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

Order Instituting Investigation and Ordering
Pacific Gas and Electric Company to Appear
and Show Cause Why It Should Not Be
Sanctioned for Violations of Article 8 and Rule
1.1 of the Rules of Practice and Procedure and
Public Utilities Code Sections 1701.2 and
1701.3

Investigation 15-11-015
(Filed November 23, 2015)

JOINT PREHEARING CONFERENCE STATEMENT

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Dated: March 13, 2019

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Pursuant to the Assigned Administrative Law Judge's ("ALJ") March 5, 2019 ruling (the "Prehearing Conference Ruling"), Pacific Gas and Electric Company ("PG&E"), on behalf of the City of San Bruno, the City of San Carlos, the Public Advocates Office ("Cal Advocates"), the Safety and Enforcement Division ("SED"), and The Utility Reform Network (collectively, the "Parties"), submits this Joint Prehearing Conference Statement. The Parties met on March 11, 2019 regarding the issues discussed in the Prehearing Conference Ruling.¹

The Parties submit the following comments regarding those issues.

1. The Need For A Hearing And The Issues To Be Considered, Particularly Any Disputed Issues Of Material Fact

The Parties are optimistic that testimony and evidentiary hearings will not be necessary, but, at this point, the Parties are unable to say so with certainty. The Parties have agreed to a process for determining whether they can create a proposed joint evidentiary record, which would obviate the need for testimony or a hearing.

¹ Shell Energy North America ("Shell Energy") is a party to the proceeding but did not participate in the meet and confer discussions. Shell Energy takes no position regarding the comments in this Joint Prehearing Conference Statement.

By way of background, during the last six months of the proceeding, Cal Advocates and SED have engaged in extensive discovery from PG&E concerning, and related to, the emails disclosed by PG&E in September 2017 that were identified in the ALJ's May 22, 2018 Ruling. The other Parties have recently been briefed on the discovery and it now appears that discovery may be complete.

As set forth in the ALJ's May 22, 2018 Ruling, the Commission opened this second phase of the proceeding to answer the question of whether any of the communications reflected in emails disclosed by PG&E in September 2017 violated the Commission's ex parte rules. The Parties agree that the Commission may also wish to address whether any of the communications reflected in the additional emails disclosed by PG&E during discovery violated the Commission's ex parte rules.

To the end of creating a joint evidentiary record, the Parties have agreed upon a process for attempting to determine (1) the number of emails and related material to recommend for inclusion in this second phase of the proceeding, and (2) the mechanism for creating and submitting such material to the Commission. As discussed below in Section 3, if the Parties can reach agreement on the material to be included in the record, the Parties intend to craft stipulations that would complete the evidentiary record.

If the Parties reach agreement on these issues, the Parties agree that there would be no need for testimony or hearings. This is because the Parties' agreement on an evidentiary record would resolve what might otherwise have been disputed issues of material fact (even though the Parties may differ on the legal issue of which of the communications violated the Commission's ex parte rules).

2. The Proposed Schedule For The Proceeding

The Parties propose to follow one of two paths, according to the scheduling scenarios set forth below. Under both scenarios, the first step is for the Parties to meet and confer regarding the evidentiary record. Under Scenario A, the Parties reach agreement on the record. Under Scenario B, the Parties do not.

Scenario A – Parties do Reach Agreement on an Evidentiary Record

If the Parties reach agreement on the record, the Parties propose the following schedule for resolution of the case:

- **May 15, 2019:** Parties to submit a proposed joint evidentiary record, consisting of emails and material proposed to be included in the resolution of the proceeding, and stipulations, as described in Section 3 below.
- **June 14, 2019:** Parties to submit opening briefs on the number of ex parte violations at issue in the second phase of the proceeding, and the appropriate sanctions for those violations, if any.
- **July 19, 2019:** Parties to submit replies to opening briefs.

Under this scenario, the Parties request approximately two months to prepare a record and one additional month for opening briefs. The Parties' creation of a record will involve substantial drafting work, and multi-party negotiations regarding the scope and content of the record, including the appropriate language for stipulations. During this time, the Parties also intend to discuss settlement, if agreement on the record is possible.

Scenario B – Parties do Not Reach Agreement on an Evidentiary Record:

If the Parties' discussions regarding the record fail, the Parties would alert the Commission by filing a motion, no later than **April 26, 2019**, requesting dates for testimony and evidentiary hearings, subject, of course, to the Commission's availability. In this motion, the Parties would also propose a briefing schedule tied to the dates of evidentiary hearings.

In other words, if the Parties have not filed a motion requesting dates for testimony and evidentiary hearing by April 26, 2019, the Parties have successfully reached agreement on the contours of the proposed joint record of the case, and will proceed to finalizing and submitting the record, as well as either briefs on the merits, or a proposed settlement.

3. Other Procedural Issues Necessary For a Prompt Resolution Of This Proceeding

With respect to the evidentiary record, the Parties are inclined to submit to the Commission stipulations concerning any communications or other material proposed to be included in the proceeding, as the Parties did in connection with the settlement of the first phase of the proceeding. The stipulations would identify the date of each communication, the participants, and any proceedings the Parties conclude are potentially implicated by the communication, as well as relevant information regarding any other material to be included in the proposed record.

Pursuant to Rule 1.8(d) of the Commission's Rules of Practice and Procedure, representatives of the Parties have authorized PG&E to submit this filing on their organizations' behalf.

Respectfully Submitted on Behalf of the Parties,

By: /s/ Steven Frank
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