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**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

October 10, 2011

Agenda ID #10749

**TO INTERESTED PARTIES:**

The attached draft Resolution ALJ-274 proposes to delegate specified authority to the Consumer Protection and Safety Division Staff, or such other Staff as may be designated by the Executive Director, to issue citations to all gas corporations to enforce compliance with General order 112-E and the Code of Federal Regulation, Title 49, Parts 190, 191, 192, 193, and 199. The draft Resolution will be on the agenda at the November 10, 2011 Commission meeting. The Commission may then vote on this draft resolution, or it may postpone a vote.

When the Commission acts on the draft resolution, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own order. Only when the Commission acts does the resolution become binding on the parties.

You may serve comments on the draft resolution. Opening comments shall be served no later than October 21, 2011, and reply comments shall be served no later than October 26, 2011. Opening comments shall be limited to ten pages in length, plus a subject index listing the recommended changes to the draft resolution, a table of authorities, and appendix setting forth the proposed findings and ordering paragraphs. Reply comments shall not exceed five pages. Comments shall focus on the factual, legal, or technical errors in the draft resolution, and shall make specific reference to the record or applicable law. Comments which fail to do so will be accorded no weight and are not to be submitted.

Service is required on all persons on the attached service list. Service should be made electronically, unless no e-mail address is provided. Comments shall be served consistent with the requirements of Pub. Util. Code § 311(g) and Rules 1.9, 1.10, and 14.5 of the Rules of Practice and Procedure.

Finally, comments must be served separately on Administrative Law Judge Minkin at [angela.minkin@cpuc.ca.gov](mailto:angela.minkin@cpuc.ca.gov), and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ STEVEN KOTZ for  
Karen V. Clopton, Chief  
Administrative Law Judge

KVC:gd2

Attachment

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

Resolution ALJ-274  
Administrative Law Judge Division  
November 10, 2011

**RESOLUTION**

RESOLUTION ALJ-274. Establishes Citation Procedures for the Enforcement of Safety Regulations by the Consumer Protection And Safety Division Staff for Violations by Gas Corporations of General Order 112-E and Code of Federal Regulations, Title 49, Parts 190, 191, 192, 193, and 199.

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**1. Summary**

This Resolution delegates specified authority to the Consumer Protection and Safety Division Staff, or such other Staff as may be designated by the Executive Director, to issue citations to all gas corporations to enforce compliance with General Order (GO) 112-E. GO 112-E contains specific rules governing the design, construction, testing, maintenance, and operation of utility gas gathering, transmission, and distribution pipeline systems and supplements compliance with the federal standards set forth in the Code of Federal Regulations, Title 49, Parts 190, 191, 192, 193, and 199.

The citation program described herein delegates to Staff<sup>1</sup> the authority to draft and issue citations for violations of GO 112-E and the Code of Federal Regulations, Title 49, Parts 190, 191, 192, 193, and 199. We delegate to Staff the authority to require immediate cure of the violations and to levy fines for violations in the amounts prescribed for penalties by Public Utilities Code § 2107. Each violation is a separate and distinct offense and ongoing violations are separate and distinct offenses, consistent with Public Utilities Code § 2108. Penalty payments are the responsibility of shareholders of the investor-owned natural gas utilities and are not to be charged to ratepayers. This Resolution also sets forth the appeal process for objecting to such citations.

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<sup>1</sup> As used throughout this resolution, the term "Staff" refers to Consumer Protection and Safety Division Staff or such other Staff as may be designated by the Executive Director to carry out the particular functions involved.

## 2. Jurisdiction and Authority

The Commission has broad regulatory authority, as set forth in Article XII of the California Constitution and § 701 of the Public Utilities Code.<sup>2</sup> Section 701 authorizes the Commission to “supervise and regulate every public utility in the State . . . and do all things, whether specifically designated in [the Public Utilities Act] or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.”

As mandated in § 702:

Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the commission in the matters specified in this part, or any other matter in any way relating to affecting its business as a public utility, and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees.

Pursuant to § 451 each public utility in California must:

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.

Indeed, the Commission has stated that “[t]he duty to furnish and maintain safe equipment and facilities is paramount for all California public utilities.<sup>3</sup>

Pursuant to § 2101, the Commission is directed “to see that the provisions of the constitution and the statutes of this State affecting public utilities, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed. . .”

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<sup>2</sup> All statutory references are the Pub. Util. Code, unless otherwise noted.

<sup>3</sup> Decision (D.) 11-06-017 at 16.

Pursuant to § 768<sup>4</sup> and other relevant authority, the Commission has adopted, and at various times amended GO 112-E (Rules Governing Design, Construction, Testing, Maintenance, and Operation of Utility Gas Gathering, Transmission, and Distribution Piping Systems).

Pub. Util. Code § 7 allows the Commission to delegate certain tasks to Commission Staff. The Commission may lawfully delegate to its Staff the performance of certain functions, including the investigation of facts preliminary to agency action and the assessment of specific penalties for certain types of violations.<sup>5</sup> The primary purpose of an effective enforcement program should be to deter misbehavior or illegal conduct by utilities and other entities subject to Commission jurisdiction thereby ensuring that both the employees of the utility and the public it serves are properly protected from the inherent hazards of providing utility services. To increase the effectiveness of our safety program, it is reasonable to provide our Staff with an additional enforcement procedure to ensure that utilities adhere to their statutory and service obligations.<sup>6</sup>

The delegated authority we approve today is designed to allow our Consumer Protection and Safety Division (CPSD) Staff inspectors, or such other Staff as may be designated by the Executive Director, to issue citations as part of their inspection duties in order to help ensure the safety of gas facilities and the utilities' operating practices. Such regulatory authority does not in any way diminish the utilities' primary responsibility in operating their facilities. As the Commission noted in D.61269:

It is recognized that no code of safety rules, no matter how carefully and well prepared, can be relied upon to guarantee complete freedom from accidents. Moreover, the promulgation of precautionary safety rules does not remove or minimize the primary obligation and responsibility of respondents to provide safe service and facilities in their gas operations. Officers and employees of the respondents must continue to be ever conscious

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<sup>4</sup> In relevant part, § 768 provides that the Commission "may, after a hearing, require every public utility to construct, maintain, and operate its line, plant, system, equipment, apparatus, tracks, and premises in a manner so as to promote and safeguard the health and safety of its employees, passengers, customers, and the public. . . The commission may establish uniform or other standards of construction or equipment, and require the performance of any other act which the health or safety of its employees, passengers, customers, or the public may demand."

<sup>5</sup> D.09-05-020 at 8.

<sup>6</sup> Our jurisdiction to create citation programs is well-established. We have adopted similar citation programs in several other areas. See Commission Resolutions E-4195 (resource adequacy), ROSB-002 (transportation), UEB-002 (telecommunication), USRB-001 (propane), and W-4799 (water and sewer).

of the importance of safe operating practices and facilities and of their obligation to the public in that respect.<sup>7</sup>

### 3. GO 112-E

Pursuant to the requirements of Pub. Util. Code §§ 451 and 768, GO 112 was first adopted in 1960, in D.61269.<sup>8</sup> GO 112 prescribes the rules governing the design, construction, testing, maintenance, and operation of utility gas gathering, transmission and distribution piping systems. Over the years, GO 112 has been amended several times, and is now designated as GO 112-E, which incorporates by reference the Federal Pipeline Safety Regulations, specifically Title 49 of the Code of Federal Regulations (49 CFR), Parts 190, 191, 192, 193, and 199.<sup>9</sup> GO 112-E specifically states that “these rules do not supersede the Federal Pipeline Safety Regulations, but are supplements to the Federal Regulations.”<sup>10</sup>

As stated in GO 112-E, Rule 102.1, “the purpose of these rules is to establish, in addition to the Federal Pipeline Safety Regulations, minimum requirements for the design, construction, quality of materials, locations, testing, operations, and maintenance of facilities used in the gathering, transmission, and distribution of gas and in liquefied natural gas facilities to safeguard life or limb, health, property and public welfare and to provide that adequate service will be maintained by gas utilities operating under the jurisdiction of the commission.” Rule 102.2 of GO 112-E states that the rules are “concerned with safety of the general public and employees’ safety to the extent they are affected by basic design, quality of the materials and workmanship, and requirements for testing and maintenance of gas gathering, transmission and distribution facilities and liquefied natural gas facilities.”

### 4. San Bruno Explosion and Independent Review Panel Report

On September 9, 2010, a portion of Line 132, installed, operated, and maintained by Pacific Gas and Electric Company (PG&E), ruptured in San Bruno, CA, and the ensuing explosion and fire killed eight people, injured many others, destroyed 38 homes, and damaged 70 additional homes. On September 23, 2010, the Commission issued Resolution L-403, which, among other things, established the Independent Review

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<sup>7</sup> D.61269, 58 CPUC 1<sup>st</sup> at 420.

<sup>8</sup> *Id.* at 413.

<sup>9</sup> D.95-08-053, 61 CPUC 2d at 190.

<sup>10</sup> GO 112-E, Rule 101.2.

Panel to gather and review facts related to the San Bruno explosion and make recommendations for the safe management of PG&E's natural gas transmission lines.

In assessing the Commission's oversight authority, the Independent Review Panel recommended that "[t]he CPUC should seek to align its pipeline enforcement authority with that of the State Fire Marshal's by providing the CPSD staff with additional enforcement tools modeled on those of the OSFM [Office of State Fire Marshal] and the best from other states."<sup>11</sup> The Panel noted that Pipeline Safety Division of the OSFM has the authority to initiate and conclude enforcement actions and to assess civil penalties without initiating the same kind of formal processes and procedures that is currently required at the Commission.<sup>12</sup>

The OSFM model is similar to and is based on the model used for informal enforcement at the Pipeline and Hazardous Material Safety Administration (PHMSA). PHMSA is part of the United States Department of Transportation and its Office of Pipeline Safety administers the Department's national regulatory program to assure the safe transportation of natural gas, petroleum, and other hazardous materials by pipeline. The federal Office of Pipeline Safety develops regulations and other approaches to risk management to assure safety in design, construction, testing, operation, maintenance, and emergency response of pipeline facilities.<sup>13</sup>

PHMSA is the federal agency broadly charged with overseeing safety of all interstate and intrastate pipelines, and is responsible for the federal rules which are incorporated into the Commission's GO 112-E. As provided by federal law, PHMSA has jurisdiction over intrastate pipeline facilities, while California and 47 other states regulate intrastate gas pipeline facilities through an annual certification program. As with most other states, California has adopted additional safety standards for pipeline facilities that are more stringent than the federal requirements.

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<sup>11</sup> Independent Review Panel Report, Recommendation 6.7.3.1 at 104

<sup>12</sup> Pursuant to Government Code §§ 51010 *et seq.*, the OSFM has safety and enforcement jurisdiction over intrastate hazardous *liquid* pipelines. In particular, Government Code §§ 51018.6 *et seq.* mandates that the State Fire Marshal shall adopt regulations for conducting enforcement proceedings and provides that violations may result in civil penalties of \$10,000 per day that the violation exists, up to \$500,000 per occurrence.

<sup>13</sup> See generally, <http://www.phmsa.dot.gov/portal/site/PHMSA>.

## 5. National Transportation Safety Board Recommendations

On August 30, 2011, the National Transportation Safety Board (NTSB) adopted its Pipeline Accident Report on the rupture of PG&E's Line 132, which included findings, the probable cause of the San Bruno explosion and several recommendations.<sup>14</sup> The NTSB strongly recommends that the Governor of the State of California expand the Commission's Pipeline Safety Division staff enforcement authority and ensure that Commission staff has the authority to issue fines and penalties. The Resolution we adopt today is consistent with both the NTSB's and the Independent Review Panel's recommendations.

## 6. Delegation of Authority to Commission Staff

We hereby delegate to Staff the authority to issue citations for violations and to ensure that immediate hazards to public safety are addressed and repaired without delay. These actions will significantly expand the enforcement tools available to our Staff and should help to ensure prompt correction of potential safety violations. We find it is reasonable and necessary to delegate to Staff the ability to issue citations to any gas corporation for violations of GO 112-E and CFR, Title 49, Parts 190, 191, 192, 193, and 199.

This Resolution gives Staff the authority to issue a written citation to any gas corporation, stating the specific violation, the amount of the fine, and information about how to appeal the citation, pursuant to the procedures provided herein. Staff has the authority to issue such a written citation and require that the violation be cured at, or soon after, the time Staff identifies a violation. So long as the violation does not pose an immediate safety hazard, the citation will provide a time period not to exceed seven calendar days from the date of issuance for the utility to cure the violation and either pay the penalty or file a Notice of Appeal. The procedures for issuing citations and for filing a Notice of Appeal are set forth in Appendix A. Each citation will assess the maximum penalty amount provided for by § 2107. Pursuant to § 2108, each violation is a separate and distinct offense; to the extent that a violation is ongoing, each day's continuance is a separate and distinct citable offense.

Payment of a citation or filing an appeal does not excuse the utility from curing the violation, nor does it prevent the Commission from taking other remedial measures, including, but not limited to, (i) issuing corrective orders and other compliance orders, such as an expedited order to show cause, and (ii) issuing an order instituting investigation in the event the underlying violation is unresolved or becomes part of a

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<sup>14</sup> NTSB's Report was posted on its website on September 26, 2011:

<http://www.nts.gov/doclib/reports/2011/PAR1101.pdf>

pattern and practice of unresolved violations. The Commission's regulatory mandate is to ensure that utilities provide safe and reliable service at reasonable rates; authorizing Staff to issue citations is necessary to fulfill that mandate. We require that the utilities cure any violations within no more than seven calendar days and we establish fines at the maximum level to protect the public interest, as well as to ensure compliance with the Commission's orders and the Public Utilities Code. We provide the opportunity to request a one-time extension of no more than seven additional days to cure the cited violation, provided that the request is made within three calendar days of the date the citation is issued and is supported by an affidavit from the Respondent's Chief Executive Officer stating that in the Respondent's best judgment, the extension will not affect the safety or integrity of the operating system or endanger public safety.

Nothing in the citation program we approve today interferes with the utilities' requirements to maintain and operate their systems safely, including invoking any necessary emergency response procedures to address immediate safety hazards, or any other procedures necessary to ensure that immediate safety hazards are promptly corrected. To the extent that Staff discovers violations that constitute immediate safety hazards, pursuant to § 702, Staff has existing authority to ensure that those violations are promptly corrected. The citation program we approve today is cumulative to all other applicable provisions of state and federal law that provide for sanctions against violators, including but not limited to §§ 2112 and 2113, and does not affect or limit the tort liability of the gas system operator.

The citation program provided for above and in Appendix A applies to all gas corporations subject to the Commission's jurisdiction.

### **Notice and Comment**

A draft of this Resolution was issued to jurisdictional gas utilities and other interested parties in accordance with Section 311 of the Public Utilities Code. Comments were allowed under Rule 14.5 of the Commission's Rules of Practice and Procedure.

Comments were filed by \_\_\_\_\_ and reply comments were filed by \_\_\_\_\_.

## Findings

1. Pub. Util. Code § 701 authorizes the Commission to supervise and regulate every public utility in the State.
2. Pub. Util. Code § 702 mandates every public utility to obey and promptly comply with every Commission order, decision, direction, or rule.
3. Pub. Util. Code § 2101 directs the Commission to see that the provisions of the State constitution and statutes dealing with public utilities are addressed and obeyed.
4. California law, including Pub. Util. Code § 7, authorizes the commission to delegate certain powers to its Staff, including the investigation of acts preliminary to agency action, and the issuance of citations for certain types of categories of violations up to specified amounts.
5. The citation program for gas corporations, as provided for above and in Appendix A, is necessary to ensure, effective, prompt, and efficient enforcement of Commission decisions and orders.
6. The citation program, as provided for above and in Appendix A, is similar to citation programs previously adopted by the Commission for other utilities.
7. The citation program, as provided for above and in Appendix A, is reasonable, and will facilitate achieving compliance with Commission decisions and orders to protect public safety and to deter future violations.
8. It is reasonable to assess penalties for each violation at the maximum amount set forth in Pub. Util. Code § 2107; this approach is consistent with the Commission's broad regulatory powers to protect public safety and to ensure compliance with the Commission's orders and the Public Utilities Code.
9. As set forth in Pub. Util. Code § 2108, each violation is a separate and distinct offense; to the extent that a violation is ongoing, each day's continuance is a separate and citable offense.
10. The Commission needs the flexibility for its Executive Director to designate CPSD Staff or such other Staff who may be most appropriate to carry out the various functions involved in the citation program described in this Resolution.
11. The gas pipeline citation program should allow a Respondent to appeal Staff-issued citations.

12. Payment of a citation or filing an appeal does not excuse the gas corporation from promptly curing cited violations, and does not preclude the Commission from taking other remedial measures.
13. Penalty payments are the responsibility of shareholders of the gas corporation and shall not be charged to ratepayers.
14. Nothing in the citation program we approve today interferes with the gas corporations' requirements to maintain and operate their systems safely, including invoking any necessary emergency response procedures to address immediate safety hazards, or any other procedures necessary to ensure that immediate safety hazards are promptly corrected.
15. To the extent that Staff discovers violations that constitute immediate safety hazards, pursuant to § 702, Staff has existing authority to ensure that violations are promptly corrected.

**THEREFORE, IT IS ORDERED** that:

1. The Commission delegates authority to the Consumer Protection and Safety Division Staff, or such other Staff as may be designated by the Executive Director, to issue citations to and to levy fines on gas corporations to enforce compliance with General Order 112-E and the Code of Federal Regulations, Title 49, Parts 190, 191, 192, 193, and 199, under the procedures contained in Appendix A.
2. The Citation Procedures and Appeals Process set forth in Appendix A is hereby adopted to govern the issuance and appeal of citations for violation of statutes, orders, or rules relating to investor-owned natural gas utilities.
3. Penalty payments are the responsibility of shareholders of the gas corporations and shall not be charged to ratepayers.
4. Gas corporations shall cure any cited violation within seven calendar days or request a one-time extension of no more than seven calendar days, pursuant to the procedures described in Appendix A, Section C.1.a-c. Payment of a penalty or submitting a Notice of Appeal does not exempt the utility from curing the cited violation. Violations that constitute immediate safety hazards may require correction within a shorter timeline.

This resolution is effective today.

I hereby certify that this Resolution was duly introduced, passed, and adopted by the Public Utilities Commission of the State of California at its regular business meeting held on \_\_\_\_\_. The following Commissioners approved it:

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PAUL CLANON  
Executive Director

## Appendix A

### Citation Procedures and Appeal Process

#### I. Citation Procedures

##### A. Contents of Citation

1. A specification of each alleged violation, including citation to the portion of General Order 112-E (including, where relevant, citation to the specific rule in CFR, Title 49, Parts 190, 191, 192, 193, and 199) allegedly violated;
2. A statement of the facts upon which each alleged violation is based;
  - (a) While the citation need not include all supporting evidence, Staff will make the evidence available for timely inspection upon request by the Respondent;
3. The amount of the fine;
4. A statement that the Respondent shall cure the violation and, in addition, may pay the amount of the fine set forth in the citation, or appeal the citation and deposit the penalty amount in escrow with the Commission's Fiscal Office, and that the Respondent will forfeit the right to appeal the citation by failing to do one of these things within seven calendar days;
5. A Citation Payment Form;
6. An explanation of how to file an appeal, including the Respondent's right to have a hearing, to have a representative at the hearing, to request a transcript, and to request an interpreter; and
7. A form for Notice of Appeal.

##### B. Service of Citation.

1. Service of the citation shall be effected either personally in the field or to an officer of the Respondent by electronic mail or by first-class mail.
2. Citations served by first class mail may be sent to the Respondent's business address, or the address for the service of process of the Respondent has on file with the Secretary of State of California.

3. On the same date that Staff serves a citation in the field, Staff must also serve a copy of citations issued in the field to an officer of the Respondent at the Respondent's business address.
4. Service is effective upon the date the citation is served personally in the field or on the Respondent by electronic mail or first-class mail.

### C. Response to Citation

1. Within seven calendar days after the date of service of the citation, Respondent shall cure the violation or request a one-time extension of time to do so. In addition, Respondent shall remit payment of the full amount of the fine, as set forth in Section I.D.1, with notice to Staff, or submit and serve a Notice of Appeal, as set forth in Section II, below.
  - a. Respondent may pay the fine and request a one-time extension of no more than seven calendar days to cure the violation, provided that the request for extension is made within three calendar days of the date of service of the citation and is supported by an affidavit from the respondent's Chief Executive Officer stating that in the respondent's best judgment, the extension to cure the violation will not affect the safety or integrity of the operating system or endanger public safety.
  - b. The affidavit described in Section II.C.a. shall include:
    - (1) The name of the person and that person's position that the Chief Executive Officer relied upon for this declaration, and
    - (2) An explanation of why the extension to cure the violation will not affect the safety or integrity of the operating system or endanger public safety.
  - c. The Director of CPSD or the Executive Director may consider and grant or deny such a request. No further requests for extensions of time to comply will be granted.

2. Unless otherwise specified, a requirement to notify Staff or serve Staff means to send a written communication by first-class mail or an express mail service to the address specified in the citation.

a. These written communications are not filed with the Commission's Docket Office.

b. Staff may specify an e-mail address in order to allow electronic submissions in addition to, or instead of, communications by mail service,

D. Payment of fine; default.

1. All cited violations must be cured, as set forth in Section I.C.1. Payment of fines shall be submitted to the Commission's Fiscal Office, 505 Van Ness Avenue, San Francisco, CA 94102, in the form of certified check, payable to the California Public Utilities Commission.

a. The respondent shall include the citation number and shall include a completed Citation Payment Form.

b. Upon payment, the fine will be deposited in the State Treasury to the credit of the State General Fund.

2. If Respondent pays the full amount of the fine within the time allowed, the citation shall become final.

3. Failure to pay the full amount of the fine or to file a Notice of Appeal will place Respondent in default, the citation shall become final, and the Respondent will have forfeited its right to appeal the citation. A late payment is subject to a penalty of 10 percent per year, compounded daily and to be assessed beginning the calendar day following the payment-due date.

II. Appeal.

A. If Respondent wishes to appeal a citation, Respondent shall submit a Notice of Appeal of Citation to the Director of CPSD.

1. Respondent/Appellant must submit a Notice of Appeal of Citation within seven calendar days from the date service of the citation is effected, and shall serve the Commission's Executive Director, the Chief Administrative Law Judge (ALJ), the General Counsel, and the Director

of the Division of Ratepayer Advocates. The Director of CPSD shall promptly notify the Chief ALJ of the Notice of Appeal.

2. Submitting a Notice of Appeal does not excuse the Respondent from curing the violation described in the citation. The Respondent/Appellant must deposit the penalty amount with the Commission's Fiscal Office, to be held in escrow until the appeal is resolved. The appeal must explain with specificity each and every ground for the appeal.

B. Upon being notified of the Notice of Appeal by the Director of CPSD, the Chief ALJ shall promptly designate an ALJ to hear the appeal.

C. The assigned ALJ shall set the matter for hearing promptly. The Respondent/Appellant and Staff will be notified at least ten days in advance of the time, date and place for the hearing. The ALJ may, for good cause shown or upon agreement of the parties, grant a reasonable continuance of the hearing.

D. Any appeal of a citation shall be heard in the Commission's courtroom in San Francisco or Los Angeles, at the discretion of the Commission.

E. Upon a good faith showing of language difficulty, the Respondent will be entitled to the services of an interpreter at the Commission's expense upon written request to the assigned ALJ and the Public Advisor's Office not less than three business days prior to the date of the hearing.

F. The Respondent/Appellant may order a transcript of the hearing, and shall pay the cost of the transcript in accordance with the Commission's usual procedures.

G. Staff has the burden to prove a prima facie case supporting its issuance of the citation for the alleged violation; the burden then shifts to Respondent/Appellant to demonstrate that a violation did not occur and the citation should not issue.<sup>1</sup>

H. Respondent may be represented at the hearing by an attorney or other representative, but such representation shall be at the

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<sup>1</sup> As most recently stated in D.11-09-006, "[t]he duty to furnish and maintain safe equipment and facilities falls squarely on California public utilities, including PG&E. The burden of proving that particular facilities are safe also rests with PG&E." (D.11-09-006 at 6.)

Respondent's sole expense. Rule 13.6 (Evidence) of the Commission's Rules of Practice and Procedure is applicable.

I. Ordinarily, the appeal will be submitted at the close of the hearing. Upon a showing of good cause, the ALJ may keep the record open for a reasonable period to permit a party to submit additional evidence or argument.

J. Within 60 days after the appeal is submitted, the ALJ will issue a draft resolution resolving the appeal. The draft resolution will be placed on the first available agenda, consistent with the Commission's applicable rules. Parties may file comments on the draft resolution pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure.

K. A resolution approved by the Commission is subject to rehearing pursuant to Public Utilities Code Section 1731 and to judicial review pursuant to Public Utilities Code Section 1756.

L. During the period described in the next sentence, none of the following may communicate regarding the appeal, orally or in writing, with a Commissioner, Commissioner's advisor, Chief ALJ, Assistant Chief ALJ, or assigned ALJ: the Respondent, the Staff that issued or is enforcing the citation, or any agent or other person on behalf of the Respondent or such Staff.

1. This prohibition applies from the date of service of the citation and extends to and includes the date when the period to apply for rehearing of the Commission resolution on the appeal has expired and no application for rehearing has been filed, or if an application for rehearing is filed, the date when the period to seek judicial review of the decision finally resolving the application for rehearing has passed without any party seeking judicial review; or if judicial review is sought, the date any court cases are resolved.
2. Inquiries strictly limited to procedural matters are permitted.

**(END OF APPENDIX A)**

[Minkin Comment Resolution ALJ-274 Service List](#)