



**CITATION FOR VIOLATIONS
OF GENERAL ORDER 128
ISSUED PURSUANT TO DECISION 14-12-001**

Electrical Corporation To Which Citation Is Issued:

Pacific Gas and Electric Company (U39 E)

RESPONDENT:

Mr. Gregory K. Kiraly
Senior Vice President, Distribution Operations
Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105

CITATION:

Pacific Gas and Electric Company (PG&E or Utility) is cited for two (2) violations resulting in a financial penalty of \$450,000. Safety and Enforcement Division (SED) found these violations in its investigation of Incident Number E20141112-01, which occurred on November 7, 2014.

VIOLATIONS:

PG&E is cited with having violated General Order (GO) 128, as described below. These violations occurred during the period 1990 through 2014.

1. General Order 128, Rule 17.7: Location Information

Each party operating or owning facilities shall, upon request, provide information as to location of its underground facilities to any other party contemplating underground construction, or work, in the vicinity thereof. Provision of such information by a party will not relieve such other party of his responsibility to locate accurately such underground facilities and to exercise reasonable care during construction or work. If at any time damage or interruption to existing facilities should occur, said other party is enjoined immediately to report such damage to the party owning such damaged or interrupted facilities.



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The Underground Service Alert (USA) ticket showed that the delineated area to be marked by PG&E included forty (40) feet into the street and ten (10) feet toward a house (measurements from the curb line). SED's investigation revealed that the USA ticket was issued and valid at the time of the incident; however, PG&E did not properly mark all of its underground facilities in the delineated area. PG&E did not mark the ground identifying the location of the facilities in the street. Therefore, PG&E is in violation of GO 128, Rule 17.7.

2. General Order 128, Rule 33.4-A3a: Separation from Other Cables, Ducts, Pipes and Structures

Independently installed: Supply cables, when independently installed, shall be separated where practicable, from gas, water, oil, or other pipe systems, or other foreign substructures, by a clearance of a (sic) least 12 inches when paralleling and by at least 6 inches when crossing.

The subject conductor was installed in a conduit by PG&E in 1990 via a bore-in method that does not require excavation. The conduit and conductor were installed by boring through the ground and a clay sewer pipe. The PG&E facilities were left interfering with the operation of the sewer pipe and creating a hazard to third parties. PG&E did not install its underground facilities with a minimum clearance of six (6) inches from the sewer pipe at this location. Therefore, PG&E is in violation of GO 128, Rule 33.4-A3a.

ENCLOSURES:

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

1. *Enclosure 1 – SED Incident Investigation Report, dated March 27, 2015*
2. *Enclosure 2 – Occupational Safety and Health Administration (OSHA) Evidence*
3. *Enclosure 3 – PG&E Data Response 1 (DR1411131), dated November 13, 2014*
4. *Enclosure 4 – PG&E Data Response 2 (DR1501132), dated January 13, 2015*
5. *Enclosure 5 – Underground Service Alert (USA) Ticket #452871*
6. *Enclosure 6 – SED Notice of Violation, dated March 30, 2015*
7. *Enclosure 7 – PG&E Response to Notice of Violation, dated May 1, 2015*



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STATEMENT OF FACTS:

The above violations are documented in the attached *Enclosure 1 – SED Incident Investigation Report* which is based on the following: SED's evidence collected at the scene of the incident, SED's review of evidence collected by OSHA, review of PG&E Data Responses 1 and 2, and USA Ticket #452871.

In its response to SED's Notice of Violation, PG&E described actions taken since the incident. Thirteen (13) nearby addresses were inspected to verify that no other sewer lateral cross-bore exists. Also, as part of its damage prevention procedures, PG&E amended its boring practice and added a Utility Bulletin providing guidance to construction personnel regarding cross-bore prevention (TD-4412B-012, dated 3/20/15), including pre- and post-construction requirements to verify that the crossings of a new conduit or conductor do not bore through any underground facilities.

PG&E described that its existing damage prevention procedures (TD-4412P-05, Revision 0), published on August 24, 2012, required using a camera system to inspect underground bores but that PG&E did not have such procedures in 1990, at the time the subject conduit was installed.



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SED CITATION ANALYSIS

Element	Staff Finding
Number of violation(s) and duration of violation(s)	<p><i>Two violations:</i> <i>One violation of GO 128, Rule 17.7 from 10/30/14, 1213 hours to 11/7/14, 1320 hours (eight days) for mismarking underground facilities.</i> <i>One violation of GO 128, Rule 33.4-A3a from 1990 through 2014 (twenty-four years) for improper installation.</i></p>
Severity of the offense: overall level of risk of violation(s)	<p><i>The incident resulted in explosion and injury to a third party; injuries included burns to the face, head, and arms. A sustained outage affected 635 customers and a momentary outage affected 5,718 customers; total combined outage duration was 10 hours and 19 minutes.</i></p>
The conduct of the utility before, during, and after the offense	<p><i>At the time of the installation, PG&E assumed the depth of the sewer pipe without verification. The cross-bore violation was not detected by regular inspection/ maintenance during the ensuing years. When requested, PG&E's locator did not accurately follow PG&E procedures for locating and marking electric facilities. After the incident, PG&E inspected 13 locations to verify no additional sewer lateral cross-bores exist in the area. PG&E has since made significant changes to its procedures to prevent new cross-bores.</i></p>
Previous occurrence of similar violations by the utility	<p><i>E20120105-01: January 5, 2012, a city employee dug into an energized, underground PG&E cable. E20110709-01: July 9, 2011, a third party contractor cut into an energized, underground PG&E cable. PG&E did not mark its underground facilities properly prior to each of these incidents.</i></p>
Self-reporting of the violation	<p><i>No; SED found the violations during investigation of the reported incident. (Per D.14-12-001, consideration of self-reporting as a mitigating factor is not applicable in incidents involving an injury.)</i></p>

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Indication of the violation(s) being willful	<i>No indication of willful violation.</i>
Actions taken by the utility to address the violation(s)	<i>After the incident, the utility inspected 13 locations to verify no additional sewer lateral cross-bores exist in the area. As of 3/20/2015, PG&E made significant changes to its boring procedures. Refer to Enclosure 6.</i>
Associated safety related condition	
Financial resources of the utility	<i>5.4 million electric customers; 4.3 million natural gas customers; \$7.094 billion authorized General Rate Case revenues for test year 2014.</i>
The totality of the circumstances	<i>SED considered mitigating and aggravating factors to determine the number of days to assess the fines. Aggravating factors included the consequences of the incident (injury and customer outages), and the existence of earlier violations of the facilities marking protocols. Mitigating factors include the difficulty of identifying the cross-bore violation and the corrective actions PG&E has taken since the event, including PG&E's changes to its installation procedures. Other factors considered include that the violations were not willful, PG&E was generally cooperative during SED's investigation, and PG&E possesses sufficient financial resources to pay the penalties.</i>
Other factors deemed relevant by SED	<i>California Government Code Section 4216 does not require non-pressurized sewer lines or drain lines to be marked. PG&E has been aware of issues with cross-boring while installing underground electric and natural gas facilities.</i>

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Resultant Citation Taking All Of These Factors Into Account

For the violation of Rule 33.4-A3a (cross-bore violation of clearance rules), SED sets the penalty at the statutory maximum of \$50,000, assessed only for the day PG&E performed the cross-bore which initially placed its facilities in violation of the clearance rule. Violation of Rule 33.4-A3a is assessed at \$50,000.

Mismarking of electrical facilities can cause serious consequences regardless of whether PG&E violated any other rules. Therefore, for the violation of General Order 128, Rule 17.7 (mismarking of facilities), SED sets the penalty at the statutory maximum of \$50,000 assessed for the number of days (8) the utility remained in violation. Violation of Rule 17.7 is assessed at \$400,000.

The resulting penalty is \$450,000.



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RESPONSE:

Respondent is called upon to provide a response to this Citation by: **5:00 PM (PST) on August 20, 2015.**

By way of such response Respondent, **within 30 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 30 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 Utility's employees and the general public, and /or submit a Compliance Plan to the Director of SED for correcting those violations requiring more than 30 calendar 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 Decision 14-12-001" for information on the appeals process and the attached "Notice of Appeal of Citation 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 30 calendar days from the date the citation is served, will place Respondent in default of the citation and will result in forfeiture of 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.



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

A handwritten signature in blue ink, appearing to read "Elizaveta 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 Electrical Corporation's Treasurer,
Chief Financial Officer, or President/Chief Executive
Officer, 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
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Within 30 calendar days of the Respondent being served with a **CITATION FOR VIOLATION(S) ISSUED PURSUANT TO DECISION 14-12-001**, 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 feasible unless, within 30 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 Electrical 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 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.



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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 receipt of 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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Enclosures to Accompany Utility Appeal

Utility to add Enclosures as appropriate