

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



December 27, 2017

Mr. Sumeet Singh, Vice President
Pacific Gas and Electric Company
Portfolio Management & Engineering
6111 Bollinger Canyon Road, Room 4590-D
San Ramon, CA 94583

Re: Response to PG&E's December 11, 2017 letter regarding the October 24, 2014 Bakersfield Incident

Dear Mr. Singh:

The Safety and Enforcement Division (SED) of the California Public Utilities Commission (Commission) reviewed Pacific Gas and Electric Company's (PG&E) letter dated December 11, 2017 which provided a response to SED's closure letter dated October 21, 2017 regarding SED's investigation of the incident that occurred at Wible Rd. & Houghton Rd. in Bakersfield on October 24, 2014. In addition, at the request of PG&E; SED met with PG&E on December 6, 2017 to explain their response and SED agreed to look at the additional evidence.

SED reviewed all relevant materials and respectfully disagrees with PG&E's position. SED maintains that PG&E failed to properly respond to an Underground Service Alert (USA) request for USA Ticket No. 0422144, which may have been a factor that resulted in excavation damage to transmission line L-300A. PG&E violated California Government Code (CGC) 4216.3(a)(1), and as a result violated Title 49 CFR §192.605(a), §192.614(a), and §192.614(c).

SED maintains its position that PG&E must, within 10 days of your receipt of this letter, submit a revised PHMSA F 7100.2 form to PHMSA with a copy to SED to include details on PG&E's failure to provide markings in response to USA ticket 0422144. Failure to do so may result in a violation of 49 CFR Part 191.5 and/or enforcement action.

If you have any questions, please contact Terence Eng at (415) 703-5326 or by email at tke@cpuc.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Kenneth A. Bruno".

Kenneth Bruno
Program Manager
Gas Safety and Reliability Branch
Safety and Enforcement Division

Enclosure: SED's Response

cc: Mike Bradley, PG&E Gas Compliance; Susie Richmond, PG&E Gas Compliance; Kelly Dolcini, SED; Aimee Cauquiran, SED; Terence Eng, SED

SED's Response

1. Re: The sworn declaration of PG&E employee Carlos Hernandez and entries on USA Ticket No. 0422144

PG&E Employee Carlos Hernandez in his testimony stated:

2. In connection with USA ticket NO. 0422144, on October 14, 2014 I went to the Stine and Houghton area in Bakersfield, California, west of the irrigation canal located on the property. There were three Hispanic workers in the field west of the irrigation canal, and a backhoe in the field. The workers informed me that they would only be ripping the field west of the canal. Based on my conversation with the workers, it was my understanding that that was the only area to be excavated at that time.

3. On October 14, 2014 I made a note on USA Ticket NO. 422144 that was issued on October 10, 2014 with a start date of October 15, 2014. In that note, I stated there was direct contact with the operator for the requested area. This note was based on my previous discussion with the workers in the field, that only the area west of the irrigation canal would be ripped and my knowledge that there were no PG&E facilities located in the area west of the canal.

Jeff Alexander, requestor of the USA ticket, made comments in his testimony that are inconsistent with the statements made by Mr. Hernandez. A portion of Mr. Alexander's testimony (p.250-251) is shown below:

Q. I want to ask you, why did this report that you read strike you as not having to do something with your workers?

A. Well, the only person out on the site was Russ except for my son, Zack. They're both Caucasian and --

Q. Did you have any Hispanic workers working out on this property --

A. No.

Q. -- involving this 2014 incident?

A. No.

Q. Mr. Hernandez also relayed that these workers had a backhoe that they were working in the field.

Did you see this in the report?

A. Yes.

Q. Did you have a backhoe working in this field at any time?

A. No.

Q. Okay. Did you draw any conclusions, based on this report, as to what Mr. Hernandez had observed out there?

A. I think Mr. Hernandez observed -- observed the backhoe and the three guys working in 2015 incident because that's the only time I seen a backhoe and three Mexican guys out there working.

Because Mr. Hernandez made statements about a field meeting involving Hispanic workers and a backhoe, whereas Mr. Alexander denies having Hispanic workers or a backhoe in the field at the time, SED cannot determine the accuracy of the statements made by Mr. Hernandez. PG&E has not provided any evidence or documentation to show its efforts to schedule a field meet with the excavator. PG&E has not provided any evidence to show an agreement on the reduction of excavation area size. PG&E has not provided the names of the three Hispanic workers with whom Mr. Hernandez met, or their roles regarding the excavation or the USA ticket. Based on the lack of evidence and conflicting testimonies, SED cannot determine if PG&E did in fact conduct a field visit with the excavator and/or its employees regarding this USA ticket.

2. Re: The sworn deposition testimony of Operator Gerald Martin

PG&E in its letter stated:

“In this sworn testimony, Mr. Martin, the operator that performed Alexander’s excavation pursuant to USA Ticket No. 042214, corroborates Carlos Hernandez’s sworn declaration that excavation operators informed him at an onsite meeting that their proposed excavation was limited to west of the irrigation canal.”

SED disagrees with this statement. Mr. Martin did not confirm that excavators informed PG&E that their proposed excavation was limited to the west of the irrigation canal. A portion of Mr. Martin’s testimony (p. 64) is shown below:

Q. As you sit here today, do you know if anyone from Big N Deep told PG&E that you'd only be ripping west of the canal? 11:00

A. I can't answer that. I don't know.

As a result, SED maintains its position that it must look at the documentation to substantiate any such claims of a field meet or any agreement on the reduction of excavation area size.

3. California Government Code Section 4216.3(a)(1) states:

“Any operator of a subsurface installation who receives timely notification of any proposed excavation work in accordance with Section 4216.2 shall, within two working days of that notification, excluding weekends and holidays, or before the start of the excavation work, whichever is later, or at a later time mutually agreeable to the operator and the excavator,

locate and field mark the approximate location and, if known, the number of subsurface installations that may be affected by the excavation to the extent and degree of accuracy that the information is available either in the records of the operator or as determined through the use of standard locating techniques other than excavating, otherwise advise the person who contacted the center of the location of the operator's subsurface installations that may be affected by the excavation, or advise the person that the operator does not operate any subsurface installations that would be affected by the proposed excavation.” (emphasis added)

Below is a screenshot of the documentation that Jeff Alexander received in response to USA ticket #422144:

----- Forwarded Message -----
From: "agt_comm@irth.com" <agt_comm@irth.com>
To: BIGNDEEPAG@YAHOO.COM
Sent: Tuesday, October 14, 2014 7:37 AM
Subject: PG&E Response to a USA Locate Request

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To: JEFF ALEXANDER FARMING Attn: JEFF ALEXANDER
Voice: 6613431004 Fax: 6618297408
Re: PG&E Response to a USA Locate Request

This is a message from Pacific Gas & Electric Company replying to your request to mark our facilities.

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Ticket: 422144
County: KERN Place: BAKERSFIELD
Address: STINE RD

PG&E:
P G & E has determined that there is no conflict with our facilities at this excavation site.

=====

Please call USA at 8-1-1 if you have questions about white paint or the USA process. If you have a question for PG&E, please call 1-800-743-5000.

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This message was generated by an automated system. Please do not reply to this email.

On the documentation received by the person who contacted the center (Mr. Alexander), SED has determined the following as fact:

1. The documentation does not describe the occurrence of a field meet.
2. The documentation does not describe the reduction of the excavation area size, i.e. limiting it to west side of the canal.

3. The documentation describes that PG&E has determined that there is no conflict with their facilities at this excavation site.
4. SED Conclusion

After reviewing the documentation received by Mr. Alexander, SED concludes the following regarding USA Ticket #0422144:

1. PG&E failed to locate and field mark the approximate location of its facilities.
2. PG&E failed to advise the person who contacted the center of the location of the operator's subsurface installations that may be affected by the excavation.
3. PG&E incorrectly advised the person who contacted the center that the operator does not operate any subsurface installations that would be affected by the proposed excavation.

Therefore, SED maintains its original position that PG&E violated California Government Code (CGC) 4216.3(a)(1), and as a result violated Title 49 CFR §192.605(a), §192.614(a), and §192.614(c).

In PG&E's report to PHMSA¹, PG&E referred to USA ticket 0441996 and stated that the third party started excavation before the site was marked by PG&E. Although factually correct, it omits pertinent information regarding PG&E's response to USA ticket No. 0422144 which precedes the referenced USA ticket.

Therefore, SED directs PG&E, within 10 days of your receipt of this letter, to submit a revised PHMSA F 7100.2 form to PHMSA with a copy to SED to include details on PG&E's failure to provide markings in response to preceding USA ticket 0422144. Failure to do so may result in a violation of 49 CFR Part 191.5 and/or enforcement action.

¹ PHMSA incident report OMB NO: 2137-0522, No. 20140126-16552