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

Michael Hetherington and
Janet Hetherington,

Complainants,

vs.

Pacific Gas and Electric Company (U 39 E),

Defendant.

Case 10-10-010
(Filed October 13, 2010)

**AMENDMENT TO
RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY (U 39E)
TO ADMINISTRATIVE LAW JUDGE'S RULING
DIRECTING PG&E TO SHOW CAUSE**

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April 21, 2016

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Pursuant to the procedural directive email of Administrative Law Judge Roscow dated March 23, 2016, Pacific Gas and Electric Company submits this Amendment to its Response filed on March 18, 2016, to the “Administrative Law Judge’s Ruling Directing Pacific Gas and Electric Company to Show Cause Why It Should Not Be Sanctioned by the Commission for Violation of Rule 1.1 of the Commission’s Rules of Practice and Procedure” (OSC) issued on February 16, 2016, in the above-referenced proceeding.

In his email dated March 23, 2016, Judge Roscow indicated that PG&E’s March 18 Response did not address the questions set forth at pages 16-17 of the OSC. PG&E apologizes for this misunderstanding and hereby answers each question directly. To avoid undue repetition, PG&E incorporates by reference the portions of its March 18 Response that support the individual answers below.

In his email dated March 23, 2016, Judge Roscow also indicated that the organizational charts appended to PG&E’s March 18 Response were inadequate. PG&E apologizes for this misunderstanding and provides more detailed organizational charts as Attachment A to this Amendment.

I. Question 1 Regarding PG&E's September 2010 Letter

PG&E shall identify the reason or reasons (1) why a PG&E employee provided false information regarding Rule 16.G to Complainant in September 2010 letter described above, and (2) why this false information was not identified and corrected by upper management at PG&E. PG&E is ordered to show cause why it should not be sanctioned for misleading the Commission's Consumer Affairs Branch in Case #108632.

(1) *Why a PG&E employee provided false information regarding Rule 16.G to Complainant in September 2010 letter described above.* PG&E respectfully disagrees with the premise of the question; namely, that the September 2010 letter contained "false information." PG&E acknowledges that the plain language of Rule 16 does not place any constraints on the time within which an exceptional case filing may be made. As explained in PG&E's March 18 Response,¹ however, the statements in PG&E's September 2010 letter were consistent with Commission precedent regarding "exceptional case" filings indicating that such filings should typically be made prior to construction.²

To the extent that the Commission determines that PG&E's interpretation of Electric Rule 16.G, as reflected in its September 2010 letter, constitutes "false information," PG&E believes its employee's provision of this "false information" in his September 2010 letter was a reasonable mistake given the weight of Commission precedent. Indeed, as stated in PG&E's March 18 Response, PG&E believes the OSC raises an issue of first impression – namely, whether customers may make an exceptional case filing to request deviations from Rules 15 and 16 even after the line or service extension has already been constructed, or whether such requests should be made instead in the form of a complaint.

¹ See PG&E's March 18 Response, pp. 1-2 ("Exceptional Case" Filings Under Rule 16.G) and pp. 3-6 (PG&E Denies that it Misdled the Hetheringtons or the Commission about the "Exceptional Case" provision of Electric Rule 16.G).

² See also PG&E's March 18 Response, Attachments 1-4 (Commission precedent supporting PG&E's interpretation of Electric Rule 16.G).

(2) Why this false information was not identified and corrected by upper management at PG&E. For the reasons set forth above and in PG&E’s March 18 Response, PG&E respectfully disagrees with the premise of this question regarding “false information.”

Upper management (director-level and higher) at PG&E did not review the September 2010 letter before it was sent to the Hetheringtons. The September 2010 letter was drafted by an employee in PG&E’s Service Planning department; reviewed and/or revised by employees in the Customer Relations, Field Meter Operations, Revenue Assurance, and Law departments, none of whom were upper management; and approved by a Service Planning manager.³

As a general matter, PG&E’s upper management does not typically review letters to customers about service planning issues such as relocation of a meter. Even if PG&E’s upper management had reviewed the September 2010 letter, however, it is unlikely anyone would have “identified and corrected” the letter, given that the statements contained therein are consistent with longstanding Commission precedent on Electric Rule 16.G.

II. Question 2 Regarding PG&E’s Legal Pleadings

With respect to PG&E’s submittal of legal pleadings to the Commission in this proceeding that contain demonstrably false and misleading statements, PG&E shall identify the reason or reasons (1) why senior management approved these false and misleading filings and (2) why PG&E used ratepayer funds to prepare these filings in a manner that improperly misled the Commission by withholding the full range of procedural remedies available to the particular ratepayer in this proceeding.

In preparing this analysis, PG&E shall avoid violating any attorney-client privilege. However, legal advice to make a filing that violates Rule 1.1 of the Commission’s Rules of Practice and Procedure is not considered to be privileged. PG&E is ordered to show cause why it should not be sanctioned for submittal of legal pleadings to the Commission in this proceeding that contain demonstrably false and misleading statements.

³ At PG&E, managers are below director-level.

(1) With respect to PG&E's submittal of legal pleadings to the Commission in this proceeding that contain demonstrably false and misleading statements, PG&E shall identify the reason or reasons (1) why senior management approved these false and misleading filings.

As explained in PG&E's March 18 Response,⁴ PG&E respectfully disagrees with the premise of this question; namely, that PG&E's legal pleadings contained demonstrably misleading statements.

Senior management (director-level and higher) at PG&E did not review PG&E's Response in Opposition to Complainants' Third Motion for Summary Judgment (MFSA). As a general matter, PG&E's senior management does not typically review pleadings in CPUC complaint cases about individual customer issues such as relocation of a meter.

Formal CPUC complaint cases are typically assigned to the PG&E lawyer with the most substantive knowledge about the subject matter of the complaint, and that lawyer works closely with the PG&E departments directly affected by or involved with the complaint, which in the case of the Hetherington complaint was the Serving Planning department. Depending on the complexity of the case and the expertise of the assigned lawyer, PG&E's legal pleadings are often but not always reviewed by the assigned lawyer's supervisor prior to submission.

In this case, the assigned lawyer's supervisor did not review PG&E's Response before it was filed on March 11, 2015. Even if the assigned lawyer's supervisor had reviewed the Response, however, it is unlikely there would have been any change to the document, as supervising lawyers do not typically fact-check pleadings, deferring instead to the assigned lawyer's familiarity and expertise with the factual record.

Notably, in this case, there was a gap of nearly four years from the filing of Complainants' Third MFSA (on April 5, 2011) and PG&E's Response (on March 11, 2015), which may have contributed to the confusion by PG&E's assigned lawyer and Service Planning

⁴ See PG&E's March 18 Response, p. 2 (False and Misleading Statements in Legal Pleadings) and pp. 7-9 (PG&E Admits That Its Legal Pleading Contained Inadvertent Errors But Denies That It Intended To Mislead The Commission Or Administrative Law Judge).

department personnel regarding the specific dates associated with the two separate applications for electric service by two successive property owners. During this four-year gap, PG&E's Law Department also underwent a reorganization, resulting in a change to the assigned lawyer's supervision.⁵

(2) With respect to PG&E's submittal of legal pleadings to the Commission in this proceeding that contain demonstrably false and misleading statements, PG&E shall identify the reason or reasons (2) why PG&E used ratepayer funds to prepare these filings in a manner that improperly misled the Commission by withholding the full range of procedural remedies available to the particular ratepayer in this proceeding. As stated in response to Question II.(1) above, PG&E respectfully disagrees with the premise of this question that PG&E's legal pleadings contained demonstrably misleading statements. In addition, as described in response to Question I.(1), above, PG&E disagrees with the premise of this question that PG&E withheld the full range of procedural remedies available to the Hetheringtons under Electric Rule 16.G.

PG&E's legal costs are generally ratepayer-funded, with certain exceptions.⁶ At the time that PG&E filed its Response in Opposition to Complainants' Third MFSA, there was no reason for PG&E to believe it should deviate from its standard utility practice of recording its legal costs associated with the Hetherington complaint above-the-line. To the extent the Commission disagrees, PG&E will make the appropriate adjustments to its accounts.

III. Question 3 Regarding Complainants' Motion for Expedited Relief

With respect to PG&E's response to Complainants' request in beginning in May 2015 that PG&E investigate the "interference" that later became the subject of Complainants' June 15, 2015 Motion for Expedited Relief in

⁵ See Attachment A to this Amendment (showing Law Department organizational charts from 2010 and 2015).

⁶ See, e.g., D.14-08-032, *mimeo*, pp. 571-572 (citing D.83-12-068 and the Commission's policy of disallowing settlements and judgments associated with punitive damages or a court finding of bad faith).

this proceeding, PG&E shall identify the reason or reasons (1) why no PG&E employee followed up with the Complainants to ensure their safety, (2) why this failure to follow up with the Complainants to ensure their safety was not identified and corrected by upper management at PG&E, and (3) by what authority PG&E's attorney was empowered to decline to act as requested by the assigned ALJ. PG&E is ordered to show cause why it should not be sanctioned for failing to maintain the respect due to the Commission and its Administrative Law Judge in this proceeding.

(1) With respect to PG&E's response to Complainants' request in beginning in May 2015 that PG&E investigate the "interference" that later became the subject of Complainants' June 15, 2015 Motion for Expedited Relief in this proceeding, PG&E shall identify the reason or reasons (1) why no PG&E employee followed up with the Complainants to ensure their safety. PG&E respectfully disagrees that "no PG&E employee followed up with the Complainants to ensure their safety."

As described in PG&E's March 18 Response,⁷ uncontroverted evidence from PG&E's billing system⁸ demonstrates that PG&E contacted the Hetheringtons within hours of being forwarded the initial "customer issue" email and were on-site at the Hetheringtons' home the following day to conduct the requested investigation. The Hetheringtons themselves admit that PG&E responded to their complaint of "harmful interference" by sending personnel to test the relay and that the PG&E personnel communicated with them about the test.⁹

Despite the results of PG&E's May 6 field visit, which showed no harmful interference, the Hetheringtons requested further testing, claiming that the "increased noise appears to be

⁷ See PG&E's March 18 Response, pp.2-3 (PG&E's 2015 Response to Health Concerns) and pp. 10-11 (PG&E Admits That It Should Have Been More Communicative to the Hetheringtons Regarding their Health and Safety Concerns But Denies that It Intended to Mislead or Show Disrespect to the Commission or Judge).

⁸ These emails and billing system records were part of the documentation that PG&E provided to Judge Roscow on July 1, 2015 and were appended to PG&E's March 18 Response as Attachment 5.

⁹ Complainants' Motion for an Expedited Injunction, Protective Order, and to Impound PG&E Relay No. 9764 to Preserve Integrity of Evidence, filed June 15, 2015, in C.10-10-010, p. 3 [<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M152/K869/152869144.PDF>].

retaliation by the PG&E San Carlos Office for bringing this interference issue to your attention.”¹⁰ The Hetheringtons provided no evidence that PG&E’s San Carlos employees were engaging in “retaliation” against them. As stated in PG&E’s March 18 Response, PG&E regrets that it was not more communicative with the Hetheringtons following the May 6 relay test, but the Hetheringtons simply did not provide any reasonable justification for PG&E to expend additional ratepayer funds to re-conduct the inspection that it had already performed on May 6.

(2) With respect to PG&E’s response to Complainants’ request in beginning in May 2015 that PG&E investigate the “interference” that later became the subject of Complainants’ June 15, 2015 Motion for Expedited Relief in this proceeding, PG&E shall identify the reason or reasons (2) why this failure to follow up with the Complainants to ensure their safety was not identified and corrected by upper management at PG&E. For the reasons described above, PG&E respectfully disagrees with the premise of this question; namely, that PG&E failed to follow up with Complainants to ensure their safety.

To the best of PG&E’s knowledge, upper management (director-level and higher) was not informed about the Hetheringtons’ complaints of harmful interference caused by the relay on their property. PG&E personnel responded within hours of the Hetheringtons’ “customer issue” email, were on-site to test the Hetheringtons’ meter and transformer the very next day, and confirmed that their claims of harmful interference were unsubstantiated. Given these facts, PG&E’s employees involved in the Hetherington matter did not have any basis to believe that upper management needed to get involved.

(3) With respect to PG&E’s response to Complainants’ request in beginning in May 2015 that PG&E investigate the “interference” that later became the subject of Complainants’ June 15, 2015 Motion for Expedited Relief in this proceeding, PG&E shall identify the reason or reasons (3) by what authority PG&E’s attorney was empowered to

¹⁰ Letter dated May 11, 2015, and Email dated June 1, 2015, from Exhibit D to Complainants’ Motion for Expedited Injunction [http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M152/K869/152869247.PDF].

decline to act as requested by the assigned ALJ. PG&E respectfully disagrees that its attorney “decline[d] to act as requested by the assigned ALJ.”

As explained in PG&E’s March 18 Response,¹¹ PG&E’s attorney misunderstood Judge Roscow’s expectations regarding the need for a power quality expert at the July 24 site visit. The email chain between Judge Roscow and the parties in preparation for the two site visits demonstrates that this misunderstanding was reasonable under the circumstances, particularly given Judge Roscow’s agreement that the scope of the field testing should be limited to the relay interference issues raised in Complainant’s Motion.¹² PG&E’s March 18 Response also explains why a “power quality” expert would not have been relevant to the “interference” issues raised in the Hetheringtons’ Motion for an Expedited Injunction.¹³

To the extent the Commission finds that PG&E’s attorney disregarded the Judge Roscow’s request, PG&E and its attorney sincerely regret this error and apologize for any offense its actions or inactions may have caused.

¹¹ See PG&E’s March 18 Response, pp. 2-3 (PG&E’s 2015 Response to Health Concerns) and pp. 11-16 (PG&E Admits that Its Counsel Misunderstood Judge Roscow’s Expectations for a Power Quality Expert at the Site Visit but Denies that It Intended to Mislead or Show Disrespect to the Commission or Judge).

¹² See PG&E’s March 18 Response, pp. 13-15, and the email chain in preparation for the two site visits, appended to PG&E’s March 18 Response as Attachment 6.

¹³ *Id.*

Respectfully submitted,

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By: _____ /s/
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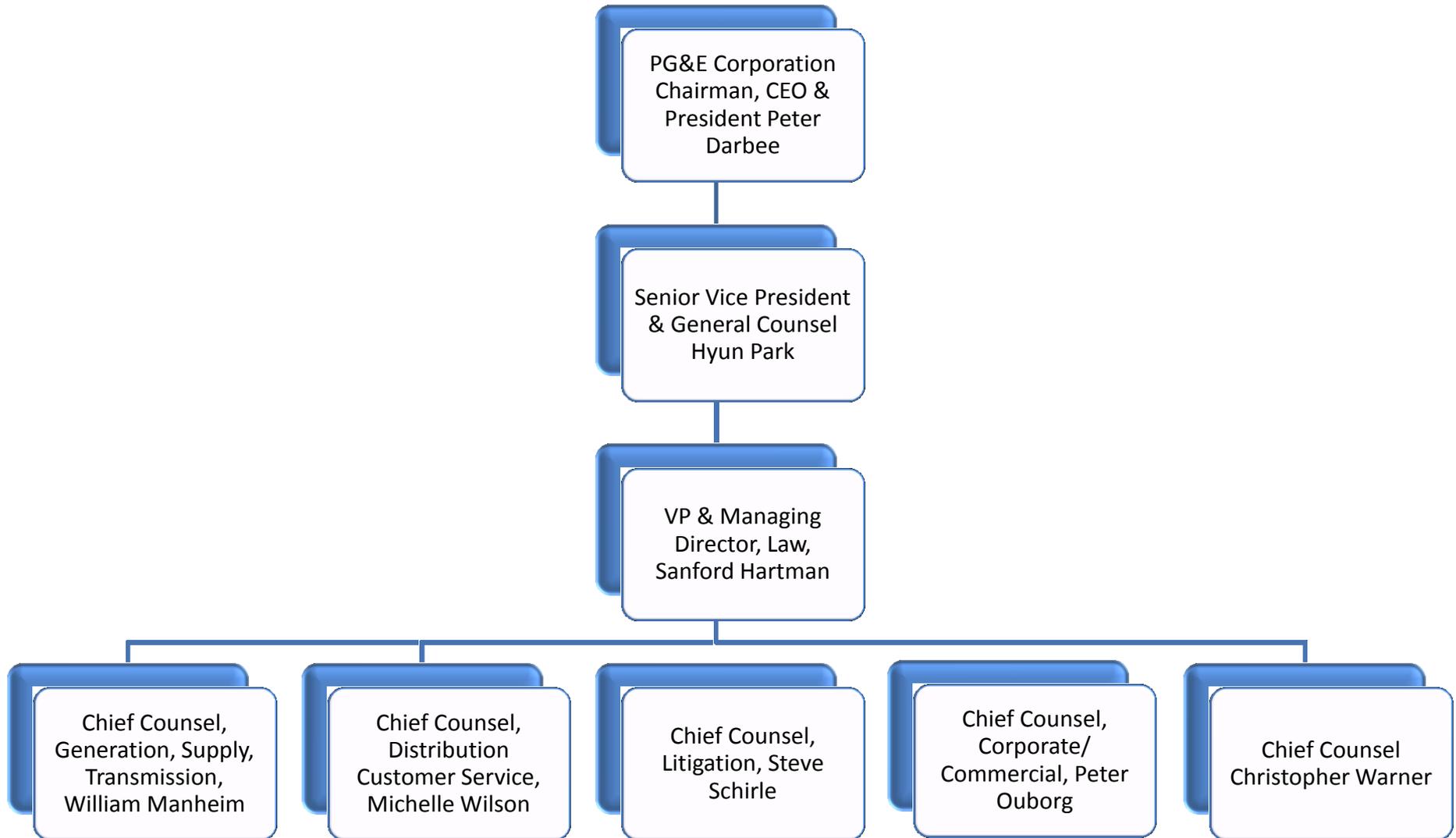
April 21, 2016

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

Attachment A

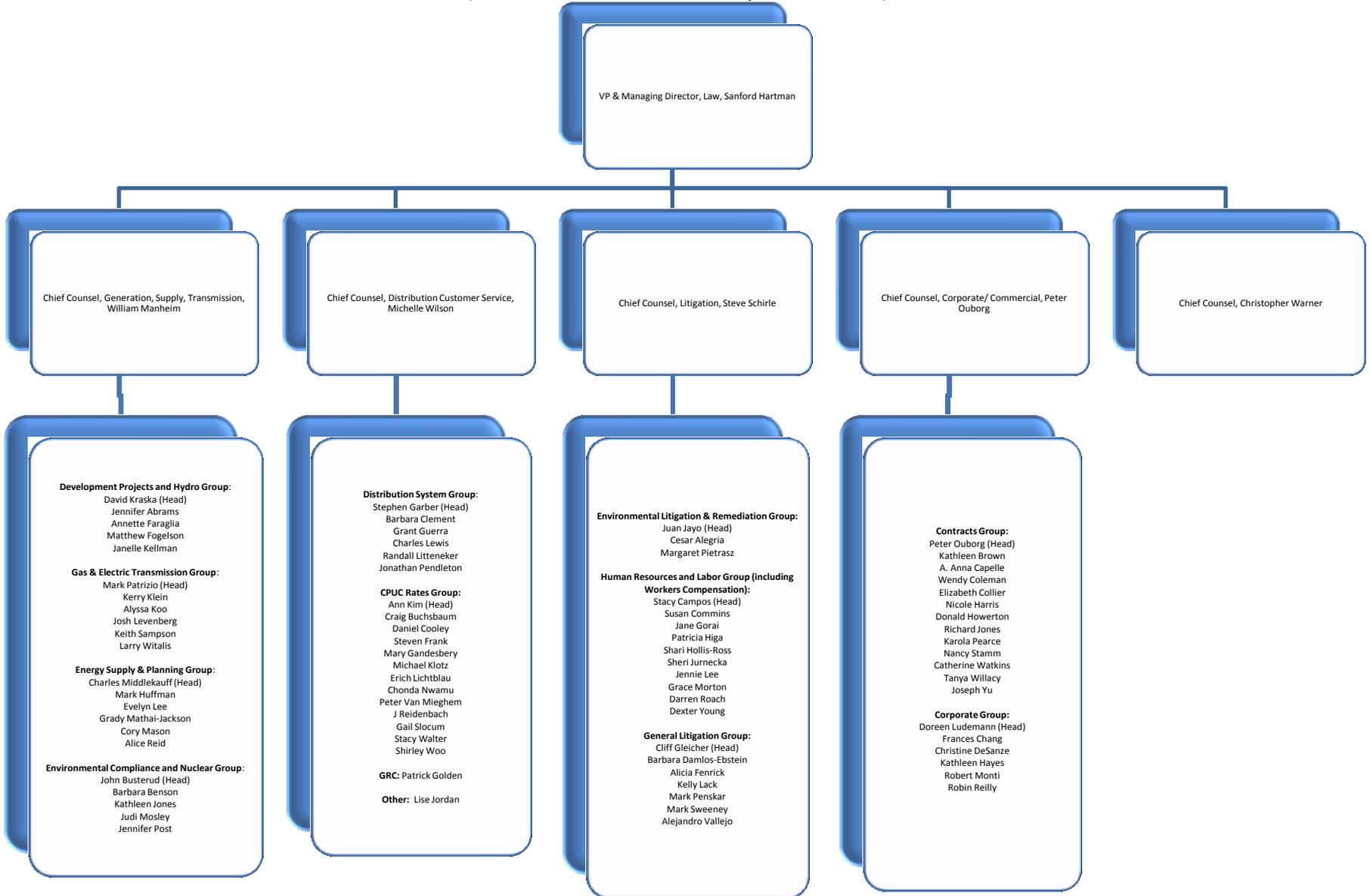
PG&E Law Department (2010)

(reporting relationship up to CEO; does not include non-lawyer Law staff)



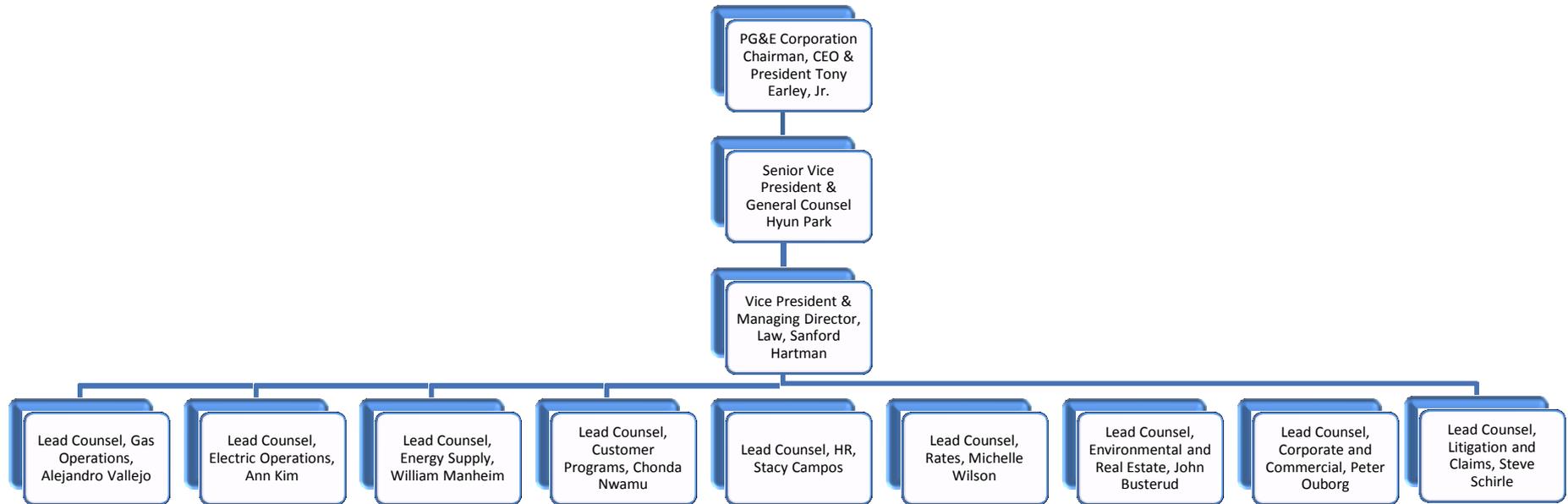
PG&E Law Department (2010)

(does not include non-lawyer Law staff)



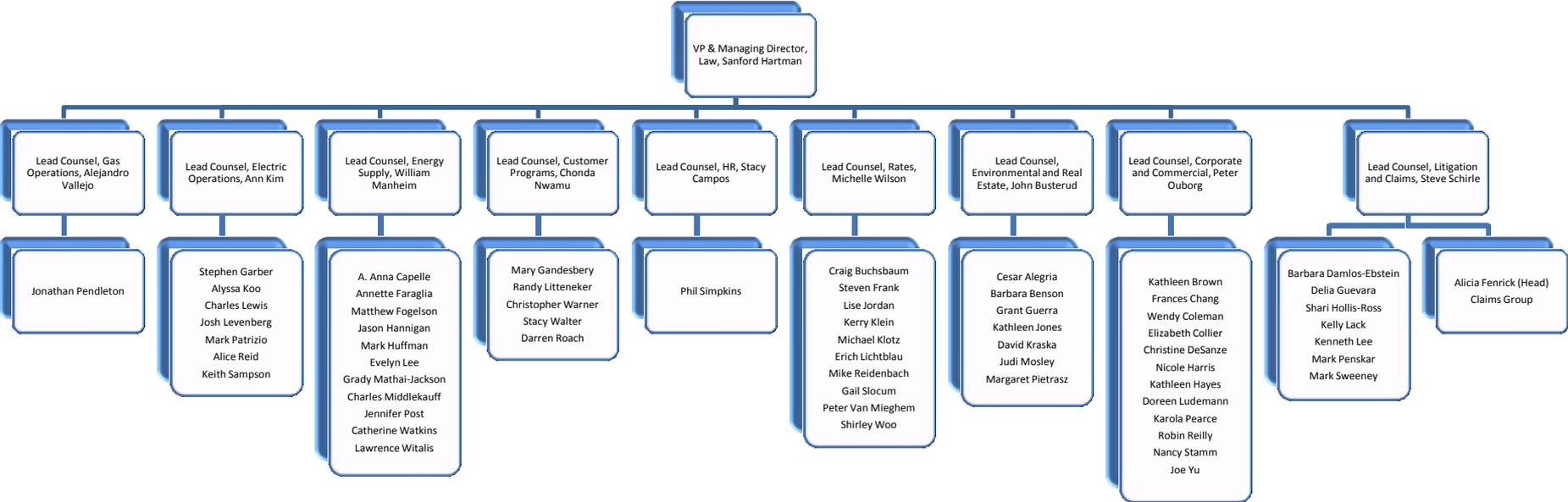
PG&E Law Department (2015)

(reporting relationship up to CEO; does not include non-lawyer Law staff)



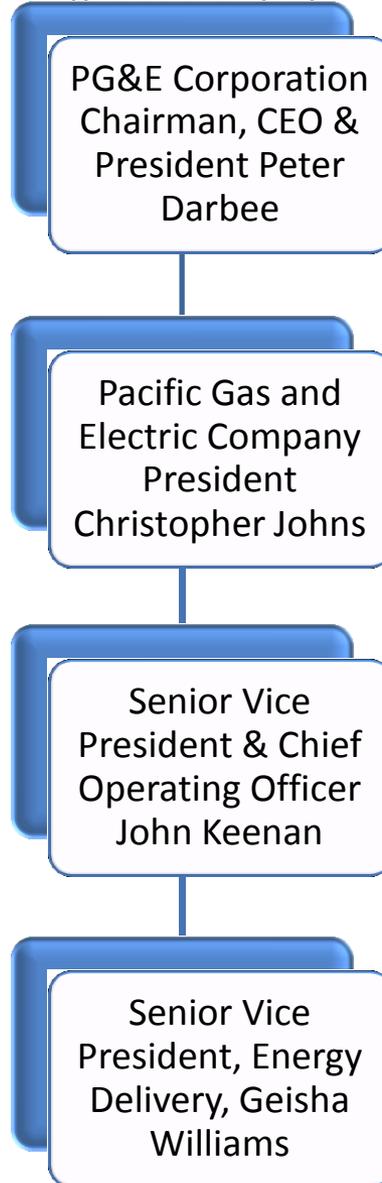
PG&E Law Department (2015)

(does not include non-lawyer Law staff)



PG&E Service Planning Department (9/2010)

(reporting relationship up to CEO)



PG&E Service Planning Department (9/2010)

(does not include Service Planning staff below Supervisor-level)

Senior Vice
President, Energy
Delivery, Geisha
Williams

Senior Director,
Work Order
Fulfillment, Robert
Woerner

Director, Technical
Services, Thomas
French

Service Planning
Manager, Michael
David Burke (retired)
& Linda Tally

Service Planning
Supervisor, Shelley
Kiss

Service Planning
Supervisor, Tony
Morabe

Service Planning
Supervisor, Erin
Straub

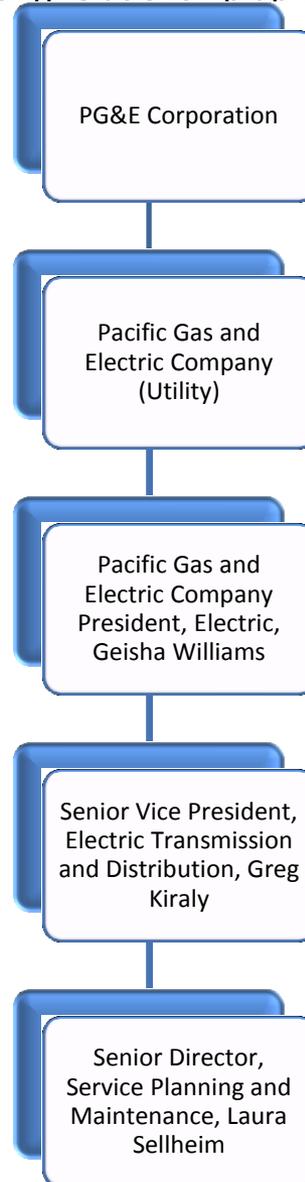
Service Planning
Supervisor, Alan
Davila

Service Planning
Supervisor, Michi
Wright

Service Planning
Supervisor, Joshua
Castellanos

PG&E Service Planning Department (2015)

(reporting relationship up to CEO)



PG&E Service Planning Department (2015)

(does not include Service Planning staff below Supervisor-level)

