

**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
(Issued May 21, 2014)

**REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U39E)
ON ELECTRIC SAFETY CITATION PROGRAM**

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Dated: July 7, 2014

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I. INTRODUCTION

In accordance with the Order Instituting Rulemaking (OIR) issued on May 21, 2014, Pacific Gas and Electric Company respectfully submits these Reply Comments on the Electric Safety Citation Program attached as Attachment B to the OIR.

PG&E strongly supports the Commission's efforts to develop a safety enforcement program that will improve public and employee safety. PG&E looks forward to collaborating with the Commission and the various parties in this OIR to review other successful regulatory safety programs, and to develop a robust safety enforcement program, including a safety citation program that will enhance public and employee safety. Ensuring effective compliance, reducing risk, and improving safety culture are key elements in enhancing public safety. After reviewing the comments of other parties to this proceeding, PG&E is even more convinced that the challenge is to develop and apply enforcement strategies consistent with these key elements.

II. DISCUSSION

All parties supported the Commission's safety efforts. Many of the parties^{1/} reinforced the very concerns raised by PG&E:

1/ PG&E has received and reviewed opening comments from the California Coalition of Utility Employees (CUE), the Energy Producers and Users Coalition (EPUC), the Office of Ratepayer Advocates (ORA), PacifiCorp, Bear Valley Electric Service and Liberty Utilities (collectively referred to as CASMU), San Diego Gas & Electric Company (SDG&E) and the Southern California Edison Company (SCE).

- The Commission should review other safety enforcement programs and implement other elements of an enforcement program, such as procedures for monitoring, data tracking and analysis for a more targeted approach to the use of resources by both the utilities and the Commission;^{2/}
- The citation program should promote proportionality in enforcement and focus on violations that present a significant threat to public safety, applying sanctions commensurate to the seriousness of the potential risk or damage caused;^{3/}
- The utility should have an opportunity to fix any violation and to mobilize resources to do so quickly, consistent with General Order 95, Rule 18.A;^{4/}
- The citation program should include a pre-citation process, such as a “meet and confer.”^{5/} This is consistent with the values of greater efficiency, increased effectiveness, and encouraging collaboration and cooperation for safety improvements;
- The Commission should adopt an aggregate administrative limit on the amount of any monetary penalty per citation that may be imposed by Commission staff;^{6/}
- The Commission should clarify that staff has the discretion to issue penalties in amounts below the maximum of \$50,000 per violation, and should provide detailed guidance;^{7/}
- The Commission should revise the appeals process to place the burden of proof on staff, as staff is the party seeking to impose a fine;^{8/} and
- The citation program should not be retroactive.^{9/}

2/ See CUE at pp.3-5 ; CASMU at p. 4

3/ See SDG&E at pp.3-5.

4/ See SDG&E at pp.5-6; CASMU at p. 3; SCE at pp.10-11.

5/ See SDG&E at p. 19; SCE at p.11.

6/ See SDG&E at pp.14, 17; CASMU at p.5; SCE at pp. 2-4.

7/ See SCE at pp. 4-6.

8/ See SDG&E at p.15; SCE at pp. 7-8.

9/ See SDG&E at p.13; SCE at pp. 13-14.

In addition, several parties raised important points that PG&E had not addressed. For example, PG&E agrees with the Coalition of California Utility Employees (CUE) that the Commission’s safety enforcement program should incentivize self-reporting for an improved safety culture.^{10/} Although PG&E commented on the major impact of regulation on employees’ responses to, and reporting of, safety concerns, and possible unintended consequences, PG&E did not adequately point out the opportunities for positive outcomes in rewarding employees for identifying and reporting concerns. PG&E also appreciates CUE’s interest in studying the FAA safety reporting model and the need to consider citations as part of a broader “overarching” safety enforcement program.^{11/} PG&E wholeheartedly agrees with CUE that a “fear-based safety culture ... results in less than willingness to come forward with violations.”^{12/}

PG&E also agrees with Southern California Edison and San Diego Gas & Electric that the Commission needs to address non-compliance issues caused by third parties, in particular telecommunication providers.^{13/} PG&E recognizes that those entities are not directly covered by SB 291, but, from a safety perspective, it makes no sense to have different safety enforcement programs with respect to two joint owners of a joint pole, each of which is equally responsible for the safety and maintenance of the pole. As PG&E mentioned in our Opening Comments, improving consistency and clarity always has safety benefits.^{14/}

PG&E respectfully disagrees, however, with Energy Producers and Users Coalition’s (EPUC) position that any outage on a circuit serving essential customers or repeated outages on the same circuit should be subject to citation.^{15/} The focus needs to be on those issues that have the largest impact on public safety. A diffuse effort to cite any and all violations, even minor ones that do not impact safety, will not accomplish the improvement in reliability and safety that EPUC seeks.

10/ See CUE at pp.4-5.

11/ Id., at p. 4.

12/ Id., at p. 4.

13/ See SDG&E at p. 18; SCE at pp. 12-13.

14/ See PG&E Opening Comments, at pp. 4-5, 13-17.

15/ See EPUC at p. 6-8.

III. CONCLUSION

PG&E envisions real opportunity for improved effectiveness and efficiency in re-design and improvement of the CPUC's compliance and enforcement programs and gradual gravitation to be more compliance-focused, risk-based and supportive of cooperation. PG&E respectfully requests that the Commission hold workshops and hearings as previously requested and modify the draft electric safety citation program in the manner described in PG&E's Opening Comments and these Reply Comments.

Respectfully submitted,

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