

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**I.D. # 11419
RESOLUTION E-4493
August 2, 2012**

R E S O L U T I O N

Resolution E-4493. California Pacific Electric Company (CalPeco), Golden State Water Company (GSWC), Pacific Gas & Electric Company (PG&E), Pacific Power Corporation (PacifiCorp), San Diego Gas and Electric Company (SDG&E), Southern California Edison Company (SCE), collectively "IOUs" (Investor Owned Utilities).

PROPOSED OUTCOME: This Resolution approves IOUs' Advice Letters (AL) listed below as filed.

ESTIMATED COST: None

By ALs CalPeco 15-E filed March 15, 2012, and GSWC 265-E, PG&E 4012-E, PacifiCorp 470-E, SDG&E 2336-E and SCE 2709-E, filed on March 12, 2012.

SUMMARY

These are Tier 3 Advice Letters incorporating Decision (D.) 12-01-032, Ordering Paragraph (OP) 7, requiring revisions to Electric Tariff Rules 11 (Discontinuance and Restoration of Service) and 16 (Service Extension), stating that the IOUs may shut off power to customers who do not allow access to their property for vegetation management activities for fire hazard prevention, subject to certain conditions.

BACKGROUND

On November 6, 2008, to consider and adopt regulations to reduce the fire hazards associated with overhead power-line facilities and aerial communication facilities in close proximity to power lines, the California Public Utilities Commission (CPUC) issued Order Instituting Rulemaking (R.) 08-11-005. On January 12, 2012, the CPUC issued D.12-01-032, included in which the CPUC authorized the California IOUs to update their tariffs with new rules for shutting

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off power to customers who do not allow the IOUs access to their electric power lines for vegetation management activities. Specifically, in OP 7 of D.12-01-032, the CPUC ordered that the IOUs shall file and serve a Tier 3 advice letter to revise their tariffs to state that the IOUs may shut off power to customers who do not allow access to their property for vegetation management activities, subject to the following conditions:

- i. The authority to shut off power is limited to situations where there is a breach of the minimum vegetation clearances for power lines required by General Order (GO) 95, Rule 35, Table 1, Cases 13 and 14.
- ii. The authority to shut off power to customers who obstruct vegetation management activities does not extend to customers that are state and local governments and agencies.
- iii. The authority to shut off power is limited to one meter serving the property owner's primary residence, or if the property owner is a business entity, the entity's primary place of business. This one meter is in addition to shutting off power, if necessary for public safety, at the location of the vegetation-related fire hazard.
- iv. Prior to shutting off power, the IOUs shall follow the then-current procedures and notice requirements applicable to discontinuance of service for non-payment, including the requirements applicable for sensitive customers, customers who are not proficient in English, multifamily accommodations, and other customer groups, except as set forth in Item (v) below. To the extent practical, the applicable procedures and notice requirements shall be completed prior to a breach of the minimum vegetation clearances required by GO 95, Rule 35, Table 1, Cases 13 and 14.
- v. For vegetation hazards that pose an immediate threat to public safety, the electric utility may shut off power to the obstructing property owner's residence or primary place of business at any time without prior notice, except when the customer receives service under a medical baseline allowance. If power is shut off without prior notice, the electric utility shall attempt to contact the property owner for five consecutive business days by daily visits to the property owner's residence or primary place of business, in addition to sending a written notice, to inform the property owner why power has been shut off and how to restore service. If a utility determines

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that it is necessary to shut off power to a medical baseline customer, the utility shall attempt to notify the customer by telephone prior to the shut off.”

NOTICE

Notice of ALs 15-E (CalPeco), 265-E (GSWC), 4012-E (PG&E), 470-E (PacifiCorp), 2336-E (SDG&E), 2709-E (SCE) was made by publication in the CPUC’s Daily Calendar. The IOUs state that a copy of the AL was mailed and distributed in accordance with Section 4 of General Order 96-B.

PROTESTS

Three protests were received.

All ALs, except CalPeco’s AL, were timely protested by the California Farm Bureau Federation (FB). PG&E’s AL was additionally timely protested by Kevin Collins, Felton. The County of Santa Cruz (SC) protested PG&E’s AL timely, but did not serve PG&E.

SCE, SDG&E and PG&E replied timely to the protest by the FB. PG&E also replied timely to the protest by Kevin Collins.

Energy Division (ED) staff agreed to a late response by PG&E to the protest by SC because of its failure of service to PG&E.

GSWC and PacifiCorp did not reply to the protest by the FB.

DISCUSSION

1. IOUs’ Proposals

All IOUs incorporated OP 7 in essence verbatim in their Tariff Rule 11 and added in Tariff Rule 16 “vegetation management” to the conditions under which they shall have the right to enter and leave an Applicant’s Premises. They use the term “disconnect service” in lieu of the OP 7 language “shut off power” where appropriate, for consistency with and completeness of the conditions for access. “Shutting off power” is used in the context of a public threat at a location.

Analysis: The distinction between “discontinuance of service” and “shutting off power” made by the IOUs in implementing OP 7 appears consistent with tariff and should be approved.

Other minor deviations or additions to OP 7 language are as follows:

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1.1 CalPeco

CalPeco proposes to add the following to OP 7 condition i. language in its Rule 11: “. . . or when the company has knowledge obtained through normal operating practices that there is an occurrence of dead, rotten, or diseased trees or dead, rotten or deceased portions of trees that overhang or lean toward and may fall into a span of supply lines; or under the provisions in effect at the time the breach is discovered.”

CalPeco does not refer to GO 95, Rule 35, Table 1, Case 14 in Tariff Rule 11, as ordered in OP 7 conditions i. and iv.

Analysis: The additional language is from GO 95, Rule 35 and supported by the decision which states that this “. . . should make vegetation management more efficient at reducing fire hazard.”

Because CalPeco’s territory is not in a “VeryHigh Fire Threat Zone in Southern California,” Case 14 which requires a larger radial distance of vegetation from bare wires than Case 13 in High Fire Threat Zones, is not applicable to CalPeco. High Fire Threat Zones are defined by the California Department of Forestry and Fire Protection’s Fire and Resource Assessment Program (FRAP) Fire Threat Map.

1.2 GSWC

GSWC proposes to add in its Tariff Rule 11 “. . . under the provisions in effect at the time the breach is discovered” to the language in OP 7.i.

Analysis: In response to ED staff’s question for the purpose of this identical language it was explained that the provisions refer to the GO 95 requirements in effect at the time the breach of clearance is discovered.

This additional language eliminates the need to update Rule 11 whenever GO 95 is revised.

1.3 PG&E

PG&E proposes to add Rule 11, Section N.6.a. Service Restoration:

“When a customer’s service has been terminated because access to overhead electric facilities for vegetation management purposes has been obstructed resulting in a breach of the minimum required vegetation clearances or an immediate vegetation hazard, the customer’s service will not be restored until appropriate vegetation management has been achieved or the vegetation hazard has been mitigated, and payment for all

applicable restoration or service charges as provided in Electric Rule 11, Section M, Charges for Termination and/or Restoration of Service have been received.”

Analysis: Existing Section M.4 of Rule 11 details the conditions for termination and restoration of service, among them non-payment of bills and failure to comply with tariffs. The addition of Section N.6.a is therefore within OP 7.iv, which invokes the same procedure and charges for restoration of service for failure to pay bills and for not allowing vegetation management.

1.4 PacifiCorp

PacifiCorp’s proposed changes to its tariff rules does not include the requirement that notice prior to shutting off power shall include “the applicable requirements for sensitive customers, customers who are not proficient in English, multifamily accommodations, and other customer groups.”

Analysis: Because PacifiCorp has no such applicable requirements in its current tariffs the proposal complies with OP 7.

1.5 SDG&E

SDG&E proposes to spell out the requirements for restoration of service with reference to its Schedule SE (Service Establishment Charges).

Analysis: This clarification does not add any new requirement to the tariff.

1.6 SCE

SCE proposes to add “. . . under the provisions in effect at the time the breach is discovered” to OP 7 condition i.

Analysis: In response to ED staff’s question for the purpose of this language SCE explained that the provisions refer to the GO 95 requirements in effect at the time the breach of clearance is discovered. This additional language eliminates the need to update Rule 11 whenever GO 95 is revised.

2. Protests

2.1 California Farm Bureau Federation

FB claims important steps in the IOUs’ ALs that must be taken before discontinuing a customer’s service are missing. FB says that

discontinuance of service for non-payment is objective and disputes are managed, which is not provided for in the proposals. Existing Rules 8, 10 and 16 which are referenced in Rule 11 should be revised to reflect any change as well.

FB concern is focused on how the shut off provisions will be used in the context of distribution and transmission easements, which have at most indirect connections with an individual meter; a landowner may not be the objective customer.

The following are FB's detailed change requests to the IOUs' proposals:

- 2.1.1** Application of the shut-off rule to an Additional Meter should be prohibited in cases where property is owned by multiple parties. In those cases application of the same rule for shut-off as that for non-payment of bill is insufficient.
- 2.1.2** The difference for a business entity landowner versus a residential landowner must be made explicit to comply with the decision. To achieve this, the following language needs to be included in the tariffs: "No residential meter shall be disconnected where the customer denying access is not a business entity, nor shall a non-residential meter be disconnected when the customer denying access is not a business entity." In addition, where a customer controls multiple meters, the particular meter subject to shut-off must be identified.
- 2.1.3** The Consumer Protection and Safety Division (CPSD) should be notified in a vegetation management dispute. Rule 11 dispute review by the CPUC Utilities Safety and Reliability Branch (USRB) should also apply to the changing issues of vegetation management. FB proposes the following changes to Rule 11:
 - Documentation of utility's compliance with internal procedures prior to shutting-off power to additional meter that gives rise to dispute.
 - Require 15 days' notice prior to termination of service to address of additional meter and address of owner/responsible party of location of dispute.

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- Require review by USBR of the request and information provided by customer and approve or deny the shut-off within 15 days.
- 2.1.4** Utility procedures for vegetation management should be publicly available. All responded utilities should post the process for shut-off of power and vegetation management on their websites, as PG&E does. The procedures referenced in the workshop should be clearly set out.
- 2.1.5** The prohibition of shut-offs on weekends and holidays, which apply for non-payment of bills should also explicitly be stated and a phone number given for remedy of adverse situations.
- 2.1.6** The Utilities should provide substantive details about how they will “Minimize Disruption to Farming Operations and Damage to Cultivated Fields” as required by the decision. Providing details would in most cases assure cooperation from the agricultural community. The utilities should notify customers of the upcoming year’s vegetation management plans after the harvest to allow the landowners to provide the utility with scheduling constraints. Other elements of a roadmap would be directions about debris disposal and phone contacts to the utility because most vegetation management is done by contractors. The CPUC directive for more transparency to obtain cooperation and minimize disputes and interruptions to agricultural operations is required before the CPUC approves these Advice Letters.

The procedures to accommodate agricultural operations should consider OP 7 condition iii. as basis for power shut-offs to additional meters being “vegetation-related fire hazard.”

D.09-08-029 of Phase 1 of R.08-11-005 recognized cultivated crops, like orchards, pose less of a fire hazard than other areas.

- 2.1.7** Added language in SDG&E’s AL 2336-E, Rule 11, Paragraph N.3 should be struck. Subject paragraph provides:” . . . where in the reasonable judgment of the utility . . . ” to qualify if vegetation poses an immediate threat to public safety. Ongoing development of standards for vegetation management-related safety assessment continue in Phase 3 of R.08-11-005, including review of the fire threat maps and other matters to guide safety oversight. Proposed

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decision in Application (A.) 08-12-021 lists factors on Page 31 that will be considered to determine if power shut-off was reasonable. Language in D.12-01-032 reads that the Commissions ongoing directives on safety will be applied. SDG&E's language may eliminate ongoing review of what is appropriate to consider an immediate threat.

2.2 County of Santa Cruz (Protest to PG&E's AL only)

SC supports the CPUC's establishment of reasonable electric utility vegetation management rules, but takes issue with PG&E's vagueness and ambiguity contained in proposed revision to Rule 11, Section N. There is no explanation what would constitute "obstruction" by the customer. It is unclear if this is limited to a customer blocking physical access to the property or simply wanting to discuss what trimming is proposed? The determination is left to PG&E and there is no right of appeal or requirement for PG&E documentation. Furthermore, residents have complained about trimming materials left on customer's property or near roadways creating safety hazards.

SC proposes the following additions to Rule 11, Section N:

"If requested by the customer, the electric utility shall describe the vegetation activities proposed for the customer's property and how the trimmed vegetation shall be disposed. If consistent with vegetation management guidelines, the electric utility may consider reasonable modifications proposed by the customer "and

"For purposes of this Rule, a customer asking questions or seeking clarification about proposed vegetation management activities shall not be deemed to have obstructed such activity. If the electric utility determines that a customer has acted to obstruct vegetation management activities, the basis of such obstruction shall be documented in writing and included with the notice provided to the customer as set forth in item (currently) iii."

2.3 Kevin Collins (Protest to PG&E's AL only)

Mr. Collins objects to PG&E's proposal in general because it lets PG&E and its contractors use the rule in "any manner it pleases," regardless of the actual distance to power lines in any specific situation.

He also objects to the right of PG&E to enter and leave premises at all times; in his words "even the sheriff needs a warrant for entering if against property owner's will."

Furthermore, Collins objects to the provision of only having to attempt to notify medical baseline customers by phone of impending power shut-off and forcing them to have an Uninterruptible Power Source (UPS) ready.

Collins mentions experiences where trees growing on opposite sides of power lines along State highways were cut and left in heaps or trunks of dead trees are left leaning out over roadways.

Collins wants PG&E's AL denied because there is no "established and financially independent government authorized review authority to hear appeals in this proposal."

Collins mentions that he informed the SC Board of Supervisors of PG&E's AL.

3. Utilities' Responses

3.1 PG&E

3.1.1 PG&E rejects FB's protests in its entirety as an attempt to re-litigate issues that have already been extensively discussed throughout the course of Phase 2 of R.08-11-005 in workshops and litigation. It notes that D.12-01-032 invoked the proposed language by stating: "We recognize that shutting off of power to a customer is a harsh remedy, but public safety and welfare is placed at grave risk when there is a breach of the required minimum clearances." FB was an active participant throughout the proceeding. Public Utilities Code (PUC) Sections 1709 and 1731(b) do not allow relitigation through a protest. For the following reasons FB's protest should be rejected by the Commission.

3.1.1.1 FB's protest is not valid because it is not based on any of GO 96-B Energy Industry Rule 7.4.2 grounds for a protest.

- 3.1.1.2** PG&E's proposal is almost verbatim the language of OP 7.
- 3.1.1.3** The CPUC considered "collateral harm" or "harmful disruption" to innocent third parties. Shut off of power is a last resort tool and the parties involved are known by then. All property owners are legally responsible for hazards on their property and any of them could be held responsible (for damage).
- 3.1.1.4** The CPUC did note two remedies for disputes with a utility not involving CPSD; legal action through the courts for violation of the easement agreement and filing of a complaint pursuant to Rule 4.1 of the CPUC's Rules of Practice. General notice language in OP 7 allows flexibility while the decision provided explicit directives for shut offs in cases of public safety threats from vegetation.
- 3.1.1.5** FB's proposed change to publicize the procedures for vegetation management has nothing to do with the proposed shut off tariffs, which are public. Knowledge of the earlier specific steps taken by the utility in its "refusal" process would only provide more opportunity to abuse the process and delay the vegetation management work.
- 3.1.1.6** While prohibition of termination of service on weekends and holidays follows the rules for non-payment of bills, this is not appropriate for shut-off of power because of a public safety hazard. Fires do not take weekends and holidays off.
- 3.1.1.7** The risk of fire for cultivated areas was considered during the rulemaking proceeding and reflected in GO 95 Rule 37, Table 1 and Exception (jjj). There is no need for further details on how the utility "minimizes disruption to farming operations and damage to cultivated fields" because PG&E already works with growers to schedule vegetation management. This issue is not relevant to the proposed shut off tariff.

- 3.1.2** PG&E rejects SC's protest as elaborated below and in part because it deals with issues out of scope.
- 3.1.2.1** SC's assertion that the proposed Rule 1 changes are vague and ambiguous is false, because they were reached after vigorous debate and are almost verbatim as ordered in OP 7. The CPUC recognized that power shut off is a hard remedy, but put public safety and welfare above it.
- 3.1.2.2** PG&E's AL is not unjust and unreasonable and does not require clarification of what constitutes "obstruction" by the customer because the procedures reflect the CPUC's order after robust discussion and consideration, is limited to a situation of actual breach of minimum vegetation clearance, and requires specific notice procedures before power is shut off. This includes a customer contact by a field inspector, his/her supervisor, research of the property rights and a letter to the customer followed by a 10 days waiting period.
- 3.1.2.3** As to concerns about aggressive vegetation removal and material left on customer's property or near roadways, PG&E will contact SC directly. PG&E also reminds that their local Governmental Relations representative and customer service phones are available.
- 3.1.3** PG&E rejects Collins' protest for the same reason stated above and responds to his specific protest as follows:
- 3.1.3.1** Collins' statement that the proposed rule changes are "outrageous and astounding" is contrary to the fact that they reproduce with minor modifications OP 7. These provisions were heavily analyzed in Phase 2 of R.08-11-005 and the Commission "recognized that shutting off power to a customer is a harsh remedy, but public safety and welfare is placed at grave risk when there is a breach of the required minimum clearance. In our judgment the remedy is commensurate with the circumstances."
- 3.1.3.2** As to Collins' claim that "no action by any utility to cut off electricity service based upon this fire prevention pretense as defined by PG&E . . . can be allowed without a formal legal

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appeal process before an established and financially independent government authorized review authority”, PG&E refers to the decision which states: 1) “If a utility conducts vegetation management activities in a way that violates its easement agreement with a property owner, the property owner may pursue legal remedies through the courts”; and 2) “Any landowner who believes an electric utility is conducting vegetation management activities in a way that violates today’s decision . . . may file a complaint pursuant to Rule 4.1 of the Commission’s Rules of Practice,” which would include the granting of injunctive relief.

3.1.3.3 Regarding notice, PG&E will comply with the “then current procedures and notice requirements that are applicable to discontinuance of service . . . including the requirements applicable for sensitive customers, customers who are not proficient in English, multifamily accommodations and other customer groups . . . ” as ordered by the CPUC.

3.1.3.4 PG&E responds that Collins’ other protest issues are outside the scope of the AL, but that PG&E will contact Collins about his concerns with tree boles leaning over a roadway. Collins is further encouraged to report environmental issues to PG&E.

3.2 SCE

SCE echoes PG&E’s response 3.1.1.1 and 3.1.1.2 and responds to FB’s specific issues as follows:

3.2.1 The CPUC specifically noted FB’s objection to shutting off power to all service locations of a non-cooperative customer and articulated that: “in deciding this issue, our main concern is the prevention of wildfires and outages caused by property owners who refuse to allow access to power-line facilities for vegetation management activities,” but limited the service discontinuance to only one service location of a non-cooperative customer.

- 3.2.2** The requested clarification is unnecessary because OP 7 (iii) makes a distinction between 1) shutting off power at the location of the fire hazard in addition to 2) disconnecting service at one meter at the primary residence for an individual customer or place of business for a business entity.
- 3.2.3** The CPUC already considered CPSD oversight of the disconnection of service process and did not adopt it in D.12-01-032, instead ordered that the utility “follow the then current procedures and notice requirements applicable to discontinuance of service for non-payment.”
- 3.2.4** SCE’s tariff rules, including Rule 11 pertaining to discontinuance of service for non-payment are posted on SCE’s website. This rule governs the basic procedures for shut-off ordered in OP 7 condition iv, which does not require prior notice, except for medical baseline customers, for vegetation fire hazards that pose an immediate threat to public safety.
- 3.2.5** Per proposed Section M.5 of Rule 11, SCE will apply the same procedures to disconnection for vegetation management as it would to disconnection due to non-payment. Existing Section B (7) states: “Service will not be disconnected by reason of delinquency in payment for electric service on any Saturday, Sunday, legal holiday, or at any time during which the business offices of SCE are not open to the public.”
- 3.2.6** FB’s request that disruption to farming operations be minimized has been considered by the CPUC in the decision by stating that:
- “Although electric utilities have a duty to keep power lines clear of vegetation in order to maintain reliability and protect public safety, they should do so in a way that minimizes disruption to farming operations and damage to cultivated fields. When possible, electric utilities should schedule vegetation management at times mutually convenient to the utility and the farmer. In general, electric utilities should avoid scheduling vegetation management activities immediately after planting, during harvest, and after pesticide applications and when an intrusion onto cropland can

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be costly for the farmer and/or dangerous for the
vegetation management crew.”

As remedy to property owners that believe the utility acted in an
inappropriate manner the CPUC further stated in the decision:

“Any landowner who believes an electric utility is conducting
vegetation management activities in a way that violates
today’s decision or another Commission decision, order, or
rule may file a complaint pursuant to Rule 4.1 of the
Commission’s Rules of Practice of Procedure. Upon a
showing of good cause, the Commission may grant temporary
injunctive relief that prohibits the alleged violation from
continuing until the complaint is decided by the
Commission.”

3.3 SDG&E

SDG&E also maintains that its AL fully conforms to the terms of the
decision and states that FB is in large parts simply rehashing matters that
it raised during the proceeding. PUC Section 1731(b) bars collateral
attacks where an aggrieved party to a proceeding has failed to file an
application for rehearing of a CPUC decision.

SDG&E reminds the CPUC to heed its statement that “in deciding this
issue [i.e., whether to “allow electric utilities to terminate service at any
location where a customer receives service, not just the location where
the customer obstructs vegetation management”], our main concern is
the prevention of wildfires and outages caused by property owners who
refuse to allow access to power-line facilities for vegetation management
activities.”

SDG&E then responds to each of the issues raised by the FB in details
and echoes the responses given by PG&E and SCE as shown above.
SDG&E admits that the CPUC could well be moved to adopt one or more
of FB’s proposals or tariff amendments – “each is articulately stated and
appears to be sober and reasonable in its own right.” But to adopt any
one or all would undermine the protection from high-risk hazards to the
public.

- 3.3.1** The CPUC actually constrained discontinuance of service to only one of multiple landowners for obstructing vegetation management, even though all are culpable for fire hazards. The FB now wants to have rules for the utilities to determine which of the multiple owners is most guilty. The gaming and evasion and continuous monitoring of such rules could only be imagined.
- 3.3.2** FB proposes to disallow service discontinuance to a residence in the case where a business entity is the owner of the property where vegetation management is refused, and vice versa. This proposal only serves to obfuscate the application of the simple rule. The decision states that service discontinuance may be applied to “one meter serving the property owner’s principal residence or if the property owner is a business entity, the entity’s primary place of business.” Under FB’s proposal, an individual owning property may well qualify as a “business entity” – sole proprietorship, closely held S corporation or LLC could be the registered owner of the property, operating from the residence of its single owners and employee. In this instance FB’s proposal would allow these owners to escape enforcement altogether. SDG&E also rejects FB’s proposal for lengthy notice and dispute resolution processes as in the case for non-payment. SDG&E notes that non-payment does not threaten public safety.
- 3.3.3** SDG&E agrees with the FB proposal to make available a description of the processes the utilities will follow prior to invoking the authority described in the ALs and refers to its public websites. SDG&E invites the FB to provide further details that should be included. Since this proposal raises a matter well beyond the scope of the AL this should however not be grounds to reject or suspend it.
- 3.3.4** As to FB’s protest regarding power shut offs on weekends and holidays, SDG&E echoes PG&E’s response in 3.1.1.6.

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3.3.5 FB's proposal for providing details explaining procedures that minimize disruption when coordinating with farmers on vegetation management is also considered fair by SDG&E. Again, SDG&E invites the FB and local farmers to meet SDG&E to improve its existing procedures, but does not see this as ground to reject or suspend the AL.

3.3.6 SDG&E is uncertain as to FB's protest against proposed language in Rule 11.N.3 allowing SDG&E discontinuance of service at an off-location meter "where in the reasonable judgment of the Utility vegetation hazards pose an immediate threat to the public safety." There is no "potential for insulating [SDG&E] against the ongoing review of what is appropriate to consider an immediate threat" because that is specified by GO 95, Rule 35. The CPUC does give the utilities discretion, (saying "may" rather than "shall"), to affect off-location service discontinuance in the absence of notice in the case of immediate public threat. In D.09-09-030 the CPUC held that utilities have statutory duty and authority to protect public safety.

4. Analysis

4.1 We agree with the common reply to FB's, Collins' and SC's protests by all responding IOUs that the protests do not state a valid basis as required by GO 96-B, Section 7.4.2. The extensive workshop reports are evidence that the issues brought up by the protests have been discussed and D.12-01-032 ordered the basic language to be included in the tariffs to achieve the goal of fire prevention by vegetation management. The decision states that the measures for shut off of power are "harsh," but public safety was put ahead of concerns about their consequences to individual customers.

FB's observation of the different management of power shut offs for non-payment of bills and for refusal of vegetation management is true, but intentional because of the severe consequences to public safety of the latter. Time is of the essence.

4.1.1 Property owned by multiple parties would be represented by a common interest association (company, LLC, LLP, etc.) and as ordered, the place of their business would be discontinued from service. If no place of business exists the IOU by then would know the customer refusing vegetation management in behalf of the

business. In the case of a customer having multiple meters, it is obvious that the IOU would discontinue service to the meter posing the fire hazard if possible, otherwise any that is in the refusing customer's interest. Detailing the process of power shut offs for the many different cases of customer accounts is impractical.

4.1.2 CPUC considered collateral damage to third parties by power shut offs but placed public safety above it. In cases where easement terms are violated by the landowner the "innocent" third party of the power shut off may seek redress against the landowner in civil court.

4.1.3 The FB already called for opportunity to be heard by an independent entity in the workshop and The Utility Reform Network (TURN) announced that it will propose modifications to the tariff rules to clarify the process by which power shut offs are conducted, including an opportunity for appeals and stringent notification requirements to ensure that customers (and end users, where the two are not the same) are not unduly or inadvertently harmed by this new rule. Therefore this issue has been considered by the decision and it is not a legitimate protest by the FB to seek appeal to the USRB before power shut offs.

4.1.4 We agree with the FB that more information on the process of notification and discontinuance of service and power shut off by IOUs would be desirable. The IOUs do provide some information on their website, but we do not believe the tariffs should be encumbered with such details for the last resort means of service discontinuance and power shut off because of vegetation fire hazard and obstruction of its management.

We welcome SDG&E's offer to work with the FB and others to improve their website in this regard and encourage the other utilities to consider requests by their customers to do likewise.

4.1.5 We agree with the IOUs that the exclusions on power shut offs on weekends and holidays should not apply in cases of fire hazards. Fires do not take time off. The IOUs' customer service phone numbers are well known for reporting "adverse situations."

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4.1.6 Even though the decision stated that “When possible, electric utilities should schedule vegetation management at times mutually convenient to the utility and the farmer. In general, electric utilities should avoid scheduling vegetation management activities immediately after planting, during harvest, and after pesticide applications and when an intrusion onto cropland can be costly for the farmer and/or dangerous for the vegetation management crew”, it did not order substantive details about how the utilities will “Minimize Disruption to Farming Operations and Damage to Cultivated Fields” but referred instead to the complaint process afforded under Rule 4.1 of the CPUC’s Rules of Practice and Procedures. This process may grant a temporary injunctive relief.

Again it is desirable that utilities work with the FB and others to provide information on their websites on the details of vegetation management scheduling, rather than encumber the tariffs with it.

This issue of providing detail information on scheduling in the tariffs is new and therefore out of scope of these ALs.

4.1.7 We agree with SDG&E that its additional language “where in the reasonable judgment of the Utility vegetation management hazards pose an immediate threat to public safety” does not shield SDG&E from their ultimate responsibility for public safety and reasonable conduct of its operation.

There is no ambiguity in the criteria when vegetation management needs to be performed. GO 95, Rule 35 is very specific as to minimum required clearance of vegetation from power lines.

4.2 As to Collins’ complaint about dangerous situations, as also reflected in SC’s protest, the proper means for remedy is first the IOUs’ customer contacts and, if no response received, a complaint to the CPUC. This same process holds true for other conceived “misdeeds” of IOUs. As a last resort and for matters over which this CPUC has no jurisdiction, e.g. property rights issues; the court system is the proper venue. For this reason alone we have no doubt that the IOUs record their customer interactions without specific mandate.

For above reasons we conclude that the ALs as proposed implement OP 7 of the decision sufficiently.

COMMENTS

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 nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the CPUC's agenda no earlier than 30 days from today.

FINDINGS AND CONCLUSIONS

1. D.12-01-032, OP 7 instructed the electric IOUs to include into their tariffs specific language regarding discontinuation of service and power shut off in cases where property owners obstruct utilities' vegetation management.
2. The IOUs filed Tier 3 ALs implementing OP 7 substantially verbatim.
3. The California Farm Bureau Confederation, the County of Santa Cruz and an individual, Collins, protested the ALs on issues that were extensively discussed in workshops resulting in the decision.
4. The protests attempt to relitigate the issues and do not qualify under any of the GO 96-B, Section 7.4.2 valid reasons for protests or are out of scope.
5. Additional details on the process for notification of discontinuance of service are shown to various degrees on the IOUs' websites.
6. SDG&E agreed to work with the FB and others to improve their website information and we encourage this.
7. Violation of tariffs can be brought to the CPUC's attention by a complaint following contact with the IOU first.
8. As a further step, the court system is available for complaints and for matters the CPUC has no jurisdiction over, e.g. property rights.
9. The proposed tariff modifications are sufficiently detailed to meet OP 7.

ALs 15-E (CalPeco), 265-E (GSWC), 4012-E (PG&E),
470-E (PacifiCorp), 2336-E (SDG&E), 2709-E (SCE)/WMB

THEREFORE IT IS ORDERED THAT:

1. The Advice Letters 15-E (CalPeco), 265-E (GSWC), 4012-E (PG&E), 470-E (PacifiCorp), 2336-E (SDG&E) and 2709-E (SCE) are approved as filed.

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 August 2, 2012; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director