



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: February 1, 2019
Citation #: D.16-09-055 G.19-02-001
Operator ID#: 18484

CITATION
ISSUED PURSUANT TO DECISION 16-09-055

Gas Corporation (Operator) To Which Citation is issued: Southern California Gas Company (SoCalGas)

OFFICER OF THE RESPONDENT:

Mr. Rodger Schwecke, Senior Vice President
Gas Transmission, Storage & Engineering
Southern California Gas Company
555 West 5th Street, GT21C3
Los Angeles, CA 90013

CITATION:

Operator is cited a financial penalty amount of \$3,300,000.00 for violating General Order (GO) 112-F which incorporates by reference Title 49 Code of Federal Regulations (CFR) Part 192. In addition, this citation includes violations of the Public Utilities Code related to a Safety and Enforcement Division (SED) Directive, where the Operator failed to obey and comply with an agreed upon test date of January 10, 2019, as well as SoCalGas's failure to practice safe and timely investigation practices for the safety of the public. These violations stem from an ongoing incident investigation (NRC# 1169104) that occurred on January 20, 2017 at 1748 South Mountain Avenue, Ontario CA 91762.

The penalty amount is based on three (3) continuing violations that commenced on January 10, 2019 and have not been corrected as of the date of this citation. SED may supplement this penalty amount for each day the violation continues by applying California Public Utilities Code §2108 up to the administrative limit of \$8 million per citation as set in Decision D16-09-055.

VIOLATIONS:

49 CFR §192.13(c) Procedural manual for operations, maintenance, and emergencies states in part:

"Each operator shall maintain, modify as appropriate, and follow the plans, procedures, and programs that it is required to establish under this part."

Public Utilities Code §451, states in part:



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“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.”

Public Utilities Code §702 states in part:

“Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the commission in the matters specified in this part, or any other matter in any way relating to affecting its business as a public utility, and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees.”

SoCalGas’ Gas Standard 223.0030, Investigation of Failure on Distribution and Transmission Pipeline Facilities, states in part:

“PURPOSE: To determine cause(s) of pipeline failures and identify means by which recurrence can be prevented.

4.1.1. When a pipeline failure occurs, an investigation shall begin as soon as practical after taking proper action to provide for public and employee safety...”

The timeline below summarizes the SED/SoCalGas communication about the pipeline component test (contained in Enclosures 1 – 8 of the Citation):

- On January 20, 2017, a gas leak from SoCalGas’ facilities caused an explosion in the vicinity of the incident resulting in severe damages to nearby garages and injury to one person.
- SoCalGas cut out, removed a section of the damaged pipeline, inserted it in a sealed plastic bag, and tagged as evidence. SoCalGas’ Claims Department took custody of the evidence and stored in a secure location for testing/examination.
- On November 19, 2018, SED sent a letter to SoCalGas requesting that SoCalGas test the pipeline components, e.g. Aldyl-A tee fitting, involved in this incident within 30-days by December 18, 2018.
- On November 28, 2018, SoCalGas sent a letter to SED requesting such test to be rescheduled for January 10, 2019.
- On December 13, 2018, SoCalGas sent an email to SED indicating that on January 10, 2019, a non-destructive testing would be performed including the physical inspection of the pipe such as measuring, sampling, photographing and imaging of the pipe by still photos in addition to video recording.



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- On January 7, 2019, SoCalGas notified SED via email stating that the non-destructive testing would be canceled at that time because it was in the process of settling the civil case arising from the incident. SoCalGas stated it would move forward with the testing once the case was fully settled.

Based on SED's investigation, SED determined that SoCalGas failed to properly and timely investigate the incident to determine the cause(s) of the failure and minimize the possibility of recurrence in accordance with State and Federal Code and its own procedures. In addition, SoCalGas failed to obey and comply with the SED's directive to determine the cause (s) and prevent reoccurrence by testing the pipeline component by the deadline, January 10, 2019. Instead of performing the required test, SoCalGas unilaterally canceled the planned test without properly communicating/coordinating with SED in advance. SoCalGas' reason of not performing the test was solely because of an ongoing civil litigation against the company. Such decision was irresponsible to the public safety and unacceptable by the SED as this practice places fear of civil damages ahead of public safety, such actions are unbecoming of the largest distribution operator in the country. Therefore, SED finds SoCalGas in violations of CPUC GO 112-F, Title 49 CFR §192.13(c), and Public Utilities Code §451 & §702.

PENALTY:

SED assesses a penalty of \$3,300,000 for the aforementioned GO 112-F and Public Utilities Code violations.

Total Penalty Amount

As a result of the GO 112-F and Public Utilities Code violations determined by SED and identified in this report, the total amount of this citation is \$3,300,000. Each day of a continuing violation after this citation date may constitute a separate and distinct offense until the violations are corrected.

STATEMENT OF FACTS AND ENCLOSURES:

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

- 1- *Enclosure 1 – SED Letter to SoCalGas on 11/19/2018*
- 2- *Enclosure 2 – SoCalGas's 11/19/2018 response to SED's 11/19/2018 Letter*
- 3- *Enclosure 3 – SoCalGas's 11/28/2018 response email to SED's 11/19/2018 Letter*
- 4- *Enclosure 4 – SoCalGas's 11/28/2018 response letter to SED's 11/19/2018 Letter*
- 5- *Enclosure 5 – SED's 11/28/2018 response to SoCalGas's 11/28/2018 email*
- 6- *Enclosure 6 – SoCalGas's 12/13/2018 email to the location and the testing protocol*
- 7- *Enclosure 7 – SED's 12/13/2018 email accepting the test schedule*



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8- *Enclosure 8 – SoCalGas’s 1/7/2019 email for the test cancellation*



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SED CITATION ANALYSIS

Element	Staff Finding
Number of violation(s) and duration of violation(s)	<i>One (1) violation of Title 49 CFR Part 192, Section §192.13(c) and two (2) violations of Public Utilities Code §451 & §702. The violations occurred on January 10, 2019 and continues as of the date of this citation. This citation only addresses SoCalGas's failure to comply with SED's directive. The incident itself may lead to a separate enforcement action if warranted by the facts once cause is determined.</i>
Severity or gravity of the offense	<i>Severe: The proper investigation of the cause(s) of a gas explosion incident is critical to providing safe natural gas to the public. As a result of the gas leak that is a potential cause of the explosion, one individual was injured and treated at the hospital. Due to the severity of the offense, the maximum penalty of \$50,000 is imposed for each day of the violation. This violation resulted in a fine amount of \$3,300,000 at this point; however, the violations continue as of the date of the citation.</i>
Conduct of the utility	<i>The utility is noncompliant with General Order 112-F and the Public Utilities Code.</i>
Failure to investigate the incident and comply with SED's directive.	<i>SoCalGas failed to investigate the incident, failed to obey and comply with SED's directive, and failed to obtain SED's approval prior to the cancellation of the scheduled testing for the failed pipeline component.</i>
Financial resources of the utility	<i>21 Million Customers, 2.5 Billion Revenue requirement</i>
The totality of the circumstances	<i>SoCalGas failed to investigate the incident to determine the cause(s) of the failure and minimize the possibility of recurrence in accordance with the federal code and/or its own procedures. In addition, SoCalGas failed to obey and comply with SED's directive to test the failed pipeline</i>



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	<i>component. The incident involved an explosion which resulted in one injury and property damage</i>
The role of precedent	N/A
Resultant Citation Taking All Of These Factors Into Account	\$3,300,000.00



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RESPONSE:

Respondent is hereby called upon to provide a response to this Citation by: **5:00 PM on March 3, 2019**. 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, 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 an 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.

1 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.

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 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



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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 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



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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, 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.



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

Appellant:

Mr. Rodger Schwecke, Senior Vice President
Gas Transmission, Storage & Engineering
Southern California Gas Company
555 West 5th Street, GT21C3
Los Angeles, CA 90013

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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).



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Enclosures to Accompany Utility Appeal

Utility to add Enclosures as appropriate