

**BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD**

In the Matter of the Appeal of:

**LOS ANGELES DEPARTMENT OF WATER AND
POWER
1350 S. WALL STREET, 2ND FLOOR
LOS ANGELES, CA 90015**

Employer

Inspection No.
1529748

DECISION

Statement of the Case

Los Angeles Department of Water and Power (Employer or LADWP) is a municipal power and water utility. On May 3, 2021, the Division of Occupational Safety and Health (the Division), through Associate Safety Engineer Muhammad Zubair commenced an inspection of a work site located at 6198 Franklin Avenue in Los Angeles, California (the site), after an accident that left two employees injured (the incident).

On September 29, 2021, the Division issued one citation to Employer alleging a violation of the California Code of Regulations, title 8.¹ Citation 1, Item 1, classified as Serious Accident-Related, alleges that Employer failed to ensure that a portable switch, through which a source of electrical energy could be supplied to a line meant to be deenergized, was left open.

Employer filed a timely appeal of the citation. Employer appealed the citation on the ground that the safety order was not violated.

Prior to the scheduled hearing in this appeal, the parties waived their right to call witnesses, agreeing instead to submit this matter for decision based on briefs, stipulated facts, and stipulated exhibits. Jerry C. Baik, Assistant City Attorney, represented Employer. Douglas Gale, Staff Counsel, represented the Division. The matter was submitted on October 21, 2025.

Issues

1. Do the High-Voltage Safety Orders apply to the work that Employer was performing at the time of the incident?

¹ Unless otherwise specified, all references are to sections of California Code of Regulations, title 8.

2. Did Employer fail to ensure that a portable switch, through which a source of electrical energy could be supplied to a line meant to be deenergized, was left open?

Findings of Fact

Prior to this appeal being submitted for decision, the parties submitted the following stipulations of fact.²

1. Prior to the accident, an electrical pole down the street from 6198 Franklin Ave. was struck by a car, causing damage that required repairs. To conduct these repairs, the power lines on the damaged electrical pole required deenergizing. Those power lines were to be deenergized via the underground vault, high-voltage E-Box switch located at 6198 Franklin Ave.
2. On April 27, 2021, LADWP employees were engaged in deenergizing the upper right position of the E-Box in question, which would effectuate their desired deenergization of the power line going to the damaged electrical pole down the line. At the outset of their task, all four positions on the E-Box were energized. (Ex. 2, Item 12).
3. Following inspection, the Division issued a single citation on September 29, 2021, alleging a violation of section 2940.14, subdivision (c)(2).
4. The E-Box is an underground, high-voltage, electrical switch. A diagram of the E-Box configuration, annotated for clarity, is included in the Declaration of Muhammad Zubair (Ex. 2, Item 5). The E-Box has four positions: upper left, upper right, lower left, and lower right. Each position has three phases associated with it: Phase A, Phase B, and Phase C. One position feeds electricity into the E-Box at 4800 volts phase to phase (2800 volts phase to ground), and the three remaining positions feed electricity out at 4800 volts phases to phase (2700 volts phase to ground). To deenergize lines on an electrical pole being fed by a specific position in the E-Box, one would deenergize the specific position (all three phases) in the E-Box. Here, LADWP employees were tasked with deenergizing the upper right position of the E-Box, which fed to the damaged electrical pole.

² In addition to the enumerated Stipulations of Fact, the parties also stipulated to the factual accuracy of the affidavit of then Senior Safety Engineer Muhammed Zubair, and to the admissibility of Exhibits 1 through 43.

5. To deenergize the upper right position of the E-Box, the three phases of the upper right position must be individually deenergized. To do so, the copper blades of each phase must be removed. To do this safely, a parallel circuit must be created. This is accomplished utilizing a portable oil switch. The portable oil switch is placed outside the vault in an ‘open position,’ referring to the circuit the switch will create (open versus closed). With the portable oil switch in the open position, leads are attached to specific phases in the E-Box position to be deenergized.
6. Once the leads are installed, they are held in place by individual employees inside the vault to prevent accidental dislodging and an employee inside the vault orders the portable oil switch closed. The operator outside the vault closes the portable oil switch, creating a parallel path for current to flow between the portable oil switch circuit and the specified phase in the E-Box. At this point, it is safe to remove the copper blade from the specified phase in the E-Box because the parallel path created by the portable oil switch has picked up the load current, reducing the arcing at the copper blade in the E-Box.
7. Once the copper blade is removed from the specified phase in the E-Box, an employee inside the vault orders the portable oil switch to be opened. Once the operator outside the vault confirms the portable oil switch is open, the deenergization of the specified phase is complete, and the leads are removed within the E-Box. This process is repeated for each of the two remaining phases within the E-Box to complete deenergization of the specified section of the E-Box.
8. During the deenergizing process described above, it is imperative that the portable oil switch leads are placed on similar phases prior to closing the oil switch. If the oil switch leads are placed on dissimilar phases (e.g. Phase A on the upper right section of the E-Box and Phase B of the lower left section of the E-Box), and the oil switch is closed, an electrical explosion and arc flash would result because this creates a short circuit between the dissimilar phases, joining them together. This is known as a “cross phase” or a phase-to-phase short circuit.
9. The crew consisted of a Senior Cable Splicer, Daniel Spencer (Spencer), a Senior Electric Distribution Mechanic, Alfonso Medel (Medel), and an Electric Distribution Mechanic, Mario Gonzalez (Gonzalez). Spencer and Medel were both supervisory employees with authority to direct, assign, and supervise

tasks. They were stationed inside the vault. Gonzalez was stationed outside the vault, manning the portable oil switch.

10. Spencer was positioned on the left side of the vault, while Medel was positioned on the right side. They began by deenergizing Phase C of the upper right position, as outlined above. With the portable oil switch in the open position, Medel placed one lead of the portable oil switch on Phase C of the upper right position, while Spencer placed the other lead on Phase C of the lower left position. Spencer ordered the portable oil switch to be closed. Gonzalez complied with this order, closing the portable oil switch, and Medel slowly removed the copper blade from Phase C of the upper right position. Spencer ordered the portable oil switch to be opened. Gonzalez opened the switch, completing deenergization of Phase C of the upper right position.
11. Next, the employees were going to deenergize Phase B of the upper right position. Medel placed one lead of the portable oil switch on Phase B of the upper right position, but Spencer failed to move his lead of the portable oil switch to Phase B of the lower left position, leaving it on Phase C of the lower left position. Spencer ordered the portable oil switch to be closed. When Gonzalez closed the portable oil switch, an arc flash occurred because of the cross-phase/short circuit between the dissimilar Phases (Phase B of the upper right position and Phase C of the lower left position).

In addition to the above-enumerated stipulations of fact, the undersigned makes the following finding of fact based on the stipulated and uncontroverted evidence submitted by the parties:

12. The entire process that the employees were engaged in was to deenergize power lines to effectuate the repair of a damaged electrical pole.

Analysis

1. Do the High-Voltage Safety Orders apply to the work that Employer was performing at the time of the incident?

The Division has the burden of proving the applicability of the cited safety order by a preponderance of the evidence. (*Dish Network California Service Corporation*, Cal/OSHA App. 12-0455, Decision After Reconsideration (Aug. 28, 2014); *Howard J White*, Cal/OSHA App. 78-741, Decision After Reconsideration (June 16, 1983).)

Section 2940.14 is part of the High-Voltage Safety Orders (HVSOs). Section 2705 (Scope) of the HVSOs states as follows:

These High-Voltage Electrical Safety Orders are intended to establish essential requirements and minimum standards for the installation, operation, and maintenance of electrical installations and equipment to provide practical safety and such freedom from danger to personnel as the employment reasonably permits.

These orders are not to be regarded as a design specification or an instruction manual for untrained personnel.

Additionally, section 2706 states, in relevant part:

(a) These High-Voltage Electrical Safety Orders, apply to all electrical installations and electrical equipment operating or intended to operate on systems of more than 600 volts between conductors and to all work performed directly on or in proximity to such electrical installations, equipment or systems in all places of employment in the State of California as defined in Labor Code Section 6303. These orders do not apply to:

- (1) Installations or conductors and equipment in ships, watercraft, railway rolling stock, or aircraft.
- (2) Installations of conductors, equipment, and associated enclosures subject to the jurisdiction of the California Public Utilities Commission, that are owned, operated and maintained by an electric, communication or electric railway utility.

Exception: No. 1. These orders apply to conduit, vaults, and other like enclosures containing the conductors and equipment of such a utility when located indoors on premises not used exclusively for utility purposes, but do not apply to the utilities conductors and the equipment therein.

Finally, section 2940.14, subdivision (a) states, in relevant part, that “This section applies to the deenergizing of transmission and distribution lines and equipment for the purpose of protecting employees.”

There is no disagreement whether LADWP employees were engaged in the installation, operation, or maintenance of high-voltage electrical equipment at the time of the incident. The parties stipulated that the employees were deenergizing power lines in order to repair a damaged

electrical pole. Furthermore, there is no disagreement whether the employees were deenergizing transmission and distribution lines and equipment. Indeed, the parties stipulated that LADWP employees were engaged in work to repair a damaged electrical pole, and that such work included deenergizing the attached high-voltage power lines via a switching mechanism located in a nearby vault. Additionally, Employer's written procedure for this work states that the procedure is to be used by all "Power Distribution (PD) Division field personnel who perform switching operations on 4.8 kV primary circuit E-boxes." (Ex. 23, p. 1 of 39.) This work was done directly on high-voltage equipment, including power lines and switches, located at the site. The work that the employees were performing was directly related and integral to the operation of high-voltage electrical equipment and, therefore, fell within the stated scope of the HVSOs.

Employer argues that, notwithstanding that the work being performed by its employees fell within the *scope* of the HVSOs, the cited safety order does not *apply* to the work that was being performed because of the language in section 2706, subdivision (a)(2), which specifically states that the HVSOs do not apply to "Installations of conductors, equipment, and associated enclosures subject to the jurisdiction of the California Public Utilities Commission, that are owned, operated and maintained by an electric...utility."

Subdivision (a)(2) provides an exception to the general rule that the HVSOs apply to work on "all electrical installations and electrical equipment operating or intended to operate on systems of more than 600 volts between conductors" and work done directly on or in close proximity to said installations and equipment. An exception to a safety order is analogous to an affirmative defense, and it is well established that an employer bears the burden of proving an exception by a preponderance of the evidence. (*Dish Network California Service Corporation*, Cal/OSHA App. 12-0455, *supra*.) Employer thus bears the burden of establishing that its employees were engaged on work directly upon or in close proximity to conductors, equipment, or associated enclosures that are (1) subject to the jurisdiction of the California Public Utilities Commission; and, (2) that said conductors, equipment or associated enclosures are owned, operated and maintained by Employer.

Here, the record is silent as to whether the conductors, equipment or associated enclosures involved in the work being performed were subject to the jurisdiction of the California Public Utilities Commission (CPUC). The only reference to such jurisdiction comes from a single line on page 5 of Employer's closing brief, and a single footnote to a website that is outside of the record created by the parties through the submission of stipulations of fact and pre-admitted documentary evidence. A stipulation will satisfy an evidentiary burden; however, reference to extraneous information that was not otherwise introduced into the record will not. (*C.A. Rasmussen, Inc.*, Cal/OSHA App. 08-0219, Decision After Reconsideration (July 19, 2012).)

Even assuming for sake of argument that the CPUC does exercise jurisdiction over the installations, equipment and associated enclosures that are the subject of the citation, Employer still has not met its burden of establishing that said jurisdiction precludes enforcement activity by the Division. Labor Code section 6303, subdivision (a), defines “place of employment” as “any place, and the premises appurtenant thereto, where employment is carried on, except a place where the health and safety jurisdiction is vested by law in, and actively exercised by, any state or federal agency other than the division.”

Employments and places of employment within the State are all properly subject to the Division’s jurisdiction, except for those that are subject to comparable coverage by another State or Federal agency. *A party who claims the benefit of the exception, like any defense, has the burden of proving its entitlement thereto* [citations omitted], including as a minimum that the competing agency shares the same policy and purpose as the Cal-OSHA program by the promulgation and enforcement of regulations that detail safety and health protection for specific working conditions of a class of persons that include employees.

(*J.S. Brower & Associates, Inc.*, Cal/OSHA App. 77-1315, Decision After Reconsideration (Oct. 17, 1980) (Emphasis added).)

Here, nothing in the record establishes that the CPUC “shares the same policy and purpose as the Cal-OSHA program” as evidenced through promulgation and enforcement of rules pertaining to workplace health and safety. Because Employer offered no evidence regarding CPUC’s exercise of jurisdiction and its promulgation and enforcement of rules pertaining to employee safety regarding the work that was being performed at the time of the incident, Employer failed to meet its burden of establishing that an exception to the Division’s jurisdiction exists for purposes of this appeal. The failure to establish a single element of a defense is fatal to the defense; therefore, the undersigned declines to reach the issue of whether LADWP owned, operated and maintained the conductors, equipment or associated enclosures involved herein.

In summary, the parties presented undisputed evidence that LADWP employees were engaged in activities that fall within the scope and application of the HVSOs. The employees were performing work in connection with the repair of a damaged electrical pole, and the work required them to work with and near installations and equipment that convey high-voltage electricity. Thus, the HVSOs apply to the work that they were performing. Section 2940.14 is part of the HVSOs. Therefore, it applies to the work that the employees were performing.

2. Did Employer fail to ensure that a portable switch, through which a source of electrical energy could be supplied to a line meant to be deenergized, was left open?

Section 2940.14, subdivision (c)(2) provides:

(c) Deenergizing Lines and Equipment.

[. . .]

(2) Open disconnecting means. The employer shall ensure that all switches, disconnectors, jumpers, taps, and other means through which known sources of electric energy may be supplied to the particular lines and equipment to be deenergized are open. The employer shall render such means inoperable, unless its design does not so permit, and then ensure that such means are tagged to indicate that employees are at work.

Subdivision (a) further states:

(a) This section applies to the deenergizing of transmission and distribution lines and equipment for the purpose of protecting employees. See Section 2940.13 for requirements on the control of hazardous energy sources used in the generation of electric energy. Conductors and parts of electric equipment that have been deenergized under procedures other than those required by this Section shall be treated as energized.

Finally, subdivision (h) states:

(h) Reenergizing Lines and Equipment. The employer shall ensure that no one initiates action to reenergize the lines or equipment at a point of disconnection until all protective grounds have been removed, all crews working on the lines or equipment release their clearances, all employees are clear of the lines and equipment, and all protective tags are removed from that point of disconnection.

Citation 1 alleges:

Prior to and during the course of the inspection, the employer did not ensure that a portable switch, through which a source of electric energy (phase C) could be supplied to a line to be deenergized (phase B), was open. As a result, on 04/27/2021, two employees suffered serious burn injuries from a cross-phase between the two phases when the portable switch was closed, causing an explosion.

The Division bears the burden of proving the allegations in a citation by a preponderance of the evidence. (*Howard J White, supra*, Cal/OSHA App. 78-741.) In order to establish a violation, the Division bears the burden of establishing that (1) LADWP employees were

engaged in the deenergizing of transmission and distribution lines and equipment; and (2) at least one switch, disconnecter, jumper, tap or other means through which known sources of electric energy may be supplied to the particular lines and equipment to be deenergized was not open.³

Here, the parties stipulated that LADWP employees were engaged in efforts to deenergize power lines on a damaged electrical pole to effectuate a repair of the pole. Neither party disputes that the power line constitutes a transmission or distribution line. Thus, the first element is established by uncontroverted evidence.

Regarding the second element, the parties submitted evidence describing the deenergization process in the form of stipulated facts, the declaration of then-Senior Safety Engineer Muhammad Zubair, and documents related to the process that the deenergization procedures that LADWP employees were following at the time of the incident. The parties stipulated that the employees were conducting repairs to a damaged electrical pole, and the work required that the power lines on the damaged electrical pole be deenergized. The deenergization was to be accomplished via the use of a high voltage E-Box switch located in an underground vault nearby.

The E-Box is an underground, high-voltage, electrical switch. It has four positions, upper left, upper right, lower left, and lower right. Each position has three phases associated with it: Phase A, Phase B, and Phase C. One position feeds electricity into the E-Box at 4800 volts phase to phase (2800 volts phase to ground), and the three remaining positions feed electricity out at 4800 volts phases to phase (2700 volts phase to ground). To deenergize lines on an electrical pole being fed by a specific position in the E-Box, one would deenergize the specific position (all three phases) in the E-Box. Here, LADWP employees were tasked with deenergizing the upper right position of the E-Box, which fed to the damaged electrical pole.

To deenergize the upper right position of the E-Box, the three phases of the upper right position must be individually deenergized. To do so, the copper blades of each phase must be removed. To do this safely, a parallel circuit must be created. This is accomplished utilizing a portable oil switch. The portable oil switch is placed outside the vault in an “open position,” referring to the circuit the switch will create (open versus closed). With the portable oil switch in the open position, leads are attached to specific phases in the E-Box position to be deenergized.

Once the leads are installed, they are held in place by individual employees inside the vault to prevent accidental dislodging and an employee inside the vault orders the portable oil switch closed. The operator outside the vault closes the portable oil switch, creating a parallel path for current to flow between the portable oil switch circuit and the specified phase in the E-

³ There are other ways for the Division to establish a violation of this safety order, which are not relevant to the resolution of this appeal for the reasons discussed herein.

Box. At this point, it is safe to remove the copper blade from the specified phase in the E-Box because the parallel path created by the portable oil switch has picked up the load current, reducing the arcing at the copper blade in the E-Box.

Once the copper blade is removed from the specified phase in the E-Box, an employee inside the vault orders the portable oil switch to be opened. Once the operator outside the vault confirms the portable oil switch is open, the deenergization of the specified phase is complete, and the leads are removed within the E-Box. This process is repeated for each of the two remaining phases within the E-Box to complete deenergization of the specified section of the E-Box.

During the deenergizing process described above, it is imperative that the portable oil switch leads are placed on similar phases prior to closing the oil switch. If the oil switch leads are placed on dissimilar phases (e.g., Phase A on the upper right section of the E-Box and Phase B of the lower left section of the E-Box), and the oil switch is closed, an electrical explosion and arc flash would result because this creates a short circuit between the dissimilar phases, joining them together. This is known as a “cross phase” or a phase-to-phase short circuit.

The incident occurred while employees were in the process of deenergizing the power lines attached to the damaged electrical pole. The employees successfully deenergized Phase C of the upper right position of the E-Box switch. With Phase C deenergized, the employees were going to next deenergize Phase B of the upper right position. To safely accomplish this task, the employees were supposed to place one lead of the portable oil switch on Phase B of the upper right position, and the opposite lead on Phase B of the lower left position. Instead, an employee involved in the operation accidentally left the lead on Phase C of the lower left position. There is no dispute that the portable oil switch remained open while the employees were attaching the leads. However, after the employee attached the lead to Phase C of the lower left position, an arc flash occurred as a result of a cross-phase/short circuit between the dissimilar Phases (Phase B of the upper right position and Phase C of the lower left position). This clearly demonstrates that a circuit that at least one switch, disconnect, jumper, tap or other means through which known sources of electric energy may be supplied to the particular lines and equipment to be deenergized was not open during the deenergization process.

Employer argues that there was no violation because it was not in the process of deenergizing a power line when the arc flash occurred. Employer argues that deenergization was complete and that it was attempting to parallel a circuit, which is a separate procedure under its E-Box Switching Procedure (Ex. 23). This argument, however, is without merit. The entire process that the employees were engaged in was to deenergize power lines in order to effectuate the repair of a damaged electrical pole. Based on a totality of the evidence, it is determined that the work that the employees were doing at the time of the incident was integral to the process of

deenergizing power lines. Each of the three phases of the upper right portion of the E-Box had to be individually deenergized to completely deenergize the affected power line. The incident happened when employees were in the process of deenergizing Phase B of the upper right position of the E-Box.

Here, the facts demonstrate that at least one switch, disconnect, jumper, tap or other means through which known sources of electric energy may be supplied to the lines and equipment to be deenergized was not open. The accident occurred while the employees were attempting to deenergize Phase B of the upper right position. An employee placed one lead of the portable oil switch on Phase B of the upper right position, but another employee involved in the operation failed to move his lead of the portable oil switch to Phase B of the lower left position, leaving it on Phase C of the lower left position. When the employee ordered the portable oil switch to be closed, an arc flash occurred because of the cross-phase/short circuit between the dissimilar Phases (Phase B of the upper right position and Phase C of the lower left position). The facts here sufficiently establish that Employer violated section 2940.14, subdivision (c)(2), and Citation 1 is therefore affirmed.

Conclusion

The Division established that Employer violated section 2940.14, subdivision (c)(2), by a preponderance of the evidence.

Orders

It is hereby ordered that Citation 1, Item 1, is affirmed and the penalty of \$18,000 is sustained.

It is further ordered that the penalty is assessed as set forth in the attached Summary Table.

/s/ Howard I. Chernin

Dated: 10/22/2025

Howard I. Chernin
Administrative Law Judge

The attached decision was issued on the date indicated therein. If you are dissatisfied with the decision, you have thirty days from the date of service of the decision in which to petition for reconsideration. Your petition for reconsideration must fully comply with the requirements of Labor Code sections 6616, 6617, 6618 and 6619, and with California Code of Regulations, title 8, section 390.1. **For further information, call: (916) 274-5751.**

If no petition is filed, the penalty amount set forth in the Summary Table is due and payable 30 days after the Order or Decision is issued. If the Appeals Board approved a payment plan, all payments are due in accordance with the dates indicated in the Summary Table. If a Petition for Reconsideration is filed, no payment should be made until the final outcome of the appeal.