

California Underground Facilities Safe Excavation Board

*In the Matter of
Pacific Gas & Electric Company*

No. 21SA01355

July 13, 2021

DECISION

This decision was made by the Board on July 13, 2021. Respondent Pacific Gas & Electric Company has provided a written response to the Notice of Probable Violation, and has argued that education, rather than a financial penalty, is the appropriate penalty.

Board members Bianchini, Del Toro, Johns, Munoz, and Voss participated in the decision. Board members Charland and Johnson did not participate in the decision.

Having considered the report of investigation, the Board finds that a probable violation of Government Code section 4216.3(a)(1)(A) occurred.

The Board finds that an order directing PG&E to take the Board's education course is an appropriate action.

The Board will transmit the investigation results and the recommended penalty to the California Public Utilities Commission.

PG&E Did Not Field Mark the Location of the Line That Was Damaged

Government Code section 4216.3(a)(1)(A) provides that, in response to a locate-and-mark request, an operator may respond by locating and field marking the area delineated for excavation, indicating the number of subsurface installations where "multiple installations of the same type are known to exist together." (Gov. Code § 4216.3(a)(1)(A)(i).) PG&E field marked the work area, but did not mark the location of the line that was damaged.

Referral to the California Public Utilities Commission is appropriate

When the Board finds a probable violation of Dig Safe laws, the Board may “transmit the investigation results and any recommended penalty” to the appropriate agency, identified in Government Code section 4216.6(c) or (d). Section 4216.6(c)(2) provides that the Public Utilities Commission shall enforce the requirements of Article 2 (commencing with section 4216) on gas corporations, electrical corporations, and water corporations. PG&E is within the enforcement jurisdiction of the Public Utilities Commission.

An Order to Take the Board’s Education Course is Appropriate

Section 4216.19(e) provides that sanctions shall be graduated and may include notification and information letters, direction to attend relevant education, and financial penalties. And further, that this information is relevant to the sanction determination:

- (1) The type of violation and gravity.
- (2) The degree of culpability.
- (3) The operator’s or excavator’s history of work conducted without violation.
- (4) The operator’s or excavator’s history of work conducted without violations.
- (5) The efforts taken by the violator to prevent violation and, once the violation occurred, the efforts taken to mitigate the safety consequences of the violation.

Date:

Marjorie Del Toro
Marjorie Del Toro, Chair