

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the matter of:

Southern California Edison 2022/2023 Public
Safety Power Shutoff Events

[PROPOSED] ADMINISTRATIVE
ENFORCEMENT ORDER
(Number CPUC-20-AEO)

[PROPOSED] ADMINISTRATIVE ENFORCEMENT ORDER

YOU ARE GIVEN NOTICE THAT:

1. The California Public Utilities Commission's Safety and Enforcement Division (SED or Division) has found that Southern California Edison (SCE or Respondent) violated Resolution ESRB-8, Decision (D.) 19-05-042, D.20-05-042, D.21-06-014, and D.21-06-034 in relation to their Public Safety Power Shut-off (PSPS) events in 2022 and 2023.
2. SED issues this proposed Administrative Enforcement Order (Proposed Order) to SCE pursuant to the Commission Enforcement Policy adopted by Resolution M-4846 (Enforcement Policy) and Public Utilities Code section 701. Pursuant to the Enforcement Policy and statutory authority, SED is authorized to issue a Proposed Order to a regulated entity that has violated a statute, Commission order, resolution, decision, general order, or rule. That Proposed Order may include a directive to pay a penalty and/or order appropriate corrective action.
3. Based on SED's investigation and findings, SCE is assessed a \$826,260 fine payable to the State of California General Fund.

RIGHT TO HEARING

4. Respondent is required to respond to this Proposed Order by 5:00 p.m. on **June 9, 2025**. By way of such response, Respondent, must either: 1) agree to pay any penalty required by this Proposed Order upon adoption of the Proposed Order by the Commission (Final Order) or 2) request a hearing on the Proposed Order. Instructions on how to agree with or request a hearing of a Proposed Order are included at the end of this Proposed Order (Appendix A).
5. The right to a hearing is forfeited if a Request for Hearing is not timely filed. If a timely Request for Hearing is not filed, this Proposed Order will become final and effective upon adoption by the Commission (Final Order).
6. A requested hearing shall be conducted by an Administrative Law Judge in accordance with the hearing provisions in the Citation Appellate Rules. After hearing, this Proposed Order or any Administrative Law Judge modifications to the Proposed Order shall become

a Final Order, effective upon Commission approval of the draft resolution prepared by the Administrative Law Judge. The draft Administrative Law Judge resolution approved by the Commission is subject to rehearing pursuant to Public Utilities Code section 1731 and to judicial review pursuant to Public Utilities Code section 1756.

7. This Proposed Order includes a requirement that Respondent pay a penalty. The factors set forth in the Penalty Assessment Methodology were used to determine the penalty amount. The requirement that the penalty be paid shall be stayed during the hearing and rehearing process.
8. Unless otherwise specified, "days" means calendar days.

FINDINGS

9. SCE initiated its PSPS process 14 times between 2022-2023, initiating de-energization in eight events. SCE submitted post event reports following each event. The reports summarize SCE's compliance with Commission PSPS rules. In response to these reports, SED initiated its investigation into SCE's compliance during its 14 PSPS events, summarizing its findings in two Notice of Violations (NOVs).

Appendix B to this AEO contains the NOVs issued by SED to SCE, incorporating its findings of fact as a result of its investigation. The NOV for SCE's 2022 PSPS violations was issued on June 19, 2024, and the NOV for SCE's 2023 PSPS violations was issued on September 27, 2024. The NOVs include a discussion of the Commission orders and decisions that SCE violated, and the facts that form the basis for each alleged violation. SCE submitted responses to each of SED's NOVs (SCE's NOV Responses), contained in Appendix C of this AEO, on July 19, 2024, and August 23, 2024, which include information from SCE's 2022 PSPS events, and on October 28, 2024, which includes information from SCE's 2023 PSPS events.

SED dismisses the following nine violations alleged in the NOV after evaluating the PSPS guidelines and SCE's NOV Responses.

2022 Post Event Report

- Violation 4 – Resolution ESRB-8 requires the utilities to report the claims that were filed against the utility because of de-energization. SCE initially reported a total of 10 claims in various post event reports. Then in the post season report, SCE updated the total number of claims to 11 from the initially reported 10. However, SCE did not violate ESRB-8 because SCE provided the most accurate and up-to-date claim information available when it submitted its post-event report. SCE also did not violate ESRB-8 by omitting the reason for updating its claim data in its post-season report because the post-season report template does not direct the IOUs to include a reason for updating data provided in its post event report.

- Violation 11 – For the October 22, 2022, event, SED dismissed the NOV violation of failure to operate a Community Resource Center (CRC) as required. The NOV alleged that SCE did not open the CRCs or Community Crew Vehicles (CCV) for the entire duration of the de-energization event, as no CRCs or CCVs were operable on October 23. However, since October 23, 2022, was not in a designated Period of Concern, SCE was not required to operate a CRC on that date.
- Violation 17 – For the June 15, 2022, event, SCE did not report whether the cancellation notifications were sent out within two hours of the decision to cancel. However, SCE did not include a “Notification Failure Breakdown” table in the report because SCE did not miss any cancellation notifications in this event. SCE also noted it is not aware of any notification failures during this high threat event.

2023 Post Event Report

- Violation 1 – For the October 29, 2023, event, SCE did not completely report the classification for all the areas affected (Zone 1, Tier 2/3, or non-HFTD). Some areas affected were reported as “N/A” and SCE did not explain what N/A stands for. SCE responded that it inadvertently made an error when transferring the information into the Excel data workbook in the post event report. SCE attached an amended table for the October 29 post-event report in their NOV Response.
- Violation 6.2.1 – SCE de-energized customers at 18:34 on July 11, 2023, and a de-energization notification was sent to critical facilities on July 12. SCE sent a de-energization notice the day after the line was de-energized. However, SCE discovered that the notification sent at 08:01 on July 12, following the de-energization of customers at 18:34 on July 11, was a “Continued Shutoff” notification rather than a “Shutoff Notification.”
- Violation 6.2.2 – For the July 18, 2023, event, the Period of Concern started at 12:00 on July 18. At least one affected customer received the initial advance notice at 10:57 on July 18 instead of 24-48 hours in advance as required. However, SCE found that the same customers who received notifications at 10:57 on July 18 had also been sent prior notifications at 11:16 on July 16 and 10:51 on July 17.
- Violation 6.2.3 – For the October 11, 2023, event, the Period of Concern started at 18:00 on October 11, and some critical facilities and customers received the 24-48 hour notifications in the morning of October 11 and October 12. SCE did not give

the 24-48 hour advance notice of anticipated de-energization. However, SCE clarified that this notification was an update, and that it sent an advance notice on October 9 or October 10. Violation dismissed.

- Violation 11.1 – SCE used a Firecast Output Ratio for each circuit to indicate whether the benefits of a PSPS outweighs the risks. For the October 29, 2023, November 9, 2023, and November 20, 2023, events, some circuits have a ratio of “N/A.” SED noted for these circuits, some of the calculation inputs were “N/A,” resulting in the calculated Firecast Output Ratio as “N/A.” However, SCE did not explain why those circuits did not have an input for SCE to calculate the output ratio, which should have provided the support for de-energization decision-making. SCE clarified circuits that were marked as N/A for these events are downstream circuits. Downstream circuits are connected to circuits in scope for potential de-energization but would otherwise not be in scope for de-energization. As such, these downstream circuits are not evaluated for fire risk separately from their “parent” circuits. The total PSPS Risk for the downstream circuits was accounted for in the parent circuit PPS Risk vs. Benefit calculation. To avoid confusion, SCE began including this information in a footnote in its December 9, 2023, post-event report.
- Violation 11.2 – For the October 29, 2023, event, and like the dismissed violation above, SED noted among the circuits with “N/A” Firecast Output Ratio, six can be found in the de-energized circuits, implying these six circuits were de-energized without appropriately weighing the benefit vs. risk. However, the six de-energized circuits are downstream of one de-energized circuit during the October 29 event. The Firecast Output Ratio has been included in the de-energized parent circuit.

PENALTIES

10. The Commission has broad authority to impose penalties on any public utility that violates or fails to comply with “any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the commission.” In assessing penalties, SED follows the Penalty Assessment Methodology as set forth by the Commission and outlined in Resolution M-4846.
11. Over the course of SED’s investigation, SCE did not comply with certain provisions of Commission Resolution ESRB-8, D.19-05-042, D.20-05-051, D.21-06-014, D.21-06-034, and the Ruling on Post Event Report Template in relation to their Public Safety Power Shut-off (PSPS) events in 2022 and 2023. These findings are laid out in the SED’s NOV, attached in Appendix B.

12. Penalty Assessment

The Penalty Assessment Methodology appended to the Commission’s Enforcement Policy sets forth five factors that staff and the Commission must consider in determining the amount of a penalty for each violation: (1) severity or gravity of the offense; (2) conduct of the regulated entity; (3) financial resources of the regulated entity; (4) totality of the circumstances in furtherance of the public interest; and (5) the role of precedent. As discussed below, consideration of those factors supports a Commission finding that the AEO is reasonable and in the public interest. The attached NOV, Appendix B to this AEO, provide facts that form a record basis for the Commission’s determination. SCE’s NOV Responses in Appendix C provide additional details, which also form a record basis for the Commission’s determination and support the reasonableness of the AEO. As listed in Section II.A above, nine NOV violations were dismissed as a result of more information provided by SCE in its NOV response.

I. Severity or Gravity of the Offense

The severity of the offense considers the physical and economic harms of the offenses, harm to the regulatory process, and the number of people affected by the offense. Violations that caused actual physical harm to people or property are considered particularly severe.¹ SCE’s violations occurred over the course of 14 PSPS events: June 15, 2022, July 22, 2022, September 9, 2022, October 22, 2022, November 19, 2022, November 24, 2022, July 11, 2023, July 18, 2023, October 11, 2023, October 29, 2023, November 9, 2023, November 20, 2023, November 26, 2023, and December 9, 2023. The most severe violations are explained below.

Estimated Restoration Time

For the following events in 2022: June 15, July 22, September 9, October 22, November 19, and November 24, and all 2023 events:

SCE did not provide the estimated restoration times to the Director of SED. Instead, the notifications contained only a generic statement saying, “power will be restored within three to eight hours after the period of concern has concluded and may take longer under some circumstances.” This boilerplate language did not meet the requirement to offer a specific estimated time for restoration. As a result, in every 2022 and 2023 event—SCE failed to provide the required estimated restoration time.

Notification Failures

As further described in Appendix II, SCE also did not meet several advanced and post-event notification requirements for the events on:

¹ D.20-05-019, p. 20.

- June 15, 2022
- July 22, 2022
- September 9, 2022
- November 19, 2022
- November 24, 2022
- October 29, 2023
- November 9, 2023
- November 20, 2023
- November 26, 2023
- December 9, 2023

After reviewing SCE's NOV Response, SED determined that SCE missed a total of 11,556 advance and post-event notifications in 2022, and 55,558 advance and post-event notifications in 2023.

Medical Baseline or Self-Certified Customer Notifications

SCE failed to send the required notifications to Medical Baseline or Self-Certified customers in 2023; 19 for the October 29, 2023, event, and one for the November 9, 2023, event.

Notice to Public Safety Partners

None of the 2022 or 2023 events included an estimated time to full restoration in the notifications sent to public safety partners.

Geospatial Information

SCE was not timely, not accurate, or did not verify the accuracy of its geospatial information available to public safety partners for the events on:

- July 22, 2022
- October 22, 2022
- November 19, 2022
- November 24, 2022
- July 11, 2023
- July 18, 2023
- October 11, 2023
- October 29, 2023
- November 9, 2023
- November 20, 2023
- November 26, 2023
- December 9, 2023

Late PSPS Report

SCE was late in submitting a PSPS Report for the July 18, 2023, event; the report was served on August 2, 2023, even though it was due on August 1, 2023.

II. Conduct of the Regulated Entity

The second factor to be considered is SCE's conduct. SCE was forthcoming in providing SED with information regarding the notification failures in both the Post-Event Reports and SCE's NOV Response. As a result of the information SCE presented in its post-event reports, NOV response, and settlement discussions, SED dismissed nine violations from the 2022-2023 PSPS NOV.

III. Financial Resources of the Regulated Entity, Including the Size of the Business

The third factor under the methodology is the financial resources of the utility. Here, the Commission must not impose excessive fines or penalties while ensuring that the fine/penalty is an effective deterrent against future behavior. An effective fine or penalty is one that reflects the severity of the harm (the first factor examined above) and is also proportionate to the offending entity and those similarly situated to deter future similar offense of violations, without putting them out of business or otherwise impacting the entity in a catastrophic way.

SCE is one of the largest electric utilities in the State of California in terms of customers and revenue. This amount is enough to emphasize the importance of the notification requirements relative to its size.

IV. Totality of the Circumstances in Furtherance of the Public Interest

The fourth factor under Resolution M-4846 is an evaluation of the penalty in the totality of the circumstances, with an emphasis on protecting the public interest.

Based on the totality of the circumstances, the fine included in this Proposed Order is reasonable. SED issued a proposed AEO against SCE for PSPS violations in 2020, which was settled for \$7,000,000.² SED and SCE entered into an Administrative Consent Order (ACO) to resolve SCE's 2021 PSPS violations for \$2,339,690.³ SCE's 2020 and 2021 violations were much more severe than the violations in 2022-2023.

V. The Role of Precedent

The final factor is an examination of penalties assessed in other cases with similar factual situations.

- In 2021, PG&E initiated five PSPS events. Over the course of those five events, PG&E failed to provide 146,110 customer notifications. SED and PG&E settled on an ACO, agreeing that PG&E violated PSPS notification requirements under

² Resolution ALJ-440 Resolving Request for Hearing (H.) 22-07-009 in Administrative Enforcement Order Regarding 2020 Public Safety Power Shutoff Events Pursuant to Resolution M-4846, June 8, 2023.

³ Resolution SED-11 Approving Administrative Consent Order and Agreement of the Safety And Enforcement Division and Southern California Edison Company Regarding the 2021 Public Safety Power Shutoffs Pursuant to Resolution M-4846, November 7, 2024.

Commission Decision (D.) 19-05-042 and assessed a fine of \$1,753,100. Commission approved the ACO in Resolution SED-12.

- In 2021, Southern California Edison (SCE) initiated twelve PSPS events. Over the course of those five events, SCE failed to provide 135,570 customer notifications. SED and SCE settled on an ACO agreeing that SCE violated PSPS notification requirements under Commission Decision (D.) 19-05-042 and assessed a fine of \$2,339,690. Commission approved the ACO in Resolution SED-11.
- In 2020, SDG&E initiated five PSPS events. During one event on September 8-9, 49 customers never received notifications during de-energization or re-energization. SED issued a proposed AEO alleging SDG&E violated the PSPS notification requirements under D.19-05-042 and assessed a fine of \$24,000. SED also imposed eight corrective actions to ensure future compliance with the Commission's PSPS rules. SDG&E accepted the proposed AEO. The Commission adopted the proposed AEO in Resolution M-4863.
- In 2020, PacifiCorp initiated three PSPS events. SED issued a proposed AEO alleging PacifiCorp violated certain PSPS notification requirements. However, SED opted not to assess a penalty because PacifiCorp successfully notified customers at de-energization and re-energization as required by the Commission's decisions. Instead, SED imposed eight corrective actions on PacifiCorp to ensure future compliance with the Commission's PSPS rules. PacifiCorp adopted the proposed AEO. The Commission adopted the proposed AEO in Resolution M-4862.
- In 2020, Southern California Edison (SCE) initiated sixteen PSPS events. SED found that 25,573 customers failed to get notifications spread out over the course of the sixteen events. SED issued a proposed AEO alleging SCE violated the PSPS notification requirements under Commission decision D.19-05-042 and assessed a fine of \$10,000,000. SED also included fourteen corrective actions to ensure future compliance with the Commission's PSPS rules. SCE requested hearing of the proposed AEO. SED and SCE subsequently settled the dispute with a \$7 million penalty consisting of a \$500,000 shareholder-funded fine to the General Fund, a \$500,000 shareholder-funded payment to SCE's Energy Assistance Fund, and \$6 million permanent disallowance of PSPS program-related costs that are eligible for tracking in SCE's Wildfire Mitigation Plan Memorandum Account. SCE also had to comply with the

fourteen corrective actions. The Commission approved the settlement in Resolution ALJ-440.

Based on the above factors, Respondent shall be subject to a penalty of \$140,680 for 2022 violations and \$685,580 for 2023 violations. This penalty shall consist of a \$826,260 fine payable to the State of California General Fund. This penalty is reasonable and within the range allowed by statute and calculated in accordance with the Commission's Penalty Assessment Methodology under Resolution M-4846.

13. This penalty is due within 30 days of adoption of the Final Order. Respondent's payment shall be by check or money order and shall be made payable to the California Public Utilities Commission. Respondent shall write on the face of the check or money order: "For deposit to the State of California General Fund." Respondent shall deliver payment to:

California Public Utilities Commission's Fiscal Office
505 Van Ness Avenue, Room 3000
San Francisco, CA 94102

14. In the event the payment specified in Paragraph 3 not timely received by the Commission, a late payment will be subject to interest in the amount of 10% per year, compounded daily and to be assessed beginning the calendar day following the payment-due date. The Commission may take all necessary action to recover any unpaid penalty and ensure compliance with applicable statutes and Commission orders.

The penalty amount shall not be placed in rates or be otherwise paid for by ratepayers.

15. All written submittals from Respondent pursuant to this Order shall be sent to:

Director Lee Palmer
Safety and Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

All other communications from Respondent shall be to:

Anthony Noll
Program Manager
Safety and Enforcement Division
Anthony.noll@cpuc.ca.gov
(916) 247-9372

16. All approvals and decisions of the Division will be communicated to Respondent in writing by the Division Director or a designee. No informal advice, guidance, suggestions, or comments by the Division regarding reports, plans, specifications, schedules or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required or to bind the Commission.

17. If the Division determines that any report, plan, schedule, or other document submitted for approval pursuant to the Proposed Order or Final Order fails to comply with the Order, the Division may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Division a revised document incorporating the recommended changes
18. If Respondent is unable to perform any activity or submit any document within the time required under the Proposed Order or Final Order, Respondent may, prior to expiration of time, request an extension of time in writing. The extension request shall include a justification for the delay and a detailed plan for meeting any new proposed compliance schedule. All such requests shall be in advance of the date on which the activity or document is due.
19. If the Division determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule. Respondent shall comply with the new schedule.
20. All plans, schedules, and reports that require the Division approval and are submitted by Respondent pursuant to this Order are incorporated into this Order upon approval by the Division.
21. Neither the State of California, nor its employees, agents, agencies (including the Commission), representatives, or contractors, shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Proposed Order or Final Order, nor shall the Commission be held as a party to a contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.
22. A Final Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations. Respondent shall provide a copy of this Final Order to all contractors, subcontractors, laboratories, and consultants that are retained to conduct any work or activities performed under a Final Order, within 15 days after the effective date of the Final Order or the date of retaining their services, whichever is later. Respondent shall condition any such contracts upon satisfactory compliance with the Final Order. Notwithstanding the terms of any contract, Respondent is responsible for compliance with this Proposed Order or Final Order and for ensuring that its subsidiaries, employees, contractors, consultants, subcontractors, agents, and attorneys comply with this Proposed Order or Final Order.
23. Nothing in this Proposed Order or Final Order shall relieve Respondent from complying with all other applicable laws and regulations. Respondent shall conform all actions required by this Proposed Order or Final Order with all applicable federal, state, and local laws and regulations.
24. This is an action to enforce the laws and regulations administered by the Commission. The method of compliance with this enforcement action consists of payment of an

administrative penalty and compliance actions to enforce a permit or order issued by the Commission. The Commission finds that issuance of this Proposed Order or Final Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code § 2100 et seq.) pursuant to section 15321(a)(2); chapter 3, title 14 of the California Code of Regulations exempting actions to enforce or a permit prescribed by a regulatory agency.

25. The Respondent shall not have any ex parte communications with Commission decisionmakers and will only communicate with the Commission through Request for Hearings or other appropriate procedural avenues.

IT IS ORDERED:

DATED: _____

BY: _____

Leslie L. Palmer

Director, Safety and Enforcement Division

Appendix A: Request for Hearing Instructions

Appendix B: Notice of Violation

Appendix C: SCE's NOV Responses

Appendix D: Enforcement Policy

Appendix A
(Request for Hearing Instructions)

INSTRUCTIONS TO AGREE TO COMPLY WITH/ REQUEST A HEARING ON PROPOSED ADMINISTRATIVE ENFORCEMENT ORDER

Respondent is required to respond to this Proposed Order by: **5:00 PM on June 9, 2025**. By way of such response, Respondent, must either:

- 1) Agree to pay any penalty required by this Proposed Order and to comply with all corrective actions upon adoption of a final order by the Commission.⁴

OR

- 2) Request a hearing on the Proposed Order.⁵

The right to a hearing is forfeited if a Request for Hearing is not timely filed. If a timely Request for Hearing is not filed, this Proposed Order will become final and effective upon adoption by the Commission (Final Order).

A requested hearing shall be conducted by an Administrative Law Judge in accordance with the hearing provisions in the Citation Appellate Rules. After hearing, this Proposed Order or any Administrative Law Judge modifications to the Proposed Order shall become a Final Order, effective upon Commission approval of the draft resolution prepared by the Administrative Law Judge. The draft Administrative Law Judge resolution approved by the Commission is subject to rehearing pursuant to Public Utilities Code section 1731 and to judicial review pursuant to Public Utilities Code section 1756.

⁴ Please see “Agreement to Comply with Administrative Enforcement Order” form.

⁵ Respondent may request a hearing of this Proposed Order by completing and submitting a Request for Hearing Form. Please see the attached document, “Directions for Requesting Hearing of Proposed Administrative Enforcement Order” for information on the process and the attached “Request for Hearing of Proposed Administrative Enforcement Order Form.”

**AGREEMENT TO COMPLY WITH PROPOSED ADMINISTRATIVE
ENFORCEMENT ORDER**

I (we) _____ hereby agree to comply with this Proposed Administrative Enforcement Order (Proposed Order) dated _____, and have (check all applicable):

- ☐ Corrected/mitigated the violation(s) noted in the Proposed Order on _____ and no later than _____.
- ☐ Performed all work to make permanent corrections to any mitigated, or otherwise remaining concerns related to the violation(s) will be completed as noted in the Compliance Plan submitted to the Director of the Safety and Enforcement Division.
- ☐ Agree to pay a fine in the amount of \$ _____ as included in the Proposed Order upon the Commission's adoption of the Proposed Order.

**Signature of Electrical Corporation's Treasurer,
Chief Financial Officer, or President/Chief
Executive Officer, or delegated Officer thereof**

(Signature) (Date)

(Printed Name and Title)

The Fine is due within 30 days of adoption of the Final Order. Respondent's payment shall be by check or money order and shall be made payable to the California Public Utilities Commission. Respondent shall write on the face of the check or money order: "For deposit to the State of California General Fund." Respondent shall deliver payment to:

**California Public Utilities Commission
ATTENTION: Fiscal Office
505 Van Ness Avenue, Room 3000
San Francisco, CA 94102-3298**

NOTE: A copy of the completed Payment Form must be sent to the Director of the Safety and Enforcement Division, via email or regular mail, to the address provided on the Citation

DIRECTIONS FOR SUBMITTING A REQUEST FOR HEARING OF A PROPOSED ADMINISTRATIVE ENFORCEMENT ORDER

Within 30 calendar days of the Respondent being served with a **PROPOSED ADMINISTRATIVE ENFORCEMENT ORDER**, Respondent may request a hearing. The filing of a timely Request for Hearing shall **NOT** excuse Respondent from curing the violations identified in the Proposed Order.

To request a hearing, the Respondent must file a Request for Hearing (Including a complete title page complying with Rule 1.6 of the Commission's Rules of Practice and Procedure) along with copies of any materials the Respondent wants to provide in support of its request with the Commission's Docket Office and must serve the Request for Hearing, at a minimum, on:

- 1) The Chief Administrative Law Judge (with an electronic copy to Administrative_Enforcement_Appeals_Coordinator@cpuc.ca.gov).
- 2) The Director of the Safety and Enforcement Division
- 3) The Executive Director
- 4) The Deputy Executive Director for Safety and Enforcement
- 5) The General Counsel
- 6) The Director of the Public Advocates Office of the California Public Utilities Commission

at the address listed below within 30 calendar days of the date on which the Respondent is served the Proposed Administrative Enforcement Order. The Respondent must file a proof of service to this effect at the same time the Respondent files the Request for a Hearing. The Request for a Hearing must at a minimum state: (a) the date of the Proposed Administrative Enforcement Order; and (b) the rationale for Request for Hearing with specificity on all grounds. Sample Forms are provided below.

***California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Attn: <Insert Title>***

NOTE: Submission of a *Request for Hearing* in no way diminishes Respondent's responsibility for correcting the violation(s) described in the Proposed Administrative Enforcement Order, or otherwise ensuring the safety of facilities or conditions that underlie the violation(s) noted in the Proposed Administrative Enforcement Order.

Ex Parte Communications as defined by Rule 8.1(c) of the Commission's Rules of Practice and Procedure are prohibited from the date the Proposed Administrative Enforcement Order is issued through the date a Final Order is issued.

After receipt of the Respondent's Request for Hearing, a hearing will be convened before an Administrative Law Judge. At least ten days before the date of the hearing, the Respondent will be notified and provided with the location, date, and time for the hearing. At the hearing,

- (a) Respondent may be represented by an attorney or other representative, but any such representation shall be at the sole expense of the Respondent.
- (b) Respondent may request a transcript of the hearing but must pay for the cost of the transcript in accordance with the Commission's usual procedures.
- (c) Respondent is entitled to the services of an interpreter at the Commission's expense upon written request to the Chief Administrative Law Judge not less than five business days prior to the date of the hearing.
- (d) Respondent is entitled to a copy of or electronic reference to "Resolution ALJ-377, Citation Appellate Rules and General Order 156 Appellate Rules (Citation Appellate Rules)"; and
- (e) Respondent may bring documents to offer in evidence (Rule 13.6 (Evidence) of the Commission's Rules of Practice and Procedure applies) and/or call witnesses to testify on Respondent's behalf. At the Commission's discretion, the hearing in regard to the Respondent's appeal can be held either virtually or in a CPUC hearing room at either of the following locations:

San Francisco:

505 Van Ness Avenue
San Francisco, CA 94102

Los Angeles:

320 West 4th Street, Suite 500
Los Angeles, CA 90013

The hearing(s) held in regard to the Respondent's Proposed Administrative Enforcement Order will be adjudicated in conformance with all applicable Public Utilities Code requirements.

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

In the matter of:

Insert title of Proposed Administrative
Enforcement Order

Proposed Administrative
Enforcement Order
(Order Number)

**REQUEST OF [NAME OF RESPONDENT] FOR HEARING ON
PROPOSED ADMINISTRATIVE ENFORCEMENT ORDER**

Statements supporting the Request for Hearing.

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

In the matter of:

Insert title of Proposed Administrative
Enforcement Order

Proposed Administrative
Enforcement Order
(Order Number)

CERTIFICATE OF SERVICE

I hereby certify that I have on this date served a copy of **TITLE** to all known parties by either United States mail or electronic mail, to each party named on the official service list attached in _____.

An electronic copy was sent to the assigned Administrative Law Judge.

Executed on **MONTH, DATE** at San Francisco, California.

/s/

PRINTED NAME

Appendix B

(Notice of Violation)

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



June 19, 2024

Connor Flanigan
Managing Director, State Regulatory Operations
Southern California Edison (SCE)
2244 Walnut Grove Avenue
Rosemead, CA 91770

SUBJECT: Notice of Violation Southern California Edison 2022 Public Safety Power Shutoff Events

Dear Mr. Flanigan:

On behalf of the Safety and Enforcement Division (SED) of the California Public Utilities Commission (CPUC), Wildfire Safety & Enforcement Branch (WSEB), Cindy Chen of my staff evaluated the compliance reports submitted by Southern California Edison (SCE) concerning its 2022 Public Safety Power Shutoff (PSPS) events. SCE initiated a total of six PSPS events in 2022. The information used in our evaluation is from the 2022 post event reports and post season reports filed by SCE as required in Resolution ESRB-8, Decision (D.) 19-05-042, D.20-05-051, D.21-06-014, D. 21-06-034, and the Administrative Law Judge's Ruling on Post Event Report Template. We also considered stakeholders' comments in our evaluation.

Notification Violations

Over the course of our evaluation, WSEB found numerous instances where SCE failed to notify customers upon and after de-energization. D.19-05-042 requires that the electric investor-owned utility provide notification to customers "at the beginning of a de-energization event, when re-energization begins and when re-energization is complete." Specifically, we found that between the six 2022 PSPS de-energization events, 165 customers were not notified upon de-energization initiation, 1,775 customers were not notified before re-energization, and 163 were not notified when re-energization was complete.

Table 1

Event	Initiation	Before Re-energization	Re-energization Complete	Total
July 22–23	27	27	27	81
Nov. 19–20	120	120	120	360
Nov. 24–25	18	1,628	16	1,662
Total	165	1,775	163	2,103

Resolution ESRB-8 Violations

Notification to SED Director

WSEB found that SCE violated several PSPS requirements under Resolution ESRB-8, which require the utility to notify the Director of SED of an estimated restoration time no later than 12 hours after the power shut-off. None of the notifications to the Director of SED included an estimated restoration time. In addition, for the November 24–25, 2022, event, SCE notified the Director of SED of the full power restoration on November 25, 2022, at 12:34 AM. While the majority of the customers were re-energized by November 25, 2022, at 12:23 AM, one commercial customer was not restored until November 27th due to an isolation device that was inadvertently left open. SCE did not send a subsequent update to the Director of SED notifying the full restoration within 12 hours from the time the last service was restored.

Claims reporting

Resolution ESRB-8 requires the utilities to report the claims that were filed against the utility because of de-energization. SCE initially reported a total of 10 claims in various post event reports. Then in the post season report, SCE updated the total number of claims to 11 from initially reported 10. SCE did not provide an explanation for this update.

Violations of D.19-05-042

Notifications

D.19-05-042 imposes additional notification requirements to the ones outlined above. This decision requires customer notifications at 48–72 hours, 24–48 hours, and 1–4 hours prior to de-energization to public safety partners, critical facilities, or customers. SCE failed to meet the advance notification requirements as described below:

Table 2

Event	Notification Failure	Entity/ Customer Accounts	SCE's Explanation
June 15 – 17 ¹	48–72 hours	Not reported. No customers were de-energized in this event.	SCE did not report this notification failure, hence no explanation was provided.
July 22 – 23	48–72 hours	42	Not forecasted in scope.
	24–48 hours	170	Not forecasted in scope
	1–4 hours	121 ²	102: Rapidly escalating weather conditions. 1: Opted out of PSPS notification. 26: No valid contact info or opted out of PSPS notification.
	No advance notification at all	33	6: Rapidly escalating weather conditions. 1: Opted out of PSPS notification. 26: No valid contact info or opted out of PSPS notification
Sep. 9 ³	48–72 hours	Not reported. No customers were de-energized in this event.	SCE did not report this notification failure, hence no explanation was provided.
Nov. 19 – 20	48–72 hours	93	Rapidly escalating weather conditions and 4 unenrollments.
	24–48 hours	4,624	Rapidly escalating weather conditions and 116 unenrollments.
	1–4 hours	5,239	Rapidly escalating weather conditions and 120 unenrollments.
	No advance notification at all	4,717	Rapidly escalating weather conditions and 120 unenrollments.

¹ SCE did not report any advance notification failure for June 15–17 event. The notification failure in Table 3 is inferred by SED from SCE's reported timeline.

² Per SCE's reporting, the breakdown of the total did not reconcile to the total.

³ SCE did not report any advance notification failure for September 9 event. The notification failure in Table 3 is inferred by SED from SCE's reported timeline.

Nov. 24 – 25	48–72 hours	84	Not forecasted in scope by 48 hours before de-energization.
	24–48 hours	5,245	5,227: Not validated in scope by 24 hours before de-energization. 18: No contact info or opted out of notification.
	1–4 hours	5,025	5,007: Rapidly escalating weather conditions. 18: No contact info or opted out of notifications.
	No advance notification at all	18	No contact info or opted out of notifications.

In addition, for the July 22–23 event, SCE did not accurately report the notification timeline. SCE reported it sent the 48–72 hour notification approximately at July 22, 09:42 AM. All the three circuits were de-energized in the morning of July 22 between 8:13 AM and 11:30 AM, hence the reported 24–48 hour and 48–72 hour notification is not accurate. Instead, SCE reported a required notification type that was not actually sent out during the required time window.

Furthermore, for all the events in 2022, SCE did not notify public safety partners of the estimated time to full restoration, as required in Appendix A, page A16. SCE did not notify customers of an estimated start time of the event, nor the estimated time of power restoration as required in A22-A23.

Regarding the positive notifications, for October 22–24 event, SCE reported “N/A” for this required reporting and stated there were no Medical Baseline (MBL) customers or other customers with Access and Functional Needs de-energized in this high threat event. Although no customers were de-energized during this event, according to the daily update to the CPUC during the event, there were hundreds of MBL customers in the scope. SCE is required to send positive notifications to those vulnerable customers regardless of whether the high threat event materialized or not. SCE did not report an accounting of the customers where positive or affirmative notification was attempted, the number of notification attempts made, the timing of attempts, who made the notification attempt (utility or public safety partner), and the number of customers for whom positive notification was achieved. Additionally, for the November 19–20 event, SCE did not make positive notification attempts to all the MBL and Self-Certified Vulnerable customers in scope as shown in Table 3 below:

Table 3

Category	Total Number of Customers	Notification Attempts	Successful Positive Notifications
MBL	647	499	499
Self-Certified Vulnerable	78	59	59

Violations of D.20-05-051

Appendix A (d) requires a Community Resource Center (CRC) to be operable between 8:00 AM–10:00 PM during active de-energization, which for the October 22–24 event, SCE did not open the CRCs or Community Crew Vehicles (CCV) for the entire duration of the de-energization event as no CRCs or CCVs were operable on October 23.

Appendix A (e) requires each electric investor-owned utility shall ensure that electric service to impacted service points is restored as soon as possible and within 24 hours from the termination of the de-energization event, unless it is unsafe to do so. For the November 24–25 event, one commercial customer required more than 24 hours to restore and SCE only reported it was under investigation.

Violation of D.21-06-014

D.21-06-014 requires PG&E, SCE, and SDG&E provide a statement in the post event report verifying the availability to public safety partners of accurate and timely geospatial information, and real time updates to the GIS shapefiles in preparation for an imminent de-energization event and during a de-energization event. In 2022, SCE's geospatial information was either not timely or not accurate during the events of July 22–23, October 22–24, November 19–20, and November 24–25.

The Decision also requires PG&E, SCE, and SDG&E to provide the names of all entities invited to the utility's Emergency Operations Center for a de-energization event, the method used to make this invitation, and whether a different form of communication was preferred by any entity invited to the utility's Emergency Operations Center. For all the events in 2022, SCE failed to report whether a different form of communication was preferred by any entity invited to the utility's Emergency Operations Center.

Furthermore, in none of the post event reports submitted did SCE adhere to the requirement to present a threshold examination description for the de-energization.

Violation of D. 21-06-034

Notifications

For the following events, SCE did not send out cancellation notices within two hours of the decision to cancel the de-energization event.

Table 4

Event	Cancellation Notice	Counts	Explanation
July 22–23	Customers	5	Customers were incorrectly assigned to a different circuit and are in the process of being mapped to the correct electrical equipment.

Sep. 9	Critical Facilities	2	No contact information available.
	Customers	79	38: Opted out of notification channels. 2: Underwent connectivity mapping corrections which removed them from PSPS scope. 22: Enrollment was end-dated due to move-out in process. 17: No contact information available.
Oct. 22–24	Customers	19	1: Not enrolled. 6: No contact information available. 12: Received contact error requiring review of their contact information.
Nov. 19–20	Critical Facilities	66	Complexity of segment level de-energizations intended to minimize customer impacts.
	Customers	3,679	Complexity of segment level de-energizations intended to minimize customer impacts.
Nov. 24–25	Critical Facilities	62	Complexity of segment level de-energizations intended to minimize customer impacts.
	Customers	2,745	Complexity of segment level de-energizations intended to minimize customer impacts.

In addition, for June 15–17 event, SCE did not report whether the cancellation notifications were sent out within two hours of the decision to cancel.

Furthermore, the Decision requires “[p]rior to a PSPS event, immediately after the utility decides on which CRC locations to open during the PSPS event, the utility must provide notice to customers of the locations of the CRCs, the services available at each CRC, the hours of operation of each CRC, and where to access electricity during the hours the CRC is closed. This notice must be provided in all available means, including, but not limited to, text messages and on the utilities’ websites.” While SCE generally directed its customers to sce.com/psps for the latest information and availability of community resources, SCE did not clearly state the required CRC notification elements in the text messages to customers.

Reporting Template Violations

Additional reporting requirements are also included in the reporting template for the Post Event Report. Template Section 3.2 requires the utilities must include “[a] zipped geodatabase file that includes PSPS event polygons of de-energized areas.” The file should include de-energization data in a zipped geodatabase file and Excel spreadsheet. For July 22–23 event, the data in the zipped geodatabase file and in the Excel spreadsheet were not consistent⁴.

For June 15–17 event, SCE did not follow the Template to report lessons learned.

⁴ Later, upon SED’s inquiry, SCE acknowledged the zipped geodatabase file was incorrect and submitted a revised file.

Please advise me no later than July 19, 2024, of corrective measures taken by SCE to remedy and prevent the future recurrence of the identified violations, or provide additional data that refutes the violations detailed in this Notice of Violation. Based on your response, this Notice of Violation may lead to an enforcement action. If you have any questions, you can contact Cindy Chen at (415) 660-8312 or email Cindy.Chen@cpuc.ca.gov.

Sincerely,



Ronald DeMayo

Program and Project Supervisor
Public Safety Power Shutoff Section
Wildfire Safety and Enforcement Branch
Safety and Enforcement Division
California Public Utilities Commission

Cc: Lee Palmer, Director, Safety and Enforcement Division, CPUC
Anthony Noll, Program Manager, WSEB, SED, CPUC
Cindy Chen, Senior Public Utilities Regulatory Analyst, WSEB, SED, CPUC

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



September 27, 2024

Connor Flanigan
Managing Director, State Regulatory Operations
Southern California Edison (SCE)
2244 Walnut Grove Avenue
Rosemead, CA 91770

SUBJECT: Notice of Violation – Southern California Edison 2023 Public Safety Power Shutoff Events

Mr. Flanigan:

On behalf of the Wildfire Safety and Enforcement Branch (WSEB) within Safety and Enforcement Division (SED) of the California Public Utilities Commission (CPUC or Commission), Cindy Chen of my staff conducted compliance assessment of Southern California Edison's (SCE) 2023 Public Safety Power Shutoff (PSPS) operations and post event reports. In 2023, SCE initiated eight PSPS events and submitted eight post event reports (see below).

Table 1: SCE 2023 PSPS Summary

Report #	Dates	Total Customers Notified	Total Customers De-energized	Medical Baseline Customers De-energized	Number of Counties De-energized	Number of Tribes De-energized
1	July 11	5	5	0	1	0
2	July 18	5	0	0	0	0
3	Oct. 11	8,124	0	0	0	0
4	Oct. 29	203,538	25,504	588	5	0
5	Nov. 9	79,078	338	9	2	1
6	Nov. 20	40,589	2,780	103	3	0
7	Nov. 26	2,699	0	0	0	0
8	Dec. 9	120,514	5,311	162	5	1

SED performed real time compliance assessments during the events, reviewed the submitted post event reports, the correction of the post event report filed on April 1, 2024, the post season report filed on March 1, 2024, considered stakeholder comments of the post season report to evaluate SCE's compliance with the requirements under Resolution ESRB-8, Decision (D.)19-05-042, D.20-05-051, D.21-06-014, D.21-06-034 and Administrative Law Judge's Ruling on Post Event Report Template.

Our assessment revealed SCE did not comply with certain provisions of Commission Resolution ESRB-8, D.19-05-042, D. 20-05-051, D.21-06-014, D.21-06-034 and the Ruling on Post Event Report Template.

1. **Resolution ESRB-8 states** in part “[t]he report should include ‘The local communities’ representatives the IOU contacted prior to de-energization, the date on which they were contacted, and whether the areas affected by the de- energization are classified as Zone 1, Tier 2, or Tier 3 as per the definition in General Order 95, Rule 21.2-D.’” (ESRB-8 at 5)

For the October 29 event, SCE did not completely report the classification for all the areas affected. Some areas affected were reported as “N/A” and SCE did not explain what N/A stands for.

2. **Resolution ESRB-8 states** in part “[t]he IOU shall identify the address of each community assistance location during a de-energization event, describe the location (in a building, a trailer, etc.), describe the assistance available at each location, and give the days and hours that it was open.” (ESRB-8 at 5)

For the October 29 event, according to Table 15¹ and the map² of the post event report, 10 CRCs and three CCVs were deployed. SCE reported the address, location type, assistance available, hours of operation, and number of visitors for each location. However, SCE's narrative summary of the event states that four CCVs and seven CRCs were deployed³. Upon SED's inquiry, SCE confirmed 10 CRCs and four CCVs were deployed during this event. SCE did not accurately report the number for each type of community assistance provided.

3. **Resolution ESRB-8 states** in part “[t]he IOU shall notify the Director of SED, as soon as practicable, once it decides to de-energize its facilities. If the notification was not prior to the de-energization event, the IOU shall explain why a pre-event notification was not possible. The notification shall include the area affected, an estimate of the number of customers affected, and an estimated restoration time.”

¹ SCE October 29, 2023 post event report, p. 40

² SCE October 29, 2023 post event report, p. 44

³ SCE October 29, 2023 post event report, p. 43

(ESRB-8 at 6)

For all the eight events in 2023, SCE's notification to Director of SED only included a Period of Concern. SCE did not provide an estimated restoration time. Instead, SCE only made the following boiler plate statement; "the restoration is expected to take up to 8 hours after fire conditions end".

4. ***Resolution ESRB-8 states in part "[t]he IOU shall also notify the Director of SED of full restoration within 12 hours from the time the last service is restored." (ESRB-8 at 6)***

For the October 29 event, on November 2, 2023, at 10:18 am, SCE notified CPUC of event concluded. The event conclusion notice only stated "[t]he period of concern has concluded and no circuits remain in scope for the next 72 hours." ⁴. It did not clearly state whether the power had been fully restored to all the de-energized customers. The previous notice that SCE sent to CPUC on November 1 stated there were a small number of customers that had not been re-energized due to damage found. SCE did not notify the Director of SED of full restoration within 12 hours from the time the last service was restored.

5. ***Resolution ESRB-8 states in part "IOUs shall submit a report to the Director of SED within 10 business days after each de-energization event, as well as after high-threat events where the IOU provided notifications to local government, agencies, and customers of possible de-energization though no de-energization occurred." (ESRB-8 at 5)***

For the July 18 event, SCE submitted the post event report to the Director of SED on August 2. The submission due date was August 1. SCE was one day late.

6. ***D.19-05-042 Appendix A states in part "[t]he electric investor-owned utilities should, whenever possible, adhere to the following minimum notification timeline:***
- *48-72 hours in advance of anticipated de-energization: notification of public safety partners/priority notification entities*
 - *24-48 hours in advance of anticipated de-energization: notification of all other affected customers/populations*
 - *1-4 hours in advance of anticipated de-energization, if possible: notification of all affected customers/populations.*
 - *When de-energization is initiated: notification of all affected customers/populations*
 - *Immediately before re-energization begins: notification of all affected*

⁴ SCE's email to CPUC sent on November 2, 2023 at 10:18 am

customers/populations

- *When re-energization is complete: notification of all affected customers/populations” (D.19-05-042 at A8)*

6.1 In 2023, SCE reported the following advance and post de-energization notification failures for all the events:

Table 2: Reported Notification Failure Summary

Notification Type	Oct. 29	Nov. 9	Nov. 20	Dec. 9	Subtotal
48-72 hours	557	7	77	138	779
24-48 hours	7,818	37	276	822	8,953
1-4 hours	17,898	227	2,390	2,928	23,443
No advance notice at all	2,870	21	254	463	3,608
Subtotal – advance failure	29,143	292	2,997	4,351	36,783
De-energization Initiation	8,770	29	383	607	9,789
Imminent re-energization	7,973	23	324	642	8,962
Re-energization complete	6,359	23	262	503	7,147
Subtotal – post failure	23,102	75	969	1,752	25,898

Table 3: October 29 Event Notification Failures

Recipients	Notification Failure	Customer Counts	SCE’s Explanation
Public Safety Partners excluding Critical Facilities and Infrastructure	48-72 hours	4	2: not forecast in scope. 2: data processing error.
	1-4 hours	7	3: sent more than 4 hours before de-energization. 2: sent less than 1 hour before de-energization due to sudden onset of weather conditions. 2: data processing error.
	No advance notification at all	2	Data processing error.
	Imminent re-energization	2	Data processing error.
Critical Facilities and Infrastructure	48-72 hours	553	473: not forecast in scope. 75: data processing error. 5: not successfully delivered due to invalid contact info or other delivery failure.
	1-4 hours	454	30: sent more than 4 hours before de-energization.

Recipients	Notification Failure	Customer Counts	SCE's Explanation
			189: sent less than 1 hour before de-energization due to sudden onset of weather conditions. 233: data processing error. 2: not delivered due to invalid contact information or other delivery failure.
	No advance notification at all	28	12: sudden onset of weather conditions. 11: data processing error. 5: not delivered due to invalid contact info or other delivery failure.
	De-energization Initiation	154	102: system/operational failure. 50: data processing error. 2: not delivered due to invalid contact info or other delivery failure.
	Imminent re-energization	128	120: system/operational failure. 7: data processing error. 1: not delivered due to invalid contact info or other delivery failure.
	Re-energization complete	136	125: system/operational failure. 9: data processing error. 2: not delivered due to invalid contact info or other delivery failure.
Customers	24-48 hours	7,818	53: sent more than 48 hours before de-energization. 2,007: not forecast in scope. 3,778: system/operational failure. 1,980: not delivered due to invalid contact info or other delivery failure.
	1-4 hours	17,437	1,025: sent more than 4 hours before de-energization. 8,490: sent less than 1 hour before de-energization due to rapidly escalating weather conditions. 5,276: not sent due to sudden onset of weather conditions. 888: system/operational failure. 1,758: not delivered due to invalid contact info or other delivery failure.
	No advance notification at all	2,840	516: sudden onset of weather conditions. 2,324: not delivered due to invalid contact info or other delivery failure.
	De-energization initiation	8,616	4,091: system/operational failure.

Recipients	Notification Failure	Customer Counts	SCE's Explanation
			4,525: not delivered due to invalid contact info or other delivery failure.
	Imminent re-energization	7,843	5,465: system/operational failure. 2,378: not delivered due to invalid contact info or other delivery failure.
	Re-energization complete	6,223	4,141: system/operational failure. 2,082: not delivered due to invalid contact info or other delivery failure.

Table 4: November 9 Event Notification Failures

Recipients	Notification Failure	Customer Counts	SCE's Explanation
Public Safety Partners excluding Critical Facilities and Infrastructure	48-72 hours	1	Notification was not sent due to data processing error.
	1-4 hours	5	4: notifications were sent, but less than 1 hour before de-energization due to sudden onset of weather conditions. 1: notification was not sent due to data processing error.
	No advance notification at all	1	Data processing error.
	Imminent re-energization	1	Data processing error.
	Cancellation not within 2 hours	7	System/operational failure.
Critical Facilities and Infrastructure	48-72 hours	6	5: notifications were sent more than 72-hours before de-energization. 1: notification not successfully delivered due to invalid contact information or other delivery failure.
	1-4 hours	7	5: notifications were sent more than 4 hours before de-energization. 1: notification was sent, but less than 1 hour before de-energizations due to sudden onset of weather conditions. 1: notification not successfully delivered due to invalid contact information or other delivery failure.
	No advance notification at all	1	Invalid contact information or other delivery failure.
	De-energization initiation	1	Invalid contact information or other delivery failure.

Recipients	Notification Failure	Customer Counts	SCE's Explanation
	Imminent re-energization	1	Invalid contact information or other delivery failure.
	Re-energization complete	1	Invalid contact information or other delivery failure.
Customers	24-48 hours	37	24: notifications not successfully delivered due to invalid contact information or other delivery failure. 13: notifications were sent more than 48 hours before de-energization.
	1-4 hours	215	19: notifications not successfully delivered due to invalid contact information or other delivery failure. 178: notifications were sent more than 4 hours before de-energization. 18: notifications were sent but less than 1 hour before de-energization due to sudden onset of weather conditions.
	No advance notification at all	19	Invalid contact information or other delivery failure.
	De-energization initiation	28	Invalid contact information or other delivery failure.
	Imminent re-energization	21	Invalid contact information or other delivery failure.
	Re-energization complete	22	Invalid contact information or other delivery failure.

Table 5: November 20 Event Notification Failures

Recipients	Notification Failure	Customer Counts	SCE's Explanation
Public Safety Partners excluding Critical Facilities and Infrastructure	48-72 hours	6	Not forecast in scope within 48-72 hours. 5: notifications were sent but less than 48 hours before de-energization. 1: notification was not sent due to data processing error.
	1-4 hours	2	Notifications were sent, but less than 1 hour before de-energization due to sudden onset of weather conditions.
	No advance notification at all	1	Sudden onset of weather conditions.
	Imminent re-energization	2	Data processing error.
Critical	48-72 hours	71	Not forecast in scope.

Recipients	Notification Failure	Customer Counts	SCE's Explanation
Facilities and Infrastructure	1-4 hours	73	68: notifications were sent more than 4 hours before de-energization. 5: not sent due to sudden onset of weather conditions.
Customers	24-48 hours	276	8: notifications were sent more than 48 hours before de-energization. 5: Not forecast in scope within 24-48 hours. 5 notifications were sent but less than 24 hours before de-energization. 2: data processing error. 261: invalid contact info or other delivery failure.
	1-4 hours	2,315	1,974: notifications were sent more than 4 hours before de-energization. 19: notifications were sent less than 1 hour before de-energization due to sudden onset of weather conditions. 44: not sent due to sudden onset of weather conditions. 278: invalid contact information or other delivery failure.
	No advance notification at all	253	1: operational data system anomaly. 252: invalid contact information or other delivery failure.
	De-energization initiation	383	1: operational data system anomaly. 382: invalid contact information or other delivery failure.
	Imminent re-energization	322	1: operational data system anomaly. 321: invalid contact information or other delivery failure.
	Re-energization complete	262	Invalid contact information or other delivery failure.

Table 6: December 9 Event Notification Failures

Recipients	Notification Failure	Customer Counts	SCE's Explanation
Public Safety Partners excluding Critical	48-72 hours	8	4: Not forecast in scope within 48-72 hours. 4 notifications were sent but less than 48 hours before de-energization. 4: data processing error.
Facilities and Infrastructure	1-4 hours	7	1: sent more than 4 hours before de-energization.

Recipients	Notification Failure	Customer Counts	SCE's Explanation
			1: notification was sent but less than 1 hour before de-energization due to sudden onset of weather conditions. 5: data processing error.
	No advance notification at all	4	Sudden onset of weather conditions.
	Imminent re-energization	4	System/operational failure.
Critical Facilities and Infrastructure	48-72 hours	130	5: sent more than 72-hours before de-energization. 104: not forecast in scope. 21: invalid contact information or other delivery failure.
	1-4 hours	110	5: notifications were sent more than 4-hours before de-energization. 83: sent but less than 1 hour before de-energization due to sudden onset of weather conditions. 21: data processing error. 1: invalid contact information or other delivery failure.
	No advance notification at all	2	Invalid contact information or other delivery failure.
	De-energization Initiation	2	Invalid contact information or other delivery failure.
	Imminent re-energization	7	2: invalid contact information or other delivery failure. 5: not sent due to system/operational failure.
	Re-energization complete	2	Invalid contact information or other delivery failure.
Customers	24-48 hours	822	6: notifications were sent more than 48-hours before de-energization. 49: not forecasted in scope at 24-48 hours. Notifications were sent but less than 24 hours before de-energization. 362: data processing error. 405: invalid contact information or other delivery failure.
	1-4 hours	2,811	51: notifications were sent more than 4-hours before de-energization. 2,194: notifications were sent

Recipients	Notification Failure	Customer Counts	SCE's Explanation
			but less than 1 hour before de-energization due to sudden onset of weather conditions. 82: data processing error. 484: invalid contact information or other delivery failure.
	No advance notification at all	457	12: not sent due to sudden onset of weather conditions. 445: invalid contact information or other delivery failure.
	De-energization initiation	605	Invalid contact information or other delivery failure.
	Imminent re-energization	631	60: system/operational failure. 571: invalid contact information or other delivery failure.
	Re-energization complete	501	1: data processing error. 500: invalid contact information or other delivery failure.

6.2 In addition to SCE's reported notification failures above, SED identified additional failed notifications in the following events.

- 6.2.1 SCE de-energized customers at 18:34 on July 11⁵. According to the notification timeline⁶, one de-energization notification was sent to the critical facilities on July 12. SCE sent out notification initiation notice the day after the line was de-energized.
- 6.2.2 For the July 18 event, per the notification to CPUC, the Period of Concern started at 12:00 on July 18. Per the notification timeline⁷, at least one affected customer received the initial advance notice at 10:57 on July 18. Not all the customers received the 24-48 hour advance notification.
- 6.2.3 For the Oct. 11 event, per the notification to CPUC, the Period of Concern started at 18:00 on October 11. Per the notification timeline⁸, some critical facilities and customers received the 24-48 hour notifications in the morning of October 11 and October 12. SCE did not meet the 24-48 hour in advance of anticipated de-energization.
- 6.2.4 For the November 26 event, per the notification to CPUC, the Period

⁵ SCE July 11, 2023 post event report, p17

⁶ SCE July 11, 2023 PSPS Event Data Workbook, T07

⁷ SCE July 18, 2023 PSPS Event Data Workbook, T07

⁸ SCE Oct. 11, 2023 PSPS Event Data Workbook, T07

of Concern started at 06:00 on November 26, 2023. Per the notification timeline⁹, the earliest notification to public safety partners was sent out on November 24 at 12:59. SCE did not meet the 72-48 hour in advance of anticipated de-energization for all public safety partners and critical facilities.

7. ***D.19-05-042 Appendix A states in part “[i]n addition to submitting a report to the Director of the Commission’s Safety and Enforcement Division within 10 business days of power restoration, electric investor-owned utilities must serve their de-energization report on the service lists of this proceeding and Rulemaking 18-10- 007 or their successor proceedings.” (D.19-05-042 at A22)***

For the July 18 event, SCE served the report to the service list on August 2. The submission due date was on August 1. SCE was one day late.

8. ***D.19-05-042 Appendix A states in part “Notification Preceding a De-Energization Event - The electric investor-owned utilities must convey to public safety partners at the time of first notification preceding a de-energization event information regarding the upcoming de-energization, including estimated start time of the event, estimated duration of the event, and estimated time to full restoration” (D.19-05-042 at A16)***

For all the events in 2023, the notifications to public safety partners only included the period of concern and did not include estimated time to full restoration pursuant to the notification scripts to public safety partners.

9. ***D.19-05-042 Appendix A states in part “Notification Preceding a De-Energization Event - The electric investor-owned utilities must partner with local public safety partners to communicate with all other customers that a de-energization event is possible, the estimated start date and time of the de-energization event, the estimated length of the de-energization event, which may be communicated as a range, and the estimated time to power restoration, which again, may be communicated as a range” (D.19-05-042 at A17)***

For all the events in 2023, the notification only included estimated start date and morning/afternoon/evening; it did not include the estimated start time nor estimated time to power restoration pursuant the notification scripts to customers. Even on the imminent re-energization notice, SCE only put; “[r]estoration is expected to take up to 8 hours but could take longer if we need daylight for safe inspections or find damage.”

10. ***D.19-05-042 Appendix A states in part “[t]he electric investor-owned utilities must***

⁹ SCE Nov. 26, 2023 PSPS Event Data Workbook, T07

provide up-to-date information, including a depiction of the boundary of the de-energization event, on their websites' homepage and a dedicated Public Safety Power Shut-off webpage regarding the de-energization event." (D.19-05-042 at A18)

For the Oct. 29 event, SED noted the following:

- 10.1 SCE's PSPS maps contained many errors and omissions
 - 10.1.1 Overlapping polygons with conflicting information
 - Example 1 – Some locations on SCE's map had two alerts, one warning that power may be de-energized and another advising that power is de-energized. Screenshots of Mulholland Road was documented.
 - 10.1.2 "Not Available" text displayed or missing date range on many Power Shutoff Warning polygons on SCE PSPS website. Multiple instances have been documented on Oct. 29 through Oct. 31 including 34 instances found by SED on Oct. 31. SCE explained that as an unintended consequence of SCE's manual adjustments for line segmentation to remove customers from scope and keep them re-energized through switching operations, their automated system attempts to automate information without accounting for the manual mitigations completed by their Operations team. SCE's GIS team must then make manual corrections to the maps on the Portal and on SCE.com/pmps that do not automatically update in real time and results in some lag/discrepancies in their maps. SCE stated they were working with their vendor to make enhancements to their system to address this issue.
- 10.2 SCE did not "provide up-to-date information... on their website's homepage...regarding the de-energization event"
SCE did not put up a banner on their homepage until SED staff brought it to their attention nor did the main PSPS page announce the event. A banner was added on the morning of Oct. 29, 2023, with the text "Public Safety Power Shutoffs are under consideration for certain areas," though de-energizations had already taken place. In addition, the most obvious button on SCE's homepage for outage information does not provide access to information about a PSPS event - the user would need to know to try a second, smaller button at the top of the page). SCE stated its current protocol is to add a banner on sce.com as soon as de-energized customer counts hit 50,000 (which corresponds to ~1% of SCE customers). The reasoning behind this protocol was to mitigate confusion for customers who might be coming to sce.com with another outage (e.g., a scheduled or other type of unplanned outage), so that they didn't automatically assume their

issue was attributable to PSPS. The regulation language does not specify a threshold, just that the IOU must provide up-to-date information on their homepage.

11. D.19-05-042 Appendix A states in part “[i]n addition to the reporting requirements in Resolution ESRB-8, the electric investor-owned utilities must provide the following information: ... 7) An explanation of how the utility determined that the benefit of de-energization outweighed potential public safety risks;” (D.19-05-042 at A24)

- 11.1 SCE used a Firecast Output Ratio for each circuit to indicate whether the PSPS benefit outweigh the risks. For the October 29, November 9, and November 20 events, some circuits have a ratio of “N/A.” SED noted for these circuits, some of the calculation inputs were “N/A,” resulting in the calculated Firecast Output Ratio as “N/A.” However, SCE did not explain why those circuits did not have input for SCE to calculate the output ratio, which should have provided the support for de-energization decision making.
- 11.2 For the October 29 event, SED noted among the circuits with “N/A” Firecast Output Ratio, six can be found in the de-energized circuits, implying these six circuits were de-energized without appropriately weighing the benefit vs. risk.

12. D.20-05-051 states in part “[e]ach electric investor-owned utility shall ensure that electric service to impacted service points is restored as soon as possible and within 24 hours from the termination of the de-energization event, unless it is unsafe to do so” (D.20-05-051 at Appendix A, p6)

SCE incorrectly reported restoration time in the October 29 event. SCE reported four circuits required more than 24 hours to restore due to damage found at structure, sudden wind delaying the patrol, and needing day light hours for patrol, including the Angus Circuit.¹⁰ However, the Angus Circuit was restored on October 30 at 15:38 after “All Clear” was declared at 14:13 on the same day¹¹, showing just over one hour to restore. SCE did not consistently report the circuit restoration time. Upon SED’s inquiry, SCE confirmed a total of three circuits required more than 24 hours to restore power. Angus Circuit was restored just over one hour after “All Clear” was declared.

13. D21-06-014 states in part “each utility shall respond to any failure to provide notice consistent with the guidelines with an explanation of what caused these failures and how the utilities will correct those failures.” (D21-06-014, OP7 at p286)

¹⁰ SCE Oct. 29 post event report, p39

¹¹ SCE Oct. 29 PSPS Event Data Workbook, T05

SCE failed to report the notification failures in four events as detailed in Section 6.2. Subsequently, SCE did not provide explanations of what caused these failures and how the utilities will correct those failures.

14. D.21-06-014 states in part *“Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company must include a statement in the 10-day post-event reports verifying the availability to public safety partners of (1) accurate and timely geospatial information and (2) real time updates to the Geographic Information System shapefiles in preparation for an imminent Public Safety Power Shutoff (PSPS) event and during a PSPS event.” (D21-06-014, OP 18 at 289)*

- 14.1 For the July 11 and July 18 events, the post event reports stated SCE “is aware of a current automation system limitation in which the Portal tabular format data does not match the graphical format and is working on an enhancement to address this current limitation.” As portal tabular format data does not match the graphical format, the geospatial information on the portal was not accurate.
- 14.2 For the October 29 event, maps and customer metrics provided from SCE’s Representational State Transfer Service (REST) on the Portal, and on sce.com contained errors and discrepancies. SCE’s geospatial information and real time updates to the GIS shapefiles provided to public safety partners during this event were not accurate.
- 14.3 For the following events, SCE’s statement in the post event report only verified the availability to public safety partners of geospatial information and real time updates to GIS shapefile. SCE did not verify the accuracy of geospatial information available to public safety partners:
 - October 11
 - November 9
 - November 20
 - November 26
 - December 9

15. D.21-06-014 states in part *“PG&E, SCE, and SDG&E must include in the 10-day post-event reports the names of all entities invited to the utility’s emergency operations centers for a Public Safety Power Shutoff event, the method used to make this invitation, and whether a different form of communication was preferred by any entity invited to the utility’s emergency operations center.” (D.21-06-014, OP 20 at 289)*

SCE did not report whether a different form of communication was preferred by any entity invited to the utility’s Emergency Operations Center for any of its

eight 2023 events.

16. D.21-06-014 states in part *“Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company must include, in the 10-day post-event report, a description of the de-energization threshold analyses, as part of lessons learned reporting, and the results of the utility’s examination of whether its thresholds are adequate and correctly applied in the de-energized areas.” (D.21-06-014, OP 69 at 305, 306)*

SCE did not provide a description of the de-energization threshold examination of whether its thresholds are adequate and correctly applied in the de-energized areas in any of its eight 2023 events. SCE only reported that it believes its thresholds were adequate and correctly applied in the de-energized area during this PSPS event, as detailed in Attachment B - Quantitative and Qualitative Factors in PSPS Decision-Making Technical Paper. SCE further referred the response to this requirement to its decision-making process. Neither the Technical Paper in Attachment B nor the decision making process served as a threshold examination description.

17. D.21-06-034 states in part *“Prior to a PSPS event, immediately after the utility decides on which [Community Resource Centers (CRC)] locations to open during the PSPS event, the utility must provide notice to customers of the locations of the CRCs, the services available at each CRC, the hours of operation of each CRC, and where to access electricity during the hours the CRC is closed. This notice must be provided in all available means, including, but not limited to, text messages and on the utilities’ websites.” (D21-06-034 at A2)*

SCE’s notification script states: “Information about Community Resource Centers and Community Crew Vehicles is available at [sce.com/psps](https://www.sce.com/psps).” SCE did not specify whether customers can find the locations of the CRCs, the services available at each CRC, the hours of operation of each CRC, and where to access electricity during the hours the CRC is closed.

18. D.21-06-034 states in part *“[e]ach electric investor-owned utility must make every attempt to provide notification of the cancellation of a de-energization event, or removal from scope, by notifying all affected entities, including public safety partners, within two hours of the decision to cancel.” (D.21-06-034 at A11)*

For the following events, SCE did not provide a notification of the cancellation of a de-energization event, or removal from scope, by notifying all affected entities, including public safety partners, within two hours of the decision to cancel. See details in Table 6 below:

Table 7: Cancellation Notifications

Event	Recipients	Customer Counts	SCE's Explanation
October 11	Public Safety Partners	8	Due to an error in decision-making related to application of the notification requirement, cancellation notifications to San Bernardino County and to Santa Barbara County were sent approximately 3.5 hours and 5.5 hours, respectively, after removal of circuits from scope.
	Critical Facilities	47	45: cancellation notices were sent approximately 5.5 hours after the circuits were removed from scope due to an error in decision-making related to application of the notification requirement. 2: cancellation notices were sent approximately 3.5 hours after removal from scope due to a system limitation.
	Customers	1,944	1,687: sent approximately 5.5 hours after removal from scope due to an error in decision-making related to application of the notification requirement. 257: customers were timely sent, but SCE received a delivery failure notice for these customers.
October 29	Critical Facilities	97	76: outside the 2-hour window due to system/operational failure. 20: not sent due to system/operational failure. 1: data processing error.
	Customers	6,668	1,924: sent outside the 2-hour window due to system/operational failure. 1,081: not sent due to system/operational failure. 3,663: not delivered due to invalid contact info or other delivery failure.
November 9	Public safety partner	7	System/operational failure.
	Critical facilities	125	78: error in the manual removal of circuits in scope. 47: abnormal circuit configuration.

Event	Recipients	Customer Counts	SCE's Explanation
	Customers	7,782	4,764: customer notifications were sent outside the 2-hour window due to system/operational failure. 1,639: customers missing all-clear notifications due to abnormal circuit configuration. 1,379: notifications not successfully delivered due to invalid contact information or other delivery failure.
November 20	Critical facilities	16	Data processing error.
	Customers	506	8: invalid contact information or other delivery failure. 498: data processing error.
November 26	Critical facilities	1	Notification was sent using the most up-to-date contact information on file, but was not delivered for unknown reasons.
	Customers	35	Notification was sent using the most up-to-date contact information on file, but was not delivered for unknown reasons.
December 9	Critical facilities	78	47: system/operational failure. 29: data processing error. 2: invalid contact information or other delivery failure.
	Customers	2,217	124: system/operational failure 17: data processing error. 2,076: invalid contact information or other delivery failure.
Total		19,531	

19.D.21-06-034 states in part “[e]ach electric investor-owned utility must, to the extent possible, update its notifications uniformly across related platforms, for example, public facing notifications on its website(s), in its notifications to the media, and in its notifications to local and tribal government Public Information Officers so that customers obtain the same information in a timely manner regardless of how they receive or source the information” (D.21-06-034, at A12)

For the October 29 event, SCE’s notifications were not uniformly updated across its public safety partner portal and the notifications to the state. The data in the public safety partner portal contained errors. Specifically, SCE’s data portal indicated three counties: Fresno, Kern, and Tulare were in scope during this event. However, according to State Executive Briefings, these counties were never in scope.

20. Post Event Report Template issued by Administrative Law Judge’s (ALJ) ruling on October 18, 2021, requires the utilities to report the notification to MBL and Access and Functional Needs customers per the following table.

Designation	Total number of customers	Notification attempts made	Timing of attempts	Who made the notification attempt	Successful positive notification
Medical Baseline (MBL)					
MBL behind a master meter					
Etc.					

“Notification attempts made” and “Successful positive notification” must include the unique number of customer counts. When the actual notification attempts made is less than the number of customers that need positive notifications, the utilities must explain the reason. In addition, the utilities must explain the reason of any unsuccessful positive notifications.

- 20.1 For the October 11 event, pursuant to the notice to CPUC on October 10, there were 237 MBL customers in scope. However, in response to this reporting requirement in the post event report, SCE reported “N/A. There were no Medical Baseline customers or other customers with Access and Functional Needs de-energized during this event.” SCE did not follow the template to correctly report the notification to MBL metrics.
- 20.2 For the October 29, November 9, November 20, and December 9 events, SCE did not explain why SCE did not attempt to notify all the MBL customers or self-certified vulnerable customers in scope. SCE also did not explain the reason for any of their unsuccessful positive notifications. SCE only stated for those MBL customers or self-certified vulnerable customers with unsuccessful positive notification, none of them were de-energized. Whether a MBL customer is finally de-energized or not does not obviate the utilities’ obligation to send positive notification to the MBL customers. See details below:

October 29

Designation	Customers in scope	Notification attempts made	Notification attempts not made	Successful positive notification	Unsuccessful positive notification
MBL	5,779	5,805	0	5,591	188
Self-certified	317	337	0	295	22

November 9

Designation	Customers in scope	Notification attempts made	Notification attempts not made	Successful positive notification	Unsuccessful positive notification
MBL	2,252	2,288	0	2,211	41
Self-certified	156	176	0	155	1

November 20

Designation	Customers in scope	Notification attempts made	Notification attempts not made	Successful positive notification	Unsuccessful positive notification
MBL	1,043	1,018	25	986	57
Self-certified	68	73	0	66	2

December 9

Designation	Customers in scope	Notification attempts made	Notification attempts not made	Successful positive notification	Unsuccessful positive notification
MBL	3,540	3,309	231	3,225	315
Self-certified	255	259	0	228	27

Please advise me no later than October 28, 2024, of corrective measures taken by SCE to remedy and prevent the future recurrence of the identified violations, or provide additional data that refutes the violations detailed in this Notice of Violation. Based on your response, this Notice of Violation may lead to an enforcement action. If you have any questions, you can contact Cindy Chen at (415) 660-8312 or email Cindy.Chen@CPUC.CA.gov.

Sincerely,


Ronald DeMayo

Program and Project Supervisor
Public Safety Power Shutoff Section
Wildfire Safety and Enforcement Branch
Safety and Enforcement Division
California Public Utilities Commission

Connor Flanigan
Southern California Edison (SCE)
September 27, 2024
Page 20

Cc: Lee Palmer, Director, Safety and Enforcement Division, CPUC
Anthony Noll, Program Manager, WSEB, SED, CPUC
Cindy Chen, Senior Public Utilities Regulatory Analyst, WSEB, SED, CPUC

Appendix C

(SCE's NOV Responses)



Connor J. Flanigan
Managing Director
State Regulatory Operations
Connor.Flanigan@sce.com

July 19, 2024

Via E-Mail

Ronald DeMayo
Program and Project Supervisor
Safety and Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Notice of Violation Southern California Edison 2022 Public Safety Power Shutoff Events

Dear Mr. DeMayo:

I am writing to provide a response to the Notice of Violation (NOV) that the Safety Enforcement Division (SED) issued on June 19, 2024, to Southern California Edison (SCE) concerning SCE's 2022 Public Safety Power Shutoff (PSPS) events. The NOV alleges that SCE failed to comply with the California Public Utilities Commission (Commission or CPUC) guidelines related to notifications (i.e., customer notifications, notifications to the Director of SED and Public Safety Partners), and requirements related to PSPS post-event reporting. These guidelines were adopted by the Commission in Resolution ESRB-8, Decision (D.) 19-05-042, D.20-05-051, D.21-06-014, D.21-06-034, and the Administrative Law Judge's Ruling on the Post-Event Report Template issued on October 18, 2021.

SCE appreciates SED's careful review of SCE's execution of 2022 PSPS events and post-event reporting. SCE remains committed to improving its PSPS program to promote public safety, reduce impacts on affected customers and communities, and comply with applicable PSPS guidelines. SCE understands SED's important role in supporting compliance with Commission directives and also remains fully committed to working with SED to help ensure compliance requirements are understood and implemented appropriately.

SCE also appreciates the opportunity to review and respond to the NOV. SCE responds to the proposed violations below. For many of the alleged violations, SCE contends that it has not violated

any Commission guidelines or requirements and explains why in detail. In the remainder of the alleged violations that SCE acknowledges, SCE has already implemented, or is in the process of implementation process improvements to address them. SCE looks forward to further discussions with SED to, if necessary, clarify or further elaborate on the explanations provided below.

Notification Violations

1. *Failed to notify customers at de-energization initiation, before re-energization and when re-energization was complete. (July 22-23, November 19-20 and November 24-25)*

The NOV states that in “six 2022 PSPS de-energization events, 165 customers were not notified upon de-energization initiation, 1,775 customers were not notified before re- energization, and 163 were not notified when re-energization was complete”.¹

SCE strives to notify its customers affected by PSPS events. SCE acknowledges that, in 2022, SCE did not send notifications to all customers at de-energization initiation, before re-energization and when re-energization was complete. SCE was unable to send 491 of these notifications to critical facilities and other customers due to reasons outside of SCE’s control. Specifically, SCE was unable to send out these notification types to these customers due to one of the following reasons: 1) missing customer contact information; or 2) the customers opted out of notifications. Please see Table 1 below for explanations for the missed notifications and why these were outside of SCE’s control and, as such, should not be considered a violation for these 491 notifications.

In the November 24, 2022 event, SCE also did not send 1,612 notifications to customers before re-energization. SCE was quickly re-energizing customers who were de-energized and was unable to send notification prior to re-energization. Since the event, SCE improved its process so errors of this nature does not occur.

To improve SCE’s notification, SCE is also in the process of enhance existing capabilities deployed through Central Data Platform (CDP) to improve the timing and accuracy of its notifications.

Table 1: Missed Non-Discretionary Notification Explanation

PSPS Event	Notifications Type	Notification Count	Explanation
July 22-23	Initial	27	1 critical facility and infrastructure customer opted out of PSPS notifications. 26 customers did not have validated contact information or have opted out of PSPS notifications.
	Before Re-energization	27	
	Re-energization Complete	27	
	Initial	120	120 Missing customer contact

¹ NOV, p. 1.

November 19-20	Before Re-energization	120	information and/or customers opting out of PSPS notifications
	Re-energization Complete	120	
November 24-25	Initial	18	18 customers did not have contact information or opted out of notifications.
	Before Re-energization	1628	1612 customers on a single circuit were restored before imminent restoration notices could be sent. 16 customers did not have contact information or opted out of notifications.
	Re-energization Complete	16	16 customers did not have contact information or opted out of notifications.

Resolution ESRB-8 Violations

2. *Missing estimated restoration time on the notifications to the Director of SED*

The NOV states that none of SCE’s notifications to the Director of SED included an estimated restoration time.² SCE respectfully disagrees that it violated Resolution ESRB-8. According to SCE’s records, its notifications to the Director of SED do include estimated restoration times. In SCE’s July 22, 2022 de-energization event, SCE’s notification to the Director of SED states that affected customers will be “restored by 3pm.” And in its November 19, 2022 de-energization event, SCE provided the estimated time to power restoration as a range, stating “that power will be restored within three to eight hours after the period of concern has concluded and may take longer under some circumstances”, which was predicted to be between 1800 hours and 2300 hours (or between 6pm and 11 pm) that day. Similarly, for the November 24, 2022 de-energization event, SCE provided the estimated time to power restoration as the same “three to eight hour range after the end of the period of concern, and may take longer if we need daylight for safe restoration” which was predicted to be 12 am and 5 am on November 25, 2022.

SCE’s notifications are consistent with Commission decisions. In D.19-05-042, the Commission directed IOUs to provide to customers “the estimated time to power restoration” noting that it “may be communicated as a range.”³ For the events at issue, SCE provided a restoration time range that captures most situations and is based on historical experience including post-event patrols of de-energized lines. It is difficult to provide more precise circuit or segment-specific estimated restoration times (or even ranges) during a PSPS event due to a number of factors, and SCE does not currently have the capability to increase the specificity of such notifications. Every circuit must be inspected end to end before re-energization. Although SCE makes every effort to pre-stage patrol resources in areas where weather conditions are forecasted to abate first, weather is very dynamic,

² NOV, p. 2

³ D.19-05-042, Appendix A, p. A17.

and we often need to shift resources to follow winds as they subside. SCE's circuits vary widely in length and layout/topology, traverse a wide variety of terrain types, and are often reconfigured during an event to reduce PSPS impacts on our customers. Considerations such as whether the restoration patrol requires aircraft support, access to difficult-to-reach locations, and time of day of event conclusion (daylight is required for safe aircraft patrols), are also critical to determining estimated restoration times and can vary widely from event to event depending on the environmental conditions and safety protocols in the field. In addition, these operational restoration processes must be coordinated with the notification system so any updates to restoration times can be timely communicated to customers. SCE always strives to restore power to customers as quickly as possible. Please see the Appendix for SCE's notifications to the SED Director for the July 22, November 19 and November 24 de-energization events.

3. Did not send a subsequent update to the Director of SED notifying the full restoration within 12 hours from the time the last service was restored (November 24-25)

The NOV states that for the November 24-25, 2022 de-energization event, SCE notified the Director of SED of the full power restoration on November 25, 2022. While the majority of customers were re-energized, one commercial customer was not restored until November 27th. SCE did not send a subsequent update to the Director of SED notifying the full restoration within 12 hours from the time the last service was restored.⁴

SCE acknowledges that during its post-event validation, it discovered one commercial customer was inadvertently not restored due to an isolation device being inadvertently left open. SCE safely closed this isolation device on November 27th, restoring power to that customer. SCE inadvertently missed sending a subsequent update because it was focused on determining the cause(s) of the switching error and determining corrective action(s) to help prevent this from occurring in the future. Please see Section 16 for SCE's discussion on the cause of the switching error and corrective action taken.

4. Missing explanation for updated claims data (November 19-20, November 24-25)

The NOV states that SCE reported 10 claims in its post-event reports. Then in its post-season report, SCE updated the total number of claims to 11.⁵ SCE updated the total number of claims because one claim was filed after this post-event report was submitted on December 7, 2022.

SCE submits that it did not violate ESRB-8 because SCE provided the most accurate and up-to-date claim information available when it submitted its post-event report. SCE also did not violate ESRB-8 by omitting the reason for updating its claim data in its post-season report because the post-season

⁴ NOV, p. 2

⁵ *Id.*

report template does not direct the IOUs to include a reason for updating data provided in its post-event report.

Violations of D.19-05-042

5. *Failed to notify public safety partners, critical facilities, or customers at 48–72 hours, 24–48 hours, and 1–4 hours prior to de-energization (July 22-23, November 19-20 and November 24-25).*

The NOV states that SCE failed to meet the advance notification requirements as outlined in D.19-05-042.⁶ While SCE strives to provide advanced notifications to impacted customers, SCE acknowledges that it missed some advance notifications during its July 22-23, November 19-20 and November 24-25 events due to unexpected weather conditions. SCE strives to provide these notifications to its customers affected by PSPS events, but the sudden onset of unexpected weather conditions affected SCE's ability to provide notifications to certain customers. In some cases, rapid onset and unexpected weather events can necessitate de-energization before SCE can send notifications to affected customers, even with the automated processes implemented for the 2022 PSPS season. SCE continues to enhance its weather forecasting capabilities through expansion of machine-learning weather modeling, which improves the accuracy of forecasts as additional observed-weather data is collected from its expanding network of weather stations and incorporated into the models. However, it is not scientifically possible at this time to precisely pinpoint every single exact location and magnitude of damaging winds at 24-72 hours, or in some cases even at 1-4 hours, before a de-energization decision is made. Even though SCE runs multiple sophisticated weather models, no forecast is perfect due to limitations in the science of weather prediction.

In 2022, SCE estimates that it missed providing approximately 4,500 advanced notifications or imminent notifications to public safety partners, critical facilities or customers due to unexpected weather conditions. Consistent with the Commission's PSPS notification guidelines, SCE's decision to send advance notifications is driven by its assessment of the likelihood of de-energization, (i.e., whether any given circuit is expected to exceed PSPS criteria during the period of concern). When weather conditions change, circuits not originally in the period of concern for a PSPS event can immediately and unexpectedly come into scope. Many of the missed notifications identified in the NOV were not violations of D.19-05-042 because they occurred due to weather conditions that unexpectedly deviated from SCE's forecasts. In such cases, SCE either did not reasonably believe during the prescribed timeframes that de-energization of these customers was likely, or because weather conditions escalated so quickly, notification was not possible before de-energization. In these instances, the requirement to notify customers in a timely manner was not possible or feasible. SCE is in the process of gathering 2022 weather forecasts and observed-weather data collected from its network of weather stations for circuits that were not originally in the period of concern for a

⁶ NOV, pp 2-3.

PSPS event but immediately and unexpectedly came into scope. SCE will provide this information as soon as it has completed its analysis and no later than August 23, 2024.

In addition, SCE submits that “no advance notifications at all” is not a separate failed notification category under D.19-05-042.⁷ “No advance notifications at all” are customers that failed to receive both an advanced notification (either at 48–72 hours, 24–48 hour depending on customer type) and an imminent notification (1–4 hours prior to de-energization). As such, these customers are already represented in the missed advanced notification (either at 48–72 hours, 24–48 hour depending on customer type) and missed imminent notification (1–4 hours prior to de-energization). SCE estimates that 4,700 notifications are already represented in the other categories and should not be included in the penalty assessment. SCE is in the process of analyzing its 2022 data to verify the number of customers that are represented in the other categories. SCE will provide this information as soon as it has completed its analysis and no later than August 23, 2024.

6. *In addition, for the July 22–23 event, SCE did not accurately report the notification timeline. SCE reported it sent the 48–72 hour notification approximately at July 22, 09:42 AM. All the three circuits were de-energized in the morning of July 22 between 8:13 AM and 11:30 AM, hence the reported 24–48 hour and 48–72 hour notification is not accurate. Instead, SCE reported a required notification type that was not actually sent out during the required time window.*


The NOV notes that for the July 22-23 event, SCE did not accurately report the notification timeline.⁸ SCE acknowledges that Table 7 of its July 22-23 Post-Event Report is incorrect due to a data transfer error while developing this report. Since 2022, SCE has improved its quality control process for its post-event reporting to help ensure errors of this nature do not occur.

The corrected Notification Timeline Table for the July 22-23 event is provided below. Please see Figure 1 for the update.

Figure 1: Corrected Notification Timeline Table (July 22-23 Event)

⁷ See D.19-05-042, A8-A9

⁸ NOV, p. 4



SCE Post-Event Report Data

July 22, 2022 to July 23, 2022

SECTION 05: Notifications

Notification Timeline

Event Order	Notification Type	Requirement Timeline	Notification Sent To	Approximate Time Sent	Notes
Pre-De-Energization (prior)	Initial Notice for PSPS Event (Advanced Initial or Initial)	72-48 hours	Public Safety Partners excluding Critical Facilities and Infrastructure N/A	Jul 22, 2022 0942 N/A	Not forecasted in scope by 48 hours before de-energization.
	Initial Notice for PSPS Event (Initial)	48-24 hours	Public Safety Partners excluding Critical Facilities and Infrastructure N/A	Jul 22, 2022 2105 N/A	
			Public Safety Partners excluding Critical Facilities and Infrastructure N/A	Jul 23, 2022 1103 N/A	
	Imminent De-Energize (Expected Shutoff)	4-1 hour (imminent de-energization)	Public Safety Partners excluding Critical Facilities and Infrastructure	Jul 22, 2022 0942	
			Public Safety Partners excluding Critical Facilities and Infrastructure	Jul 22, 2022 1023	
			Public Safety Partners excluding Critical Facilities and Infrastructure	Jul 22, 2022 1052	
			Public Safety Partners excluding Critical Facilities and Infrastructure	Jul 22, 2022 2105	
			Public Safety Partners excluding Critical Facilities and Infrastructure	Jul 23, 2022 1103	
			Critical Facilities & Infrastructure	Jul 22, 2022 1026	
			Critical Facilities & Infrastructure	Jul 22, 2022 1031	
			All other affected customers	Jul 22, 2022 1026	
			All other affected customers	Jul 22, 2022 1031	

7. *For all the events in 2022, SCE did not notify public safety partners of the estimated time to full restoration.*

The NOV states that SCE did not notify public safety partners of the estimated time to full restoration for all the events in 2022.⁹ SCE respectfully disagrees that it violated D.19-05-042. While SCE acknowledges that it does not provide public safety partners a single notification that includes the estimated start time of the event, estimated duration of the event and the estimated time of full restoration, as required in D.19-05-042, it did comply with the intent of this requirement.¹⁰ SCE provides all pertinent timing information to public safety partners of fire weather conditions to provide accurate situational awareness.

Weather conditions permitting, SCE sends public safety partners a minimum of four notifications prior to de-energization (i.e., initial notification, update conditions notification, expected de-energize notification, and de-energization notification). In its initial notification to local and tribal governments, SCE notifies contacts that SCE's weather specialists forecast potential extreme weather in their jurisdiction. Within this notification, SCE includes a spreadsheet with information about weather event timing (estimated start time of the event and estimated duration of the event) and circuits and counties, cities, and tribes that could be impacted. Due to the uncertainty of weather, SCE does not include the estimated time of restoration in the notifications sent prior to de-energization notifications because SCE does not know if customers will ultimately be de-energized for the event. When SCE is certain that de-energization will occur, SCE provided the estimated time to power restoration as range in its de-energization notifications, stating that power is typically restored three to eight hours after the end of the weather event, with additional updates on weather conditions provided on SCE.com. To ensure that public safety partners access the most up-to-date information, they are directed to SCE.com and the public safety portal which is updated regularly.

As discussed in Section 2, SCE communicates the power restoration time as a range because this captures most situations and is based on historical experience including the time it takes to conduct post-event patrols of de-energized lines. As also discussed earlier, D.19-05-042 allows the IOUs to provide to customers the estimated time to power restoration as a range.¹¹ A specific time is difficult to provide because damage may be found on the circuit. Also, SCE may not be able to start a patrol

⁹ NOV, p. 4

¹⁰ See D.19-05-042, A16

¹¹ See D.19-05-042, Appendix A, p. A17.

if the weather conditions are challenging and/or at night where SCE may not be able to identify issues clearly and must instead wait to patrol the lines at daybreak.

It is SCE's practice to update its public safety partner notifications based on feedback from government emergency managers and other necessary changes to ensure SCE is providing sufficient detail to prepare for and respond to PSPS events. SCE has received positive feedback on its public safety partner notifications from the intended recipients and is not aware of any negative feedback or concerns with providing an estimated time range for restoration.

8. *For all the events in 2022, SCE did not notify customers of an estimated start time of the event, nor the estimated time of power restoration*

The NOV states that SCE did not notify customers of an estimated start time of the event nor the estimated time of the power restoration for all events in 2022.¹² SCE respectfully disagrees that it violated D.19-05-042. SCE included the estimated start time in its notification to customers for its 2022 event. As demonstrated in its Initial Customer Notification Script within its post-event report, as shown in Figure 2, SCE communicates the start of the event and the end time of the event in its test/SMS, voice and email notifications to customers. Due to the uncertainty of weather, SCE does not provide a specific, single estimated restoration time in its initial notification because SCE does not know if customers will ultimately be de-energized. In addition, the length and the unpredictability of weather will make any estimate highly speculative.

Figure 2: Customer Initial Notification Script

TEXT/SMS
SCE Safety Outage Alert: High winds and fire conditions are forecasted in your area from ^Day of week^ ^morning/afternoon/evening^ through ^End Day of week^ ^morning/afternoon/evening^. We may have to shut off your power to decrease risk of dangerous wildfires. We are working to reduce the number of customers affected. We'll keep you updated so you know whether your power will be shut off. Visit sce.com/psp for the latest information. For downed power lines, call 911. View in more languages: www.sce.com/PSPSInitial Please reply with 1 to confirm receipt of this message.
VOICE
Important SCE safety outage alert. To continue in English, press 1. [Spanish press 2], all other languages press 3.... High winds and fire conditions are forecasted in your area from ^Day of week^ ^morning/afternoon/evening^ through ^End Day of week^ ^morning/afternoon/evening^. We may have to shut off your power to decrease risk of dangerous wildfires. We are working to reduce the number of customers affected. We'll keep you updated so you know whether your power will be shut off. Visit sce dot com slash psps for the latest information. If you see a downed power line call 911.

¹² NOV, p. 4

EMAIL

Subject: SCE Safety Outage Initial Notification: Public Safety Power Shutoff (PSPS)
From: do_not_reply@scewebservices.com Southern California Edison

For more information on PSPS in your preferred language, click below:

[ESPAÑOL](#)

1-800-441-2233

[한국어](#)

1-800-628-3061

[中文](#)

1-800-843-8343

[TIẾNG VIỆT](#)

1-800-327-3031

[TAGALOG](#)

1-800-655-4555

[MORE LANGUAGES](#)

Important Safety Message from Southern California Edison:

High winds and dangerous fire conditions are forecasted in your area from **^Day of week^ ^morning/afternoon/evening^** through **^End Day of week^ ^morning/afternoon/evening^**. We may have to shut off your power to decrease risk of dangerous wildfires. We are working to reduce the number of customers affected. We'll keep you updated so you know whether your power will be shut off.

This alert applies to the following address(es):

Customer Address

Service Account

Meter Number

Rate

- For the latest updates, outage map, and information about customer care services, visit sce.com/psps.
- For information about preparing for a power outage, visit sce.com/safety/family/emergency-tips.
- REMEMBER: If you see a downed power line call 911 first, and then notify SCE at 1-800-611-1911.

Thank you for your patience as we work to keep your community safe!

Similar to its notification practices for public safety partners, as discussed in Section 7, SCE communicates information as it is pertinent. When it is certain it will de-energize customers, SCE provides a de-energization notification with the estimated time to power restoration as range, stating that power is typically restored three to eight hours after the end of the weather event with the estimated time when the weather event could conclude, as shown in Figure 3. As discussed in Section 2, SCE communicates the power restoration time as a range because that captures most situations and is based on historical experience. D.19-05-042 allows the IOUs to provide customers the estimated time to power restoration as a range.¹³ Please see Section 2 for SCE's discussion why SCE uses a range to communicate the restoration time.

Figure 3: Customer De-Energization Notification Script

¹³ See D.19-05-042, Appendix A, p. A17

SMS/TEXT

SCE Start of Shutoff Alert: We are temporarily shutting off your power due to high risk of wind-driven wildfire in your area. These conditions could last through **^End Day of week^ ^morning/ afternoon/ evening^**. We will restore your power as soon as it's safe. Restoration typically takes 3-8 hours but could take longer if there is damage in your area. Remember to turn off or unplug appliances or equipment that may start automatically when power is restored. Thanks for your patience. Visit sce.com/psps for the latest information and availability of community resources. For downed power lines, call 911. View in more languages: www.sce.com/PSPSShutoff Please reply with 1 to confirm receipt of this message.

VOICE

Important SCE safety outage alert. To continue in English, press 1. [Spanish press 2], all other languages press 3.... We are temporarily shutting off your power due to high risk of wind-driven wildfire in your area. These conditions could last through **^End Day of week^ ^morning/ afternoon/ evening^**. We will restore your power as soon as it's safe. Restoration typically takes 3 to 8 hours but could take longer if there is damage in your area. Remember to turn off or unplug appliances or equipment that may start automatically when power is restored. Thank you for your patience. Visit [sce dot com slash psps](http://sce.com/psps) for the latest information and availability of community resources. If you see a downed power line call 911.

EMAIL

Subject: SCE Safety Outage Alert: Start of Public Safety Power Shutoff (PSPS)
From: do_not_reply@scewebservices.com Southern California Edison

For more information on PSPS in your preferred language, click below:

[ESPAÑOL](#)

1-800-441-2233

[한국어](#)

1-800-628-3061

[中文](#)

1-800-843-8343

[TIẾNG VIỆT](#)

1-800-327-3031

[TAGALOG](#)

1-800-655-4555

[MORE LANGUAGES](#)

Important Safety Message from Southern California Edison:

We are temporarily shutting off your power due to high risk of wind-driven wildfire in your area. These conditions could last through **^End Day of week^ ^morning/ afternoon/ evening^**. We will restore your power as soon as it's safe. Restoration typically takes 3-8 hours but could take longer if there is damage in your area. Please remember to turn off or unplug appliances or equipment that may start automatically when power is restored. We will update you as conditions change.

This alert applies to the following address(es):

Customer Address

9. *Missing positive notification report (October 22-24)*

The NOV alleges that SCE is required to send positive notifications to vulnerable customers regardless of whether the high threat event materialized or not. In its October 22-24 event, SCE did not report an accounting of customers where positive or affirmative notifications were attempted, the number of notification attempts made, the timing of attempts, who made the notification attempt

(utility or public safety partner), and the number of customers for whom positive notification was achieved.¹⁴

SCE respectfully submits that the applicability of the positive notification reporting requirement in D.19-05-042 to a high-threat event scenario is ambiguous and subject to interpretation. Many PSPS reporting requirements (e.g., the timeline for power restoration) are not applicable to high-threat events and only need to be reported for de-energization events. In 2022, SCE interpreted the requirement to report data on positive notifications to Medical Baseline (MBL) customers as applicable only to de-energization events, and therefore reported “N/A” for events such as October 22-24, 2022 in which no customers were de-energized.¹⁵ This interpretation was based on the following considerations:

1. Most of the additional post-event reporting guidelines adopted by the Commission in D.19-05-042 and that provide context for the requirement to report positive notifications to MBL and Self-Certified Sensitive customers refer to “de-energization event” (as distinct from high-threat event) including those that immediately precede and immediately follow that requirement at issue.¹⁶
2. The Commission’s PSPS guidelines (including reporting requirements) distinguish between “de-energization events” and “high-threat events” where no de-energization occurs.¹⁷
3. SED’s post-event reporting template issued on October 18, 2021 provides guidance on the positive notification table that SCE understood to focus on “customers that need positive notifications” – *i.e.*, customers subject to de-energization versus all such customers in scope.¹⁸

This issue was ultimately addressed and clarified in e-mail correspondence from Xuan “Cindy” Chen of SED to Marissa Blunschi of SCE, dated January 26, 2024, stating as follows: “[T]he Commission decisions’ spirit is to notify all customers in scope, this applies to positive notifications to AFN customers as well. The post event report template was developed based on this spirit.

¹⁴ NOV, p. 4

¹⁵ Although SCE did not include a positive notification table in the report, SCE did send PSPS notifications to customers in scope for potential de-energization, including MBL and other customers with Access and Functional Needs (AFN). Those customers were accounted for in Table 1: PSPS Event Summary under “PSPS Notified” column.


¹⁶ “In addition to the reporting requirements in Resolution ESRB-8, the electric investor-owned utilities must provide the following information . . . 4) A description and evaluation of engagement with local and state public safety partners . . . and notification during *the de-energization event*; 5) For those customers where positive or affirmative notification was attempted, and accounting of the customers (which tariff and/or AFN population designation) . . . ; 6) A description of how sectionalization . . . was considered and implemented and the extent to which it impacted the size and scope of *the de-energization event*” D.19-05-042, p. 108; *see also id.* Appendix A at A23.

¹⁷ ESRB-8, p. 5.

¹⁸ SED Template for Public Safety Power Shutoff (PSPS) Post-Event and Lessons Learned Report, p. 7.

Therefore, all the AFN customers in scope ‘need’ positive notifications.” In this email, SED directed SCE “to refresh the interpretation of CPUC decisions” and revise future post-event reports accordingly. SCE appreciates SED’s interpretive guidance on this issue and has included the positive notification information in more recent high-threat events. Given the ambiguity that existed on this issue prior to January 26, 2024, SCE respectfully disagrees that it violated D.19-05-042 by not including a positive notification table in its post-event report for the October 22-24, 2022 high-threat event, but is providing the information for the October 22-24, 2022 event below.

Figure 4: Positive Notification (October 22-24, 2022)

 SCE Post-Event Report Data 10 19,2022 to 10 24,2022					
SECTION 05: Notifications					
Positive Notification					
Category	Total Number of Customers	Timing of Attempts	Notification Attempts	Successful Positive Notification	Who made the notification
Medical Baseline	1450	Daily	1381	1346	SCE
Self Certified	173	Daily	167	157	SCE

10. SCE did not make positive notification attempts to all the MBL and Self-Certified Vulnerable customers in scope (November 19-20)

The NOV states that during its November 19-20 event, SCE did not make positive notification attempts to all the MBL and Self-certified Vulnerable customers in scope.¹⁹ SCE respectfully disagrees that it violated D.19-05-042 because SCE was unable to send positive notifications attempts to all the MBL and Self-Certified Vulnerable customers in scope because rapidly escalating weather conditions occurred that required customers on the Brennan and Morganstein circuits to be immediately de-energized without the ability for any advanced notice. The Morganstein and Brennan circuits run in parallel past the SCE Keisha Dr weather station where conditions exceeded forecast conditions, impacting both circuits simultaneously. Weather model forecasts used by SCE on the morning of this PSPS event indicated sustained wind, wind gust, and FPI magnitudes were expected to remain below PSPS activation thresholds, and thus, no period of concern was issued. Peak forecast magnitudes in SCE weather forecast output were 23 mph sustained winds, 42 mph wind gust, and FPI below the threshold of 12. Observed conditions at the time de-energization decisions were made were 27.9 mph sustained winds, 45.6 mph wind gust, and FPI of 12.94 (Brennan) and 12.97 (Morganstein). The weather station where conditions were observed to exceed

¹⁹ NOV, p.4.

forecast conditions was a newer weather station in November 2022 and did not have enough historical data to train a machine learning forecast prior to the 2022 PSPS season. The station has since had a machine learning model developed to improve forecast accuracy.

Although SCE did not make positive notification attempts to all the MBL and Self-Certified Vulnerable customers in scope, SCE submits that it did not violate PSPS notification guidelines. Under D.19-05-042, the requirement to notify customers is triggered only when “the [IOUs] reasonably believe de-energization is likely.”²⁰ Because forecasted conditions for the Morganstein and Brennan circuits showed de-energization was unlikely, positive notification attempts was not possible. The Commission recognized that “there may be times when advance notice is not possible due to emergency conditions beyond the electric investor-owned utilities’ control,” and, further, that “the utilities must be afforded flexibility to adjust the [notification] timeline based upon situational awareness and real-time events that may be out of the utilities’ control.”²¹

Violations of D.20-05-051

11. SCE did not open the CRCs or Community Crew Vehicles (CCV) for the entire duration of the de-energization event as no CRCs or CCVs were operable on October 23.

The NOV states that “SCE did not open the CRCs or Community Crew Vehicles (CCV) for the entire duration of the de-energization event as no CRCs or CCVs were operable on October 23”.²² SCE respectfully disagrees that it violated D.20-05-051. SCE did not deploy CRCs or CCVs on October 23, 2022 because there was no active Period of Concern (POC) and as such, there were no customers under consideration for PSPS on that day. D.20-05-051 requires CRCs to be operable during an active POC.²³ There were active Periods of Concern on the day prior to and the day after October 23, 2022. On October 22, 2022, SCE deployed CCVs to Inyo and Mono counties, which were impacted by the PSPS event. All CCV locations were open from 8AM to 10PM. This first POC ended on October 22, 2022. The next POC started on October 24, 2022, and as such, SCE deployed CRCs/CCV to support customers located in SCE’s southern counties (Los Angeles, Orange, San Bernardino and Ventura) on that day. Thus, SCE submits there was no violation in this instance.

12. For the November 24–25 event, one commercial customer required more than 24 hours to restore and SCE only reported it was under investigation.

The NOV notes that SCE required more than 24 hours to restore one commercial customer in its November 24-25 de-energization event and only reported it was under investigation.²⁴ SCE acknowledges that during its post-event validation it discovered one commercial customer was

²⁰ D.19-05-042, p. 86

²¹ D.19-05-042, p. A7

²² NOV, p. 5

²³ D.20-05-051, A6

²⁴ NOV, p.5

unintentionally not restored due to an isolation device being inadvertently left open. When SCE filed its Post-Event Report on December 15, 2022, SCE was still conducting its cause evaluation and had not determined the root cause.

Upon further investigation, SCE determined that the grid operations system operator responsible for restoring power to the circuit failed to close a remotely operated switch supplying power to one commercial customer. The grid operations system operator who made the switching error was provided additional training and feedback to help prevent this from occurring in the future.

Violations of D.21-06-014

13. Inaccurate or untimely geospatial information (July 22–23, October 22–24, November 19–20, and November 24–25)

The NOV states that SCE did not provide timely or accurate geospatial information during the events of July 22–23, October 22–24, November 19–20, and November 24–25.²⁵ SCE acknowledges the inaccuracies of geospatial information during these events. SCE is in the process of implementing health checks monitoring the geospatial information so that there is accurate and timely geospatial information across external platforms.

14. For all the events in 2022, SCE failed to report whether a different form of communication was preferred by any entity invited to the utility's Emergency Operations Center

The NOV states that SCE failed to report whether a different form of communication was preferred by any entity invited to the utility's Emergency Operations Center.²⁶ SCE respectfully disagrees that it violated D.21-06-014. SCE did not report whether a different form of communication was preferred by any entity because entities invited did not request a different form of communication or state that a different form was preferred. Moving forward, SCE has remediated this issue by specifically stating what form of communication, if any, was preferred by any entity invited to its Emergency Operations Center in SCE's PSPS post-event reports.

15. In none of the post event reports submitted did SCE adhere to the requirement to present a threshold examination description for the de-energization.

The NOV states that "none of the post event reports submitted did SCE adhere to the requirement to present a threshold examination description for the de-energization."²⁷ SCE respectfully disagrees that it violated D.21-06-014. SCE believes that its post-event reports do meet this requirement, as discussed below.

²⁵ NOV, p. 5

²⁶ *Id.*

²⁷ *Id.*

SCE's post-event reports include a detailed threshold analysis in Section 2 (Decision-Making Process). In addition, SCE also provides thresholds and actuals of Fire Potential Index (FPI) and wind speed data for the specific scoped circuits in table form, both in the post-event reports (a subset of the data) and in the PSPS Post-Event Data Workbook (entire data/table). The information in these tables demonstrate that SCE continuously monitored the weather conditions by utilizing weather stations and used PSPS only as a last resort to de-energize customers when those thresholds were met/exceeded due to the actual FPI and wind conditions that materialized during the event. As described in Section 2, SCE's decision-making flowchart, SCE de-energizes circuit segments if the activation threshold, defined by the FPI and the wind speed, are met/exceeded.

SCE was first notified that what SCE was providing to comply with this requirement did not meet SED's expectations in its 2021 NOV issued in April 2023. SCE hopes the above explanation clarifies that SCE was providing specific threshold examination descriptions for de-energizations by including both a threshold discussion in Section 2 of its post-event reports and specific event-experienced circuit level FPI and wind information provided in table format. Although SCE believes its above practices were reasonable, it intends to revise its approach for future events to discuss such practices as re-examining circuit thresholds after a de-energization event to confirm they functioned as intended and/or if they require revision. SCE hopes to further discuss this requirement with SED staff to ensure SCE meets expectations going forward, both in terms of format and substance.

Violation of D. 21-06-034

16. SCE did not send out cancellation notices within two hours of the decision to cancel the de-energization event (July 22-23, September 9, October 22-24, November 19-20 and November 24-25)

The NOV states that SCE did not send out cancellation notices within two hours of the decision to cancel the PSPS event.²⁸ SCE acknowledges it experienced some challenges sending out cancellation notices to certain customers due to the reasons outlined in the NOV but did not violate D.21-06-034.

SCE submits that SCE's failure to send out cancellation notices to all customers is not a violation. D.21-06-034 provides guidelines to the IOUs to "make every attempt" to notify all affected entities of a de-energization event within two hours of the decision to cancel, and clarifies that this is "not a strict requirement."²⁹ The Decision "acknowledge[d] the sequencing of communications . . . may make it impractical to provide notification of a cancellation within two hours of the decision. . . ."³⁰ Although SCE strives to meet this guidelines, missing a cancellation notice within two hours is not a violation of the Decision in all circumstances.

²⁸ NOV, p. 5-6

²⁹ See D.21-06-034, p. 128.

³⁰ *Id.*

During the September and October events, SCE was unable to send out cancellation notifications to 88 critical facilities and other customers on September 7-9 and October 22-24 due to reasons outside of SCE's control. Specifically, SCE was unable to send out cancellation notices to these customers due to one of the following reasons: 1) the customer did not have contact information available; 2) the customer opted out of notifications; or 3) the customer either moved in or moved out during the event. Please see Table 2 below for explanations for the missed cancellation notifications and why these were outside of SCE's control and, as such, should not be considered a violation for these 88 notifications.

Table 2: Missed Cancellation Notifications Explanations

PSPS Event	Notifications Sent To	Notification Count	Explanation
September 7-9, 2022	Critical Facilities and Infrastructure	2	2 customers did not have contact information available.
	All other affected customers	79	38 Customers Opted Out of notification channels during the event. 2 customers underwent connectivity mapping corrections, which removed them from PSPS scope. 22 customers' enrollment was end-dated due to move-out in-process. 17 customers did not have contact information available.
October 22-24, 2022	All other affected customers	19	1 customer is not enrolled. 6 customers did not have contact information available. 12 customers received contact error requiring review of their contact information.

17. For the June 15–17 event, SCE did not report whether the cancellation notifications were sent out within two hours of the decision to cancel.

The NOV states that SCE did not report whether the cancellation notifications were sent out within two hours of the decision to cancel in its June 15-17 event.³¹ SCE respectfully disagrees that it violated D.21-06-034. While SCE acknowledges that it did not provide Table 9 in the June 15-17 Post-Event Report, SCE did not include Table 9 in the report because SCE did not miss any cancellation notification in this event. SCE noted in its Post-Event Report that “SCE sent cancellation notifications to public safety partners and three customers that had been notified of a

³¹ NOV, p.6.

potential de-energization but not ultimately de-energized”.³² In addition, SCE also noted that “N/A. SCE is not aware of any notification failures during this high threat event”.³³

18. SCE did not clearly state the required CRC notification elements in the text messages to customers for all 2022 PSPS events

The NOV states that although SCE directed its customers to sce.com/psps for the latest information, “SCE did not clearly state the required CRC notification elements in the text messages to customers for all 2022 PSPS events”.³⁴ SCE respectfully disagrees that it violated D.21-06-034. While SCE acknowledges that it did not include locations of the CRCs, the services available at each CRC, the hours of operation of each CRC, and where to access electricity during the hours the CRC is closed in its text message, it did comply with the intent of this requirement.³⁵ SCE notifies impacted customers via email, SMS/text, and/or voice, to go to SCE.com for the most current and critical community support information including customer resources and programs such as 211, hotel assistance, and food support.

The intent of this requirement is to notify customers of the latest information and resources to allow customers to manage PSPS events. SCE submits that SMS (Short Message Service)/Text is appropriate for notifying customers where to obtain the latest complete information, which is SCE.com, but it is not an effective tool for communicating comprehensive CRC information because each SMS/Text Message has a 160-character limit. It is not possible to include comprehensive CRC information such as the name of the facility, address, hours of operation, and services within this limit especially when multiple sites may be activated simultaneously.

SCE’s experience in outreach and marketing has shown that long messages frequently confuse customers and are consequently ignored. Splitting up CRC information across multiple text messages would exacerbate this confusion, which will be compounded by additional text messages with detailed updates. In order to minimize confusion and to optimize the character limitations for message delivery channels such as SMS/Text Messaging, SCE clearly and concisely directs customers to SCE.com as the single source of information for the latest updates and resources before and during a PSPS. SCE would like to further discuss this element with SED to hopefully achieve mutual understanding and agreement on the most effective use of text messages and sce.com for CRC notifications to customers.

Reporting Template Violations

19. For July 22–23 event, the data in the zipped geodatabase file and in the Excel spreadsheet were not consistent.

³² SCE PSPS Post Event Report – June 15, 2022 to June 17,2022, p.24

³³ SCE PSPS Post Event Report – June 15, 2022 to June 17,2022, p.23

³⁴ NOV, p. 6

³⁵ D.21-06-034 requires that “prior to a PSPS event, immediately after the utility decides on which CRC locations to open during the PSPS event, the utility must provide notice to customers of the locations of the CRCs, the services available at each CRC, the hours of operation of each CRC, and where to access electricity during the hours the CRC is closed. This notice must be provided in all available means, including, but not limited to, text messages and on the utilities’ websites.”, A2.

The NOV states that the data in the zipped geodatabase file and in the Excel spreadsheet were not consistent for the July 22-23 event.³⁶ SCE acknowledges that there was a discrepancy between the geospatial file and the Post-Event Report Data Workbook (Excel spreadsheet) for that event. SCE resubmitted the amendment geospatial file with matching data to the Excel spreadsheet and uploaded to on.sce.com/PSPSPosteventreports. Subsequently after the July 22-23 event, SCE has developed additional quality control steps in the process to help ensure the zipped geodatabase matched with Excel spreadsheet.

20. SCE did not follow the Template to report lessons learned (June 15-17)

The NOV states that the lesson learned table did not follow the Post-Event Reporting template for June 15-17 event.³⁷ SCE acknowledges that it did not follow the template provided to SCE by using different header's names for the lessons learned table. Since the June 15-17 event, SCE has updated the template for the post-event report to ensure that SCE adheres to the SED Post Event Reporting template.

SCE appreciates the opportunity to respond to the NOV and looks forward to further collaboration with SED staff to continue to improve its PSPS program. Please let me know if you have any questions regarding our response, and if further information is needed to close out the NOV process.

Sincerely,

/s/ Connor J. Flanigan

Connor J. Flanigan

Managing Director, State Regulatory Operations

cc: Lee Palmer, Director, Safety and Enforcement Division, CPUC
Anthony Noll, Program Manager, WSEB, SED, CPUC
Cindy Chen, Senior Public Utilities Regulatory Analyst, WSEB, SED, CPUC

³⁶ NOV, p. 6

³⁷ NOV, pp. 6-7

Appendix

SCE regalert

From: SCE regalert
Sent: Friday, July 22, 2022 9:29 AM
To: PSPSnotification(cpuc.ca.gov); leslie palmer(cpuc.ca.gov); rachel peterson(cpuc.ca.gov); 'forest.kaser (cpuc.ca.gov)'; Caroline Thomas Jacobs; Koko.Tomassian; anthony noll(cpuc.ca.gov); devla.singh@cpuc.ca.gov; Edward.chavez; Dunton, Drucilla "Dru"; leuwam.tesfai@cpuc.ca.gov
Cc: Tara Kaushik
Subject: July 22, 2022 EVENT – SCE's PSPS IMT Update No. 1 – De-Energization (07-22-22)

Hi All,

This email is to notify you that we de-energized 8 customers on the Tejon Circuit in Kern County this morning at approximately 8:00 am due to an unexpected sudden weather pattern. The winds are expected to die down after 9 am this morning, and we will re-energize these customers as quickly as possible. We believe that we may be able to have the affected customers restored by 3pm this afternoon, ahead of the next period of concern. We have not identified any Medical Baseline customers that have been impacted.

We have also identified a second period of concern in the same area of Kern County beginning this evening (July 22) at 6pm and lasting until 9am on July 23. So far, there is only the Tejon Circuit in scope. If we de-energize, the anticipated restoration time for this period of concern will be 5pm on July 23, subject to change based on the forecast. I will provide an update and keep you apprised. We have provided a courtesy notification to CalOES and are notifying all other public safety partners shortly, and will be providing additional notices (including to customers) as necessary.

Please don't hesitate to contact me with any questions.

Thanks,

Nate Moore

Senior Advisor, Regulatory Relations

M. 415-470-8130

601 Van Ness Avenue Ste. 2030, San Francisco, CA 94102



From: SCE regalert

Sent: Saturday, November 19, 2022 8:42 AM

To: PPSNotification(cpuc.ca.gov) <PPSNotification@cpuc.ca.gov>; leslie palmer(cpuc.ca.gov)

<leslie.palmer@cpuc.ca.gov>; caroline.thomasjacobs@energysafety.ca.gov; Koko.Tomassian

<Koko.Tomassian@energysafety.ca.gov>; Edward.chavez <Edward.chavez@energysafety.ca.gov>; Melissa.semcer

<Melissa.semcer@energysafety.ca.gov>

Cc: Tara Kaushik <tara.kaushik@sce.com>; Marissa Blunschi <Marissa.Blunschi@edisonintl.com>; Christine Angulo

<Christine.Angulo@sce.com>

Subject: November 18, 2022 – SCE PSPS Alert No. 6: Notification of De-Energization (11/19/2022)

Good morning,

Below is an update on SCE's PSPS event. In reviewing real-time fire weather conditions, and out of concern for the safety of our customers, SCE is shutting off power to reduce the risk of wildfire ignition. Power is expected to be restored within 3 to 8 hours after the period of concern has ended, but could take longer in some circumstances.

SCE sent notifications to all customers in scope and has sent imminent notifications to the customers who were de-energized through phone calls, texts, and/or emails. Public Safety Partners have also been notified. Information, including maps, GIS shapefiles, and other event-specific information can be found at SCE's [Public Safety Partner Portal](#) (To request access, email publicsafetyportal@sce.com). Additional information can be found at www.sce.com/psps.

Event Scope and Areas impacted include:

SCE PSPS Status Update as of 11/19/22, 8:30 am	11/17/22	11/18/22	11/19/22
Current Period of Concern (POC)	11/18/22, 1800 to 11/19/22, 1500	11/18/22, 1800 to 11/19/22, 1500	11/18/22, 1800 to 11/19/22, 1500
County/Countries, including Tribes	Los Angeles Ventura No Tribes	Los Angeles Ventura No Tribes	Los Angeles Ventura No Tribes
No. of De-energized Customers	N/A	N/A	Total Customers: 333 MBL: 16 Critical Care: 5

Estimated Re-Energization Time	N/A	N/A	Estimated ~ 3-8 hours after POC has ended and restoration efforts are approved by the Incident Commander
Total Customers	16,579	15,444	15,445
Medical Baseline Customers	406	406	396
Critical Care/Life Support Customers	61	61	59
Critical Infrastructure	Communications - 175 Healthcare/Public Health - 16 Transportation - 22 Water/Wastewater - 104	Communications - 175 Healthcare/Public Health - 16 Transportation - 22 Water/Wastewater - 104	Communications - 175 Healthcare/Public Health - 16 Transportation - 22 Water/Wastewater - 104
Community Resource Centers (CRCs)	2	2	2
Community Crew Vehicles (CCVs)	2	2	2
NOTE: Information in this table is based on best available data, as of the time listed, and is subject to change based on weather conditions and data validation.			

The slight decrease in MBL and CC customers is a result of the switching operations that removed customers from scope, as described in the update 5, below. The breakdown was not readily available at the time of the last update. Also, please note that small fluctuations in customer counts, such as the increase from 15,444 to 15,445 customers in scope here, are common as our systems refresh customer data on a daily basis (e.g., due to customer move-ins/move-outs).

Thank you,
SCE PSPS Alert

From: SCE regalert
Sent: Friday, November 18, 2022 5:25 PM
To: PSPSnotification(cpuc.ca.gov) <PSPSnotification@cpuc.ca.gov>; leslie palmer(cpuc.ca.gov) <leslie.palmer@cpuc.ca.gov>; 'caroline.thomasjacobs@energysafety.ca.gov' <caroline.thomasjacobs@energysafety.ca.gov>; Koko.Tomassian <Koko.Tomassian@energysafety.ca.gov>; Edward.chavez <Edward.chavez@energysafety.ca.gov>; Melissa.semcer <Melissa.semcer@energysafety.ca.gov>
Cc: Tara Kaushik <tara.kaushik@sce.com>; Marissa Blunschi <Marissa.Blunschi@edisonintl.com>; Christine Angulo <Christine.Angulo@sce.com>
Subject: November 18, 2022 – SCE PSPS Alert No. 5: Potential Power Shutoff Event (11/17/2022)

All:

From: SCE regalert <SCEregalert@sce.com>

Sent: Thursday, November 24, 2022 7:57 AM

To: SCE regalert <SCEregalert@sce.com>; PSPSnotification(cpuc.ca.gov) <PSPSnotification@cpuc.ca.gov>; leslie palmer(cpuc.ca.gov) <leslie.palmer@cpuc.ca.gov>; caroline.thomasjacobs@energysafety.ca.gov; Melissa.semcer <Melissa.semcer@energysafety.ca.gov>; Koko.Tomassian <Koko.Tomassian@energysafety.ca.gov>; Edward.chavez <Edward.chavez@energysafety.ca.gov>

Cc: Tara Kaushik <Tara.Kaushik@sce.com>; Marissa Blunschi <Marissa.Blunschi@edisonintl.com>; Christine Angulo <Christine.Angulo@sce.com>

Subject: 11/24/2022 - SCE PSPS Alert No. 6: Initiating De-energizations (11/24/2022)

Good morning,

Below is an update on SCE's PSPS event. In reviewing real-time fire weather conditions, and out of concern for the safety of our customers, SCE is shutting off power to reduce the risk of wildfire ignition. Power is expected to be restored within 3 to 8 hours after the period of concern has ended, but could take longer in some circumstances. Number of customers in scope has been reduced due to circuit mitigations performed by our operations team over night.

SCE sent notifications to all customers in scope and has sent imminent notifications to the customers who were de-energized through phone calls, texts, and/or emails. Public Safety Partners have also been notified. Information, including maps, GIS shapefiles, and other event-specific information can be found at SCE's [Public Safety Partner Portal](#) (To request access, email publicsafetyportal@sce.com). Additional information can be found at www.sce.com/psps.

Event Scope and Areas impacted include:

SCE PSPS Status Update as of 11/24/22 @ 7:00 a.m.	11/22/22	11/23/22	11/24/22
Current Period of Concern (POC)	11/24/22 from 12:00 a.m. (midnight) through 9:00 p.m.	11/24/22 from 12:00 a.m. (midnight) through 9:00 p.m.	11/24/22 from 12:00 a.m. (midnight) through 9:00 p.m.
County/Counties, including Tribes	Los Angeles Ventura No Tribes	Los Angeles Ventura Riverside No Tribes	Los Angeles Ventura Riverside No Tribes
No. of De-energized Customers	N/A	N/A	3,648 (Ventura County)

Estimated Re-Energization Time	N/A	N/A	Estimated within 3-8 hours of the end of POC
Total Customers in Scope	24,459	50,264	34,944
Medical Baseline Customers in Scope	688	1,267	998
Critical Care/Life Support Customers in Scope	111	233	190
Critical Infrastructure in Scope	Communications - 278 Healthcare/Public Health - 10 Transportation - 26 Water/Wastewater - 154	Communications - 435 Healthcare/Public Health - 14 Transportation - 34 Water/Wastewater - 210	Communications - 380 Healthcare/Public Health - 13 Transportation - 32 Water/Wastewater - 197
Community Resource Centers (CRCs)	4	4	4
Community Crew Vehicles (CCVs)	3	5	5
NOTE: Information in this table is based on best available data, as of the time listed, and is subject to change based on weather conditions and data validation.			

SCE Reg Alerts



Connor J. Flanigan
Managing Director
State Regulatory Operations
Connor.Flanigan@sce.com

October 28, 2024

Via E-Mail

Ronald DeMayo
Program and Project Supervisor
Safety and Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Notice of Violation Southern California Edison 2023 Public Safety Power Shutoff Events

Dear Mr. DeMayo:

Southern California Edison (SCE) is responding to Safety Enforcement Division's (SED) Notice of Violation (NOV) issued on September 27, 2024, to SCE concerning SCE's 2023 Public Safety Power Shutoff (PSPS) events. The NOV alleges that SCE failed to comply with the California Public Utilities Commission (Commission or CPUC) guidelines related to notifications (i.e., customer notifications, notifications to the Director of SED and Public Safety Partners (PSPs)), and requirements related to PSPS post-event reporting. These guidelines were adopted by the Commission in Resolution ESRB-8, Decision (D.) 19-05-042, D.20-05-051, D.21-06-014, D.21-06-034, and the Administrative Law Judge's Ruling on the Post-Event Report Template issued on October 18, 2021.

SCE appreciates SED's careful review of SCE's execution of 2023 PSPS events and post-event reporting. SCE remains committed to improving its PSPS program to protect public safety under extreme conditions, reduce impacts on affected customers and communities, and comply with applicable PSPS guidelines.

SCE also appreciates the opportunity to review and respond to the NOV. SCE addresses the proposed violations and provides explanations and evidence to support its position. SCE believes that it has complied with all Commission guidelines and requirements for most of the alleged violations but acknowledges other alleged violations. For the violations that SCE acknowledges,

SCE has taken corrective actions and implemented process improvements to help prevent recurrence. SCE requests that SED consider this response and the attached documents in its evaluation of the NOV. SCE is available for further discussions with SED to resolve this matter as soon as possible.

Resolution ESRB-8 Violations

1. **Resolution ESRB-8** states in part “[t]he report should include ‘The local communities’ representatives the IOU contacted prior to de-energization, the date on which they were contacted, and whether the areas affected by the de-energization are classified as Zone 1, Tier 2, or Tier 3 as per the definition in General Order 95, Rule 21.2-D.” (ESRB-8 at 5)

The NOV states that for the October 29 event, “SCE did not completely report the classification for all areas affected” and “did not explain what N/A stands for.”¹ SCE acknowledges that it inadvertently included N/As within Table 10 PSPs Contacted. SCE reviewed the October 29 post-event report and the data source for this table and found that SCE inadvertently made an error when transferring the information into the excel data workbook. SCE is attaching an amended Table 10 of the October 29 post-event report. Please see Attachment A for the amended data. In addition, SCE will enhance its quality control process to help reduce the potential for errors of this nature in future post-event reports.

2. **Resolution ESRB-8** states in part “[t]he IOU shall identify the address of each community assistance location during a de-energization event, describe the location (in a building, a trailer, etc.), describe the assistance available at each location, and give the days and hours that it was open.” (ESRB-8 at 5))

The NOV states that SCE failed to accurately report the number of Community Resource Centers (CRC) and Community Crew Vehicles (CCV) in the October 29 PSPS post-event report.² SCE respectfully disagrees with SED’s assessment. SCE filed an amendment to its October 29 post-event report, on February 16, 2024, after SED’s inquiry, and corrected the inconsistency of CRC/CCV data reported in Table 15, the map in the report, and the narrative. As such, SCE did not violate Resolution ESRB-8. Since this occurrence, SCE has developed a better understanding of SED’s CRC/CCV reporting expectations and will develop a process to prevent errors of this nature in future post-event reports.

3. **Resolution ESRB-8** states in part “[t]he IOU shall notify the Director of SED, as soon as practicable, once it decides to de-energize its facilities. If the notification was not prior to the de-

¹ NOV, p. 2.

² *Id.*

energization event, the IOU shall explain why a pre-event notification was not possible. The notification shall include the area affected, an estimate of the number of customers affected, and an estimated restoration time.”

The NOV asserts that SCE violated this requirement because for all eight events in 2023, SCE’s notifications to the Director of SED included the Period of Concern and a boiler plate statement “the restoration is expected to take up to 8 hours after fire conditions end.”³ SCE respectfully disagrees that it violated Resolution ESRB-8. By providing the Period of Concern and the statement that “restoration is expected to take up to 8 hours after fire conditions end,” SCE has provided an estimated restoration time. The estimated restoration time is eight hours after the Period of Concern ends. For example, in the July 11 event, SCE’s Period of Concern was from July 11 at 12:00 a.m. to July 12 at 11:00 p.m., therefore the estimated restoration time was July 13 at 07:00 a.m. To avoid future confusion, in 2024, SCE is providing a clock time for estimated restoration time (e.g., 10:00 a.m.) that is calculated to correspond to 8 hours following the end of the Period of Concern.

SCE’s estimated restoration time in its notifications is consistent with Commission decisions. In D.19-05-042, the Commission directed the investor-owned utilities (IOUs) to provide to customers “the estimated time to power restoration” noting that it “may be communicated as a range.”⁴ For the events at issue, SCE provided a restoration time range that captures most situations and is based on historical experience including post-event patrols of de-energized lines. Providing precise circuit or segment-specific estimated restoration times during a PSPS event presents significant challenges due to several critical factors. Each circuit must undergo a thorough end-to-end patrol before re-energization. Although SCE makes every effort to pre-stage patrol resources in areas where weather conditions are expected to abate first, the dynamic nature of weather necessitates shifting resources to follow subsiding winds. SCE’s circuits vary extensively in length, layout, and topology, traversing diverse terrain types, and are often reconfigured during an event to reduce PSPS impacts on customers. Additionally, the need for daylight for restoration patrols, particularly for aircraft support or accessing difficult-to-reach locations, is crucial in determining estimated restoration times. Moreover, these operational restoration processes must be coordinated with the notification system so any updates to restoration times can be timely communicated to customers. Despite these complexities, SCE remains committed to restoring power to customers as swiftly as possible.

4. **Resolution ESRB-8** states in part “[t]he IOU shall also notify the Director of SED of full restoration within 12 hours from the time the last service is restored.” (ESRB-8 at 6)

The NOV states that for the October 29 event, SCE notified the Director of SED on November 2, 2023, that the event had concluded by stating “[t]he period of concern has concluded and no

³ NOV, p. 3.

⁴ D.19-05-042, Appendix A, p. A17.

circuits remain in scope for the next 72 hours,” but did not state whether power had been fully restored to all customers.⁵

SCE respectfully disagrees that it violated Resolution ESRB-8. When SCE notified the Director of SED that “no circuits remain in scope,” it provided notification that the last service had been restored. It could be inferred that if “no circuits remained in scope” that no customers are under consideration for de-energizations, nor are there any customers that remain de-energized.

In other notifications to the Director of SED, SCE provides a line item in its PSPS event notifications detailing the number of de-energized customers. To avoid future confusion, SCE will keep this format to provide the Director of SED of the number of de-energized customers and include a “0” to indicate that no customers remain de-energized.

5. ***Resolution ESRB-8*** states in part “IOUs shall submit a report to the Director of SED within 10 business days after each de-energization event, as well as after high-threat events where the IOU provided notifications to local government, agencies, and customers of possible de-energization though no de-energization occurred.” (ESRB-8 at 5)

The NOV states that for the July 18 post-event report, SCE submitted it on August 2, one day after the due date.⁶ SCE acknowledges that it submitted its July 18 post-event report one day late. A miscount occurred when determining the 10-day period from the conclusion of the PSPS event as the timeframe went into the following month. SCE has implemented an additional step at the beginning of the 10-day process to help ensure it remains compliant with submitting the post-event report within the 10-day period.

Violations of D.19-05-042

6. *Missed advance, imminent, de-energization initiation, prepare to restore and restore notifications*
 - 6.1. *Failed to notify public safety partners, critical facilities, or customers at 48–72 hours, 24–48 hours, 1–4 hours prior to de-energization, de-energization initiation, before re-energization and when re-energization was complete (October 29, November 9, November 20, December 9)*

The NOV states that SCE reported the following failures in advance and post de-energization notifications for all events in 2023:⁷

⁵ NOV, p. 3.

⁶ *Id.*

⁷ NOV, p. 4.

Table 1: NOV Reported Notification Failure Summary

Notification Type	Oct 29	Nov. 9	Nov. 20	Dec. 9	Subtotal
48-72 hours	557	7	77	138	779
24-48 hours	7,818	37	276	822	8,953
1-4 hours	17,898	227	2,390	2,928	23,443
No advance notice at all	2,870	21	254	463	3,608
Subtotal – advance failure	29,143	292	2,997	4,351	36,783
De-energization Initiation	8,770	29	383	607	9,789
Imminent re-energization	7,973	23	324	642	8,962
Re-energization complete	6,359	23	262	503	7,147
Subtotal – post failure	23,102	75	969	1,752	25,898

In 2023, the missed notifications were due to one of the following reasons: (1) emergent weather; or (2) double count of missed notifications; or (3) missing customer contact information; or (4) system operational issues. SCE discusses these reasons below and provides an alternative table for SED’s consideration regarding missed notifications for which the utility should be measured against. Please see Table 2 below.

Table 2: SED’s consideration regarding missed notifications

Notification Type	Oct 29	Nov. 9	Nov. 20	Dec. 9	Subtotal
48-72 hours	529	7	77	131	744
24-48 hours	7,384	30	267	758	8,439
1-4 hours	17,631	225	2,382	2,918	23,156
No advance notice at all	0	0	0	0	0
Subtotal – advance failure	25,544	262	2,726	3,807	32,339
De-energization Initiation	6,279	27	374	594	7,274
Imminent re-energization	7,964	23	324	642	8,953
Re-energization complete	6,219	23	259	491	6,992
Subtotal – post failure	20,462	73	957	1,727	23,219

Emergent Weather

D.19-05-042 states that “the electric investor-owned utilities must, *whenever possible*, provide advance notification to all populations potentially affected by a de-energization event.”⁸ While SCE acknowledges that it missed some advance notifications during its 2023 PSPS events, some of those were unavoidably missed due to unexpected or emergent weather conditions. In some cases, rapid onset weather events necessitated immediate de-energization before it was possible to send notifications to affected customers, even with the automated

⁸ D.19-05-042, p. 84 (emphasis added).

processes implemented for the 2023 PSPS season. SCE continues to enhance its weather forecasting capabilities by expanding the network of weather stations from which data is collected and incorporated into machine-learning weather models. However, no weather forecast is perfect due to limitations in the science of weather prediction. It is not scientifically possible to pinpoint the exact location and magnitude of damaging winds at 24-72 hours, or in some cases even at 1-4 hours, before a de-energization decision is made.

Missed notifications due to weather conditions that unexpectedly deviated from SCE's forecasts should not be considered violations of D.19-05-042. In 2023, SCE missed providing 607 advanced notifications or imminent notifications to PSPs, critical facilities, or customers due to unexpected weather conditions. Consistent with the Commission's PSPS notification guidelines, SCE's decision to send advance notifications is driven by its assessment of the likelihood of de-energization, (i.e., whether any given circuit is expected to exceed PSPS criteria during the period of concern). When weather conditions change, circuits not originally in the period of concern for a PSPS event can immediately and unexpectedly come into scope. In such cases, SCE either did not reasonably believe during the prescribed timeframes that de-energization of these customers was likely, or because weather conditions escalated so quickly, notification was not possible before de-energization. In these instances, the requirement to notify customers in a timely manner was not possible or feasible. Please see Attachment B for the 2023 weather forecasts and observed-weather data collected from its network of weather stations for circuits that were not originally in the period of concern for a PSPS event but immediately and unexpectedly came into scope which resulted in missed notifications. SCE respectfully requests that SED not assess violations for these 607 missed notifications.

Double Count of Missed Notifications

In addition, SCE submits that "no advance notifications at all" is not a separate failed notification category under D.19-05-042.⁹ "No advance notifications at all" are customers that failed to receive both an advanced notification (either at 48–72 hours, 24–48 hours depending on customer type) and an imminent notification (1-4 hours prior to de-energization). As such, these customers are already represented in the missed advanced notification (either at 48–72 hours, 24–48 hours depending on customer type) and missed imminent notification (1-4 hours prior to de-energization). 3,608 missed customer notifications are already represented in the other categories and should not be included in the penalty assessment. Please see Attachment C for a list of customers who missed both the 48-72 hours or 24–48 hours advance notifications (depending on customer type), the imminent notification (1-4 hours before de-energization) and included in the "no advance notifications at all". The spreadsheet includes customer ID, PSPS event name, and outage duration. SCE respectfully requests that SED not assess violations for these 3,608 notifications.

⁹ See D.19-05-042, Appendix A, pp. A8-A9.

Missing Customer Contact Information

Of the missed advanced and post de-energization notifications, SCE did not send 2,908 post de-energization notifications to customers because the customers did not provide valid contact information. Successful notifications are dependent on the accuracy of provided contact information and SCE takes significant steps to help ensure the accuracy of this information. In both 2023 and 2024, SCE conducted notification tests to determine the validity of current customer contact information. Using the results of these tests in 2023, SCE took several actions to improve customer contact information including: auto-enrollment in “Emergency” outage preference for all customers, secondary enrollment of alternative customer contact information within customer accounts when primary contact device failed, the addition of “update contact method” in call center scripts, and direct mailers requesting updated contact information to customer accounts that were unsuccessful during the 2023 test. In 2024, SCE has seen marked improvement in the availability of customer contact information because of these efforts but also has determined that gaps still exist. In instances where customers have not provided valid contact information, the requirement to notify customers in a timely manner was not possible or feasible and as such, SCE respectfully requests that these 2,908 notifications should not be considered in the penalty assessment. Please see Attachment D for the list of customers who missed the notifications due to invalid contact information.

System/Operational Issues

The remaining 55,558 missed notifications in 2023 were due to a system/operational issue that affected the delivery of notifications to impacted customers. The notification error was the result of a failure in the data transfer between SCE and the notification vendor. As part of SCE system refresh efforts, SCE has installed system checks to monitor the status of the daily file transfer and the interfaces between SCE and all external systems. SCE understands the criticality of keeping customers informed during PSPS events and SCE’s dedicated efforts following the 2023 Fire Season have been specifically focused to mitigate system and operational issues. As mitigating factors for SED to consider for potential accumulation of missed notifications, SCE notes that this was a data transfer issue/error, that unfortunately affected a large group of customers across four events. SCE has acted promptly to install system checks to help avoid similar occurrences in the future.

6.2. SED identified additional failed notifications in the following events:

6.2.1. SCE de-energized customers at 18:34 on July 11. According to the notification timeline, one de-energization notification was sent to the critical facilities on July 12. SCE sent out notification initiation notice the day after the line was de-energized.

The NOV states that SCE issued a delayed notification initiation notice the day after the circuit was de-energized during the July 11 event.¹⁰ SCE respectfully disagrees with SED’s

¹⁰ NOV, p. 10.

findings. Upon reviewing the notification information in the July 11 PSPS post-event report, SCE discovered that a notification sent at 08:01 on July 12, following the de-energization of customers at 18:34 on July 11, was a ‘Continued Shutoff’ notification rather than a ‘Shutoff Notification’. Please see Table 3 below. This ‘Continued Shutoff’ notification is a courtesy message sent to customers who remain de-energized overnight. Its purpose is to inform customers that SCE could not continue patrols overnight and that restoration activities would resume in daylight. As such, SCE did not violate the minimum notification timeline for de-energization initiation notice (shutoff notification). To avoid confusion in the future post-event reports, SCE will exclude ‘Continued Shutoff’ notifications.

Table 3: Notification Timeline

Event Order	Notification Type	Required Timeline	Notification Sent to	Approximate Time Sent	Notes
In-Event (during)	De-energized (Shutoff or Continued Shutoff)	De-energization Notification	Public Safety Partners excluding Critical Facilities and Infrastructure	7/11/2023 18:38	Shutoff
			Critical Facilities & Infrastructure	7/11/2023 18:40	Shutoff
			All other affected customers	7/11/2023 18:40	Shutoff
			Critical Facilities & Infrastructure	7/12/2023 08:01	Continued Shutoff
			All other affected customers	7/12/2023 08:01	Continued Shutoff

6.2.2. For the July 18 event, per the notification to CPUC, the Period of Concern started at 12:00 on July 18. Per the notification timeline, at least one affected customer received the initial advance notice at 10:57 on July 18. Not all the customers received the 24-48 hour advance notification.

SCE respectfully disagrees with SED’s determination that this was a violation. Upon a review of the notification information, SCE found that the same customers who received notification at 10:57 on July 18 had also been sent prior notifications at 11:16 on July 16 and 10:51 on July 17. Please see Table 4 below. The “Update” notification is a courtesy message sent to customers informing them that there is still a potential likelihood of losing power. As such, SCE did not violate the minimum notification timeline for 24-48 hours notice and respectfully requests that no violation be assessed here.

To avoid confusion in future post-event reports, SCE will exclude subsequent multiple notifications to the same customers and will include only the first occurrence of notification to a customer.

Table 4: Notification Timeline

Event Order	Notification Type	Required Timeline	Notification Sent to	Approximate Time Sent	Notes
Pre-De-Energization (prior)	Initial Notice for PSPS Event (Initial or Update)	48-24 hours	Critical Facilities & Infrastructure	July 16, 2023 11:16	Initial
			Critical Facilities & Infrastructure	July 17, 2023 10:51	Update
			Critical Facilities & Infrastructure	July 18, 2023 10:57	Update
			All other affected customers	7/16/2023 11:16	Initial
			All other affected customers	7/17/2023 10:51	Update
			All other affected customers	7/18/2023 10:57	Update

6.2.3. *For the October 11 event, per the notification to CPUC, the Period of Concern started at 18:00 on October 11. Per the notification timeline, some critical facilities and customers received the 24–48-hour notifications in the morning of October 11 and October 12. SCE did not meet the 24-48 hours in advance of anticipated de-energization.*

The NOV states that “SCE did not meet the 24-48 hours in advance of anticipated de-energization”¹¹ on the October 11 event because some critical facilities and customers received the 24–48-hour notifications in the morning of October 11 and October 12.¹² SCE respectfully disagrees with this alleged violation. Upon a review of the notification information, SCE found that the same customers sent notifications on October 11 and October 12 also received previous advanced notifications on October 9 or October 10. Please see Table 5 below. Similar to the subsection 6.2.2 regarding the July 18 event, the “Update” notification is a courtesy message sent to customers informing them that there is still a potential likelihood of losing power. As such, SCE did not violate the minimum notification timeline for 24-48 hours notice and respectfully requests that no violation be assessed here. To avoid confusion in future post-event reports, SCE will exclude subsequent multiple notifications to the same customers and will include only the first occurrence of notification to a customer.

Table 5: Notification Timeline

Event Order	Notification Type	Required Timeline	Notification Sent to	Approximate Time Sent	Notes
-------------	-------------------	-------------------	----------------------	-----------------------	-------

¹¹ *Id.*

¹² *Id.*

Pre-De-Energization (prior)	Initial Notice for PSPS Event (Initial or Update)	48-24 hours	Public Safety Partners excluding Critical Facilities and Infrastructure	10/10/2023 11:44	Initial
			Public Safety Partners excluding Critical Facilities and Infrastructure	10/11/2023 11:00	Update
			Public Safety Partners excluding Critical Facilities and Infrastructure	10/12/2023 10:02	Update
			Critical Facilities & Infrastructure	10/9/2023 18:28	Initial
			Critical Facilities & Infrastructure	10/10/2023 12:19	Initial
			Critical Facilities & Infrastructure	10/10/2023 12:23	Update
			Critical Facilities & Infrastructure	10/10/2023 15:41	Initial
			Critical Facilities & Infrastructure	10/10/2023 12:34	Initial
			Critical Facilities & Infrastructure	10/11/2023 11:08	Update
			Critical Facilities & Infrastructure	10/12/2023 10:11	Update
			Critical Facilities & Infrastructure	10/12/2023 10:14	Update
			All other affected customers	10/9/2023 18:28	Initial
			All other affected customers	10/10/2023 12:19	Initial
			All other affected customers	10/10/2023 12:23	Update
			All other affected customers	10/10/2023 15:41	Initial
			All other affected customers	10/10/2023 12:34	Initial
			All other affected customers	10/11/2023 11:08	Update
			All other affected customers	10/12/2023 10:11	Update
			All other affected customers	10/12/2023 10:14	Update

6.2.4. *For the November 26 event, per the notification to the CPUC, the Period of Concern started at 06:00 on November 26, 2023. Per the notification timeline, the earliest notification to public safety partners was sent out on November 24 at 12:59. SCE did not meet the 72-48 hour in advance of anticipated de-energization for all public safety partners and critical facilities.*

The NOV states that SCE did not meet the 72-48 hours advance notice for all (PSPs) and critical facilities because the Period of Concern started at 06:00 on November 26, 2023 and the earliest notification to PSPs was sent out on November 24 at 12:59.¹³ SCE respectfully disagrees with SED that it violated D.19-05-042.¹⁴ The customers involved in the November 26 event were never de-energized. SCE uses the time between notification authorization and customer de-energization to determine if an advanced notification was delivered within the required window. Because there was no de-energization in this event, it is not possible to calculate whether a customer received an Advanced Notification within the required 72-48 hours before de-energization. SCE interprets the Commission's advance notification (72-48 hours) timing to be tied to de-energization times. By such definition, there can be no missed advance notices for this event where there is no de-energization time. In addition, there is no harm to customers when an advance notification is not sent for a de-energization event that does not occur. Moreover, any advance notifications that SCE had provided to PSPs before the period of concern began may be viewed by the Commission as "false communications" because de-energization never occurred. In D.21-06-034, the Commission directed IOUs to "make every attempt" to send cancellation notices when the IOU removes from scope customers who had been sent a notice of potential de-energization and characterized this situation as a type of false communication that needs to be reported. Thus, SCE submits that it did not violate the minimum notification timeline for 48-72 hours advance notice for the November 26 Period of Concern and respectfully requests that no such violation be assessed.

7. ***D.19-05-042 Appendix A*** states in part "[i]n addition to submitting a report to the Director of the Commission's Safety and Enforcement Division within 10 business days of power restoration, electric investor-owned utilities must serve their de-energization report on the service lists of this proceeding and Rulemaking 18-10-007 or their successor proceedings." (D.19-05-042 at A22)

The NOV states that SCE served its July 18 post-event report one day late.¹⁵ SCE acknowledges that it served its July 18 post-event report late. As discussed in Section 5, a miscount occurred when determining the 10-day period from the conclusion of the PSPS because the timeframe went into the following month. SCE has implemented an additional step at the onset of the 10-day process to help ensure we remain compliant with submitting the post-event report within the 10-day period.

¹³ NOV, pp. 10-11.

¹⁴ D.19-05-042, Appendix A, pp. A8-A9.

¹⁵ NOV, p. 11.

8. ***D.19-05-042 Appendix A*** states in part “*Notification Preceding a De-Energization Event - The electric investor-owned utilities must convey to public safety partners at the time of first notification preceding a de-energization event information regarding the upcoming de-energization, including estimated start time of the event, estimated duration of the event, and estimated time to full restoration*” (D.19-05-042 at A16)

The NOV states that for all events in 2023, the notifications to PSPs only included the period of concern and did not include estimated time to full restoration.¹⁶ While SCE acknowledges that it does not provide PSPs a single notification that includes the period of concern and the estimated time of full restoration, it did comply with the intent of this requirement. SCE provides all pertinent timing information to PSPs of fire weather conditions to provide accurate situational awareness.

Weather conditions permitting, SCE sends PSPs a minimum of four notifications prior to de-energization (i.e., initial notification, update conditions notification, expected de-energize notification, and de-energization notification). In its initial notification to local and tribal governments, SCE notifies contacts that SCE’s weather specialists forecast potential extreme weather in their jurisdiction. Within this notification, SCE includes a spreadsheet with information about weather event timing (estimated start time of the event and estimated duration of the event) and circuits and counties, cities, and tribes that could be impacted. Due to the uncertainty of weather, SCE does not include the estimated time of restoration in the notifications sent prior to de-energization notifications because SCE does not know if customers will ultimately be de-energized for the event, or exactly when fire weather conditions will start or end within the broader period of concern. When SCE is certain that de-energization will occur, SCE provides an eight-hour from the end of the weather event estimated time to power restoration as a range in its de-energization notifications, and provides the explanation that additional updates on weather conditions are on SCE.com. To ensure that PSPs access the most up-to-date information, they are directed to SCE.com and the public safety portal which is updated regularly.

In 2024, SCE updated its initial notifications to include an explanation that restoration will take up to 8 hours after the weather improves and restoration is authorized, but could be longer if daylight is required for a safe patrol of overhead lines or if damage is found, which is also provided in de-energization notifications. SCE also directs customers to SCE.com and the public safety portal for up-to-date restoration information. SCE proposes a meeting with SED to discuss the challenges and pros and cons of attempting to provide more specific restoration times in hopes of reaching an agreement going forward.

¹⁶ *Id.*

9. ***D.19-05-042 Appendix A*** states in part “*Notification Preceding a De-Energization Event - The electric investor-owned utilities must partner with local public safety partners to communicate with all other customers that a de-energization event is possible, the estimated start date and time of the de-energization event, the estimated length of the de-energization event, which may be communicated as a range, and the estimated time to power restoration, which again, may be communicated as a range*” (D.19-05-042 at A17)

The NOV states that for all events in 2023, SCE’s notifications included estimated start date and morning/afternoon/evening. SCE did not include the specific start time nor the estimated time to power restoration.¹⁷ SCE provides generalized (morning/afternoon/evening) start times in advance notifications. This is to allay the “boomerang effect” of having to resend notifications to customers with small timing changes as weather models adjust to conditions.

Similar to its notification practices for PSPs, SCE communicates information as it is pertinent. Due to the uncertainty of weather, SCE does not provide a specific time or a restoration time in its initial notification because SCE does not know if customers will ultimately be de-energized, nor exactly when fire weather conditions will start or end for a specific circuit or segment within the broader period of concern. In addition, the length and the unpredictability of weather will make any estimate highly speculative. When it is certain it will de-energize customers, SCE provides a de-energization notification that explains that restoration will take up to 8 hours after the weather improves but could be longer if daylight is needed for safe inspections or if damage occurs.

SCE’s estimated restoration time in its notifications is consistent with Commission decisions. As discussed above, in D.19-05-042, the Commission directed the IOUs to provide to customers “the estimated time to power restoration” noting that it “may be communicated as a range.”¹⁸ For the 2023 events, SCE provided a restoration time range that captures most situations and is based on historical experience including post-event patrols of de-energized lines. As stated above, SCE welcomes further discussion with SED regarding estimating restoration times.

10. ***D.19-05-042 Appendix A*** states in part “[t]he electric investor-owned utilities must provide up-to-date information, including a depiction of the boundary of the de-energization event, on their websites’ homepage and a dedicated Public Safety Power Shut-off webpage regarding the de-energization event.” (D.19-05-042 at A18)

10.1. *SCE’s PSPS maps contained many errors and omissions*

10.1.1. *Overlapping polygons with conflicting information.*

10.1.2. *“Not Available” text displayed or missing date range on many Power Shutoff*

Warning polygons on SCE PSPS website. Multiple instances have been documented on Oct. 29 through Oct. 31 including 34 instances found by SED on Oct. 31.

¹⁷ *Id.*

¹⁸ D.19-05-042, Appendix A, p. A17.

The NOV states that the overlapping polygon in SCE's PSPS maps contains conflicting information.¹⁹ SCE acknowledges that its PSPS maps included errors and conflicting detail. As a result of the issues experienced during the October 29 PSPS event, SCE formed a team to address many of the identified issues after the 2023 PSPS season. This team focused on improving maps and metrics to help ensure consistency and accuracy during PSPS events. SCE has implemented several enhancements aimed at achieving this goal. Notably, SCE has automated the creation of map boundaries and polygons, a process that was previously manual and time-consuming during active PSPS activations. SCE has conducted multiple PSPS events to date in 2024 and observed significant improvements in this area. SCE recognizes that inaccurate maps and metrics can hinder situational awareness and individual requirements for SCE partners and acknowledges that additional enhancements may be required to address future discrepancies. SCE welcomes ongoing feedback from SED as it strives for continuous improvement in this area.

10.2. SCE did not "provide up-to-date information... on their website's homepage...regarding the de-energization event"

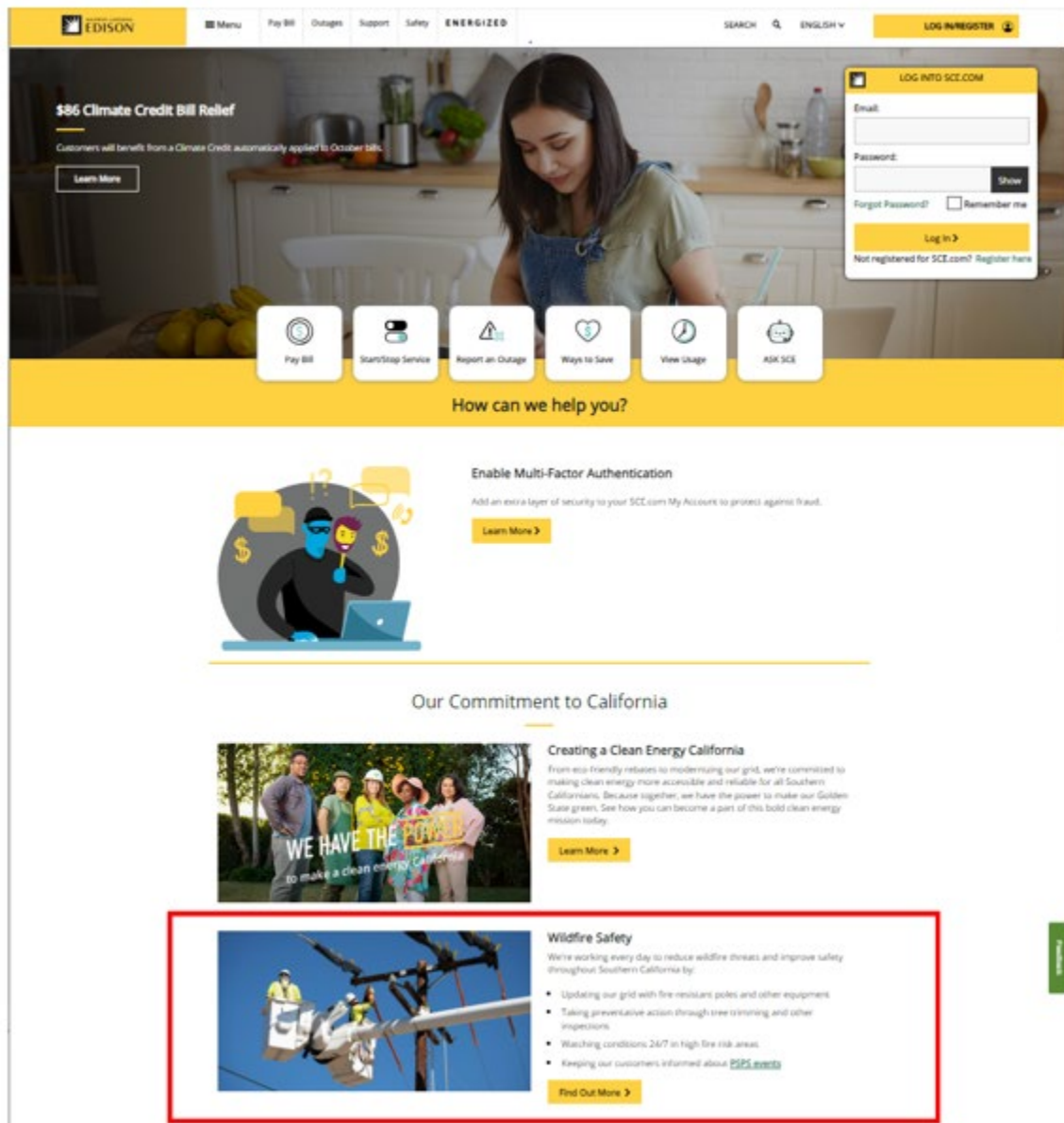
The NOV states that SCE did not put a banner on their homepage for the October 29 PSPS event until SED staff brought it to SCE's attention.²⁰ As noted in the NOV, at the time, SCE generally adds a banner on SCE.com as soon as de-energization affects 50,000 customers or approximately 1% of SCE customers. This mitigates confusion for customers who may be visiting SCE.com to obtain information on another outage (e.g., a scheduled or other type of unplanned outage) and attribute their issue to a PSPS event. This approach also mitigates the risk of call center congestion. SCE took a conservative approach for its October 29 PSPS event and included a banner on its homepage even though fewer than 0.5% of SCE's customer accounts distributed across 6 counties were de-energized for the October 29 PSPS event, the largest of SCE's 2023 PSPS events.

SCE respectfully disagrees that SCE violated D.19-05-042 because it did not provide up-to-date information regarding de-energization event on its website's homepage, and requests that no violation be assessed here. For purposes of PSPS, the PSPS landing page is the home page, and all customer communications including notifications, partner communications and social media direct customers directly to the PSPS pages of the SCE.com website. Although SCE does not put a banner on its SCE.com homepage for all events, on SCE's homepage, customers can obtain PSPS information through the 'Outages Menu' at the top of the homepage which takes customers to the combined outage map and PSPS information. In addition, customers can access SCE.com/PSPS by scrolling down on our homepage to obtain additional PSPS information (see Figure 1).

¹⁹ NOV, p. 12.

²⁰ NOV, pp. 12-13.

Figure 1



11. **D.19-05-042 Appendix A** states in part “[i]n addition to the reporting requirements in Resolution ESRB-8, the electric investor-owned utilities must provide the following information: ... 7) An explanation of how the utility determined that the benefit of de-energization outweighed potential public safety risks;” -

11.1. SCE used a Firecast Output Ratio for each circuit to indicate whether the PSPS benefit outweigh the risks. For the October 29, November 9, and November 20 events, some circuits have a ratio of “N/A.” SED noted for these circuits, some of the calculation inputs were “N/A,” resulting in the calculated Firecast Output Ratio as “N/A.” However, SCE

did not explain why those circuits did not have input for SCE to calculate the output ratio, which should have provided the support for de-energization decision making.

The NOV states that SCE did not explain why some circuits did not have inputs to calculate the Firecast Output ratio for the October 29, November 9, and November 20 events.²¹ SCE acknowledges that for these events, SCE marked some circuits as N/A in Table 4: PSPS Risk vs. Benefit Comparison Tool. However, SCE did not violate the requirement in D.19-05-042 to provide the support for de-energization decision making for these circuits. Circuits that were marked as N/A for these events are downstream circuits. Downstream circuits are connected to circuits in scope for potential de-energization but would otherwise not be in scope for de-energization. As such, these downstream circuits are not evaluated for fire risk separately from their “parent” circuits. The total PSPS Risk for the downstream circuits was accounted for in the parent circuit PSPS Risk vs. Benefit calculation. Accordingly, SCE requests that no violation be assessed here; however, to avoid confusion in the future, SCE began including this information in a footnote in its December 9, 2023 post-event report.

11.2. For the October 29 event, SED noted among the circuits with “N/A” Firecast Output Ratio, six can be found in the de-energized circuits, implying these six circuits were de-energized without appropriately weighing the benefit vs. risk.

The NOV states that for the October 29 event, SCE did not explain why the circuits lacked input to calculate the Firecast Output ratio, suggesting they were de-energized without appropriately weighing the benefit vs. risk.²² SCE respectfully disagrees with SED’s assessment and requests that no violation be assessed here. On February 16, 2024, SCE filed an amendment to its October 29 post-event report, including a footnote explaining the meaning of “N/A” for Firecast Output Ratio. The notation “N/A” (Not Applicable) means that FireCast data for wildfire risk (Acres Impacted, Buildings Impacted, and Population Impacted) is not available for downstream circuits, which are included solely because these circuits are electrically connected to circuits in scope for potential de-energization. A downstream circuit would need to be de-energized if the parent circuit to which it is connected exceeds PSPS criteria. PSPS risk for customers on downstream circuits is already accounted for in the ratios of the parent circuits. The six de-energized circuits are downstream of the Limonite circuit, which was de-energized during the October 29 event. As discussed above, downstream circuits are not evaluated for fire risk separately from their “parent” circuit. As such, SCE did not violate D.19-05-042 because the total PSPS Risk for the downstream circuits was accounted for in the parent circuit PSPS Risk vs. Benefit calculation.

²¹ NOV, p. 13.

²² *Id.*

Violations of D.20-05-051

12. **D.20-05-051** states in part “[e]ach electric investor-owned utility shall ensure that electric service to impacted service points is restored as soon as possible and within 24 hours from the termination of the de-energization event, unless it is unsafe to do so” (D.20-05-051 at Appendix A, p6)

The NOV states that SCE incorrectly reported the restoration time for the Angus circuit in the October 29 event.²³ SCE respectfully disagrees with SED’s assessment that this is a violation of **D.20-05-051** (or other regulations) and requests that no violation be assessed here. D.20-05-051 requires restoration of power within 24 hours if it is safe to do so. SCE restored power on the Angus circuit just over an hour after the “all clear,” as acknowledged in the NOV. Thus, there is no violation of the requirement. As to the initial reporting error that indicated the Angus circuit took over 24 hours to restore, SCE filed an amendment to its October 29 post-event report, on February 16, 2024, after SED’s inquiry and provided updated information. The inaccuracy occurred when the initial restoration time was mistakenly used instead of the final one, as the circuit was de-energized and restored twice during the event. SCE has since reviewed and enhanced its quality control method to help prevent similar errors in future post-event reports.

Violations of D.21-06-014

13. **D21-06-014** states in part “each utility shall respond to any failure to provide notice consistent with the guidelines with an explanation of what caused these failures and how the utilities will correct those failures.” (D21-06-014, OP7 at p286)

The NOV states that SCE did not explain the notification failures or the corrective actions taken to address them, as detailed in Section 6.2.²⁴ SCE respectfully disagrees with SED that it violated D.21-06-014 for Section 6.2²⁵ and requests that no violation be assessed here. As discussed above, the notifications identified in Section 6.2 were not notification failures and therefore, SCE submits that no explanation or corrective action is needed.

14. **D.21-06-014** states in part “Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company must include a statement in the 10-day post-event reports verifying the availability to public safety partners of (1) accurate and timely geospatial information and (2) real time updates to the Geographic Information System

²³ *Id.*

²⁴ NOV, pp. 13-14.

²⁵ Section 6.2 of the NOV includes subsections 6.2.1 through 6.2.4.

shapefiles in preparation for an imminent Public Safety Power Shutoff (PSPS) event and during a PSPS event.” (D21-06-014, OP 18 at 289)

14.1. For the July 11 and July 18 events, the post event reports stated SCE “is aware of a current automation system limitation in which the Portal tabular format data does not match the graphical format and is working on an enhancement to address this current limitation.” As portal tabular format data does not match the graphical format, the geospatial information on the portal was not accurate.

14.2. For the October 29 event, maps and customer metrics provided from SCE’s Representational State Transfer Service (REST) on the Portal, and on sce.com contained errors and discrepancies. SCE’s geospatial information and real time updates to the GIS shapefiles provided to public safety partners during this event were not accurate.

14.3. SCE’s statement in the post event report only verified the availability to public safety partners of geospatial information and real time updates to GIS shapefile. SCE did not verify the accuracy of geospatial information available to public safety partners. (October 11, November 9, November 20, November 26, December 9)

The NOV states that in the 2023 PSPS post-event reports, SCE did not include a statement verifying the availability of accurate and timely geospatial information, along with real-time updates to GIS shapefiles, to PSPs in preparation for an imminent PSPS event and during a PSPS event.²⁶ SCE acknowledges that it did not provide this information in the post-event reports. As a result of the issues experienced during the 2023 PSPS events, SCE formed a team to address many of the identified issues after the 2023 PSPS season. This team focused on improving maps and metrics to ensure consistency and accuracy during PSPS events. SCE has implemented several enhancements aimed at achieving this goal. Notably, SCE has automated the creation of map boundaries and polygons, a process that was previously manual and time-consuming during active PSPS activations. SCE has conducted multiple PSPS events so far in 2024 and observed significant improvements in this area. SCE recognizes that inaccurate maps and metrics can hinder situational awareness and individual requirements for SCE partners, and acknowledges that additional enhancements may be required to address future discrepancies. In future post-event reports, SCE will provide a statement verifying availability of accurate and timely geospatial information, along with real-time updates to GIS shapefiles and to PSPs.

15. D.21-06-014 states in part “PG&E, SCE, and SDG&E must include in the 10-day post-event reports the names of all entities invited to the utility’s emergency operations centers for a Public Safety Power Shutoff event, the method used to make this invitation, and whether a different form of communication was preferred by any entity invited to the utility’s emergency operations center.” (D.21-06-014, OP 20 at 289)

²⁶ NOV, p. 14.

The NOV states that SCE failed to report whether a different form of communication was preferred by any entity invited to the utility's Emergency Operations Center.²⁷ SCE respectfully disagrees that it violated D.21-06-014 and requests that no violation be assessed here. In its post-event reports, SCE did not include whether a different form of communication was preferred by any entity because entities invited did not request a different form of communication or state that a different form was preferred. Moving forward, SCE has remediated this issue by specifically stating what form of communication, if any, was preferred by any entity invited to its Emergency Operations Center in SCE's PSPS post-event reports.

16. D.21-06-014 states in part "Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company must include, in the 10-day post-event report, a description of the de-energization threshold analyses, as part of lessons learned reporting, and the results of the utility's examination of whether its thresholds are adequate and correctly applied in the de-energized areas." (D.21-06-014, OP 69 at 305, 306)

The NOV states that "SCE did not provide a description of the de-energization threshold examination of whether its threshold are adequate and correctly applied in the de-energized areas in any of its eight 2023 events."²⁸ SED has recently clarified its expectations for compliance with this requirement in connection with the 2021 NOV issued in April 2023. In response to this additional clarification, SCE is revising its approach for future events to discuss practices such as re-examining circuit thresholds after a de-energization event to confirm they functioned as intended and/or if they require revision. SCE respectfully requests that no violation be assessed here and is also open to further discussions of this requirement with SED staff to ensure SCE meets expectations going forward, both in terms of format and substance.

Prior to SED's clarification of expectations, SCE believed that its post-event reports met the requirements set forth in D.21-04-014, as SCE's post-event reports include a detailed threshold analysis in Section 2 (Decision-Making Process). In addition, SCE also provides thresholds and actuals of Fire Potential Index (FPI) and wind speed data for the specific scoped circuits in table form, both in the post-event reports (a subset of the data) and in the PSPS Post-Event Data Workbook (entire data/table). The information in these tables demonstrate that the thresholds are adequately and correctly applied because SCE continuously monitored the weather conditions at weather stations on the circuits in scope and de-energized customers as a last resort when those thresholds were met/exceeded due to the actual FPI and wind conditions during the event. As described in Section 2, SCE's decision-making flowchart, SCE de-energizes circuit segments if the de-energization threshold, defined by the FPI and the wind speed, are met/exceeded. SCE also attaches its Quantitative and Qualitative Factors in PSPS Decision-Making Technical Paper, to provide a more detailed explanation of thresholds and decision making criteria.

Violations of D.21-06-034

²⁷ NOV, pp. 15-16.

²⁸ NOV, p. 15.

17. **D.21-06-034** states in part “Prior to a PSPS event, immediately after the utility decides on which [Community Resource Centers (CRC)] locations to open during the PSPS event, the utility must provide notice to customers of the locations of the CRCs, the services available at each CRC, the hours of operation of each CRC, and where to access electricity during the hours the CRC is closed. This notice must be provided in all available means, including, but not limited to, text messages and on the utilities’ websites.” (D21-06-034 at A2)

The NOV states that “SCE did not specify whether customers can find the locations of the CRCs, the services available at each CRC, the hours of operation of each CRC, and where to access electricity during the hours the CRC is closed.”²⁹ SCE respectfully disagrees that it violated D.21-06-034. While SCE acknowledges that it did not include locations of the CRCs, the services available at each CRC, the hours of operation of each CRC, and where to access electricity during the hours the CRC is closed in the body/text of its customer notifications, it did comply with the intent of this requirement. The intent of this requirement is to notify customers of the latest information and resources to allow customers to manage PSPS events. SCE notifies impacted customers via email, SMS/text, and/or voice, to go to SCE.com for critical community support information including customer resources and programs such as 211, hotel assistance, and food support because the information will be the most current information available. For customers being notified via email or text messages, retrieving this information is simply done by pressing an embedded link. Directing customers to one source of information guards against confusion and customers’ use of out of date information, which would hinder their access to resources.

SCE also submits that it is neither operationally feasible nor customer friendly to use voice or SMS (Short Message Service)/Text Message to communicate comprehensive CRC information because these communication tools have limitations. For example, SMS/Text Message has a 160-character limit. It is not possible to include comprehensive CRC information such as the name of the facility, address, hours of operation, and services within this limit especially when multiple sites may be activated simultaneously, so this communication would require multiple separate messages. Customers with “pay as you go” cell service would bear additional costs to receive these multiple SMS messages.

Furthermore, SCE’s experience in outreach and marketing has shown that long written and phone messages can confuse customers and are consequently ignored. Splitting up CRC information across multiple messages would exacerbate this confusion, which will be compounded by additional messages with detailed updates. To minimize confusion and to optimize limitations for message delivery channels, SCE directs customers directly to this information on SCE.com, through an embedded link or verbally, as the single source of information for the latest updates and resources before and during a PSPS.

²⁹ NOV, p. 15.

Lastly, SCE was first notified that SCE's method to comply with this requirement did not meet SED's expectation in its 2022 NOV issued in June 2024. SCE believes its above practices are reasonable and preferred by many customers and should not be found a violation of the decision. SCE would like to further discuss this element with SED to hopefully achieve mutual understanding and agreement on the most effective and customer-centric use of messages and SCE.com for CRC notifications to customers.

18. **D.21-06-034** states in part “[e]ach electric investor-owned utility must make every attempt to provide notification of the cancellation of a de-energization event, or removal from scope, by notifying all affected entities, including public safety partners, within two hours of the decision to cancel.” (D.21-06-034 at A11) (October 11, October 29, November 9, November 20, November 26, December 9)

The NOV states that SCE did not send out cancellation notices within two hours of the decision to cancel the de-energization event for 19,531 customers.³⁰ SCE acknowledges it experienced challenges sending out cancellation to certain entities due to the reasons outlined in the NOV but maintains it did not violate D.21-06-034.

SCE submits that SCE's failure to send out cancellation notices to all customers is not a violation. D.21-06-034 provides guidelines to the IOUs to “make every attempt” to notify all affected entities of a de-energization event within two hours of the decision to cancel and clarifies that this is “not a strict requirement.” The Decision “acknowledge[d] the sequencing of communications . . . may make it impractical to provide notification of a cancellation within two hours of the decision...” Although SCE strives to meet this guideline, missing a cancellation notice within two hours is not a violation of the Decision in all circumstances.

SCE understands that timely and accurate notifications are key to keeping customers informed throughout PSPS activations and, through its dedicated PSPS improvement team effort, has implemented improvements for notifications. These improvements include workflow optimization through enhanced workflow handling, timing, and release to respond more accurately and swiftly to real-time circuit configuration changes. Dedicated cancellation handling has been addressed with enhanced automation and ensure timely delivery. SCE has also completed multiple exercises and testing for this new functionality and has seen marked improvement in this area.

19. **D.21-06-034** states in part “[e]ach electric investor-owned utility must, to the extent possible, update its notifications uniformly across related platforms, for example, public facing notifications on its website(s), in its notifications to the media, and in its notifications to local

³⁰ NOV, pp. 16-17.

and tribal government Public Information Officers so that customers obtain the same information in a timely manner regardless of how they receive or source the information” (D.21-06-034, at A12).

The NOV states that “[f]or the October 29 event, SCE notifications were not uniformly updated across its PSP portal and the notifications to the state.”³¹ Specifically, SCE’s data portal indicated that Fresno, Kern, and Tulare were in scope for the event, but according to the State Executive Briefings, these counties were not in scope.³² SCE acknowledges that it faced some data challenges during its October 29 event. SCE’s October 29 event is the largest PSPS event that SCE has experienced with its new automated system. As noted in the October 29 post-event report, SCE experienced discrepancies across external services and information reported to CalOES and/or external briefing decks. SCE has since taken steps to improve consistency for maps and metrics across all external reporting platforms.

Violation of Post Event Report Template issued by Administrative Law Judge’s (ALJ) ruling on October 18, 2021

20. Post Event Report Template issued by Administrative Law Judge’s (ALJ) ruling on October 18, 2021, requires the utilities to report the notification to MBL and Access and Functional Needs customers per the following table. “Notification attempts made” and “Successful positive notification” must include the unique number of customer counts. When the actual notification attempts made is less than the number of customers that need positive notifications, the utilities must explain the reason. In addition, the utilities must explain the reason of any unsuccessful positive notifications.

20.1. For the October 11 event, pursuant to the notice to CPUC on October 10, there were 237 MBL customers in scope. However, in response to this reporting requirement in the post event report, SCE reported “N/A. There were no Medical Baseline customers or other customers with Access and Functional Needs de-energized during this event.” SCE did not follow the template to correctly report the notification to MBL metrics.

The NOV states that SCE did not provide the information on the notification to Medical Baseline (MBL) and Access and Functional Needs (AFN) customers in the October 11 post-event report.³³ SCE respectfully submits that the applicability of the positive notification reporting requirement in D.19-05-042 to a high-threat event scenario is ambiguous and subject to interpretation and requests that no violation be assessed here. Many PSPS reporting requirements (e.g., the timeline for power restoration) are not applicable to high-threat events and only need to be reported for de-energization events. In

³¹ NOV, p. 17.

³² NOV, p. 17.

³³ NOV, p. 18.

most of 2023, SCE interpreted the requirement to report data on positive notifications to MBL customers as applicable only to de-energization events, and therefore reported “N/A” for events such as October 11, 2023, in which no customers were de-energized.³⁴ This interpretation was based on the following considerations:

- a) Most of the additional post-event reporting guidelines adopted by the Commission in D.19-05-042 that provide context for the requirement to report positive notifications to MBL and Self-Certified Sensitive customers refer to “de-energization event” (as distinct from high-threat event) including those that immediately precede and immediately follow that requirement at issue.³⁵
- b) The Commission’s PSPS guidelines (including reporting requirements) distinguish between “de-energization events” and “high-threat events” where no de-energization occurs.³⁶
- c) SED’s post-event reporting template issued on October 18, 2021 provides guidance on the positive notification table that SCE understood to focus on “customers that need positive notifications” – *i.e.*, customers subject to de-energization versus all such customers in scope.³⁷

This issue was ultimately addressed and clarified in e-mail correspondence from Xuan “Cindy” Chen of SED to Marissa Blunschi of SCE, dated January 26, 2024, stating as follows: “[T]he Commission decisions’ spirit is to notify all customers in scope, this applies to positive notifications to AFN customers as well. The post event report template was developed based on this spirit. Therefore, all the AFN customers in scope ‘need’ positive notifications.” In this email, SED directed SCE “to refresh the interpretation of CPUC decisions” and revise future post-event reports accordingly. SCE appreciates SED’s interpretive guidance on this issue and has included the positive notification information in more recent high-threat events. Given the ambiguity that existed on this issue prior to January 26, 2024, SCE respectfully disagrees that it violated D.19-05-042 by not including a positive notification table in its post-event report for the October 22-24, 2022 high-threat event, but is providing the information for the October 11, 2023 event below in Table 6.

Table 6: October 11 Event

³⁴ Although SCE did not include a positive notification table in the report, SCE did send PSPS notifications to customers in scope for potential de-energization, including MBL and other customers with AFN. Those customers were accounted for in Table 1: PSPS Event Summary under “PSPS Notified” column.

³⁵ “In addition to the reporting requirements in Resolution ESRB-8, the electric investor-owned utilities must provide the following information . . . 4) A description and evaluation of engagement with local and state public safety partners . . . and notification during *the de-energization event*; 5) For those customers where positive or affirmative notification was attempted, and accounting of the customers (which tariff and/or AFN population designation) . . . ; 6) A description of how sectionalization . . . was considered and implemented and the extent to which it impacted the size and scope of *the de-energization event* . . .” D.19-05-042, p. 108; *see also id.* Appendix A at A23.

³⁶ ESRB-8, p. 5.

³⁷ SED Template for PSPS Post-Event and Lessons Learned Report, p. 7.

Positive Notification					
Category	Total Number of Customers	Timing of Attempts	Notification Attempts	Successful Positive Notification	Who made the notification
Medical Baseline	221	DAILY	222	221	SCE
Self Certified	11	DAILY	12	11	SCE

20.2. For the October 29, November 9, November 20, and December 9 events, SCE did not explain why SCE did not attempt to notify all the MBL customers or self-certified vulnerable customers in scope. SCE also did not explain the reason for any of their unsuccessful positive notifications.

SCE is reviewing its 2023 PSPS data and discovered that its MBL and Self Certified (SC) PSPS data contained anomalies or errors, causing SCE to significantly overreport the number of missed notifications to MBL and SC customers for its October 29 and December 9 events. SCE is continuing to review this data; however, below, SCE explains the situations it believes caused these anomalies and errors and associated improvements to prevent similar reporting errors from recurring.

October 29 Event

For the October 29 activation, SCE identified 178 MBL customers and 12 SC across four circuits that were preliminarily added into scope on October 26 at approximately 9pm but then subsequently cleared from scope on October 27 at approximately 1:30 pm once it was determined that these customers were not at risk of de-energization. These customers were cleared before SCE sent out any advance notifications prior to the de-energization event, i.e., 24-48 hours from the start of the POC. Notwithstanding that these customers were ultimately outside of scope for de-energization, they were erroneously included as “missed” notifications in SCE’s post-event report. Although SCE included these customers in its Positive Notification Table (Table 8), these notifications should not be considered as being “missed” in the penalty assessment because these customers were only in scope for PSPS for a brief period before being removed from scope. As such, there was no need for SCE to notify these customers during the 24-48 hours window prior to de-energization.

While reviewing the data, SCE also discovered that nine MBL customers and three SC customers were immediately de-energized during this event and were inadvertently excluded from the data used to develop SCE’s amended Post-Event Report. SCE has corrected this exclusion through a pipeline update.

SCE also identified several other situations outside its control that caused SCE to miss notifying MBL customers and SC Customers and should not be considered in the penalty assessment:

- SCE discovered that two SC customers had multiple profiles cataloged throughout the event. As a result, these customers were counted in multiple

categories which inflated the numbers. SCE has implemented revised business logic to correct this error for all events going forward.

- After all other contact methods failed, SCE deployed Field Service Representatives to three MBL customers to notify them in person of pending de-energization; however, these customers lived in gated communities and SCE was unable to gain access and provide advance notification.
- After reviewing the data, SCE confirmed it successfully sent positive notification to one MBL and seven SC customers.

For the reasons discussed above, SCE provides an alternative table for SED's consideration regarding MBL customers and SC customers missed notifications for which the utility should be measured against. Please see Table 7 below.

Table 7: October 29 Event

Positive Notification						
Category	Total Number of Customers	Timing of Attempts	Notification Attempts	Successful Positive Notification	Who made the notification	Total Missed
Medical Baseline	5779 5611	DAILY	5805 5807	5591 5596	SCE	188 15
Self Certified	317 313	DAILY	327 353	295 309	SCE	22 4

December 9 Event

For the December 9 activation, automated workflows did not function correctly and erroneously added customers to the event data. During SCE's analysis of its data for the Post-Event Report Amendments, SCE erroneously included these customers, and thus created an inflated count of MBL and Self-Certified customers in scope and with missed notifications. SCE is still in the process of validating the data and will provide its completed analysis no later than November 18.

November 9 and November 20 events

SCE is still in the process of validating its data for the November 9 and November 20 events to ensure that errors did not also occur for these events. SCE will provide this information to SED as soon as it has completed its analysis and no later than November 18. SCE is also available to further discuss the nature of these anomalies and to obtain guidance on how to proceed with this updated information (e.g., filing amended post-event reports with corrected numbers).

SCE appreciates the opportunity to respond to the NOV and looks forward to further collaboration with SED staff to continue to improve its PSPS program. Please let me know if you have any questions regarding our response, and if further information is needed to close out the NOV process.

Sincerely,

/s/ Connor J. Flanigan

Connor J. Flanigan

Managing Director, State Regulatory Operations

cc: Lee Palmer, Director, Safety and Enforcement Division, CPUC
Anthony Noll, Program Manager, WSEB, SED, CPUC
Cindy Chen, Senior Public Utilities Regulatory Analyst, WSEB, SED, CPUC

Appendix D

(Enforcement Policy)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EXECUTIVE DIVISION

RESOLUTION M-4846
November 5, 2020

R E S O L U T I O N

Resolution Adopting Commission Enforcement Policy

PROPOSED OUTCOME:

- Approves the Commission Enforcement Policy and its Appendix on Penalty Assessment Methodology
- Establishes enforcement guidelines
- Authorizes staff to draft proposed Administrative Consent Orders and Administrative Enforcement Orders, subject to Commission review and disposition
- Directs staff to form enforcement teams

SAFETY CONSIDERATIONS:

- An effective enforcement program improves compliance with rules and regulations by utilities and other entities subject to Commission jurisdiction, which improves safety for employees, customers and the public

ESTIMATED COST:

- None

SUMMARY

This Resolution adopts the attached Commission Enforcement and Penalty Assessment Policy (Enforcement Policy or Policy). This Policy is part of the Commission's ongoing efforts to ensure compliance with statutes, rules, orders and other requirements and to provide meaningful deterrence to violations through robust enforcement actions. The Policy will:

- establish guiding principles on enforcement approaches, actions, settlements and setting penalties;
- encapsulate and standardize existing enforcement tools;

- authorize staff to propose Administrative Consent Orders and Administrative Enforcement Orders, subject to Commission review and disposition;
- apply the existing citation appellate process of Resolution ALJ-377 to proposed Administrative Enforcement Orders;
- create internal enforcement teams to oversee the efficiency, consistency and effectiveness of Commission enforcement actions; and,
- address other actions to advance the goals of consistent, firm, meaningful, and timely enforcement that is transparent to regulated entities and the residents of California, and tailored to address the needs of disadvantaged communities, while adhering to due process and other legal obligations.

This Enforcement Policy is the latest effort in the Commission's long-standing history of enforcing statutes, rules, orders, and other regulations applicable to regulated entities for the betterment of the residents of California.

Nothing in this Enforcement Policy restricts or reduces the Commission's, and its staff's, ability to use its existing enforcement tools and procedures.

BACKGROUND

This Enforcement Policy builds on the Commission's existing tools and processes, as well as incorporates best practices and legal responsibilities, with the goal of better serving the residents of California through nimble, meaningful and transparent, enforcement of statutes, rules, orders, and regulations over the entities the Commission regulates. This Policy will also assist in the implementation of the Commission's Strategic Directive on Compliance and Enforcement.¹

The Commission currently uses numerous enforcement tools such as Orders Instituting Investigation (OII), Orders to Show Cause (OSC), citations, subpoenas, stop-work orders, revocations of authority, referrals to other agencies, or court actions. These tools remain unaltered by this resolution.

In addition to the robust and resource intensive actions such as OIIs and OSCs the Commission uses a number of staff-level actions to correct behavior before more serious action is needed. Staff has, and will continue to have, the ability to communicate with regulated entities, issue warning letters, request information, make inspections and apply

¹ See SD-05

(https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Mission_and_Values/Strategic_Directives_and_Governance_Policies_Revised_February%2020%202019.pdf).

numerous other tools to identify and fix violations and potential violations in a quick and effective manner.

The Enforcement Policy seeks to provide more structure around those tools by consolidating and identifying a uniform set of staff level enforcement actions such as: communications with regulated entities, warning letters, requests for information and inspections, and notices of violations.

The Commission also has a long-standing practice of using citation processes, which delegate certain powers and actions to staff to be used in a less formal manner than an OII.

The Commission has numerous citation programs. While these citation programs exist in several industry areas the Commission regulates and continues to be expanded upon and improved,² they do not cover all regulated actors and/or actions. Experience has shown that there are circumstances not covered by these citation programs, thus limiting the Commission's ability to respond to instances of non-compliance. Moreover, penalty amounts are pre-determined under the citation programs and cannot be deviated from, no matter what extenuating or inculpatory circumstances may exist.

This Policy does not modify any of the Commission's citation programs, nor would it create a disincentive to issuing citations or adding new citation programs.³ Staff can continue to issue citations if appropriate for the circumstances. The Policy does give staff the option of issuing a proposed Administrative Consent Order or Administrative Enforcement Order instead of issuing a citation or seeking an OII in situations not currently covered by an existing citation program or warranting an OII.

In developing this Policy, staff presented it to the Commission's Policy and Governance Committee for public and Commissioner input on two occasions.

On June 17, 2020, staff distributed a draft version of the Enforcement Policy to solicit comments and to notify the public that the Policy would be presented and discussed at the July 1, 2020 Commission's Policy and Governance Committee meeting. Notice of the draft Enforcement Policy was emailed to those subscribed to the service list for Notice of

² For example, the Commission recently adopted Resolution ALJ-377, which modified Resolution ALJ-299 and made permanent the Citation Appellate Rules. Other examples include Resolution E-5080 (August 6, 2020) *Approves a citation program enforcing compliance with the filing requirements of Integrated Resource Plans by Load-Serving Entities*. Resolution T-17601 (June 21, 2018) *Approval of a Citation Program To Enforce Compliance by Telecommunications Carriers With The Commission's Resolutions, Decisions, Orders, and The Public Utilities Code and Authorizes Staff To Issue Citations; Procedures For Appeal Of Citations*.

³ For example, citations are final if not appealed but an Administrative Enforcement order is only proposed until the Commission adopts it.

Amendments to the Commission's Rules of Practice and Procedure. The July 1, 2020 meeting was noticed on the Daily Calendar.

Prior to the July 1, 2020 meeting, comments were submitted by CA Cable and Telecommunications Association (CCTA), CTIA, William Sherman, and Goodin, MacBride, Squeri and Day LLP. Those comments addressed due process matters pertaining to the Commission's adoption and implementation of this Policy, the consistency of enforcement practices, statutory bases of the Commission's delegation of certain actions to staff, the Policy's connection to audits of water utilities, and included a reiteration of similar comments raised in the processing of Resolution ALJ-377. The substance of those arguments is addressed below.⁴

At the July 1, 2020 meeting, the Commissioners discussed the Enforcement Policy and set a July 22, 2020 deadline for submitting additional public comments to the Policy and Governance Committee. No stakeholders or members of the public made comments during the meeting.

On July 14, 2020, Commission staff notified the service lists for Notice of Amendments to the Commission's Rules of Practice and Procedure and for General Order 96-B of the July 22, 2020 comment due date. On July 21 and 22, 2020, comments were received from Lyft, CCTA, Shell Energy North America, Pacific Gas and Electric Company, and jointly from San Diego Gas & Electric Company and Southern California Gas Company respectively. Those comments addressed delegation authority, due process concerns, the extent to which guidance to staff would promote consistency, the need for internal "firewalls" between enforcement and advisory staff and decision makers and the adoption of this Policy through the Resolution process. The substance of those arguments is addressed below

The Policy and Governance Committee discussed this Policy a second time on September 2, 2020. The meeting was noticed on the Daily Calendar and on August 24, 2020, Commission staff notified the service lists for Notice of Amendments to the Commission's Rules of Practice and Procedure and for General Order 96-B of the September 2, 2020 meeting date. Issues raised by Commissioners and the public included: penalty accrual and interest, enforcement prioritization and vulnerable communities, and the legal authority for the Policy and its implementation. The primary concerns raised in comments on the draft Policy are addressed below.

⁴ The Enforcement Policy does not address the matter of audits of water utilities as that is a separate matter unaffected by this Policy. The Policy has a stated objective of promoting a consistent approach among Commission staff to enforcement actions, but the Policy also recognizes that in practice different factual circumstances may require different approaches.

DISCUSSION

To date, the issues raised through the process of drafting this Enforcement Policy can be summarized as:

1. The Commission’s jurisdiction and delegation authority
2. Adherence to due process principles in the adoption and implementation of this Policy
3. Internal Enforcement Teams
4. How this Policy will advance enforcement goals and principles
5. How this Policy will interact with existing enforcement tools
6. How this Policy addresses the accrual of penalties and the interest on penalties

1. Jurisdiction and Delegation Authority:

The Commission has affirmed its jurisdiction over regulated entities and its authority to establish enforcement mechanisms in numerous past decisions.⁵

The Commission has broad regulatory authority, as set forth in Article XII of the California Constitution and § 701 of the California Public Utilities (Pub. Util.) Code.⁶ Section 701 authorizes the Commission to “supervise and regulate every public utility in the State . . . and do all things, whether specifically designated in [the Public Utilities Act] or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.”⁷

As mandated in § 702:

Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the commission in the matters specified in this part, or any other matter in any way relating to or affecting its business as a public utility, and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees.

⁵ See, e.g., Resolution ALJ-274; D.14-12-001 (as modified by D.15-05-054); D.16-09-055; Resolution E-4017 (as modified by Resolution E-4195); Resolution E-4550; Resolution W-4799; Resolution TL-19108; Resolution ROSB-002; Resolution SED-3; Resolution T-17601; Resolution ALJ-377 (see Appendix B for a list of citation programs).

⁶ All code citations are to the California Public Utilities Code unless otherwise stated.

⁷ See also, e.g., Pub. Util. Code § 5381.

Pursuant to § 451 each public utility in California must:

Furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment and facilities, ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

The Commission has stated that “[t]he duty to furnish and maintain safe equipment and facilities is paramount for all California public utilities.”⁸

Pursuant to § 2101, the Commission is directed “to see that the provisions of the Constitution and statutes of this State affecting public utilities, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed, and that violations thereof are promptly prosecuted and penalties due the state therefor recovered and collected . . .”

Existing law, such as § 7, allows the Commission to delegate certain tasks to Commission staff. The Commission may lawfully delegate to its staff the performance of certain functions, including the investigation of facts preliminary to agency action and the assessment of specific penalties for certain types of violations.² The acts of delegation within the Enforcement Policy are delegations to Commission staff, who are acting in an enforcement capacity, and are not transferable to other governmental entities. Additionally, the Enforcement Policy does not give the Public Advocate’s Office any citation or enforcement powers.

The primary purpose of an effective enforcement program is to deter misbehavior or illegal conduct by utilities and other entities subject to Commission jurisdiction, thereby ensuring that both the employees of the utility and the public it serves are properly protected from the inherent hazards of providing utility services.

The Commission’s authority to adopt this Enforcement Policy falls within the same well-established authorities relied upon to adopt the citation programs. The Commission has adopted citation programs in many areas. (See e.g., E-4195 (resource adequacy); ROSB-002 (transportation/railroad); UEB-002 (telecommunications); USRB-001 (propane); and W-4799 (water and sewer). More recently, it established additional citation programs Rulemaking (R.) 14-05-013 (electric and gas citation programs); TL-19102 (household goods carriers); E-4550 (failure to comply with Permits to Construct or Certifications of Public Convenience and Necessity issued pursuant to the

⁸ D.11-06-017 at 16.

² D.09-05-020 at 8.

California Environmental Quality Act); TL-19108 (charter party carriers); SED ST-163 (rail transit); E-4720 (Renewables Portfolio Standard); SED-3 (communications facilities); T-17601 (telecommunications carriers); and UEB-003 (core transport agent).)

Additionally, the Commission has established an appellate process that works in conjunction with these citation programs. (See Citation Appellate Rules found in Resolution ALJ-187, Resolution ALJ-299 and Resolution ALJ-377.)

This Enforcement Policy builds upon this historical legal and procedural foundation. However, this Policy is different from prior citation programs in that staff have two new tools available to address violations: they can *draft and propose* an Administrative Consent Order or an Administrative Enforcement Order to the full Commission for approval, denial or modification. The legal analysis in past Commission decisions, D.02-02-049, D.06-01-047, and D.09-05-020, explains that allowing staff to issue proposed Administrative Enforcement Orders or Administrative Consent Orders for Commission approval and adoption, is not an improper delegation of authority.

In response to allegations that permitting staff to assess scheduled fines for violations of General Order (GO) 167 (maintenance and operations of electrical generation facilities) is an impermissible delegation of authority, D.06-01-047 cites to portions of D.02-02-049 and analyzes relevant case law:

As a general rule, powers conferred upon public agencies and officers which involve the exercise of judgment or discretion are in the nature of a public trust and cannot be surrendered or delegated to subordinates in the absence of statutory authorization. (*Bagley v. City of Manhattan Beach* (1976) 18 Cal.3d 22, 24; *California School Employees Association v. Personnel Commission* (1970) 3 Cal.3d 139, 144; *Schechter v. County of Los Angeles* (1968) 258 Cal.App.2d 391, 396.) On the other hand, public agencies may delegate the performance of ministerial tasks, including the investigation and determination of facts preliminary to agency action (*California School Employees, supra*, at p. 144), functions relating to the application of standards (*Bagley, supra*, at p. 25), and the making of preliminary recommendations and draft orders (*Schechter, supra*, at p. 397). Moreover, an agency's subsequent approval or ratification of an act delegated to a subordinate validates the act, which becomes the act of the agency itself. (*California School Employees, supra*, at p. 145.)

As the Commission pointed out in *California Association of Competitive Telecommunication Companies* [D.02-02-049] (2002) 2002 Cal.P.U.C. LEXIS 162, cases such as *California School Employees* and *Schechter* follow the general rule that agencies cannot delegate discretionary duties in the absence of statutory authority. However,

they really stand for the narrower principle that while agencies cannot delegate the power to make fundamental policy decisions or “final” discretionary decisions, they may act in a practical manner and delegate authority to investigate, determine facts, make recommendations, and draft proposed decisions to be adopted or ratified by the agency’s highest decision makers, even though such activities in fact require staff to exercise judgment and discretion.

(*California Association of Competitive Telecommunication Companies* [D.02-02-049], supra, 2002 Cal.P.U.C. LEXIS 162 at pp. *9-*10, petn. for writ den. Dec. 4, 2002, *Southern California Edison Company v. Public Utilities Commission*, B157507.)

Thus, in determining whether a delegation of authority is unlawful, the question is whether the Commission has delegated its power to make fundamental policy decisions or final discretionary decisions.

We have said that the purpose of the doctrine that legislative power cannot be delegated is to assure that “truly fundamental issues [will] be resolved by the Legislature” and that a “grant of authority [is] . . . accompanied by safeguards adequate to prevent its abuse.” [Citations.]

(*Kuglar v. Yocum* (1968) 69 Cal.2d 371, 376, original alterations.)

D.09-05-020 includes the same analysis when it rejects claims that staffs’ ability to issue fines over engineering and operating safety of rail carriers via Resolution ROSB-002, is improper. The analysis of principles found in the *Schechter* and *California School Employees* line of cases and articulated in D.02-02-049, D.06-01-047 and D.09-05-020 all confirm that the Commission can delegate authority to staff to draft proposed orders to be adopted or ratified by the Commission, even though drafting such orders require staff to exercise some level of judgment and discretion. The Commission’s subsequent approval or ratification of an Administrative Enforcement Order or Administrative Consent Order proposed by staff, validates the order, which becomes an act of the Commission itself.

2. Due Process Matters:

This Enforcement Policy was adopted following several notice and comment opportunities and, as such, its adoption complies with necessary due process requirements. In addition to two rounds of public notice and comment in the Commission’s Policy and Governance Committee process, this Resolution was issued for notice and comment pursuant to Article 14 of the Commission’s Rules of Practice and Procedure.

This Resolution was served on the mailing list for the Notice of Amendments to the Commission's Rules of Practice and Procedure as well as the GO 96-B service lists for Pacific Gas and Electric (PG&E), Southern California Edison (SCE), Southern California Gas Company (SoCalGas), and San Diego Gas and Electric (SDG&E). Comments on the draft resolution were requested pursuant to Rule 14.5 of the Commission's Rules of Practice and Procedure. Comments were posted on the Commission's website for the public to view.

The Commission has consistently adopted citation programs through the resolution process and doing so in this instance does not violate any due process requirements. While some citation programs have been adopted through the Order Instituting Rulemaking process, the majority of citation programs, including programs addressing complex matters, have been adopted through the resolution process.

Not only is the Policy adopted in a manner that meets due process principles, the implementation of this Policy will also supply due process through the processes established within the Policy.

Due Process requirements for the implementation of the Policy are included in the Policy itself. These requirements include: (1) the right to request an evidentiary hearing before an Administrative Enforcement Order becomes final; (2) the submitting for public notice and comment of a draft Resolution regarding the disposition of any proposed Administrative Enforcement Order or proposed Administrative Consent Order; (3) a Commission vote before any Administrative Enforcement Order or Administrative Consent Order becomes final; (4) the traditional rehearing and court review processes of any Commission vote on the matter.

A requested evidentiary hearing would be before an Administrative Law Judge (ALJ) and held in accordance with the Citation Appellate Rules found in Resolution ALJ-377 or any successor order. Pursuant to those rules, an ALJ drafted Resolution is presented to the Commission for approval and adoption. The adopted Commission Resolution is subject to rehearing pursuant to Pub. Util. Code section 1731 and to judicial review pursuant to Pub. Util. Code section 1756. The due process provided following issuance of an Administrative Enforcement Order is identical to the due process provided following the issuance of a traditional citation except for the extra due process step of requiring a Commission vote before an Administrative Enforcement Order becomes final, which is not a requirement for an un-appealed citation.

As the Commission discussed in Resolution ROSB-002, this ability to seek an evidentiary hearing removes the concern that a private interest could be erroneously deprived of property (e.g., fine), nor are the fiscal or administrative burdens on the private interest significant. (See Resolution ROSB-002, pp.7-8.)

Lastly, nothing in this Policy shifts any burden of proof, evidentiary standards, or otherwise applicable procedural requirements.

3. Internal Enforcement Teams

The Enforcement Policy directs staff to form two internal enforcement teams: Division Specific Enforcement Teams and a Commission Enforcement Team. The purpose for such teams is to address issues concerning prioritization of resources, consistency, transparency and other managerial concerns.

Commentors have correctly noted that internal “firewalls” must be established to adhere to conflict-of-roles or separation-of-duties prohibitions, ex parte restrictions and Bagley-Keene Open Meeting Act obligations.

The Commission is well-aware that procedural fairness requires internal separation between advocates and decision-makers to preserve the neutrality of decision-makers and equality among advocating entities. The Policy is also subject to the ex parte restrictions found in the Citation Appellate Rules. Lastly, nothing in the Policy would change the Commission’s existing obligations under the Bagley-Keene Open Meeting Act.

In the creation and staffing of these teams, staff, in consultation with the Commission Legal Department and others, will ensure that these existing and on-going legal obligations are met. And while staff may meet to discuss global issues and trends, ultimately every enforcement action will stand on its own evidentiary record.

4. How this Policy will advance enforcement goals and principles

The Enforcement Policy includes nine guiding enforcement principles: ensuring compliance; consistent enforcement; meaningful deterrence; timely enforcement; progressive enforcement; transparency; environmental justice and disadvantaged communities; adaptive management; and, enforcement prioritization.

To advance these goals the Policy includes the creation of internal enforcement teams and also gives staff direction on how to use the various tools in this Policy.

The enforcement teams will help ensure the guiding principles are taken into consideration by staff and will also be responsible for tracking and publishing information in an enforcement database.

The direction given to staff regarding the various tools in the Policy will help ensure the enforcement principles are met. While many of these tools already exist, the Policy brings these tools into one coordinated policy document and directs the manner of their use.

In total, the Policy will promote maximum compliance with Commission rules and requirements through the adoption and application of consistent enforcement practices and the development of a sufficient record that ensures that regulated entities subject to an enforcement action receive due process. The purpose of these goals is to ensure that regulated entities provide services and facilities to the public in a manner that is safe, reliable, non-discriminatory and just and reasonable. The Commission intends for this Policy to promote a consistent approach among Commission staff to enforcement actions, to make enforcement a high priority and to promote the Commission's enforcement culture.

5. How this Policy will interact with existing enforcement tools

No existing citations programs are altered by this Resolution and Enforcement Policy. This Policy merely provides additional enforcement tools for staff to use in lieu of, or in conjunction with, existing citation programs. Nor does this Resolution and Enforcement Policy alter the Citation Appellate Rules.

The Policy does not change or undermine the citation programs, nor does it create a disincentive to issuing citations or adding new citation programs. Staff may continue to issue citations if appropriate for a case. All actions in this Enforcement Policy, whether new or existing, will be performed consistent with the Pub. Util. Code and all other relevant legal authorities.

The Policy does give staff the option of settling a case through an Administrative Consent Order or issuing a proposed Administrative Enforcement Order instead of issuing a citation, both of which would be subject to a vote by the full Commission. The Administrative Enforcement Order is an alternative to a citation and could be issued if a case does not necessitate an OII.

The addition of these tools to the Commission's existing enforcement options brings the Commission's enforcement practices more in-line with the enforcement practices of many other state agencies. The addition of the new tools is also consistent with the recommendations made by an independent third party that reviewed Commission enforcement practices after the San Bruno explosion¹⁰ and advances the Commission's Strategic Directive on Compliance and Enforcement.

The goal of having consistent enforcement practices would be supported by the adoption of the Policy, which delineates a consistent Commission-wide approach to enforcement.

¹⁰ Report of the Independent Review Panel San Bruno Explosion
https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Safety/Natural_Gas_Pipeline/News/Final%20Report.pdf

Case facts may suggest the use of different enforcement tools at different times, but that does not mean that the Policy will not promote consistency. Rather, the Policy will promote a consistent approach to each case by establishing the same set of tools to be used Commission-wide. In addition, the Policy requires the formation of Division and Commission Enforcement Teams to support consistency.

Commentors also raised questions about the consistency of this Policy with Pub. Util. Code sections 2107 and 2108. Under the Policy staff can negotiate a proposed Administrative Consent Order or issue a proposed Administrative Enforcement Order, both of which may include fine amounts. All penalty amounts set forth in proposed orders for Commission adoption must be consistent with Pub. Util. Code sections 2107 and 2108.

6. How this Policy addresses the accrual of penalties and the interest on penalties

Regarding accrual the Policy states:

Corrective action requirements in a proposed Administrative Enforcement Order remain in effect, notwithstanding the filing of a Request for Hearing. Neither payment of the penalty nor filing a timely Request for Hearing shall excuse the regulated entity from curing a violation. ... The amount of the penalty shall continue to accrue on a daily basis until the violation is corrected or until the appeal, rehearing, and judicial review process is fully concluded, a penalty is found to be appropriate, and the penalty is paid in full. The requirement that a penalty be paid shall be stayed during the hearing and rehearing process.

This guidance is consistent with past Commission actions, Pub. Util. Code sections 451 and 2108, and the Enforcement Policy principles, especially those related to protecting public health and safety.

Regarding interest, the Commission has charged interest on penalty amounts after the penalty becomes final and the respondent is in default. Generally, the respondent has thirty (30) days from the date of finality to submit payment and unpaid balances accrue interest at the legal rate of interest for judgements. The Commission and its staff may take whatever actions are provided by law to recover unpaid penalties. It is envisioned that interest will be handled in the same manner for enforcement actions made pursuant to this Policy, although staff may tailor to the specifics of each case, as allowable by law.

NOTICE OF COMMENTS

Pub. Util. Code section 311(g)(1) provides that resolutions must be served on all parties and subject to at least 30 days public review. However, given that this resolution is

issued outside of a formal proceeding, interested stakeholders did not need to have party status in order to submit comments on the resolution.

This draft resolution was served on the service list of Notice of Amendments to the Commission's Rules of Practice and Procedure, as well as the GO 96-B service lists for PG&E, SCE, SoCalGas, and SDG&E and posted on the Commission Committee on Policy and Governance website, www.cpuc.ca.gov/policyandgovernance, and was placed on the Commission's Business Meeting agenda no earlier than 30 days from the date of service.

On October 6, 2020, timely comments were received from the following: SouthWest Gas Corporation (SouthWest); California Attorney General's Office (AG's Office); CCTA; CTIA; Hanson Bridgett LLP; joint comments from San Diego Gas & Electric Company and Southern California Gas Company (Joint Utilities); and, Shell Energy North America (Shell).

SouthWest recommends that the Enforcement Policy include an option for staff to provide notices to regulated entities that their response satisfies staff's concerns set forth in a Notice of Violation. The Enforcement Policy has been revised to include this request.

The AG's Office recommends refinements to the environmental justice goals and processes in the Policy. We have revised the Policy to refine the term "vulnerable and disadvantaged communities" by referring to the Commission's Environmental and Social Justice Action Plan, and also to include an explicit goal of coordinating enforcement actions with other agencies. We note that the Commission's Strategic Directive, SD-11, requires the Commission to collaborate and coordinate with local, state, federal and tribal entities – as appropriate – to achieve goals that include "effective and efficient regulation"¹¹ We also reiterate here the Commission's commitment to adequate staff training. Finally, the AG's Office recommends that the CPUC consider its ability to include supplemental environmental projects in its settlements with regulated entities, and how such process would fit within the Enforcement Policy, including providing benefits to disadvantaged communities. We will consider this recommendation in the future as we implement this Policy.

CCTA reiterates its prior comments which we have substantively addressed above.

CTIA states that the accrual of penalties is treated differently here than in Resolution SED-3. As previously stated, this Resolution and Enforcement Policy does not modify any existing citation program. We find the approach taken in the Policy is correct for the

¹¹ The Commission's Strategic Directives can be found at: <https://www.cpuc.ca.gov/strategicplanninginitiative/>

implementation of the Policy itself; differences in different programs is not improper. Moreover, similarities between this Policy and Resolution SED-3 do exist; for example, both stay the collection of penalty payment during the appeal process.

Hansen Bridgett discusses jurisdictional demarcations between the Commission and other state agencies. This Policy does not expand or contract the jurisdiction of any governmental agency, nor is it the vehicle to resolve specific or ongoing jurisdictional disputes. Contrary to Hansen Bridgett's arguments, we find the Policy to be a proper and judicious use of Commission resources and not unduly burdensome on regulated entities. As detailed above, we find that the Commission has legal authority to create this Enforcement Policy, it is not an improper delegation to staff, regulated entities' due process rights are respected, and the Commission can enact this Policy through a resolution process.

The Joint Utilities argue that granting staff the ability to use additional enforcement tools is a modification of existing citation programs. We disagree. Most of the enforcement tools in the Policy already exist for staff, with or without a citation program. Just as staff can currently choose to forego a citation program and seek an OII, staff can also forgo a citation program and use a tool in the Enforcement Policy – this does not modify the citation program, nor does it support the proposal of the Joint Utilities to limit the Policy to areas not covered by an existing citation program. The Joint Utilities' argument that the Commission needs express legislative authority for each specific citation program, or Enforcement Policy tool, is addressed above and is not in alignment with long-standing Commission practice. Regarding other arguments raised: the ability of staff to seek a penalty amount in an Administrative Enforcement Order is bound by the relevant Pub. Util. Code sections and is only a proposal subject to full Commission review, similar to any staff proposed penalty in an enforcement OII; staff enforcement roles (e.g., investigating, litigation, and seeking penalties) are no more expansive than their current roles in citations and OIIs; and, the processes detailed in Resolution ALJ-377 address concerns about the record and discovery.

Shell argues that the Policy cannot cover entities that are subject to citations. We disagree. The same authorities that allow the Commission to make entities subject to citation programs, allow the Commission to make those entities subject to the Enforcement Policy. The Enforcement Policy does not expand or restrict any jurisdictional authority the Commission has over an entity pursuant to the Pub. Util. Code or other applicable laws. Also, the existence of various enforcement options for staff's use is not arbitrary or a violation of due process, or a grant of unfettered discretion to staff. Staff already has the discretion to use various tools (e.g., letters, citation, OII, etc.) and the Policy gives staff guidance on how to use those tools, and any non-citation penalty actions (i.e., Administrative Enforcement Orders or Administrative Consent Orders) of staff are proposals subject to Commission disposition. The internal enforcement teams are a measure to promote enforcement consistency.

All other comments were considered and addressed above and/or found not to warrant further discussion or revision to the Enforcement Policy.

FINDINGS AND CONCLUSIONS

1. Pub. Util. Code section 701 authorizes the Commission to supervise and regulate every public utility in the State.
2. Pub. Util. Code section 702 mandates every public utility to obey and promptly comply with every Commission order, decision, direction, or rule.
3. Pub. Util. Code section 451 mandates every public utility to furnish and maintain safe, sufficient and just service, instruments, equipment and facilities.
4. Pub. Util. Code section 2101 mandates the Commission shall ensure that the provisions of the California Constitution and statutes affecting public utilities are enforced and obeyed.
5. Public utilities, corporations and persons are subject to Commission enforcement actions and penalties pursuant to Pub. Util. Code, Division 1, Part 1, Chapter 11.
6. California law, including Pub. Util. Code section 7, authorizes the commission to delegate certain powers to its Staff, including the investigation of acts preliminary to agency action, and the issuance of citations for certain types of violations in specified amounts.
7. The Commission may authorize staff to investigate and draft proposed Administrative Enforcement Orders, subject to review and consideration by the Commission after any requested evidentiary hearing is granted.
8. The Commission may authorize staff to investigate, negotiate, and draft proposed Administrative Consent Orders, subject to review and consideration by the Commission.
9. The Enforcement Policy was subject to two rounds of public notice and comment in the Commission's Policy and Governance Committee.
10. The Commission has long adopted citation programs through the Resolution process.
11. The Enforcement Policy will provide staff with guidance to use existing tools more effectively.
12. The Enforcement Policy will provide staff with new tools to address non-compliance in a prompt and effective manner.
13. The Enforcement Policy will provide staff with guidance regarding the unique concerns of disadvantaged communities.

14. The Enforcement Policy will advance enforcement consistency and meaningful deterrence.
15. The Enforcement Policy will provide the timely remedies necessary to correct ongoing compliance issue while conserving staff resources.
16. The Enforcement Policy will incentivize utilities to prevent non-compliance issues from recurring or continuing.
17. The procedures set forth in the Enforcement Policy will ensure due process, fairness, and efficiency in the application of the Policy.
18. The Enforcement Policy will be implemented in a manner that ensures adherence to legal obligations, including ex parte restraints, the Bagley-Keene Open Meeting Act, and conflict-of-roles prohibitions.
19. Payment of the penalty assessed in an approved Enforcement Order or Consent Order does not excuse a regulated entity from promptly curing cited violations and does not preclude the Commission from taking other remedial measures.
20. Nothing in the Enforcement Policy interferes with the existing requirements that the public utilities must maintain and operate their systems safely, including invoking any necessary emergency response procedures to address immediate safety hazards, or any other procedures necessary to ensure that immediate safety hazards are promptly corrected.
21. Nothing in the Enforcement Policy limits or interferes with the Commission's ability to institute a formal enforcement action.
22. Nothing in the Enforcement Policy limits or interferes with existing authorities staff has to address enforcement concerns.
23. Nothing in the Enforcement Policy modifies or interferes with existing citation programs.
24. The Enforcement Policy does not create a dis-incentive to using existing citation programs.
25. Nothing in the Enforcement Policy modifies or interferes with the existing Citation Appellate Rules.
26. The Penalty Assessment Methodology is reasonable and consistent with previous Commission orders.
27. All penalty amounts must be consistent with Pub. Util. Code sections 2107 and 2108.

THEREFORE, IT IS ORDERED THAT:

1. The Enforcement Policy and its attached Penalty Assessment Policy, attached hereto, is adopted.

2. No other portion of Commission decisions, orders or resolutions are intended to be modified by this resolution.
3. This Resolution is effective today.

I hereby certify that the foregoing Resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California at its regular meeting held on November 5, 2020, the following Commissioners voting favorably thereon:

/s/ RACHEL PETERSON
Rachel Peterson
Acting Executive Director

MARYBEL BATJER
President
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners

ATTACHMENT

California Public Utilities Commission Enforcement Policy

I. **INTRODUCTION**

A. ***Background***

The California Public Utilities Commission (Commission) regulates a broad array of entities and industries, that include privately owned electric, natural gas, telecommunications, water, railroad, rail transit, and passenger transportation entities (regulated entities). The Public Utilities Act (Public Utilities Code § 201 et. seq.) requires the Commission to enforce the laws affecting regulated entities by promptly investigating and prosecuting alleged violations and imposing appropriate penalties.

The Commission considered its existing enforcement policies and practices when developing this Commission Enforcement Policy (Policy). Nothing in this policy document shall be used as the basis of a regulated entities' defense to any enforcement action or as justification for any ratemaking relief, nor in any way relieve regulated entities of any duties and obligations they may have under statutory law.

This Policy does not apply to any violation that, as of the effective date of the Policy, is the subject of a citation, an Order to Show Cause, an Order Instituting Investigation, or a referral to the Legal Division for the filing of a civil or criminal action.

B. ***Policy Objectives***

The goals of the Policy are to promote maximum compliance with Commission rules and requirements through the adoption and application of consistent enforcement practices and to develop a sufficient record that ensures that regulated entities subject to an enforcement action receive due process (e.g., notice and an opportunity to be heard). The purpose of these goals is to ensure that regulated entities provide services and facilities to the public in a manner that is safe, reliable, non-discriminatory and just and reasonable. The Commission intends for this Policy to promote a consistent approach among Commission staff¹ to enforcement actions, to make enforcement a high priority and to promote the Commission's enforcement culture.

¹ As used in this Policy the term "staff" refers to division staff or such other staff as may be designated by the Executive Director or a Deputy Executive Director to carry out the functions involved in taking enforcement action.

The Policy provides guidance on:

1. Achieving a consistent approach to enforcement;
2. Enforcement actions;
3. Settlements; and
4. Setting penalties

C. *Policy Components*

Guiding Principles

The Commission's enforcement actions will be guided by a standard set of principles, as described in this Policy, within its jurisdictional authority for energy, communications, water and transportation.

Division Specific Enforcement Teams

This Policy creates division-specific enforcement teams made up of staff handling enforcement work. Among other activities, staff will prioritize enforcement cases, recommend appropriate enforcement actions, and ensure that enforcement activities are monitored and documented and that enforcement actions are made public to the extent possible.

Commission Enforcement Team

The Policy also creates a Commission Enforcement Team made up of at least one enforcement liaison from each division. The enforcement liaisons shall meet at least quarterly to discuss enforcement matters and procedures with the goal of promoting consistency and efficiency throughout the Commission.

Consistent Enforcement Actions

To provide a consistent approach to enforcement, the Policy standardizes enforcement documents and procedures to the extent appropriate.

II. GUIDING PRINCIPLES

A. *Ensuring Compliance*

The Commission will strive to ensure compliance with statutes, rules, orders and other requirements and provide a meaningful deterrent to violations through its enforcement actions.

B. Consistent Enforcement

Commission enforcement actions shall be consistent, while considering the differences in the Commission's statutory authority and programs for each particular industry. The Commission's enforcement actions shall be appropriate for each type of violation and shall provide consistent treatment for violations that are similar in nature and have similar safety and/or customer protection impacts. Enforcement actions shall also require a timely return to compliance.

C. Firm Enforcement & Meaningful Deterrence

Enforcement actions should provide a meaningful deterrent to non-compliance. This requires, at a minimum, that the Commission seek adequate remedies, including:

1. Refunding or depriving the economic benefit gained by the noncompliance;
2. Penalties that are higher than the amounts required to be refunded or deprived. In setting the penalty amount, Staff shall be guided by statute and the factors in Appendix I, Penalty Assessment Methodology, which include:
 - a. Severity or gravity of the offense (including physical harm, economic harm, harm to the regulatory process, and the number and scope of the violations);
 - b. Conduct of the utility (including the regulated entity's prior history of violations and actions to prevent, detect, disclose, and rectify a violation);
 - c. The financial resources of the regulated entity (including the size of the business, need for deterrence, and constitutional limitations on excessive fines);
 - d. The totality of the circumstances in furtherance of the public interest; and
 - e. The role of precedent.

D. Timely Enforcement

The Commission shall pursue timely enforcement, consistent with the needs of each case.

E. *Progressive Enforcement*

The Commission shall implement progressive enforcement. Progressive enforcement is an important component of consistent and firm enforcement. Progressive enforcement provides an escalating series of actions, beginning with actions such as a warning letter or notification of violation followed by actions that compel compliance and may result in the imposition of penalties or fines (e.g., the issuance of an enforcement order or filing a civil or criminal action). Progressive enforcement may not be an appropriate enforcement response when violations result from intentional or grossly negligent misconduct, where the impacts on ratepayers or other consumers are widespread, or where impacts to safety are significant.

F. *Transparency*

The Commission shall provide clear and consistent information about its enforcement actions and which entities it regulates. The Commission will monitor and report its enforcement actions in a publicly accessible way, including the extent to which regulated entities return to compliance.

G. *Environmental Justice and Disadvantaged Communities*

The Commission shall promote enforcement of all statutes within its jurisdictions in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority and low-income populations in the state. This includes tailoring enforcement responses to address the needs of vulnerable and disadvantaged communities, including those communities described as Environmental and Social Justice Communities in the Commission's Environmental and Social Justice Action Plan or subsequent documents.

H. *Adaptive Management*

The Commission shall continuously monitor and update its enforcement tools, programs and authorities to ensure that they remain protective of customers, ratepayers, and the environment. This includes keeping abreast of new markets, business practices, and consumer abuses that might necessitate changes to the enforcement program and authorities. The Commission will prioritize regular communication among divisions to identify both specific violations and trends.

The Commission should address new consumer issues as they arise. In instances where the Commission lacks jurisdiction, the Commission will work proactively to identify the appropriate local, state or federal agency that

does have jurisdiction and will work with that agency to remedy the harm to consumers.

I. Enforcement Prioritization

It is the policy of the Commission that every violation should result in an appropriate enforcement action consistent with the priority of the violation. In recognition of its finite resources, the Commission shall exercise its enforcement discretion to prioritize enforcement actions. Enforcement prioritization enhances the Commission's ability to leverage its finite enforcement resources and to achieve the general deterrence needed to encourage the regulated community to anticipate, identify and correct violations. In prioritizing enforcement actions, the Commission shall consider the impact of violations on vulnerable and disadvantaged communities.

III. ENFORCEMENT

In carrying out the Commission's mandate, staff may pursue different levels of enforcement action. In some cases, an enforcement response, such as an oral communication followed by a Warning Letter or Email or a Notice of Violation, will be enough to notify a regulated entity that staff identified an issue or violation that requires corrective action. Other cases may warrant a stronger enforcement action in lieu of or in addition to a warning or other initial enforcement response. All enforcement actions shall be designed and implemented to ensure that timely action is taken to avoid or correct a violation and return to compliance.

Division Enforcement Teams

Each division that participates in enforcement work shall establish a Division Enforcement Team. The Division Enforcement Team is made up of the managers or their delegates and an attorney[s] from the Commission's Legal Division. The Division Enforcement Teams shall prioritize division cases for enforcement action to ensure the most efficient and effective use of available resources. The Division Enforcement Teams shall meet at least quarterly to prioritize enforcement cases, continuously improve enforcement processes and procedures, and make recommendations about how to proceed with cases, including which enforcement action is appropriate for each case. The Division Enforcement Team is also responsible for tracking and publishing information about division cases in an enforcement database.

Commission Enforcement Team

The Commission Enforcement Team is made up of enforcement liaisons from each division that maintains an enforcement team and attorney(s) from the Commission's Legal Division. The enforcement liaisons and attorney(s) shall meet at least quarterly to discuss enforcement matters of statewide concern with the goal of promoting consistency and efficiency throughout the divisions.

A. Enforcement Actions

Staff may pursue the following enforcement actions:²

1. In Person or Telephone Communication

- a. Staff may, but is not required to, inform regulated entities in person or by telephone of violations of violations that must be corrected. Staff may also orally inform regulated entities of weaknesses, safety concerns, or opportunities for improvement that are not violations but should be corrected to avoid a violation or to reduce safety risk. Staff shall keep a detailed written record of such oral communications with the regulated entity in the case file. The minimum requirements for documenting an oral communication with a regulated entity are:
 - i. Date and time of the communication;
 - ii. The name of the staff member[s] and the representative[s] of the regulated entity involved in the communication;
 - iii. The violation, weakness, safety concern, or opportunity for improvement that was discussed;
 - iv. Actions for correcting the violation or addressing the weakness, safety concern, or opportunity for improvement that were discussed, including required timeframes for completing such actions;
 - v. The regulated entity's response to the communication of the violation, weakness, safety concern, or opportunity for improvement; and
 - vi. The evaluation of whether the response is sufficient and/or warrants a follow-up investigation.

² Nothing in this Policy shall be construed to constrain staff or the Commission from pursuing actions that are otherwise authorized but are not specifically mentioned in the Policy.

- b. All oral communications shall be memorialized in a warning email or letter, Notice of Violation, or other written communication. Oral communications are not required in every case. Staff may issue a Warning Letter or email, citation, Notice of Violation or refer a case for other enforcement in lieu of an oral communication.

2. Warning Letter or Email

Staff may send a regulated entity a letter or an email that identifies program weaknesses, safety concerns, or opportunities for improvement. A Warning Letter or Email should only be sent to a regulated entity to address issues that are not being cited as violations but should be corrected to avoid a citation or Notice of Violation or to reduce a safety risk. Staff shall verify delivery of the Warning Letter or Email using a Proof of Service form. A Warning Letter or Email shall be placed in the regulated entity case file and recorded in the enforcement database and shall include the following:

- a. The date the letter or email was sent;
- b. The date staff identified the situation or condition at issue;
- c. The circumstances under which staff identified the situation or condition at issue (e.g., during an inspection or by consumer complaint); and
- d. Actions recommended to address the situation or condition at issue, including any recommended timeframes to complete such actions.

3. Request for Information

Staff are authorized to inspect the accounts, books, papers, and documents of a regulated entity. Staff may request the production of accounts, books, papers, and documents of a regulated entity. Failure to make such records available may lead to the issuance of a subpoena or other enforcement action.

4. Subpoena

Staff may subpoena records from a regulated entity as permitted by the Public Utilities Act. Staff may also subpoena the attendance of a person for deposition or other examination under oath as permitted by the Public

Utilities Act. The issuance of a subpoena is not a prerequisite for the exercise of Commission authority under Public Utilities Code section 313 or any appropriate powers under the California Constitution and the Public Utilities Code.

5. Cease and Desist/Stop Work Order

Commission or staff may issue an order to cease and desist an activity or an order to stop work to a regulated entity consistent with existing Commission decisions and orders and as permitted by the Public Utilities Act. Nothing in this Policy is intended to modify existing procedures concerning such actions, including any right to appeal such actions.

6. Notice of Violation

- a. When a violation is identified, staff may issue a Notice of Violation to a regulated entity. Staff shall use a Notice of Violation form. Staff shall verify delivery of the Notice of Violation using a Proof of Service form. A Notice of Violation shall be placed in the regulated entity case file and recorded in the enforcement database and shall include:
 - i. The law or Commission order, decision or rule violated by the regulated entity;
 - ii. The facts that form the basis for each violation;
 - iii. Information related to the potential for additional or ongoing violations;
 - iv. A directive to correct each violation to avoid additional enforcement action;
 - v. A date by which the regulated entity must submit a plan for correcting each violation if a plan is appropriate;
 - vi. A date by which the regulated entity must certify that each violation has been corrected;

- vii. A penalty amount if the Notice of Violation includes a penalty;³
 - viii. Staff contact information; and
 - ix. Information about how to respond to the Notice of Violation.
- b. A regulated entity that receives a Notice of Violation shall be given an opportunity to respond in writing to that Notice of Violation. The response shall be provided to the enforcing division within 30 days⁴ from the date the Notice of Violation was served upon the regulated entity. The response time may be extended or shortened by staff, depending on the exigencies of a case. The response shall include:
- i. If the regulated entity disputes that a violation has occurred, a statement of the facts upon which the dispute is based;
 - ii. A plan to correct any undisputed violations;
 - iii. Confirmation that the regulated entity will correct any undisputed violations by the date(s) specified in the Notice of Violation or a proposal for a later date with an explanation of the need for additional time; and
 - iv. Confirmation that a penalty assessed will be paid within 30 days of the issuance of the Notice of Violation or a proposal for a lower penalty amount with an explanation of why the lower amount is appropriate.
- c. Staff shall review the regulated entity's response to a Notice of Violation and consider the regulated entity's explanation or defenses. Staff shall determine whether to accept the response or proceed with additional enforcement. The reasons for a determination that the regulated entity's explanation or defenses lack merit should be included in the regulated entity case file. After

³ Staff may decide that violations that are "administrative" in nature do not warrant the imposition of a penalty given the facts known at the time. Administrative violations do not involve immediate safety implications. Examples of "administrative" violations include: Inadvertent omissions or deficiencies in recordkeeping that do not prevent staff from determining compliance; records not physically available at the time of the inspection, provided the records exist and can be produced in a reasonable amount of time; and inadvertent violations of insignificant administrative provisions that do not involve a significant threat to human health, safety, welfare, or the environment. A recurring "administrative" violation may warrant a penalty.

⁴ When referred to in this policy, "days" means calendar days.

reviewing the response, staff may take any appropriate action including any of the following actions:

- i. Send the regulated entity a draft Proposed Administrative Consent Order and negotiate a proposed settlement for Commission review;
- ii. Request that the regulated entity provide additional information;
- iii. Take the next appropriate enforcement action; or
- iv. Notify the regulated entity that the response resolved one or more violations identified in the Notice of Violation.

7. Administrative Consent Order

- a. A negotiated proposed settlement shall be memorialized in a proposed Administrative Consent Order, prepared using an Administrative Consent Order form. The proposed Administrative Consent Order shall become final upon review and approval by the Commission. All proposed and final Administrative Consent Orders shall be placed in the regulated entity case file and recorded in the enforcement database and shall include:
 - i. The law or Commission order, resolution, decision, or rule violated by the regulated entity;
 - ii. The facts that form the basis for each violation;
 - iii. The number of violations, including the dates on which violations occurred;
 - iv. Information related to the potential for additional or ongoing violations;
 - v. An agreement by the regulated entity to correct each violation;
 - vi. A date by which the regulated entity must certify it corrected all violations;
 - vii. An agreement by the regulated entity to pay any penalty by a date specified.

- b. The Commission's Executive Director shall designate Commission management at the Deputy Director level or higher (or designee) to negotiate a proposed Administrative Consent Order.
- c. If a regulated entity does not respond to a Notice of Violation within the required time frame, or if a proposed Administrative Consent Order is not negotiated, staff shall take the next appropriate enforcement action.

8. Citation and Compliance Programs

- a. If staff discover a violation that can be addressed under an existing Citation and Compliance Program, staff shall determine whether to issue a citation as allowed under the Citation and Compliance Program or take a different enforcement action. Factors to consider in determining whether a different enforcement action is appropriate include, but are not limited to:
 - i. Whether more flexibility in determining the penalty is appropriate for the circumstances, including whether the appropriate penalty is lesser or greater than the administrative limit imposed by the Citation and Compliance program (the remaining factors below may be relevant to this determination);
 - ii. The culpability of the regulated entity – e.g., whether the violation was negligent, knowing, willful, or intentional;
 - iii. Whether the regulated entity benefitted economically from noncompliance, either by realizing avoided or reduced costs or by gaining an unfair competitive advantage;
 - iv. Whether violations are chronic, or the regulated entity is recalcitrant;
 - v. Whether violations can be corrected within 30 days;
 - vi. Whether the actual or potential harm from a violation is substantial;
 - vii. Whether the case warrants specific corrective action requirements that cannot be included in a citation; and
 - viii. Whether the case warrants a recommendation for an Order Instituting Investigation or civil or criminal action.

- b. If staff discover a violation that cannot be addressed through a pre-existing Citation and Compliance program, staff should take the next appropriate enforcement action.
- c. Prescriptive and Proscriptive Requirements – All requirements (including, but not limited to, complaint procedures, an action or failure to act identified as a violation in a Citation and Compliance Program, and requirements to report actual or potential violations to any entity, e.g. local authorities or the Commission), that are otherwise applicable to a regulated entity shall continue to apply and remain enforceable, regardless of whether staff choose to issue a citation for a violation under a Citation and Compliance Program or pursue a different enforcement action.

9. Administrative Enforcement Order

- a. Staff may issue a proposed Administrative Enforcement Order to a regulated entity, prepared using an Administrative Enforcement Order form. Staff shall verify delivery of the proposed Administrative Enforcement Order to the regulated entity using a Proof of Service form. Proposed Administrative Enforcement Orders shall be placed in the regulated entity case file and recorded in the enforcement database and shall include:
 - i. The law or Commission order, resolution, decision, or rule violated by the regulated entity;
 - ii. The facts that form the basis for each violation;
 - iii. The number of violations, including the dates on which violations occurred;
 - iv. Information related to the potential for additional or ongoing violations;
 - v. A directive to correct each violation;
 - vi. A date by which the regulated entity must certify that it corrected all violations;
 - vii. A directive to pay a penalty by a date specified;
 - viii. Staff contact information; and
 - ix. Information about how to request a hearing on the proposed Administrative Enforcement Order.

- b. The Commission's Executive Director shall designate Commission management at the Deputy Director level or higher (or designee) to transmit a proposed Administrative Enforcement Order to a regulated entity.
- c. The regulated entity may request a hearing on the proposed Administrative Enforcement Order by filing a Request for Hearing form within 30 days of the date the proposed order is served on the entity. The right to a hearing is forfeited if a Request for Hearing is not timely filed. If a timely Request for Hearing is not filed, the proposed Administrative Enforcement Order shall become final upon adoption by the Commission. Corrective action requirements in a proposed Administrative Enforcement Order remain in effect, notwithstanding the filing of a Request for Hearing. Neither payment of the penalty nor filing a timely Request for Hearing shall excuse the regulated entity from curing a violation. The hearing shall be conducted by an ALJ in accordance with the hearing provisions in the Citation Appellate Rules. A draft ALJ resolution approved by the Commission is subject to rehearing pursuant to Public Utilities Code section 1731 and to judicial review pursuant to Public Utilities Code section 1756. The amount of the penalty shall continue to accrue on a daily basis until the violation is corrected or until the appeal, rehearing, and judicial review process is fully concluded, a penalty is found to be appropriate, and the penalty is paid in full. The requirement that a penalty be paid shall be stayed during the hearing and rehearing process.

10. Order Instituting Investigation

Staff may recommend that the Commission issue an Order Instituting Investigation. Factors that may be considered in determining whether to recommend an Order Instituting Investigation include, but are not limited to:

- a. The appropriate penalty for the case exceeds limits set by resolution or decision;
- b. The matter is complex;
- c. The violations caused fatalities, substantial injuries, and/or involved significant property damage in a widespread area;

- d. The matter includes allegations of fraud or knowing, intentional or willful behavior;
- e. The regulated entity's potential explanation or defenses; and
- f. The entity has repeatedly violated the law or Commission rules and orders.

11. Order to Show Cause

Staff may recommend that the Commission issue an Order to Show Cause - an order that requires a regulated entity to show cause why a specified Commission action should not be taken. In deciding whether to recommend that the Commission issue an Order to Show Cause, Staff shall consider:

- a. Whether the regulated entity failed to comply with a Commission order, general order, ruling, rule, data request, or statute; and
- b. If the regulated entity failed to comply, whether the failure is a Rule 1.1 violation, a violation of Public Utilities Code section 2107, or its actions meet the criteria for a finding of contempt.

12. Suspension, Alteration, Amendment, and Revocation/Receivership

Commission or staff may suspend, alter, amend, or revoke the license or certification of a regulated entity consistent with existing Commission decisions and orders and as permitted by the Public Utilities Act. Nothing in this Policy is intended to modify existing procedures concerning such actions, including any right to appeal such actions.

13. Civil or Criminal Action

Staff may request that the Commission refer the matter to the Legal Division for the filing of a civil or criminal action, including requests for injunctive relief. Factors staff may consider in determining whether to refer the matter for civil or criminal action include, but are not limited to:

- a. The matter includes allegations of criminal behavior;
- b. Any of the factors for recommending an Order Instituting Investigation exist; or

- c. Referral is appropriate given resource availability.

14. Referral to or from and Coordinating With Other Agencies

In some circumstances it may be appropriate to refer a case to another local, state or federal agency for consideration of enforcement action. If another agency refers a case to the CPUC, enforcement actions considered and/or taken will be in accordance with this Policy. The Commission and staff will coordinate enforcement actions with other agencies as appropriate.

B. Settlement of Enforcement Actions

The Policy does not list the full range of considerations that may be relevant to negotiating a proposed settlement. However, the following general considerations should be evaluated as part of any proposed settlement to be submitted for Commission review:

1. Equitable factors;
2. Mitigating circumstances;
3. Evidentiary issues; and
4. Other weaknesses in the enforcement action that the division reasonably believes may adversely affect the ability to obtain the calculated penalty.

C. Penalties

The Commission and staff that choose not to take enforcement action under a Citation and Compliance Program, shall calculate an appropriate penalty using the methodology set forth in Appendix I (Penalty Assessment Methodology).

D. Monitoring Compliance with Orders, Decisions, and Resolutions

Staff is responsible for monitoring compliance with all final orders (including administrative consent orders), decisions, and resolutions. Staff shall document compliance in the enforcement database and the regulated entity's case file.

Appendix I

Penalty Assessment Methodology

When a regulated entity violates the Public Utilities Act or Commission rules, decisions, or orders, Commission staff may propose, and the Commission may assess a penalty against the regulated entity. The penalty amount for each violation may be proposed or assessed at an amount that is within the statutory range authorized by the Public Utilities Act. This Penalty Assessment Methodology sets forth the factors that staff and the Commission must consider in determining the amount of a penalty for each violation. The factors are consistent with those that the Commission previously adopted and has historically relied upon in assessing penalties and restates them in a manner that will form the analytical foundation for future decisions that assess penalties.

The purpose of a penalty is to go beyond restitution to the victim and to effectively deter further violations by the perpetrator or others. Effective deterrence creates an incentive for regulated entities to avoid violations. Deterrence is particularly important against violations that could result in public harm and other severe consequences. The following factors shall be used in setting penalties that are appropriate to a violation:

I. Severity or Gravity of the Offense

The evaluation of the severity or gravity of the offense includes several considerations:

- Economic harm to victims
- Physical harm to people or property
- Threatened physical harm to people or property
- Harm to the integrity of the regulatory processes, including disregarding a statutory or Commission directive
- The number of violations
- The number of consumers affected

Economic harm reflects the amount of expense that was imposed upon victims. In comparison, violations that cause actual physical harm to people or property are generally considered the most severe, followed by violations that threaten such harm. The fact that the economic harm may be difficult to quantify does not itself diminish the severity or the need for sanctions. For example, the Commission has recognized that deprivation of choice of service providers,

while not necessarily imposing quantifiable economic harm, diminishes the competitive marketplace and warrants some form of sanction.

Many potential penalty cases do not involve any harm to consumers but are instead violations of reporting or compliance requirements. Such violations harm the integrity of the regulatory processes. For example, state law requires all California public utilities to comply with Commission directives:

“Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the Commission in the matters specified in this part, or any other matter in any way relating to or affecting its business as a public utility, and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees.” (Public Utilities Code § 702).

Such compliance is essential to the proper functioning of the regulatory process. For this reason, disregarding a statutory or Commission directive, regardless of the effects on the public, will be accorded a high level of severity.

The number of the violations is a factor in determining the severity. A series of temporally distinct violations can suggest an on-going compliance deficiency that the regulated entity should have addressed after the first instance. Similarly, a widespread violation which affects a large number of consumers is a more severe offense than one that is limited in scope. For a “continuing offense”, Public Utilities Code section 2108 counts each day as a separate offense.

II. Conduct of the Regulated Entity

The evaluation of the conduct of the regulated entity includes several considerations:

- Degree of culpability
- Actions taken to prevent a violation
- Actions taken to detect a violation
- Actions taken to disclose and rectify a violation, including voluntary reporting of potential violations, voluntary removal or resolution efforts undertaken, and the good faith of the regulated entity in attempting to achieve compliance after notification
- Actions taken to conceal, hide or coverup a violation
- Prior history of violations

This factor recognizes the important role of the regulated entity's conduct in: (1) preventing the violation, (2) detecting the violation, and (3) disclosing and rectifying the violation. The regulated entity is responsible for the acts of all its officers, agents, and employees:

“In construing and enforcing the provisions of this part relating to penalties, the act, omission, or failure of any officer, agent, or employee of any public utility, acting within the scope of his [or her] official duties or employment, shall in every case be the act, omission, or failure of such public utility.” (Public Utilities Code § 2109).

Prior to a violation occurring, prudent practice requires that all regulated entities take reasonable steps to ensure compliance with Commission directives. This includes becoming familiar with applicable laws and regulations, and most critically, the regulated entity regularly reviewing its own operations to ensure full compliance. In evaluating the regulated entity's advance efforts to ensure compliance, the entity's past record of compliance with Commission directives should be considered.

The Commission expects regulated entities to diligently monitor their activities and operations. When staff determines that regulated entities, for whatever reason, failed to monitor and improve substandard operations, staff will continue to hold the regulated entity responsible for its actions. Deliberate as opposed to inadvertent wrong-doing will be considered an aggravating factor. Staff will also look at the management's conduct during the period in which the violation occurred to ascertain the level and extent of involvement in or tolerance of the offense by management personnel. Staff will closely scrutinize any attempts by management to attribute wrong-doing to rogue employees. Managers will be considered, absent clear evidence to the contrary, to have condoned day--to-day actions by employees and agents under their supervision.

When a regulated entity is aware that a violation has occurred, staff expects the regulated entity to promptly bring it to the attention of Commission staff. The precise timetable that constitutes “prompt” will vary based on the nature of the violation. Violations that physically endanger the public must be immediately corrected and thereafter reported to the Commission staff. Reporting violations should be remedied at the earliest administratively feasible time. Prompt reporting of violations and expeditious correction promotes transparency and public trust and furthers the public interest. For this reason, steps taken by a regulated entity to promptly and cooperatively report and correct violations may be considered in assessing any penalty.

III. Financial Resources of the Regulated Entity, Including the Size of the Business

Effective deterrence also requires that staff recognize the financial resources of the regulated entity in setting a penalty that balances the need for deterrence with the constitutional limitations on excessive penalties. Some California regulated entities are among the largest corporations in the United States and others are extremely modest, one-person operations. An accounting rounding error to one company is annual revenue to another. If appropriate, penalty levels will be adjusted to achieve the objective of deterrence, without becoming excessive, based on each regulated entity's financial resources.

IV. Totality of the Circumstances in Furtherance of the Public Interest

An evaluation of the totality of the circumstances in furtherance of the public interest includes several considerations:

- Establishing a penalty that effectively deters further unlawful conduct
- Consideration of facts that tend to mitigate or exacerbate the degree of wrongdoing
- Harm from the perspective of the public interest
- Ensuring that a regulated entity does not have incentives to make economic choices that cause or unduly risk a violation

Setting a penalty at a level that effectively deters further unlawful conduct by the regulated entity and others requires that staff specifically tailor the package of sanctions, including any penalty, to the unique facts of the case. Staff will review facts that tend to mitigate the degree of wrongdoing as well as any facts that exacerbate the wrongdoing. In all cases, the harm will be evaluated from the perspective of the public interest.

An economic benefit amount shall be estimated for every violation. Economic benefit includes any savings or monetary gain derived from the act or omission that constitutes the violation. In cases where the violation occurred because the regulated entity postponed improvements, failed to implement adequate control measures, failed to obtain required Commission authority or did not take other measures needed to prevent the violations, the economic benefit may be substantial. Economic benefit should be calculated as follows:

- Determine those actions required to comply with a permit, decision, or order of the Commission, an enforcement order, or that were necessary in the exercise of reasonable care, to prevent a violation. Needed actions include obtaining regulatory authority or coverage, capital improvements, staff training, plan development, or the introduction of procedures to improve facility management.
- Determine when and/or how often the regulated entity should have taken these actions as specified in the permit, decision, or order, or as necessary to exercise reasonable care, in order to prevent the violation.
- Evaluate the types of actions that the regulated entity should have taken to avoid the violation and estimate the costs of these actions. There are two types of costs that should be considered; delayed costs and avoided costs. Delayed costs include expenditures that should have been made sooner (e.g., for capital improvements such as plant upgrades, training, development of procedures and practices), but that the regulated entity implemented too late to avoid the violation and/or is still obligated to perform. Avoided costs include expenditures for equipment or services that the regulated entity should have incurred to avoid the incident of noncompliance, but that are no longer required. Avoided costs also include ongoing costs such as needed additional staffing from the time the costs should have been incurred to the present.
- Calculate the present value of the economic benefit. The economic benefit is equal to the present value of the avoided costs plus the “interest” on delayed costs. This calculation reflects the fact that the regulated entity has had the use of the money that should have been used to avoid the instance of noncompliance.
- Determine whether the regulated entity gained any other economic benefits. These may include income from unauthorized or unpermitted operations.

The economic benefit should not be adjusted for expenditures by the regulated entity to abate the effects of the unauthorized conduct, or the costs to achieve or return to compliance.

The economic benefit amount should be compared to the penalty amount calculated using the other factors set forth in this appendix.

The penalty amount should be at least 10 percent higher than the economic benefit amount so that regulated entities do not construe penalties as the cost

of doing business and that the assessed penalty provides a meaningful deterrent to future violations. Absent express findings of exceptional circumstances or other factors as justice may require, if the penalty amount is lower than the economic benefit amount plus 10 percent, the economic benefit amount plus 10 percent shall be the penalty. It would be unfair to regulated entities that voluntarily incur the costs of regulatory compliance to impose a lower amount absent exceptional circumstances.

V. The Role of Precedent

Penalties are assessed in a wide range of cases. The penalties assessed in cases are not usually directly comparable. Nevertheless, when a case involves reasonably comparable factual circumstances to another case where penalties were assessed, the similarities and differences between the two cases should be considered in setting the penalty amount.