

Decision \_\_\_\_\_

**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, Regarding the Gas Explosion and Fire on December 24, 2008 in Rancho Cordova, California.

Investigation 10-11-013  
(Filed November 19, 2010)

**DECISION AFFIRMING PENALTY, ADOPTING STIPULATIONS,  
AND CLOSING PROCEEDING****1. Summary**

This decision affirms a \$38 million penalty against Pacific Gas and Electric Company (PG&E) as a result of the natural gas explosion and fire that occurred on December 24, 2008 at 10708 Paiute Way in Rancho Cordova, California, which resulted in one fatality, other injuries and property damage. This decision also grants the June 20, 2011 Joint Motion of PG&E and the Consumer Protection and Safety Division (CPSD) "for approval of stipulation to order resolving investigation" and two related stipulations, one between PG&E and CPSD, and one between PG&E and The Utility Reform Network, with the \$38 million penalty amount.

Pursuant to the PG&E/CPSD stipulation, PG&E will not seek to recover from customers in rates any portion of the penalty and other costs associated with this decision. This decision closes the proceeding.

## **2. Background**

The background of this investigation is fully set forth in Decision (D.) 11-11-001 which is attached as Appendix A hereto and incorporated herein by reference. Below are the narrow facts relevant to this decision.

On June 20, 2011, Pacific Gas and Electric Company (PG&E) and the Consumer Protection and Safety Division (CPSD) filed a motion “for approval of stipulation to order resolving investigation.” The “Stipulation to Order Resolving Investigation” (PG&E/CPSD stipulation) was separately filed.<sup>1</sup> As part of the PG&E/CPSD stipulation, PG&E proposed to pay a penalty of \$26 million to the State’s General Fund.

PG&E and TURN entered into a separate stipulation. PG&E and TURN requested that in addition to approving the PG&E/CPSD stipulation, that the Commission approve the PG&E/TURN stipulation, which provides in part:

For purposes of its test year forecasts in PG&E’s next general rate case, PG&E shall exclude from Account 925 any amounts paid for claims or settlements related to the December 24, 2008 natural gas explosion in Rancho Cordova, California.

On September 29, 2011, the Presiding Officer issued his decision (Presiding Officer’s Decision) which denied the joint motion for adoption of the PG&E/CPSD stipulation, and the PG&E/TURN stipulation. The Presiding Officer’s Decision found that the stipulations would be reasonable but for the penalty amount. Pursuant to Rule 12.4 of the Commission’s Rules of Practice

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<sup>1</sup> This stipulation, as well as the stipulation between PG&E and The Utility Reform Network (TURN) are attached to Decision (D.) 11-11-001 as Appendices 2 and 3 respectively. D.11-11-001, including the appendices, is attached to this decision as Appendix A.

and Procedure, the Presiding Officer's Decision proposed a \$38 million penalty, plus payment of CPSD's investigation and proceeding costs, and provided that PG&E, CPSD, and TURN may agree to accept the proposed penalty amount of \$38 million by filing a motion accepting it.

The Presiding Officer's Decision concluded that if the three parties agreed to accept the \$38 million penalty amount, the two stipulations would be found reasonable, consistent with the law, and in the public interest. The Presiding Officer's Decision gave PG&E, CPSD, and TURN 30 days from the date the Presiding Officer's Decision was served to file a motion accepting the proposed penalty amount of \$38 million. If such a motion were filed, the Presiding Officer would draft a proposed decision for Commission review to address the \$38 million penalty amount after the Presiding Officer's Decision becomes final.

On October 19, 2011, PG&E, CPSD, and TURN filed a joint motion accepting "the proposed penalty amount of \$38 million and jointly move the Commission to approve" the stipulations. The parties further state that "All other terms and conditions of the Stipulations remain unchanged, including PG&E's payment of CPSD's investigation and proceeding costs." This motion is unopposed.

Because no party filed an appeal of the Presiding Officer's Decision and no Commissioner requested review of it, the Presiding Officer's Decision automatically became a Commission order by operation of law as D.11-11-001. (See Pub. Util. Code §1701.2(a) and Rule 15.5 of the Commission's Rules of Practice and Procedure). Because it was unclear at the time the Presiding Officer's Decision mailed whether the parties would agree on the \$38 million proposed penalty, this subsequent decision is necessary to formally adopt the

\$38 million penalty amount and to find the related stipulations reasonable, consistent with the law, and in the public interest.

### **3. Discussion**

D.11-11-001 is attached hereto and incorporated by reference herein. Based on the well reasoned analysis and discussion in D.11-11-001, we find that it is reasonable, consistent with the law, and in the public interest to approve the two stipulations, with a \$38 million penalty against PG&E. Other than the increased penalty amount, all other terms and conditions of the stipulations remain unchanged, including PG&E's payment of CPSD's investigation and proceeding costs. We make clear what is agreed to by the stipulations: that PG&E not seek to recover from customers in rates any portion of the penalty and other costs associated with this decision.

The 18 exhibits that were marked for identification at the July 29, 2011 evidentiary hearing are admitted into evidence.

### **4. Waiver of Comment Period**

This is an uncontested matter granting the relief requested. Accordingly, as provided by Rule 14.2 (c)(1) of the Commission's Rule of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

### **5. Assignment of Proceeding**

Timothy Alan Simon is the assigned Commissioner and John S. Wong is the assigned Administrative Law Judge (ALJ) in this proceeding. ALJ Wong was designated the presiding officer for this proceeding in the April 18, 2011 joint scoping memo and ruling.

**Finding of Fact**

The June 20, 2011 PG&E/CPSD stipulation, and the June 20, 2011 PG&E/TURN stipulation, with the \$38 million penalty amount but in all other respects unchanged (including PG&E's payment of CPSD's investigation and proceeding costs) are reasonable, consistent with the law, and in the public interest.

**Conclusions of Law**

1. The June 20, 2011 joint motion of PG&E and CPSD to adopt the PG&E/CPSD stipulation; the June 20, 2011 PG&E/CPSD stipulation; and June 20, 2011 PG&E/TURN stipulation, with a \$38 penalty amount but in all other respects unchanged (including PG&E's payment of CPSD's investigation and proceeding costs) should be approved.
2. The 18 exhibits that were previously marked for identification were received into evidence.
3. This decision should be effective immediately in order to bring a timely resolution to this matter.

**O R D E R****IT IS ORDERED** that:

1. The June 20, 2011 joint motion of Pacific Gas and Electric Company (PG&E) and the Consumer Protection and Safety Division (CPSD) for approval of stipulation to order resolving investigation; the June 20, 2011 PG&E and CPSD "Stipulation to Order Resolving Investigation"; and the June 20, 2011 PG&E and The Utility Reform Network "Stipulation to Order Resolving Investigation" are approved with a \$38 million penalty amount but in all other respects unchanged, including PG&E's payment of CPSD's investigation and proceeding costs. The

two stipulations are attached as appendices to Decision 11-11-001 which is attached hereto as Appendix A.

2. Within 20 days of the effective date of this decision, Pacific Gas and Electric Company (PG&E) must pay a penalty of \$38 million to the State of California General Fund. PG&E must pay this penalty by check or money order payable to the California Public Utilities Commission and delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, Cashiering Unit, San Francisco, CA 94012. PG&E must write on the face of the check or money order "For deposit to the General Fund per Decision 11-12-XXX, issued in Investigation 10-11-013."

3. Within 20 days of the effective date of this decision, or within 20 days of the Consumer Protection and Safety Division (CPSD) providing Pacific Gas and Electric Company (PG&E) with an accounting of such costs, whichever of these two events comes later, PG&E must pay CPSD's investigation and proceeding costs for this investigation, Investigation 10-11-013. PG&E must pay these costs by check or money order payable to the California Public Utilities Commission and delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, Cashiering Unit, San Francisco, CA 94102. PG&E must write on the face of the check or money order "Payment for the Consumer Protection and Safety Division's investigation and proceeding costs in Investigation 10-11-013 per Decision 11-12-XXX." On the same day it delivers the check or money order, PG&E must also notify the Director of CPSD by letter that it has done so and include a copy of the transmittal letter and check or money order in its notification to the Director of CPSD.

4. For purposes of its test year forecasts in Pacific Gas & Electric Company's (PG&E) next general rate case, PG&E must exclude from Account 925 any

amounts paid for claims or settlements related to the December 24, 2008 natural gas explosion in Rancho Cordova, California.

5. Pacific Gas and Electric Company must not seek to recover from customers in rates any portion of the penalty or any portion of the funds PG&E pays for Consumer Protection and Safety Division's investigation and proceeding costs.

6. Investigation 10-11-013 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.