

**COMMENTS OF THE UTILITY WORKERS UNION OF AMERICA (UWUA)  
In response to  
SOLICITATION FOR INPUT (SFI) – INTERVENOR**

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**August 19, 2015**

**COMMENTS OF THE UTILITY WORKERS UNION OF AMERICA (UWUA)**  
**In response to**  
**SOLICITATION FOR INPUT (SFI) – SAFETY INTERVENOR**

The Utility Workers Union of America is pleased to respond to the **Solicitation for Input – Safety Intervenor** issued by the Policy and Planning Division. UWUA has been extensively involved at the Commission and at the Legislature advocating for greater transparency and accountability for Commission activities relating to safety and customer service for the utilities in the gas industry. This Solicitation and the Commission *en banc* meeting scheduled for later in September represent significant next steps along the safety journey the Commission projected after the San Bruno explosion and fire. *See*, R.11-02-019, issued February 24, 2011.

The modifications to the General Rate Case process that move toward identification, assessment and mitigation of safety and operational risks that the Commission recently adopted in D.14-12-025 create a greater need for participation in the Commission’s decision-making processes by persons with knowledgeable independent perspectives on safety and service. The SFI – Safety Intervenor and accompanying *en banc* meeting of Commissioners are timely and important.

**The SFI-Safety Intervenor** poses several questions. UWUA’s Comments will address each of the questions.

**1. Should the Commission ensure there is an organization specifically dedicated to utility safety issues in Commission proceedings?**

The Commission already has an organization specifically dedicated to utility safety issues, the Safety Enforcement Division (SED). SED is crucial because it exercises the Commission’s powers of investigation and regulation of utility record-keeping and bookkeeping practices. This shapes in fundamental

ways the information that utilities generate, maintain and report. There is no other stakeholder that has these powers and has the ability to use them.

The problem is that SED's work is mostly invisible to the public and to the Commissioners. Its extensive audit and enforcement work is conducted mostly out of sight, in direct interaction with utility managers but without transparency to Commissioners, workers, customers or the public.

**SED's invisibility must change. Its activities must be fully transparent and available to the decision-makers and the public. Robust participation by SED and its staff is the foundation for any meaningful improvement in the Commissioners' ability to reach reasoned decisions on safety and service issues.**

Recommended changes include:

- (1) Enlarging the scope of SED audit/investigative interactions to include employees in the field, customers, local government and first responders.
- (2) Systematizing reporting of audit/investigation findings and responses, including publication of its and reports.
- (3) Including SED reports and audits in proceedings that lead to a formal decision, including the record on which findings, conclusions and orders are based.
- (4) Clarifying the advisory and other functions of SED, so that information generating processes and information filtering processes are made visible and transparent to decision-makers – Commissioners – and the public.

Participation by knowledgeable stakeholders is equally important. Direct participation by stakeholders reduces the filtering effect of the staff "advisory" function that may unwittingly deprive Commissioners of important information and perspective.

Participation by knowledgeable stakeholders beyond utilities and CPUC safety staff, including specifically utility employees, is required by statute.<sup>1</sup> The

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<sup>1</sup> Pub. Util. Code section 961(e)

Commission needs to find ways to facilitate that participation. Utility employees have a unique perspective on safety and service issues, grounded in the fact they actually work with the facilities and interact with customers and are therefore in a position to know real conditions and concerns. This perspective provides the Commission and the public with important information that should not be neglected or suppressed. Represented employee participation in Commission processes -- both formal such as docketed proceedings and informal such as audits, investigations and working groups -- should be institutionalized to improve the availability and quality of this information. Filtering their participation through management dominated channels is counter-productive in this regard.<sup>2</sup>

Participation by first responders and local governments, who have primary responsibility for public safety in most settings, should also be encouraged. Participation by professional organizations including standard-setting organizations should be sought out and promoted. Information offered at Public Participation Hearings (PPHs) by customers and members of the public should also be taken into account. A fully inclusive set of perspectives provides the best chance for reasoned decision-making.

## **2. What organizations, new or existing, should intervene on utility safety issues?**

The concept of intervention is too limited and therefore flawed, since it implies participation in a formal litigated process as an exclusive avenue for participation in the CPUC's information-gathering and decisional processes, which include but are not limited to quasi-judicial proceedings.

The appropriate concept is participation. Compare Pub. Util. Code 1801, "participation or intervention."

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<sup>2</sup> See *Opening Comments of UWUA on R.11-02-019*, filed April 11, 2011 at pages 11 ff. <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/CM/133614.PDF> ; *Comments of UWUA on Independent Review Panel Report*, filed July 15, 2011. <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/CM/139622.PDF>

As indicated above, the Commission must provide opportunities for participation for utility employees and should provide opportunities for customers, local governments, first responders and professional organizations. Participation would include engaging in ongoing discussions through working groups in the RAMP/GRC process as well as participation in audits and investigations. A continuous flow of information punctuated by periodic decisions about programs, services and cost recovery should be the process for arriving at the safety goal of zero incidents.

One key issue for stakeholders – including employees, local governments and other customer representatives – is the cost of participating. These costs escalate with the increasing formality of the processes and proceedings the Commission imposes, because of the need for professional advocates and translators. The Commission must review its approaches for encouraging participation including imposing costs and providing measures for defraying costs.

### **3. Should ORA or other intervenors on behalf of ratepayers be responsible for both safety and rate advocacy?**

Establishing the nexus between service adequacy and rate revenues has been a difficult and troubling problem for ORA, which it may be incapable of resolving primarily because it largely accepts utility definitions of service adequacy and lacks skill sets needed for independent evaluation of service and safety issues. ORA should stick to its self-identified primary mission of establishing revenue requirements for utility activities constituting adequate service -- which includes but goes beyond safety -- identified by others, primarily utilities, SED, customers, local government and employees. The Commission should focus its attention on facilitating receipt and evaluation of the information that these stakeholder participants can provide about service adequacy and safety.

Other participants can decide for themselves whether or not to couple service/safety proposals and discussions with cost/revenue analyses. As indicated above, robust participation by SED is essential.

**4. Are there competencies the Commission must require for a safety intervenor?**

The most important competency issue is assuring that the Commission staff has the full range of skill sets to acquire, analyze and evaluate information about service, safety and operations. Audits and investigations of utility activities by Commission staff to ascertain whether service is adequate and safe (however the Commission may define it) are essential elements of the regulatory process, which must be performed by qualified personnel. This means assuring a sufficient complement of engineers, accountants, technicians and persons with experience in the field. The utility facilities are legacy facilities with a large variety of equipment, construction techniques, age, maintenance history, and documentation. The actual knowledge about facilities and service procedures and systems of experienced and trained represented (and therefore independent) employees is a significant resource that bears directly on competency to analyze and evaluate the real facilities used to provide service in the field.

In this regard utility employees and former (retired) employees are a significant resource for identifying operational and facility issues and imparting both skills and experience to Commission staff that the Commission should utilize.

The credibility of other stakeholders representatives can be judged by traditional criteria applied by the Commissioners.

**5. Are there conflicts that should be addressed in intervenor safety participation; for example, a ratepayer advocate who also seeks compensation as an advocate for a safety action or expenditure?**

Participation in CPUC decision processes that deal with service adequacy is important. There should be no significant deterrents, which would include technical objections to or limitations on participation. *See*, Pub. Util. Code section 1801.3(b)

**6. Are there barriers to safety advocate participation that the Commission must address?**

As indicated above, barriers include

- (1) under-utilization of Commission's SED staff powers to audit, investigate and evaluate, which deprives the public and Commissioners of the baseline information needed to evaluate service and safety and advance the safety objective;
- (2) cost of participation in Commission processes that escalates with degrees of formality, which acts as a significant deterrent to participation.

Respectfully submitted,

/s/

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