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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company to Determine Violations of Public Utilities Code Section 451, General Order 112, and Other Applicable Standards, Laws, Rules and Regulations in Connection with the San Bruno Explosion and Fire on September 9, 2010.

Investigation 12-01-007
(Filed January 12, 2012)

(Not Consolidated)

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company with Respect to Facilities Records for its Natural Gas Transmission System Pipelines.

Investigation 11-02-016
(Filed February 24, 2011)

(Not Consolidated)

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company's Natural Gas Transmission Pipeline System in Locations with High Population Density.

Investigation 11-11-009
(Filed November 10, 2011)

(Not Consolidated)

**ADMINISTRATIVE LAW JUDGES' RULING ADDRESSING JULY 18, 2013
MOTION OF PACIFIC GAS AND ELECTRIC COMPANY**

Summary

This Administrative Law Judges' Ruling addresses a motion filed by Pacific Gas and Electric Company (PG&E) to reopen the evidentiary record on fines and remedies in these coordinated proceedings so that it may present additional evidence. PG&E further requests that the 10-page limit on its response to the Consumer Protection and Safety Division's (CPSD) July 16, 2013 Amended Reply Brief be removed and that the dates for filing responses be extended. PG&E's motion is granted in part and denied in part, as discussed below. This Ruling also revises the dates for parties to file supplemental briefs in response to CPSD's Amended Reply Brief. PG&E's response shall be due on August 15, 2013. CPSD and intervenors' rebuttal briefs shall be due on August 22, 2013.

Background

On July 8, 2013, CPSD filed a motion that requested, among other things, leave to file an Amended Reply Brief on Fines and Remedies and a 10-page limit on any responses to the brief. In an e-mail ruling issued on July 12, these aspects of CPSD's motion were granted.¹ CPSD was granted leave to file an amended reply brief. That ruling also provided for a single round of supplemental briefing to respond to CPSD's Amended Reply Brief and set a 10-page limit on opening and rebuttal comments.

¹ CPSD's motion also requests that there be a page or word count limit on any appeals of the Presiding Officer's Decision(s). This request will be addressed in a separate ruling.

On July 18, 2013, PG&E filed a motion seeking to reopen the evidentiary record on fines and remedies in these coordinated proceedings on the grounds that the revised penalty recommendation in the CPSD July 16, 2013 Amended Reply Brief represented a material change to the relevant facts and law. PG&E, therefore, requests that the record be re-opened to present additional evidence to respond to the Amended Reply Brief. PG&E's motion also requested that the briefing schedule adopted on July 12, 2013 be suspended, the page limits established in the July 12 Ruling be eliminated, and the time to respond to its motion be shortened.

In an electronic ruling issued on July 19, we suspended the briefing schedule and shortened the time to file responses to PG&E's motion to July 26, 2013. Timely responses were filed by the CPSD, City of San Bruno, The Utility Reform Network, the Division of Ratepayer Advocates and the City and County of San Francisco. All parties filing responses opposed PG&E's motion.

Discussion

PG&E seeks to reopen the record and introduce new evidence under Rule 13.14 of the Commission's Rules of Practice and Procedure. Rule 13.14(b) requires that a motion to reopen the record for taking of additional evidence "shall specify the facts claimed to constitute grounds in justification thereof, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing. It shall contain a brief statement of proposed additional evidence, and explain why such evidence was not previously adduced."

PG&E states that the new evidence that it seeks to introduce "is to demonstrate that CPSD's new disallowance proposal is inconsistent with the [Overland Consulting Company (Overland)] analysis on which CPSD says it is

based.”² However, PG&E could simply refer to the Overland analysis or testimony of the Overland consultants to make this showing. There is no need for additional evidence.

Further, PG&E has failed to present a persuasive argument why CPSD’s revised penalty recommendation is based on new facts or law. CPSD has simply reached a different set of conclusions based on the *same* facts and law. Moreover, intervenors have already proposed the same type of penalty – a monetary fine to be paid to the State’s General Fund and a disallowance of certain expenses and capital expenditures associated with improving PG&E’s gas system – in their opening briefs. As such, PG&E has had an opportunity to respond to these arguments. To the extent that PG&E disagrees with CPSD’s conclusions or inferences, it can explain why it believes these conclusions or inferences are not supported by the record. There is no need to introduce additional evidence as part of the explanation.

PG&E further requests that even if its request to reopen the record is not granted, there be no page limit on its response to CPSD’s Amended Reply Brief and that it be given 14 days to respond. PG&E’s request is based on its belief that it needs to include new evidence as part of its response. PG&E argues that removing page limits is warranted because CPSD and intervenors are “aligned and work cooperatively against PG&E.”³ Contrary to PG&E’s belief, CPSD’s arguments are not made more persuasive or given more weight just because intervenors agree with them. Further, as stated above, CPSD’s revised penalty

² PG&E Motion at 6.

³ PG&E Motion at 11-12.

recommendation had been raised by intervenors in their opening briefs on fines and remedies. As such, PG&E already had an opportunity to respond to the penalty recommendation – if not the specific amounts – proposed by CPSD.

In light of the above, we decline to remove the 10-page limit on PG&E's response. PG&E's request for no limit in its response to CPSD's Amended Brief is denied. We shall, however, grant PG&E's request for 14 days from the date of this ruling to file its response. PG&E's response shall be due on August 15, 2013. CPSD and intervenors' rebuttal briefs shall be due 7 days thereafter, on August 22, 2013.

IT IS RULED:

1. Pacific Gas and Electric Company's *Motion to Reopen Evidentiary Record in the Coordinated Penalty Phase; Request for Order Shortening Time for Response and Vacating Briefing Schedule Established in July 12, 2013 Email Ruling* is granted in part and denied in part as discussed in this Ruling.

2. The schedule for filing briefs in response to the Consumer Protection and Safety Division's Amended Reply Brief is revised as follows: PG&E's response shall be due on August 15, 2013. CPSD and intervenors' rebuttal briefs shall be due on August 22, 2013. All briefs shall be limited to ten pages.

Dated August 1, 2013 at San Francisco, California.

/s/ MARK S. WETZELL for
Amy C. Yip-Kikugawa
Administrative Law Judge

/s/ MARK S. WETZELL
Mark S. Wetzell
Administrative Law Judge