

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Citation of Pacific Gas and Electric  
Company for Violations of Gas Safety Requirements  
pursuant to Resolution ALJ-274.

Citation No. ALJ-274  
2012-01-001  
(Citation Date  
January 27, 2012)

**OPENING BRIEF  
OF THE CONSUMER PROTECTION AND SAFETY DIVISION**

TRACI BONE

Attorney for the Consumer Protection and Safety  
Division

California Public Utilities Commission  
505 Van Ness Ave.  
San Francisco, CA 94102  
Phone: (415) 703-2048  
Email: tbo@cpuc.ca.gov

February 28, 2012

576129

## **I. INTRODUCTION AND BACKGROUND**

The Consumer Protection and Safety Division of the California Public Utilities Commission (CPSD) submits this Opening Brief pursuant to the Administrative Law Judge's Ruling Regarding Prehearing Conference, Evidence, Schedule and Issues issued on February 10, 2012, in the above-captioned proceeding (February 10 ALJ Ruling).

### **A. PG&E Notice of Non-Compliance**

On December 30, 2011, Pacific Gas and Electric Company (PG&E) notified CPSD that it had identified non-compliance issues in its gas system (Notice of Non-Compliance).<sup>1</sup> In summary, PG&E's Notice of Non-Compliance explained that on December 21, 2011, a PG&E employee discovered 16 plat maps containing approximately 13.83 miles of gas distribution mains and 1,242 services that were not included in PG&E's leak survey schedule.<sup>2</sup> PG&E explained that these facilities had therefore not been surveyed within the five year time frame required by federal regulation 49 Code of Federal Regulations (CFR) § 192.723(b)(2). In fact, some of these facilities had not been leak surveyed since their installation in 1993.<sup>3</sup> PG&E's Notice of Non-Compliance: (1) represented that a leak survey of all of the facilities was completed by December 29, 2011; (2) reported on the leaks discovered during the survey, and which of those leaks were repaired; and (3) described a compliance plan for repairing or monitoring those leaks that were not already repaired. PG&E's Notice of Non-Compliance also described additional steps PG&E would take to identify further corrective actions, including a system-wide evaluation. PG&E also represented that it would notify local authorities in the cities impacted by its non-compliance issues.

---

<sup>1</sup> PG&E's Notice of Non-Compliance is attached hereto as Attachment A. PG&E made corrections to its Notice of Non-Compliance on December 30, 2011, and that "update" is included in Attachment A.

<sup>2</sup> Distribution mains are generally larger diameter distribution piping located in a roadway. Services are smaller diameter distribution facilities leading from a main to an individual residence.

<sup>3</sup> See, e.g., CPSD's January 27, 2012, Citation at page 3 of the Preliminary Investigation Report, and Appendix A (CPSD Citation). The CPSD Citation has been marked for identification as Exhibit 1 and received into evidence pursuant to the February 10 ALJ Ruling. It is Attachment A to the February 10 ALJ Ruling.

## B. CPSD Citation

On January 27, 2012, CPSD issued a citation to PG&E, ordering PG&E to pay a fine of \$16,760,000 for violations of 49 CFR § 192.723(b)(2), which provides:

A leakage survey with leak detector equipment must be conducted outside business districts as frequently as necessary, but at least once every 5 calendar years at intervals not exceeding 63 months.

The CPSD Citation included a "Preliminary Investigation Report," with a table at Appendix A showing how CPSD calculated the \$16,760,000 fine. In summary, CPSD assessed a fine to PG&E of \$20,000 per incident for each failure to conduct a leak survey. While CPSD could have fined PG&E for daily violations or "incidents", it determined that an incident constituted each month that PG&E failed to conduct a leak survey for the facilities on each of the 16 plat mats.<sup>4</sup> The Preliminary Investigation Report explained CPSD's basis for the fine, which took PG&E's prompt self-reporting and compliance into account, as well as the fact that no damage to life or property was known to have resulted from the violations. CPSD limited the fine to the current reported incidents and reserved the right to address additional violations separately:

CPSD believes its calculated amount for the fine reasonably considers the prompt action taken by [PG&E's] Diablo Division staff upon identification of the apparent mapping discrepancies and the fact that no injuries or damages are known to have resulted from this discrepancy. This penalty calculation is specific to the violations identified in Diablo Division reported to CPSD on December 30, 2011. If subsequent investigation or additional notifications identify additional violations, CPSD will address them in separate reports and citations.<sup>5</sup>

---

<sup>4</sup> As there were no violations in three of the plat maps, the fine was calculated based on the 13 plat maps where violations were identified.

<sup>5</sup> CPSD Citation, Preliminary Investigation Report at 3.

Consistent with Resolution ALJ-274 (ALJ-274), issued by the Commission on December 7, 2011, the CPSD Citation also notified PG&E of its appeal rights. PG&E timely appealed the CPSD Citation on February 1, 2012 (PG&E Appeal).<sup>6</sup>

### **C. PG&E Appeal**

The questions raised by the PG&E Appeal are: (1) whether CPSD over-counted the number of violations and therefore imposed too high a fine; and (2) whether the Commission should exercise its discretion to adopt no penalty, or a reduced penalty. PG&E also urges that the Commission should “direct CPSD not to issue citations for self-reported violations until the Commission has had an opportunity to consider [self-reported violations’] appropriate place in its enforcement regime.”<sup>7</sup> Because the issues raised by the PG&E Appeal involve the extent of CPSD’s discretion to calculate a fine, and whether it was properly exercised, rather than disputed issues of fact, both CPSD and PG&E agreed that hearings were not necessary. CPSD addresses the three issues raised by the PG&E Appeal, as identified on page 3 of the February 10 ALJ Ruling, in Sections II.A, II.B, and II.C, below.

## **II. DISCUSSION**

### **A. CPSD Properly Calculated The Number of Violations**

ALJ-274 delegates authority to CPSD to issue citations to gas corporations, like PG&E, for violations of Commission Orders and federal gas regulations, including 49 CFR § 192.723(b)(2), at issue here. ALJ-274 requires CPSD to impose the maximum penalty for an offense as provided by law.<sup>8</sup> In this case, CPSD assessed the maximum penalty of \$20,000 for each offense pursuant to Public Utilities Code § 2107.<sup>9, 10</sup>

---

<sup>6</sup> The PG&E Appeal has been marked for identification as Exhibit 2 and received into evidence pursuant to the February 10 ALJ Ruling. It is Attachment B to the February 10 ALJ Ruling.

<sup>7</sup> PG&E Appeal at 5.

<sup>8</sup> ALJ-274, Finding and Conclusion 11.

<sup>9</sup> California Public Utilities Code Section 2107 was amended by SB 876 (2011) and the maximum penalty as of January 1, 2012 is \$50,000. CPSD determined that the maximum penalty of \$20,000 should be applied in this instance because PG&E self-reported and corrected the offenses while the \$20,000 maximum penalty was still in effect.

<sup>10</sup> All further section references shall be to the California Public Utilities Code unless otherwise specified.

The PG&E Appeal does not take issue with CPSD's obligation to impose the maximum penalty. However, it complains that CPSD "over-counted the number of 'violations'."<sup>11</sup> PG&E explains that "CPSD erroneously treated the passage of each month after the first missed leak survey as a separate violation."<sup>12</sup> PG&E argues that "the next violation could only be missing the next five-year leak survey."<sup>13</sup> Under this approach, PG&E calculates the total fine at no more than \$420,000.<sup>14</sup>

PG&E's argument is expressly contradicted by both state law and ALJ-274. Under ALJ-274, CPSD has discretion to determine what constitutes an "incident" or "offense" that is subject to a "fine" or "penalty".<sup>15</sup> Ironical in light of PG&E's goal to *lower* the penalty, both ALJ-274 and Public Utilities Code §2108 clearly permit CPSD to impose penalties for continuing *daily* offenses, at its discretion; such an approach would have resulted in a *significantly higher* penalty to PG&E.

Public Utilities Code § 2108 provides that each day a violation continues "shall be a separate and distinct offense":

Every violation of the provisions of this part or of any part of any order, decision, decree, rule, direction, demand, or requirement of the commission, by any corporation or person is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be a separate and distinct offense.

ALJ-274 states on its very first page and again on page 7 "Each day of an ongoing violation may be penalized as an additional offense." At Finding and Conclusion 13, ALJ-274 states:

As set forth in Pub. Util. Code § 2108, in the case of a continuing violation, each day's continuance is a separate and distinct offense; therefore, each day of an ongoing violation may be penalized as an additional offense.

---

<sup>11</sup> PG&E Appeal at 2.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 3.

<sup>15</sup> Note that Public Utilities Code § 2107 refers to a "penalty" for each "offense" while the CPSD citation refers to a "fine" for each "incident". These terms – "incident" and "offense" and "fine" and "penalty" are used interchangeably here.

Similar “per day” provisions are contained in Appendix A to ALJ-274, which sets forth the Citation Procedures and Appeal Process, at Sections I.A.3 and I.C.1.

Consequently, it is clear that CPSD was not constrained to counting each incident as occurring every five years, as PG&E proposes.

Instead, CPSD may count “incidents” using its discretion and relying upon the factors it may consider in setting a fine. The factors CPSD may consider are set forth in Commission Decision (D.) 08-12-075 and Public Utilities Code § 2104.5. Here, CPSD, considering that PG&E had promptly self-reported the violations and that no injuries or damages were known to have resulted from the violations, used its discretion to calculate a lower penalty by counting offenses on a monthly, rather than a daily, basis. Nothing in either the law or ALJ-274 required CPSD to count PG&E’s violations on a 5 year basis.

**B. The Level of the Fine Is Appropriate Considering Commission-Adopted Principles Governing Assessment of Penalties**

**1. PG&E’s Argument**

PG&E proposes that “the Commission should exercise the discretion it reserved to itself in Res. ALJ-274 and adopt a fine based on less than the statutory maximum.”<sup>16</sup> PG&E argues that “[f]or the Commission to uphold the \$16.8 million fine here would be to send a message to PG&E’s employees that undermines the safety and compliance message PG&E has been reinforcing.”<sup>17</sup> PG&E’s goes on to explain that imposing the \$16,760,000 fine would discourage employees from self-reporting in the future, “[n]o matter how much PG&E’s management tries to convey that these employees’ conduct was exemplary . . .”<sup>18</sup> On this basis, PG&E argues that the fine should be eliminated, or reduced to \$419,000.<sup>19, 20</sup>

---

<sup>16</sup> PG&E Appeal at 2.

<sup>17</sup> PG&E Appeal at 4 (emphasis in original).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* PG&E explains that if the Commission agrees with CPSD’s counting of monthly violations, that reducing the \$20,000 per violation penalty to \$500 per violation results in a total fine of \$419,000.

<sup>20</sup> The Commission is considering employee whistle blower protections in R.11-02-019 which, if adopted, should compliment and reinforce PG&E management efforts to encourage employees to self-report.

## 2. Factors Considered By The Commission

For more than a decade, the Commission has looked to the factors set forth in Public Utilities Code § 2104.5 and D.98-12-075 in setting penalties, and CPSD considered these factors itself in proposing the penalty at issue here. As described in the recently issued D.11-11-001 (the Rancho Cordova gas explosion penalty decision), the analysis required by D.98-12-075 for affiliate transaction violations is applicable to all fine proceedings, including the gas explosion investigation addressed by that decision, and those principles "closely parallel" the considerations in Public Utilities Code § 2104.5:

D.98-12-075 (84 CPUC2d 155) addressed the principles that should be applied for imposing a fine for a violation of the affiliate transaction rules. As stated in [D.98-12-075] "these principles distill the essence of numerous Commission decisions concerning penalties in a wide range of cases...." The principles set forth in D.98-12-075 closely parallel the considerations set forth in *Pub. Util. Code § 2104.5*. (See 84 CPUC2d 155 [D.98-12-075] at 182-184, 188-190.)<sup>21</sup>

Decision 98-12-075 sets forth the 5 factors the Commission should consider in establishing an appropriate penalty amount, and the deterrence value of such penalties, especially when violations threaten public safety:

In establishing the appropriate fine, the principles call for the Commission to take into account the severity of the offense, the conduct of the utility (before, during and after the offense), the financial resources of the utility and the totality of circumstances related to the violation. The resulting fine should also be considered in the context of past Commission decisions. ...

Effective deterrence creates an incentive for public utilities to avoid violations. Deterrence is particularly important against violations which could result in public harm, and particularly against those where severe consequences could result. To capture these ideas, the two general factors used by the Commission in setting fines are: (1) severity of the offense and (2) conduct of the utility. These help guide the Commission in setting fines which are proportionate to the violation.

---

<sup>21</sup> D.11-11-001 at note 21.

**3. CPSD's Fine Is Consistent With the Principles  
Established In D.98-12-075 and § 2104.5**

As discussed in Section II.A, above, CPSD had authority to impose a much larger fine on PG&E. Under ALJ-274 and Public Utilities Code § 2108, CPSD had the option to find that each day that PG&E failed to correct the violation was a separate "incident." However, CPSD relied upon the considerations required by D.98-12-075 and § 2104.5 to impose a reduced fine using a monthly incident calculation. In considering PG&E's request to reduce the fine, the Commission must consider the following factors articulated in D.98-12-075:

- The severity of the offense;
- The conduct of the utility before, during, and after the offense;
- The financial resources of the utility;
- The totality of the circumstances; and
- The amount of the fine in the context of prior Commission decisions.

Examination of each of these factors demonstrates that CPSD's calculation of the fine is appropriate and should be upheld by the Commission.

**a) Severity of the Offense**

PG&E's violation – failure to leak survey 13.83 miles of gas distribution mains and 1,125 services – was severe. Leak surveys are the primary industry tool available to detect and correct gas leaks before they become serious. In addition, leak survey data provides critical information that operators must consider in determining the need and schedule for any necessary maintenance or replacement. Federal regulations require such surveys outside of business districts a minimum of every 5 years.<sup>22</sup> In some instances here, facilities had not been surveyed for 18 years.

As a result of this violation, the potential public harm was great. While, to CPSD's knowledge, no persons or property were injured, it was still a significant, and avoidable, violation that could have resulted in very serious injury to both persons and property, as demonstrated by the Rancho Cordova explosion described in D.11-11-001. In fact, one of the leaks PG&E identified after the leak survey was a Grade 1 leak, which requires immediate

---

<sup>22</sup> 49 CFR § 192.723(b)(2).



repair. These violations were avoidable because PG&E had multiple opportunities to detect and correct the violations before December 2011.

Attachment B hereto, entitled “Missed 5-Year Distribution Leak Survey – Summary by Plat Map” was provided to CPSD by PG&E on January 6, 2012, in connection with an update to the Notice of Non-Compliance. It provides an overview of each of the plat maps and the facilities added to those maps that PG&E failed to survey. As Attachment B shows, some PG&E facilities were installed as early as 1993, which resulted in several missed leak surveys.

Attachment B also shows that multiple facilities were installed and added to many of the same plat maps over time. When each installation was completed, another opportunity was presented for PG&E to add the plat map, and thus the facilities on the map, to its leak survey schedule. Using Plat Map 53B10 as an example, new mains or services were installed in 1999, 2001, 2002, 2004, and 2005. Not only did PG&E miss each opportunity presented to add them to its leak survey schedule as these new facilities were added, but any quality control procedures PG&E may have had in place clearly failed as well.

In addition, in November 2007 PG&E reported to CPSD that some leak surveys had been falsified in its North Coast Division. In order to address the leak survey falsification problem, PG&E reviewed the adequacy of its leak survey procedures in the North Coast Division first. When that survey identified additional issues, PG&E conducted an accelerated leak survey of its entire gas distribution system. The system-wide resurvey effort was yet another missed opportunity for PG&E to have identified that its facilities had not all been surveyed.

**b) Conduct of The Utility Before, During, and After the Offense**

PG&E’s conduct in discovering, self-reporting, and correcting the violations appears to have been in good faith.<sup>23</sup> CPSD considered this a mitigating factor justifying a lower fine. However, as discussed above, PG&E had numerous opportunities to discover the violations before December 2011 and did not. On balance, while PG&E’s conduct in self-reporting and obtaining compliance have appeared to be in good faith, other factors, including the size of the

---

<sup>23</sup> On February 1, 2012, PG&E reported to CPSD that it had identified an additional 46 plat maps in its distribution system that were not included in its leak survey schedule. Thus, PG&E appears to have embraced the gravity of the situation and continues to identify, self-report, and address these violations. These factors will be taken into account by CPSD in considering action on these new violations.

utility, the gravity of the offence, which had the potential to result in significant harm to the public, and PG&E's failure to discover the offense sooner, must be considered. All of these factors support the level of fine established by CPSD, notwithstanding PG&E's current behavior.

**c) Financial Resources of the Utility**

PG&E is a large utility with significant financial resources. As the Commission recognized recently in D.11-11-001 (the Rancho Cordova gas explosion penalty decision):

PG&E serves approximately 4.3 million natural gas customers and 5.2 million electric customers in a northern California service territory that covers 43% of the state. PG&E reported 2010 operating revenues of \$ 13.841 billion.<sup>24</sup>

Given these substantial resources, the fine imposed must be significant if the Commission wishes to influence the utility's behavior.<sup>25</sup>

**d) Totality of the Circumstances**

The factors weighing against PG&E when considering the totality of the circumstances include the number of years of non-compliance (in some cases 13 years), the number of opportunities PG&E had to discover the non-compliance, and the utility's significant resources. These are balanced in this instance against PG&E's self-reporting and quick action to address the violations.

**e) Past Commission Decisions**

The amount of fine imposed by CPSD here is comparable to prior Commission decisions regarding fines where there was no loss of life:

- In D.08-09-038 the Commission imposed a \$30 million penalty on Southern California Edison Company (SCE) for false reporting of data in connection with its performance based ratemaking mechanism, *taking into consideration SCE's good faith cooperation with the CPUC once the violations were identified;*

---

<sup>24</sup> D.11-11-001 at 40. Note that the Rancho Cordova decision rejected a stipulation between CPSD and PG&E to impose a \$26 million penalty and instead imposed a \$38 million penalty on PG&E.

<sup>25</sup> Evidence of PG&E's financial resources, including its 2011 Annual Report, its March 31, 2011 Joint Proxy Statement, and its Form 10-Q filed November 3, 2011 with the Securities and Exchange Commission, have been marked for identification as Exhibits 3, 4, and 5, respectively, and received into evidence effective February 24, 2012, pursuant to an ALJ e-mail.

- In D.02-10-073 the Commission imposed a penalty of \$27 million on Pacific Bell Telephone Company and related companies for billing problems associated with broadband services;
- In D.02-10-059 the Commission imposed a \$20.34 million penalty on Qwest Communications Corporation for slamming and unauthorized billings; and
- In D.04-09-062 the Commission imposed a \$12.14 million penalty on Cingular Wireless for collecting early termination fees.<sup>26</sup>

As set forth above, in considering the factors required by D.98-12-075, it is clear that the fine imposed by CPSD is appropriate and should be upheld by the Commission.

**C. The Commission Should Not Order CPSD To Cease From Issuing Citations For Self-Reported Violations**

The PG&E Appeal proposes that the Commission “direct CPSD not to issue citations for self-reported violations until the Commission has had an opportunity to consider [self-reported violations’] appropriate place in its enforcement regime.”<sup>27</sup> For all of the reasons set forth above, PG&E’s proposal is misguided. The Commission acted decisively in December of last year by adopting ALJ-274 and arming CPSD with a new enforcement tool. CPSD has exercised its authority appropriately in issuing a citation to PG&E, and establishing a fine consistent with principles applied by the Commission for over a decade. As demonstrated in the discussion of those principles, self-reporting may be a mitigating factor when the Commission elects to take action against a utility, but the extent of the mitigation depends on the totality of the circumstances.

In adopting ALJ-274 the Commission clearly recognized that CPSD’s prior practice of working cooperatively with utilities when violations were identified was not effective in encouraging all utilities to systematically improve system safety. PG&E could have sought rehearing on the self-reporting issue, but it did not. Thus, its challenge now to ALJ-274’s framework is an improper collateral attack of a Commission order, in violation of § 1709.

---

<sup>26</sup> In each of these cases, restitution to consumers was addressed separately and was not a component of the penalty described here.

<sup>27</sup> PG&E Appeal at 5.

To remove CPSD's ability to levy a penalty for a self-reported violation, no matter the severity, would be illogical. The fine CPSD proposes here is appropriate, and does not support PG&E's proposal that CPSD's authority under ALJ-274 should be constrained in any manner.

### III. CONCLUSION

For all of the foregoing reasons, each and every aspect of the PG&E Appeal should be denied and the Commission should uphold the CPSD Citation in its entirety.

Respectfully submitted,

/s/ TRACI BONE

---

TRACI BONE  
Staff Counsel

Attorney for the Consumer Protection  
& Safety Division

California Public Utilities Commission  
505 Van Ness Ave.  
San Francisco, CA 94102  
Phone: (415) 703-2048  
Fax: (415) 703-2262

February 28, 2012

**ATTACHMENT A**

**PG&E NOTICE OF NON-COMPLIANCE AND UPDATE**

**Dated December 30, 2011**



Bill Gibson  
Director, Regulatory Compliance  
and Support  
Gas Operations

375 N. Wiget Lane,  
Walnut Creek, CA 94598  
Suite 250

925-974-4210  
Fax: 925-974-4102  
Internet: [WLG3@pge.com](mailto:WLG3@pge.com)

December 30, 2011

Ms. Michelle Cooke, Director  
Consumer Protection and Safety Division  
California Public Utilities Commission  
505 Van Ness Ave., Room 2005  
San Francisco, CA 94102-3298

Re: California Public Utilities Commission  
Self Identification and Correction Notice  
Contra Costa County, California – December 21, 2011

Dear Ms. Cooke:

The attached notification concerns a self identified non-compliance issue that PG&E is providing the Commission pursuant to Resolution ALJ-274.

On December 21, 2011 a PG&E mapping employee discovered that 16 plat maps had inadvertently not been included in the leak survey schedule resulting in distribution pipeline and services not leak surveyed within the five year time requirement which is a violation of 49 CFR 192.723(b)(2). Since this discovery, PG&E has taken immediate corrective actions as further described in the attached notice.

Please contact Larry Deniston at (925) 974-4313 or [lcdl@pge.com](mailto:lcdl@pge.com) for any additional questions you may have regarding this notification.

Sincerely,

/S/

Bill Gibson

Attachment

## **Citation Program Report Resolution ALJ 274**

**Subject:** California Public Utilities Commission Resolution ALJ 274, self identified and self corrected violation notification.

**Location:** Various locations in Contra Costa County

**Date of Discovery:** December 21, 2011

**Description:** A PG&E gas mapping employee discovered that 16 plat maps had inadvertently not been included in the leak survey schedule resulting in approximately 13.83 miles of distribution pipeline and 1,242 services not leak surveyed within the five year time requirement which is a violation of 49 CFR 192.723(b)(2). The missed maps are located in Diablo Division, Contra Costa County in:

Brentwood (4.02 miles, 361 services),  
Byron (0.01 miles, 1 service),  
Concord (3.34 miles, 300 services),  
Danville (0.11 miles, 10 services),  
Discovery Bay (0.02 miles, 2 services) and  
Pittsburg (6.33 miles, 568 services).

**Corrective Actions:** The following corrective actions have been completed.

- A leak survey of all of the distribution pipeline and services was completed December 29, 2011. The results of the leak survey are as follows:

City	Number of Leaks	Leak Grade *
Brentwood	15	3 Grade 2, 12 Grade 3
Byron	None	N/A
Concord	None	N/A
Danville	None	N/A
Discovery Bay	None	N/A
Pittsburg	7	1 Grade 1, 1 Grade 2+, 4 Grade 2 and 1 Grade 3
<b>TOTAL</b>	<b>22</b>	

\* PG&E grades leaks as follows. We classify leaks into four grades:  
 Grade 1: A leak that represents an existing or probable hazard to persons or property, and requires immediate repair or continuous action until the conditions are no longer hazardous.  
 Grade 2+: A leak that is recognized as being non-hazardous at the time of detection, but justifies priority repair. These types of leaks are scheduled for a priority repair within 90 days or less.  
 Grade 2: A leak that is recognized as being non-hazardous at the time of detection, but justifies scheduled repair. These types of leaks must be repaired or cleared within 18 months. Beginning in 2012, PG&E will repair or clear grade 2 leaks in 12 months.  
 Grade 3: A leak that is non-hazardous at the time of detection and can be reasonably

expected to remain non-hazardous. Such leaks are recorded and monitored at each subsequent survey.

- PG&E has isolated and repaired the grade one (1) leak in Pittsburg as of December 30, 2011
- The grade 2+ leak will be repaired on Tuesday, January 3, 2012
- PG&E will repair the seven (7) Grade 2 leaks by no later than mid-January
- The thirteen (13) grade 3 leaks will be leak surveyed annually
- The sixteen (16) plat maps have been added to the 5-year gas distribution leak survey schedule.
- A review of all gas plat maps for Diablo Division has been completed and validated to ensure all plat maps are included in the 5-year gas distribution leak survey schedule.
- An additional step has been added to the Diablo Division's gas mapping process to ensure that all new maps are added to the 5-year distribution leak survey.

**Additional Steps to be taken:**

- Formal root cause analysis to determine cause and identify any additional corrective actions to be implemented.
- Conduct a system-wide evaluation to determine if this issue is present in any other divisions and implement corrective actions as needed.

**Notification of Local Authorities:** Affected local authorities will be notified shortly and PG&E will provide confirmation of notification as a supplement to this notification.





**Pacific Gas and  
Electric Company**

Bill Gibson  
Director, Regulatory Compliance  
and Support  
Gas Operations

375 N. Wiget Lane,  
Walnut Creek, CA 94598  
Suite 250

925-974-4210  
Fax: 925-974-4102  
Internet: WLG3@pge.com

December 30, 2011

Ms. Michelle Cooke, Director  
Consumer Protection and Safety Division  
California Public Utilities Commission  
505 Van Ness Ave., Room 2005  
San Francisco, CA 94102-3298

Re: California Public Utilities Commission  
Update to Self Identification and Correction Notice  
Contra Costa County, California – December 21, 2011

Dear Ms. Cooke:

This is to update our earlier communication regarding a notification of non-compliance provided to the Commission pursuant to Resolution ALJ-274.

Our earlier report reflected the miles of main and services for six cities in Contra Costa County along with associated leaks found during our leak survey. It appears that six of the seven of the leaks originally designated within the City of Pittsburg are within the borders of the City of Antioch. The neighborhood with the six leaks is on the immediate border between the two cities and the plat map in question was given a Pittsburg designation as it has facilities for both cities. We will provide updated pipeline mileage and number of services for Antioch and Pittsburg next week. We have made notifications to both Pittsburg and Antioch as reflected on the attached.

Please contact Larry Deniston at (925) 974-4313 or [lcd1@pge.com](mailto:lcd1@pge.com) for any additional questions you may have regarding this notification.

Sincerely,

/S/

Bill Gibson

Attachment

Affidavit of Thomas Guarino

PG&E hereby submits this supplement to identify that the following local authorities have been contacted regarding the December 30 Self Identification and Corrective Action Report for Contra Costa County:

**Pittsburg:** Joe Sbranti (City Manager) and his assistant; Garrett Evans (Asst. City Manager)

**Brentwood:** Heather Silfies (Public Works); Paul Eldredge (City Manager)

**Concord:** Dan Keen (City Manager)

**Danville:** Joe Calabrigo (Town Manager); Steve Lake (Development Services Director)

**Discovery Bay:** Karen Basting (Chief of Staff to Supervisor Mary Piepho)

**Contra Costa County:** David Twa (County Administrator); Julie Buren (Public Works Director) ; Mary Piepho (Supervisor); Federal Glover (Supervisor) and his Chief of Staff Ed Dionka; Karen Mitchoff (Supervisor) and her Chief of Staff Cliff Glickman.

**Antioch:** Jim Jakel (City Manager)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 30, 2011 at Lafayette, California.

/s/ THOMAS GUARINO

Thomas Guarino  
Senior Governmental Relations Representative  
Pacific Gas and Electric Company

**ATTACHMENT B**

**PG&E UPDATE TO NOTICE OF NON-COMPLIANCE**

**Dated January 6, 2012**



**Pacific Gas and  
Electric Company**

Bill Gibson  
Director, Regulatory Compliance  
and Support  
Gas Operations

375 N. Wiget Lane,  
Walnut Creek, CA 94598  
Suite 250

925-974-4210  
Fax: 925-974-4102  
Internet: WLG3@pge.com

January 6, 2012

Ms. Michelle Cooke, Director  
Consumer Protection and Safety Division  
California Public Utilities Commission  
505 Van Ness Ave., Room 2005  
San Francisco, CA 94102-3298

Re: California Public Utilities Commission  
Additional Information for Self-Identified Notice  
Contra Costa County, California – December 21, 2011

Dear Ms. Cooke:

As indicated in our update Self- Identification and Correction notice submitted to you on December 30, 2011, this letter serves to provide additional information regarding the missed leak surveys in PG&E's Diablo Division. The attached spreadsheet updates the pipeline mileages, number of services that were not leak surveyed within the 5-year timeframe and provides the information by plat map and by city. The spreadsheet also updates the number of leaks from 22 to 23 found during the leak surveys conducted the week of December 26, 2011. As of this date PG&E has repaired 22 of the 23 leaks identified, and is in the process of repairing the last leak.

PG&E met with Sunil Shori and Aimee Caguiran of your staff on Wednesday January 4, 2012 at the Diablo Division headquarters. We reviewed the issue, provided an earlier version of the spreadsheet and other mapping-related information. We are continuing to work with Mr. Shori and Ms. Caguiran to complete their data requests as well as system-wide analysis of the leak survey schedules and ultimate completion of the corrective actions.

Please contact Larry Deniston at (925) 974-4313 or [lcdl@pge.com](mailto:lcdl@pge.com) for any additional questions you may have regarding this notification.

Sincerely,

/S/

Bill Gibson

Attachment

# Missed 5-Year Distribution Leak Survey

## Summary by Plat Map

Main Details									Service Details		
Item #	Plat Map	City	Distribution Main Job Number(s)	Footage of Main	Main Operational Date	1st Missed Leak Survey Date	2nd Missed Leak Survey Date	3rd Missed Leak Survey Date	# of Services	Service Installation Year (s)	Missed Leak Survey Dates
1	53B10	Pittsburg	30077827-99	2,230	11/4/1999	12/31/2004	12/31/2009	none	49	43 in 1999 1 in 2001 5 in 2002	43 missed 2004 & 2009 1 missed in 2006 & 2011 5 missed 2007
		Pittsburg	30264522-04	4,350	8/25/2004	11/25/2009	none	none	72	71 in 2004 1 in 2005	71 missed 2009 1 missed in 2010
		Antioch	30390620-05	125	9/16/2005	12/16/2010	none	none	1	1 in 2005	1 missed in 2010
		Antioch	30335070-05	80	9/16/2005	12/16/2010	none	none	1	1 in 2005	1 missed in 2010
Sub-Totals by map				6,785					123		
2	53B11	Antioch	30390620-05	5,980	9/16/2005	12/16/2010	none	none	100	96 in 2005 4 in 2011	96 missed in 2010 4 (due in 2016)
		Antioch	30335070-05	5,990	9/16/2005	12/16/2010	none	none	108	80 in 2005 3 in 2006  8 in 2007 8 in 2008 6 in 2010 3 in 2011	80 missed in 2010 2 missed in 2011 1 (in compliance 2011) 8 (due in 2013) 8 (due in 2014) 6 (due in 2015) 3 (due in 2016)
		Antioch	30254249-05	4,840	9/16/2005	12/16/2010	none	none	58	58 in 2005	58 missed in 2010
		Antioch	30341335-05	1,230	9/16/2005	12/16/2010	none	none	0	n/a	n/a
		Sub-Totals by map				18,040					266
3	49A10	Concord	30209728-02	5,030	5/27/2002	8/27/2007	none	none	115	107 in 2002 6 in 2003 2 in 2004	107 missed in 2007 6 missed in 2008 2 missed in 2009
Sub-Totals by map				5,030					115		
4	49B11	Concord	30103175-00	4,549	6/5/2000	9/5/2005	9/5/2010	none	76	75 in 2000 1 in 2003	75 missed 2005 & 2010 1 missed 2008
		Concord	30004421-99	6,210	11/17/1999	12/31/2004	12/31/2009	none	103	100 in 1999 3 in 2000	100 missed 2004 & 2009 3 missed 2005 & 2010
Sub-Totals by map				10,759					179		

## Missed 5-Year Distribution Leak Survey Summary by Plat Map

Main Details									Service Details			
Item #	Plat Map	City	Distribution Main Job Number(s)	Footage of Main	Main Operational Date	1st Missed Leak Survey Date	2nd Missed Leak Survey Date	3rd Missed Leak Survey Date	# of Services	Service Installation Year (s)	Missed Leak Survey Dates	
5	51 E09	Danville	GM 4999827-93	1,750	6/17/1993	9/17/1998	9/17/2003	9/17/2008	9	5 in 1993 1 in 1999 2 in 2006	5 missed 1998, 2003 & 2008 1 missed 2004 & 2009 2 missed 2011	
Sub-Totals by map				1,750					9			
6	53 E16	Antioch	30168948-01	750	11/6/2001	12/31/2006	none (comp by 12/31/2011)	none	10	10 in 2001	10 missed 2006 10 completed in 2011	
		Antioch	30168945-02	3,016	11/6/2001	12/31/2006	none (comp by 12/31/2011)	none	49	45 in 2001 3 in 2002 1 in 2003	45 missed 2006 45 (in compliance 2011) 3 missed 2007 1 missed 2008	
		Antioch	30115986-00	4,110	5/10/2000	8/10/2005	8/10/2010	none	65	54 in 2000 11 in 2001	54 missed 2005 & 2010 11 missed 2006 11 (in compliance 2011)	
		Antioch	30204204-10	2,360	10/25/2001	12/31/2006	none (comp by 12/31/2011)	none	40	19 in 2001 20 on 2002	19 missed 2006 19 (in compliance 2011) 20 missed 2007	
Sub-Totals by map				10,236					164			
7	56D09	Danville (Contra Costa County)	30405090-05	470	9/13/2005	12/13/2010	none	none	1	1 in 2007	1 (due in 2012)	
Sub-Totals by map				470					1			
8	58F02	Antioch	30002702-98	3,379	3/23/1998	6/23/2003	6/23/2008	none	56	52 in 1998 4 in 1999	52 missed 2003 & 2008 4 missed 2004 & 2009	
Sub-Totals by map				3,379					56			

2/23/2012

2

Diablo Missed 5 yr Leak Survey Plat Map

## Missed 5-Year Distribution Leak Survey Summary by Plat Map

Item #	Plat Map	City	Main Details					Service Details			
			Distribution Main Job Number(s)	Footage of Main	Main Operational Date	1st Missed Leak Survey Date	2nd Missed Leak Survey Date	3rd Missed Leak Survey Date	# of Services	Service Installation Year (s)	Missed Leak Survey Dates
9	63F02	Brentwood	30519720-07	60	5/1/2007	none (due 8/1/2012)	none	none	0	n/a	n/a
Sub-Totals by map				60					0		
10	59D09	Brentwood	30439403-06	891	6/13/2006	9/13/2011	none	none	15	15 in 2006	14 missed 2011 1 (in compliance 2011)
			30273728-04	5,310	6/24/2004	9/24/2009	none	none	66	42 in 2004 13 in 2005 11 in 2006	42 missed 2009 13 missed 2010 11 missed 2011
			30439407-05	951	12/4/2005	12/31/2010	none	none	19	12 in 2005 7 in 2006	12 missed in 2010 7 missed 2011
			30343753-05	3,365	1/19/2005	4/19/2010	none	none	55	45 in 2005 10 in 2006	45 missed 2010 10 missed 2011
			30343754-05	1,506	1/19/2005	4/19/2010	none	none	28	28 in 2005	28 missed 2010
			30178955-02	550	1/9/2002	4/9/2007	none	none	17	11 in 2002 6 in 2003	11 missed 2007 6 missed 2008
			30110014-01	910	12/5/2001	12/31/2006	none (comp by 12/31/2011)	none	1	1 in 2001	1 missed 2006 1 (in compliance 2011)
			30178954-02	130	10/28/2002	12/31/2007	none	none	4	2 in 2002 1 in 2003 1 in 2004	2 missed 2007 1 missed 2008 1 missed 2009
Sub-Totals by map			13,735					207			
11	59 E09	Brentwood	30439403-06	245	6/13/2006	9/13/2011	none	none	3	3 in 2006	3 missed 2011
Sub-Totals by map				245					3		
12	59F12	Brentwood	30447004-06	90	7/13/2006	10/13/2011	none	none	1	1 in 2006	1 missed 2011
Sub-Totals by map				90					1		
13	64A10	Discovery Bay (Contra Costa County)	30541247-08	305	6/20/2008	none (due 9/20/2013)	none	none	1	1 in 2008	1 (due in 2013)
Sub-Totals by map				305					1		

## Missed 5-Year Distribution Leak Survey Summary by Plat Map

Main Details									Service Details		
Item #	Plat Map	City	Distribution Main Job Number(s)	Footage of Main	Main Operational Date	1st Missed Leak Survey Date	2nd Missed Leak Survey Date	3rd Missed Leak Survey Date	# of Services	Service Installation Year (s)	Missed Leak Survey Dates
14	64D06	Brentwood (Contra Costa County)	30002046-98	47	12/8/1998	12/31/2003	12/31/2008	none	1	1 in 1999	1 missed 2004 & 2009
Sub-Totals by map				47					1		
15	64D07	Brentwood (Contra Costa County)	30002046-98	1,482	12/8/1998	12/31/2003	12/31/2008	none	1	1 in 2000	1 missed 2005 & 2010
Sub-Totals by map				1,482					1		
<b>GRAND TOTAL</b>				<b>72,413</b>	<b>feet</b>				<b>1127</b>	<b>Number of Services</b>	
				<b>13.72</b>	<b>miles</b>						

Notes: Missed survey based on a required 5-year leak survey frequency of "once every five calendar years not to exceed 63 months to the date".  
Plat maps were last leak surveyed by December 29, 2011.



**CERTIFICATE OF SERVICE**

I hereby certify that I have on this date served a copy of **OPENING BRIEF OF THE CONSUMER PROTECTION AND SAFETY DIVISION** by either United States mail or electronic mail, to each party named on the service list attached in **Citation No. ALJ-274 2012-01-001:**

I also **hand-delivered** a hard copy to the assigned Administrative Law Judge Burton W. Mattson.

Executed on February 28, 2012 at San Francisco, California.

/s/ NANCY SALYER  
\_\_\_\_\_  
NANCY SALYER

SERVICE LIST FOR CITATION ALJ-274 2012-01-001

Joseph M. Malkin  
Attorney At Law  
Orrick, Herrington & Suttcliffe LLP  
405 Howard Street  
San Francisco, CA 94105  
415-773-5505  
[jmalkin@orrick.com](mailto:jmalkin@orrick.com)  
For: Pacific Gas and Electric Company

Jason J. Zeller  
California Public Utilities Commission  
Legal Division  
505 Van Ness Avenue, Room 5030  
San Francisco, CA 94102  
E-mail: [jjz@cpuc.ca.gov](mailto:jjz@cpuc.ca.gov)

Traci Bone  
Attorney At Law  
California Public Utilities Commission  
Legal Division  
505 Van Ness Avenue, Room 5027  
San Francisco, CA 94102  
415-703-2048  
E-mail: [tbo@cpuc.ca.gov](mailto:tbo@cpuc.ca.gov)  
For: Consumer Protection and Safety Division

Karen Miller  
California Public Utilities Commission  
Public Advisor Office  
505 Van Ness Avenue, Room 2103  
San Francisco, CA 94102  
E-mail: [knr@cpuc.ca.gov](mailto:knr@cpuc.ca.gov)

Burton W. Mattson  
Administrative Law Judge  
California Public Utilities Commission  
Administrative Law Judge Division  
505 Van Ness Avenue  
San Francisco, CA 94102  
415-703-2504  
E-mail: [bwm@cpuc.ca.gov](mailto:bwm@cpuc.ca.gov)  
(Assigned Administrative Law Judge)

Lynn Stanghellini  
California Public Utilities Commission  
Chief Court Reporter  
505 Van Ness Avenue, Room 2106  
San Francisco, CA 94102  
E-mail: [las@cpuc.ca.gov](mailto:las@cpuc.ca.gov)

Jane Yura  
Vice President, Gas Operations  
Standard and Policies  
Pacific Gas and Electric Company  
P.O. Box 770000, Mailcode N15F  
San Francisco, CA 94177  
E-mail: [jky1@pge.com](mailto:jky1@pge.com)

Ann Hoang  
California Public Utilities Commission  
Calendar Clerk  
505 Van Ness Avenue, Suite 5013  
San Francisco, CA 94102  
Email: [ahg@cpuc.ca.gov](mailto:ahg@cpuc.ca.gov)

**SERVICE LIST FOR CITATION ALJ-274 2012-01-001**

Thomas E. Bottorff  
Senior Vice President  
Regulatory Relations  
Pacific Gas and Electric Company  
77 Beale Street  
San Francisco, CA 94105  
E-mail: [teb3@pge.com](mailto:teb3@pge.com)

Michelle L. Wilson  
Pacific Gas and Electric Company  
Law Department  
77 Beale Street  
San Francisco, CA 94105  
Telephone: (415) 973-6655  
Facsimile: (415) 973-0516  
E-mail: [mlw3@pge.com](mailto:mlw3@pge.com)

Michael Robertson  
California Public Utilities Commission  
Consumer Protection & Safety Division  
320 West 4<sup>th</sup> Street, Suite 500  
Los Angeles, CA 90013  
Email: [mdr@cpuc.ca.gov](mailto:mdr@cpuc.ca.gov)

Michelle Cooke, Interim Director  
California Public Utilities Commission  
Consumer Protection & Safety Division  
505 Van Ness Avenue, Room 2205  
San Francisco, CA 94102  
Email: [mlc@cpuc.ca.gov](mailto:mlc@cpuc.ca.gov)

Julie Halligan, Deputy Director  
California Public Utilities Commission  
Consumer Protection & Safety Division  
505 Van Ness Avenue, Room 2203  
San Francisco, CA 94102  
Email: [jmh@cpuc.ca.gov](mailto:jmh@cpuc.ca.gov)

Sunil Shori  
California Public Utilities Commission  
Consumer Protection & Safety Division  
505 Van Ness Avenue, Room 2203  
San Francisco, CA 94102  
Email: [sks@cpuc.ca.gov](mailto:sks@cpuc.ca.gov)