Involvement of PG&E Officers, Employees and Senior Management in the "Devereaux Affair"

FILED UNDER SEAL / SUBJECT TO PG&E NON-DISCLOSURE AGREEMENT

I. Scope of Investigation Includes Determining the Extent of Improper Activities

In the Assigned Commissioner's Ruling and Scoping Memo filed July 25th, 2012 the scope of Investigation 12-04-010 is revised as follows (emphasis added):

(1) Whether PG&E should be found to have violated §§451 and 2109 as a result of the improper activities of Devereaux, **or any other PG&E employee or representative**, regarding anti-smart meter consumer groups;

(2) **Whether PG&E management was aware of Devereaux's activities, or the activities of any other employee or representative, and if so, whether it took appropriate action once it became aware of those activities;**

(3) The extent of Devereaux's improper activities regarding anti-smart meter consumer groups, and the **extent of such activities by any other PG&E employee or representative**;

(4) Whether fines and/or other remedial actions should be imposed on PG&E, and if so, how any fines should be calculated and/or how other remedies should be determined.

The proposed settlement agreement between PG&E, TURN, and CPSD states:

> *"PG&E disputes the allegations in the CPSD Investigative Report and maintains that none of its officers or senior management (other than Mr. Devereaux) were aware of or condoned Mr. Devereaux's misconduct. PG&E further maintains that PG&E did not violate Public Utilities Code §§ 451, 2109, or any other statute, rule or regulation."*

This assertion is not supported by the facts in CPSD's investigation report nor by PG&E's own "inconclusive" internal investigation, the key sections of which are presented below:

II. THE FACTS OF THIS CASE

1) Direct evidence from e-mail records and company internet usage reports as well as personal interviews indicates that at least two PG&E officers- Vice President, Smart Meter Operations Greg Kiraly and Senior Vice President Helen Burt- not only knew about Devereaux's deceit and did nothing to stop it, they also accessed smart meter opponents' private communications directly. (see number 4 below) The "google alert" messages that Burt admits that she received indicates she was an active subscriber of the Smart Warrior Marin (SWM) list. Rather than censure Mr. Devereaux for his deceitful activities, it is apparent that officers at PG&E actively took part in this infiltration and deception.

2) Dozens of PG&E officers, employees and third parties viewed the private Smart Warrior Marin (SWM) list (and possibly the EMF Safety Network private e-mail list) or received messages forwarded from these lists at various times during 2010 without apparently raising even the slightest concern with management, when it was obvious both contextually and from the SWM site itself that private conversations were being monitored in secret, and forwarded widely within the company. (see attachments to CPSD report)

3) PG&E's websence tracking info (starting on page 40 of PG&E's internal investigation) contains evidence that at least two other PG&E employees besides Devereaux- [redacted] and [redacted] individually accessed SWM during company time from their computer. It is unclear what identity they used to do so, though it is unlikely that they used their pge.com addresses as these would have been recognized immediately. This could be determined using forensic data searches or through depositions of those involved.

4) At least 2 PG&E officers and 7 employees admitted in their interviews having accessed the SWM group, either at work or at home. (see PG&E internal investigation)

> [redacted]***:*** *"*[redacted] *stated that he did not actively search any anti-smartmeter website; however,* ***he might have clicked on a link*** *that took him to a site without knowing what the link was tied too. He never routinely reviewed any site related to smartmeters but received information from others about activities.*
>
> [redacted]***:*** *Have you accessed or monitored Smart Meter websites either on or off the job? "****Usually when some asked me to look at a site*** *but never off the job."*

[redacted]**:** *What sites have you monitored? "stopsmartmeters.wordpress.com and Facebook. I was reading the news online when I noted the link to the group.* ***I clicked on the link and read what was being said by the website."***

[redacted]**:** *Have you accessed or monitored Smart Meter websites either on or off the job?* ***"Yes. At work but not at home. I have as part of my job. I am trying to understand their concerns. They are killing my project so I need to know."***

[redacted]**:** *What sites have you monitored? "As I said I do get Google Alert for Smartmeter"*

[redacted]**: "**[redacted]** is signed up for the google alerts and has reviewed information from the alerts."**

Greg Kiraly: *"**Kiraly did review information from these sites** but it was done appropriately."*

Helen Burt: *"Burt stated that the only time she reviewed information from the different websites is when* ***she received a google alert message that was sent to her work computer. From the alert, she would access the site and review the information****."*

[redacted]**:** *"Have you accessed or monitored Smart Meter websites either on or off the job? She responded yes What sites have you monitored? EMS Safety network and* ***Google Alert Slogs (sic). She signed up for them"***

5) A strong indication that the monitoring activities were at least tacitly supported by senior management comes from a report of a staff meeting described by [redacted], Senior Manager, Business Development who is interviewed on page 28 of the interviews:

> *" I remember an All Hands meeting where Bill Devereaux and* [redacted] *got up in the meeting to talk to the group. They stated that it was the company policy not to make contact with the groups on the internet.* ***They stated that that they could not stop us from doing it at home because of the passion of the employees****. They stated to be consistant (sic) with company policy* ***if we did make contact****. though it was ironic when the news about his incident surfaced."*

He also stated (hinting at the desperation driving the monitoring/ infiltration

campaign):

> *Have you accessed or monitored Smart Meter websites either on or off the job?*
>
> *"Yes. At work but not at home. I have as part of my job. I am trying to understand their concerns.* ***They are killing my project so I need to know."***

6) According to PG&E's websence tracking report, besides Devereaux, 2 other PG&E employees directly visited the private Smart Warrior Marin group while at work ([redacted] and [redacted]) It appears that Mr. [redacted] even subscribed to the group, though the report does not indicate what identity was used.

   [redacted] web report (from PG&E investigation):

   > *"9/29/10 8:26*
   > *http://groups.google.com/group/SmartWarriorMarin/subscribe?hl=en"*

7) Wiliam Devereaux forwarded the private legal discussions of the opposition to PG&E Attorney [redacted] (now an officer with the company- Senior Director, Smart Meter.) and yet no one questioned or acted to prevent these activities until the media allegations surfaced. (see CPSD report attachment 16)

Many of these facts were not included in the CPSD investigation. They provide stronger evidence that Mr. Devereaux's activities were not an isolated aberration but rather condoned by Devereaux's supervisor, his colleagues and top executives in the company. It is in the public interest to find out exactly what occurred and who is responsible, and to levy appropriate fines and remedies, not settle the proceeding based on an incomplete rendering of the evidence.

It is clear from PG&E's data requests that Mr. Devereaux did not act alone, and that the extent of the spying and deceit has not been accurately determined. Thus a settlement that ignores these facts and attempts to avert testimony, hearings and other findings of fact is inappropriate, premature, and not remotely in the public interest.