

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



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E20220905-03

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SUBJECT: Notice Inclusion of Violations in Fairview Fire Investigation

Dear Ms. Meyerson and Ms. Cirucci,

I represent and write on behalf of the California Public Utilities Commission's (Commission) Safety and Enforcement Division's Wildfire Safety and Enforcement Branch (SED). This letter serves as notice to Southern California Edison Company (SCE) that SED is including violations of General Order 95, Rule 19 (Rule 19); California Public Utilities Code section 316 (Section 316); and Rule 1.1 of the Commission's Rules of Practice and Procedure (Rule 1.1) in its investigation of SEC's involvement in the Fairview fire.

**Legal Authority**

Rule 19 and Section 316 require that electrical corporations provide full cooperation to Commission staff in their investigation of any incident associated with utility facilities which causes property damage exceeding \$50,000.00 or results in death.<sup>1</sup> Rule 19 and Section 316 apply regardless of pending litigation or other investigations. Upon request, electrical corporations must provide Commission staff immediate access to:

1. Any factual or physical evidence under the electrical corporation's or its agent's physical control, custody, or possession related to the incident.
2. The name and contact information of any known percipient witness.
3. Any employee percipient witness under the electrical corporation's control.
4. The name and contact information of any person or entity that has taken possession of any physical evidence removed from the site of the incident.
5. All documents under the electrical corporation's control that are related to the incident and are not subject to the attorney-client privilege or attorney work product doctrine.

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<sup>1</sup> General Order 95, Rules 17 and 19; Public Utilities Code (Pub. Util. Code) § 316; and Resolution E-4184.

Rule 1.1 requires that entities transacting business with the Commission comply with state law and maintain the respect due to the Commission.<sup>2</sup>

### **Factual Background**

During SED's investigation of the Fairview fire, SCE has chronically failed to communicate and respond in a reasonably timely fashion. The Fairview fire resulted in two fatalities and caused significantly more than \$50,000.00 in property damage. On December 22, 2022, SED served Data Request Number SCE-01-Fairview Fire (DR-01) on SCE with a response date of January 26, 2023. There is no dispute that the DR-01's 55 questions fall squarely within the parameters of Rule 19 and Section 316.

SCE failed to respond to DR-01 on the January 26, 2023 response date and did not seek an extension. Instead, SCE declared self-granted deadlines on January 20, February 10, and February 24, 2023, to provide piecemeal responses on various dates. However, SCE proceeded to miss those deadlines as well, except responses to five (out of 55) questions which SCE provided to SED on January 30, 2023. Indeed, with no extension in place, that was all that SCE provided to SED for almost two months until after the parties met and conferred.

On March 23, 2023, SED and SCE met and conferred regarding the delinquent responses to DR-01. During the meeting, SED made a good faith effort to reset expectations and investigate what was interfering with SCE's compliance. SED devised creative solutions to assist SCE in providing timely responses. For example, SED allowed SCE to submit Bates stamped copies of their responses after the due date to avoid delay in providing the unstamped responses. SED thought that it had reached a mutual, achievable understanding with SCE. Pursuant to that perceived understanding, SCE sought and was granted extensions on March 24 and 28, 2023.

On April 18, 2023, SCE requested an extension with an expected production date of April 28, 2023. SED informed SCE that April 28, 2023 was the final deadline for all outstanding responses. On April 27, 2023, SCE requested another extension for three remaining questions beyond the April 28, 2023 deadline. SED denied SCE's request for what would have been a fourth extension. On May 3, 5, and 17, 2023, SCE submitted late responses. As of May 17, 2023, SCE has responded to all of the 55 questions in DR-01.

### **Legal Analysis and Conclusion**

A lack of cooperation and respect due to the Commission is evident in SCE's delay and failure to adequately communicate with SED. SCE treated the DR-01 deadline as unilaterally negotiable and with a lack of seriousness. SCE unreasonably stretched out a response to DR-01 to ten responses taking place over nearly four months.<sup>3</sup> Even after meeting and conferring with SED, and receiving three extensions, SCE sought to drag its response out even further. When

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<sup>2</sup> Rule 1.1 of the Commission's Rules of Practice and Procedure.

<sup>3</sup> SCE provided ten piecemeal responses to DR-01 on January 30; March 24 and 30; April 4, 17, 20, and 28; and May 3, 5, and 17, 2023.

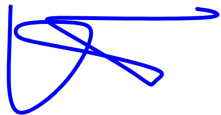
SED denied SCE a fourth extension, SCE did not complete its response to DR-01 for another two and half weeks.

Because organizational challenges are understandable within reasonable limits, SED has extended a host of accommodations and every workable opportunity for SCE to achieve compliance. As fire season is imminent, the fundamental public interests at stake are non-negotiable and simply demand that SCE and its peers rise to the occasion of meeting their legal obligations. The legal framework applied here reflects the state's overarching recognition of the importance of such compliance and a policy decision to empower the Commission to effectuate it.

For the above reasons, SED will include violations of Rule 19, Section 316, and Rule 1.1 in its investigation of SEC's involvement in the Fairview fire.

Please do not hesitate to reach out with any questions or concerns.

Sincerely,



Kate Turner, Staff Attorney  
California Public Utilities Commission  
Legal Division

CC:

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