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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
14

15 UNITED STATES OF AMERICA,)	No. CR-14-00175-WHA
16 Plaintiff,)	UNITED STATES' RESPONSE TO COURT'S
17 v.)	ORDER TO SHOW CAUSE [Dkt. 1293]
18 PACIFIC GAS AND ELECTRIC COMPANY,)	
19 Defendant.)	

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21 The United States, through Assistant United States Attorneys Jeffrey Schenk, Philip Kopczynski,
22 and Noah Stern, responds to the Court's order to show cause why the conditions of probation suggested
23 by *amici* should not be imposed. Dkt. 1293.

24 While this Court "enjoy[s] broad discretion in fashioning the conditions needed for successful
25 supervision of a defendant," the Ninth Circuit has insisted that conditions of supervision find support in
26 the record, and that the conditions be no broader than reasonably necessary to support the sentencing
27 factors set forth in 18 U.S.C. § 3553(a)(2). *United States v. LaCoste*, 821 F.3d 1187, 1190-93 (9th Cir.

1 2016) (vacating supervised release conditions).

2 The record, as it presently stands, does not demonstrate that the conditions proposed by *amici* are
3 reasonably necessary to protect the public or support the other sentencing factors listed in 18 U.S.C.
4 § 3553(a)(2). The United States agrees with *amici* that deficiencies in PG&E’s record keeping have
5 been a major issue throughout this criminal case. The Monitor has continued to identify gaps in
6 PG&E’s recordkeeping but has also found that PG&E “has made significant improvement [to its
7 recordkeeping processes] since mid-2019.” Dkt. No. 1277-1 at 11. Determining whether *amici*’s
8 proposed conditions are reasonably necessary requires additional information and analysis regarding (1)
9 what PG&E has recently done to improve its recordkeeping and data management processes, (2) what
10 PG&E is currently doing and/or planning to do, (3) and whether the specific new processes mandated
11 through the proposed conditions would contribute to PG&E’s ongoing efforts (and thereby protect the
12 public) or undermine them. The submissions of the Monitor and PG&E are likely to provide
13 information helpful for analyzing whether the proposed conditions (or some modified version of them)
14 are reasonably necessary. At this time, however, the proposed conditions are not supported by the
15 record.

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19 DATED: March 3, 2021

Respectfully submitted,

20 DAVID L. ANDERSON
21 United States Attorney

22 _____
23 /s/
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