



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: June 1, 2017
Citation #: D.16-09-055 G.17-05-001
Operator ID#: 18536

CITATION
ISSUED PURSUANT TO DECISION 16-09-055

Gas Corporation (Operator) To Which Citation is issued: Southwest Gas Corporation (SWG)

OFFICER OF THE RESPONDENT:

Jerry Schmitz
Vice President - Southwest Gas Corporation
5241 Spring Mountain Road
Las Vegas, NV 89193-8510

CITATION:

Operator is cited a financial penalty amount of \$200,000 for a single and continuing violation since establishment of the Distribution Integrity Management Program (DIMP) rule, effective date (February 2, 2010) and 18-month implementation period of August 2, 2011. The CPUC's Safety and Enforcement Division (SED) found this violation as a result of our DIMP Inspection of Southwest Gas conducted in 2016.

VIOLATIONS:

General Order 112-F, 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 Code of Federal Regulations (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 G.O. 112-F, Reference Title 49 CFR, Part 192 §192.1007(c) as identified below.

- 1. Title 49, CFR, Part 192 §192.1007 what are the required elements of an integrity management plan?**

§192.1007(c) Evaluate and rank risk states:

"Evaluate and rank risk. An operator must evaluate the risks associated with its distribution pipeline. In this evaluation, the operator must determine the relative importance of each threat and estimate and rank the risks posed to its pipeline. This evaluation must consider each applicable current and potential threat, the likelihood of failure associated with each threat, and the potential consequences of such a failure. An operator may subdivide its pipeline into regions with similar characteristics (e.g., contiguous areas within a distribution pipeline consisting of mains, services and other appurtenances; areas with common



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materials or environmental factors), and for which similar actions likely would be effective in reducing risk.”

The SWG's Distribution Pipeline Integrity (DPI) matrix is used in the assessment of the risk to its distribution pipeline system. SWG referenced the GPTC guidance for the development of the DPI matrix, the definition of risk provided by SWG contradicts the definition provided in the PHMSA's DIMP Enforcement Guidance published on January 29, 2014.

According to SWG's assessment procedure for the DPI application, a point value is assigned to each risk category for each segment. And then, the points from each risk category are summed up, and the total risk scores are used in assessing the risk associated with the pipelines. SED reviewed the risk categories in the DPI matrix and determined that the risk categories can be classified into three groups. Eighteen of the categories in the DPI matrix were related to probability, six to consequence and one to mitigation. The DPI matrix defines the risk as the sum of the point values in these twenty-five categories.

SED is concerned that the summation of the risk categories does not accurately identify the segments with the greatest risk. In fact, the method that is currently used by SWG could possibly result in a different prioritization than the method listed in the PHMSA's Enforcement Guidance (i.e., Risk = Probability X Consequence). Let's consider two hypothetical segments with the following scores for likelihood and consequence:

Segment	Likelihood	Consequence	SWG Method (Likelihood + Consequence)	PHMSA Method (Likelihood x Consequence)
1	50	50	100	2,500
2	10	90	100	900

The example above shows that while the two segments show the same risk scores using SWG's method, PHMSA's method indicates that segment 1 would have a higher risk than segment 2.

Given SWG's unique definition of risk, SED is concerned that the risk model does not necessarily address the segments with the highest risk.

Therefore, SWG is in violation of G.O. 112-F, Reference Title 49 CFR, Part 192 §192.1007(c).

Total Penalty Amount

As a result of the single, but continuing violation, SED determined the total citation amount of \$200,000 is reasonable Pursuant to Public Utilities Code section(s) §§ 2107, 2104.5 and 2108.

STATEMENT OF FACTS AND ENCLOSURES:

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

- 1- *Enclosure 1 – SED's Investigation Report dated January 31, 2017*
- 2- *Enclosure 2 – SED's 2016 SWG Distribution Integrity Management Program audit Report, dated January 31, 2017*



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*3- Enclosure 3 – SWG’s Response to SED’s 2016 SWG Distribution Integrity Inspection
Program audit Report dated February 28, 2017*

The violation in this citation was established based on the aforementioned three enclosures, 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, Part 192 §192.1007(c) occurred since the inception of the Distribution Integrity management Program (effective date of February 2, 2010) plus 18-month implementation period of (August 2, 2011). This implementation date of August 2, 2011 was used as SED's violation start date.</i>
Severity or gravity of the offense	<i>The violation is a fundamental flaw in this operator's Risk Algorithm thereby rendering this operator's Risk Assessment and gas Distribution Integrity Management Program inadequate. This violation resulted in fine amount of \$200,000.</i>
Conduct of the utility	<i>The utility continues to disagree with SED on the DIMP violation detected by SED.</i>
Self-reporting of the violation	<i>Not self-reported. Violations found as a result of SED's 2016 SWG General Order 112-F Distribution Integrity Management Program Audit</i>
Financial resources of the utility	<i>176,555 customers, \$ 94.7Million Revenue requirement</i>



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The totality of the circumstances	<p><i>(1) SWG's failed to apply the correct definition of risk in its Distribution Integrity Management Program as per Title 49 CFR, Part 192 §192.1007(c).</i></p> <p><i>The violation affects SWG's companywide Distribution Integrity Management Program.</i></p>
The role of precedent	N/A
Resultant Citation Taking All Of These Factors Into Account	\$200,000



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RESPONSE:

Respondent is hereby called upon to provide a response to this Citation by: **5:00 PM on July 1, 2017**. By way of such response, Respondent, **within 30 calendar days**, must either pay the amount of the penalty set forth in this citation¹, or appeal² 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.

¹ 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.

² 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 30 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.

A handwritten signature in blue ink, reading "Elizaveta Malashenko", written over a horizontal line.

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, SWG agrees to follow the remedies stated in Enclosure 1.

Signature of Southwest 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.



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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: June 1, 2017
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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