October 17, 2012

Michael R. Peevey
President
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Michel Peter Florio
Commissioner
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Commission's Unilateral Designation of Mediator for the San Bruno-Related Proceedings

Dear President Peevey and Commissioner Florio:

We, the City of San Bruno, the City and County of San Francisco, the Utility Reform Network, and the Division of Ratepayer Advocates, are writing to you to express our deep concern regarding the Commission's unilateral and behind-closed-doors appointment of Senator Mitchell, and his law firm, DLA Piper, as mediators for the San Bruno Explosion-Related Proceedings.[1]

Specifically, the following circumstances regarding DLA Piper's appointment as mediators concern us:

1. The Commission has acted unilaterally to appoint this mediator, at this time without regard to the views of the undersigned parties. In contrast, we have learned that PG&E's consent to DLA Piper as mediator was secured last week. As full-fledged participants in these cases and the negotiations, we are shocked that we were not provided the same option as PG&E to assent to this choice of mediator. The Commission is sending the clear message that PG&E's views matter, and the views of San Bruno, San Francisco, DRA and TURN do not.

[1] Order Instituting Rulemaking 11-02-019; Order Instituting Investigation 12-01-007; Order Instituting Investigation 11-02-016; Order Instituting Investigation 11-11-009

2. Typically, mediators are chosen with the consent of the parties to ensure that all parties have trust in the process. Here, we start from a position of deep distrust when our litigation adversary was given veto power over the mediator and we were not even consulted.
3. We do not question Senator Mitchell's ability or integrity. Rather, we are concerned that he and his law firm have previously represented public utilities, including Southern California Edison Corporation (which President Peevey once headed). Moreover, one of the DLA Piper partners who will be most active in the mediation has represented WorldCom in a white collar criminal defense case highly similar to what PG&E faces: being simultaneously subject to a criminal investigation and civil penalties. Under these circumstances, we question whether DLA Piper and its chosen attorneys will be able to be impartial mediators
4. We believe this unilateral action by the Commission will only slow down existing negotiations, which is in no one's interest.

For all of these reasons, we call on you to rescind the appointment of DLA Piper as mediators. If the Commission wishes to encourage the parties to use mediation, such mediation should be voluntary, and with a mediator chosen with the consent of all parties.

Sincerely,

Connie Jackson

Connie Jackson, City Manager

City of San Bruno

Austin Yang, Deputy City Attorney

City and County of San Francisco

Thomas J. Long, Legal Director

The Utility Reform Network

Joseph P. Como, Acting Director

The Division of Ratepayer Advocates

Cc: Commissioner Sandoval

Commissioner Ferron

Commissioner Simon

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