



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: April 25, 2017
Citation #: D.16-09-055 E.17-04-001
Utility/Operator ID#: U39E

CITATION
ISSUED PURSUANT TO DECISION 16-09-055

Electrical Corporation (Utility) To Which Citation is Issued:

Pacific Gas and Electric Company (U39E)

OFFICER OF THE RESPONDENT:

Mr. Patrick M. Hogan
Senior Vice President, Electric Operations
Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105

CITATION:

Pacific Gas and Electric Company (PG&E or Utility) is cited for one violation that lasted 246 days, resulting in a financial penalty of \$8 million for this citation. Safety and Enforcement Division (SED) discovered this violation in its investigation of Incident Number E20150916-01, the Butte Fire, which was ignited on September 9, 2015.

VIOLATIONS:

PG&E is cited for violating General Order (GO) 95, as described below. PG&E is in violation of GO 95, Rule 31.1, for failing to maintain its 12 KV overhead conductors safely and properly. This violation began on January 6, 2015, when PG&E and/or its contractors failed to identify a gray pine tree as a hazard or as needing trimming or removal to prevent contact with a PG&E 12 kV overhead conductor. Such contact occurred on September 9, 2015 and started the Butte Fire.

1. General Order 95, Rule 31.1 Design, Construction, and Maintenance, states in part:

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 communication or supply lines and equipment.



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ENCLOSURES:

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

Enclosure 1 – SED Incident Investigation Report, dated March 29, 2017

Attachment 1 – California Department of Forestry and Fire Protection Butte Incident Investigation Report

Attachment 2 – Arborist Report Prepared for California Department of Forestry and Fire Protection

STATEMENT OF FACTS:

The above violation is documented in the attached *Enclosure 1 – SED Incident Investigation Report* which is based on the following: SED's data requests and field observations, interviews conducted, and review of the Investigation Report of the California Department of Forestry and Fire Protection (CAL FIRE) and the Arborist Report prepared for CAL FIRE.

SED's investigation found that neither PG&E nor its contractors took appropriate steps to remedy the condition and consequences when two grey pine trees in a stand were removed. The appropriate steps were not taken to prevent a remaining grey pine tree from leaning and contacting the 12 kV overhead conductor. This failure created an unsafe and dangerous condition that resulted in the subject tree leaning and making contact with the 12 kV overhead conductor, thus causing a fire.



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SED CITATION ANALYSIS

Element	Staff Finding
Number of violation(s) and duration of violation(s)	One violation of GO 95, Rule 31.1 from January 6, 2015 to September 9, 2015 (246 days) for not identifying the subject grey pine tree as a hazard or as needing trimming or removal to prevent contact with a 12 kV conductor.
Severity or gravity of the offense	The violation described in this citation created a significant hazard to public safety. The incident resulted in a fire that burned 70,868 acres, destroyed 921 structures (549 homes, 368 outbuildings, and 4 commercial properties) and damaged 44 structures, resulted in two "indirect" civilian fatalities, one injury and a sustained outage to 14,267 customers.
Conduct of the utility	<p>Prior to the incident, PG&E had a vegetation management program in place that performs annual patrols of all primary and secondary distribution lines. Trees near the circuits covered by routine patrols are to be pruned on an annual basis. PG&E also uses LiDAR (Light Detection And Ranging) technology and spectral imagery to identify hazardous trees in high fire danger areas. Trees identified using these technologies are then inspected from the ground and abated as necessary. PG&E uses contractors as part of its vegetation management for pre-inspections and tree trimming.</p> <p>Even though PG&E has a vegetation management program in place that addresses hazardous trees, PG&E and/or its contractors failed to identify the hazardous condition that was created after two other gray pines were removed.</p> <p>PG&E regularly updates its vegetation management program but nothing new was implemented related to the Butte Fire.</p>



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<p>Prior history of similar violation(s)</p>	<p>SED's incident investigations have found PG&E in violation of GO 95, Rule 31.1, 37 times since 1999. Examples include:</p> <p>E20101110-01 - PG&E in violation of Rule 31.1 for improperly installing switches in a substation which led to equipment failure and an outage.</p> <p>E20070614-01 - PG&E in violation of Rule 31.1 for failing to maintain its 21 kV overhead conductors safely and properly.</p>
<p>Self-reporting of the violation</p>	<p>Not self-reported; SED discovered the violations during investigation of the reported incident.</p>
<p>Financial resources of the utility</p>	<p>5.4 million electric customers; 4.3 million natural gas customers; \$7.094 billion authorized General Rate Case revenues for test year 2014.</p>
<p>The totality of the circumstances</p>	<p>Aggravating factors included the consequences of the incident (loss of life, injury, infrastructure/environmental damages, and customer outages), not taking steps to remedy the condition and consequences of removing trees, creating an unsafe and dangerous condition, and allowing a tree to contact an energized conductor. Mitigating factors include the actions taken to address the violations, performing appropriate inspections and PG&E taking major fire risk mitigation initiatives prior to the start of the fire.</p> <p>Other factors considered are that PG&E was generally cooperative during SED's investigation, and PG&E possesses sufficient financial resources to pay the penalties.</p>



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<p>The role of precedent</p>	<p>CPUC decisions approving settlements in which utility agreed to a penalty related to vegetation management:</p> <p>D.10-04-047 regarding three fires, one of which allegedly was due to San Diego Gas & Electric Company (SDG&E) tree trimming; SDG&E agreed to pay \$14.35 million related to the three fires.</p> <p>D.99-07-029 regarding PG&E compliance with vegetation clearance standards; PG&E agreed to pay \$6 million and to fund up to \$22.7 million in vegetation-related activities.</p> <p>D.98-12-025 regarding SDG&E's tree trimming practices and related fires; SDG&E agreed to pay \$1 million and to spend \$200,000 for public education.</p>
<p>Resultant Citation Taking All Of These Factors Into Account</p>	<p>\$8,000,000, consistent with the administrative limit on citations adopted in Decision 16-09-055.</p>



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RESPONSE:

Respondent is called upon to provide a response to this Citation by: **5:00 PM on May 25, 2017**. 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.

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

Elizaveta Malashenko

Director
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 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),
- 2) The Director of 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 156 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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Enclosures to Accompany Utility Appeal

Utility to add list of Enclosures as appropriate: