

MSW/rs6 4/26/2012



**FILED**

04-26-12  
02:30 PM

**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)

**ADMINISTRATIVE LAW JUDGE'S RULING  
MEMORIALIZING E-MAIL RULINGS**

By rulings in e-mail messages to the service list dated April 6, 11, and 23, 2012, respectively, I modified the schedule for service of testimony and any stipulation of facts; provided guidance regarding how parties are to address the appropriate level of penalties, what additional remedies may be appropriate, and policy considerations regarding penalties; and further modified the schedule for service of testimony by intervenors. The e-mails are reproduced in Appendix A, along with the original e-mails to which they were responding where applicable. They are hereby confirmed and made part of the record. The revised schedule is also set forth below.

**Revised Adopted Schedule**

<b>Event</b>	<b>Date</b>
CPSD direct testimony served	March 16, 2012
Intervenor testimony served	April <del>16</del> 24, 2012
PG&E testimony served	June <del>15</del> 22, 2012
Possible stipulation of facts served	On or before August <del>10</del> 17, 2012
CPSD rebuttal testimony served	August <del>10</del> 17, 2012
Second prehearing conference	August 29, 2012 commencing at 10:00 a.m. Commission Courtroom State Office Building 505 Van Ness Avenue San Francisco, CA 94102
Discovery ends	September 7, 2012
Evidentiary hearings begin	September 24, 2012 commencing at 9:30 a.m. Commission Courtroom State Office Building 505 Van Ness Avenue San Francisco, CA 94102
Evidentiary hearings end on or before this date	October 19, 2012
Opening briefs filed	10 days after completion of evidentiary hearings
Reply briefs filed, projected submission date	7 days after opening briefs
Presiding Officer's decision issued	Within 60 days of submission
Appeal or review of the Presiding Officer's decision	Within 30 days of the date the Presiding Officer's decision is served
Presiding Officer's decision becomes final if no appeal or request for review is timely filed.	January 2013

**IT IS SO RULED.**

Dated April 26, 2012, at San Francisco, California.

/s/ MARK S. WETZELL

Mark S. Wetzell

Administrative Law Judge

# **APPENDIX A**

## APPENDIX A Text of E-Mails to Service List

### I. E-Mail Dated April 6, 2012

**From:** Wetzell, Mark S.  
**Sent:** Friday, April 06, 2012 8:59 AM  
**To:** Malkin, Joseph M.; Marcel Hawiger  
**Cc:** filings@a-klaw.com; sls@a-klaw.com; wmc@a-klaw.com; naaz.khumawala@baml.com; mchediak@bloomberg.net; Peleo, Marion; Foss, Travis; Stepanian, Raffy; Kotch, Andrew; Gruen, Darryl; Dorman, Elizabeth; Lindh, Frank; Reiger, J. Jason; Steingass, Joyce; Halligan, Julie; Paull, Karen P.; Lee, Kelly C.; Bruno, Kenneth; Cooke, Michelle; Cagen, Robert; Prosper, Terrie D.; Bone, Traci; deborah.slon@doj.ca.gov; cem@newsdata.com; Peck, David B.; jdangelo@catapult-llc.com; service@cforat.org; John.A.Apgar@Citi.com; austin.yang@sfgov.org; khelmuth@cityofmadera.com; cjackson@ci.sanbruno.ca.us; sgs@dcbf.com; ATrowbridge@DayCarterMurphy.com; lauren.duke@db.com; bcragg@goodinmacbride.com; Jheckler@levincap.com; cleo.zagrean@macquarie.com; bstrottman@meyersnave.com; jmullan@meyersnave.com; smeyers@meyersnave.com; kmccollum@navigant.com; BTS1@pge.com; mlw3@pge.com; regrelcuccases@pge.com; mlw3@pge.com; kxhy@pge.com; ted@pointstate.com; angelica.morales@sce.com; douglas.porter@sce.com; Francis.McNulty@sce.com; dng@semprautilities.com; jsalazar@semprautilities.com; stomkins@semprautilities.com; RPrince@semprautilities.com; kdaly@stinson.com; dvanhoogstraten@stinson.com; tlong@turn.org  
**Subject:** RE: I.12-01-007: Request for One-Week Extension of Intervenor Testimony due date

The request of TURN and the conditional request of PG&E for a one-week extension of time for certain elements of the procedural schedule are granted. Intervenor testimony is due April 23, 2012; PG&E's testimony is due June 22, 2012; and CPSP's rebuttal testimony and any stipulation of facts are due August 17, 2012. All other dates in the adopted schedule remain unchanged.

Administrative Law Judge Mark Wetzell

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**From:** Malkin, Joseph M. [mailto:jmalkin@orrick.com]  
**Sent:** Thu 4/5/2012 11:46 AM  
**To:** Marcel Hawiger; Wetzell, Mark S.  
**Cc:** filings@a-klaw.com; sls@a-klaw.com; wmc@a-klaw.com; naaz.khumawala@baml.com; mchediak@bloomberg.net; Peleo, Marion; Foss, Travis; Stepanian, Raffy; Kotch, Andrew; Gruen, Darryl; Dorman, Elizabeth; Lindh, Frank; Reiger, J. Jason; Steingass, Joyce; Halligan, Julie; Paull, Karen P.; Lee, Kelly C.; Bruno, Kenneth; Cooke, Michelle; Cagen, Robert; Prosper, Terrie D.; Bone, Traci; deborah.slon@doj.ca.gov; cem@newsdata.com; Peck, David B.; jdangelo@catapult-llc.com; service@cforat.org; John.A.Apgar@Citi.com; austin.yang@sfgov.org; khelmuth@cityofmadera.com; cjackson@ci.sanbruno.ca.us; sgs@dcbf.com; ATrowbridge@DayCarterMurphy.com; lauren.duke@db.com; bcragg@goodinmacbride.com; Jheckler@levincap.com; cleo.zagrean@macquarie.com; bstrottman@meyersnave.com; jmullan@meyersnave.com; smeyers@meyersnave.com; kmccollum@navigant.com; BTS1@pge.com; mlw3@pge.com; regrelcuccases@pge.com; mlw3@pge.com; kxhy@pge.com; ted@pointstate.com; angelica.morales@sce.com; douglas.porter@sce.com; Francis.McNulty@sce.com; dng@semprautilities.com; jsalazar@semprautilities.com; stomkins@semprautilities.com;

I.12-01-007 MSW/rs6

RPrince@semprautilities.com; kdaly@stinson.com; dvanhoogstraten@stinson.com; tlong@turn.org

**Subject:** RE: I.12-01-007: Request for One-Week Extension of Intervenor Testimony due date

Dear ALJ Wetzell,

Following up on Mr. Hawiger's email, CPSD counsel Travis Foss and I have spoken. We request that, as part of granting TURN's request to extend the deadline for intervenor testimony by one week, you also extend the deadlines for PG&E's testimony and CPSD's rebuttal by one week. Thus, the dates would be as follows:

PG&E testimony	June 22, 2012
CPSD rebuttal testimony	August 17, 2012
Possible stipulation of facts	August 17, 2012

Thank you for your consideration,

Joe Malkin

**JOSEPH M. MALKIN**

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**From:** Marcel Hawiger [mailto:Marcel@turn.org]

**Sent:** Thursday, April 05, 2012 8:46 AM

**To:** msw@cpuc.ca.gov

**Cc:** filings@a-klaw.com; sls@a-klaw.com; wmc@a-klaw.com; naaz.khumawala@baml.com; mchediak@bloomberg.net; map@cpuc.ca.gov; ttf@cpuc.ca.gov; rst@cpuc.ca.gov; ako@cpuc.ca.gov; djg@cpuc.ca.gov; edd@cpuc.ca.gov; frl@cpuc.ca.gov; jzr@cpuc.ca.gov; jws@cpuc.ca.gov; jmh@cpuc.ca.gov; kpp@cpuc.ca.gov; kcl@cpuc.ca.gov; kab@cpuc.ca.gov; mlc@cpuc.ca.gov; rcc@cpuc.ca.gov; tdp@cpuc.ca.gov; tbo@cpuc.ca.gov; deborah.slone@doj.ca.gov; cem@newsdata.com; DBP@cpuc.ca.gov; jdangelo@catapult-llc.com; service@cforat.org; John.A.Apgar@Citi.com; austin.yang@sfgov.org; khelmuth@cityofmadera.com; cjackson@ci.sanbruno.ca.us; sgs@dcbsf.com; ATrowbridge@DayCarterMurphy.com; lauren.duke@db.com; bcragg@goodinmacbride.com; Jheckler@levincap.com; cleo.zagrean@macquarie.com; bstrottman@meyersnave.com; jmullan@meyersnave.com; smeyers@meyersnave.com; kmccollum@navigant.com; Malkin, Joseph M.;

BTS1@pge.com; mlw3@pge.com; regrelcpucases@pge.com; mlw3@pge.com; kxhy@pge.com; ted@pointstate.com; angelica.morales@sce.com; douglas.porter@sce.com; Francis.McNulty@sce.com; dng@semprautilities.com; jsalazar@semprautilities.com; stomkins@semprautilities.com; RPrince@semprautilities.com; kdaly@stinson.com; dvanhoogstraten@stinson.com; tlong@turn.org  
**Subject:** I.12-01-007: Request for One-Week Extension of Intervenor Testimony due date

Honorable Judge Wetzell:

Pursuant to Rule 11.6 of the Commission's Rules of Practice and Procedure, TURN requests a one-week extension of the due date for intervenor testimony, now scheduled for April 16, 2012. In accordance with Rule 11.6, TURN has contacted the active parties in this proceeding. The DRA and CCSF support TURN's request, and the CPSD and the City of San Bruno do not oppose the request. PG&E has indicated that it also does not oppose the request, though PG&E may seek to amend the dates of rebuttal testimonies after consultation with CPSD.

The reason for the requested extension is simply the lack of time to address the scope of issues within this proceeding. The CPSD Investigation Report was served on March 16, 2012. However, TURN was actively involved in evidentiary hearings in the Pipeline Safety OIR 11-02-019 during the weeks of March 19 and 26, concluding on Thursday, March 29. Our attorney and expert resources were dedicated to this effort even prior to the evidentiary hearings. While TURN appreciates that CPSD does the brunt of the investigative work in this enforcement proceeding, there may be additional factual and policy issues related to the significant allegations concerning the San Bruno pipeline failure and explosion that warrant intervenor testimony. We would like to devote the minimum amount of time necessary to produce a work product that can help inform Commission deliberations.

TURN does not believe that a minimal one-week extension should prejudice any party or in any way inconvenience the Commission. PG&E's rebuttal testimony is scheduled for June 15, 2012, and CPSD rebuttal testimony is scheduled for August 10, 2012. There are sufficient intervals in the present schedule such that a delay of intervenor testimony from April 16 to April 23 should not present significant burdens for any party. However, we understand that PG&E may seek an accommodation to this schedule after consulting with CPSD.

Thank you for your consideration of this request, and we look forward to a timely response from Your Honor.

Marcel Hawiger  
THE UTILITY REFORM NETWORK  
115 Sansome Street, Suite 900  
San Francisco, CA 94104  
(415) 929-8876 ex. 311  
(510) 684-1301 (cell)

=====  
IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication, unless expressly stated otherwise, was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matter(s) addressed herein.  
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For more information about Orrick, please visit <http://www.orrick.com/>  
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## II. E-Mail Dated April 11, 2012

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**From:** Oliveros, Michael J.  
**Sent:** Wednesday, April 11, 2012 4:13 PM  
**To:** 'ATrowbridge@DayCarterMurphy.com'; 'BTS1@pge.com'; Peck, David B.; 'Francis.McNulty@sce.com'; 'Jheckler@levincap.com'; 'John.A.Apgar@Citi.com'; 'R1DJ@pge.com'; 'RPrince@SempraUtilities.com'; Kotch, Andrew; 'angelica.morales@sce.com'; 'austin.yang@sfgov.org'; 'bcragg@goodinmacbride.com'; 'bstrottman@meyersnave.com'; 'cem@newsdata.com'; 'cjackson@ci.sanbruno.ca.us';

'cleo.zagrean@macquarie.com'; 'deborah.slone@doj.ca.gov'; Gruen, Darryl; 'dmarcus2@sbcglobal.net'; 'dng@semprautilities.com'; 'douglas.porter@sce.com'; 'dvanhoogstraten@stinson.com'; Dorman, Elizabeth; 'filings@a-klaw.com'; Lindh, Frank; 'jdangelo@catapult-llc.com'; 'jlsalazar@semprautilities.com'; 'jmalkin@orrick.com'; Halligan, Julie; 'jmullan@meyersnave.com'; Steingass, Joyce; Reiger, J. Jason; Bruno, Kenneth; Lee, Kelly C.; 'kdaly@stinson.com'; 'khelmuth@cityofmadera.com'; 'kmccollum@navigant.com'; Paull, Karen P.; 'kxhy@pge.com'; 'lauren.duke@db.com'; Peleo, Marion; 'marcel@turn.org'; 'mchediak@bloomberg.net'; 'mdjoseph@adamsbroadwell.com'; Cooke, Michelle; 'mlw3@pge.com'; Wetzell, Mark S.; 'naaz.khumawala@baml.com'; Cagen, Robert; 'regrelcpuccases@pge.com'; 'rkoss@adamsbroadwell.com'; Stepanian, Raffy; 'rvn@a-klaw.com'; 'service@cforat.org'; 'sgs@dcbsf.com'; 'sls@a-klaw.com'; 'smeyers@meyersnave.com'; 'stomkins@semprautilities.com'; Bone, Traci; Prosper, Terrie D.; 'ted@pointstate.com'; 'theresa.mueller@sfgov.org'; 'tlong@turn.org'; Foss, Travis; 'wmc@a-klaw.com'  
**Cc:** Econome, Janet A.; Wetzell, Mark S.; Bone, Traci; Paull, Karen P.; Lee, Audrey  
**Subject:** Courtesy E-mail Notification Regarding San Bruno OII (I.12-01-007)

Pursuant to Assistant Chief ALJ Janet Econome's request, on behalf of ALJ Mark Wetzell, the message below is electronically mailed to the official service list for proceeding number I.12-01-007.

#### **NOTICE TO PARTIES IN I.12-01-007**

**By e-mail dated April 10, 2012, copied below, the Division of Ratepayer Advocates asked for procedural guidance regarding how parties are to address the appropriate level of penalties, what additional remedies may be appropriate, and policy considerations regarding penalties. In response to this request, the following guidance is being provided to all parties.**

- 1. Neither the Order Instituting Investigation nor the March 13, 2012 Scoping Memo provided for phasing of this proceeding. Thus, whether Pacific Gas and Electric Company committed any violations (as discussed in the Scoping Memo) as well as how the Commission will "exercise its broad authority to impose fines and other remedies if such violations are proven" (Scoping Memo at 3) will be addressed in a single phase leading to a single decision.**
- 2. The amount of any fine and the nature of any other remedies may be largely legal and policy issues that are appropriately addressed in parties' post-hearing opening briefs. However, any party that believes that these topics raise or involve factual issues should address such factual issues in their testimony, in accordance with the adopted schedule.**

**Administrative Law Judge Mark Wetzell**

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**From: Bone, Traci**  
**Sent: Tue 4/10/2012 11:35 AM**  
**To: Wetzell, Mark S.**  
**Cc: Paull, Karen P.**  
**Subject: Procedural Question Regarding San Bruno OII (I.12-01-007)**

**ALJ Wetzell:**

**DRA would like to know where in the procedural schedule you feel it would be most appropriate to address issues concerning penalties: the appropriate level of penalties, what additional remedies may be appropriate, and the policy considerations regarding penalties. It is not clear to DRA where in the current schedule these issues are intended to be addressed, only that the OII**

contemplates that they will be addressed after hearings if PG&E is found to have violated the law. See OII at 9. See also, by comparison, pages 2 and 3 of the November 21, 2011 Scoping Memo and Ruling in the Record Keeping OII (I.11-02-016), which expressly contemplates a second phase or phases to determine whether penalties are warranted and if so, the appropriate amount.

Given that penalties traditionally follow the fact finding portion of an investigation, it seems to DRA that it is potentially premature to include such considerations in the testimony due on April 23. However, the current procedural schedule does not specifically contemplate a Phase 2 for penalties, or another discrete time to address penalty issues.

Are you in a position to identify where in the schedule you would envision penalty issues to be addressed?

Traci Bone  
California Public Utilities Commission  
505 Van Ness Avenue  
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Thank you.

Michael Oliveros  
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### III. E-Mail Dated April 23, 2012

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**From:** Marcel Hawiger [mailto:Marcel@turn.org]  
**Sent:** Monday, April 23, 2012 12:53 PM  
**To:** filings@a-klaw.com; sls@a-klaw.com; wmc@a-klaw.com; naaz.khumawala@baml.com; mchediak@bloomberg.net; Peleo, Marion; Foss, Travis; Stepanian, Raffy; Kotch, Andrew; Gruen, Darryl; Dorman, Elizabeth; Lindh, Frank; Reiger, J. Jason; Steingass, Joyce; Halligan, Julie; Paull, Karen P.; Lee, Kelly C.; Bruno, Kenneth; Wetzell, Mark S.; Cooke, Michelle; Cagen, Robert; Prosper, Terrie D.; Bone, Traci; deborah.slon@doj.ca.gov; cem@newsdata.com; Peck, David B.; jdangelo@catapult-llc.com; service@cforat.org; John.A.Apgar@Citi.com; austin.yang@sfgov.org; khelmuth@cityofmadera.com; cjackson@ci.sanbruno.ca.us; sgs@dcbf.com; ATrowbridge@DayCarterMurphy.com; lauren.duke@db.com; bcragg@goodinmacbride.com; Jheckler@levincap.com; cleo.zagrean@macquarie.com; bstrottman@meyersnave.com; jmullan@meyersnave.com; smeyers@meyersnave.com; kmccollum@navigant.com; jmalkin@orrick.com; BTS1@pge.com; mlw3@pge.com; regrelcpuccases@pge.com; mlw3@pge.com; kxhy@pge.com; ted@pointstate.com; angelica.morales@sce.com; douglas.porter@sce.com; Francis.McNulty@sce.com;

I.12-01-007 MSW/rs6

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RPrince@semprautilities.com; kdaly@stinson.com; dvanhoogstraten@stinson.com; tlong@turn.org;  
tlong@turn.org

**Subject:** I.12-01-007: One Day Extension of Testimony Due Date

ALJ Wetzell granted TURN's request for a one-day extension of the intervenor testimony due date. The extension applies to any party whose testimony is due today. Any party making use of the extension (including TURN) must not review the testimony submitted by any other intervenor today.

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**(END OF APPENDIX A)**