

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



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

Investigation 15-08-019
(Filed August 27, 2015)

**REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC
COMPANY (U 39 M) AND PG&E CORPORATION ON ALJ
ALLEN'S MAY 7, 2019 PROPOSED DECISION**

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ALLEN'S MAY 7, 2019 PROPOSED DECISION**

Pursuant to Rule 14.3(d) of the Commission's Rules of Practice and Procedure, Pacific Gas and Electric Company (U 39 M) and PG&E Corporation (collectively, "PG&E") respectfully submit these reply comments on the May 7, 2019 Proposed Decision of ALJ Allen Ordering Reporting of Safety Experience and Qualifications of the Board of Directors of Pacific Gas and Electric Company and PG&E Corporation and Establishing Advisory Panel on Corporate Governance (the "Proposed Decision").

A. The Proposed Decision Is a Limited Interim Decision, Not a Final Resolution of the Issues in this Proceeding

The focus of the Proposed Decision is limited: to seek additional information from PG&E to aid the Commission in "examin[ing] whether PG&E's appointment of [its] new directors is consistent with effective implementation of the recommendations in the NorthStar Report"¹ and to "establish[] a CPUC Advisory Panel on Corporate Governance."² The Proposed Decision is

¹ Proposed Decision at 3.

² *Id.* at 4–5.

an interim decision and does not address or limit the scope of issues identified in the Scoping Memo.³

As a result, the concerns raised by some parties that go beyond this limited focus are not relevant to the Proposed Decision. For instance, the Public Advocates Office (“PAO”) suggests that the Proposed Decision is “too narrow[.]”⁴ and “may be construed as narrowing the scope of the proceeding.”⁵ PAO also recommends that the Proposed Decision “address the interplay between PG&E’s bankruptcy filing and the scope of this proceeding.”⁶ This issue—the relationship with the Chapter 11 proceeding—is beyond the scope of this Proposed Decision.

Mr. Abrams recommends that the Proposed Decision incorporate financial incentives that are tied to safety performance metrics and makes other statements about how to change PG&E’s governance structure and safety performance.⁷ The Commission can consider this issue within the scope of the proceeding in due course.

While not directly relevant to the Proposed Decision, PG&E wishes to clarify the comments of Richard Kelly at the public forum on April 15, 2019. Mr. Kelly stated that, while “*executive* management buys into” corporate level safety goals, “*we’re* not doing the right job getting it down to the individual worker level, and that’s where we need to get to.”⁸ In so stating,

³ Assigned Commissioner’s Scoping Memo and Ruling at 8–12 (Dec. 21, 2018).

⁴ Opening Comments of the Public Advocates Office at 1 (May 28, 2019) (“PAO Opening Comments”).

⁵ *Id.* at 2.

⁶ *Id.* at 1.

⁷ Comments of William B. Abrams on Proposed Decision to Inform and Regulate a Safety Oriented Management and Governance Structure within Pacific Gas and Electric Company at 3–6, 8 (May 28, 2019) (“Abrams Comments”).

⁸ Transcript, Forums on Governance, Management, and Safety Culture, pt. II, at 78:24–79:2 (April 15, 2019) (emphases added) (“Transcript of April 15 Forum”).

Mr. Kelly did not (and did not intend to) assign “blame”⁹ to individual workers or field employees. Rather, he acknowledged *management’s* responsibility to successfully “get the safety message down through the whole organization” because “[t]here seems to be a spot where . . . it seems to die.”¹⁰ In other words, Mr. Kelly was emphasizing that PG&E management needs to improve its safety communications through the middle management ranks. Mr. Kelly’s statement aligns with NorthStar’s observations—for instance, that “the post-San Bruno safety culture is not yet deeply embedded throughout the organization”¹¹ and that communications with employees around safety culture can become “[l]ost in [m]iddle [m]anagement.”¹²

B. The Need for and Structure of the Advisory Panel Are Not Defined

PAO indicates that it is “encouraged” by the Proposed Decision’s establishment of an advisory panel but “reserves its support,” noting “the absence of any further detail about the structure and timing” of the advisory panel.¹³ This is similar to the questions PG&E raised about the Proposed Decision’s lack of clarity regarding the “type of advice on corporate governance the Commission believes it needs [and] why establishing an advisory panel in this proceeding is necessary to obtain it.”¹⁴

⁹ Abrams Comments at 3.

¹⁰ Transcript of April 15 Forum at 79:6–9.

¹¹ See Scoping Memo and Ruling of Assigned Commissioner, Attachment: Assessment of Pacific Gas and Electric Corporation and Pacific Gas and Electric Company’s Safety Culture, NorthStar Consulting Group at III-20 (May 8, 2017).

¹² *Id.* at IX-11. See also Transcript of April 15 Forum at 29:21–24 (Dr. David Hofmann stated that “there seems to be this gap between the workers and . . . middle management and I think that’s where you’ve got to build the safety is a priority throughout the organization”).

¹³ PAO Opening Comments at 3–4.

¹⁴ Comments of Pacific Gas and Electric Company (U 39 M) and PG&E Corporation on ALJ Allen’s May 7, 2019 Proposed Decision at 12 (May 28, 2019).

The EMF Safety Network also suggests that the advisory panel “address the need for detailed, transparent, and public information” on safety because a “robust system of safety accountability, one that is driven by customer and worker experience,” is needed.¹⁵ Although PG&E agrees that fostering a non-punitive environment that encourages safety reporting by utilities would be beneficial, the Proposed Decision states that the advisory panel is to provide “expert advice on corporate governance issues” to the Commission,¹⁶ not to promulgate reporting requirements.¹⁷

C. PG&E Does Not Oppose the Opportunity for Comment on any Compliance Filing

The Office of Safety Advocate (“OSA”) recommends that the Proposed Decision be modified to “provide parties the opportunity to comment on any additional information from PG&E.”¹⁸ OSA asks for a 30-day comment period.¹⁹ PG&E does not oppose the Commission providing the parties opportunity to comment on any compliance filing submitted by PG&E. If the Commission adopts OSA’s recommendation, PG&E also respectfully requests an opportunity to file reply comments.

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¹⁵ EMF Safety Network Comments on Proposed Decision at 1 (May 28, 2019).

¹⁶ Proposed Decision at 5 (Conclusion of Law No. 2).

¹⁷ Other suggestions for reporting metrics are beyond the scope of the Proposed Decision. *See* Abrams Comments at 4–6.

¹⁸ Opening Comments of the Office of Safety Advocate on the Proposed Decision at 2 (May 28, 2019).

¹⁹ *Id.*

Respectfully Submitted,

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