**California Underground Facilities Safe Excavation Board**
**("Dig Safe Board")**

**February 9, 2021**

Agenda Item No. 6 (Information Item) – Staff Report

*Discussions with Pacific Gas and Electric on communication with excavators pursuant to Public Utilities Commission Decision 20-02-036*

## PRESENTER

Tony Marino, Executive Officer

## SUMMARY

In a 2020 California Public Utilities Commission (CPUC) decision regarding Pacific Gas and Electric Company (PG&E) locate and mark violations, the CPUC required PG&E and the CPUC's Safety and Enforcement Division to consult with the Board on methods to improve communication between PG&E and excavators. Two-way communication is consistent with the Board's mission and values, and locators industry-wide have identified the need for more two-way communication between excavators and operators in Common Ground Alliance surveys. The Board may wish to solicit discussion on these communication needs.

## BACKGROUND

On December 14, 2018, the CPUC opened an Order Instituting Investigation (I.18-12-007) into potential locate and mark violations by PG&E. The Board briefly discussed the case during its January 14, 2019 Board meeting (Item 10). On February 20, 2020, the CPUC's decision (Decision 20-02-036) became effective. Among other measures, it required PG&E and the CPUC's Safety and Enforcement Division to consult with the Dig Safe Board on methods to improve communications between PG&E and excavators.

## DISCUSSION

According to its Mission statement, the Board "improves public and worker safety by facilitating communication and learning among excavators and the operators of subsurface installations," among other responsibilities (Policy B-02). Among its values (Policy B-04) are:

- Respect for and attentiveness to the expression of differing backgrounds and perspectives of the board's members, the public, and stakeholders, as well as for the missions of excavators, operators of subsurface installations, and other federal, state, and local agencies.

- A culture of continuous learning based on the development and free exchange of safety information.
- Accessibility to the public and stakeholders, within the bounds of the law, constitutional principles of due process, and ethical conduct.

The CPUC's decision found that PG&E undercounted late locate and mark tickets for years and that top management was often unaware of locate and mark problems (p. 32). In this context, a ticket is "late" if the operator fails to do one of the following before the start date and time:

1. Locate and field mark within the area delineated for excavation,
2. Provide information to an excavator where the operator's active or inactive subsurface installations are located, or
3. Advise the excavator it operates no subsurface installations in the area delineated for excavation.

The excavator and operator may mutually agree to a later start date and time or otherwise agree to the sequence and timeframe in which the operator will locate and field mark (Government Code § 4216.3(a)(1)(A)).

An excavator who is not contacted with a request to agree to a later start date and time has no opportunity to agree to it, nor does a failure to notify an excavator that marks cannot be timely completed allow the excavator to effectively plan for a late response. Additionally, as the CPUC's Order Instituting Investigation states, if a utility "fails to meet its legally imposed responsibilities to locate and mark the required deadline of the excavating contractor's request, a contractor may simply commence digging despite the danger."[1]

Improved, two-way communication may have direct benefits to the operator. Excavators may provide a low-cost quality assurance mechanism to monitor the effectiveness of its internal controls to maintain compliance. Failure to recognize compliance weaknesses in locate and mark activities may lead an operator to underinvest in its locate and mark program.

The Common Ground Alliance has found that locators support increased communication. In its October, 2020 white paper, it found that 97% of locators believed that increased communication between locators and excavators would be at least "somewhat effective" in improving the accuracy and timeliness of marks, and 69% believed it would be "very effective."[2] Locating company decision-makers believed that, in addition to a discussion between locators and excavators at the jobsite level, collaborative discussion at the industry level would help address systemic issues.[3] Given the systematic issues the Common Ground

[1] Order Instituting Investigation for Proceeding I.18-12.007, December 14, 2018, p. 9.
[2] Common Ground Alliance, "Insights into Improving the Delivery of Accurate, On-Time Locates", October 2020, p. 6.
[3] p. 12.

Alliance has found through surveying locators, it would be naïve to assume that the problems leading to the CPUC's investigation and the penalty against PG&E are exclusive to PG&E.

## RECOMMENDATION

The Board may wish to ask PG&E representatives what they have learned from the CPUC's locate and mark investigation. The Board may also wish to hear from other operators about how they communicate with excavators, from excavators about how they view the quality and effectiveness of that communication, and what communication needs may exist.

## ATTACHMENTS

A. CPUC Website: CPUC Decision 20-02-036