

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company, Regarding the Gas Explosion and Fire on December 24, 2008 in Rancho Cordova, California.

I.10-11-013
(Filed November 19, 2010)

**PREHEARING CONFERENCE STATEMENT
OF THE CONSUMER PROTECTION AND SAFETY DIVISION**

The Consumer Protection and Safety Division (CPSD) now submits this prehearing statement. In this statement CPSD will explain the reasons why hearings are both necessary and appropriate in this proceeding.

PG&E filed a prehearing conference statement on February 24, 2011, requesting that no evidentiary hearings be held in this proceeding, and that instead the Commission proceed directly to briefing. PG&E contends that this procedure is appropriate because there are no fundamental facts in dispute.

CPSD opposes PG&E's request. The Commission must set evidentiary hearings to decide this matter. This proceeding is an enforcement proceeding against PG&E associated with a December 24, 2008 gas explosion of a PG&E gas distribution line that destroyed a home, killed a homeowner, and badly injured other persons. Significant issues of fact remain disputed such that it is impossible to forego hearings.

One contested issue alone demonstrates a requirement for hearings. PG&E contends that the tragedy "resulted by a series of failures by PG&E employees to follow prescribed procedures." CPSD disagrees, and will demonstrate at hearings that the explosion resulted from deficient PG&E procedures. Establishing the facts supporting this conclusion is fundamental and is required for the Commission to consider imposing statutory penalties under Section 2107. The amount of the fine depends, upon other

factors, on whether PG&E employees failed to comply with clear and effective PG&E directives and training, or whether PG&E's directives, procedures, and training were themselves deficient. PG&E contends the latter, and CPSD contends the former. This basic question must be answered by evidence, and by hearings and testimony under oath.

PG&E has submitted the "Report of David Bull on PG&E's Compliance with 49 CFR section 192.615". Mr. Bull concludes that PG&E's emergency plans comply with the law. While PG&E has the right to present Mr. Bull's position to the Commission, PG&E does not have the right to deny CPSD the right to cross-examine him at hearings and to otherwise respond to his assertions. This is particularly important because, as PG&E has correctly observed, CPSD bears the burden of proof in this proceeding. It is inconsistent for PG&E to recognize that CPSD bears burden of proof in this proceeding but then to deny CPSD the means to establish facts to meet its burden.

CPSD will also seek fines both for PG&E's installation of non-conforming pipe in the ground at Rancho Cordova, and for its failure to search for it after it located another non-conforming pipe at Elk Grove. PG&E's defense is to blame its employees for failing to follow correct procedures. CPSD contends that evidence will demonstrate that the explosion was actually largely attributable to PG&E's procedural failures (e.g. pipe storage and PG&E failure to search for other non-conforming pipes) than from rogue actions of PG&E employees.

CPSD intends to depose Mr. Bull and several current and/or former PG&E personnel who were either at the area of the Rancho Cordova site during or before the explosion or their supervisors. From such personnel we can learn whether their actions were dictated by a failure to properly carry out procedures, or by the procedures themselves. These are factual questions that must be addressed and weighed at hearings, along with the credibility of witnesses.

These are a few examples of disputed factual issues and are not meant to be inclusive of all factual issues.

CPSD proposes the following schedule:

CPSD written direct testimony (submitted with OII on November 19, 2010)

PG&E written direct testimony - (submitted on February 17, 2011)

CPSD written rebuttal testimony – May 17, 2011

Hearings – 7 days of hearings commencing Monday, July 11 through 15, 2011, July 18, and July 19, 2011.

Respectfully submitted,

/s/ ROBERT CAGEN

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February 28, 2011

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **PREHEARING CONFERENCE STATEMENT OF THE CONSUMER PROTECTION AND SAFETY DIVISION** to the official service list in **I.10-11-013** by using the following service:

E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **February 28, 2011** at San Francisco, California.

/s/ ALBERT HILL

Albert Hill

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