

# **ATTACHMENT A**

**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 MOTION OF THE CITY OF SAN BRUNO, THE CITY OF SAN CARLOS, THE  
OFFICE OF RATEPAYER ADVOCATES, THE SAFETY AND ENFORCEMENT  
DIVISION, THE UTILITY REFORM NETWORK, AND PACIFIC GAS AND  
ELECTRIC COMPANY FOR ADOPTION OF SETTLEMENT AGREEMENT**

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Dated: March 28, 2017

Attorneys for  
PACIFIC GAS AND ELECTRIC COMPANY

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In accordance with Rule 12.1 of the Commission’s Rules of Practice and Procedure, the City of San Bruno, the City of San Carlos, the Office of Ratepayer Advocates (“ORA”), the Safety and Enforcement Division (“SED”), The Utility Reform Network (“TURN”) (collectively, the “Non-PG&E Parties”), and Pacific Gas and Electric Company (“PG&E”) (together with the Non-PG&E Parties, the “Parties”) respectfully move for Commission approval and adoption of the attached all-party Settlement Agreement, which includes an agreement for supplementing the record of this proceeding with the Parties’ stipulated facts, data requests and responses, and other supporting documents, as described in Article I of the Settlement Agreement and attached thereto. If adopted without modification, the Settlement Agreement will resolve all issues raised in this proceeding.

The Settlement Agreement is reasonable in light of the record as supplemented in Article I of the Settlement Agreement, consistent with the law, and in the public interest.

**I. BACKGROUND AND PROCEDURAL HISTORY**

This matter concerns communications between PG&E and Commission personnel from 2010 to 2014. Twelve communications in this proceeding were either self-reported or late-

noticed by PG&E as ex parte violations. After reviewing communications obtained from PG&E or public sources as described below, the Non-PG&E Parties allege that an additional 152 communications that are part of the record of this proceeding were violations. While the Parties disagree as to whether many of the communications included in this proceeding violated the Commission's ex parte rules, PG&E acknowledges that it has violated these rules with regard to some of the communications, and the Parties have reached an agreement that is reasonable in light of all the circumstances. The Settlement Agreement relies upon the factual stipulations by the Parties as the foundation for a resolution supported by all Parties that includes admissions by PG&E regarding its prior communications, heightened reporting obligations placed on PG&E for its future communications with Commission decisionmakers, and a substantial financial remedy totaling \$86.5 million allocated amongst customers, the cities who brought some of these communications forward or were parties in the proceedings affected by them, and the State of California's General Fund. PG&E's customers will bear no costs associated with the financial remedies.

The following background and procedural history provides an overview of the events that gave rise to this proceeding and the resulting Settlement Agreement.

**A. Initial Identification and Responses to Ex Parte Issues**

In July 2014, the City of San Bruno filed a lawsuit in a California Superior Court to compel the Commission to comply with four records<sup>1</sup> requests made by the City in February of 2014. In July 2014, the Commission produced to the City of San Bruno approximately 7,000 pages of records responsive to the requests, including email communications between the Commission and PG&E relating to the September 9, 2010 explosion in San Bruno. Based on some of these

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<sup>1</sup> San Bruno's initial Public Records Act request was dated May 30, 2013.

communications, the City of San Bruno filed a motion asking the Commission to order PG&E to show cause why it should not be sanctioned for 41 of the email communications.<sup>2</sup> The City of San Bruno contended that these 41 emails reflected prohibited ex parte communications concerning the then-pending San Bruno Order Instituting Investigations (“OII”) (Investigation (“I”).12-01-007, I.11-02-016, and I.11-11-009).

While opposing the City of San Bruno’s motion, PG&E recognized the serious issues raised and conducted a voluntary review of tens of thousands of email communications between it and the Commission over a nearly five-year period beginning in 2010.<sup>3</sup> In September 2014, PG&E disclosed that its review of approximately 65,000 emails had revealed what it believed to be ex parte violations concerning the selection of the Administrative Law Judge (“ALJ”) for PG&E’s Gas Transmission and Storage (“GT&S”) rate case, Application (“A”) 13-12-012, for which PG&E was sanctioned by the Commission in November 2014.<sup>4</sup> Previously, in January 2008, in Decision (“D”) 08-01-021, the Commission had determined that PG&E violated the Commission’s ex parte rules after PG&E acknowledged that it had failed to provide a three day notice of two meetings with decisionmakers concerning proceeding A. 06-11-005. The Commission approved as a remedial action that PG&E should develop and implement a “best-in-class regulatory compliance model for ensuring compliance with the ex parte rules.”<sup>5</sup>

On October 30, 2014, the City of San Bruno issued a data request to PG&E in A. 13-12-012 seeking copies of the email communications reviewed by PG&E and referenced in

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<sup>2</sup> See *Motion of the City of San Bruno for an Order to Show Cause Why Pacific Gas and Electric Company Should Not Be Held in Violation of Commission Rule of Practice and Procedure 8.3(b) (Rule Against Ex Parte Communication) and for Sanctions and Fees* (“San Bruno’s July 2014 Motion to Show Cause”), filed July 28, 2014.

<sup>3</sup> See D.14-11-041 at 10-11.

<sup>4</sup> See *id* at 3-4.

<sup>5</sup> See D.08-01-021 at 15, and Ordering Paragraph 3; D.14-11-041 at 17.

connection with its September 2014 disclosure of ex parte violations in that proceeding. On December 15, 2014, the City of San Bruno filed a motion to compel PG&E to produce the approximately 65,000 emails.<sup>6</sup> On December 22, 2014, PG&E announced that it would provide copies of the emails to the Commission. In January 2015, PG&E provided the emails to the Commission and the City of San Bruno, pursuant to a January 13, 2015 ruling in A. 13-12-012, which, among other things, granted the City of San Bruno's motion to compel. The Commission subsequently made these emails available to the public on its website.<sup>7</sup>

PG&E self-reported additional communications in other proceedings in the months following its September 2014 ALJ reassignment disclosure in A. 13-12-012.<sup>8</sup> And in 2015, PG&E produced tens of thousands of internal emails and attachments to TURN, ORA, and the City of San Bruno, in response to discovery requests in PG&E's then-pending GT&S case. Communications from each of these document productions by PG&E are among the 164 communications at issue here.

Prior to the initiation of this OII, PG&E took several steps to respond to the identified ex parte violations, including:

- Appointing a new head of Regulatory Affairs.
- Creating the new role of Chief Ethics and Compliance Officer.
- Retaining Ken Salazar, former Secretary of the U.S. Department of the Interior, U.S. Senator from Colorado, Attorney General of Colorado, and Executive Director of the Colorado Department of Natural Resources, to assist in developing a compliance model.
- Beginning plans for new mandatory training for PG&E employees who interact with the Commission.

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<sup>6</sup> <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M143/K914/143914150.PDF>

<sup>7</sup> <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M144/K784/144784609.PDF>

<sup>8</sup> See D.14-11-041 at 4-5.

- Separating three officers from the company.<sup>9</sup>

## **B. Overview of the History of this OII**

### **1. The Initiation of the OII**

On April 9, 2015, the San Bruno OIIs culminated in PG&E being penalized \$1.6 billion and the Commission determining that the ex parte allegations that the City of San Bruno raised should be addressed in a separate OII – which ultimately became this proceeding.<sup>10</sup>

On November 23, 2015, the Commission instituted this proceeding.<sup>11</sup> The Commission’s OII Order identified 48 communications at issue in this proceeding – 7 communications self-reported or late-noticed by PG&E and 41 communications the City of San Bruno alleged were ex parte violations in its 2014 motions.<sup>12</sup>

### **2. Meet and Confer Process**

On January 8, 2016, the Commission directed the Parties “to engage in a substantive and detailed meet and confer process to develop an efficient procedural schedule proposal to resolve the issues identified in the Commission’s decision.”<sup>13</sup> In response to the Commission’s Meet

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<sup>9</sup> *Id.* at 10-11.

<sup>10</sup> *Decision on Fines and Remedies to be Imposed on Pacific Gas and Electric Company for Specific Violations in Connection with the Operation and Practices of its Natural Gas Transmission Systems Pipelines*, dated April 9, 2015 at 173.

<sup>11</sup> *See 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 (“OII Order”)*, dated November 19, 2015.

<sup>12</sup> *See San Bruno’s July 2014 Motion to Show Cause; see also Motion for Evidentiary Hearing on City of San Bruno’s Motion for an Order to Show Cause as to Why Pacific Gas and Electric Company Should Not Be Held in Violation of Commission Rule of Practice and Procedure 8.3(b) and for Sanctions and Fees*, filed November 10, 2014.

<sup>13</sup> *Assigned Commissioner and Administrative Law Judge’s Ruling Directing Parties to Engage in Meet and Confer Process and Setting Prehearing Conference (“Meet and Confer Order”)*, dated January 8, 2016.

and Confer Order, beginning in January 2016 the Parties engaged in a lengthy and productive meet and confer process, and submitted several status reports to the Commission. As a result of these meet and confer efforts, the Parties agreed to add more than 100 communications to this proceeding, including communications identified from: (a) the City of San Bruno's Public Records Act requests to the Commission, as described in San Bruno's July 2014 Motion to Show Cause; (b) documents PG&E produced to the Commission in January 2015, pursuant to a January 13, 2015 Administrative Law Judge ruling in A. 13-12-012, which documents were subsequently posted on the Commission's website, (c) documents PG&E produced in discovery in A. 13-12-012, and (d) communications reported to the Commission by PG&E in late filed notices of ex parte communications and notices of improper communications, filed in September, October and December 2014, and May and June 2015.<sup>14</sup> In its Joint Ruling dated July 12, 2016, the Commission agreed to adopt the Parties' recommendations regarding the communications to be included in this proceeding.<sup>15</sup>

As part of the continuing meet and confer process, the Parties worked cooperatively and constructively to develop a factual record that would permit this matter to be resolved efficiently.

The Parties:

- Agreed to recommend adding communications to the proceeding, in order for the Commission to resolve the ex parte issues completely in one proceeding, and to drop others that all agreed were not violations.
- Agreed to stipulations concerning all 164 communications at issue.
- Agreed that PG&E would respond to data requests concerning emails for which the Non-PG&E Parties sought additional information.

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<sup>14</sup> While agreeing to add these communications to the scope of the proceeding, PG&E has not admitted that each is a violation.

<sup>15</sup> *Assigned Commissioner and Administrative Law Judge's Joint Ruling Revising Preliminary Scoping Memorandum* ("Joint Ruling"), dated July 12, 2016.



- Agreed to a process for efficiently conducting this discovery, to ensure that information was gathered on a timeline consistent with the Commission’s stated expectations, and to prevent time-consuming discovery disputes.
- Agreed to a procedure for moving undisputed facts into the evidentiary record, and to the creation of a single joint record for the proceeding.

During the meet and confer process, as the Parties discussed whether to add or drop communications, the Parties developed three categories to organize the communications. This organization was driven by discovery considerations, including identifying communications that could be addressed solely by factual stipulations and those that required additional diligence, as opposed to the actual substance of the communications.

Category 1 is comprised of 135 emails (1-1 through 1-135), most of which transmit information – such as an analyst report, a news article, or a press release – from PG&E to Commission personnel.<sup>16</sup> The first 36 emails (1-1 through 1-36) were identified in San Bruno’s July 2014 Motion to Show Cause and referred to in the Commission’s OII Order.<sup>17</sup> The remaining 99 emails (1-37 through 1-135) were added to this proceeding at the request of the Non-PG&E Parties and with PG&E’s agreement.<sup>18</sup> The Parties further agreed that factual and evidentiary issues concerning the Category 1 communications could be resolved by stipulation.<sup>19</sup> Accordingly, the Parties submitted joint factual stipulations to the Commission on September 1, 2016.

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<sup>16</sup> *Joint Meet and Confer Process Report of the City of San Bruno, the City of San Carlos, the Office of ratepayer Advocates, the Safety and Enforcement Division, The Utility Reform Network, and Pacific Gas and Electric Company* (“Parties’ First Joint Status Report”), dated April 18, 2016 at 4.

<sup>17</sup> *Id.* During the meet and confer process, the Parties agreed to drop five of the original 41 emails identified in San Bruno’s July 2014 Motion to Show Cause.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 5.

Category 2 is comprised of 22 emails<sup>20</sup> – 12 self-reported or late-noticed by PG&E and 10 identified by the Non-PG&E Parties and added to the case at their request. PG&E has apologized for those communications that it self-reported. Aside from PG&E’s self-reports and late-noticed communications, the remaining 10 Category 2 emails include both direct email communications between PG&E and Commission personnel, and emails that summarize or refer to communications between them.

The Parties agreed that PG&E would respond to data requests for each of the Category 2 communications.<sup>21</sup> Accordingly, the Non-PG&E Parties served PG&E with data requests concerning them (“Category 2 Data Requests”).<sup>22</sup> To ensure that discovery was conducted efficiently and without dispute, PG&E proposed and the Non-PG&E Parties agreed to a protocol for conducting discovery in response to the Category 2 Data Requests (“Category 2 Protocol”).<sup>23</sup> The Parties also filed with the Commission joint factual stipulations regarding the 22 Category 2 communications on November 18, 2016.

Category 3 began as 21 emails, which the Non-PG&E Parties sought to include in the proceeding to determine through discovery whether they believed a violation occurred.<sup>24</sup> To that end, the Non-PG&E Parties served data requests (“Category 3 Data Requests”) directed to PG&E concerning these communications, as they did with Category 2. Moreover, because the

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<sup>20</sup> Category 2 previously consisted of 24 communications, but the Parties agreed to drop 2 of the communications—Tabs 2-7 and 2-8.

<sup>21</sup> Parties’ First Joint Status Report at 6.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 6-7; *see also* Settlement Agreement, Exhibit 2 [Ex. 2-0001 – Ex. 2-0007]. PG&E applied the Category 2 Protocol and served the Non-PG&E Parties with its Data Request Responses on September 1, 2016. The Non-PG&E Parties had some follow-up questions regarding them, to which PG&E provided supplemental responses on November 3, 2016.

<sup>24</sup> Parties’ First Joint Status Report at 7-8.

Commission had “declined to require PG&E to devote hundreds of additional hours” to discovery regarding the Category 3 communications,<sup>25</sup> the Parties worked cooperatively to agree on a narrower protocol that PG&E would apply in responding to the Category 3 Data Requests (“Category 3 Protocol”).<sup>26</sup> After the Category 3 Protocol was applied by PG&E to answer the Category 3 Data Requests, the Non-PG&E Parties agreed to reduce the number of Category 3 emails at issue to seven. Emails remaining in Category 3 generally refer to, but do not summarize in significant detail, communications between PG&E and Commission personnel. Parties filed joint factual stipulations on November 18, 2016, for these seven Category 3 communications.

### **3. Settlement Discussions**

After completing the discovery and factual stipulations discussed above, from November 2016 through March 2017, the Parties engaged in multiple settlement discussions in person, by telephone, and by email. On March 27, 2017, the Parties executed the Settlement Agreement that is the subject of this motion. On March 20, 2017, the Parties noticed a settlement conference for March 27, 2017 at 10:00 a.m.

## **II. SUMMARY OF SETTLEMENT AGREEMENT**

### **A. Parties and Effective Date**

The Parties to the Settlement Agreement include all the Parties to the proceeding: the City of San Bruno, the City of San Carlos, ORA, SED, TURN and PG&E. The Effective Date of

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<sup>25</sup> Joint Ruling at 7.

<sup>26</sup> See Settlement Agreement, Exhibit 3 [Ex. 3-0001 – Ex. 3-0005]. PG&E served its Category 3 Data Request Responses on the Non-PG&E Parties on September 21, 2016. Similar to Category 2, the Non-PG&E Parties had some follow-up questions, to which PG&E provided supplemental responses on November 3, 2016.

the Settlement Agreement is the date of a final Commission order approving the Settlement Agreement.

**B. Record of the Proceeding**

Article I, § 1.1 of the Settlement Agreement notes that the Parties have worked together to prepare a comprehensive Joint Record for this proceeding, and requests that the Commission accept this Joint Record into the record of the proceeding. The order of presentation and categorization of the materials in the Joint Record follows the description above (e.g., Categories 1, 2, and 3). The Categories have no significance for the settlement valuation (e.g., Category 1 is no more or less significant than Category 3 or Category 2).

Article I, § 1.2 notes that all documents related to Category 1 can be found in Exhibit 1, Volumes A through H, which is attached to the Settlement Agreement. Article I, § 1.3 states that all documents related to Category 2 can be found in Exhibit 2. Lastly, Article I, § 1.4 notes that all documents related to Category 3 can be found in Exhibit 3.

In accordance with Article I of the Settlement Agreement, the Parties request that the following documents be moved into the record:

- Exhibit 1, Volumes A through H;
- Exhibit 2; and
- Exhibit 3.

Given the voluminous nature of these documents, they will be submitted to the Commission's Docket Office on archival disks for retention by the Commission with a hard copy version of this filing.

**C. Settlement Terms**

Article II contains the terms of the Settlement Agreement.

Article II, § 2.1 concerns admissions and provides that at the Non-PG&E Parties' request, PG&E agreed to add a number of communications to this proceeding in the interest of resolving all issues related to the alleged ex parte violations. Article II, § 2.1 further provides that by adding these communications, PG&E was not admitting that each communication was a violation. And although the Parties do not agree that each of these communications is a violation, PG&E makes admissions in the interest of resolving these issues in a comprehensive settlement. The admissions are as follows:

Article II, § 2.1.A: Violation of Commission Rules

During the period from 2010 to 2014, PG&E committed multiple violations of the Commission's ex parte rules in Article 8 of the Rules of Practice and Procedure, through communications that were either prohibited or not reported to the Commission as required by these rules.

On at least one occasion during this time period, PG&E also violated Rule 12.6 of the Commission's Rules of Practice and Procedure, which requires that parties to settlement negotiations hold such negotiations confidential, by disclosing to a Commission decisionmaker the contents of ongoing settlement negotiations.

Finally, by the totality of these violations, PG&E also violated Commission Rule of Practice and Procedure 1.1.

Article II, § 2.1.B: Conduct Harmful to Customers and Other Constituents

PG&E's employees and agents engaged in communications with decisionmakers at the Commission, as well as related conduct that was harmful to the regulatory process. Under the unique circumstances of this case, where the two Cities who are parties to this Settlement Agreement brought certain of these communications forward and participated in proceedings which the communications concerned, it is reasonable that compensation and other financial and non-financial remedies be awarded to those two

Cities as part of a comprehensive Settlement Agreement resolving these issues, and to customers more generally.

Article II, § 2.2 provides for financial remedies set forth in the Settlement Agreement.

Section 2.2 states that in order to reach a comprehensive resolution of PG&E's alleged violations of the Commission's ex parte rules from 2010 through 2014, without the need for the Commission to rule on each communication, or determine which communications could be characterized as continuing violations, PG&E will pay a total financial remedy of \$86.5 million, as set forth in the following provisions.

Article II, § 2.2.A: General Fund Remedy

PG&E shall pay \$1 million to the State of California General Fund. This shall be a fine payable pursuant to Section 2100 *et seq.* of the Public Utilities Code. This payment shall not be deductible for tax purposes.

Article II, § 2.2.B: Gas Transmission and Storage Rate Case Ratemaking Remedy

PG&E shall additionally forego collection of \$63,500,000 in revenue requirements for the years 2018 (\$31,750,000) and 2019 (\$31,750,000) as determined in its Gas Transmission and Storage rate case. This remedy shall be implemented through PG&E's Annual Gas True-up Advice Letter. The Non-PG&E Parties intend for these foregone collections of revenue requirements to be punitive in nature and therefore not tax deductible. PG&E intends that these foregone collections of revenue be compensatory in nature and that PG&E not be taxed on these foregone collections of revenue (or, in the alternative, that these foregone collections of revenue offset PG&E's taxable income).

Article II, § 2.2.C: General Rate Case Ratemaking Remedy

In order to address the Non-PG&E Parties' concerns about 1) PG&E's internal costs of improving compliance and training related to the ex parte rules, 2) PG&E's internal costs of litigation of any issues arising from PG&E's late filed notices of ex parte communications and notices of improper ex parte communications including litigation of this proceeding, and 3) compensation paid to certain PG&E officers from 2010 to 2014 involved in the ex parte communications at issue in this proceeding, PG&E shall

implement a one-time adjustment of \$10,000,000 to be amortized in equivalent annual amounts over its next General Rate Case (“GRC”) cycle, (i.e., the GRC following the 2017 GRC). It is the Parties’ intent that PG&E not be taxed on these ratemaking adjustments (or, in the alternative, that these adjustments offset PG&E’s taxable income) because they are intended to compensate ratepayers for bearing PG&E’s costs described in this Paragraph through GRC rates. Furthermore, for purposes of forecasting future costs in the next two GRCs before the Commission, PG&E will adjust out of recorded data those outside services costs incurred that correspond to (i) improving compliance and training related to the ex parte rules from September 2014 to March 2017 and (ii) litigating any issues arising from PG&E’s late filed notices of ex parte communications and notices of improper ex parte communications including litigation of this proceeding. The Non-PG&E Parties shall not recommend any adjustment to the categories of costs described in this Paragraph in the next GRC or any other rate case before the Commission on the basis that the costs described in this Paragraph were incurred by PG&E because of, or related to, the ex parte issues described herein.

Article II, § 2.2.D: Compensation payable to the City of San Bruno and the City of San Carlos

Within 30 days of Commission approval, PG&E shall pay:

- \$6,000,000 to the City of San Bruno General Fund.
- \$6,000,000 to the City of San Carlos General Fund.

These payments are intended to compensate the City of San Bruno and the City of San Carlos for attorney’s fees, expenses, and any other harm caused on account of the conduct described in Section 2.1.B, under the unique circumstances of this proceeding. It is the Parties’ intent that these payments will be tax deductible to PG&E.

Article II, § 2.3 provides for non-financial remedies set forth in the Settlement Agreement. The non-financial remedies are meant to impose requirements on PG&E independent of the Commission’s Rules. Therefore, the additional requirements shall not apply to any event or communication for which PG&E, in conformance with Commission rules, files an ex parte notice with the Commission. The Parties do not intend these requirements to reflect in any way their respective positions concerning the scope and applicability of the Commission’s

Rules, nor are these requirements intended to apply in lieu of them. The non-financial remedies are as follows:

Article II, § 2.3.A: Notice of Tours Provided to CPUC  
Decisionmakers

For a period of two years, beginning January 1, 2018, if PG&E gives a tour of its facilities to a Commission decisionmaker, it will provide notice within three days of the tour in an open General Rate Case, Gas Transmission and Storage rate case, or other relevant cost recovery case if the facility, technology, process, or information to be addressed during the tour is at issue in such a case, and will additionally invite a representative of the Office of Ratepayer Advocates, the Safety and Enforcement Division, and The Utility Reform Network to attend the tour. The notice will include a summary of PG&E's oral presentation(s) during the tour and provide all written materials shown to or provided to a Commission decisionmaker during the tour.

Article II, § 2.3.B: Notice of Transmittals of Rating Agency  
and Investor Analyses to CPUC  
Decisionmakers

For a period of three years following Commission approval of the Settlement Agreement in this matter, if PG&E transmits via email a credit rating agency or investor report or analysis to a Commission decisionmaker, PG&E simultaneously will provide a copy to designated representatives of the Office of Ratepayer Advocates, the Safety and Enforcement Division, The Utility Reform Network, and all parties in PG&E's most recent cost of capital, General Rate Case, and Gas Transmission and Storage proceedings.

Article II, § 2.3.C: Notice of "Meet and Greet" Meetings  
Between Certain PG&E Officers and  
CPUC Decisionmakers

For a period of two years following Commission approval of the Settlement Agreement in this matter, if PG&E Corporation's Chief Executive Officer, PG&E's President, PG&E Corporation's Chief Financial Officer, or its Executive Vice President and General Counsel, participates in a meeting arranged or accepted by PG&E to be attended only by PG&E and its agents and the Commissioner and/or the Commissioner's advisors, PG&E will provide notice within three days to designated representatives of the Office of Ratepayer Advocates and The Utility Reform Network. Such



notice will include any written materials used during the meeting or discussion and a summary of PG&E's oral communications.

Article II, § 2.3.D: Training for PG&E Employees

PG&E provides annual training on the Commission's ex parte rules, and for three years following Commission approval of the Settlement Agreement in this matter, PG&E will provide to the other Parties to I. 15-11-015 (a) a copy of the training materials used for this purpose, and (b) an annual certificate of completion for the training of all officers, Regulatory Affairs employees and Law Department attorneys. PG&E shall provide an initial training within one year of Commission approval of the Settlement Agreement in this matter.

**D. Additional Terms**

Article III provides for general provisions of the Settlement Agreement. Article III addresses Commission approval of the Settlement Agreement, including the effective date, the confidentiality of settlement communications, and notes that the Settlement Agreement complies with Commission Rule of Practice and Procedure 12.1(d). Article III, § 3.4 concerns all-party support of the Settlement Agreement and notes that the Parties shall jointly request Commission approval of the Settlement Agreement and actively support its prompt approval, whether through appearances, briefing, or otherwise. Article III, § 3.5 discusses the issues resolved by the Settlement Agreement and states that:

The Parties agree that this Settlement Agreement is entered to provide a comprehensive resolution of PG&E's alleged violations of the Commission's ex parte rules from 2010 through 2014, including the communications from: (a) the City of San Bruno's Public Records Act requests to the Commission, as described in San Bruno's July 2014 Motion; (b) documents PG&E produced to the Commission in January 2015, pursuant to a January 13, 2015 Administrative Law Judge ruling in A. 13-12-012, which documents were subsequently posted on the Commission's website; (c) documents PG&E produced in discovery in A. 13-12-012; and (d) communications reported to the Commission by PG&E in late filed notices of ex parte communications and notices of improper communications, filed in September, October and December 2014, and May and June 2015. As such, the Non-

PG&E Parties agree that they will not file or re-open any proceedings, or seek additional relief from the Commission or any other court, agency, or body for these alleged violations of the Commission's ex parte rules by PG&E.

By resolving all issues related to PG&E's alleged ex parte violations associated with the communications from 2010 to 2014 at issue in this proceeding, this Settlement Agreement eliminates the need for the Commission to revisit these communications or expend resources reopening proceedings related to the communications. This complete and efficient resolution is in the interest of the Commission, the Parties, and the public.

Article III further addresses additional terms common to settlements of this type, including that the Settlement Agreement will not have precedential effect, that the standard of review for the Settlement Agreement is whether the settlement is "reasonable in light of the whole record, consistent with law, and in the public interest," and that the Settlement Agreement shall be governed by the law of the State of California and the Rules of the California Public Utilities Commission.

**III. THE SETTLEMENT AGREEMENT IS REASONABLE IN LIGHT OF THE WHOLE RECORD, CONSISTENT WITH LAW, AND IN THE PUBLIC INTEREST**

**A. Legal Standard for Settlement Agreements**

Rule 12.1(d) provides that "[t]he Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest." As discussed below, the Settlement Agreement meets these criteria.

**B. The Settlement is Reasonable in Light of the Record as Supplemented by the Settlement Agreement**

This proceeding was initiated in order to determine what sanctions should be imposed on PG&E for ex parte violations reported by PG&E and other alleged violations.<sup>27</sup> There is no dispute that the communications occurred. The record in this proceeding, as reflected in the materials specified in Article I of the Settlement Agreement, is well developed and contains substantial factual stipulations, data requests and responses, and other supporting documents that would have provided the basis for contesting this matter if it proceeded, and now provide the foundation for the Commission to approve this Settlement Agreement. While the Commission has not adjudicated the merits of the Parties' disputes concerning the total number of violations, or the penalties to be imposed, the Settlement Agreement represents concessions by all Parties in the interest of resolving these complex and uncertain issues.

Previously, the Non-PG&E Parties have taken the position that most or all of the 164 communications at issue violated the Commission's ex parte rules, and that many could be found to be continuing violations. The Non-PG&E Parties have further contended that some of the communications could be determined to be multiple violations, either because they involve more than one decisionmaker or more than one proceeding. The Non-PG&E Parties also argue that the financial remedies must be substantial because of the repetitive nature of PG&E's alleged unlawful communications, the particularly troubling character (to the Non-PG&E Parties) of at least some of the 164 communications, and the fact that the sanctions adopted by the Commission when it previously found PG&E in violation of the ex parte rules did not have the intended deterrent effect.

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<sup>27</sup> See OII Order 4-5.

Several of the communications self-reported by PG&E concerned the City of San Carlos and the hearing on repressurization of Line 147 before the Commission on December 19, 2013 in I.11-11-009, which implicated the City's interests. At that hearing, the Mayor of San Carlos spoke for the City. Unbeknownst to the Mayor and the City, PG&E and Commission decisionmakers engaged in several email communications the day before and the morning of the hearing concerning issues relevant to the repressurization proceeding. These emails are among the communications at issue here. The City of San Carlos has indicated that it had spent months preparing to evaluate and become informed on issues in the repressurization matter, hired an expert, and spent significant time and resources to prepare for and participate in the Commission proceedings concerning the repressurizations.

PG&E, on the other hand, while recognizing the seriousness of the conduct at issue, contends that most of the communications at issue are permissible information sharing from a regulated entity to its regulator, not substantive communications concerning open proceedings that constitute ex parte violations. Therefore, PG&E argues that most of the 164 communications were not violations, and that even those that are found to be violations would not be determined to be continuing violations. PG&E acknowledges, however, that the Commission may find that some communications, including its self-reports, did violate the Commission's rules, and that it has already paid substantial financial penalties for certain communications involving the same individuals who are no longer with PG&E, in PG&E's GT&S proceeding.<sup>28</sup>

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<sup>28</sup> In September 2014, PG&E reported ex parte communications concerning the selection of the ALJ for PG&E's GT&S case, for which it has paid a financial remedy whose various components total more than \$72 million. *See* D.14-11-041 at 3-4, 10-11.

In light of these differing positions, the Parties recognize that the potential outcome of this contested matter could fall below or above the financial terms set forth in the Settlement Agreement. Yet, the Parties have analyzed the record and arrived at a Settlement Agreement that addresses the seriousness of the conduct at issue, while recognizing their disagreement over the number of violations at hand. The Parties' ability to advance varying viewpoints yet resolve this matter is a strong indication that the overall outcome is reasonable in light of all the circumstances. Accordingly, the Parties submit that the Settlement Agreement is reasonable in light of the whole record.

**C. The Settlement Agreement is Consistent with Law**

In agreeing to the terms of the Settlement Agreement, the Parties considered the relevant statutes, rules and Commission decisions, and worked to ensure that the Settlement Agreement complies with all.

Historically, the Commission's decisional guidance regarding ex parte communications has been limited and Commission "precedent in imposing sanctions for ex parte violations has ranged from relatively minor fines, or none at all, to requiring training on ethics and the Commission's ex parte rules."<sup>29</sup> Prior to 2014, *SBC Commc 'ns, Inc.* was the Commission's most thorough discussion of the rules.<sup>30</sup> Since then, the Commission's 2014 ex parte decision in PG&E's GT&S case, and its 2015 San Onofre Nuclear Generating Station ("SONGS") ex parte decision, have become the primary precedents against which to analyze the issues in this matter.<sup>31</sup> In PG&E's GT&S case, the Commission found 20 violations of Rule 8.3(f) for

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<sup>29</sup> *Decision Affirming Violations of Rule 8.4 and Rule 1.1 and Imposing Sanctions on Southern California Edison Company* ("SONGS ex parte decision"), dated December 8, 2015 at 44.

<sup>30</sup> *SBC Commc 'ns, Inc.*, 2007 Cal. PUC LEXIS 311.

<sup>31</sup> See D.14-11-041; SONGS ex parte decision.

communications between PG&E and the Commission, as well as a single violation of Rule 1.1, the Commission's ethics rule.<sup>32</sup> The Commission imposed a financial penalty of \$1,050,000 for PG&E's violations, and ordered that its shareholders fund a disallowance for certain revenue to be collected from customers during the five-month delay caused by the Order to Show Cause proceeding that arose from PG&E's violations – a disallowance which ultimately will total approximately \$72 million.<sup>33</sup> In the SONGS ex parte decision, the Commission addressed more than 70 alleged ex parte communications between Southern California Edison ("SCE") and the Commission, concluding that eight communications violated Rule 8.4 and that SCE twice violated Rule 1.1.<sup>34</sup> For its Rule 8.4 and Rule 1.1 violations, SCE received a financial penalty of \$16,740,000, which included a continuing violation premised upon actions taken by SCE in defending the ex parte issues raised in that matter.<sup>35</sup>

Here, if approved, this Settlement Agreement will represent the largest financial remedy ever imposed by the Commission in a decision addressing violations of its ex parte rules. The bulk of the financial remedy (\$73,500,000) will directly benefit customers, consistent with the Commission's decision in PG&E's GT&S rate case, and with the policy set forth in the recently amended Cal. Pub. Util. Code § 1701.6(c), which was passed after the events at issue here. While the new legislation does not apply to the matters at issue in this proceeding, the Settlement Agreement is strongly influenced by the legislative mandate of this statute, which requires that penalties assessed by the Commission for ex parte violations by rate-regulated entities like

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<sup>32</sup> D.14-11-041 at 6.

<sup>33</sup> *See id.* at 30-32.

<sup>34</sup> *Id.* at 2-3; *Amended Administrative Law Judge's Ruling Finding Violations of Rule 8.4, Requiring Reporting of Ex Parte Communications, and Ordering SCE to Show Cause Why it Should Not Also be Found in Violation of Rule 1.1 and be Subject to Sanctions for All Rule Violations* ("SONGS amended ruling"), dated August 5, 2015 at 5.

<sup>35</sup> SONGS ex parte decision at 2-3.

PG&E take the form of credits to the customers of such entities. A smaller portion of the financial remedy (\$12,000,000) will compensate two municipalities that have been significantly affected by and were instrumental in identifying many of the ex parte issues relevant here and raising awareness concerning these issues generally.

Moreover, in light of upcoming changes to the Commission's ex parte rules, the Parties note that a determination of the precise number of violations in this proceeding will be a lengthy and nuanced endeavor that will consume Commission resources, while providing limited precedential value. New legislation has passed and new Commission rules are forthcoming that will govern future communications with the Commission.<sup>36</sup> Further, PG&E has agreed to certain reporting obligations, beyond those required by the Commission's ex parte rules, for its future communications as part of this Settlement Agreement. These developments significantly reduce the usefulness of communication-by-communication dispositions by the Commission in this proceeding because future communications will be subject to a different set of rules and requirements.

Consistent with the law, it is within the Commission's discretion to impose the agreed upon financial terms. Pursuant to Public Utilities Code section 2107:

Any public utility that violates or fails to comply with any provision of the Constitution of this state or of this part, or that fails or neglects to comply with any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the commission, in a case in which a penalty has not otherwise been provided, is subject to a penalty of not less than five hundred dollars (\$500), nor more than fifty thousand dollars (\$50,000) for each offense.

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<sup>36</sup> See Senate Bill 215 (2016).

Rule 8.3(j) gives the Commission broader authority to “impose penalties and sanctions, or make any other order, as it deems appropriate to ensure the integrity of the formal record and to protect the public interest.” Furthermore, Public Utilities Code Section 2108 provides, that “every violation of any...rule...of the commission by any corporation or person is a separate and distinct offense, and in the case of a continuing violation, each day’s continuance thereof shall be a separate and distinct offense.” The Commission has been tasked with interpreting what “continuing” means through its decisions.<sup>37</sup> While the Commission has not found a violation of Rule 8.4 to be a continuing violation in the past, it has retained the discretion to do so.<sup>38</sup> While the Parties disagree as to whether a continuing violation would be warranted in this matter, the total financial remedy included in the Settlement Agreement contemplates a potential financial outcome in which one or more continuing violations might be imposed if this case were to be fully contested.

The total financial remedy is an appropriate compromise of the competing positions in light of the totality of the circumstances, is an amount that is within the Commission’s discretion to impose, and is consistent with relevant statutes, rules, and Commission decisions. Therefore, the Settlement Agreement is consistent with law.

**D. The Settlement Agreement is in the Public Interest**

The Commission has a “long-standing policy favoring settlements.”<sup>39</sup> As the Commission has stated, the “Commission favors settlements because they generally support worthwhile goals, including reducing the expense of litigation, conserving scarce Commission

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<sup>37</sup> SONGS ex parte decision at 37.

<sup>38</sup> *Id.* at 38. *See also*, D.15-06-035 (denying rehearing of D.14-11-041) at 4.

<sup>39</sup> *Application of California-American Water Company*, D.10-06-038, 2010 Cal. PUC LEXIS 224 at 46.



resources, and allowing parties to reduce the risk that litigation will produce unacceptable results.”<sup>40</sup> Furthermore, the Commission has held that a settlement that “commands broad support among participants fairly reflective of the affected interests” and “does not contain terms which contravene statutory provisions or prior Commission decisions” meets the “public interest” criterion.<sup>41</sup>

Here, the Settlement Agreement is consistent with the Commission’s policy in support of settlement. Adoption of the Settlement Agreement will conserve the Commission’s resources and achieve a final resolution of the proceeding in less time, and at less cost, to the public and the Parties than would be the case if this matter were to be fully litigated. Also, the Settlement Agreement is supported by participants who fairly reflect the affected interests, and it does not contravene statutory provisions or Commission precedent, as discussed above. The Settlement Agreement is sponsored by the utility, PG&E, the CPUC’s staff, SED, ORA and TURN, and two cities whose constituents are customers, the City of San Bruno and the City of San Carlos. Together, the Parties’ collective agreement to recommend adoption of the Settlement Agreement supports the notion that the settlement is in the public interest.

Furthermore, specific terms of the Settlement Agreement serve the public interest. For example, with regard to the monetary component of the Settlement Agreement, \$73,500,000 will directly benefit customers, and \$12,000,000 compensates the harmed municipalities that brought certain of the contested communications to light and were participants in the proceedings affected by them. The City of San Bruno has indicated that it has spent a significant amount of

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<sup>40</sup> *Application of Southern California Edison Company*, D.10-12-035, 2010 Cal. PUC LEXIS 467 at 87; *see also Application of Golden State Water Co.*, D.10-11-035, 2010 Cal. PUC LEXIS 495 at 17.

<sup>41</sup> *See Decision Approving Settlement Agreement for Southern California Edison Company’s and Pacific Gas and Electric Company’s Economic Development Rate Program* (D.10-06-015), dated June 3, 2010 at 11-12, citing 1992 Cal. PUC LEXIS 867 at 16.

time and resources on the ex parte issues that are the subject of this proceeding and diverted thousands of staff hours away from other pressing city priorities, projects, and initiatives. The City of San Bruno has been an active participant in several of the Commission proceedings alleged to be relevant to the communications at issue here, as well as this proceeding itself, and has advocated for ex parte reform through the California legislature. The City of San Bruno's efforts have brought awareness to these issues and have contributed to the ex parte rule reforms at the Commission and recently enacted by the legislature.

By structuring the financial remedy in this manner, the public, specifically, customers will be direct beneficiaries of the Settlement Agreement. Furthermore, several of the non-monetary terms in the Settlement Agreement serve the public interest. For instance, PG&E will be subject to heightened notice requirements concerning certain classes of communications, and is required to provide additional training on the Commission's ex parte rules, for a period of time following approval of the Settlement Agreement. These remedies foster greater transparency, accountability, and ethical conduct, which is in the public's interest.

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#### IV. CONCLUSION

The Parties have reached a Settlement Agreement that is reasonable in light of the record as supplemented by the materials described in the Settlement Agreement, consistent with law, and in the public interest. The Parties respectfully request the Commission grant this Joint Motion and approve the Settlement Agreement.

Respectfully Submitted on behalf of the Parties,

By: \_\_\_\_\_ /s/  
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Dated: March 28, 2017

# **ATTACHMENT A**

**IN THE MATTER OF THE 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  
I. 15-11-015**

**SETTLEMENT AGREEMENT**

**March 27, 2017**

The City of San Bruno, the City of San Carlos, the Office of Ratepayer Advocates, the Safety and Enforcement Division, The Utility Reform Network (collectively, the “Non-PG&E Parties”), and Pacific Gas and Electric Company (“PG&E”) (together with the Non-PG&E Parties, the “Parties”) agree to settle Investigation (“I.”) 15-11-015 (the “OII”) on the following terms and conditions, which will become effective on the date of a Final Order by the California Public Utilities Commission (the “CPUC” or “Commission”) approving this Settlement Agreement.

**RECITALS**

The following recitals are provided to set forth the nature of the events that gave rise to the OII and the resulting Settlement Agreement.

1. On January 11, 2008, in Decision (“D.”) 08-01-021, the assigned Commissioner and the assigned Administrative Law Judge (“ALJ”) determined that PG&E violated the Commission’s ex parte rules after PG&E acknowledged in a May 22, 2007 filing that it had failed to provide a three day notice of two May 17, 2007 meetings with decisionmakers concerning Application (“A.”) 06-11-005. The Commission approved as a remedial action that PG&E should develop written best practices to document, control, and report on ex parte contacts.
2. On November 26, 2014, in D. 14-11-041, the Commission found that PG&E committed 20 violations of Rule of Practice and Procedure 8.3(f) and a single violation of Rule 1.1 for communications between PG&E and the Commission decisionmakers concerning the assignment of the ALJ for PG&E’s then-pending Gas Transmission and Storage (“GT&S”) case, A. 13-12-012. The Commission, citing to D. 08-01-021, imposed a financial penalty of \$1,050,000 for PG&E’s violations, and ordered that its shareholders fund a disallowance for certain revenue to be collected from customers during the five-month delay caused by the Order to Show Cause proceeding that arose from PG&E’s violations. The communications at issue in this proceeding predate the Commission’s decision in D. 14-11-041, and in that decision the Commission acknowledged that PG&E had “admit[ted] to other improper ex parte communications in different proceedings” – referring to some of the communications at issue in this proceeding. In D. 14-11-041, the Commission elected only to resolve ex parte issues concerning A. 13-12-012.

3. The Commission instituted this Order Instituting Investigation (OII) on November 23, 2015.
4. The Commission's OII identified 48 communications as being at issue in this proceeding – 7 communications self-reported or late-noticed by PG&E and 41 communications that the City of San Bruno alleged in its July 2014 motion were ex parte violations.<sup>1</sup>
5. On January 8, 2016, the Commission directed the Parties to engage in a substantive and detailed meet and confer process to develop an efficient procedural schedule to resolve the issues identified in the OII.
6. During the meet and confer process, the Non-PG&E Parties requested that a number of communications be added to the proceeding record, which were identified from: (a) the City of San Bruno's Public Records Act requests to the Commission, as described in San Bruno's July 2014 Motion; (b) documents PG&E produced to the Commission in January 2015, pursuant to a January 13, 2015 Administrative Law Judge's ruling in A. 13-12-012, which documents were subsequently posted on the Commission's website; (c) documents PG&E produced in discovery in A. 13-12-012; and (d) communications reported to the Commission by PG&E in late filed notices of ex parte communications and notices of improper communications, filed in September, October and December 2014, and May and June 2015.
7. The Parties conferred in detail and reached agreement regarding which communications should be added to the proceeding record and which should be not further considered.
8. In the interest of resolving all issues related to alleged ex parte violations efficiently and completely in a single, comprehensive proceeding, the Parties agreed to add more than 100 communications to this proceeding's record – bringing the total to 164 communications.
9. The Parties do not agree as to whether each of these communications are violations, though PG&E has previously acknowledged that some of these did violate the Commission's ex parte rules.
10. As part of the meet and confer process, the Parties worked cooperatively and constructively to resolve this matter. The Parties:
  - Agreed to factual stipulations concerning all 164 communications at issue.
  - Agreed that PG&E would respond to discovery concerning emails for which the Non-PG&E Parties sought additional information.

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<sup>1</sup> See *Motion of the City of San Bruno for an Order to Show Cause Why Pacific Gas and Electric Company Should Not Be Held in Violation of Commission Rule of Practice and Procedure 8.3(b) (Rule Against Ex Parte Communication) and for Sanctions and Fees* ("San Bruno's July 2014 Motion"), filed July 28, 2014 in I. 12-01-007, I. 11-11-009, and I. 11-02-016.

- Agreed to a process for efficiently conducting this discovery, to ensure that information was gathered on a timeline consistent with the Commission's stated expectations, and to prevent time-consuming discovery disputes.
  - Agreed to a procedure for moving undisputed facts into the evidentiary record, to create a joint record for the proceeding.
11. After completing the discovery and factual stipulations discussed above, the Parties engaged in multiple settlement discussions in person, by telephone, and by email from November 2016 through March 2017.
12. As a result, the Parties have entered into this Settlement Agreement, subject to approval by the Commission.

### ARTICLE I JOINT RECORD

- 1.1 The Parties have prepared a comprehensive Joint Record for this proceeding, attached to this settlement as Exhibits 1, 2, and 3, and request that it be accepted into the record of this proceeding by the Commission. The Joint Record is organized by Category 1, Category 2, and Category 3, as detailed in the Parties' Joint Motion for Adoption of Settlement Agreement. These categories were developed for discovery purposes only, and have no bearing on the number or severity of any alleged violations in this matter. For each category, the attached record consists of tabbed sections including communications and related documents. These tabs include, the Parties' stipulations; PG&E's data request responses; and exhibits and supplemental data request responses and exhibits.
- 1.2 Documents related to Category 1 can be found in Exhibit 1, Volumes A through H.
- 1.3 Documents related to Category 2 can be found in Exhibit 2.
- 1.4 Documents related to Category 3 can be found in Exhibit 3.

### ARTICLE II TERMS OF THE SETTLEMENT

#### 2.1 Admissions

The Non-PG&E Parties requested, and PG&E agreed to add a number of communications to this proceeding in the interest of resolving all issues related to the alleged ex parte violations. By adding these communications, PG&E was not admitting that each communication was a violation. Although the Parties do not agree as to whether each of these communications is a violation, PG&E makes the following admissions in the interest of resolving these issues in a comprehensive settlement:

### 2.1.A Violation of Commission Rules

During the period from 2010 to 2014, PG&E committed multiple violations of the Commission's ex parte rules in Article 8 of the Rules of Practice and Procedure, through communications that were either prohibited or not reported to the Commission as required by these rules.

On at least one occasion during this time period, PG&E also violated Rule 12.6 of the Commission's Rules of Practice and Procedure, which requires that parties to settlement negotiations hold such negotiations confidential, by disclosing to a Commission decisionmaker the contents of ongoing settlement negotiations.

Finally, by the totality of these violations, PG&E also violated Commission Rule of Practice and Procedure 1.1.

### 2.1.B Conduct Harmful to Customers and Other Constituents

PG&E's employees and agents engaged in communications with decisionmakers at the Commission, as well as related conduct that was harmful to the regulatory process. Under the unique circumstances of this case, where the two Cities who are parties to this Settlement Agreement brought certain of these communications forward and participated in proceedings which the communications concerned, it is reasonable that compensation and other financial and non-financial remedies be awarded to those two Cities as part of a comprehensive Settlement Agreement resolving these issues, and to customers more generally.

## 2.2 Financial Remedies

In order to reach a comprehensive resolution of PG&E's alleged violations of the Commission's ex parte rules from 2010 through 2014, without the need for the Commission to rule on each communication, or determine which communications could be characterized as continuing violations, PG&E will pay a total financial remedy of \$86.5 million, as set forth in the following provisions. Ratepayers will bear no costs associated with the financial remedies set forth below.

### 2.2.A General Fund Remedy

PG&E shall pay \$1 million to the State of California General Fund. This shall be a fine payable pursuant to Section 2100 *et seq.* of the Public Utilities Code. This payment shall not be deductible for tax purposes.

### 2.2.B Gas Transmission and Storage Rate Case Ratemaking Remedy

PG&E shall additionally forego collection of \$63,500,000 in revenue requirements for the years 2018 (\$31,750,000) and 2019 (\$31,750,000) as determined in its Gas Transmission and Storage rate case. This remedy shall be implemented through PG&E's Annual Gas True-up Advice Letter. The Non-PG&E Parties intend for these foregone collections of revenue requirements to be punitive in nature and therefore not tax deductible. PG&E intends that these foregone collections of revenue be compensatory in nature and that PG&E not be taxed on these foregone



collections of revenue (or, in the alternative, that these foregone collections of revenue offset PG&E's taxable income).

### 2.2.C General Rate Case Ratemaking Remedy

In order to address the Non-PG&E Parties' concerns about 1) PG&E's internal costs of improving compliance and training related to the ex parte rules, 2) PG&E's internal costs of litigation of any issues arising from PG&E's late filed notices of ex parte communications and notices of improper ex parte communications including litigation of this proceeding, and 3) compensation paid to certain PG&E officers from 2010 to 2014 involved in the ex parte communications at issue in this proceeding, PG&E shall implement a one-time adjustment of \$10,000,000 to be amortized in equivalent annual amounts over its next General Rate Case ("GRC") cycle, (i.e., the GRC following the 2017 GRC). It is the Parties' intent that PG&E not be taxed on these ratemaking adjustments (or, in the alternative, that these adjustments offset PG&E's taxable income) because they are intended to compensate ratepayers for bearing PG&E's costs described in this Paragraph through GRC rates. Furthermore, for purposes of forecasting future costs in the next two GRCs before the Commission, PG&E will adjust out of recorded data those outside services costs incurred that correspond to (i) improving compliance and training related to the ex parte rules from September 2014 to March 2017 and (ii) litigating any issues arising from PG&E's late filed notices of ex parte communications and notices of improper ex parte communications including litigation of this proceeding. The Non-PG&E Parties shall not recommend any adjustment to the categories of costs described in this Paragraph in the next GRC or any other rate case before the Commission on the basis that the costs described in this Paragraph were incurred by PG&E because of, or related to, the ex parte issues described herein.

### 2.2.D Compensation Payable to the City of San Bruno and the City of San Carlos

Within 30 days of Commission approval, PG&E shall pay:

- \$6,000,000 to the City of San Bruno General Fund.
- \$6,000,000 to the City of San Carlos General Fund.

These payments are intended to compensate the City of San Bruno and the City of San Carlos for attorney's fees, expenses, and any other harm caused on account of the conduct described in Section 2.1.B, under the unique circumstances of this proceeding. It is the Parties' intent that these payments will be tax deductible to PG&E.

### 2.3 Non-Financial Remedies

The following remedies are meant to impose requirements on PG&E independent of the Commission's Rules. Therefore, these additional requirements shall not apply to any event or communication for which PG&E, in conformance with Commission rules, files an ex parte notice with the Commission. The Parties do not intend these requirements to reflect in any way

their respective positions concerning the scope and applicability of the Commission's Rules, nor are these requirements intended to apply in lieu of them.

2.3.A Notice of Tours Provided to CPUC Decisionmakers

For a period of two years, beginning January 1, 2018, if PG&E gives a tour of its facilities to a Commission decisionmaker, it will provide notice within three days of the tour in an open General Rate Case, Gas Transmission and Storage rate case, or other relevant cost recovery case if the facility, technology, process, or information to be addressed during the tour is at issue in such a case, and will additionally invite a representative of the Office of Ratepayer Advocates, the Safety and Enforcement Division, and The Utility Reform Network to attend the tour. The notice will include a summary of PG&E's oral presentation(s) during the tour and provide all written materials shown to or provided to a Commission decisionmaker during the tour.

2.3.B Notice of Transmittals of Rating Agency and Investor Analyses to CPUC Decisionmakers

For a period of three years following Commission approval of the Settlement Agreement in this matter, if PG&E transmits via email a credit rating agency or investor report or analysis to a Commission decisionmaker, PG&E simultaneously will provide a copy to designated representatives of the Office of Ratepayer Advocates, the Safety and Enforcement Division, The Utility Reform Network, and all parties in PG&E's most recent cost of capital, General Rate Case, and Gas Transmission and Storage proceedings.

2.3.C Notice of "Meet and Greet" Meetings Between Certain PG&E Officers and CPUC Decisionmakers

For a period of two years following Commission approval of the Settlement Agreement in this matter, if PG&E Corporation's Chief Executive Officer, PG&E's President, PG&E Corporation's Chief Financial Officer, or its Executive Vice President and General Counsel, participates in a meeting arranged or accepted by PG&E to be attended only by PG&E and its agents and the Commissioner and/or the Commissioner's advisors, PG&E will provide notice within three days to designated representatives of the Office of Ratepayer Advocates and The Utility Reform Network. Such notice will include any written materials used during the meeting or discussion and a summary of PG&E's oral communications.

2.3.D Training for PG&E Employees

PG&E provides training on the Commission's ex parte rules, and for three years following Commission approval of the Settlement Agreement in this matter, PG&E will provide to the other Parties to I. 15-11-015 (a) a copy of the training materials used for this purpose, and (b) an annual certificate of completion for the training of all officers, Regulatory Affairs employees and Law Department attorneys. PG&E shall provide an initial training within one year of Commission approval of the Settlement Agreement in this matter.

ARTICLE III  
GENERAL PROVISIONS

3.1 Settlement Effective Date

This Settlement Agreement will become effective upon issuance by the Commission of a Final Order approving this Settlement Agreement without modification or condition or, if modified or conditioned, upon its acceptance as so modified by the Parties. For purposes of this Settlement Agreement, a Commission order will be deemed a Final Order on the last date for filing an application for rehearing if no application is filed by that date, or if any request for rehearing is filed, as of the date on which rehearing is denied, or a Final Order is issued after rehearing.

3.2 Confidentiality of Settlement Communications

This Settlement Agreement is submitted on the condition that, if the Settlement Agreement does not become effective, it will not constitute any part of the record in this proceeding or be used for any other purpose. The communications among the Parties that have produced this Settlement Agreement have been conducted on the explicit understanding that they were undertaken subject to Rule 12.6 of the Commission's Rules of Practice and Procedure, and the rights of the Parties with respect thereto are not impaired or waived by this Settlement Agreement, or the Parties' Joint Motion for Adoption of Settlement Agreement.

3.3 Complies with Commission Rule of Practice and Procedure

This Settlement Agreement complies with Commission Rule of Practice and Procedure 12.1(d). This Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest, as set forth in the concurrently filed Parties' Joint Motion for Adoption of Settlement Agreement.

3.4 Joint Support

The Parties shall jointly request Commission approval of this Settlement Agreement. The Parties additionally agree to actively support prompt approval of the Settlement Agreement. Active support shall include written and oral testimony if testimony is required, appearances, briefing, filing an Appeal of a Presiding Officer's decision, and other means as needed to obtain the approvals sought.

3.5 Issues Resolved

The Parties agree that this Settlement Agreement is entered to provide a comprehensive resolution of PG&E's alleged violations of the Commission's ex parte rules from 2010 through 2014, including the communications from: (a) the City of San Bruno's Public Records Act requests to the Commission, as described in San Bruno's July 2014 Motion; (b) documents PG&E produced to the Commission in January 2015, pursuant to a January 13, 2015 Administrative Law Judge ruling in A. 13-12-012, which documents were subsequently posted on the Commission's website; (c) documents PG&E produced in discovery in A. 13-12-012; and (d) communications reported to the Commission by PG&E in late filed notices of ex parte

communications and notices of improper communications, filed in September, October and December 2014, and May and June 2015. As such, the Non-PG&E Parties agree that they will not file or re-open any proceedings, or seek additional relief from the Commission or any other court, agency, or body for these alleged violations of the Commission's ex parte rules by PG&E.

### 3.6 Not Precedential in Any Further Proceedings

This Settlement Agreement will not be cited as an example of precedent, nor will it be deemed an admission to bind any Party (except in any proceeding to enforce this Settlement Agreement or as otherwise expressly provided for in Paragraph 2.1.A herein), in any future proceedings, including, but not limited to, any Commission proceedings or any other public utility commission proceedings in another state, and will not be deemed precedential or prejudicial to any Party's rights.

### 3.7 Applicable Standard of Review

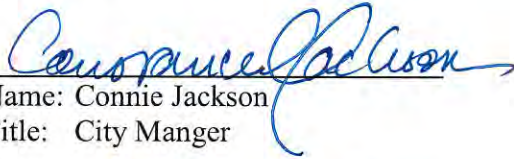
Commission Rule of Practice and Procedure 12.1(d) provides that the Commission will not approve a settlement, whether contested or not, unless the settlement is "reasonable in light of the whole record, consistent with law, and in the public interest." The Parties agree that this standard applies to the Commission's review of this Settlement Agreement.

### 3.8 Governing Law

This Settlement Agreement shall be governed by the laws of the State of California and the Rules of the California Public Utilities Commission.

The Parties' authorized representatives have duly executed this Settlement Agreement on behalf of the Parties they represent.

**CITY OF SAN BRUNO**

  
Name: Connie Jackson  
Title: City Manger  
Date: March 27, 2017

**SAFETY AND ENFORCEMENT  
DIVISION**

\_\_\_\_\_  
Name: Gregory Heiden  
Title: Attorney For Safety and  
Enforcement Division

Date: \_\_\_\_\_

**CITY OF SAN CARLOS**

\_\_\_\_\_  
Name: Jeff Maltbie  
Title: City Manager

Date: \_\_\_\_\_

**THE UTILITY REFORM NETWORK**

\_\_\_\_\_  
Name: Hayley Goodson  
Title: Staff Attorney

Date: \_\_\_\_\_

**OFFICE OF RATEPAYER  
ADVOCATES**

\_\_\_\_\_  
Name: Elizabeth Echols  
Title: Director

Date: \_\_\_\_\_

**PACIFIC GAS AND ELECTRIC  
COMPANY**

\_\_\_\_\_  
Name: Robert S. Kenney  
Title: Vice President of CPUC Regulatory  
Affairs

Date: \_\_\_\_\_

The Parties' authorized representatives have duly executed this Settlement Agreement on behalf of the Parties they represent.

**CITY OF SAN BRUNO**

\_\_\_\_\_  
Name: Connie Jackson  
Title: City Manger


Date: \_\_\_\_\_

**SAFETY AND ENFORCEMENT  
DIVISION**

\_\_\_\_\_  
Name: Gregory Heiden  
Title: Attorney For Safety and  
Enforcement Division

Date: \_\_\_\_\_

**CITY OF SAN CARLOS**

  
\_\_\_\_\_  
Name: Jeff Maltbie  
Title: City Manager

Date: 3-27-17

**THE UTILITY REFORM NETWORK**

\_\_\_\_\_  
Name: Hayley Goodson  
Title: Staff Attorney

Date: \_\_\_\_\_

**OFFICE OF RATEPAYER  
ADVOCATES**

\_\_\_\_\_  
Name: Elizabeth Echols  
Title: Director

Date: \_\_\_\_\_

**PACIFIC GAS AND ELECTRIC  
COMPANY**

\_\_\_\_\_  
Name: Robert S. Kenney  
Title: Vice President of CPUC Regulatory  
Affairs

Date: \_\_\_\_\_

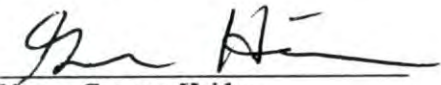
The Parties' authorized representatives have duly executed this Settlement Agreement on behalf of the Parties they represent.

**CITY OF SAN BRUNO**

\_\_\_\_\_  
Name: Connie Jackson  
Title: City Manager

Date: \_\_\_\_\_

**SAFETY AND ENFORCEMENT  
DIVISION**

  
\_\_\_\_\_  
Name: Gregory Heiden  
Title: Attorney For Safety and  
Enforcement Division

Date: 3/27/17

**CITY OF SAN CARLOS**

\_\_\_\_\_  
Name: Jeff Maltbie  
Title: City Manager

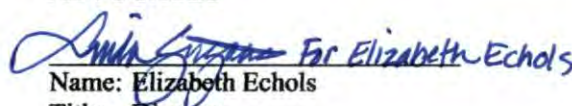
Date: \_\_\_\_\_

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\_\_\_\_\_  
Name: Hayley Goodson  
Title: Staff Attorney

Date: \_\_\_\_\_

**OFFICE OF RATEPAYER  
ADVOCATES**

  
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Name: Elizabeth Echols  
Title: Director

Date: 3/27/2017

**PACIFIC GAS AND ELECTRIC  
COMPANY**

\_\_\_\_\_  
Name: Robert S. Kenney  
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Affairs

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**CITY OF SAN BRUNO**

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Name: Connie Jackson  
Title: City Manger

Date: \_\_\_\_\_

**SAFETY AND ENFORCEMENT  
DIVISION**

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Enforcement Division

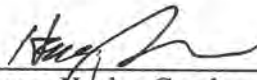
Date: \_\_\_\_\_

**CITY OF SAN CARLOS**

\_\_\_\_\_  
Name: Jeff Maltbie  
Title: City Manager

Date: \_\_\_\_\_

**THE UTILITY REFORM NETWORK**

  
\_\_\_\_\_  
Name: Hayley Goodson  
Title: Staff Attorney

Date: March 27, 2017

**OFFICE OF RATEPAYER  
ADVOCATES**

\_\_\_\_\_  
Name: Elizabeth Echols  
Title: Director

Date: \_\_\_\_\_

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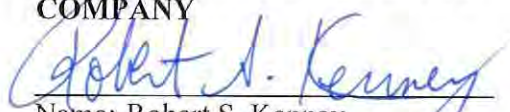
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**PACIFIC GAS AND ELECTRIC  
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\_\_\_\_\_  
Name: Robert S. Kenney  
Title: Vice President of CPUC Regulatory  
Affairs

Date: 3/27/2017

## **EXHIBIT 1**

**EXHIBIT 1 IS NOT ATTACHED AS IT EXCEEDS THE FILE SIZE  
LIMITATION. DOCUMENTS CAN BE OBTAINED BY  
FOLLOWING DIRECTIONS CONTAINED WITHIN THE NOTICE  
OF AVAILABILITY.**

## **EXHIBIT 2**

**EXHIBIT 2 IS NOT ATTACHED AS IT EXCEEDS THE FILE SIZE  
LIMITATION. DOCUMENTS CAN BE OBTAINED BY  
FOLLOWING DIRECTIONS CONTAINED WITHIN THE NOTICE  
OF AVAILABILITY.**

## **EXHIBIT 3**

**EXHIBIT 3 IS NOT ATTACHED AS IT EXCEEDS THE FILE SIZE  
LIMITATION. DOCUMENTS CAN BE OBTAINED BY  
FOLLOWING DIRECTIONS CONTAINED WITHIN THE NOTICE  
OF AVAILABILITY.**

(End of Attachment A)