



**CITATION FOR VIOLATION(S)
ISSUED PURSUANT TO RESOLUTION ALJ-274
OF GENERAL ORDER 112**

Gas Corporation (Operator): Pacific Gas & Electric Company (PG&E)
To Which Citation Is Issued

RESPONDENT:

Mr. Jesus Soto, Vice President
Pacific Gas & Electric Company
6111 Bollinger Canyon Road, Room 4590-D
San Ramon, CA 94583

CITATION:

Operator is hereby cited for system-wide violations related to the Operator Qualification (OQ) rule as it relates to PG&E's cross-bore inspection program, resulting in a financial penalty of \$200,000

VIOLATIONS:

Operator is cited for violating General Order 112¹, as described below.

1. §192.805 Qualification program.

"Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a) Identify covered tasks;*
- (b) Ensure through evaluation that individuals performing covered tasks are qualified..."*

PG&E contracted out activities related to the cross bore inspection program to a third party. The third party provided some training to its own personnel to do "proximity clearances." The training does not appear to

¹ General Order 112-F was adopted by the Commission on June 25, 2015 via Decision 15-06-044.



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meet the OQ requirements. It is the responsibility of PG&E to ensure that training of all personnel performing OQ tasks are done in a manner that ensures adequate performance and is acceptable to PG&E.

The proximity clearances took place at various times between 2011 and April 21, 2015 (the time of the meeting with PG&E representatives). The exact number and dates of the proximity clearances with unqualified personnel is unknown. Unqualified personnel means individuals from the primary contractor and any subcontractors who performed "proximity" clearances during the timeframe noted above.

PG&E in its response to the Notice of Proposed Violation (NOPV), stated:

"The PG&E cross bore program performs proximity clearances to identify the approximate location of PG&E's distribution gas lines in relation to sewer lines as part of the assessments being performed for the program rather than in preparation for excavation as is the case with a non-production task. In the interest of continuous improvement of the Cross Bore Program, PG&E will use locate and mark Operator Qualified employees to perform proximity clearances on a going forward basis. Additionally, PG&E will revisit the locations that were previously determined not to have a cross bore through a proximity clearance and perform the proximity clearance with locate and mark Operator Qualified personnel."

ENCLOSURES:

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

1. *Enclosure 1 – Whistleblower Investigation Report (REDACTED), dated 3/1/2016*
2. *Enclosure 2 – SED PG&E's Cross Bore Inspection Program, dated 9/9/2015*
3. *Enclosure 3 – PG&E NOPV response, dated 10/09/2015*

STATEMENT OF FACTS:

The above violations were established from the attached *Enclosure 1 – Whistleblower Investigation Report (REDACTED)*.



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SED CITATION ANALYSIS

Element of Sentencing Schedule	Staff Finding
Number of violation (s) and duration of violation(s)	<i>System-wide violations of Title 49 CFR §192.805(b) between the time each “proximity clearance” was performed and April 21, 2015 (the date of the meeting with PG&E representatives).</i>
Severity of the offense: overall level of risk of violation(s)	<i>These violations did not create significant hazardous conditions since PG&E did not accept these “proximity” cross-bore inspections as being complete. The violations were system-wide which results in total fine amount of \$200,000 due to the programmatic nature of the violations.</i>
The conduct of the utility before, during, and after the offense	<i>The utility is being cooperative and has undertaken corrective actions.</i>
Previous occurrence of similar violations by the utility	<i>N/A</i>
Self-reporting of the violation	<i>No</i>
Indication of the violation (s) being willful	<i>No</i>
Actions taken by the utility to address the violation	<i>PG&E has accepted none of the proximity clearances performed by the primary contractor as being complete.</i>
Associated safety related condition	<i>Potential cross-bores in sewer and storm drain lines</i>
Financial resources of the utility	<i>4.3 Million customers, \$715 Million Revenue requirement</i>
The totality of the circumstances	<i>The cross-bore inspection program was done in response to the Distribution Integrity Management Program (DIMP)</i>



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	<i>Rule in 2011 to reduce risk on PG&E's system due to potential cross-bores. The proximity clearances were done where visual inspection of the sewer lines was difficult to complete.</i>
Other factors deemed relevant by SED	<i>The utility was cooperative with staff; the calculated citation amount is based on the programmatic nature of the violation.</i>
Resultant Citation Taking All Of These Factors Into Account	\$200,000.00



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RESPONSE:

Respondent is hereby called upon to provide a response to this Citation by: **5:00 PM (PST) on April 8, 2016.**

By way of such response, Respondent, **within 10 calendar days**, may either:

- (1) Correct the violations with any immediate safety hazard requiring immediate correction as soon as feasible, and/or submit a Compliance Plan to the Director of SED for correcting those violations requiring more than 10 days to correct, **and** pay a fine pursuant to Pub. Util. Code § 2107. (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); **or**
- (2) Confirm that the violation(s) noted in this Citation have been corrected and/or otherwise do not present an on-going safety hazard to the Operator's employees and the general public, and/or submit a Compliance Plan to the Director of SED for correcting those violations requiring more than 10 days to correct, **and** contest 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 Resolution ALJ-274" for information on the appeals process and the attached "Notice of Appeal Form". Also attached is a copy of Resolution ALJ-299 including Appendices A and B.

Respondent's failure to provide a response, as noted above, within 10 calendar days from the date the citation is served, will place Respondent in default of the citation and will result in forfeiture of the Respondent's rights to appeal the citation. 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.

NOTIFICATION TO PUBLIC AGENCIES:

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 City Manager or similar local agency authority in the city and county where the citation is issued. Within 10 days of providing such notification, Respondent must serve an affidavit to the Director of SED, 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.



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The CPUC expects Operators to take actions, as soon as feasible, to correct, mitigate, or otherwise make safe all violations regardless of the Operator's intentions to accept or appeal the violation(s) noted in the Citation.

A handwritten signature in blue ink that reads "E. Malashenko".

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 Gas Corporation's Treasurer,
Chief Financial Officer, or President/CEO, or
delegated Officer thereof

(Signature) (Date)

(Printed Name and Title)

Payment with a check must be 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 addresses provided on the Citation.



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**DIRECTIONS FOR SUBMITTING AN APPEAL TO A CITATION
ISSUED PURSUANT TO RESOLUTION ALJ-274**

Within 10 calendar days of the Respondent being served with a **CITATION FOR VIOLATION(S) ISSUED PURSUANT TO RESOLUTION ALJ-274**, Respondent may appeal the citation. Beyond 10 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 feasible unless, within 10 calendar days from the date of service of the citation, the Respondent submits to the Director of SED, a Compliance Plan that provides a detailed description of when the violation(s) will be corrected, the methodology to be utilized, and a statement, supported by an affidavit from the Gas Corporation's Chief Executive Officer, that in the Respondent's best judgment, the time necessary to correct the violation(s) will not affect the integrity of the operating system or unduly endanger the public.

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 be served, 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 Division of Ratepayer Advocates

within 10 calendar days of the date on which the Appellant is served the Citation at the address listed below. 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.



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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.

After SED receives the Appellant's *Notice of Appeal Form*, a hearing will 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 Respondent;
- (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; and
- (d) 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 Respondent's behalf. At the Commission's discretion, the hearing in regard to the Appellant's appeal can be held in a hearing room at either of the offices of the CPUC at 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 of PG&E from Citation ALJ 274 16-04-001 issued by Safety and Enforcement Division (For A Citation Issued Pursuant to Resolution ALJ-274)

Appellant:

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

Citation Date:
Citation #: ____-__-____
Operator ID#:
Appeal Date: _____

“Appeal of [insert Operator Name] from [insert Citation number] issued by Safety and 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