 PG&E gas pipeline explosion in San Bruno. Drafted by Judges Mark S. Wetzell and Amy C. Yip-Kikugawa, the four decisions proposed the highest ever penalty and fine against a public utility company in U.S. history, citing PG&E's more than 3,700 violations of the rules, regulations and state and federal laws that govern PG&E's gas transmission system. Many of these violations continued for years, resulting in a total of 18,447,803 days in violation.

The 1,000-page judgments harshly criticize PG&E for repeatedly breaking the local, state and federal rules in place to protect pipeline safety – and align with many of San Bruno's own arguments raised over this three-year penalty process. Below we lay out some of the decision's highlights and show where San Bruno agrees and disagrees with the conclusions drawn.

The Decision: Points of Agreement with the City of San Bruno

San Bruno argued that ..

- PG&E's conduct was wrong, severe and warrants significant punishment.
 - San Bruno has long said that PG&E's offenses should be considered severe. The ALJs agree, stating that a severe penalty is warranted based on the gravity and severity of the violations, PG&E's obligation to provide safe and reliable gas service, the pervasive nature of PG&E's recordkeeping shortfalls, the impact of the San Bruno explosion on its residents, and the commission's and the public interest in ensuring safe and reliable natural gas service (pg 162).
- PG&E committed more than 3,000 violations of state and federal laws that resulted in the tragic explosion and fire.
 - The ALJs agreed and found 3,708 violations (pgs. 10, 15, 19).
- PG&E has the financial resources to withstand a \$2.25 billion penalty and fine and remain financially solvent -- a position both the city and the ALJs agree has been confirmed by PG&E's own finance experts (pg. 67).
- The year of the San Bruno explosion, PG&E made more than \$47 million in political contributions and spent \$16 million on its Proposition 16 campaign, which distracted PG&E from

its public utility operations. Meanwhile, PG&E neglected its primary job to operate a safe pipeline system.

- The ALJs agree that PG&E should focus on enhancing public safety and operational excellent as its core mission. This decision requires PG&E to examine whether the time and money spent on public relations and political campaigns distracts from its core mission (pg. 108).
- In determining this penalty, the CPUC should evaluate the harm committed from the perspective of public interest and safety – not from shareholders, investment banks or other financial considerations.
 - The ALJs agree, stating that the CPUC must consider the gravity and severity of the violations and “the impact of the San Bruno explosion on its residents, and the public interest in ensuring safety and reliable natural gas service.” (pg. 71).
- No past enforcement case can be compared to this when determining PG&E’s punishment.
 - The ALJs agree, stating that no past cases had a comparable impact on the area or number of people affected (pg. 74).
- PG&E’s culture has embodied a willful blindness to the mission of a safe and secure gas system, prioritizing profits over safety for many decades.
 - The ALJs explicitly state that PG&E should make safety the highest priority, even at the expense of shareholder returns (pg. 103).
- PG&E should have initiated and completed a safety upgrade program recommended by its engineers in the 1980s instead of relying on lawyers and finance experts to argue otherwise.
 - The ALJs agree, stating that PG&E’s actions since the 1980s reflects a shift away from safety (pg. 56).
- PG&E must formalize its emergency response protocols at a local level and in coordination with local governments.
 - The ALJs agree that emergency response protocols must be clarified and formalized. The city called on PG&E to renegotiate its decades’-old franchise agreements with local governments or enter into new agreements for emergency response. The ALJs ordered PG&E to complete this task by December 2015 (pg. 148).
- PG&E must improve its education and training.
 - The ALJs instruct PG&E to develop and implement an education and training program for recordkeeping and information management principles and practices (pg. 114).
 - Both San Bruno and the ALJs also agree that PG&E must also improve its employee incentive program to reward employees who prioritize safety (pg. 152).
- PG&E has not acted in good faith. Rather than accept blame and work to improve, PG&E lawyers have taken an aggressive “take no prisoners” bad faith litigation strategy.
 - ALJs agree that PG&E has not acted in good faith to discover, disclose and remedy its violations (pg. 162). The ALJs also agree that actions taken by PG&E’s lawyers reflect violations of the CPUC rules of practice and procedure. (pg. 58).
- PG&E should recover all San Bruno attorney’s fees and expert witness fee costs.
 - The ALJs agreed that attorneys fees should be recovered.

The Decision: Points of Disagreement with the City of San Bruno

San Bruno argued that ..

- Penalties and fines against PG&E should be: \$2 billion penalty to cover the cost of safety upgrades to be paid for by shareholders – not ratepayers, \$300 million fine to the state general fund, \$50 million for an Independent Monitor and \$100 million for a Pipeline Safety Trust.
 - The ALJ disagreed with the allocation of fines and penalties, levying the following: \$1 billion to the state general fund, \$400 million to cover the cost of safety upgrades to be paid for by shareholders – not ratepayers, \$50 million to improve the function of the CPUC's Protection and Safety Division (CPSD).
 - The ALJ's said that PGE must spend whatever is necessary for safety and seek rate recovery from the CPUC for prudent expenditures.
- An Independent Monitor should be funded with \$50 million to serve as watchdog, ensuring PG&E performs promised safety repairs and safeguards the public in the face of possible lax enforcement by the CPUC.
 - The ALJs agree with the concept in theory but argue that this oversight role can be fulfilled by an improved CPSD. The ALJs funded the division with an additional \$50 million to help accomplish this.
- A California Pipeline Safety Trust should be funded with \$100 million to serve as an added layer of industry oversight and help ensure public safety.
 - The ALJs agree that there is no safety and advocacy counterpart to the CPSD; however, they did not find it appropriate to require PG&E shareholders to fund this work.
- Require PG&E to use lifesaving Automated Shutoff Valves (ASVs) – rather than remote shutoff valves – and direct PG&E to undertake an ASV pilot program.
 - The ALJs agreed that PG&E should study the use of ASVs and other automated measures and implement best practices. However, the recommended pilot program was denied due to the inclusion of ASVs in PG&E's ongoing safety plan.
- PG&E should be prohibited from recovering costs from ratepayers to fund the current round of ongoing safety upgrades.
 - The ALJs disagreed and said that ratepayers should not get a windfall. PG&E has to do whatever is necessary to have a safe system and the CPUC will determine what the ratepayers should and should not pay for.