

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

California Public Utilities Commission, and DOES 1-20

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

City of San Bruno

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

San Francisco Superior Court

400 McAllister Street

San Francisco, CA 94102

CASE NUMBER:
(Número del Caso):

CGC-14-537139

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Steven R. Meyers

Meyers Nave Riback Silver & Wilson

555 12th Street, Oakland, CA 94607 Tel (510) 808-2000

DATE:

(Fecha)

FEB - 3 2014

Clerk, by

(Secretario)

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
 under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

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12 Attorneys for Petitioner and Plaintiff
13 CITY OF SAN BRUNO

14
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF SAN FRANCISCO – UNLIMITED JURISDICTION**
17

18 CITY OF SAN BRUNO,

19 Petitioner,

20 v.

21 CALIFORNIA PUBLIC UTILITIES
COMMISSION, and DOES 1-20,
22 INCLUSIVE,

23 Respondents.

CASE NO.

CGC - 14 - 537139

**PETITION FOR WRIT OF MANDAMUS
AND COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF (PUBLIC
RECORDS ACT); VERIFICATION (Cal.
Const. Art. 1, § 3; Code of Civil Procedure
Sections 525; 526; 1060; 1085; Government
Code Sections 6258, 6259)**

24
25 Petitioner and Plaintiff CITY OF SAN BRUNO (“San Bruno” or “Petitioner”) alleges as
26 follows in this Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief:

27 **SUMMARY OF ALLEGATIONS**

28 1. Respondent and Defendant CALIFORNIA PUBLIC UTILITIES COMMISSION

ENDORSED
FILED
San Francisco County Superior Court
FEB - 3 2014
CLERK OF THE COURT
ELIAS BUTT
Deputy Clerk
BY: _____

EXEMPT FROM FILING FEES
GOVT CODE § 6103

1 (the "PUC" or "Respondent") has failed and refused to properly respond to the City of San
2 Bruno's ("San Bruno) request for public records concerning the people's business.

3 2. San Bruno requests documents pursuant to the Public Records Act ("PRA" or
4 "Act"). (Govt. Code §§ 6250, *et seq.*) The records relate to pending PUC proceedings against
5 Pacific Gas & Electric Company ("PG&E"). The outstanding requests encompass 17 categories
6 of documents, such as communications and records regarding citations, fines, and pending
7 motions against PG&E. These requests go directly to the issue of the PUC's oversight of PG&E.
8 The PUC has systematically failed to reply within ten days as required by the PRA. In some
9 categories they did not reply at all. In other categories, the response was a partial disclosure of
10 documents, claiming the remaining documents were forthcoming (which was never the case). In
11 response to some categories, the PUC asserted the deliberative process privilege to shield
12 disclosure of documents that would embarrass the agency and/or show the PUC violated their own
13 rules barring *ex parte* communications. In response to three category requests, the PUC referred
14 San Bruno to numerous website links knowing full well the majority of the links were inoperative
15 and did not contain the requested documents.

16 3. In a final request for a response to its PRA requests, the PUC explained to San
17 Bruno that it was "very busy" and would respond when it had free time. This response makes a
18 mockery of the value of public participation within its own government. It is not a valid excuse to
19 delay or obstruct disclosure of public records under the PRA.

20 4. Therefore, based upon the facts alleged herein, San Bruno seeks a judicial writ or
21 order commanding the PUC to comply forthwith with its obligations for prompt disclosure of
22 public records under the PRA.

23 5. San Bruno further seeks injunctive relief to enjoin the PUC from continuing to
24 refuse prompt disclosure of its public records under the PRA.

25 6. San Bruno further seeks declaratory relief regarding the PUC's obligations under
26 the PRA. Declaratory relief shall also include that the PUC's written guidelines for PRA requests
27 (i.e., the PUC's General Order No. 66-C) should be declared unconstitutional.

28 7. As mandated under the PRA, San Bruno is entitled to all court costs and reasonable

1 attorney fees incurred in presenting and enforcing its PRA Request. (Govt. Code § 6259(b).)

2 **PARTIES**

3 8. Petitioner and plaintiff San Bruno is an incorporated city in accordance with the
4 laws of the State of California. It is located in San Mateo County. Like the PUC, San Bruno is
5 considered a “public agency” pursuant to Government Code section 6252(d) and is equally subject
6 to the requirements to promptly disclose public records in its possession when asked by the public
7 to do so.

8 9. Respondent and Defendant California Public Utility Commission is, and at all
9 times relevant to this petition has been, a statewide public agency organized under the laws of the
10 State of California. Under its constitutional mandate, it regulates a wide range of California’s
11 public utilities, including PG&E.

12 10. San Bruno does not know the true names of DOES 1 through 20 inclusive, and
13 therefore names them by such fictitious names. San Bruno will amend this petition and complaint
14 to reflect the true names and capacities of DOES 1 through 20 inclusive once ascertained.

15 **JURISDICTION AND VENUE**

16 11. This action is brought pursuant to Code of Civil Procedure sections 525, 526, 1060,
17 and 1085, and Government Code sections 6258 and 6259(a). Venue is proper in San Francisco
18 County under Code of Civil Procedure section 395 because both the Respondent and the requested
19 public records in the possession of the PUC are located in the County of San Francisco. (*See also*
20 Govt. Code § 6259(a).)

21 12. The PUC may argue that Public Utilities Code section 1759 instructs that the
22 California Supreme Court has exclusive jurisdiction over the PUC’s decisions and official duties.

23 13. Public Utilities Code section 1759 does not apply here. The PUC’s lack of an
24 adequate response to San Bruno’s PRA requests is not considered a “decision or order” as defined
25 by the Public Utilities Act. A PUC decision or order subject to Supreme Court jurisdiction is
26 narrow in scope and limited to the PUC’s oversight of public utilities, as opposed to obligations of
27 public records inspections. (Pub. Util. Code §§ 216; 1701 *et seq*; 1759(a).) The PUC’s decision
28 to withhold documents is not part of a “formulated policy” of the PUC to regulate a public utility,

1 nor is the evidence here part of a PUC proceeding's "official record," as required for Public
2 Utilities Code section 1759 to apply. (*See* Pub. Util. Code § 1757(a); *see also San Diego Gas and*
3 *Electric Company v. Sup. Ct.* (1996) 13 Cal.4th 893, 918.) Public Utilities Code section 1759 only
4 applies if this lawsuit interferes or hinders the PUC's "official duties." A PRA request is an
5 administrative duty, not an official one. It certainly does not interfere with the PUC's ability to
6 investigate PG&E or any other public utility. Accordingly, venue is proper in San Francisco
7 County Superior Court.

8 **FACTUAL BACKGROUND**

9 **San Bruno's PRA requests stem from the PUC proceedings subsequent the deadly PG&E** 10 **pipeline explosion**

11 14. San Bruno was the site of the horrific PG&E gas pipeline explosion in September
12 2010, which tragically took the lives of eight individuals, injured dozens, and caused immense
13 property damage. To this day, San Bruno and its citizens are still recovering from their losses.
14 The PG&E pipeline that exploded was commonly called Line 132.

15 15. After the 2010 PG&E pipeline disaster, the PUC, by its own initiative, began three
16 investigative proceedings: I.12-01-007; I.11-02-016; and I.11-11-009, commonly referred to as the
17 "Line 132 Proceedings." The proceedings were initiated against PG&E to ensure its pipelines are
18 operated safely.

19 16. Several PG&E main gas lines run directly through San Bruno. San Bruno
20 intervened in the Line 132 Proceedings to protect the interests of its citizens. It wanted to ensure
21 PG&E establishes thorough and complete recordkeeping of its pipelines, and maintains these
22 pipelines at conservative and safe operating pressures. San Bruno wants to do everything possible
23 to prevent another pipeline disaster like the one witnessed in September 2010.

24 17. The National Transportation & Safety Board (NTSB) investigated the causes of the
25 Line 132 tragedy and issued its findings in a Pipeline Accident Report adopted August 30, 2011.¹

26
27 ¹ <http://www.nts.gov/investigations/summary/PAR1101.html>
28

1 The NTSB's report found that the PUC systematically failed to detect the inadequacies of PG&E's
2 pipeline management program, which included providing PG&E with exemptions from regulatory
3 requirements to pressure test its pipelines. The PUC's lax oversight of PG&E, the NTSB found,
4 unfortunately contributed to the pipeline tragedy. The NTSB provided several recommendations
5 specifically to the PUC as a means to correct its oversight failures. The recommendations
6 included providing a comprehensive audit of PG&E safety operations and recordkeeping and
7 confirm PG&E corrects all deficiencies discovered through said audit.

8 18. As the Line 132 Proceedings progressed, San Bruno became concerned that the
9 PUC was not complying with the NTSB's recommendations regarding the PUC's oversight over
10 PG&E. The City believes that the PUC perpetuates its lax oversight over – and maintains its cozy
11 relationship with – PG&E. As a means to further investigate its concerns and protect its citizens'
12 interests, San Bruno decided to prepare records requests to the PUC.

13 **San Bruno's May 2013 PRA request**

14 19. Pursuant to the PUC's website, all records requests must be sent to the attention of
15 Fred Harris, who is an attorney with the PUC's Legal Division of its Public Records Office in San
16 Francisco.

17 20. Pursuant to the PUC's direction, San Bruno prepared a records request to Fred
18 Harris, Legal Division of the PUC's Public Records Office dated May 30, 2013. A true and
19 correct copy of said PRA request, including accompanying exhibits, is attached hereto, as **Exhibit**
20 **A** to this petition and complaint, and is incorporated by reference herein.

21 21. In regard to San Bruno's May 30, 2013 PRA request, this petition and complaint is
22 limited to the following documents which the PUC has refused to produce: 1) documents of
23 communications between financial institutions and professionals and the PUC regarding the fines
24 and penalties in the Line 132 Proceedings, 2) documents relating to Commissioner Peevey
25 discussions regarding the fines and penalties in the Line 132 Proceedings; 3) documents regarding
26 the PUC and PG&E safety symposium dated May 7-8, 2013; 4) documents relating to the
27 appointment of Senator George Mitchell as mediator in October 2012; 5) documents relating to
28 the PUC's ongoing investigations in the Line 132 Proceedings, including discussions of fines,

1 penalties, and remedies; 6) documents relating to California Foundation on the Environment and
2 the Economy Conference on April 25-26, 2013 and dinner; and 7) documents relating to Senate
3 Budget and Fiscal subcommittee hearing on April 25, 2013.

4 22. San Bruno copied numerous individuals within the PUC to its May 30, 2013 PRA
5 request, including the PUC's executive director, general counsel, and five commissioners to
6 ensure they were aware of the request and could provide assistance with the request, if needed.
7 (See **Exhibit A** at p. 11.)

8 23. Twenty days later, and thus ten days after the statutory deadline, in a letter dated
9 June 19, 2013, PUC's counsel acknowledged San Bruno's PRA Request. A true and correct copy
10 of the June 19 letter is attached hereto, as **Exhibit B** to this petition and complaint, and is
11 incorporated by reference herein.

12 24. The PUC's response provided no documents. The letter did provide an "estimate"
13 that San Bruno would receive the requested documents by June 27, 2013.

14 25. On June 28, 2013 (almost one month after the initial request), the PUC produced a
15 portion of documents partially responsive to just one category: documents regarding the PUC and
16 PG&E sponsored symposium, category three, above. San Bruno believes the PUC did not
17 produce all public records responsive to the symposium request.

18 26. The remainder of San Bruno's May 2013 PRA request, listed in the categories
19 above, has to date gone ignored.

20 **San Bruno's June 2013 PRA request**

21 27. In a letter to the PUC's counsel dated June 17, 2013, Counsel for San Bruno
22 requested additional documents pursuant to the PRA. A true and correct copy of the June 17,
23 2013 letter with accompanying exhibit is attached hereto, as **Exhibit C** to this petition and
24 complaint, and is incorporated by reference herein.

25 28. The next day, San Bruno supplemented its June 17, 2013 PRA request in a letter
26 dated June 18, 2013. A true and correct copy of the June 18, 2013 letter within accompanying
27 exhibit is attached hereto, as **Exhibit D** to this petition and complaint, and is incorporated by
28 reference herein.

1 29. The June 17 and June 18 letters essentially request the same documents and for
2 purposes of this petition and complaint it will be considered as one request. The PRA request
3 sought 1) email communications drafted by the PUC's executive director and sent to the
4 Administrative Law Judges (ALJs) and the PUC's commissioner regarding a pending motion to
5 strike to be made in the Line 132 Proceedings; 2) the ALJs responsive email(s) regarding same;
6 and 3) any other responsive email communications regarding same.

7 30. Based on information and belief, San Bruno believes said email exchanges did take
8 place. Said email exchanges are, by the PUC's own rules and regulations, by definition improper
9 *ex parte* communications between an interested party and the ALJ(s) regarding pending
10 proceedings.

11 31. Based on information and belief, disclosure of said email communications may
12 further embarrass the PUC by evidencing its continued cozy relationship with PG&E and its lax
13 oversight over the public utility company the PUC is – by constitutional mandate – required to
14 regulate.

15 32. Based on information and belief, San Bruno believes said email exchanges may
16 have been deleted as a further means to avoid the production of documents reflecting improper
17 communications. The PUC can retrieve said deleted emails in electric format through its
18 computer backup system or hard drive.

19 33. Twelve days later, in a letter to San Bruno's counsel, dated July 1, 2013, PUC's
20 counsel confirmed it possesses responsive documents to the June 17 and June 18, 2013 PRA
21 request, but refused to produce them. The letter explained the "deliberative process privilege"
22 exempts the documents from production. A true and correct copy of the PUC's July 1, 2013 letter
23 within accompanying attachment is attached hereto, as **Exhibit E** to this petition and complaint,
24 and is incorporated by reference herein.

25 34. In a letter to the PUC's counsel dated July 23, 2013, San Bruno urged the PUC to
26 reconsider. A true and correct copy of the July 23, 2013 letter is attached hereto, as **Exhibit F** to
27 this petition and complaint, and is incorporated by reference herein.

28 35. The July 23, 2013 letter explains the deliberative process privilege does not apply

1 to these facts. This privilege only protects the disclosure of information if its disclosure would
2 undermine the ability for a public official to make effective decisions. San Bruno's letter explains
3 that the PUC's executive director's communication with the ALJs regarding pending proceedings
4 against PG&E are by definition improper *ex parte* communications and therefore fall outside the
5 deliberative process privilege.

6 36. Moreover, even if the court finds the privilege applies (which San Bruno
7 vehemently disputes), this document exemption is not absolute. The privilege is interpreted
8 narrowly in a manner that favors public disclosure consistent with its objectives of the PRA itself.
9 In determining whether a certain record is exempt from disclosure, the courts must balance the
10 public interest of disclosure against the public interest of non-disclosure. (Govt. Code § 6255;
11 *Times Mirror Co. v. Sup. Ct.* (1991) 53 Cal.3d 1325.) It is important to note that the court must
12 weigh the *public's* interest (San Bruno in this instance) in nondisclosure, not the PUC's interest.
13 Under this balancing test, the PRA favors the production of these records, which would provide
14 the public further evidence over the PUC's lax oversight of PG&E.

15 37. The PUC never responded to San Bruno's July 23, 2013 letter.

16 38. Not a single document has been produced in response to the June 17 and 18, 2013
17 PRA request.

18 **August 2013 PRA request**

19 39. Through an in-person conversation which took place August 13, 2013, San Bruno's
20 counsel requested from the PUC's Fred Harris copies of 1) an incident report of a PG&E pipe
21 rupture on August 2, 2013 in San Bruno; 2) an incident report of a PG&E pipe rupture on August
22 8, 2013 PG&E in Burlingame; and 3) any other documents reflecting pipe ruptures in San Mateo
23 County from August 1, 2010 to the present.

24 40. In a letter dated August 22, 2013, the PUC's counsel responded to the verbal
25 request. A true and correct copy of the August 22, 2013 letter with accompanying attachments is
26 attached hereto, as **Exhibit G** to this petition and complaint, and is incorporated by reference
27 herein.

28 41. In its August 22, 2013 responsive letter, the PUC produced an Incident

1 Investigation Report concerning the August 2, 2012 pipeline rupture. The letter explained the
2 PUC had not yet completed its investigation of the August 8 rupture, but would provide a *report*
3 once it became available.

4 42. The PUC never provided documentation concerning the August 8, 2013 rupture.

5 43. The PUC provided no substantive response regarding any other pipeline ruptures,
6 so it is currently unclear whether responsive documentation exists.

7 **San Bruno's September 2013 PRA request**

8 44. San Bruno's counsel prepared a subsequent PRA request on September 4, 2013. A
9 true and correct copy of the September 4, 2013 letter with attached exhibits is attached hereto, as
10 **Exhibit H** to this petition and complaint, and is incorporated by reference herein.

11 45. The September 4, 2013 letter requested: 1) citations issued by Consumer Protection
12 and Safety Division (now the Safety & Enforcement Division ("SED")) director Jack Hagan
13 during his tenure; 2) any of Mr. Hagan's proposed citations that have been submitted, but are
14 outstanding for final approval; and 3) any citations investigated or issued under Resolution ALJ-
15 274 by the SED against natural gas utilities from December 7, 2011 to the present.

16 46. San Bruno is informed and believes the requested SED citations, proposed
17 citations, and investigated citations will provide further evidence of the PUC's mismanagement in
18 its lax oversight of PG&E and public utilities in general.

19 47. The PUC waited *over three months* to respond to San Bruno's September 4, 2013
20 PRA request. A true and correct copy of the December 6, 2013 responsive letter is attached
21 hereto, as **Exhibit I** to this petition and complaint, and is incorporated by reference herein.

22 48. The PUC's December 6, 2013 letter provided 62 links to the PUC website. The
23 initial links referencing citations and pipeline safety were accessible and partly responsive to the
24 first category request, listed above. Unfortunately, the vast majority of those links were
25 unavailable for viewing. Forty-eight links to web pages were inaccessible. The cited links
26 indicated "page not found," "access denied," or "login required."

27 49. To date, the PUC has provided no responsive documents to San Bruno's remaining
28 two category requests.

50. The PUC's December 6, 2013 letter ends with "I will soon respond to the

remainder of your records request." No such response was ever received.

San Bruno's January 2014 PRA request

51. On January 10, 2014, San Bruno sent another records request. A true and correct

copy of the January 10, 2014 letter with accompanying exhibits is attached hereto, as **Exhibit J** to

this petition and complaint, and is incorporated by reference herein.

52. The January 10, 2014 letter seeks documents regarding 1) communications between

the PUC, PUC employees, and PG&E employees regarding Citation No. 13-005 dated December

5, 2013; and 2) internal PUC discussions regarding Citation No. 13-005 dated December 5, 2013.

53. Twelve days later, on January 22, 2014, the PUC responded to the January 10,

2014 PRA request. A true and correct copy of the January 22, 2014 letter with accompanying

attachments is attached hereto, as **Exhibit K** to this petition and complaint, and is incorporate be

reference herein.

54. The January 22, 2014 letter provides some documents in response to the PRA

requests regarding communications between the PUC and PG&E regarding the subject citation.

The letter adds the PUC "will not be providing you with records, or portions of records, that

include information subject to the attorney client privilege, attorney work product doctrine,

deliberative process privilege, or official information." (**Exhibit K** at p. 4.)

55. The letter is unclear regarding the type of documents being withheld, how the

purported exempt documents are responsive to the PRA request, and which privilege applies to

which withheld document.

56. San Bruno certainly does not attempt to tamper with the attorney client privilege or

attorney-work product doctrine. However, it is understandably skeptical of the PUC's assertions

that the deliberative process privilege exempts responsive records, especially given the PUC's

position that this purported privilege bars the disclosure of records of alleged improper

communications with the ALJs concerning pending proceedings.

57. Based on information and belief, San Bruno believes this privilege does not exempt

responsive documents from disclosure and the PUC must disclose them for the public's review.

San Bruno's follow up communications

58. Frustrated at the PUC's delay in responding to its outstanding PRA requests, San Bruno sent a letter dated November 19, 2013 which provided the PUC with "one final opportunity to comply with California Public Records Act and produce documents about the public's business." A true and correct copy of the November 19, 2013 letter with accompanying exhibits is attached hereto, as **Exhibit L** to this petition and complaint, and is incorporated by reference herein.

59. The November 19, 2013 letter was not a new PRA request. Instead, it provided the PUC with a comprehensive list of San Bruno's pending PRA requests. (See Exhibit A attached to the November 19 letter.) This comprehensive list included the PUC's response (or lack thereof) to each PRA request. This document will assist the court here to evidence PUC's systematic failures to promptly and fully comply with San Bruno's PRA requests.

60. The November 19, 2013 letter also provided further reasoning as to why the PUC cannot hide behind a purported deliberative process privilege to withhold responsive documents. Based on information and belief, San Bruno believes the withheld documents would embarrass the PUC because they might further evidence the PUC's shortcomings in its oversight over PG&E and pipeline safety matters. (See p. 3 to **Exhibit L** herein.) The potential for agency embarrassment is not a reason to withhold documents in response to a valid public records request.

61. The PUC never respond to San Bruno's November 19, 2013 letter.

62. On or about November 20 2013, counsel for San Bruno had an in-person conversation with the PUC's counsel, Fred Harris, inquiring on the status of San Bruno's pending PRA requests. PUC's counsel informed her his office was "very busy," that he had a client to report to, and would get her the documents as soon as he had free time. No responsive documents have ever been provided.

63. San Bruno copied the PUC's executive director on all of its written communications with the PUC's counsel to ensure he was aware of its PRA requests and San Bruno's concerns regarding the withholding of public documents. (**Exhibits A, C, D, F, H, J, L.**)

64. Eight months have elapsed since San Bruno made its initial public records request

1 on May 30, 2013. The PUC continues to ignore San Bruno with it the city's pending 17
2 categories of records requests.

3 **The PUC's written guidelines for PRA production (General Order No. 66-C)**

4 65. In support of its withholding of documents, the PUC referred San Bruno to the
5 PUC's General Order No. 66-C. (See **Exhibit E**, *supra*.) A true and correct copy of General
6 Order No. 66-C is attached hereto, as **Exhibit M** to this petition and complaint, and is
7 incorporated by reference herein.

8 66. General Order No. 66-C manifests the PUC's effort to comply with Government
9 Code section § 6253.4(a) to provide the public with written guidelines for records requests.

10 67. General Order No. 66-C appears to limit the California Constitution and the PRA's
11 policies towards disclosure of public records. In section 2, the PUC list numerous documents that
12 are excluded from disclosure *in addition to* the enumerated exemptions in the PRA and Evidence
13 Code. For example, it states that the PUC may broadly exclude "records or information of a
14 confidential nature furnished to or obtained by the Commission."

15 68. "Confidential nature" is not defined in the PUC's General Order No. 66-C. Neither
16 the PRA nor the Evidence Code define "confidential nature" as an exemption to disclosure.

17 69. General Order No. 66-C explains that a person requesting documents "must allow
18 sufficient time for the records to be assembled and reviewed[.]" The requestor must further "take
19 into account the time necessary to have the file reviewed in San Francisco before it may be
20 released." (**Exhibit M** at 3.3.)

21 70. Nowhere in its General Order does the PUC provide for the required ten-day
22 response period nor provide for prompt disclosure of records. (Govt. Code § 6253(b).)

23 71. The PUC informed San Bruno in its July 1, 2013 letter that it decided to withhold
24 documents responsive to the PRA request. The letter suggested San Bruno to review its appeals
25 process in General order No. 66-C in response to this decision. (See **Exhibit E** at p. 3.)

26 72. The PUC's appeals process explains that a requestor "may" write to the Secretary
27 in San Francisco to explain the reasons the records should be disclosed. "Sufficient time must be
28 allowed for the full Commission to review this request and the applicable records." (**Exhibit M** at

1 3.4) The General Order does not define "sufficient time."

2 73. The PUC's General Order No. 66-C was drafted in June 1974 and last amended in
3 1982.

4 74. In a March 2013 e-newsletter, the PUC explained that they intended to open a
5 Rulemaking "in the near future" to improve the PUC's proceedings regarding the public's access
6 to records that are nonexempt under law. The PUC admitted that its regulations found in General
7 Order No. 66-C "were outdated and cumbersome, and often delayed rather than facilitated access
8 to records under the California Public Records Act." The March 2013 e-newsletter claimed that
9 the PUC planned to revise General Order No. 66-C to improve and streamline its public record
10 production. A true and correct copy of the March 2013 e-newsletter is attached hereto, as **Exhibit**
11 **N** to this petition and complaint, and is incorporated by reference herein.

12 75. To date, the PUC has neither revised nor amended General Order No. 66-C, despite
13 its claims to do so almost one year ago.

14 **LEGAL AUTHORITY**

15 76. The purpose of the PRA is to give the public access to vital information about the
16 government's conduct of its business. (Govt. Code §6250; *CBS, Inc. v. Block* (1986) 42 Cal.3d
17 646; *Times Mirror Co. v. Superior Ct.* (1991) 53 Cal.3d 1325; *City of San Jose v. Superior Ct.*
18 (1999) 74 Cal. App.4th 1008.) The PRA's fundamental precept is that government records shall be
19 disclosed to the public, upon request, unless there is a legal basis not to do so.

20 77. In 2004, California voters overwhelmingly approved Proposition 59 or "The
21 Sunshine Act" which amends California's constitution to provide its citizens "the right of access
22 to information concerning the conduct of the people's business, and, therefore, ...the writings of
23 public officials and agencies shall be open to public scrutiny." (Cal. Const. Art. 1, § 3(b)(1).)

24 78. A statute, such as the PRA, "shall be broadly construed if it furthers the people's
25 right of access, and narrowly construed if it limits the right of access." (Cal. Const. Art. 1, §
26 3(b)(2).) Any refusal to disclose public information must be based on a "specific exception" to the
27 PRA's "strong policy in favor of disclosure." (*California State University v. Sup. Ct.* (2001) 90
28 Cal.App.4th 810.)

1 79. The PRA provides for prompt disclosure of copies of public records upon request:
2 "Except with respect to public records exempt from disclosure by express provision of law, each
3 state and local agency, upon request for a copy of records that reasonably describes an identifiable
4 record or records, shall make the records promptly available to any person upon payment of fees
5 covering direct costs of duplication, or a statutory fee if applicable." (Govt. Code § 6253(b).)

6 80. A "public record" is broadly defined as "any writing containing information
7 relating to the conduct of the public's business prepared, owned, used, or retained by any state or
8 local agency." (Govt. Code § 6252(e).)

9 81. Under the PRA, an agency must respond in no more than ten calendar days to a
10 request for copies of public records with notification whether the records will be disclosed. (Govt.
11 Code § 6253(c).) In "unusual circumstances," an agency may extend the ten-day response period
12 for up to 14 additional days. (Govt. Code § 6253(c).) As defined by statute, "unusual
13 circumstances" means: the need to search for and collect the requested records from field
14 facilities; the need to search for and collect a voluminous amount of separate and distinct records;
15 to consult with another agency with a substantial interest in the request; or, in the case of
16 electronic records, the need to compile data. (Govt. Code § 6253(c).) The PRA provides no other
17 reasons which justify an extension of time to respond to a PRA request.

18 82. In addition to requiring notice of whether requested public records will be disclosed
19 within ten days of receipt of a PRA request, the PRA further requires that copies of public records
20 must be disclosed "promptly" to the person requesting them. (Govt. Code § 6253(b).)

21 83. The Act provides that nothing therein "shall be construed to permit an agency to
22 delay or obstruct the inspection or copying of public records." (Govt. Code § 6253(d).)

23 84. If a judge determines, based on a petition to enforce disclosure of public records
24 under the Act, that certain public records are being improperly withheld, the judge will order the
25 officer or person withholding the records to disclose the records, or show cause why he or she
26 should not do so. (Govt. Code § 6259(a).) If the court finds that a public official's decision to
27 refuse disclosure is not justified under the Act, the judge shall order the public official to make the
28 record public. (Govt. Code § 6259(b).)

85. The Act specifically mandates the PUC to provide written guidelines for “accessibility of records.” (Govt. Code § 6253.4(a).)

86. The Act instructs that the PUC’s written guidelines “shall be consistent with all other sections of [the PRA] and shall reflect the intention of the Legislature to make the records accessible to the public.” (Govt. Code § 6253.4(a).)

87. The PRA and the California Constitution express in broad language the important policy consideration in making public records available for public scrutiny. In determining whether a certain record is exempt from disclosure, the courts must balance the public interest of disclosure against the public interest of non-disclosure. (Govt. Code § 6255; *Times Mirror Co. v. Sup. Ct.* (1991) 53 Cal.3d 1325.) It is important to note that the court must weigh the *public's* interest in nondisclosure, not the PUC's interest.

88. San Bruno submitted five PRA requests from May 2013 to January 2014, in which it sought public records related to the PUC investigative proceedings against PG&E in the Line 132 Proceedings. As explained, *infra*, the PUC's responses fell far below the agency's requirement to broadly disclose all public records for public scrutiny. Instead, the PUC opted to hide behind its partial responses and the deliberative process privilege.

89. The PUC has deprived San Bruno of its rights, under the PRA, to receive prompt disclosure of public records. The PUC's actions in delaying and obstructing disclosure of documents has furthermore frustrated San Bruno's ability to participate as an active party in the PUC proceedings against PG&E.

FIRST CLAIM FOR RELIEF

**(Petition for Writ of Mandamus – Govt. Code §§ 6258, 6259;
Code of Civil Procedure § 1085)**

90. San Bruno hereby re-alleges paragraphs 1-89, as stated above, and incorporates them herein by reference as if they were set forth in full below.

91. The PRA authorizes any “person” to file a civil action for injunctive or declaratory relief or writ of mandate against a public agency to enforce its right to inspect or receive a copy of any public record under the PRA. (Govt. Code § 6258; *Los Angeles Unified Sch. Dist. v. Superior*

1 Ct. (2007) 151 Cal.App.4th 759.)

2 92. A writ of mandate under Code of Civil Procedure 1085 is available when the
3 petitioner has no plain, speedy, and adequate remedy at law; the respondent has a clear, present,
4 and usually ministerial duty to perform, and the petitioner has a clear, present, and beneficial right
5 to performance. (Code Civ. Pro. § 1086; *Conlan v. Bonita* (2002) 102 Cal.App.4th 745.)

6 93. San Bruno is a “person” which may request the prompt disclosure of public records
7 and maintain an action to compel the disclosure of records under the PRA. (Govt. Code §§ 6252,
8 6253, 6258, 6259; *Los Angeles Unified Sch. Dist. v. Superior Ct.* (2007) 151 Cal.App.4th 759.)

9 94. The PUC is a public agency under Government Code section 6252.

10 95. According to the PRA, all records that are prepared, used, or retained by any public
11 agency, and that are not subject to the PRA’s statutory exemptions to disclosure, must “promptly”
12 be made available for inspection and copying upon request by any person. (Govt. Code §§
13 6252(e), 6253.)

14 96. San Bruno made PRA requests to the PUC on May 30, June 17 and 18, August 13,
15 September 4, 2013, and January 10, 2014.

16 97. The PUC failed to timely respond to many of these PRA requests, and when they
17 did respond, it provided only partial responses. On the whole, the PUC has failed to provide San
18 Bruno with public records responsive to San Bruno’s PRA requests and continues to improperly
19 withhold responsive records despite the PUC’s clear, present, ministerial duty to comply with the
20 PRA. The PUC has refused to provide public records to San Bruno in a “prompt” manner. As
21 such, the PUC is in violation of the PRA.

22 98. San Bruno is beneficially interested in the outcome of the Line 132 Proceedings,
23 and has a clear, present and substantial right to obtain PUC records pertaining to those proceeding,
24 especially the occurrence of alleged improper communications. San Bruno is entitled to prompt
25 disclosure of public records responsive to the PRA requests. (Govt. Code §§ 6252(e); 6253.) San
26 Bruno is entitled to prompt disclosure of public records in order to protect its citizens’ interests in
27 the pending PUC proceedings against PG&E.

28 99. San Bruno has performed all conditions precedent to filing the petition, and has no

1 plain, speedy and adequate remedy at law other than that sought here.

2 100. San Bruno brings forth this petition for writ of mandamus to enforce its right to
3 prompt disclosure of public records under the PRA.

4 101. The PUC violated its obligations under the PRA by improperly delaying or
5 obstructing San Bruno's rights to copy or inspect public records. Accordingly, the PUC must
6 promptly produce such documents whose disclosure has been improperly delayed or obstructed.
7 (Govt. Code § 6259.)

8 102. San Bruno requests this court to issue a peremptory writ of mandate, immediately
9 directing the PUC to disclose all non-exempt records sought under the PRA, including without
10 limitation:

11 May 30, 2013 PRA request

12 1) documents between financial institutions and professionals and the PUC
13 regarding the fines and penalties in the Line 132 Proceedings,

14 2) documents relating to Commissioner Peevey discussions regarding the fines and
15 penalties in the Line 132 Proceedings;

16 3) documents regarding the PUC and PG&E safety symposium dated May 7-8,
17 2013;

18 4) documents relating to the appointment of Senator George Mitchell as mediator
19 in October 2012;

20 5) documents relating to the PUC's ongoing investigations in the Line 132
21 proceedings, including discussions of fines, penalties, and remedies;

22 6) documents relating to California Foundation on the Environment and the
23 Economy Conference on April 25-26, 2013 and dinner;

24 7) documents relating to Senate Budget and Fiscal subcommittee hearing on April
25 25, 2013;

26 June 17 and 18, 2013 PRA request

27 8) email communications drafted by the PUC's executive director and sent to the
28 Line 132 Proceedings ALJs and the PUC's commissioner regarding a pending
motion to strike to be made in the Line 132 Proceedings;

9) the ALJs responsive email(s) regarding same;

10) any other responsive email communications regarding same;

1 August 13, 2013 PRA request

2 11) an incident report of a PG&E pipe rupture on August 8, 2013 PG&E in
3 Burlingame;

4 12) any other documents reflecting pipe ruptures in San Mateo County from
5 August 1, 2010 to the present;

6 September 4, 2013 PRA request

7 13) citations issued by the PUC's SED director Jack Hagan during his tenure;

8 14) any of Mr. Hagan's proposed citations that have been submitted, but are
9 outstanding for final approval;

10 15) any citations investigated or issued under Resolution ALJ-274 by the SED
11 against natural gas utilities from December 7, 2011 to the present;

12 January 10, 2014 PRA request

13 16) communications between the PUC, PUC employees, and PG&E employees regarding
14 Citation No. 13-005 dated December 5, 2013; and

15 17) internal PUC discussions regarding Citation No. 13-005 dated December 5, 2013.

16 103. To the extent the PUC claims responsive records are exempt from disclosure, San
17 Bruno requests the PUC hand over said documents to this court to conduct an *in camera* review of
18 the alleged exempt documents to determine whether the PRA's specified exceptions to the
19 disclosure of public records apply. Should the exemptions not apply to the records, San Bruno
20 asks for the court to direct the PUC to immediately disclose said documents.

21 **SECOND CLAIM FOR RELIEF**

22 **(Complaint for Injunctive Relief – Govt. Code §§ 6258, 6259;
23 Code of Civil Procedure §§ 525, 526)**

24 104. San Bruno hereby re-alleges paragraphs 1-103, as stated above, and incorporates
25 them herein by reference as if they were set forth in full below.

26 105. The PRA authorizes any "person" to file a civil action for injunctive or declaratory
27 relief or writ of mandate against a public agency to enforce its right to inspect or receive a copy of
28 any public record under the PRA. (Govt. Code § 6258; *Los Angeles Unified Sch. Dist. v. Sup. Ct.*
29 (2007) 151 Cal.App.4th 759.)

30 106. Injunctive relief is available under Code of Civil Procedure sections 525 and 526
31 when it appears by the complaint that the plaintiff is entitled to the relief demanded and the relief,

1 or any part thereof, consists in restraining the commission or continuance of the act complained of,
2 either for a limited period or perpetually.

3 107. San Bruno is a "person" which may request the prompt disclosure of public records
4 and maintain an action to compel the disclosure of records under the PRA. (Govt. Code §§ 6252,
5 6253, 6258, 6259; *Los Angeles Unified Sch. Dist. v. Sup. Ct.* (2007) 151 Cal.App.4th 759.)

6 108. The PUC is a public agency under Government Code section 6252.

7 109. According to the PRA, all records that are prepared, used, or retained by any public
8 agency, and that are not subject to the PRA's statutory exemptions to disclosure, must "promptly"
9 be made available for inspection and copying upon request by any person. (Govt. Code §§
10 6252(e), 6253.)

11 110. San Bruno made PRA requests to the PUC on May 30, June 17 and 18, August 13,
12 September 4, 2013, and January 10, 2014.

13 111. The PUC failed to timely respond to many of these PRA requests, and when they
14 did respond, it provided only partial responses. On the whole, the PUC has failed to provide San
15 Bruno with public records responsive to San Bruno's PRA requests and continues to improperly
16 withhold responsive records despite the PUC's clear, present, ministerial duty to comply with the
17 PRA. The PUC has refused to provide public records to San Bruno in a "prompt" manner. As
18 such, the PUC is in violation of the PRA.

19 112. San Bruno is beneficially interested in the outcome of the Line 132 Proceedings,
20 and has a clear, present and substantial right to obtain PUC records pertaining to those proceeding,
21 especially the occurrence of alleged improper communications. San Bruno is entitled to prompt
22 disclosure of public records responsive to the PRA requests. (Govt. Code §§ 6252(e); 6253.) San
23 Bruno is entitled to prompt disclosure of public records in order to protect its citizens' interests in
24 the pending PUC proceedings against PG&E.

25 113. San Bruno has performed all conditions precedent to filing the petition, and has no
26 plain, speedy and adequate remedy at law other than that sought here.

27 114. The PUC violated its obligations under the PRA by improperly delaying or
28 obstructing San Bruno's rights to copy or inspect public records. The PUC must promptly

1 produce such documents, listed above, whose disclosure has been improperly delayed or
2 obstructed by the PUC.

3 115. Accordingly, San Bruno brings forth this complaint for injunctive relief to enjoin
4 the PUC from continuing to refuse prompt disclosure of public records under the PRA.

5 **THIRD CLAIM FOR RELIEF**

6 **(Declaratory Relief Concerning the PUC's Obligations to Produce Records Pursuant to the**
7 **Public Records Act – Govt. Code §§ 6258, 6259;**
8 **Code of Civil Procedure § 1060)**

9 116. San Bruno hereby re-alleges paragraphs 1-115, as stated above, and incorporates
10 them herein by reference as if they were set forth in full below.

11 117. The PRA authorizes any "person" to file a civil action for injunctive or declaratory
12 relief or writ of mandate against a public agency to enforce its right to inspect or receive a copy of
13 any public record under the PRA. (Govt. Code § 6258; *Los Angeles Unified Sch. Dist. v. Sup. Ct.*
14 (2007) 151 Cal.App.4th 759.)

15 118. There is an actual, present and existing controversy between San Bruno, on the one
16 hand, and the PUC on the other hand.

17 119. An actual controversy has arisen relating to whether the PUC's disclosure of public
18 records (or lack thereof) sought in San Bruno's PRA requests constitutes "prompt" disclosure of
19 public records required under the PRA, for all of the reasons set forth in this petition.
20 Furthermore, there is an actual controversy on whether documents in PUC's possession are
21 exempt from disclosure under the PRA.

22 120. San Bruno is informed and believes, and thereon alleges, that the PUC denies each
23 of the contentions set forth in this petition and complaint.

24 121. An actual, clear and present controversy, therefore, exists between San Bruno and
25 the PUC involving the PUC's response to the PRA requests and whether it complies with the
26 PRA. Accordingly, declaratory relief is appropriate and necessary at this time to determine the
27 extent of the parties' rights and obligations and for the Court to issue a declaration determining
28 these issues.

122. San Bruno requests that this court enter declaratory judgment that the PUC violated

1 the PRA by unlawfully withholding and/or delaying the production of the requests records, listed
2 above, which are directly responsive to San Bruno's PRA requests.

3 **FOURTH CLAIM FOR RELIEF**

4 **(Declaratory Relief Concerning the Unconstitutionality of the PUC's Guidelines for** 5 **Compliance with the Public Records Act (PUC General Order No. 66-C) – Cal. Const. Art.** 6 **1, § 3; Govt. Code §§ 6258, 6259; Code of Civil Procedure § 1060)**

7 123. San Bruno hereby re-alleges paragraphs 1-122, as stated above, and incorporates
8 them herein by reference as if they were set forth in full below.

9 124. The PRA authorizes any "person" to file a civil action for injunctive or declaratory
10 relief or writ of mandate against a public agency to enforce its right to inspect or receive a copy of
11 any public record under the PRA. (Govt. Code § 6258; *Los Angeles Unified Sch. Dist. v. Sup. Ct.*
12 (2007) 151 Cal.App.4th 759.)

13 125. The California Constitution provides its citizens "the right of access to information
14 concerning the conduct of the people's business, and, therefore, ...the writings of public officials
15 and agencies shall be open to public scrutiny." (Cal. Const. Art. 1, § 3(b)(1).) A statute, such as
16 the PRA, "shall be broadly construed if it furthers the people's right of access, and narrowly
17 construed if it limits the right of access." (Cal. Const. Art. 1, § 3(b)(2).)

18 126. San Bruno alleges that the PUC's written guidelines regarding public records
19 requests limit the public's ability to access records concerning the public's business. General
20 Order No. 66-C: 1) limits the public records accessible to the public; 2) limits the time frame that
21 the PUC shall respond and produce said records; and 3) provides the public with a vague and
22 confusing process to appeal the PUC's decision(s) to withhold responsive records.

23 127. The PUC may argue that San Bruno did not comply with its written "appeals
24 process" and therefore this petition and complaint are premature. San Bruno asserts indeed it did
25 comply with the process because it certainly provided the Commission "sufficient time" – some
26 eight months have elapsed since San Bruno's first correspondence – to consider its requests.
27 Moreover, the terms like "may" and "sufficient time" are vague, ambiguous, and do not comply
28 with either the statutory or constitutional requirements and production of public records.

128. San Bruno asserts that the PUC's appeals process is hopelessly vague and must be declared unconstitutional. Since the PUC is operating under illegal guidelines for purposes of disclosing public records, any attempt to comply with the PUC's general order would be futile and frustrate the intent of the PRA. The general orders are essentially an attempt to confuse and limit the public's right of access to the people's business. (Cal. Const. Art. 1, § 3(b)(2).) San Bruno need not comply with an illegal and outdated appeals process.

129. By the PUC's own admission (*See Exhibit N*), General Order No. 66-C is "outdated and cumbersome" and "delayed" the production of records under the PRA. Despite the agency's awareness of the problem, nothing has been done to fix these guidelines.

130. An actual, clear and present controversy, therefore, exists between San Bruno and the PUC involving the PUC's written guidelines for the public to obtain public records.

131. Accordingly, San Bruno seeks from this court declaratory judgment, as appropriate and necessary, that the PUC's General Order No. 66-C is unconstitutional because it limits the public's right to access information concerning the people's business. (Cal. Const. Art. 1, § 3(b).)

FIFTH CLAIM FOR RELIEF

(Claim for Attorney Fees – Government Code § 6259(b))

132. San Bruno hereby re-alleges paragraphs 1-131, as stated above, and incorporates them herein by reference as if they were set forth in full below.

133. When a plaintiff or petitioner which prevails in litigation under the PRA, the court must award court costs and reasonable attorney fees to the plaintiff or petitioner. (Govt. Code § 6259(b).)

134. “Prevailing party” has been interpreted broadly. A plaintiff or petitioner will be considered the prevailing party if a lawsuit under the PRA results in the disclosure of some or all of the requested records. (*Los Angeles Times v. Alameda Corridor Transportation Authority* (2001) 88 Cal.App.4th 1381.) An order finding that the PUC has violated the law by failing to respond in a timely manner, would also support an award of attorney fees.

135. In addition, a plaintiff or petitioner may be considered the prevailing party if the local agency discloses some or all of the requested records after the lawsuit is filed but prior to a

1 court order requiring such disclosure, if the agency's disclosure was the result of the lawsuit or
2 was prompted by the lawsuit. (*Rogers v. Sup. Ct.* (1993) 19 Cal.App.4th 469.)

3 136. If this litigation motivates the PUC to produce just one or more documents,
4 including the production of a privilege log, then San Bruno will have "prevailed" within the
5 meaning of the PRA's attorney fee provision. (*See Motorola Communication & Electronics, Inc.*
6 *v. Dept. of General Services* (1997) 55 Cal.App.4th 1340.)

7 137. Therefore, if San Bruno is the prevailing party in this action, San Bruno is entitled
8 to court costs and reasonable attorney fees in connection with the PRA Request and this action.

9 **PRAYER**

10 WHEREFORE, San Bruno prays for relief and entry of judgment as follows:

11 1. For a peremptory writ of mandate directing the PUC:

12 (a) to promptly disclose all public records responsive to San Bruno's PRA
13 requests dated May 30, June 17 and 18, August 13, September 4, 2013, and January 10, 2014;

14 (b) to comply fully with the PRA, and all applicable Federal, State and local
15 laws in any subsequent action or actions taken relating to the PRA; and

16 (c) for an *in camera* review of all documents to which the PUC claims are exempt
17 from disclosure to determine whether the public's interest in non-disclosure outweighs the
18 public's broad policy concerns supporting disclosure and open participation;

19 2. For a preliminary and permanent injunction directing the PUC to cease and refrain
20 from refusing:

21 (a) to promptly disclose all public records responsive to San Bruno's PRA
22 requests dated May 30, June 17 and 18, August 13, September 4, 2013, and January 10, 2014; and

23 (b) to comply fully with the PRA, and all applicable Federal, State and local
24 laws in any subsequent action or actions taken relating to the PRA;

25 3. For a declaration that the PUC's guidelines regarding the PRA compliance
26 (General Order No. 66-C) is unconstitutional and contrary to the broad intent of the PRA;

27 4. For a judicial determination and declaration, requested herein;

28 5. For costs of suit;


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6. For an award of attorney fees; and

7. For other legal or equitable relief that the court deems just and proper.

DATED: February 3, 2014

MEYERS, NAVE, RIBACK, SILVER & WILSON

By: 

Steven R. Meyers
Attorneys for Petitioner and Plaintiff
CITY OF SAN BRUNO

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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

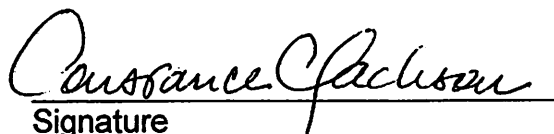
I have read the foregoing City of San Bruno Petition for Writ of Mandate;
Complaint for Injunctive Relief; Declaratory Relief and know its contents.

I am the City Manager of the City of San Bruno, a party to this action, and am
authorized to make this verification for and on its behalf, and I make this verification for
that reason. The matters stated in the Petition are true of my own knowledge, except as
to the matters which are therein stated on information and belief, and as to those matters
I believe them to be true.

Executed on January 31, 2014, at San Bruno, California.

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

Constance C. Jackson
Print Name of Signatory


Signature

2232443.1

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number, and address):

FOR COURT USE ONLY

Steven R. Meyers SBN: 57800; Emilie de la Motte SBN: 233557

Meyers Nave Riback Silver & Wilson

555 12th Street, Suite 1500

Oakland, CA 94607

TELEPHONE NO.: (510) 808-2000

FAX NO.: (510) 444-1108

ATTORNEY FOR (Name): Plaintiff, City of San Bruno

SUPERIOR COURT OF CALIFORNIA, COUNTY OF **San Francisco**

STREET ADDRESS: 400 McAllister Street

MAILING ADDRESS:

CITY AND ZIP CODE: San Francisco, CA 94102

BRANCH NAME:

CASE NAME: City of San Bruno v. California Public Utilities Commission

EMPOWERED
FILED
 San Francisco County Superior Court
FEB - 3 2014
CLERK OF THE COURT
ELIAS BUTT
 Deputy Clerk
 BY: _____

CIVIL CASE COVER SHEET**Complex Case Designation**

☒ **Unlimited** (Amount demanded exceeds \$25,000) ☐ **Limited** (Amount demanded is \$25,000 or less)

☐ **Counter** ☐ **Joinder**

Filed with first appearance by defendant
 (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

JUDGE: **GC - 14 - 537139**
 DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

- ☐ Auto (22)
☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- ☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- ☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment

- ☐ Wrongful termination (36)
☐ Other employment (15)

Contract

- ☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

- ☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

- ☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

- ☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)

- ☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- ☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

- ☐ RICO (27)
☒ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- ☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
 b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify):

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: February 3, 2014

Emilie E. de la Motte

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)
Auto (22)–Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (46) <i>(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)</i>	Breach of Rental/Lease Contract <i>(not unlawful detainer or wrongful eviction)</i>	Construction Defect (10)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort	Contract/Warranty Breach–Seller Plaintiff <i>(not fraud or negligence)</i>	Claims Involving Mass Tort (40)
Asbestos (04)	Negligent Breach of Contract/Warranty	Securities Litigation (28)
Asbestos Property Damage	Other Breach of Contract/Warranty	Environmental/Toxic Tort (30)
Asbestos Personal Injury/Wrongful Death	Collections (e.g., money owed, open book accounts) (09)	Insurance Coverage Claims <i>(arising from provisionally complex case type listed above)</i> (41)
Product Liability <i>(not asbestos or toxic/environmental)</i> (24)	Collection Case–Seller Plaintiff	Enforcement of Judgment
Medical Malpractice (45)	Other Promissory Note/Collections Case	Enforcement of Judgment (20)
Medical Malpractice–Physicians & Surgeons	Insurance Coverage <i>(not provisionally complex)</i> (18)	Abstract of Judgment (Out of County)
Other Professional Health Care Malpractice	Auto Subrogation	Confession of Judgment <i>(non-domestic relations)</i>
Other PI/PD/WD (23)	Other Coverage	Sister State Judgment
Premises Liability (e.g., slip and fall)	Other Contract (37)	Administrative Agency Award <i>(not unpaid taxes)</i>
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)	Contractual Fraud	Petition/Certification of Entry of Judgment on Unpaid Taxes
Intentional Infliction of Emotional Distress	Other Contract Dispute	Other Enforcement of Judgment Case
Negligent Infliction of Emotional Distress	Real Property	Miscellaneous Civil Complaint
Other PI/PD/WD	Eminent Domain/Inverse Condemnation (14)	RICO (27)
Non-PI/PD/WD (Other) Tort	Wrongful Eviction (33)	Other Complaint <i>(not specified above)</i> (42)
Business Tort/Unfair Business Practice (07)	Other Real Property (e.g., quiet title) (26)	Declaratory Relief Only
Civil Rights (e.g., discrimination, false arrest) <i>(not civil harassment)</i> (08)	Writ of Possession of Real Property	Injunctive Relief Only <i>(non-harassment)</i>
Defamation (e.g., slander, libel) (13)	Mortgage Foreclosure	Mechanics Lien
Fraud (16)	Quiet Title	Other Commercial Complaint Case <i>(non-tort/non-complex)</i>
Intellectual Property (19)	Other Real Property <i>(not eminent domain, landlord/tenant, or foreclosure)</i>	Other Civil Complaint <i>(non-tort/non-complex)</i>
Professional Negligence (25)	Unlawful Detainer	Miscellaneous Civil Petition
Legal Malpractice	Commercial (31)	Partnership and Corporate Governance (21)
Other Professional Malpractice <i>(not medical or legal)</i>	Residential (32)	Other Petition <i>(not specified above)</i> (43)
Other Non-PI/PD/WD Tort (35)	Drugs (38) <i>(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)</i>	Civil Harassment
Employment	Judicial Review	Workplace Violence
Wrongful Termination (36)	Asset Forfeiture (05)	Elder/Dependent Adult Abuse
Employment (15)	Petition Re: Arbitration Award (11)	Election Contest
	Writ of Mandate (02)	Petition for Name Change
	Writ–Administrative Mandamus	Petition for Relief From Late Claim
	Writ–Mandamus on Limited Court Case Matter	Other Civil Petition
	Writ–Other Limited Court Case Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal–Labor Commissioner Appeals	

The Early Settlement Program:

- ▶ Helps you resolve cases **quickly** and **economically**
- ▶ Has been a trusted program for over **20 years**
- ▶ Boasts a **78% settlement** rate and **97% satisfaction rate**

Early Settlement provides:

- ▶ Panels of experienced trial attorneys (all with at least **10 years of experience**)
- ▶ **Three free hours** of settlement conference time per case, including one hour of preparation time
- ▶ Panelists who are matched with the case's type of law
- ▶ **Low administrative fee** of \$295/party, capped at \$590 for parties represented by the same counsel

Learn more about the Early Settlement Program—scan the QRCode or visit www.sfbbar.org/adr/esp



FAST

Do you have a case filed in San Francisco Superior Court and want to settle sooner than your trial date?

ECONOMICAL

Want a settlement option with less stress and cost than trial?

FAIR

Want the skills of experienced panelists in arriving at a realistic, satisfying settlement?

Consider The Bar Association
of San Francisco's

Early Settlement Program

What is ESP?

The Bar Association of San Francisco's **Early Settlement Program** (ESP) is available as one of San Francisco Superior Court's Alternative Dispute Resolution (ADR) programs (Local Rule 4.3).

ESP is a **highly successful** ADR program that handles cases in areas of law such as business, personal injury, employment, labor, civil rights, discrimination, insurance, malpractice, landlord/tenant, and many others.

ESP is **unique** in that the panelists, in helping you move toward settlement, can provide you confidential feedback about their evaluation of your case, including opinions as to potential case value.

For more information as well as the complete Policies & Procedures, go to: **www.sfbar.org/esp**

Who are the Panelists?

They are experienced attorneys with at least **10 years** of trial experience. Panels consist of one plaintiff and one defense attorney. Sometimes an attorney who is experienced in both types of representation serves as a solo panelist.

Costs

There is a \$295 administrative fee per party, capped at \$590 for multiple parties represented by the same attorney, to pay for the cost of running this program. If you have a fee waiver with the Superior Court, your fee will be waived by the ESP program.

Contact

- ▶ **email esp@sfbar.org**
- ▶ **phone: 415-982-1600**
- ▶ **fax: 415-989-0381**

Steps:

The forms you need can be found at **www.sfbar.org/esp**, or email adr@sfbar.org or call 415-782-8905 for a packet to be sent to you.

- 1 Please complete the ESP Agreement and return it to BASF via email at adr@sfbar.org or by fax to 415-989-0381. You don't have to get the other parties to sign, just send yours.
- 2 When all parties have signed the ESP Agreement, you will be sent the Notice of ESP, along with an invoice.
- 3 There is a \$295 administrative fee per party, with a cap of \$590 for multiple parties represented by the same attorney. You can pay by check, money order or credit card.
- 4 Send your administrative fee by fax, email or mail to: BASF / ESP, 301 Battery Street, Third Floor, San Francisco, California 94111.
- 5 When BASF receives the fees from all parties, your matter will be assigned to a panelist (or panel of 2), who you will work with to set the date, time and location for your conference.
- 6 If you must reschedule your ESP conference date, work with the other side and your panelist(s) to set the new date. BASF does not need to be notified.
- 7 Before your conference, provide a copy of your description of the dispute to all parties and panelists. BASF does not need a copy.
- 8 If the matter is settled in your ESP conference, congratulations!
- 9 If the matter is not settled in your ESP conference, your initial court date remains the same.

NOTICE TO PLAINTIFF

A Case Management Conference is set for:

DATE: JUL-09-2014

TIME: 10:30AM

**PLACE: Department 610
400 McAllister Street
San Francisco, CA 94102-3680**

All parties must appear and comply with Local Rule 3.

CRC 3.725 requires the filing and service of a case management statement form CM-110 no later than 15 days before the case management conference. However, it would facilitate the issuance of a case management order **without an appearance** at the case management conference if the case management statement is filed, served and lodged in Department 610 twenty-five (25) days before the case management conference.

Plaintiff must serve a copy of this notice upon each party to this action with the summons and complaint. Proof of service subsequently filed with this court shall so state.

ALTERNATIVE DISPUTE RESOLUTION POLICY REQUIREMENTS

IT IS THE POLICY OF THE SUPERIOR COURT THAT EVERY CIVIL CASE PARTICIPATE IN EITHER MEDIATION, JUDICIAL OR NON-JUDICIAL ARBITRATION, THE EARLY SETTLEMENT PROGRAM OR SOME SUITABLE FORM OF ALTERNATIVE DISPUTE RESOLUTION PRIOR TO A TRIAL.
(SEE LOCAL RULE 4)

Plaintiff must serve a copy of the Alternative Dispute Resolution Information Package on each defendant along with the complaint. All counsel must discuss ADR with clients and opposing counsel and provide clients with a copy of the Alternative Dispute Resolution Information Package prior to filing the Case Management Statement.

[DEFENDANTS: Attending the Case Management Conference does not take the place of filing a written response to the complaint. You must file a written response with the court within the time limit required by law. See Summons.]

Superior Court Alternative Dispute Resolution Coordinator
400 McAllister Street, Room 103
San Francisco, CA 94102
(415) 551-3876

See Local Rules 3.3, 6.0 C and 10 B re stipulation to judge pro tem.



Superior Court of California, County of San Francisco

Alternative Dispute Resolution Program Information Package



The plaintiff must serve a copy of the ADR information package on each defendant along with the complaint. (CRC 3.221(c))

WHAT IS ADR?

Alternative Dispute Resolution (ADR) is the term used to describe the various options available for settling a dispute without a trial. There are many different ADR processes, the most common forms of which are mediation, arbitration and settlement conferences. In ADR, trained, impartial people decide disputes or help parties decide disputes themselves. They can help parties resolve disputes without having to go to court.

WHY CHOOSE ADR?

"It is the policy of the Superior Court that every noncriminal, nonjuvenile case participate either in an early settlement conference, mediation, arbitration, early neutral evaluation or some other alternative dispute resolution process prior to trial." (Local Rule 4)

ADR can have a number of advantages over traditional litigation:

- **ADR can save time.** A dispute often can be resolved in a matter of months, even weeks, through ADR, while a lawsuit can take years.
- **ADR can save money,** including court costs, attorney fees, and expert fees.
- **ADR encourages participation.** The parties may have more opportunities to tell their story than in court and may have more control over the outcome of the case.
- **ADR is more satisfying.** For all the above reasons, many people participating in ADR have reported a high degree of satisfaction.

HOW DO I PARTICIPATE IN ADR?

Litigants may elect to participate in ADR at any point in a case. General civil cases may voluntarily enter into the court's ADR programs by any of the following means:

- Filing a Stipulation to ADR: Complete and file the Stipulation form (attached to this packet) at the clerk's office located at 400 McAllister Street, Room 103;
- Indicating your ADR preference on the Case Management Statement (also attached to this packet); or
- Contacting the court's ADR office (see below) or the Bar Association of San Francisco's ADR Services at 415-782-8905 or www.sfbabar.org/adr for more information.

For more information about ADR programs or dispute resolution alternatives, contact:

Superior Court Alternative Dispute Resolution
400 McAllister Street, Room 103, San Francisco, CA 94102
415-551-3876

Or, visit the court ADR website at www.sfsuperiorcourt.org

The San Francisco Superior Court offers different types of ADR processes for general civil matters; each ADR program is described in the subsections below:

1) SETTLEMENT CONFERENCES

The goal of settlement conferences is to provide participants an opportunity to reach a mutually acceptable settlement that resolves all or part of a dispute early in the litigation process.

(A) THE BAR ASSOCIATION OF SAN FRANCISCO (BASF) EARLY SETTLEMENT PROGRAM (ESP): ESP remains as one of the Court's ADR programs (see Local Rule 4.3) but parties must select the program – the Court no longer will order parties into ESP.

Operation: Panels of pre-screened attorneys (one plaintiff, one defense counsel) each with at least 10 years' trial experience provide a minimum of two hours of settlement conference time, including evaluation of strengths and weakness of a case and potential case value. On occasion, a panelist with extensive experience in both plaintiff and defense roles serves as a sole panelist. BASF handles notification to all parties, conflict checks with the panelists, and full case management. The success rate for the program is 78% and the satisfaction rate is 97%. Full procedures are at: www.sfbar.org/esp.

Cost: BASF charges an administrative fee of \$295 per party with a cap of \$590 for parties represented by the same counsel. Waivers are available to those who qualify. For more information, call Marilyn King at 415-782-8905, email adr@sfbar.org or see the enclosed brochure.

(B) MANDATORY SETTLEMENT CONFERENCES: Parties may elect to apply to the Presiding Judge's department for a specially-set mandatory settlement conference. See Local Rule 5.0 for further instructions. Upon approval of the Presiding Judge, the court will schedule the conference and assign the case for a settlement conference.

2) MEDIATION

Mediation is a voluntary, flexible, and confidential process in which a neutral third party facilitates negotiations. The goal of mediation is to reach a mutually satisfactory agreement, before incurring the expense of going to court, that resolves all or part of a dispute after exploring the interests, needs, and priorities of the parties in light of relevant evidence and the law. A mediator strives to bring the parties to a mutually beneficial settlement of the dispute.

(A) MEDIATION SERVICES OF THE BAR ASSOCIATION OF SAN FRANCISCO, in cooperation with the Superior Court, is designed to help civil litigants resolve disputes before they incur substantial costs in litigation. While it is best to utilize the program at the outset of litigation, parties may use the program at any time while a case is pending.

Operation: Experienced professional mediators, screened and approved, provide one hour of preparation time and the first two hours of mediation time. Mediation time beyond that is charged at the mediator's hourly rate. BASF pre-screens all mediators based upon strict educational and experience requirements. Parties can select their mediator from the panels at www.sfbar.org/mediation or BASF can assist with mediator selection. The BASF website contains photographs, biographies, and videos of the mediators as well as testimonials to assist with the selection process. BASF staff handles conflict checks and full case management.

Mediators work with parties to arrive at a mutually agreeable solution. The success rate for the program is 64% and the satisfaction rate is 99%.

Cost: BASF charges an administrative fee of \$295 per party. The hourly mediator fee beyond the first three hours will vary depending on the mediator selected. Waivers of the administrative fee are available to those who qualify. For more information, call Marilyn King at 415-782-8905, email adr@sfbbar.org or see the enclosed brochure.

(B) PRIVATE MEDIATION: Although not currently a part of the court's ADR program, civil disputes may also be resolved through private mediation. Parties may elect any private mediator or mediation organization of their choice; the selection and coordination of private mediation is the responsibility of the parties. Parties may find mediators and organizations on the Internet. The cost of private mediation will vary depending on the mediator selected.

3) ARBITRATION

An arbitrator is neutral attorney who presides at a hearing where the parties present evidence through exhibits and testimony. The arbitrator applies the law to the facts of the case and makes an award based upon the merits of the case.

(A) JUDICIAL ARBITRATION: When the court orders a case to arbitration it is called "judicial arbitration". The goal of arbitration is to provide parties with an adjudication that is earlier, faster, less formal, and usually less expensive than a trial.

Operation: Pursuant to CCP 1141.11 and Local Rule 4, all civil actions in which the amount in controversy is \$50,000 or less, and no party seeks equitable relief, shall be ordered to arbitration. (Upon stipulation of all parties, other civil matters may be submitted to judicial arbitration.) A case is ordered to arbitration after the Case Management Conference. An arbitrator is chosen from the court's arbitration panel. Arbitrations are generally held between 7 and 9 months after a complaint has been filed. Judicial arbitration is not binding unless all parties agree to be bound by the arbitrator's decision. Any party may request a trial within 60 days after the arbitrator's award has been filed.

Local Rule 4.2 allows for mediation in lieu of judicial arbitration, so long as the parties file a stipulation to mediate after the filing of a complaint. If settlement is not reached through mediation, a case proceeds to trial as scheduled.

Cost: There is no cost to the parties for judicial arbitration.

(B) PRIVATE ARBITRATION: Although not currently a part of the court's ADR program, civil disputes may also be resolved through private arbitration. Here, the parties voluntarily consent to arbitration. If all parties agree, private arbitration may be binding and the parties give up the right to judicial review of the arbitrator's decision. In private arbitration, the parties select a private arbitrator and are responsible for paying the arbitrator's fees.

TO PARTICIPATE IN ANY OF THE COURT'S ADR PROGRAMS, PLEASE COMPLETE THE ATTACHED STIPULATION TO ALTERNATIVE DISPUTE RESOLUTION AND SUBMIT IT TO THE COURT. YOU MUST ALSO CONTACT BASF TO ENROLL IN THE LISTED BASF PROGRAMS. THE COURT DOES NOT FORWARD COPIES OF COMPLETED STIPULATIONS TO BASF.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and address) TELEPHONE NO.: ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO 400 McAllister Street San Francisco, CA 94102-4514 PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	FOR COURT USE ONLY CASE NUMBER: DEPARTMENT 610
STIPULATION TO ALTERNATIVE DISPUTE RESOLUTION (ADR)	

1) The parties hereby stipulate that this action shall be submitted to the following ADR process:

- ☐ **Early Settlement Program of the Bar Association of San Francisco (BASF)** - Pre-screened experienced attorneys provide a minimum of 2 hours of settlement conference time for a BASF administrative fee of \$250 per party. Waivers are available to those who qualify. BASF handles notification to all parties, conflict checks with the panelists, and full case management. www.sfbar.org/esp
- ☐ **Mediation Services of BASF** - Experienced professional mediators, screened and approved, provide one hour of preparation and the first two hours of mediation time for a BASF administrative fee of \$250 per party. Mediation time beyond that is charged at the mediator's hourly rate. Waivers of the administrative fee are available to those who qualify. BASF assists parties with mediator selection, conflicts checks and full case management. www.sfbar.org/mediation
- ☐ **Private Mediation** - Mediators and ADR provider organizations charge by the hour or by the day, current market rates. ADR organizations may also charge an administrative fee. Parties may find experienced mediators and organizations on the Internet.
- ☐ **Judicial Arbitration** - Non-binding arbitration is available to cases in which the amount in controversy is \$50,000 or less and no equitable relief is sought. The court appoints a pre-screened arbitrator who will issue an award. There is no fee for this program. www.sfsuperiorcourt.org
- ☐ **Other ADR process (describe)** _____

2) The parties agree that the ADR Process shall be completed by (date): _____

3) Plaintiff(s) and Defendant(s) further agree as follows:

 Name of Party Stipulating

 Name of Party Stipulating

 Name of Party or Attorney Executing Stipulation

 Name of Party or Attorney Executing Stipulation

 Signature of Party or Attorney

 Signature of Party or Attorney

☐ Plaintiff ☐ Defendant ☐ Cross-defendant

☐ Plaintiff ☐ Defendant ☐ Cross-defendant

Dated: _____

Dated: _____

☐ **Additional signature(s) attached**

FOR COURT USE ONLY

TELEPHONE NO.:

FAX NO. (Optional):

E-MAIL ADDRESS (Optional):

ATTORNEY FOR (Name):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

PLAINTIFF/PETITIONER:

DEFENDANT/RESPONDENT:

CASE MANAGEMENT STATEMENT

(Check one):

11

UNLIMITED CASE
(Amount demanded exceeds \$25,000)

LIMITED CASE

(Amount demanded is \$25,000 or less)

CASE NUMBER:

A CASE MANAGEMENT CONFERENCE is scheduled as follows:

Date:

Time:

Dept.:

Div.:

Room:

Address of court (if different from the address above):

10

Notice of Intent to Appear by Telephone, by (name):

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
 - a. ☐ This statement is submitted by party (name):
 - b. ☐ This statement is submitted jointly by parties (names):
2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
 - a. The complaint was filed on (date):
 - b. ☐ The cross-complaint, if any, was filed on (date):
3. **Service (to be answered by plaintiffs and cross-complainants only)**
 - a. ☐ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. ☐ The following parties named in the complaint or cross-complaint
 - (1) ☐ have not been served (specify names and explain why not):
 - (2) ☐ have been served but have not appeared and have not been dismissed (specify names):
 - (3) ☐ have had a default entered against them (specify names):
 - c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
4. **Description of case**
 - a. Type of case in ☐ complaint ☐ cross-complaint (Describe, including causes of action):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

The party or parties request ☐ a jury trial ☐ a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

a. ☐ The trial has been set for *(date)*:

b. ☐ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

a. ☐ days *(specify number)*:

b. ☐ hours *(short causes) (specify)*:

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial ☐ by the attorney or party listed in the caption ☐ by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

f. Fax number:

e. E-mail address:

g. Party represented:

☐ Additional representation is described in Attachment 8.

9. **Preference**

☐ This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☐ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation (if available).**

(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (check all that apply and provide the specified information):

	The party or parties completing this form are willing to participate in the following ADR processes (check all that apply):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (attach a copy of the parties' ADR stipulation):
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (specify):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

11. Insurance

- a. ☐ Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. ☐ There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:
- ☐ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (*name party*):

14. Bifurcation

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- ☐ The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

16. Discovery

- a. ☐ The party or parties have completed all discovery.
- b. ☐ The following discovery will be completed by the date specified (*describe all anticipated discovery*):
- | <u>Party</u> | <u>Description</u> | <u>Date</u> |
|--------------|--------------------|-------------|
| | | |
- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

17. Economic litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

18. Other issues

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

19. Meet and confer

- a. ☐ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (*if not, explain*):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (*specify*):

20. Total number of pages attached (*if any*): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

555 12th Street, Suite 1500
Oakland, California 94607
tel (510) 808-2000
fax (510) 444-1108
www.meyersnave.com

Steven R. Meyers
Attorney at Law
smeyers@meyersnave.com

meyers | nave

May 30, 2013

Via E-mail and U.S. Mail

Mr. Fred Harris
Legal Division, Public Records Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Re: Public Records Act Request
Communications re: I.12-01-007, I.11-02-016, I.11-11-009
Financial Institutions and Professionals; Commissioner Peevey documents;
PG&E "Forging a New Vision of Safety in California" Symposium;
Appointment of Senator George Mitchell in October 2012; Fines, Penalties,
and/or Remedies; California Foundation on the Environment and the
Economy Conference on April 25, 2013 in Napa Valley, CA; and Senate
Budget and Fiscal Review subcommittee hearing on April 25

Dear Mr. Harris:

Pursuant to the California Public Records Act, California Government Code Section 6250 *et seq.* the City of San Bruno ("San Bruno") hereby requests copies of the public records identified below. Each of San Bruno's requests relates to:

- ☐ Financial Institutions and Professionals;
- ☐ Commissioner Peevey documents;
- ☐ The CPUC-PG&E "Forging a New Vision of Safety in California" Symposium scheduled for May 7-8, 2013;
- ☐ The appointment of Senator George Mitchell as mediator in October 2012;
- ☐ The California Public Utilities Commission's ongoing investigations in I.12-01-007, I.11-02-016, and I.11-11-009, including the discussion of fines, penalties, and/or remedies in I.12-01-007, I.11-02-016, and I.11-11-009;
- ☐ California Foundation on the Environment and the Economy Conference on April 25-26 and dinner on April 25, 2013 in Napa Valley, CA; and
- ☐ Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.

For purposes of San Bruno's request, all italicized terms set forth below are defined in Exhibit A.

SAN BRUNO PUBLIC RECORDS ACT REQUESTS

Documents Related to Ongoing Investigations in I.12-01-007, I.11-02-016, and I.11-11-009

Financial Institutions and Professionals

- A. Meetings with Financial Institutions. Identify any individual or recurring meetings scheduled or held amongst *Commissioners and/or CPUC Employees and Financial Institutions* concerning the Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009. Please specify the invitees, attendees and location for each such meeting and the individual(s) that requested and/or organized the meeting.
- B. Meetings with Financial Professionals. Identify any individual or recurring meetings scheduled or held amongst *Commissioners and/or CPUC Employees and Financial Professionals* concerning the Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009. Please specify the invitees, attendees and location for each such meeting and the individual(s) that requested and/or organized the meeting.
- C. Documentation related to Financial Meetings.
- ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* generated in preparation for, reflecting, summarizing or discussing the communications identified in paragraphs A and B of this public records act request.
 - ☐ Follow-Up. Any and all *Documents* used or generated in or as a result of the meetings or communications identified in paragraphs A and B of this public records act request.

Commissioner Peevey Documents

- D. I.12-01-007, I.11-02-016, I.11-11-009. Any and all *Documents* wherein Commissioner Peevey or his staff is an author, recipient, copied, blind carbon copied, or otherwise included upon in which the subject matter of I.12-01-007, I.11-02-016, or I.11-11-009 are mentioned, discussed, referenced or otherwise covered.
- E. Fines, Penalties, and/or Remedies. Any and all *Documents* wherein Commissioner Peevey or his staff is an author, recipient, copied, blind carbon copied, in which *Fines, Penalties, and/or Remedies* are mentioned, discussed, referenced or otherwise covered.

- F. Safety Symposium. Any and all *Documents* wherein Commissioner Peevey or his staff is an author, recipient, copied, blind carbon copied, in which *Safety Symposium* is mentioned, discussed, referenced or otherwise covered.
- G. Mitchell Mediator Appointment. Any and all *Documents* wherein Commissioner Peevey or his staff is an author, recipient, copied, blind carbon copied, in which the *Mitchell Appointment* is mentioned, discussed, referenced or otherwise covered.

Communications Between Commission - CPUC Employee-PG&E Employees

- H. Meetings between Commissioners, CPUC Employees and PG&E Employees. Identify any individual or recurring meetings scheduled or held amongst *Commissioners (including staff members) and/or CPUC Employees and PG&E Employees*, or any combination thereof, concerning the Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009. Please specify the invitees, attendees and location for each such meeting and the individual(s) that requested and/or organized the meeting.
- I. Documentation related to CPUC-PG&E Meetings.
- ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* used in preparation for, reflecting, summarizing or otherwise discussing the communications identified in paragraph F of this public records act request.
 - ☐ Follow Up. Any and all *Documents* used or generated in or as a result of the meetings or communications identified in paragraph F of this public records act request.

Internal Commission Discussions Regarding Fines, Penalties, and/or Remedies

- J. Internal Commission Discussions Re: Fines, Penalties, and/or Remedies.
- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst *the Commissioners themselves, CPUC Employees themselves, or amongst the Commission and CPUC Employees*, concerning *Fines, Penalties, and/or Remedies* from January 2013 to the present.
 - ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* reflecting, summarizing or discussing communication by or amongst *the Commission (including Commission General Counsel Frank Lindb, Executive Director Paul Clanon, and CP&D Director Jack Hagan), Commissioners, Commissioner's staff, and CPUC Employees*, or any combination of such parties, in relation to the meetings or communications identified in this paragraph H or otherwise concerning *Fines, Penalties, and/or Remedies* from January 2013 to the present.

- ☐ Follow Up. Any and all *Documents* used or generated in or as a result of any meetings or communications identified in this paragraph H from January 2013 to the present.

K. Internal CPUC Employee Discussions Re: Fines, Penalties, and/or Remedies.

- ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* reflecting, summarizing or discussing communication by or amongst *the Commission (including Commission Executive Director Paul Clanon and CPUC Director Jack Hagan), CPUC Commissioners, Commission staff, and CPUC Employees*, or any combination of such parties concerning the *Fines, Penalties, and/or Remedies* from January 2013 to the present.
- ☐ Follow Up. Any and all *Documents* used or generated in or as a result of such meetings or communications from January 2013 to the present.

L. CPUC-PG&E Discussions Re: Fines, Penalties, and/or Remedies.

- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst *PG&E Employees, Commissioners, and/or CPUC Employees*, or any combination thereof, concerning *Fines, Penalties, and/or Remedies* from January 2013 to the present.
- ☐ Preparation, Handouts, Documentation, Summaries. All *Documents* reflecting, summarizing or discussing communication by or amongst *the Commissioners, CPUC Employees, (including Commission Executive Director Paul Clanon and CPUC Director Jack Hagan), PG&E Employees, and CPUC Employees*, or any combination of such parties, related to the meetings identified in this paragraph J or otherwise concerning *Fines, Penalties, and/or Remedies* from January 2013 to the present.
- ☐ Follow Up. Any *Documents* used or generated in or as a result of meetings identified in this paragraph J from January 2013 to the present.

M. Specific Fines, Penalties, and/or Remedies Documents. All draft and the final versions of *Documents* related to the imposition of *Fines, Penalties, and/or Remedies*, including, without limitation, the *Documents* specifically identified below, along with disclosure of whether such *Documents* were drafted by *Commissioners, CPUC Employees, or PG&E Employees* from January 2013 to the present:

- ☐ Any and all proposals, including, without limitation proposals related to the amount, scope, structure, timeframe or composition of *Fines, Penalties, and/or Remedies* whether made by *PG&E Employees, Commissioners, CPUC Employees*, or any combination thereof.

- ☐ Any proposals, requests or suggestions from *Commissioners, CPUC Employees, or PG&E Employees* related to *Fines, Penalties, and/or Remedies*.
- ☐ Copies of all contracts, agreements or any amendments thereto related to *Fines, Penalties, and/or Remedies*.
- ☐ Copies of all draft and final materials to be distributed publicly, including, without limitation, statements, press releases and flyers related to related *Fines, Penalties, and/or Remedies*.

CPUC-PG&E Safety-Symposium Related Documents

- N. Payment for Safety Symposium. All *Documents* reflecting, summarizing or discussing communication by or amongst *PG&E Employees (including Jane Yura, Vice President Gas Operations Standards & Policies at PG&E), Commissioners, CPUC Employees, and/or Hall and Associates* or any combination of such parties, concerning payment for the Safety Symposium, including payment for the previously scheduled May 7, 2013 dinner at the Marines' Memorial Club and Hotel.
- O. CPUC-PG&E Safety Symposium Planning. All *Documents* reflecting, summarizing or discussing communication by or amongst *PG&E Employees (including Jane Yura, Vice President Gas Operations Standards & Policies at PG&E), Commissioners, and CPUC Employees, and/or Hall and Associates* or any combination of such parties, concerning the agenda, speakers, topics, logistics, issues or presentations or panels for the *Safety Symposium*, including payment for the May 7, 2013 dinner at the Marines' Memorial Club and Hotel, along with:
- ☐ Any *Documents* used or generated in or as a result of such meetings or communications.
 - ☐ Any *Documents* regarding potential overlap between the *Safety Symposium* and the *Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009*.
- P. Internal CPUC Safety Symposium Planning.
- ☐ All *Documents* reflecting, summarizing or discussing communication by or amongst *the Commission and CPUC Employees*, or any combination of such parties, concerning the agenda, speakers, topics, logistics, issues or presentations or panels for the Safety Symposium, including payment for the May 7, 2013 dinner at the Marines' Memorial Club and Hotel, along with:
 - ☐ Any *Documents* used or generated in or as a result of such meetings or communications.

- ☐ Any *Documents* regarding potential overlap between the *Safety Symposium* and the *Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009.*
- Q. CPUC-PG&E Meetings Re: Safety Symposium. Identify any individual or recurring meetings scheduled or held amongst *PG&E Employees, the Commission, CPUC Employees, and/or Hall and Associates* concerning the preparation of the *Safety Symposium.*
- R. Internal CPUC Meetings Re: Safety Symposium. Identify any individual or recurring meetings scheduled or held amongst *the Commission itself, CPUC Employees themselves, or amongst the Commission and CPUC Employees,* concerning the preparation of the *Safety Symposium.*
- S. Safety Symposium-related Documents. All drafts and the final versions of *Documents* related to *Safety Symposium*, along with an indication of whether such documents were drafted by *the Commission, CPUC Employees, PG&E Employees (including Jane Yura, Vice President Gas Operations Standards & Policies at PG&E), and/or Hall and Associates* including, without limitations, the following:
 - ☐ Any proposals, whether made by *PG&E Employees, Commissioners or CPUC Employees, and/or Hall and Associates* related to compensation, rates, scope of work for the *Safety Symposium.*
 - ☐ Any proposals, requests or suggestions from *Commissioners, CPUC Employees, PG&E Employees, and/or Hall and Associates* related to speakers, agendas, seating arrangements, panels or other issues or topics for the *Safety Symposium.*
 - ☐ Copies of all contracts, agreements or any amendments thereto related to the *Safety Symposium.*
 - ☐ Copies of all draft and final *Safety Symposium* materials to be distributed publicly, including, without limitation, statements, press releases and flyers.
- T. Consultants Assisting with Safety Symposium. Identify any consultants or contractors, if any, that *Commissioners, CPUC Employees, and/or PG&E Employees* considered to perform any tasks in connection with planning, publicizing, executing, or otherwise undertaking the *Safety Symposium.*

Appointment of Mediator in Settlement Negotiations Related Documents:

- U. Internal Commission Discussions Re: the Mitchell Appointment.

- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst the *Commissioners themselves, CPUC Employees themselves, or amongst the Commission and CPUC Employees*, concerning the *Mitchell Appointment*.
 - ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* reflecting, summarizing or discussing communication by or amongst the *Commission (including President Peevey and Commissioner Florio's Commission staff), and CPUC Employees*, or any combination of such parties concerning the *Mitchell Appointment*.
 - ☐ Follow Up. Any and all *Documents* used or generated in or as a result of such meetings or communications.
- V. Commission – PG&E Discussions Re: the Mitchell Appointment.
- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst *PG&E Employees, Commissioners and/or CPUC Employees*, or any combination thereof, concerning the *Mitchell Appointment*.
 - ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* reflecting, summarizing or discussing communication by or amongst *PG&E Employees, Commissioners (specifically including President Peevey and Commissioner Florio, and each Commissioner's staff), and CPUC Employees*, or any combination of such parties, concerning the *Mitchell Appointment*.
 - ☐ Follow Up. Any and all *Documents* used or generated in or as a result of such meetings or communications.
- W. Specific Mitchell Appointment Documents. Without limiting the generality of the foregoing, San Bruno requests any and all drafts and the final versions *Documents* related to the *Mitchell Appointment*, including without limitation, the following, along with an indication of whether such documents were drafted by *Commissioners, CPUC Employees, or PG&E Employees*:
- ☐ Any proposals, requests or suggestions, whether made by *PG&E Employees, Commissioners or CPUC Employees*, related to the *Mitchell Appointment*.
 - ☐ Copies of all contracts, agreements or any amendments thereto related to the *Mitchell Appointment*.
 - ☐ Copies of all draft and final materials to be distributed publicly concerning the *Mitchell Appointment*, including, without limitation, statements, press releases and flyers.

- ☐ A list of all background documents provided to Senator Mitchell or his representatives concerning the *Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009.*

California Foundation on the Environment and the Economy (CFEE)
Conference on April 25-26, 2013 at the Silverado Resort in Napa Valley, CA
and CFEE dinner at Merryvale Winery in Napa, CA on April 25, 2013:

X. Internal Commission Discussions Re: CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.

- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst *the Commissioners themselves, CPUC Employees themselves (including President Peevey's Commission staff), or amongst the Commission and CPUC Employees,* concerning the *CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.*
- ☐ Preparation, Handouts, Documentation, Summaries. Any and all Documents reflecting, summarizing or discussing communication by or amongst *the Commission (including President Peevey's Commission staff), and CPUC Employees,* or any combination of such parties concerning the *CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.*
- ☐ Follow Up. Any and all Documents used or generated in or as a result of such meetings or communications.

Y. Commission – PG&E Discussions Re: the CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.

- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst *PG&E Employees (including Thomas (Tom) Bottorff, Senior Vice President, Regulatory Affairs), Commissioners and/or CPUC Employees,* or any combination thereof, concerning the *CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.*
- ☐ Preparation, Handouts, Documentation, Summaries. Any and all Documents reflecting, summarizing or discussing communication by or amongst *PG&E Employees (including Thomas (Tom) Bottorff, Senior Vice President, Regulatory Affairs), Commissioners (specifically including President Peevey's Commissioner's staff), and CPUC Employees,* or any combination of such parties, concerning the *CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.*
- ☐ Follow Up. Any and all Documents used or generated in or as a result of such meetings or communications.

Z. Specific CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013 Documents. Without limiting the generality of the foregoing, San Bruno requests any and all drafts and the final versions *Documents* related to the CFEE conference on April 25-26, 2013 and CFEE dinner on April 25, 2013, including without limitation, the following, along with an indication of whether such documents were drafted by *Commissioners (including Commissioner Peevey's staff), CPUC Employees, or PG&E Employees (including Thomas Bottorff, Sr. Vice President of Regulatory Affairs for PG&E):*

- ☐ Any proposals, requests or suggestions, whether made by *PG&E Employees, Commissioners or CPUC Employees*, related to the *CFEE conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.*
- ☐ Copies of all contracts, agreements or any amendments thereto related to the *CFEE conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.*
- ☐ Copies of all draft and final materials to be distributed publicly concerning the *CFEE conference on April 25-26, 2013 and CFEE dinner on April 25, 2013*, including, without limitation, statements, press releases and flyers.
- ☐ A list of all background documents provided to CFEE or its representatives concerning the *Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009.*

Senate Budget and Fiscal Review Subcommittee Hearing on April 25, 2013:

AA. Internal Commission Discussions Re: Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.

- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst the *Commissioners themselves, CPUC Employees themselves (including President Peevey's Commission staff), or amongst the Commission and CPUC Employees*, concerning the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.*
- ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* reflecting, summarizing or discussing communication by or amongst the *Commission (including President Peevey's Commission staff), and CPUC Employees*, or any combination of such parties concerning the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.*
- ☐ Follow Up. Any and all *Documents* used or generated in or as a result of such meetings or communications.

BB. Commission -- PG&E Discussions Re: Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.

- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst PG&E Employees, Commissioners and/or CPUC Employees, or any combination thereof, concerning the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.*
- ☐ Preparation, Handouts, Documentation, Summaries. Any and all Documents reflecting, summarizing or discussing communication by or amongst PG&E Employees, Commissioners (specifically including President Peevey's Commissioner's staff), and CPUC Employees, or any combination of such parties, concerning the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.*
- ☐ Follow Up. Any and all Documents used or generated in or as a result of such meetings or communications.

CC. Specific Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013 Documents. Without limiting the generality of the foregoing, San Bruno requests any and all drafts and the final versions Documents related to the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013*, including without limitation, the following, along with an indication of whether such documents were drafted by Commissioners, CPUC Employees, or PG&E Employees:

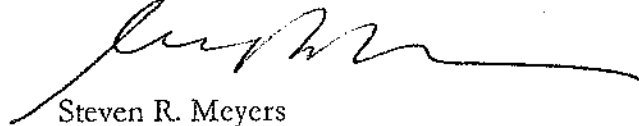
- ☐ Any proposals, requests or suggestions, whether made by PG&E Employees, Commissioners or CPUC Employees, related to the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.*
- ☐ Copies of all contracts, agreements or any amendments thereto related to the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.*
- ☐ Copies of all draft and final materials to be distributed publicly concerning the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013*, including, without limitation, statements, press releases and flyers.
- ☐ A list of all background documents provided to the Senate Budget and Fiscal Review subcommittee hearing or its representatives concerning the *Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009.*

Any responsive records that are withheld from inspection should be specifically and separately identified in writing, and accompanied by the claimed justification for withholding as provided by California Government Code Section 6255, stating the nature of the document withheld and the basis for such withholding. Should you contend that any portion of a particular document is exempt from disclosure, San Bruno requests, pursuant to Section 6253(a) of the California Government Code that the exempt portion be redacted and the remaining portions be produced. San Bruno reserves the right to object to any decision to withhold materials, or portions of documents. San Bruno requests copies of public

records in electronic form where available, and in hard copy where copies in electronic form are not available.

In accordance with Section 6253(c) of the California Government Code, please respond to San Bruno's request within ten (10) days. Any questions regarding San Bruno's public records act request should be addressed to me. Thank you in advance for your prompt attention and timely cooperation with San Bruno's request.

Sincerely,



Steven R. Meyers
Special Counsel, City of San Bruno
Meyers Nave
(510) 808-2000
smeyers@meyersnave.com

Enclosures: Exhibit A – Public Records Act Request Definitions and Instructions
Exhibit B – Forging a New Vision of Safety in California” Natural Gas Safety Symposium Flyer
Exhibit C – Press release dated October 15, 2012 entitled: “Former U.S. Senator George Mitchell Appointed as Mediator for Negotiations Over PG&E San Bruno Pipeline Explosion Fines and Remedies”
Exhibit D – Draft agenda for CFEF conference and dinner on April 25-26, 2013
Exhibit E – Letter from Senator Jerry Hill to Commissioner Peevey regarding the Senate and Fiscal Review subcommittee hearing on April 25, 2013

cc: Connie Jackson, City Manager, San Bruno (via Email)
Marc Zafferano, City Attorney, San Bruno (via Email)
State Senator Jerry Hill (via Email)
Commissioner Michael R. Peevey (via Email)
Commissioner Michel Peter Florio (via Email)
Commissioner Catherine J.K. Sandoval (via Email)
Commissioner Mark J. Ferron (via Email)
Commissioner Carla J. Peterman (via Email)
Jack Hagan, Director, SED (formerly CPSD) (via Email)
Frank Lindh, General Counsel, CPUC (via Email)
Paul Clanoñ, Executive Director, CPUC (via Email)

EXHIBIT A

EXHIBIT A
CITY OF SAN BRUNO
PUBLIC RECORDS ACT REQUEST
TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION
DEFINITIONS AND INSTRUCTIONS

- A. "Commission" means the California Public Utilities Commission.
- B. "Commissioners" means the specific CPUC Commissioners assigned to I.12-01-007, I.11-02-016, I.11-11-009, Commissioner Peevey and Commissioner Florio and all staff members for each Commissioner from the time the three investigations were opened to the present. Commission shall also include Commissioners Sandoval, Ferron and Peterman and their staff.
- C. "CPSD" means both the Consumer Protection and Safety Division, and the recently renamed organization, Safety Enforcement Division.
- D. "CPUC Employee" or "CPUC Employee(s)" includes, without limitation all employees, management, appointees and executives at the CPUC, the Executive Director, consultants to CPUC, the Safety and Enforcement Division, any in-house attorneys and any outside counsel to the CPUC. "CPUC Employee(s)" specifically includes, without limitation, President Michael Peevey and any of his staff members, Mr. Frank Lindh, Director Jack Hagan, Mr. Paul Clanon, Julie Halligan, and Michelle Cooke.
- E. "Hall & Associates" means Hall and Associates, LLC, including without limitation Jim Hall, Bob Chipkevich, Bill Scott, and any additional staff or experts engaged by or on behalf of Hall and Associates to assist with preparation of the "Forging a New Vision of Safety in California" safety symposium.
- F. "Documents" means all notes, minutes of meetings, documents, summaries, e-mails, e-mail attachments, texts, calendar entries, memoranda, proposals, PowerPoint presentations, memoranda, other briefings, records of follow-up tasks, list of attendees, documentation of notes made on white boards or other records, whatever the format (oral, written, electronic, including twitter, facebook, instant messaging, etc.), whether in draft or final form.
- G. "Financial Institution" means any institution in the business of underwriting, distributing and trading utility equity and debt securities, including, without limitation, any such institutions or consultants that presently or previously have performed such services for Pacific Gas and Electric Company or PG&E Corporation

- H. "Financial Professional" means any entity or consultant in the business of advising concerning underwriting, distribution and trading of utility equity and debt securities, including, without limitation, any such institutions or consultants that presently or previously have performed such services for Pacific Gas and Electric Company or PG&E Corporation.
- I. "Mitchell Appointment" refers to the attempted appointment of former U.S. Senator George Mitchell to serve as mediator in talks in 2012 in order to resolve the enforcement cases (I.12-01-007, I.11-02-016, and I.11-11-009) against PG&E, as described in Exhibit C, attached hereto for reference.
- J. "Penalties and Fines" means the fines, penalties and/or equitable remedies considered, imposed, and/or recommended in Commission Investigations I.12-01-007, I.11-02-016, and I.11-11-009 for the violations identified in the Consumer Protection Safety Division (now Safety Enforcement Division) investigative reports and further clarified by the Scoping Memorandum issued in each proceeding.
- K. "PG&E Employee" or "PG&E Employee(s)" includes, without limitation, all employees, management and executives at Pacific Gas and Electric Company and PG&E Corporation, the Board of Directors to Pacific Gas and Electric Company, the Board of Directors to PG&E Corporation, consultants to Pacific Gas and Electric Company, consultants to PG&E Corporation and any in-house attorneys and any outside counsel to Pacific Gas and Electric Company and PG&E Corporation.
- L. "Safety Symposium" means the CPUC "Forging a New Vision of Safety in California" Natural Gas Safety Symposium, previously scheduled on May 7-8, 2013 in San Francisco, California (see Exhibit B), including, without limitation, the May 7, 2013 dinner at the Marines' Memorial Club and Hotel.
- M. "Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009" means the issues identified in the Order Instituting Investigation in each proceeding, as further clarified by the Scoping Memorandum issued in each proceeding.
- N. "CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013" means the California Foundation on the Environment and the Economy Conference on April 25-26, 2013 at the Silverado Resort in Napa Valley, CA and CFEE dinner at Merryvale Winery in Napa, CA on April 25, 2013 (see Exhibit D).
- O. "Senate Budget and Fiscal Review subcommittee hearing" means the Senate Budget and Fiscal Review subcommittee hearing chaired by Senator Jim Beall on April 25, 2013 in Sacramento, CA (see Exhibit E).

EXHIBIT B

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



April 4, 2013

Greetings,

On behalf of the California Public Utilities Commission (CPUC), I invite you to attend the first in a series of safety symposiums to explore solutions to safety within California's utility services and infrastructure sectors. This symposium, *Forging a New Vision of Safety in California*, will be held May 7-8, 2013, in downtown San Francisco and will focus on natural gas safety issues. Sessions will be held at the Milton Marks Auditorium in the Johnson State Office Building at 455 Golden Gate Avenue. Please see the agenda below.

This symposium will allow representatives of the natural gas industry, government, and the public to convene and discuss ways to help create a climate and culture that embraces safety as an underlying and timeless principle in everything we do. The keynote speaker on the first day is Deborah A.P. Hersman, Chairman of the National Transportation Safety Board. Panels will follow Chairman Hersman's introduction to explore the climate and culture of safety, the regulator's role in leading safety change, and effective emergency response.

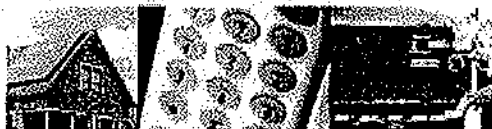
There is no charge to attend the conference, but reservations are requested so we can ensure space availability. Simply click on this symposium registration link and enter your information: <http://events.signup4.com/cpucsafetysymposium>. (Note that an optional dinner Tuesday evening at the Marines' Memorial Club requires an RSVP by May 1.)

As Director of the Safety and Enforcement Division of the CPUC, I believe our (industry and regulator) mission is to create a climate and culture that embraces safety as a tool and an enhancement to accomplish our organization's mission. This culture uses risk assessment and risk management as the foundation of assessing safety and the consequences of failure, and to assert that safety, with respect to human life and property, is non-negotiable. This symposium is an opportunity to establish collaborative relationships to develop solutions to the safety challenges we face in these dynamic times. I hope you will join me in this important dialog.

Sincerely,

A handwritten signature in dark ink, appearing to read "Emory J. Hagan, III".

Emory J. Hagan, III
Brigadier General (CA)
Director, Safety and Enforcement Division
California Public Utilities Commission



California Public Utilities Commission

Forging a New Vision of Safety in California

Natural Gas Safety Symposium

May 7-8, 2013, San Francisco

What: The first-ever gathering of California natural gas industry and regulatory leaders for a dialog about safety culture, the regulatory role in leading safety change, and effective emergency response.

Keynote speakers:

- Deborah A.P. Hersman, Chairman, National Transportation Safety Board
- Captain Chesley Sullenberger, former US Air Captain

Plus: panel discussions by industry and regulatory leaders

Where: Hiram Johnson State Building, Milton Marks Auditorium, 455 Golden Gate Ave., San Francisco

When: May 7, 2013, 1:30 – 4:45 p.m. and May 8, 2013, 8:30 a.m. – 12:30 p.m.

Agenda

Day 1: Tuesday, May 7, 2013, 1:30 p.m. – 4:45 p.m.

1:30 p.m.

Welcome

Brigadier General (CA) Jack Hagan, *Director, Safety and Enforcement Division, California Public Utilities Commission*

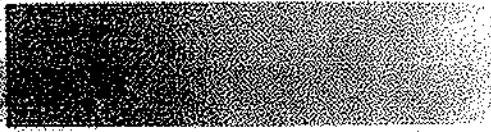
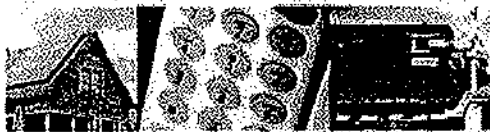
2 p.m.

Keynote

Deborah A.P. Hersman, *Chairman, National Transportation Safety Board*

3:15 – 3:30

Break



- 3:30 p.m. **Panel 1: Building a Climate and Culture of Safety**
Moderator: TBD
TBD, Alaska Airlines
Captain Jody Bridges, *USN, Director School of Aviation Safety, Pensacola FL*
Robert C. Figlock, *President, Advanced Survey Design, LLC*
Paul Levy, *former Chair of the Massachusetts Department of Public Utilities and former CEO of Beth Israel Deaconess Medical Center*
Nick Stavropoulos, *Senior Vice President, Gas Operations, Pacific Gas and Electric Company*
- 5 p.m. **Adjourn**

Evening Event (Optional)

- 6 p.m. **Reception (cash bar), Marines' Memorial Club & Hotel, 609 Sutter St., San Francisco**
- 7 p.m. **Dinner**
Evening Keynote: Captain Chesley Sullenberger, *former US Air Captain, pilot of the "Miracle on the Hudson" aviation incident*

Day 2: Wednesday, May 8, 2013, 8:30 a.m. – 12:30 p.m.

- 8:30 a.m. **Panel 2: Effectively Managing Pipeline Emergency Response**
Moderator: TBD
Jerry Schmitz, *Vice President, Engineering, SouthWest Gas*
Joanne Hayes-White, *Chief, San Francisco Fire Department*
Tim Butters, *Deputy Administrator, Pipeline and Hazardous Materials Safety Administration*
Carl Weimer, *Executive Director, Pipeline Safety Trust*
- 10 a.m. **Break**
- 10:15 a.m. **Panel 3: Leading Safety – What Does Regulatory Leadership Look Like?**
Moderator: Paul Clanton, *Executive Director, California Public Utilities Commission*
Commissioner Mike Florio, *California Public Utilities Commission*
Commissioner Paul J. Roberti, *Rhode Island Public Utilities Commission*
Chris Johns, *President, Pacific Gas and Electric Company*
Dennis Arriola, *President & Chief Operating Officer, Southern California Gas Company*
- 12 p.m. **Concluding Remarks**
President Michael R. Peevey, *California Public Utilities Commission*
Brigadier General (CA) Jack Hagan, *Director, Safety and Enforcement Division, California Public Utilities Commission*
- 12:30 p.m. **Adjourn**

EXHIBIT C



FOR IMMEDIATE RELEASE

PRESS RELEASE

Media Contact: Terrie Prosper, 415.703.1366, news@cpuc.ca.gov

**FORMER U.S. SENATOR GEORGE MITCHELL APPOINTED
AS MEDIATOR FOR NEGOTIATIONS OVER PG&E SAN BRUNO
PIPELINE EXPLOSION FINES AND REMEDIES**

SAN FRANCISCO, October 15, 2012 -- The California Public Utilities Commission (CPUC) today announced the appointment of former U.S. Senator George Mitchell to serve as mediator in ongoing talks aimed at resolving by stipulated agreement a series of enforcement cases against Pacific Gas and Electric Company (PG&E), stemming from the September 2010 explosion of a high-pressure PG&E natural gas pipeline in San Bruno, Calif.

Senator Mitchell is known, among other things, for his role as the U.S. Special Envoy for Northern Ireland, where he brokered the landmark Good Friday Peace Treaty in April 1998, and more recently as President Obama's Special Envoy to the Middle East. He was nominated for the Nobel Peace Prize for his success in the Northern Ireland peace process. He is the chairman emeritus of DLA Piper LLP (US), an international law firm, and he will be assisted by lawyers from that firm in his role as mediator.

"We are very grateful to Senator Mitchell for agreeing to devote his skills as mediator to this difficult and painful series of cases," said CPUC President Michael R. Peevey. "We are confident Senator Mitchell can help achieve a solution that will resolve these cases sooner rather than later, bring justice to the good people of San Bruno, and move California forward to our goal of a much safer natural gas system."

Commissioner Mike Florio also applauded the appointment of Senator Mitchell, describing him as "a truly world-class mediator and peace-maker."

Senator Mitchell will serve as mediator in ongoing negotiations between PG&E, the CPUC's safety enforcement staff, and other parties to the proceedings. The other parties include the City of San Bruno, the City and County of San Francisco, the CPUC's Division of Ratepayer Advocates, and ratepayer advocacy group The Utility Reform Network (TURN). The parties to the mediation will



be asked to sign a mediation agreement confirming their participation and giving their consent for Senator Mitchell's law firm to provide these mediation services.

In their report and testimony in the enforcement cases, the CPUC's safety staff allege that PG&E committed significant violations of pipeline safety rules, which staff claim contributed to the blast. The National Transportation Safety Board also found many deficiencies in PG&E's operations and its slow response to the explosion on the evening of September 9, 2010. PG&E faces the prospect of millions of dollars in fines in the CPUC proceedings, and other remedies.

"I encourage all of the parties to make a good-faith effort at a negotiated solution, working with Senator Mitchell," said Commissioner Florio. "This is the most expeditious way to resolve these cases and bring closure to the people of San Bruno. More than two years have passed since the tragedy. The evidence is all in, and the time has come to resolve these cases once and for all."

The CPUC's rules require that any stipulation the parties might agree to in the mediation process must be publicly filed with the CPUC, and considered by the CPUC's five Commissioners in public after an opportunity for public review and comment.

The CPUC previously ordered PG&E to fund all the costs of the San Bruno investigation from shareholders, and not to pass any of the costs along to ratepayers. The costs of Senator Mitchell's services will be paid in this same manner.

For more information on the CPUC, please visit www.cpuc.ca.gov.

###

EXHIBIT D

DRAFT AGENDA

CFEE Energy Conference: Transitioning to a Clean Energy Future

April 25-26, 2013

Silverado Conference Center, Napa, California

Thursday, April 25th—TBD

12:00 pm-1:00 pm – Buffet Lunch – TBD

1:00 pm-1:15 pm – Welcome and Introduction

**Patrick F. Mason, President, CFEE*

1:15 pm-1:30 pm—SESSION 1: California Energy 101

A short video will provide basic information regarding California's energy sector and the production and delivery of power in the state.

**Jan Smutny-Jones, Executive Director, Independent Energy Producers*

1:30 pm-2:30 pm—SESSION 2: The Cornerstone of California's Energy Policy – The Loading Order

Since the energy crisis, state policy has been that the overarching goal is for California's energy to be reliable, affordable, technologically advanced, and environmentally sound. The loading order, first adopted in the 2003 Energy Action Plan, describes the priority sequence for actions to address future energy needs. The loading order identifies energy efficiency and demand response as the State's preferred means of meeting growing energy needs. After cost-effective efficiency and demand response, we rely on renewable sources of power and distributed generation, such as combined heat and power applications. To the extent efficiency, demand response, renewable resources, and distributed generation are unable to satisfy increasing energy and capacity needs, we support clean and efficient fossil-fired generation. Concurrently, the bulk electricity transmission grid and distribution facility infrastructure must be improved to support growing demand centers and the interconnection of new generation, both on the utility and customer side of the meter. Energy procurement over the last decade has been guided by these principles. How was the loading order established and why has it endured for over a decade? Is it still effective policy?

During the sessions to follow, we will examine the detailed policies that evolved from the loading order, the related goals, status towards achieving those goals, and next steps. We will also consider how these key policies line up with California's climate change policies.

Mike Peevey, President, California Public Utilities Commission (5-7 min)

**Bob Walsenmiller, Chair, California Energy Commission (5-7 min)*

Roundtable Discussion

2:30 pm-2:45 pm – Break

**presenter confirmed*

2:45 pm – 4:00 pm—SESSION 3: Pushing the Envelope on Energy Efficiency and Demand Response

What are our energy efficiency goals in terms of state and local energy policies, and climate change goals? What is the current policy on demand response? What has been achieved and what is our current status? How can we capture 100% of cost-effective energy efficiency? What are the challenges? What are the costs and benefits involved? What are the next steps?

Andrew McAllister, Chair, California Energy Commission
Jeanne Clinton, Special Advisor to the California Public Utilities Commission

Responders:

Rep, IOU

Rep, MUNI

**Sheryl Carter*, Co-Director Energy Program, Natural Resources Defense Council

Rep, Industry

Roundtable Discussion

4:00 pm - 5:30 pm—SESSION 4: Renewable Resources and Distributed Generation

What are our renewable goals in terms of state and local energy policies, and climate change policy? The state has a goal to procure 33% of the state's generation from renewable resources, and reportedly the utilities have executed sufficient power purchase agreements to exceed this goal. What is the current status towards achieving these goals? What are the challenges (e.g. How will the influx of renewable and DG energy impact the transmission and distribution system? Can we expect all of these contracts to deliver?) Are there examples from outside the state that can inform our response? How does the Distributed Generation policy goal fit with other state policies, e.g. electrification and energy storage policies? What are the costs and benefits involved? What are the next steps?

Michael Picker, Sr. Advisor to the Governor for Renewable Energy Facilities,
Office of the Governor

Responders:

Rep, Pacific Gas & Electric

Rep, MUNI

Rep, Enviro

Rep, Industry

Rep, CAISO

Roundtable Discussion

6:00 pm – Reception and Dinner—TBD

Friday, April 26th—TBD

7:30 am - 8:30 am – Continental Breakfast – TBD

8:30 am - 10:00 am—SESSION 5: Role of Clean and Efficient Fossil Fuel Generation

Integrating renewables into the system puts a new focus on the role and attributes of fossil fuel resources. What are the challenges and what is the strategy for long term procurement? What

**presenter confirmed*

are the costs and benefits involved? As once-thru-cooling plants retire and the future of SONGS is uncertain, how have state policies evolved and what does the future hold?

Stephen Berberich, President & CEO, California Independent System Operator
**Mike Florio*, Commissioner, California Public Utilities Commission
John Chilleml, Senior Vice President and President, West Region, NRG
Rep, Southern California Edison

Roundtable Discussion

10:00 am - 10:15 am – Break

10:15 am - 11:45 am—SESSION 6: Planning for an Evolving Electricity Industry Structure
How do we accommodate and integrate this evolving structure both in long-term planning and procurement, but also in business/regulatory models or structures? This includes increasing levels of energy efficiency and demand response; a smarter grid, new types of electric services enabled by them; electric vehicles; intermittent renewables and flexible fossil resources; rate design issues, etc. Are we too insular in our approach to meeting our future energy needs in a carbon constrained economy? For example, meeting existing 2020-2050 greenhouse gas goals require electrification of the transportation sector—do our policies and structures recognize this new reality?

John DiStasio, General Manager and CEO, Sacramento Municipal Utilities District
Joe Ronan, Senior VP, Government and Regulatory Affairs, Calpine Corporation
Rep,

Roundtable Discussion

11:45 am - 1:00 pm—SESSION 7: Aligning Energy and Climate Policies
What has been the impact of AB 32 on California's electricity sector in terms of both the implementation of Scoping Plan measures, and the cap-and-trade program? What results and trends are apparent from recent auctions and how might the revenue be used to further the goals of the state? What transformative changes are needed to meet 2050 climate change goals?

Mary Nichols, Chairman, Air Resources Board
Rep, Electricity producer
Rep, Manufacturer (EITE)
Rep, Manufacturer (non-EITE)
Rep, Enviro

Roundtable Discussion

1:00 pm – Adjourn

@ 2.9.13

*presenter confirmed

DRAFT AGENDA

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**Bob Weisenmiller, Chair, California Energy Commission (5-7 min)*

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Andrew McAllister, Chair, California Energy Commission
Jeanne Clinton, Special Advisor to the California Public Utilities Commission

Responders:

Rep, IOU

Rep, MUNI

**Sheryl Carter*, Co-Director Energy Program, Natural Resources Defense Council

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Michael Picker, Sr. Advisor to the Governor for Renewable Energy Facilities,
Office of the Governor

Responders:

Rep, Pacific Gas & Electric

Rep, MUNI

Rep, Enviro

Rep, Industry

Rep, CAISO

Roundtable Discussion

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Friday, April 26th—TBD

7:30 am - 8:30 am – Continental Breakfast – TBD

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Stephen Berberich, President & CEO, California Independent System Operator
**Mike Florio*, Commissioner, California Public Utilities Commission
John Chillemi, Senior Vice President and President, West Region, NRG
Rep, Southern California Edison

Roundtable Discussion

10:00 am - 10:15 am -- Break

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Roundtable Discussion

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Mary Nichols, Chairman, Air Resources Board
Rep, Electricity producer
Rep, Manufacturer (EITE)
Rep, Manufacturer (non-EITE)
Rep, Enviro

Roundtable Discussion

1:00 pm -- Adjourn

@ 2.9.13

*presenter confirmed

EXHIBIT E

California State Senate

CAPITOL OFFICE
STATE CAPITOL, ROOM 5064
SACRAMENTO, CA 95814
TEL (916) 651-4013
FAX (916) 324-0293
WWW.SENATE.CA.GOV/HILL
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SENATOR
JERRY HILL
THIRTEENTH SENATE DISTRICT
DEMOCRATIC CAUCUS CHAIR

COMMITTEES
BANKING & FINANCIAL INSTITUTIONS
CHAIR
APPROPRIATIONS
BUDGET & FISCAL REVIEW
BUDGET SUBCOMMITTEE #4
STATE ADMINISTRATION & GENERAL
GOVERNMENT
BUSINESS, PROFESSIONS &
ECONOMIC DEVELOPMENT
ENERGY, UTILITIES &
COMMUNICATIONS
LABOR & INDUSTRIAL RELATIONS

April 18, 2013



Michael Peevey
President, California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

RE: Request to participate in April 25, 2013 Senate Budget and Fiscal Review Subcommittee Hearing

Dear President Peevey:

I'm writing to request your presence at next week's Senate Budget and Fiscal Review Subcommittee hearing, chaired by Senator Jim Beall, at which time the California Public Utilities Commission (CPUC) will be questioned about various fiscal, accountability and safety issues.

In light of the CPUC "Safety Culture" document that was made public this week and exposes serious problems within your Commission, I think it's appropriate for you to answer questions about the agency you've overseen for the last ten years. Here are a few examples of CPUC employee quotes from the report that warrant your participation in next week's hearing:

- "For years, the Commissioners did not want to levy fines for safety violations. The culture was: we will work with the utilities without using the stick...A decade of no fines."
- "Safety staff did not feel empowered to suggest large fines because the Commissioners would not approve them."
- "Commissioners need more political backbone to fine or punish utilities."
- "When Commissioners vote, they don't support safety, so there's no incentive for the utilities to be safer. If they knew they were 100% liable for safety problems, they'd take it more seriously. If the commission lets them put the burden on ratepayers, rather than shareholders, there is no incentive for the utilities to change."

This isn't the first time an independent report has been highly critical of the CPUC's practices under your watch. The CPUC's Independent Review Panel report released in 2011 after the San Bruno gas pipeline explosion stated that the CPUC, "...must confront and change elements of their respective cultures to assure the citizens of California that public safety is the foremost priority."

The National Transportation Safety Board investigation of the San Bruno gas-pipeline explosion was highly critical of your oversight of PG&E during your term as CPUC President. The report stated, "The CPUC, as the regulator for pipeline safety within California, failed to uncover the pervasive and long-standing problems within PG&E." The report continues, "Consequently, this failure precluded the CPUC from taking any enforcement action against PG&E."

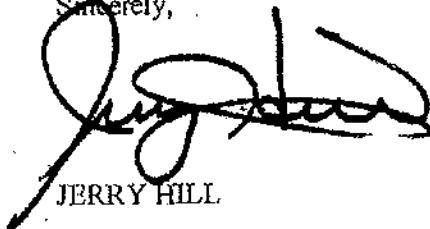
In January of 2012 another independent audit commissioned by the CPUC confirmed that PG&E collected more than a half-billion dollars from ratepayers in recent years for system improvements that never were made. Some of that money was spent instead on cash bonuses to PG&E's corporate executives. Had the money been invested as promised, it might have prevented the San Bruno gas pipeline explosion that killed eight people and destroyed 38 homes.

Earlier this year the Legislative Analyst's Office found "fiscal mismanagement" in the CPUC's budgeting process including failure to complete basic audits of utilities' special accounts raising the possibility that ratepayers have been routinely overcharged by utilities.

For all of the shortcomings under your leadership at the CPUC over the last ten years as documented by independent reports, it's critical that you testify before the Senate Budget and Fiscal Review Subcommittee hearing next week to justify your continued appointment as president of the California Public Utilities Commission.

I look forward to seeing you next week. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Hill", with a large, stylized initial "J" and a long, sweeping underline.

JERRY HILL

Senator, 13th District

PUBLIC UTILITIES COMMISSION

LEGAL DIVISION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298
ID 94-3031353



June 19, 2013

Steven R. Meyers
Meyers Nave
555 12th Street, Suite 1500
Oakland, CA 94607

Re: Records Request re City of San Bruno
CPUC Reference No.: PRA 0919

Dear Mr. Meyers:

You ask the California Public Utilities Commission (Commission) for copies of the following public records regarding City of San Bruno:

Financial Institutions and Professionals

- A. Meetings with Financial Institutions. Identify any individual or recurring meetings scheduled or held amongst *Commissioners and/or CPUC Employees and Financial Institutions* concerning the Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009. Please specify the invitees, attendees and location for each meeting and the individual(s) that requested and/or organized the meeting.
- B. Meetings with Financial Professionals. Identify any individual or recurring meetings scheduled or held amongst *Commissioners and/or CPUC Employees and Financial Professionals* concerning the Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009. Please specify the invitees, attendees, and location for each such meeting and the individual(s) that requested and/or organized the meeting
- C. Documentation related to Financial Meetings.
- ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* generated in preparation for, reflecting, summarizing or discussing the communications identified in paragraphs A and B of this public records act request.
 - ☐ Follow-Up. Any and all *Documents* used or generated in or as a result of the meetings or communications identified in paragraphs A and B of this public records act request.

Commissioner Peevey Documents

- D. I.12-01-007, I.11-02-016, I.11-11-009. Any and all *Documents* wherein Commissioner Peevey or his staff is an author, recipient, copied, blind carbon copied, or otherwise

included upon in which the subject matter of I.12-01-007, I.11-02-016, or I.11-11-009 are mentioned, discussed, referenced or otherwise covered.

- E. Fines, Penalties, and/or Remedies. Any and all *Documents* where Commissioner Peevey or his staff is an author, recipient, copied, blind carbon copied, in which *Fines, Penalties, and/or Remedies* are mentioned, discussed, referenced or otherwise covered.
- F. Safety Symposium. Any and all *Documents* wherein Commissioner Peevey or his staff is an author, recipient, copied, blind carbon copied, in which *Safety Symposium* is mentioned, discussed, referenced or otherwise covered.
- G. Mitchell Mediator Appointment. Any and all *Documents* wherein Commissioner Peevey or his staff is an author, recipient, copied, blind carbon copied, in which the *Mitchell Appointment* is mentioned, discussed, referenced or otherwise covered.

Communications Between Commission – CPUC Employee-PG&E Employees

- H. Meetings between Commissioners, CPUC Employees and PG&E Employees. Identify any individual or recurring meetings scheduled or held amongst *Commissioners (including staff members) and/or CPUC Employees and PG&E Employees*, or any combination thereof, concerning the Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009. Please specify the invitees, attendees and location for each such meeting and the individual(s) that requested and/or organized the meeting.
- I. Documentation related to CPUC-PG&E Meetings.
 - ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* used in preparation for, reflecting, summarizing or otherwise discussing the communications identified in paragraph F of this public records act request.
 - ☐ Follow-Up. Any and all *Documents* used or generated in or as a result of the meetings or communications identified in paragraph F of this public records act request.

Internal Commission Discussions Regarding Fines, Penalties, and/or Remedies

- J. Internal Commission Discussions Re: Fines, Penalties, and/or Remedies.
 - ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst *the Commissioners themselves, CPUC Employees themselves, or amongst the Commission and CPUC employees*, concerning *Fines, Penalties, and/or remedies* from January 2013 to the present.
 - ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* reflecting, summarizing or discussing communication by or amongst *the Commission*

(including Commission General Counsel Frank Lindh, Executive Director Paul Clanon, and CPSP Director Jack Hagan), Commissioners, Commissioner's staff and CPUC Employees, or any combination of such parties, in relation to the meetings or communications identified in this paragraph H or otherwise concerning Fines, Penalties, and/or Remedies from January 2013 to the present.

- ☐ Follow-Up. Any and all *Documents* used or generated in or as a result of any meetings or communications identified in this paragraph H from January 2013 to the present.

K. Internal CPUC Employee Discussions Re: Fines, Penalties, and/or Remedies.

- ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* reflecting, summarizing or discussing communication by or amongst *the Commission (including Commission Executive Director Paul Clanon and CPSP Director Jack Hagan), CPUC Commissioners, Commission staff, and CPUC Employees, or any combination of such parties concerning the Fines, Penalties, and/or Remedies from January 2013 to the present.*
- ☐ Follow-Up. Any and all *Documents* used or generated in or as a result of such meetings or communications from January 2013 to the present.

L. CPUC-PG&E Discussions Re: Fines, Penalties, and/or Remedies.

- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst *PG&E Employees, Commissioners, and/or CPUC Employees or any combination thereof, concerning Fines, Penalties, and/or Remedies from January 2013 to the present.*
- ☐ Preparation, Handouts, Documentation, Summaries. All *Documents* reflecting, summarizing or discussing communication by or amongst *the Commissioners, CPUC Employees, (including Commission Executive Director Paul Clanon and CPSP Director Jack Hagan), PG&E Employees, and CPUC Employees, or any combination of such parties, related to the meetings identified in this paragraph J or otherwise concerning Fines, Penalties, and/or Remedies from January 2013 to the present.*
- ☐ Follow-Up. Any *Documents* used or generated in or as a result of meetings identified in this paragraph J from January 2013 to the present.

M. Specific Fines, Penalties, and/or Remedies Documents. All draft and the final versions of *Documents* related to the imposition of *Fines, Penalties, and/or Remedies*, including, without limitation, the *Documents* specifically identified below, along with disclosure of whether such *Documents* were drafted by *Commissioners, CPUC Employees, or PG&E Employees* from January 2013 to the present:

- ☐ Any and all proposals, including, without limitation proposals related to the amount, scope, structure, timeframe or composition of *Fines, Penalties, and/or Remedies* whether made by *PG&E Employees, Commissioners, CPUC Employees*, or any combination thereof.
- ☐ Any proposals, requests or suggestions from *Commissioners, CPUC Employees, or PG&E Employees* related to *Fines, Penalties, and/or Remedies*.
- ☐ Copies of all contracts, agreements or any amendments thereto related to *Fines, Penalties, and/or Remedies*.
- ☐ Copies of all draft and final materials to be distributed publicly, including, without limitation, statements, press releases and flyers related to related *Fines, Penalties, and/or Remedies*.

CPUC-PG&E Safety-Symposium Related Documents

- N. Payment for Safety Symposium. All Documents reflecting, summarizing or discussing communication by or amongst *PG&E Employees (including Jane Yura, Vice President Gas Operations Standards & Policies at PG&E), Commissioners, CPUC Employees, and/or Hall and Associates* or any combination of such parties, concerning payment for the Safety Symposium, including payment for the previously scheduled May 7, 2013 dinner at the Marines' Memorial Club and Hotel.
- O. CPUC-PG&E Safety Symposium Planning. All Documents reflecting, summarizing or discussing communication by or amongst *PG&E Employees (including Jane Yura, Vice President Gas Operations Standards & Policies at PG&E), Commissioners, and CPUC Employees, and/or Hall and Associates* or any combination of such parties, concerning the agenda, speakers, topics, logistics, issues or presentations or panels for the *Safety Symposium*, including payment for the May 7, 2013 dinner at the Marines' Memorial Club and Hotel, along with:
 - ☐ Any Documents used or generated in or as a result of such meetings or communications.
 - ☐ Any Documents regarding potential overlap between the *Safety Symposium* and the *Subject Matter of 1.12-01-007, 1.11-02-016, and 1.11-11-009*.
- P. Internal CPUC Safety Symposium Planning.
 - ☐ All Documents reflecting, summarizing or discussing communication by or amongst the *Commission and CPUC Employees*, or any combination of such parties, concerning the agenda, speakers, topics, logistics, issues or presentations or panels for the *Safety Symposium*, including payment for the May 7, 2013 dinner at the Marines' Memorial Club and Hotel, along with:

- ☐ Any *Documents* used or generated in or as a result of such meetings or communications.
 - ☐ Any *Documents* regarding potential overlap between the *Safety Symposium* and the *Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009.*
- Q. CPUC-PG&E Meetings Re: Safety Symposium. Identify any individual or recurring meetings scheduled or held amongst *PG&E Employees, the Commission, CPUC Employees, and/or Hall and Associates* concerning the preparation of the *Safety Symposium.*
- R. Internal CPUC Meetings Re: Safety Symposium. Identify any individual or recurring meetings scheduled or held amongst *the Commission itself, CPUC Employees themselves, or amongst the Commission and CPUC employees,* concerning the preparation of the *Safety Symposium.*
- S. Safety Symposium-related Documents. All drafts and the final versions of *Documents* related to *Safety Symposium*, along with an indication of whether such documents were drafted by *the Commission, CPUC Employees, PG&E Employees (including Jane Yura, Vice President Gas Operations Standards & Policies at PG&E), and/or Hall and Associates* including, without limitations, the following:
- ☐ Any proposals, whether made by *PG&E Employees, Commissioners or CPUC Employees, and/or Hall and Associates* related to compensation, rates, scope of work for the *Safety Symposium.*
 - ☐ Any proposals, requests or suggestions from *Commissioners, CPUC Employees, PG&E Employees, and/or Hall and Associates* related to speakers, agendas, seating arrangements, panels or other issues or topics for the *Safety Symposium.*
 - ☐ Copies of all contracts, agreements or any amendments thereto related to the *Safety Symposium.*
 - ☐ Copies of all draft and final *Safety Symposium* materials to be distributed publicly, including, without limitation, statements, press releases and flyers.
- T. Consultants Assisting with Safety Symposium. Identify any consultants or contractors, if any, that *Commissioners, CPUC Employees, and/or PG&E Employees* considered to perform any tasks in connection with planning, publicizing, executing, or otherwise undertaking the *Safety Symposium.*

Appointment of Mediator in Settlement Negotiations Related Documents:

U. Internal Commission Discussions Re: the Mitchell Appointment.

- ☐ **Meetings.** Identify any individual or recurring meetings scheduled or held amongst *the Commissioners themselves, CPUC Employees themselves, or amongst the Commission and CPUC Employees*, concerning the *Mitchell Appointment*.
- ☐ **Preparation, Handouts, Documentation, Summaries.** Any and all *Documents* reflecting, summarizing or discussing communication by or amongst *the Commission (including President Peevey and Commissioner Florio's Commission staff), and CPUC Employees*, or any combination of such parties concerning the *Mitchell Appointment*.
- ☐ **Follow-Up.** Any and all *Documents* used or generated in or as a result of such meetings and communications.

V. Commission – PG&E Discussions Re: the Mitchell Appointment.

- ☐ **Meetings.** Identify any individual or recurring meetings scheduled or held amongst *PG&E Employees, Commissioners and/or CPUC Employees*, or any combination thereof, concerning the *Mitchell Appointment*.
- ☐ **Preparation, Handouts, Documentation, Summaries.** Any and all *Documents* reflecting, summarizing or discussing communication by or amongst *PG&E Employees, Commissioners (specifically including President Peevey and Commissioner Florio and each Commissioner's staff), and CPUC Employees*, or any combination of such parties, concerning the *Mitchell Appointment*.
- ☐ **Follow-Up.** Any and all *Documents* used or generated in or as a result of such meetings and communications.

W. Specific Mitchell Appointment Documents. Without limiting the generality of the foregoing, San Bruno requests any and all drafts and the final versions *Documents* related to the *Mitchell Appointment*, including without limitation, the following, along with an indication of whether such documents were drafted by *Commissioners, CPUC Employees, or PG&E Employees*:

- ☐ Any proposals, requests or suggestions, whether made by *PG&E Employees, Commissioners or CPUC Employees*, related to the *Mitchell Appointment*.
- ☐ Copies of all contracts, agreements or any amendments thereto related to the *Mitchell Appointment*.

- ☐ Copies of all draft and final materials to be distributed publicly concerning the *Mitchell Appointment*, including, without limitation, statements, press releases and flyers.
- ☐ A list of all background documents provided to Senator Mitchell or his representatives concerning the *Subject Matter of 1.12-01-007, 1.11-02-016, and 1.11-11-009.*

California Foundation on the Environment and the Economy (CFEE) Conference on April 25-26, 2013 at the Silverado Resort in Napa Valley, CA and CFEE dinner at Merryvale Winery in Napa, CA on April 25, 2013:

X. Internal Commission Discussions Re: CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.

- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst, *the Commissioners themselves, CPUC Employees themselves (including President Peevey's Commission staff), or amongst the Commission and CPUC Employees,* concerning the *CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.*
- ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* reflecting, summarizing or discussing communication by or amongst *the Commission (including President Peevey's Commission staff) and CPUC Employees,* or any combination of such parties concerning the *CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.*
- ☐ Follow-Up. Any and all *Documents* used or generated in or as a result of such meetings and communications.

Y. Commission – PG&E Discussions Re: the CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.

- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst, *PG&E Employees (including Thomas (Tom) Bottorff, Senior Vice President, Regulatory Affairs), Commissioners and/or CPUC Employees,* or any combination thereof, concerning the *CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.*
- ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* reflecting, summarizing or discussing communication by or amongst *PG&E Employees (including Thomas (Tom) Bottorff, Senior Vice President, Regulatory Affairs), Commissioners (specifically including President Peevey's Commissioner's staff), and CPUC Employees* or any combination of such parties, concerning the *CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.*

- ☐ Follow-Up. Any and all *Documents* used or generated in or as a result of such meetings and communications.

Z. Specific CFEE Conference on April 25-26, 2013 and CFEE dinner on April 25, 2013

Documents. Without limiting the generality of the foregoing, San Bruno requests any and all drafts and the final versions *Documents* related to the CFEE conference on April 25-26, 2013 and CFEE dinner on April 25, 2013, including without limitation, the following, along with an indication of whether such documents were drafted by *Commissioners (including Commissioner Peevey's staff), CPUC Employees, or PG&E Employees (including Thomas Bottorff, Sr. Vice President of Regulatory Affairs for PG&E):*

- ☐ Any proposals, requests or suggestions, whether made by *PG&E Employees, Commissioners or CPUC Employees*, related to the *CFEE conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.*
- ☐ Copies of all contracts, agreements or any amendments thereto related to the *CFEE conference on April 25-26, 2013 and CFEE dinner on April 25, 2013.*
- ☐ Copies of all draft and final materials to be distributed publicly concerning the *CFEE conference on April 25-26, 2013 and CFEE dinner on April 25, 2013*, including, without limitation, statements, press releases and flyers.
- ☐ A list of all background documents provided to CFEE or its representatives concerning the *Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009.*

Senate Budget and Fiscal Review Subcommittee Hearing on April 25, 2013:

AA. Internal Commission Discussions Re: Senate Budget and Fiscal Review Subcommittee Hearing on April 25, 2013.

- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst, *the Commissioners themselves, CPUC Employees themselves (including President Peevey's Commission staff), or amongst the Commission and CPUC Employees*, concerning the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.*
- ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* reflecting, summarizing or discussing communication by or amongst *the Commission (including President Peevey's Commission staff), and CPUC Employees*, or any combination of such parties concerning the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.*

- ☐ Follow-Up. Any and all *Documents* used or generated in or as a result of such meetings and communications.
- BB. Commission – PG&E Discussions Re: Senate Budget and Fiscal Review Subcommittee Hearing on April 25, 2013.
- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst *PG&E Employees, Commissioners and/or CPUC Employees*, or any combination thereof, concerning the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.*
 - ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* reflecting, summarizing or discussing communication by or amongst *PG&E Employees, Commissioners (specifically including President Peevey's Commissioner's staff), and CPUC Employees*, or any combination of such parties, concerning the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.*
 - ☐ Follow-Up. Any and all *Documents* used or generated in or as a result of such meetings and communications.
- CC. Specific Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013 Documents. Without limiting the generality of the foregoing, San Bruno requests any and all drafts and the final versions *Documents* related to the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013*, including without limitation, the following, along with an indication of whether such documents were drafted by *Commissioners, CPUC Employees, or PG&E Employees:*
- ☐ Any proposals, requests or suggestions, whether made by *PG&E Employees, Commissioners or CPUC Employees*, related to the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.*
 - ☐ Copies of all contracts, agreements or any amendments thereto related to the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.*
 - ☐ Copies of all draft and final materials to be distributed publicly concerning the *Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013*, including, without limitation, statements, press releases and flyers.
 - ☐ A list of all background documents provided to the Senate Budget and Fiscal Review subcommittee hearing or its representatives concerning the *Subject Matter of I.12-01-007, I.11-02-016, and I.11-11-009.*

The Commission does have records responsive to your request. However, my office will need to search for, collect, and appropriately examine a potentially voluminous amount of separate and

Steven R. Meyers

June 19, 2013

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distinct records sought through your request. For this reason, I am, in accord with Government Code § 6253(c), informing you that these unusual circumstances will delay my ability to respond fully to your request. I estimate that we will be able to collect the records and review them to determine whether which ones are subject to one or more Public Records Act exemptions from mandatory disclosure in response to your request by June 27, 2013. If we are able to obtain and review the records sooner, we will do so.

I note that several items of your request are phrased in a manner more similar to a discovery request than to a records request, in that they ask the Commission to identify meeting attendees, invitees locations, and the individuals or organizations that initiated the meeting, and on. (See, e.g., Items A, B, H, J.) To the extent such information is included in documents responsive to your request, such information is available to you in those records. However, the Commission is not obligated to create new records that do not currently exist simply because such records are requested. (*Haynie v. Superior Court* (2001) 26 Cal.4th 1061.)

I also note that many documents in the formal files of Commission proceedings I.12-01-007, I.11-02-016, and I.11-11-009 may be responsive to many items of your request. As I understand it, all three of the proceedings identified in your request are adjudicatory proceedings subject to limits on ex parte communications, and the number of documents concerning meetings may be limited. Formal proceeding records are available on the Commission's internet site, if you click on the "Docket Card" link and then use the available search tools. Documents that were not electronically filed or issued, and exhibits, may not be available in the Docket Card entries, but such documents are available in our Central Files Office. You can use the "Order a Document" link on the Commission's internet site to request documents from the Central Files Office.

I will not be providing you with records, or portions of records, that include information subject to the attorney client privilege, attorney work product doctrine, deliberative process privilege, official information privilege, or mediation records privilege. Such records are exempt from disclosure in response to your request, pursuant to Government Code § 6254(k).

I will, however, segregate and refrain from providing only those records, or portions of records, that are exempt from disclosure, and will provide you with records responsive to your request that are not subject to one or more Public Records Act exemptions as soon as practical.

I hope this is helpful.

Very truly yours,

Fred Harris

Fred Harris
Staff Counsel

By Barbara J. ...

meyers | nave

555 12th Street, Suite 1500
Oakland, California 94607
tel (510) 808-2000
fax (510) 444-1108
www.meyersnave.com

Britt K. Strottman
Attorney at Law
bstrottman@meyersnave.com

June 17, 2013

Via E-mail and U.S. Mail

Mr. Fred Harris
Legal Division, Public Records Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Re: Public Records Act Request
Communications re: I.12-01-007, I.11-02-016, I.11-11-009
Email correspondence among CPUC Executive Director Paul Clanon,
Administrative Law Judge Amy Yip-Kikugawa, and Administrative Law Judge
Mark Wetzell on Consumer Protection and Safety Division's Motion to Strike

Dear Mr. Harris:

Pursuant to the California Public Records Act, California Government Code Section 6250 *et seq.* and our phone discussion today regarding the City of San Bruno's ("San Bruno") request for the below documents, San Bruno hereby requests copies of the public records identified below.

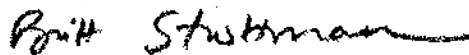
- Email *document* dated sometime between May 2013 to June 3, 2013 from Paul Clanon, Executive Director of the CPUC, to Administrative Law Judges Amy Yip-Kikugawa and Mark Wetzell regarding the *Consumer Protection and Safety Division's* (CPSD, now named the Safety Enforcement Division) *motion to strike* filed on May 29, 2013 in *investigations I.12-01-007, I.11-02-016, and I.11-11-009.*
- Email *document* dated sometime between May 2013 to June 3, 2013 from Administrative Law Judge Mark Wetzell to Paul Clanon in response to Paul Clanon's correspondence to Administrative Law Judge Mark Wetzell and Administrative Law Judge Amy Yip-Kikugawa regarding *CPSD's motion to strike* in *investigations I.12-01-007, I.11-02-016, and I.11-11-009.*
- Any subsequent emails from May 2013 to the present regarding Paul Clanon's correspondence to Administrative Law Judge Mark Wetzell and Administrative Law Judge Amy Yip-Kikugawa regarding *CPSD's motion to strike* in *investigations I.12-01-007, I.11-02-016, and I.11-11-009.*

Mr. Fred Harris
June 17, 2013
Page 2

Any responsive records that are withheld from inspection should be specifically and separately identified in writing, and accompanied by the claimed justification for withholding as provided by California Government Code Section 6255, stating the nature of the document withheld and the basis for such withholding. Should you contend that any portion of a particular document is exempt from disclosure, San Bruno requests, pursuant to Section 6253(a) of the California Government Code that the exempt portion be redacted and the remaining portions be produced. San Bruno reserves the right to object to any decision to withhold materials, or portions of documents. San Bruno requests copies of public records in electronic form where available, and in hard copy where copies in electronic form are not available.

In accordance with Section 6253(c) of the California Government Code, please respond to San Bruno's request within ten (10) days. Any questions regarding San Bruno's public records act request should be addressed to me. Thank you in advance for your prompt attention and timely cooperation with San Bruno's request.

Sincerely,



Britt K. Strottman
Special Counsel, City of San Bruno
Meyers Nave
(510) 808-2000
bstrottman@meyersnave.com

Enclosures: Exhibit A -- Public Records Act Request Definitions and Instructions
Exhibit B -- Email ruling from Administrative Law Judge Mark Wetzell
regarding CPD's motion to strike

cc: Connie Jackson, City Manager, San Bruno (via Email)
Marc Zafferano, City Attorney, San Bruno (via Email)
State Senator Jerry Hill (via Email)
Paul Clanton, Executive Director, CPUC (via Email)

EXHIBIT A

EXHIBIT A

CITY OF SAN BRUNO PUBLIC RECORDS ACT REQUEST TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION

DEFINITIONS AND INSTRUCTIONS

- A. "Commission" means the California Public Utilities Commission.
- B. "CPSD" means both the Consumer Protection and Safety Division, and the recently renamed organization, Safety Enforcement Division.
- C. "Documents" means all notes, minutes of meetings, documents, summaries, e-mails, e-mail attachments, texts, calendar entries, memoranda, proposals, PowerPoint presentations, memoranda, other briefings, records of follow-up tasks, list of attendees, documentation of notes made on white boards or other records, whatever the format (oral, written, electronic, including twitter, facebook, instant messaging, etc.), whether in draft or final form.
- D. "Motion to strike" means the Motion to Strike CPSD filed on May 29, 2013 relating to striking portions of the "Coordinated Remedies Brief" filed by Pacific Gas and Electric Company on May 24, 2013. CPSD sought to strike references to extra-record Pipeline Safety Enhancement Program Compliance Report dated April 30, 2013. City of San Bruno filed a response in support of the CPSD motion (see Administrative Law Judge Mark Wetzell's ruling dated June 3, 2013, attached as Exhibit B).
- F. "Investigations I.12-01-007, I.11-02-016, and I.11-11-009" means the Order Instituting Investigations I.12-01-007, I.11-02-16, I.11-11-009 on the Pacific Gas and Electric Company explosion in San Bruno, CA on September 9, 2010.

EXHIBIT B

Strottman, Britt

From: Wetzell, Mark S. <mark.wetzell@cpuc.ca.gov>
Sent: Monday, June 03, 2013 1:26 PM
To: jmalkin@orrick.com; kdaly@stinson.com; catherine.mazzeo@swgas.com; theresa.mueller@sfgov.org; Bone, Traci; Foss, Travis; tlong@turn.org; miw3@pge.com; Strottman, Britt; ESelmon@Jemzar.com; BTS1@pge.com; julien.dumoulin-smith@ubs.com; kkonolige@bgcpartners.com; kxhy@pge.com; lauren.duke@db.com; mchediak@bloomberg.net; wmc@a-klaw.com; ppatterson2@nyc.rr.com; pbattaglia@bcgpartners.com; thnxvm@gmail.com; rajeev.talwani@morganstanley.com; SRRD@pge.com; dvanhoogstraten@stinson.com; mfallon@taloncap.com; anjani.vedula@db.com; jonathan.arnold@db.com; kfallon@sirfunds.com; jdangelo@catapult-llc.com; mgoldenberg@luminusmgmt.com; sunny.kwak@macquarie.com; ted@pointstate.com; bnaeve@levincap.com; Jheckler@levincap.com; NStein@LevinCap.com; John.Apgar@baml.com; stephen.byrd@morganstanley.com; NKhumawala@WolfeTrahan.com; randall@nexusamlc.com; dng@semprautilities.com; jisalazar@semprautilities.com; stomkins@semprautilities.com; SHruby@SempraUtilities.com; MFRanco@SempraUtilities.com; RPrince@SempraUtilities.com; npedersen@hanmor.com; angelica.morales@sce.com; case.admin@sce.com; douglas.porter@sce.com; Francis.McNulty@sce.com; gloria.ing@sce.com; maguirre@amslawyers.com; khelmuth@cityofmadera.com; cjackson@ci.sanbruno.ca.us; mdjoseph@adamsbroadwell.com; rkoss@adamsbroadwell.com; Gruen, Darryl; austin.yang@sfgov.org; marcel@turn.org; fillings@a-klaw.com; nes@a-klaw.com; sgs@dcbsf.com; teb3@pge.com; gburke@ap.org; BCragg@GoodinMacbride.com; cem@newsdata.com; regrelcpuccases@pge.com; dng6@pge.com; Mullian, Jessica; Meyers, Steven; deborah.slom@doj.ca.gov; dmarcus2@sbcglobal.net; service@cforat.org; henrypielage@comcast.net; berlin@susieberlinlaw.com; abb@eslawfirm.com; William.Westfield@smud.org; ATrowbridge@DayCarterMurphy.com; Peck, David B.; Paull, Karen P.; Stepanian, Raffy; Kotch, Andrew; Chow, Christopher; Dorman, Elizabeth; Lindh, Frank; Morris, Harvey Y.; Reiger, J. Jason; Halligan, Julie; Lee, Kelly C.; Bruno, Kenneth; Peleo, Marion; Wetzell, Mark S.; Cooke, Michelle; Myers, Richard A.; Cagen, Robert; Prosper, Terrie D.
Cc: ALJ Docket Office; ALJ Central Files ID
Subject: L12-01-007; L11-02-016; L11-11-009 - ALJs' Ruling on Motion of CPSD to Strike Portions of PG&E's Brief

NOTICE TO PARTIES

ADMINISTRATIVE LAW JUDGES' RULING GRANTING MOTION TO STRIKE

On May 29, 2013 the Consumer Protection and Safety Division (CPSD; now named the Safety and Enforcement Division) filed a motion to strike portions of the "Coordinated Remedies Brief" filed by Pacific Gas and Electric Company (PG&E) on May 24, 2013. CPSD seeks to have stricken references to extra-record evidence of gas transmission-related safety amounts paid by PG&E shareholders and the extra-record Pipeline Safety Enhancement Program Compliance Report dated April 30, 2013. City of San Bruno, Division of Ratepayer Advocates, and The Utility Reform Network filed responses in support of the CPSD motion. PG&E filed a response in opposition.

The Commission must base its decisions on evidence of record, and briefs that refer to extra-record evidence are not to be filed. Therefore, good cause appearing,

IT IS RULED that:

1. The May 29, 2013 motion of the Consumer Protection and Safety Division (CPSD) to strike portions of the "Coordinated Remedies Brief" filed by Pacific Gas and Electric Company (PG&E) (CPSD Motion to Strike) is granted.
2. On or before June 5, 2013, PG&E shall re-file its opening brief to redact the portions of its brief that refer to extra-record material as described in the CPSD Motion to Strike.
3. The due date for coordinated rebuttal briefs on fines and remedies issues is extended from June 5, 2013 to June 7, 2013.

Administrative Law Judges Amy C. Yip-Kikugawa and Mark S. Wetzell

June 18, 2013

Via E-mail and U.S. Mail

Mr. Fred Harris
Legal Division, Public Records Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Re: Public Records Act Request
Communications re: I.12-01-007, I.11-02-016, I.11-11-009
Email correspondence among Commissioner Florio, CPUC Executive
Director Paul Clanon, Administrative Law Judge Amy Yip-Kikugawa, and
Administrative Law Judge Mark Wetzell on Consumer Protection and Safety
Division's Motion to Strike

Dear Mr. Harris:

In addition to the City of San Bruno's (San Bruno) public request dated June 17, 2013¹ and pursuant to the California Public Records Act, California Government Code Section 6250 *et seq.*, San Bruno requests copies of the public records identified below.

- Email document dated sometime between May 2013 to June 3, 2013 from Paul Clanon, Executive Director of the California Public Utilities Commission (CPUC), to CPUC Commissioner Mike Florio regarding the *Consumer Protection and Safety Division's* (CPSD, now named the Safety Enforcement Division) *motion to strike* filed on May 29, 2013 in *investigations I.12-01-007, I.11-02-016, and I.11-11-009*.
- Any subsequent emails from May 2013 to the present regarding Paul Clanon's correspondence to Mike Florio, including correspondence from Administrative Law Judge Mark Wetzell and Administrative Law Judge Amy Yip-Kikugawa regarding *CPSD's motion to strike* in *investigations I.12-01-007, I.11-02-016, and I.11-11-009*.

Any responsive records that are withheld from inspection should be specifically and separately identified in writing, and accompanied by the claimed justification for withholding as provided by California Government Code Section 6255, stating the nature of the

¹ See Exhibit A

Mr. Fred Harris

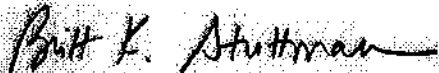
June 18, 2013

Page 2

document withheld and the basis for such withholding. Should you contend that any portion of a particular document is exempt from disclosure, San Bruno requests, pursuant to Section 6253(a) of the California Government Code that the exempt portion be redacted and the remaining portions be produced. San Bruno reserves the right to object to any decision to withhold materials, or portions of documents. San Bruno requests copies of public records in electronic form where available, and in hard copy where copies in electronic form are not available.

In accordance with Section 6253(c) of the California Government Code, please respond to San Bruno's request within ten (10) days. Any questions regarding San Bruno's public records act request should be addressed to me. Thank you in advance for your prompt attention and timely cooperation with San Bruno's request.

Sincerely,



Britt K. Stottman
Special Counsel, City of San Bruno
Meyers Nave
(510) 808-2000
bstottman@meyersnave.com

Enclosures: Exhibit A - Public Records Act request issued by the City of San Bruno to the CPUC dated June 17, 2013
Exhibit B - Public Records Act Request Definitions and Instructions
Exhibit C - Email ruling from Administrative Law Judge Mark Wetzell regarding CPD's motion to strike

cc: Connie Jackson, City Manager, San Bruno (via Email)
Marc Zafferano, City Attorney, San Bruno (via Email)
State Senator Jerry Hill (via Email)
Paul Clanon, Executive Director, CPUC (via Email)

EXHIBIT A

EXHIBIT A

June 17, 2013

Via E-mail and U.S. Mail

Mr. Fred Harris
Legal Division, Public Records Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Re: Public Records Act Request
Communications re: I.12-01-007, I.11-02-016, I.11-11-009
Email correspondence among CPUC Executive Director Paul Clanon,
Administrative Law Judge Amy Yip-Kikugawa, and Administrative Law Judge
Mark Wetzell on Consumer Protection and Safety Division's Motion to Strike

Dear Mr. Harris:

Pursuant to the California Public Records Act, California Government Code Section 6250 *et seq.* and our phone discussion today regarding the City of San Bruno's ("San Bruno") request for the below documents, San Bruno hereby requests copies of the public records identified below.

- Email *document* dated sometime between May 2013 to June 3, 2013 from Paul Clanon, Executive Director of the CPUC, to Administrative Law Judges Amy Yip-Kikugawa and Mark Wetzell regarding the *Consumer Protection and Safety Division's* (CPSD, now named the Safety Enforcement Division) *motion to strike* filed on May 29, 2013 in *investigations I.12-01-007, I.11-02-016, and I.11-11-009.*
- Email *document* dated sometime between May 2013 to June 3, 2013 from Administrative Law Judge Mark Wetzell to Paul Clanon in response to Paul Clanon's correspondence to Administrative Law Judge Mark Wetzell and Administrative Law Judge Amy Yip-Kikugawa regarding *CPSD's motion to strike in investigations I.12-01-007, I.11-02-016, and I.11-11-009.*
- Any subsequent emails from May 2013 to the present regarding Paul Clanon's correspondence to Administrative Law Judge Mark Wetzell and Administrative Law Judge Amy Yip-Kikugawa regarding *CPSD's motion to strike in investigations I.12-01-007, I.11-02-016, and I.11-11-009.*

Mr. Fred Harris
June 17, 2013
Page 2

Any responsive records that are withheld from inspection should be specifically and separately identified in writing, and accompanied by the claimed justification for withholding as provided by California Government Code Section 6255, stating the nature of the document withheld and the basis for such withholding. Should you contend that any portion of a particular document is exempt from disclosure, San Bruno requests, pursuant to Section 6253(a) of the California Government Code that the exempt portion be redacted and the remaining portions be produced. San Bruno reserves the right to object to any decision to withhold materials, or portions of documents. San Bruno requests copies of public records in electronic form where available, and in hard copy where copies in electronic form are not available.

In accordance with Section 6253(c) of the California Government Code, please respond to San Bruno's request within ten (10) days. Any questions regarding San Bruno's public records act request should be addressed to me. Thank you in advance for your prompt attention and timely cooperation with San Bruno's request.

Sincerely,



Britt K. Strottman
Special Counsel, City of San Bruno
Meyers Nave
(510) 808-2000
bstrottman@meyersnave.com

Enclosures: Exhibit A – Public Records Act Request Definitions and Instructions
Exhibit B – Email ruling from Administrative Law Judge Mark Wetzell
regarding CPSD's motion to strike

cc: Connie Jackson, City Manager, San Bruno (via Email)
Marc Zafferano, City Attorney, San Bruno (via Email)
State Senator Jerry Hill (via Email)
Paul Clanon, Executive Director, CPUC (via Email)

EXHIBIT A

CITY OF SAN BRUNO PUBLIC RECORDS ACT REQUEST TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION

DEFINITIONS AND INSTRUCTIONS

- A. "Commission" means the California Public Utilities Commission.
- B. "CPSD" means both the Consumer Protection and Safety Division, and the recently renamed organization, Safety Enforcement Division.
- C. "Documents" means all notes, minutes of meetings, documents, summaries, e-mails, e-mail attachments, texts, calendar entries, memoranda, proposals, PowerPoint presentations, memoranda, other briefings, records of follow-up tasks, list of attendees, documentation of notes made on white boards or other records, whatever the format (oral, written, electronic, including twitter, facebook, instant messaging, etc.), whether in draft or final form.
- D. "Motion to strike" means the Motion to Strike CPSD filed on May 29, 2013 relating to striking portions of the "Coordinated Remedies Brief" filed by Pacific Gas and Electric Company on May 24, 2013. CPSD sought to strike references to extra-record Pipeline Safety Enhancement Program Compliance Report dated April 30, 2013. City of San Bruno filed a response in support of the CPSD motion (see Administrative Law Judge Mark Wetzell's ruling dated June 3, 2013, attached as Exhibit B).
- E. "Investigations I.12-01-007, I.11-02-016, and I.11-11-009" means the Order Instituting Investigations I.12-01-007, I.11-02-16, I.11-11-009 on the Pacific Gas and Electric Company explosion in San Bruno, CA on September 9, 2010.

EXHIBIT B

Strottman, Britt

om: Wetzell, Mark S. <mark.wetzell@cpuc.ca.gov>
Sent: Monday, June 03, 2013 1:26 PM
To: jmailkin@orrick.com; kdaly@stinson.com; cathérine.mazzeo@swgas.com; theresa.mueller@sfgov.org; Bone, Traci; Foss, Travis; tlong@turn.org; mlw3@pge.com; Strottman, Britt; ESelmon@Jemzar.com; BTS1@pge.com; julien.dumoulin-smith@ubs.com; kkonolige@bgcpartners.com; kxhy@pge.com; lauren.duke@db.com; mchediak@bloomberg.net; wmc@a-klaw.com; ppatterson2@nyc.rr.com; pbattaglia@bgcpartners.com; thnxvm@gmail.com; rajeev.lalwani@morganstanley.com; SRRD@pge.com; dvanhoogstraten@stinson.com; mfalton@taloncap.com; anjani.vedula@db.com; jonathan.arnold@db.com; kfallon@sirfunds.com; jdangelo@catapult-llc.com; mgoldenberg@luminusmgmt.com; sunny.kwak@macquarie.com; ted@pointstate.com; bnaeve@levincap.com; Jheckler@levincap.com; NStein@LevinCap.com; John.Apgar@baml.com; stephen.byrd@morganstanley.com; NKhumawala@WolfeTrahan.com; randali@nexusamllc.com; dng@semprautilities.com; jlsalazar@semprautilities.com; stomkins@semprautilities.com; SHruby@SempraUtilities.com; MFranco@SempraUtilities.com; RPrince@SempraUtilities.com; npedersen@hanmor.com; angelica.morales@sce.com; case.admin@sce.com; douglas.porter@sce.com; Francis.McNulty@sce.com; gloria.ing@sce.com; maguirre@amslawyers.com; khelmuth@cityofmadera.com; cjackson@ci.sanbruno.ca.us; mdjoseph@adamsbroadwell.com; rkoss@adamsbroadwell.com; Gruen, Darryl; austin.yang@sfgov.org; marcel@turn.org; filings@a-klaw.com; nes@a-klaw.com; sgs@dcbsf.com; teb3@pge.com; gburke@ap.org; BCragg@GoodinMacbride.com; cem@newsdata.com; regrelcpuccases@pge.com; dng6@pge.com; Mullan, Jessica; Meyers, Steven; deborah.slone@doj.ca.gov; dmarcus2@sbcglobal.net; service@cforat.org; henrypielage@comcast.net; berlin@susieberlinlaw.com; abb@eslawfirm.com; William.Westfield@smud.org; ATrowbridge@DayCarterMurphy.com; Peck, David B.; Paull, Karen P.; Stepanian, Raffy; Kotch, Andrew; Chow, Christopher; Dorman, Elizabeth; Lindh, Frank; Morris, Harvey Y.; Reiger, J. Jason; Hailigan, Julie; Lee, Kelly C.; Bruno, Kenneth; Peleo, Marion; Wetzell, Mark S.; Cooke, Michelle; Myers, Richard A.; Cagen, Robert; Prosper, Terrie D.
Cc: ALJ Docket Office; ALJ Central Files ID
Subject: I12-01-007; I11-02-016; I11-11-009 - ALJs' Ruling on Motion of CPSD to Strike Portions of PG&E's Brief

NOTICE TO PARTIES

ADMINISTRATIVE LAW JUDGES' RULING GRANTING MOTION TO STRIKE

On May 29, 2013 the Consumer Protection and Safety Division (CPSD; now named the Safety and Enforcement Division) filed a motion to strike portions of the "Coordinated Remedies Brief" filed by Pacific Gas and Electric Company (PG&E) on May 24, 2013. CPSD seeks to have stricken references to extra-record evidence of gas transmission-related safety amounts paid by PG&E shareholders and the extra-record Pipeline Safety Enhancement Program Compliance Report dated April 30, 2013. City of San Bruno, Division of Ratepayer Advocates, and The Utility Reform Network filed responses in support of the CPSD motion. PG&E filed a response in opposition.

The Commission must base its decisions on evidence of record, and briefs that refer to extra-record evidence are not to be filed. Therefore, good cause appearing,

IT IS RULED that:

1. The May 29, 2013 motion of the Consumer Protection and Safety Division (CPSD) to strike portions of the "Coordinated Remedies Brief" filed by Pacific Gas and Electric Company (PG&E) (CPSD Motion to Strike) is granted.
2. On or before June 5, 2013, PG&E shall re-file its opening brief to redact the portions of its brief that refer to extra-record material as described in the CPSD Motion to Strike.
3. The due date for coordinated rebuttal briefs on fines and remedies issues is extended from June 5, 2013 to June 7, 2013.

Administrative Law Judges Amy C. Yip-Kikugawa and Mark S. Wetzell

EXHIBIT B

EXHIBIT B

CITY OF SAN BRUNO PUBLIC RECORDS ACT REQUEST TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION

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EXHIBIT C

m: Wetzell, Mark S. <mark.wetzell@cpuc.ca.gov>
Sent: Monday, June 03, 2013 1:29 PM
To: kdaly@stinson.com; catherine.mazzeo@swgas.com; cjackson@ci.sanbruno.ca.us;
theresa.mueller@sfgov.org; Berdge, Patrick S.; Bone, Traci; tliong@turn.org;
JMalkin@orrick.com; slg0@pge.com; ESelmon@Jemzar.com;
RegRelCPUCases@pge.com; mchediak@bloomberg.net; wmc@a-klaw.com;
ray.welch@navigantconsulting.com; mrw@mrwassoc.com;
dvanhoogstraten@stinson.com; mfallon@taloncap.com; anjani.vedula@db.com;
jonathan.arnold@db.com; lauren.duke@db.com; kfallon@sirfunds.com;
ted@PointState.com; jdangelo@catapult-llc.com; mgoldenberg@luminusmgmt.com;
bnaeve@levincap.com; Jheckler@levincap.com; scott.senchak@decade-llc.com;
randall@nexusamllc.com; dng@semprautilities.com; JLSalazar@SempraUtilities.com;
stomkins@semprautilities.com; SHruby@SempraUtilities.com;
MFranco@SempraUtilities.com; RPrince@SempraUtilities.com;
npedersen@hanmor.com; angelica.morales@sce.com; douglas.porter@sce.com;
Francis.McNulty@sce.com; mdjoseph@adamsbroadwell.com;
rkoss@adamsbroadwell.com; austin.yang@sfgov.org; marcel@turn.org;
nsuetake@turn.org; LKL1@pge.com; NRN2@pge.com; nes@a-klaw.com;
sgs@dcbsf.com; teb3@pge.com; gburke@ap.org; BCragg@GoodinMacbride.com;
cem@newsdata.com; bkc7@pge.com; grant.kolling@cityofpaloalto.org; Strottman, Britt;
Mullan, Jessica; Meyers, Steven; dmarcus2@sbcglobal.net; service@cforat.org;
henrypielage@comcast.net; berlin@susieberlinlaw.com; abb@eslawfirm.com;
wwester@smud.org; Mark.Gall@smud.org; atrowbridge@daycartermurphy.com;
dweber.nwngs@nwnatural.com; Paull, Karen P.; Yip-Kikugawa, Amy C.; Kotch, Andrew;
Peck, David B.; Dorman, Elizabeth; Lee, Kelly C.; Bruno, Kenneth; Kito, Michele; Myers,
Richard A.; Khosrowjah, Sepideh; Foss, Travis
Subject: I.12-01-007; I.11-02-016; I.11-11-009 - ALJs' Ruling on Motion of CPSD to Strike
Portions of PG&E's Brief

NOTICE TO PARTIES

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Administrative Law Judges Amy C. Yip-Kikugawa and Mark S. Wetzell

**PUBLIC UTILITIES COMMISSION
LEGAL DIVISION**

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298
ID 94-3031353



July 1, 2013

Britt K. Strottman
Special Counsel, City of San Bruno
Meyers Nave
555 - 12th Street, Suite 1500
Oakland, CA 94607

VIA ELECTRONIC MAIL

bstrottman@meyersnave.com

Re: Public Records Act Request
CPUC Reference No.: PRA #930

Dear Ms. Strottman:

The California Public Utilities Commission ("Commission") received your California Public Records Act request requesting that the Commission provide you copies of the following:

- Email document dated sometime between May 2013 to June 3, 2013 from Paul Clanon, Executive Director of the CPUC, to Administrative Law Judges Amy Yip-Kikugawa and Mark Wetzell regarding the Consumer Protection and Safety Division's (CPSD, now named the Safety Enforcement Division) motion to strike filed on May 29, 2013 in investigations I.12-01-007, I.11-02-016, and I.11-11-009.
- Email document dated sometime between May 2013 to June 3, 2013 from Administrative Law Judge Mark Wetzell to Paul Clanon in response to Paul Clanon's correspondence to Administrative Law Judges Mark Wetzell and Administrative Law Judge Amy Yip-Kikugawa regarding CPSD's motion to strike in investigations I.12-01-007, I.11-02-016, and I.11-11-009.
- Any subsequent emails from May 2013 to the present regarding Paul Clanon's correspondence to Administrative Law Judge Mark Wetzell and Administrative Law Judge Amy Yip-Kikugawa regarding CPSD's motion to strike in investigations I.12-01-007, I.11-02-016, and I.11-11-009.

The Commission has one document responsive to your request. However, I am unable to provide you with a copy of this document at this time. The document is subject to the Commission's deliberative process privilege and is thus exempt from mandatory disclosure in response to your records request pursuant to Cal. Gov't. Code § 6254(k), which exempts: "Records, the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege."

The deliberative process privilege applies to records of communications between Commission advisory staff – including the Executive Director – and Commission decisionmakers – including Administrative Law Judges such as ALJs Wetzell and Yip-Kikugawa – where disclosure of the privileged records would limit creative debate and candid considerations of alternatives within an agency, where such discussions are not precluded by ex parte communications limits or other authority.

The deliberative process privilege reflects a policy of protecting the decisionmaking processes of government agencies and a concern that the quality of decisionmaking suffers when that process is exposed to public scrutiny. (*Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1339-1342; see also, *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 170-171.) *Times Mirror* states that: “To prevent injury to the quality of executive decisions, the courts have been particularly vigilant to protect communications to the decisionmaker before the decision is made.” (53 Cal.3d. at 1341.) In *Regents of the University of California v. Superior Court* (1999) 20 Cal.4th 509, the California Supreme Court notes that the deliberative process privilege provides a qualified, limited privilege “not to disclose or to be examined concerning not only the mental processes by which a given decision was reached, but the substance of conversations, discussions, debates, deliberations and like materials reflecting advice, opinions, and recommendations by which government policy is processed and formulated.” (20 Cal.4th at 540 (concurrence)).

Here, the records requested consist of records of communications between a member of the Commission’s advisory staff, Executive Director Clanon, and agency decisionmakers ALJ Wetzell and ALJ Yip-Kikugawa.¹ The communications relate to “conversations, discussions, debates, deliberations and like materials reflecting advice, opinions, and recommendations by which government policy is processed and formulated.” (See *Regents, supra.*) Mr. Clanon is not a party to any of the three proceedings identified in your records request.² Nor is he an “interested person,” as defined in Rule 8.1(d) of the Commission’s Rules of Practice and Procedure.³ Finally, Mr. Clanon is not an agency decisionmaker as defined in Rule 8.1(b),

¹ Rule 8.1(b) of the Commission’s Rules of Practice and Procedure states that: “‘Decisionmaker’ means any Commissioner, the Chief Administrative Law Judge, any Assistant Chief Administrative Law Judge, the assigned Administrative Law Judge, or the Law and Motion Administrative Law Judge.”

² Rule 1.4 of the Commission’s Rules of Practice and Procedure states that: “(a) A person may become a party to a proceeding by: (1) filing an application (other than an application for rehearing pursuant to Rule 16.1), petition, or complaint; (2) filing (i) a protest or response to an application (other than an application for rehearing pursuant to Rule 16.1) or petition, or (ii) comments in response to a rulemaking; (3) making an oral motion to become a party at a prehearing conference or hearing; or (4) filing a motion to become a party. . . . (d) Any person named as defendant to a complaint, or as a respondent to an investigation or a rulemaking, is a party to the proceeding.”

³ Rule 8.1(d) states that: “‘Interested person’ means any of the following: (1) any party to the proceeding or the agents or employees of any party, including persons receiving consideration to represent any of them; (2) any person with a financial interest, as described in Article I (commencing with Section 87100) of Chapter 7 of Title 9 of the Government Code, in a matter but issue before the Commission, or such person’s agents or employees, including persons receiving consideration to represent such a person; or (3) a representative acting on behalf of any formally organized civic, environmental, neighborhood, business, labor, trade, or similar association who intends to influence the decision of a Commission member on a matter before the Commission, even if that association is not a party to the proceeding.”

Britt K. Stottman

July 1, 2013

Page 3

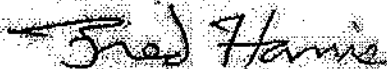
supra. He is instead a member of the Commission's advisory staff.⁴ Disclosure of communications between Mr. Clanton (or other members of the Commission's advisory staff) and agency decisionmakers concerning deliberative matters, are precisely the type of candid "conversations, discussions, debates, deliberations, and like material reflecting advice, opinions, and recommendations, by which government policy is processed and formulated" that the deliberative process privilege is intended to protect. The public interest served by nondisclosure clearly outweighs the public interest in disclosure, since disclosure of these communications would prematurely disclose the Commission's decisionmaking process, and discourage candid discussions within the agency, without providing any countervailing public benefit.

The Commission has several additional documents responsive to Item 3 of your request, in the form of communications between me and Commission staff concerning your records request. These communications consist of confidential communications between Commission lawyers and Commission staff during the course of lawyer-client relationships. A number of these communications include attorney-work product. These communications are subject to the lawyer-client privilege set forth in Cal. Evid. Code § 950 *et seq.*, and, in many cases, the attorney work product doctrine set forth in Cal. Code Civ. Pro. § 2018.010 *et seq.* These records are exempt from disclosure in response to your records request, pursuant to Cal. Gov't Code § 6254(k), *supra*.

Please note that Commission General Order (G.O.) 66-C provides for appeal of a denial of access to records to the Commission. For your convenience, I have enclosed a copy of G.O. 66-C, Section 3.4 of which outlines the requirements for filing an appeal. Under the appeals process, a draft resolution addressing the disclosure of records to which access has been initially denied is circulated for public comment, in accord with Cal. Pub. Util. Code § 311(g), and then voted on by the Commission at one of its regularly scheduled business meetings.

I hope this is helpful.

Very truly yours,



Fred Harris
Staff Counsel

Attachment

⁴ The Commission's internet site "About Us" reference to the Executive Director states that: "The PUC's Executive Director works with Commissioners, Directors, staff, oversight agencies, the Legislature, the Governor's Office, and all external stakeholders to coordinate and facilitate timely handling of procedural matters and efficient internal operations. The Executive Director's office works to anticipate regulatory and agency needs in order to develop and implement appropriate strategies to meet those needs." (See also, Cal. Pub. Util. Code § 308(a).)

GENERAL ORDER NO. 66-C
(Supersedes General Order No. 66-B)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PROCEDURES FOR OBTAINING INFORMATION AND RECORDS IN THE POSSESSION OF THE COMMISSION AND ITS EMPLOYEES AND COMMISSION POLICY ORDERS THEREON.

Adopted June 5, 1974; Effective June 5, 1974.
Resolution No. L-151.

Amended June 25, 1974; Effective June 25, 1974.
Resolution No. DE 120.

Amended May 4, 1982; Effective May 4, 1982.
Resolution No. L-324.

1. DEFINITIONS

- (1.1) "Public records" of the Public Utilities Commission, includes all items encompassed in Section 6252 of the Government Code,¹ except as otherwise excluded by this General Order, statute, or other order, decision, or rule.
- (1.2) "Commission" means the Public Utilities Commission and the staff of the Public Utilities Commission.

2. EXCLUSIONS

Public records not open to public inspection include:

- (2.1) Records or information specifically precluded from disclosure by statute. (E.g.: accident reports, P.U. Code § 315)²
- (2.2) Records or information of a confidential nature furnished to,

¹ Gov't Code § 6252 (d) and (e):

"(d) 'Public records' includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

"(e) 'Writing' means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents."

² P.U. Code § 315:

"The commission shall investigate the cause of all accidents occurring within this State upon the property of any public utility or directly or indirectly arising from or connected with its maintenance or operation, resulting in loss of life or injury to person or property and requiring, in the judgment of the commission, investigation by it, and may make such order or recommendation with respect thereto as in its judgment seems just and reasonable. Neither the order or recommendation of the commission nor any accident report filed with the commission shall be admitted as evidence in any action for damages based on or arising out of such loss of life or injury to person or property. Every public utility shall file with the commission, under such rules as the commission prescribes, a report of each accident so occurring of such kinds or classes as the commission from time to time designates."

or obtained by the Commission. (See P.U. Code §§ 583, 3709, 5228) ²

Such records or information shall include, but not be limited to:

- a) Records of investigations and audits made by the Commission, except to the extent disclosed at a hearing or by formal Commission action.
- b) Reports, records, and information requested or required by the Commission which, if revealed, would place the regulated company at an unfair business disadvantage.
- c) Reports, records, and information provided to the Commission for compilation and use in connection with the Commission's Data Bank program.
- d) Records or information furnished to the Commission pursuant to the Highway Carriers' Uniform Business License Tax Act (P.U. Code §§ 4301, *et seq.*) and the Transportation Rate Fund (P.U. Code §§ 5001, *et seq.*).
- e) Reports pursuant to General Order No. 107-A, pertaining to privacy of telephone communications.

(2.3) Intra-agency notes, drafts, memoranda and other communications not otherwise made public by the Commission.

(2.4) Non-public communications with other public agencies or officers where the public interest in withholding such records clearly outweighs the public interest in disclosure.

(2.5) Personnel records, other than present job classification, job specification and salary range.

(2.6) Test questions, scoring keys and other examination data used to administer licensing examinations.

(2.7) Records received from or furnished to the Governor or the Governor's office.

(2.8) Information obtained in confidence from other than a business regulated by this Commission where the disclosure

² P.U. Code § 583:

"No information furnished to the commission by a public utility, except such matters as are specifically required to be open to public inspection by the provisions of this part, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any officer or employee of the commission who divulges any such information is guilty of a misdemeanor."

P.U. Code § 3709:

"Any employee of the commission who divulges any fact or information which comes to his knowledge during the course of the examination of the accounts, records, and memoranda of highway carriers, except as he is authorized or directed by the commission or by a court of competent jurisdiction or judge thereof, is guilty of a misdemeanor and is punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment in the county jail for not more than three (3) months, or both."

P.U. Code § 5228:

"Any employee of the commission who divulges any fact or information which comes to his knowledge during the course of the examination of the accounts, records, and memoranda of household goods carriers, except as he is authorized or directed by the commission or by a court of competent jurisdiction or judge thereof, is guilty of a misdemeanor and is punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment in the county jail for not more than three (3) months, or both."

would be against the public interest. (E.g.: Evidence Code, § 1040).⁴

3. PROCEDURE FOR EXAMINING AND OBTAINING PUBLIC RECORDS

(3.1) INITIAL REQUESTS

Requests to examine and/or copy public records should be made to the Secretary of the Commission, who is the official Custodian of Records. Service of process for records should be made on the Secretary. Assistant Secretaries in the Los Angeles and San Francisco Offices of the Commission are authorized to receive requests and service of process for the Custodian of Records. Public records may be examined and copied and service of process may be made at the Commission's offices in San Francisco and Los Angeles during regular office hours.

(3.2) FEES FOR COPIES

Certified copies of public records may be obtained from the Secretary's office in San Francisco or the Assistant Secretary's office in Los Angeles. Fees for copies or certified copies are as set forth in Public Utilities Code § 1903.⁵ Checks for payment should be made payable to the Public Utilities Commis-

⁴ Evidence Code § 1040:

"(a) As used in this section, 'official information' means information acquired in confidence by a public employee in the course of his duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made.

"(b) A public entity has a privilege to refuse to disclose official information, and to prevent another from disclosing such information, if the privilege is claimed by a person authorized by the public entity to do so and:

"(1) Disclosure is forbidden by an act of Congress of the United States or a statute of this state; or

"(2) Disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice; [but not privilege may be claimed under this paragraph if any person authorized to do so has consented that the information be disclosed in the proceeding.] In determining whether disclosure of the information is against the public interest, the interest of the public entity as a party in the outcome of the proceeding may not be considered." (Stats. 1963, c. 269, § 1040.)

⁵ P.U. Code § 1903:

"The commission shall charge and collect the following fees:

(a) For copies of papers and records not required to be certified or otherwise authenticated by the commission (except transcripts of testimony, other evidence or proceedings prepared by or under the direction or supervision of the official reporters of the commission), twenty cents (\$0.20) for each folio.

(b) For certified copies of official documents and orders filed in its office, twenty-five cents (\$0.25) for each folio and one dollar (\$1) for every certificate under seal affixed thereto.

(c) For certifying a copy of any report made by a public utility, two dollars (\$2).

(d) For each certified copy of the annual report of the commission, one dollar and fifty cents (\$1.50).

(e) For certified copies of evidence and proceedings before the commission (except transcripts of testimony, other evidence or proceedings prepared by or under the direction or supervision of the official reporters of the commission), twenty-five cents (\$0.25) for each folio.

The commission may establish and fix the charge to be made and collected by it for transcripts of testimony, other evidence and proceedings taken before the commission, where such transcripts are prepared by or under the direction or supervision of the official reporters of the commission."

sion of the State of California.

(3.3) TIME TO REVIEW REQUEST

Persons desiring to inspect, subpoena, or copy public records in the Commission's possession must allow sufficient time for the records to be assembled and reviewed for the purpose of determining if they are public records which fall within the exclusions listed in Section 2 above, or if there is some public interest served by withholding the records. This review will be made in the Commission's offices in San Francisco. Requests for Commission records must take into account the time necessary to have the file reviewed in San Francisco before it may be released.

(3.4) APPEAL TO FULL COMMISSION

A person wishing to review records which are not open to public inspection may write to the Secretary in San Francisco, indicating the records being withheld, and stating the reasons why these records should be disclosed to him. Sufficient time must be allowed for the full Commission to review this request and the applicable records.

(3.5) HEARINGS OR PROCEEDINGS

During the course of a hearing or proceeding before the Commission, the Commission, or a Commissioner or an Examiner may, for good cause shown, authorize or direct a Commission employee to produce or divulge information or public records not open to public inspection, or to make it available for inspection, or to furnish, and certify, if requested, a copy or copies thereof to the person making such request, or to testify with respect to the matter described in such request.

4. COMMISSION POLICY

(4.1) ORIGINAL RECORDS:

Availability of original records is necessary for the conduct of the Commission's duties. Evidence Code §§ 1560, *et seq.*, provide for the admissibility into evidence of true copies of records such as are maintained by the Commission. The personal appearance of the Custodian of Records is not required. A subpoena demanding original Commission records or personal appearance of the Custodian of Records is an unwarranted interference with the Commission in the performance of its official duties and will be resisted.⁶

(4.2) EXPERT WITNESSES:

It is not the duty of the Commission to provide its staff members to litigants as expert witnesses. The Commission does not have sufficient personnel to provide this service and perform its legitimate duties. Therefore, the Commission will resist subpoenas requiring Commission personnel to testify as experts.

Should a Commission employee be required by subpoena to attend a proceeding or deposition for the purpose of giving expert testimony, the minimum compensation for such attendance is hereby set at \$500 plus travel and per diem expenses for each day or part thereof that the Commission is deprived of his services. Checks for payment should be made payable to the Public Utilities Commission of the State of California.

* P.U. Code § 1780:

"No court of this State, except the Supreme Court to the extent specified in this article, shall have jurisdiction to review, reverse, correct, or annul any order or decision of the commission or to suspend or delay the execution or operation thereof, or to enjoin, restrain, or interfere with the commission in the performance of its official duties, except that the writ of mandamus shall lie from the Supreme Court to the commission in all proper cases."

Issued at San Francisco this 5th day of June, 1974.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

By William R. Johnson
Secretary

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CALIFORNIA OFFICE OF STATE PRINTING

77890-765 11-83 2M

G.O. 66-C

July 23, 2013

Via E-mail and U.S. Mail

Mr. Fred Harris
Legal Division, Public Records Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Re: **Public Records Act Request**
Communications re: I.12-01-007, I.11-02-016, I.11-11-009
Email correspondence among CPUC Executive Director Paul Clanon,
Administrative Law Judge Amy Yip-Kikugawa, and Administrative Law Judge Mark
Wetzell on Consumer Protection and Safety Division's Motion to Strike

Dear Mr. Harris:

On June 17, 2013 and June 18, 2013, the City of San Bruno ("San Bruno") made a request pursuant to the California Public Records Act (the "PRA") for a series of California Public Utilities Commission (the "CPUC") documents, including the specific items identified below:

- Email *document* dated sometime between May, 2013 to June 15, 2013 from CPUC Executive Director Paul Clanon, to Administrative Law Judge ("ALJ") Amy Yip-Kikugawa and ALJ Mark Wetzell regarding the *Consumer Protection and Safety Division's ("CPSD") motion to strike* filed on May 29, 2013 in I.12-01-007, I.11-02-016, and I.11-11-009 (collectively, the "Line 132 Proceedings").
- Email *document* from ALJ Mark Wetzell to CPUC Executive Director Paul Clanon in response to CPUC Executive Director Paul Clanon's correspondence to ALJ Mark Wetzell and ALJ Amy Yip-Kikugawa regarding CPSD's *motion to strike* in I.12-01-007, I.11-02-016, and I.11-11-009.

¹ All italicized terms are specifically defined in Exhibit A (Public Records Act Request Definitions and Instructions) attached hereto.

² CPSD officially changed its name to the Safety Enforcement Division ("SED") effective January 1, 2013, however, for the sake of consistency with other documents in the Line 132 Explosion Proceedings, San Bruno continues to refer to the division as CPSD herein.

- Any subsequent *documents*, including emails, dated May 2013 to the present including or regarding CPUC Executive Director Paul Clanon's correspondence to CPUC Commissioner Mike Florio, including correspondence from ALJ Mark Wetzell and ALJ Amy Yip-Kikugawa regarding CPUC's *motion to strike* in I.12-01-007, I.11-02-016, and I.11-11-009.

Although your response to San Bruno dated July 1, 2013 did acknowledge that the CPUC "has one document responsive to" San Bruno's PRA request, you declined to produce that document (and potentially others) on the grounds that the public is not entitled to access them because of the deliberative process privilege. San Bruno strongly disagrees with such an interpretation of the PRA, the CPUC's overly broad application of this specific PRA exception, and is extremely disappointed that the CPUC has elected to inappropriately hide behind the deliberative process privilege rather than comply with the PRA and disclose the email correspondence responsive to San Bruno's PRA request to the public.

The deliberative process privilege offers *limited* protection to the internal processes of the government by making certain communications immune from normal disclosure of documents in litigation. More specifically, the deliberative process privilege only protects the decision-making process of the government if disclosure of information about that process would undermine the ability for a public official to make effective decisions,³ "[t]he key question in every case is 'whether the disclosure of materials would expose an agency's decision making process in such a way as to discourage candid discussion within the agency and thereby undermine the agency's ability to perform its functions.'"⁴

Important limitations constrain the use and application of the deliberative process privilege. Furthermore, the deliberative process privilege, like other exceptions to the PRA, must be interpreted narrowly, in a manner that favors public disclosure consistent with the objectives of the PRA itself. As a consequence, the deliberative process privilege only permits a public official to withhold information submitted to him or her in confidence, until and unless the information has been expressly relied upon in the making of a decision *and* if the public interest in secrecy outweighs the public interest in disclosure.⁵ Under Government Code section 6255, this balancing test is applied to make the determination whether the agency's deliberative process privilege interest outweighs the public interest in disclosure of the

³ *U.S. v. Fernandez*, 231 F.3d 1240, 1246 (9th Cir. 2000); *Times Mirror Co. v. Sup. Ct.*, 53 Cal.3d 1325 (1991).

⁴ *Wilson v. Sup. Ct.*, 51 Cal.App.4th 1136, 1142 (1996) (quotation omitted).

⁵ Cal. Evid. Code § 1040; *San Gabriel Valley Tribune v. Sup. Ct.*, 143 Cal.App.3d 762, 776 (1983).

particular information in question.⁶ It is important to note that it is the *public's* interest, not the *agency's* that is weighed.⁷

CPUC Executive Director Paul Clanon's communications amongst the ALJs in the Line 132 Proceedings and with and about communications with Commissioner Mike Florio fail to merit protection against disclosure under the deliberative process privilege in every respect.

As a threshold matter, it is San Bruno's understanding that the documents described, *supra*, show that CPUC Executive Director Paul Clanon tampered with the adjudicatory process in the Line 132 Proceedings and that he violated CPUC's Rules of Practice and Procedure ("CPUC Rules"). Communications that violate CPUC Rules are by definition improper and therefore cannot amount to appropriate government communications that fall within the scope of deliberative process privilege.

The CPUC has strict restrictions against *ex parte* communications in adjudicatory proceedings such as the Line 132 Proceedings. Per Commission Rule 8.3(b), *ex parte* communications are prohibited in each of the Line 132 Proceedings, all of which have been characterized as adjudicatory proceedings. Rule 8.1(c) defines "*ex parte* communication" as any written or oral communication that:

- (1) concerns any substantive issue in a formal proceeding
- (2) takes place between an interested person and a decision maker, and
- (3) does not occur in a public hearing, workshop, or other public forum noticed by ruling or order in the proceeding, or on the record of the proceeding.

These restrictions preclude CPUC Executive Director Paul Clanon from any communication with the ALJs in any venue during the time that the Line 132 Proceedings are ongoing, especially during the crucial period when the ALJs are drafting their decisions on the violations and penalties they recommend that the CPUC levy against PG&E. It appears that in your letter dated July 1, 2013, you are claiming that Mr. Clanon is an advisor to the Commissioners. If so, Mr. Clanon is an "interested person" and is interfering with the independence of the judiciary during an adjudicatory proceeding. Instead of abiding by the clear rules of the agency for which he works as the chief administrator, CPUC Executive Director Paul Clanon proactively contacted a decision maker and tried to influence the decision maker. San Bruno specifically seeks the documents that directly contravene these rules – namely those between CPUC Executive Director Paul Clanon (interested person) and the ALJs in the Line 132 Proceedings (decision makers) and Commissioner Florio (decision maker) on substantive issues (the validity of CP&E's motion to strike PG&E's extra-record evidence) that did not occur in public (over email, on which the remainder of the service list

⁶ *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325; *Rogers v. Superior Court* (1993) 19 Cal.App.4th 469.

⁷ *Rogers v. Superior Court* (1993) 19 Cal.App.4th 469.

in the Line 132 Proceedings were not included). For these reasons, San Bruno renews its demand for public disclosure of the following documents on the grounds that they evidence CPUC Executive Director Paul Clanon's violation of CPUC Rules against *ex parte* communications, and therefore cannot be protected by the deliberative process privilege:

- On May 29, 2013, CPSD filed a motion to strike a letter from PG&E's CEO Tony Earley which included extra-record evidence of gas transmission-related safety amounts allegedly paid by Pacific Gas and Electric Company ("PG&E") shareholders. Admission of such extra-record evidence would have essentially allowed PG&E to advance unverified, untested numbers provided by the utility to serve as the basis for providing PG&E with "credit for time served" after killing eight people, injuring sixty-six more, and leveling thirty-eight homes in San Bruno. On May 31, 2013, the City of San Bruno filed a response in support of CPSD's motion to strike on the grounds that PG&E's alleged shareholder expenses were never introduced into the record via PG&E testimony, nor during the extensive evidentiary hearings conducted in the Line 132 Proceedings.
- Sometime in late May 2013, CPUC Executive Director Paul Clanon sent an email to CPUC Commissioner Mike Florio, the assigned presiding Commissioner in two of the three Line 132 Proceedings, asking Commissioner Florio whether he agreed that CPSD's motion to strike should be granted.
- Commissioner Florio responded to CPUC Executive Director Paul Clanon's email with something to the effect that the plan sounded good.
- In violation of CPUC Rules against *ex parte* communications, CPUC Executive Director Paul Clanon then tampered with the adjudicatory decision-making process and forwarded the email chain between Mr. Clanon and Commission Florio on to ALJs Amy Yip-Kikugawa and Mark Wetzell. In that communication CPUC Executive Director Paul Clanon asked the ALJs what they thought about the proposal. ALJ Mark Wetzell wrote something to the effect that he would not take direction from Mr. Clanon whether to grant, or deny, CPSD's motion to strike. On June 3, 2013, ALJ Yip-Kikugawa and ALJ Wetzell granted CPSD's motion to strike.⁸

The deliberative process privilege does not protect such documents, which evidence illegal conduct on the part of the CPUC, against disclosure in response to San Bruno's PRA request, or the public scrutiny such violations deserve.

Moreover, the public interest in disclosure of such documents strongly counsels in favor of disclosure under the balancing test under Government Code section 6255. Throughout the

⁸ See Exhibit B, email ruling from Administrative Law Judge Mark Wetzell regarding CPSD's motion to strike

Line 132 Proceedings, the CPUC has been mired in controversy over its leadership, lax oversight over PG&E⁹, CPUC's violation of strict laws against *ex parte* communications during the adjudicatory proceedings, extreme disarray at the CPUC,¹⁰ and its cozy relationship with PG&E.¹¹ The Line 132 proceedings are unprecedented and the public has a right to know whether the CPUC's Executive Director is tampering with the adjudicatory process by trying to influence the Administrative Law Judges when making an important decision. The CPUC cannot continuously violate its own rules.

For the reasons set forth herein and in the public interest, San Bruno strongly urges you to reconsider your decision to keep this important public record from the public. In light of the fact that you have not had the courtesy to return my phone calls, I ask that you respond to this letter by July 31, 2013. If the CPUC makes the decision to keep this public record from the public, we intend to take all appropriate additional actions. Thank you in advance for your prompt attention to this important matter and timely cooperation with San Bruno's request.

Sincerely,



Britt K. Strottman
Special Counsel, City of San Bruno
Meyers Nave
(510) 808-2000
bstrottman@meyersnave.com

Enclosures: Exhibit A – Public Records Act Request Definitions and Instructions
Exhibit B – Email ruling from Administrative Law Judge Mark Wetzell
regarding CPSD's motion to strike

c: Connie Jackson, City Manager, San Bruno (via E-mail)
Marc Zafferano, City Attorney, San Bruno (via E-mail)
Steven Meyers, Special Counsel
State Senator Jerry Hill (via E-mail)
Paul Clanon, Executive Director, CPUC (via E-mail)

⁹ <http://www.nts.gov/doclib/reports/2011/PAR1101.pdf>, page 122.

¹⁰ <http://www.sfchronicle.com/bayarea/article/PUC-s-gun-toting-enforcer-denies-threats-to-4622472.php>.

¹¹ <http://www.cnn.com/2011/US/08/30/california.pipeline.explosion/index.html>;
<http://www.sfgate.com/bayarea/article/PUC-chief-promises-stricter-oversight-of-pipelines-2334904.php>.

EXHIBIT A

CITY OF SAN BRUNO PUBLIC RECORDS ACT REQUEST TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION

DEFINITIONS AND INSTRUCTIONS

- A. "Commission" means the California Public Utilities Commission.
- B. "CPSD" means both the Consumer Protection and Safety Division, and the recently renamed organization, Safety Enforcement Division.
- C. "Documents" means all notes, minutes of meetings, documents, summaries, e-mails, e-mail attachments, texts, calendar entries, memoranda, proposals, PowerPoint presentations, memoranda, other briefings, records of follow-up tasks, list of attendees, documentation of notes made on white boards or other records, whatever the format (oral, written, electronic, including twitter, facebook, instant messaging, etc.), whether in draft or final form.
- D. "Motion to strike" means the Motion to Strike CPSD filed on May 29, 2013 relating to striking portions of the "Coordinated Remedies Brief" filed by Pacific Gas and Electric Company on May 24, 2013. CPSD sought to strike references to extra-record Pipeline Safety Enhancement Program Compliance Report dated April 30, 2013. City of San Bruno filed a response in support of the CPSD motion (see Administrative Law Judge Mark Wetzell's ruling dated June 3, 2013, attached as Exhibit B).
- E. "Investigations I.12-01-007, I.11-02-016, and I.11-11-009" means the Order Instituting Investigations I.12-01-007, I.11-02-16, I.11-11-009 on the Pacific Gas and Electric Company explosion in San Bruno, CA on September 9, 2010.

Strottman, Britt

om: Wetzell, Mark S. <mark.wetzell@cpuc.ca.gov>
Sent: Monday, June 03, 2013 1:26 PM
To: jmalkin@orrick.com; kdaly@stinson.com; catherine.mazzeo@swgas.com; theresa.mueller@sfgov.org; Bone, Traci; Foss, Travis; tlong@turn.org; mlw3@pge.com; Strottman, Britt; ESelmon@Jemzar.com; BTS1@pge.com; julien.dumoulin-smith@ubs.com; kkonolige@bgcpartners.com; kxhy@pge.com; lauren.duke@db.com; mchediak@bloomberg.net; wmc@a-klaw.com; ppatterson2@nyc.rr.com; pbattaglia@bgcpartners.com; thnxvm@gmail.com; rajeev.lalwani@morganstanley.com; SRRD@pge.com; dvanhoogstraten@stinson.com; mfallon@taloncap.com; anjani.vedula@db.com; jonathan.arnold@db.com; kfallon@sirfunds.com; jdangelo@catapult-llc.com; mgoldenberg@luminusmgmt.com; sunny.kwak@macquarie.com; ted@pointstate.com; bnaeve@levincap.com; Jheckler@levincap.com; NStein@LevinCap.com; John.Apgar@baml.com; stephen.byrd@morganstanley.com; NKhumawala@WolfeTrahan.com; randall@nexusamlc.com; dng@semprautilities.com; jlsalazar@semprautilities.com; stomkins@semprautilities.com; SHruby@SempraUtilities.com; MFranco@SempraUtilities.com; RPrince@SempraUtilities.com; npedersen@hanmor.com; angelica.morales@sce.com; case.admin@sce.com; douglas.porter@sce.com; Francis.McNulty@sce.com; gloria.ing@sce.com; maguirre@amslawyers.com; khelmuth@cityofmadera.com; cjackson@ci.sanbruno.ca.us; mdjoseph@adamsbroadwell.com; rkoss@adamsbroadwell.com; Gruen, Darryl; austin.yang@sfgov.org; marcel@turn.org; filings@a-klaw.com; nes@a-klaw.com; sgs@dcbf.com; teb3@pge.com; gburke@ap.org; BCragg@GoodinMacbride.com; cem@newsdata.com; regrelcpuccases@pge.com; dng6@pge.com; Mullan, Jessica; Meyers, Steven; deborah.slone@doj.ca.gov; dmarcus2@sbcglobal.net; service@cforat.org; henrypielage@comcast.net; berlin@susieberlinlaw.com; abb@eslawfirm.com; William.Westfield@smud.org; ATrowbridge@DayCarterMurphy.com; Peck, David B.; Paull, Karen P.; Stepanian, Raffy; Kotch, Andrew; Chow, Christopher; Dorman, Elizabeth; Lindh, Frank; Morris, Harvey Y.; Reiger, J. Jason; Halligan, Julie; Lee, Kelly C.; Bruno, Kenneth; Peleo, Marion; Wetzell, Mark S.; Cooke, Michelle; Myers, Richard A.; Cagen, Robert; Prosper, Terrie D.
Cc: ALJ Docket Office; ALJ Central Files ID
Subject: I.12-01-007; I.11-02-016; I.11-11-009 - ALJs' Ruling on Motion of CPSD to Strike Portions of PG&E's Brief

NOTICE TO PARTIES

ADMINISTRATIVE LAW JUDGES' RULING GRANTING MOTION TO STRIKE

On May 29, 2013 the Consumer Protection and Safety Division (CPSD; now named the Safety and Enforcement Division) filed a motion to strike portions of the "Coordinated Remedies Brief" filed by Pacific Gas and Electric Company (PG&E) on May 24, 2013. CPSD seeks to have stricken references to extra-record evidence of gas transmission-related safety amounts paid by PG&E shareholders and the extra-record Pipeline Safety Enhancement Program Compliance Report dated April 30, 2013. City of San Bruno, Division of Ratepayer Advocates, and The Utility Reform Network filed responses in support of the CPSD motion. PG&E filed a response in opposition.

The Commission must base its decisions on evidence of record, and briefs that refer to extra-record evidence are not to be filed. Therefore, good cause appearing,

IT IS RULED that:

1. The May 29, 2013 motion of the Consumer Protection and Safety Division (CPSD) to strike portions of the "Coordinated Remedies Brief" filed by Pacific Gas and Electric Company (PG&E) (CPSD Motion to Strike) is granted.
2. On or before June 5, 2013, PG&E shall re-file its opening brief to redact the portions of its brief that refer to extra-record material as described in the CPSD Motion to Strike.
3. The due date for coordinated rebuttal briefs on fines and remedies issues is extended from June 5, 2013 to June 7, 2013.

Administrative Law Judges Amy C. Yip-Kikugawa and Mark S. Wetzell

Strottman, Britt

From: Harris, Frederick <frederick.harris@cpuc.ca.gov>
nt: Thursday, August 22, 2013 5:02 PM
To: Strottman, Britt
Subject: Records Request for Dig-In Incident Reports
Attachments: 08302012 Final Report on G20120802-01.pdf

August 22, 2013

Britt K. Strottman
Attorney at Law
MEYERS NAVE
555 12th Street, Suite 1500
Oakland, CA 94607

Re: Records Request

Dear Ms. Strottman,

You ask the California Public Utilities Commission to provide you with:

"The reports for two incidents of third party dig in. Pls see the two incidents below. Thanks, Britt

August 2, 2012 line hit in San Bruno (Crestmoor neighborhood) by Shaw Construction.

August 8, 2013 line hit on Burlingame Ave in Burlingame by JMB Construction."

I have attached to this email a copy of the Commission's report regarding the August 2, 2012 incident.

The Commission has not yet completed its investigation of the August 8, 2013 incident of interest to you, and I am thus unable to provide the Commission's report regarding this incident to you at this time. Once the Commission's investigation of this incident, and incident report, are complete, I will provide the Commission's report to you in accord with the provisions of Commission Resolution L-436.

I hope this is helpful. If you have any questions, please let me know.

Sincerely,

Fred Harris
Staff Counsel

CALIFORNIA PUBLIC UTILITIES COMMISSION
Consumer Protection and Safety Division
Gas Safety and Reliability Branch

Incident Investigation Report

Report Date: August 30, 2012

Investigator: Aimee Cauguiran, Utilities Engineer, Gas Safety & Reliability Branch (GSRB)

Incident Number: G20120802-01

Utility: Pacific Gas and Electric Company (PG&E)

Date and Time of Incident: 8/2/2012, 10:38 AM

Location of Incident: Intersection of Earl Avenue and Glenview Drive, City of San Bruno

Summary of Incident:

On August 2, 2012, Shaw Pipeline (Shaw) struck and damaged a PG&E owned 2-inch plastic distribution pipeline while excavating on a project for the City of San Bruno. The damage resulted in a release of natural gas and significant media attention; however, no injuries, fatalities, or significant property damage resulted from the incident. Several homes were evacuated as a precaution. The GSRB investigation determined the cause of this incident to be the failure on the part of the excavator to follow Government Code (GC) 4216 which requires use of hand tools to determine the exact location of subsurface installations prior to using power-operated excavating equipment in the vicinity of such installations. The investigation did not find evidence of any General Order 112-E violations by PG&E that caused, or contributed to the cause, of this incident.

Fatality/Injury: None

Property Damage: None

Utility Facilities Involved: 2-inch polyethylene distribution main

Witnesses/ Person(s) Involved: Shaw -- contractor working for the City of San Bruno.

Evidence:

1. PG&E Initial Report dated 8/2/2012
2. USA Notifications #0193855 and # 0193846
3. PG&E Operator Qualification record for PG&E Mark and Locate personnel
4. Telephone interview of Shaw Pipeline owner, Mr. Matt Shaw, on 8/3/2012
5. Telephone interview of PG&E mark and locate employee, Mr. Jose Prieto, on 8/3/2012

Observations and Findings:

On 8/2/2012 at approximately 10:38 am, Shaw Pipeline (Shaw), an excavator working under contract for the City of San Bruno, was excavating to install water lines at the intersection of Earl Avenue and Glenview Drive when they hit and damaged a PG&E owned 2-inch plastic distribution main with a backhoe. The incident caused a release of natural gas resulting in the precautionary evacuation of nearby residents.

PG&E reported that the company was notified of the incident at approximately 10:45 am. PG&E crew arrived at the incident location at approximately 11:17 am and the gas flow was stopped, by squeezing the distribution main, at 11:24 am. The incident was officially reported to the CPUC at 12:35 pm.

GSRB representatives, Sunil Shori and I, arrived on-site shortly before 1:00 pm on 8/2/2012 to investigate the incident. The damaged pipe was still exposed when we arrived on the scene and PG&E crews were working to remove dirt around the pipe in preparation for repairs to the pipeline.



Photo 1: Incident location (facing North)

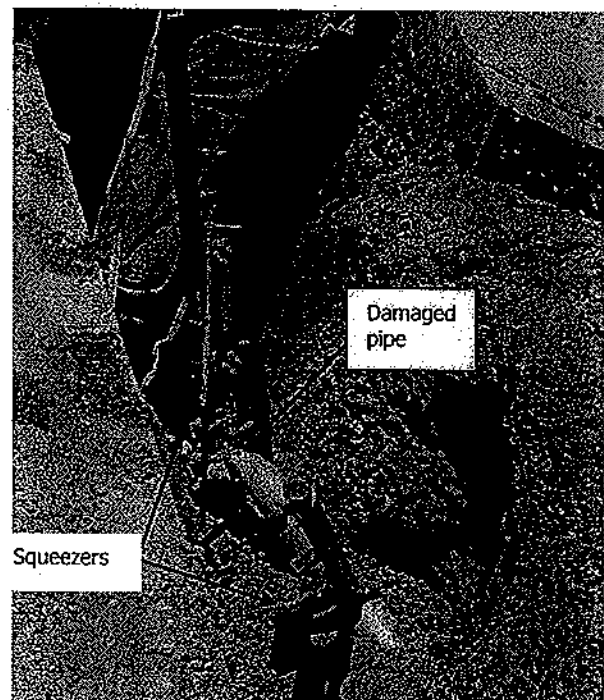


Photo 2: Damaged pipe (facing west)

GSRB representatives observed yellow marks north of the incident location marking PG&E's distribution main along Glenview Drive, and west of the incident location along Earl Avenue (See Photos 3 and 4). The yellow marks were faint but visible. Faint yellow marks were also observed on the east and west sides of the damaged pipe accurately marking the location of the subsurface facilities (See Photos 5 and 6). The presence of the yellow marks, although faint, leads GSRB to believe that PG&E had located and marked its pipeline facilities, in the vicinity of the incident location, prior to the occurrence of the incident on 8/2/2012.

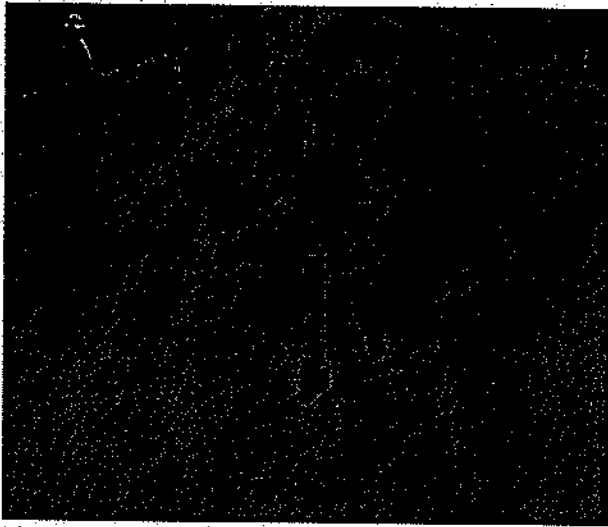


Photo 3: North side of Incident location on Glenview Dr.



Photo 4: West of Incident location on Earl Avenue

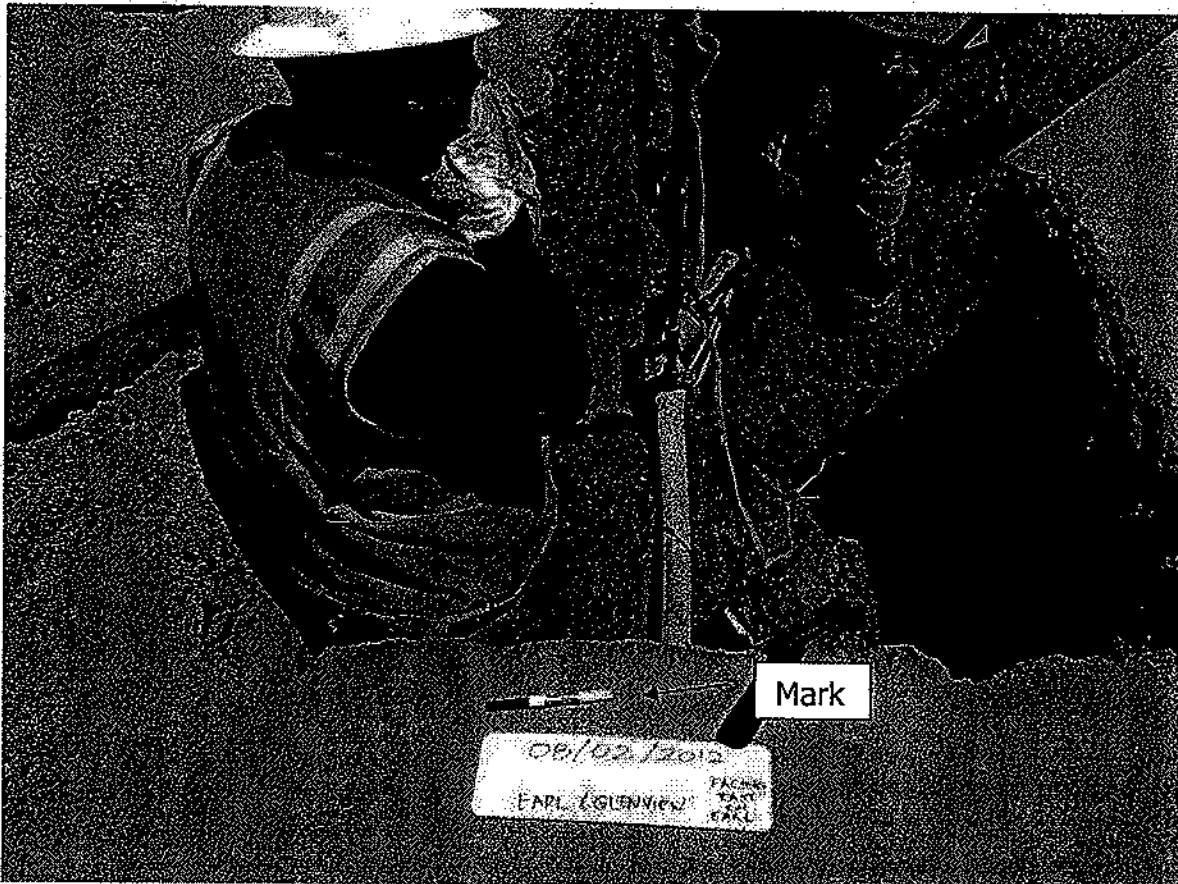


Photo 5: Yellow mark observed west of the damaged location

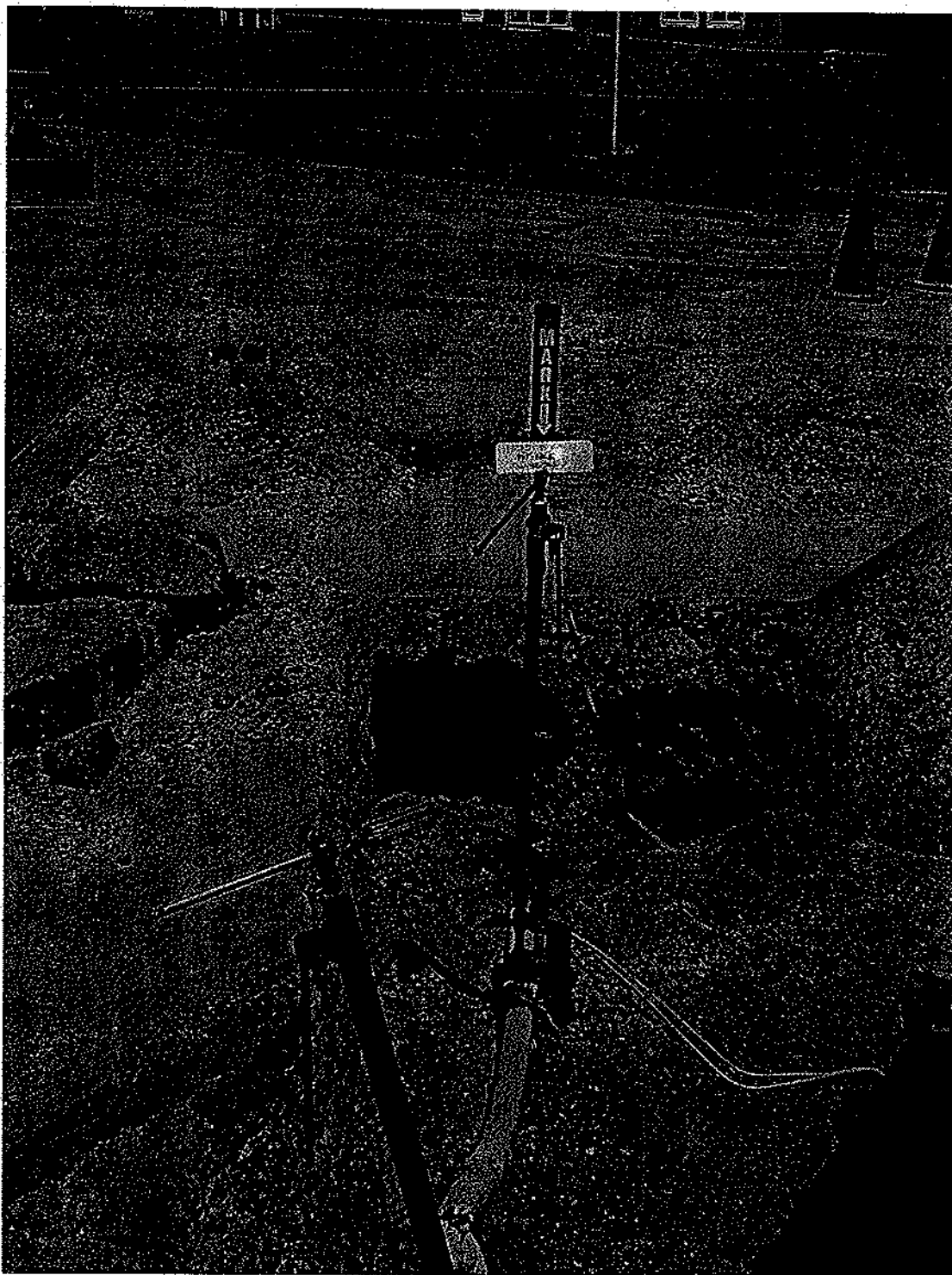


Photo 6: Mark observed on East side of damaged location

GSRB's investigation found that Shaw had valid Underground Service Alert tickets (#0193855 and #0193846). Recent copies of the USA tickets show that Shaw requested for re-mark on two separate occasions. PG&E responded to both requests within 2 days. PG&E re-marked its subsurface facilities on 7/23/2012 along Glenview and Claremont Drive, and on 7/27/2012 along Earl Avenue and Glenview Drive.

According to the PG&E's mark and locate employee, Mr. Jose Prieto, he had previously spoken with the excavator on-site to verify locations where the work was to be performed. Mr. Prieto stated that the excavator did not express any concerns regarding the timeliness or the accuracy of the markings. During a phone conversation with GSRB, Mr. Matt Shaw, owner of Shaw Pipeline, also indicated he had no issues with the accuracy or timeliness of PG&E's markings of its facilities damaged in this incident.

Preliminary Statement of Pertinent General Order, Public Utilities Code Requirements, and/or Federal Requirements:

Government Code 4216.4 (a) which states in part:

"When the excavation is within the approximate location of the subsurface installation, the excavator shall determine the exact location of the subsurface installations in conflict with the excavation by excavating with hand tools within the area of the approximate location of the subsurface installations as provided by the operators...before using any power-operated or power-driven excavating or boring equipment within the approximate location of the subsurface installation..."

Preliminary Conclusion:

This incident was caused by the failure of the excavator, Shaw Pipeline, to protect the subsurface installations by determining the exact location of the subsurface facilities using hand tools. GSRB did not find any evidence of violations of the Public Utilities Code or General Order 112-E by PG&E.

Recommendation:

GSRB recommends that the City of San Bruno, San Mateo District Attorney's Office, or the Attorney General's office consider enforcement action against Shaw Pipeline in accordance with the provisions of GC 4216.6.

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Britt K. Strottman
Attorney at Law
bstrottman@meyersnave.com

meyers | nave

September 4, 2013

Via E-mail and U.S. Mail

Mr. Fred Harris
Legal Division, Public Records Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

**Re: Public Records Act Request
Citations issued under Resolution ALJ-274**

Dear Mr. Harris:

Pursuant to the California Public Records Act, California Government Code sections 6250 *et seq.*, the City of San Bruno ("San Bruno") hereby requests copies of public records as identified below. For purposes of San Bruno's request, all italicized terms set forth below are defined in Exhibit A:

- Any *citations*¹ investigated or issued under *Resolution ALJ-274*² by the *Consumer Protection and Safety Division (CPSD)*³ against natural gas utilities from December 7, 2011 until the present.
- *Citations* CPSD Director Jack Hagan has issued against gas utilities since his tenure at the *Commission*.
- Proposed *citations* that have been submitted, but are outstanding for final approval, by CPSD Director Jack Hagan.

¹ San Bruno notes that pursuant to the decision in Resolution ALJ-274, the Commission must post ALJ-274 citations on its website on a quarterly basis and San Bruno has been unable to locate ALJ-274 citations on CPUC's website, please see finding #10 in http://docs.cpuc.ca.gov/WORD_PDF/AGENDA_RESOLUTION/154205.pdf

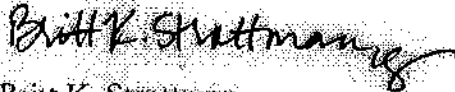
² Issued on December 7, 2011, resolution located at http://docs.cpuc.ca.gov/WORD_PDF/AGENDA_RESOLUTION/154205.pdf

³ Now named "Safety Enforcement Division"

Responsive records that are withheld from inspection should be specifically and separately identified in writing, and accompanied by the claimed justification for withholding as provided by California Government Code section 6255, stating the nature of the document withheld and the basis for such withholding. Should you contend that any portion of a particular document is exempt from disclosure, San Bruno requests, pursuant to Section 6253(a) of the California Government Code that the exempt portion be redacted and the remaining portions be produced. San Bruno reserves the right to object to any decision to withhold materials, or portions of documents. San Bruno requests copies of public records in electronic form where available, and in hard copy where copies in electronic form are not available.

In accordance with Section 6253(c) of the California Government Code, please respond to San Bruno's request within ten (10) days. Any questions regarding San Bruno's public records act request should be addressed to me. Thank you in advance for your prompt attention and timely cooperation with San Bruno's request.

Sincerely,



Britt K. Strottman
Special Counsel, City of San Bruno
Meyers Nave
(510) 808-2000
bstrottman@meyersnave.com

Enclosures: Exhibit A – Public Records Act Request Definitions and Instructions

- c: Connie Jackson, City Manager, San Bruno (via Email)
- Marc Zafferano, City Attorney, San Bruno (via Email)
- State Senator Jerry Hill (via Email)
- Paul Clanton, Executive Director, CPUC (via Email)
- Director Jack Hagan, CPUC (via Email)

EXHIBIT A

CITY OF SAN BRUNO PUBLIC RECORDS ACT REQUEST TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION

DEFINITIONS AND INSTRUCTIONS

- A. "Commission" means the California Public Utilities Commission.
- B. "CPSD" means both the Consumer Protection and Safety Division, and the recently renamed organization, Safety Enforcement Division.
- C. "Documents" means all notes, minutes of meetings, documents, summaries, e-mails, e-mail attachments, texts, calendar entries, memoranda, proposals, PowerPoint presentations, memoranda, other briefings, records of follow-up tasks, list of attendees, documentation of notes made on white boards or other records, whatever the format (oral, written, electronic, including twitter, facebook, instant messaging, etc.), whether in draft or final form.
- D. "Citation" means any written citation issued by CPSD to any gas corporation, stating the specific violation, the amount of the fine, and information about how to appeal the citation as outlined in Resolution ALJ-274:
http://docs.cpuc.ca.gov/WORD_PDF/AGENDA_RESOLUTION/154205.pdf
- E. "Resolution ALJ-274" means the Commission-issued Resolution dated December 7, 2011, located at:
http://docs.cpuc.ca.gov/WORD_PDF/AGENDA_RESOLUTION/154205.pdf

PUBLIC UTILITIES COMMISSION
LEGAL DIVISION505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298
ID #4-3031353

December 6, 2013

Britt K. Strotman
Special Counsel, City of San Bruno
Meyers Nave
555 - 12th Street, Suite 1500
Oakland, CA 94607
bstrotman@meyersnave.comVIA ELECTRONIC MAILRe: Public Records Act Request
CPUC Reference No.: PRA #933

Dear Ms. Strotman:

You ask the California Public Utilities Commission (Commission/CPUC) to provide you copy of the following:

- Any citations¹ or issued under Resolution ALJ 274 by the Consumer Protection and Safety Division (CPSD) against natural gas utilities from December 7, 2011 until present.
- Citations CPSD Director Jack Hagan has issued against gas utilities since his tenure at the Commission.
- Proposed citations that have been submitted, but are outstanding for final approval, by CPSD Director Jack Hagan.

Among other things, the City of San Bruno requests Commission records regarding the Resolution ALJ-274 Safety Citation Program.

I am sending you a list of, and links to, the Commission records responsive to this request.

RECORDS OF CITATIONS RELATED TO RESOLUTION ALJ-274These records are available on the Commission's internet site, under the tab for Transportation and Safety Enforcement, and the links for Pipeline Safety, Pipeline Safety Citations Issued, and CPUC Fines PG&E \$16 Million Through Citation Program Pipeline Safety
<http://www.cpuc.ca.gov/PUC/safety/Pipeline/>

Citation Information

<http://www.cpuc.ca.gov/PUC/safety/Pipeline/citations.htm>

Britt K. Shottman

December 6 2013

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Standard Operating Procedure

http://www.cpuc.ca.gov/PUC/safety/Pipeline/Standard_Operating_Procedure_for_Citations.htm

Citations Issued

<http://www.cpuc.ca.gov/PUC/safety/Pipeline/citations.htm>

Pipeline Safety Citations Issued

<http://www.cpuc.ca.gov/PUC/safety/Pipeline/citations.htm>

Standard Operating Procedure for Citations

http://www.cpuc.ca.gov/PUC/safety/Pipeline/Standard_Operating_Procedure_for_Citations.htm

Press Release Announcing Citation Program

http://docs.cpuc.ca.gov/published/News_release/154502.htm

Resolution ALJ-274

http://docs.cpuc.ca.gov/WORD_PDF/AGENDA_RESOLUTION/154205.pdf

Citations Issued

November 18, 2013: Citation to PG&E for \$50,000 for violations

<http://www.cpuc.ca.gov/NR/rdonlyres/0FB67E86-11CF-46A5-AC5C-1A0209099D42/0/SEDGasCitation12004PGE.pdf>

Enclosure 1

<http://www.cpuc.ca.gov/NR/rdonlyres/6E604A3D-66E6-4548-B8F9-56E8D4E9662C/0/Enclosure1SelfidentifiedLetterdated2242012.pdf>

Enclosure 2

<http://www.cpuc.ca.gov/NR/rdonlyres/76A65A5B-1165-4524-8800-105BC92463D6/0/Enclosure2SelfidentifiedLetterdated5112012.pdf>

Enclosure 3

<http://www.cpuc.ca.gov/NR/rdonlyres/79DE501B-1D8B-4179-B5FE-978E9AA9F1F0/0/Enclosure3SelfidentifiedLetterdated5182012.pdf>

Enclosure 4

<http://www.cpuc.ca.gov/NR/rdonlyres/8639423B-503E-4F41-A553-2629EA0FE8F7/0/Enclosure4Selfidentifiedletterdated7312012.pdf>

Enclosure 5

<http://www.cpuc.ca.gov/NR/rdonlyres/B005F4D5-A2D9-4E26-B673-3AD9ED4C1330/0/Enclosure5SelfidentifiedLetterdated362013.pdf>

November 5, 2013: \$8.1 Million. Citation issued to PG&E for Non-Standard Pipeline Testing

Citation

<http://www.cpuc.ca.gov/NR/rdonlyres/3BDE82E8-8484-48CE-8DEF-1FEAA8449C9E/0/Citation13003PGE.pdf>

Letter to PG&E

<http://www.cpuc.ca.gov/NR/rdonlyres/7ED0E0F1-1C4D-4DD8-8DDC-49A008270C04/0/Enclosure1LettertoPGE.pdf>

Press Release

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M081/K460/81460968.PDF>

October 25, 2013: Citation Issued to Southern California Gas Company for \$150,000 for missing a leak survey on a distribution line

<http://www.cpuc.ca.gov/NR/rdonlyres/984DE4B2-54B2-4D12-B04D-C462CD810E3B/0/SEDGasCitation13002SoCalGas.pdf>

Enclosure 1

<http://www.cpuc.ca.gov/NR/rdonlyres/63AB07F2-6F29-46F8-AE49-D9CD9435DEBC/0/Enclosure1SEDInvestigationReport13002.pdf>

Enclosure 2

<http://www.cpuc.ca.gov/NR/rdonlyres/F282DBA1-0C2D-4C6D-A905-6A7FB599E3F9/0/Enclosure2SCGI3002.pdf>

Enclosure 3

<http://www.cpuc.ca.gov/NR/rdonlyres/7C500207-D2DE-47C4-BA5F-76DFA1EAC3EC/0/Enclosure3SCGI3002.pdf>

November 4, 2013: Southern California Gas Company Appeal of Citation

<http://www.cpuc.ca.gov/NR/rdonlyres/85DFF589-F181-4540-A7AA-90310F0635AB/0/ALJ274Citation13002SoCalGasAppeal110413R13.pdf>

October 11, 2013: Citation Issued to PG&E for \$140,000 for General Order Violation

<http://www.cpuc.ca.gov/NR/rdonlyres/171076F0-89F2-436A-BEC2-318A95140DC9/0/SEDGasCitationforSI20121PGE.pdf>

CPUC Fines PG&E 16 Million Through Citation Program

On Jan. 27, 2012, the CPUC fined PG&E \$16.8 million for failure to conduct natural gas distribution pipeline leak surveys.

Read the Press Release

<http://www.cpuc.ca.gov/NR/rdonlyres/E22319E2-C4C1-4726-8F55-032E9ADE5FAF/0/Citation012712.pdf>

Britt K. Strotman

December 6 2013

Page 4

Citation

<http://www.cpuc.ca.gov/NR/rdonlyres/74380965-89C8-4445-94A9-D46EB0151687/0/CitationPGE012711.pdf>

Appeal of Citation

http://www.cpuc.ca.gov/NR/rdonlyres/2B02D51C-222E-4A25-BFC2-BDDB611A22F9/0/CitationNo201201001_AttachmentofNoticeofAppeal.pdf

CPUC's Denial of Appeal

http://docs.cpuc.ca.gov/PUBLISHED/COMMENT_RESOLUTION/161959.htm

More Documents on this Citation

http://www.cpuc.ca.gov/PUC/safety/Pipeline/120827_CPUCFinesPGE16MillionThroughCitationProgram.htm

Main Gas Pipeline Citations Page

<http://www.cpuc.ca.gov/PUC/safety/Pipeline/citations.htm>

CPUC Rulings

Regarding Prehearing Conference, Evidence, Schedule, and Issues, February 10, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/AEFEA4DE-BA61-4EE6-AA80-D164D06CD961/0/021012159453.pdf>

Attachment A – Citation

<http://www.cpuc.ca.gov/NR/rdonlyres/3FDF81F4-84D9-4215-BF55-9B041A27D14B/0/021012AttA159455.pdf>

Attachment B – Notice of Appeal

<http://www.cpuc.ca.gov/NR/rdonlyres/A7F7C2D2-7FD7-43C3-83FC-0F344536B0B2/0/021012AttB159456.pdf>

Regarding Exhibits 3, 4 and 5, February 24, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/31EEC597-B82D-4B21-86E4-2D70E26DF943/0/022412160287.pdf>

Certificate of Service

<http://www.cpuc.ca.gov/NR/rdonlyres/598EEE4D-3FBB-4C42-89B9-C3DA010ADD75/0/022412COS160289.pdf>

Opening and Reply Briefs

PG&E's Brief on Appeal of Citation No. ALJ-274, February 28, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/C532587E-9BF9-4CFF-9555-0113957D0828/0/01PGEBriefCitationAppealBriefPGEFINAL022812.pdf>

Attachment A – Message from Stavropoulos

<http://www.cpuc.ca.gov/NR/rdonlyres/52332714-7480-4FDB-874B-3A41F24E9EA6/0/02PGEBriefAttachmentAMessagefromStavropoulosCitiCPSPenaltyCitationCPSPD.pdf>

Attachment B – Citi CPSPD Penalty Citation

<http://www.cpuc.ca.gov/NR/rdonlyres/574B1EED-D3F8-4C48-AE08-D9B3494EC7F8/0/03PGEBriefAttachmentB013112CitiCPSPDPenaltyCitation.pdf>

Certificate of Service

<http://www.cpuc.ca.gov/NR/rdonlyres/427F4225-246D-40D7-BA13-97610A362F90/0/04PGEBriefCOSandSvcLstPGEFINAL022812.pdf>

CPSPD's Opening Brief, February 28, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/A0810200-7D72-4DBD-B51C-8FD6A1848CBF/0/CPUC01576190v1Citation No ALJ 274 Opening Brief of the CPSPD.PDF>

CPSPD's Reply Brief, March 9, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/6EF928D8-C26B-46B6-9CB5-8F1077A8B543/0/CPUC01576942v1Citation No ALJ274 201201001 Reply Brief of the CPSPD.PDF>

PG&E's Reply Brief, March 9, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/DDB13A2B-DD9C-435F-BD22-26681562EF4C/0/PGEReplyBriefonAppealofCNoALJ274201201001 CPUC.pdf>

Certificate of Service

<http://www.cpuc.ca.gov/NR/rdonlyres/46B62099-F383-434C-A167-AEDBBCC1345C/0/PGECertificateofServiceCALJ274201201001.pdf>

Exhibit 1 – Citation for Violations Issued Pursuant to Resolution ALJ-274 of General Order 58-A, 58-B and/or 112-E

<http://www.cpuc.ca.gov/NR/rdonlyres/0EFCF372-2B41-45B4-9D3B-85BF71A05D46/0/Exhibit1CitationPGE012711.pdf>

Exhibit 2 – Notice of Appeal

<http://www.cpuc.ca.gov/NR/rdonlyres/B45851AE-B87D-4980-98E9-B063138B4717/0/Exhibit2CitationNo201201001 AttachmentofNoticeofAppeal.pdf>

Exhibit 3 – PG&E 2011 Annual Report

<http://www.cpuc.ca.gov/NR/rdonlyres/718F323C-7F7F-410C-8107-2DA5333A3422/0/Exhibit32011AnnualReport.pdf>

Exhibit 4 – 2011 PG&E Joint Proxy Statement

<http://www.cpuc.ca.gov/NR/rdonlyres/41BAE5ED-914D-46B5-9F4D-538189E3CF68/0/Exhibit42011ProxyStatement.pdf>

Exhibit 5 – PG&E 10-Q, Filed November 3, 2011

<http://www.cpuc.ca.gov/NR/rdonlyres/A52C834D-BA08-49E3-B1D3-48F90ECD277C/0/Exhibit5PG&ECorporation10Q20111103.pdf>

Exhibit 6 – PG&E Documents Reporting the Violations, December 30, 2011

Cover Letter, December 30, 2011

<http://www.cpuc.ca.gov/NR/rdonlyres/217479DD-19BC-474F-916A-1E43CE15E3CA/0/Exh6PGE123011CoverLetter.pdf>

Citation Program Report

<http://www.cpuc.ca.gov/NR/rdonlyres/79429D38-4FC8-48C3-B287-895C322161C8/0/Exh6PGB123011AttachedReport.pdf>

Update Letter, December 30, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/1688A963-754F-4FC5-8945-3E611AB1D4FE/0/Exh6PGE123011Updateletter.pdf>

Affidavit of Thomas Guarino

<http://www.cpuc.ca.gov/NR/rdonlyres/38323933-4F0E-4C33-8107-074A939E5302/0/Exh6PGE123011UpdateAttachmentAffidavitofThomasGuarino.pdf>

Exhibit 7 – Leak Survey Plat Map Information

PG&E Self-Identification Follow-Up, January 6, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/E0280A9A-F9E6-4FFA-BA84-448ECAD28AEF/0/Exh7PGESelfIdentificationFollowup1612.pdf>

Diablo Missed Five Year Leak Survey Plat Map Information, provided to CPUC January 6, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/F0EE8B88-D26B-4FF1-8D75-0208D705C34E/0/Exh7DiabloMissed5yrLeakSurveyPlatMapInfoprovidedtoCPSDon1612.xls>

Judge's Resolution

Resolution, Filed March 19, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/E4A691AA-FA85-49DE-8CB5-A38541DD0754/0/031912FiledDraftResALJ277161959.pdf>

Appendix A

<http://www.cpuc.ca.gov/NR/rdonlyres/D421E6F4-4088-4E7C-81ED-A0B8B9C4F0BB/0/031912AppendixA161962.pdf>

Britt K. Strotman

December 6 2013

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Service List

<http://www.cpuc.ca.gov/NR/rdonlyres/5DB3557A-B480-4844-BE10-EF44BAEBC3E8/0/031912ServiceList161968.pdf>

Comments on Judge's Resolution

PG&E, April 9, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/6514456B-830E-435F-A082-50B7F14EE6AD/0/030912ALJ274201201001ServiceList.pdf>

Judge's Service List, April 9, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/6514456B-830E-435F-A082-50B7F14EE6AD/0/030912ALJ274201201001ServiceList.pdf>

Certificate of Service, April 9, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/03B1F656-8F83-4549-9819-A34503FF3193/0/COSCommentsOnDRResolutionFINAL040912DOC.pdf>

City and County of San Francisco, April 9, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/4EE5ADF9-8E63-4897-890A-1FC4F3902684/0/CCSFCOMMENTSONDRAFTRESOLUTIONALJ277.PDF>

CPSD Reply Comments PG&E, April 16, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/E3E3D8E5-6E5B-44CB-9FB6-60A7E7591751/0/PGERReplyCommentsonDR.pdf>

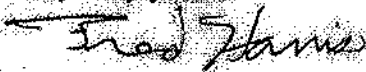
CPUC Resolution, Issued April 20, 2012

<http://www.cpuc.ca.gov/NR/rdonlyres/A509D738-48C7-4C4A-BB1E-3320169CB908/0/164605.pdf>

I will soon respond to the remainder of your records requests.

I hope this is helpful.

Very truly yours,



Fred Harris
Staff Counsel

January 10, 2014

Via E-mail and U.S. Mail

Mr. Fred Harris
Legal Division, Public Records Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Re: **Public Records Act Request**
Communications re: Citation # 13-005; operator ID # 15007;
date December 5, 2013

Dear Mr. Harris:

Pursuant to the California Public Records Act, California Government Code Section 6250 *et seq.* the City of San Bruno ("San Bruno") hereby requests copies of the public records identified below. For purposes of San Bruno's request, all italicized terms set forth below are defined in Exhibit A. Please note that in Exhibit A, the term "document" includes electronic data, text messages, voicemails, and other social media.

Communications Between Commission, CPUC Employees, and/or PG&E Employees Regarding Citation Number 13-005¹:

A. Documents.

All Documents relating to citation number 13-005 dated December 5, 2013:

- ☐ Any and all proposals, including, without limitation proposals related to the amount, scope, structure, recommendations, timeframe or disposition, including the addendum to the payment of citation number 13-005², of *citation number 13-005 dated December 5, 2013* whether made by *PG&E Employees, Commissioners, CPUC Employees*, or any combination thereof.

¹ See Exhibits B-E for reference

² See Exhibit E for reference

- ☐ Any proposals, requests or suggestions from *Commissioners, CPUC Employees, or PG&E Employees* relating to *citation number 13-005 dated December 5, 2013*.
 - ☐ Copies of all contracts, agreements or any amendments thereto relating to *citation number 13-005 dated December 5, 2013*.
 - ☐ Copies of all materials to be distributed publicly, including, without limitation, statements, press releases and flyers related to related *citation number 13-005 dated December 5, 2013*.
- B. Meetings between Commissioners, CPUC Employees and PG&E Employees.
Identify any individual or recurring meetings scheduled or held amongst *Commissioners (including staff members) and/or CPUC Employees and PG&E Employees*, or any combination thereof, concerning the Subject Matter of *citation number 13-005 dated December 5, 2013*. Please specify the invitees, attendees and location for each such meeting and the individual(s) that requested and/or organized the meeting.
- C. Documentation related to CPUC-PG&E Meetings.
- ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* used in preparation for, reflecting, summarizing or otherwise discussing *citation number 13-005 dated December 5, 2013*.
 - ☐ Follow Up. Any and all *Documents* used or generated in or as a result of the meetings or communications identified in *citation number 13-005 dated December 5, 2013*.

Internal Commission Discussions Regarding Citation Number 13-005 Dated December 5, 2013

A. Documents.

All versions of *Documents* relating to *citation number 13-005 dated December 5, 2013*, along with disclosure of whether such *Documents* were drafted by *Commissioners* and/or *CPUC Employees*:

- ☐ Any and all proposals, including, without limitation proposals related to the amount, scope, structure, recommendations, timeframe or disposition of *citation number 13-005 dated December 5, 2013* whether made by *Commissioners* and/or *CPUC Employees*, or any combination thereof.

- ☐ Any proposals, requests or suggestions from *Commissioners* and/or *CPUC Employee* relating to *citation number 13-005 dated December 5, 2013*.
 - ☐ Copies of all contracts, agreements or any amendments thereto relating to *citation number 13-005 dated December 5, 2013*.
 - ☐ Copies of all materials to be distributed publicly, including, without limitation, statements, press releases and flyers related to related *citation number 13-005 dated December 5, 2013*.
- B. Internal Commission Discussions Re: Citation number 13-005 Dated December 5, 2013.
- ☐ Meetings. Identify any individual or recurring meetings scheduled or held amongst the *Commissioners themselves, CPUC Employees themselves, or amongst the Commission and CPUC Employees*, concerning *citation number 13-005 dated December 5, 2013*.
 - ☐ Preparation, Handouts, Documentation, Summaries. Any and all *Documents* reflecting, summarizing or discussing communication by or amongst the *Commission (including Commission General Counsel Frank Lindh, Executive Director Paul Clanon, Elizaveta Malashenko, Kenneth Bruno, and SED Director Jack Hagan), Commissioners, Commissioner's staff, and CPUC Employees*, or any combination of such parties, in relation to the meetings or communications regarding *citation number 13-005 dated December 5, 2013*.
 - ☐ Follow Up. Any and all *Documents* used or generated in or as a result of any meetings or communications regarding *citation number 13-005 dated December 5, 2013*.

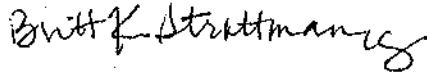
Any responsive records that are withheld from inspection should be specifically and separately identified in writing, and accompanied by the claimed justification for withholding as provided by California Government Code section 6255, stating the nature of the document withheld and the basis for such withholding. Should you contend that any portion of a particular document is exempt from disclosure, San Bruno requests, pursuant to Section 6253(a) of the California Government Code that the exempt portion be redacted and the remaining portions be produced. San Bruno reserves the right to object to any decision to withhold materials, or portions of documents. San Bruno requests copies of public records in electronic form where available, and in hard copy where copies in electronic form are not available.

In accordance with Section 6253(c) of the California Government Code, please respond to San Bruno's request within ten (10) days. Any questions regarding San Bruno's public

Mr. Fred Harris
January 10, 2014
Page 4

records act request should be addressed to me. Thank you in advance for your prompt attention and timely cooperation with San Bruno's request.

Sincerely,



Britt K. Strottman
Special Counsel, City of San Bruno
Meyers Nave
(510) 808-2000
bstrottman@meyersnave.com

Enclosures: Exhibit A – Public Records Act Request Definitions and Instructions
Exhibit B – Citation 13-005
Exhibit C – SED investigation report re: Citation number 13-005
Exhibit D – Withdrawal notice re: Citation number 13-005
Exhibit E – Addendum to Citation Payment Form re: Citation number 13-005

cc: Connie Jackson, City Manager, San Bruno (via Email)
Marc Zafferano, City Attorney, San Bruno (via Email)
State Senator Jerry Hill (via Email)
Frank Lindh, General Counsel, CPUC (via Email)
Paul Clanon, Executive Director, CPUC (via Email)
Jack Hagan, Director, SED (formerly CPSD) (via Email)
Steven Meyers, Special Counsel (via Email)

EXHIBIT A
CITY OF SAN BRUNO
PUBLIC RECORDS ACT REQUEST
TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION
DEFINITIONS AND INSTRUCTIONS

- A. "Commission" means the California Public Utilities Commission.
- B. "Commissioners" means the specific CPUC Commissioners assigned to I.12-01-007, I.11-02-016, I.11-11-009, Commissioner Peevey and Commissioner Florio and all staff members for each Commissioner from the time the three investigations were opened to the present. Commission shall also include Commissioners Sandoval, Ferron and Peterman and their staff.
- C. "SEC" means the recently renamed organization, Safety Enforcement Division (formerly the Consumer Protection and Safety Division).
- D. "CPUC Employee" or "CPUC Employee(s)" includes, without limitation all employees, management, appointees and executives at the CPUC, the Executive Director, consultants to CPUC, the Safety and Enforcement Division, any in-house attorneys and any outside counsel to the CPUC. "CPUC Employee(s)" specifically includes, without limitation, President Michael Peevey and any of his staff members, Mr. Frank Lindh, Director Jack Hagan, Mr. Paul Clanon, Elizaveta Malashenko, Kenneth Bruno, and Michelle Cooke.
- E. "PG&E Employee" or "PG&E Employee(s)" includes, without limitation, all employees, management and executives at Pacific Gas and Electric Company and PG&E Corporation, the Board of Directors to Pacific Gas and Electric Company, the Board of Directors to PG&E Corporation, consultants to Pacific Gas and Electric Company, consultants to PG&E Corporation and any in-house attorneys and any outside counsel to Pacific Gas and Electric Company and PG&E Corporation.
- F. "Documents" means all notes, minutes of meetings, documents, summaries, e-mails, e-mail attachments, texts, calendar entries, memoranda, proposals, PowerPoint presentations, memoranda, other briefings, voicemails, records of follow-up tasks, list of attendees, documentation of notes made on white boards or other records, whatever the format (oral, written, electronic, including twitter, facebook, instant messaging, etc.) retained in the normal course of business or retained electronically.
- G. "Citation number 13-005 dated December 5, 2013" means the fines, penalties and/or equitable remedies considered, imposed, and/or recommended for the violations identified in citation number 13-005 dated December 5, 2013, see Exhibit B.

2222775.1



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: December 5, 2013

Citation #: 13 - 005

Operator ID#: 15007

CITATION FOR VIOLATION(S)
ISSUED PURSUANT TO RESOLUTION ALJ-274
OF GENERAL ORDER 112-E

Gas Corporation (Operator): Pacific Gas & Electric Company
To Which Citation Is Issued

RESPONDENT:

Ms. Jane Yura for Pacific Gas and Electric Company
Vice President Gas Operations Standards & Policies
6121 Bollinger Canyon Road
4th Floor, Room 4460A
San Ramon, CA 94583

CITATION:

Operator is hereby cited at a Risk Level 3 (moderate risk) and Citation Level 2, resulting in a financial penalty of \$ 375,000.

VIOLATIONS:

Operator is cited with having violated General Order 112-E, as described below. This violation occurred during the period 1971 through 2012.

1. 49 CFR §192.605(e) and §192.613 Continuing Surveillance

"(a) Each operator shall have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions."

PG&E did not have a specific written procedure addressing Continuing Surveillance at the time of the 2012 OM&E Audit.¹ PG&E had certain standards and work procedures such as patrolling, class location

¹ PG&E now has a Continuing Surveillance procedure TD-4800S effective June 12, 2013 (Enclosure 4). SED will provide specific feedback to PG&E on the corrective action and will seek a formal response by PG&E to any SED recommendations.

EXHIBIT B



Public Utilities Commission

STATE OF CALIFORNIA

Citation Date: December 5, 2013

Citation #: 13 - 005

Operator ID#: 15007

study, leak survey, cathodic protection, etc. that describe PG&E's performance of the various operations and maintenance tasks, but absent a unifying Continuing Surveillance procedure, the practices were disconnected and did not result in effective continuing surveillance.

PG&E must clearly describe how it uses and coordinates the various operations and maintenance tasks in its continuing surveillance. PG&E's written procedure should describe how findings from failure investigations, leak surveys, cathodic protection monitoring, and other operating and maintenance tasks are gathered and analyzed as a part of its continuing surveillance. The written procedure must also describe the actions to take if changes are found as a result of its data gathering and analysis.



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: December 5, 2013

Citation #: 13 - 005

Operator ID#: 15007

ENCLOSURES:

The following enclosures were used to establish the findings of fact:

1. *Enclosure 1 - SED Investigation Report*
2. *Enclosure 2 - SED 2012 PG&E OM&E Audit Findings dated 8/29/2012*
3. *Enclosure 3 - PG&E Response to OM&E Audit Finding #4, dated 10/12/2012*
4. *Enclosure 4 - PG&E Continuing Surveillance Procedure, TD-4800S, dated 6/12/2013*

STATEMENT OF FACTS:

The above violation is documented in the attached *Enclosure 1 - SED Investigation Report* which is based on one or more of the following: SED's review of the 2012 PG&E OM&E Audit, PG&E's response to the audit findings, Operator's records and/or substantiating documents obtained from other sources, SED's field findings related to the Operator's facilities or operations, or other reasons as stated in the attached report.



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: December 5, 2013

Citation #: 13 - 005

Operator ID#: 15007

SED CITATION ANALYSIS

Element of Sentencing Schedule	Staff Finding
Number of violation (s) and duration of violation (s) since inception	<i>1 Violation of Title 49 CFR §192.605(e) and §192.613 from 1971 to 2012</i>
Maximum Fine per P.U. Code § 2107 and P.U. Code § 2108	<i>\$1,000,000 as prescribed in SED Standard Operating Procedure (SOP) for a Risk Level 3, Citation Level 2.</i>
Severity of the offense: overall level of risk of violation(s)	<i>Risk Level # 3 – Moderate Risk – Citation Level #2 - \$ 375,000 See SOP</i>
The conduct of the utility before, during, and after the offense	<i>The utility is being cooperative and has undertaken corrective actions</i>
Previous occurrence of similar violations by the utility	<i>N/A</i>
Self-reporting of the violation	<i>Not self-reported. Violation found as a result of GSRB 2012 PG&E OM&E Audit</i>
Indication of the violation (s) being willful	<i>No</i>
Actions taken by the utility to address the violation	<i>Refer to Enclosures 1 thru 4</i>
Associated safety related condition	<i>N/A</i>
Financial resources of the utility	<i>4.3 Million customers, \$715 Million Revenue requirement</i>
The totality of the circumstances	<i>Missing procedure for Continuing Surveillance required by 49CFR192.613 affects PG&E's entire gas system</i>
The amount of the fine in the context of other SED citations or Commission decisions	<i>4 citations since SOP released on September 20, 2013. The first citation resulted in a \$140,000 fine, the second and third each resulted in a \$50,000 fine,</i>



Public Utilities Commission
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Citation Date: December 5, 2013

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	<i>and the fourth in a \$8,100,000 fine</i>
Other factors deemed relevant by SED	<i>Utility Cooperative with staff, lowered citation 25% from SOP minimum recommended level</i>
Resultant Citation Taking All Of These Factors Into Account	\$375,000.00



Public Utilities Commission STATE OF CALIFORNIA

Citation Date: December 5, 2013

Citation #: 13 - 005

Operator ID#: 15007

RESPONSE:

Respondent is hereby called upon to provide a response to this Citation by: **5:00 PM (PST) on December 15, 2013.**

By way of such response Respondent, **within 10 calendar days**, may either:

- (1) Correct the violations as soon as feasible, with any immediate safety hazard requiring immediate correction, and/or submit a Compliance Plan to the Director of SED for correcting those violations requiring more than 10 days to correct, **and** pay a fine pursuant to Pub. Util. Code § 2107. (Submit a check payable to California Public Utilities Commission using the attached *Citation Payment Form*. Upon payment, the fine will be deposited in the State Treasury to the credit of the General Fund and this citation will become final); **or**
- (2) Confirm that the violation(s) noted in this Citation have been corrected and/or otherwise do not present an on-going safety hazard to the Operator's employees and the general public, and /or submit a Compliance Plan to the Director of SED for correcting those violations requiring more than 10 days to correct, **and** contest this citation by completing and submitting a *Notice of Appeal Form*. Please see the attached document, "Directions For Submitting An Appeal To A Citation Issued Pursuant To Resolution ALJ-274" for information on the appeals process and the attached "Notice of Appeal Of Citation Form."

Respondent's failure to provide a response, as noted above, within 10 calendar days from the date the citation is served, will place Respondent in default of the citation and will result in forfeiture of Respondent's rights to appeal the citation. A late payment will be subject to a penalty of 10% per year, compounded daily and to be assessed beginning the calendar day following the payment-due date. The Commission may take additional action to recover any unpaid fine and ensure compliance with applicable statutes and Commission orders.

NOTIFICATION TO PUBLIC AGENCIES:

As soon as is reasonable and necessary, and no later than 10 calendar days after service of the citation is effected, Respondent must provide a notification to the City Manager or similar local agency authority in the city and county where a citation is issued. Within 10 days of providing such notification, Respondent must serve an affidavit to the Director of SED, at the mail or e-mail address noted below, attesting that the local authorities have been notified; the date(s) for when notification was provided; and the name(s) and contact information for each local authority so notified.



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: December 5, 2013

Citation #: 13 - 005

Operator ID#: 15007

The CPUC expects Operators to take actions, as soon as feasible, to correct, mitigate, or otherwise make safe all violations noted on the Citation regardless of the Operator's intentions to accept or appeal the violation(s) noted in the Citation.

Elizaveta Malashenko

Deputy Director

Office of Utility Safety and Reliability

Safety and Enforcement Division

California Public Utilities Commission

505 Van Ness Avenue

San Francisco, CA 94102

elizaveta.malashenko@cpuc.ca.gov



Public Utilities Commission
STATE OF CALIFORNIA

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Operator ID#: 15007

CITATION PAYMENT FORM

I (we) _____ hereby agree to comply with this citation dated _____, and have corrected/mitigated the violation(s) noted in the citation on _____ and no later than _____. all work to make permanent corrections to any mitigated, or otherwise remaining concerns related to the violation(s) will be completed as noted in the Compliance Plan we have submitted to the Director of SED and, herewith, pay a fine in the amount of \$ _____ as included in the citation.

Signature of Gas Corporation's Treasurer,
Chief Financial Officer, or President/CEO, or
delegated Officer thereof

(Signature)

(Date)

(Printed Name and Title)

Payment with a check must be made payable to the **California Public Utilities Commission** and sent to the below address. Please include the citation number on the memorandum line of the check to ensure your payment is properly applied.

California Public Utilities Commission
Attn: Fiscal Office
505 Van Ness Avenue
San Francisco, CA 94102-3298

NOTE: A copy of the completed Citation Payment Form must be sent to the Director of the Safety and Enforcement Division, via email or regular mail, to the addresses provided on the Citation.



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: December 5, 2013

Citation #: 13 - 005

Operator ID#: 15007

**DIRECTIONS FOR SUBMITTING AN APPEAL TO A CITATION
ISSUED PURSUANT TO RESOLUTION ALJ-274**

Within 10 calendar days of the Respondent being served with a **CITATION FOR VIOLATION(S) ISSUED PURSUANT TO RESOLUTION ALJ-274**, Respondent may appeal the citation. Beyond 10 calendar days of being served with the citation, Respondent is in default and, as a result, is considered as having forfeited rights to appeal the citation. The Respondent must still correct the violation(s) as feasible unless, within 10 calendar days from the date of service of the citation, the Respondent submits to the Director of SED, a Compliance Plan that provides a detailed description of when the violation(s) will be corrected, the methodology to be utilized, and a statement, supported by an affidavit from the Gas Corporation's Chief Executive Officer, that in the Respondent's best judgment, the time necessary to correct the violation(s) will not affect the integrity of the operating system or unduly endanger the public.

To appeal the citation, Respondent must complete and submit the below *Notice of Appeal Form* within 10 calendar days of the date on which the Respondent is served the Citation. The Respondent's appeal must explain with specificity all grounds for the appeal of the citation. The completed *Notice of Appeal Form*, along with copies of any materials the Respondent wants to provide in support of its appeal, must be sent to:

California Public Utilities Commission
505 Van Ness Ave, Room 2205
San Francisco, CA 94102
Attn: Director, Safety and Enforcement Division

Respondent must also serve a copy of the *Notice of Appeal Form*, along with copies of any supporting materials, at the address noted above, on the Commission's Executive Director, Chief Administrative Law Judge, General Counsel, and Director of the Division of Ratepayer Advocates.

NOTE: Submission of a *Notice of Appeal Form* in no way diminishes Respondent's responsibility for correcting the violation described in the citation, or otherwise ensuring the safety of facilities or conditions that underlie the violations noted in the Citation.

After SED receives the Respondent's *Notice of Appeal Form*, a hearing will be convened before an Administrative Law Judge. At least ten business days before the date of the hearing, the Respondent will be notified and provided with the location, date, and time for the hearing. At the hearing,

- (a) Respondent may be represented by an attorney or other representative, but any such representation shall be at the sole expense of the Respondent;



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: December 5, 2013

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Operator ID#: 15007

- (b) Respondent may request a transcript of the hearing, but must pay for the cost of the transcript in accordance with the Commission's usual procedures;
- (c) Respondent is entitled to the services of an interpreter at the Commission's expense upon written request to the Chief Administrative Law Judge not less than three business days prior to the date of the hearing; and
- (d) Respondent may bring documents to offer in evidence and/or call witnesses to testify on Respondent's behalf.

At the Commission's discretion, the hearing in regard to the Respondent's appeal can be held in a hearing room at either of the Offices of the CPUC at the following locations:

San Francisco:

505 Van Ness Avenue
San Francisco, CA 94102

Los Angeles:

320 West 4th Street, Suite 500
Los Angeles, CA 90013

The hearing(s) held in regard to the Respondent's appeal will be adjudicated in conformance with all applicable Public Utilities Code requirements.



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: December 5, 2013

Citation #: 13 - 005

Operator ID#: 15007

Notice of Appeal Form
(For A Citation Issued Pursuant to Resolution ALJ-274)

Respondent:

Name
Vice President, Gas Operations
Gas Utility Name
Mailing Address
City, CA Zip

Citation Date:

Citation #: ____ - ____ - ____

Operator ID#:

Appeal Date: _____

Statements supporting Respondent's Appeal of Citation (You may use additional pages if needed and/or attach copies of supporting materials along with this form).



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: December 5, 2013

Citation #: 13 - 005

Operator ID#: 15007

Enclosures to Accompany Utility Appeal

Utility to add Enclosures as appropriate

Enclosure 1



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: December 5, 2013

Citation #: 13 - 005

Operator ID#: 15007

SED Investigation Report

August 29, 2012 PG&E OM&E Audit Finding - Notice of Violation
The Utility has No Specific Written Procedure Addressing Continuing Surveillance as
Required by 49 CFR 192.605(e) and 192.613

Utility: Pacific Gas & Electric Company (PG&E)

Utility Operating Unit: Pacific Gas and Electric Company's (PG&E) Gas Business Unit

Subject of Report: Audit Finding - Utility has no Continuing Surveillance Procedure as required by law.

Audit Title: General Order 112-E Audit of PG&E's Operations, Maintenance and Emergency (OM&E) Plans

Date of Audit: February 14-17, 2012

SED Investigator: Charles Magee

Summary:

49 CFR §192.605(e) and §192.613 Continuing Surveillance

"(a) Each operator shall have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions."

The GSRB audit finding stated, "PG&E currently does not have a specific written procedure addressing Continuing Surveillance. PG&E has certain standards and work procedures such as patrolling, class location study, leak survey, cathodic protection monitoring, and cathodic protection area resurvey. These specific procedures describe PG&E's performance of the various operations and maintenance tasks, but it remains unclear how or whether the various tasks relate to PG&E's continuing surveillance efforts."

"PG&E must clearly describe how it uses and coordinates the various operations and maintenance tasks in its continuing surveillance. PG&E's written procedure should describe how findings from failure investigations, leak surveys, cathodic protection monitoring, and

EXHIBIT C

Enclosure 1



Public Utilities Commission **STATE OF CALIFORNIA**

Citation Date: December 5, 2013

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Operator ID#: 15007

other operating and maintenance tasks are gathered and analyzed as a part of its continuing surveillance. The written procedure must also describe the actions to take if changes are found as a result of its data gathering and analysis."

Findings:

The staff of the Safety and Enforcement Division (SED), Gas Safety and Reliability Branch (GSRB) conducted a General Order 112-E audit of Pacific Gas and Electric Company's (PG&E) Operations, Maintenance, and Emergency Plans (OM&E) from February 14-17, 2012. Also in attendance were a representative from the Pipeline and Hazardous Materials Safety Administration (PHMSA) and staff from SED's Risk Assessment Unit. The audit consisted of a review of PG&E's gas distribution and transmission standards, work procedures, bulletins, job aids, etc. which constitutes PG&E's OM&E Plan. No field inspection was performed as a part of this audit.

On August 29th, 2012, SED staff notified PG&E of its audit findings, consisting of 4 Violations of the Code of Federal Regulations and 7 Areas of Concern (Enclosure 2). Of the 4 violations, the first 3 are considered administrative in nature. A Warning Letter will be sent to PG&E to correct those violations. Violation #4 however, the lack of a procedure for continuing surveillance, in violation of 49 CFR §192.605(e) and §192.613, is considered a serious violation having public safety implications. A Continuing Surveillance Procedure has been a requirement of these sections of the CFR since 1971.

On October 10th, 2012 PG&E responded to the SED audit report, agreeing with the finding of Violation #4. PG&E stated "PG&E agrees with this finding and will publish a specific work procedure to address the Company's continuing surveillance of its gas facilities as required by §192.613." (Enclosure 3)

On June 12, 2013, PG&E issued procedure TD-4800S, titled, "Continuing Surveillance" (Enclosure 4).

Recommendations:

It is imperative that PG&E operate its gas systems in compliance with GO 112-E and in a manner that promotes and safeguards the health and safety of the public. Safety-Related work must be tightly controlled by procedures. Changes in class location and indications of failures, leakage, corrosion, substantial changes in cathodic protection requirements and other unusual operating and maintenance conditions are serious threats to the integrity of the piping system and therefore serious threats to the safety of the public. From the time a potential problem is identified there must be an

Enclosure 1



Public Utilities Commission **STATE OF CALIFORNIA**

Citation Date: December 5, 2013

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unbroken chain of custody from identification through problem assessment and resolution to completion of corrective action, if corrective action is required. The utility worker's determination of the next step to take after he/she has identified a potential problem must not be dependent on their level of experience, memory, co-worker's knowledge (a.k.a. tribal knowledge), etc. It must be clearly determined by procedure so that problems are identified and corrected thoroughly and in a timely manner. In addition, workers must receive training to make them aware of the existence of the Continuing Surveillance Procedure and how to use it.

The NTSB report on the San Bruno explosion and the SED Class Location OII contain numerous examples of weld cracks, problems and surveillance deficiencies which were not correctly identified, assessed and corrected, possibly due to the lack of a Continuing Surveillance Procedure and adequate employee training. In addition, this violation has the potential to affect infrastructure anywhere in the gas system so the probability of a negative consequence is greatly increased.¹

Furthermore, this violation is an indication that, two years after the San Bruno explosion, PG&E still did not have an internal auditing process to determine if gas system procedures and instructions are in compliance with the Code of Federal Regulations. Instead, this violation was found by CPUC auditors.

Based on its investigation SED has determined this violation as a Risk Level 3 (moderate risk) resulting in a financial penalty of \$ 375,000.

¹ See L11-11-009.

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3296



December 20, 2013

Ms. Jane Yura for Pacific Gas and Electric Company
Vice President Gas Operations Standards & Policies
6121 Bollinger Canyon Road
4th Floor, Room 4460A
San Ramon, CA 94583

Re: 2012 Operations, Maintenance, and Emergency Plan Audit

Dear Ms. Yura:

The Safety and Enforcement Division (SED) of the Commission is withdrawing Citation 13-005, previously issued to Pacific Gas & Electric Company (PG&E). PG&E's Citation Payment of \$375,000 is being returned to PG&E. SED apologizes for any inconvenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elizaveta Malashenko', written over a horizontal line.

Elizaveta Malashenko

cc: Emory J. Hagan III, Director, Safety and Enforcement Division, CPUC

EXHIBIT D

Citation Date: December 5, 2013

Citation #: 13-005

Operator ID#: 15007

ADDENDUM TO CITATION PAYMENT FORM

In connection with the above-referenced citation ("Citation") and payment of the associated fine, respondent Pacific Gas & Electric Company ("PG&E") notes that the violation identified in the Citation substantially overlaps with the subject matter of Commission Order Instituting Investigation 1.11-11-009 ("Class Location Oil"). For example:

- The Class Location Oil specifically identified issues relating to PG&E's continuing surveillance program pursuant to 49 CFR §192.613 as falling within the scope of that proceeding: "Federal regulations require a natural gas transmission pipeline operator to have a procedure for continuing surveillance of its facilities to determine and take appropriate action related to changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions. (See 49 C.F.R. §192.613.)"
- The OM&E Audit in which SED identified the Citation was conducted from February 14-17, 2012, during the pendency of the Class Location Oil.
- SED's (then CPD) May 2012 Investigative Report in the Class Location Oil – issued after the OM&E Audit – included violations of §192.613 for failing to maintain a continuing surveillance procedure.
- SED's opening brief in the Class Location Oil, filed in November 2012, alleged that PG&E did not maintain a formal continuing surveillance procedure.

Given the substantial overlap between the subject matter of the Citation and the subject matter of the Class Location Oil, PG&E respectfully urges the Commission to take into account PG&E's \$375,000 payment submitted today in connection with assessment of any subsequent penalty in the Class Location Oil.

EXHIBIT E

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



January 22, 2014

VIA ELECTRONIC MAIL

Britt K. Strottman
Meyers Nave
555 - 12th Street, Suite 1500
Oakland, CA 94607
bstrottman@meyersnave.com

**Re: Public Records Act Request
CPUC Reference No.: PRA #1065**

Dear Ms. Strottman:

We have received your request for the following documents:

1. Communications between Commission, CPUC Employees, and/ or PG&E Employees Regarding Citation Number 13-005:

A. Documents.

All Documents relating to citation number 13-005 dated December 5, 2013:

1. Any and all proposals, including, without limitation proposals related to the amount, scope, structure, recommendations, timeframe or disposition, including the addendum to the payment of citation number 13-005, of citation number 13-005 dated December 5, 2013 whether made by PG&E Employees, Commissioners, CPUC Employees, or any combination thereof.
2. Any proposals, requests or suggestions from Commissioners, CPUC Employees, or PG&E Employees relating to citation number 13-005 dated December 5, 2013.
3. Copies of all contracts, agreements or any amendments thereto relating to citation number 13-005 dated December 5, 2013.
4. Copies of all materials to be distributed publicly, including, without limitation, statements, press releases and flyers related to related citation number 13-005 dated December 5, 2013.

B. Meetings between Commissioners, CPUC Employees and PG&E Employees.

Identify any individual or recurring meetings scheduled or held amongst Commissioners (including staff members and/ or CPUC Employees and PG&E Employees, or any combination thereof, concerning the Subject Matter of citation number 13-005 dated December 5, 2013. Please specify the invitees, attendees and location for each such meeting and the individual(s) that requested and/ or organized the meeting.

C. Documentation related to CPUC-PG&E Meetings.

1. Preparation, Handouts, Documentation, Summaries. Any and all documents used in preparation for, reflecting, summarizing or otherwise discussing citation number 13-005 dated December 5, 2013.
2. Follow Up. Any and all Documents used or generated in or as a result of the meetings or communications identified in citation number 13-005 dated December 5, 2013.

II. Internal Commission Discussions Regarding Citation Number 13-005 Dated December 5, 2013

A. Documents.

All versions of Documents relating to citation number 13-005 dated December 5, 2013, along with disclosure of whether such Documents were drafted by Commissioners and/or CPUC Employees.

1. Any and all proposals, including, without limitation proposals related to the amount, scope, structure, recommendations, timeframe or disposition of citation number 13-005 dated December 5, 2013 whether made by Commissioners and/ or CPUC Employees or any combination thereof.
2. Any proposals, requests or suggestions from Commissioners and/ or CPUC Employees relating to citation number 13-005 dated December 5, 2013.
3. Copies of all contracts, agreements or any amendments thereto relating to citation number 13-005 dated December 5, 2013.
4. Copies of all materials to be distributed publicly, including, without limitation, statements, press releases and flyers related to related citation number 13-005 dated December 5, 2013.

B. Internal Commission Discussions Re: Citation number 13-005 Dated December 5, 2013.

1. Meetings. Identify any individual or recurring meetings scheduled or held amongst the Commissions themselves, CPUC Employees, or amongst the Commission and CPUC Employees, concerning citation number 13-005 dated December 5, 2013.
2. Preparation, Handouts, Documentation, Summaries. Any and all Documents reflecting, summarizing or discussing communication by or amongst the Commission (including General Counsel Frank Lindh, Executive Director Paul Clanon, Elizaveta Malashenko, Kenneth Bruno, and SED Director Jack Hagan), Commissioners, commissioner's staff and CPUC Employees, or any combination of such parties, in relation to the meetings or communications regarding citation number 13-005 dated December 5, 2013
3. Follow Up. Any and all Documents used or generated in or as a result of any meetings or communications regarding citation number 13-005 dated December 5, 2013.

We have consulted with Commission Safety and Enforcement Division and other relevant staff to develop the following response to your records request.

We understand from looking at your request that you have reviewed the responsive records that are available on the Commission's internet site.

In response to Item I-A:

Below is the link to the location on our website wherein you will find the posted the Commission records regarding Citation #13-005
<http://www.cpuc.ca.gov/PUC/safety/Pipeline/citations.htm>.

We have attached to this letter the following additional responsive documents.

1. Email from Kenneth Bruno to Jane Yura dated December 5, 2013
2. Email from Kenneth Bruno to Paul Clanon, Terri Prosper and to Brian Turner dated December 5, 2013
3. Email from Frances Yee to Elizaveta Maleshenko dated December 16, 2013
4. Letter dated December 16, 2013 re Citation #13-005 Payment
5. Citation 13-005 Check Citation Payment Form Addendum

Britt K. Strottman
January 22, 2014
Page 4

In response to Item I-B:

The Commission staff did not have any pre-citation meetings with PG&E or any Commissioner.

In response to Item I-C:

Since the Commission staff did not hold any pre-citation meetings with PG&E or any Commissioner, there are no documents associated with such meetings.

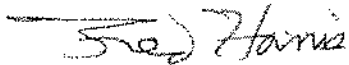
In response to Item II-A and Item II-B:

Many of the items responsive to Part I of your request are also responsive to Part II.

I will not be providing you with records, or portions of records, that include information subject to the attorney client privilege, attorney work product doctrine, deliberative process privilege, or official information privilege. Such records are exempt from disclosure in response to your request, pursuant to Government Code § 6254(k).

I hope this is helpful.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Fred Harris".

Fred Harris
Staff Counsel

Malashenko, Elizaveta I.

From: Bruno, Kenneth
Sent: Thursday, December 05, 2013 3:22 PM
To: Yura, Jane
Cc: Hagan, Jack (Brigadier General – CA); Doll, Laura (LRDD@pge.com); Malashenko, Elizaveta I.; Robertson, Michael; Magee, Charles H.
Subject: Citation 13-005 PG&E - 2012 OM&E Audit
Attachments: Stubbed Attachments.htm

This message's contents have been archived by the Barracuda Message Archiver.

Attachment: Stubbed Attachments.htm (156.5K)

Attachment: 2012 OM&E Audit Citations and Appeal Form (2.2M)

Attachment: 2012 OM&E Response to Audit Findings (534.7K)

Attachment: 2012 OM&E Audit Findings and Recommendations (1.5M)

Attachment: 2012 OM&E Audit Findings and Recommendations (2.5M)

Dear Ms. Yura:

SED has issued a Citation in accordance with ALJ-274 for the 2012 OM&E Audit conducted by SED. Attached to this email Service is Citation 13-005 with Appeal form and Enclosures 1 – 4. A hard copy will also be mailed today. Please feel free to contact me with any questions. Thank you,

Kenneth Bruno
Supervisor – Risk Assessment & Enforcement
Safety and Enforcement Division
California Public Utilities Commission
Office: (415) 703-5265
Cell: (415) 852-2936

Malashenko, Elizaveta I.

From: Bruno, Kenneth
Sent: Thursday, December 05, 2013 5:18 PM
To: Clanon, Paul; Prosper, Terrie D.; Turner, Brian
Cc: Malashenko, Elizaveta I.
Subject: FW: Citation 13-005 PG&E - 2012 OM&E Audit
Attachments: Stubbed Attachments.htm

This message's contents have been archived by the Barracuda Message Archiver.
SED-Citation13-005-PG&E.pdf (2.5M)

FYI – SED issued a citation to PG&E for \$375,000 today for violations of GO 112-E stemming from their 2012 OM&E audit.

From: Bruno, Kenneth
Sent: Thursday, December 05, 2013 3:22 PM
To: 'Yura, Jane'
Cc: Hagan, Jack (Brigadier General – CA); Doll, Laura (LRDD@pge.com); Malashenko, Elizaveta I.; Robertson, Michael; Magee, Charles H. (charles.magee@cpuc.ca.gov)
Subject: Citation 13-005 PG&E - 2012 OM&E Audit

Dear Ms. Yura:

SED has issued a Citation in accordance with ALJ-274 for the 2012 OM&E Audit conducted by SED. Attached to this email Service is Citation 13-005 with Appeal form and Enclosures 1 – 4. A hard copy will also be mailed today. Please feel free to contact me with any questions. Thank you,

Kenneth Bruno
Supervisor – Risk Assessment & Enforcement
Safety and Enforcement Division
California Public Utilities Commission
Office: (415) 703-5265
Cell: (415) 852-2936



Pacific Gas and Electric Company
77 Beale Street,
San Francisco, CA

BNY Mellon WCS
Everett, MA 02149

59-292
113

Date: 12/16/2013

Check No. 3575926

Pay \$*****375,000.00*

*THREE HUNDRED SEVENTY-FIVE THOUSAND***** AND 00/100 DOLLARS

To The Order Of

ACCOUNTS PAYABLE

CALIFORNIA PUBLIC UTILITIES COMMISS
ATTN: FISCAL OFFICE ROOM 3000
505 VAN NESS AVE
SAN FRANCISCO CA 94102-3298

Dingman B. Mistry
VP, CONTROLLER, and CFO
Nicholas Bijan
VP and TREASURER

900685

⑈0003575926⑈ ⑈011302920⑈ 059978⑈

PLEASE FOLD FIRST THEN DETACH ALONG PERFORATION

CALIFORNIA PUBLIC UTILITIES COMMISS
Check no. 3575926
Date 12/16/2013
Your account number 1014214
Payment Document 2000175006
Our account with you TAULIA

Invoice	Date	Discount	Net Amount	Comments
CITATION 13-005	12/13/13	0.00	375,000.00	SALLY CUARESMA, (A2C7) 77 BEALE ST # 1084 223-503
Totals:	USD	0.00	375,000.00	For Payment Inquiries, Call 1-800-756-PAID

Special Handle Code: 01

Malashenko, Elizaveta I.

From: Yee, Frances <FSC2@pge.com>
Sent: Monday, December 16, 2013 4:06 PM
To: Malashenko, Elizaveta I.
Cc: Hagan, Jack (Brigadier General - CA); Bruno, Kenneth; Yura, Jane; Gibson, Bill (Codes); Deniston, Laurence; Doll, Laura
Subject: Citation 13-005 - Follow-up Documentation
Attachments: Stubbed Attachments.htm

This message's contents have been archived by the Barracuda Message Archiver.

Citation 13-005 - check citation payment form and addendum.pdf (574K)

Citation 13-005 - check citation payment form and addendum.pdf (249.5K)

Liza,

PG&E delivered payment associated with Citation 13-005 to the CPUC's Fiscal Office today. I wanted you to be aware that included with the citation payment form is an addendum, both attached in this email. The addendum describes the substantial overlap between the subject of the citation and the subject of the Class Location OII, and requests that the Commission consider the citation and our penalty payment in its assessment of any subsequent penalty in Commission Order Instituting Investigation I.11-11-009 ("Class Location OII").

Given that this citation was not issued in a particular city and county, but rather applies broadly to PG&E's written procedures, PG&E did not provide any specific notifications to public agencies. Lastly, currently there are no known immediate safety hazards requiring immediate correction associated with this Citation.

Feel free to contact me with any questions.

Regards,

Frances Yee
Pacific Gas and Electric Company
Gas Operations | Codes & Standards | Regulatory Compliance
6111 Bollinger Canyon Road, Room 4250B
San Ramon, CA 94583
p: 925.328.5733 | c: 925.200.4736 | f: 925.328.5591

PG&E is committed to protecting our customers' privacy.
To learn more, please visit <http://www.pge.com/about/company/privacy/customer/>



State of California
Public Utilities Commission

Citation Date: 12/05/2013

Citation #: 13-005

Operator ID#: 15007

CITATION PAYMENT FORM

I (we) Pacific Gas and Electric Company (PG&E) hereby agree to comply with this citation dated December 5, 2013, and have corrected/mitigated the violation(s) noted in the citation on June 12, 2013 and no later than June 12, 2013, all work to make permanent corrections to any mitigated, or otherwise remaining concerns related to the violation(s) will be completed as noted in the Compliance Plan we have submitted to the Director of SED and, herewith, pay a fine in the amount of \$375,000 as included in the citation.

Signature of Gas Corporation Treasurer,
Chief Financial Officer, or President/CEO,
or delegated Officer thereof

Nickolas Stavropoulos 12/12/13
(Signature) (Date)

Nickolas Stavropoulos
Executive Vice President of Gas Operations
(Printed Name and Title)

Payment with a check must be made payable to the **California Public Utilities Commission** and sent to:

California Public Utilities Commission
Attn: Fiscal Office
505 Van Ness Avenue
San Francisco, CA 94102-3298

NOTE: A copy of the completed Citation Payment Form must be sent to the Director of the Safety and Enforcement Division, via email or regular mail, to the addresses provided on the Citation.

Citation Date: December 5, 2013

Citation #: 13-005

Operator ID#: 15007

ADDENDUM TO CITATION PAYMENT FORM

In connection with the above-referenced citation ("Citation") and payment of the associated fine, respondent Pacific Gas & Electric Company ("PG&E") notes that the violation identified in the Citation substantially overlaps with the subject matter of Commission Order Instituting Investigation I.11-11-009 ("Class Location OII"). For example:

- The Class Location OII specifically identified issues relating to PG&E's continuing surveillance program pursuant to 49 CFR §192.613 as falling within the scope of that proceeding: "Federal regulations require a natural gas transmission pipeline operator to have a procedure for continuing surveillance of its facilities to determine and take appropriate action related to changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions. (See 49 C.F.R. §192.613.)"
- The OM&E Audit in which SED identified the Citation was conducted from February 14-17, 2012, during the pendency of the Class Location OII.
- SED's (then CPSD) May 2012 Investigative Report in the Class Location OII – issued after the OM&E Audit – included violations of §192.613 for failing to maintain a continuing surveillance procedure.
- SED's opening brief in the Class Location OII, filed in November 2012, alleged that PG&E did not maintain a formal continuing surveillance procedure.

Given the substantial overlap between the subject matter of the Citation and the subject matter of the Class Location OII, PG&E respectfully urges the Commission to take into account PG&E's \$375,000 payment submitted today in connection with assessment of any subsequent penalty in the Class Location OII.



**Pacific Gas and
Electric Company***

Brian K. Cherry
Vice President
Regulatory Relations

Pacific Gas and Electric Company
77 Beale St., Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177

Fax: 415-973-6520

December 16, 2013

Fiscal Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

RE: Citation # 13-005

Enclosed please find check No. 3575926, dated 12/16/2013 in the amount of \$375,000.00, and PG&E's completed Citation Payment Form, as required by Citation # 13-005, dated 12/5/2013. In addition, an Addendum to Citation Payment Form is attached.

Sincerely,

Brian K. Cherry
VP, Regulatory Relations

Enclosures

cc: Paul Clanon, Executive Director
Brigadier General Jack Hagan, Director, Safety and Enforcement Division
Kenneth Bruno, Program and Project Supervisor, Risk Assessment & Enforcement
Michelle Cooke, Interim Deputy Director, Executive Division

Received by CPUC:

Signature

ELSAL CEREZO, FISCAL OFFICE 12/16/2013

(Please Print Name and Date)

November 19, 2013

Via E-mail and U.S. Mail

Mr. Fred Harris
Legal Division, Public Records Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Re: **Four Public Records Act Requests on behalf of the City of San Bruno**
Timeframe of 5/30/13-9/4/13

Dear Mr. Harris:

The purpose of this letter is to provide the California Public Utilities Commission (CPUC) one final opportunity to comply with the California Public Records Act (CPRA) and produce documents about the public's business. A complete accounting of the City of San Bruno's (San Bruno) CPRA requests and the CPUC's response to San Bruno requests (or lack thereof) is attached hereto as Exhibit A.

In brief, San Bruno has submitted four separate requests, dating from May 30, 2013 to September 4, 2013, requesting a total of sixteen categories of documents concerning the conduct of the public's business before the CPUC by Commissioners, the Consumer Protection and Safety Division (CPSD),¹ and Pacific Gas and Electric Company (PG&E) in the wake of the September 9, 2010 explosion of PG&E Line 132 in San Bruno. To date, the CPUC has failed to provide documents that are responsive to San Bruno's requests and in some cases, completely failed to even respond to San Bruno's requests in violation of the 10 day requirement.²

Like the CPUC, San Bruno is a public agency subject to CPRA requirements. While San Bruno takes its obligation to conduct the public's business in public seriously, including the core premise that "access to information concerning the conduct of the people's business is a *fundamental and necessary right* of every person in this state,"³ it is abundantly clear from the CPUC's response to San Bruno's CPRA requests (or lack thereof as the case may be), that the CPUC has elected to play by a different set of rules. Rather than satisfy its

¹ See Exhibit A.

² Cal. Govt. Code § 6253(c).

³ Cal. Govt. Code § 6250 (emphasis added); *See also, Haynie v. Superior Court*, (2001) 26 Cal. 4th 1061, 1064.

obligations under the CPRA, the CPUC has evaded production of responsive documents that fall squarely within the purview of San Bruno's requests by:

1. Improperly withholding production of responsive documents based on an interpretation of the deliberative process privilege that is unsupported by the law⁴; and
2. Failing to provide any response whatsoever to San Bruno's CPRA requests in clear violation of the CPRA requirement that agencies, including the CPUC, promptly notify requestors of agency determinations and reasons therefore within ten (10) days of the agency's receipt of the request.⁵

The documents San Bruno requested under the CPRA evidence the willingness on the part of CPUC staff to improperly tamper with the adjudicatory process in the Line 132 Proceedings. In particular, San Bruno requested and was denied access to the following documents:

- Email document dated sometime between May 2013 to June 3, 2013 from Paul Clanon, Executive Director of the CPUC, to Administrative Law Judges Amy Yip-Kikugawa and Mark Wetzell regarding CPSD's motion to strike filed on May 29, 2013 in the OIIs
- Email document dated sometime between May 2013 to June 3, 2013 from Administrative Law Judge Mark Wetzell to Paul Clanon in response to Paul Clanon's correspondence to Administrative Law Judge Mark Wetzell and Administrative Law Judge Amy Yip-Kikugawa regarding CPSD's motion to strike in the OIIs.
- Any subsequent emails from May 2013 to the present regarding Paul Clanon's correspondence to Administrative Law Judge Mark Wetzell and Administrative Law Judge Amy Yip-Kikugawa regarding CPSD's motion to strike in investigations in the OIIs.

The CPUC cannot hide behind the deliberative process privilege when the requested documents themselves would show that Mr. Clanon violated the CPUC rules prohibiting ex parte communications with the administrative law judges. Under your theory of the privilege, parties to these proceedings and CPUC staff could engage in all types of illegal ex parte communications to improperly influence the objectivity of the judges, and then refuse to produce the documents that would establish the violation of the CPUC's own rules.

⁴ The deliberative process privilege only permits a public official to withhold information submitted to him or her in confidence, until and unless the information has been expressly relied upon in the making of a decision and if the public interest in secrecy outweighs the public interest in disclosure. Cal. Evid. Code § 1040; *San Gabriel Valley Tribune v. Sup. Ct.*, 143 Cal.App.3d 762, 776 (1983).

⁵ Cal. Govt. Code § 6253(c).

San Bruno's CPRA request also covers documents that indicate that the CPUC has failed to prosecute utilities for self-reported citations as required by Resolution ALJ-274. San Bruno specifically requested:

- Citations CPD Director Jack Hagan has issued against gas utilities since his tenure at the Commission.
- Proposed citations that have been submitted, but are outstanding for final approval, by CPD Director Jack Hagan.
- Any citations investigated or issued under Resolution ALJ-274 by the CPD against natural gas utilities from December 7, 2011 until the present.

It is possible (and indeed likely) that the information San Bruno has requested under the CPRA will further embarrass the CPUC. However, the California Supreme Court has determined, "...all public records are subject to disclosure unless the Legislature has expressly provided to the contrary."⁶ Unfortunately for the CPUC, there is no express exception to the CPRA for documents that have the potential to embarrass the agency.

Over the course of the CPUC's investigations into PG&E practices leading up to and during the explosion of PG&E's Line 132 on September 9, 2010,⁷ the CPUC has:

- Been mired in controversy over its failure to provide leadership on safety matters;⁸
- Faced criticism for its lax oversight over PG&E operations;⁹
- Violated the CPUC's own strict rules against *ex parte* communications during adjudicatory proceedings;
- Exhibited signs of extreme disarray following the resignation of and subsequent reassignment of CPUC lawyers to and from the Line 132 Proceeding;¹⁰ and
- Maintained its cozy relationship with PG&E.¹¹

⁶ *Williams v. Superior Court*, (1993) 5 Cal. 4th 337.

⁷ I.11-02-019 (the "Recordkeeping OIP"); I.11-11-009 (the "HCA OIP") and I.12-01-007 (the "Root Cause OIP") (collectively, the "Line 132 Proceedings").

⁸ <http://www.sfgate.com/file/504/504-Safety%20Culture%20Change%20Project%20Report.pdf>.

⁹ <http://www.nts.gov/doclib/reports/2011/PAR1101.pdf>, page 122.

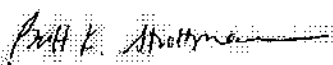
¹⁰ <http://www.sfchronicle.com/bayarea/article/PUC-s-gun-toting-enforcer-denies-threats-to-4622472.php>.

¹¹ <http://www.cnn.com/2011/US/08/30/california.pipeline.explosion/index.html>.

<http://www.sfgate.com/bayarea/article/PUC-chief-promises-stricter-oversight-of-pipelines-2334904.php>.

San Bruno strongly urges the CPUC to release documents responsive to the City's request by close of business, November 21, 2013. It is San Bruno's strong preference to avoid the need to pursue further action to enforce its rights under the CPRA. Thank you in advance for your prompt attention to this important matter and timely cooperation with San Bruno's request.

Sincerely,



Britt K. Strottman
Special Counsel, City of San Bruno
Meyers Nave
(510) 808-2000
bstrottman@meyersnave.com

Enclosures: EXHIBIT A – Summary of San Bruno CPRA Requests and CPUC Responses

c: Connie Jackson, City Manager, San Bruno (via E-mail)
San Bruno City Council
Marc Zafferano, City Attorney, San Bruno (via E-mail)
Steven Meyers, Special Counsel
California State Senator Jerry Hill (via E-mail)
California Assemblymember Kevin Mullin (via E-mail)
Paul Clanon, Executive Director, CPUC (via E-mail)

EXHIBIT A

Summary of San Bruno CPRA Requests and CPUC Responses

Please see the below outline of the CPUC's Public Records Act violations and San Bruno's Public Records Act requests.

Summary of San Bruno Requests to the CPUC and Response by the CPUC

1. First request to the CPUC:

A. San Bruno PRA Request Dated 5/30/13:

- Documents between financial institutions and professionals and the CPUC regarding the fine and penalties in the OIIs;
- Documents relating to Commissioner Peevey documents and discussions regarding the fine and penalties in the OIIs;
- Documents relating to the CPUC-PG&E "Forging a New Vision of Safety in California" Symposium scheduled for May 7-8, 2013;
- Documents relating to the appointment of Senator George Mitchell as mediator in October 2012;
- Documents relating to the CPUC's ongoing investigations in I.12-01-007, I.11-02-016, and I.11-11-009, including the discussion of fines, penalties, and/or remedies in the OIIs;
- California Foundation on the Environment and the Economy Conference on April 25-26 and dinner on April 25, 2013 in Napa Valley, CA; and
- Senate Budget and Fiscal Review subcommittee hearing on April 25, 2013.

B. CPUC Response:

- Received letter dated 6/19/13¹² from Fred Harris. Mr. Harris gives San Bruno an "estimate" that San Bruno will be able to review and collect the documents responsive to San Bruno's request by 6/27/13.

¹² Missed 10 day deadline under Government Code Section 6253(C).

- San Bruno received a handful of documents from Fred Harris relating to the CPUC Safety Symposium on 6/28/13.
- It has been almost six months and San Bruno has not received the requested documents.

2. Second request to the CPUC:

A. San Bruno's PRA Request Dated 6/18/13 and 6/19/13:

- Email document dated sometime between May 2013 to June 3, 2013 from Paul Clanon, Executive Director of the CPUC, to Administrative Law Judges Amy Yip-Kikugawa and Mark Wetzell regarding CPUC's motion to strike filed on May 29, 2013 in the Oils.
- Email document dated sometime between May 2013 to June 3, 2013 from Administrative Law Judge Mark Wetzell to Paul Clanon in response to Paul Clanon's correspondence to Administrative Law Judge Mark Wetzell and Administrative Law Judge Amy Yip-Kikugawa regarding CPUC's motion to strike in the Oils.
- Any subsequent emails from May 2013 to the present regarding Paul Clanon's correspondence to Administrative Law Judge Mark Wetzell and Administrative Law Judge Amy Yip-Kikugawa regarding CPUC's motion to strike in investigations in the Oils.

B. CPUC Response:

- Letter from Harris dated 7/1/13 denying San Bruno's request based on the deliberative process privilege.

C. San Bruno Response to CPUC's Response:

- Drafted letter on 7/23/13 arguing against the defense of the deliberative process privilege.
- No response back from the CPUC.

2. Third request to the CPUC:

A. San Bruno's Verbal PRA Request Dated 8/13/13:

- Verbal request dated 8/13/13 asking for documents (including investigation reports) between Pacific Gas and Electric Company (PG&E) and CPUC relating to the 2-inch diameter PG&E gas distribution pipeline rupture in the Crestmoor neighborhood of San Bruno, CA by Shaw Construction on August 2, 2012.

- Documents (including investigation reports) between PG&E and CPD relating to the puncture of a 4-inch diameter PG&E gas pipeline on Burlingame Ave in Burlingame, CA by JMB Construction on August 8, 2013.
- Documents (including investigation reports) between PG&E and CPD relating to any hits, ruptures, puncture, or line breaks of PG&E natural gas transmission or gas distribution lines in San Mateo County, whether caused by a third party contractor, from August 1, 2010 to the present.

B. CPUC Response:

- Letter dated 8/22/13 attaching the Commission's report regarding the August 2, 2012 incident in San Bruno. Mr. Harris didn't provide the report for the incident in Burlingame because the Commission "has not yet completed its investigation of the August 8, 2013 incident." Mr. Harris added that "Once the Commission's investigation of this incident, and incident report, are complete, I will provide the Commission's report to you."

2. Fourth Request to the CPUC:

A. San Bruno's PRA Request Dated 9/4/13:

- Citations CPD Director Jack Hagan has issued against gas utilities since his tenure at the Commission.
- Proposed citations that have been submitted, but are outstanding for final approval, by CPD Director Jack Hagan.
- Any citations investigated or issued under Resolution ALJ-274 by the CPD against natural gas utilities from December 7, 2011 until the present.

B. CPUC Response:

- No response.¹³

¹³ Missed 10 day deadline under Government Code § 6253(c).

GENERAL ORDER NO. 66-C
(Supersedes General Order No. 66-B)

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

**PROCEDURES FOR OBTAINING INFORMATION AND RECORDS IN THE
POSSESSION OF THE COMMISSION AND ITS EMPLOYEES AND COMMISSION
POLICY ORDERS THEREON.**

Adopted June 5, 1974; Effective June 5, 1974.
Resolution No. L-151.

Amended June 25, 1974; Effective June 25, 1974.
Resolution No. DE 120.

Amended May 4, 1982; Effective May 4, 1982.
Resolution No. L-224.

1. DEFINITIONS

- (1.1) "Public records" of the Public Utilities Commission, includes all items encompassed in Section 6252 of the Government Code,¹ except as otherwise excluded by this General Order, statute, or other order, decision, or rule.
- (1.2) "Commission" means the Public Utilities Commission and the staff of the Public Utilities Commission.

2. EXCLUSIONS

Public records not open to public inspection include:

- (2.1) Records or information specifically precluded from disclosure by statute. (E.g.: accident reports, P.U. Code § 315)²
- (2.2) Records or information of a confidential nature furnished to,

¹ Gov't Code § 6252 (d) and (e):

"(d) 'Public records' includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

"(e) 'Writing' means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents."

² P.U. Code § 315:

"The commission shall investigate the cause of all accidents occurring within this State upon the property of any public utility or directly or indirectly arising from or connected with its maintenance or operation, resulting in loss of life or injury to person or property and requiring, in the judgment of the commission, investigation by it, and may make such order or recommendation with respect thereto as in its judgment seems just and reasonable. Neither the order or recommendation of the commission nor any accident report filed with the commission shall be admitted as evidence in any action for damages based on or arising out of such loss of life, or injury to person or property. Every public utility shall file with the commission, under such rules as the commission prescribes, a report of each accident so occurring of such kinds or classes as the commission from time to time designates."

or obtained by the Commission. (See P.U. Code §§ 583, 3709, 5228) ³

Such records or information shall include, but not be limited to:

- a) Records of investigations and audits made by the Commission, except to the extent disclosed at a hearing or by formal Commission action.
 - b) Reports, records, and information requested or required by the Commission which, if revealed, would place the regulated company at an unfair business disadvantage.
 - c) Reports, records, and information provided to the Commission for compilation and use in connection with the Commission's Data Bank program.
 - d) Records or information furnished to the Commission pursuant to the Highway Carriers' Uniform Business License Tax Act (P.U. Code §§ 4301, *et seq.*) and the Transportation Rate Fund (P.U. Code §§ 5001, *et seq.*).
 - e) Reports pursuant to General Order No. 107-A, pertaining to privacy of telephone communications.
- (2.3) Intra-agency notes, drafts, memoranda and other communications not otherwise made public by the Commission.
 - (2.4) Non-public communications with other public agencies or officers where the public interest in withholding such records clearly outweighs the public interest in disclosure.
 - (2.5) Personnel records, other than present job classification, job specification and salary range.
 - (2.6) Test questions, scoring keys and other examination data used to administer licensing examinations.
 - (2.7) Records received from or furnished to the Governor or the Governor's office.
 - (2.8) Information obtained in confidence from other than a business regulated by this Commission where the disclosure

³ P.U. Code § 583:

"No information furnished to the commission by a public utility, except such matters as are specifically required to be open to public inspection by the provisions of this part, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any officer or employee of the commission who divulges any such information is guilty of a misdemeanor."

P.U. Code § 3709:

"Any employee of the commission who divulges any fact or information which comes to his knowledge during the course of the examination of the accounts, records, and memoranda of highway carriers, except as he is authorized or directed by the commission or by a court of competent jurisdiction or judge thereof, is guilty of a misdemeanor and is punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment in the county jail for not more than three (3) months, or both."

P.U. Code § 5228:

"Any employee of the commission who divulges any fact or information which comes to his knowledge during the course of the examination of the accounts, records, and memoranda of household goods carriers, except as he is authorized or directed by the commission or by a court of competent jurisdiction or judge thereof, is guilty of a misdemeanor and is punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment in the county jail for not more than three (3) months, or both."

would be against the public interest. (E.g.: Evidence Code, § 1040).⁴

3. PROCEDURE FOR EXAMINING AND OBTAINING PUBLIC RECORDS

(3.1) INITIAL REQUESTS

Requests to examine and/or copy public records should be made to the Secretary of the Commission, who is the official Custodian of Records. Service of process for records should be made on the Secretary. Assistant Secretaries in the Los Angeles and San Francisco Offices of the Commission are authorized to receive requests and service of process for the Custodian of Records. Public records may be examined and copied and service of process may be made at the Commission's offices in San Francisco and Los Angeles during regular office hours.

(3.2) FEES FOR COPIES

Certified copies of public records may be obtained from the Secretary's office in San Francisco or the Assistant Secretary's office in Los Angeles. Fees for copies or certified copies are as set forth in Public Utilities Code § 1903.⁵ Checks for payment should be made payable to the Public Utilities Commis-

⁴ Evidence Code § 1040:

"(a) As used in this section, 'official information' means information acquired in confidence by a public employee in the course of his duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made.

"(b) A public entity has a privilege to refuse to disclose official information, and to prevent another from disclosing such information, if the privilege is claimed by a person authorized by the public entity to do so and:

"(1) Disclosure is forbidden by an act of Congress of the United States or a statute of this state; or

"(2) Disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice; [but not privilege may be claimed under this paragraph if any person authorized to do so has consented that the information be disclosed in the proceeding.] In determining whether disclosure of the information is against the public interest, the interest of the public entity as a party in the outcome of the proceeding may not be considered." (Stats. 1965, c. 299, § 1040.)

⁵ P.U. Code § 1903:

"The commission shall charge and collect the following fees:

(a) For copies of papers and records not required to be certified or otherwise authenticated by the commission (except transcripts of testimony, other evidence or proceedings prepared by or under the direction or supervision of the official reporters of the commission), twenty cents (\$0.20) for each folio.

(b) For certified copies of official documents and orders filed in its office, twenty-five cents (\$0.25) for each folio and one dollar (\$1) for every certificate under seal affixed thereto.

(c) For certifying a copy of any report made by a public utility, two dollars (\$2).

(d) For each certified copy of the annual report of the commission, one dollar and fifty cents (\$1.50).

(e) For certified copies of evidence and proceedings before the commission (except transcripts of testimony, other evidence or proceedings prepared by or under the direction or supervision of the official reporters of the commission), twenty-five cents (\$0.25) for each folio.

The commission may establish and fix the charge to be made and collected by it for transcripts of testimony, other evidence and proceedings taken before the commission, where such transcripts are prepared by or under the direction or supervision of the official reporters of the commission."

sion of the State of California.

(3.3) TIME TO REVIEW REQUEST

Persons desiring to inspect, subpoena, or copy public records in the Commission's possession must allow sufficient time for the records to be assembled and reviewed for the purpose of determining if they are public records which fall within the exclusions listed in Section 2 above, or if there is some public interest served by withholding the records. This review will be made in the Commission's offices in San Francisco. Requests for Commission records must take into account the time necessary to have the file reviewed in San Francisco before it may be released.

(3.4) APPEAL TO FULL COMMISSION

A person wishing to review records which are not open to public inspection may write to the Secretary in San Francisco, indicating the records being withheld, and stating the reasons why these records should be disclosed to him. Sufficient time must be allowed for the full Commission to review this request and the applicable records.

(3.5) HEARINGS OR PROCEEDINGS

During the course of a hearing or proceeding before the Commission, the Commission, or a Commissioner or an Examiner may, for good cause shown, authorize or direct a Commission employee to produce or divulge information or public records not open to public inspection, or to make it available for inspection, or to furnish, and certify, if requested, a copy or copies thereof to the person making such request, or to testify with respect to the matter described in such request.

4. COMMISSION POLICY

(4.1) ORIGINAL RECORDS:

Availability of original records is necessary for the conduct of the Commission's duties. Evidence Code §§ 1560, *et seq.*, provide for the admissibility into evidence of true copies of records such as are maintained by the Commission. The personal appearance of the Custodian of Records is not required. A subpoena demanding original Commission records or personal appearance of the Custodian of Records is an unwarranted interference with the Commission in the performance of its official duties and will be resisted.⁶

(4.2) EXPERT WITNESSES:

It is not the duty of the Commission to provide its staff members to litigants as expert witnesses. The Commission does not have sufficient personnel to provide this service and perform its legitimate duties. Therefore, the Commission will resist subpoenas requiring Commission personnel to testify as experts.

Should a Commission employee be required by subpoena to attend a proceeding or deposition for the purpose of giving expert testimony, the minimum compensation for such attendance is hereby set at \$500 plus travel and per diem expenses for each day or part thereof that the Commission is deprived of his services. Checks for payment should be made payable to the Public Utilities Commission of the State of California.

* P.U. Code § 1759:

"No court of this State, except the Supreme Court to the extent specified in this article, shall have jurisdiction to review, reverse, correct, or annul any order or decision of the commission or to suspend or delay the execution or operation thereof, or to enjoin, restrain, or interfere with the commission in the performance of its official duties, except that the writ of mandamus shall lie from the Supreme Court to the commission in all proper cases."

Issued at San Francisco this 5th day of June, 1974.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

By William R. Johnson
Secretary

Photoelectronic composition by
CALIFORNIA OFFICE OF STATE PRINTING

77890-765 11-83 2M

G.O. 66-C



Welcome to the March 2013 edition of the California Public Utilities Commission's (CPUC) eNewsletter, where you'll find news on our upcoming San Diego Voting Meeting, improving public access to CPUC documents, and more.



CPUC Reaches Out

CPUC Takes Voting Meeting to San Diego

The CPUC is hitting the road to bring its March Voting Meeting to San Diego. The meeting will take place on March 21, 2013, at 9 a.m. at the Conference Center Hearing Room, San Diego County Operations Center, 5520 Overland Ave., San Diego.

Remote access will also be available via a listen-only phone line, a video webcast, and an audio webcast. The details will be posted to the CPUC's [homepage](#) under Special Interest the morning of the meeting.

[Return to Top](#)

CPUC Increases Transparency with Improvements to Public Access to Documents

The CPUC has improved and streamlined the process for the public to access certain safety related documents received or generated by the CPUC.

The CPUC's regulations for public access to CPUC records, as outlined in General Order 66-C, were outdated and cumbersome, and often delayed rather than facilitated access to records requested under the California Public Records Act. The CPUC issued a decision in February that provides the public with more immediate access to records of safety inspections, audits, and investigations, and sets the stage for opening a formal proceeding to further revise General Order 66-C to increase the CPUC's ability to provide documents to the public.

Under the February decision, the CPUC can disclose the following categories of safety related records, after any appropriate redactions, without requiring a vote of the CPUC or an Administrative Law Judge ruling as was needed previously: 1) CPUC-generated reports, summaries, and correspondence regarding completed CPUC safety related inspections, audits, and investigations; and 2) annual reports that gas operators file with the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration. These documents will be posted to the CPUC's website.

Workshops will be conducted in the coming months to address remaining issues regarding disclosure of safety related records, including 1) the nature and treatment of other types of safety related

CPUC Meetings, Hearings & Events

March 4-5, 2013:
Evidentiary Hearings in the CPUC's investigations related to PG&E's pipelines - San Francisco

March 7, 2013:
Public Workshop on Energy Savings Assistance Program Energy Education Study Draft Research Plan - San Francisco

March 20-21, 2013:
Public Workshop on programs and cost-effectiveness related to the Water/Energy Nexus - San Francisco

March 21, 2013:
CPUC Voting Meeting - San Diego

To learn about our other events in March and for remote access information, email the News and Public Information Office or call 415-703-1366 or visit our website

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records that utilities and other regulated entities provide to the CPUC, and 2) other issues regarding disclosure of CPUC-generated safety records.

The CPUC intends to open a Rulemaking in the near future to address improving the CPUC's procedures regarding the public's access to records that are not exempt under the California Public Records Act or other state or federal law, and the CPUC's ability to process records requests and requests for confidential treatment in an efficient, well-reasoned, and consistent manner.

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CPUC Broadens and Modifies Solar Thermal Incentive Program

The CPUC has expanded and modified the California Solar Initiative (CSI)-**Thermal Program** to provide incentives to process heat applications, solar cooling technologies, space heating technologies, and systems that combine multiple applications. The CPUC also modified the way rebates are paid to certain systems under the program by creating a performance-based incentive system that will pay rebates based on actual metered energy delivered to the facility.

According to the CPUC's February decision:

- Performance-based incentives will replace the current 70/30 incentive. Rebates will be paid based on metered energy delivered to the end use from the solar thermal system, with payments made quarterly over a two-year time period. Process heat, solar cooling, combination systems, and very large systems will be required to take the performance-based incentive.
- Incentives will be provided to process heat applications via a performance-based incentive system that pays the incentive based on metered energy delivered to the facility.
- Incentives will be provided for solar-assisted absorption chillers as a limited pilot program to test this technology's performance, durability, and economics. Incentives will be limited to no more than \$10 million across the service territories of Pacific Gas and Electric Company, Southern California Edison, San Diego Gas & Electric, and Southern California Gas Company, and will be paid on a performance-based incentive basis.
- The CSI-Thermal Program will offer an incentive to the space heating portion of an OG-300 rated combination system, in addition to the water heating incentive, once these systems are certified by a qualified standards body.

The CPUC established the CSI in 2006 to provide nearly \$2 billion in incentives and other support for solar photovoltaic systems with the goal of installing 3,000 megawatts in the service territories of California's three large investor-owned electric utilities. The CPUC subsequently modified the CSI to be consistent with Senate Bill 1 (Murray, 2006).

In January 2010, the CPUC created the CSI-Thermal Program, which combines \$250 million authorized for natural gas displacing solar water heating with \$100.8 million allowed for electric displacing solar water heating systems. The incentive budget for the natural gas-displacing portion of the program is available until all the funds have been

awarded or until December 31, 2017. The incentive budget for the electric-displacing portion of the program is available until the CSI general market program budget has been exhausted or January 1, 2017, whichever occurs first.

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CPUC Takes Action to Ensure Long-Term Energy Supplies for Los Angeles

The CPUC has authorized Southern California Edison (SCE) to procure between 1,400 and 1,800 megawatts (MW) of electrical capacity in the Los Angeles basin.

The CPUC issued a decision in February requiring that resources be located in a specific transmission-constrained area in Los Angeles in order to ensure adequate available electrical capacity to meet peak demand, and ensure the safety and reliability of the local electrical grid.

For the defined portion of the Los Angeles basin, at least 1,000 MW, but no more than 1,200 MW of this capacity must be procured from conventional gas-fired resources. At least 50 MW must be procured from energy storage resources. At least 150 MW must be procured through preferred resources (energy efficiency, demand response, and distributed generation), consistent with the Loading Order in the state's Energy Action Plan, or energy storage resources.

In the CPUC's next long-term procurement proceeding, expected to commence in 2014, the CPUC will evaluate whether there are additional localized electricity needs in California.

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