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**Concurrence of Commissioner Mark J. Ferron on Item 44 (D.11-12-021),  
\$38 Million Penalty of PG&E for Gas Explosion and Fire at Rancho Cordova**

Frankly, I was shocked when I read this decision.

This horrible tragedy is the result of a long sequence of errors and misjudgments by PG&E - any one of which, if avoided, might have prevented the deaths and serious injuries in Rancho Cordova.

- The gas service representative who was dispatched to 10708 Paiute Way was thoroughly unequipped to deal with a gas leak. Having detected that there was gas in the area, the representative had no signage or barrier tape to warn residents that entry into the area of the leak could be hazardous. The home's occupants - - Bill Paana, who was killed in the explosion, and his daughter and granddaughter who were severely injured - - were away when the representative identified the gas, but returned to their home while the representative was waiting for reinforcements.
- The leak investigator, who was coming from another job, did not have a flame pack with him - a device used to find outdoor natural gas leaks - and had to go back to his field office to get one. But on his way to the field office, he got stuck in traffic, and then had to replace his faulty truck with another, etc.
- In the end, due to a whole sequence of muffed handovers, poor communication and human errors, a gas leak call that came in on Christmas Eve 2008 at 9:16 in the morning was not responded to properly over the next four hours, leading finally to the tragic explosion at 1:36 in the afternoon.

But this horror could reasonably have been foreseen by PG&E.

- The house on Paiute Way had had 5 previous gas leak work orders, and two gas leak repairs. A simple reference to this past work record could have indicated the extent of the problems at this address.
- Moreover, it transpires that the pipe used for the 2006 repairs at this house was made of plastic (polyethylene) of an inferior grade that was wholly unsuitable for use as a distribution line. PG&E's own report said that what had been installed "was packing material used

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by the manufacturer in shipping gas pipe.” It’s also clear that the previous repairs at 10708 Paiute Way did not follow PG&E’s own procedures for ensuring that appropriate polyethylene pipe was installed and that the crew foreman’s supervisors failed in their oversight.

- And it turns out that PG&E already knew that it had a problem with plastic pipes of the 2006 vintage as a result of an accident at Elk Grove in October 2006, more than two years earlier. PG&E discovered that it had been installing plastic piping that the manufacture said did not meet specifications for proper wall thickness, and yet did nothing to locate the 664 defective installations from the time it learned of the problem in 2006 until after the Rancho Cordova explosion in 2008.

This does not strike me as the action of a utility concerned about safety. I know that since the explosion in Rancho Cordova, gas procedures have been tightened, and since the explosion in San Bruno, they have been tightened again. And, of course, there has been a re-organization of the company and PG&E’s senior management has been replaced. But, the lack of a safety culture at PG&E must change.

The utility is dealing with an extremely dangerous compound – natural gas – and a careful and methodical approach to safety in all aspects of its natural gas operation should be its first priority. I cannot stress this enough to PG&E management: Safety must come before **everything** else; it must be paramount; it must be what everyone thinks about every day, from the most senior executive down to the worker in the field.

PG&E has taken important first steps in this direction, but in the nine months that I’ve been here, PG&E has not yet demonstrated that this transformation has fully occurred. The decision before us today only underscores that our role as a regulator is to expect and enforce a culture of safety.

Regarding the amount of the penalty assessed for the tragedy in Rancho Cordova, the number is hard to assess one way or another. I don’t think we can or should use penalties from cases not involving personal injury and loss of life as the basis for judging a case where people die. Further, no one should assume that my vote today says anything either way about any penalty related to the explosion in San Bruno. The law has us look at each case on its own merits, and

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apply the following factors: 1) severity and gravity of the violation, 2) the utility's conduct to prevent, detect, disclose and rectify the violation; and 3) the utility's size and financial resources. Once the events in San Bruno are before us, we will consider those factors in light of what happened that day and in the period leading up to the explosion.

All of this said - I approve the decision, and especially congratulate the Administrative Law Judge - John Wong - for rejecting the \$26 million settlement and doing his own independent analysis to arrive at an appropriate penalty of \$38 million. Of course, I agree that shareholders and not ratepayers must bear the cost of the fine.

However, I do not think we can put Rancho Cordova to rest with this decision. We need to ensure that we have addressed adequately all of the problems that led to this disaster - - improper training and inadequate equipment for workers in the field, slow and ineffective responses to the report of gas odor, failure to follow internal procedures for pipe repair and installation, poor recordkeeping, the use of unsuitable pipe, and most critically, the failure to take a pro-active approach to safety issues.

Going forward, I want to understand what everyone involved is doing to address these issues. I will be coordinating with Consumer Protection and Safety Division in particular to determine next steps. I offer my support on this item.

Dated December 1, 2011 in San Francisco

/s/ MARK J. FERRON  
Mark J. Ferron  
Commissioner