

**APPENDIX A**

**ENHANCED OVERSIGHT AND  
ENFORCEMENT PROCESS**

## **Appendix A**

### **Enhanced Oversight and Enforcement Process**

The Commission adopts an Enhanced Oversight and Enforcement Process (Process) designed to provide a clear roadmap for how the Commission will closely monitor PG&E's performance in delivering safe, reliable, affordable, clean energy.

The Process contains six steps which are triggered by specific events, some of which would rely on Safety and Operational Metrics. The Process includes enhanced reporting requirements and additional monitoring and oversight. The Process also contains provisions for PG&E to cure and permanently exit the Process if it can satisfy specific criteria. If PG&E is placed into the Process, actions taken would occur in coordination with the Commission's existing formal and informal reporting requirements and procedures. The Process does not replace or limit the Commission's regulatory authority, including the authority to issue Orders to Show Cause and Orders Instituting Investigations and to impose fines and penalties.

Except as otherwise provided below, a Commission Resolution would place PG&E in the appropriate step based upon the occurrence of a specified triggering event. PG&E shall report the occurrence of a triggering event to the Commission's Executive Director no later than five business day after the date on which any member of senior management of PG&E becomes aware of the occurrence of a triggering event.<sup>25</sup> PG&E should presumptively move through the steps of the Process sequentially but the Commission may place PG&E in the appropriate step upon the occurrence of a specified triggering event.

#### **1. Enhanced Reporting**

##### **STEP 1: Enhanced Reporting**

###### **A. Triggering Events**

- i. PG&E fails to obtain an approved wildfire mitigation plan or fails in any material respect to comply with its regulatory reporting requirements;
- ii. PG&E fails to comply with, or has shown insufficient progress toward, any

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<sup>25</sup> Applicable to triggering events that are not based upon a Commission determination.

of the metrics (i) set forth in its approved wildfire mitigation plan including Public Safety Power Shutoffs (PSPS) protocols, (ii) resulting from its ongoing safety culture assessment, (iii) contained within the approved Safety and Operational Metrics, or (iv) related to other specified safety performance goals;

- iii. PG&E demonstrates insufficient progress toward approved safety or risk-driven investments related to the electric and gas business; or
- iv. PG&E (or PG&E Corporation) fails in any material respect to comply with the Commission's requirements and conditions for approval of its emergence from bankruptcy.

#### B. Actions During Step 1

PG&E will submit a Corrective Action Plan to the Executive Director within twenty days of a Commission Order placing PG&E into Step 1.

- i. The Corrective Action Plan shall be designed to correct or prevent a recurrence of the Step 1 triggering event, or otherwise mitigate an ongoing safety risk or impact, as soon as practicable and include an attestation stating that it has been approved by the Chief Risk Officer (CRO).
- ii. The Corrective Action Plan, including any timeframes set forth therein for the correction of the triggering events or mitigation of any ongoing safety risk or impact, shall be approved by the Commission or the Executive Director.
- iii. Commission staff will monitor PG&E's compliance with its Corrective Action Plan based on, among other things, existing or enhanced reporting.
- iv. The CRO, the Safety and Nuclear Oversight (SNO) Subcommittee, and the boards of directors shall provide reporting to the Commission as directed.

#### C. Performance that Results in Exit from Step 1

- i. PG&E shall exit from Step 1 of the Process upon issuance of a Commission Resolution finding that PG&E has met the conditions of its Corrective Action Plan within the required timeframe.
- ii. The Commission, by Resolution, will move PG&E to Step 2 if it fails to adequately meet the conditions of its Corrective Action Plan within the required timeframe. PG&E may remain in Step 1 if it demonstrates sufficient progress toward meeting the conditions of its Corrective Action Plan and additional time appears needed to successfully address the

triggering event(s).

## **Step 2: Commission Oversight of Management and Operations**

### **A. Triggering Events**

- i. PG&E fails to adequately meet the conditions of its Corrective Action Plan within the required timeframe as provided in Step 1, Section C (ii) above;
- ii. A gas or electric incident occurs that results in the destruction of 1,000 or more dwellings or commercial structures and appears to have resulted from PG&E's failure to follow Commission rules or orders or prudent management practices;
- iii. PG&E fails to comply with electric reliability performance metrics, including standards to be developed for intentional de-energization events (i.e., PSPS) and any that may be contained within the approved Safety and Operational Metrics; or
- iv. PG&E fails to report to the Commission a systemic electric or gas safety issue.

### **B. Actions During Step 2**

- i. PG&E will submit a Corrective Action Plan, or updated Corrective Action Plan, to the Executive Director within twenty days of a Commission Order placing PG&E into Step 2.
- ii. The Corrective Action Plan shall be designed to correct or prevent a recurrence of the Step 2 triggering event, or otherwise mitigate an ongoing safety risk or impact, as soon as practicable and shall include an attestation stating that it has been approved by the CRO and the SNO Subcommittee.
- iii. The Corrective Action Plan, including any timeframes set forth therein for the correction or prevention of the Step 2 triggering events or mitigation of any ongoing safety risk or impact, shall be approved by the Commission or the Executive Director.
- iv. Commission staff will monitor PG&E's compliance with its Corrective Action Plan based on, among other activities, increased inspections, quarterly reports, and, to the extent applicable, spot auditing of General Rate Case, Wildfire Expense Memorandum Account, Catastrophic Events Memorandum Account, or Pipeline Safety Enhancement Plans accounts in

which approved investments in wildfire mitigation, electric or gas safety are auditable.

- v. A representative of the SNO Subcommittee and the CRO shall appear quarterly before the Commission to report progress on the Corrective Action Plan and provide additional reporting as directed.

C. Performance that Results in Exit from Step 2

- i. PG&E shall exit from Step 2 upon issuance of a Commission Resolution finding that the company has met the conditions of its Step 2 Corrective Action Plan within the required timeframe. The Commission may move PG&E back to Step 1 of the Process rather than exit the process if it determines that PG&E has made sufficient progress in meeting its Step 2 Corrective Action Plan but continued enhanced reporting is needed.
- ii. The Commission, by Resolution, will move PG&E to Step 3 if PG&E fails to adequately meet the conditions of its Corrective Action Plan and additional time in Step 2 is not likely to result in the effective implementation of its Corrective Action Plan.

**2. Enhanced Enforcement**

Steps 3 through 6 of the Process implement increasing levels of operational oversight upon occurrence of certain triggering events.

**Step 3: Appointment of Independent Third-Party Monitor**

A. Triggering Events

- i. PG&E fails to adequately meet the conditions of its Corrective Action Plan within the required timeframe, as provided in Step 2, Section C (ii);  
or
- ii. PG&E fails to obtain or maintain its safety certificate as provided in AB 1054.

B. Actions During Step 3

- i. The Commission's Executive Director may appoint an independent third- party monitor (Monitor), or expand the authority of any Independent Safety Monitor previously appointed by the Commission, to oversee PG&E's operations and to work with senior management to develop and implement a Corrective Action Plan with reasonable timeframes to address the triggering event(s) as soon as practicable.

- ii. The Monitor will provide active, external oversight of PG&E's implementation of its Corrective Action Plan.
- iii. The Monitor will have the authority to hire third-party safety and utility operations experts to assist it with its oversight obligations.
- iv. PG&E's senior management must work jointly with the Monitor to develop and implement a Corrective Action Plan including reasonable timeframes (which timeframes shall be acceptable to the Commission). The Corrective Action Plan shall be certified by the Monitor.
- v. PG&E may request the Monitor to modify the Corrective Action Plan but must otherwise implement the plan as approved by the Monitor.
- vi. The Monitor will provide quarterly reports to the Commission and to PG&E's board of directors on the progress towards implementing the Corrective Action Plan.
- vii. The CRO and SNO Subcommittee will provide reporting to the Commission as required during this Step.

C. Performance that Results in Exit from Step 3

- i. PG&E shall exit from Step 3 upon issuance of a Commission Resolution finding that PG&E has met the conditions of its Step 3 Corrective Action Plan within the required timeframe. The Commission may determine that PG&E must remain in Step 1 or 2 for additional time after it confirms that PG&E has exited Step 3.
- ii. The Commission, by Resolution, will move PG&E to Step 4 if any of the following occurs:
  - a. PG&E fails to implement the Corrective Action Plan within the timeframes required by the Monitor or the Commission's Executive Director.
  - b. The Commission determines that additional enforcement is necessary because of PG&E's systemic non-compliance or poor performance with its Safety and Operational Metrics over an extended period.

**Step 4: Appointment of a Chief Restructuring Officer**

A. Triggering Events

- i. PG&E fails to adequately meet the conditions of its Corrective Action Plan within the required timeframe and additional time in Step 3 is not

likely to result in the effective implementation of its Corrective Action Plan, as provided in Step 3, Section C (ii)(a);

- ii. Additional enforcement is necessary because of PG&E's systemic non-compliance or poor performance with its Safety and Operational Metrics over an extended period;
- iii. The Commission determines through an Order to Show Cause, Order Instituting Investigation, or other appropriate process, that PG&E repeatedly violated its regulatory requirements, committed gross negligence, or committed a serious violation of the law, such that such conduct in the aggregate represents a threat to public health and safety;
- iv. PG&E causes an electric or gas safety incident that results in the destruction of 1,000 or more dwellings or commercial structures and the Commission determines through an Order to Show Cause, Order Instituting Investigation, or other appropriate process, that such event results from the willful misconduct or repeated and serious violations of Commission rules, orders or regulatory requirements;
- v. The Commission determines through an Order to Show Cause, Order Instituting Investigation, or other appropriate process that additional enforcement is necessary because the wildfire fund administrator has made a determination following a covered wildfire that PG&E is ineligible for the cap on reimbursement because its actions or inactions that resulted in a covered wildfire constituted conscious or willful disregard of the rights and safety of others; or
- vi. PG&E failed to obtain or maintain its safety certificate as provided in AB 1054 for a period of three consecutive years.

B. Actions During Step 4

- i. The Commission will require that PG&E retain a chief restructuring officer from a list of qualified candidates identified by a third-party. The chief restructuring officer will have full management responsibility for developing and directing PG&E to implement the Corrective Action Plan with reasonable timeframes to address the triggering event(s) as soon as practicable.
- ii. The chief restructuring officer will have the authority of an executive officer of PG&E and will report to the SNO Committee on all safety issues.

- iii. PG&E's senior management must work jointly with the chief restructuring officer to develop and implement a Corrective Action Plan including reasonable timeframes (which timeframes shall be acceptable to the Commission).
- iv. The chief restructuring officer will have all corporate authority that can be delegated to an officer under the California Corporations Code in order to ensure that PG&E can meet its Corrective Action Plan.
- v. The Corrective Action Plan must be certified by the chief restructuring officer.
- vi. PG&E must otherwise implement the Corrective Action Plan as certified by the chief restructuring officer.
- vii. The chief restructuring officer will provide quarterly reports to the Commission and to PG&E's board of directors on the progress towards implementing the Corrective Action Plan.
- viii. The Chief Restructuring Officer will remain in place during Steps 5 and 6, if triggered.

C. Performance that Results in Exit from Step 4

- i. PG&E shall exit from Step 4 upon issuance of a Commission Resolution finding that it met the conditions of its Step 4 Corrective Action Plan within the required timeframe. The Commission may determine that PG&E must remain in Steps 1, 2, or 3 for additional time after PG&E has exited Step 4.
- ii. The Commission by Resolution will move PG&E to Step 5 if the Commission finds that PG&E failed to implement the Corrective Action Plan within the timeframes required by the chief restructuring officer or the Commission.
- iii. PG&E may remain in Step 4 if the Commission determines that additional time appears needed to successfully address the triggering event(s).

## **Step 5: Appointment of a Receiver**

### A. Triggering Events

- i. PG&E fails to implement its Step 4 Corrective Action Plan within the required timeframes, as provided in Step 4, Section C (ii).

### B. Process

- i. The Commission will pursue the receivership remedy subject to then applicable law of the state of California. If PG&E becomes the subject of a subsequent chapter 11 case, PG&E will agree not to dispute the Commission's or state of California's authority to file a motion for the appointment of a chapter 11 trustee.
- ii. The receiver, if appointed by the Superior Court, would be empowered to control and operate PG&E's business units in the public interest but not dispose of the operations, assets, business or PG&E stock.

### C. Performance that Results in Exit from Step 5

- i. If the Commission by Resolution determines that PG&E has corrected all of the Step 5 triggering events and has remained in material compliance with Safety and Operational Metrics for a period of 18 months, the Commission may request termination of any receivership.
- ii. At any time while the receiver is in place and to the extent permitted by then applicable law, the Commission can initiate a Step 6 enforcement action if a Step 6 triggering event has occurred.
- iii. In the event that the Commission seeks, but is not successful in obtaining a receiver, or if the Step 5 triggering event occurs and California law does not allow for the appointment of a receiver, the Commission would determine whether PG&E shall remain in Step 4 or advance to Step 6.

## **Step 6: Review of CPCN**

### A. Triggering Events

- i. A receiver appointed as set forth above has determined that continuation of Receiver Oversight will not result in restoration of safe and reliable service; provided that such receiver shall have been in place for a period of at least nine (9) months before making such a determination;
- ii. A court of applicable jurisdiction has denied the Commission's request for a receiver made as set forth above or the Step 5 triggering event has occurred

and California law does not provide for the appointment of a receiver; or

- iii. PG&E fails adequately to address the Step 5 triggering event within 18 months of imposition of Step 5 and the Commission determines that additional time in Step 5 is unlikely to result in corrective action.

B. Process

- i. The Commission will undertake this process subject to then applicable law of the state of California.
- ii. The CPUC will issue an Order to Show Cause or Order Instituting Investigation to initiate Step 6
- iii. As a result of the Order to Show Cause, the CPUC may place conditions on PG&E's CPCN or revoke PG&E's CPCN.

**(END OF APPENDIX A)**