



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: January 30, 2015

Citation #: ALJ 274 15-01-005

Operator ID#: 31267

**CITATION FOR VIOLATION(S)
ISSUED PURSUANT TO RESOLUTION ALJ-274
OF GENERAL ORDER 112-E**

Gas Corporation (Operator): West Coast Gas Company
To Which Citation Is Issued

RESPONDENT:

Mark Williams
Operations Manager
West Coast Gas Company
9203 Beatty Drive, Sacramento, CA 94826

CITATION:

Operator is hereby cited for three violations resulting in a total financial penalty of \$ 100,000.

VIOLATIONS:

Operator is cited with having violated General Order 112-E, as described below. This violation occurred during the period 2008 through 2013.

**1. Title 49, CFR, §192.739 (a) Pressure limiting and regulating stations:
Inspection and testing**

(a) Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is -

(1) In good mechanical condition;

(2) Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;

(3) Except as provided in paragraph (b) of this section, set to control or relieve at the correct pressure consistent with the pressure limits of CFR, §192.201(a); and

(4) Properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.



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West Coast Gas Company (WCG) failed to perform annual maintenance of its Housing-Capehart Regulation Station in 2010, 2011, 2012, and 2013; therefore, WCG is in violation of CFR, §192.739 (a). WCG must inspect and test its regulator station at intervals not exceeding 15 months, but at least once each calendar year to ensure that it is in good mechanical condition, properly installed and protected, has adequate capacity and reliability and also confirm that the regulator and monitor are set to control or relieve at the correct pressures.

2. Title 49, CFR, §199.105 Drug tests required

Each operator shall conduct the following drug tests for the presence of a prohibited drug:

- (a) Pre-employment testing.*
- (b) Post-accident testing.*
- (c) Random testing.*
- (d) Testing based on reasonable cause.*
- (e) Return-to-duty testing.*
- (f) Follow-up testing.*

Title 49, CFR, §199.225 Alcohol tests required

Each operator shall conduct the following types of alcohol tests for the presence of alcohol:

- (a) Post-accident.*
- (b) Reasonable suspicion testing.*
- (c) Return-to-duty testing.*
- (d) Follow-up testing.*
- (e) Retesting of covered employees with an alcohol concentration of 0.02 or greater but less than 0.04.*

WCG did not administer the required pre-employment drug testing for one of its employees which is required by Title 49, CFR, §199.105 (a) when he first started to work for WCG in 2008 and WCG did not include him to its pool of covered employees for the years 2008 through 2013 for the drug and alcohol tests required by Title 49, CFR, §§ 199.105 (b) through (f) and 199.225 (a) through (e). WCG must administer all required drug and alcohol testing for all its employees and include them to its pool of covered employees that it tests for drug and alcohol and train them as required by CFR, Parts 199 and 40.

3. Title 49, CFR, §199.113 (c) Employee assistance program

(c) Training under each EAP for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause must include one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use.



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Title 49, CFR, §199.241 Training for supervisors

Each operator shall ensure that persons designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under § 199.225(b) receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

WCG has never provided necessary training for WCG's supervisor required by Title 49, CFR, §§ 199.113(c) and 199.241.

WCG must provide at least 60-minute training to its supervisors to educate supervisors on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use as required by CFR, §199.113 and keep training records as per CFR, §199.117.

WCG must provide at least 60-minute training to its supervisors to educate supervisors on how to recognize the physical, behavioral, speech, and performance indicators of probable alcohol misuse and determine the need to administer alcohol testing for its employees as required by CFR, §199.241 and keep training records as per CFR, §199.227.



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ENCLOSURES:

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

1. *Enclosure 1 – SED Investigation Report dated September 4, 2014*
2. *Enclosure 2 – SED 2013 WCG GO-112E Audit Findings dated November 4, 2013*
3. *Enclosure 3 – WCG Response to GO-112E Audit Findings dated January 15, 2014*
4. *Enclosure 4 – WCG Response to GO-112E Audit Findings, dated January 31, 2014*
5. *Enclosure 5 – SED Data Request to WCG, dated March 3, 2014*
6. *Enclosure 6 – WCG Response to SED Data Request, dated March 24, 2014*
7. *Enclosure 7– WCG Pre-employment testing record for an employee, dated April 25, 2014*
8. *Enclosure 8 – WCG email to SED, dated May 27, 2014*

STATEMENT OF FACTS:

The above violations are documented in the attached Enclosure 1 – SED Investigation Report which is based on one or more of the following: General Order (GO) 112-E Audit of WCG Comprehensive Operation, Maintenance, and Emergency Plans, Distribution Integrity Management Program, Operator Qualification Program, Drug Prevention and Alcohol Misuse Program, and Public Awareness Program,

WCG's responses to the audit findings and follow up written correspondence, operator's records and/or substantiating documents obtained from WCG, SED's field findings related to the Operator's facilities or operations, or other reasons as stated in the attached report.



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SED CITATION ANALYSIS

Element of Sentencing Schedule	Staff Finding
Number of violation (s) and duration of violation (s) since inception	Three violations of Title 49 CFR, §192.739(a) from 2010 to 2013; CFR §199.105(a)-(f), §199.225 (a)-(e), CFR §199.113(c), and §199.241 from 2008 through 2013
Severity of the offense: overall level of risk of violation(s)	These violations contributed unnecessary risk to the utility's operations prior to corrective action
The conduct of the utility before, during, and after the offense	The utility is being cooperative and has undertaken corrective actions
Previous occurrence of similar violations by the utility	N/A
Self-reporting of the violation	Not self-reported. Violation found as a result of GSRB 2013 WCG GO-112E Audit
Indication of the violation (s) being willful	No
Actions taken by the utility to address the violation	Refer to Enclosures 3, 4, 6, 7, and 8
Associated safety related condition	N/A
Financial resources of the utility	1381 customers, \$2.27 Million Revenue requirement
The totality of the circumstances	SED applied the factors contained in Public Utilities Code 2104.5 in its determination of the citation amount
Other factors deemed relevant by SED	See Enclosure 1



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**Resultant Citation Taking All Of These
Factors Into Account**

\$100,000.00



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RESPONSE:

Respondent is hereby called upon to provide a response to this Citation by: **5:00 PM (PST) on February 9, 2015.**

By way of such response, Respondent, **within 10 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 10 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 Operator's employees and the general public, and/or submit a Compliance Plan to the Director of SED for correcting those violations requiring more than 10 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 Resolution ALJ-274" for information on the appeals process and the attached "Notice of Appeal 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 10 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.

NOTIFICATION TO PUBLIC AGENCIES:

As soon as is reasonable and necessary, and no later than 10 calendar days after service of the citation is effected, Respondent must provide a notification to the City Manager or similar local agency authority in the city and county where a citation is issued. 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.



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The CPUC expects Operators 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 black ink, appearing to read "Elizaveta Malashenko", written over a horizontal line.

Elizaveta Malashenko
Deputy Director
Office of Utility Safety and Reliability
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 Gas Corporation's Treasurer,
Chief Financial Officer, or President/CEO, 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
ISSUED PURSUANT TO RESOLUTION ALJ-274**

Within 10 calendar days of the Respondent being served with a **CITATION FOR VIOLATION(S) ISSUED PURSUANT TO RESOLUTION ALJ-274**, Respondent may appeal the citation. Beyond 10 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 10 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 Gas 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 be served, 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 Division of Ratepayer Advocates

within 10 calendar days of the date on which the Appellant is served the Citation at the address listed below. 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 SED receives 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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Notice of Appeal Form

Appeal of PG&E from Citation ALJ 274 15-01-005 issued by Safety and Enforcement Division (For A Citation Issued Pursuant to Resolution ALJ-274)

Appellant:

Name
Vice President, Gas Operations
Gas Utility Name
Mailing Address
City, CA Zip

Citation Date:
Citation #: ____-____-____
Operator ID#:
Appeal Date: _____

"Appeal of [insert Operator Name] from [insert Citation number] issued by Safety and 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