

**Before the
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA
San Francisco, CA**

Draft Resolution E-4533,
Commission review of
Energy Division action on
PG&E Advice Letter
3278-G/4006-E

**EDWARD HASBROUCK,
Requester of Commission
review, protester of PG&E
Advice Letter 3278-G/4006-
E, and PG&E customer**

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5 September 2012

**MOTION TO STRIKE CERTIFICATE OF SERVICE
AND DRAFT RESOLUTION E-4533**

Pursuant to Rule 11.1 and the other applicable procedural rules of the California Public Utilities Commission (CPUC) as contained in General Order 96-B, I hereby move to strike from the CPUC record: (1) Draft Resolution E-4533, and (2) the purported certificate of service signed by Maria Salinas claiming that she had, "by mail" on 13 August 2012, served copies of Draft Resolution E-4533 on "all parties or their attorneys as shown on the attached lists". This motion is based on the record, the CPUC's rules of practice procedure, and my attached declaration.

As a PG&E customer, I protested PG&E Advice Letter 3278-G/4006-E with the CPUC. On 28 March 2012 and 26 May 2012, I filed requests for CPUC Commission review of the CPUC Energy Division's actions and inactions with respect to PG&E Advice Letter 3278-G/4006-E and my protest thereof. Pursuant to CPUC rules, the CPUC Energy Division was then required to prepare a proposed resolution for the Commission with respect to my request for review, and to serve that draft resolution on me and provide at least 30 days opportunity for my response and for public comment before considering that or any alternative resolution.

On 13 August 2012, CPUC staff member Maria Salinas signed a purported "Certificate of Service" claiming to have served copies of such a draft resolution that day, by mail, on an "attached" service list. What list, if any, was "attached" remains unknown, and the CPUC has not responded to my request for any CPUC records of what was attached or sent, to whom, by whom, when, or how. But it is apparent from the record, from internal evidence in the certificate of service and the documents provided to me, and from my declaration in support of this motion to strike (including the e-mail exchanges with CPUC staff reported therein) that no service conforming to CPUC requirements was actually effected, and that the Certificate of Service was itself false in almost every material particular: It misstated what was served, when it was served, how it was served, by whom it was served, and on whom it was served.

I promptly, diligently, and repeatedly advised Ms. Salinas and CPUC Senior Counsel Elizabeth Dorman that service on me had not been effected in accordance with the Certificate of Service or the CPUC's rules of practice and procedure. However, rather than withdrawing the

Certificate of Service, correcting the CPUC's records, or informing the Commission of the false statements in the record, as was their duty, both Ms. Salinas and Ms. Dorman knowingly allowed the false statements to remain in the CPUC record, uncorrected, and allowed the Draft Resolution – which still has not been properly served in the manner required by CPUC rules, and to which I will not have had 30 days to reply – to remain on the agenda for the Commission's meeting scheduled for 13 September 2012.

The Certificate of Service is factually false in material respects, service has not been effected on me as required by CPUC rules, and I have not been afforded at least 30 days opportunity for review of, and comment on, the draft resolution, as required by the California Public Utilities Code, Section 311(g), prior to any Commission vote on this matter.

Accordingly, I move that the Commission adopt the attached draft resolution (including proposed findings of fact and conclusions of law) to strike Draft Resolution E-4533 and the purported Certificate of Service from the CPUC record and the agenda of the Commission's meeting of 13 September 2012, and to direct that the CPUC staff members responsible for knowingly filing and/or knowingly allowing the false Certificate of Service to remain in the record, uncorrected, be subjected to appropriate CPUC employee sanctions and reported to appropriate enforcement bodies for investigation of potential legal and ethical violations.

Attachments:

Declaration of Edward Hasbrouck in support of motion to strike
Proposed CPUC resolution including findings of fact and conclusions of law
Certificate of service

Respectfully submitted,

Edward Hasbrouck

5 September 2012

San Francisco, CA

3. The CPUC Energy Division issued a purported "disposition" of my protest, but made no attempt to serve me with that disposition. No CPUC staff took any action to correct the obvious lack of service or to inform me of the purported disposition of my protest.

4. On 28 March 2012 and 26 May 2012 I filed requests for CPUC Commission review of the CPUC Energy Division's actions and inactions with respect to PG&E Advice Letter 3278-G/4006-E and my protest thereof. To date, I have received no notice of any Commission action with respect to either of these requests for review. To the best of my knowledge and belief, the Commission has not yet considered either of these requests, and they remain pending.

5. On 13 August 2012 I received an e-mail message from Maria Salinas <maria.salinas@cpuc.ca.gov> with the subject line, "Draft Resolution E-4533 (Re:PG&E Advice Letter 3278-G/4006-E)". The body of this message was empty; it contained no indication of the intended message content (if any) or of the name(s), format(s) or file type(s) of the attachments.

6. This e-mail message had two attachments. I was unable to open them using any of the PDF viewer applications I tried. Each of these attachments had a file name with a ".doc" extension, which is usually used to indicate that a file is in one of several proprietary, non-archival file formats used by various versions of Microsoft Word and Microsoft Office.

7. I assumed that any draft resolution proposed in response to my request for review, or any other official documents from the CPUC, would be served either by e-mail in PDF format, identified by file type, by U.S. Mail, or by hand delivery, in accordance with CPUC rules of practice and procedure 1.9(c), 1.10 (c), and 1.13(b)(1)(i). Accordingly, I assumed that whatever the intended (and to me unknown) content of the e-mail message I received from Ms. Salinas on 13 August 2012, it could not be intended to constitute formal service of anything.

8. On the morning of 15 August 2012, in an abundance of caution and having received no further e-mail (such as any message with an attached PDF file identified by file type) and nothing by U.S. Mail from Ms. Salinas or the CPUC, I notified Ms. Salinas and the e-mail addresses on service List A1103014 that I had received an e-mail message from Ms. Salinas with a blank message body and unintelligible attachments that did not appear to be in PDF format. I reminded her that the CPUC's rules require PDF format for electronic filing or service, and stated that, "I don't know if you attached the wrong files or versions or formats, sent your message to

the wrong recipient(s), or omitted an intended explanation of the attachments... But in any case, I want to make sure that you are aware that your message contained no content intelligible to me or conforming to CPUC rules for formatting, filing, or service of electronic documents."

9. I received a reply the same day by e-mail from Ms. Salinas, with what appeared to be the same unintelligible ".doc" attachments. This message still contained no explanation of the intended format of the attachments, but said in the message body, "Pls let me know if you still can't open the attachments."

10. I immediately responded to Ms. Salinas and to CPUC Counsel Elizabeth Dorman, <elizabeth.dorman@cpuc.ca.gov>. I had previously been advised by Ms. Dorman and by staff of the CPUC Public Advisor's office that Ms. Dorman had ordered the Public Advisor's office to refer any of my questions regarding CPUC procedures and participation in CPUC proceedings to her, and had forbidden the CPUC Public Advisor's office to answer any of my questions.

11. I told Ms. Salinas and Ms. Dorman, "Your latest message appeared to contain the same attached files as the previous one, apparently in the same proprietary Microsoft '.doc' format rather than in the open standard PDF format required by the CPUC's rules of practice and procedure for electronic filing or service of documents. I still don't know if these attachments were or are intended as a partial response to my pending request for CPUC records, or were intended for some other purpose, or whether the wrong files were attached."

12. After another e-mail message with no attachments, I eventually received a message from Ms. Salinas with the subject line "FW:", the message body, "Pls let me know if you're able to open this. Thanks, Maria", and a single attachment named "Document.pdf". There was nothing in the message as to the intended content or format of the attachment.

13. I responded to Ms. Salinas and Ms. Dorman: "I was able to open a single attachment in PDF format to your latest message. However, it appears to be incomplete, since it refers to items supposedly 'attached', but that appeared to be neither included nor separately attached to your e-mail message. The document attached to your latest message appears to consist of a cover letter (1 page), a certificate of service (2 pages), and a draft resolution (12 pages). The letter (p. 1 of the PDF) states that, 'Th[ose] submitting comments must serve a copy of their comments on 1) the entire service list attached to the draft resolution, 2) all Commissioners, 3) the General Counsel, and 4) the Director of the Energy Division....' However, no service list was 'attached to

the draft resolution' in the copy I received. Was the PDF supposed to include additional pages? Or is there an additional attachment I should have been sent? Please send me 'the entire service list attached to the draft resolution', if such a list was in fact attached to the draft resolution. Please also send me the addresses of each of the Commissioners, as I am unable to find these on the CPUC Web site (and they were not included or attached in the PDF), and the names and addresses of the General Counsel (does this mean the General Counsel of the CPUC? the General Counsel of PG&E?) and of the Director of the Energy Division. The letter is dated August 13, 2012, and includes a 'cc:' line suggesting that a copy was sent to me by e-mail (presumably on that date). But this is both inaccurate and misleading, since it was not sent to me by e-mail in any form legible to me or conforming to the CPUC rules for formatting of electronically filed or served documents until today, March 15, 2012 [should be August 15, 2012]. The certificate of service is unsigned, so I don't know if it has been filed or if so, who signed it, although it was dated two days ago. The certificate of service says that, 'I have by mail this day served a true copy of Draft Resolution E-4533 on all parties in these filings or their attorneys as shown on the attached lists.' But again, I did not receive any 'attached lists'. Since I didn't receive the list of those to whom copies were supposedly mailed, or their addresses, I don't know whether a copy was supposedly mailed to me. It refers to service by mail (presumably meaning the US Postal Service) on March 13th [should be August 15th], but I have as yet received no copy of this document by mail. In short, the document I have received is manifestly incomplete (by internal evidence), contains internal references to apparently missing attachments, and contains what it appears to me may be inaccurate statements about the completeness, date, and perhaps also manner of 'service' of this document and the intended but still missing attachments."

14. Ms. Salinas responded, "Mr. Hasbrouck, I will send you all the docs via regular mail, certified, today." I replied, "Please also include a copy of the notice I assume you are filing in this docket to advise the Commission, interested parties, and members of the public consulting the docket that the earlier letter and certificate of service were incorrect, and the new certificate of service. I trust that you will also be serving these new and/or revised documents on all appropriate persons and entities. I presume that the date of consideration of the proposed

resolution by the Commission will also be revised in the corrected letter, since it is now less than 30 days before the Commission's meeting scheduled for September 13th. In addition, I am still waiting for the CPUC public records related to this matter which I requested months ago, and which are necessary to fully prepare my response to the draft resolution."

15. Ms. Salinas replied, "Mr. Hasbrouck, the documents are not being revised. The draft resolution E-4533 and the cover letter that were served via email to interested parties on Aug. 13, 2012 were received without any problem. Like I said, I will send you all the docs with signatures plus the entire service list via regular mail, certified, today. I don't have your mailing address on file. Please provide this information, so I can go ahead and mail these docs today."

16. I replied, "As I have informed you, I received no legible documents, nor any documents in the format required by the CPUC for electronic filing and service, by e-mail from you or anyone at the CPUC on August 13th.... I look forward to receiving them, since what I received today (for the first time) by e-mail is still obviously incomplete.... If you don't have my address on file, how could you have possibly have sent me copies of documents on March 13th 'by mail', as stated in the certificate of service? What address for me was on that list? My address, as stated in my request for review, is: Edward Hasbrouck, 1130 Treat Ave., San Francisco, CA 94110".

17. Ms. Salinas responded, late on 15 August 2012, "Mr. Hasbrouck, the docs have been mailed, via overnight. You should receive them by tomorrow."

18. I have received no delivery by U.S. Mail from Ms. Salinas or anyone with the CPUC, and no notice of any attempted delivery by the U.S. Postal Service from Ms. Salinas or anyone with the CPUC, certified or overnight or otherwise, since April 2012.

19. On 17 August 2012 I received an envelope delivered by an employee or contractor of a private delivery service. He did not identify himself, but I presume that he was not Maria Salinas and I believe that he was not working for or on behalf of the U.S. Postal Service. The air bill attached to the envelope showed that it had been tendered by Maria Salinas of the CPUC to "Golden State Overnight" (GSO) on 15 August 2012 – not to the U.S. Postal Service, and not on 13 August 2012, as was claimed in the Certificate of Service which was enclosed. Also enclosed was a printout of a "Service List" which included a footer on each page showing that it had been generated from the CPUC Web site on 15 August 2012, and thus that it could not have been among the documents attached, filed, served, or tendered for service on 13 August 2012.

20. Although the time limit for a response has long passed, the CPUC has not responded to my request under the California Public Records Act for any CPUC records of what was posted or on the CPUC Web site, and when, in relation to PG&E Advice Letter 3278-G/4006-E. Although I do not know whether responsive records do not exist or cannot be located or the CPUC has violated the Public Records Act in failing to disclose them, I believe that I am entitled to infer from the fact that no such records have been disclosed that no such records exist and can be identified. If this is correct, then neither Ms. Salinas nor any other CPUC staff person has any records which could form the basis for any belief as to whether what was found on a particular page of the CPUC Web site on 15 August was the same as what was on that page on 13 August.

21. On 22 August 2012, I reiterated to Ms. Salinas and Ms. Dorman "the deficiency in 'service' of the CPUC Energy Division's draft resolution E-4533, [and] the false certificate of service of that draft resolution that was signed by Ms. Salinas.... On August 17th, I received from a courier for a private delivery service (not by mail, and not by electronic mail), the following documents: (1) A copy of a letter dated August 13, 2012, signed by Elizaveta Malashenko. This letter included the line, 'Cc: E. H. Hasbrouck, via email: Edward@hasbrouck.org'. But I had not received any such letter, or anything else in PDF format, by email from the CPUC on August 13, 2012. (2) A copy of a certificate of service dated August 13, 2012, and signed by Maria Salinas: 'I certify that I have by mail this day served a true copy of draft Resolution E-4533 on all parties in these filings or their attorneys as shown on the attached lists.' (3) A copy of a draft resolution dated September 13, 2012, and identified as 'Resolution E-4533' and as 'ID #11530'. (4) A printout of a service list of postal addresses, including no e-mail addresses, identified in the footer as having been generated from the CPUC Web site on 8/15/2012. It is unclear to me whether any of the persons and entities listed were actually served by mail at these addresses, rather than not served at all or served at unspecified e-mail addresses. Ms. Salinas' certificate of service (the third of the four components of the package I received, as listed above) is clearly false in the following respects: (1) I was not in fact served on August 13, 2012. (Had I been sent anything by mail on August 13th, I would likely have received it by now.) I was served something, although not what, by whom, or in the manner stated on the certificate, on August 17, 2012. (2) I was not served by mail but by a courier for a private delivery service. (3) I was not

served by Ms. Salinas but by a courier. The courier did not identify himself to me by name, but since service was not accomplished by an employee of the US Postal Service (government servants whose reliability in fulfilling delivery of properly addressed material entrusted to them with proper postage is presumed), the courier is the only person who could sign a valid certificate of service. Handing something to a private messenger does not constitute 'service'. The process server himself must sign the certificate of service. (4) The certificate signed on August 13, 2012, refers to 'the attached lists', and the cover letter dated August 13, 2012, refers to 'the entire service list attached to the draft resolution', but the list included in the package delivered to me was apparently, by the internal evidence of the footer date, generated two days later on August 15, 2012. I still do not know what list, if any, was actually attached to the letter and/or the draft resolution on August 13, or used for any attempted service. (I suspect that the postal addresses on this list may not have been used at all, or only in part, and that some of those listed may have been 'served' at those addresses, and may instead have been sent something, in a form invalid for service, at e-mail addresses not listed in that document.) In any case, it is clear that the document I received did not exist and was not and could not have been 'attached' to anything on August 13, 2012. Since I don't know what (if any) list was actually attached to anything on August 13, 2012, it is obviously impossible for me to comply with any instructions to serve any comments or reply on the list that was so attached.... The filing of a false certificate of service, or the failure to correct the record in the CPUC docket when you know that a false certificate of service has been filed, is a serious and potentially criminal offense as well as, for an attorney, professional misconduct and a breach of professional duties as an officer of the court. I urge you to file an appropriate correction with the CPUC, and to advise your client to do so. In the absence of valid service, as attested to by the filing of a true and valid certificate of service, the requirements of Public Utilities Code 311(g) will obviously not have been met, with respect to this draft resolution, by the CPUC meeting on September 13, 2012. Any motion to approve this draft resolution on that date would be improper and out of order, and any vote to approve it on that date would be null and void."

22. In the same e-mail message, which I also copied to the CPUC's public records officer, Frederick Harris, I requested "any CPUC public records of what documents were attached to Draft Resolution E-4533 on August 13, 2012 or what documents related to or including this

Draft Resolution were distributed by any CPUC staff or contractors, by whom, to whom, when, and in what format.... These requested records include any e-mail archives (in full 'raw message source' form including all headers and attachments and full e-mail addresses rather than address or distribution list aliases) and e-mail server logs, and any mailing or postal or courier logs. I request that all electronic records be provided in their original electronic form."

23. Although the 10-day deadline for a response to this request has passed, I have received no response. If Ms. Salinas or the CPUC are in possession of any documentary evidence which might support the claims made in her Certificate of Service, or which might confirm what I believe to be the falsehood of those claims, they have been improperly withheld from disclosure.

24. I have not received any documents by mail by Ms. Salinas on or after 13 August 2012. Despite diligent efforts, I still do not know what (if anything) was filed with the CPUC by Ms. Salinas on or after 13 August 2012, when any such filing was actually made, or who (if anyone) was actually sent a copy of such filing, when they were sent it, or how they were sent it.

25. I have never consented to accept service from, or in any matter related to, the CPUC, in any form other than hand delivery by the person effecting service and signing the return of service, e-mail in PDF format, or delivery by U.S. Mail. In particular, I have never consented to accept service in any such matter by e-mail in any format other than PDF, or by any private delivery service or intermediary (not the U.S. Postal Service) whose employees and contractors are not government agents entitled to a presumption of reliability.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed in the City and County of San Francisco, California, 5 September 2012.

Edward Hasbrouck

**Before the
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA
San Francisco, CA**

Draft Resolution E-4533,
Commission review of
Energy Division action on
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) **EDWARD HASBROUCK,**
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) **Requester of Commission**
) **review, protester of PG&E**
) **Advice Letter 3278-G/4006-**
) **E, and PG&E customer**

DRAFT RESOLUTION

**RESOLUTION TO STRIKE CERTIFICATE OF SERVICE
AND DRAFT RESOLUTION E-4533**

PROPOSED OUTCOME

This resolution directs that Draft Resolution E-4533 and the purported Certificate of Service of that Draft Resolution be stricken from the CPUC record and the agenda of the Commission's meeting of 13 September 2012, and directs that the CPUC staff members responsible for knowingly filing and/or knowingly allowing the false Certificate of Service to remain in the record, uncorrected, be subjected to appropriate CPUC employee sanctions and reported to appropriate enforcement bodies for investigation of potential legal and ethical violations.

Draft Resolution to Strike Certificate of
Service and Draft Resolution E-4533,
Commission review of Energy Division
action on PG&E Advice Letter
3278-G/4006-E

Edward Hasbrouck
5 September 2012
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SUMMARY

PG&E customer Edward Hasbrouck protested PG&E Advice Letter 3278-G/4006-E, and twice requested that the Commission review the CPUC Energy Division's actions and inactions with respect to his protest. The Energy Division is required to propose resolutions for Commission to consider with respect to Mr. Hasbrouck's requests for review, and to serve a copy of those proposed resolutions on Mr. Hasbrouck and all parties at least 30 days prior to any Commission vote on the issue. The Energy Division eventually drafted a proposed resolution, but failed to serve it on Mr. Hasbrouck in the manner prescribed by the CPUC's rules of practice and procedure. CPUC staff filed a materially false Certificate of Service, and CPUC staff including the signer of the false Certificate of Service and a CPUC staff attorney failed to withdraw the false certificate or correct the record even after they were repeatedly advised of the details of its falsehood. The Draft Resolution cannot be considered by the Commission without the filing of a valid accompanying Certificate of Service followed by at least 30 days opportunity for public comment and response by Mr. Hasbrouck, PG&E, and other parties. Accordingly, the false Certificate of Service and the Draft Resolution must be stricken from the CPUC record and the Commission agenda. Because of the seriousness of the procedural due process and ethical violations involved in the signing and/or knowing maintenance in the record of a false Certificate of Service, the responsible CPUC staff members should be subjected to appropriate CPUC employee sanctions and reported to appropriate enforcement bodies for investigation of potential legal and ethical violations.

FINDINGS OF FACT

1. Mr. Hasbrouck has requested that the CPUC disclose any records, including e-mail server logs and/or postal records, related to distribution of Draft Resolution E-4533.
2. If any such evidence existed, the CPUC would have been required by the California Public Records Act to disclose all such records in response to Mr. Hasbrouck's request.

3. The CPUC has disclosed no records in response to this request by Mr. Hasbrouck.
4. The Commission therefore concludes that, assuming CPUC staff to have complied with the Public Records Act, the CPUC is not in possession of any evidence supporting the claims made in the Certificate of Service or tending to rebut the claims in Mr. Hasbrouck's declaration. Any such evidence which might exist would be inadmissible in rebuttal to Mr. Hasbrouck's allegations, since it was not disclosed to Mr. Hasbrouck when he requested it.
5. In the absence of any evidence to the contrary, the Commission accepts and adopts as its finding of fact the unrebutted statements of fact contained in Mr. Hasbrouck's declaration.
6. The previous repeated failures of CPUC staff to serve Mr. Hasbrouck or to correct lack of service by PG&E or the CPUC would be sufficient in themselves to cast doubt on the reliability of CPUC staff in effecting service, and to overcome any presumption that might otherwise have existed of proper performance by CPUC staff of their duties with respect to service.
7. Mr. Hasbrouck has presented sufficient facially credible evidence of the falsehood of the claims in the Certificate of Service to overcome any presumption that might otherwise have existed of the veracity and/or validity of the Certificate of Service.
8. The Certificate of Service signed by Maria Salinas of the CPUC staff was and is materially false in multiple substantive respects.
9. No service on Mr. Hasbrouck was effected by Ms. Salinas, contrary to the claim in the Certificate of Service.
10. No service on Mr. Hasbrouck was effected on 13 August 2012, contrary to the claim in the Certificate of Service.
11. No service on Mr. Hasbrouck was effected by U.S. Mail, contrary to the claim in the Certificate of Service.
12. The "service list" delivered to Mr. Hasbrouck by an unknown third party (neither Ms. Salinas nor an employee or contractor of the U.S. Postal Service) on 17 August 2012 was generated from the CPUC Web site on 15 August 2012. This document did not exist and could not have been, and was not, served or attached to the Certificate of Service on 13 August 2012.
13. The "service list" delivered to Mr. Hasbrouck on 17 August 2012 was a list of postal addresses including that of Mr. Hasbrouck. But it appears that these were not the addresses

actually used for any attempted "service" on 13 August 2012. Some other, unknown, list of e-mail addresses, and not these postal addresses (or only some unknown subset of them, not including Mr. Hasbrouck's postal address), was used by Ms. Salinas on 13 August 2012.

14. The only attempt made by Ms. Salinas to send anything to Mr. Hasbrouck on 13 August 2012 was an e-mail message which, if it was intended to constitute service, did not conform to the requirements of CPUC rules of practice and procedure 1.9, 1.10, and 1.13(b)(1)(i).

15. Ms. Salinas' e-mail message to Mr. Hasbrouck on 13 August 2012 contained no attachment in PDF format (as required by rule 1.13(b)(1)(i)) and no message text identifying the format of the attachment (as required by rule 1.103(c)), and did not include a complete copy of the filing including all attachments (as required by rule 1.9(a) and 1.9(b)).

16. Mr. Hasbrouck notified Ms. Salinas on 15 August 2012 that he was unable to open the attachments to her e-mail message of 13 August 2012. Ms. Salinas was then required by CPUC rule 1.10(d) to re-serve any documents that she had intended to serve by that e-mail message.

17. Ms. Salinas never properly re-served any documents. Instead, she sent another e-mail message which still failed to contain any indication of the attachment format and which contained a manifestly incomplete document lacking the service list referred to internally as being "attached". Despite explicitly telling Mr. Hasbrouck that she would send a complete copy by mail (as she had already claimed to have done in her signed Certificate of Service), she did not do so. She subsequently sent a paper copy including a different "service list" of postal addresses, including Mr. Hasbrouck's address to which nothing had been sent by mail. This paper copy was delivered on 17 August 2012 by a private third party who did not sign a Certificate of Service.

18. Ms. Salinas and CPUC Senior Counsel Elizabeth Dorman were advised by Mr. Hasbrouck of the lack of proper service and the inaccuracy of the Certificate of Service, but neither of them did anything to withdraw the false certificate of service, correct the record, or inform the Commission of the false statements in the record.

19. The failure by Ms. Salinas and Ms. Dorman to withdraw the Certificate of Service, correct the record, or inform the Commission was knowing and deliberate, and evinces a specific fraudulent intent to deceive the Commission, parties to proceedings, and the public.

20. Mr. Hasbrouck has not yet been properly served. As of 13 September 2012, he will not have had 30 days notice and opportunity for review and comment on Draft Resolution E-4533.

CONCLUSIONS OF LAW

1. All documents filed with the Commission must be properly served (CPUC rules of practice and procedure, Rule 1.9(b)) and have attached a valid Certificate of Service (Rule 1.9(e)).

2. All valid service of CPUC documents by e-mail must be as attachments in PDF/A format (Rule 1.13(b)(1)(i) and must include in the body of the e-mail message the format of the attached file and the identity and contact information of the sender (Rule 1.10(c)).

3. Valid service must be by e-mail, by U.S. Mail, or by personal delivery (Rule 1.9(c)).

4. In the case of personal delivery, a valid Certificate of Service may be signed only by the person personally effecting service. Tendering a document to a third party for service, other than depositing a document in the U.S. Mail, does not constitute personal service (Rule 1.9(c)).

5. Whenever the person attempting service by e-mail receives notification that the intended recipient is unable to open an attached document, they are required to re-serve the document within one business day. Re-service by e-mail is permitted only if the intended recipient consents, or if the serving person determines that the cause of the failure of e-mail service has been rectified. Otherwise, re-service must be by U.S. Mail or personal delivery (Rule 1.10(d)).

6. Any proposed Commission decision, including a resolution on an Advice Letter, must be properly served on all parties and subject to at least 30 days opportunity for public review and comment before any Commission vote (California Public Utilities Code, Section 311(g)(1)).

7. Lack of proper service deprives parties and the public of due process and of the opportunity to exercise their rights of participation in CPUC decision-making.

8. Filing of false statements by CPUC staff in official dockets, or countenancing such filing, is extremely serious misconduct which tends to cast doubt in the public mind on the integrity of CPUC proceedings and the ability to rely on the accuracy of official CPUC records.

9. The CPUC's own staff should be those most familiar with the CPUC's rules of practice and procedure, and should be held to the highest standards of compliance with those rules.

10. All attorneys have a professional and ethical duty not knowingly to countenance fraud, especially fraud on the Courts or administrative decision-making bodies such as the CPUC.

11. CPUC staff attorneys have a duty not to allow their clients (the CPUC and its staff) to engage in fraud, and to ensure that the public record is corrected and/or the Commission is informed if they are aware inaccuracies in the record or false submissions by CPUC staff.

ORDER

1. The purported Certificate of Service of Draft Resolution E-4533 signed by Maria Salinas and dated 13 August 2012, is hereby stricken from the record of CPUC consideration of matters related to PG&E Advice Letter 3278-G/4006-E as being materially false in multiple particulars.

2. Draft Resolution E-4533 is hereby stricken from the record of CPUC consideration of matters related to PG&E Advice Letter 3278-G/4006-E as not having been properly served in accordance with CPUC rules and not being accompanied by a valid Certificate of Service.

3. Draft Resolution E-4533 is hereby stricken from the agenda for the Commission meeting scheduled for 13 September 2012 (CPUC Public Agenda 3300) as not having been served in accordance with California Public Utilities Code, Section 311 (g)(1).

4. CPUC staff members Maria Salinas and Elizabeth Dorman are hereby censured by the Commission for gross and deliberate malfeasance in carrying out their official duties as CPUC employees, and for knowingly and deliberately attempting to perpetrate a fraud on the Commission, parties to matters before the Commission, and the public. The CPUC Executive Director and appropriate supervisors are directed to place this resolution of censure in the permanent personnel files of Ms. Salinas and Ms. Dorman, and to consider it in assessing their compensation, the duties to which they should be assigned, and their fitness to remain employed by the CPUC. This resolution of censure is not intended to preclude or substitute for any other available sanctions, pursuant to applicable laws, regulations, and employment contracts.

5. The CPUC Executive Director is hereby ordered to report the signing by Ms. Salinas of the false Certificate of Service, and the knowing and deliberate failure of Ms. Salinas and Ms. Dorman to correct the CPUC record or inform the Commission, to appropriate law enforcement authorities for investigation and prosecution of any violations of law which it may have entailed.

6. The CPUC Executive Director is hereby ordered to report the knowing and deliberate failure of Ms. Dorman to correct the CPUC record or inform the Commission to the California Bar Association for investigation and prosecution of any violations of her professional and ethical duties as a member of the bar, officer of the Courts, and counsel to the CPUC.

Respectfully submitted,

Edward Hasbrouck

CERTIFICATE OF SERVICE

I, Edward Hasbrouck, certify that I am serving my “Motion to Strike Certificate of Service and Draft Resolution E-4533”, including the attached Declaration of Edward Hasbrouck, Draft Resolution, and this Certificate of Service, today by sending a copy by e-mail in PDF/A format or depositing a copy in the U.S. Mail, postage paid, to each of the e-mail and postal addresses, respectively, listed below and on the following pages. These addresses include all those e-mail addresses on CPUC Service List A1103014, as retrieved by me on 4 September 2012 from <http://docs.cpuc.ca.gov/published/service_lists/A1103014_79792.csv>, and postal addresses from that list for all those listed persons or entities for which no e-mail address was listed, as well as each of the CPUC Commissioners, the CPUC Energy Division Tariff Unit, the Director of the CPUC Energy Division, and the General Counsel of the CPUC, all in care of the address of CPUC headquarters, and the General Counsel of PG&E in care of PG&E's headquarters address as retrieved by me today from the PGE.com Web site.

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