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

I.11-02-016
(Filed February 24, 2011)

**PACIFIC GAS AND ELECTRIC COMPANY'S
PREHEARING CONFERENCE STATEMENT**

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March 15, 2011

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After the September 9, 2010 San Bruno accident, Pacific Gas and Electric Company (PG&E) customers and other stakeholders raised questions and expressed concerns about the safety of PG&E's natural gas transmission system. More than a month ago, PG&E expressed support for the Commission opening a proceeding to provide a forum for the airing and investigation of those concerns.¹

As the Commission acknowledges, however, this is a most unusual proceeding.² It is not merely an investigation; it is cast as an enforcement action. Enforcement OIIs traditionally start with a staff report alleging specific violations of rules, regulations or law. Here, the Commission staff has not completed its investigation, issued a report or made any allegations. There is only what the OII characterizes as "findings" by the National Transportation Safety Board (NTSB) concerning PG&E's safety recordkeeping.³ Those "findings" are (1) there was a discrepancy between PG&E's records for the ruptured segment of Line 132 and the pipe in the ground and (2) it is "possible" there are other discrepancies.⁴

¹ See "Response of Pacific Gas and Electric Company to the Motions Filed by the City and County of San Francisco, The Utility Reform Network and the Consumer Federation of California Requesting an Investigation Related to the San Bruno Accident," A.09-12-020 & I.10-07-027, February 10, 2011.

² Order Instituting Investigation (OII) at 9.

³ *Id.*

⁴ OII, Appendix B at 2.

The record discrepancy identified by the NTSB is unacceptable. PG&E has undertaken a broad review of its pipeline records to identify and correct any similar inconsistency. In the absence of a staff report, however, there is no framework for considering such an error to be a violation of a specific rule, regulation or law. Nevertheless, the OII states that the Commission is providing PG&E with “an opportunity” to demonstrate that it is in compliance with the law.⁵ This characterization suggests that the OII starts with a presumption of guilt. Such a presumption so contrary to American precepts of due process in adjudicatory proceedings that PG&E assumes this is not what the OII intends.

The OII also directs PG&E to provide a broad array of information for the staff and interested parties to review in the course of the proceeding.⁶ Thus, despite its categorization as “adjudicatory” and warning about potential penalties, PG&E understands the OII request at this point to be informational. PG&E plans to respond to the OII’s directives on that basis and provide the best information available to it in the time allowed.

In addition to directing PG&E to respond to the NTSB “findings,” and to explain how the record discrepancy occurred, the OII directs PG&E to provide extensive materials on

- policies and practices for maintaining four different types of records, including any changes in those policies and practices
- actions to promote safety on its entire gas transmission pipeline system, including the date of each such action or procedure
- safety risk assessments
- the date and circumstances of all gas pipe weld defects and failures.

⁵ *E.g.*, OII at 11, 16.

⁶ In fact, to facilitate the staff’s review, the OII directs PG&E to advise the Commission if PG&E agrees to pay the staff and its (to be retained) consultants’ costs. On March 11th, PG&E advised the Commission that it would pay those costs.

These extraordinary requests cover a span of 55 years from 1955 through 2010 – a period that saw varying degrees of state and federal pipeline safety regulation, including none before July 1961.⁷

Within the initial time set by the OII (April 18, 2011), PG&E is able to respond to the directives in paragraphs 1, 5 and 6. Given that the OII addresses PG&E’s safety recordkeeping, PG&E understands paragraphs 1 and 6 to call for PG&E to respond to the NTSB “findings” with respect to PG&E’s gas pipeline records, and paragraph 5 to answer whether the September 9, 2010 San Bruno pipeline rupture was unpreventable in the absence of the record discrepancy identified by the NTSB.⁸

It is not, however, feasible for PG&E to provide a complete, accurate and meaningful report on the 55 years of activity covered by the remaining directives in the two months specified in the OII. This OII raises important issues of immense public interest; that interest will not be served by rushing the process at the expense of accuracy and completeness, especially since the Commission staff has not yet hired the consultants to help with its own investigation. In order to respond to the Commission’s directives, PG&E requests that the April 18, 2011 deadline for the balance of its report be extended to August 18, 2011.

⁷ The Commission did not regulate pipeline safety until July 1, 1961. The U.S. Department of Transportation did not regulate pipeline safety until after the passage of the Natural Gas Pipeline Safety Act of 1968.

⁸ PG&E’s understanding that the Commission’s inquiry relates to recordkeeping is reinforced by the following statement earlier in the OII: “If PG&E also takes the position that the September 9, 2010 San Bruno transmission pipeline rupture would have occurred even if PG&E had after 1955 kept and maintained complete, accurate, and easily accessible records of all aspects of the San Bruno transmission pipe’s existence and service, we further direct PG&E to explain that position.” OII at 16.

PG&E recommends that the Commission hold a second prehearing conference after PG&E submits the second part of its report. At that time, further scheduling matters can be addressed. PG&E therefore proposes the following schedule:

April 18	PG&E initial report responding to OII Items 1, 5 and 6
August 18	PG&E report responding to remaining OII items
September 12	Second Prehearing Conference

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March 15, 2011

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is 77 Beale Street, San Francisco, California 94105.

On March 15, 2011, I served a true copy of:

**PACIFIC GAS AND ELECTRIC COMPANY'S
PREHEARING CONFERENCE STATEMENT**

- [XX] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service lists for **I. 11-02-016** with an e-mail address.
- [XX] By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service lists for **I. 11-02-016** without an e-mail address.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 15th day of March, 2011, at San Francisco, California.

/s/
TAUVELA U'U

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