

California State Senate

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JERRY HILL

THIRTEENTH SENATE DISTRICT



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December 1, 2017

The Honorable Xavier Becerra
Attorney General, State of California
1300 I Street
Sacramento, CA 95814

Dear Attorney General Becerra:

We write you again to offer our support and urge you to bring charges in the criminal investigation of the California Public Utilities Commission. It has been over three years since the Attorney General's office opened an investigation into alleged corruption at the CPUC.

We urged your office last December to bring charges in the investigation expeditiously, hoping your appointment would bring new energy to the probe. As a result of sealed court records released last week, we now know that the CPUC has been blocking your efforts at every turn. Since the first warrant was issued, the CPUC's lawyers have impeded your progress, refused to turn over documents, and filed motions to quash your search warrants.

Appallingly, the CPUC also misrepresented its need for outside legal services. In 2016, the CPUC told the Legislature that millions of ratepayer dollars were needed to hire outside law firms in order to "comply with all applicable legal obligations."¹ Yet, the records released say otherwise. The CPUC has clearly made little effort to comply with your subpoenas and search warrants; instead using the monies we approved to obstruct your efforts.

When the Legislature approved the PUC's budget, the court filings were sealed so the CPUC's legal maneuvering was not known. This allowed the CPUC to make the case that it has entered a new era of transparency and accountability with new Commissioners, staff and priorities. Now in light of the newly released records, the CPUC is again facing a loss of trust and a question of credibility. The fact that the CPUC refuses to comply with active investigations into illegal behavior makes one wonder what else it has to hide.

¹ Budget Change Proposal, Public Utilities Commission, April 1 2016, 8660-007-BCP-2016-A1;
http://web.la.esd.dof.ca.gov/Documents/bcp/1617/FY1617_ORG8660_BCP824.pdf

Recently, the California Fair Political Practices Commission announced an investigation into former Commissioners and the CPUC, gathering communications related to, among other things, "Pacific Gas and Electric or the San Bruno explosion of 2010 or any related legal, legislative or regulatory actions that resulted from said explosion."² While the CPUC levied a \$1.6 billion fine on PG&E as a result of the pipeline explosion that killed eight people, injured 66 and destroyed 38 homes, it's important that the FPPC and your office continue to follow through with their investigations to hold individuals accountable for their actions.

With the recent disclosure of the CPUC's interference into your investigation, we're becoming increasingly frustrated with the absence of charges being brought in the corruption investigation.

On September 19, 2014, we wrote to then-Attorney General Kamala Harris asking her to investigate apparent violations of the law by CPUC commissioners and staff as illustrated through emails released by PG&E.

In a letter we sent you on December 2, 2016, we asked that charges be brought since the search warrant for the January 27, 2015, raid on the former CPUC president's home said that investigators were looking for evidence of improper "ex parte communications, judge-shopping, bribery, obstruction of justice or due administration of laws, favors or preferential treatment" related to matters coming before the utilities commission.

In last week's unsealing of court records, we learned that one of the affidavits for a search warrant stated, "The facts indicate that Peevey conspired to obstruct justice by illegally engaging in ex parte communications, concealed ex parte communications and inappropriately interfered with the settlement process on behalf of California Center for Sustainable Communities at UCLA."

We also learned that in an August 12, 2016, filing by Superior Court Judge William Ryan, he believed that, "There were sufficient facts alleged in the affidavit that would lead to a strong suspicion of guilt" that Peevey and Edison "conspired to obstruct justice, or the due administration of the laws."

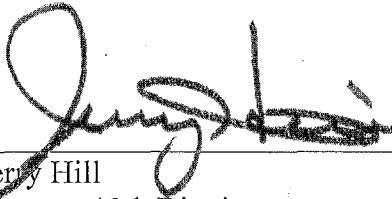
We're also concerned that further inaction or delay could cause the investigation to go beyond the statute of limitations.

The CPUC oversees industries with revenues in excess of \$50 billion annually, money that comes directly from Californians. Often, the CPUC is the only check Californians have against these industries. But laws are only as good as the regulators tasked with enforcing them.

The fallout from San Bruno is not over. Each violation is a separate incident, deserving of scrutiny, prosecution, and penalties. We urge you, alongside the FPPC, to not tire in this effort. We stand ready to help you in this endeavor. As we stated in our previous letter, "Please honor the memory of victims by bringing swift justice in this long overdue case."

² Public Record Request #17-347; <https://publicrecords.cpuc.ca.gov/requests/17-347>

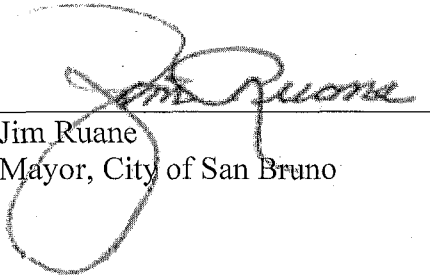
Sincerely,



Jerry Hill
Senator, 13th District



Kevin Mullin
Assemblymember, 22nd District



Jim Ruane
Mayor, City of San Bruno

Cc: Jerry Brown, Governor of California
Brian Stretch, United States Attorney, Northern District of California
Jodi Remke, FPPC Chair

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December 2, 2016.

The Honorable Xavier Becerra
350 South Bixel Street
Suite 120
Los Angeles, CA 90017

Dear Congressman Becerra,

Congratulations on your pending appointment as our next Attorney General. With the many challenges posed in these tumultuous days, now more than ever we need the Office to defend Californians' principles and values.

We urge you to bring charges as soon as possible in Attorney General Harris's criminal investigation into corruption at one of our state's most powerful agencies, the Public Utilities Commission (PUC). The Attorney General began to investigate the agency in late 2014 following the release of emails that revealed its president appeared to have made quid pro quo deals with Pacific Gas & Electric Company executives over "two bottles of good Pinot," resulting in approvals of utility rate increases in exchange for contributions to pet nonprofits and ballot measures. Attorney General investigators subsequently raided PUC offices and the former president's home, where they found evidence in the form of notes on Hotel Bristol stationery of a deal made with Southern California Edison Company executives during a junket in Poland to saddle utility customers with 70 percent of the shutdown costs of San Onofre Nuclear Generating Station. The Attorney General's office has subpoenaed millions of documents from the PUC associated with these and other apparent offenses.

It's been over two years since the Attorney General opened an investigation into public corruption at the PUC and nearly two years since the former PUC president's home was raided for potential felony offenses. We've attached a copy of the September 19, 2014, letter we submitted to the Attorney General that prompted the investigation.

While California taxpayers are spending millions of dollars for the PUC's criminal defense fees, we expect that the Office of the Attorney General is putting sufficient resources into pursuing justice. Given the large number of documents to review, it may be appropriate to request that the court appoint a special master. Regardless, actions must be taken now, as the complexities of public utility regulation means that this is not a case that can be pulled together at the last minute due to statute of limitations concerns.

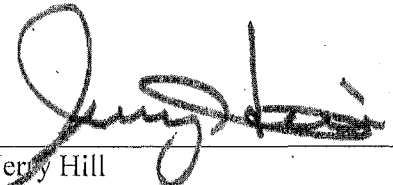
We are deeply concerned that, if the Office skips a beat during the transition period, the people of California may lose—not just the money from their pockets, but the chance to prevent these abuses from occurring again. If we are true to our principles, we should concede that as a government we have not done enough to safeguard the people of this state against the reckless self-interest that plagued the PUC during the former President's tenure.

We call on the Interim Attorney General and you to bring charges as soon as possible in the PUC corruption investigation so we can start to rebuild the public's trust in an institution whose mission is to serve the public interest by protecting consumers.

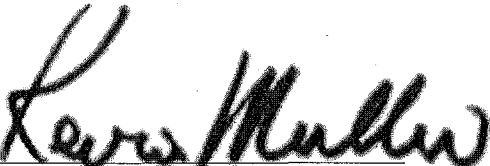
We stand ready to help you in this endeavor. We've been working toward PUC reform on behalf of our constituents and Californians since the horrific September 9, 2010, gas explosion that killed eight residents, injured 66 and destroyed 38 homes in San Bruno's Crestmoor neighborhood.

Please honor the memory of victims by bringing swift justice in this long overdue case.

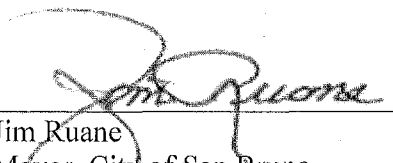
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Kevin Mullin
Assemblymember, 22nd District



Jim Ruane
Mayor, City of San Bruno

Cc: Jerry Brown, Governor of California
Kamala Harris, California Attorney General
Interim California Attorney General
Jackie Speier, United States Representative
Brian Stretch, United States Attorney, Northern District of California

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& ELECTRIC INFRASTRUCTURE
SAFETY
CHAIR

September 19, 2014

The Honorable Kamala D. Harris
Attorney General, State of California
455 Golden Gate, Suite 11000
San Francisco, CA 94102-7004

Dear Attorney General Harris:

We ask you to immediately investigate the apparent repeated violations of law by the California Public Utilities Commission in the course of the San Bruno penalty case and other cases that affect PG&E rates, as well as prohibited communications involving the CPUC's President and top management.

Emails released by PG&E on Monday demonstrate that the chief of staff to the CPUC President—with his knowledge—regularly aided PG&E's violation of California Public Utilities Code Section 1701.3, concerning ex parte communications in rate-setting cases. PG&E filed these emails with the CPUC in recognition that they violated ex parte laws and fired three top executives as a result.

Let not the significance of this move be understated—PG&E fired executives for violations that top CPUC staff and its President tolerated, if not encouraged.

Another set of emails, obtained at the end of July by the City of San Bruno through legal action against the CPUC, demonstrate what the City alleges to be violations of Public Utilities Code Section 1701.2, concerning ex parte communications in adjudicatory cases. These emails show that PG&E employees directly contacted Commissioners and top management regarding the financial community's feelings about potential fines in the San Bruno penalty case. The emails also reveal that the CPUC President's chief of staff gave a PG&E employee advice on how to outmaneuver the City of San Bruno in pleadings in the case.

These are not the only instances where CPUC management appears to have aided PG&E in violating state law. Evidence in the San Bruno penalty case goes back to at least the end of 2012, when the CPUC's General Counsel—who, as PG&E's lead gas attorney before 2008, had participated in some of the decisions that were under investigation in the case—ordered attorneys representing the prosecuting Safety and Enforcement Division to move to suspend hearings immediately in favor of conducting settlement negotiations, preempting PG&E employees taking the witness stand.

Shortly thereafter, the CPUC hired DLA Piper, a law firm that included former U.S. Senator George Mitchell, to mediate the settlement negotiations that were forced on the Safety and Enforcement Division and parties to the case by the CPUC General Counsel. The City of San Bruno, the Division of Ratepayer Advocates, The Utility Reform Network, and the City and County of San Francisco were blindsided by this announcement, and equally blindsided by the information that mediators had about the case. This, we believe, was either a violation by the Safety and Enforcement Division or PG&E of its non-disclosure agreement to keep settlement negotiations confidential, or it was a violation of Public Utilities Code Section 1701.2, where the Safety and Enforcement Division or PG&E made illegal ex parte communications with CPUC officials, who then discussed settlement details with DLA Piper attorneys. Additionally, the CPUC responded to a Public Records Act request made by Senator Hill's office that no contract with DLA Piper existed, but that it might exist at PG&E—more indications of apparently unlawful communications between PG&E and CPUC management.

Subsequently, in June of 2013, the CPUC's Executive Director was alleged to have pressured the administrative law judges presiding over the San Bruno case to rule in PG&E's favor regarding the inclusion of PG&E's previous expenses in its proposed fine. This event was part of a plan where PG&E had quietly asked that the Director of the Safety and Enforcement Division request a list of PG&E's already-incurred and proposed expenses so that it could be put into the record—a plan that ended in the reassignment by the General Counsel of all of the six attorneys assigned to the San Bruno case, because they would not go along with filing a recommendation that PG&E incur no incremental penalty for the explosion in San Bruno—a proposal that one attorney called “illegal and unethical.”

And finally, this past June, one of those attorneys was fired after he motioned to require PG&E to produce records demonstrating that it knows the appropriate pressure under which to run its pipes—a request clearly authorized in Public Utilities Code Section 314.

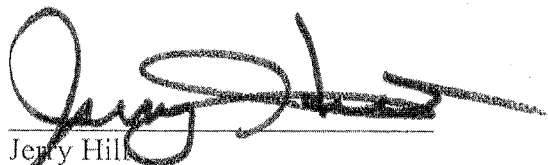
The CPUC oversees industries with revenues in excess of \$50 billion annually, money that comes directly from California residents. Much of those funds are paid to CPUC-regulated monopolies for essential services such as heat and electricity, and the only check that California consumers have against exploitation by those monopoly utilities is the CPUC.

As the CPUC is the administrative agency in charge of enforcing the Public Utilities Code, your involvement is the only recourse available to Californians when their supposed utilities watchdog appears to violate state law.

The above catalog of apparent violations on the part of CPUC employees and Commissioners spans two years, occurred in different cases, and continued despite ongoing public outrage. It stands to reason that CPUC employees and Commissioners could be engaging in similar potentially illegal behavior with other utilities and industries it regulates. For these reasons it's of critical importance that you thoroughly investigate this matter as soon as possible.

We are at your disposal to discuss further the instances above that demonstrate the need for your action.

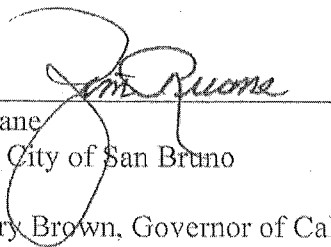
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