



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: April 25, 2017
Citation #: D.16-09-055 E.17-04-002
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 the following: 1) one violation resulting in a financial penalty of \$50,000; and 2) a second violation that lasted 5 days, resulting in a financial penalty of \$250,000. Safety and Enforcement Division (SED) discovered these violations in its investigation of Incident Number E20150916-01, the Butte Fire, which was ignited on September 9, 2015. The total financial penalty for this citation is \$300,000.

VIOLATIONS:

PG&E is cited for violating General Order (GO) 95 and Resolution E-4184, as described below. These violations occurred when a gray pine tree contacted PG&E's 12 kV conductor and initiated a fire, and when PG&E did not report the incident in a timely manner.

1. General Order 95, Rule 35 Vegetation Management, states in part:

Where overhead conductors traverse trees and vegetation, safety and reliability of service demand that certain vegetation management activities be performed in order to establish necessary and reasonable clearances, the minimum clearances set forth in Table 1, Cases 13 and 14, measured between line conductors and vegetation under normal conditions shall be maintained. (Also see Appendix E for tree trimming guidelines.) These requirements apply to all overhead electrical supply and communication facilities that are covered by this General Order, including facilities on lands owned and maintained by California state and local agencies.



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GO 95, Rule 35 requires an 18-inch minimum radial clearance between 12 kV overhead conductors and vegetation. In this incident, the subject tree contacted PG&E's 12 kV overhead conductor. Therefore, PG&E is in violation of GO 95, Rule 35, for failing to maintain the minimum required clearance between the 12 kV conductor and the subject tree.

There is no evidence available to determine when the 18-inch minimum clearance was breached/violated, other than the day of the incident, when the subject tree contacted the 12 kV overhead conductor.

2. Resolution E-4184, which modified Decision 06-04-055, requires PG&E to report incidents within 2 hours of occurrence during normal working hours, or within 4 hours of the incident occurrence outside of normal working hours. Reportable incidents are those which meet the following criteria: (a) result in fatality or personal injury rising to the level of in-patient hospitalization and attributable or allegedly attributable to utility owned facilities; (b) are the subject of significant public attention or media coverage and are attributable or allegedly attributable to utility facilities; or (c) involve damage to property of the utility or others estimated to exceed \$50,000.

The website, <http://www.mymotherlode.com/community/fire/butte-fire-summary-timeline> indicated that the damage from the Butte Fire exceeded \$50,000 soon after the fire was ignited on September 9, 2015. The fire started at 160 acres and expanded to 64,728 acres in three days.

In addition, on September 11, 2015, Department of Forestry and Fire Protection (CAL FIRE) investigators requested PG&E to remove a section of PG&E's 12 kV overhead conductor on suspicion of its possible link to the ignition of the fire. PG&E was aware that its facilities may have been involved in a fire with damages that exceeded \$50,000 on September 11, 2015, but did not report the incident to the CPUC until September 16, 2015, five (5) days later. PG&E violated Resolution E-4184 for reporting the incident late.



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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 violations are documented in the attached *Enclosure 1 – SED Incident Investigation Report* which is based on the following: SED's data request and field observations, interviews conducted, and review of CAL FIRE's Investigation Report and the Arborist Report prepared for CAL FIRE.



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SED CITATION ANALYSIS

Element	Staff Finding
Number of violation(s) and duration of violation(s)	<p>One violation of GO 95, Rule 35, for failing to maintain the minimum required clearance between the 12 kV conductor and the subject grey pine tree, which lasted for at least one (1) day.</p> <p>One violation of Resolution E-4184, for failing to report the incident on time, which lasted for five (5) days.</p>
Severity or gravity of the offense	<p>The violation of Rule 35 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.</p>
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.</p> <p>PG&E regularly updates its vegetation management program but nothing new was implemented related to the Butte Fire.</p> <p>PG&E reports incidents regularly using the online reporting website. PG&E follows up with a final electric incident report form that provides details of the incident typically within 30 days.</p>



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<p>Prior history of similar violation(s)</p>	<p>E20160718-01– PG&E in violation of Rule 35 for allowing a tree branch to fully encompass a service drop which compromised the conductor’s insulation or caused damage to the neutral conductor. As a result, an arc was formed and resulted in a fire.</p> <p>E20121003-02– PG&E in violation of Rule 35 for failing to maintain the minimum required clearance between a 12 kV conductor and the subject tree.</p> <p>In the following incidents, PG&E was found to be in violation of Resolution E-4184 for reporting the incident late to the Commission:</p> <p>E20150925-01 E20121003-02 E20110921-02 E20110601-01 E20101228-01 E20100925-02</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), allowing a tree to contact an energized conductor, and delayed reporting of the incident. Mitigating factors include the actions taken to address the violations and to prevent future occurrences once the utility recognized the underlying issues.</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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The role of precedent	CPUC decisions approving settlements in which the utility agreed to a penalty related to vegetation management: D.10-04-047 regarding three fires, one allegedly due to San Diego Gas & Electric Company (SDG&E) tree trimming; SDG&E agreed to pay \$14.35 million related to the three fires. 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. 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.
Resultant Citation Taking All Of These Factors Into Account	\$300,000



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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 of 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.



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: