



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: December 23, 2016
Citation #: D.16-09-055 G.16-12-001
Operator ID#: 15007

CITATION
ISSUED PURSUANT TO DECISION 16-09-055

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

OFFICER OF THE RESPONDENT:

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

CITATION:

Operator is cited a total financial penalty amount of \$5,450,000 made up of the following: 1) A system-wide violation resulting in a financial penalty of \$5,050,000; 2) Another violation resulting in a financial penalty of \$350,000; and 3) A third violation resulting in a financial penalty of \$50,000. Safety and Enforcement Division (SED) found these violations as a result of SED's inspection and investigation of the self-identified violation reported by PG&E on September 14, 2016.

VIOLATIONS:

General Order 112F, 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 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 Title 49 of the Code of Federal Regulations §§192.805 and 192.481, as identified in the first two sections below, therefore, also violated General Order 112F. However, for simplicity and to avoid duplicate of counting, the first two violations will be referenced below only as violations of 49 CFR Section §192. The third violation is the 10-day reporting requirement in CPUC Resolution ALJ-274.

1. Title 49, Code of Federal Regulations (CFR), § 192.805 Qualification Program.

§192.805 states in part:

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

b) Ensure through evaluation that individuals performing covered tasks are qualified..."

On September 14, 2016, PG&E reported to the Safety and Enforcement Division (SED) of the California Public Utilities Commission (CPUC) that some of its contractor inspectors were



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discovered to be unqualified after they performed approximately half a million Atmospheric Corrosion (AC) inspections of gas distribution meters located in PG&E's seven Divisions in 2014.

SED's Gas Safety and Reliability Branch (GSRB) staff investigated PG&E's findings from the self-identified violations report. SED's GSRB also conducted an audit of PG&E's AC inspection program, its process to train and check qualifications of contractor inspectors who performed AC inspections in 2014 and 2015, its records showing each contractor inspector's qualifications and its evaluations of each contractor inspector, and its relevant AC inspection standards and procedures from October 24 through 26, 2016.

As a result of this investigation, SED concluded the following:

1. PG&E failed to properly train and qualify its contractor employees to perform AC inspections.
2. PG&E failed to verify the qualifications of its contractor employees hired in 2014, prior to those contractors performing work.
3. PG&E did not have quality control and quality assurance controls in place to ensure that its contractor employees were operator qualified.

SED determined that PG&E is in violation of CFR, Part 192, Subpart N—Qualification of Pipeline Personnel, §192.805 (b) because PG&E failed to ensure that 101 contractor inspectors were qualified to perform AC inspections of gas distribution meters in PG&E's seven Divisions.

In this case, 101 non-operator qualified inspectors conducted AC inspections between February 2014 and May of 2014, and also in November, 2014. SED determined that this is violation of Title 49 CFR § 192.805(b). D.16-09-055 limits the maximum amount of a penalty to \$8 million per citation.¹

Therefore, SED assesses a penalty of \$50,000 for each non-operator qualified contractor inspector, with a total penalty of \$5,050,000 for 101 employees per §192.805 (b).

2. Title 49, CFR, § 192.481 Atmospheric corrosion control: Monitoring.

§192.481 states in part:

"(a) Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located onshore, then the frequency of inspection is at least once every 3 calendar years, but with intervals not exceeding 39 months..."

Since approximately half a million AC inspections were performed by non-operator personnel in 2014, they were not valid and had to be repeated. PG&E started re-inspecting the affected distribution meters in 2015 and will complete all of them in 2017. SED determined that PG&E was not able to complete the AC inspections of distribution gas meters located in its seven Divisions within 39 months from the previous valid inspections, completed before 2014.

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



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Therefore, SED concluded that PG&E is in violation of CFR, Part 192, Subpart I—Requirements for Corrosion Control, §192.481 (a) Atmospheric corrosion control because in 2014 PG&E did not complete the inspection of all of its distribution pipeline system that is exposed to atmosphere for evidence of AC within 39 months from the previous valid inspections in its seven Divisions. D.16-09-055 limits the maximum amount of a penalty to \$8 million per citation.²

SED assesses a penalty of \$50,000 for late AC inspections in each Division, with a total penalty of \$350,000 for seven Divisions per 192.481 (a).

3. CPUC's Resolution ALJ-274

SED also noted that even though PG&E discovered the system-wide operator qualification deficiency of its contractor inspectors in 2015 and early 2016, it did not report it to SED until September 14, 2016. PG&E also violated the 10-day self-reporting requirement of CPUC Resolution ALJ-274, which was in effect at the time of the violation. D.16-09-055 limits the maximum amount of a penalty to \$8 million per citation.³ To keep within this limit, SED assesses a penalty of \$50,000 for this single violation.

Therefore, SED assesses a penalty of \$50,000 for this violation.

Total Penalty Amount

As a result of all violations determined by SED and identified in this report, SED could have created a separate citation for the violations of each of the three requirements identified above, counting ongoing daily offenses for each violation up to the \$8 million citation limit.⁴ However, the total amount of penalty that SED \$5,450,000, provided that PG&E agrees to waive its appeal rights and to the follow remedial recommendations identified at the bottom of SED's Investigation Report dated November 30, 2016 (See Enclosure 1).

As a result of all violations determined by SED and identified in this report, the total amount of this citation is \$5,450,000.

STATEMENT OF FACTS AND ENCLOSURES:

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

- 1- *Enclosure 1 – SED's Investigation Report dated December 23, 2016*
- 2- *Enclosure 2 – PG&E's Self-Identified Violation Notification Letter dated September 14, 2016*
- 3- *Enclosure 3 – SED's 2015 Sierra Division Audit Report dated February 8, 2016*
- 4- *Enclosure 4 – PG&E's Response to SED's 2015 Sierra Division Audit Report dated March 9, 2016*

The violations in this citation were established based upon the four enclosures identified immediately above. Facts stated in the attached Enclosure 1 – SED's Investigation Report, Enclosure 2 – PG&E's Self-Identified Violation Letter, Enclosure 3 – SED's 2015 Sierra Division Audit Report dated February 8, 2016, Enclosure 4 – PG&E's Response to SED's 2015 Sierra

² See D.16-09-055, mimeo, pp. 86-87, Conclusion of Law 8.

³ Id.

⁴ Id.



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Division Audit Report dated March 9, 2016, SED's AC Inspection Audit conducted from October 24 through 26, 2016, Operator's records and/or substantiating documents obtained from other sources, or other reasons as stated in the attached report.



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SED CITATION ANALYSIS

Element	Staff Finding
Number of violation(s) and duration of violation(s)	<i>One Violation of Title 49, CFR §192.805 (b) between February and May 2014, and also November 2014; one Violation of Title 49, CFR §192.481 (a) from 2014; and one Violation of Resolution ALJ-274 from 2015.</i>
Severity or gravity of the offense	<i>Violations described in this letter did not create significant hazardous conditions and PG&E started taking mitigative actions when they were discovered. One violation resulting in fine amount of \$5,050,000, one violation resulting in fine amount of \$350,000, one violation resulting in fine amount of \$50,000.</i>
Conduct of the utility	<i>Prior History: Similar violation related to OQ of contractors was recorded and Utility was cited by Citation 16-03-001 issued on 3/29/16 with a penalty amount of \$200,000. The utility is being cooperative and has started taking corrective actions and preventive measures.</i>
Self-reporting of the violation	<i>One violation was self-reported, two violations were found as a result of SED's Investigation conducted in 2016.</i>
Financial resources of the utility	<i>4.3 Million customers, \$715 Million Revenue requirement</i>



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<p>The totality of the circumstances</p>	<p>(1) <i>PG&E did not ensure that its contractor inspectors are operator qualified for the AC inspections performed in 2014 as per Title 49, CFR, §192.805 (b).</i></p> <p>(2) <i>PG&E did not complete the AC inspections of its distribution gas meters located in seven Divisions within 39 months from the previous inspections as per Title 49, CFR, §192.481 (a).</i></p> <p>(3) <i>PG&E did not report the self-identified violations to the CPUC within 10 days of the discovery as per CPUC's Resolution ALJ-274.</i></p> <p><i>All violations affect PG&E's distribution gas pipeline facilities located in the following Divisions: De Anza, Diablo, North Bay, Peninsula, Sacramento, San Jose, and Sierra.</i></p>
<p>The role of precedent</p>	<p>N/A</p>
<p>Resultant Citation Taking All Of These Factors Into Account</p>	<p>\$5,450,000</p>



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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:

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

Citation Date: _____
Citation #: D1609055 ____-____-____
Operator ID#: _____
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



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RESPONSE:

Respondent is hereby called upon to provide a response to this Citation by: **5:00 PM on January 23, 2017**. By way of such response, Respondent, **within 30 calendar days**, must either pay the amount of the penalty set forth in this citation⁵, or appeal⁶ 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.

⁵ 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.

⁶ 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 10 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.


Leslie L. Palmer, Deputy Director, Utility Safety

For **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. Also as payment for the citation, PG&E agrees to follow the remedies stated in Enclosure 1.

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.



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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.