



Fact Sheet: Penalizing PG&E and Reforming a Broken Regulatory System

Background

On Sept. 9, 2010, a Pacific Gas & Electric gas pipeline explosion ripped through the City of San Bruno, killing eight citizens, injuring 66 and destroying 38 homes. In the four and a half years since the tragedy—one of the worst pipeline disasters in U.S. history – City officials have been involved in every stage of the ongoing penalty proceedings at the California Public Utilities Commission. The City has served as an advocate and watchdog to ensure that the CPUC not only holds PG&E and its shareholders accountable but also provides critical oversight of a broken regulatory system so that what happened in San Bruno never happens again.

PG&E Penalty Proceedings

Following the 2010 explosion, the CPUC* launched an investigation and subsequent penalty proceeding to determine PG&E's fines and penalties for its role in the 2010 disaster. Four and a half years later, the CPUC's five-member commission is now scheduled to vote on the proposed penalties and remedies.

➤ **Key Milestones in the PG&E Penalty Proceeding at the CPUC**

- **September 9, 2010:** PG&E pipeline explosion rips through San Bruno, killing eight citizens, injuring 66 and destroying 38 homes.
- **December 14, 2010:** The National Transportation Safety Board (NTSB) issues urgent safety recommendations – done only in rare, emergency situations. These include immediately verifying the accuracy of PG&E pipeline records and ensuring safe levels of the pipeline's operating pressure.
- **September 26, 2011:** The NTSB issues a comprehensive reporting detailing the cause of the explosion and providing 39 urgent safety recommendations. The report attributed the blast to the combined failures of PG&E, the CPUC and the Pipeline and Hazardous Materials Safety Administration (PHMSA), which allowed a defective pipeline to remain undiscovered for 60 years.
- **January 12, 2012:** CPUC opens three formal investigatory proceedings to determine PG&E's fines and penalties for its role in the disaster. CPUC is the only regulatory agency that can penalize PG&E.
- **March 11, 2013:** The parties in the CPUC's proceeding, including PG&E, the City of San Bruno, the City and County of San Francisco, TURN (The Utility Reform Network), the CPSD (CPUC's Safety and Enforcement Division), and DRA (Department of Ratepayer Advocates) file opening briefs.
- **May 6, 2013:** All parties file PG&E penalty recommendations. The CPSD's proposal is heavily criticized by San Bruno and many others – including CPSD attorneys – for giving PG&E a pass. It is 100% tax deductible and littered with credits.
- **July 16, 2013:** Following public outcry, CPSD withdraws its much-maligned penalty proposal and files a strengthened \$2.25 billion penalty and fine recommendation.

- **July 28, 2014:** Following a lawsuit under the Public Records Act, San Bruno releases newly obtained emails documenting illegal, ex parte contact between PG&E executives and CPUC decision makers that involve the ongoing PG&E penalty proceeding. San Bruno files legal papers seeking then-President Michael Peevey's recusal and calling for PG&E to be sanctioned for the illegal contact.
- **September 2, 2014:** CPUC's Administrative Law Judges issue a \$1.4 billion recommended fine and penalty against PG&E for its role in the 2010 pipeline explosion.
- **September 23, 2014:** The PG&E penalty proceeding is reassigned from then-president Peevey to now-President Michael Picker.
- **March 13, 2015:** President Picker issues an alternate \$1.6 billion penalty proposal.
- **April 1, 2015:** All parties file responses to Picker's decision. San Bruno generally supports Picker's proposal but calls for an Independent Monitor, Pipeline Safety Trust and reimbursement of \$2 million in legal fees.
- **April 9, 2015:** CPUC is scheduled to vote on PG&E penalty and fine.
* NTSB and PHMSA also launched investigations.

➤ **Two Proposed Penalties**

In September 2014, Administrative Law Judges Amy Yip-Kikugawa and Mark Wetzell issued a proposed \$1.4 billion penalty and fine against PG&E that was met both with applause for its size and criticism for the large \$950 million fine to the CA general fund. In March 2015, CPUC President Michael Picker introduced an alternate, \$1.6 billion penalty proposal that shifted more dollars back into pipeline safety.

➤ **Breakdown of CPUC President Michael Picker's Proposed \$1.6 Billion Penalty and Fine**

- \$850 million shareholder-financed gas pipeline safety improvements
- \$400 million disallowance in form of one-time bill credit
- \$300 million fines payable to State General Fund
- \$50 million to implement 75 remedies to enhance pipeline safety
- Recommends a full investigation/regulatory proceeding into the CPUC-PG&E ex parte email scandal
- No intervenor compensation for CCSF, SB and ORA.

➤ **Breakdown of ALJ's Proposed \$1.4 Billion Penalty and Fine**

- \$950 million fine payable to State General Fund
- \$400 shareholder-financed gas pipeline safety improvements
- \$400 million disallowance in the form of a one-time bill credit
- \$50 million to implement over 75 remedies proposed by CPSD and other intervenors to enhance pipeline safety
- Intervenor compensation for all intervenors.

San Bruno's Fight for Public Records

In the midst of the PG&E penalty proceeding, San Bruno successfully sued the CPUC in 2014 for the release of previously concealed emails documenting suspected collusion between PG&E and the CPUC.

That lawsuit, filed in Superior Court, resulted in the CPUC handing over more than 7,000 pages of communications that ultimately revealed illegal contact and emails between PG&E executives and CPUC Commissioners. PG&E later self-reported dozens more emails. In a resounding victory for the City of San

Bruno, the citizens of California, and advocates for transparency in government, the CPUC ordered PG&E to produce more than 65,000 additional emails demonstrating more illegal contact between PG&E and the CPUC.

The email scandal has ultimately led to the resignation of CPUC President Michael Peevey, the recusal of Mike Florio from the PG&E San Bruno explosion and fire penalty case and the termination of additional CPUC staff and three PG&E executives. The U.S. Attorney's office and the California Attorney General's office have since launched separate investigations.

➤ **Key Milestones in the Fight to Uncover CPUC-PG&E Emails**

- **May 30, 2013:** The City of San Bruno files the first of four public records requests with the CPUC, basing this initial filing on rumors of alleged ex parte (private) communication between PG&E and CPUC decision makers.
- **Feb. 4, 2014:** City of San Bruno files a lawsuit in Superior Court to compel the CPUC to comply with the four unfilled records requests dating back more than 10 months.
- **July 26, 2014:** The CPUC signs a settlement agreement with San Bruno to release 7,000 pages of communications that reveal shocking ex parte (private) communications between CPUC and PG&E executives. As part of the settlement, the CPUC also agrees to open a formal hearing to revise its procedures for responding to public records requests.
- **Sept. 15, 2014:** PG&E discloses its own search of 65,000 internal and external emails related to the San Bruno explosion and a related Gas Transmission & Storage (GT&S) rate case. On the same day, the CPUC announces the recusal of CPUC President Michael Peevey from the San Bruno and the GT&S cases and the termination of Carol Brown, Peevey's chief of staff. PG&E announces the termination of three top executives.
- **Dec. 15, 2014:** The City of San Bruno files a motion with the CPUC to compel PG&E to produce all 65,000 emails.
- **Dec. 18, 2014:** Past-president Michael Peevey presides over his final meeting as president of the CPUC. The CPUC also announces the retirement of CPUC Executive Director Paul Clanon.
- **Jan. 13, 2015:** CPUC Administrative Law Judge Amy Yip-Kikugawa orders that PG&E turn over the 65,000 emails by an accelerated Jan. 30 deadline to the City of San Bruno in addition to the CPUC.
- **Jan. 30, 2015:** PG&E turns over the 65,000 emails to the City of San Bruno, the CPUC and members of the media.

Criminal Proceedings

Beyond the regulatory proceedings at the CPUC, PG&E is also involved in separate state and federal criminal proceedings. The U.S. Attorney's Office indicts PG&E in 2014 on charges related to the 2010 pipeline explosion. Both PG&E and the CPUC are now cooperating with separate investigations by the U.S. Attorney's Office and the State Attorney General's Office involving the ex parte email scandal.

➤ **Key Milestones in PG&E/CPUC criminal proceedings/investigations**

- **April 1, 2014:** A Federal Grand Jury indicts PG&E on 12 federal criminal counts for allegedly violating the federal Pipeline Safety Act, which mandates that operators maintain accurate pipeline records and correctly identify risks. PG&E pleads not guilty.
- **July 29, 2014:** The Federal Grand Jury hits PG&E with a superseding indictment, tacking on 16 new criminal counts that push potential penalties up to \$1.1 billion.
- **September 2014:** San Bruno Mayor Jim Ruane and two state lawmakers call on Attorney General Kamala Harris to investigate the illegal, ex parte emails showing improper contact between the CPUC and PG&E.
- **October 2014:** Prompted by the email scandal, both the California Attorney General and the U.S. Attorney's Office launch investigations into the improper contacts between PG&E executives and CPUC leadership and staff.
- **January 28, 2015:** Investigators from the State Attorney General's Office seize computers and other items from the homes of former CPUC President Michael Peevey and a terminated PG&E executive. Court documents show investigators were after personal electronics and other items.

Changes at the CPUC

Beyond personnel, a sea change at the CPUC has ushered a new era of commitments by the CPUC's new President, Michael Picker to increase transparency and reprioritize safety. At his first meeting as president in January, Picker announced the following commitments:

- Asking each Commissioner to sign a Code of Conduct, including a pledge related to ex parte communications.
- Ordering PG&E to produce the 65,000 emails (which happened later that month).
- Endorsing a recent, highly critical audit by PHMSA and announcing changes at the CPUC as a result.
- Admitting that regulated utilities have had unfair access to decision makers.
- Acknowledging the CPUC's lack of consistent safety enforcement practices and the erosion of the agency's safety programs.
- Committing to make necessary changes at the CPUC.