

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA. 94102-3298



December 4, 2020

Greg Ferree
Vice President
Distribution Business Line
Southern California Edison
3 Innovation Way
Pomona, CA 91768

Carla Peterman
Senior Vice President
Regulatory Affairs
Southern California Edison
2244 Walnut Grove Avenue
Rosemead, CA 91770

Mr. Ferree and Ms. Peterman:

Southern California Edison (SCE) is hereby cited \$1,000,000 for violations of General Order (GO) 128, Rules 17.1, 17.7, and the Public Utilities Code (PU Code) Section (§) 451, related to an injury received from failing to properly mark the location of SCE's underground facilities, which occurred on December 2, 2017. The attached Citation #D.16-09-055 E.20-12-001 is issued today pursuant to Decision 16-09-055. Please find attached the citation and its enclosures.

If confidential information exists within any enclosures to the citation, please send SCE's proposed redactions, including your justification for each proposed redaction, by 5:00 p.m. on December 10, 2020, to Fadi Daye, Electric Safety and Reliability Branch, at fadi.daye@cpuc.ca.gov.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie Palmer".

Leslie Palmer,
Director
Safety and Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

cc (electronically):

[REDACTED] - Regulatory Affairs, Southern California Edison at
[REDACTED]



Public Utilities Commission STATE OF CALIFORNIA

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Citation #: D.16-09-055 E.20-12-001
Utility/Operator ID#: U338E

CITATION ISSUED PURSUANT TO DECISION 16-09-055

Electrical Corporation (Utility) To Which Citation is Issued:

Southern California Edison (U338E)

OFFICERS OF THE RESPONDENT:

Greg Ferree
Vice President
Distribution Business Line
Southern California Edison
3 Innovation Way
Pomona, CA 91768

Carla Peterman
Senior Vice President
Regulatory Affairs
Southern California Edison
2244 Walnut Grove Avenue
Rosemead, CA 91770

CITATION:

Southern California Edison Company (SCE or Utility) is cited for four violations that lasted five (5) days each, resulting in a financial penalty of \$1,000,000. The Safety and Enforcement Division (SED) discovered these violations in its investigation of Incident Number E20171202-01, which occurred on December 2, 2017. One person was injured when he cut into an energized underground conductor that had been exposed by excavation activities related to a construction project. The construction company had acquired a valid DigAlert ticket, but SCE failed to properly mark the location of its underground facilities.

VIOLATIONS:

SCE is cited for violating General Order (GO) 128, Rules 17.1 and 17.7, and Public Utilities Code (PU Code), Section (§) 451, as described below. These violations occurred when SCE installed an underground 16 kV conductor in an area of ongoing excavation and failed to mark the location of that conductor on November 28, 2017 and persisted until third-party construction crew members unearthed the conductor during their excavation activities four days later on December 2, 2017. These five days from November 28 to December 2 constitute the five days during which SCE violated these four requirements. One



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construction worker suffered [REDACTED] injuries when he cut into the exposed conductor with a hand-held tool.

On November 8, 2017, Baja Construction obtained a DigAlert ticket from Underground Service Alert (USA) that was valid through December 6, 2017. On November 10, 2017, SCE's locator contractor, UtiliQuest, responded to USA's notification and determined that SCE did not have any underground facilities in the area of excavation. On November 28, 2017, and prior to Baja Construction commencing its excavation, SCE installed and energized an underground 16 kV conductor in the excavation area at 750 Clyde River Place, without informing UtiliQuest or Baja Construction of the new underground installation. On December 2, 2017, Baja Construction commenced excavation and exposed the newly installed 16 kV underground conductor. A foreman electrician for Light & Power, Inc., (a subcontractor working on the same project) examined the exposed conductor and concluded that the conductor had been abandoned since it was not marked. The employee proceeded to cut into the exposed conductor, which created an electrical flash injuring the employee.

SCE delegates its responsibility of locating its underground installations upon request to UtiliQuest, but only provides UtiliQuest with updated underground facility maps on a monthly basis. SCE does not inform UtiliQuest of newly-installed underground conductors at the time of installation.

Violations 1 and 2

General Order (GO) 128, Rule 17.1 Design, Construction and Maintenance, states:

Electrical supply and communication systems shall be designed, constructed, and maintained for their intended use, regard being given to the conditions under which they are to be operated, to enable the furnishing of safe, proper, and adequate service.

For all particulars not specified in these rules, design, construction, and maintenance should be done in accordance with accepted good practice for the given local conditions known at the time by those responsible for the design, construction, or maintenance of [the] communication or supply lines and equipment.

All work performed on public streets and highways shall be done in such a manner that the operations of other utilities and the convenience of the public will be interfered with as little as possible and no conditions unusually dangerous to workmen, pedestrians or others shall be established at any time.

1. GO 128, Rule 17.1, requires utilities to operate and maintain their facilities in a safe manner that furnishes a safe environment to the public, utility employees, and contractors. SCE's practice of sharing their updated underground facility maps with their contractor UtiliQuest on a monthly basis creates a dangerous situation for workers in active excavation areas, such as the case in this incident. UtiliQuest was unable to locate and mark the location of the new conductors because UtiliQuest had already



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visited the area of excavation and determined that SCE did not have any underground facilities in the area of active excavation.

This hazard could have been mitigated if SCE informed UtiliQuest of the new underground facilities immediately at the time of installation. UtiliQuest could have returned to the site of active excavation and accurately marked the location of the underground 16 kV conductor or informed the excavator of its existence. By installing underground facilities in an active excavation area without marking the location of the new conductors, nor informing the excavator or the locator (UtiliQuest) of the existence of energized underground conductors, SCE created a dangerous condition that resulted in the injury of the foreman electrician for Light & Power, Inc. Therefore, SCE is in violation of GO 128, Rule 17.1, for implementing a policy that creates dangerous conditions and prevents the furnishing of a safe environment for workers.

California Government Code § 4216.3(a)(1)(B) states:

An operator shall mark newly installed subsurface installations in areas with continuing excavation activity.

2. GO 128, Rule 17.1 requires utility companies to perform construction work in accordance with accepted good practices. California Government Code § 4216.3(a)(1)(B) requires operators, such as utility companies, to mark newly installed subsurface installations, such as underground conductors, if they are installed in areas with continuing excavation activity. SCE installed the new 16 kV underground conductor at 750 Clyde River Place while a DigAlert ticket was active and excavation activities were ongoing in the area. However, SCE did not mark the location of that subsurface conductor after installing it. By not following this provision of code, SCE did not conduct work in accordance with accepted good practice, thus violating GO 128, Rule 17.1 a second time.

Violation 3

General Order 128, Rule 17.7, Location Information, states:

Each party operating or owning facilities shall, upon request, provide information as to location of its underground facilities to any other party contemplating underground construction, or work, in the vicinity thereof. Provision of such information by a party will not relieve such other party of his responsibility to locate accurately such underground facilities and to exercise reasonable care during construction or work. If at any time damage or interruption to existing facilities should occur, said other party is enjoined immediately to report such damage to the party owning such damaged or interrupted facilities.

GO 128, Rule 17.7, requires each party operating or owning facilities to, upon request, provide information as to the location of its underground facilities to any other party contemplating underground construction or work in the vicinity thereof. Baja Construction obtained a valid DigAlert ticket prior to commencing its excavation activities and had



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received information from SCE about its underground facilities, but SCE failed to mark the newly installed conductor and did not provide that information to UtiliQuest or directly to Baja Construction. SCE violated General Order 128, Rule 17.7, by failing to provide accurate information to Baja Construction about SCE's underground facilities upon request, and by failing to ensure that its underground facilities were marked properly prior to excavation as requested.

Violation 4

California Public Utilities Code (PU Code) § 451, states in part:

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.

SCE installed a new 16 kV underground conductor in an active excavation area without marking the conductor, without informing the excavator Baja Construction who had a valid DigAlert ticket, and without informing SCE's locator UtiliQuest who is responsible for locating and marking SCE's underground facilities. Therefore, SCE is in violation of PU Code § 451 for failing to furnish its services as necessary to promote the safety and health of the public and employees.

ENCLOSURES:

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

Enclosure 1 – SED Incident Investigation Report, dated January 19, 2018

Enclosure 2 – SED Notice of Violation (NOV), dated July 27, 2020

Enclosure 3 – SCE Response to SED's NOV, dated August 27, 2020

Enclosure 4 – SCE's Initial Incident Report

Enclosure 5 – SCE's Section 315 Letters

STATEMENT OF FACTS

The above violations are documented in the attached *Enclosure 1 – SED Incident Investigation Report* which is based on the following: SED's field observations and measurements; SED interviews with witnesses and SCE and UtiliQuest personnel; and SED's review of SCE's records and data request responses.



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SED CITATION ANALYSIS

Element	Staff Finding
Number of violation(s) and duration of violation(s)	<p>One violation of GO 128, Rule 17.1, from November 28, 2017 to December 2, 2017 (5 days) for implementing a policy that creates dangerous conditions and prevents the furnishing of a safe environment for workers.</p> <p>One violation of GO 128, Rule 17.1, for failing to follow accepted good practices as required by California Government Code § 4216.3(a)(1)(B) from November 28, 2017 to December 2, 2017 (5 days). California Government Code § 4216.3(a)(1)(B) requires SCE to mark the location of the new underground conductor that it installed in an area of ongoing excavation activities.</p> <p>One violation of GO 128, Rule 17.7, from November 28, 2017 to December 2, 2017, (5 days) for failing to ensure that its underground facilities were marked properly prior to excavation as requested (Baja Construction had requested underground facility location information and had a valid DigAlert ticket).</p> <p>One violation of PU Code § 451 from November 28, 2017 to December 2, 2017 (5 days) for not furnishing its services as necessary to promote the safety of the public and employees.</p>
Severity or gravity of the offense	The incident resulted in burn injuries to one individual that resulted in his hospitalization.



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Element	Staff Finding
Conduct of the utility	<p>GO 128, Rule 17.7, requires the owners of underground conductors to provide location information upon request to any individual or entity contemplating excavation or construction activities upon request. SCE delegates this responsibility to its contractor UtiliQuest.</p> <p>SCE did not inform UtiliQuest of new underground facilities at the time of installation. Instead, SCE provided updated facility maps to UtiliQuest on a monthly basis. This becomes a hazardous practice in instances such as this one, where SCE installs a new underground conductor in an area of ongoing excavation activity, but fails to mark the location of the conductor as required by California Government Code § 4216.3(a)(1)(B).</p> <p>If SCE had immediately informed UtiliQuest of the new installation, UtiliQuest staff could have informed SCE that the new conductor had been installed in an area of ongoing excavation with a valid DigAlert ticket. SCE could also require UtiliQuest to re-visit the area immediately, or contact USA to amend or revoke the active DigAlert ticket. Since SCE did not inform UtiliQuest of the newly installed conductor, UtiliQuest had no reason to take further action on the matter.</p> <p>SCE installed the new conductor in an area of ongoing excavation on November 28, 2017 but did not mark the location of the conductor with paint or any other visible marker. This created an unusually dangerous situation for the contractors working in the area. Not only was a live conductor present in their excavation area, but they also had a valid and active DigAlert ticket assuring them that no live conductors were present.</p>



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Element	Staff Finding
Prior history of similar violation(s)	<p>SED's incident investigations have found SCE in violation of GO 128 Rule 17.1 no fewer than six times since December 2007. Examples include:</p> <ul style="list-style-type: none">• E20090901-01 – SCE violated Rule 17.1, by creating conditions dangerous to the public by failing to perform proper maintenance on a switch, which failed catastrophically.• E20091023-01 – SCE violated Rule 17.1, by creating conditions dangerous to the public by failing to maintain an underground cable that failed, injuring two members of the public.• E20120817-01 – SCE violated Rule 17.1, by creating dangerous working conditions for an SCE employee by incorrectly labeling underground conductors with the wrong circuit name, which lead to the injury of an SCE lineman.• E20130930-01 – SCE violated Rule 17.1, by creating dangerous working conditions by failing to ensure that its contractors were familiar with SCE equipment and followed basic safety protocols, which lead to the death of an SCE lineman.• E20150715-01 – SCE violated Rule 17.1, by failing to properly maintain an underground distribution network, which resulted in explosions that sent manhole covers air born and a sustained power outage. <p>SED's incident investigations have found SCE in violation of GO 128 Rule 17.7, on at least one occasion since December 2007:</p> <ul style="list-style-type: none">• E20150709-02 – SCE violated Rule 17.7, by failing to mark the location of one of its transmission conductors. <p>SED's incident investigations have found SCE in violation of PU Code § 451 no fewer than four times since December 2007. Example include:</p> <ul style="list-style-type: none">• E20091023-01 – SCE violated PUC § 451, by creating conditions dangerous to the public by failing to maintain an underground cable that failed, injuring two members of the public.• E20130930-01 – SCE violated PUC § 451, by creating dangerous working conditions by failing to ensure that its contractors they were familiar with SCE equipment and followed basic safety protocols, which lead to the death of an SCE lineman.• E20150715-01 – SCE violated PUC § 451, by failing to properly maintain an underground distribution network, which resulted in explosions that sent manhole covers air born and a sustained power outage.



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Element	Staff Finding
Self-reporting of the violation	Not self-reported; SED discovered the violations during investigation of the reported incident.
Financial resources of the utility	Approximately 5 million electric residential and commercial accounts, serving about 15 million people, \$12.31 billion in revenue in 2019.
The totality of the circumstances	<p>Aggravating factors include:</p> <ul style="list-style-type: none">The injuries suffered by the contractor employee;SCE's policy to update its maps with any newly installed underground facilities only on a monthly basis;SCE's practice of not informing its locator, UtiliQuest immediately after new underground facilities have been installed;SCE's action to install a new underground conductor in an active excavation area without informing any of the contractors or excavators working in the active site and with the knowledge and understanding that coming into contact with an underground energized facility could lead to fatalities. <p>Mitigating factors include:</p> <ul style="list-style-type: none">SCE's general cooperation with SED for the duration of the investigation;SCE possession of adequate and sufficient financial resources to pay the penalties;SCE's commitment to work with UtiliQuest to increase the speed and frequency that underground facility maps are updated and to also provide additional education to third party excavator contractors concerning their required responsibilities in the event of discovering unmarked underground facilities (SCE alleges that the contractor workers present violated "industry protocol" by failing to perform due diligence regarding the status of the excavated conductor prior to cutting it).
The role of precedent	N/A
Resultant Citation Taking All Of These Factors Into Account	\$1,000,000 consistent with the administrative limit on citations adopted in Decision 16-09-055.



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RESPONSE:

Respondent is called upon to provide a response to this Citation by: **5:00 PM on January 4, 2021.** By way of such response, Respondent, **within 30 calendar days**, must either pay the amount of the penalty set forth in this citation¹, or appeal² the citation. In addition, the Respondent must do one of the following:

- (1) **For violations constituting immediate safety hazards:** Respondent must immediately correct the immediate safety hazards.
- (2) **For violations that do not constitute immediate safety hazards:** Violations that do not constitute immediate safety hazards must be corrected within 30 days after the citation is served. If said violations that do not constitute immediate safety hazards cannot be corrected within 30 days, then the Respondent must submit a detailed Compliance Plan to the Director of SED within 30 days after the citation issues, unless the utility and the Director of SED, before the expiration of the 30 day period, agree in writing to another date, reflecting the soonest that the Respondent can correct the violations. The Compliance Plan must provide a detailed description of when the violation will be corrected, the methodology to be utilized, and a statement supported by a declaration from the Respondent's Chief Executive Officer or appropriate designee (CEO Declaration) stating that in the Respondent's best judgment, the time that will be taken to correct the violation will not affect the safety or integrity of the operating system or endanger public safety.

Note: Respondent will forfeit the right to appeal the citation by failing to do one of the options outlined above within 30 days. Payment of a citation or filing a Notice of Appeal does not excuse the Respondent from curing the violation. The amount of the penalty may continue to accrue until a Notice of Appeal is filed. Penalties are stayed during the appeal process. 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.

¹ For fines paid pursuant to Pub. Util. Code §2107 and D.16-09-055 Respondent shall submit a certified 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.

² Respondent may Appeal 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 Decision 16-09-055" for information on the appeals process and the attached "Notice of Appeal Of Citation Form."



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NOTIFICATION TO LOCAL AUTHORITIES:

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 Chief Administrative Officer or similar authority in the city and county where the violation occurred. 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.

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

Leslie Palmer
Director
Safety and Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Leslie.Palmer@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 Electrical Corporation's Treasurer, Chief Financial Officer, or President/Chief Executive Officer, or delegated Officer thereof

(Signature)

(Date)

(Printed Name and Title)

Payment must be with a certified check 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 address provided on the Citation.



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DIRECTIONS FOR SUBMITTING AN APPEAL TO A CITATION ISSUED PURSUANT TO DECISION 16-09-055

Within 30 calendar days of the Respondent being served with a **CITATION ISSUED PURSUANT TO DECISION 16-09-055**, Respondent may appeal the citation. Beyond 30 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 instructed in the Response section of this citation.

To appeal the citation, Appellant must file a Notice of Appeal (including a completed title page complying with Rule 1.6 of the Commission's Rules of Practice and Procedure, and attached Notice of Appeal Form) along with copies of any materials the Appellant wants to provide in support of its appeal with the Commission's Docket Office **and** must serve the Notice of Appeal, at a minimum, on

- 1) The Chief Administrative Law Judge (with an electronic copy to:
[ALJ Div Appeals Coordinator@cpuc.ca.gov](mailto:ALJ_Div_Appeals_Coordinator@cpuc.ca.gov)),
- 2) The Director of the Safety and Enforcement Division
- 3) The Executive Director
- 4) General Counsel
- 5) The Director of the Office of Ratepayer Advocates

at the address listed below within 30 calendar days of the date on which the Appellant is served the Citation. The Appellant must file a proof of service to this effect at the same time the Appellant files the Notice of Appeal. The Notice of Appeal must at a minimum state: (a) the date of the citation that is appealed; and (b) the rationale for the appeal with specificity on all grounds for the appeal of the citation.

***California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102
Attn: <Insert Title>***

NOTE: Submission of a *Notice of Appeal Form* in no way diminishes Appellant'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.

Ex Parte Communications as defined by Rule 8.1(c) of the Commission's Rules of Practice and Procedure, are prohibited from the date the citation is issued through the date a final order is issued on the citation appeal.



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

- (a) Appellant may be represented by an attorney or other representative, but any such representation shall be at the sole expense of the Appellant;
- (b) Appellant may request a transcript of the hearing, but must pay for the cost of the transcript in accordance with the Commission's usual procedures;
- (c) Appellant 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 five business days prior to the date of the hearing;
- (d) Appellant is entitled to a copy of or electronic reference to "Resolution ALJ-299 Establishing Pilot Program Citation Appeal and General Order I56 Appellate Rules (Citation Appellate Rules)"; and
- (e) Appellant may bring documents to offer in evidence (Rule 13.6 (Evidence) of the Commission's Rules of Practice and Procedure applies) and/or call witnesses to testify on Appellant's behalf. At the Commission's discretion, the hearing in regard to the Appellant's appeal can be held in a CPUC hearing room at either of 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 Appellant's appeal will be adjudicated in conformance with all applicable Public Utilities Code requirements.



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Notice of Appeal Form

Appeal from Citation issued by Safety and Enforcement Division

(Pursuant to Decision 16-09-055)

Appellant:

[Name]

[Title]

[Utility Name]

[Mailing Address]

[City, CA Zip Code]

Citation Date: _____

Citation #: D.16-09-055 _____ - _____ - _____

Utility/Operator ID#: _____

Appeal Date: _____

“Appeal of _____ from _____ issued by Safety
[Utility/Operator Name] [Citation Number]
and Enforcement Division”

Statements supporting Appellant’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 list of Enclosures as appropriate: