

**PROPOSED DECISION**

Agenda ID #14213 (Rev. 1)  
Ratesetting  
8/27/2015 Item 27

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Investigation on the  
Commission’s Own Motion to Determine  
Whether Pacific Gas and Electric Company  
and PG&E Corporation’s Organizational  
Culture and Governance Prioritize Safety.

I. \_\_\_\_\_

**ORDER INSTITUTING INVESTIGATION ON THE COMMISSION’S  
OWN MOTION INTO WHETHER PACIFIC GAS AND ELECTRIC COMPANY  
AND PG&E CORPORATION’S ORGANIZATIONAL CULTURE AND  
GOVERNANCE PRIORITIZE SAFETY**

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OWN MOTION INTO WHETHER PACIFIC GAS AND ELECTRIC  
COMPANY AND PG&E CORPORATION'S ORGANIZATIONAL CULTURE  
AND GOVERNANCE PRIORITIZE SAFETY**

**1. Introduction**

The Commission hereby institutes this investigation to determine whether Pacific Gas and Electric Company's (PG&E) and PG&E Corporation's (PG&E Corp.) organizational culture and governance prioritize safety and adequately direct resources to promote accountability and achieve safety goals and standards. The Commission, during the first phase of this proceeding, directs the Commission's Safety and Enforcement Division (SED) to evaluate PG&E's and PG&E Corp.'s organizational culture, governance, policies, practices, and accountability metrics in relation to PG&E's record of operations, including its record of safety incidents, and to produce a report on the issues and questions contained in this order. In a later phase of this investigation, the Commission may consider revising existing or imposing new orders and conditions on PG&E or PG&E Corp. as necessary and appropriate to optimize public utility resources and achieve the operational standards and performance record required by law. This investigation will not undertake a duplicative review of specific incidents already investigated or that are pending investigation at the Commission. This investigation will instead undertake a deeper review of PG&E's and PG&E Corp.'s organizational culture, governance, and operations, and the systemic issues identified by the National Transportation Safety Board (NTSB).

The Commission recently concluded investigations into PG&E's 2010 natural gas transmission pipeline explosion and fire in San Bruno, PG&E's gas transmission recordkeeping practices, and the operations and practices of its gas transmission pipeline system in locations of higher population density

(collectively, the “San Bruno Investigations”).<sup>1</sup> While the San Bruno Investigations were underway and PG&E faced the prospect of over \$1 billion in fines and penalties, PG&E publicly committed itself to improving the safety of its operations, invested in safety improvements, and reorganized its enterprise in order to prioritize safety. Nevertheless, accidents and events affecting the safety of its customers, the general public, workers and agents, the utility system and the environment have continued to occur. To date, PG&E has paid fines and penalties for certain safety violations, and other incidents are pending investigation. The persistence of safety incidents motivates us to undertake this investigation to determine whether this persistence is rooted in PG&E’s organizational culture and governance and PG&E Corp.’s role in PG&E’s safety culture.

## **2. The Safety Culture Of Regulated Utilities**

A public utility’s organizational culture is shaped by its governance, or rules of accountability. A public utility whose organizational culture and governance prioritize safety, and that achieves a positive record of safe operation, can be described as possessing a high-functioning safety culture. After the San Bruno explosion, the Commission convened a panel of experts, the Independent Review Panel (IRP), and tasked it with recommending improvements for the safe management of the PG&E’s natural gas transmission lines. In its report, the IRP concluded, “Given this Panel’s findings regarding [PG&E’s] gas transmission integrity management, one conclusion is inescapable. Simply put, ‘the rubber did not meet the road’ when it came to PG&E’s

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<sup>1</sup> Investigation (I.) 12-01-007, I.11-02-016, and I.11-11-009 (unconsolidated).

implementation of the recommendations of its enterprise risk management process.”<sup>2</sup> The IRP lays this failure with PG&E’s Board of Directors and executives<sup>3</sup> and “the culture of the company – a culture whose rhetoric does not match its practices.”<sup>4</sup>

An effective safety culture is a prerequisite to a utility’s positive safety performance record. An organization’s culture is the collective set of that organization’s values, principles, beliefs, and norms, which are manifested in the planning, behaviors, and actions of all individuals leading and associated with the organization, and where the effectiveness of the culture is judged and measured by the organization’s performance and results in the world (reality). Various governmental studies and federal agencies rely on this definition of organizational culture to define “safety culture.”<sup>5</sup> A positive safety culture includes, among other things:

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<sup>2</sup> *Report of the Independent Review Panel – San Bruno Explosion – Prepared for the California Public Utilities Commission* (rev’d June 24, 2011) (IRP Report) at 15-16.

<sup>3</sup> *Id.* at 56.

<sup>4</sup> *Id.* at 16.

<sup>5</sup> Transportation Research Board of the National Academies. *Transit Cooperative Research Program, Report 174* (November 2014). Sponsored by the Federal Transit Administration. “Improving Safety Culture in Public Transportation,” at 3. ([http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp\\_rpt\\_174.pdf](http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_rpt_174.pdf)). Various federal governmental organizations have a similar definition of “safety culture.” *See id.*, citing the Department of Energy, Energy Facilities Contractor Group’s definition of a safety culture as “an organization’s values and behaviors, modeled by its leaders and internalized by its members, which serve to make safe performance of work the overriding priority to protect the public, workers, and the environment”; the Transit Rail Advisory Committee for Safety’s definition of safety culture as “the product of individual and group values, attitudes, perceptions, competencies, and patterns of behavior that can determine the commitment to and the style and proficiency of an organization’s safety management system”; and the Federal Railroad Administration’s (FRA’s) definition of organizational culture as “shared values, norms, and perceptions that are expressed as common expectations, assumptions, and views of rationality within an

*Footnote continued on next page*

- A clearly articulated set of principles and values with a clear expectation of full compliance.
- Effective communication and continuous education and testing. “Employees will do it right sometimes if they know how. They’re more likely to do it right every time if they fully understand why.”<sup>6</sup>
- Uniform compliance by every individual in the organization, with effective safety metrics, recognition, and compensation, and consequences or accountability for deviating or performing at, above, or below the standard of compliance.
- Continuous reassessment of hazards and reevaluation of norms and practices.

The success of a safety culture will depend on *leadership* committed to making safety first, particularly in “companies such as utilities where there are many layers of employees,” *commitment by every employee and contractor of the organization*, and *consistent execution of the principles, values, and norms*.<sup>7</sup>

In a positive “safety culture,” a company’s actions should be guided by an effective and effectively-implemented risk management plan. (See, e.g., Decision

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organization and play a critical role in safety.” The FRA notes that organizations with a positive safety culture are characterized by “communications founded on mutual trust, shared perceptions of the importance of safety, and confidence in the efficacy of preventive measures.” See also *Safety Culture: A report by the International Nuclear Safety Advisory Group (INSAG-4)* of the International Atomic Energy Agency (1991, Vienna), which defines safety culture as “that assembly of characteristics and attitudes in organizations and individuals which establishes that, as an overriding priority, nuclear plant safety issues receive the attention warranted by their significance.”

<sup>6</sup> Ellis, Mike. Atmos Energy. “Safety Culture – Cultivating the Soul.” Virginia State Corporation Commission, 2014 Pipeline Safety Conference (emphasis in original). <http://www.scc.virginia.gov/urs/pipe/pres/14PSC3c.pdf>.

<sup>7</sup> Martin, Greg. “The Need for Safety Culture in the Utilities Industry.” *Utility Products*, Vol. 6, issue 3. <http://www.utilityproducts.com/articles/print/volume-6/issue-3/product-focus/safety/the-need-for-safety-culture-in-the-utilities-industry.html>.

(D.) 14-12-025 [Rulemaking (R.) 13-11-006], *Decision Incorporating a Risk-Based Decision-Making Framework into the Rate Case Plan and Modifying Appendix A of D.07-07-004.*) In the context of our regulation of public utilities, a utility's safety culture must optimize its resources that are dedicated to serving customers. The IRP discussed how an effective risk management plan produces a "mature risk culture":

Risk Management refers to the process by which an organization identifies and analyzes threats, examines alternatives, and accepts or mitigates those threats. An organization's maturity in the area of risk management is indicated by the priority, proactive thought and serious effort it allocates to this process. To meet the challenge of addressing the complexities inherent in risk management, the leadership of the organization needs to establish and promote a thorough and honest company-wide communication system. Such a system ensures management it receives all of the information it needs to identify the key risk decisions it should be addressing and to make well-informed decisions about them in a systematic fashion. An organization with a mature risk culture is one willing and able to meet the challenge of making the organization's significant decisions in a thorough yet timely manner. The risk culture is set by the top management team, can be influenced by its Board of Directors, and is informed by a workforce engaged in a vibrant communication process and underpinned by subject matter expertise in the business.<sup>8</sup>

We will use this description of a safety culture as a starting point for our investigation. In this investigation, moreover, we will review the principles, values, qualities, factors, and metrics used to define, promote, and measure the effectiveness of PG&E's safety culture.

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<sup>8</sup> IRP Report, at 14.



### 3. Background

#### 3.1. The National Transportation Safety Board (NTSB) Cited PG&E's Prolonged "Organizational Failure" As Leading to the San Bruno Explosion.

The NTSB issued an Accident Report looking into the San Bruno explosion and fire, which cited specific violations that led directly to that event.<sup>9</sup> Many of those specific violations were the subject of the Commission's San Bruno Investigations as well. The NTSB also spoke of a deeper failure underlying the specific violations, which made the San Bruno event an "organizational accident." The NTSB Report explained:

Organizational accidents have multiple contributing causes, involve people at numerous levels within a company, and are characterized by a pervasive lack of proactive measures to ensure adoption and compliance with a safety culture. Moreover, organizational accidents are catastrophic events with substantial loss of life, property, and environment; they also require complex organizational changes in order to avoid them in the future.<sup>10</sup>

As to PG&E, the NTSB concluded that the San Bruno explosion appeared to be an organizational accident.<sup>11</sup> The NTSB emphasized that PG&E had been on notice of its violations through pipeline explosions that predated the 2010 explosion in San Bruno, and that PG&E, with such knowledge, could have taken proactive steps to correct the violations and prevent the devastating explosion in San Bruno.

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<sup>9</sup> *Accident Report: Pacific Gas and Electric Company – Natural Gas Transmission Pipeline Rupture and Fire – San Bruno, California – September 9, 2010*, NTSB/PAR-11/01, PB2011-916501 (adopted by the NTSB on August 30, 2011) (NTSB Report).

<sup>10</sup> *Id.* at 117-118.

<sup>11</sup> *Ibid.*

The character and quality of PG&E's operation, as revealed by this investigation, indicate that the San Bruno pipeline rupture was an organizational accident. PG&E did not effectively utilize its resources to define, implement, train, and test proactive management controls to ensure the operational and sustainable safety of its pipelines. Moreover, many of the organizational deficiencies were known to PG&E, as a result of the previous pipeline accidents in San Francisco in 1981, and in Rancho Cordova, California, in 2008. As a lesson from those accidents, PG&E should have critically examined all components of its pipeline installation to identify and manage the hazardous risks, as well as to prepare its emergency response procedures. If this recommended approach had been applied within the PG&E organization after the San Francisco and Rancho Cordova accidents, the San Bruno accident might have been prevented. Therefore, based on the circumstances of this accident, the NTSB concludes that the deficiencies identified during this investigation are indicative of an organizational accident.<sup>12</sup>

The IRP similarly cited to a "dysfunctional culture" at PG&E in which the goals of its enterprise risk management process were disconnected from the reality, decisions, and actions throughout the company. "... [PG&E] management made a faulty assumption. It did not make the connection among its high level goals, its enterprise risk management process and the work that was actually going on in the company."<sup>13</sup> The IRP Report determined, "this failing is a product of the culture of the company - a culture whose rhetoric does not match its practices."<sup>14</sup> This dysfunctional culture, the IRP Report concluded, appeared based on excessive levels of management, inconsistent presence of

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<sup>12</sup> *Ibid.*

<sup>13</sup> IRP Report at 16. [The IRP Report dedicated nearly half of its report to the Commission's own role in the "erosion" of PG&E's safety culture.]

<sup>14</sup> *Ibid.*

subject matter expertise in the management ranks, an appearance-led strategy setting, an insularity that impeded its ability to judge its effectiveness, and an overemphasis on financial performance.<sup>15</sup> The IRP also cited to a lack of “process excellence,” which was explained as a failure of communication resulting from siloed, or segregated, business enterprises that should have, but failed to communicate with each other. Importantly, the IRP indicates that PG&E’s company culture failed to explain and acculturate the live link that must be maintained between the executive, management, and field operations ranks; between individuals and their actions; between divisions and subdivisions; and between processes, functions, and overarching safety goals.<sup>16</sup>

The “intangible factors” that figure into PG&E’s organizational culture were not extensively examined by the IRP,<sup>17</sup> nor did the Commission explore these factors as part of the San Bruno Investigations. The persistence of safety lapses, however, compels us to question: Do PG&E’s organizational failures cited by the NTSB continue? Does PG&E’s progress suffer from impediments to process excellence within the control of the company? Is PG&E presently undergoing improvement with optimal risk management and strategic planning? Is PG&E designing accountability metrics and measures to achieve a high-functioning safety culture? And is PG&E realizing improvement with sufficient speed and deliberation?

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<sup>15</sup> *Id.* at 48.

<sup>16</sup> *Id.* at 53.

<sup>17</sup> *Id.* at 6. The IRP acknowledges that many of its comments on PG&E’s corporate culture are based on the IRP’s opinions, not on specific facts.

### **3.2. Significant Safety Incidents and Lapses Persist After the San Bruno Explosion and the NTSB Report**

Since the San Bruno explosion, the NTSB Report, and the initiation of the San Bruno Investigations, safety incidents<sup>18</sup> continued to occur across PG&E's electric and gas operations and service territory. For example, since the San Bruno explosion, PG&E has been investigated and/or cited for the following:

- Two separate incidents involving the same contractor in connection with the Kern Power Plant demolition. PG&E failed to actively manage and oversee demolition work by contractors; in particular, PG&E failed to adequately evaluate the contractor's qualifications, including the contractor's own safety data and programs. In June 2012, a tank dismantling resulted in one fatality. The Commission's Investigation 14-08-022 addressed this accident and recently concluded with the imposition of fines, penalties, and remedies.<sup>19</sup> In August 2013, the implosion of the plant resulted in one serious injury. This incident is still under investigation by the Commission's Safety and Enforcement Division (SED).
- Two separate breaches of the Metcalf Transmission Substation in San Jose indicate some of the management and oversight challenges faced in PG&E's protection of the physical security of critical infrastructure.<sup>20</sup> In April 2013, gunmen struck transformers, equipment, and gas tanks with high-powered rifles, disrupting service at the Substation for nearly a month. In

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<sup>18</sup> Safety incidents can include incidents that were the subject of formal Commission investigations or SED citations that have been concluded and where violations were found; and incidents that are pending Commission or SED investigation and violations are only alleged at the present time. We note the incidents here for the fact of their occurrence.

<sup>19</sup> D.15-07-014 [I.14-08-022], *Decision Approving Settlement* (issued July 30, 2015).

<sup>20</sup> See PG&E's Summary Report for Electric Incident Review – Metcalf Substation (November 21, 2014). <http://www.cpuc.ca.gov/nr/rdonlyres/c105dfed-e6e5-483a-8d28-60b9fe2ef02c/0/metcalfsummaryreport112114.pdf>.

August 2014, the perimeter was breached in two locations and equipment burglarized from the site, despite the good working order of alarms and cameras and despite the presence of on-site security and the coordination with a centralized security operator. SED is conducting investigatory work into these incidents.

- In January 2015, PG&E conducted an “unsuccessful” in-line inspection of a high-pressure gas transmission pipeline, Line 147 in San Carlos.<sup>21</sup> Further inspection revealed outward bulges in the pipeline, which required immediate removal of those pipeline sections. SED is investigating this incident.
- In March 2015, the West Park Substation in Bakersfield suffered from two separate attacks in one night. SED is investigating this incident.
- In November 2014, SED cited six separate incidents involving PG&E’s natural gas distribution lines, including a March 2014 house explosion in Carmel, when it initiated a formal investigation into PG&E’s gas distribution recordkeeping practices.
- Between January 2012 and November 2014, SED issued three citations with fines exceeding \$5 million each (one citation exceeded \$10 million) for failure to conduct pipeline leak surveys, non-standard pipeline testing, and the Carmel house explosion.
- Between October 2013 and March 2015, SED issued five citations with fines under \$5 million each for safety code violations, lack of written Quality Assurance/Quality Control procedures for maintenance activities, failure to set a pipeline relief valve within the allowable pressure limit, and other violations.
- According to SED, PG&E has had issues with its plastic fusion requalification procedures. Among other things, SED identified a

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<sup>21</sup> Pacific Gas and Electric Company’s Notice of Communication with Safety and Enforcement Division, filed June 24, 2015 [Rulemaking (R.) 11-02-019], Attachment “Line 147 In-Line Inspection Proposed Schedule and Control Plan” (dated June 16, 2015), at 3.

gap in the way PG&E was requalifying employees on electro-fusion techniques.

- In November 2013, SED cited and fined PG&E \$8.1 million for allowing a contractor to conduct radiographic pipeline tests that did not meet federal requirements.

### **3.3. The Commission's Traditional Tools of Enforcement May Not Be Producing the Desired Result of Preventing Future Safety Incidents**

We have noted the persistence of safety incidents at PG&E after the San Bruno explosion. If the Commission was to continue to rely solely on fines and shareholder-financed penalties and remedies, there could be unintended impacts on ratepayers: if the accumulated fines begin to intrude on PG&E's cash and revenue margin, the accumulated liabilities could negatively impact the cost of raising equity for normal revenue-producing investments. Those higher financing costs for standard investments could be passed on to ratepayers – an unintended consequence of the Commission limiting itself to the traditional shareholder-funded fines and remedies.

The Commission's observation of the ongoing safety incidents on PG&E's system that threaten human, system, and environmental safety prompts us to ask: Why are the traditional tools of enforcement not working to prevent safety incidents and promote a high-functioning safety culture? The Commission is beginning to observe some indications of improvement. For example, since the San Bruno explosion and fire, PG&E has made a number of organizational changes, such as reducing the layers of management between the Presidents and field and operations staff. At the same time, we must ask: Are these improvements as widespread and deep as are necessary for a long-lasting and

sustainable safety culture? And what additional actions can the Commission order or promote to realize a high-functioning safety culture at PG&E?

**3.4. PG&E's Obligations to Ensure the Safe and Prudent Operation and Management of Utility Assets Are Mandated by Law and Encompass the Responsibility of Competently and Prudently Managing Utility Assets Dedicated to Serving the Public**

The Commission, invested by the California Constitution and the Public Utilities Code with police power to regulate public utilities, among other actions sets rates, authorizes capital investments and operating budgets, and awards franchises to companies such as PG&E.<sup>22</sup> A "franchise to operate a public utility ... is a special privilege which ... may be granted or withheld at the pleasure of the State."<sup>23</sup> Holding that franchise, PG&E must "comply with the comprehensive regulation of its rates, services, and facilities as specified in the Public Utilities Code."<sup>24</sup> And the Commission must actively, not passively, supervise and regulate public utilities.<sup>25</sup>

PG&E's obligation to safely and reliably operate its utility system is paramount. The Commission recently emphasized this point in the final decisions in the San Bruno Investigations, in response to PG&E's argument that

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<sup>22</sup> *Hartwell Corporation v. Superior Court of Ventura County* (2002) 27 Cal. 4th 256, 280-81. See also *Arkansas Elec. Coop Power v. Arkansas Public Serv. Comm'n* (1983) 461 U.S. 375, 377.

<sup>23</sup> *Pacific Gas & Electric Co. v. State Energy Resources Conservation and Development Comm'n* (1983) 461 U.S. 190, 205, quoting *Frost v. Corporation Comm'n* (1929) 278 U.S. 515, 534 (dis. op. of Brandeis, J.).

<sup>24</sup> *Hartwell*, *supra*, 27 Cal. 4th at 280-81.

<sup>25</sup> *Sale v. Railroad Commission* (1940) 15 Cal. 2d 612, 617.

safety is a subsidiary responsibility of a utility under Public Utilities Code Section 451:

Contrary to PG&E's argument, the safety obligation established by Section 451 is not a residual, variable byproduct of a particular rate level set by the Commission. *To be clear, public utilities are not permitted to adopt anything other than safe operations and practices*, even if they believe that rates approved by the Commission are inadequate.<sup>26</sup>

We view PG&E as long-term stewards of a utility system that is dedicated to the public convenience and necessity and that is paid for and supported by ratepayers. Because PG&E's customers bear this cost-responsibility, ratepayers should have the highest expectation that PG&E will competently manage and safely operate these assets dedicated to public service, and that PG&E should not incur imprudent costs, losses, or damages. PG&E's major capital expenditures are invested in long-lived assets that require this competence, prudence, and dedication to safety, so that the full useful life of the asset is realized and customers' and the public's expectations of safety and reliability are met. In this vein, PG&E's executive and senior management should be serving as patient capital managers, with an appropriate emphasis on an organizational culture that prioritizes safety and reliability. Accordingly, PG&E's Board of Directors should be holding its executive and senior management accountable for meeting these expectations through its governance and leadership in corporate culture. If PG&E's Board and executive and senior management do not, then the Commission, in its regulation of public utilities, must act accordingly. Whereas a

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<sup>26</sup> D.15-04-023 [I.12-01-007], *Modified Presiding Officer's Decision Regarding Alleged Violations by Pacific Gas and Electric Company in Connection with the San Bruno Explosion and Fire*, mimeo at 26-27 (emphasis added).



“court is a passive forum,” the Commission “is an active instrument of government charged [under Article XII of the California Constitution] with the duty of supervising and regulating public utilities’ services and rates.”<sup>27</sup>

### **3.5. Purpose of Investigation**

This investigation will evaluate PG&E’s and PG&E Corp.’s governance, policies, practices, and safety metrics that have formed and continue to shape its safety culture and record of operation and performance. This investigation will also determine whether PG&E’s organizational culture and governance are related to PG&E’s safety incidents and performance record, and if so, to what extent; and if so, how can or should the Commission order or encourage PG&E to develop, implement, and update as necessary a safety culture of the highest order, so that PG&E’s actions and performance record bear out that safety culture?

This investigation will not conduct a duplicative review of our enforcement actions concerning specific incidents already investigated or that are pending investigation at the Commission. This investigation will instead conduct a deeper review of PG&E’s and PG&E Corp.’s organizational culture, governance, and operations, and the systemic issues identified by the NTSB.

This investigation should begin with what the Commission, customers, and the public should expect from PG&E when the State awarded PG&E its franchise and approves PG&E’s rates. To answer this question, this investigation should examine PG&E’s budgets, operational requirements, staffing, and approved revenue requirements and recorded spending in past years.

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<sup>27</sup> *Sale, supra*, 15 Cal.2d at 617.

In D.12-04-010, issued in the Commission's rulemaking to revise the gas safety rules, the Commission emphasized the importance of "corporate leaders who are committed to safety as their first priority and who establish the priorities and values of a corporation, translate those priorities into a safety management system in its daily operations, and ... instill in the corporation's workers a commitment to safety through personal example and reward systems."<sup>28</sup> Accordingly, the safety culture investigation should analyze the methods that Boards of Directors and executive leadership use to hold themselves and management accountable for their decisions and actions, including executive compensation policies.

#### **4. Direction For SED To Investigate PG&E's Safety Culture and for Preparation of a Consultant's Report**

The NTSB Report concluded that "multiple and recurring deficiencies in PG&E operational practices indicate a systemic problem."<sup>29</sup> The NTSB Report made concrete recommendations to both PG&E and the Commission and the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration, including a comprehensive audit of all aspects of PG&E's operations and for PG&E to take corrective action.

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<sup>28</sup> D.12-04-010 [R.11-02-019], *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*, mimeo at 20-21. In that decision we ordered SED (then CPSD, or the Consumer Protection and Safety Division) to conduct a "management audit" of gas corporations. The order for those audits has since been replaced by the Commission's decision on integrating safety in rates, D.14-12-025. The report on PG&E's safety culture ordered herein will be similar to the management audit ordered in D.12-04-010.

<sup>29</sup> *Id.* at 118.

In the initial phase of this proceeding, we direct SED to act in its advisory capacity to investigate PG&E's safety culture and attempt to answer the questions raised in this order. SED's assessment should be contained in a consultant's report and provided to the assigned Commissioner and the assigned Administrative Law Judge.

We hereby authorize SED to retain the services of an expert consultant(s) to assist it in this investigation and reporting. PG&E shall reimburse the Commission for the expert consultant services in an amount not to exceed \$2 million, unless otherwise ordered by the assigned Commissioner. The expert consultant(s) shall maintain the confidentiality of data gathered in this investigation, its work product, and the consultant's report unless otherwise directed by the assigned Commissioner, assigned Administrative Law Judge, or Commission.

## **5. Preliminary Scoping Memo**

### **5.1. Issues Presented**

1. Does PG&E optimize its resources to ensure a high-functioning safety culture? If not, what prevents PG&E from such optimization? Factors to consider include: organizational management, governance rules, reporting and operating structure, size and geographic reach, and other factors.
2. Have PG&E's Board of Directors, executive leadership, and management designed and implemented policies and procedures and risk-management plans to promote a high-functioning safety culture?
3. What type and quality of management, governance, and accountability metrics and measures will ensure that PG&E will optimize its resources to ensure a high-functioning safety culture?
4. How does PG&E react organizationally - in terms of leadership, management, governance, policy development, and risk

- management – when a significant safety event occurs? And how does PG&E react organizationally when the Commission institutes an investigation into alleged violations?
5. To what degree do the Boards of Directors weigh PG&E’s safety record when it approves executives’ and managers’ compensation packages, incentives, and accountability metrics and measures, including any remuneration when the employment or agency relationship is terminated or ended? To what degree do the Boards of Directors weigh an individual executive’s safety record and risk management record when it considers promoting or appointing executives and Board members?
  6. How are safety values communicated and carried out vertically within the company?
  7. What qualities, factors, and metrics should be used to define, promote, and measure the effectiveness of PG&E’s safety culture?

## **5.2. Categorization of Proceeding**

The initial phase of this proceeding is dedicated to SED’s investigation of PG&E consistent with this Order, and SED’s consultant will produce a report on PG&E’s safety culture and other questions presented in the preliminary scoping memo. This initial phase of the proceeding accordingly is categorized as ratesetting because it will present and consider issues both of fact and policy,<sup>30</sup> and because PG&E and PG&E Corp. do not face the prospect of fines, penalties, or remedies in this phase. After the initial phase of this proceeding, when the

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<sup>30</sup> See *Interim Opinion - Recategorizes this proceeding from the quasi-legislative to the ratesetting category*, D.01-05-061, *mimeo* at 10 (issued May 15, 2001) (“The investigatory phase of this proceeding is appropriately categorized as ratesetting. This phase of the proceeding will involve an inquiry into Respondents’ past conduct and whether it complies with the Commission’s holding company decisions or applicable law. It will also involve an inquiry into appropriate prospective changes in our decisions or other rules governing Respondents’ holding company structure.”); *Interim Opinion Denying PG&E Corporation’s Request for Rehearing on Categorization*, D.01-06-031, *mimeo* at 4 (issued June 21, 2001).

consultant(s) has completed its report, the assigned Commissioner will determine the scope of and next actions in this proceeding.

The determination as to category is appealable under Rule 7.6. Pursuant to Rule 7.6(a), appeals of the categorization of this investigation, if any, are to be filed and served within 10 days of the date this OII is issued.

Rule 8.3 and any applicable law or Commission rule or order concerning *ex parte* Communications in ratesetting proceedings shall apply in this initial phase.

### **5.3. Preliminary Determination of Need for Hearings and Schedule of Proceeding**

As discussed above, the initial phase of this proceeding will consist of SED's investigation into, and presentation of a consultant's report on, PG&E's safety culture and the questions raised in this Order. After SED's consultant completes its report, the assigned Commissioner may schedule a prehearing conference to determine the next steps in this proceeding, including the scope and categorization of the next phase of this proceeding and if hearings are necessary.

### **5.4. Parties and Service List**

PG&E and PG&E Corp. are named as Respondents to this investigation. During the first phase of the investigation, SED will be serving as the primary advisory staff.

### **5.5. Service of OII**

This OII shall be served on the Official Service List for the proceedings that address PG&E's safety-related issues:

- R.11-02-019
- I.12-01-007

- I.11-02-016
- I.11-11-009
- A.13-12-012
- A.15-05-003
- A.15-05-004
- A.12-11-009
- I.13-03-007

Service of the OII does not confer party status or place a person who has received such service on the Official Service List for this proceeding.

#### **5.6. Subscription Service**

Persons may monitor the proceeding by subscribing to receive electronic copies of documents in this proceeding that are published on the Commission's website. There is no need to be on the official service list in order to use the subscription service. Instructions for enrolling in the subscription service are available on the Commission's website at <http://subscribecpuc.cpuc.ca.gov/>.

#### **6. Confidentiality of Discovery, Staff Work Product, and Reports Until Issuance of Consultant's Report and Order Authorizing Appropriate Distribution**

Fundamentally, the public has the constitutional right to scrutinize Commission business,<sup>31</sup> which is undertaken on behalf of the public. In that vein, the Commission has the discretion to disclose investigation records under Section 583 of the Public Utilities Code.

We exercise our discretion here to limit public disclosure of documents during the initial phase of this proceeding, as SED conducts its investigation with

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<sup>31</sup> See Cal. Const. Art. 1, § 3(b)(1).

the assistance of experts. We emphasize here that our determination is temporary only, until the investigation moves beyond this initial phase. The assigned Commissioner or assigned Administrative Law Judge shall have the discretion to make staff work product and reports public, subject to all appropriate protections.

Pursuant to Public Utilities Code Section 314(a), the Commission and its staff may seek information from PG&E at any time. Further, the Commission hereby confirms that under Pub. Util. Code §§ 313, 314, 314.5, 315, 581, 582, 584, 701, 702, 771, 1794, and 1795, the Commission staff may obtain information from utilities and is already deemed to have the general investigatory authority of the Commission.

We do, however, place a moratorium on PG&E's and PG&E Corp.'s ability to conduct discovery on the Commission and its staff during this initial phase of the proceeding, to enable SED to conduct its investigation without interference.

## **7. Public Advisor**

Any person or entity interested in participating in this investigation that is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor's Office in San Francisco at (415) 703-2074, (866) 849-8390, or e-mail [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov); or in Los Angeles at (213) 576-7055, (866) 849-8391, or e-mail [public.advisor.la@cpuc.ca.gov](mailto:public.advisor.la@cpuc.ca.gov). The TTY number is (866) 836-7825. Written communication may be sent to the Public Advisor, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102.

## **8. Intervenor Compensation**

As discussed, after SED's consultant completes its report, the assigned Commissioner may schedule a prehearing conference to determine the next steps

in this proceeding, including the scope and categorization of the next phase of this proceeding, and if hearings are necessary. Accordingly, notices of intent to claim intervenor compensation should be filed only after the assigned Commissioner and/or assigned Administrative Law Judge holds a prehearing conference in this proceeding.

Therefore, **IT IS ORDERED** that:

1. An investigation is instituted on the Commission's own motion to determine whether Pacific Gas and Electric Company's (PG&E) and PG&E Corporation's organizational culture and governance prioritize safety and adequately direct resources and design accountability metrics and measures to achieve safety goals and standards. This investigation may determine whether changes should be made to Commission orders and conditions, or new orders and conditions imposed, to compel or promote an organizational culture and governance structure that prioritizes safety. No penalties are proposed in the initial phase of this investigation.

2. Pacific Gas and Electric Company and PG&E Corporation are named as Respondents to this investigation.

3. During this phase of the investigation, the Safety and Enforcement Division will be serving as the primary advisory staff to the Commission.

4. Safety and Enforcement Division (SED) is directed to investigate Pacific Gas and Electric Company's organizational culture, governance, policies, practices, and accountability metrics and answer the questions raised in this order. SED's investigation should be contained in a consultant's report, which should be provided to the assigned Commissioner and the assigned Administrative Law Judge, and as further directed by the assigned Commissioner.



5. The Commission staff may obtain any information from Pacific Gas and Electric Company that the Safety and Enforcement Division's staff and consultant(s) required to conduct its investigation and reporting.

6. The Commission imposes a moratorium on Pacific Gas and Electric Company and PG&E Corporation on conducting discovery on the Commission and its staff during the initial phase of this investigation.

7. Pacific Gas and Electric Company shall reimburse the Commission for a consultant(s) contracted by the Safety and Enforcement Division (SED) in an amount not to exceed \$2 million, unless otherwise ordered by the assigned Commissioner. The consultant(s) shall maintain the confidentiality of its assessment and report unless otherwise directed by SED, the assigned Commissioner, or the Commission.

8. This Order includes a preliminary scoping memo.

9. Pursuant to Rule 7.1(c) of the Commission's Rules of Practice and Procedure, the initial phase of this proceeding is categorized as ratesetting.

10. Rule 8.3 of the Commission's Rules of Practice and Procedure and any applicable law or Commission rule or order concerning *ex parte* Communications in ratesettings shall apply in this case, subject to any modification of the categorization of this proceeding.

11. The Executive Director shall cause a copy of this Order to be served electronically and by certified mail on the Respondent, Pacific Gas and Electric Company and PG&E Corp., at:

Anthony F. Earley, Jr.,  
Chairman, CEO and President  
PG&E Corporation  
77 Beale Street  
San Francisco, CA 94105

Hyun Park  
General Counsel  
Pacific Gas and Electric Company  
and PG&E Corporation  
77 Beale Street  
San Francisco, CA 94105  
[Lhj2@pge.com](mailto:Lhj2@pge.com)

Nick Stavropoulos  
President, Gas Operations  
Pacific Gas and Electric Company  
77 Beale Street  
San Francisco, CA 94105

Geisha Williams  
President, Electric Operations  
Pacific Gas and Electric Company  
77 Beale Street  
San Francisco, CA 94105

12. The Executive Director shall cause a copy of this Order to be served electronically on the official service lists for Rulemaking (R.) R.11-02-019, Investigation (I) 12-01-007, I.11-02-016, I.11-11-009, I.13-03-007, Application (A.) 13-12-012, A.15-05-003, A.15-05-004, A.12-11-009.

This order is effective today.

Dated \_\_\_\_\_, 2015, at San Francisco, California.