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BEFORE THE
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Adopt New Safety and Reliability Regulations for Natural Gas Transmission and Distribution Pipelines and Related Ratemaking Mechanisms	R. 11-02-019 (Filed February 24, 2011)

PLUMBERS, PIPE FITTERS AND STEAMFITTERS LOCAL UNIONS NOS. 246 AND 342 AND THEIR INDIVIDUAL MEMBERS' COMMENTS ON INDEPENDENT REVIEW PANEL'S REPORT AND RECOMMENDATIONS REGARDING IMPLEMENTATION PLAN DIRECTIVES

Dated: July 15, 2011

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I. Introduction

Pursuant to the Scoping Memo and Ruling of the Assigned Commissioner issued on June 16, 2011, the United Association of Plumbers, Pipefitters and Steamfitters Local Unions Nos. 246 and 342, and their individual members (collectively, "Pipeline Locals") submit comments on the Independent Review Panel's Report ("IRPR") and their recommendations for procedural and substantive changes that should be made to the Commission's directives for the Implementation Plans. The Pipeline Locals also suggest a revised schedule to accommodate the procedural and substantive changes for the Implementation Plans that they recommend.

A substantial portion of the IRPR contains the Panel's perspectives on the functioning of and resource allocation at the Commission and at PG&E. The Pipeline Locals will not comment on that perspective, but will leave these issues for the Commission's consideration. The Pipeline Locals focus their comments on the data and findings, and some of the key conclusions of the IRPR that do not address management, structure, and goals of either PG&E or the Commission.

II. The IRPR Contains Useful Information Concerning Industry Standards and PG&E Failures But Its Inaccurate Technical Analysis, Findings and Recommendations Should be Disregarded.

The IRPR's opening disclaimer notes that the IRPR "was prepared based in part on information not within the control of the Independent Review Panel" and that neither it nor its consultants have "made an analysis, verified, or rendered an independent judgment of the validity of the information provided by others." (IRPR, p. iii.) Further, the IRPR explicitly disclaims the accuracy of the information it discusses and upon which it relies. (*Id*.)

The Commission told the Panel that its "investigation shall include a technical assessment of the events and their root causes." (*Id.* at 2 and Resolution No. L-403, Sept. 23, 2010,

http://docs.cpuc.ca.gov/PUBLISHED/AGENDA_RESOLUTION/123786.htm.) But the Panel decided not to conduct a root cause analysis, deferring to the superior technical expertise and work to be performed by the National Transportation Safety Board ("NTSB"). (*Id.* at 5.) The Panel did not in fact conduct a technical or root cause analysis as directed by the Commission. The truncated technical analysis conducted by the Panel's experts relied on documents not within their control, the veracity of which is not vouched for by the Panel or its Report.

A. The IRPR's Technical Analyses Relied on Inaccurate Information and Should Be Disregarded by the Commission.

The analysis performed by the Panel's expert, Dr. Nickell, as to the causes of the failure of Line 132 in San Bruno, California, relies on information that has been admitted to be inaccurate and incomplete. Dr. Nickell apparently assumed that the operating pressure for Line 132 was historically and consistently maintained at operating pressures between 350-400 psi. (See, e.g., NTSB, Docket No. SA-534, Ex. 2-AD, Highest Recorded Pressures on Line 132, Feb. 10, 2011, covering 2000-2011 time period.)

But PG&E has admitted that it both spiked Line 132 (as well as others) and ran the line at widely fluctuating pressures. Because the delta of change of pressure on a pipeline constitutes a critical factor in determining the fatigue of that line, Dr. Nickell's original assumption – that the delta of pressure change was small – was crucial in his disregarding the fatigue issues that well may have caused Line 132's failure.

Recently, Dr. Nickell recanted his original analysis and findings:

> Nickell said in an interview with The Chronicle, however, that information contained in hundreds of thousands of documents that PG&E released to the state last week has led him to rethink his conclusion. He said he now believes that regular pressure variations could have accounted for all the stress that ultimately caused the gas pipeline's failure.

> The most significant revelation, Nickell said, was that in the 47 years before the explosion, PG&E normally operated the pipeline at a wide range of pressures - from 125 to 350 pounds per square inch.
>
> "That would make a lot of difference," Nickell said. "That's a pretty wide swing, from 125 to 350."
>
> He added, "That alone would do it. That's a bad number."
>
> The forces exerted on the pipeline would have been especially damaging if the pressure levels changed often, he said.
>
> Nickell's study for the state panel assumed that PG&E had run the line within a much narrower range of 350 to 400 pounds.

(J. Van Derbeken, "Expert Backs Off Blaming Disaster on Sewer Repairs," *San Francisco Chronicle*, June 29, 2011, at p. A-10.)

Because neither the Panel nor its experts apparently had access to pipeline-spiking information disclosed to the Commission, nor did its experts have access to thousands of documents released by PG&E after issuance of the IRPR, the Commission should disregard all of the IRPR's analyses and conclusions regarding the cause of the San Bruno explosion.

The Commission should not accept the findings of an expert who has recanted his analysis and explanation for the explosion. Instead, the Commission should give weight to the data and interim analyses from the NTSB, which – unlike the IRPR – has suggested that defective welds, not third party digging, were the proximate cause of the San Bruno explosion. (See NTSB, Docket No. SA-534, Ex. 3-A, *Metallurgical Group Chairman Factual Report*, Jan. 21, 2011.)

The IRPR did get it right, however, when it disclaimed the accuracy and validity of the information it reviewed and upon which it relied. The IRPR should not be considered as technical evidence, nor should its technical findings or recommendations be given weight. The Panel and its experts were simply not in a position to conduct a technical analysis, much less a

root cause analysis. Thus, the IRPR's incomplete and inaccurate attempts at technical analyses (and any conclusions flowing there from) should be disregarded – and indeed should be struck from the record in this proceeding.

Instead, the Commission should rely on the NTSB for a root cause analysis and on the NTSB and the Commission's own staff for an analysis of technical data. The Commission should await the NTSB report for such analysis. In order to develop a thorough, fact-based evidentiary record that can support the imposition of new rules and requirements to ensure pipeline safety and integrity, the Commission should also allow for thorough evidentiary hearings to determine the accuracy of the Implementation Plans, their assumptions and any alternatives put forward by the parties. Thus, the Pipeline Locals recommend that the schedule for evidentiary hearings be expanded to include at least 15 days for hearings on all utility Implementation Plans and alternatives thereto, rather than the five days currently allotted.

Moreover, the Implementation Plans and the scoping memo for this initial phase should be revised to incorporate consideration of the NTSB report and its findings, which is scheduled to contain a root cause analysis and a thorough technical review. Additional time should be scheduled for parties to review and comment on the NTSB report and how it should factor into any proposed Implementation Plans prior to the submission of testimony or the conduct of any evidentiary hearings in this proceeding. Without the benefit of the NTSB's root cause analysis and technical review, as well as its findings and recommendations, the Commission and the parties will be unnecessarily disadvantaged at the evidentiary hearings.

B. New Information on Misclassified Pipeline Segments Requires that Utilities Provide Updated, Accurate Information.

At the workshop held on June 22, 2011, the Pipeline Locals asked how frequently each utility made needed changes to the identification of the class location of their pipeline segments.

PG&E's Director of Gas Engineering Programs, Todd Hogenson, stated that pipeline segment classifications were updated on an annual basis. He explained that PG&E had a "one call" program, and that employees in the field would routinely patrol new developments. Because employees would be aware of new construction and new submissions for gas service, they would follow up on such changes. Mr. Hogenson stated that the frequency of the verification of classification depended on the class. He stated that for Class 1 pipeline, it was verified at least one time per year.

On June 30, 2011, pursuant to Commission directives from September 2010, PG&E again reported on its review of its pipelines' classification system. In its letter, PG&E admitted that it had misclassified over 170 miles of its pipeline system, a misclassification that resulted in not including all of those pipeline miles in the category of pipelines that are subject to tougher federal safety and inspection standards. (See June 30, 2011 PG&E Letter to Paul Clanon, available at http://www.cpuc.ca.gov/NR/rdonlyres/49A5D78B-82F7-42240BBE9-C575D19DG71D/0/63011ClassReport_Final2.pdf . See also J. Van Derbeken, "PG&E Concedes Safety-Rule Mistake on Pipelines," *San Francisco Chronicle*, July 2, 2011, at p. A-7.)

In its letter, PG&E noted that it is still reviewing over 100 miles of pipeline. (June 30, 2011 PG&E Letter at p. 7.) PG&E's admission that pipeline segments have been misclassified calls into question all portions of the IRPR that rely upon PG&E's data and assertions, as well as calling into question outdated Commission information about the amount of pipeline subject to more rigorous safety inspections and standards. PG&E's new admissions about its failure to classify correctly hundreds of pipeline miles – for which the correct classifications would have resulted in more rigorous inspection and pressurization requirements — requires rejection of all portions of the report that rely on or assume correct classifications and pipeline information.

Most importantly, PG&E's admission about its significant classification failures requires that better information be provided the Commission and the parties prior to testimony submission or evidentiary hearings. With this and other similar admissions of factual errors and omissions by PG&E, neither the Commission nor the parties can accurately assess or propose priorities for testing and replacement, or the standards and rules that should apply to PG&E's system.

Accurate information is critical for analyzing PG&E's priority schedule. PG&E's "Proposed Implementation Plan Decision Tree," distributed at the June 22, 2011 workshop, proposes a process that is highly dependent upon whether pipelines are categorized as Classes 2-4 or Class 1. Misclassification of pipelines could result in failure to test, failure to replace, and failure to reduce pipeline pressure, all unacceptable results. PG&E's failure to accurately classify its pipelines raises serious questions about the integrity of the data PG&E has provided to the Commission and in this proceeding thus far. For example, PG&E has assured the Commission that while it completed an aerial survey of its pipeline system, it was proceeding with more in-depth ground surveys only for certain pipeline segments with designated classifications for urban or high density areas. (See Attachment 3 to PG&E Letter to Paul Clanon, October 25, 2010, http://www/cpuc/ca/gov/ NR/rdonlyres/6A94E6D5-7DE1-40EE-9461-ADC116A1770/0/Oct25PGEResponsetoCPUC.pdf.)

What makes PG&E's inaccurate classification descriptions even more egregious is the fact that last year the Commission directed PG&E to perform the update. On September 13, 2010, after the San Bruno explosion, the Commission's Executive Director, Paul Clanon, directed PG&E to "review the classification of natural gas transmission lines and determine if the classification has changed since the initial designation." (Paul Clanon Letter to PG&E President

Chris Johns, Sept. 13, 2010, p. 1, http://cpuc.ca.gov/NR/rdonlyres/65E44110-692A-470D-AF6B-AE7841063D6B/0/CPUC01432984v19_13_10_safety_response_to_the-San_Bruno_Pipeline_explosion_to_PGE_Chris_Johns.PDF.)

PG&E "interpreted" that directive narrowly, to mean that PG&E need only review its own "facilities and records to determine if field conditions have changed to warrant a reclassification of any segment of its pipelines." (See PG&E letter to Paul Clanon, Sept. 20, 2010, p. 3, http://www.cpuc.ca.gov/NR/rdonlyres/ DAF2EEE8-39C3-4DD1-B50D-CCC19D9CD1CA/ 0/PGEResponseto091310CPUCLetter.pdf.) To date, it remains unclear whether PG&E has performed a comprehensive evaluation of all factors that affect a pipeline segment's classification, or whether it has reviewed only the narrow data already in its possession.

The accurate classification of its pipelines results in real world consequences for inspection, repair, and prioritization that are critical to creating standards and requirements that will in fact ensure safety. PG&E has not yet provided an accurate and comprehensive report of this foundational classification data for its pipeline system.

The IRPR noted, "PG&E has a significantly higher proportion of pre-1960 transmission pipe than the national average." (IRPR at p. 59.) With an older pipeline system, relying on initial, outdated classifications could result in serious safety consequences. The Commission and the parties cannot accurately assess the prioritization that will be contained in the utilities' implementation plans, nor the implications for system safety and integrity, until they can first rely on the accuracy of the basic data regarding pipeline segment classification, types of materials, and welds classifications. Because of the documented inaccuracies in classification,

the Commission's directives for the utilities' Implementation Plans should require a comprehensive report verifying the classification of all California pipeline.

C. The IRPR Contains Useful Information About Industry Standards and PG&E's Failure to Follow Them.

While the IRPR's technical analyses and findings may be lacking, its discussion of the corporate culture and processes at PG&E contains useful information for the Commission's consideration. We agree with the City of San Bruno that the IRPR highlighted "systemic and deep-seated problems with ... [PG&E's] integrity management program, its record-keeping, its safety and emergency operation procedures, and its operation of gas transmission pipelines." (City of San Bruno Comments, July 14, 2011 at p. 4.) Additionally, the IRPR calls out inadequacies in PG&E's Pipeline 2020 program (IRPR at pp. 13-14; 83-86), proposed only after the San Bruno explosion.

The IRPR's discussion of PG&E's failure to comply with the spirit of regulatory compliance should also be taken into account by the Commission. (IRPR at p. 9 and 82-85, 94). Although it is unclear whether and how such consideration would fit into this proceeding, the IRPR's discussion of how a utility can ignore the Commission staff's audit issues turns the concept of regulated and regulator on its head.

The Commission's staff should develop procedures by which the staff's identification of problems should be supported by the Commission and given regulatory teeth, rather than be ignored by the utility. For instance, the use of exception reports as an excuse not to follow Commission's directives should be stopped. (See IRPR at pp. 9; 94-97.)

III. The Commission Should Require Additional Specificity in the Implementation Plans Based on Issues Raised at the Workshops, in the IRPR and by Additional Developments.

Information discrepancies occurring at the workshops, arising from new information provided by PG&E and other sources, and past improper practices identified in the IRPR make plain the need for the Commission to detail with specificity the requirements of the Implementation Plans. What we have learned throughout this proceeding and from the NTSB and the IRPR to date is that if the utilities are not specifically ordered to perform according to clear directives, then they will not voluntarily comply with standards. (See IRPR at p. 9-12; 16-17; and 49-58.)

As discussed below, we recommend that the Implementation Plan directives in both D. 11-06-017 and in the scoping memo should require additional specificity. To ensure that the Commission's eventual decision in this proceeding rests on a thorough evidentiary record, and especially in light of the numerous inaccuracies identified in PG&E's information provided to date, the Commission should also add a comment cycle for NTSB materials and analysis and should expand the time for evidentiary hearings.

A. The Commission Should Formally Confirm Its Direction that the Utilities Include Quality Control Issues In Their Implementation Plans.

The Commission should confirm that quality control issues must be explicitly included in the scope of the Implementation Plans. The IRPR's discussion of quality assurance focused on the now-discredited issue of failing to adhere to inspection procedures for third party work. (IRPR p. 13-14; 64-74.) While the findings regarding the City of San Bruno's sewer project have been abandoned by the Panel's expert, the larger issue of PG&E's failure to ensure quality assurance is key and critical. Quality control and quality assurance issues, as highlighted generally by the IRPR, should be an essential element of the Implementation Plans. (Id. at p. 12

("A strong quality assurance program must be an integral part of the integrity management program").)

1. Quality Control Related to Staffing, Testing, and Inspections

At the workshops, the Pipeline Locals raised the issues of quality control and the staffing of testing work, replacement, and inspections. The Pipeline Locals suggested that the Implementation Plans should address the qualifications of workers doing testing, replacement, and welding, as well as the oversight of such work, and the degree of independence in those who inspect and oversee work, as well and ensuring adequate whistleblower protections are in place.

Commissioner Florio stated that the Implementation Plans should address these issues. While discussed in the workshops, the Commission has not given direction or guidance on the scope of quality control issues in this proceeding. The Commission should ensure that these issues are sufficiently addressed by the utilities in their Implementation Plans.

2. Quality Control Related to Inline Inspection Tools and Hydrotesting

The IRPR highlights the need for inline testing of pipelines, also known as "pigging." Although it is true that inline testing using "smart pigs" can find certain flaws that hydrotesting cannot find, the opposite is true as well. An individual pigging tool is only able to detect flaws in a single direction. The most commonly used inline inspection tools are axial magnetic flux leakage ("MFL") tools. Axial MFL tools can detect latitudinal anomalies, such as defects in girth welds, but they are not good at detecting longitudinal anomalies, such as problems with longitudinal seam welds. Circumferential MFL tools, by contrast, can detect problems with longitudinal seam welds, but are not good at detecting problems with girth welds.

At the June workshops, PG&E's representatives acknowledged that axial and longitudinal pigs can be used together to maximize the likelihood of identifying both longitudinal seam defects, defects in girth welds and metal-loss and corrosion issues. The Pipeline Locals urge the Commission to require PG&E to use both kinds of pigs. Southern California Gas Company and San Diego Gas & Electric (SoCalGas/SDG&E) appear willing to do so now. However, statements of intention are not adequate to guarantee actual performance by the utilities. The Commission should include specific, unambiguous directives in its order.

Additionally, while smart pigging provides more detailed information about the status of a particular line, it does not provide as absolute of a safety assessment as a hydrotest. More fundamentally, only 20% of PG&E's lines are currently piggable, compared to approximately 50% of SoCalGas/SDG&E's lines. These non-piggable pipes are more likely to be older, and are less likely to have been tested under today's safety standards. For pipes that were not previously tested under today's standards, only hydrotesting or replacement will ensure safety. Such replacement should be prioritized before inline inspection testing.

At the workshops, both PG&E and San Diego Gas & Electric/SoCalGas stated their intentions to hydrotest all gas pipelines that have not already been tested under current procedures and standards. PG&E intends to perform only 8-hour hydrotests – i.e., tests in which water is pumped into the pipeline segment and held at pressure for 8 hours. But the Pipeline Locals' experience, as explained at the workshops, has been that in the past, when 24 hour pressure tests have been conducted, the defects often appear in the 21st to 24th hours. It has recently been reported that industry lobbying has played a significant role in shaping federal pipeline studies and regulations. (See E. Nalder, "Gas Pipeline Operators Funds Shape Safety Studies," *The San Francisco Chronicle*, June 19, 2011, p. A-1.) Accordingly, the Pipeline

Locals submit that even though federal regulations only require 8-hour testing, the Commission should require the Implementation Plans to include hydrostatic pressure tests to be conducted with test pressure being held for 24 hours. No rule prevents the Commission from setting higher pipeline-testing standards than the federal minimum.

3. Quality Control Related to Engineering, Fabrication and Construction

The IRPR highlighted developing evidence that engineering, fabrication and construction problems may have led to the San Bruno explosion, explaining:

> NTSB findings to date identified both the material and the fabrication welds of the section of pipeline that failed did not meet either: (1) the engineering consensus standards applicable to natural gas transmission pipelines at the time, or (2) the PG&E specifications in effect at the time of construction.

(IRPR, p. 5.) Developing sufficient standards relating to such issues is critical to ensuring the future safety of pipelines.

The Commission's directives for the Implementation Plans should be enhanced to specifically address the following quality control issues in the Implementation Plans:

- Independence of inspectors for all pipeline testing and replacement;
- Qualifications of workers, welders, testers, and inspectors performing testing and replacement work;
- Processes for ensuring the integrity of materials used in testing and replacement work;
- Processes for ensuring that state-of-the-art welding methods are used;
- Processes for ensuring the integrity of in-line inspections; and

- Ensuring metallurgical analyses are conducted. (See IRPR p. 13, n.11 ("PG&E does not appear to have analyzed how the NTSB findings on metallurgy (namely, there are anomalies in the content of steel on the affected segments) might interplay with the hydrostatic testing regimen").)

B. Old or Incomplete Test Records Should Not Be Allowed to Determine Testing or Replacement Priorities in the Implementation Plans.

In prioritizing pipeline segments to be tested, repaired, replaced, or left as is, the Commission should not rely on any partial testing records or any testing records that do not meet current state-of-the-art standards. D.11-06-017 requires that a "pressure test record must include all elements required by the regulations in effect when the test was conducted." (D.11-06-017, at p. 28.) This explanation sows confusion and possibly evasion in the pursuit of ensuring safety. The Commission should clarify that the Implementation Plans' analysis and priorities should not rely on old tests performed under lax, outdated standards.

The Commission should not allow any utility to rely on records of tests that have not been conducted in the last ten years. The industry's technical proficiency – including materials, training, machines available to put pipes in ground, and tests – have changed and improved dramatically over the last forty years. Allowing utilities to rely on tests from up to forty years ago does not ensure the safety of Californians today. Moreover, old tests do not address what may have happened to pipes in the interim, like ground movement, corrosion, and damage from digging.

Old test data may provide some indication of whether a pipeline is in bad shape, but it will not provide reliable evidence that a pipeline is acceptable by today's standards. The industry has improved so much in the last forty years that relying on test materials and standards from forty years ago is simply unacceptable. Arguing about whether a pipe met an old standard

is irrelevant to the Commission's duty and the law today. *Instead, all pipelines should be tested under current standards*.

All pipelines should be tested and replaced unless the utilities can demonstrate that their pipelines have been tested under current standards. This is particularly true for pre-1970 pipelines, as pre-1968 pipelines were exempted from new safety standards adopted by the Natural Gas Pipeline Safety Act of 1968, Pub. L. 90-481, 82 Stat. 720, § 3(b) (1968).

C. Additional Time for Evidentiary Hearings Will Hold the Utilities Accountable and Allow Parties to Develop a Formal Record.

The IRPR addresses the need for accountability. One way PG&E can be held accountable is through the use of more expansive evidentiary hearings. Scheduling only five days of hearings for multiple utilities' Implementation Plans provides inadequate time for questioning the utilities' witnesses, much less for any party to present experts and evidence contrary to the utilities. We request that the time for hearings be expanded to ten days on PG&E's Implementation Plan and any alternatives to be put forth by the parties, and to at least five days for Southern California Gas Company/San Diego Gas & Electric's Implementation Plan and party alternatives.

The need for more formal hearing time is also underscored by inaccuracies that have arisen in the course of this proceeding. At the June 22, 2011 workshop, the PUC's facilitator presented Dr. John Kiefner as a "neutral expert" gas-pipeline engineer. But on questioning by the Pipeline Locals, Dr. Kiefner admitted that in fact he was being paid by PG&E for his presentation. He acknowledged that he should have said so in the interest of "full disclosure."

At the workshops, the Pipeline Locals also asked PG&E's Director of Gas Engineering Programs, Todd Hogenson, whether, over the years, PG&E had maintained records of development near gas pipelines so that PG&E could update population-density classifications

and identify high concentration areas. Mr. Hogenson answered "yes" without condition or qualification.

But in its July 30, 2011 letter to Mr. Clanon, as discussed in Section II.B above, *PG&E admitted that it had not tracked development density* around its pipe lines, even though the Commission had directed it to do so in 2004 and again in 2010. (See J. Van Derbeken, "PG&E Concedes Safety-Rule Mistake on Pipelines," *San Francisco Chronicle*, July 2, 2011, at p. A-7.) Pipeline safety consultant Royce Don Deaver asked the obvious question: "How many other things have they done like this?" (*Id*.)

And when the Pipeline Locals asked Mr. Hogenson whether PG&E was using "smart pigs" in the pipeline inspections then underway, he said "yes." The Pipeline Locals have heard reports to the contrary.

These are only a few instances in a record of inaccurate factual representations from PG&E. They show that as long as there is no accountability for falsehoods, PG&E's employees and consultants can say whatever seems expedient.

Accuracy and accountability are absolutely necessary to gas pipeline safety. But to date, accuracy and accountability have been lacking in this proceeding. The Commission should not rely on workshops, where witnesses are not under oath and no record is made. Instead, the Commission should expand the formal hearings in this proceeding with witnesses sworn to tell the truth and subject to cross-examination. Public safety requires a record. The Commission should hold at least fifteen days of formal hearings to determine the truth and provide the means for holding the utilities accountable.

D. Whistleblower Protections Should Be Addressed in the Initial Phase of this Proceeding.

The IRPR noted that certain PG&E employees and staff were aware of the fact that Line 132 was had a longitudinal seam weld, and was not in fact seamless as originally stated:

> Based upon discussions with PG&E staff, experienced piping engineers were well aware the Line 132 San Bruno segment was seam welded, rather than seamless.

(IRPR at p. 62.) Yet these engineers did not immediately come forward. This highlights the critical importance of whistleblower protections to ensure public safety.

The adequacy and existence of current whistleblower protections are mentioned in the scoping memo, but it is unclear whether the review contained in the scoping memo is to occur within the framework of the initial phase or whether it will be left for a subsequent phase. We request that the adequacy and scope of whistleblower protections be included in this first phase and that the scoping memo explicitly set forth when and how such a review and consideration of enhanced protections will take place. We recommend that whistleblower protections could be discussed in workshops in August, prior to the submission of the Implementation Plans, and then included in the briefing after the evidentiary hearings so that a Commission decision on the first phase of this rulemaking could contain a discussion of any needed enhancements to current whistleblower rules.

Without including strong whistleblower protections in the Commission's directions to test, repair and replace California's gas pipeline system, the same kind of records and inspection falsifications that PG&E has already admitted to will likely continue as workers are discouraged from adhering to the highest standards of repair and construction methodologies and safety. Workers are the first and strongest line of defense in ensuring the safety and integrity of California's pipeline system. They see what goes on, and they know what they are instructed to

do or not do. Well-trained workers know what should be done to ensure quality and safety. Those workers must be secure in the knowledge that the Commission supports them in performing the work to state-of-the-art quality standards and supports their reporting of corner-cutting in safety and quality whenever they learn of it.

IV. Proposed Procedural Changes to Incorporate NTSB Comments, New Data and Implementation Plan Specificity.

In addition to requiring additional specificity in the utilities' Implementation Plans as discussed in Section II.A above, the Commission should require the utilities to provide both the Commission and the parties with verification of accurate classification of pipeline segments prior to publishing the Implementation Plans. The parties must be able to rely on basic facts about the pipeline segments before they can meaningfully assess the Implementation Plans or prepare alternatives.

The Commission must be confident that its directives will be carried out by the utilities – and that it has accurate, up-to-date information about this fundamental building block of pipeline safety – before it acts. Thus, the Pipeline Locals suggest the Commission require the utilities to provide that classification verification by August 26th and suggest setting back the filing of the Implementation Plans by three weeks, until September 16, 2011.

The Commission should also allow parties to comment on the NTSB report when it is available. If the NTSB's final root cause analysis is not available this fall, the Commission should develop a comment period in September-October 2011 on the NTSB's information released thus far, and its relevance to the utilities' Implementation Plans. The NTSB's work provides the most fulsome technical analysis that will be available to the Commission and the parties, and the Commission should design a mechanism to consider that work within the context of this proceeding.

The Pipeline Locals suggest that allowing comment on the NTSB's work through September would provide such a mechanism for incorporation. We leave it to the Commission staff to determine in consultation with the NTSB when such a comment period would be most useful. We suggest, however, that any such comments occur before the parties serve testimony and the utilities serve rebuttal testimony.

Finally, to incorporate adequate time for evidentiary hearings on the utilities' Implementation Plans and experts, and also the parties' alternatives and experts, we suggest three weeks of evidentiary hearings. Assuming that the provision of accurate classification data and NTSB analytical commentary slips the schedule in August and September, then these hearings could start on Monday, November 28th and run through Friday, December 16th.

Three weeks would barely provide enough time to dig into the factual assumptions in all utility Implementation Plans while also allowing the other parties to offer experts about alternatives. Given all the factual issues that have arisen in this proceeding, and the continual developments regarding PG&E's factual inaccuracies, providing sufficient time for evidentiary hearings is critical to the development of an adequate record.

V. Conclusion

The IRPR's technical analyses, findings, and recommendations should be disregarded. Instead, the Commission should rely on the NTSB for an analysis about the root cause of the San Bruno explosion, and on its own staff for an analysis of technical data. The Commission should provide more specific directives on the Implementation Plan requirements to ensure compliance with the intent of D.11-06-017. Finally, scheduling changes are needed to incorporate a process for commenting on the forthcoming NTSB report, to give the utilities an opportunity to provide

updated, accurate information about pipeline classifications, and to provide for additional days of evidentiary hearings.

Dated: July 15, 2011

Respectfully submitted,

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