DATE: October 7, 2013

TO: Honorable Mayor and Members of the City Council

FROM: Scott Brodhun, Assistant City Manager

SUBJECT: Resolution Urging the California Public Utilities Commission to Set a Reasonable Fine for the San Bruno Disaster So As Not To Disrupt Work Important To Communities Throughout PG&E’s Service Territory, Including Petaluma, With All Funds Directed to Energy Infrastructure Upgrades and Related Purposes

RECOMMENDATION

It is recommended that the City Council adopt the Resolution Urging the California Public Utilities Commission to Set a Reasonable Fine for the San Bruno Disaster So As Not To Disrupt Work Important To Communities Throughout PG&E’s Service Territory, Including Petaluma, With All Funds Directed to Energy Infrastructure Upgrades and Related Purposes

BACKGROUND/DISCUSSION

On September 9, 2010, a 30 inch natural gas line explosion occurred in the Crestmoor neighborhood in the City of San Bruno, California, resulting in 8 deaths and the loss of 38 homes plus damage to many more. To date, it is estimated by news accounts that PG&E has spent $1.83 billion in costs related to the rupture and has settled $565 million in lawsuits from victims.

In response to the disaster and a subsequent decision by the California Public Utilities Commission (CPUC), PG&E unveiled a plan in August 2011 to modernize and enhance the safety of its gas transmission operations over several years, including automation of over 200 valves, strength testing over 700 miles of pipe, replacing 185 miles, and upgrading another 200 miles or so to allow in-line inspection. The plan was divided into two phases, with the first phase scheduled to end in 2014 which targeted pipeline segments in urban areas, those not built to modern standards, and those which had not been strength tested. Project funding of $769 million was the subject of a PG&E application for a three-year increase in gas rates starting January 2012.

PG&E faces up to $2.25 billion in fines from the CPUC. Councilmember Healy has brought forward the attached Resolution, urging the CPUC to consider a reasonable fine that will not bankrupt PG&E or cripple PG&E’s ability to access the capital markets, thereby jeopardizing important system upgrades and planned projects.

ATTACHMENTS
1. Resolution
2. Press-Democrat editorial
ATTACHMENT 1

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PETALUMA URGING THE CALIFORNIA PUBLIC UTILITIES COMMISSION TO SET A REASONABLE FINE FOR THE SAN BRUNO DISASTER SO AS NOT TO DISRUPT WORK IMPORTANT TO COMMUNITIES THROUGHOUT PG&E'S SERVICE TERRITORY, INCLUDING PETALUMA, WITH ALL FUNDS DIRECTED TO ENERGY INFRASTRUCTURE UPGRADES AND RELATED PURPOSES

WHEREAS, Pacific Gas & Electric Company has supplied the City of Petaluma, together with its residents and businesses, with electricity and natural gas service for over a century; and

WHEREAS, the City of Petaluma has long enjoyed a positive working relationship with PG&E; and

WHEREAS, in recent years PG&E has funded the undergrounding of overhead power lines in two visually important corridors in the City of Petaluma; and

WHEREAS, currently PG&E is providing the City of Petaluma with low interest loans to finance the replacement of the original heating system and pumps in the City’s 1966 swim center, which will create substantial energy and maintenance savings and also allow the City to extend the swim center’s season into the early spring and late fall; and

WHEREAS, PG&E has recently provided grant funding to allow the City of Petaluma to begin converting its street light system to energy efficient LED technology; and

WHEREAS, PG&E is facing the ongoing need to maintain and upgrade its extensive, and aging, natural gas and electricity infrastructure both within the City of Petaluma and throughout its service territory, including natural gas transmission lines in the City of Petaluma; and

WHEREAS, upgrading this often hidden infrastructure, together with adequate operation and maintenance funding, is essential to allow PG&E to continue to provide reliable electricity and natural gas service; and

WHEREAS, in order to continue its projects in cooperation with the City of Petaluma and its system-wide infrastructure upgrades, it is critical that PG&E continue to have sufficient financial strength so that it can access the capital markets; and

WHEREAS, the California Public Utilities Commission is currently considering what level of fine to impose as a result of PG&E’s negligence in the 2010 San Bruno natural gas transmission line explosion; and

WHEREAS, a substantial fine is warranted to send the unmistakable signal that the negligent conduct that resulted in the San Bruno disaster must change; and
WHEREAS, at the same time it would not be in the best interests of PG&E's customers, including those in the City of Petaluma, to set a fine at a level that would risk crippling PG&E's ability to access the capital markets or possibly force it back into bankruptcy, thereby jeopardizing important system upgrades and other projects;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Petaluma hereby urges the California Public Utilities Commission to set a fine for the San Bruno disaster that substantially punishes PG&E for its misconduct but that, at the same time, does not threaten to disrupt work important to communities throughout PG&E's service territory;

AND BE IT FURTHER RESOLVED that there is no justification for any portion of the fine imposed against PG&E to be paid to the State of California's general fund, and instead all funds should be directed to energy infrastructure upgrades, and related purposes.
PD Editorial: How much of a penalty should PG&E pay?


September 23, 2013, 6:00 AM.

When a high-pressure natural gas transmission line erupted in San Bruno three years ago, the damage from the explosion and fire was horrific. Eight people were killed, 38 homes were reduced to ashes and hundreds of lives were ruptured forever.

This catastrophic event also exposed something else — a culture within Pacific Gas and Electric Co. that, as state investigators later concluded, "emphasized profits over safety."

Federal investigators slammed PG&E for everything from shoddy welding to incomplete record-keeping to lax supervision of pipeline inspections. Meanwhile, state auditors concluded that the company had diverted funds intended for pipeline safety and used them for such things as executive bonuses.

At the same time, one can hardly accuse the utility of being unresponsive in the aftermath of this catastrophe. Since the explosion and fire, PG&E has paid roughly $565 million to compensate victims and their families; $170 million to the city of San Bruno for rebuilding; and funded — through shareholders — more than $1 billion in infrastructure improvements.

Moreover, the company has acknowledged its mistakes and undergone a corporate shake-up, demonstrating its commitment to change.

Last week, the utility announced that it is nearing settlement on the last of its remaining claims. The big uncertainty at this point is what the penalty from the state will be.
Given the utility's willful disregard for public safety, it certainly needs to be substantial. But this summer, the staff of the state Public Utilities Commission came out with its recommendation — a breathtaking $2.25 billion penalty. This does not include the funds listed above in repairs, settlements and improvements. This would include an additional $1.95 billion for shareholder-funded modernization projects and a $300 million fine paid directly to the state of California.

PG&E and many in financial circles call the penalty excessive. They have a good argument.

In 2007, the El Paso Natural Gas Company received the largest penalty on record for a pipeline explosion that claimed the lives of 12 New Mexico campers. The judgment was for roughly $100 million, including $86 million in system upgrades and a $15 million penalty. This would be 22 times the size of that record fine.

While we have made no bones about the need to penalize PG&E, it makes little sense to punish a company — particularly a public utility — to the point of damaging its ability to borrow money and operate competitively.

And that is a risk. In light of this potential judgment, Standard and Poor's recently revised PG&E's outlook from stable to negative. Meanwhile, Moody's has hinted that the fine could damage the company's credit rating, noting the penalty, "does not bode well for the regulatory environment in California, which is being adversely affected by political considerations."

We don't know what the right amount is. But it's fair to say that exacting a fine so heavy as to threaten the company's long-term viability does little to improve public safety or improve an economy still emerging from a historic downturn.

We encourage the PUC to ratchet down the fine and make clear that any penalty to be paid to the state be designated for public safety improvements, parks or some other clear public benefit — and not be allowed to simply be absorbed into the general fund. This penalty needs to foster change, not hobble a company's ability to improve.