BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine
Electric Utility De-Energization of Power Lines in Dangerous Conditions.

Rulemaking 18-12-005

RESPONSE OF THE PUBLIC ADVOCATES OFFICE
TO THE JOINT PARTIES’ MOTION REQUESTING
COMMISSION REVIEW OF PSPS POST-EVENT REPORTS

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I. INTRODUCTION

On June 15, 2020 AT&T Services, Inc. (AT&T), the California State Association of Counties (CSAC), the California Community Choice Association (Cal CCA), the Center for Accessible Technology (CforAT), the City of San Jose, CTIA,¹ the Joint Local Governments,² Mussey Grade Road Alliance (MGRA), The Protect Our Communities Foundation (POC), the Rural County Representatives of California (RCRC), Sprint Spectrum L.P. dba Sprint, T-Mobile West LLC dba T-Mobile, the Utility Consumer Action Network (UCAN), and The Utility Reform Network (TURN), (together the “Joint Parties”) submitted a Joint Motion Requesting Commission Review of PSPS Post Event Reports (Joint Motion) for consideration by the California Public Utilities Commission (Commission). The Joint Parties request that the Commission undertake a review of each determination by a major electric investor-owned utility (IOU)³ to initiate a voluntary de-energization event (Public Safety Power Shutoff or PSPS). The review should assess whether the IOU exercised reasonable discretion consistent with Public Utilities Code Sections 451 and 399.2(a), and as contemplated by prior Commission decisions.⁴ ⁵

Pursuant to Rule 11.1(e) of the Commission’s Rules of Practice and Procedure, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) provides the following response to the Joint Motion:

A. The Commission should undertake reasonableness reviews of all significant future PSPS events. However, the Commission should first develop reasonableness criteria through a public process in order to inform these reviews.

¹ CTIA is a wireless communications industry association.
² The Joint Local Governments are the Counties of Kern, Marin, Mendocino, Napa, Nevada, San Luis Obispo, Santa Barbara, and Sonoma, and the City of Santa Rosa.
³ In this pleading, IOUs refers to Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E).
⁴ Decision (D.) 09-09-030 and D.12-04-024 affirmed SDG&E’s authority to shut off power in emergency situations. Resolution ESRB-8 extended this authority and the accompanying requirements to apply to all electric investor owned utilities.
⁵ Joint Motion, p. 9.
B. The Commission should conduct reasonableness reviews for all significant
PSPS events that took place in October and November 2019 and publish the
findings by October 1, 2020; and

C. The Commission should include the Safety and Enforcement Division’s
(SED) Public Report on the Late 2019 PSPS Events (SED Report) in the
record of this Rulemaking.

II. BACKGROUND

In the fall of 2019, the electric IOUs chose to use PSPS events in order to mitigate
wildfire risk. The IOUs shut off power a total of 12 times affecting 38 counties and
975,000 customer accounts. The IOUs then submitted post-event reports on all PSPS
Events to SED as required by Resolution ESRB-8 and Decision (D.) 19-05-042. In
order to ensure that PSPS events are being deployed prudently as a tool of last resort,
D.19-05-042 recommended SED establish the criteria for conducting reasonableness
reviews, and undertake reasonableness reviews of PSPS events. Specifically,
D.19-05-042 states that:

The Commission views post-event reporting as a means of facilitating learning
and improvement across utilities, state and local public safety agencies and local
jurisdictions. Therefore, it is imperative that the utilities provide detailed and
accurate information to the Commission and that the Commission review each
de-energization event for reasonableness. [emphasis added]

SED should assist the Commission, in Phase 2 of this proceeding, to develop
reasonableness guidelines for assessing de-energization events. To date the Commission has not set out a process to develop reasonableness
criteria nor conducted reasonableness reviews of the PSPS events that took place in 2019.

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5 SED’s Public Report on the Late 2019 PSPS Events (SED Report) was filed in Investigation
(1.19-11-013 on July 10, 2020 via the I.19-11-013 (PSPS OII) Email Ruling Providing the Commission’s
Safety and Enforcement Division Report and Additional Information on PHC from Administrative Law
Judge Regina DeAngelis.

6 Order Instituting Investigation on the Commission’s Own Motion on the Late 2019 Public Safety Power
Shutoff Events (OII), p. 4.

8 Resolution ESRB-8 extends the requirements for reasonableness, notification, mitigation, and 10-day
post-event reporting established by D.12-04-024 to all electric utilities. D.19-05-042 added additional
de-energization guidelines and reporting requirements.

9 D.19-05-042, p. 106.

10 D.19-05-042, Conclusion of Law 43, p. 129.
While the SED Report issued in Investigation (I.) 19-11-013 reviewed the 2019 PSPS events and made recommendations regarding future guidelines and reporting requirements, it did not make a determination as to the reasonableness of the utilities’ PSPS events.\textsuperscript{11}

The Joint Parties advocate for the Commission to conduct reasonableness reviews of all future PSPS events and all PSPS events that took place in fall 2019.\textsuperscript{12} The Joint Parties propose that the Commission conduct reasonableness reviews of the most recent PSPS events first and then work backwards, completing at least some of them before entering the “2020 peak power shutoff season.”\textsuperscript{13} The Public Advocates Office’s response to the Joint Motion is discussed below.

\textbf{III. DISCUSSION}

\textbf{A. The Commission Should Develop Reasonableness Criteria and Conduct Reasonableness Reviews for All Future Significant PSPS Events.}

A reasonableness review is essential for holding the electric IOUs to account for the way in which they plan and execute each PSPS event. The Public Advocates Office agrees with the Joint Parties that reasonableness reviews should be undertaken by the Commission. However, prior to conducting these reviews, the Commission should set forth reasonableness criteria which is critical in guiding the reasonableness review process. SED should develop these first through a public process.\textsuperscript{14} The Public Advocates Office recommends that reasonableness criteria be adopted prior to the start of the peak 2020 wildfire season, and no later than September 1, 2020. In order to meet this timeline, SED should issue a staff proposal with draft reasonableness criteria, followed by a public workshop to develop these criteria further as part of Phase 2 of this

\textsuperscript{11} The Commission has not yet adopted or acted on any of the recommendations included within the SED Report.

\textsuperscript{12} Joint Motion, p.2.

\textsuperscript{13} D.19-05-042, p. 106.

\textsuperscript{14} D.19-05-042, p. 109, “The Commission’s SED will continue to review electric investor-owned utility’s de-energization reports pursuant to Resolution ESRB-8. The Commission will consider development of reasonableness criteria in Phase 2.”
Rulemaking. Based on feedback from parties at the workshop, the Commission should issue a Proposed Decision setting out the reasonableness criteria. The Commission should adopt the finalized reasonableness criteria following party comments and reply comments on the Proposed Decision.

Following the development and Commission adoption of reasonableness criteria, the Public Advocates Office recommends that SED conduct reasonableness reviews of all significant future PSPS events that impact over 1,000 customer accounts. A reasonableness review of a de-energization event should be published within 60 days of receiving an IOU’s post-event report. Under specific circumstances determined by Commission, the Director of SED should be authorized to extend this deadline for up to 120 days by emailing the service list of this proceeding.


The Joint Motion requests that the Commission quickly complete reasonableness determinations for the fall 2019 PSPS events, starting with the most recent PSPS events first and then working backwards. Requiring reasonableness reviews of every single PSPS event in 2019, including those that resulted in the de-energization of very few customer accounts, is likely to require a significant effort from SED. The Public Advocates Office recommends the Commission prioritize reasonableness reviews for

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15 The Public Advocates Office’s originally recommended this process be completed prior to May 31, 2020 but no action has been taken by the Commission. See Comments of the Public Advocates Office on the Proposed and Modified De-Energization Guidelines, p. 7.

16 This threshold aims to strike the right balance to ensure that all significant de-energization events are subject to a reasonableness review within an appropriate timeframe. Based on the number of customer accounts impacted by each de-energization event in 2019, the proposed threshold of 1,000 customer accounts would have resulted in fewer than ten reasonableness reviews being conducted by SED. This approach was proposed in the Public Advocates Office’s comments on The Proposed Decision Adopting Phase 2 Updated and Additional Guidelines for De-Energization of Electric Facilities to Mitigate Wildfire Risk, p. 4.

17 Comments of the Public Advocates Office on The Proposed Decision Adopting Phase 2 Updated and Additional Guidelines for De-Energization of Electric Facilities to Mitigate Wildfire Risk, p. 4.

18 For example, if there are multiple de-energization events in close occurrence, or if there are a significant number of wildfires that require SED’s investigation.

19 Joint Motion, p. 2.
those PSPS events that de-energized more than 1,000 customer accounts in October and November of 2019. SED should publish the findings of these reasonableness reviews prior to October 1, 2020. After these findings are published, the Commission should then request input from parties about whether the remaining 2019 PSPS events (those involving 1,000 or less customer accounts) warrant reasonableness reviews by SED.

C. SED’s Public Report on the Late 2019 PSPS Events Should Be Entered Into the Record of this Rulemaking.

The Public Advocates Office agrees with the Joint Parties that the SED Report filed in I.19-11-013 does not “explicitly address the information necessary to conduct a proper reasonableness review.” In particular, the SED Report does not contain an assessment as to whether the determinations the IOUs made in 2019 to shutoff power were reasonable exercises of the IOUs’ discretion. Instead, the SED Report merely evaluated the extent to which the IOUs implemented the de-energization regulations and requirements at the time and offered recommendations for future improvement. As such, the SED Report should not be used in lieu of a post-hoc reasonableness review of the PSPS events within the scope of I.19-11-013. However, the SED Report is a valuable resource to guide the development of reasonableness criteria and inform the reasonableness reviews of the 2019 PSPS events. The Public Advocates Office recommends that the SED Report be entered into the record of this Rulemaking.

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Joint Motion, p. 3.

The SED Report, p. 2: “It is important to note that this Report does not present findings of non-compliance with any statute, Commission order, or regulation; it is not a pre-enforcement document. If SED were asked to undertake a compliance investigation, more extensive information collection and verification would be required.”
IV. CONCLUSION

For all the reasons stated above, the Public Advocates Office requests that the Commission adopt the recommendations herein.

Respectfully submitted,

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