

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

Order Instituting Rulemaking on the
Commission's Natural Gas and Electric Safety
Citation Programs.

Rulemaking 14-05-013
(Filed May 15, 2014)

**OPENING COMMENTS OF THE ENERGY PRODUCERS AND USERS
COALITION ON THE PROPOSED ELECTRIC SAFETY CITATION PROGRAM**

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June 20, 2014

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Pursuant to the Order Instituting Rulemaking (OIR) issued May 21, 2014 in the above captioned proceeding, the Energy Producers and Users Coalition (EPUC)¹ provides its opening comments on the Proposed Electric Safety Citation Program.

I. INTRODUCTION

The Commission has initiated Rulemaking (R.) 14-05-013 to comply with legislative direction contained in Senate Bill (SB) 291. Adopted in the wake of the San Bruno incident, SB 291 directs the CPUC to adopt safety enforcement measures including a citation program, data tracking and analysis and issuance of citations. In response, the Commission proposed an electric safety citation program granting the Safety and Enforcement Division (SED) authority to issue

¹ EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, Chevron U.S.A. Inc., ExxonMobil Power and Gas Services Inc., Phillips 66 Company, Shell Oil Products US, Tesoro Refining & Marketing Company LLC, THUMS Long Beach Company, and Occidental Elk Hills, Inc.

citations for violations of existing General Orders, Commission decisions and regulations.

EPUC supports these efforts to deter future safety incidents, and agrees that citation authority will empower Commission staff to “*quickly address safety violations.*” EPUC urges the Commission, however, to clarify that SED will investigate and subject to potential citation:

- Any outage that directly or indirectly results in harm to persons or property;
- Repeated outages on the same circuit; and
- Outages occurring on circuits serving essential customers.

The Commission should also consider as grounds for citation violations of tariffs and industry standards.

While the jurisdiction of the CPUC is limited to the property of the utilities, service outages may have serious consequences for its customers. Failures in reliability and unplanned electric delivery outages may cause environmental, economic or physical harm. Clarifying the citation authority to clearly address these situations will serve the goals of SB 291 and encourage the utilities to avoid future reliability incidents.

II. EXISTING COMMISSION AUTHORITY AND SB 291 PROVIDE SED THE AUTHORITY TO INVESTIGATE SERVICE OUTAGES

The Public Utilities Code grants the Commission broad authority over the actions of the utilities. Section 702 gives the Commission plenary authority over the public utilities.² Section 451 requires that:

² Cal. Pub. Util. Code § 702.

*Every public utility shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment and facilities...as are necessary to promote the safety, health, comfort and convenience of its patrons, employees and the public.*³

Together these statutes give the Commission authority to regulate the public utilities and act as required to protect the safety of the public.

SB 291 was enacted in the wake of the San Bruno disaster and adopts Public Utilities Code §1702.5 which directs the CPUC to:

*[D]evelop and implement a safety enforcement program.... The enforcement program shall be designed to improve...electrical safety through the enforcement of applicable law or order or rule of the commission.*⁴

The Legislative Counsel's Digest of SB 291 suggests that the language was drafted on the understanding that the current law is broad and:

*[R]equires the commission to investigate the cause of all accidents...directly or indirectly arising from or connected with its maintenance or operation, resulting in loss of life or injury to person or property.*⁵

The legislation instructs the Commission to adopt a gas safety citation program by July 1, 2014 and an electric safety citation program by January 1, 2015.⁶ In addition to the grounds for enforcement, SB 291 directs the CPUC to set an administrative limit on monetary penalties, provide notice of violations and establish a process for appealing a citation.

The Commission opened this rulemaking to adopt an electric safety citation program and, following its implementation, address improvements and

³ Cal. Pub. Util. Code § 451.

⁴ Cal. Pub. Util. Code § 1702.5 (a).

⁵ SB 291.

⁶ Cal. Pub. Util. Code § 1702.5 (d).

refinements of both the electric and gas safety citation programs.⁷ As a starting point for developing the electric safety citation program, the Commission attached to the OIR a previously withdrawn draft resolution outlining an electric safety citation program.⁸

Under the proposed language of the electric safety citation program, SED may investigate and issue citations for failure to comply with the Commission's General Orders:

- 95: Rules and requirements for the construction and maintenance of overhead lines;
- 128: Rules and requirements for the construction and maintenance of underground lines;
- 165: Inspection standards for electric distribution and transmission facilities;
- 166: Requirements for preparation and response to emergencies and major outages; and
- 174: Inspection requirements for substations.

Beyond these General Orders, SED will have authority to address "*other applicable electric decisions, regulations and codes.*"⁹ The proposed language does not further specify the grounds for enforcement.

In addition to identifying the initial grounds for enforcement, the proposal authorizes SED Staff to assess penalties for each violation identified, and

⁷ The Commission previously adopted ALJ-274 to comply with the direction to adopt a gas safety citation program.

⁸ See Order Instituting Rulemaking 14-05-003, *Order Instituting Rulemaking on the Commission's Natural Gas and Electric Safety Citation Programs* (OIR), Attachment B.

⁹ OIR at B-2.

clarifies that citations can include multiple violations.¹⁰ The proposal provides for notice and appeal of violations as required by SB 291.¹¹

In general, and except as described below, EPUC supports the intent of SB 291 and the Commission's proposed electric citation program. Authorizing SED to identify and address safety incidents gives the Commission the ability to address safety incidents quickly and efficiently. As the program is developed and the Commission gains additional implementation experience, EPUC may offer additional refinements of the citation program.

III. UNPLANNED SERVICE OUTAGES MAY HAVE SAFETY CONSEQUENCES ON CUSTOMER PREMISES.

A utility's failure to provide reliable, quality electric power service can trigger safety implications including harm to persons or property on customer premises. Unplanned power outages, and even momentary excessive deviations in voltage and frequency, can affect the operation of critical medical, heating and cooling devices for residential customers. Public transit systems and regional traffic grids cannot function safely or efficiently without near-100% reliability. Power outages, excessive quality deviations, and delayed return-to-service for planned outages can also raise safety and environmental implications for industrial sites and otherwise detrimentally impact the safety and security of customer premises and property. Unplanned outages may lead to the emergency shutdown of a refinery which could result in market impacts, environmental consequences, mechanical damage or a potential safety incident.

¹⁰ OIR at B-5.

¹¹ OIR at B-18-B-20.

Unplanned service outages at oil fields can also harm people or property and may also lead to supply disruptions. The Commission should keep these considerations in mind as it frames its citation program to address service outages.

IV. THE COMMISSION SHOULD CLARIFY THE GROUNDS FOR INVESTIGATION UNDER THE CITATION PROGRAM IN ORDER TO AVOID SAFETY INCIDENTS.

EPUC proposes that the electric citation program should be clarified to ensure the Commission can actively monitor reliability failures that could cause safety incidents. Reliability failures may provide evidence of a violation of existing Commission General Orders, decisions, regulations, and codes. The Commission should also consider as grounds for enforcement violations of utility tariffs and industry standards.¹² In the event that an investigation finds a violation of an existing General Order, decision, tariff, regulation, code or industry standard the utility would be subject to penalty. For material deviations from industry standards, the Commission should consider both the frequency and magnitude of potential safety and reliability impacts to customers when deciding whether the deviation constitutes a violation. The result of this enhanced oversight should be improved system reliability. By improving the reliability of the utility's infrastructure, safety goals will be advanced.

The Commission requires the utilities to provide Annual Reliability Reports to the CPUC pursuant to D.96-09-045. The utilities report:

- Duration and frequency of momentary and sustained outages;

¹² Standards, such as ANSI C84.1 addressing service voltage deviations, can be considered as defining prudent electric utility practice.

- The top ten outages based on customer minutes (excluding identified weather events and events impacting 10% of customers); and
- Circuits experiencing 12 or more outages in the year.¹³

SED should rely on these reports for information on circuits that present potential safety and reliability concerns.

The Commission should expressly require an investigation of any outages, particularly outages disrupting end-use service, resulting in damage to persons or property. Additionally, the Commission should investigate patterns of outages and outages impacting essential customers, as well as the utility response to these outages. To identify these outages, the Commission can rely on the Annual Reports and investigate any outages on circuits that either experienced a top ten outage or more than 12 outages in a year.¹⁴ Additionally, the Commission should investigate any unplanned outages impacting essential use customers, as identified in the Commission's Priority System for Rotating Outages arising from supply shortages.¹⁵

These clarifications support the legislative intent of SB 291. The Legislative Digest highlights the Commission's responsibility to investigate all accidents resulting in harm to persons or property arising from utility service.¹⁶ Expressly clarifying the Commission's existing authority, and the utility's

¹³ See http://www.cpuc.ca.gov/PUC/energy/ElectricSR/Reliability/rel_stand.htm.

¹⁴ See <http://www.cpuc.ca.gov/PUC/energy/ElectricSR/Reliability/annualreports/>. Pursuant to D.96-06-045, identified utilities must provide reliability annual reports

¹⁵ D.91584 adopted a Priority System for Reliability Outages which identified essential customers exempted from rotating outages. The list of essential customers has developed over time. Notably D.01-06-085 exempted petroleum refineries, vital ancillary facilities and other customers in the critical fuels chain of production.

¹⁶ SB 291.

obligations, will encourage utilities to maintain facilities and equipment in the condition necessary to provide safe and reliable service. Improved reliability will not only serve the Commission's safety goals but will also avoid the safety, economic and environmental impacts that can stem from a service outage.

V. CONCLUSION

For all of the foregoing reasons, EPUC requests that the Commission consider the recommendations and make revisions to the electric citation program accordingly.

Respectfully submitted, epuc co

A handwritten signature in black ink that reads "Evelyn Kahl". The signature is written in a cursive style with a large initial 'E' and 'K'.

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