

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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Order Instituting Investigation and Order to Show Cause 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 Distribution System Pipelines.

I.14-11-008  
(Filed November 20, 2014)

**OPENING BRIEF  
OF THE UTILITY REFORM NETWORK**



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## I. INTRODUCTION AND SUMMARY

The Utility Reform Network (“TURN”) submits this opening brief in this Order Instituting Investigation (“OII”) into the conduct and practices of Pacific Gas and Electric Company (“PG&E”) related to records of its underground natural gas distribution pipelines.

TURN expects SED to fully brief the violations demonstrated by the record and to recommend appropriate monetary penalties for those violations. TURN will not duplicate SED’s efforts.

Instead, TURN will focus on the non-monetary remedies that are warranted by PG&E’s violations. In this regard, TURN is following the same approach used by the Commission in I.11-02-016 when it addressed PG&E’s transmission system recordkeeping violations. There, in addition to significant fines, the Commission adopted numerous remedies to prevent future recordkeeping violations.<sup>1</sup> The Commission should follow the same approach here.

Based on the serious and pervasive violations demonstrated by SED, the Commission should order the following remedies: (1) the gas transmission recordkeeping remedies imposed in D.15-04-024 should be extended to PG&E’s distribution system; (2) PG&E should be required to undertake proactive and systematic efforts to identify and correct all unmapped or inaccurately mapped stubs and plastic inserts in its distribution system; and (3) PG&E should be ordered to take the necessary steps to establish maximum allowable operating pressure (“MAOP”) in compliance with applicable law. All costs of these and any other remedies ordered in this case should be paid by PG&E’s shareholders.

TURN’s specific recommendations are set forth in Appendix A.

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<sup>1</sup> D.15-04-024, see especially Appendix E, pp. 7-11 (imposing 21 remedies for gas transmission recordkeeping violations).

## **II. PG&E'S DISTRIBUTION RECORDKEEPING VIOLATIONS WARRANT SIGNIFICANT NON-MONETARY REMEDIES TO PROTECT PUBLIC AND EMPLOYEE SAFETY**

### **A. The Remedies for PG&E's Gas Transmission Recordkeeping Violations, Including Annual Audits Funded By PG&E Shareholders, Should Be Expressly Extended to Distribution Recordkeeping**

Although this OII was initiated in response to specific incidents that posed threats to employee and public safety, the express scope of the OII broadly addresses “whether PG&E’s recordkeeping practices for its gas distribution system have been unsafe and in violation of the law.”<sup>2</sup>

In its testimony, SED has demonstrated that PG&E’s recordkeeping violations extend well beyond the particular incidents discussed in SED’s original investigation report and are, in fact, pervasive. The report prepared by P Wood Associates for SED (“PWA Report”) concludes: “PG&E maps and records have suffered from years of neglect, leading to a situation in which maps are inaccurate and records are incomplete; the inaccuracy and incompleteness has contributed to numerous incidents, some serious.”<sup>3</sup> The PWA Report identifies violations of numerous regulations, as well as Public Utilities Code Section 451, based on PG&E’s failure to: (1) follow written procedures to ensure operating maps and data are updated and accurate; (2) maintain control and update historical records of gas distribution mains and service lines; and (3) correct, recordkeeping violations despite having adequate knowledge for decades, a repeated problem.<sup>4</sup>

In light of the pervasive nature of PG&E’s recordkeeping violations, broad remedies are warranted, just as was necessary with respect to PG&E’s gas transmission recordkeeping.

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<sup>2</sup> OII, p. 1. *See also* Assigned Commissioner’s Scoping Memo and Ruling, April 10, 2015, p. 3.

<sup>3</sup> Exhibit (Exh. 1), p. 74, paragraph 1 (SED/PWA).

<sup>4</sup> Exh. 1, p. 73, paragraph 2.a (SED/PWA).

Accordingly, the Commission should extend to gas distribution recordkeeping each of the 21 transmission recordkeeping remedies adopted by the Commission in D.15-04-024.<sup>5</sup> These remedies include the requirement that PG&E fund annual SED audits of its recordkeeping practices for ten years and promptly correct any deficiencies identified in those audits.<sup>6</sup>

PG&E will likely claim that, even though the D.15-04-024 remedies were framed in terms of its transmission system, many or most of those remedies have already been implemented throughout its gas system and therefore already extend to distribution recordkeeping. The short answer to this argument is: if so, then PG&E should embrace these remedies and not contest them.

Moreover, the importance of specifying remedies, even if PG&E claims it is already implementing them, is twofold. First, as a matter of effective regulatory enforcement, the Commission should not limit its sanctions just to fines, but should also identify all utility actions and behavior that need to change, as well as necessary regulatory monitoring and audits, in order to prevent future violations. Second, once the Commission has ordered a set of appropriately specific and prescriptive remedies for proven violations, the utility and its lawyers will be hard pressed to mount any defense if and when the utility fails to implement a required remedy.

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<sup>5</sup> These remedies appear in Appendix E to D.15-4-024, pages 7-11 under the heading “Adopted Remedies Proposed by CPSD in I.11-02-016 (Recordkeeping OII)”.

<sup>6</sup> D.15-04-024, Appendix E, p. 11, Remedy Nos. 21 and 22. The first remedy in Appendix E requires that PG&E shareholders pay for these and any other audits required by the adopted remedies.

**B. Remedies for PG&E’s Inadequate Records Related to Plastic Inserts and Stubs Are Necessary**

The PWA Report points out that PG&E is not proactively taking steps to remedy its violations with respect to unmapped or inaccurately mapped plastic inserts and stubs.<sup>7</sup> Instead, PG&E is using an “opportunistic” approach to dealing with these demonstrated threats to safety, namely, making map corrections as the need is identified through normally scheduled work in the field, as opposed to undertaking a systemic identification and correction effort for these features.<sup>8</sup> This opportunistic approach is particularly troubling for stubs because PG&E has failed to develop a work around for the problem with the result that “damage will continue to occur during excavation near existing mains, such as water and sewer main work.”<sup>9</sup> The SED Report found instances in which plastic inserted as recently as 2013 or 2014 was not shown on maps as of August 2015 and further found that unmarked stubs were initially thought by PG&E to be rare but are located throughout the service territory.<sup>10</sup>

The Commission should find it unacceptable that PG&E is not undertaking a proactive and systematic effort to identify all of the unmapped and inaccurately mapped stubs and plastic inserts in its distribution system. PG&E is obligated to keep its records of these features up to date and has failed to do so on a widespread basis. The result is that PG&E is not rectifying proven threats to safety, as evidenced by some of the specific incidents that prompted this OII.<sup>11</sup>

Accordingly, the Commission should order the following remedies:

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<sup>7</sup> The PWA Report explains that a “stub” is a short service that was abandoned on a property or at the property line but not removed all the way to the supply main and that capped stubs have gas under the same pressure as the main and are considered active. Exh. 1 (SED/PWA), p. 12, fn. 31.

<sup>8</sup> Exh. 1 (SED/PWA), p. 75, paragraph 1 and p. 68.

<sup>9</sup> Exh. 1 (SED/PWA), p. 68.

<sup>10</sup> Exh. 1 (SED/PWA), p. 34.

<sup>11</sup> Exh. 1 (SED/PWA), p. 34.

- PG&E shall undertake proactive and systematic efforts to identify and correct in its maps and records all unmapped or inaccurately mapped records of plastic inserts in its distribution system. This work shall be completed within three years.

PG&E shall undertake proactive and systematic efforts to identify and correct in its maps and records all unmapped or inaccurately mapped stubs in its distribution system. This work shall be completed within three years.<sup>12</sup>

**C. PG&E Should Be Ordered to Remedy Its Violations of the Requirements for Establishing MAOP**

The SED Report shows that, for 243 hydraulically independent distribution systems, PG&E is unable to establish the maximum allowable operating pressure (“MAOP”) in a manner that complies with applicable safety regulations. These violations result from PG&E’s inadequate documentation of the five-year (1965-1970) records of operating pressures for these 243 systems.<sup>13</sup> In the absence of these records, PG&E is using alternative methods for which formal CPUC approval was never sought or granted.<sup>14</sup>

PG&E should be ordered to take the necessary steps to establish MAOP in compliance with applicable law and to present for Commission approval a compliance plan within 90 days.

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<sup>12</sup> The authors of the SED Report suggest that PG&E should examine the costs and benefits of corrective measures regarding unmapped and incorrectly mapped stubs and plastic inserts. Exh. 1 (SED/PWA), p. 75 (Recommendations 1 and 2). However, cost-benefit analysis is not appropriate in determining remedies for violations. Instead, as explained in TURN’s testimony and in Section III below, PG&E should be directed to remedy these safety hazards resulting from its violations at shareholder expense. Exh. 3 (Long/TURN), p. 4, fn. 11.

<sup>13</sup> Exh. 1 (PWA/SED), pp. 49-54.

<sup>14</sup> Exh. 1 (PWA/SED), p.

### III. THE COSTS OF REMEDIAL MEASURES MUST BE PAID BY SHAREHOLDERS

The costs of the foregoing, and any other, remedial measures to address violations determined in this proceeding should be borne by shareholders and not recovered from ratepayers in this or any other proceeding. On its face, the “just and reasonable” standard for utility rates in Public Utilities Code Section 451 does not allow utilities to charge ratepayers to remedy violations. Absent extraordinary circumstances, it is simply not reasonable for a utility to impose on ratepayers costs to rectify the utility’s wrongdoing.

In D.15-04-024, the Fines and Remedies Decision for the three enforcement cases against PG&E in the aftermath of the San Bruno explosion, the Commission applied this basic precept as follows: “Finally, we reiterate that, since these remedies are to cure violations found in the *San Bruno Violations Decision, Recordkeeping Violations Decision and Class Location Violations Decision*, all remedies are to be paid for by shareholders.”<sup>15</sup> As reflected in that succinct statement by the Commission, the proposition that shareholders, not ratepayers, should pay the costs of remedial work to correct violations was not challenged by PG&E and otherwise not controversial in those cases.<sup>16</sup>

Indeed, in connection with its Pipeline Safety Enhancement Plan (“PSEP”) case in R.11-02-019, PG&E expressly acknowledged that it would be appropriate to have its shareholders pay for the costs of work to remedy violations. PG&E’s PSEP testimony conceded that “to the extent an activity must be undertaken to comply with preexisting regulatory requirements, PG&E will not seek cost recovery for such activities in the [PSEP].”<sup>17</sup> Because the violations

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<sup>15</sup> D.15-04-024, pp. 103-104.

<sup>16</sup> Exh. 3 (Long/TURN), p. 5.

<sup>17</sup> Prepared Testimony of PG&E (Thomas Bottorff), Exh. 2, (R.11-02-019, Aug. 26, 2011), p. 1-13, cited in Exh. 3 (Long/TURN), p. 5.

demonstrated by SED all relate to longstanding legal requirements, the same principle should apply here and PG&E should not be permitted to obtain recovery of costs to remedy its violations.

While preventing PG&E from passing on remedial costs is a fundamental legal protection, for the ever-increasing number of households that are struggling to afford electric and gas services from PG&E, it is also a matter of health and safety.<sup>18</sup> PG&E's customers have endured high rate increases in recent years and face additional steep rate hikes. In PG&E's 2014 general rate case ("GRC"), the Commission approved overall revenue requirement increases of 6.9%, 4.6% and 5% for 2014, 2015 and 2016, a total three-year increase of over 16%.<sup>19</sup> For gas distribution service, the increase was even more extreme, 20.4% in 2014, followed by the above-described attrition year increases, for a three-year total revenue requirement increase of 30%. In the 2011 test year GRC, the Commission approved similarly high revenue requirement increases, 14.6% over the three-year period 2011-2013.<sup>20</sup> Furthermore, gas customers are threatened by another draconian rate increase in the pending Gas Transmission and Storage ("GT&S") case (A.13-12-012), where PG&E has requested a 118% increase in revenue requirements for the 2015-2017 period.<sup>21</sup>

Vulnerable customers are already suffering from the large revenue requirement increases that the Commission has approved for PG&E in the last five years. As shown in the following graph, PG&E's disconnections for non-payment are steadily rising:

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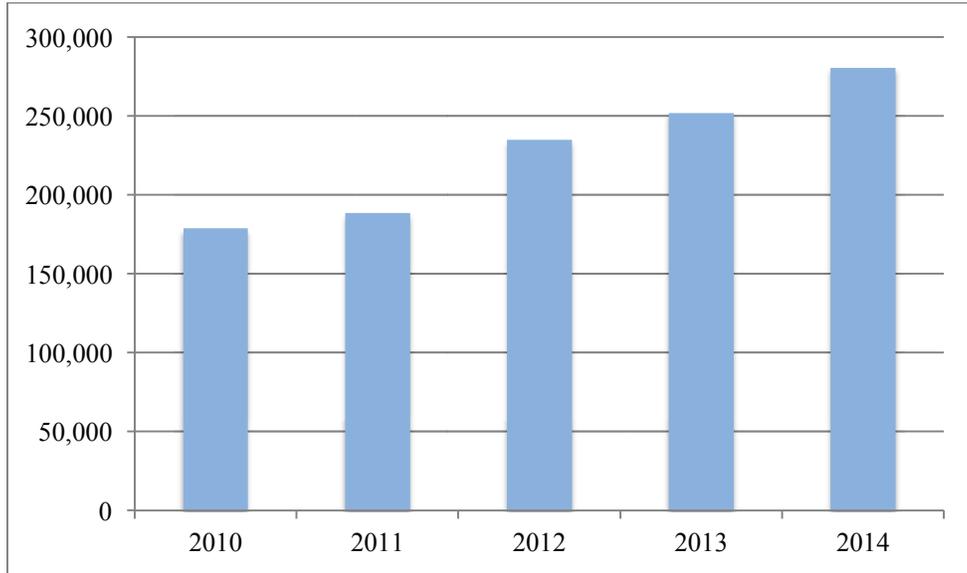
<sup>18</sup> Exh. 3 (Long/TURN), p. 6.

<sup>19</sup> D.14-08-032, p. 2.

<sup>20</sup> D.11-05-018, p. 2.

<sup>21</sup> Exh. 3 (Long/TURN), p. 6.

### PG&E Annual Disconnections for Non-Payment<sup>22</sup>



2010	2011	2012	2013	2014
179,071	188,756	235,138	251,881	280,354

With its renewed and appropriate focus on safety, the Commission must not lose sight of the fact that unaffordable energy services pose a direct threat to the health and safety of each person who is deprived of these essential services.<sup>23</sup>

In sum, requiring shareholders to pay the costs of the necessary remedies for PG&E's violations meets the just and reasonable standard of Section 451 and avoids adding further economic burdens to vulnerable households.

<sup>22</sup> Exh. 3 (Long/TURN), p. 7, based on data from PG&E's 2011-2014 Disconnections Reports in R.10-02-005.

<sup>23</sup> Exh. 3 (Long/TURN), p. 7.

**IV. CONCLUSION**

For the reasons set forth above, TURN urges the Commission to adopt each of the recommendations set forth in TURN's Summary of Recommendations in Appendix A.

Date: February 26, 2016

Respectfully submitted,

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**Appendix A**  
**TURN's SUMMARY OF RECOMMENDATIONS**

1. The Commission should extend to gas distribution recordkeeping each of the 21 transmission recordkeeping remedies adopted by the Commission in D.15-04-024.<sup>24</sup>
2. The Commission should order PG&E to undertake proactive and systematic efforts to identify and correct in its maps and records all unmapped or inaccurately mapped records of plastic inserts in its distribution system and order this work to be completed within three years.
3. The Commission should order PG&E to undertake proactive and systematic efforts to identify and correct in its maps and records all unmapped or inaccurately mapped stubs in its distribution system and order this work to be completed within three years.
4. The Commission should order PG&E to take the necessary steps to establish MAOP in compliance with applicable law and, within 90 days, to submit a compliance plan for Commission approval, via a Tier 3 advice letter.
5. The Commission should order that costs incurred by PG&E related to any remedies ordered in the proceeding be paid by PG&E's shareholders and not be recovered from ratepayers.

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<sup>24</sup> These remedies appear in Appendix E to D.15-4-024, pages 7-11 under the heading "Adopted Remedies Proposed by CPSD in I.11-02-016 (Recordkeeping OII)".