



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

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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 I.15-11-015
(Filed November 23, 2015)

**THE CITY OF SAN BRUNO'S COMMENTS TO ORDER INSTITUTING
INVESTIGATION I.15-11-015 AND PRELIMINARY SCOPING MEMO**

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December 3, 2015

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OF THE STATE OF CALIFORNIA**

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The City of San Bruno respectfully files these comments concurrently with a motion for party status in OII I.15-11-015.

I. INTRODUCTION

On November 23, 2015, the Commission issued *Order Instituting Investigation and Order 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* (OII/OSC). The OII/OSC invites comment on the preliminary determination of need for evidentiary hearings, preliminary scope of issues, and preliminary schedule within 10 days from the date of issuance of the OII/OSC, with the condition that a written motion for party status must accompany comments filed by persons who intend to move for party status.¹

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¹ OII/OSC, at p. 8.

II. COMMENTS ON SCOPE OF PROCEEDING

1. Ex parte rule violations occur as a result of oral communications as well as in written communications. Officers, employees and former officers and employees in the regulatory affairs division of PG&E should be examined by the Commission to ascertain the nature and extent of oral communications which may violate commission ex parte rules. Notes of such meetings, internal PG&E emails summarizing such meetings and officer and employee calendar entries should be produced by PG&E.

2. PG&E has self-reported violations of the ex parte rules as set forth in the OII accordingly, the chief executive officer of PG&E should certify to the Commission that all self-reported violations are fulsome and complete. The OII should examine the best means to achieve that result.

3. The OII should provide a procedural means of bringing new ex parte rule violations to the Commission. The OII lists a number of recent regulatory proceedings both rate-making and adjudicative, however if other violations in proceedings not listed in the OII become apparent, the OII should permit these to be examined.

4. PG&E should be ordered to waive attorney client privilege to the extent that its legal representatives have participated in such ex parte communications or have been copied on correspondence evidencing such ex parte violations.

5. San Bruno believes that in the scheduling of this OII the Commission should

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prioritize this matter without limiting the examination of any and all violations of the Commission rules. The damage done to the public's confidence in the utility regulatory system in California is incalculable and the sooner these matters are resolved the sooner there will be a clear the path to regulatory cultural reform.

6. Due to the pendency of criminal proceeding against PG&E and the aforementioned request for the waiver of attorney client privilege, the Commission should establish a streamlined procedure for "in camera" review of documents which may require redaction. Relying upon the parties to agree upon redactions will be time consuming and ineffectual.

7. This proceeding should be expanded to consider the recommendations made in the Strumwasser Report ² and whether it is appropriate to impose upon PG&E particularized rules governing its communications with the Commission going forward as opposed to or in conjunction with monetary penalties.

8. The Commission should be permitted to use its equitable powers to reimburse the City of San Bruno for its reasonable fees and costs since this matter would not be before this Commission were it not for the disclosures made in the San Francisco Superior Court

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² *Report to the California Public Utilities Commission Regarding Ex Parte Communications and Related Practices*, Strumwasser & Woocher LLP, June 22, 2015.

Case, *City of San Bruno v. CPUC*, Case No. CGC-14-537139 and the motion made and referred to in the OII at p 5.

Respectfully Submitted,

/s/ Steven R. Meyers

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