BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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In the matter of: 2020 Liberty Utilities (U 933-E) Mountain View Wildfire Incident	[PROPOSED] ADMINISTRATIVE ENFORCEMENT ORDER (Number CPUC-30-AEO) Docket No. _____

LIBERTY UTILITIES (CALPECO ELECTRIC) LLC (U 933-E) REQUEST FOR HEARING

On September 25, 2026, the Safety and Enforcement Division ("SED") of the California Public Utilities Commission ("Commission") issued a proposed Administrative Enforcement Order ("Proposed Order") to Liberty Utilities (CalPeco Electric) LLC (U 933-E) ("Liberty") related to SED's investigation of the Mountain View Fire that ignited on November 17, 2020. The Proposed Order identifies three alleged violations of General Order ("GO") 95, Rule 31.1 and directs Liberty to pay a penalty of $15,992,500. Pursuant to the Enforcement Policy adopted by the Commission in Resolution M-4846, Liberty respectfully submits this request for an evidentiary hearing on the Proposed Order ("Request for Hearing").[1]

I. INTRODUCTION

SED bears the burden of proving a violation of law, rule, or order that justifies the imposition of penalties.[2] The Proposed Order identifies three violations of GO 95, Rule 31.1.

[1] All statutory references are to the Public Utilities Code unless otherwise stated.

[2] *See, e.g.*, D.99-11-055, 1999 WL 33588638 ("In an enforcement proceeding, the party seeking the penalty bears the burden to show a violation of a law, rule or order."); D.15-08-031 at 27 ("The burden of proof is on SED to show by a preponderance of the evidence that respondent . . . violated California law or regulations."); D.14-12-001 at 21 (affirming that "staff has the burden of proof by a preponderance of the evidence" pursuant to the electric safety citation program). The Commission affirmed in Resolution M-4846 that "nothing in this [Enforcement] Policy shifts any burden of proof, evidentiary standards, or otherwise applicable procedural requirements." Resolution M-4846 at 9–10.

Rule 31.1 provides that a utility "is in compliance with this rule if it designs, constructs, and maintains a facility in accordance with the particulars specified in [GO] 95, except that if an intended use or known local conditions require a higher standard than the particulars specified in [GO] 95 to enable the furnishing of safe, proper, and adequate service, the company shall follow the higher standard." Rule 31.1 further provides that, "[f]or all particulars not specified in [GO] 95," a utility "is in compliance with this rule if it designs, constructs and maintains a facility in accordance with accepted good practice for the intended use and known local conditions."[3]

The Proposed Order summarizes the three alleged Rule 31.1 violations as set forth in the table below.[4] The proposed penalty of $15,992,500 is presented as a single aggregate amount, with no information regarding SED's penalty calculations for each alleged violation, the date(s) on which the alleged violations occurred, or whether and to what extent SED is treating any of the alleged violations as continuing violations.[5]

No.	**Violations**		
1	GO 95	Rule 31.1	Failure to account and design for known high wind conditions.
2	GO 95	Rule 31.1	Lack of design standards for equipment actively being operated.
3	GO 95	Rule 31.1	Failure to ensure results from a pole loading calculation maintained the facilities for their intended use.

[3] GO 95, Rule 31.1.

[4] Proposed Order at 9.

[5] *Id.* In contrast to the approach here, the proposed Administrative Enforcement Order issued by SED related to the 2020 Zogg Fire set forth a penalty calculation table identifying the proposed penalty for each alleged violation, how the penalty was calculated, and the dates on which the alleged violations occurred. As discussed in Section III, the absence of such information in the Proposed Order is inconsistent with the Enforcement Policy and prevents the Commission from assessing whether the recommended penalty is lawful or appropriate based on the Penalty Assessment Methodology.

The Proposed Order should not be adopted because (1) SED cannot meet its burden of proving facts sufficient to support the three alleged Rule 31.1 violations, and (2) the recommended penalty is unsupported and excessive even if the alleged violations could be proven.

II. THE PROPOSED ORDER DOES NOT IDENTIFY EVIDENCE SUFFICIENT TO SUPPORT THE ALLEGED VIOLATIONS

A. Alleged Violation No. 1

Violation 1 faults Liberty for "failing to maintain any design considerations to compensate for the consistently higher wind speeds that Liberty was aware were present at the Topaz 1261 Circuit" and for not "perform[ing] an assessment or analysis to determine if the spacing alone was sufficient to mitigate the risk of the known local conditions."[6] The record shows that the span of the Topaz 1261 Circuit adjacent to the origin area of the Mountain View Fire (the "Specific Facilities")[7] well exceeded GO 95's clearance requirements and incorporated additional measures to address the local conditions through increased pin spacing. Moreover, Liberty did the very assessment SED alleges to be lacking when it determined that the Topaz 1261 Circuit should be rebuilt in light of the severe wind and weather in the region and the circuit's outage history. Liberty described this assessment to the Commission and the Commission's Wildfire Safety Division when seeking approval to rebuild the Topaz 1261 Circuit through Liberty's 2019 General Rate Case ("GRC") and 2019 Wildfire Mitigation Plan ("WMP"). And indeed, the Commission approved this phased, multi-year system hardening project—the Topaz Line Rebuild Project—as reasonable to address the known local conditions. The Proposed Order ignores this system hardening project.

[6] *Id.* at 6–7.

[7] These facilities included the span between Pole 266731 and Pole 40288. *Id*. at 2.

The Proposed Order does not identify any purported problem with the Specific Facilities. The Specific Facilities satisfied GO 95's clearance requirements and incorporated the "extra measures" that GO 95 identifies for high-wind areas because the pin spacing well exceeded minimum specifications.[8] GO 95, Rule 38 and Table 2 specifically address conductor separation and the effect of wind on required clearances. Footnote (zz) provides that in areas subject to high winds, a utility "may need to take extra measures to maintain all required separations," and that such "[m]easures may include but are not limited to, spacer bars and increased pin spacing."[9] Liberty purchased its utility system from Sierra Pacific, which had constructed the Topaz 1261 Circuit using a triangular crossarm configuration, with increased pin spacing at either end of an 8-foot crossarm and an elevated center phase to provide enhanced clearances between the conductors and mitigate the risk of contact. This arrangement provided clearances that well exceeded GO 95's conductor clearance requirements specified in Rule 38 and Table 2.[10] Based on measurements at Pole 266731 recorded shortly after the Mountain View Fire showing radial clearances of 54 inches, this configuration provided for 44 inches of horizontal clearance and 31 inches of vertical clearance at the time of ignition,[11] as shown in the figures below. SED recognizes as much, with the Proposed Order affirming the "pin spacing present at

[8] GO 95, Table 2, Footnote (zz); Liberty's Response to SED's Notice of Violation ("NOV Response") at 2.

[9] Proposed Order at 7.

[10] For this type of construction on distribution facilities, Rule 38 requires 17.5 inches of horizontal separation and vertical separation for the elevated center phase at least equal to that pin spacing (i.e., 17.5 inches) at the pole. GO 95, Rule 38; GO 95, Table 2, Case 15, Column F & Footnote (o); GO 95, Rule 54.4(C)(1)(c).

[11] NOV Response at 3.

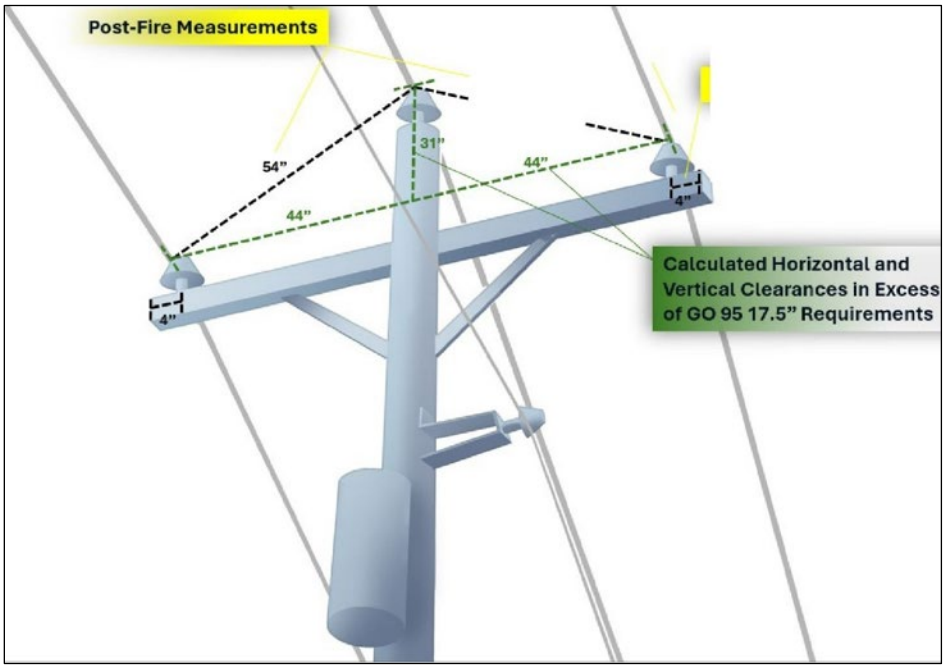
the cross arms near the incident location exceeded the minimum requirements of GO 95 Rule 38[,] Table 2."[12]

Post-Fire Conductor Radial Clearance Measurements at Pole 266731[13]





Annotated Illustration of Measured Radial and Calculated Horizontal and Vertical Conductor Clearances



[12] Proposed Order at 7.

[13] Measurements showed a distance of 54 inches between the center and road phase conductors (left photograph) and between center and field phase conductors (right photograph). NOV Response at 4 & n.2.

Unable to allege a Rule 38 violation on this record, SED attempts to articulate a violation of Rule 31.1 because Liberty "did not implement a policy or procedure to assess the Topaz 1261 Circuit in light of the consistently higher wind speeds and determine if additional measures or design considerations were necessary for safe operation."[14] Specifically, the Proposed Order faults Liberty for not "perform[ing] an assessment or analysis to determine if the spacing alone was sufficient to mitigate the risk" posed by known local conditions.[15] Yet that is *precisely* what Liberty did in the years preceding the Mountain View Fire. Liberty assessed what additional measures were appropriate for the local conditions affecting the Topaz 1261 Circuit.[16] Based on that assessment, Liberty developed a plan to proactively harden the circuit to improve reliability and further reduce wildfire risk in light of known local conditions.[17]

The Commission reviewed and approved the Topaz Line Rebuild Project as part of Liberty's 2019 GRC, finding it "reasonable to approve the project for it adds to Liberty's system reliability, wildfire risk mitigation, and a stronger circuit system."[18] Due to its scope and cost, the project was approved as a multi-year, multi-phase hardening project.[19] Liberty began work on the project even before its funding was approved in the GRC, and diligently executed on the

[14] Proposed Order at 6–7.

[15] *Id.* at 7.

[16] SED's NOV made no mention of the Topaz Line Rebuild Project. *See* NOV at 2. Liberty's response to the NOV highlighted the Topaz Line Rebuild Project and explained the significance of that project in light of the NOV's alleged violation of Rule 31.1 based on known local conditions. *See* NOV Response at 4–5. The Proposed Order again fails to acknowledge Liberty's Topaz Line Rebuild Project or account for the assessment Liberty presented to the Commission describing the need for that project. *See* Proposed Order at 6–8.

[17] Liberty 2019 GRC, Liberty-02: Capital at 6–9; D.20-08-030 at 12–13.

[18] D.20-08-030 at 13.

[19] *Id.* at 12–13. Liberty re-scoped the project to incorporate covered conductor as described in its Commission-approved WMPs. Liberty 2019 WMP at 20–21; Liberty Revised 2020 WMP at 53.

project in the time preceding the Mountain View Fire. In fact, Liberty was performing reconductoring work in the Walker area on the day of the fire, less than a mile from the fire's origin area.[20]

In light of the Topaz Line Rebuild Project, as described in Liberty's 2019 and 2020 WMPs and reviewed and approved by the Commission in Liberty's 2019 GRC, there is no basis for the Proposed Order to allege a violation of Rule 31.1 due to a purported failure on Liberty's part to perform an "assessment or analysis" of the design of the Topaz 1261 Circuit in light of known local conditions. In addition, Rule 31.1 requires proof of departure from "accepted good practice" in Liberty's treatment of known local conditions concerning a "particular[] not specified in [GO] 95."[21] The Proposed Order does not make any such showing with respect to the alleged requirement to perform an "assessment or analysis"; for example, the Proposed Order does not include any evidence regarding practices of other utilities to conduct a different "assessment or analysis" than the one Liberty performed.

Finally, the Proposed Order does not allege any purported issue related to the Specific Facilities. Liberty submits that a violation of Rule 31.1 requires that the conduct at issue result in conditions that were unsafe, improper, or inadequate. The record does not support such a finding. As described above, the Specific Facilities had conductor separation that far exceeded GO 95 requirements, and Liberty regularly inspected the Topaz 1261 Circuit, including the Specific Facilities, after acquiring the utility system from Sierra Pacific. Through these inspections, Liberty personnel assessed the facilities to confirm their safe condition, including while Liberty carried out the system hardening project. Indeed, detailed inspections of the

[20] NOV Response at 4.

[21] GO 95, Rule 31.1.

Specific Facilities were completed approximately six months before the Mountain View Fire, and this span and others were patrolled on the day of the fire in response to an outage that morning, with no issues identified.[22] Consistent with Liberty's practices, field personnel conducting those pre-fire inspections had authority to use spacers as an additional measure if needed, and at no point was a need for spacers identified for the Specific Facilities.

B. Alleged Violation No. 2

Violation 2 faults Liberty for "lacking design standards for equipment that is actively being operated in its system" based on the absence in Liberty's Overhead Distribution Conductor Stringing Guide of "sag tables for the #4 ACSR conductors that were in operation during the time of the incident."[23] The absence of sag tables for legacy conductors does not establish that Liberty failed to furnish "safe, proper, and adequate service" under Rule 31.1.[24]

Liberty did not use #4 ACSR for new construction or actively stock this conductor type. All new construction used conductor types incorporated in Liberty's standards.[25] Liberty was actively replacing the #4 ACSR on the Topaz 1261 Circuit as part of the Topaz Line Rebuild Project. The Proposed Order identifies no GO 95 requirement or accepted good practice that requires a utility to maintain sag tables for legacy conductors acquired from a prior owner. As

[22] NOV Response at 5. Since issuing the NOV, SED appears to have shifted its position on the use of spacers. SED initially faulted Liberty for not implementing spacers as an "extra measure[]" on the Topaz 1261 Circuit, citing Footnote (zz). NOV at 2. Liberty explained in response that it generally relied on increased pin spacing to achieve compliance with GO 95 clearance requirements and used spacers selectively when Liberty's qualified field personnel determined that spacers are appropriate for specific facilities.

[23] Proposed Order at 8.

[24] The Proposed Order does not allege—let alone identify evidence showing—improper sagging of the Specific Facilities.

[25] NOV Response at 5.

described above, the Topaz 1261 Circuit had enhanced clearance construction, and Liberty regularly inspected and maintained these facilities after taking over from Sierra Pacific in 2011.

C. Alleged Violation No. 3

Violation 3 faults Liberty for a "failure to maintain accurate pole loading calculations" relating to a June 2017 pole loading calculation prepared by a third-party telecommunications provider in connection with a pole attachment application associated with Pole 266731. SED points to the calculation identifying Liberty's conductors as #4 ACSR HF, rather than #4 ACSR 7/1, and notes distinctions between those two types of conductors.[26]

This erroneous conductor reference does not establish a violation of Rule 31.1. The difference between #4 ACSR 7/1 and #4 ACSR HF is relatively modest—the former has seven strands of aluminum wrapped around a supporting steel core, while the latter has six.[27] The Proposed Order does not include any facts suggesting that this discrepancy in the third-party pole loading calculation created conditions that were unsafe, improper, or inadequate. The Proposed Order also does not assert that this technical error in the pole loading calculation had any connection to the Mountain View Fire, nor could it, given that the poles did not fail on the day of the ignition.

III. THE PROPOSED PENALTY FOR THE ALLEGED VIOLATIONS IS UNSUBSTANTIATED, EXCESSIVE, AND UNLAWFUL

Even if SED could prove the alleged violations set forth in the Proposed Order, the recommended $15,992,500 penalty for the three alleged violations is grossly excessive and should not be adopted by the Commission. The Proposed Order does not comply with the

[26] Proposed Order at 8.

[27] *See* NOV at 3 (stating that "#4 ACSR 7/1 is approximately 2.8% larger in diameter and 17.5% heavier than #4 ACSR HF/#4 ACSR 6/1").

Enforcement Policy and does not contain information necessary for the Commission to evaluate the proposed penalty pursuant to the Penalty Assessment Methodology, which requires that any penalty imposed be appropriate in light of the following factors: (a) the severity or gravity of the offense; (b) the conduct of the regulated entity; (c) the financial resources of the regulated entity, including the size of the business; (d) the totality of the circumstances in furtherance of the public interest; and (e) the role of precedent.[28]

A. The Proposed Order Fails to Provide Information Sufficient to Evaluate and Respond to the Proposed Penalty

The Proposed Order does not contain information sufficient to show how the proposed penalty of $15,992,500 was calculated.[29] It does not state the specific penalty amount SED assigns to each alleged violation, the dates on which the alleged violations occurred, or whether SED is treating any violation as "continuing" and, if so, the start and end dates and daily penalty assessed for each such violation. The Proposed Order fails to meet the Enforcement Policy's requirement that a proposed Administrative Enforcement Order include "the dates on which violations occurred,"[30] and is inconsistent with the Enforcement Policy's principles of consistency and transparency.[31]

Given the lack of information in the Proposed Order, Liberty cannot meaningfully evaluate or respond to the proposed penalty consistent with its right to due process, and the Commission cannot determine whether the penalty is lawful or appropriate based on the Penalty

[28] Enforcement Policy, App. I.

[29] Proposed Order at 13; *see also id.* at 2 (stating only that "[t]he factors set forth [in] Public Utilities Code section 8386.1 and the Penalty Assessment Methodology were used to determine the penalty amount"). The Proposed Order's reference to Section 8386.1 is inapt given that section relates to compliance with Wildfire Mitigation Plans.

[30] Enforcement Policy at 12.

[31] *Id.* at 3–4.

Assessment Methodology.[32] SED must identify the dates on which the alleged violations occurred, and date ranges and daily penalty amounts for any alleged continuing violations, because statutory maximums limit penalties that may be imposed for a given violation, and increases in the statutory maximum are not appropriately applied to earlier conduct.[33]

SED's approach here is inconsistent with the proposed order issued in the Zogg Fire matter, the only prior wildfire enforcement action addressed through a proposed Administrative Enforcement Order. In that case, the proposed order presented a penalty calculation table that identified the total penalty for each alleged violation and identified start and end dates, a daily fine, and a total fine for alleged continuing violations. That breakdown allowed PG&E to identify and challenge particular aspects of SED's calculations in that matter.[34] While Liberty has served a data request on SED requesting this information with respect to the three alleged violations in the Proposed Order, Liberty currently lacks the information necessary to identify

[32] *In Re S. Pac. Transp. Co.*, 75 CPUC 2d 641 (Sept. 3, 1997) ("when penalties are involved, due process requires prior notice [and] opportunity to respond"); *In Re Pac. Bell*, 82 CPUC 2d 208 (Sept. 17, 1998) (even when a penalty is within statutory limits, it is not permitted to be arbitrarily determined).

[33] *See, e.g.*, *Myers v. Philip Morris Companies, Inc.* (2002) 28 Cal.4th 828, 839–840 (retroactive application of "a statute that operates to 'increase a party's liability for past conduct'" "is impermissible unless there is an express intent of the Legislature to do so"); *id.* at 841 ("[T]he presumption that legislation operates prospectively . . . is rooted" in the Due Process Clause's "protect[ion of] the interests in fair notice and repose that may be compromised by retroactive legislation."); *Franchise Tax Bd. v. Superior Court* (2013) 221 Cal.App.4th 647, 659 (finding "forbidden" the retroactive application of a statutory amendment increasing monetary penalty to past conduct).

[34] For example, PG&E argued in the Zogg Fire proceeding that SED proposed daily penalties exceeding the statutory maximum authorized at the time and erroneously extended the time period of an alleged continuing violation. *See* PG&E's Request For Hearing, H.22-11-015 (filed Nov. 21, 2022), at 6–7 & nn. 25, 28.

and raise similar challenges in this proceeding.[35] Liberty reserves the right to further challenge the penalty and SED's underlying calculations once SED discloses how the penalty was derived.

B. The Proposed Penalty Is Disproportionate Based on the Nature of the Alleged Violations, Liberty's Conduct, and Significant Mitigating Factors

The Proposed Order cites the property damage and fatality resulting from the Mountain View Fire as "significant aggravating factors" that justify imposition of a higher penalty.[36] As explained above, however, the Proposed Order does not establish any causal connection between the alleged violations and ignition of the Mountain View Fire. Thus, the Proposed Order fails to support SED's position that the severity of the offense justifies the substantial penalty sought.

In fact, the Proposed Order shows that Liberty's conduct supports a lower penalty, not a higher one. The Proposed Order notes Liberty's reasonable cooperation with SED's investigation.[37] The Mountain View Fire was also the first—and only—large wildfire attributed to Liberty's facilities since Liberty took over from Sierra Pacific in 2011. The Proposed Order acknowledges it is "Liberty's first penalization for a wildfire," but the recommended penalty does not give appropriate weight to this significant mitigating factor.[38] And contrary to SED's unsupported assertion that "Liberty's conduct created a public safety hazard that endangered the

[35] Liberty served Liberty-SED-DR-001 on SED on October 15, 2026, requesting that SED provide its penalty calculation methodology by October 29, 2026. On October 26, 2026, SED informed Liberty that it would respond to Liberty-SED-DR-001 on November 9, 2026, after Liberty files a timely request for hearing.

[36] Proposed Order at 10.

[37] *Id.* at 10–11.

[38] *Id.* at 11.

public,"[39] there is nothing about the alleged violations in the Proposed Order that suggests culpability that would justify the imposition of a higher penalty.[40]

Moreover, while the Methodology directs SED to consider a utility's actions to prevent violations and mitigating factors more broadly,[41] the penalty discussion in the Proposed Order ignores Liberty's proactive Topaz Line Rebuild Project, which was approved by the Commission as part of Liberty's 2019 GRC and in progress at the time of the Mountain View Fire. As set forth above, that project was specifically intended to address "known local conditions" impacting the Topaz 1261 Circuit and to reduce wildfire risk. The recommended penalty and Proposed Order also fail to acknowledge other mitigation and prevention efforts, including the enhanced conductor spacing that already existed on the Topaz 1261 Circuit and Liberty's numerous detailed inspections of the Specific Facilities.

With regard to Violation 3, the Proposed Order does not sufficiently recognize that the erroneous pole loading calculation was made by a third-party telecommunications provider, not Liberty, and does not acknowledge that Liberty had a process for engineering review of third-party telecommunications applications prior to approval.[42] That process was intended to support safe third-party attachments and demonstrates that Liberty in good faith sought to minimize errors in the third-party attachment process.[43]

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[39] *Id.* at 11.

[40] While the Proposed Order references prior NOVs issued to Liberty related to "pole loading data," *id.* at 10, there is no explanation of the relevance of these prior NOVs to the alleged violations set forth here.

[41] Enforcement Policy, App. I at 17, 19.

[42] NOV Response at 6.

[43] Liberty has further strengthened its process for reviewing third-party telecommunications applications since 2020. NOV Response at 6. Liberty now performs such reviews internally: a

C. The Proposed Penalty Is Not Supported By Precedent Given Liberty's Size and Lack of Prior Wildfire-Related Enforcement

The recommended penalty of $15,992,500 is grossly excessive considering Liberty's size and the precedent of prior enforcement actions. The penalty amount equals nearly 7 percent of Liberty's 2026 authorized annual revenue requirement, and a staggering 18.5 percent of Liberty's 2020 authorized revenue requirement.[44] The only prior proposed Administrative Enforcement Order relating to a wildfire—the Zogg Fire proceeding cited in the Proposed Order's discussion of precedent[45]—shows that these percentages are grossly excessive. SED's proposed order in that proceeding recommended a penalty of $155.4 million, which equated to *less than one* percent of PG&E's 2020 revenue,[46] in a proceeding involving a fire that caused significantly more damage than the Mountain View Fire, a utility with prior wildfire enforcement proceedings, and alleged violations identified as having a direct causal link to ignition of the fire.[47] Indeed, all of the wildfire enforcement precedent cited in the Proposed Order involved

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planner and an engineer review the application, and field personnel verify the condition of the pole and its attachments and compare the application against internal records. *Id.*

[44] *See* D.26-03-017 at 41 (authorizing annual revenue requirement of $231.938 million for 2026); D.20-08-030 at 2, 73 (authorizing annual revenue requirement of $86.142 million for 2020).

[45] Proposed Order at 11–12.

[46] *See* Advice Letter 5661-E-A, *Supplemental: 2020 Annual Electric True-Up - Consolidated Electric Rate Changes Effective May 1, 2020* at 11, Table 2 (Apr. 22, 2020) (electric system revenue requirements totaling $14.09 billion for 2020); Advice Letter 4200-G, *Annual Gas True-Up of Gas Transportation Balancing Accounts for Rates Effective January 1, 2020* at 2, Table 1 (Dec. 23, 2019) (gas system revenue requirements totaling $3.668 billion).

[47] *Joint Motion for Approval of Settlement Agreement of Safety Enforcement Division and Pacific Gas and Electric Company (U 39 E)*, Ex. B (Zogg Proposed Order) at 9–12, H.22-11-015 (filed May 24, 2023). According to that proposed order, the Zogg Fire burned approximately 56,000 acres, 204 structures, and resulted in four deaths. *Id*. at 6.

proceedings against one of California's large investor-owned utilities related to larger wildfire incidents, and does not support the substantial proposed penalty here.[48]

The Proposed Order improperly attempts to justify the recommended penalty using Liberty's 2026 revenue requirement rather than its revenue requirement around the time of the alleged violations, which was less than forty percent of its current revenue requirement.[49] Liberty respectfully submits that the Commission may not fairly impose a higher penalty based on Liberty's current revenue requirement because SED delayed enforcement for six years without justification while Liberty's revenue needs increased.[50] Indeed, that would essentially penalize Liberty for the substantial, Commission-approved wildfire mitigation and other investments in its system in recent years. The penalty is therefore excessive for using the 2026 figure, especially considering the Proposed Order does not allege any ongoing violations.[51]

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[48] The Proposed Order does not mention numerous citations issued by SED with significantly lower proposed penalties related to wildfire investigations. *See, e.g.*, *Citation Issued Pursuant to Decision 16-09-055*, Citation No. D.16-09-055 W.25-03-001, at 11 (Mar. 21, 2025) (SED citation imposing $2.2 million penalty for 2022 Fairview Fire involving alleged clearance violations); *Citation Issued Pursuant to Decision 16-09-055*, Citation No. D.16-09-055 E.24-02-001, at 10 (Feb. 5, 2024) (SED citation imposing $2.4 million penalty for 2020 Silverado Fire involving alleged Rule 31.1 violations).

[49] Proposed Order at 10 (citing Liberty's 2026 annual revenue requirement in discussion of Liberty's financial resources pursuant to Penalty Assessment Methodology).

[50] SED initiated its investigation shortly after the Mountain View Fire occurred in November 2020. After serving data requests through June 2022, SED did not communicate with Liberty about the fire for more than three years. SED served a further set of data requests in September 2025 after Liberty filed its June 2025 application to recover costs associated with the Mountain View Fire and the Public Advocates Office at the Commission apparently reached out to SED to ask about the status of its investigation. SED's delay is not addressed in the Proposed Order and is not consistent with the Enforcement Policy principle of timely enforcement. Enforcement Policy at 3.

[51] The Proposed Order does not suggest the potential for ongoing violations, or identify any needed corrective actions.

The Proposed Order further invokes the consolidated revenues of Liberty's ultimate parent, Algonquin Power & Utilities Corp. ("Algonquin") for the year 2025.[52] Algonquin's consolidated revenues reflect operations well beyond Liberty's service territory of approximately 50,000 customers in California.[53] The Penalty Assessment Methodology looks to the financial resources of "the regulated entity"—*not* its corporate parent.[54] Liberty submits that the Enforcement Policy mandates consideration of the resources of the California utility, not its legally distinct, out-of-state ultimate parent. Moreover, a penalty based on Algonquin's entire revenues, without regard to the fact that only a small fraction comes from California, would impede the ability of other states (not to mention other countries) in which Algonquin's other subsidiaries operate to enforce their regulatory frameworks, and also disadvantage the interests of Algonquin customers in other states.

IV. CONCLUSION

Liberty requests the opportunity to explain further at an evidentiary hearing why the alleged violations set forth in the Proposed Order are not supported by sufficient evidence and

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[52] Proposed Order at 10.

[53] *See id.* at 10 (citing *Algonquin Power & Utilities Corp., Consolidated Financial Statements, Statements of Operations* at 4 (Mar. 6, 2026), Ex. 99.2 to *Annual Report (Form 40-F)* (reporting $2.434 billion in total revenues for the year ended Dec. 31, 2025)); Algonquin Power & Utilities Corp., *2025 Annual Report*, at VI–VII (showing Algonquin's geographic reach across several utility types).

[54] Enforcement Policy, App. I at 19. The Policy defines "regulated entity" in accordance with Section 201 et seq. The Commission does not have jurisdiction to regulate entities outside of California. *See* Pub. Util. Code § 202. Section 216(a)(1) further defines, in relevant part, a "public utility" as including "every . . . electrical corporation . . . where the service is performed for, or the commodity is delivered to, the [California] public or any portion thereof." Liberty CalPeco LLC is the only electric utility within the Algonquin structure in California, and is legally distinct from its parent and affiliates. Because the Commission cannot regulate Algonquin beyond its operations in California, it should not consider Algonquin's resources stemming from out-of-state operations in evaluating the appropriateness of a penalty to be imposed on Liberty.

why the recommended penalty in the Proposed Order is excessive. Liberty reserves all rights with respect to the presentation of issues at the evidentiary hearing on these matters, including the right to refine the legal and factual arguments set forth herein, and to raise additional such arguments.

Respectfully submitted,

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