

Decision PROPOSED DECISION OF ALJ YIP-KIKUGAWA (Mailed 12/2/2015)

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 with Respect to Facilities Records for its Natural Gas Transmission System Pipelines.

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

DECISION CLOSING PROCEEDING

Summary

This decision addresses various outstanding issues in this proceeding. First, this decision addresses two motions filed by the City of San Bruno regarding alleged *ex parte* violations by Pacific Gas and Electric Company (PG&E). For the reasons discussed herein, these two motions have now been moved for consideration in a new order instituting investigation – Investigation 15-11-015. Further, this decision grants two motions filed by PG&E to file confidential material contained in notices of *ex parte* communication under seal. With these outstanding issues addressed, no other issues remain and Investigation 11-02-016 is closed.

1. Background and Discussion

This Order Instituting Investigation (OII) was initiated on February 24, 2011 in response to the September 9, 2010 fire and explosion in San Bruno, California. The Commission opened this OII to determine whether Pacific Gas

and Electric Company (PG&E) “violated any provision or provisions of the California Public Utilities Code, Commission general orders or decisions, or other applicable rules or requirements pertaining to safety recordkeeping for its gas service and facilities.”¹

On April 9, 2015, the Commission issued Decision (D.) 15-04-021 which resolved the alleged violations in this proceeding. Additionally, a coordinated decision (D.15-04-024) concerning fines and remedies was issued in this proceeding, as well as in Investigation (I.) 11-11-009 and I.12-01-007.² These two decisions resolved all issues identified in the OII. However, the proceeding remained open to address the following two motions filed by the City of San Bruno:³

1. *Motion of the City of San Bruno For An Order To Show Cause Why Pacific Gas And Electric Company Should Not Be Held In Violation of Commission Rule of Practice And Procedure 8.3(b) (Rule Against Ex Parte Communications) and for Sanctions and Fees, filed on July 28, 2014*
2. *Motion for Evidentiary Hearing on City of San Bruno’s Motion for an Order to Show Cause as to Why Pacific Gas and Electric Company Should Not Be Held in Violation of Commission Rule of Practice And*

¹ OII at 1.

² The Commission also issued these two investigations relating to the San Bruno explosion. I.11-11-009 is the Commission’s investigation into whether any of PG&E’s operations and practices of its natural gas transmission pipeline system in locations with higher population density were in violation of state or federal statutes and regulations or Commission rules, general orders or decisions. I.12-01-007 is the Commission’s investigation into whether PG&E violated any state or federal statutes or Commission orders in connection with the San Bruno explosion. Together, the three OIIs are referred to as the “Pipeline OIIs.”

³ D.15-04-024 at 172-173.

Procedure 8.3(b) and for Sanctions and Fees, filed on November 10, 2014.

At the time the Commission issued D.15-04-024, it contemplated issuing “a new order instituting investigation to look into the specific allegations raised by these two motions, and at that time, remove them from further consideration in these proceedings.”⁴

On November 23, 2015, the Commission issued *Order Instituting Investigation and Ordering Pacific Gas and Electric Company to Appear and Show Cause Why It Should Not Be Sanctioned for Violations of Article 8 of the Rules of Practice and Procedure Concerning Communications with Decisionmakers and Advisors* (Investigation 15-11-015). This investigation will include, among other things, consideration of the two motions filed by the City of San Bruno. Consequently, these two motions are now removed from further consideration in this proceeding.

In addition to the two motions filed by the City of San Bruno, PG&E had filed two separate motions seeking to file certain confidential material under seal:

1. *Motion of Pacific Gas and Electric Company for Leave to File Under Seal Confidential Material in Notice of Improper Ex Parte Communication; [Proposed] Ruling*, filed May 21, 2015 (concerning a single number that in context appears to reflect the amount of a settlement offer in the Pipeline OIIs)
2. *Motion of Pacific Gas and Electric Company (U 39 G) for Leave to File Confidential Material in Late-Filed Notice of Communication Under Seal; [Proposed] Ruling*, filed June 11, 2015 (concerning employee/contractor and customer information contained in

⁴ D.15-04-024 at 173.

the attachments to a data request response provided to the Safety and Enforcement Division.)

The protected materials in the confidential, unredacted version of PG&E's Notices are described in the Motions. PG&E's motions were unopposed and are granted. Accordingly, the confidential, unredacted version of this information shall remain under seal, and shall not be made accessible or disclosed to anyone other than the Commission staff except on the further order or ruling of the Commission, the assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge.

There are no other issues pending in this proceeding. Accordingly, this proceeding may be closed.

2. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. No comments were filed.

3. Assignment of Proceeding

Michael Picker is the assigned Commissioner and Amy C. Yip-Kikugawa is the assigned ALJ in this proceeding.

Findings of Fact

1. On April 9, 2015, the Commission issued D.15-04-021 and D.15-04-024 which resolved all issues in this proceeding except for two motions filed by the City of San Bruno on July 28, 2014 and November 10, 2014.

2. The City of San Bruno's motions seek sanctions against PG&E for alleged violations of the Commission's *ex parte* rules.

3. D.15-04-024 contemplated issuing a new OII to consider the allegations raised in the City of San Bruno's motions.

4. On November 19, 2015, the Commission issued *Order Instituting Investigation and Ordering Pacific Gas and Electric Company to Appear and Show Cause Why It Should Not Be Sanctioned for Violations of Article 8 of the Rules of Practice and Procedure Concerning Communications with Decisionmakers and Advisors* (Investigation 15-11-015).

5. Investigation 15-11-015 includes consideration of the motions filed by the City of San Bruno.

6. Aside from the two motions, there are no other pending issues in this proceeding.

Conclusions of Law

1. Consideration of two motions filed by the City of San Bruno on July 28, 2014 and November 10, 2014 has been moved to Investigation 15-11-015.

2. PG&E's motions, filed on May 21, 2015 and June 11, 2015, seeking to file certain confidential material under seal, should be granted.

3. Investigation 11-02-016 should be closed.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company's *Motion of Pacific Gas and Electric Company for Leave to File Under Seal Confidential Material in Notice of Improper Ex Parte Communication*, filed on May 21, 2015 and *Motion of Pacific Gas and Electric Company (U 39 G) for Leave to File Confidential Material in Late-Filed Notice of Communication Under Seal*, filed on June 11, 2015, are granted. The confidential, unredacted version of this information shall remain under seal, and shall not be made accessible or disclosed to anyone other than the Commission staff except on the further order or ruling of the Commission, the assigned Commissioner,

the assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge.

2. Investigation 11-02-016 is closed.

This order is effective today.

Dated _____, at San Francisco, California.