

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Safety and Enforcement Division
Gas Safety and Reliability Branch**

**Resolution SED-7
May 19, 2022**

R E S O L U T I O N

This Resolution Approves the Settlement Agreement Between the Safety and Enforcement Division (SED) and Glenview Mobile Lodge in Resolution of SED's Citation No G-20-08-001 Related to Glenview Mobile Lodge's Violations of General Order 112-F.

SUMMARY

In this Resolution, the California Public Utilities Commission (Commission) approves a Settlement Agreement between the Safety and Enforcement Division (SED) and David Mandagie (Mandagie), Owner and Operator of Glenview Mobile Lodge, whereby Mandagie has agreed to pay a \$25,000 penalty to the Commission for his failure to comply with General Order (GO) 112-F, which incorporates by reference Title 49 Code of Federal Regulations (C.F.R.) part 192. Mandagie has further agreed to a probationary compliance period which subjects him to a \$15,000 penalty if he is cited for future violations during the probationary compliance period and fails to correct those violations after being given proper notice and time to cure. For each month that Mandagie fails to remediate any future violations, he will accrue an additional \$1,000 in penalties.

BACKGROUND

On February 15, 2018, SED performed a safety compliance inspection at Glenview Mobile Lodge and discovered ten violations of GO 112-F. The ten violations included: (1) one violation of GO-112-F, 49 C.F.R. § 192.605(a), failure to have a manual of written procedures for conducting operations and maintenance activities; (2) one violation of GO-112-F, 49 C.F.R. § 192.605(b)(3), failure to have a gas map and operating history of the gas distribution system; (3) one violation of GO 112-F, 49 C.F.R. § 192.616, failure to have a written procedure that addresses public awareness messages; (4) one violation of GO 112-F, 49 C.F.R. § 192.723, failure to perform gas leakage surveys as frequently as necessary, or as least once every five calendar years; (5) one violation of GO 112-F, 49 C.F.R. § 192.747, failure to check and service the valve(s) associated with the safe operation of a distribution system; (6) one violation of GO 112-F, 49 C.F.R. § 192.805, failure to have a written qualification program for pipeline personnel; (7) one violation of GO 112-F, 49 C.F.R. § 192.1015(a), failure to have a

written Integrity Management Plan; (8) one violation of GO 112-F, 49 C.F.R. § 192.357, failure to minimize anticipated stresses upon the connecting pipe and meter; (9) one violation of GO 112-F, 49 C.F.R. § 192.479, failure to clean and coat an aboveground pipeline that is exposed to atmospheric corrosion; and (10) one violation of GO 112-F, 49 C.F.R. § 192.353, failure to protect a gas meter and service regulator from anticipated vehicular damage. SED provided a copy of the February 15, 2018 inspection report to Mandagie on the same day of the inspection. Mandagie was required to provide, within 30 days, a compliance plan for correcting the safety violations, including if appropriate, a timeline for completing necessary repairs or improvements to the distribution system in accordance with Public Utilities Code section 4355. Mandagie failed to provide a compliance plan, in violation of section 4355.

On March 28, 2018, SED sent a certified letter to Mandagie directing that a remedial action plan for correcting the violations be provided to SED within 30 days of receipt of the letter. The March 28, 2018 letter informed Mandagie that a failure to correct the cited violations could result in a fine of up to \$1,000 per day, not to exceed \$200,000 for a single violation or a series of related violations, as a misdemeanor under Public Utilities Code section 4357. Mandagie failed to act and respond to the March 28, 2018 letter.

On May 4, 2018, SED sent a second certified letter to Mandagie, including a copy of the February 15, 2018 inspection report, directing Mandagie to submit a plan for remedial action for correcting the violations within 30 days of receipt of the letter. Mandagie failed to act and respond to the May 4, 2018 letter.

On December 16, 2019, SED send a third certified letter to Mandagie directing that a plan for remedial action for correcting the violations be provided within 30 days of receipt of the letter. Mandagie failed to act and respond to the December 16, 2019 letter. Mandagie was uncooperative in responding to SED's requests for a plan for remedial action for correcting the violations.

On August 24, 2020, SED issued Citation No. G-20-08-001, pursuant to Decision 16-09-055, (Citation Notice) to Mandagie citing a financial penalty amount of \$50,000 for violating GO 112-F, which incorporates by reference Title 49 Code of Federal Regulations, Part 192. The citation was issued for Mandagie's failure to remediate, in a timely manner, the ten violations SED discovered during the February 15, 2018 inspection. The Citation Notice required Mandagie to pay or appeal the citation by September 30, 2020. Mandagie did not pay or appeal the citation by September 30, 2020.

On October 30, 2020, SED performed a safety inspection of the gas distribution system at Glenview Mobile Lodge and found five additional violations. The five violations included: (1) one violation of GO-112F, 49 C.F.R. § 192.353, failure to protect a customer meter from corrosion and other damage; (2) one violation of GO 112-F, 49 C.F.R. § 192.357, failure to support a customer meter to minimize anticipated stresses;

(3) one violation of GO 112-F, 49 C.F.R. § 192.479, failure to clean and coat an aboveground pipeline to prevent atmospheric corrosion; (4) one violation of GO 112-F, 49 C.F.R. § 192.161, failure to support an aboveground pipeline to prevent undue strain on connected equipment; (5) one violation of GO 112-F, 49 C.F.R. § 192.707, failure to place and maintain a line marker along the section of a main and transmission line that is located above ground in an area accessible to the public. SED provided a copy of the October 30, 2020 inspection report to Mandagie on the same day of the inspection, including a directive to provide a plan for remedial action within 30 days of receipt of the inspection report. During the October 30, 2020 inspection, SED informed Mandagie that he should follow the instructions in and respond to the Citation Notice to address the ten violations found during the February 15, 2018 inspection that were still present and had not been corrected. On November 25, 2020, Mandagie provided a plan for remedial action for the five violations found during the October 30, 2020 inspection.

On December 23, 2020, SED performed a safety inspection of the gas distribution system at Glenview Mobile Lodge and found two additional violations. The violations included: (1) one violation of GO-112F, 49 C.F.R. § 192.353, failure to protect a customer meter from corrosion and other damage; (2) one violation of GO 112-F, 49 C.F.R. § 192.357, failure to support a customer meter to minimize anticipated stresses. SED provided a copy of the December 23, 2020 inspection report to Mandagie on the same day of the inspection, including a directive to provide a plan for remedial action within 30 days of receipt of the inspection report. During the December 23, 2020 inspection, SED inspectors confirmed that Mandagie had corrected some of the outstanding violations from the February 15, 2018 inspection; however, several of the violations were still outstanding and had not been corrected.

On December 30, 2020, Mandagie sent an email to the ALJ Division Appeals Coordinator and mailed copies of the citation appeal form to the Commission's Executive Director and General Counsel. The ALJ Division rejected the December 30, 2020, appeal because it did not meet the 30-calendar day deadline for filing a Notice of Appeal as directed in the Citation Notice. Nonetheless, SED conferred with the ALJ Division Appeals Coordinator regarding Mandagie's late-filed appeal, and the ALJ Division offered to provide services via the Alternative Dispute Resolution (ADR) program to resolve the outstanding citation and the \$50,000 unpaid penalty amount.

On February 23, 2021, SED provided Mandagie 30 days to pay the \$50,000 financial penalty amount in full, or request to participate in the Commission's ADR program.

On February 25, 2021, Mandagie submitted a letter to SED and provided a plan for remedial action showing all violations found during the prior inspections had been corrected.

On March 25, 2021, Mandagie confirmed his request to participate in ADR.

On December 22, 2021, SED and Mandagie engaged in settlement negotiations regarding the Citation Notice by participating in a remote joint mediation session administered by an ADR neutral. A conceptual agreement was reached at that session. SED informed the ADR neutral on December 30, 2021, that a settlement agreement containing the terms of the conceptual agreement had been agreed upon by the parties. On January 4, 2022, SED informed the ADR neutral and Mandagie that it would be seeking approval of the settlement agreement through the Commission resolution process.¹

On January 11, 2022, SED and Mandagie finalized the attached settlement agreement (Settlement) which resolves all issues related to the violations alleged in Citation No. G-20-08-001. SED and Mandagie request that the Commission adopt the Settlement by approving this resolution.

SED STAFF INSPECTION FINDINGS

SED's February 15, 2018 safety compliance inspection of Glenview Mobile Lodge found that Mandagie committed ten violations of GO 112-F, which incorporates by reference all revisions to the Federal Pipeline Safety Regulations, Title 49 Code of Federal Regulations (CFR) Parts 191, 192, 193, and 199. On October 30 and December 23, 2020, SED performed safety compliance inspections of Glenview Mobile Lodge and found that Mandagie committed an additional seven violations of GO 112-F. The Commission is required to undertake and enforce federal pipeline safety standards for mobilehome park operators. GO 112-F sets forth the rules governing the "design, construction, testing, operation, and maintenance of gas gathering, transmission, and distribution piping systems" and sets forth the minimum requirements gas operators must comply with to maintain their systems in a manner that safeguards life or limb, health, property and public welfare and provide adequate service.² Public Utilities Code sections 4351 to 4361 establish a gas safety inspection and enforcement program for mobilehome parks with distribution systems. From March 28, 2018 to August 23, 2020, SED provided Mandagie with multiple opportunities to remediate the violations prior to issuing the citation on August 24, 2020 and imposing financial penalties. SED found that Mandagie failed to remediate the ten violations found during the February 15, 2018 inspection and/or address the financial penalty until more than three years after committing the violations. On February 25, 2021, by a letter and plan for remedial action submitted by Mandagie to SED, SED found that all prior cited violations at the Glenview Mobile Lodge were remediated.

¹ In a December 22, 2021 email summarizing the terms of the conceptual agreement between Mandagie and SED, the ADR neutral asked SED to inform the group whether it would be signing a settlement only or proceeding to settlement through the Commission resolution process.

² See GO-112 F, sections 101.1 and 102.1.

DISCUSSION

SED believes that Mandagie's failure to remediate in a timely manner the violations found during the February 15, 2018 inspection was a disregard of his requirements to comply with the federal pipeline standards and could have posed a threat to the public health and safety of the mobilehome park residents. In addition, SED contends that Mandagie's failure to remediate the violations in a timely manner is contrary to the purpose and intent of GO-112-F, which exist, in part, to safeguard the public's health, safety, and welfare.

Given Mandagie's willingness to resolve the financial penalty by participating in the Commission's ADR program, and Mandagie's confirmation that he remediated all outstanding violations as of February 25, 2021, SED believes that the \$25,000 penalty, plus Mandagie's agreement to a probationary compliance period, is a satisfactory resolution of Citation No. G-20-08-001 and is in the public interest. With the payment of the financial penalty and the corrective actions taken by Mandagie to remediate the violations, SED states that the settlement is reasonable in light of the circumstances of the whole matter, consistent with the law, and in the public interest.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. No Comments were received.

FINDINGS AND CONCLUSIONS

1. General Order (GO) 112-F incorporates by reference and supplements the Federal Pipeline Safety Regulations, specifically, Title 49 of the Code of Federal Regulations (49 CFR), Parts 191, 192, 193, and 199. GO 112-F governs the design, construction, testing, operation, and maintenance of gas gathering, transmission, and distribution piping systems.
2. Public Utilities Code section 4351 et seq. governs and authorizes the Commission to establish a gas safety inspection and enforcement program for mobilehome parks with distribution systems to ensure compliance with the federal pipeline standards set forth in 49 CFR, Parts 191, 192, 193, and 199.
3. SED's inspection of Glenview Mobile Lodge on February 15, 2018 showed that Mandagie committed violations of the federal pipeline safety standards governed by GO 112-F, Title 49 CFR, and Public Utilities Code sections 4351 to 4361.

4. SED issued Citation No. G-20-08-001. pursuant to Decision 16-09-055, on August 21, 2020. The Citation imposed a financial penalty amount of \$50,000 for Mandagie's failure to remediate, in a timely manner, the ten violations SED discovered during the February 15, 2018 inspection.
5. Mandagie had not paid the financial penalty imposed by Citation No. G-20-08-001 nor appealed the Citation within the 30-day Citation Notice deadline.
6. SED found that Mandagie continued to be in violation and failed to fully remediate all cited violations until February 25, 2021.
7. As of February 25, 2021, Mandagie has now remediated the cited violations and brought the Glenview Mobile Lodge into compliance with the Commission's requirements.
8. SED conferred with the ALJ Division Appeals Coordinator regarding Mandagie's late-filed appeal, and the ALJ Division offered to provide services via the Alternative Dispute Resolution program to resolve the outstanding citation and the \$50,000 unpaid penalty amount.
9. SED and Mandagie have engaged in settlement negotiations and have agreed that the attached Settlement Agreement resolves all issues identified in SED's inspection report and Citation Notice.
10. Mandagie's payment of a \$25,000 penalty, plus a probationary compliance period subjecting Mandagie to an additional \$15,000 penalty for future noncompliance and \$1,000 penalties for every 30 days of continuing violations, appropriately resolves all findings in SED's inspection, is reasonable in light of the circumstances of this matter, consistent with the law, and in the public interest.

THEREFORE, IT IS ORDERED that:

1. The Settlement Agreement between David Mandagie, owner and operator of Glenview Mobile Lodge, and the Safety and Enforcement Division is adopted.
2. Within 30 days from the effective date of this Resolution, David Mandagie shall make a payment of \$25,000, by check or money order payable to the California Public Utilities Commission, mailed or delivered to the California Public Utilities Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102. David Mandagie shall write on the face of the check or money order, "For deposit to the State of California General Fund pursuant to Resolution SED-7."

3. David Mandagie shall be subject to a probationary compliance period whereby he agrees to pay a \$15,000 penalty if he is cited for future violations during the probationary compliance period, fails to correct those violations after being given proper notice and time to cure, and will accrue an additional \$1,000 in penalties for each month that he fails to remediate the violations.

This Resolution is effective today.

I certify that the California Public Utilities Commission adopted this Resolution at its regular meeting on May 19, 2022, and the following Commissioners approved favorably thereon:

/s/ *RACHEL PETERSON*

Rachel Peterson
Executive Director

ALICE REYNOLDS
President
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
DARCIE L. HOUCK
JOHN R.D. REYNOLDS
Commissioners