

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

**Safety and Enforcement Division**

**Resolution SED-11  
November 7, 2024**

**RESOLUTION**

**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**

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**SUMMARY**

In this Resolution, the California Public Utilities Commission (Commission) approves an Administrative Consent Order and Agreement (ACO) between the Commission's Safety and Enforcement Division (SED) and Southern California Edison Company (SCE) to resolve all issues involving the 2021 Public Safety Power Shutoffs (PSPS), resulting in financial penalties totaling \$2,339,690. This Resolution includes an analysis of the Penalty Assessment Methodology.

**BACKGROUND AND DISCUSSION**

Utilities have the authority to shut off the electric power to protect public safety under California law. Utilities do this during severe wildfire threat conditions as a preventative measure of last resort through PSPS events. Such power cuts reduce the risk of an IOUs' infrastructure to cause or contribute to a wildfire. However, a PSPS can leave communities and essential facilities without power, which brings its own risks and hardships, particularly for vulnerable communities and individuals. From 2018 through 2021, CPUC issued four sets of guidelines; Resolution ESRB-8, Decision (D.) 19-05-042, D.20-05-051, D.21-06-014, D.21-06-034, and the Post-Event Report Template directing the IOUs to follow these guidelines in PSPS execution.

In 2021, SCE initiated twelve<sup>1</sup> separate PSPS events and submitted ten post event reports to the CPUC. Stakeholders provided comments on these post event reports. SED performed reviews on the submitted reports, including consideration of stakeholder comments, to evaluate SCE's compliance with the reporting requirements under Resolution ESRB-8, D.19-05-942, D.20-05-051, D.21-06-014, D.21-06-034, and the Post-Event Report Template.

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<sup>1</sup> SCE reported the three events in January in a single report, as SCE considers the PSPS-related activity on January 12, 16, and 18, 2021, as one continuous PSPS event, as set forth in SCE's NOV Response.

Resolution M-4846, issued in November 2020, adopted the Commission Enforcement and Penalty Policy (Enforcement Policy) and authorized Commission staff to negotiate and propose an Administrative Consent Order to resolve an enforcement matter, subject to review and consideration by the Commission.<sup>2</sup> SED and SCE executed the attached ACO,<sup>3</sup> pursuant to and consistent with the Enforcement Policy, which resolves all issues related to SED's compliance assessment of the 2021 PSPS Events and any enforcement action SED might have brought related to or arising from the 2021 PSPS Events. In accordance with the Enforcement Policy, the proposed settlement between SED and SCE (collectively, Parties) is memorialized in the attached Administrative Consent Order (ACO) and Agreement. The ACO includes information consistent with the requirements of Section III.A.7 of the Enforcement Policy.

The Enforcement Policy provides that “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[.]”<sup>4</sup> The Parties explicitly considered these factors in their confidential settlement communications under Rule 12.6 of the Commission's Rules of Practice and Procedure. SED acknowledges SCE's cooperation with SED on the negotiation of the Administrative Consent Order and Agreement, and SED explicitly considered a range of evidentiary and other matters that would bear upon its pursuit of enforcement actions seeking penalties or citations on disputed issues of fact and law. When taken as a whole, the Parties agree that the ACO amounts are within the range of reasonable outcomes had the matters proceeded to formal litigation.

The Penalty Assessment Methodology sets forth five factors that staff and the Commission must consider in determining the amount of a penalty for each violation: “[s]everity or gravity of the offense, conduct of the regulated entity, financial resources of the regulated entity, including the size of the business, totality of the circumstances in furtherance of the public interest, and the role of precedent.”<sup>5</sup> These factors are addressed here.

#### **A. Severity or Gravity of the Offenses**

The Commission has stated that the severity of the offense includes several considerations, including economic harm, physical harm, and harm to the regulatory process.

##### **1. Physical and Economic Harm**

The Commission has described the physical and economic harm criteria as follows:

Economic harm reflects the amount of expense which was imposed upon the victims. In comparison, violations that cause actual

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<sup>2</sup> Resolution M-4846, Findings and Conclusions #8; Enforcement Policy, p. 11.

<sup>3</sup> The ACO is attached as Attachment A.

<sup>4</sup> Enforcement Policy, p. 15.

<sup>5</sup> Enforcement Policy, pp. 16-21.

physical harm to people or property are generally considered the most severe, followed by violations that threaten such harm.<sup>6</sup>

SCE's violations occurred over the course of twelve<sup>7</sup> separate PSPS events, January 12, 2021, January 16, 2021, January 18, 2021, April 12, 2021, June 14, 2021, September 29, 2021, October 11, 2021, October 15, 2021, October 16, 2021, October 22, 2021, November 21, 2021, and November 24, 2021. Eight events resulted in a de-energization. During those events, SCE failed to send 232,719 notifications. This includes 135,570 advanced notifications and 97,149 notifications at de-energization or re-energization. There is no evidence that there was any physical or economic harm as a result of the violations reflected in these violations. However, notification failures do have the potential to cause physical or economic harm.

SCE also violated numerous reporting and notification obligations as summarized in the NOV, four of which resulted in a financial penalty. A financial penalty also attached to SCE's failure to operate a Community Resource Center when it should have. In total, the penalties for violations other than notification failure violations total \$12,500.

SCE also had several other reporting and notification violations as summarized in the NOV. These violations did not result in any physical or economic harm. These violations also had little potential of resulting in physical or economic harm. As such, these violations resulted in no penalty.

## 2. Harm to the Regulatory Process

As part of the severity of the offense factor, the Commission has described the harm to the regulatory process criterion as follows:

“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.<sup>8</sup>

SCE complied with SED during the investigation of SCE's 2021 PSPS Events and in the negotiation and presentation of the ACO. There were no allegations of Rule 1.1 violations and

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<sup>6</sup> Enforcement Policy, p. 16.

<sup>7</sup> SCE reported the three events in January in a single report, as SCE considers the PSPS-related activity on January 12, 16, and 18, 2021, as one continuous PSPS event, as set forth in SCE's NOV Response.

<sup>8</sup> Enforcement Policy, p. 17.

no allegations of other ethical violations, or any deliberate misconduct associated with the SCE's 2021 PSPS Events. Accordingly, this was not a significant factor in determining the basis for the penalty imposed pursuant to the ACO.

### **B. The Conduct of the Utility**

In evaluating the conduct of the utility, the Commission has described the following considerations in evaluating the utility's conduct: (1) actions taken to prevent a violation; (2) actions taken to detect a violation; (3) actions taken to disclose and rectify a violation; (4) actions taken to conceal, hide or cover up a violation; and (5) prior history of violations.<sup>9</sup>

SCE attributed the majority of missed notifications to manual operational and notification processes, accuracy and granularity of its weather and fuel modeling capabilities at the time, and the difference in forecasted and actual weather conditions. SCE states that the issues it experienced in 2021 regarding missed notifications have largely been resolved through process changes, further enhancement of its automated systems and expanded use of machine learning models. SCE responded with more information and context of its violation both in its response to SED's NOV and in negotiations of the ACO. As a result of this information, SED dismissed one violation. As a result of the Parties' discussion and compromises made, SCE and SED agreed to the penalty amounts in the ACO. SCE was forthcoming during the discovery process and negotiated in good faith.

### **C. Financial Resources of the Utility**

The Commission has described this criterion as follows:

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. . . . If appropriate, penalty levels will be adjusted to achieve the objective of deterrence, without becoming excessive, based on each regulated entity's financial resources.<sup>10</sup>

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.

### **D. Totality of Circumstances in Furtherance of Public Interest**

The Commission has described this criterion as follows:

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

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<sup>9</sup> Enforcement Policy, p. 17.

<sup>10</sup> Enforcement Policy, p. 19.

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.<sup>11</sup>

In SED's estimation, SCE derived relatively minimal "economic benefit" in the form of cost savings or monetary gain as a result of the act or omission that constituted the violation. The package of sanctions, including remedial actions and a monetary penalty, were tailored to the unique facts of this case.

The totality of the circumstances in furtherance of public interest supports approval of the ACO. First, it provides a significant resolution of the issues identified here. Pursuant to the ACO, SCE agrees to pay \$2,339,690 in penalties.

Second, with an appropriate resolution having been reached, it is in the public interest to resolve this proceeding now. The ACO obviates the need for SED to initiate an enforcement proceeding and for the Commission to adjudicate the disputed facts, alleged violations, and appropriate penalty. Approval of the ACO promotes administrative efficiency so that the Commission and parties are not required to expend substantial time and resources on continued litigation for a matter that has been satisfactorily resolved.

#### **E. Consistency with Precedent**

The Commission has described the role of precedent as follows:

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.

The ACO is reasonable when compared to the outcome of other settlements and outcomes in Commission proceedings. The following are examples of approved settlements and enforcement decisions involving electric utilities and PSPS events.

##### **1. 2021 SDG&E PPS Event Administrative Consent Order (Resolution SED-9)**

In 2021, San Diego Gas and Electric (SDG&E) initiated two PPS events. During the two events, SDG&E failed to provide notifications to 6,983 customers. SED and SDG&E settled on an ACO agreeing that SDG&E violated the PPS notification requirements under Commission Decision (D.) 19-05-042 and assessed a fine of \$70,830. Commission approved the settlement in Resolution SED-9.

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<sup>11</sup> Enforcement Policy, p. 19.

**2. 2021 PacifiCorp PSPS Event Administrative Consent Order (Resolution SED-10)**

In 2021, PacifiCorp initiated one PSPS event. During this event, PacifiCorp failed to notify 1,753 customers. SED and SDG&E settled on an ACO agreeing that PacifiCorp violated the PSPS notification requirements under D.19-05-042 and assessed a fine of \$18,030. Commission approved the settlement in Resolution SED-10.

**3. 2020 SDG&E PSPS Event Administrative Enforcement Order (Resolution M-4863)**

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 an Administrative Enforcement Order (AEO) alleging SDG&E violated the PSPS notification requirements under Commission decision 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 Administrative Enforcement Order (AEO) and the AEO was approved by the Commission in Resolution M-4863.

**4. 2020 PacifiCorp PSPS Event Administrative Enforcement Order (Resolution M-4862)**

In 2020, PacifiCorp initiated two PSPS events. While SED did find PacifiCorp violated some PSPS guidelines, they opted not to assess a penalty because they successfully notified customers as required by the Commission's decisions. SED opted to impose eight corrective actions on PacifiCorp to ensure future compliance with the Commission's PSPS rules. PacifiCorp accepted the Administrative Enforcement Order (AEO), and the AEO was approved by the Commission in Resolution M-4862.

**5. 2020 Pacific Gas and Electric PSPS Event Administrative Enforcement Order (Resolution ALJ-445)**

In 2020, Pacific Gas and Electric (PG&E) initiated seven PSPS events. SED found that PG&E failed to provide any customer notifications during de-energization. SED issued an Administrative Enforcement Order alleging PG&E violated the PSPS notification requirements under Commission decision D.19-05-042 and assessed a fine of \$12,000,000. SED also included six corrective actions to ensure future compliance with the Commission's PSPS rules. PG&E challenged the Administrative Enforcement Order. SED and PG&E settled the matter with an \$8 million fine. The amount was split up between a \$500,000 penalty to the General Fund and \$7,500,000 for the Independent Safety Monitor between 2023 and 2026. PG&E also had to comply with the eight corrective actions. The Commission approved the settlement in Resolution ALJ-445.

**6. 2020 Southern California Edison PSPS Event Administrative Enforcement Order (Resolution ALJ-440)**

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 an Administrative Enforcement Order 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 challenged the Administrative Enforcement Order. SED and SCE settled the

dispute with a \$7 million fine. The amount was split up between a \$500,000 shareholder-funder fine to the General Fund, a \$500,000 shareholder-funded payment to SCE's Energy Assistance Fund, and \$6 million permanent disallowance of PSPSP program-related costs that are eligible for tracking in the Wildfire Mitigation Plan Memorandum Account. SCE also had to comply with the fourteen corrective actions. The Commission approved the settlement in Resolution ALJ-440.

### **COMMENTS ON DRAFT RESOLUTION**

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived or reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today. Comments were provided on October 24, 2024 by The Public Advocates Office of the California Public Utilities Commission and the Center for Accessible Technology. No changes were made in response to comments.

### **FINDINGS AND CONCLUSIONS**

1. Resolution M-4846 authorized Commission staff to negotiate and propose an Administrative Consent Order to resolve an enforcement matter, subject to review and consideration by the Commission.
2. SED and SCE have engaged in settlement negotiations and, consistent with Resolution M-4846 and the Enforcement Policy, have memorialized their proposed settlement in the attached Administrative Consent Order and Agreement.
3. SED and SCE have agreed that the attached Administrative Consent Order and Agreement resolves all issues related to SED's investigations of and any enforcement action SED might have brought related to or arising from SCE's 2021 PSPS events.
4. The agreed-upon fines and remedial actions appropriately resolve all issues related to SED's investigations and any enforcement action SED may have brought, are reasonable in light of the circumstances, consistent with the law, and in the public interest.
5. Based on the analysis under the Penalty Assessment Methodology, the agreed-upon fines, safety measures and disallowances are reasonable in light of the circumstances.

**THEREFORE, IT IS ORDERED** that:

1. The Administrative Consent Order and Agreement between SED and SCE relating to SCE's 2021 PSPS Events is adopted.
2. SCE shall pay a monetary penalty of \$2,339,690 within thirty (30) days after the date that this Resolution is final and no longer subject to appeal. Payment must be with a certified check made or wire transfer payable to the ***California Public Utilities Commission*** to:

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

3. SCE shall state on the face of the check or on the wire transfer: "For deposit to the General Fund per Resolution SED-11."

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on November 7, 2024 the following Commissioners voting favorably thereon:

/s/ RACHEL PETERSON  
Rachel Peterson  
Executive Director

ALICE REYNOLDS  
President  
DARCIE L. HOUCK  
JOHN REYNOLDS  
KAREN DOUGLAS  
MATTHEW BAKER  
Commissioners



# **ATTACHMENT A**

## **Administrative Consent Order**

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

In the matter of:

SOUTHERN CALIFORNIA EDISON  
2021 Public Safety Power Shutoff Events

[PROPOSED] ADMINISTRATIVE  
CONSENT ORDER AND AGREEMENT

Issued pursuant to Commission Resolution M-  
4846 (adopting Commission Enforcement  
Policy)

**[PROPOSED] ADMINISTRATIVE CONSENT ORDER AND  
AGREEMENT**

Dated: September 27, 2024

CPUC-15-ACO

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## **[PROPOSED] ADMINISTRATIVE CONSENT ORDER AND AGREEMENT**

This Administrative Consent Order and Agreement (hereinafter “ACO” or “Agreement”) is entered into and agreed to by and between the Safety and Enforcement Division (“SED”) of the California Public Utilities Commission (“CPUC” or “Commission”) and Southern California Edison Company (“SCE”) (collectively, “Parties”) pursuant to Resolution M-4846, *Resolution Adopting Commission Enforcement Policy*, dated November 5, 2020.

### WHEREAS:

- The Commission has authorized SED “to investigate, negotiate, and draft proposed Administrative Consent Orders, subject to review and consideration by the Commission” via resolution;<sup>1</sup>
- The Commission’s Enforcement Policy requires that a “negotiated proposed settlement . . . be memorialized in a proposed Administrative Consent Order,” which requires certain items as set forth in Section 2, below;<sup>2</sup>
- Consistent with Resolution M-4846, this ACO is a product of direct negotiations between the Parties to resolve and dispose of all claims, allegations, liabilities, and defenses related to SCE’s 2021 Public Safety Power Shutoff (PSPS) events.
- This ACO is entered into as a compromise of disputed claims and defenses in order to minimize the time, expense, and uncertainty of an evidentiary hearing, any further enforcement proceedings, and/or any subsequent appeals, and with the Parties having taken into account the possibility that each of the Parties may or

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<sup>1</sup> Resolution M-4846 at 15 (Findings and Conclusions No. 8).

<sup>2</sup> Resolution M-4846, Enforcement Policy at 10.

may not prevail on any given issue, and to expedite timely action on initiatives that benefit California consumers;

- The Parties agree to the following terms and conditions as a complete and final resolution of all enforcement actions which have been brought by SED related to or arising from SCE's 2021 PSPS events, and all of SCE's defenses thereto, based on the information known to the Parties, and without trial and adjudication of any issue of law or fact.

NOW, THEREFORE it is agreed that this ACO is made and entered into.

**I. PARTIES**

The parties to this ACO are SED and SCE.

SED is a division of the Commission charged with enforcing compliance with the Public Utilities Code and other relevant utility laws and the Commission's rules, regulations, orders, and decisions. SED is also responsible for investigations of utility incidents, including PSPS, and assisting the Commission in promoting public safety.

SCE is a public utility, as defined by the California Public Utilities Code. SCE provides electric service to approximately 15 million residents within Central, Coastal and Southern California.

**II. ELEMENTS REQUIRED BY SECTION III.A.7 OF THE COMMISSION'S ENFORCEMENT POLICY FOR ADMINISTRATIVE CONSENT ORDERS**

Except as explicitly stated herein, the Parties expressly agree and acknowledge that neither this ACO nor any act performed hereunder is, or may be deemed, an admission or evidence of the validity or invalidity of any allegations of SED, nor is the Agreement or any act performed hereunder to be construed as an admission or evidence of any wrongdoing, fault,

omission, negligence, imprudence, or liability on the part of SCE. This is a negotiated settlement of disputed matters.

**A. The law or Commission order, resolution, decision, or rule violated by the regulated entity and the facts that form the basis for each violation**

Appendix I to this ACO contains the Notice of Violation (NOV) issued by SED to SCE, on April 7, 2023. The NOV includes a discussion of the Commission orders and decisions that SED alleges SCE violated, and the facts that form the basis for each alleged violation. SCE submitted a response to the NOV (SCE's NOV Response), contained in Appendix II to this ACO, on May 5, 2023, which includes more information from SCE's 2021 PSPS events. The Parties also had further discussions regarding certain alleged violations in the NOV, which contributed to the negotiated settlement of certain disputed matters and penalty amounts in the NOV. SED also dismissed the following violation alleged in the NOV after evaluating the PSPS guidelines in light of SCE's NOV response.

1. For the October 16-18 event, SCE did not report the number of complaints and claims separately, as required by ESRB-8. Rather, they lumped complaints and claims together.

This ACO addresses and resolves SCE's remaining alleged violations as set forth in the NOV and as further discussed and resolved through settlement. SCE agrees to certain remaining violations as set forth in the NOV and the associated penalties, as further discussed in SCE's NOV Response and set forth herein.

**B. Information related to the potential for additional or ongoing violations**

The Parties intend this Agreement to be a complete and final resolution of all enforcement actions which have been brought by SED related to SCE's 2021 PSPS events, based on the information known by the Parties.

**C. An agreement by the regulated entity to correct each violation**

SCE has remediated any alleged violations and has implemented processes and systems to reduce errors, omissions, and oversights that could result in future violations with the exception of two alleged violations.<sup>3</sup> Notwithstanding these improvements, SCE contends that rapidly changing weather and periodic data and systems issues will, at times, continue to challenge performance of PSPS requirements.

**D. An agreement by the regulated entity to pay any penalty by a date specified**

SCE agrees to penalties and remediation payments totaling \$2,339,690.00.

**1. Penalty to the General Fund**

SCE shall pay a monetary penalty of \$2,339,690.00 to the California State General Fund within thirty (30) days after the date of Commission Approval (as defined in Section IV.E. below).

**III. ADDITIONAL TERMS**

**A. Confidentiality and Public Disclosure Obligations**

The Parties agree to continue to abide by the confidentiality provisions and protections of Rule 12.6 of the Commission's Rules of Practice and Procedure, which governs the discussions, admissions, concessions, and offers to settle that preceded execution of this ACO and Agreement and that were exchanged in all efforts to support its approval. Those prior negotiations and communications shall remain confidential indefinitely, and the Parties shall not disclose them outside the negotiations without the consent of both Parties. The Parties agree to coordinate as to

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<sup>3</sup> SCE reported the three events in January in a single report, as SCE considers the PSPS-related activity on January 12, 16, and 18, 2021, as one continuous PSPS event, as set forth in SCE's NOV Response. As set for in SCE's NOV response, SCE did not report notification failures for those high-threat events where customers were never de-energized.

the timing and content of mutual and/or individual public communications. Notwithstanding the foregoing, SCE may make any disclosures it deems legally necessary, in its sole discretion, in order to satisfy its obligations under securities laws.

**B. Future Proceedings**

The Parties agree to avoid and abstain from making any collateral attacks on this ACO or taking positions in other venues that would undermine the effect or intent of the ACO.

Nothing in this ACO constitutes a waiver by SED of its legal obligations, authority, or discretion to investigate and enforce applicable safety requirements and standards (including, without limitation, provisions of GO 95 and GO 165) as to other conduct by SCE unrelated to this ACO or the 2021 PSPS events that SED may identify as the basis for any alleged violation(s). SED shall retain such authority regardless of any factual or legal similarities that other SCE conduct, and any alleged violation(s), may have to SCE's conduct/alleged violations related to the 2021 PSPS events. Accordingly, any such similarities shall not preclude SED from using other conduct and alleged violation(s) as a basis for seeking future penalties.

**C. Regulatory Approval Process**

Pursuant to Resolution M-4846, this ACO shall be submitted for public notice and comment. Upon approval or ratification of this ACO, the final resolution will "validate[] the order, which becomes an act of the Commission itself."<sup>4</sup>

By signing this ACO, the Parties acknowledge that they pledge support for Commission Approval and subsequent implementation of all the provisions of this ACO. The Parties shall use their best efforts to obtain Commission Approval of this ACO without modification, and agree to use best efforts to actively oppose any modification thereto. Should any Alternate Draft

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<sup>4</sup> Resolution M-4846 at 8.



Resolution seek a modification to this ACO, and should either of the Parties be unwilling to accept such modification, that Party shall so notify the other Party within five business days of issuance of the Alternate Draft Resolution. The Parties shall thereafter promptly discuss the modification and negotiate in good faith to achieve a resolution acceptable to the Parties and shall promptly seek approval of the resolution so achieved. Failure to resolve such modification to the satisfaction of either of the Parties, or to obtain approval of such resolution promptly thereafter, shall entitle any Party to terminate this Agreement through prompt notice to the other Party. (*See also* Section IV.D. below.)

If Commission Approval is not obtained, the Parties reserve all rights to take any position whatsoever regarding any fact or matter of law at issue in any future enforcement action or proceeding related to the 2021 PSPS events.

**D. Admissibility**

If this ACO is not adopted by the Commission, its terms are inadmissible for any evidentiary purpose unless their admission is agreed to by the Parties.

**E. Due Process**

SCE's waiver of its due process rights for the Commission to hear and adjudicate the alleged violations set forth in Part II of the Appendix to this ACO is conditioned on a final Commission resolution or order approving this ACO without modification, or with modifications agreeable to each of the Parties.

**IV. GENERAL PROVISIONS**

**A. Full Resolution**

Upon Commission Approval, this ACO fully and finally resolves any and all enforcement actions and disputes between SED and SCE related to the 2021 PSPS events, and provides for consideration in full settlement and discharge of all disputes, rights, enforcement actions, notices

of violations, citations, and causes of action which have, or might have been, brought by SED related to the 2021 PSPS events based on the information known, or that could have been known, to SED at the time that SED executes this ACO.

**B. Non-Precedent**

This ACO is not intended by the Parties to be precedent for any other proceeding, whether pending or instituted in the future. The Parties have assented to the terms of this ACO only for the purpose of arriving at the settlement embodied in this ACO. Each of the Parties expressly reserves its right to advocate, in other current and future proceedings, or in the event that the ACO is not adopted by the Commission, positions, principles, assumptions, arguments and methodologies which may be different than those underlying this ACO. The Parties agree and intend that, consistent with Rule 12.5 of the Commission's Rules of Practice and Procedure, a final Commission resolution approving this ACO should not be construed as a precedent or statement of policy of any kind for or against either Party in any current or future proceeding with respect to any issue addressed in this ACO.

**C. General Considerations for Settlement**

Section III.B of the Commission's Enforcement Policy states that "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[.]"<sup>5</sup> The Parties explicitly considered these factors in their confidential settlement communications. Without waiving the protections of Rule 12.6 of the Commission's Rules of Practice and Procedure, the Parties represent that they took these factors into account, and each Party considered the risks and weaknesses of their positions.

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<sup>5</sup> Resolution M-4846, Enforcement Policy at 15 (Section III.B.).

When taken as a whole, the Parties agree that the ACO amounts set forth in Section II are within the range of reasonable outcomes had this matter proceeded to formal litigation.

**D. Incorporation of Complete ACO**

The Parties have bargained in good faith to reach the ACO terms set forth herein, including in the Appendix. The Parties intend the ACO to be interpreted as a unified, integrated order and agreement, so that, consistent with Section III.C. above, if the Commission rejects or modifies any portion of this ACO or modifies the obligations placed upon SCE or SED from those that the ACO would impose, each of the Parties shall have a right to withdraw. This ACO is to be treated as a complete package and not as a collection of separate agreements on discrete issues. To accommodate the interests related to diverse issues, the Parties acknowledge that changes, concessions, or compromises by a Party in one section of this ACO resulted in changes, concessions, or compromises by the other Party in other sections. Consequently, consistent with Section III.C. above, the Parties agree to actively oppose any modification of this ACO, whether proposed by any Party or non-Party to the ACO or proposed by an Alternate Draft Resolution, unless both Parties jointly agree to support such modification.

**E. Commission Approval**

“Commission Approval” means a resolution or decision of the Commission that is (a) final and no longer subject to appeal, which approves this ACO in full; and (b) does not contain conditions or modifications unacceptable to either of the Parties.

**F. Governing Law**

This ACO shall be interpreted, governed, and construed under the laws of the State of California, including Commission decisions, orders and rulings, as if executed and to be performed wholly within the State of California.

**G. Other**

1. The representatives of the Parties signing this ACO are fully authorized to enter into this Agreement.
2. The Parties agree that no provision of this ACO shall be construed against either of the Parties because a particular party or its counsel drafted the provision.
3. This ACO constitutes the entire agreement between the Parties and, supersedes all prior or contemporaneous agreements, negotiations, representations, warranties, and understandings of the Parties with respect to the subject matter set forth herein.
4. The rights conferred and obligations imposed on either of the Parties by this ACO shall inure to the benefit of or be binding on that Party's successors in interest or assignees as if such successor or assignee was itself a party to this ACO.
5. Should any dispute arise between the Parties regarding the manner in which this ACO or any term shall be implemented, the Parties agree, prior to initiation of any other remedy, to work in good faith to resolve such differences in a manner consistent with both the express language and the intent of the Parties in entering into this ACO.
6. The Parties are prohibited from unilaterally filing a petition for modification or application for rehearing of the Commission resolution or decision approving this ACO with modification.
7. This ACO may be executed in counterparts.
8. Nothing in this ACO relieves SCE from any safety responsibilities imposed on it by law or Commission rules, orders, or decisions.
9. The provisions of Paragraph III.C. shall impose obligations on the Parties immediately upon the execution of this ACO.

**V. DISCUSSION OF PENALTY ASSESSMENT METHODOLOGY FACTORS**

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.<sup>6</sup> This ACO was the result of an arms-length negotiation between SED and SCE, which was guided by the factors set forth in the Penalty Assessment Methodology. As discussed below, consideration of those factors supports a Commission finding that the ACO is reasonable and in the public interest. The attached NOV, Appendix I to this ACO, stipulates facts which provide a record basis for the Commission's determination. SCE's NOV Response at Appendix II provides additional detail to support the reasonableness of the ACO. As listed in Section II.A above, one alleged NOV violation was dismissed and others were refined as a result of more information provided by SCE in its NOV response (Appendix II) and in settlement discussions.

Severity or Gravity of the Offense. The Commission has stated that the severity or gravity of the offense includes several considerations, including economic harm, physical harm, and harm to the regulatory process. Violations that caused actual physical harm to people or property are considered particularly severe.<sup>7</sup>

SED alleged that violations occurred over the course of twelve separate PSPS events, January 12, 2021, January 16, 2021, January 18, 2021,<sup>8</sup> April 12, 2021, June 14, 2021, September 29, 2021, October 11, 2021, October 15, 2021, October 16, 2021, October 22, 2021, November 21, 2021, and November 24, 2021. Eight events resulted in a de-energization. As a result of those violations, Parties agree that SCE will pay fines related to seven specific

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<sup>6</sup> Resolution M-4846 (Nov. 5, 2020), Enforcement Policy, Appendix I; *see* D.22-04-058 at 3–4 (affirming that consideration of the Penalty Assessment Methodology provides a basis for the Commission to determine that a negotiated settlement under the Commission's Enforcement Policy is reasonable and in the public interest).

<sup>7</sup> D.20-05-019 at 20; Enforcement Policy at 16.

<sup>8</sup> SCE reported the three events in January in a single report, as SCE considers the PSPS-related activity on January 12, 16, and 18, 2021, as one continuous PSPS event, as set forth in SCE's NOV Response.

violations: failure to provide advance notification to customers, failure to notify the Director of SED after de-energization, failure to provide de-energization and re-energization notifications to customers, inadequate service of post-event reports, failure to operate Community Resource Center during the correct times, failure to provide accurate geospatial information to public safety partners, and failure to provide a zipped geodatabase file with certain information. SCE admits to violations in each of these seven categories. There is no evidence that any physical or economic harm occurred as a result of these violations, however notification failures do have the potential to cause physical or economic harm. Of particular concern to SED was SCE's failure to provide 135,570 advanced notifications. Failure to notify customers before de-energization results in economic harm for some customers and increases safety risks to persons within the de-energized area beyond a noticed de-energization, because customers do not have time to plan for the de-energization.

Pursuant to Commission requirements and orders, electrical corporations are required to provide customers with six notifications during a PSPS event resulting in de-energization and subsequent re-energization. Due to circumstances further described in the NOV (Appendix I) and SCE's NOV Response (Appendix II), SCE customers failed to receive 232,719 PSPS notifications during the 2021 PSPS events, including 135,570 failed advance notifications and 97,149 failed notifications at de-energization or re-energization. Due to the emphasis the Commission has placed on these notification requirements, these violations resulted in financial penalties totaling \$2,327,190.00.

SCE also violated numerous reporting and notification obligations as summarized in the NOV, four of which resulted in a financial penalty. A financial penalty also attached to SCE's

failure to operate a Community Resource Center when it should have. In total, the penalties for violations other than notification failure violations total \$12,500.

SCE also had several other reporting and notification violations as summarized in the NOV. These violations did not result in any physical or economic harm. These violations also had little potential of resulting in physical or economic harm. As such, these violations resulted in no penalty.

The Conduct of the Utility. In evaluating the conduct of the utility, the Commission considers the utility's conduct in preventing the violation, detecting the violation, and disclosing and rectifying the violation.<sup>9</sup>

SCE attributed the majority of missed notifications to manual operational and notification processes, accuracy and granularity of its weather and fuel modeling capabilities at the time, and the difference in forecasted and actual weather conditions. SCE states that the issues that SCE experienced in 2021 regarding missed notifications have largely been resolved through process changes, further enhancement of its automated systems and expanded use of machine learning models. In response to SED's NOV, SCE responded with more information and context of its violation both in SCE's NOV Response and in good faith negotiations of the ACO. As a result of this information, SED dismissed one violation. As a result of the Parties' discussion and compromises made, SCE agrees to the penalty amounts in the ACO. SCE was forthcoming during the discovery process and negotiated in good faith.

Financial Resources of the Utility. The Commission has described this criterion as follows:

Effective deterrence also requires that staff recognize the financial resources of the regulated entity in setting a penalty that balances the need

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<sup>9</sup> Enforcement Policy at 17.

for deterrence with the constitutional limitations on excessive penalties . . . . If appropriate, penalty levels will be adjusted to achieve the objective of deterrence, without becoming excessive, based on each regulated entity's financial resources.<sup>10</sup>

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.

Totality of Circumstances in Furtherance of Public Interest. The Commission has described this criterion as follows:

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.<sup>11</sup>

The Commission must evaluate penalties in the totality of the circumstances, with an emphasis on protecting the public interest. The ACO Amounts described above were tailored to the unique facts of the case and are reasonable. SCE was also fined for PSPS violations in 2020 for \$7,000,000.<sup>12</sup>

Furthermore, with an appropriate resolution having been reached, it is in the public interest to resolve this proceeding now. The ACO obviates the need for SED to initiate an enforcement proceeding and for the Commission to adjudicate the disputed facts, alleged

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<sup>10</sup> Enforcement Policy at 17.

<sup>11</sup> Enforcement Policy at 19.

<sup>12</sup> Resolution ALJ-440, issued June 8, 2023.



violations, and appropriate penalty. Approval of the ACO promotes administrative efficiency so that the Commission and parties are not required to spend substantial time and resources on continued litigation for a matter that has been satisfactorily resolved.

The Role of Precedent. The Commission has described this criterion as follows:

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.<sup>13</sup>

While not binding precedent, prior settlements are useful for comparison, with the acknowledgment that settlements involve compromise positions. SED considered the following settlements in evaluating this incident and the ACO:

- In 2021, San Diego Gas and Electric (SDG&E) initiated two PSPS events. During the two events, SDG&E failed to provide notifications to 6,983 customers. SED and SDG&E settled on an ACO agreeing that SDG&E violated the PSPS notification requirements under Commission Decision (D.) 19-05-042 and assessed a fine of \$70,830. Commission approved the settlement in Resolution SED-9.
- In 2021, PacifiCorp initiated one PSPS event. During this event, PacifiCorp failed to notify 1,753 customers. SED and SDG&E settled on an ACO agreeing that PacifiCorp violated the PSPS notification requirements under D.19-05-042 and assessed a fine of \$18,030. Commission approved the settlement in Resolution SED-10.
- 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 an 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 AEO and the Commission approved the settlement in Resolution M-4863.
- In 2020, PacifiCorp initiated two PSPS events. While SED did find PacifiCorp violated some PSPS guidelines, they opted not to assess a penalty because PacifiCorp successfully notified customers at de-energization and re-energization as required by the Commission's decisions. SED opted to impose eight corrective

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<sup>13</sup> Enforcement Policy at 21.

actions on PacifiCorp to ensure future compliance with the Commission's PSPS rules. The Commission approved the settlement in Resolution M-4862.

- In 2020, Pacific Gas and Electric (PG&E) initiated seven PSPS events. SED found that PG&E failed to provide any customer notifications during de-energization. SED issued an AEO alleging PG&E violated the PSPS notification requirements under Commission decision D.19-05-042 and assessed a fine of \$12,000,000. SED also included six corrective actions to ensure future compliance with the Commission's PSPS rules. PG&E challenged the AEO. SED and PG&E settled the matter with an \$8 million fine. The amount was split up between a \$500,000 penalty to the General Fund and \$7,500,000 for the Independent Safety Monitor between 2023 and 2026. PG&E also had to comply with the eight corrective actions. The Commission approved the settlement in Resolution ALJ-445.
- 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 an 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 challenged the AEO. SED and SCE settled the dispute with a \$7 million fine. The amount was split up between a \$500,000 shareholder-funder 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 the Wildfire Mitigation Plan Memorandum Account. SCE also had to comply with the fourteen corrective actions. The Commission approved the settlement in Resolution ALJ-440.

The prior settlements reflect outcomes that included a mix of penalties, shareholder funding of programs, and/or remedial action plans. The Parties believe that the ACO results in a reasonable outcome considering these precedents and the criteria discussed in this section.

The Parties mutually believe that, based on the terms and conditions stated above, this ACO is reasonable, consistent with the law, and in the public interest.

**IT IS HEREBY AGREED.**

[Signatures immediately follow this page]

9/27/2024

DATED: \_\_\_\_\_, 2024

Southern California Edison Company

DocuSigned by:  
*Jennifer Hasbrouck*  
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By:

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Jennifer Hasbrouck  
Senior Vice President & General Counsel  
Southern California Edison

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10/2/2024

DATED: \_\_\_\_\_, 2024

Safety and Enforcement Division  
California Public Utilities Commission

DocuSigned by:  
*Leslie Palmer*  
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By: \_\_\_\_\_

Leslie L. Palmer  
Director, Safety and Enforcement Division  
California Public Utilities Commission

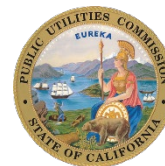
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# APPENDIX I

## SAFETY AND ENFORCEMENT DIVISION NOTICE OF VIOLATION

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



April 7, 2023

Tara Kaushik  
Managing Director, Regulatory Relations  
Southern California Edison (SCE)  
2244 Walnut Grove Avenue  
Rosemead, CA 91770

**SUBJECT:** Notice of Violation Southern California Edison 2021 Public Safety Power Shutoff Events

Dear Ms. Kaushik:

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 2021 Public Safety Power Shutoff (PSPS) events. SCE initiated a total of twelve PSPS events in 2021.<sup>1</sup> The information used in our evaluation is from the compliance event reports and the Corrections 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 the Post Event Report Template. We also considered stakeholders' comments in our evaluation.

### **Customer Notification Violations**

Over the course of our evaluation, WSEB found numerous instances where SCE failed to notify customers 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 twelve 2021 PSPS de-energization events, 42,225 customers were not notified before de-energization, 32,634 customers were not notified before re-energization, and 22,290 were not notified when re-energization was complete.

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<sup>1</sup> As mentioned below, ten Post Event PSPS reports were submitted for twelve PSPS events. Only one report was submitted for the three PSPS events in January 2021.

**Table 1**

<b>Event</b>	<b>Initiation</b>	<b>Before Re-energization</b>	<b>Re-energization Complete</b>	<b>Total</b>
Jan. 12-21 <sup>2</sup>	39,997	29,440	18,527	87,964
Oct. 15-16	N/A	21	n/A	21
Nov. 24-26	2,228	3,173	3,763	9,164
Total	42,225	32,634	22,290	97,149

**Resolution ESRB-8 Violations**

*Notification to SED Director*

WSEB found that SCE violated several PSPS requirements under Resolution ESRB-8, requiring the utility to notify the Director of SED no later than 12 hours after the power shut-off (3). For the October 11-12 event, SCE notified the Director 17 hours after the power shut-off. For the January 12-21, April 12-13, and September 29-30 events, SCE did not include the estimated restoration time. For the November 24-26 event, SCE notified the Director of SED that power had fully been restored when the power had not, in fact, been restored.

*Post Event Report*

Additionally, ESRB-8 requires the utilities to submit a report (Post Event Report) within ten business days after a de-energization event (5). For the events on January 12-21, SCE initiated de-energization three times. Those events concluded on January 15, January 17, and January 21. SCE submitted one report combining each of the three PSPS events on February 4.

**Table 2**

<b>Period of Concern</b>	<b>Event Concluded</b>	<b>Report Due Dates</b>	<b>SCE's Filing Dates</b>	<b>Days Overdue</b>
Jan. 12 – Jan. 15	Jan. 15	Jan. 29	Feb. 4	6 days
Jan. 16 – Jan. 17	Jan. 17	Jan. 29	Feb. 4	6 days
Jan. 18 – Jan. 21	Jan. 21	Feb. 4	Feb. 4	0

<sup>2</sup> The combined January 12-21 event report did not include a breakdown of the three types of notifications required in D.19-06-042. Until this reporting error is clarified, WSEB must assume these notifications were not made.

As part of the report, the utility must provide the “time, place, and duration of the shut-off event” (3). For the January 12-21 report, SCE provided inconsistent information about where the de-energization occurred. In the report’s Attachment A, it appears that Ventura and San Diego Counties were de-energized, while the report omits these two counties.

The report must also include the “number of affected customers, broken down by residential, medical baseline, commercial/industrial, and other” and provide “the local communities’ representatives the IOU contacted” along with the tier classification (3). SCE failed to do so for the January 12-21 and April 12-13 events and did not provide the tier classification for the June 14 event.

For the October 16-18 event, SCE did not report the number of complaints and claims separately, as required by ESRB-8 (5). Rather, they lumped complaints and claims together.

### **Violations of D.19-05-042**

#### *Post Event Report*

In addition to the violations listed above, SCE violated several Post Event Report requirements of D.19-05-042. D.19-05-042 requires the Post Event Report to also be served on the service list of R. 18-12-005 and R.18-10-007 within ten days of the power restoration, along with a link to the report on the utility’s website (Appendix A at A22). As mentioned above, SCE incorrectly consolidated the reports for the three power shut-offs in January, which means two were late. Additionally, for the January 12-21, April 13, and June 14 reports, the service link did not link to the utility’s post event report rather, only the SCE’s wildfire page.

The Decision instructs the utilities to include in the report the decision criteria leading to de-energization including an evaluation of alternatives to de-energization that were considered. The Decision also requires the utilities to clearly articulate thresholds for strong wind events as well as conditions that define “an extreme fire hazard.” SCE did not establish the threshold criteria for the January 12-21 or April 12-13 reports. In addition, SCE did not describe nor evaluate the alternatives to de-energization for the events of January 12-21, April 12-13, June 14 , or October 22.

The decision requires the utility to evaluate the engagement with local and state public safety partners (A22-A23). SCE only described the engagement but did not evaluate it



for several occasions including January 12-21, April 13, June 14 and September 29-30 events. For the January 12-21 event, SCE did not provide the number of critical care customers notification attempts made, nor track medical baseline customers for positive notifications (A22-23).

*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 (A8). SCE failed to meet the advance notification requirements as described below:

**Table 3**

<b>Event</b>	<b>Notification Failure</b>	<b>Entity/Customer Accounts</b>	<b>SCE's Explanation</b>
Jan. 12 – 21	1 – 4 hours	Not reported. Total of 106,160 customers were de-energized.	Either because actual onset of weather varies drastically from the forecasted weather, or because the Incident Commander believed the need to de-energize quickly to maintain public safety took priority over the need to provide imminent notification and the communications team was not advised of de-energization until after the fact.
	No advance notification at all	4,819	Not originally forecasted to be in scope.
April 13	48 – 72 hours	Not reported. Total of 78 customers were de-energized	No explanation provided.
	1 – 4 hours	Not reported. Total of 78 customers were de-energized.	No explanation provided.

<b>Event</b>	<b>Notification Failure</b>	<b>Entity/Customer Accounts</b>	<b>SCE's Explanation</b>
June 14	48 – 72 hours	Not reported. No customers were de-energized in this event.	Winds were not forecasted to exceed threshold in those notification timeframes.
Sep. 29 – 30	48 – 72 hours	44	In-house weather models were consistently forecasting wind speeds below PSPS threshold criteria.
	24 – 48 hours	6	No explanation provided.
	1 – 4 hours	44	35: In-house weather models were consistently forecasting wind speeds below PSPS threshold criteria 9: No explanation provided.
	No advance notification at all	4	No explanation provided.
Oct. 11 – 12	48 – 72 hours	4	Not forecasted in scope by 48 hours before de-energization.
	24 – 48 hours	5	Not forecasted in scope by 24 hours before de-energization.
	1 – 4 hours	43	Escalating weather conditions.
	No advance notification at all	18	No explanation provided.
Oct. 15 – 16	48 – 72 hours	5	Not forecasted in scope by 48 hours before de-energization.
	24 – 48 hours	27	No explanation provided.
	1 – 4 hours	67	40: Escalating weather conditions. 27: No explanation provided.
	No advance notification at all	43	No explanation provided.
Oct. 16 – 18 <sup>3</sup>	48 – 72 hours	Not reported. No customers were de-energized during this event	Onset weather conditions.

<sup>3</sup> SCE did not report any notification failure for Oct. 16 -18 event. The notification failure in Table 3 is inferred by SED from SCE's reported timeline.

<b>Event</b>	<b>Notification Failure</b>	<b>Entity/Customer Accounts</b>	<b>SCE's Explanation</b>
	24 – 48 hours	Not reported. No customers were de-energized during this event	Onset weather conditions.
Oct. 22	48 – 72 hours	8	Not forecasted in scope by 48 hours before de-energization.
	24 – 48 hours	107	Not forecasted in scope by 24 hours before de-energization.
	1 – 4 hours	115	Rapidly escalating weather conditions.
	No advance notification at all	15	No explanation provided.
Nov. 21 – 22	48 – 72 hours	7	Not forecasted in scope by 48 hours before de-energization.
	24 – 48 hours	2,685	Not forecasted in scope by 24 hours before de-energization
	1 – 4 hours	4,365	Rapidly escalating weather conditions
	No advance notification at all	1,004	1: Miscommunication between operations and notifications teams. 1,003: No explanation provided.
Nov. 24 – 26	48- 72 hours	512	Not forecasted in scope by 48 hours before de-energization.
	24 – 48 hours	55,608	Not forecasted in scope as of 24 hours before de-energization; in some limited cases, not sent due to internal missed communication.
	1 – 4 hours	63,613	Rapidly escalating weather conditions and in some cases, possibly a temporary e-mail server outage, in some limited cases, not sent due to internal missed communication.
	No advance notification at all	29,780	Rapidly escalating weather conditions and in some cases, possibly a temporary e-mail server

Event	Notification Failure	Entity/Customer Accounts	SCE's Explanation
			outage, in some limited cases, not sent due to internal missed communication.

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.

**Violations of D.20-05-051**

*Post Event Report*

Added to the Post Event Report requirements above, D.20-05-051 requires utilities to “enumerate and explain the cause of any false communication...by citing the sources of changing data” (Appendix A at 4). For the following events, SCE sent event cancellation notifications to more customers than it sent the de-energization notifications. SCE did not accurately enumerate one or both of the two-notification metrics.

**Table 4**

Event	Total Customers Notified	Total Customers Cancelled	Corrections Page #
Oct. 11 – 12	12,033	13,426	P11
Oct. 15 – 16	3,478	3,727	P14
Oct. 22	601	632	P20

For the September 29-30 event, SCE did not explain why one public safety partner was not notified. For the October 11-12 event, SCE did not explain why SCE incorrectly notified customers and local governments on one circuit that their power was restored when, in fact, only a portion of the circuit had been restored.

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 January 12-21 events, SCE did not operate to the specified hours for some CRCs or give an explanation in the Post Event Report. For the April 13 event, SCE reported operating a CRC outside the

hours of de-energization without explanation. SCE also did not operate a CRC during the times required for the events on October 15.

Last, Appendix A (h) requires the Post Event Report to include “a thorough and detailed description of the quantitative and qualitative factors it considered in calling, sustaining, or curtailing each de-energization event.” SCE failed to include this description for the January 12-21 event, the April 13 event, or the June 14-15 event.

### **Violation of D. 21-06-014**

#### *Post Event Report*

D.21-06-014 places additional requirements in the Post Event Report. For the June 14 event, SCE failed to “identify and quantify customer, resident, and the general public risks and harms from de-energization” and clearly explain risk models and risk assessment processes (284).

SCE failed to provide any explanation for its notification failures in the September 29-30, October 11-12, October 15-16, October 22, and November 21-22 Post Event Reports (286), and did not provide any way to correct the failures for the June 14 and October 16-18 events.

SCE provided inaccurate public safety partner geospatial information due to the tabular format data not matching the graphic format for the Post Event Reports on the September 29-30, October 11-12, October 15-16, October 16-18, October 22, November 21-22, and November 24-26 events (289).

For the Post Event Reports submitted for the events on June 14, September 29-30, October 11-12, October 15-16, and October 16-18, SCE failed to report whether a different form of communication was preferred by any entity invited to the utility’s Emergency Operations Center (289).

In none of the Post Event Reports submitted did SCE present a threshold examination description for the de-energization (305-306).

**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 (Appendix A at A11).

**Table 5**

<b>Event</b>	<b>Cancellation Notice</b>	<b>Counts</b>	<b>Explanation</b>
Oct. 11 – 12	Critical facilities	127	Not provided
	Customers	32	Not provided
Oct. 15 – 16	Critical facilities	4	Not provided
	Customers	11	Not provided
Nov. 21	Critical facilities	486	Not provided
	Customers	10,086	Miscommunication between operations/notifications teams.
Nov. 24	Critical facilities	797	Internal missed communication
	Customers	44,174	Internal missed communication

**Reporting Template Violations**

Additional reporting requirements are also included in the reporting template for the Post Event Report. For the October 22 event, SCE did not include a zipped geodatabase file that includes PSPS event polygons of de-energized areas or event damage and hazard points (4-6). For the October 22 event, November 21-22 event, and November 24-26 event, SCE did not report the positive notifications to MBL customers behind the meters. For the October 22 event, SCE did not report the number of positive notifications made to Self-Certified Vulnerable customer.

Please advise me no later than May 7, 2023, 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

Tara Kaushik  
Southern California Edison (SCE)  
April 7, 2023  
Page 10

any questions, you can contact Cindy Chen at (415) 660-8312 or email [Cindy.Chen@cpuc.ca.gov](mailto: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  
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## APPENDIX II

# SOUTHERN CALIFORNIA EDISON RESPONSE TO NOTICE OF VIOLATION





**Tara Kaushik**  
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May 5, 2023

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 2021 Public Safety Power Shutoff Events**

Dear Mr. DeMayo:

I'm writing to provide a response to the Notice of Violation (NOV) that the Safety Enforcement Division (SED) issued on April 7, 2023 to Southern California Edison (SCE) concerning SCE's 2021 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 2021 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 is 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 acknowledges most of the alleged violations and has already implemented, or is in the process of implementing, process improvements to address them. Overall, the 2021 PSPS season was very challenging, with extreme

weather necessitating eight de-energization events and two high-threat events that came close to necessitating de-energization. Additionally, in 2021 SCE expanded the use of sectionalization during events and strived to provide in-event customer notifications at the more granular circuit segment level. This was part of SCE's strategy to minimize customer de-energizations and reduce over-notifications. This effort, while successful, added complexity to the notification process by necessitating the development of custom notification campaigns for multiple circuit segments per individual circuit, each affected by dynamic weather conditions in real-time.

In addition to that complexity, SCE had to manage these events manually without automation, which led to notification delays and inadvertent errors in its post-event reporting. These challenges were compounded by new PSPS notification, reporting and other requirements adopted by the Commission in June 2021 (specifically in PSPS decisions D.21-06-014 and D.21-06-034) and again modified in mid-October of 2021 (via email ruling issuing SED's new post-event report template). The issuance of the reporting template coincided with back-to-back PSPS events. Although SCE made a concerted effort in 2021 to overhaul its post-event reporting and other processes to conform to the new Commission requirements, SCE was not able to immediately implement some of the more substantive ones such as sending cancellation notices within a 2-hour timeframe, providing a detailed breakdown of missed notifications in post-event reports, or incorporating more granular reporting on "AFN other than MBL" customers.

Recognizing these challenges, SCE undertook major company-wide efforts beginning in 2021 to improve its PSPS program. These included system enhancements, automation, reporting process improvements, and new customer support programs and services. Many of these efforts were part of SCE's 2021 PSPS Corrective Action Plan (Action Plan) outlining corrective actions to meet five core objectives: 1) reduce the need for PSPS, 2) execute PSPS events more effectively with transparency into the decision-making process, 3) mitigate the impacts of PSPS events, 4) keep partners and customers clearly and consistently informed, and 5) enhance and improve post-event reporting. Throughout 2021 and 2022, SCE regularly met with SED staff to provide updates on the implementation of the Action Plan and actively seek feedback on SCE's performance. On June 16, 2022, SCE advised the Director of SED that it had completed 131 out of 132 corrective actions identified in its Action Plan and requested formal closure of the Plan.<sup>1</sup>

Although SCE began working on a number of these improvement projects in 2021, many were not yet in place during the 2021 fire season. These projects have since remediated, or are expected to remediate many of the issues identified in the NOV. As explained in more detail below, SCE has since successfully remediated 15 out of 26 alleged violations in the NOV. SCE further expects that

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<sup>1</sup> See June 16, 2022 Letter from Tara Kaushik to Director Lee Palmer, confirming substantial completion of the Action Plan and noting that completion of the sole remaining action (development of a behind-the-meter microgrid for a school district in Fontana) has been delayed indefinitely due to circumstances beyond SCE's control.

it will remediate another two alleged violations through additional process improvements currently underway and expected to be completed either this year or at the latest before the 2024 fire season. SCE would like the opportunity to discuss four alleged violations (e.g., evaluation of public safety partner engagement) with SED staff to get further guidance and to align on expectations for compliance with the requirements at issue. SCE respectfully disagrees with the remaining five alleged violations for reasons noted herein.

Again, SCE appreciates SED's review of the 2021 PSPS reports, and the collaborative approach taken during the implementation of SCE's Action Plan. As discussed further in this response, there is a degree of complexity to SCE's PSPS operations, such that perfect notification performance may never be achievable. However, SCE remains committed to further improving its PSPS program and looks forward to continued partnership with SED to reduce impacts of PSPS on the customers and communities we serve.

### **Alleged Violations Already Remediated**

This section describes alleged violations identified in the NOV that were already remediated during the 2022 PSPS season. The 2021 alleged violations were mostly attributable to challenges associated with adapting SCE's post-event reporting to new requirements issued in June 2021, as well as the new reporting template issued in October 2021 while actively managing PSPS events. SCE has since improved its quality control process for its post-event reporting, as well as implemented data enhancements through its Centralized Data Platform (CDP) discussed further in the next section. Throughout the 2021 PSPS season, SCE also took steps to improve its post-event reporting through its Action Plan, including consulting with Commission staff and other stakeholders on template improvements.<sup>2</sup>

#### *1. Identify and quantify customer, resident, and general public risks and harms from de-energization (June 14)*

The NOV states: "D.21-06-014 places additional requirements in the Post Event Report. For the June 14 event, SCE failed to 'identify and quantify customer, resident, and the general public risks and harms from de-energization' and clearly explain risk models and risk assessment processes."<sup>3</sup>

D.21-06-014 was issued on June 7, 2021, just prior to SCE's June 14 high-threat event. As noted above, new or clarified substantive Commission requirements take some time to implement, and it was particularly challenging for SCE to pivot to new processes while concurrently managing PSPS activations. Following the issuance of D.21-06-014, SCE developed a quantitative In-Event Risk

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<sup>2</sup> See SCE's Corrective Action Plan, Corrective Action 5, pp. 59-60.

<sup>3</sup> NOV, p. 8.

Comparison Tool (Tool).<sup>4</sup> Starting with its September 2021 PSPS event, SCE utilized the Tool to quantify and weigh the potential harm of PSPS and include the results in its PSPS post-event reports.<sup>5</sup> The Tool provides an event-based quantitative comparison of risk scores to inform de-energization decision making. SCE calculates risk scores from this Tool – one for PSPS risks and one score for wildfire risks. These risk scores are compared to each other by dividing the wildfire risk score (i.e., the potential benefit of PSPS) by the PSPS risk score (i.e., the potential public harm of PSPS), yielding a benefit/risk ratio for each circuit in scope of the PSPS event. The PSPS risk and the benefit of de-energization (wildfire risk) are modeled independently and provided to incident commanders during PSPS activations. The Tool is used to validate SCE’s decision-making for de-energization during an IMT activation.

2. *Missing descriptions including counties, alternatives evaluated, notification failures, deviations from CRC operating hours, Public Safety Partner notifications, power restoration, and qualitative and quantitative factors considered*

The NOV alleges that various post-event reports were missing descriptions, such as the omission of counties (when the attachment included the counties),<sup>6</sup> description and evaluation of alternatives,<sup>7</sup> explanation and correction of notification failures,<sup>8</sup> description of operation of community resource centers (CRCs) outside of normal operating hours,<sup>9</sup> description of why one PSP was not notified, a description of an incorrect power restoration notification,<sup>10</sup> and a description of the qualitative and quantitative factors considered in calling, sustaining, or curtailing each de-energization event.<sup>11</sup>

SCE acknowledges some inadvertent omissions from its post-event reports. SCE began implementing a more robust post-event reporting process, including enhanced quality control, in the fall of 2021, which was in place for the 2022 PSPS season. SCE also began including descriptions of the qualitative and quantitative factors considered in calling, sustaining, or curtailing de-energization events beginning with its September 2021 event, following the issuance of the SED template.

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<sup>4</sup> Prior to September 2021, SCE performed a more qualitative assessment of the risks and benefits of PSPS, as noted in its June 14, 2021 post-event report, considering many factors including potential impacts on public safety partners and customers in de-energized areas. See, e.g., June 14, 2022 Post-Event Report, p. 3.

<sup>5</sup> See Section 2. Decision-Making Process in SCE’s post-event reports starting with the September 30, 2021 post-event report.

<sup>6</sup> NOV, p. 3.

<sup>7</sup> *Id.*

<sup>8</sup> NOV, p. 8.

<sup>9</sup> NOV, pp. 7-8.

<sup>10</sup> NOV, p. 7.

<sup>11</sup> NOV, p. 8

3. *Omitting notification data on Critical Care customers, MBL customers (Jan 2021) and self-certified customers (October 22)*

The NOV alleges that “[f]or the January 12-21 event, SCE did not provide the number of critical care customers notification attempts made, nor track medical baseline customers for positive notifications.”<sup>12</sup> SCE notes for clarification, critical care customers are a subset of SCE’s MBL customers—there is no separate “critical care” tariff. In addition, the NOV states that “[f]or the October 22 event, SCE did not report the number of positive notifications made to Self-Certified Vulnerable customers.”<sup>13</sup>

SCE acknowledges the inadvertent omission of MBL customer positive notification information prior to October 2021. SCE began providing this information in its post-event reporting after SED issued a standardized reporting template in October 2021 that included a “Positive Notification” table and continued to provide the data in 2022. Also, SCE is not aware of a Commission requirement, or requirement in the SED post-event report template, for notifications to critical care customers to be reported separately from MBL customers. Pursuant to Commission decisions and SED’s template, IOUs are to report on “those customers where positive or affirmative notification was attempted” including information regarding “which tariff and/or AFN population designation).”<sup>14</sup> As of 2022, SCE accounts in its post-event reports for notifications to the following categories of AFN customers: MBL and self-certified sensitive.

SCE also made attempts to affirmatively notify self-certified vulnerable customers, but did not yet have the capability to reliably track and report this information. SCE later developed this capability and started providing the data on self-certified customers beginning with its November 21, 2021 post-event report.

4. *Missing GIS information (October 2022)*

The NOV states that “[f]or the October 22 event, SCE did not include a zipped geodatabase file that includes PSPS event polygons of de-energized areas or event damage and hazard points.”<sup>15</sup>

For clarification, SCE uploaded the zipped geodatabase late, on January 24, 2022 to [on.sce.com/PSPSpsteventreports](https://on.sce.com/PSPSpsteventreports). Subsequently, SCE developed additional quality control steps in the process to help ensure the zipped geodatabase is uploaded on time.

5. *Missing information on communication method preferred by any entity invited to the utility’s EOC*

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<sup>12</sup> NOV, p. 4.

<sup>13</sup> NOV, p. 9.

<sup>14</sup> D.19-05-042, pp. 107-108.

<sup>15</sup> NOV, p. 9.

The NOV states that “[f]or the Post Event Reports submitted for the events on June 14, September 29-30, October 11-12, October 15-16, and October 16-18, SCE failed to report whether a different form of communication was preferred by any entity invited to the utility’s Emergency Operations Center.”<sup>16</sup>

SCE remediated this issue halfway through the 2021 PSPS season. Starting with the October 22, 2021 PSPS event, SCE included information in its post-event reports on whether a different form of communication was preferred by any entity invited to its emergency operation center.

*6. Missing service links*

The NOV states that “for the January 12-21, April 13, and June 14 reports, the service link did not link to the utility’s post event report rather, only the SCE’s wildfire page.”<sup>17</sup>

SCE acknowledges there were some inadvertent anomalies with historical links to its publicly available post-event reports. In early 2022, SCE modified its links to make PSPS compliance reporting more easily accessible on its website. On January 31, 2022, SCE notified the service lists of R.18-12-005 and R.18-10-007, that SCE’s PSPS post-event reports can be viewed and downloaded at [on.sce.com/PSPSpостeventreports](https://on.sce.com/PSPSpостeventreports). Since that time, SCE has included this link in its service emails for PSPS post-event reports.

*7. SCE reported more cancellation notifications than de-energization notifications sent for certain 2021 events without an explanation for the false communication (October 11, October 15, October 22)*

The NOV alleges that SCE sent event cancellation notifications to more customers than it sent the de-energization notifications for PSPS events on October 11-12, October 15-16, and October 22 events, but had not explained the cause of the false communications.<sup>18</sup>

SCE acknowledges this error, and subsequently took steps to resolve it through CDP automation and by developing data definitions around collection of this data. This was fully implemented in April 2022, and the corrected data definitions for the Cancelled and Notified metrics were utilized to collect and report the data in SCE’s 2022 post-event reports.<sup>19</sup> In addition, beginning in 2022 SCE has consistently explained cancellation notices in the “false communication” section of its post-event reports.<sup>20</sup>

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<sup>16</sup> NOV, p. 8.

<sup>17</sup> NOV, p. 3.

<sup>18</sup> NOV, p. 7.

<sup>19</sup> See, e.g., SCE Post-Event Report for November 24, 2022 PSPS Event, p. 5, n.6.

<sup>20</sup> See, e.g., *id.* p. 29, Section 7 (False Communications) (“6 customers in scope but not de-energized were sent cancellation notices even though they had not been sent any pre-event notices . . .”).

8. *Combined complaints and claims data (October 16-18)*

The NOV alleges that “SCE did not report the number of complaints and claims separately, as required by ESRB-8.”<sup>21</sup>

SCE does not combine complaints and claims in its post-event reports (claims are reported in a separate table); however, there appears to be an inadvertent error in the narrative for the October 16, 2021 high-threat post-event report. Consistent with “Table 8: Count and Nature of Complaints Received” provided in this post-event report, SCE received 6 complaints associated with this high-threat event. SCE received no claims associated with this high-threat event. SCE acknowledges the inconsistency in the narrative and table and, as of the 2022 PSPS season, has developed a more robust internal review process for its post-event reports, including for the Complaints and Claims section, to mitigate any similar inconsistencies in future. SCE also began enhancing its PSPS complaint tracking capabilities in the third quarter of 2021 in response to the Commission’s directive in D.21-06-014 that IOUs “should establish an internal tracking process for [PSPS] complaints” and “collaborate with SED” in developing the complaint tracking system.<sup>22</sup> In 2021, the IOUs jointly developed a proposed table for reporting PSPS complaints in post-event reports, submitted the proposal to SED for review and approval, and finalized the table based on SED’s feedback. Subsequently, in 2021 SCE devised a manual process for capturing and reporting complaints. Concurrently with that effort, in 2022 SCE worked towards partially automating the complaints process and continues to make further enhancements towards additional automation.

**Remediation Efforts Currently in Progress**

This section describes the alleged violations identified in the NOV that SCE is in the process of remediating as part of ongoing performance improvement efforts. In particular, these performance improvement efforts are focused on providing timely notifications at the beginning of a de-energization event, when re-energization begins, and when re-energization is complete, and including estimated restoration time in notifications to customers, public safety partners and the SED director. SCE began to address shortcomings in its PSPS notification performance through the Action Plan, including accelerating its efforts to improve weather forecasting, implementing short term improvements to better integrate the notification process with PSPS operations, and designing the CDP to automate the notification process in the long-term.<sup>23</sup>

1. *Notifications “at the beginning of a de-energization event, when re-energization begins and when re-energization is complete” and “cancellation notices”*

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<sup>21</sup> NOV, p. 3.

<sup>22</sup> D.21-06-024, p. 282, OP 75. SCE also address complaint tracking through its Action Plan. See SCE’s Corrective Action Plan, Corrective Action 5.A, p. 59.

<sup>23</sup> See SCE’s Corrective Action Plan, Corrective Action 2.B, pp. 16-17, and 2.C.1, pp. 17-19.

The NOV states, "...we found that between the twelve 2021 PSPS de-energization events, 42,225 customers were not notified before de-energization, 32,634 customers were not notified before re-energization, and 22,290 were not notified when re-energization was complete."<sup>24</sup>

SCE strives to provide these notifications to its customers affected by PSPS events, but operational challenges in 2021 associated with managing PSPS events with largely manual processes affected SCE's ability to provide these notifications to customers. SCE began developing the CDP in 2021 to automate PSPS scoping and initial weather forecasting, customer notifications, and ultimately data capture processing to support post-event reporting. The CDP was utilized for the first time during the 2022 PSPS season and helped streamline the process of issuing pre-event notifications to customers on circuits forecasted to be in scope for potential de-energizations.<sup>25</sup> SCE continues to enhance existing capabilities deployed through CDP to improve the timing and accuracy of its notifications. SCE is also planning future enhancements to its situational awareness capabilities and weather forecasting models, which are expected to further reduce potential missed or delayed notifications.

The sudden onset of unexpected extreme weather conditions that escalated fire risk was another challenge that affected SCE's ability to provide notifications before de-energization. In some cases, extreme, unexpected weather events can necessitate de-energization before SCE can send notifications to affected customers, even with the automated processes implemented after the 2021 PSPS season. To remedy this, 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.<sup>26</sup> However, it is not scientifically possible at this time to precisely 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. Even though SCE runs multiple sophisticated weather models,<sup>27</sup> no forecast is perfect due to limitations in the science of weather prediction. These limitations are not specific to SCE, as weather is subject to unpredictable and sudden changes, and it is not always possible to stay ahead of all those changes and identify in advance every potentially impacted circuit. That said, SCE will continue its efforts to enhance its weather modeling, as discussed, and expects its notification performance to improve accordingly.

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<sup>24</sup> NOV, p. 1.

<sup>25</sup> With the new, more automated notification system, in 2022 SCE was able to reach nearly all (99%) of customers on circuits that were forecasted to be in scope for de-energization at 24-48 hours and 1-4 hours before anticipated start of the period of concern. However, SCE was unable to notify in advance a significant number of impacted customers during the November 19, 2022 PSPS event due to sudden onset of dangerous weather conditions in the vicinity of circuits that had not been forecasted in scope.

<sup>26</sup> See SCE's 2023-2025 WMP, pp. 499-518.

<sup>27</sup> SCE uses state-of-the-art modelling technology calibrated to realized weather conditions and terrain in its service territory. SCE's modeling suite includes 18 high-resolution dynamic weather models downscaled to 1- or 2-km resolution using multiple initial sources to account for forecast uncertainties. Additionally, SCE relies on machine learning models to continuously improve forecast accuracy.



Regarding cancellation notices, the requirement to send such notices arises from D.21-06-034, which was issued on June 24, 2021. Notably, that Decision directs the IOUs to “make every attempt” to notify all affected entities of a de-energization event within two hours of the decision to cancel, but clarifies that this is “not a strict requirement.”<sup>28</sup> The Decision “acknowledge[d] the sequencing of communications . . . may make it impractical to provide notification of a cancellation within two hours of the decision. . . .”<sup>29</sup> Thus, while missing a cancellation notification is not a *per se* violation of the Decision, during the latter half of 2021, SCE worked diligently to update its notification and reporting processes to meet the Commission’s cancellation notice directive. The new process for sending cancellation notices did not function smoothly during the noted events in 2021 due to the lack of automation. SCE has since refined these processes and timely sent cancellation notices to over 96% of customers subject to cancelled PSPS events in 2022.

## 2. *Inconsistent GIS information (October 2022)*

The NOV states that “SCE provided inaccurate public safety partner geospatial information due to the tabular format data not matching the graphic format for the Post Event Reports on the September 29-30, October 11-12, October 15-16, October 16-18, October 22, November 21-22, and November 24-26 events...”<sup>30</sup>

SCE noted in its PSPS Post Event reports (available at [on.sce.com/PSPSposteventreports](https://on.sce.com/PSPSposteventreports)) that it is aware that the Portal tabular format data does not match the graphical format due to a system limitation, and is working to correct this issue.<sup>31</sup> SCE will aim to put a process in place to match the PSP geospatial information in both Portal and Post Event reports by the 2024 Fire Season.

### **Alleged Violations SCE Seeks to Clarify/Discuss with SED**

In this section, SCE respectfully requests further dialogue with SED to clarify certain alleged violations identified in the NOV and associated PSPS decision requirements. As explained below, SCE endeavored in 2021 to comply with these reporting and notification requirements as it understood them. Based on the NOV, SED found insufficient SCE’s (i) threshold examination in post-event reports, (ii) evaluation of engagement with public safety partners in post-event reports, and (iii) notice content related to estimated restoration time. SCE would like to meet with SED to align on the interpretation of these requirements and clarify expectations for implementation in order to ensure future compliance.

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<sup>28</sup> See D.21-06-034, p. 128.

<sup>29</sup> *Id.*

<sup>30</sup> NOV, p. 8.

<sup>31</sup> See, e.g., SCE’s November 24, 2021 Post Event Report, where SCE noted “[b]efore and during the PSPS event, SCE provided public safety partners with accurate and timely geospatial information and near real-time updates to GIS shapefiles via the SCE Representational State Transfer Service (REST) and on the Public Safety Partner Portal (Portal). SCE is aware of and working to resolve a limitation the Portal has in which tabular format data does not match the graphical format.” p. 31.

*1. Threshold Examination Description in Post-Event Reports*

The NOV states that SCE allegedly violated D.21-06-014 because it did not present a threshold examination description for de-energization in its 2021 PSPS post-event reports.<sup>32</sup>

SCE notes that its post-event reports do include a detailed threshold analysis in Section 2 (Decision-Making Process). In addition, SCE addressed the adequacy of its thresholds in Section 11 (Lessons Learned), noting that “SCE believes our thresholds are adequate and correctly applied in de-energized areas, as detailed in Attachment B [to the report].”<sup>33</sup> SCE monitors its PSPS thresholds to help ensure PSPS is used only as a last resort and is transparent with the Commission and stakeholders about any changes. For example, in early September 2021, SCE updated its PSPS decision-making technical paper on SCE.com to announce that SCE raised the Fire Potential Index (FPI) threshold for most HFRA circuits from 12 to 13, effective September 1, 2021.<sup>34</sup> SCE briefed the Commission about the FPI threshold change during the Action Plan bi-weekly update meeting on August 31, 2021, and this topic was also an SCE discussion point during the September 7, 2021 meeting with CPUC, CalOES, and Cal FIRE. More recently, SCE disclosed in its 2023-2025 Wildfire Mitigation Plan an effort to partner with an expert technical firm to evaluate PSPS wind thresholds using advanced, risk-based modeling techniques.<sup>35</sup> Information is also available on SCE’s website, which includes an infographic, factsheet, and technical paper related to SCE’s decision-making process. SCE hopes to further discuss this requirement with SED staff to align on interpretation and expectations for compliance.

*2. Evaluation of engagement with local and state Public Safety Partners in post-event reports*

The NOV notes that utilities are required to evaluate engagement with public safety partners, but notes for January 12-21, April 13, June 14 and September 29-30 events, SCE only described the engagements but did not evaluate them.<sup>36</sup>

SCE includes in Section 12 (Other Relevant Information) of every post-event report the results of an engagement survey SCE conducts during PSPS events, which captures feedback from public safety partners on SCE’s in-event engagement efforts. To the extent the survey information is not sufficient as an evaluation of public safety partner engagement (or if SED would prefer to see this information in Section 6 (Local and State Public Safety Partner Engagement) section of the post-event reports, SCE seeks to discuss this matter with SED staff to align on expectations for the type

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<sup>32</sup> NOV, p. 8.

<sup>33</sup> See, e.g., SCE’s Post-Event Report for November 21, 2021 PSPS Event, p. 56.

<sup>34</sup> See [sce.com/pspsdecisionmaking](https://www.sce.com/pspsdecisionmaking); see also SCE’s Post-Event Report for September 30, 2021 PSPS Event, p. 7 (“Starting on September 1, 2021, SCE had set the FPI at 13 for most areas and most events based on a risk analysis of historical fire data.”).

<sup>35</sup> See SCE’s 2023-2025 Wildfire Mitigation Plan at p. 787, submitted on March 27, 2023, for additional information on this effort.

<sup>36</sup> NOV, pp. 3-4.

of information, placement in the post-event report, and level of detail to comply with this requirement.

### *3. Estimated Restoration Time in Notifications to Customers and SED Director*

The NOV states that “[f]or the January 12-21, April 12-13, and September 29-30 events, SCE did not include the estimated restoration time” in its notifications to the Director of SED.<sup>37</sup> In addition, “SCE did not notify customers of the estimated time of power restoration as required in A22-A23.”<sup>38</sup>

In 2021 and 2022, SCE provided the estimated time to power restoration as a range, stating that power is typically restored within eight hours (*i.e.*, 0-8 hours) after the end of the period of concern, with additional updates on restoration activities provided on SCE.com. 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.”<sup>39</sup> SCE errs on the side of caution by providing a conservative restoration time range that captures most situations and is based on historical experience. 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. First, our circuits vary widely in length and layout/topology, traverse a wide variety of terrain types, and are often reconfigured in-event to reduce PSPS impacts on our customers. Although SCE makes every effort to pre-stage patrol resources in areas where weather conditions are forecasted to abate first, weather is very dynamic and we often need to shift resources to follow winds as they subside. Considerations such as whether the restoration patrol requires aircraft support, access to difficult to reach locations, and time of day (daylight is required for aircraft patrols) are also critical to determining estimated restoration times and can vary widely from event to event depending on the environmental conditions in the field. In addition, these operational restoration processes must be coordinated with the notification system so that any updates to restoration times can be timely communicated to customers. SCE always strives to restore power to customers as quickly as possible. As a result, in 2022 many impacted customers were re-energized within one hour after the All-Clear declaration/authorization to patrol.

In 2023, SCE is prioritizing near-term system enhancements for its data collection, reporting, and notifications, but is also exploring options for enhancing its estimated restoration time functionality ahead of the 2024 PSPS season to be more dynamic. Additionally, a corporate continuous improvement project is being launched to improve SCE’s outage management and communication process as a whole (including PSPS), and SCE is hopeful that this project will bring additional specificity to restoration times regardless of outage type. SCE would appreciate the opportunity to

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<sup>37</sup> NOV, p. 2.

<sup>38</sup> NOV, p. 7.

<sup>39</sup> D.19-05-042, Appendix A, p. A17.

further discuss the estimated restoration time requirement with SED staff to ensure alignment on the future functionality with expectations on more closely meeting this directive.

### **SCE's Interpretation of Decision Requirements Related to Other Alleged Violations**

This section provides information refuting several alleged violations related to certain reporting and notification requirements. SCE respectfully submits that (i) the Commission has not, to date, defined timing of a PSPS event for reporting purposes and distinguishes between PSPS and de-energization, (ii) certain alleged violations in the NOV appear to be based on retroactive application of Decision and template requirements issued by the Commission after the PSPS events in question, (iii) missed advance notifications are not necessarily violations of the Commission's notification guidelines (i.e., the requirement to notify is triggered when the IOU reasonably believes de-energization is likely), (iv) there can be no missed advance or in-event notifications during high-threat events because no customers are de-energized, and (v) customers on the Medical Baseline tariff are by definition account holders and cannot be "behind-the-meter," nor does the Commission require IOUs to identify and directly notify behind-the-meter tenants.

#### *1. Reporting on January 12-21 De-energizations in One Post-Event Report, 2021*

The NOV alleges that "SCE initiated de-energization three times" between January 12 and January 21, 2021, but "submitted one report combining each of the three PSPS events" in violation of Resolution ESRB-8.<sup>40</sup> Based on SED's determination that each de-energization in January 2021 was a discrete PSPS event, the NOV also asserts that because SCE allegedly "incorrectly consolidated the reports for the three power shutoffs in January," two of the 2021 post-event reports were submitted late (on February 4 instead of January 29).<sup>41</sup>

SCE respectfully disagrees that defining consecutive de-energizations in January 12-21, 2021 (with 24 hours or less in between) as one continuous PSPS event for reporting purposes violated applicable PSPS guidelines or that the corresponding post-event report was submitted late. The CPUC has, to date, declined to define "timing of each de-energization event" with respect to post-event reports, and has not established what constitutes the beginning and end of a PSPS event. In D.21-06-034 issued in June 2021, the Commission considered but did not adopt Staff's proposed definition of the term "timing of each de-energization event," and thereby left that determination to the IOUs' discretion.<sup>42</sup> In that same decision, the Commission has made clear that "PSPS" should

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<sup>40</sup> NOV, p. 2; *see also id.* p. 1, n.1 ("[T]en Post Event PSPS reports were submitted for twelve PSPS events [in 2021]. Only one report was submitted for the three PSPS events in January 2021.").

<sup>41</sup> *Id.* p. 3, *see also id.* p. 2, Table 2.

<sup>42</sup> *See* D.21-06-034, pp. 85-86 ("We now address the staff's proposal to include a definition of the phrase 'timing of each de-energization event' with respect to post-event reports, for purposes of establishing the beginning and end of a PSPS event . . . . We are unable to conclude that including a definition of this phrase would be helpful . . . . Therefore, to avoid causing additional confusion, we refrain from adopting a

not be conflated with “de-energization.” The Commission distinguished the term “PSPS” from the term “de-energization” by clarifying that “PSPS” encompasses “a broader range of topics, including, for example, notice before the power is shut off, than may be associated with just the ‘de-energization’ itself.”<sup>43</sup>

Accordingly, it was reasonable and consistent with PSPS guidelines for SCE to treat the January 14, 2021 event as one PSPS event, and SCE did not “combine” three PSPS events into one report, as alleged in the NOV. Although SCE referenced three consecutive Periods of Concern (POCs) in its post-event report for the January 14, 2021 PSPS event, that event was managed and documented as one continuous PSPS event for emergency management, notification, and reporting purposes, with SCE’s Incident Management Team activated between January 12 and January 21, 2021. One reason for three de-energizations in the course of one PSPS event is that SCE makes every effort to temporarily restore customers during extended breaks in fire weather conditions. In those instances, SCE also communicates to the customers via a “PSPS Temporarily Restored – Not All Clear” notification that they are only “temporarily restored,” and that “PSPS risk remains.”

SCE’s approach is both practical from an operational perspective in which SCE must navigate dynamic weather systems across its vast service territory, and aligned with the CPUC’s advance notification guidelines – 48-72 hours advance notice to public safety partners and other priority notification entities, 24-48 hours advance notices to impacted customers – as the breaks between the three POCs during the January 14, 2021 PSPS event were within 24 hours or less. For example, if SCE were to treat each POC as a separate PSPS event with its own notifications, customers impacted by more than one PSPS event could potentially be confused by receiving an “All Clear” notification for the first PSPS event, but then still be in scope for a subsequent PSPS event less than 24 hours later. Accordingly, in compliance with the CPUC’s minimum timeline for advance customer notifications of 24-48 hours and to avoid customer confusion from overlapping or conflicting notifications, SCE notified customers impacted by the January 14, 2021 PSPS event of one de-energization event, rather than sending separate, overlapping sets of notifications.

## 2. *Retroactive Application of Reporting Requirements Issued after June 2021*

The NOV includes several alleged violations of CPUC reporting guidelines that post-dated the PSPS events and post-event reports in question. Specifically, SED faults SCE for not reporting a breakdown of missed notifications by notification type in post-event reports for January 12, 2021, April 13, 2021, and June 14, 2021 events.<sup>44</sup> Based on the alleged reporting “omission,” SED

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definition of this term at this time.”). The Commission acknowledged there could be some ambiguity where “it is unclear whether the IOUs are presenting PSPS events together, as a single event,” but concluded that “the proposed definition fails to provide sufficient guidance to this problem.” *Id.* p. 86.

<sup>43</sup> D.21-06-034, p. 53; *see also* Draft Staff’s Unofficial Compendium of Public Safety Power Shutoff (PSPS) Guidelines and Rules (as of July 5, 2022), p. 2, n.1.

<sup>44</sup> NOV, p. 2 n.2 (alleging that “[t]he combined January 12-21 event report did not include a breakdown of the three types of notifications required in D.19-05-042” and that this alleged omission is a “reporting error”); *id.* pp. 4-5, Table 3 (alleging that SCE did not report missed advance and/or imminent

assumed that no advance notifications were provided to **any** of the tens of thousands of de-energized customers during January 2021 and April 2021 events and alleged that “SCE failed to meet the advance notification requirements” for these events.<sup>45</sup>

SCE respectfully disagrees with this retroactive application of reporting requirements first adopted by the Commission in June 2021 (and incorporated by SED into a reporting template in mid-October 2021) to PSPS events in January, April, and June of 2021. Although the Commission adopted a minimum PSPS notification timeline in D.19-05-042, it was not until the issuance of D.21-06-014 on June 7, 2021 that the Commission first required and provided guidance on **reporting** whether or when the various notification types had been sent.<sup>46</sup> SCE could not have violated a PSPS reporting guideline that did not exist or was unclear at the time of the alleged violations. And it would be incorrect to assume based on the post-event reports that SCE did not notify any of the de-energized customers in these events because detailed information demonstrating compliance with notification guidelines was not required to be reported until after June 2021.

In D.21-06-014, the Commission also directed the IOUs to collaborate with SED on developing a standardized post-event reporting template, emphasizing “the need for the utilities to use a standardized template as a basis for organizing **and gauging the appropriate level of detail required** by in the 10-day post-event reports.”<sup>47</sup> Pursuant to D.21-06-014, on October 18, 2021, the Commission issued a post-event report template by email ruling, stating that “[u]tilities should rely on this template **for future reporting**.”<sup>48</sup> The template incorporated the Commission’s new requirement to report a breakdown of missed notifications.<sup>49</sup>

SCE made every effort to conform its post-event reporting to the new template as soon as the template was made available, as demonstrated by post-event reports for October-November of 2021. As noted in the post-event report for the October 15, 2021 PSPS event, the issuance

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notifications in its post-event reports for January 12-21, 2021, April 13, 2021, or June 14, 2021 events); *id.* p. 3 (stating that “[t]he report must also include the “number of affected customers, broken down by residential, medical baseline, commercial/industrial, and other” and provide “the local communities’ representatives the IOU contacted” along with the tier classification (3). SCE failed to do so for the January 12-21 and April 12-13 events and did not provide the tier classification for the June 14 event.”) NOV, p. 4, Table 3.

<sup>45</sup> NOV, p. 4, Table 3.

<sup>46</sup> In D.21-06-014, the Commission adopted a new requirement to report in post-event reports missed notifications broken down by notification type, along with “an explanation of what caused these failures.” *See* D.21-06-014, p. 92; OP 7, pp. 285-286 (emphasis added) (“PG&E, SCE, and SDG&E **shall provide information on the following notice topics, at a minimum, in the 10-day post-event reports: . . .**”)

<sup>47</sup> *Id.* p. 269 (emphasis added); *see also id.* p. 91.

<sup>48</sup> *See* R.18-12-005 (PSPS Rules & Guidelines) Email Ruling Issuing Template for PSPS Post-Event & Lessons Learned Reports, October 18, 2021 (“[T]his email ruling serves to issue the template prepared by the Commission’s Safety and Enforcement Division (SED) to be used by electric investor-owned utilities when preparing and filing post-event and lessons learned reports following Public Safety Power Shutoff (PSPS) events.”) (Emphasis added).

<sup>49</sup> *See* SED Template for PSPS Post-Event & Lessons Learned Reports, October 18, 2021 (“If the utility fails to provide notifications according to the minimum timelines set forth in D.19-05-042 and D.21-06-034, **using the following template (Table 4) to report a breakdown of the notification failure** and an explanation of what caused the failure. (D.21-06-014 page 286, SED Additional Information.)”).

of the template coincided with several back-to-back events and notwithstanding the short implementation window, “SCE has endeavored to update its forthcoming post-event reports to the extent possible to adhere to SED’s final template.”<sup>50</sup>

### 3. Missed Pre-Event (Advance and Imminent) Notifications

The NOV alleges violations in each instance where SCE reported missed advance or imminent notifications (regardless of SCE’s explanation), stating that D.19-05-042 “**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.”<sup>51</sup>

SCE respectfully disagrees that missing an advance or imminent notice is a *per se* violation of the Commission’s PSPS notification guidelines. D.19-05-042 directs IOUs to send advance and imminent notifications “whenever possible.”<sup>52</sup> 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.”<sup>53</sup> Under D.19-05-042, the requirement to notify customers is triggered only when “**the [IOUs] reasonably believe de-energization is likely.**”<sup>54</sup> In D.21-06-014, the Commission clarified, and SED has since confirmed, that pre-event notification guidelines fall into the “discretionary” guideline category.<sup>55</sup>

In line with the CPUC’s PSPS notification guidelines, SCE’s decision to send notifications is properly driven by its assessments of the likelihood of de-energization, i.e., whether any given circuit is expected to exceed PSPS criteria during the period of concern. SCE sends notices to customers in scope whenever the estimated probability of exceeding PSPS activation criteria for the circuit or circuit segment serving those customers is at least 20%-25% – an approach more conservative than what the Commission requires (51% or greater likelihood). Under this framework, 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 deviated from SCE’s forecasts such that SCE did not

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<sup>50</sup> SCE Public Safety Power Shutoff (PSPS) Post-Event Report for October 15, 2021 Event, p. 3, n.1.

<sup>51</sup> NOV, p. 4 (emphasis added).

<sup>52</sup> D.19-05-042, p. A7 (emphasis added) (“Recognizing that there may be times when advance notice is not possible due to emergency conditions beyond the electric investor-owned utilities’ control, the electric investor-owned utilities must, **whenever possible**, provide advance notification to all populations potentially affected by a de-energization event.”) D.19-05-042, p. A7 (emphasis added); *Id.*, p. A8 (emphasis added) (“The electric investor-owned utilities should, **whenever possible**, adhere to the following minimum notification timeline...”); *Id.*, p. A8 (emphasis added).

<sup>53</sup> *Id.* (emphasis added).

<sup>54</sup> D.19-05-042, p. 86 (emphasis added).

<sup>55</sup> See Proposed Administrative Enforcement Order re Southern California Edison Company’s Execution of 2020 Public Safety Power Shutoff Events at 13 (acknowledging that “the Commission gave IOUs great discretion in several areas given the dynamic nature of these [PSPS] events,” and that “[t]his is especially true of advance notifications prior to a de-energization event”).

reasonably believe during the prescribed timeframes that de-energization of these customers was likely, or because weather conditions escalated so quickly that notification was not possible before de-energization. In these instances, the obligation to notify customers was not triggered, or doing so was not possible.

In many of the identified instances, although SCE reported missed advance or imminent notifications, SCE did not violate the Commission's notification requirements because the circuits were not forecasted to be in scope, and notification was not possible at the prescribed intervals. As explained in the post-event reports, SCE's forecasts did not show that de-energization was likely at 48-72 hours, 24-48 hours, or 1-4 hours prior to de-energization. That is the case with the following alleged violations identified in Table 3 of the NOV:

- January 12-21, 2021 (4,819 customers), no advance notification at all
- September 29-30, 2021: 48-72 hours (44 customers), 1-4 hours (35 customers)
- October 11-12, 2021: 48-72 hours (4 customers), 24-48 hours (5 customers)
- October 15-16, 2021: 48-72 hours (5 customers)
- October 22, 2021: 48-72 hours (8 customers), 24-48 hours (107 customers)
- November 21-22, 2021: 48-72 hours (7 customers), 24-48 hours (2,685 customers)
- November 24-26, 2021: 48-72 hours (512 customers), 24-48 hours (55,608 customers).

Similarly, on some occasions, SCE was not able to send imminent notifications 1-4 hours before de-energization because weather conditions escalated rapidly necessitating immediate de-energization, which made advance notification impossible:

- October 11-12, 2021 (43 customers)
- October 15-16, 2021 (40 customers)
- October 22, 2021 (115 customers)
- November 21-22, 2021 (4,365 customers)
- November 24-26, 2021: 1-4 hours (63,613 customers), no advance notification at all (29,780 customers).

SCE is cognizant of the disruption and other negative impacts to customers who are de-energized, especially those who are de-energized without notice. As discussed above, SCE is continuously incorporating observed weather data collected through its expanding weather station network into the machine learning models to improve weather forecasting and notification performance. However, as the Commission has recognized, weather forecasting is not an exact science. A weather event covering a large geographic area may not unfold precisely as forecasted at the circuit level; winds can unexpectedly shift direction or intensify quickly and impact circuits that had not been originally scoped for the PSPS event. SCE can only use the best information available to it to make notification decisions. Accordingly, these instances of missed advance notifications were not violations of D.19-05-042.



#### 4. “Missed” Advance Notifications for High Threat Events

Additionally, the NOV alleges violations in instances where notifications were not sent to customers during high-threat events even though no customers were de-energized during these events (Table 3: June 14, 2021, October 16-18, 2021).<sup>56</sup> The NOV also states that SCE “did not report” the alleged “notification failure” for these high-threat events.<sup>57</sup> The following alleged violations are identified in Table 3 of the NOV, even while noting that “no customers were de-energized”:

- June 14, 2021: missed 48-72 hour notice
- October 16-18, 2021: missed 48-72 hour and 24-48 hour notices.

SCE respectfully disagrees with these alleged violations, as the notification framework is based around ensuring that, whenever possible, customers *who are de-energized* receive warning. The customers in scope for these high-threat events were never de-energized, and, therefore, SCE was not required to provide advance notice to them or report lack of notice as a “notification failure” in the post-event report. Indeed, the Commission’s advance notification timing is tied to de-energization times. By definition, there can be no missed advance notices for high-threat events where there is no de-energization time. Moreover, any advance notifications that SCE *had* provided to these customers before the period of concern began would be viewed by the Commission as “false communications” because de-energization never occurred.<sup>58</sup> Subsequently in D.21-06-034, the Commission directed IOUs to “make every attempt” to send cancellation notices when the IOU removes from scope customers that had been sent a notice of potential de-energization and characterized this situation as a type of false communication that needs to be reported.<sup>59</sup>

The Commission has previously expressed its concern regarding over-notification and urged SCE to minimize the number of customers who are notified of a PSPS event but not ultimately de-energized. President Batjer’s January 19, 2021 letter to SCE regarding 2020 PSPS events specifically noted the “large variance in number of customers initially notified versus the number actually de-energized,” and stated that, “[a]t a minimum, SCE shall reduce [that variance].” The more customers are notified of a high-threat PSPS event, the larger the variance between customers notified and customers de-energized (because zero customers are de-energized for a high-threat event). In D.21-06-034, the Commission indicated it “will continue to attempt to reduce confusion experienced by

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<sup>56</sup> NOV, p. 5, Table 3.

<sup>57</sup> *Id.* Table 3 and n.3.

<sup>58</sup> *See, e.g.*, D.20-05-051, Appendix A(c) (“Each electric investor-owned utility shall make every reasonable effort to avoid false-negative and false-positive communications.”).

<sup>59</sup> D.21.06-034, Appendix A, p. A11; *id.* p. 79 (“we direct IOUs . . . to describe the [false communication] situations at-issue, which all involve some level of perceived defect in notice . . . for example . . . the IOU’s decision to notice a PSPS event but then not call a PSPS event (including both when the IOU sends cancellation notice, and when the IOU fails to send cancellation notice).”).

customers in situations where IOUs notice a PSPS event (but do not call the event).”<sup>60</sup> Accordingly, not sending advance PSPS notifications to customers who are not ultimately de-energized is not a “notification failure” or a violation of the Commission’s notification guidelines. The only entry in the Notification Failure table that is applicable in a high-threat event is for missed cancellation notifications; the other entries are appropriately designated N/A.

5. *Omitting positive notifications to “behind-the-meter” medical baseline customers (October 22, November 21-22, November 24-26)*

The NOV alleges that “[f]or the October 22 event, November 21-22 event, and November 24-26 event, SCE did not report the positive notifications to MBL customers behind the meters.”<sup>61</sup>

SCE respectfully disagrees that there is a requirement to identify or report on “medical baseline customers behind the meters” in the “Positive Notification” table of the post-event report. The cited requirement in D.19-05-042, only requires information “[f]or those *customers* where positive or affirmative notification was attempted, an accounting of *the customers* (which tariff and/or access and functional needs population designation), 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.”<sup>62</sup> All references are to “customers,” *i.e.*, account holders, as distinct from “behind-the-meter” residents. The Commission’s PSPS decisions direct IOUs to focus their AFN identification efforts on customers, including “customers on medical baseline . . . tariffs.”<sup>63</sup> SCE interprets “behind the meter” in this context to refer to residents served by master meters who are *not* SCE customers (e.g., tenants in multi-family dwellings where the customer billed may be the building owner, but not a resident).

Moreover, in D.21-06-034, the Commission limited IOUs’ notification obligations to “... contact the *account holder* and [] make reasonable efforts to contact the building manager of the building(s) identified herein in preparation for wildfire season . . . .” Similarly, “[e]ach utility must additionally notify these multi-family building account holders, and make reasonable efforts to notify building managers, prior to conducting a proactive de-energization event.”<sup>64</sup> Notably, the Commission rejected Staff’s proposal for IOUs to directly notify behind-the-meter AFN tenants who may rely on an elevator to access the building, explaining that IOUs are not required to create and maintain lists of multi-family building tenants because “[s]uch a requirement would ignore that building managers

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<sup>60</sup> D.21-06-034, p. 79.

<sup>61</sup> *Id.*, p. 9.

<sup>62</sup> D. 19-05-042, p. A23 (emphases added).

<sup>63</sup> D.19-05-042, p. A20-A-21; *see also id.*, p. A13 (“The Commission acknowledges that identification of all access and functional needs customers is a goal that may not be fully achievable . . . .”); *see also* D.21-06-034, pp. A8-A9 (requiring IOUs to include in the utility’s identification efforts “persons eligible for the medical baseline program.”).

<sup>64</sup> D.21-06-034, Appendix A, at p. A9; This requirement is already incorporated into SED’s template for PSPS Post-Event and Lessons Learned Report in section 5-1.

have certain requirements and responsibilities, independent of the PSPS guidelines and rules, to ensure safe access to and egress from the buildings they manage.”<sup>65</sup> Indeed, given privacy concerns and other legal and practical impediments, it is not feasible for SCE to proactively or reliably identify behind-the-meter tenants of multi-family buildings who may have medical needs similar to SCE’s enrolled MBL customers.<sup>66</sup>

SCE has programs in place to notify and support AFN populations served by master meters during PSPS. For example, in October 2021 SCE implemented address-level alerts which allow residents who may not have an SCE customer account to sign up for PSPS notifications for any address within SCE’s service territory. SCE discussed this new notification program with the Commission during the bi-weekly Action Plan meeting on October 26, 2021, as well as during the CPUC/CalOES/Cal FIRE monthly PSPS meeting on November 2, 2021.<sup>67</sup> Among other outreach, SCE includes information about how to enroll in address-level alerts in its annual Master Meter Public Safety Notice, which directs master meter/building owners to post the information about public safety services provided by SCE in a conspicuous place accessible to all sub-metered tenants. Additionally, SCE provides marketing for direct customer support such as 211 to raise awareness of access to resources like transportation, lodging, and food for individuals with Access and Functional Needs. These resources are available to all eligible households within SCE’s service territory, regardless whether they are account holders or sub-metered residents in multi-family buildings.

In addition, pursuant to SED’s post-event reporting template and in compliance with D.21-06-034, SCE provides “[a] description of the notice to . . . multi-family building account holders/building managers in the AFN community” in Section 5-1 of the post-event reports as follows:

All multi-family building SCE account holders receive customer notifications. SCE notifies multi-family building account holders in the ordinary course along with other customers of record in scope for a potential de-energization. SCE does not currently have a way to identify which multi-family building account holders have residents in their buildings who may be members of the AFN community. SCE conducts PSPS-related outreach via flyers and trade publications to increase awareness of PSPS among building/property managers who are not account holders. SCE also instituted an address-level alert program, which allows non-SCE account holders [including behind-the-meter tenants] to sign up for PSPS alerts for specific addresses.<sup>68</sup>

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<sup>65</sup> *Id.*, pp. 112-113.

<sup>66</sup> D.19-05-042, p. A13 (emphasis added) (“Recognizing privacy concerns, the Commission **does not require** the electric investor-owned utilities to develop a comprehensive contact list of access and functional needs customers . . .”).

<sup>67</sup> *See also* November 5, 2021 Bi-Weekly Action Plan Update Report, p. 25, available at <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M420/K869/420869763.PDF>.

<sup>68</sup> *See, e.g.*, SCE’s post-event report for October 11, 2021 PPS event p. 19, n.25.

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 moving forward. Please let me know if you have any questions regarding SCE's response, and if any further information is needed to close out the NOV process.

Sincerely,

/s/ Tara Kaushik

Tara Kaushik

*Managing Director, Regulatory Relations*

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