

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Enforcement Division

San Francisco, California

Date: December 17, 2020

Resolution UEB-006

R E S O L U T I O N

**RESOLUTION UEB-006. ADOPTION OF A
DISCONNECTION CITATION PROGRAM TO
ENFORCE COMPLIANCE WITH THE RULES IN
COMMISSION DECISION 20-06-003.**

SUMMARY

PROPOSED OUTCOME:

Approves citation program for enforcing compliance with the rules in California Public Utilities Commission (CPUC or Commission) Decision (D.) 20-06-003.

SAFETY CONSIDERATIONS:

This citation program is designed to ensure California's large investor-owned utilities reduce the overall number of residential disconnections and thus promotes the health and safety of California residents.

ESTIMATED COST:

Exact costs are currently unknown.

INTRODUCTION

Resolution UEB-006 establishes a citation program under the administration of the Utilities Enforcement Branch (UEB) of the CPUC's Consumer Protection and Enforcement Division (CPED) to enforce compliance with the disconnections-related consumer protection rules¹ authorized by D.20-06-003.² This citation program is applicable to Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCalGas),³ collectively referred to as California's large investor-owned utilities (IOUs).⁴

Specifically, this citation program enforces the IOUs' compliance with the rules designed to reduce the number of residential customer disconnections pursuant to Senate Bill (SB) 598 (Statutes of 2017, Chapter 362) and Public Utilities (Publ. Util.) Code Section 718. These rules are:

1. IOUs shall not exceed their monthly residential customer disconnection cap as calculated in Appendix 1 of D.20-06-003.⁵
2. IOUs shall not disconnect residential customers for nonpayment until the utility offers to enroll eligible customers in all applicable benefit programs administered by the utility.⁶
3. IOUs must offer all residential customers a 12-month payment plan prior to disconnection. IOUs shall not disconnect a residential customer who is on a 12-month payment plan and is current on both monthly bills and the 12-month payment plan.⁷
4. IOUs shall not disconnect residential customers if they currently have a Low-Income Home Energy Assistance Program (LIHEAP) pledge pending.⁸
5. IOUs shall not disconnect residential customers when temperatures above 100 degrees Fahrenheit or below 32 degrees Fahrenheit are forecasted based on a 72-hour look-ahead period.⁹

¹ D.20-06-003, Ordering Paragraph (OP) 93, p. 164.

² D.20-06-003 is the culmination of Phase 1 of Rulemaking (R.) 18-07-005. The proceeding remains open to consider additional policies, rules, and regulations to address issues to reduce the rate of customer disconnections in Phase I-A and Phase II.

³ Because both SDG&E and SoCalGas are companies under the Sempra Energy umbrella, and because the two IOUs filed all workshop and Draft Resolution comments jointly, the two will collectively be referred to as the Sempra Utilities in this Resolution.

⁴ D.20-06-003, OP 1, pp. 144-145.

⁵ D.20-06-003, OP 1(a), p. 145; Appendix 1.

⁶ D.20-06-003, OP 1(c), p. 145.

⁷ D.20-06-003, OP 1(d), pp. 145-146.

⁸ D.20-06-003, OP 1(e), p. 146.

⁹ D.20-06-003, OP 1(f), p. 146.

6. IOUs shall not require residential customers to provide any form of deposits to establish or re-establish service.¹⁰
7. IOUs shall modify their disconnection notices to include the following:¹¹
 - a. Disconnection notices shall notify the customer that there may be financial programs available to assist them.
 - b. Disconnection calls shall clearly indicate that the customer is in danger of having their utilities disconnected.
 - c. Automated disconnection calls shall clearly direct customers to select the billing option to speak to a representative regarding their bill, the availability of repayment options, and financial assistance that may be available.
 - d. 48-hour disconnection notices shall state: “If you are not able to pay your bill, call [your utility] to discuss how we can help. You may qualify for programs, such as reduced rates under [the utility’s] CARE¹² program, that can help to reduce your bill. We can connect you with community agencies that can provide additional assistance to you. You may also qualify for the Energy Savings Assistance Program, which is an energy efficiency program for income-qualified residential customers.”
 - e. Disconnection notices shall be sent via email to customers who have opted to receive electronic communications from the utilities.
8. IOUs shall not charge residential customers a reconnection fee/charge before reconnecting service.¹³
9. IOUs shall only initiate a benefit of service investigation¹⁴ if any of the following conditions are met pursuant to D.20-06-003:¹⁵
 - a. Address returned from Experian Identity Validation tool shows a common address shared between the new customer and a previous service holder;
 - b. Matching telephone number between the new customer and the customer of a previous service;
 - c. Landlord or homeowner confirms that the occupant is not new or has been residing at the address;
 - d. The account is transferred to the name of a spouse or roommate;

¹⁰ D.20-06-003, OP 8-9, p. 147.

¹¹ D.20-06-003, OP 10-13 and 15, pp. 147-148.

¹² California Alternate Rates for Energy.

¹³ D.20-06-003, OP 16, p. 148.

¹⁴ A benefit of service investigation determines whether a person not listed on the utility bill for a residence has benefited from unpaid utility service provided to the residence.

¹⁵ D.20-06-003, OP 18, p. 149.

- e. The account is transferred to a customer who has the same email address as the previous customer; or
- f. The account is transferred to someone with the same banking information as the previous customer.
- g. IOUs shall adhere to the following procedures as outlined in D.20-06-003 when conducting a benefit of service investigation:¹⁶
 - 1. If it is determined that the residential customer has benefited from prior service, the utility must provide the customer with 30 days to submit additional evidence to dispute the determination.
 - 2. After the customer submits any additional evidence, the utility shall within 30 days provide both verbal and written notice to the customers of the outcome and what documentation was used in making the determination.
 - 3. Include in the notice the contact information for the CPUC's Consumer Affairs Branch and any available internal appeals process.
 - 4. Document all reasonable efforts to contact the customer.
- h. IOUs shall not bill a residential customer who was under the age of 18 at the time of prior usage at the same residential address for a benefit of service charge.¹⁷

This Resolution authorizes citations to IOUs subject to the above rules in an amount of \$500 to \$100,000 per violation.¹⁸ This citation program does not cover all violations that may occur subject to D.20-06-003, nor is it intended to. Nothing in this Resolution diminishes, alters, or reduces the CPUC's existing authority over customer disconnection.

BACKGROUND

On September 28, 2017, Governor Brown signed Senate Bill (SB) 598 (Hueso 2017) into law. SB 598 acknowledges that disconnections of gas and electric utility customers have been rising, and notes the public health impacts in terms of hardship and stress resulting from disconnections, especially among vulnerable populations. Among other things, SB

¹⁶ D.20-06-003, OP 19-22, pp. 149-150.

¹⁷ D.20-06-003, OP 23, p. 150.

¹⁸ Pub. Util. Code §2107.

598 requires the CPUC to develop rules, policies, or regulations with a goal of reducing the statewide disconnection rate of gas and electric utility customers by January 1, 2024.

California's large IOUs each have different procedures and protocols pertaining to disconnection for failure to timely pay for service and for reconnection. Some aspects of disconnection and reconnection processes occur pursuant to CPUC-adopted rules and policies. Other aspects are voluntary and are not enforced by any CPUC rules. Although the impetus for disconnection, repayment options, and reconnection times differ across the IOUs, the ramifications of disconnection for customers can be uniformly far-reaching.

On July 20, 2018, the CPUC instituted Rulemaking (R.) 18-07-005 to consider new approaches to disconnections and reconnections to improve energy access across California's large IOUs. On December 10, 2018, the CPUC issued D.18-12-013, adopting interim rules to reduce residential customer disconnections for California-jurisdictional energy utilities. On April 17, 2020, the CPUC issued Resolution M-4842, an emergency authorization and order directing utilities to implement emergency customer protections to support California customers during the novel coronavirus COVID-19 pandemic. The Emergency Customer Protections apply to customers of energy, water, and communications corporations for up to one year from the date of Resolution M-4842.

On June 16, 2020, the CPUC issued D.20-06-003, adopting rules and other changes to reduce residential customer disconnections for the larger California-jurisdictional energy utilities.

Pursuant to California Pub. Util. Code Section 2101, the CPUC has the power to act as an enforcement agency and to ensure that penalties are promptly prosecuted and collected. IOUs are subject to enforcement action and penalties pursuant to Sections 2102-2105, 2107, 2108, and 2114. D.20-06-003 directs UEB to "create a citation program for disconnection protocols... The citation program should be designed to levy penalties on any IOU that violates requirements set forth in this decision or in their respective existing tariffs."¹⁹

D.20-06-003 also requires that UEB hold at least one workshop for development of the citation program.²⁰ UEB held a workshop on August 5, 2020 in which all parties to R.18-

¹⁹ D.20-06-003, p. 137.

²⁰ D.20-06-003, p. 137.

07-005 were provided an opportunity to comment, discuss, and ask questions about the rules outlined in D.20-06-003. Fifty-six individuals from thirteen different entities attended the workshop.²¹ Following the workshop, parties filed opening and reply comments. No parties objected to any of the proposed rules outlined above at the workshop or in their post-workshop comments. However, parties sought clarifications for when violations are triggered and how the associated penalties are determined. We provide such clarifications below.

RESIDENTIAL DISCONNECTION CITATION PROGRAM

1. Residential Disconnection Cap

D.20-06-003 ordered that residential customer disconnections shall be capped using the recorded 2017 percentage of each respective utility.²² Disconnections implemented for each subsequent year must remain at or below the percentage shown below for each utility:

| Target Date | PG&E | SDG&E | SCE | SoCalGas |
|--------------------|-----------------|------------------|------------|-----------------|
| 7/1/2020 | 4% | 3% | 8% | 2% |
| 1/1/2021 | 4% | 3% | 7% | 2% |
| 1/1/2022 | 4% | 3% | 6% | 2% |
| 1/1/2023 | 3.5% | 3% | 5% | 2% |
| 1/1/2024 | 3.5% | 3% | 4% | 2% |

D.20-06-003 also requires SCE, PG&E, SDG&E, and SoCalGas to follow the rolling cap methodology that is described in Appendix 1.²³ Appendix 1 provides the following rolling methodology for the **monthly** disconnection cap:

1. The disconnection cap number is calculated **each month** by applying the IOU's annual target rate in the above table to the number of accounts on the last day of the prior month. For example, assume the IOU's number of accounts on June 30, 2020, is 5,500,000. The target rate starting on July 1,

²¹ The workshop was attended by individuals from the CPUC, Public Advocates Office (Cal Advocates), California Department of Community Services and Development, Center for Accessible Technologies (CforAT), California Water Association, The Utility Reform Network (TURN), SCE, PG&E, SDG&E, SoCalGas, Sempra Utilities, Bear Valley Electric Service, and Southwest Gas Company.

²² D.20-06-003, OP 1(a), p. 145.

²³ D.20-06-003, OP 4, p. 146.

- 2020 is 4%, based on the table above. The disconnection cap number for July 2020 is 220,000 (5,500,000 x 4%).
2. The amount of disconnections in the past 11 months, from August 2019 through June 2020, is summed into a total. For this example, assume that total is 205,000.
 3. The amount of disconnections allowed for the IOU in July 2020 is calculated as the difference between the disconnection cap number and the sum of disconnections from August 2019 through June 2020: 15,000 (220,000-205,000).
 4. To calculate the amount of disconnections allowed for August 2020, steps 1 through 3 are repeated using the number of accounts on July 31, 2020 and summing the number of disconnections from September 2019 through July 2020.
 5. If the sum of disconnections in the past 11 months exceed the disconnection cap number, the IOU cannot disconnect any customers for the coming month. Using the example above, if the sum of disconnections from August 2019 through June 2020 was 235,000, then the IOU cannot disconnect any customers in July 2020 (235,000 > 220,000).

The rolling methodology for the disconnection cap in Appendix 1 of D.20-06-003 is clear that the disconnection cap number is calculated each month by applying the IOU's annual target rate. As such, an IOU is in violation of the disconnection cap requirement if it disconnects any customer after its monthly disconnection cap number has been reached. Violation of the disconnection cap requirement is subject to a penalty of \$500 per affected customer for the first month, \$1,000 per affected customer for the second month, \$2,000 per affected customer for the third month, and continuing to double until a maximum of \$100,000 per affected customer is reached. The penalty resets to \$500 per customer if the IOU has no violations for three consecutive months.

For example, if an IOU disconnected customers after reaching its monthly disconnection cap as shown in Table 2, the associated penalty will start at \$500 per affected customer in June 2021, increasing by 100% to \$1,000 per affected customers in July 2021, again increasing by 100% to \$2,000 per affected customer in September 2021, and finally increasing by 100% to \$4,000 per affected customer in December 2021. The penalty resets to \$500 per affected customer in April 2022 because the IOU has had no violation for three consecutive months in January, February, and March 2022. The penalty increases by 100% to \$1,000 per affected customer in May 2022. In

this example, the total penalty for the IOU is \$82,500 for the period June 2021 through May 2022.²⁴

| Table 2: Sample Penalty Calculation | | | |
|--|---|-------------------------------|----------------------|
| Month | No. Disconnections After Monthly Disconnection Cap Reached | Penalty (per customer) | Total Penalty |
| Jun 2021 | 10 | \$500 | \$5,000 |
| Jul 2021 | 15 | \$1,000 | \$15,000 |
| Aug 2021 | 0 | - | |
| Sep 2021 | 5 | \$2,000 | \$10,000 |
| Oct 2021 | 0 | - | |
| Nov 2021 | 0 | - | |
| Dec 2021 | 10 | \$4,000 | \$40,000 |
| Jan 2022 | 0 | - | |
| Feb 2022 | 0 | - | |
| Mar 2022 | 0 | - | |
| Apr 2022 | 15 | \$500 | \$7,500 |
| May 2022 | 5 | \$1,000 | \$5,000 |
| | | | |
| Total Penalty | | | \$82,500 |

The IOU parties stated in their comments on the Draft Resolution that during the month that its annual disconnection cap decreases, the IOU may be in violation of the cap even if it does not disconnect any accounts in that month.²⁵ In order to address the potential “false positive,”²⁶ the IOUs suggest that the rolling monthly cap be changed to a single annual cap²⁷ or that the Commission clarify how the penalties are calculated for the months in which their annual cap decreases.²⁸

The IOU’s premise is incorrect. As stated above, the IOU will only be in violation of the disconnection cap if the sum of disconnections in the past 11 months exceeds the disconnection cap number *and* the IOU disconnects a customer in that month. In other words, if the IOU does not disconnect any customer during the month, it will not be in

²⁴ Penalty per month = (No. customers disconnected after monthly disconnection cap reached) X (penalty).

²⁵ SCE Comments on Draft Resolution, pp. 4-6; PG&E Comments on Draft Resolution, pp. 2-3; Sempra Utilities Comments on Draft Resolution, pp. 5-6.

²⁶ PG&E Comments on Draft Resolution, p. 2.

²⁷ SCE Comments on Draft Resolution, pp. 5-6; PG&E Comments on Draft Resolution, p. 2; Sempra Utilities Comments on Draft Resolution, p. 6.

²⁸ SCE Comments on Draft Resolution, p. 6; Sempra Utilities Comments on Draft Resolution, p. 6.

violation even if the sum of disconnections in the past 11 months exceeds the disconnection cap number.

2. Program Eligibility

Pursuant to D.20-06-003, residential customers shall not be disconnected for nonpayment until the utility offers to enroll eligible customers in all applicable benefit programs²⁹ administered by the utility.³⁰ The utility is not required to make affirmative inquiry of every residential household as to whether they are enrolled in all applicable benefit programs. If the utility has discussions with a residential customer prior to disconnection, however, that utility shall have a duty to inquire if the customer is interested in hearing about the applicable benefit programs.³¹ Residential customers must enroll in the applicable benefit program within two billing cycles of being informed of the applicable benefit programs.³²

The IOU is in violation of the program eligibility requirement if the IOU has discussions with a residential customer prior to disconnection but fails to inquire if the customer is interested in hearing about applicable benefit programs prior to disconnection.³³

Violation of the program eligibility requirement is subject to a citation of \$1,000 per affected customer.

3. Twelve-Month Payment Plan

Pursuant to D.20-06-003, prior to disconnecting any residential customer, IOUs shall offer the customer a 12-month payment plan.³⁴ IOUs shall not disconnect any residential customer who is on a 12-month payment plan and is current on both monthly bills and the 12-month payment plan.³⁵

The IOU is in violation of the 12-month payment plan requirement if it fails to offer a residential customer a 12-month payment plan prior to disconnection, or if the IOU disconnects a residential customer who is on the 12-month payment plan and is current

²⁹ Applicable benefit programs include, but are not limited to, CARE, Family Electric Rate Assistance (FERA), LIHEAP, and Medical Baseline.

³⁰ D.20-06-003, OP 1(c), p. 145.

³¹ D.20-06-003, OP 1(c), p. 145.

³² D.20-06-003, OP 1(c), p. 145.

³³ The IOU may provide its customers with additional information about benefit programs through other means of communications (notices, on-hold scripts, etc.), but in order to meet this requirement, the IOU must discuss program enrollment with individual customers who are at risk of disconnection prior to being disconnected.

³⁴ D.20-06-003, OP 1(d), pp. 145-146.

³⁵ D.20-06-003, OP 1(d), pp. 145-146.

on both monthly bills and the 12-month payment plan. Violation of the 12-month payment plan requirement is subject to a citation of \$1,000 per affected customer.

4. Low-Income Home Energy Assistance Program (LIHEAP)

Pursuant to D.20-06-003, residential customers shall not be disconnected if they currently have a Low-Income Home Energy Assistance Program (LIHEAP) pledge pending.³⁶ LIHEAP is a program that provides funds directly to eligible customers to help pay utility bills.³⁷

The IOU is in violation of the LIHEAP pledge requirement if it disconnects a customer that has a LIHEAP pledge for any amount pending. Violation of the LIHEAP pledge requirement is subject to a citation of \$1,000 per affected customer.

5. Weather Restrictions

Pursuant to D.20-06-003, residential customers shall not be disconnected when temperatures above 100 degrees Fahrenheit or below 32 degrees Fahrenheit are forecasted based on a 72-hour look-ahead period.³⁸ Each utility may continue to use its own internal weather monitoring systems for meeting this requirement.³⁹ The 100-degree prohibition does not apply to gas utilities.⁴⁰

The electric IOU is in violation of the weather restrictions requirement if it disconnects a customer when temperatures above 100 degrees Fahrenheit or below 32 degrees Fahrenheit are forecasted based on a 72-hour look-ahead period. The gas IOU is in violation of the weather restrictions requirement if it disconnects a customer when temperatures below 32 degrees Fahrenheit are forecasted based on a 72-hour look-ahead period. Violation of the weather restrictions requirement is subject to a citation of \$1,000 per affected customer.

6. Deposits

Pursuant to D.20-06-003, the IOUs are prohibited from requiring any residential customers to pay a credit deposit for new service.⁴¹ The IOUs are also prohibited from requiring deposits for any re-establishment of service.⁴²

³⁶ D.20-06-003, OP 1(e), p. 146.

³⁷ D.20-06-003, p. 62.

³⁸ D.20-06-003, OP 1(f), p. 146.

³⁹ D.20-06-003, OP 1(f), p. 146.

⁴⁰ D.20-06-003, p. 14.

⁴¹ D.20-06-003, OP 8, p. 147.

⁴² D.20-06-003, OP 9, p. 147.

The IOU is in violation of the deposit requirement if it bills a residential customer for a credit or service deposit in order to establish or re-establish service. Violation of the deposit requirement is subject to a citation of \$1,000 per affected customer.

7. Disconnection Notices

Pursuant to D.20-06-003, the IOUs shall modify their disconnection notices to include the following:

- a. Disconnection notices shall notify the customer that there may be financial programs available to assist them.⁴³
- b. Disconnection calls shall clearly indicate that the customer is in danger of having their utilities disconnected.⁴⁴
- c. Automated disconnection calls shall clearly direct customers to select the billing option to speak to a representative regarding their bill, the availability of repayment options, and financial assistance that may be available.⁴⁵
- d. 48-hour disconnection notices shall state: “If you are not able to pay your bill, call [your utility] to discuss how we can help. You may qualify for programs, such as reduced rates under [the utility’s] CARE program, that can help to reduce your bill. We can connect you with community agencies that can provide additional assistance to you. You may also qualify for the Energy Savings Assistance Program, which is an energy efficiency program for income-qualified residential customers.”⁴⁶
- e. Disconnection notices shall be sent via email to customers who have opted to receive electronic communications from the utilities.⁴⁷

The IOU is in violation of the disconnection notices requirement if:

- a. Its disconnection notices fail to inform customers that there may be financial programs available to assist them;
- b. Its disconnection calls do not clearly indicate that the customer is in danger of having their utilities disconnected;
- c. Its automated disconnection calls do not direct customers to select the billing option to speak to a representative regarding their bill, the availability of repayment options, and available financial assistance; or

⁴³ D.20-06-003, OP 10, p. 147.

⁴⁴ D.20-06-003, OP 11, p. 148.

⁴⁵ D.20-06-003, OP 12, p. 148.

⁴⁶ D.20-06-003, OP 13, p. 148.

⁴⁷ D.20-06-003, OP 15, p. 148.

- d. Its 48-hour disconnection notices do not, at a minimum, state:⁴⁸ “If you are not able to pay your bill, call [your utility] to discuss how we can help. You may qualify for programs, such as reduced rates under [the utility’s] CARE program, that can help to reduce your bill. We can connect you with community agencies that can provide additional assistance to you. You may also qualify for the Energy Savings Assistance Program, which is an energy efficiency program for income-qualified residential customers.”
- e. It does not provide disconnection notices via email to customers who have opted to receive electronic communications.

Violation of the disconnection notices requirement is subject to a penalty of \$1,000 per affected customer.

8. Reconnection Fees

Pursuant to D.20-06-003, reconnection fees are eliminated effective with the date of the decision.⁴⁹

The IOU is in violation of the reconnection fees requirement if it bills a residential customer a reconnection fee or charge before reconnecting service. Violation of the reconnection fees requirement is subject to a penalty of \$1,000 per affected customer.

9. Benefit of Service

Pursuant to D.20-06-003, to trigger an investigation that would require a customer to verify that they were not previously benefiting from utility service, the IOUs must identify any of the following:⁵⁰

- a. Address returned from Experian Identity Validation tool shows a common address shared between the new customer and a previous service holder;
- b. Matching telephone number between the new customer and the customer of a previous service;
- c. Landlord or homeowner confirms that the occupant is not new or has been residing at the address;
- d. The account is transferred to the name of a spouse or roommate;

⁴⁸ The IOU is not in violation of the 48-hour disconnection notice requirement if the wording of the IOU’s notice does not reproduce the D.20-06-003 language verbatim. However, the IOUs’ 48-hour disconnection notices must not deviate beyond reordering phrases or replacing words with synonyms. The IOUs may add additional information to the notice if it does not change or conflict with the required language.

⁴⁹ D.20-06-003, OP 16, p. 148.

⁵⁰ D.20-06-003, OP 18, p. 149.

- e. The account is transferred to a customer who has the same email address as the previous customer; or
- f. The account is transferred to someone with the same banking information as the previous customer.
- g. IOUs shall adhere to the following procedures as outlined in D.20-06-003 when conducting a benefit of service investigation:⁵¹
 - 1. If it is determined that a residential customer has benefited from prior service, the utility must provide the customer with 30 days to submit additional evidence to dispute the determination.
 - 2. After the customer submits any additional evidence, the utility shall within 30 days provide both verbal and written notice to the customer of the outcome and what documentation was used in making the determination.
 - 3. Include in the notice the contact information for the CPUC's Consumer Affairs Branch and any available internal appeals process.
 - 4. Document all reasonable efforts to contact the customer.
- h. IOUs shall not bill a residential customer who was under the age of 18 at the time of prior usage at the same residential address for a benefit of service charge.⁵²

The IOU is in violation of the benefit of service requirement if it fails to identify any of the following prior to initiating an investigation that requires the customer to verify that they were not previously benefiting from the utility service: address returned from Experian Identify Validation tool; matching telephone number; landlord or homeowner confirms that the occupant is not new or has been residing at the address; the account is transferred to the name of a spouse or roommate; the account is transferred to a customer who has the same email address as the previous customer; or the account is transferred to someone with the same banking information as the previous customer.

The IOU is also in violation of the benefit of service requirement if it fails adhere to the procedures outlined above when conducting a benefit or service investigation or if it charges a customer who was under 18 at the time of prior usage with a benefit of service charge. Violation of the benefit of service requirement is subject to a penalty of \$1,000 per affected customer.

PENALTIES

⁵¹ D.20-06-003, OP 19-22, pp. 149-150.

⁵² D.20-06-003, OP 23, p. 150.

IOUs that violate the rules in this Resolution may be subject to penalties. The penalty provisions available to the Commission include the following:

Pub. Util. Code §2107 states:

Any public utility that... fails or neglects to comply with any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the commission, in a case in which a penalty has not otherwise been provided, is subject to a penalty of not less than five hundred dollars (\$500), nor more than one hundred thousand dollars (\$100,000) for each offense.⁵³

Pub. Util. Code §2108 states:

Every violation of the provisions of this part or of any part of any order, decision, decree, rule, direction, demand, or requirement of the commission, by any corporation or person is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be a separate and distinct offense.

The Commission articulated its criteria to assess penalties for violations of Commission rules, orders, and decisions in D.98-12-075. These criteria are severity of the offense, conduct of the utility, need for deterrence, financial resources of the utility, degree of wrongdoing, and role of precedent. The Commission considered these criteria when establishing the penalty structure for this citation program.

In its comments on the Draft Resolution, SCE asserts, "Even if SCE immediately discovers and remedies the problem, and mitigates impact to customers through appropriate communications, the result would still be a fine in the millions of dollars... Accordingly, prior to the imposition of particularly large penalties, there should be assessment of whether the amount would effectively deter future misconduct."⁵⁴

SCE's comment incorrectly assumes that correcting a problem is a complete defense to an enforcement action. Customers experience harm even when an error is corrected or mitigated. The goal of this citation program is to deter violations and protect customers from the health and safety harm associated with the loss of essential electric and natural

⁵³ Pub. Util. Code §2107.

⁵⁴ SCE Comments on Draft Resolution, p. 11.

gas services. The IOUs shall mitigate and/or correct errors and offenses as soon as they are discovered or reported, but such mitigation does not rule out the possibility of enforcement action. The Commission makes no changes to this Resolution in response to SCE's assertion.

The Commission does not believe a penalty of \$500 per affected customer will have an adequate deterrent effect. As such, the penalty shall start at \$1,000 per affected customer for all violations except violation of the monthly residential disconnection cap requirement. The penalty for violation of the monthly residential disconnection cap requirement will start at \$500 per affected customer, and will increase by 100% for each subsequent month with violations until a maximum of \$100,000 per affected customer is reached, or if the utility has had no violation for three consecutive months, upon which the penalty will reset to \$500. This penalty structure strikes the proper balance between deterrence and excessive fines. Therefore, the IOU parties' recommendation for a cap on the amount of financial penalties per citation is rejected.⁵⁵

The table below summarizes the penalty for each violation.

| No. | Violation | Penalty |
|------------|---|--|
| 1. | Violation of monthly residential disconnection cap requirement. | Starts at \$500 per customer disconnected after the monthly disconnection cap is reached, and increasing by 100% for each subsequent month with violations until a maximum of \$100,000 per customer is reached, or if the utility has no violation for three consecutive months, upon which the penalty will reset to \$500 per customer. |
| 2. | Violation of program eligibility requirement. | \$1,000 per affected customer. |
| 3. | Violation of twelve-month payment plan requirement. | \$1,000 per affected customer. |
| 4. | Violation of LIHEAP pledge requirement. | \$1,000 per affected customer. |

⁵⁵ SCE Comments on Draft Resolution, pp. 9-11; PG&E Comments on Draft Resolution, p. 3; Sempra Utilities Comments on Draft Resolution, pp. 2-4.

| | | |
|----|--|--------------------------------|
| 5. | Violation of weather restriction requirement. | \$1,000 per affected customer. |
| 6. | Violation of deposits requirement. | \$1,000 per affected customer. |
| 7. | Violation of disconnection notice requirement. | \$1,000 per affected customer. |
| 8. | Violation of reconnection fee requirement. | \$1,000 per affected customer. |
| 9. | Violation of benefits of service requirement. | \$1,000 per affected customer. |

CITATION PROCEDURES

The following procedures are adopted for the citation program:

- A. The Director of CPED, or a designated CPED staff under the supervision of the Director, is hereby authorized to serve UEB citations to IOUs subject to the requirements of D.20-06-003, pursuant to Pub. Util. Code Section 718 for the following specified violations:
1. Disconnection of residential customer after the monthly disconnection cap has been reached.
 2. Failure to offer to enroll eligible customers in all applicable benefit programs administered by the utility prior to disconnection.
 3. Failure to offer a 12-month payment plan to a residential customer prior to disconnection, or disconnection of a residential customer who is on a 12-month payment plan and is current on both monthly bills and the 12-month payment plan.
 4. Disconnection of a residential customer with a Low-Income Home Energy Assistance Program pledge pending.
 5. Disconnection of a residential customer when temperatures above 100 degrees Fahrenheit or below 32 degrees Fahrenheit are forecasted based on a 72-hour look-ahead period.
 6. Issuance of a bill to a residential customer for any form of deposit to establish or re-establish service.
 7. Failure to modify disconnection notices as required by D.20-06-003.
 8. Issuance of a bill to a residential customer for a reconnection fee/charge before reconnecting service.

9. Initiation of a benefit of service investigation without meeting the conditions outlined in D.20-06-003, failure to adhere to the procedures outlined in D.20-06-003 for conducting a benefit of service investigation, or issuance of a bill to a residential customer who was under the age of 18 at the time of prior usage at the same residential address for a benefit of service charge.

If a pattern of misconduct emerges, these violations or potential violations may be addressed by an Order Instituting Investigation, an Order to Show Cause, and/or other enforcement actions.

Content of Citation

The citation served upon the IOU by UEB will include:

1. A specification of each alleged violation, including citation of the Resolution, Decision, Order, or Pub. Util. Code Section allegedly violated;
2. A statement of the facts upon which each alleged violation is based, including supporting documents;
3. The amount of the fine;
4. A statement that the IOU may pay the amount of the penalty set forth in the citation and the conditions for payment, or alternatively, the IOU may file an appeal of the citation within 30 days pursuant to Resolution ALJ-377;
5. An explanation on how to file an appeal, including the IOU's right to have a hearing, to have a representative at the hearing, to request a transcript, and to request an interpreter; and
6. The form for Notice of Appeal.

Service of Citation

Citations will be served by first class mail and transmitted electronically by email to the IOU's designated regulatory contact.

Response to Citation

An IOU may either: (1) accept the citation and scheduled penalty by completing and returning the statement included in the citation and remitting the payment within 30 days of the date of the citation; or (2) appeal the citation in accordance with the procedures in Resolution ALJ-377.

Payment of Penalty and Default

An IOU submitting payment of penalty shall mail or deliver the payment to the CPUC's Fiscal Office, 505 Van Ness Avenue, San Francisco, CA 94102, in the form of certified

check or money order, payable to the California Public Utilities Commission. The IOU's representative shall write on the face of the check or money order "For deposit to the State of California General Fund per Resolution UEB-006."

If the IOU pays the full amount of the penalty within the time allowed, the citation shall become final. Failure to pay the full amount of the penalty by the due date specified in the Notice or the extension date, or to file a Notice of Appeal, will place the IOU in default, the citation shall become final, and the IOU will have forfeited its right to appeal the citation. A late payment is subject to a penalty of 10 percent. Payments are considered late if they are received after the due date specified in the Notice or after the extension date.

Appeals

Resolution ALJ-377 sets forth the appeal process for all CPUC citation programs unless otherwise noted in Resolution ALJ-377 or its successor resolution. Any appeal of a citation issued under this Resolution shall comply with the procedures set forth in Resolution ALJ-377 or any successor resolution(s) setting forth the appeal process for all CPUC citation programs.

Notice

In compliance with Pub. Util. Code Section 311(g), the CPUC on November 10, 2020 provided notice to all IOUs and/or interested parties on record that this Resolution is available at the CPUC's website (<http://www.cpuc.ca.gov/>) and is available for public comment. Additionally, UEB informed these parties of the availability of the conformed Resolution at the same website.

COMMENTS

The Draft Resolution was mailed for comment on November 10, 2020, in accordance with Pub. Util. Code section 311(g)(1) and Rule 14 of the Rules of Practice and Procedure.

Six parties filed comments on November 30, 2020. Comments were filed by PG&E, SCE, UCAN, the Sempra Utilities (SoCalGas and SDG&E), and joint comments by CforAT, NCLC, and TURN (collectively, the Consumer Advocates). All comments were reviewed, and certain changes were made to the Draft Resolution in response to the comments. The changes are as follows:

Residential Disconnection Cap

PG&E⁵⁶ and SCE⁵⁷ expressed concern about how the residential disconnection cap would be administered for the months in which the disconnection cap percentage decreases, and Sempra Utilities⁵⁸ expressed some confusion about the compounding penalty structure. Additional explanatory paragraphs were added to the Residential Disconnection Cap section in response to these concerns.

Program Eligibility

PG&E⁵⁹ requested clarity about *which* benefit programs to offer to enroll its customers prior to disconnection; footnote 29 was added to provide some examples of such programs. The Sempra Utilities⁶⁰ requested clarity about which IOU actions would meet the program eligibility requirement; footnote 33 was added to clarify this requirement.

Disconnection Notices

PG&E⁶¹ noted a discrepancy between the wording of the 48-hour disconnection notices in D.20-06-003 and in the Draft Resolution. This discrepancy has been corrected. Additionally, SCE⁶² requested clarification about disconnection notice compliance if the required content, but not exact wording, is included in the notice, or if the information is provided to customer through other means of communication. Footnote 48 was added to clarify this requirement.

Penalties

The IOUs expressed concern about the severity of the citation program penalty schedule, requesting maximum penalty thresholds,⁶³ reductions to the minimum penalty amount,⁶⁴ exemptions for mitigating/correcting disconnection violations,⁶⁵ the ability to pre-emptively argue a potential citation,⁶⁶ and to approach the disconnection reduction effort

⁵⁶ PG&E Comments on Draft Resolution, pp. 2-3.

⁵⁷ SCE Comments on Draft Resolution, pp. 3-6.

⁵⁸ Sempra Utilities Comments on Draft Resolution, pp. 5-6.

⁵⁹ PG&E Comments on Draft Resolution, pp. 3-4.

⁶⁰ Sempra Utilities Comments on Draft Resolution, pp. 6-7.

⁶¹ PG&E Comments on Draft Resolution, pp. 4-5.

⁶² SCE Comments on Draft Resolution, pp. 6-8.

⁶³ PG&E Comments on Draft Resolution, p. 3; SCE Comments on Draft Resolution, pp. 11-12; Sempra Utilities Comments on Draft Resolution, pp. 3-4.

⁶⁴ SCE Comments on Draft Resolution, pp. 9-11; Sempra Utilities Comments on Draft Resolution, p. 5.

⁶⁵ PG&E Comments on Draft Resolution, p. 3; SCE Comments on Draft Resolution, pp. 11-12; Sempra Utilities Comments on Draft Resolution, p. 8.

⁶⁶ SCE Comments on Draft Resolution, pp. 13-14.

“holistically.”⁶⁷ The Draft Resolution now addresses these concerns in the Penalties section.

THEREFORE, IT IS ORDERED that:

1. The Disconnection Citation Program for enforcing compliance with rules in D.20-06-003 described above is hereby adopted.
2. Nothing in this Resolution diminishes, alters, or reduces the CPUC’s existing authority over customer disconnection.
3. 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 December 17, 2020; the following Commissioners voting favorably thereon:

RACHEL PETERSON
Executive Director

⁶⁷ Sempra Utilities Comments on Draft Resolution, p. 6.