

SUNDAY, APRIL 11, 2010

'We Are Appalled,' Declared CPUC About 2004 PG&E Executive Bonus Scandal -- 'Give It Back'

The lead sentence in last Friday's *San Francisco Chronicle* article (headline: "PG&E Must Stop Threats To Public Power Agencies") hints at the dilemma **Peter Darbee's political recklessness** has created for his company and its heretofore guardian angels, the California Public Utilities Commission:

*California energy regulators delivered a **rare rebuke** to Pacific Gas and Electric Co. on Thursday, banning some of the **hardball tactics** the utility has used in its efforts to derail Marin County's new public power agency.*

Darbee's brazen political overreach in launching Proposition 16, his **sole-sponsored assault on the California Constitution** and the historical prerogatives of the CPUC, may be **slowly awakening Commissioners** long criticized for carrying **styrofoam police batons** engraved with the mantra "**can't we just get along?**"

Take, for example, the last compensation scandal to hit PG&E, **the notorious \$84.5 million "retention bonuses"** paid to 17 executive worthies as PG&E emerged from bankruptcy in 2004. In extraordinary wording that still reads like comic opera Pontius Pilate, the CPUC observed:

*These bonuses vested **only days after** PG&E Corporation (the holding company), PG&E (the utility), and the Commission entered into a Modified Settlement Agreement regarding PG&E's emergence from bankruptcy. The size and timing of **these bonuses raised concerns** regarding ratepayer impact and public policy.*

We have given the issue special attention. We find that none of the \$84.5 million has been, or will be, charged to ratepayers. We adopt additional accounting and reporting measures to further ensure that the \$84.5 million is charged to shareholders, not ratepayers. **We are appalled at the size** of the award, and encourage the senior executives to **voluntarily return** any amounts **not needed** to meet

*the program's purpose or that are **unreasonable or inequitable**. The matter is **now in the hands** of the 17 senior executives, PG&E's shareholders and the California Legislature.*

Historical note: Darbee was PG&E Corporation's Chief Financial Officer **before, during, and after the bankruptcy fiasco**; his predecessor as CEO of the holding company (who grabbed a bonus of **more than \$17 million** for himself) was named by *BusinessWeek* as one of the **worst CEOs of 2003**; the bankruptcy **deprived shareholders** of their dividends for some 4.5 years and **sentenced ratepayers** to a decade-long special **bailout surcharge**; and ... drum roll ... **none of the \$84.5 million was ever returned**.

Darbee's **obtuseness may blind** him to the box into which his Proposition 16 gambit has placed his CPUC overseers. Exactly **where did he get his \$35 million** campaign war chest? Accept the common view and he's **misappropriated ratepayer funds**, meaning that the CPUC has **a major infraction** on its hands. Accept Darbee's rationale that he's using shareholder funds, and the CPUC rate-setting **generosity looks grossly negligent**.

Darbee's **blunderbuss approach** in Marin has now triggered a CPUC resolution that can easily be dismissed as just **another regulatory tsk tsk**, but which crosses **an unmistakable Rubicon** if anyone at PG&E is paying attention. Buried within the gentle bureaucratese admonishing PG&E for what are effectively **acts of bribery** (to induce the City of Novato not to join the Marin Energy Authority) **and extortion** (threatening not to supply electricity to the Marin Energy Authority), the CPUC resolution **lays down a marker**:
*... PG&E contends that the Commission lacks the authority to oversee the utility's use of shareholder funds for competitive activities ... **We are not persuaded** ... The **Commission does not lose its authority** to regulate a public utility's activities, merely because the utility accounts for the expense of conducting those activities "below the line", i.e., as **a shareholder expense**.*

So facing **his own compensation firestorm** for the ill-timed decision

to pay himself 8% more than Goldman Sachs paid its CEO (and **74% above the median for large utility CEOs**) in 2009, Darbee now finds that his lack of political acumen may have finally aroused the attention of creatures he **should have left asleep**.

Were he more a student of California history, he would realize that the regulatory agency he has long attempted to flout and the initiative process he is currently choosing to debase share a certain common origin.

--

ABOUT ME

**JOHN GEESMAN, FORMER CALIF. ENERGY COMMISSIONER,
2002 - 2008**

I was dumbstruck when I read that PG&E's board has authorized spending up to \$35 million on this initiative. The local governments, municipal utilities, and irrigation districts who are its targets are prohibited by law from spending anything to oppose it. California's investor-owned utilities face a Himalayan task in modernizing our electricity system and building the infrastructure necessary to serve a growing economy. They ought to focus on that, rather than manipulating the electorate to kneecap their few competitors. Has there ever been a time when we needed greater downward pressure on electricity rates? Perhaps I can contribute to stopping this outrage by assembling this information. Won't you help by using email or the "Share" button above to disseminate each post as broadly as possible?

[Http://www.oaklandlocal.com/blogs/john-geesman](http://www.oaklandlocal.com/blogs/john-geesman)