

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



**FILED**  
10/16/19  
03:13 PM

Application of Pacific Gas and Electric Company  
for Authority, Among Other Things, to Increase  
Rates and Charges for Electric and Gas Service  
Effective on January 1, 2020. (U39M)

Application 18-12-009  
(Filed December 13, 2018)

**RESPONSE OF THE UTILITY REFORM NETWORK IN SUPPORT OF THE  
MOTION OF THE CITY AND COUNTY OF SAN FRANCISCO TO  
ENTER INTO EVIDENCE THE DECLARATION OF DOUGLAS LIPPS**

October 16, 2019

Hayley Goodson, Staff Attorney  
Thomas Long, Legal Director

**The Utility Reform Network**  
785 Market Street, Suite 1400  
San Francisco, CA 94103  
Phone: (415) 929-8876  
Fax: (415) 929-1132  
E-mail: [tlong@turn.org](mailto:tlong@turn.org)

## TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION AND SUMMARY OF RESPONSE .....</b>	<b>1</b>
<b>II.</b>	<b>THE CCSF DECLARATION WILL ENHANCE THE ACCURACY AND COMPLETENESS OF THE RECORD ON A KEY ISSUE .....</b>	<b>2</b>
<b>III.</b>	<b>CCSF TIMELY TENDERED ITS DECLARATION AFTER LEARNING THAT PG&amp;E WAS ATTRIBUTING ITS CHANGED 2019 WORK PLAN TO A CLAIMED LACK OF COOPERATION FROM CCSF .....</b>	<b>4</b>
<b>IV.</b>	<b>TURN DOES NOT OBJECT TO ALLOWING PG&amp;E TO SUBMIT RESPONSIVE TESTIMONY, WHICH, LIKE THE CCSF DECLARATION, SHOULD BE SUBJECT TO CROSS EXAMINATION, IF THE PARTIES SO DESIRE .....</b>	<b>6</b>
<b>VII.</b>	<b>CONCLUSION .....</b>	<b>7</b>

**RESPONSE OF THE UTILITY REFORM NETWORK IN SUPPORT OF THE  
MOTION OF THE CITY AND COUNTY OF SAN FRANCISCO TO  
ENTER INTO EVIDENCE THE DECLARATION OF DOUGLAS LIPPS**

**I. INTRODUCTION AND SUMMARY OF RESPONSE**

In accordance with the schedule established by the Administrative Law Judges (ALJs) at the October 11, 2019 evidentiary hearings, The Utility Reform Network (TURN) submits this response to the Motion of the City and County of San Francisco (CCSF) to Enter into Evidence the Declaration of Douglas Lipps (CCSF Motion).

The declaration that CCSF seeks to enter into the record addresses what has emerged as a key issue in PG&E's effort to demonstrate the reasonableness of deferred work in its Cross Bore inspection program – namely, whether a lack of cooperation by CCSF has prevented PG&E from carrying out what PG&E terms unable to access (UTA) inspections in San Francisco. PG&E acknowledges that UTA inspections warrant top priority in the Cross Bore program because of the high safety risks posed by cross bores in San Francisco.<sup>1</sup> The proffered CCSF declaration would enhance the accuracy and completeness of the record on this important issue, by presenting testimony of a witness with direct personal knowledge of the discussions and respective efforts of CCSF and PG&E, in contrast to the testimony that PG&E has presented to date, from witnesses without any direct involvement in either the program or the discussions between CCSF and PG&E.<sup>2</sup> As the CCSF Motion explains, CCSF tendered the declaration within a reasonable amount of time after learning from TURN's cross examination of PG&E's Cross Bore panel witnesses that PG&E was taking the position that lack of cooperation from CCSF was preventing PG&E from undertaking the originally planned UTA inspections in 2019. To avert any potential prejudice to PG&E, TURN has no objection to allowing PG&E to submit responsive testimony as soon as is reasonably possible, provided that such PG&E testimony and the CCSF declaration are subject to cross

---

<sup>1</sup> Hearing Exhibit (Hrg. Ex.) 10, pp. 2-39 (referring to San Francisco cross bores as the highest priority inspections); 4-12 (San Francisco has higher find rate and higher consequences of cross bores).

<sup>2</sup> See Section II below.

examination, if so desired. With these procedural adjustments to address the unusual circumstances presented, the Commission will benefit from an improved record on a significant safety issue, without any undue prejudice to PG&E.

## **II. THE CCSF DECLARATION WILL ENHANCE THE ACCURACY AND COMPLETENESS OF THE RECORD ON A KEY ISSUE**

Absent admission of the CCSF declaration, the Commission will have an incomplete record of questionable accuracy regarding the claim of PG&E witnesses that lack of cooperation by PG&E compelled it to change its 2019 workplan away from performing UTA inspections in San Francisco.<sup>3</sup>

Neither of PG&E's two Cross Bore witnesses have any direct involvement in the Cross Bore program. PG&E presented Mr. Kerans as the key subject matter witness for the program, but he is not the director/process owner of the program and has not had any responsibility for managing the program.<sup>4</sup> In addition, Mr. Kerans acknowledged that he had no direct involvement in the negotiations with CCSF about which he was giving testimony.<sup>5</sup> PG&E's other witness, Mr. Abranches, is even further removed from any direct involvement with the Cross Bore program in his broad-based capacity as Director of Integrated Planning, Governance, Controls and Technology for Gas Operations<sup>6</sup> and would not have had any direct involvement in discussions and negotiations between CCSF and PG&E.

In contrast, CCSF's witness, Mr. Lipps, is a Mechanical Engineer who has been working on the Cross Bore program for CCSF since its inception. He states that, if called upon to testify to the contents of his declaration, he could do so from his "own personal knowledge."<sup>7</sup> Based on his direct knowledge, Mr. Lipps presents a very different

---

<sup>3</sup> See, e.g., Reporter's Transcript (Tr.), p. 1144 (Kerans/PG&E) (testifying that PG&E would need an agreement with PG&E to get the support needed to complete UTA inspections).

<sup>4</sup> Tr., pp. 944-945 (Kerans/PG&E).

<sup>5</sup> Tr., pp. 1148-1149 (Kerans/PG&E).

<sup>6</sup> PG&E-13, p. APA-1.

<sup>7</sup> Lipps Declaration, Paragraph (Par.) 1.

perspective that is at odds with the PG&E witnesses' portrayal of CCSF as non-cooperative. As summarized in the CCSF Motion, Mr. Lipps' declaration shows that "San Francisco has worked closely with PG&E for more than five years to facilitate prompt inspection and remediation of crossbore conditions that threaten public safety."<sup>8</sup>

The points made in Mr. Lipps' declaration that conflict with PG&E's oral testimony include the following:

- Contrary to PG&E's claim that an agreement with San Francisco is needed to complete UTA inspections, PG&E and the City already have a process in place and a working procedure for coordinating UTA work within the City.<sup>9</sup>
- In January 2019, the City developed the "Potential Sewer Defect/Access Issue Form" to create a streamlined communication process for helping PG&E resolve UTAs. PG&E has made little use of this process, impeding the City's ability to assist with UTA clearance.<sup>10</sup>
- PG&E has refused the San Francisco Public Utilities Commission's (SFPUC) repeated requests for a clear plan for completing all cross bore inspections and repairs by 2021.<sup>11</sup>
- The main challenge that PG&E has encountered in completing cross bore inspections in San Francisco is not UTAs, but rather the need to obtain special permits from the San Francisco Municipal Transit Agency (SFMTA) for locations in proximity to SFMTA lines. Even though PG&E's July 2018 report to SFPUC reports progress and cooperation from SFMTA on permitting issues, since July 2018, to Mr. Lipps' knowledge, PG&E has not been taking the necessary steps to work with

---

<sup>8</sup> CCSF Motion at 1.

<sup>9</sup> Lipps Declaration, Par. 3.

<sup>10</sup> Lipps Declaration, Par. 8.

<sup>11</sup> Lipps Declaration, Par. 9.

SFMTA on permitting issues.<sup>12</sup>

These points should be considered in the record of the Commission's decision on whether PG&E's deferral of the planned 2019 UTA cross bore inspections in San Francisco was reasonable and consistent with the priority that PG&E is required to give to safety considerations.

**III. CCSF TIMELY TENDERED ITS DECLARATION AFTER LEARNING THAT PG&E WAS ATTRIBUTING ITS CHANGED 2019 WORK PLAN TO A CLAIMED LACK OF COOPERATION FROM CCSF**

The CCSF Motion explains why it was not able to be filed before October 8, 2019:

Although San Francisco is a party to this proceeding, it has not actively participated in the evidentiary hearings. San Francisco became aware that PG&E had made representations about its cross bore work in the City only a few days before the September 25 hearing [when PG&E's cross bore witness panel was cross examined by TURN]. Once San Francisco reviewed the transcript [of the September 25<sup>th</sup> hearing], it promptly evaluated that testimony and prepared this declaration.<sup>13</sup>

The transcript of the September 25<sup>th</sup> hearing referenced in the above quote became available on September 30, 2019. It was reasonable for CCSF to take six business days to review the transcript, evaluate the testimony and prepare its declaration, which was attached to the October 8, 2019 CCSF Motion.

Based on the brief discussion of the CCSF Motion at the October 11, 2019 hearing, TURN expects PG&E to argue that CCSF engaged in undue delay and should have known much earlier that PG&E's testimony was attributing its changed work plan for 2019 to insufficient cooperation from CCSF. This argument does not hold up under scrutiny.

First, as explained in TURN's response to PG&E's motion to strike TURN's revised cross bore testimony, the first testimony that even mentioned changing the 2019 work plan to not perform UTA inspections in San Francisco was the PG&E rebuttal

---

<sup>12</sup> Lipps Declaration, Pars. 11, 13 and Ex. 3 thereto (PG&E July 2018 Status Update), p. 9 of 9.

<sup>13</sup> CCSF Motion, pp. 1-2.

testimony submitted on September 4, 2019.<sup>14</sup> That testimony, however, was vague at best regarding any problems PG&E claimed to be encountering with CCSF regarding UTA inspections:

A 17. Performing the originally-planned 10,000 UTA cross bore inspections in 2019 has proved to be challenging. To complete UTA cross bores necessitates PG&E's engagement with and support from other parties which has been slower than anticipated. Recognizing that these challenges can take time to resolve, and to continue with the program's pace and objective of reducing cross bore risks, PG&E re-evaluated its 2019 work plan and decided to shift the focus away from UTA cross bores in 2019 . . .<sup>15</sup>

Even if one can infer that the "other parties" referenced in this passage include CCSF, the written testimony only states that support from these other parties has been "slower than anticipated." That testimony does not claim that lack of cooperation from CCSF was preventing UTA inspections.

It was not until PG&E's witnesses testified at the September 25, 2019 hearing in response to TURN's cross examination that PG&E asserted that it was unable to perform most, if not all, of the UTA inspections without a contractual agreement that it had been unable to secure from CCSF. For example, Mr. Kerans testified:

Q. So you're saying if -- you needed this amended agreement in order to do UTAs. Without that, you would not be able to do UTA inspections.

A. Did you say, "a UTA"?

Q. I said you -- you would not be able to do UTA inspections, is what I said.

A. *Yeah, we would need this agreement to get the support to complete them.*

Q. Okay. You couldn't do any UTA inspections without getting this amended agreement you referred to?

A. I'm not sure if there would be -- it would be fair to say, "any." There's a possibility that, as I've stated, there's a range that could be attempted that could

---

<sup>14</sup> Response of TURN to PG&E's Motion to Strike TURN's Revised Testimony, Oct. 9, 2019, pp. 6-7.

<sup>15</sup> Hrg. Ex. 6 (PG&E-16), pp. 2-8 to 2-9.

range from proximity clearances to excavation. . . .<sup>16</sup>

Similarly, Mr. Abranches testified that “negotiations with SF were coordination that we need to do that prevented execution from proceeding as planned.”<sup>17</sup>

Responding to this and similar oral testimony – that attributed PG&E’s decision not to proceed with UTA inspections in 2019 to PG&E’s inability to obtain a needed contractual agreement with CCSF – is a key purpose of the declaration.<sup>18</sup> CCSF would not have seen such factual assertions in the record of the case until it reviewed the transcript of the September 25, 2019 hearing.

In sum, CCSF acted expeditiously and properly under the circumstances by submitting its declaration shortly after the transcript of the September 25<sup>th</sup> hearing became available, and well before the close of the evidentiary record.

**IV. TURN DOES NOT OBJECT TO ALLOWING PG&E TO SUBMIT RESPONSIVE TESTIMONY, WHICH, LIKE THE CCSF DECLARATION, SHOULD BE SUBJECT TO CROSS EXAMINATION, IF THE PARTIES SO DESIRE**

The CCSF Motion indicates that CCSF is open to “any additional procedures that the Administrative Law Judges deem appropriate” before admitting the CCSF declaration.<sup>19</sup> TURN recommends that those additional procedures should include allowing PG&E, the party with the burden of proof, an opportunity to submit testimony that responds to the CCSF declaration. In addition, consistent with due process in evidentiary hearings, both the CCSF declaration and any responsive PG&E testimony should be subject to cross examination, if so desired.

If the Commission grants CCSF’s motion, TURN would be happy to work with the ALJs and the parties to develop a fair and expeditious schedule for the submission of responsive testimony by PG&E and for cross examination of the CCSF and PG&E witnesses, if parties so desire.

---

<sup>16</sup> Tr., pp. 1143-1144 (emphasis added).

<sup>17</sup> Tr., p. 1171.

<sup>18</sup> Lipps Declaration, Pars. 3 and 14.

<sup>19</sup> CCSF Motion at 2.



## VII. CONCLUSION

For the reasons set forth above, the Commission should grant the CCSF motion.

Date: October 16, 2019

Respectfully submitted,

By: \_\_\_\_\_/s/\_\_\_\_\_  
Thomas J. Long  
Legal Director

**The Utility Reform Network**  
785 Market Street, Suite 1400  
San Francisco, CA 94103  
Phone: (415) 929-8876  
Fax: (415) 929-1132  
E-Mail: [tlong@turn.org](mailto:tlong@turn.org)