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[State Public Utilities Commission Has Exclusive Jurisdiction Over Claims that Utility Unreasonably Destroyed Crops Beneath Power Lines](#)

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A public utility, Pacific Gas and Electric Company, owns easements across rural properties traversed by its electric transmission lines. The easements typically, as here, authorize PG&E to trim vegetation in the vicinity of its power lines to prevent accidental contacts that can cause fires and related damages. After such a fire caused massive and widespread destruction and power outages in the Northeast and southern Canada in 2003, PG&E and other utilities across the country began trimming more aggressively to prevent, to the extent possible, accidental contacts. The California Public Utilities Commission had regulated the vegetation management practices of the state's utilities, establishing minimum (but not maximum) power line clearances.

Plaintiffs in these consolidated cases were walnut growers. PG&E transmission lines ran over their orchards. In separate actions, plaintiffs sued PG&E alleging that beginning in 2004, the utility beginning trimming the trees below its lines so aggressively that the trees became unproductive. Plaintiffs sought monetary damages, including substantial penalties, and injunctive relief requiring PG&E to return to its earlier trimming practices.

The Court of Appeal, in a published decision, affirmed judgments entered in favor of PG&E by the trial courts in each of the cases, on the ground that PG&E's vegetation management practices are within the exclusive jurisdiction of the CPUC. The court found the three-part test established by the California Supreme Court for exclusive CPUC jurisdiction met because (1) the CPUC has authority to regulate tree trimming, (2) the CPUC has exercised that authority, and (3) a patchwork of inconsistent regulation established by independent trial court actions across California would hinder or interfere with the CPUC's regulatory authority. That the CPUC had not mandated maximum clearances did not mean that the CPUC had abdicated its jurisdiction to regulate clearances, the court said. Rather, the regulatory scheme showed that the CPUC intended to give the utility flexibility to determine appropriate clearances based on site-specific conditions. The utility's exercise of discretion would be upheld by the CPUC if reasonable.

The case is [Sarale v. Pacific Gas and Electric Company \(.pdf\)](#) (October 15, 2010) __ Cal.App.4th __, 2010 WL 4035492.