



Public Utilities Commission

STATE OF CALIFORNIA

Citation Date: November 2, 2018
Citation #: D.16-09-055 G.18-11-001
Operator ID#: 31515

CITATION

ISSUED PURSUANT TO DECISION 16-09-055

Gas Corporation (Operator) To Which Citation is issued: Alpine Natural Gas (ANG)

OFFICER OF THE RESPONDENT:

Mr. Mike Lamond, Administrator
Alpine Natural Gas
15 Saint Andrews Road, Suite 7
Valley Springs, CA 95252

CITATION:

Operator is cited a financial penalty amount of \$50,000 for violating General Order (G.O.) 112-F. Safety and Enforcement Division (SED) found this violation as a result of SED's scheduled inspection of maintenance activities in 2017.

VIOLATIONS:

General Order 112-F, Section 104.1 states:

"It is the intent of the California Public Utilities Commission to automatically incorporate all revisions to the Federal Pipeline Safety Regulations, 49 Code of Federal Regulations (CFR) Parts 191, 192, 193, and 199 with the effective date being the date of the final order as published in the Federal Register."

The operator has violated G.O. 112-F Reference, Title 49 CFR Part 192, Section §192.723(b)(2) as identified below.

1. Title 49 CFR Part 192, Section §192.723(b)(2) states, in part:

"A leakage survey with leak detector equipment must be conducted outside business districts as frequently as necessary, but at least once every 5 calendar years at intervals not exceeding 63 months."

SED reviewed leak survey records and found 88 instances where plat maps in ANG's residential areas were surveyed at intervals greater than 63 months. ANG failed to perform leak surveys at the minimum prescribed frequency in these residential areas and is therefore in violation of §192.723(b)(2).

ANG explained to SED that the survey intervals greater than 63 months found by SED correspond to the period of time when ANG was transitioning from using a leak survey contractor to performing their own leak surveys.

Within the 88 instances where plat maps in ANG's residential areas were surveyed at intervals greater than 63 months, SED found 13 instances where the survey interval was at least 3 years longer than allowed by federal law; 29 instances where the survey interval



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STATE OF CALIFORNIA

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Operator ID#: 31515

was at least 2 years, but less than 3 years, longer than allowed by federal law; and an additional 28 instances where the survey interval was at least 1 year, but less than 2 years, longer than allowed by federal law. A table of the maps and survey dates is included in Enclosure 4.

Leak surveying of the natural gas line system is a critical tool to ensure public safety and system integrity, and the minimum survey frequencies were established to guide operators to best practices with regards to safety and integrity.

Whether ANG employs a contractor to perform leak surveys, or the survey is done by ANG employees, ANG is responsible to perform leak surveys as prescribed by the minimum requirements within Federal Law. A transition between the entities performing the leak survey is not a reason to dismiss the minimum safety and compliance standards; the transition should have incorporated the minimum safety and compliance standards.

Total Penalty Amount

As a result of the violations determined by SED, and identified in this report, SED could have counted ongoing daily offenses for the violation up to the \$8 million citation limit.¹ However, after considering the utility's financial resources, SED determined that the total penalty amount of this citation shall be \$50,000.

STATEMENT OF FACTS AND ENCLOSURES:

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

- 1- *Enclosure 1 – SED's Report of General Order (GO) 112 Gas Inspection, dated May 19, 2017*
- 2- *Enclosure 2 – ANG's Response to SED's 2017 General Order (GO) 112 Gas Inspection, dated June 14, 2017*
- 3- *Enclosure 3 – SED's Closure Letter for the General Order (GO) 112 Gas Inspection, dated October 23, 2017*
- 4- *Enclosure 4 – Table of Leak Survey Maps, leak survey dates, compliance windows, and out-of-compliance days.*

The violations in this citation were established based on the aforementioned four enclosures, Operator's records and/or substantiating documents obtained from other sources, or other reasons as stated in the attached report.

¹ See D.16-09-055, mimeo, pp. 86-87, Conclusion of Law 8.



Public Utilities Commission

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Citation Date: November 2, 2018

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Operator ID#: 31515

SED CITATION ANALYSIS

Element	Staff Finding
Number of violation(s) and duration of violation(s)	<i>Eighty-eight (88) violations of Title 49 CFR Part 192, Section §192.723(b)(2) occurred between March 1, 2007 and August 31, 2016. The combined total "out-of-compliance" time for all 88 violations is 62,844 days.</i>
Severity or gravity of the offense	<i>Leak surveying of natural gas line systems is a critical tool to ensure public safety and system integrity. This violation could have had negative consequences on public safety. This violation resulted in a fine of \$50,000.</i>
Conduct of the utility	<i>The utility is being cooperative.</i>
Self-reporting of the violation	<i>Not self-reported. Violations found as a result of SED's 2017 General Order 112 Gas Inspection of Alpine Natural Gas's Leak Patrol and Surveying Activities, Drug and Alcohol Misuse Policy, Public Awareness Program, and Operator Qualification Program</i>
Financial resources of the utility	<i>Approximately 1600 customers, \$900,000 annual operating revenue</i>
The totality of the circumstances	<i>ANG failed to perform maintenance activities at the minimum specified frequencies. The affected maps constitute approximately 70% of the residential maps within ANG's service territory.</i>
The role of precedent	<i>N/A</i>
Resultant Citation Taking All Of These Factors Into Account	\$50,000



Public Utilities Commission

STATE OF CALIFORNIA

Citation Date: November 2, 2018

Citation #: D.16-09-055 G.18-11-001

Operator ID#: 31515

RESPONSE:

Respondent is hereby called upon to provide a response to this Citation by: **5:00 PM on December 2, 2018**. By way of such response, Respondent, **within 30 calendar days**, must either pay the amount of the penalty set forth in this citation,² or appeal³ the citation. In addition, 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 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 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 these two options outlined in the Response above within 30 days. Payment of a citation or filing a Notice of Appeal does not excuse 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.

² For fines paid pursuant to Pub. Util. Code § 2107 and D.16-09-055, Respondent shall 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.

³ 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."



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: November 2, 2018
Citation #: D.16-09-055 G.18-11-001
Operator ID#: 31515

NOTIFICATION TO PUBLIC AGENCIES:

As soon as is reasonable and necessary, and no later than 30 calendar days after service of the citation is effected, Respondent must provide a notification to the Chief Administrative Officer or similar local agency 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 Operator 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 black ink, appearing to read "Lee Palmer", written over a horizontal line.

Lee Palmer
Deputy Director – Safety and Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
leslie.palmer@cpuc.ca.gov



Public Utilities Commission
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Citation Date: November 2, 2018
Citation #: D.16-09-055 G.18-11-001
Operator ID#: 31515

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/Chief Executive
Officer, or delegated Officer thereof

(Signature) (Date)

(Printed Name and Title)

Payment must be with a 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.



Public Utilities Commission

STATE OF CALIFORNIA

Citation Date: November 2, 2018

Citation #: D.16-09-055 G.18-11-001

Operator ID#: 31515

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, Respondent/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.



Public Utilities Commission

STATE OF CALIFORNIA

Citation Date: November 2, 2018

Citation #: D.16-09-055 G.18-11-001

Operator ID#: 31515

After receipt of the Appellant's *Notice of Appeal Form*, Appellant has a right to a hearing to be convened before an Administrative Law Judge. At least ten business 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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Citation Date: November 2, 2018
Citation #: D.16-09-055 G.18-11-001
Operator ID#: 31515

Notice of Appeal Form
Appeal from Citation Issued by Safety and Enforcement Division
Pursuant to Decision 16-09-055

Appellant:

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

Citation Date: November 2, 2018
Citation #: D.16-09-055 G.18-11-001
Operator ID#: 31515
Appeal Date: _____

“Appeal of _____ from _____ issued by Safety and
[Operator Name] [Citation Number]
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).



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: November 2, 2018
Citation #: D.16-09-055 G.18-11-001
Operator ID#: 31515

Enclosures to Accompany Utility Appeal

Utility to add Enclosures as appropriate