



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: November 20, 2014

Citation #: ALJ-274 2014-11-001

Operator ID#: 15007

**CITATION FOR VIOLATION(S)
ISSUED PURSUANT TO RESOLUTION ALJ-274
OF GENERAL ORDER 112-E**

Gas Corporation (Operator): Pacific Gas & Electric Company
To Which Citation Is Issued

RESPONDENT:

Mr. Jesus Soto, Vice President
Engineering, Construction and Operations
Pacific Gas & Electric Company
6111 Bollinger Canyon Road, Room 4590-D
San Ramon, CA 94583

CITATION:

Operator is hereby cited for two violations resulting in a financial penalty of \$10,850,000.
One violation occurred over multiple days. (See California Public Utilities Code § 2108).

VIOLATIONS:

Operator is cited with having violated General Order 112-E, and the Public Utilities Code as described below. These violations were found as a result of Safety and Enforcement Division ("SED") Investigation into the 3/3/14 Pacific Gas and Electric Company ("PG&E") natural gas explosion located around Guadalupe Street and 3rd Avenue in the city of Carmel-by-the-Sea.

1. California Public Utilities Code § 451 states:

"...Every public utility shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public. All rules made by public utility affecting or pertaining to its charges or service to the public shall be just and reasonable."



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PG&E's failure to adequately equip their General Construction ("GC") welding and Operator Qualification ("OQ") qualified personnel with the tools necessary to stop the uncontrolled flow of gas. SED considered other facts regarding PG&E's facilities, that should have caused PG&E to adjust its practices, including a 7/30/13 Mountain View incident and a "near miss" that occurred on 2/27/14. PG&E's failure constitutes a violation of Public Utilities Code § 451. Further, Subpart N of 49 CFR §192, amongst other criteria, identifies OQ personnel as those who are trained to "recognize and react to abnormal operating conditions." SED believes that reacting to such an Abnormal Operating Condition (AOC) involves the utility equipping crews tapping into a live gas system with the tools necessary to "react" by promptly stopping the flow of gas. Cell phones are not sufficient for this purpose.

2. Title 49 CFR § 192.615(a)(7) states:

"Each operator shall establish written procedures to minimize the hazard resulting from a gas pipeline emergency. At a minimum, the procedures must provide for...(7) Making safe any actual or potential hazard to life or property."

PG&E violated the above provision on the day of the accident. The violation occurred on 3/3/2014 when the crew did not attempt to make safe the area beyond the excavation hole, despite a possible indication that gas was migrating.

ENCLOSURES:

The following enclosures were used to establish the findings of fact:

1. *Enclosure 1 - SED Investigation Report, dated 11/3/2014.*

STATEMENT OF FACTS:

The above violations are documented in the attached *Enclosure 1 – SED Investigation Report*.



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SED CITATION ANALYSIS

| Element of Sentencing Schedule | Staff Finding |
|--|--|
| Number of violation (s) and duration of violation(s) | One violation of Public Utilities Code § 451 (7/30/13 was used as a start date per Public Utilities Code § 2108) and 1 violation of Title 49 CFR § 192.615(a)(7) |
| Severity of the offense: overall level of risk of violation(s) | Not being able to stop the uncontrolled flow of natural gas for planned work with a history of unknown plastic inserted pipe is a high risk situation |
| The conduct of the utility before, during, and after the offense | Utility was overall cooperative with data responses, however they missed a few deadlines |
| Previous occurrence of similar violations by the utility | Yes – PU 451 |
| Self-reporting of the violation | Violations found as a result of SED's Investigation |
| Indication of the violation (s) being willful | No |
| Actions taken by the utility to address the violation | See SED investigation report section entitled "Post Incident Actions" |
| Associated safety related condition | Yes |
| Financial resources of the utility | 4.3 Million customers, \$715 Million Revenue requirement |
| The totality of the circumstances | SED used daily compounding in accordance with Public Utilities Code § 2108 and considered the factors of Public Utilities Code § 2104.5 |
| Other factors deemed relevant by SED | See Enclosure 1 |
| Resultant Citation Taking All Of These Factors Into Account | \$10,850,000.00 |



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RESPONSE:

Respondent is hereby called upon to provide a response to this Citation by: **5:00 PM (PST) on November 30, 2014.**

By way of such response Respondent, **within 10 calendar days**, may either:

- (1) Correct the violations as soon as feasible, with any immediate safety hazard requiring immediate correction, and/or submit a Compliance Plan to the Director of SED for correcting those violations requiring more than 10 days to correct, **and** pay a fine pursuant to Pub. Util. Code § 2107. (Submit a check payable to California Public Utilities Commission using the attached *Citation Payment Form*. Upon payment, the fine will be deposited in the State Treasury to the credit of the General Fund and this citation will become final); **or**
- (2) Confirm that the violation(s) noted in this Citation have been corrected and/or otherwise do not present an on-going safety hazard to the Operator's employees and the general public, and /or submit a Compliance Plan to the Director of SED for correcting those violations requiring more than 10 days to correct, **and** contest this citation by completing and submitting a *Notice of Appeal Form*. Please see the attached document, "Directions For Submitting An Appeal To A Citation Issued Pursuant To Resolution ALJ-274" for information on the appeals process and the attached "Notice of Appeal Of Citation Form."

Respondent's failure to provide a response, as noted above, within 10 calendar days from the date the citation is served, will place Respondent in default of the citation and will result in forfeiture of Respondent's rights to appeal the citation. A late payment will be subject to a penalty of 10% per year, compounded daily and to be assessed beginning the calendar day following the payment-due date. The Commission may take additional action to recover any unpaid fine and ensure compliance with applicable statutes and Commission orders.

NOTIFICATION TO PUBLIC AGENCIES:

As soon as is reasonable and necessary, and no later than 10 calendar days after service of the citation is effected, Respondent must provide a notification to the City Manager or similar local agency authority in the city and county where a citation is issued. Within 10 days of providing such notification, Respondent must serve an affidavit to the Director of SED, at the mail or e-mail address noted below, attesting that the local authorities have been notified; the date(s) for when notification was provided; and the name(s) and contact information for each local authority so notified.



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The CPUC expects Operators to take actions, as soon as feasible, to correct, mitigate, or otherwise make safe all violations noted on the Citation regardless of the Operator's intentions to accept or appeal the violation(s) noted in the Citation.

A handwritten signature in cursive script, appearing to read "Elizaveta Malashenko", written over a horizontal line.

Elizaveta Malashenko

Deputy Director

Office of Utility Safety and Reliability

Safety and Enforcement Division

California Public Utilities Commission

505 Van Ness Avenue

San Francisco, CA 94102

elizaveta.malashenko@cpuc.ca.gov



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CITATION PAYMENT FORM

I (we) _____ hereby agree to comply with this citation dated _____, and have corrected/mitigated the violation(s) noted in the citation on _____ and no later than _____, all work to make permanent corrections to any mitigated, or otherwise remaining concerns related to the violation(s) will be completed as noted in the Compliance Plan we have submitted to the Director of SED and, herewith, pay a fine in the amount of \$ _____ as included in the citation.

Signature of Gas Corporation's Treasurer,
Chief Financial Officer, or President/CEO, or
delegated Officer thereof

(Signature) (Date)

(Printed Name and Title)

Payment with a check must be made payable to the **California Public Utilities Commission** and sent to the below address. Please include the citation number on the memorandum line of the check to ensure your payment is properly applied.

California Public Utilities Commission
Attn: Fiscal Office
505 Van Ness Avenue
San Francisco, CA 94102-3298

NOTE: A copy of the completed Citation Payment Form must be sent to the Director of the Safety and Enforcement Division, via email or regular mail, to the addresses provided on the Citation.



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DIRECTIONS FOR SUBMITTING AN APPEAL TO A CITATION ISSUED PURSUANT TO RESOLUTION ALJ-274

Within 10 calendar days of the Respondent being served with a **CITATION FOR VIOLATION(S) ISSUED PURSUANT TO RESOLUTION ALJ-274**, Respondent may appeal the citation. Beyond 10 calendar days of being served with the citation, Respondent is in default and, as a result, is considered as having forfeited rights to appeal the citation. The Respondent must still correct the violation(s) as feasible unless, within 10 calendar days from the date of service of the citation, the Respondent submits to the Director of SED, a Compliance Plan that provides a detailed description of when the violation(s) will be corrected, the methodology to be utilized, and a statement, supported by an affidavit from the Gas Corporation's Chief Executive Officer, that in the Respondent's best judgment, the time necessary to correct the violation(s) will not affect the integrity of the operating system or unduly endanger the public.

To appeal the citation, Respondent must complete and submit the below *Notice of Appeal Form* within 10 calendar days of the date on which the Respondent is served the Citation. The Respondent's appeal must explain with specificity all grounds for the appeal of the citation. The completed *Notice of Appeal Form*, along with copies of any materials the Respondent wants to provide in support of its appeal, must be sent to:

California Public Utilities Commission
505 Van Ness Ave, Room 2205
San Francisco, CA 94102
Attn: Director, Safety and Enforcement Division

Respondent must also serve a copy of the *Notice of Appeal Form*, along with copies of any supporting materials, at the address noted above, on the Commission's Executive Director, Chief Administrative Law Judge, General Counsel, and Director of the Division of Ratepayer Advocates.

NOTE: Submission of a *Notice of Appeal Form* in no way diminishes Respondent's responsibility for correcting the violation described in the citation, or otherwise ensuring the safety of facilities or conditions that underlie the violations noted in the Citation.

After SED receives the Respondent's *Notice of Appeal Form*, a hearing will be convened before an Administrative Law Judge. At least ten business days before the date of the hearing, the Respondent will be notified and provided with the location, date, and time for the hearing. At the hearing,

- (a) Respondent may be represented by an attorney or other representative, but any such representation shall be at the sole expense of the Respondent;
- (b) Respondent may request a transcript of the hearing, but must pay for the cost of



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- the transcript in accordance with the Commission's usual procedures;
- (c) Respondent is entitled to the services of an interpreter at the Commission's expense upon written request to the Chief Administrative Law Judge not less than three business days prior to the date of the hearing; and
 - (d) Respondent may bring documents to offer in evidence and/or call witnesses to testify on Respondent's behalf.

At the Commission's discretion, the hearing in regard to the Respondent's appeal can be held in a hearing room at either of the Offices of the CPUC at the following locations:

San Francisco:
505 Van Ness Avenue
San Francisco, CA 94102

Los Angeles:
320 West 4th Street, Suite 500
Los Angeles, CA 90013

The hearing(s) held in regard to the Respondent's appeal will be adjudicated in conformance with all applicable Public Utilities Code requirements.



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Notice of Appeal Form
(For A Citation Issued Pursuant to Resolution ALJ-274)

Respondent:

Name
Vice President, Gas Operations
Gas Utility Name
Mailing Address
City, CA Zip

Citation Date:

Citation #: ____ - ____ - ____

Operator ID#:

Appeal Date: _____

Statements supporting Respondent's Appeal of Citation (You may use additional pages if needed and/or attach copies of supporting materials along with this form).



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Enclosures to Accompany Utility Appeal

Utility to add Enclosures as appropriate