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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 Higher Population Density.

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

(Not Consolidated)

**ADMINISTRATIVE LAW JUDGES' RULING ON JOINT MOTION OF THE
DIVISION OF RATEPAYER ADVOCATES AND THE UTILITY REFORM
NETWORK TO STRIKE PORTIONS OF PACIFIC GAS AND ELECTRIC
COMPANY'S AUGUST 21, 2013 RESPONSE**

1. Summary

This Administrative Law Judges' Ruling grants the motion of the Division of Ratepayer Advocates and The Utility Reform Network to strike the first two sentences on page 7, and accompanying footnote 14, of *Pacific Gas and Electric Company's Responses to Questions in Section 3 of Administrative Law Judges' July 30, 2013 Ruling Requesting Additional Comment*. Pacific Gas and Electric Company shall file an amended response by September 17, 2013 in accordance with the directives in this Ruling.

2. Background

On July 30, 2013, we issued a ruling seeking further comment in response to questions related to the fines and disallowances at issue in these proceedings. In an electronic ruling issued on August 13, 2013, we clarified that in responding to these questions, parties would not be allowed to introduce any new evidence into the record.

Pursuant to the July 30, 2013 ruling, Pacific Gas and Electric Company filed its responses to questions contained in Section 3 of that ruling on August 21, 2013.¹ On September 9, 2013, the Division of Ratepayer Advocates and The Utility Reform Network (collectively, Joint Parties) filed a motion to strike two statements in the *PG&E Aug. 21 Response*. Joint Parties contend that these two statements reference evidence outside the record and should be struck from the *PG&E Aug. 21 Response*. In their motion, Joint Parties also request that the time for parties to respond to the motion be shortened.

¹ See *Pacific Gas and Electric Company's Responses to Questions in Section 3 of Administrative Law Judges' July 30, 2013 Ruling Requesting Additional Comment (PG&E Aug. 21 Response)*, filed August 21, 2013.

By e-mail ruling issued on September 9, 2013, the time to respond to this motion was shortened to September 13, 2013. Responses were filed by the City of San Bruno (CSB) and PG&E.

3. Discussion

The two statements at issue are the first two sentences on page 7 of the *PG&E Aug. 21 Response* and accompanying footnote 14. The two sentences present PG&E's projected increased revenue requirement and the corresponding bill impact on residential customers as a result of disallowances. Footnote 14 provides the underlying assumptions for the projected revenue requirement increase.

Joint Parties contend that the underlying assumptions associated with PG&E's projected increase in revenue requirement and rate impacts are not based on record evidence. Additionally, they maintain that there is no evidence in the record that quantifies any projected increase in PG&E's annual revenue requirement or the impact on ratepayer bills.² As such, they requested that the identified statements be struck from the *PG&E Aug. 21 Response*. CSB supports Joint Parties' motion and further notes that PG&E's assumed facts regarding its costs of capital have not been proffered by expert testimony, and have not been subject to cross-examination or expert rebuttal.³

² *Joint Motion of the Division of Ratepayer Advocates and The Utility Reform Network to Strike References Outside the Record Contained in Pacific Gas and Electric Company's Response to Section 3 of Administrative Law Judges' July 30, 2013 Ruling Requesting Additional Comments and Motion to Shorten Time for Responses*, filed September 9, 2013, at 2-3.

³ *City of San Bruno's Response to the Joint Motion of the Division of Ratepayer Advocates and The Utility Reform Network to Strike References Outside the Record Contained in Pacific Gas and Electric Company's Response to Section 3 of Administrative Law Judges' July 30, 2013*

Footnote continued on next page

In contrast, PG&E disputes that it was attempting to introduce new evidence into the record. PG&E states that the statements were an illustrative example of the potential impact on customer rates resulting from an “excessive penalty” and that it included this illustration as part of its response to a question on whether the need to issue equity to finance any potential files or disallowances would impact rates.⁴ PG&E further asserts that it is not seeking to introduce this illustration into evidence, but rather provided it in order to respond fully to the question posed in our July 30 ruling.⁵

There appears to be no dispute that the two statements are based on facts that are outside the record of these proceedings. On that basis alone, these statements should be removed. Moreover, PG&E’s illustration speculates on the level of costs that would be recovered from ratepayers. Such speculation is inappropriate, as it presupposes not only the Commission’s actions in these proceedings, but also in future cost of capital proceedings.

We are further not persuaded by PG&E’s argument that the statements are necessary for it to respond fully to our question. PG&E has been able to explain the impact on rates (*i.e.*, they could increase) and the reasons behind such an impact in its response. As such, inclusion of an illustration is unnecessary. We further agree with CSB’s contention that PG&E’s estimates could be perceived as

Ruling Requesting Additional Comments and Motion to Shorten Time for Responses, filed September 12, at 2.

⁴ *Pacific Gas and Electric Company’s Response to the Joint Motion of the Division of Ratepayer Advocates and The Utility Reform Network to Strike References Outside the Record Contained in Pacific Gas and Electric Company’s Response to Section 3 of Administrative Law Judges’ July 30, 2013 Ruling Requesting Additional Comments and Motion to Shorten Time for Responses*, filed September 13, 2013, at 1-2.

⁵ *PG&E Response* at 3.

indirectly influencing us or the Commission on the level of fines and penalties that should be imposed.

For these reasons, we find that Joint Parties' motion to strike should be granted. Accordingly, PG&E is directed to file an amended response with the following statements removed:

1. The first two full sentences on page 7, which begin with "PG&E estimates that" and ends with "gas and electric bill."
2. Footnote 14 on page 7.

PG&E shall file its amended response by September 17, 2013. In the first paragraph of the amended response, PG&E shall note that the amendments consist of changes contained in this Ruling. The sentences and footnote to be removed shall be replaced with the following: "[Removed pursuant to Administrative Law Judge Ruling]."

IT IS RULED that:

1. The *Joint Motion of the Division of Ratepayer Advocates and The Utility Reform Network to Strike References Outside the Record Contained in Pacific Gas and Electric Company's Response to Section 3 of Administrative Law Judges' July 30, 2013 Ruling Requesting Additional Comments and Motion to Shorten Time for Responses* is granted.

2. Pacific Gas and Electric Company shall file an amended response as directed in this ruling by September 17, 2013.

Dated September 16, 2013, at San Francisco, California.

/s/ AMY C. YIP-KIKUGAWA
Amy C. Yip-Kikugawa
Administrative Law Judge

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