

Decision 21-09-026 September 23, 2021

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

**DECISION ON ALLEGED VIOLATIONS OF PACIFIC GAS AND ELECTRIC
COMPANY WITH RESPECT TO ITS IMPLEMENTATION OF THE FALL 2019
PUBLIC SAFETY POWER SHUTOFF EVENTS**

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**DECISION ON ALLEGED VIOLATIONS OF PACIFIC GAS AND ELECTRIC
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Summary

This decision finds that Pacific Gas and Electric Company (PG&E) violated Public Utilities Code Section 451, the Phase 1 Guidelines adopted in Decision (D.) 19-05-042 and Resolution ESRB-8 based on its implementation of the Fall 2019 Public Safety Power Shutoff (PSPS) events. We find violations with respect to the failure of PG&E's website, which was unavailable or non-functional during significant portions of the PSPS event, inaccuracy of its online outage maps, inaccessibility of its secure data transfer portals to its public safety partners, and PG&E's failure to provide advanced notification of de-energization events to approximately 50,000 customers and 1,100 Medical Baseline customers during the three PSPS events in Fall 2019.

The Commission finds that a penalty of \$106.003 million is appropriate to deter future violations and demand accountability for PG&E's flawed implementation of the Fall 2019 PSPS events. The penalty will be offset by \$86 million based on the bill credits PG&E has already provided to some electric customers in 2019. Therefore, the net penalty assessed on PG&E is \$20.003 million.

The penalty includes a PG&E shareholder contribution of \$1.418 million to the PG&E's Disability Disaster Access & Resources Program, which provides qualifying customers access to backup portable batteries through grant, lease-to-own, or low-interest loan options. The penalty also includes a PG&E shareholder funded bill credit of \$12.185 million extended to all electric customers in the geographic areas affected by the Fall 2019 PSPS events. Lastly, the penalty includes a PG&E shareholder funded bill credit of \$6.4 million to the

Medical Baseline customers in the geographic areas affected by the Fall 2019 PSPS events.

Rulemaking 18-12-005 remains open.

1. Background

On October 9, 2019, Pacific Gas and Electric Company (PG&E) implemented a Public Safety Power Shutoff (PSPS) event across 35 counties, impacting approximately 729,000 customer accounts. The shutoff lasted until October 12, 2019. PG&E implemented additional PSPS events on October 23-25, 2019, and October 26-November 1, 2019, which, at one point, impacted 38 counties and approximately 975,000 customer accounts. Many of the affected customers were without power for nearly a week.

On October 18, 2019, the California Public Utilities Commission (Commission) convened an emergency meeting regarding the October 9-12, 2019 PSPS event. At the October 18, 2019 meeting, PG&E executives admitted to significant shortcomings in the company's execution of the October 9-12, 2019 PSPS event. Subsequently, in its October 25, 2019, November 8, 2019, and November 18, 2019 compliance reports regarding the October 9-12, 2019, October 23-25, 2019, and October 26-November 1, 2019 PSPS events, PG&E identified multiple areas where it failed to meet the requirements of Public Utilities (Pub. Util.) Code Section 451, Resolution ESRB-8, and the Phase 1 Guidelines adopted in D.19-05-042 (D.19-05-042 Guidelines) with regards to those PSPS events.

On November 12, 2019, the assigned Commissioner and assigned Administrative Law Judge (ALJ) issued a ruling directing PG&E to show cause why it should not be sanctioned by the Commission for violation of Pub. Util. Code Section 451, D.19-05-042 Guidelines, and Resolution ESRB-8 during the

PSPS events during October 9-12, 2019 and October 23-25, 2019, and October 26-November 1, 2019 (Order to Show Cause or OSC). A prehearing conference (PHC) was held on December 4, 2019, to discuss the issues of law and fact and determine the need for hearing and schedule for resolving the matter.

On December 23, 2019, the Commission issued the Assigned Commissioner and Assigned ALJ's Ruling Setting the Scope and Schedule of the Order to Show Cause Against Pacific Gas and Electric Company for Violations Related to the Implementation of the Public Safety Power Shutoffs in October 2019 (December 23, 2019 Ruling).

PG&E served testimony on February 5, 2020. The California Large Energy Consumers Association (CLECA), Center for Accessible Technology (CforAT), City of San José (San José), Joint Local Governments¹, Mussey Grade Road Alliance (MGRA), Small Business Utility Advocates (SBUA), and the Utility Reform Network (TURN) served responsive testimony on February 28, 2020. PG&E, the Commission's Public Advocates Office (Cal Advocates), and the Joint Local Governments served rebuttal testimony on April 7, 2020.

Status conferences were held on July 9, 2020 and August 27, 2020. On September 21, 2020, the Assigned Commissioner and Assigned ALJ issued a ruling determining that evidentiary hearings would not be necessary contingent on PG&E's clarification of outstanding issues, and setting a briefing schedule. PG&E served a document clarifying the outstanding issues identified in the September 21, 2020 ruling on October 5, 2020.

On October 13, 2020, a joint motion to move exhibits into the record was filed by PG&E, CLECA, CforAT, San José, Joint Local Governments, MGRA,

¹ The Joint Local Governments consist of the Counties of Kern, Marin, Mendocino, Napa, Nevada, San Luis Obispo, Santa Barbara and Sonoma and the City of Santa Rosa.

Cal Advocates, SBUA, and TURN. William B. Abrams filed a separate motion to move exhibits into the record on October 13, 2020. PG&E filed a response to the motion of William B. Abrams on October 20, 2020. The assigned ALJ issued a ruling (1) granting the joint motion and (2) granting in part, and denying in part, the motion of William B. Abrams on October 22. On October 27, 2020, William B. Abrams filed a motion for evidentiary hearings, with TURN and PG&E filing timely responses on October 28, 2020 and November 6, 2020. The assigned ALJ issued a ruling denying the motion for evidentiary hearings on November 24, 2020.

CLECA, CforAT, San José, Joint Local Governments, MGRA, Cal Advocates, SBUA, William B. Abrams, TURN and PG&E filed Opening Briefs on October 30, 2020. Reply Briefs were filed by CLECA, CforAT, San José, Joint Local Governments, MGRA, Cal Advocates, SBUA, TURN and PG&E on November 17, 2020.

2. Issues

The December 23, 2019 Ruling identified the following issues and allegations as within the scope of this OSC.

2.1. Availability and Functionality of PG&E's Website

As to the October 9-12, 2019 PSPS event, PG&E's website was unavailable or non-functional during the majority of the duration of the PSPS event, with customers and government agencies unable to obtain information on the PSPS event and other important data.

2.2. Accuracy of Online Outage Maps

To the extent PG&E's website was functioning, the online outage maps were not accurate or were unavailable for some affected areas during the October 9-12, 2019 PSPS event.

2.3. Accessibility of the Secure Data Transfer Portals

PG&E's secure data transfer portals were inaccessible to its Public Safety Partners during portions of the October 9-12, 2019 PSPS event.

2.4. Staffing of Call Centers

PG&E did not have sufficient staffing at its call centers to handle the volume of customer communications during the October 9-12, 2019 PSPS event.

2.5. Advanced Notification of Customers

PG&E failed to provide advanced notice of the de-energization events to customers, including approximately 23,000 customers of the 729,000 customers affected by the October 9-12, 2019 PSPS event, approximately 1,900 of the 177,000 customers affected by the October 23-25, 2019 PSPS event and approximately 28,600 customers of the 941,000 customers affected by the October 26-November 1, 2019 PSPS event.

2.6. Advanced Notification of Medical Baseline Customers

PG&E failed to provide advanced notice of the de-energization events to Medical Baseline customers, including approximately 500 Medical Baseline customers affected by the October 9-12, 2019 PSPS event, approximately 15 Medical Baseline customers affected by the October 23-25, 2019 PSPS event and approximately 700 Medical Baseline customers affected by the October 26-November 1, 2019 PSPS event.

2.7. Appropriate Sanctions, if Any, for Proven Violations

What penalties or sanctions, if any, in the form of fines, remedies, and/or other corrective actions should be imposed for any proven violation(s) found above pursuant to Pub. Util. Code Sections 2107 and 2108.

3. Legal Authority

The Commission has various sources of legal authority to evaluate the implementation of de-energization events by electric investor-owned utilities (IOUs). These include Pub. Util. Code Section 451, Resolution ESRB-8, and the Phase 1 Guidelines adopted in D.19-05-042.

Public Utilities Code Section 451 provides:

Every public utility shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities...as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

In Phase 1 of R.18-12-005, the Commission issued D.19-05-042, which developed de-energization communication and notification guidelines for the electric IOUs along with updates to the requirements established in Resolution ESRB-8.² The guidelines adopted in D.19-05-042 expanded upon those in Resolution ESRB-8.

Resolution ESRB-8 adopted the rules the Commission set forth for San Diego Gas and Electric Company in D.12-04-024 and made them applicable to all of California's electric IOUs. Resolution ESRB-8 established de-energization guidelines that include public notification, mitigation and reporting requirements. Resolution ESRB-8 went beyond D.12-04-024 by strengthening the reporting and public outreach, notification and mitigation guidelines adopted in 2012.

² D.19-05-042, Appendix A.

4. Discussion

4.1. Availability and Functionality of PG&E Website

PG&E's website is intended to include information about upcoming and current PSPS events outages, answers to frequently asked questions, outage preparation tips, links to a wide variety of PSPS-related and preparedness content, the Address Look-Up Tool, and outage maps.³ PG&E's notifications directed customers to its website "because that's where our customers can receive the most dynamic alerts."⁴ This OSC addresses the allegation that PG&E's website was unavailable or non-functional during the October 9-12, 2019 PSPS event, with customers and government agencies unable to obtain information on the PSPS event and other important data.

4.1.1. Positions of the Parties

A number of parties argue that the unavailability and non-functionality of PG&E's website during the October 9-12, 2019 PSPS event constitutes a violation of Pub. Util. Code Section 451, the D.19-05-042 Guidelines, and Resolution ESRB-8.

MGRA alleges that PG&E's failure to maintain the availability and functionality of its website during the October 9-12, 2019 PSPS event violated Pub. Util. Code Section 451, the D.19-05-042 Guidelines, and Resolution ESRB-8. MGRA provides an exhaustive analysis of the unavailability and non-functionality of PG&E's website during the October 19, 2019 PSPS event, including a review of the causes of the failure and the impacts on customers. MGRA asserts that there seems to be no dispute that the PG&E website failed

³ San José Reply Brief, at 7; PG&E Opening Brief, at 19.

⁴ San José Opening Brief, at 7.

and that it was PG&E's responsibility to keep the website available and functional.

MGRA argues that the failure of PG&E's website violates Pub. Util. Code Section 451 because the website "is a *service* providing critical information to PG&E customers, and depends upon the *instrumentalities* of the various servers and systems responsible for the operation of the website, including the static content servers, the Address Lookup Tool, and the availability of maps."⁵

MGRA asserts that the website, particularly prior to and throughout a PSPS event, is a vital part of PG&E's communications with its customers, and necessary to promote: (1) safety, (2) health and (3) comfort and convenience.⁶

In addition, MGRA argues that the website's failure and the consequential failure to provide information regarding the PSPS event directly impacted public safety, particularly of customers "in wildfire areas, such as residents evacuating from the Kincade fire."⁷ MGRA also argues that the unavailability of the website directly affected the safety and health of vulnerable populations and Medical Baseline customers because these groups were "particularly affected by power shutoff and therefore doubly dependent on accurate information from PG&E." MGRA further asserts a violation under Pub. Util. Code Section 451 because the unavailability of the website affected the comfort and convenience of customers. MGRA contends that customers affected by the October 9-12, 2019 PSPS event were "unable to plan their activities because they were not provided up-to-date and accurate information regarding the geographic area affected by and timing"

⁵ Pub. Util. Code Section 451; MGRA Opening Brief, at 24.

⁶ *Ibid.*

⁷ Pub. Util. Code Section 451; MGRA Opening Brief, at 24.

of the PSPS event and this negatively impacted the customers' ability to comfortably endure or avoid the PSPS event.⁸

MGRA further alleges that the failure of PG&E's website constitutes a violation of D.19-05-042. MGRA cites to several requirements in D.19-05-042 Guidelines regarding de-energization events that relate to the IOUs' websites, specifically as to the nature and availability of the information on the websites.⁹ MGRA asserts that due to availability issues with PG&E's website, customers and the public were: (1) not provided with accurate and up-to-date information regarding the boundary of the de-energization event, (2) not able to reach PG&E's dedicated PSPS webpage regarding the de-energization event, and (3) not able to access information regarding the criteria PG&E used to determine its de-energization threshold.¹⁰

Additionally, MGRA argues that the failure of PG&E's website constitutes a violation of Resolution ESRB-8, which requires that an IOU ensure that de-energization policies and procedures are well communicated and made publicly available, with a summary of de-energization policies available on its website.¹¹ MGRA contends that during the time that PG&E's website was unavailable or non-functional, its customers were not able to access to its de-energization policies and procedures.¹²

San José contends that PG&E's conduct with respect to its website during the October 9-12, 2019 PSPS event was inconsistent with the D.19-05-042

⁸ Pub. Util. Code Section 451; MGRA Opening Brief, at 24-25.

⁹ D.19-05-042, at 96 and Appendix A, at A14; MGRA Opening Brief, at 25.

¹⁰ MGRA Opening Brief, at 25.

¹¹ Resolution ESRB-8, at 6; MGRA Opening Brief, at 26.

¹² MGRA Opening Brief, at 26.

Guidelines.¹³ San José notes that PG&E's website crashed several times and even when it was available, "it was slow or would not return any information at all."¹⁴ San José details that due to the unavailability of PG&E's website, it created a public information team to: (1) broadcast relevant information to PG&E's local customers through social and routine media outlets and (2) set up San José's own PSPS webpage and Safety Alerts page to provide information to residents with translations into Spanish and Vietnamese.¹⁵

San José also indicates that the unavailability of the website resulted in an inability of local governments to access the Address Lookup Tool, preventing them from (1) verifying which critical facilities or neighborhood boundaries would be affected by the PSPS event and (2) efficiently deploying their resources.¹⁶ San José emphasizes that the website was intended as the cornerstone of PG&E's PSPS public information effort and that its unavailability and limited functionality deprived local governments as well as customers of vital information, causing real harm.¹⁷

The Joint Local Governments assert that the unavailability and non-functionality of PG&E's website during the October 9-12, 2019 PSPS event is not in dispute and contends that the cause "was an unanticipated level of traffic, due to the global interest in PG&E's first large-scale de-energization."¹⁸ The Joint Local Governments argue that PG&E failed to meet its standard of care due to

¹³ San José Opening Brief, at. 5; D.19-05-042, Appendix A, at A18.

¹⁴ San José Opening Brief, at 7.

¹⁵ San José Opening Brief, at 5; Exh. CSJ-01, at 4-5.

¹⁶ San José Opening Brief, at 6; Exh. CSJ-01, at 6; Exh. JLG-01, at 3.

¹⁷ San José Opening Brief, at 7.

¹⁸ Joint Local Governments Opening Brief, at. 10.

the website's failure. The Joint Local Governments identify three primary hardships due to the website's unavailability: (1) an influx of inquiries from the public to joint local governments for information about the de-energization, (2) the unavailability of two of PG&E's primary information-sharing tools and (3) the unavailability of the Address Lookup Tool.¹⁹ The Joint Local Governments emphasize that the inaccessibility of the Address Lookup Tool prevented them from readily determining "which critical facilities might be impacted or know where to deploy resources in response to the anticipated impacts of the de-energization."²⁰

The Joint Local Governments detail how various cities and counties, including Santa Rosa, San José, Marin County, and Nevada County received a large number of telephone calls, emails and social media postings from residents seeking information about the PSPS event because of the issues with PG&E's website.²¹ The Joint Local Governments also indicate that the unavailability of PG&E's website prevented access to: (1) the Weather Awareness webpage and (2) the webpage providing PSPS event maps for local public safety partners and critical facilities.²²

CforAT characterizes the failure of PG&E's website as "catastrophic" and indicates that the website's failure resulted in important information regarding the PSPS event being unavailable to a large number of people with disabilities and other medical vulnerabilities.²³ CforAT further indicates that, even to the

¹⁹ *Id.* at 11.

²⁰ Joint Local Governments Opening Brief, at 10; Exh. JLG-01, at 3-4.

²¹ Joint Local Governments Opening Brief, at 11.

²² Joint Local Governments Opening Brief, at 10; Exh. JLG-01, at 2-3.

²³ CforAT Opening Brief, at 4; CforAT Reply Brief, at 1-2.

extent the website was functional, it was inaccessible to many in this group of customers. Additionally, CforAT cites the general inadequacy of the information regarding the PSPS event on the website, particularly with respect to information in languages other than English.²⁴ CforAT claims that PG&E fails to meet the D.19-05-042 Guidelines that de-energization information is provided (1) in formats that meet web accessibility standards and (2) in-language for customers whose primary language is not English.²⁵

Public Advocates assert that the unavailability and non-functionality of PG&E's website during the October 9-12, 2019 PSPS event compounded PG&E's failure to provide the required notice as set forth in the D.19-05-042 Guidelines because the website issues precluded customers from finding "the essential information that a predictable number of customers would reasonably need during a power shut-off event."²⁶

CLECA also indicates that the issues with the availability and functionality of PG&E's website "are well known and indisputable."²⁷ CLECA cites to evidence describing an industrial customer's inability to access PG&E's website when attempting to determine potential impact to their facilities.²⁸ Since the website was down, critical information was unavailable to that customer.

SBUA asserts that the unavailability and non-functionality of PG&E's website violates Pub. Util. Code Section 451 because basic reasonableness and

²⁴ *Ibid.*

²⁵ CforAT Reply Brief, at 4-6.

²⁶ Cal Advocates Opening Brief, at 9.

²⁷ CLECA Opening Brief, at 7.

²⁸ CLECA Opening Brief, at 7; Exh. CLECA-02, Attachment 1 to Q.2.

prudence “dictate that PG&E maintain a functioning website given that this is a key means of communicating with customers.”²⁹

4.1.2. Position of PG&E

PG&E acknowledges that its website was unavailable or non-functional during the October 9-12, 2019 PSPS event and takes full responsibility for those issues, indicating the issues were not acceptable and cannot happen again in the future.³⁰ However, PG&E contends that it should not be sanctioned for the website issues.

PG&E asserts that it undertook substantial efforts to prepare its website for the 2019 PSPS events and that these efforts would have been sufficient for a PSPS event of approximating the scale it had previously experienced.³¹ PG&E details its efforts, which included a PSPS-focused landing page, various types of customer alerts, an interactive Address Lookup Tool and additional maps.³² PG&E also indicates that it ran simulation programs to evaluate the website, split its servers across two data centers and made improvements related to the Address Lookup Tool.³³ However, PG&E admits its failure to test its Static Content servers in advance of the October 9-12, 2019 PSPS event was a mistake and contributed to the website issues.³⁴

PG&E contends that although it experienced technical issues with its website during the October 9-12, 2019 PSPS event, it was able to recover the

²⁹ SBUA Reply Brief, at 4.

³⁰ PG&E Opening Brief, at 18.

³¹ *Ibid.*

³² PG&E Opening Brief, at 19-20; Exh. PG&E-01, at 4-2 to 4-5.

³³ PG&E Opening Brief, at 20; Exh. PG&E-01, at 4-5 to 4-7.

³⁴ PG&E Opening Brief, at 21.

website quickly. PG&E asserts that the issues were caused by the “unprecedented” level of traffic that was being directed to its website.³⁵ PG&E acknowledges that the majority of this traffic came from PG&E customers, but claims there were a number of external factors that contributed to the level of traffic.³⁶ PG&E details its efforts to restore the functionality and availability of the website, as well as to set up a temporary website with PSPS-related maps and content.³⁷

PG&E asserts that it continued to make changes after the October 9-12, 2019 PSPS event and that those changes enabled the website to withstand larger subsequent PSPS events.³⁸ PG&E details how it improved the stability and capability of its website and back-up systems. PG&E also argues that its efforts to keep its customers informed during the October 9-12, 2019 PSPS event were reasonable and its website’s functionality was reasonable under those circumstances. PG&E emphasizes that it continued to provide information to its customers and the public through other means, including news briefings, interviews, social media and press releases.³⁹

4.1.3. Discussion

We find that the unavailability or non-functionality of PG&E’s website during the October 9-12, 2019 PSPS event was inconsistent with the Commission’s requirements regarding de-energization events and constitutes a violation of Pub. Util. Code Section 451, the D.19-05-042 Guidelines and

³⁵ PG&E Opening Brief, at 22; Exh. PG&E-01, at 4-11.

³⁶ PG&E Opening Brief, at. 22-23.

³⁷ PG&E Opening Brief, at 23; Exh. PG&E-01, at 4-11 to 4-12.

³⁸ PG&E Opening Brief, at 24-25; Exh. PG&E-01, at 4-13.

³⁹ PG&E Opening Brief, at 25-26; Exh. PG&E-01, at 3-20 to 3-12, 4-8 and 4-13.

Resolution ESRB-8. All parties, including PG&E, agree that PG&E's website was unavailable or non-functional for many customers during significant portions of the October 9-12, 2019 PSPS event, so there is no dispute as to this issue.

We agree with MGRA and SBUA that the issues with PG&E's website violate Pub. Util. Code Section 451 because the website is "a *service* providing critical information to PG&E customers, and depends upon the *instrumentalities* of the various servers and systems responsible for the operation of the website[.]"⁴⁰ PG&E heralded its website as the core and dynamic source of essential information on the October 9-12, 2019 PSPS event for customers, public safety partners and other members of the public.⁴¹ The issues with PG&E's website during that event deprived its customers, public safety partners and local municipalities of the vital information services provided by the website, exacerbating an already disruptive and stressful event.

The lack of access to information on the PSPS event prevented customers from being able to effectively prepare prior to the event and negatively impacted customers' ability to safely and comfortably endure the PSPS event, particularly customers with disabilities and other medical vulnerabilities.⁴² Various parties have detailed the negative impact of the lack of that information.⁴³ The unavailability or non-functionality of PG&E's website deprived its customers of a

⁴⁰ Pub. Util. Code Section 451; MGRA Opening Brief, at 24.

⁴¹ San José Opening Brief, at 7.

⁴² Pub. Util. Code Section 451; MGRA Opening Brief, at 24-25; CforAT Opening Brief, at 4; CforAT Reply Brief, at 1-2.

⁴³ San José Opening Brief, at 6; Joint Local Governments Opening Brief, at 10; CforAT Opening Brief, at 4; CforAT Reply Brief, at 1-2; CLECA Opening Brief, at 7.

service essential to promote the safety, health, comfort and convenience of its customers and the public.⁴⁴

We find that PG&E's conduct with respect to its website during the October 9-12, 2019 PSPS event was inconsistent with the D.19-05-042 Guidelines.⁴⁵ We agree with MGRA and San José that the failure of PG&E's website is inconsistent with the D.19-05-042 Guidelines' requirements as to the information regarding a de-energization event that must be provided to customers and public safety partners. This includes information that must be provided on an electric IOU's website.⁴⁶ Since customers and public safety partners had no or limited ability to access this information due to the unavailability or non-functionality of PG&E's website during the October 9-12, 2019 PSPS event, PG&E did not meet the requirements of the D.19-05-042 Guidelines.

Lastly, we find that the issues with PG&E's website constitute a violation of Resolution ESRB-8, which requires that an IOU ensure that de-energization policies and procedures are well communicated and made publicly available, with a summary of de-energization policies available on its website.⁴⁷ We agree with MGRA that PG&E's customers were not able to access PG&E's de-energization policies and procedures when the website was unavailable or non-functional.⁴⁸

⁴⁴ Pub. Util. Code Section 451; MGRA Opening Brief, at 24.

⁴⁵ MGRA Opening Brief, at 25; San José Opening Brief, at 5.

⁴⁶ D.19-05-042, at 96, Appendix A, at A14 and A18.

⁴⁷ Resolution ESRB-8, at 6-7.

⁴⁸ MGRA Opening Brief, at 26.

Therefore, we find that the unavailability or non-functionality of PG&E's website during the October 9-12, 2019 PSPS event constitute violations of Pub. Util. Code Section 451, the D.19-05-042 Guidelines and Resolution ESRB-8. We will consider PG&E's conduct prior to and during that event with respect to its website when considering the appropriate sanctions for the violations.

4.2. Accuracy of Online Outage Maps

This OSC addresses an allegation that to the extent PG&E's website was functioning, the online outage maps were not accurate or were unavailable for some affected areas during the October 9-12, 2019 PSPS event. Accurate outage maps are a critical resource for customers, public safety partners and local municipalities to have a clear understanding of the outage boundaries so they can anticipate the impacts of a de-energization event and utilize their resources effectively to address needs during a de-energization event.

4.2.1. Positions of the Parties

The Joint Local Governments argue that the outage maps provided by PG&E during the October 9-12, 2019 PSPS event did not satisfy Commission requirements of the D.19-05-042 Guidelines, which require IOUs to provide public safety partners with Geographic Information System (GIS) shapefiles "depicting the most accurate and specific information possible regarding the boundaries of the area subject to de-energization."⁴⁹ The Joint Local Governments contend that the online outage maps were inconsistent with the Commission's requirements because the maps were buffered and overstated the de-energization boundaries by as much as 20 percent.⁵⁰ Citing a letter to FERC,

⁴⁹ D.19-05-042, at 95, A16-A17.

⁵⁰ Joint Local Governments Opening Brief, at 13; Exh. JLG-01, at 4; Exh. CSJ-01, at 6.

the Joint Local Governments contend that PG&E understood its obligations to provide GIS shapefiles depicting the most accurate and specific information possible about the outage boundaries but chose to provide the buffered outage maps instead.”⁵¹

The Joint Local Governments assert that the imprecise nature of the online outage maps “created significant confusion and frustration for impacted communities and caused local emergency managers to waste time and resources preparing critical facilities in the buffer zone for de-energization that was never scheduled to occur.”⁵² The Joint Local Governments indicate the imprecision of the outage maps rendered them “essentially useless for much of the critical planning and resource deployment necessary during” the October 9-12, 2019 PSPS event, in contravention of the purpose of the Commission’s mapping requirements.⁵³ They also argue that the variable nature of the buffering was also problematic.⁵⁴

The Joint Local Governments further contend that issues regarding the imprecise nature of the online outage maps were exacerbated by PG&E’s failure to notify local municipalities that maps were buffered unless they requested additional information regarding the maps.⁵⁵ The Joint Local Governments also claim PG&E was not forthright about the maps’ imprecision during the October 9-12, 2019 PSPS event.⁵⁶ Additionally, they argue that any PG&E

⁵¹ Joint Local Governments Opening Brief, at 18; Exh. JLG-02, at 4.

⁵² Joint Local Governments Opening Brief, at. 15; Exh. JLG-01, at 6-8.

⁵³ Joint Local Governments Opening Brief, at 18.

⁵⁴ Exh. PG&E-02, at. 6-3.

⁵⁵ Joint Local Governments Opening Brief, at 16; Exh. JLG-02, at 3.

⁵⁶ Joint Local Governments Opening Brief, at 16; Exh. JLG-01, at 6.

warnings regarding the imprecision of the maps caused confusion since “general disclaimers that the outage maps can overstate the outage area, or that the maps did not contain the complete or exact outage area, in no way provide the viewer with anything close to the information necessary to understand the nature of the outage maps or what the maps depict.”⁵⁷

San José also argues that PG&E’s online outage maps did not comply with the Commission’s requirements. San José details how it dealt with outage maps that overestimated the affected outage areas by up to 20 percent.⁵⁸ San José emphasized that the outage maps are critical to understand what parts of their jurisdiction will require resources and the inaccuracy of the outage maps “made local municipalities’ efforts to provide emergency services to their residents very difficult and time-consuming.”⁵⁹

San José also detailed how the inaccuracy of the online outage maps negatively affected critical facilities and the community resource centers, with San José forced to scramble to maintain the functionality of these facilities when the inaccuracy of the maps became apparent.⁶⁰ San José notes that PG&E only indicated that outage maps could overstate the outage area, but did not affirmatively state so and by how much.⁶¹

Both the Joint Local Governments and San José dispute PG&E’s claim that the online outage maps were sufficient because they were consistent with California Governor’s Office of Emergency Services (Cal OES), preferences. They

⁵⁷ Joint Local Governments Opening Brief, at 17; Exh. JLG-01, at 5.

⁵⁸ San José Opening Brief at 9; Exh. CSJ-01, at 6.

⁵⁹ San José Opening Brief at 8.

⁶⁰ San José Opening Brief at 9-10; Exh. CSJ-01, at 6-7.

⁶¹ San José Opening Brief at 9; Exh. JLG-01, at 4.

argue that the maps conformance to Cal OES's specifications is irrelevant as to whether the maps met Commission requirements per the D.19-05-042 Guidelines. The Joint Local Governments assert that the maps should have provided public safety partners and customers with the most accurate and specific information possible about the de-energization event boundaries, but PG&E did not consider whether the maps would be useful to anyone other than Cal OES.⁶²

4.2.2. Position of PG&E

PG&E argues that it should not be sanctioned based on the nature of the online outage maps it provided because they are in accordance with standards requested by Cal OES, with involvement of the CPUC and the California Department of Forestry and Fire Protection (CALFIRE).⁶³ PG&E contends that the outage maps were "accurate reflections of the contours of the outage area" and complied with the directives of Cal OES.⁶⁴

PG&E states that in order to reduce confusion for customers and public safety partners, its public-facing website and secure data transfer portals indicated that the outage maps "provided 'a general outline' of the planned outage area, were 'not address-specific,' and did 'not include the complete and exact area(s) impacted by a PSPS.'" ⁶⁵

⁶² Joint Local Governments Opening Brief, at 14-15; Joint Local Governments Reply Brief, at 8; Exh. JLG-02, at 2.

⁶³ PG&E Opening Brief, at 27-28.

⁶⁴ *Id.* at 28.

⁶⁵ PG&E Opening Brief, at 28; Ex. PGE-01, at 4-4; Ex. JLG-01, at 4.

4.2.3. Discussion

We find that PG&E's online outage maps did not comply with the Commission's D.19-05-042 Guidelines or PG&E's obligations under Pub. Util. Code Section 451 and this noncompliance constitutes a violation. The D.19-05-042 Guidelines provide specific requirements as to the accuracy and specificity of information regarding the boundaries of an area subject to a de-energization event.

For the 2019 wildfire season, the electric investor-owned utilities must, at the time of first notification preceding a de-energization event, make available a Geographic Information System shapefile via a secure data transfer process depicting the *most accurate and specific information possible regarding the boundaries of the area subject to de-energization* to all public safety partners whose jurisdictions or service areas will be impacted by the de-energization event.⁶⁶

The online outage maps were buffered and overstated the de-energization boundaries by as much as 20 percent.⁶⁷ The D.19-05-042 Guidelines require that outage maps depict the "most accurate and specific information possible." Outage maps with up to 20 percent buffers are neither "accurate" nor "specific". Furthermore, as indicated by the Joint Local Governments, PG&E had options available to provide outage maps that were the most accurate and specific information possible, but did not utilize those options.⁶⁸

The inaccuracy and non-specificity of the online outage maps detrimentally impacted the efforts of public safety partners, local municipalities

⁶⁶ D.19-05-042, Appendix A, at A16-A17 (emphasis added).

⁶⁷ Joint Local Governments Opening Brief, at 13; Exh. JLG-01, at 4; San José Opening Brief at. 9; Exh. CSJ-01, at 6.

⁶⁸ Joint Local Governments Opening Brief, at 20; Exh. JLG-02, at 5.

and customers to prepare for and endure the de-energization events, wasting resources and time that could have been better utilized. Furthermore, the outage maps' inaccuracy and non-specificity subjected customers to unnecessary fear, harm, and expense.⁶⁹

PG&E also has an affirmative duty under Pub. Util. Code Section 451 to "furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, ... as are necessary to promote the safety, health, comfort, and convenience of ... the public." The accuracy and specificity of the outage maps provided by PG&E did not meet these requirements.

PG&E argues that it should not be sanctioned because the outage maps comply with Cal OES preferences. However, we agree with the Joint Local Governments and San José that PG&E's compliance with Cal OES preferences is not relevant or determinative here. The Commission, not Cal OES, has jurisdiction over PG&E with respect to de-energization and established requirements regarding the accuracy and specificity of information as to the boundaries of a de-energization event. The fact that the outage maps may have complied with Cal OES preferences is not determinative. PG&E's online maps did not comply with the Commission's requirements.

The accuracy and specificity of PG&E's online outage maps during the October 9-12, 2019 PSPS event did not comply with the D.19-05-042 Guidelines or PG&E's obligations under Pub. Util. Code Section 451 and therefore, constitute violations of these requirements.

⁶⁹ CforAT Opening Brief, at 15.

4.3. Accessibility of the Secure Data Transfer Portals

PG&E's secure data transfer portals provide key public safety partners such as municipalities and some state agencies private access to important, event-specific data to assist in their de-energization event planning and response efforts. The secure data transfer portals were intended to facilitate cooperation between PG&E and its public safety partners to minimize both the risks and disruption to customers from PSPS events.⁷⁰ This OSC addresses allegations that PG&E's secure data transfer portals were inaccessible to its public safety partners during portions of the October 9-12, 2019 PSPS event.

4.3.1. Positions of the Parties

The Joint Local Governments and San José contend that PG&E's secure data transfer portals were not compliant with the requirements of the D.19-05-042 Guidelines and were constructively inaccessible during the October 9-12, 2019 PSPS event.⁷¹ The Joint Local Governments and San José acknowledge that they were generally able to login to the secure data transfer portals (except for Nevada County, which experienced some difficulties).⁷² However, they contend that although the portals were technically accessible, the portals were *constructively inaccessible* because the information in the portals was missing, inaccurate and untimely.⁷³

San José indicates that when it accessed its secure data transfer portals during the October 9-12, 2019 PSPS event, it did not receive information

⁷⁰ Exh. PG&E-01, at 4-15.

⁷¹ D.19-05-042, Appendix A, at A16-A17; Joint Local Governments Opening Brief, at 21; San José Opening Brief, at 12.

⁷² Joint Local Governments Opening Brief, at 21; Exh. JLG-01, at 8.

⁷³ Joint Local Governments Opening Brief, at 21; Exh. JLG-01, at 8-10; San José Opening Brief, at 12.

regarding San José, but rather information regarding the City of Bakersfield.⁷⁴ San José was only able to access the applicable information by the second day of the PSPS event.⁷⁵ The Joint Local Governments further indicate that Marin and Nevada Counties both received files in their respective portals with information for other counties.⁷⁶ The City of Santa Rosa did not receive impacted critical facility information in its portal the morning of October 9, 2019 even though PG&E began notifying potentially impacted local governments of the upcoming PSPS event on October 7, 2019.⁷⁷

The Joint Local Governments and San José assert that the information in their respective secure data transfer portals was inaccurate and untimely. Both received files that were incomplete or out-of-date due to new weather and outage footprint updates issued by PG&E.⁷⁸ The Joint Local Governments also indicate that PG&E did not communicate with its public safety partners regarding changes to the names and locations of the files or the addition of new files in their respective portals.⁷⁹ Additionally, they argue that the information in the portals rarely matched the information provided by PG&E during operational briefing calls with local public safety partners.⁸⁰

The Joint Local Governments and San José emphasize that cooperation and information sharing between public safety partners and the IOUs in charge of de-

⁷⁴ San José Opening Brief, at 12; Exh. CSJ-01, at 7.

⁷⁵ *Ibid.*

⁷⁶ Joint Local Governments Opening Brief, at 21; Exh. JLG-01, at 6, 8 (Marin County received information on San Luis Obispo and Kern Counties). Exh. CSJ-01, at 7.

⁷⁷ Joint Local Governments Opening Brief, at 21; Exh. JLG-01, at 9.

⁷⁸ Joint Local Governments Opening Brief, at 21; Exh. JLG-01, at 8; San José Opening Brief, at 12.

⁷⁹ Joint Local Governments Opening Brief, at 22; Exh. JLG-01, at 9.

⁸⁰ *Ibid.*

energization events is essential to protect public safety due to the significant impacts of such events on customers and critical facilities. They assert that the inaccuracy, untimeliness and, in some cases, complete absence of information in the secure data transfer portals severely hampered their planning and response efforts for the October 9-12, 2019 PSPS event since the portals are their primary source of critical files and information.⁸¹ The Joint Local Governments contend that “a data transfer process is only as effective as the information being transmitted.” The Joint Local Governments and San José argue that due to the state of information on the portals, PG&E’s public safety partners “were about as well informed as if they had not been able to access the portal in the first place” and hurt local governments’ ability to deploy emergency services.⁸²

The Joint Local Governments and San José dispute PG&E’s argument that there was no violation of the Commission’s requirements because local governments were able to log in to the portals, even if the information in the portals was missing, inaccurate or untimely. The Joint Local Governments argue that such an argument elevates form over substance and would lead to an absurd result.⁸³ The Joint Local Governments and San José contend that the portals were non-compliant with the Commission’s requirements because the portals’ lack of utility had the same effect as if the portals were inaccessible and that PG&E “should not avoid responsibility for the frustration and confusion it caused.”⁸⁴

⁸¹ Joint Local Governments Opening Brief, at 23; San José Reply Brief, at 10.

⁸² Joint Local Governments Opening Brief, at 24; Joint Local Governments Reply Brief, at 11; San José Reply Brief, at 10.

⁸³ Joint Local Governments Opening Brief, at 23; Joint Local Governments Reply Brief, at 11.

⁸⁴ Joint Local Governments Reply Brief, at 11; San José Reply Brief, at 10.

4.3.2. Position of PG&E

PG&E contends that the record evidence is uncontroverted that the secure data transfer portals remained available through the event and that there is no evidence of any portal outage.⁸⁵ PG&E cites to statements by the Joint Local Governments and San José that the secure data transfer portals were generally accessible during the October 9 PSPS event and argues that the concerns of the Joint Local Governments and San José regarding the nature and usefulness of the information in the portals are outside the scope of the OSC and cannot constitute a violation.⁸⁶ PG&E does not substantively address the allegations by the Joint Local Governments and San José that the information in portals was missing, inaccurate and untimely.

4.3.3. Discussion

We find that the inaccessibility of critical information regarding the October 9-12, 2019 PSPS event on PG&E's secure data transfer portals to some public safety partners did not comply with the requirements of the D.19-05-042 Guidelines and Pub. Util. Code Section 451. This non-compliance constitutes a violation.

We agree with the Joint Local Governments and San José that the question of accessibility goes beyond whether the public safety partners could merely access the portals and that PG&E's focus on mere accessibility to the portals elevates form over substance.⁸⁷ The D.19-05-042 Guidelines require that specific information regarding a de-energization event must be provided to public safety

⁸⁵ PG&E Opening Brief, at 27; PG&E Reply Brief, at 18; Exh. PGE-01, at 4-15.

⁸⁶ PG&E Reply Brief, at 18.

⁸⁷ Joint Local Governments Opening Brief, at 23; Joint Local Governments Reply Brief, at 11.

partners.⁸⁸ This information is critical for public safety partners in their de-energization event planning and response efforts.

While most public safety partners could log in to the portals, there were many instances when the required information was missing from the portals or inaccurate, with information for a different public safety partner provided in the portals.⁸⁹ We agree with the Joint Local Governments and San José that this rendered the portals constructively inaccessible and therefore non-compliant with the Commission's requirements in the D.19-05-042 Guidelines.

We also find that the missing and inaccurate information on the portals is a violation of PG&E's obligations under Pub. Util. Code Section 451. Pub. Util. Code Section 451 provides, in part, that PG&E furnish and maintain service and instrumentalities to promote the safety, health, and comfort of the public. Missing and inaccurate information on the portals severely hampered the efforts of public safety partners to plan and respond to the de-energization, causing hardship for the public.⁹⁰

4.4. Staffing of Call Centers

The OSC alleges that PG&E did not have sufficient staffing at its call centers to handle the volume of customer communications during the October 9-12, 2019 PSPS event.

4.4.1. Positions of the Parties

No party other than PG&E submitted record evidence as to the adequacy of PG&E's call center staffing. However, TURN did recommend crediting customers \$660,000 for four days of call center expense if the Commission found

⁸⁸ D.19-05-042, Appendix A, at A16-A17;

⁸⁹ Exh. JLG-01, at 6-9; Exh. CSJ-01, at 7.

⁹⁰ Joint Local Governments Opening Brief, at 23; San José Reply Brief, at 10.

that PG&E's call center staffing was insufficient, arguing that customers should not be required to fund costs for inadequate call center operations.⁹¹

4.4.2. Position of PG&E

PG&E asserts that uncontroverted evidence demonstrates that the staffing of its call centers was sufficient to handle the volume of calls during the October 9-12, 2019 PSPS event.⁹² PG&E indicates that its four call centers are staffed with approximately 900 agents and that it prepared its call centers for potential 2019 PSPS events by forecasting staffing needs, training additional agents, conducting PSPS training, and identifying ways to increase the capacity of the call centers.⁹³ PG&E asserts that it implemented several measures to address call volume that rose to as much as 500 percent of normal call volume during the October 9-12, 2019 event.⁹⁴

PG&E also indicates that it utilized Interactive Voice Response strategies to prioritize PSPS calls over general service calls. According to PG&E, the implemented measures were generally successful and with the average speed of answer to PG&E's call centers being nine seconds on October 9, 2019, five seconds on October 10 and 11, 2019, and ten seconds on October 12, 2019.⁹⁵

4.4.3. Discussion

We find that the record supports that PG&E's level of call center staffing during the October 9-12, 2019 PSPS event was sufficient and did not violate the requirements of Pub. Util. Code Section 451, the D.19-05-042 Guidelines, or

⁹¹ TURN Opening Brief, at 12.

⁹² PG&E Opening Brief, at 29.

⁹³ *Ibid.*

⁹⁴ PG&E Opening Brief, at 30.

⁹⁵ *Ibid.*

Resolution ESRB-8. The record indicates that the average speed of answer to customers during the October 9-12, 2019 PSPS event was reasonable and that the level of staffing at PG&E's call center was sufficient. As indicated by PG&E's testimony, the average speed of answer did not exceed ten seconds during any of the days during the October 9-12, 2019 PSPS event.⁹⁶ No other party has provided additional record evidence contradicting PG&E's testimony of average speed of answer. While there may have been occasions when the wait time was longer than average speed of answer cited by PG&E, the average speed of answer seems reasonable under the circumstances.

4.5. Advanced Notification of Customers

This OSC addresses allegations that PG&E failed to provide advanced notice to customers of several de-energization events, including approximately 23,000 customers of the 729,000 customers affected by the October 9-12, 2019 PSPS event, approximately 1,900 of the 177,000 customers affected by the October 23-25, 2019 PSPS event and approximately 28,600 customers of the 941,000 customers affected by the October 26-November 1, 2019 PSPS event. The D.19-05-042 Guidelines contain specific requirements for advanced notification of customers.

4.5.1. Positions of the Parties

Several parties allege that PG&E failed to properly provide advance notification to customers of de-energization events in violation of the Commission's requirements in D.19-05-042 and should be sanctioned for these violations.⁹⁷

⁹⁶ PG&E Opening Brief, at 30.

⁹⁷ CLECA Opening Brief, at 5; Cal Advocates Opening Brief, at 14-15; Cal Advocates Reply Brief, at 5-7; TURN Opening Brief, at 5-6; TURN Reply Brief, at 3-4.

TURN argues that PG&E's missed advanced notifications were unreasonable because PG&E was aware in September 2019 that it was missing contact information for up to 5 percent of its customers.⁹⁸ TURN further argues that despite PG&E's knowledge of the missing contact information, it did not provide in-person notification unless these customers were Medical Baseline customers.⁹⁹ TURN also contends that the missed advanced notifications were unreasonable because PG&E did not test its methodology to identify impacted customers prior to implementation, a fact conceded to by PG&E.¹⁰⁰ TURN also asserts that PG&E should have been better prepared to identify impacted customers due to the effect of de-energizing transmission lines on distribution substations because PG&E has previously de-energized transmission lines.¹⁰¹

CLECA asserts that PG&E has "admitted on the record that it 'missed' notifications to 51,000 customers in the Fall 2019 [PSPS events]."¹⁰² CLECA notes that two of its members with industrial facilities in PG&E's service territory were not properly notified by PG&E of the October 9-12, 2019 PSPS event.¹⁰³ CLECA disputes PG&E's claim that one of those members was notified, arguing that PG&E's citation to a single 12 second call is not credible because the length of the call was insufficient to provide the notification information required by the D.19-05-0421 Guidelines.¹⁰⁴ CLECA also asserts that PG&E did not satisfy

⁹⁸ TURN Opening Brief, at 5; Exh. TURN-03, DR TURN-04, Question 1.

⁹⁹ Exh. TURN-03, DR TURN-04, Question 1; Exh. PG&E-04, at 2.

¹⁰⁰ TURN Opening Brief, at 5; Exh. TURN-03, DR TURN-04, Question 2.

¹⁰¹ TURN Opening Brief, at 6; Exh. TURN-03, DR TURN-04, Question 3; Exh. PG&E-02, at 3-5.

¹⁰² CLECA Opening Brief, at 5; Exh. PG&E-03, at 2 (Table 1).

¹⁰³ CLECA Opening Brief, at 5; Exh. CLECA-01, at 2-6

¹⁰⁴ CLECA Opening Brief, at 6; D.19-05-042, Appendix A, A-17.

requirements that notification occur 1 to 4 hours in advance of an event, and again when de-energization is initiated. CLECA also argues that PG&E did not meet the requirement that the “notification is supposed to include specific information regarding start and stop times, duration, and re-energization.”¹⁰⁵

Cal Advocates, TURN, SBUA and CforAT contest PG&E’s argument that it substantially complied with the advanced notification requirements for customers and PG&E does not justify its non-compliance with clear Commission rules and requirements.¹⁰⁶ These parties contend that PG&E’s argument attempts to minimize the fact that approximately 50,000 customers did not receive advanced notification and the real world impacts due to lack of that advanced notification.¹⁰⁷ Cal Advocates argues that PG&E’s rationale is misleading, emphasizing that the 3 percent of the affected population that were not notified amounts to approximately 50,000 customers and also underestimates the violations related to advanced notification.¹⁰⁸

4.5.2. Position of PG&E

PG&E acknowledges that it failed to provide advanced notification of de-energization events to approximately 50,000 customers, not the approximately 53,500 indicated in the December 23, 2019 Ruling.¹⁰⁹ PG&E

¹⁰⁵ CLECA Opening Brief, at 7.

¹⁰⁶ Cal Advocates Reply Brief, at 5-7; TURN Reply Brief, at 3; SBUA Reply Brief, at 4; CforAT Reply Brief, at 4.

¹⁰⁷ *Ibid.*

¹⁰⁸ Cal Advocates Reply Brief, at 5-6.

¹⁰⁹ PG&E contends that correct figures for the number of customers who did not receive advanced notification is approximately: (1) 22,000 customers for the October 9-12, 2019 PSPS event; (2) 2,100 customers for the October 23-25, 2019 PSPS event and (3) 25,900 customers for the October 26-November 1, 2019 PSPS event. (Ex. PGE-03 at 2; Amended PG&E PSPS Report for the October 9-12, 2019 De-Energization Event at 16; Amended PG&E PSPS Report for the

Footnote continued on next page.

argues that its notification efforts were reasonable, especially due to the large scale of the Fall 2019 PSPS events and that the number of customers not notified was less than 3 percent of the affected population.¹¹⁰ PG&E argues that the Commission's D.19-05-042 Guidelines require advanced notification "whenever possible" and that "[t]here may be times when advanced notification of a de-energization event is not possible."¹¹¹ PG&E asserts that the Commission should not focus on that there were missed notifications, but "whether PG&E's conduct and efforts to notify customers in late 2019 fell below a reasonable standard of care such that sanctions are warranted."¹¹² PG&E contends the Commission should consider: (1) PG&E's efforts to prepare customers for the de-energization events, (2) the reasons for the missed notifications, and (3) PG&E's overall performance in notifying customers during the Fall 2019 de-energization events.¹¹³

PG&E contends that it undertook significant outreach efforts to educate customers about preparing for de-energization events and to collect customer contact information. PG&E indicates that between May and September 2019, it used multiple communication channels to distribute information to help customers anticipate and prepare for de-energization events.¹¹⁴ PG&E claims it

October 23–25, 2019 De-Energization Event at 17; Amended PG&E PSPS Report for the October 26 & 29, 2019 De-Energization Event at 14.)

¹¹⁰ PG&E Opening Brief, at 8-9, 12, 17; Exh. PG&E-01, at 3-8.

¹¹¹ PG&E Opening Brief, at 8-9; D.19-05-042, Appendix A, at A7.

¹¹² PG&E Opening Brief, at 8-9.

¹¹³ *Id.* at 9.

¹¹⁴ PG&E Opening Brief, at 10; Exh. PG&E-01, at 3-2 to 3-4.

also undertook particular efforts to obtain current customer contact information via contact center calls, website log-ins, e-mails and mailings.¹¹⁵

PG&E asserts that it acted reasonably in developing and implementing its customer notification processes. PG&E details its process to identify specific electrical facilities that could require de-energization and developing the list of customers impacted by the de-energization of those facilities.¹¹⁶ PG&E further detailed its strategy to notify the identified customers, including transmission customers.¹¹⁷

PG&E claims that a major cause of missed notifications was missing customer contact information, despite its efforts to collect this information.¹¹⁸ PG&E also claims that its efforts to narrow the scope of the Fall 2019 PSPS events and reduce the overall number of customers affected by the events caused missed notifications due to a change in methodology of its de-energization strategy.¹¹⁹ Lastly, PG&E asserts that the continually changing conditions presented challenges to notifying customers because some customers were temporarily assigned to different circuits than the primary circuits that usually provide their electricity.¹²⁰

4.5.3. Discussion

We find that PG&E's failure to provide advanced notification to approximately 50,000 customers for the three PSPS events in Fall 2019 constitute

¹¹⁵ PG&E Opening Brief, at 11; Exh. PG&E-01, at 3-4 to 3-6.

¹¹⁶ PG&E Opening Brief, at 12; Exh. PG&E-01, at 3-9.

¹¹⁷ PG&E Opening Brief, at 12-13; Exh. PG&E-01, at 3-7, 3-9, 3-17 to 3-20.

¹¹⁸ PG&E Opening Brief, at 14; Exh. PG&E-01, at 3-12.

¹¹⁹ PG&E Opening Brief, at 15; Exh. PG&E-01, at 3-13.

¹²⁰ PG&E Opening Brief, at 16; Exh. PG&E-01, at 3-15.

violations of: (1) the Commission's requirements regarding advanced notification in the D.19-05-042 Guidelines and (2) Pub. Util. Code Section 451. All parties, including PG&E, agree that a substantial number of PG&E customers did not receive advanced notification as required by the Commission.

The D.19-05-042 Guidelines contain specific requirements regarding advanced notification for customers that may be impacted by de-energization events and the information that must be conveyed to these customers.¹²¹ PG&E failed to meet these requirements when it did not provide advanced notification to approximately 50,000 customers. Those customers did not have advanced notification that the PSPS events were going to occur or specific information regarding the event, including the boundaries, start time and date and estimated duration.

Furthermore, Pub. Util. Code Section 451 imposes a requirement that PG&E "furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, ... as are necessary to promote the safety, health, comfort, and convenience of ... the public." Advanced notification is an important service to promote the safety, health, comfort and convenience for potentially impacted customers by providing them with an opportunity to prepare and plan in advance of a de-energization event. The lack of advanced notification had significant health and safety consequences because some customers were unable to prepare for the de-energization events in Fall 2019. PG&E's failure to provide advanced notification to the approximately 50,000 customers was a violation of Pub. Util. Code Section 451.

¹²¹ D.19-05-042, Appendix A, at A7-A18.

We agree with Cal Advocates and TURN that PG&E's argument inappropriately minimizes the lack of advanced notification to customers.¹²² Over the course of the three PSPS events in late 2019, approximately 50,000 customers did not receive the required advanced notification, with many of these customers not knowing why their power was shut off or when it would be turned back on.¹²³ PG&E is required to adhere to the Commission's requirements for advanced notification for potentially impacted customers. Although the number of customers that did not receive advanced notification may equate to 3 percent of all affected customers, 50,000 is a substantial number of customers and the failure to provide advanced notification to these customers violated Commission requirements. We will consider PG&E's conduct prior to the de-energization events when considering the appropriate sanctions for the violations.

4.6. Advanced Notification of Medical Baseline Customers

This OSC addresses allegations that PG&E failed to provide advanced notice of de-energization events to Medical Baseline customers, including approximately 500 Medical Baseline customers affected by the October 9-12, 2019 PSPS event, approximately 15 Medical Baseline customers affected by the October 23-25, 2019 PSPS event and approximately 700 Medical Baseline customers affected by the October 26-November 1, 2019 PSPS event.

¹²² Cal Advocates Reply Brief, at 6; TURN Reply Brief, at 3.

¹²³ Cal Advocates Reply Brief, at 6; Exh. Cal Advocates-14.

4.6.1. Positions of the Parties

Several parties allege that PG&E failed to properly provide advanced notification to Medical Baseline customers of the de-energization events in violation of requirements in the D.19-05-042 Guidelines.

San José contends that PG&E failed to meet the D.19-05-042 Guidelines for notice to Medical Baseline customers as well as coordination with local jurisdictions and emergency responders during the October 9-12, 2019 PSPS event.¹²⁴ San José asserts that PG&E's "lack of preparation and cooperation with San José before and during the October 9 PSPS [e]vent turned an already difficult situation into a potentially dangerous one."¹²⁵

San José details that despite the readiness of its employees to perform door knocks for Medical Baseline customers that PG&E was unable to contact, it did not learn the identities of the impacted Medical Baseline customers until 30 minutes prior to the PSPS event because PG&E insisted on routing the information through the County of Santa Clara.¹²⁶ San José also indicates that even when it received the data through the County of Santa Clara, PG&E's data was difficult to decipher, complicating San José efforts to understand what Medical Baseline customers it needed to contact.¹²⁷ As to PG&E's notification of Medical Baseline customers of the October 26 to November 1, 2019 PSPS event, San José contends that PG&E's effort to provide information was still

¹²⁴ San José Opening Brief, at 13; D.19-05-042, Appendix A, at A2, A7, A13 and A16.

¹²⁵ San José Opening Brief, at 13.

¹²⁶ San José Opening Brief, at 13; Exh. CSJ-01, at 5.

¹²⁷ *Ibid.*

problematic, with many customers not receiving information about available resources during the PSPS event.¹²⁸

Cal Advocates argues that PG&E failed to provide the required notice to Medical Baseline customers as set forth in ESRB-8 and the D.19-05-042 Guidelines during the PSPS events in October and November 2019.¹²⁹ Cal Advocates asserts that “over 1,500 Medical Baseline customers who rely on electricity for their life-sustaining machines” only received notification from PG&E “when their power was suddenly and unexpectedly shut off.”¹³⁰

CforAT argues that PG&E provided inadequate notice to Medical Baseline customers and notes the inadequacy of notification for customers with medical vulnerabilities, language minorities, and other access and functional needs (AFN) customers.¹³¹

Cal Advocates, TURN, SBUA and CforAT contest PG&E’s argument that it substantially complied with the advanced notification requirements for Medical Baseline customers and PG&E’s non-compliance with clear Commission rules and requirements was not justified.¹³² These parties contend that PG&E’s argument minimizes that approximately 1,100 Medical Baseline customers did not receive advanced notification and the real world impacts on those customers due to the lack of advanced notification.¹³³

¹²⁸ San José Opening Brief, at 15.

¹²⁹ Cal Advocates Opening Brief, at 9-10.

¹³⁰ Cal Advocates Reply Brief, at 6; Exh. Cal Advocates–26, Table 3.

¹³¹ CforAT Opening Brief, at 3.

¹³² Cal Advocates Reply Brief, at 5-7; TURN Reply Brief, at 3; SBUA Reply Brief, at 4; CforAT Reply Brief, at 4.

¹³³ *Ibid.*

4.6.2. Position of PG&E

PG&E acknowledges that it failed to provide advanced notification of the Fall 2019 PSPS events to approximately 1,100 Medical Baseline customers, not the approximately 1,215 indicated in the December 23, 2019 Ruling.¹³⁴ However, PG&E argues that its notification efforts for Medical Baseline customers were reasonable, especially due to the large scale of the Fall 2019 PSPS events.¹³⁵

PG&E contends the Commission should consider: (1) PG&E's significant efforts to prepare customers for the Fall 2019 PSPS events, (2) reasons for the missed notifications, and (3) PG&E's overall performance in notifying customers during the Fall 2019 PSPS events.¹³⁶

PG&E asserts that it made a concerted effort to contact and provide information to its Medical Baseline customers.¹³⁷ PG&E's efforts included: (1) additional and customized messaging and resources to its Medical Baseline customers, (2) a campaign to publicize and increase enrollment in the Medical Baseline program (3) the provision of specific preparedness information designed for customers who rely on power for their medical devices and (4) calls and mailers to request contact information.¹³⁸ PG&E also details its notification efforts that specifically targeted Medical Baseline customers for direct

¹³⁴ PG&E contends that correct figures for the number of Medical Baseline customers who did not receive advanced notification is approximately: (1) 600 for by the October 9-12, 2019 PSPS event; (2) 20 customers for the October 23-25, 2019 PSPS event and (3) 500 for the October 26-November 1, 2019 PSPS event. (Ex. PGE-03 at 2; Amended PG&E PSPS Report for the October 9-12, 2019 De-Energization Event at 16; Amended PG&E PSPS Report for the October 23-25, 2019 De-Energization Event at 17; Amended PG&E PSPS Report for the October 26 & 29, 2019 De-Energization Event at 14.)

¹³⁵ PG&E Opening Brief, at 8-9, 12, 17; Exh. PG&E-01, at 3-8.

¹³⁶ PG&E Opening Brief, at 9; Exh. PG&E-01, at 3-2 to 3-9, 3-17 to 3-20.

¹³⁷ PG&E Opening Brief, at 10-11; Exh. PG&E-01, at 3-4.

¹³⁸ PG&E Opening Brief, at 13; Exh. PGE-01, at 3-19 to 3-20.

notifications, with repeated phone calls and text messages as well as visits to a customer's residence to conduct an in-person notification if the initial contacts were not successful.

4.6.3. Discussion

We find that PG&E's failure to provide advanced notification to approximately 1,100 Medical Baseline customers for the three PSPS events in Fall 2019 constitute violations of the Commission's requirements regarding advanced notification in D.19-05-042 Guidelines and Pub. Util. Code Section 451. There is no dispute amongst the parties, including PG&E, that a substantial number of PG&E's Medical Baseline customers did not receive advanced notification as required by the Commission.

The D.19-05-042 Guidelines mandate that electric IOUs must "provide advance notification to all populations potentially affected by the de-energization event."¹³⁹ As indicated by San José, the Phase 1 Guidelines indicate that access and functional needs population, which includes Medical Baseline customers, may require additional notification streams.¹⁴⁰ By not providing advanced notification to a significant number of these customers, PG&E did not comply with the D.19-05-042 Guidelines.

Although the D.19-05-042 Guidelines do provide some qualification that the notifications must occur "whenever possible", PG&E has not provided sufficient evidence that advanced notification of the de-energization events for the 1,100 uncontacted Medical Baseline customers was not possible.¹⁴¹ Furthermore, many of the causes for the missed notifications cited by PG&E

¹³⁹ D.19-05-042, Appendix A, at A7 (emphasis added).

¹⁴⁰ San José Opening Brief, at 13.; D.19-05-042, Appendix A, at A6-A7.

¹⁴¹ D.19-05-042, Appendix A, at A7.

were attributable to PG&E's lack of effective preparation and coordination with public safety partners and local jurisdictions.¹⁴²

PG&E's failure to provide advanced notification of de-energization events to approximately 1,100 Medical Baseline customers also violates Pub. Util. Code Section 451. Pub. Util. Code Section 451 requires all public utilities to provide and maintain "adequate, efficient, just and reasonable" services and facilities as are necessary for the "safety, health, comfort, and convenience" of its customers and the public. Advanced notification is an important service to promote the safety, health, comfort and convenience for potentially impacted Medical Baseline customers by providing them with an opportunity to prepare and plan in advance of a de-energization event.

As discussed, by CforAT, Medical Baseline customers are a constituency that are severely impacted by de-energization events due to their reliance on electricity for vital medical needs, including medical devices and refrigeration for medications.¹⁴³ Therefore, the lack of advanced notification resulted in especially significant health and safety consequences for these customers.

PG&E's failure to provide advanced notification to approximately 1,100 Medical Baseline customers violated Commission requirements regarding advanced notification for de-energization events. We will consider PG&E's conduct prior to the de-energization events when considering the appropriate sanctions for the violations.

¹⁴² PG&E Opening Brief, at 15; San José Opening Brief, at 13-14.

¹⁴³ CforAT Opening Brief, at 1.

5. Legal Framework for Fines and Remedies

The Commission has statutory authority to impose fines under Pub. Util. Code Sections 2107 and 2108. The Commission's authority to impose fines pursuant to Pub. Util. Code Section 2107 has been affirmed.¹⁴⁴

Section 2107 states:

Any public utility that violates or fails to comply with any provision of the Constitution of this state or of this part, or 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.

Section 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.

Furthermore, the Commission has authority to fashion other equitable remedies in addition to specific authority to impose fines pursuant to Pub. Util. Code Sections 2107 and 2108 and has done so on many occasions.¹⁴⁵ These remedies include exercising the Commission's ratemaking authority to disallow expenditures that are needed to redress violations found in this proceeding.

¹⁴⁴ See, e.g., *Pacific Bell Wireless, LLC v. Public Utilities Com. (Cingular)* (2006) 140 Cal. at 4th 718.

¹⁴⁵ D.07-09-041, D.15-04-024, D.15-07-014, D.17-09-024, D.18-04-014, D.19-04-041, D.19-09-037, and D.20-02-036.

Pub. Util. Code Section 728 confers ratemaking authority¹⁴⁶ upon the Commission and states:

Whenever the commission, after a hearing, finds that the rates or classifications, demanded, observed, charged, or collected by any public utility for or in connection with any service, product, or commodity, or the rules, practices, or contracts affecting such rates or classifications are insufficient, unlawful, unjust, unreasonable, discriminatory, or preferential, the commission shall determine and fix, by order, the just, reasonable, or sufficient rates, classifications, rules, practices, or contracts to be thereafter observed and in force.

Similarly, Section 761 confers authority on the Commission to require a utility to maintain proper facilities. It provides in part:

Whenever the commission, after a hearing, finds that the rules, practices, equipment, appliances, facilities, or service of any public utility, or the methods of manufacture, distribution, transmission, storage, or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate, or insufficient, the commission shall determine and, by order or rule, fix the rules, practices, equipment, appliances, facilities, service, or methods to be observed, furnished, constructed, enforced, or employed.

Lastly, the Commission has broad authority under Pub. Util. Code Section 701 to “do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient” in the supervision and regulation

¹⁴⁶ The Commission’s general ratemaking authority comes from Section XII, Article 6 of the California Constitution, which states: “The commission may fix rates, establish rules, examine records, issue subpoenas, administer oaths, take testimony, punish for contempt, and prescribe a uniform system of accounts for all public utilities subject to its jurisdiction.”

of public utilities.¹⁴⁷ The Commission's exercise of these powers and jurisdiction "must be cognate and germane to the regulation of public utilities. . ." ¹⁴⁸ The remedies considered below are to ensure that PG&E's future de-energization events are conducted safely and in a manner consistent with Commission requirements. Therefore, they lie squarely within our jurisdiction.

6. Factors to Consider in Setting the Appropriate Penalties

In determining the penalty to be imposed for violations found above, we are guided by D.98-12-075, which identified the following factors:¹⁴⁹

1. Severity of the offense;
2. Conduct of the utility before, during, and after the offense;
3. Financial resources of the utility;
4. Totality of the circumstances in furtherance of the public interest; and
5. The amount of the fine in relationship to prior Commission decisions.

6.1. Severity of the Violations

The Commission will examine the severity of the violations, "which encompasses four sub-factors: (1) physical harm, (2) economic harm, (3) harm to the regulatory process, and (4) the number and scope of violations,"¹⁵⁰ with violations that cause physical harm to people or property being considered the most severe and violations that threatened such harm closely following.¹⁵¹ The

¹⁴⁷ See, e.g., *Pacific Bell Wireless, LLC v. Public Utilities Com.*, 140 Cal. App. 4th at 736; *Consumers Lobby Against Monopolies v. Public Utilities Com. (CLAM)* (1979) 25 Cal. 3d 891, 905.

¹⁴⁸ CLAM, 25 Cal. 3d at 905-906.

¹⁴⁹ D.18-10-020, at 74; see D.98-12-075, at 9, 54-56 (1998 Cal. PUC LEXIS 1016).

¹⁵⁰ D.19-12-001, at 16.

¹⁵¹ D.18-10-020, at 117-18; see D.98-12-075, at 9, 54-56.

severity of a violation increases with the level of costs imposed on the victims of the violation.¹⁵²

6.1.1. Positions of the Parties

CforAT describes PG&E's violations as "expensive, scary, and harmful events for its customers and communities."¹⁵³ CforAT identifies harms experienced by people with disabilities, such as loss of power for medical devices, refrigeration of medication, and adaptive equipment; and disproportionately higher "externalized costs such as replacing lost food and/or medication or evacuating to a location that has power."¹⁵⁴

CforAT also identifies other harms including: (1) inadequate notice to Medical Baseline customers and customers with access and functional needs customers, (2) inadequate posting of information on the PG&E website, (3) outage maps that were inaccessible for users with vision impairments, and (4) mitigation efforts that provided inadequate support.¹⁵⁵

San José cites the economic harm suffered by local governments, with San José itself spending over \$1 million responding to Fall 2019 PSPS events and the equivalent of \$1.2 million in personnel time by deploying employees from "almost every city department" toward de-energization event response efforts.¹⁵⁶ San José asserts that the severity of the offense was higher due to the impact on vulnerable customers and repeat offenses. San José states that the "failure of

¹⁵² D.18-10-020, at 119-20.

¹⁵³ CforAT Opening Brief, at 15.

¹⁵⁴ CforAT Opening Brief, at 1.

¹⁵⁵ CforAT Opening Brief, at 3-4.

¹⁵⁶ San José Opening Brief, at 16.

PG&E to notify a substantial number of customers, particularly Medical Baseline customers who rely on electricity for health reasons, is a severe harm.”¹⁵⁷

San José also argues that “repeat offenses, particularly for failure to notify, should be treated even more severely.”¹⁵⁸ Finally, San José argues that because PG&E continually failed to notify Medical Baseline customers and increased the number of customers who were not notified, PG&E’s violations warrant consideration of serious penalties under Pub. Util. Code Section 2108 for continuing violations.¹⁵⁹

CLECA asserts that PG&E committed serious, egregious failures that endangered customers and the public when the utility failed to follow de-energization guidelines in Resolution ESRB-8 and D.19-05-042.¹⁶⁰ CLECA cites the failure to properly notify two CLECA members with industrial facilities served by PG&E and details the “risks of industrial accidents associated with power interruptions” such as explosions, release of dangerous materials, injuries, and property damage.¹⁶¹ CLECA stresses that although such accidents were avoided during the PSPS events, the risks were “very real,” and noted the actions that were taken by one CLECA member, who shut down operations at its own expense to “avoid a potentially devastating accident.”¹⁶²

The Joint Local Governments assert that customers experienced physical harm because “PG&E did not go into the fire season with a well-designed de-

¹⁵⁷ *Id.* at 17.

¹⁵⁸ *Id.* at 18.

¹⁵⁹ *Ibid.*

¹⁶⁰ See CLECA Opening Brief, at 3-7.

¹⁶¹ CLECA Opening Brief, at 5-8.

¹⁶² *Id.* at 8.

energization program and did not execute the events well.”¹⁶³ The Joint Local Governments contend the physical harm was loss of utility service, which has been previously determined by the Commission as a physical harm “because utility service is a necessity of modern life and that discontinuance for even short periods of time can threaten health and safety.”¹⁶⁴ The Joint Local Governments also claim that PG&E’s conduct led to economic harm, including general losses such as revenue, income, refrigerators full of food, refrigerated medication, travel and lodging costs, interruption of care for medically vulnerable people, tourism and tax revenue, and response costs.¹⁶⁵

The Joint Local Governments assert that PG&E’s failure to adequately plan for and execute the 2019 events exacerbated costs inherent to any de-energization event and cite the following economic harm:

- Nevada County: \$263,000 per day during a de-energization event;
- Santa Rosa: approximately \$485,000 for the October 9 event and \$1.802 million total for all of the 2019 de-energization events;
- Marin County: \$850,000 through the end of October 2019;
- Sonoma County: \$1.6 million for all of the 2019 de-energization events; and
- City of San José: more than \$1 million.¹⁶⁶

The Joint Local Governments also contend that PG&E’s conduct harmed the integrity of the regulatory process because it was entrusted with

¹⁶³ Joint Local Governments Opening Brief, at 25.

¹⁶⁴ *Ibid.*

¹⁶⁵ *Ibid.*

¹⁶⁶ Joint Local Governments Opening Brief, at 25-26.

implementing the Commission's de-energization guidelines "in an effective and well-considered manner," but "fail[ed] to meet its obligations."¹⁶⁷

Cal Advocates asserts that "PG&E put the lives of many vulnerable customers at risk, and either failed in or disregarded, its obligations to public safety partners, local agencies, and essential service workers."¹⁶⁸ Cal Advocates claims that PG&E's behavior caused significant disruption to customer's lives and customers were forced to bear unnecessary costs.¹⁶⁹ Cal Advocates further characterizes the harm caused by PG&E as increasing in severity due to customers experiencing de-energization without advance notice multiple times, and continuing violations as many customers were without power for multiple days during each PSPS event.¹⁷⁰ Cal Advocates highlights the risk of failing to notify public safety partners in time for them to make alternative plans for critical facilities that were de-energized with "an instance where two hospitals were de-energized in all three October de-energization events."¹⁷¹

Noting that "de-energization to a Medical Baseline customer is a potentially life-threatening risk," Cal Advocates states that there "is no justification for PG&E putting these vulnerable customers at such risk by failing to give them the required notice."¹⁷² Cal Advocates states that "no amount of

¹⁶⁷ *Id.* at 26.

¹⁶⁸ Cal Advocates Opening Brief, at 7.

¹⁶⁹ *Id.* at 8.

¹⁷⁰ *Id.* at 17.

¹⁷¹ *Id.* at 19-20.

¹⁷² *Id.* at 20.

avoidable public safety risk is acceptable as collateral, regardless of the size of the [utility's] operations or the number of customers it serves."¹⁷³

SBUA asserts that "[s]mall businesses were impacted immensely by the late-2019 PSPS events."¹⁷⁴ According to SBUA, 160,300 small and medium business customers lost power, many of them repeatedly,¹⁷⁵ but they were not compensated by PG&E.¹⁷⁶ SBUA further indicates that, as of September 20, 2020, "[c]ommercial customers filed 367 claims, totaling \$6,118,237.87 for food loss, property damage and economic loss due to the October PSPS events. The median claim was for approximately \$2,700."¹⁷⁷

TURN asserts that PG&E's violations caused physical harm, economic harm, and harm to the integrity of the regulatory process. Customers were physically harmed due to termination of utility service and suffered "abundant economic harm as a result of PG&E's violations."¹⁷⁸ TURN asserts that "local governments strained their resources, lost their emergency notification networks, and incurred millions of dollars in response costs that were not in the budget and could not be recovered."¹⁷⁹ Lastly, TURN contends that there was harm to the integrity of the regulatory process because PG&E's violations of "Public Utilities

¹⁷³ *Id.* at 2.

¹⁷⁴ SBUA Opening Brief, at 1.

¹⁷⁵ *Id.* at 1-2.

¹⁷⁶ *Id.* at 7.

¹⁷⁷ *Id.* at 6-7.

¹⁷⁸ TURN Opening Brief, at 4.

¹⁷⁹ *Id.* at 15.

Code Section 451, D.19-05-042, and Resolution ESRB-8...could endanger public health and safety.”¹⁸⁰

6.1.2. Position of PG&E

PG&E argues that its failures were fewer than alleged in the OSC, and that there is no evidence of actual harm. PG&E claims that “[t]he evidence in the record shows that the actual number of customers who did not receive notification was lower than the numbers included in the OSC.”¹⁸¹ PG&E contends that the actual numbers are:

- Approximately 22,000 customers (3.0 percent) (including approximately 600 Medical Baseline customers) out of approximately 735,400 customers affected by the October 9-12 PSPS, 2019 event.
- Approximately 2,100 customers (1.2 percent) (including approximately 20 Medical Baseline customers) out of approximately 178,800 customers affected by the October 23-25, 2019 PSPS event.
- Approximately 25,900 customers (2.7 percent) (including approximately 500 Medical Baseline customers) out of approximately 967,700 customers affected by the October 26-November 1, 2019 PSPS event.

PG&E also asserts that there is no evidence of actual harm. According to PG&E, “Cal Advocates does not provide any evidence that any customer actually suffered any harm due to the lack of notice – or even that customers were in fact unaware of the pending de-energization.”¹⁸²

¹⁸⁰ *Id.* at 4.

¹⁸¹ PG&E Opening Brief, at 8.

¹⁸² PG&E Reply Brief, at 9.

6.1.3. Discussion

We find that the severity of the violations by PG&E during the Fall 2019 PSPS events is high. The violations caused significant physical and economic harm, while also harming the regulatory process. Furthermore, the high number of violations, as well as their broad scope and repeating nature add to the severity of the violations.

The proceeding record is replete with evidence of physical harm caused by PG&E's violations. PG&E's violations put the health of many customers at risk and made an already stressful and fraught situation significantly worse. Many customers struggled to prepare for and endure the de-energization events due to often inaccurate, unavailable and confusing information from PG&E. Numerous Medical Baseline as well as access and functional needs customers lost power necessary for essential medical devices, adaptive equipment and refrigeration of medications. For many of these customers, the loss of power occurred without advanced notification and the difficulties in accessing and understanding the information regarding the de-energization events due to issues with PG&E's website and online information imposed additional burdens. Furthermore, these customers had to suffer these harms several times over long periods.

There is also extensive evidence in the record as to the economic harm suffered due to PG&E's violations.¹⁸³ Customers were burdened with costs due to spoiled food and medications, as well as costs for generators to mitigate the loss of power. Many customers had to bear the costs of travel and lodging to avoid the impacts of the loss of power.

¹⁸³ Joint Local Governments Opening Brief, at 25; CLECA Opening Brief, at 8; SBUA Opening Brief, at 6-7.

Businesses and their employees also suffered extensive economic harm. Approximately 160,000 small and medium businesses were impacted by lost revenue, spoiled supplies and increased response costs for items such as generators. Some large businesses had to shut down to avoid the serious safety risks posed by power interruptions. Local governments absorbed millions of dollars in response costs. Additionally, local government employees devoted extensive hours to responding to the Fall 2019 PSPS events. These costs and employee hours could have been avoided if PG&E had adequately prepared for and implemented the PSPS events.

We also find that there was substantial harm to the regulatory process. The Commission and the California Legislature have established requirements and obligations for PG&E as to how it conducts de-energization events and its duty to ensure public health and safety. PG&E's failure to abide by these requirements and obligations in implementing the de-energization events undermined the regulatory process.

Lastly, we find that the number and scope of PG&E's violations were high. Hundreds of thousands of customers across broad swaths of California were harmed by PG&E's violations. Various groups of customers, including Medical Baseline, access and functional needs, business, and local governments, were harmed. Many public safety partners were hampered in their efforts to plan for and respond to the de-energization events. The violations occurred over a significant period of time, with many customers affected for multiple days. Additionally, the violations as to advanced notification continued to occur in the subsequent two Fall 2019 PSPS events.

6.2. Conduct of the Utility

The Commission will assess the “utility’s conduct in: (1) preventing the violation, (2) detecting the violation, and (3) disclosing and rectifying the violation.”¹⁸⁴ Prevention includes “becoming familiar with applicable laws and regulations, and most critically, the utility regularly reviewing its own operations to ensure full compliance.”¹⁸⁵ Detection includes diligent monitoring.¹⁸⁶ Disclosure and rectification includes prompt reporting and correction of a violation.

6.2.1. Positions of the Parties

CforAT asserts that “PG&E knew or should have known the risks of harm from its shutoff activities” and that PG&E was on sufficient notice of the risks as early as 2009.¹⁸⁷ CforAT states that PG&E’s “actions taken after the disastrous events of 2019 do not make up for the fear, risk and harm suffered by customers during those events.”¹⁸⁸ CforAT argues that “PG&E’s ability to make rapid improvements after experiencing failures shows that the same improvements could have been put in place in advance of any shutoff activity if PG&E had appropriately prioritized its efforts.”¹⁸⁹

San José contends that PG&E’s conduct prior to the PSPS events in preventing the violations was lacking, observing that PG&E’s May 17, 2019 PSPS workshop was “so general in nature that [San José’s] Office of Emergency

¹⁸⁴ D.98-12-075, at 56.

¹⁸⁵ *Id.* at 57.

¹⁸⁶ *Id.* at 57-58.

¹⁸⁷ CforAT Opening Brief, at 6-10.

¹⁸⁸ *Id.* at 2.

¹⁸⁹ CforAT Reply Brief, at 6.

Management pulled together its own team to plan and prepare for PSPS events, including plans for deploying generators, creating its own PSPS webpages in three languages, and formulating a Communications Plan.”¹⁹⁰ San José also cites PG&E’s failure to prepare accurate outage maps, which hindered San José’s ability to refuel critical facilities on time and set up community resource centers (CRCs) in the correct locations.

CLECA suggests that PG&E’s failure to notify was potentially due to “a failure of PG&E’s mapping process, a lack of understanding of the relationship between the transmission and distribution systems, a lack of appreciation of the potentially dangerous consequences of interrupting large (particularly industrial) customers without notice, or from some other cause.”¹⁹¹ Furthermore, CLECA states that “no information is provided on when [mapping automation] will be completed, or what steps will be taken to assure its accuracy.”¹⁹²

The Joint Local Governments emphasize that PG&E’s violations “could have been prevented, or at least mitigated, by proper pre-fire-season emergency management training and by engaging in the coordination with local governments that the Commission had mandated.”¹⁹³ The Joint Local Governments further contend that PG&E failed to ensure that its Emergency Operations Center (EOC) staff had emergency management training and failed to design its de-energization program in accordance with emergency management frameworks. The Joint Local Governments observe that PG&E failed to “anticipate peak customer web traffic” that disrupted PG&E’s customer facing

¹⁹⁰ San José Opening Brief, at 4.

¹⁹¹ CLECA Opening Brief, at 5; Exh. CLECA-01, at 2.

¹⁹² CLECA Opening Brief, at 5.

¹⁹³ Joint Local Governments Opening Brief, at 27.

website, created outage maps that were inaccurate due to a buffer of up to 20 percent, provided “untimely and inaccurate” information in the secure data portal that made the portal “constructively unavailable.”¹⁹⁴

MGRA asserts that PG&E’s website failure was avoidable had PG&E: (1) made sufficient effort to understand customer usage during PSPS events, (2) paid attention to warning signals, if it had adequately tested its servers, and (3) taken remedial action based on the shortcomings it would have found based on the above actions.¹⁹⁵ MGRA asserts that PG&E should have anticipated that customers waiting for the power shutoff would have to repeatedly visit its website to obtain updates and news sites and other third-party sites would redirect web traffic to PG&E’s website.¹⁹⁶ MGRA also contends that the spike in PG&E’s web traffic during the September 23, 2019 PSPS event should have put PG&E on notice that CPU limits would be reached on key servers.¹⁹⁷

MGRA further states that “the PG&E website failure can be attributed largely to a lack of “customer empathy” and the “failure to understand how customers would act in the situation that PG&E had placed them.”¹⁹⁸ Lastly, MGRA finds it “disturbing” and a demonstration of a “lack of due diligence” that PG&E “did not know the number of customers that were to be experiencing a PSPS event.”¹⁹⁹ MGRA references PG&E’s rapid response as both an

¹⁹⁴ Joint Local Governments Reply Brief, at 8, 10-11.

¹⁹⁵ MGRA Opening Brief, at 7.

¹⁹⁶ *Id.* at 7-8.

¹⁹⁷ *Id.* at 7-8.

¹⁹⁸ *Id.* at 12.

¹⁹⁹ *Id.* at 15.

achievement and a demonstration of PG&E's ability to have prevented the website outages had they acted sooner.²⁰⁰

Cal Advocates asserts that PG&E was on notice of PSPS related risks with "more than a decade of studies, examinations, expert and stakeholder consultations, modeling, discoveries, workshops and Commission proceedings."²⁰¹ Cal Advocates argues that "[n]otwithstanding, this decade of learning and effort, PG&E's October 9-12, 2019 and October 23, 2019 and November 1, 2019 PSPS events were a major public safety failure."²⁰²

SBUA highlights several actions that were not taken prior to the PSPS events."²⁰³ SBUA focuses on PG&E's decision to omit PSPS events within its risk register because "they have been considered as a measure to mitigate wildfire risks and not as a driver of risk."²⁰⁴ SBUA argues that because PG&E does not classify PSPS events as a risk, "[a]n obvious conclusion is that failing to accept responsibility for and consider the risks posed by PSPS events are root contributing causes to PG&E's deficient notification of customers in advance of the late-2019 PSPS events."²⁰⁵ SBUA also observes that PG&E was on notice of the limited public awareness of the PSPS program through its surveys of residential customers in May and August 2019.²⁰⁶

²⁰⁰ MGRA Opening Brief, at 8.

²⁰¹ Cal Advocates Opening Brief, at 7.

²⁰² *Ibid.*

²⁰³ SBUA Opening Brief, at 3.

²⁰⁴ *Id.* at 4.

²⁰⁵ *Id.* at 5.

²⁰⁶ *Id.* at 5.

TURN asserts that PG&E did not demonstrate that it reasonably prevented the violations from occurring, arguing that PG&E should have reasonably foreseen the increased web traffic since it notified more than 700,000 customers and directed them to visit the website for more information.²⁰⁷ TURN contends PG&E “continued to violate the notice requirements in each PSPS event it implemented in 2019,” and remedial actions “were obviously unsuccessful.”²⁰⁸

For the up to 5 percent of PG&E’s customers whose contact information was missing, TURN argues that “PG&E knew that it had no way to provide notice to [non-Medical Baseline] customers unless it conduct[ed] in-person notification, yet it chose not to notify these customers prior to shutting off their power.”²⁰⁹ TURN also notes that PG&E also conceded that “it did not test its methodology prior to implementation, which led to missed customer notifications.”²¹⁰

6.2.2. Position of PG&E

PG&E contends that it made efforts to reach as many customers as possible, target Medical Baseline customers, and obtain customers’ phone and email contact information. PG&E argues that it acted reasonably in developing and implementing its notification process and describes it in detail.²¹¹ PG&E also discusses in detail its efforts to prepare its website for potential PSPS events and

²⁰⁷ TURN Opening Brief, at 11.

²⁰⁸ *Id.* at 4, 7.

²⁰⁹ *Id.* at 5.

²¹⁰ TURN Reply Brief, at 4.

²¹¹ PG&E Opening Brief, at 12-13.

quickly recovering its website after its website outage.²¹² PG&E describes its strengthening and testing of its website as acting in “good faith.”²¹³

Notably, PG&E admits that it failed to test its Static Content Servers because of no prior performance issues and did not anticipate that the servers could not handle the level of website traffic during the October 9-12, 2019 PSPS event. However, PG&E argues that it “did not and could not know precisely how many customers [it] should be benchmarking for future events” even after the September 25, 2019 PSPS event, and further, “[n]o one anticipated how worldwide interest...national and international interest, and automated web traffic would strain PG&E’s servers.”²¹⁴

Despite the above contentions, PG&E did agree to the following stipulations with MGRA.

- PG&E believes and acknowledges that most of the website traffic was generated by PG&E customers;
- PG&E would have known that customer traffic patterns would be different during a power shutoff than during other types of customer outages; and
- Before the October 9-12, 2019 de-energization event, PG&E did not adequately anticipate peak website traffic during a de-energization event.²¹⁵

6.2.3. Discussion

We find that PG&E’s conduct in preventing, detecting and rectifying the violations was severely flawed. While we recognize the scale of the PSPS events presented challenges, we find that many of the issues with the Fall 2019 PSPS

²¹² PG&E Opening Brief, at 19-25.

²¹³ PG&E Reply Brief, at 16.

²¹⁴ *Id.* at 14.

²¹⁵ MGRA Opening Brief, at 11.

events could have been prevented with better preparation, testing and coordination by PG&E. PG&E used the de-energization process and therefore, should have prepared for the de-energization events to the best of its ability. The record demonstrates that this was not the case with respect to the Fall 2019 PSPS events.

As argued by various parties and acknowledged by PG&E itself, PG&E did not take sufficient steps to prevent the failure of its website.²¹⁶ PG&E did not sufficiently test the functionality of its website in light of expected web traffic based on the large scale of the October 9-12, 2019 PSPS events and the levels of web traffic during the September 25, 2019 PSPS event. Although PG&E was able to restore the functionality of the website in a relatively short time, we agree with CforAT and other parties that PG&E's ability to rapidly restore the website's functionality demonstrates that the issue could have been prevented "if PG&E had appropriately prioritized its efforts."²¹⁷

We also find PG&E could have prevented the violations due to the inaccuracy of the online maps and accessibility of the secure data transfer portals by better preparation and coordination with local municipalities that would rely on these resources. In many instances, these local municipalities stepped into the voids resulting from PG&E's inadequate preparation to ensure the health and safety of their constituents. The negative impacts of the Fall 2019 PSPS events could have been worse absent the efforts of these local municipalities. PG&E's lack of preparation and foresight as to potential problems caused by issues with online outage maps and the accessibility of the secure data transfer portals

²¹⁶ MGRA Opening Brief, at 7, 11; Joint Local Governments Reply Brief, at 8, 10-11. CLECA Opening Brief, at 5; Exh. CLECA-01, at 2; San José Opening Brief, at 4; CforAT Reply Brief, at 6.

²¹⁷ CforAT Reply Brief, at 6.

hindered the abilities of these local municipalities to prepare for and respond to the Fall 2019 PSPS events.

Lastly, we find that PG&E did not adequately act to prevent the failure to provide advanced notification of the de-energization events to a substantial number of customers, including Medical Baseline customers, and to rectify these notification issues in subsequent PSPS events. PG&E could have done more to acquire contact information for its customers, particularly Medical Baseline customers, a group of customers that experience especially adverse impacts from the loss of power.

It is also troubling that despite the notification issues with the October 9-12, 2019 PSPS event, PG&E again had notification issues during the October 23-25, 2019 and October 26-November 1, 2019 PSPS events, with approximately 520 Medical Baseline customers and 28,000 customers overall, not receiving advanced notification of the de-energization events. Given the serious impacts of the failure to provide advanced notification to approximately 600 Medical Baseline customers and 22,000 customers during the October 9-12, 2019 PSPS event, PG&E had notice of the notification issues and should have done more to prevent any such further issues.

6.3. Financial Resources of the Utility

The Commission will consider the financial resources of the utility to ensure that the degree of wrongdoing comports with the amount of the fine and is relative to the utility's financial resources such that the amount will be an effective deterrence for that utility while not exceeding the constitutional limits on excessive fines.²¹⁸

²¹⁸ D.18-10-020, at 117; *see* D.98-12-075, at 59.

6.3.1. Position of the Parties

The Joint Local Governments suggest that PG&E will have adequate financial resources to bear the fine. The Joint Local Governments “recommend a likely maximum of \$19.6 million in local government bill credits,” because they are “de minimis compared to PG&E’s annual authorized revenues.”²¹⁹ TURN asserts that PG&E will have sufficient resources to pay TURN’s recommended penalty under the financial resources of the utility factor. Both the Joint Local Governments and TURN note that PG&E’s 2019 revenue requirement was \$18.184 billion.²²⁰ TURN characterizes its proposed penalties as “de minimis,”²²¹ “would have virtually no impact on PG&E’s financial resources,”²²² and “would represent less than 0.4% of its annual authorized revenue.”²²³

6.3.2. Position of PG&E

PG&E did not make any assertions regarding its financial resources.

6.3.3. Discussion

We find that PG&E has the financial resources to pay the proposed fines and remedies. We agree with the Joint Local Governments and TURN that the proposed remedies would have minimal impact on PG&E’s financial resources. PG&E should be able to pay a penalty of amounts proposed without harming ratepayers or its ability to raise the equity needed for revenue-producing investments required to provide adequate and safe service.

²¹⁹ Joint Local Government Opening Brief, at 28.

²²⁰ Joint Local Governments Opening Brief, at 28; TURN Opening Brief, at 7.

²²¹ TURN Opening Brief, at 8.

²²² *Ibid.*

²²³ *Ibid.*

6.4. Totality of the Circumstances

This factor takes into consideration facts that may mitigate or exacerbate the degree of wrongdoing. In all cases, the harm will be evaluated from the perspective of the public interest.²²⁴

6.4.1. Position of the Parties

San José recommends that the Commission consider the costs borne by local governments to address PG&E's deficiencies.²²⁵ According to San José, "it is not in the public interest to have these costs borne by the local governments when the Commission required PG&E to plan and pay for these PSPS harm mitigation efforts."²²⁶

The Joint Local Governments argue that the weight of the facts and harm go against the public interest. According to the Joint Local Governments:

Rational and well-executed de-energization events go to the heart of the public interest, both in terms of the utilities' obligation to provide safe and reliable utility service and in terms of their obligation to ensure that de-energization events are only used as a last resort...PG&E went into the 2019 de-energization events unprepared and, as a result, the impacted communities and customers were harmed to a greater degree than they might otherwise have been."²²⁷

²²⁴ D.98-12-075, at 59.

²²⁵ San José Opening Brief, at 16.

²²⁶ San José Opening Brief, at 17.

²²⁷ Joint Local Governments Opening Brief, at 28.

Cal Advocates argues that “penalties are necessary to preserve the effectiveness of the PSPS Guidelines as a deterrent to PSPS abuses by the utilities and to mitigate public safety risks.”²²⁸ Furthermore, Cal Advocates states that “PG&E’s failure to accept full responsibility undermines transparency and safety culture values.”²²⁹

TURN argues that a penalty would send a strong signal to PG&E that it must comply with all the Commission’s requirements when conducting a de-energization event. TURN contends this would further the public interest by deterring future noncompliance by PG&E or other utilities.”²³⁰ TURN also states:

Given the devastating effect that PSPS events have on customers’ lives, the Commission should ensure that PSPS guidelines are strictly followed, and it is important for the Commission to establish a penalty precedent in this proceeding to deter future noncompliance with requirements for conducting a PSPS, whether it be ESRB-8, D.19-05-042, or future decisions.²³¹

CLECA argues that “[m]onetary sanctions must be imposed to impress upon PG&E the gravity of its violations and, hopefully, lead to real reform.”²³²

6.4.2. Position of PG&E

PG&E argues that “[t]he October 2019 events – the notifications, the website, and the other issues – should be considered as a whole and in context.”²³³ Specifically, PG&E states that the Commission should consider

²²⁸ Cal Advocates Reply Brief, at 9.

²²⁹ Cal Advocates Reply Brief, at 11.

²³⁰ TURN Opening Brief, at 8.

²³¹ TURN Opening Brief, at 9.

²³² CLECA Reply Brief, at 5.

²³³ PG&E Opening Brief, at 7.

“PG&E’s efforts to prepare customers for PSPS events and to comply with Phase One Guidelines, the reasons for the missed notifications, and PG&E’s overall performance in notifying customers during the October 2019 PSPS events.”²³⁴ Noting that the PSPS events were the largest in California history,²³⁵ PG&E believes that “[a] fair assessment of the facts demonstrates that PG&E’s efforts and outcomes were within the realm of the Phase One Guidelines’ requirements, and that penalties for missed notifications are neither necessary nor appropriate.”²³⁶

PG&E claims that over 20,000 customer accounts and over 40% of the missed notifications during the Fall 2019 PSPS event was due to a lack of contact information for some customers. PG&E argues that because not all customers responded to its efforts to gather their contact information, PG&E “should not be penalized for failing to provide advance notice to those customers who decline to provide a way to contact them.”²³⁷ PG&E also discusses the impact of changed conditions and its efforts to recover the website quickly.²³⁸ Lastly, PG&E argues that the Commission should consider the fact that “PG&E had already credited customers over \$86 million for these issues.”²³⁹

6.4.3. Discussion

In determining the appropriate penalty, we must consider the gravity and severity of the violations presented in this OSC, PG&E’s obligations under Pub.

²³⁴ *Id.* at 9.

²³⁵ *Id.* at 1.

²³⁶ *Id.* at 9.

²³⁷ *Id.* at 14-15.

²³⁸ *Id.* at 16-18.

²³⁹ *Id.* at 31.

Util. Code Section 451, the D.19-05-042 Guidelines and Resolution ESRB-8, and the serious impact of PG&E's shortfalls in implementing the Fall 2019 PSPS events on its customers. We must also consider the Commission's and the public's interest in ensuring that if and when de-energization events occur, they are implemented in a safe and effective manner, with fully functional information resources and required notification to all of the affected customers.

We agree with the Joint Local Governments that PG&E's poor preparation for the Fall 2019 PSPS events resulted in greater impacts to customers and communities than would have occurred had there been appropriate preparation and coordination.²⁴⁰ Although PG&E was able to correct issues with its website, significant issues with advanced notification persisted in subsequent Fall 2019 PSPS events. We also agree with TURN and Cal Advocates that a penalty would serve the public interest by sending a strong signal to PG&E to comply with the Commission's de-energization requirements.²⁴¹ Therefore, based on our discussion in connection with the other factors, we find that a severe penalty is warranted for the violations.

6.5. Past Commission Decisions

The Commission will consider the "amount of the fine in the context of prior Commission decisions."²⁴² This factor takes into consideration the proposed outcome compared with "previously issued decisions which involve

²⁴⁰ Joint Local Governments Opening Brief, at 28.

²⁴¹ TURN Opening Brief, at 8; Cal Advocates Reply Brief, at 9.

²⁴² D.18-10-020, at 117.

the most reasonably comparable factual circumstances and explain any substantial differences in outcome.”²⁴³

6.5.1. Position of the Parties

San José argues that “the Commission should follow its precedent and (1) require PG&E’s shareholders to pay for these remedies and (2) formulate penalties either to fund improvements for how PG&E handles its PSPS Events or to compensate customers and local governments.”²⁴⁴ Citing D.15-04-024, where the Commission required PG&E shareholders to provide future pipeline safety enhancements in the San Bruno pipeline investigation,²⁴⁵ San José argues that having shareholders pay for improvements will further the goal of safer de-energization events than paying penalties into the General Fund.²⁴⁶

The Joint Local Governments lists prior decisions that have permitted shareholder-funded reparations,²⁴⁷ bill credits to affected customers,²⁴⁸ reduced revenue requirements,²⁴⁹ and shareholder-funded corrective actions.²⁵⁰ The Joint Local Governments claim that “Commission precedent supports imposing financial penalties.”²⁵¹

²⁴³ *Standards of Conduct Governing Relationships Between Energy Utilities and Their Affiliates*, 84 Cal. ATU.C. 2d at 190.

²⁴⁴ San José Opening Brief, at 18.

²⁴⁵ See D.15-04-024, at 90.

²⁴⁶ San José Opening Brief, at 19.

²⁴⁷ See D.07-09-041; D.19-09-037.

²⁴⁸ See D.15-04-024.

²⁴⁹ See D.15-04-024; D.15-07-014; D.18-04-014.

²⁵⁰ See D.15-07-014; D.17-09-024; D.20-02-036.

²⁵¹ Joint Local Governments Opening Brief, at 29.

TURN cites D.07-09-041, D.15-04-024, D.15-07-014, D.17-09-024, D.18-04-014, D.19-04-041, D.19-09-037, and D.20-02-036 as examples of various forms of penalties or remedies that the Commission has found as appropriate.²⁵² TURN indicates that these decisions include “shareholder-funded reparations, compensation to harmed customers, reduced revenue requirements that would otherwise be collected from ratepayers, or shareholder-funded corrective actions.”²⁵³

6.5.2. Position of PG&E

PG&E did not discuss past Commission decisions.

6.5.3. Discussion

Although the current proceeding presents a relatively novel enforcement proceeding, we agree with San José, the Joint Local Governments and TURN that there are prior Commission decisions that are reasonably comparable with this proceeding, especially as to examples of the forms of penalties or remedies that the Commission has found appropriate. We discuss each of those decisions below.

D.07-09-041 and D.19-04-041 concern enforcement proceedings where the Commission found that utilities violated several of their tariffs due to various billing activities by the utilities. The Commission ordered several types of penalties and remedies, including refunds, fines and bill credits at shareholder expense. Although D.07-09-041 and D.19-04-041 involved different enforcement circumstances, they do provide precedent as to appropriate remedies for PG&E’s violations.

²⁵² TURN Opening Brief, at 8.

²⁵³ *Id.* at 8.

In D.15-04-024, the Commission imposed fines and remedies on PG&E for specific violations in connection with the operation and practices of its natural gas transmission system. The Commission imposed various penalties and remedies, including bill credits, fines, reduced revenue requirements and shareholder-funded gas infrastructure improvements. The underlying facts of that enforcement proceeding are distinguishable from this proceeding, but the form of the penalties and remedies are relevant and comparable to the remedies proposed by the parties to further the goal of safer de-energization events.²⁵⁴

D.15-07-014, D.18-04-014 and D.20-02-036 concern the Commission's approval of settlements. The facts of those underlying proceedings are distinguishable from the instant proceeding, but the imposed remedies of reduced revenue requirements, restitution, shareholder-funded system improvements and fines are relevant and comparable to the remedies proposed by parties in this proceeding.

In D.19-09-024, the Commission approved a settlement regarding a Commission investigation of PG&E's disconnection of approximately 6,000 customers due to non-payment without the required 24-hour notice. The situation resolved by D.19-09-024 bears some similarity to this proceeding in that it concerned a failure to provide required advanced notification and included remedies such as bill credits and shareholder funding of a customer program.

In D.17-09-024, the Commission approved a settlement regarding an investigation of power outages originating with Southern California Edison Company's (SCE) system in Long Beach in 2015. The settlement approved by D.17-09-024 required SCE to pay a penalty of \$4 million to the General Fund and

²⁵⁴ San José Opening Brief, at 19.

to perform \$11 million worth of specific system enhancements at shareholder expense. The proceeding concerned electrical system outages linked to problems with SCE's maintenance, inspection, and management of the system in Long Beach. The Commission also found problems with SCE's emergency response and communications during the outages. D.17-09-024 is relatively comparable to this proceeding in that it involved an electrical outage, emergency communication issues and similar types of harm. It is also comparable to this proceeding because it approved penalties and remedies including shareholder-funded system improvements and fines.

7. Penalties to be Imposed

7.1. Positions of the Parties

The Joint Local Governments propose a fine that would provide bill credits to each affected local government.²⁵⁵ According to Joint Local Governments, “[a] flat refund of \$100,000 per local government that activated its [Emergency Operation Center] during the 2019 de-energization events would reflect...the significant burden PG&E placed on local Offices of Emergency Management in 2019.”²⁵⁶ The Joint Local Governments estimates that “196 local governments (38 counties and 158 cities)” were de-energized during the October 26 event, so the proposed penalty total would be \$19.6 million.²⁵⁷ San José proposes that any imposed remedy be used to fund improvements or compensate customers and local governments instead of paying into the General Fund.²⁵⁸

²⁵⁵ See Joint Local Governments Opening Brief, at 24, 28, 31.

²⁵⁶ *Id.* at 31.

²⁵⁷ *Id.* at 31.

²⁵⁸ San José Opening Brief, at 18.

Cal Advocates asserts that the “Commission must impose adequate penalties and financial remedies to incent PG&E to act reasonably to mitigate the impact of its PSPS events and take the necessary steps to ensure that it does not unreasonably place customers’ lives and wherewithal at risk.”²⁵⁹ Cal Advocates recommends a penalty of \$165.74 million “against PG&E for violations of Public Utilities Code [Section] 451, arising from PG&E’s compromise of public health and safety during the 2019 PSPS events.”²⁶⁰ This amount is based on Cal Advocates’ estimated financial impacts of the PSPS events to customers. Cal Advocates’ proposed penalty of \$165.74 million consists of:

- \$15.3 million or \$100,000 per public safety partner “for power backup investment for electricity resilience;”
- \$24.1 million, or \$400/customer for a refund above the \$100 already issued by PG&E;
- \$7.57 million or \$5,000 per Medical Baseline customer to fund electricity resilience;
- \$102.2 million for sectionalization devices; and
- a fine of \$16.6 million to be paid to the General Fund.²⁶¹

TURN recommends a total penalty of \$21.7 million to be paid to impacted customers and local governments.²⁶² The penalty is the sum of the Joint Local Governments’ proposed \$19.6 million penalty and the following: (1) \$1.12 million as a direct credit to customers paid via shareholder funds or disallowance for

²⁵⁹ Cal Advocates Opening Brief, at 8.

²⁶⁰ Cal Advocates Opening Brief, at 2, 12, 15, Attachment A.

²⁶¹ Cal Advocates Opening Brief, at 22, Attachment A.

²⁶² TURN Opening Brief, at 1-2.

PG&E's failure to maintain its website, secure transfer portal, and call center; and (2) \$985,000 as a credit to customers for lost sales due to lack of notice.²⁶³

SBUA requests that "the Commission impose meaningful remedies to address core causes of PG&E's poor PSPS notification performance and require direct compensation to customers who did not receive notification and suffered losses during the covered PSPS events."²⁶⁴

SBUA also proposes the following corrective actions:

- PG&E include PSPS events as a risk on its formal risk register;
- PG&E implement a reporting process for cataloging adverse events caused by PSPS de-energization;
- PG&E commission a study of past and future public safety consequences and economic costs of PSPS de-energization; and
- PG&E formally accept that it is substantially responsible for public safety consequences of PSPS event[s].²⁶⁵

CLECA recommends corrective actions that improve the mapping of PG&E's transmission and distribution system and communications with transmission-level customers. CLECA proposes that PG&E demonstrate full and accurate mapping of its system, and completion of "its automation process to identify which transmission customer facilities are served by what system assets."²⁶⁶ CLECA also recommends that PG&E "[c]reate a dedicated communication bridge in Emergency Operations Center," for transmission-level customers during PSPS events, and institute a notifications system that follow

²⁶³ *Id.* at 1.

²⁶⁴ SBUA Opening Brief, at 8.

²⁶⁵ *Id.* at 5.

²⁶⁶ CLECA Opening Brief, at 9.

the timeframes and information required under Resolution ESRB-8 and other current guidelines.²⁶⁷

7.2. Position of PG&E

PG&E believes that no penalty is appropriate.²⁶⁸ PG&E asserts that among the five issues in the Scoping Memo, three of the issues reveal “no significant showing of non-compliance,” while the remaining two issues do not merit penalties.²⁶⁹ The three issues that PG&E suggests are undisputed and “show no violations”²⁷⁰ are:

- The availability of PG&E’s secure data transfer portal during the October 9-12, 2019 event;
- The accuracy of PG&E’s online outage maps; and
- The sufficiency of staffing at PG&E’s contact centers during the October 9-12, 2019 event.²⁷¹

PG&E argues that because the evidence for these issues is undisputed, “the issues do not present grounds for a violation or penalty.”²⁷²

Regarding the other issues of missed notifications to customers and unavailability of PG&E’s website,²⁷³ PG&E claims that no penalty should be issued because utilities “should not be penalized for failing to achieve

²⁶⁷ *Ibid.*

²⁶⁸ PG&E Opening Brief, at 2.

²⁶⁹ *Id.* at 2-4.

²⁷⁰ *Id.* at 7.

²⁷¹ *Id.* at 2.

²⁷² PG&E Reply Brief, at 18.

²⁷³ PG&E Opening Brief, at 31.

perfection,” and “PG&E responded appropriately” during the October 9-12, 2019 event.²⁷⁴

PG&E indicates that the penalty endorsed by TURN “would not be outside the range of reasonableness.”²⁷⁵ PG&E rejects Cal Advocates’ penalty proposal for lack of methodology or rationale, claims that it is out-of-step, and argues that it should be rejected.²⁷⁶ Lastly, PG&E argues that Joint Local Governments’ and SBUA’s penalty proposals are out of scope and therefore cannot be imposed.²⁷⁷

7.3. Discussion

We have considered: (1) the severity of the violations, (2) the conduct of PG&E before, during, and after the violations, (3) the financial resources of PG&E, (4) totality of the circumstances in furtherance of the public interest, (5) the amount of the fine in relationship to prior Commission decisions, and (6) mitigating factors. Based on these factors, we find that a penalty of \$106.003 million for PG&E violations during the Fall 2019 PSPS events is appropriate.

As noted above, PG&E previously provided \$86 million in bill credits to affected customers after strong exhortation by California Governor Gavin Newsome for PG&E to address the hardships imposed on residential and small business customers by the de-energization events. Due to that previous bill credit, we will offset the penalty by \$86 million based on the bill credits PG&E has already provided to some electric customers. Therefore, the net penalty is \$20.003 million. This overall penalty amount is consistent with many parties’

²⁷⁴ *Id.* at 31.

²⁷⁵ PG&E Reply Brief, at 17.

²⁷⁶ *Id.* at 17, footnote 84.

²⁷⁷ *Id.* at 21-23.

proposed penalties. We discuss the breakdown of the penalties with respect to the different violations below.

As to the violations for the unavailability and non-functionality of PG&E's website over the four days of the October 9-12, 2019 PSPS event, we will count each day as a separate violation. Although the number of customers, local governments and members of the public that could not access the website or had issues with its functionality could conservatively run into the hundreds of thousands, we find that treating each day as a separate violation is appropriate. We will impose the maximum penalty of \$100,000 per violation, for a total penalty of \$400,000 (4 days X \$100,000) for PG&E's website issues. We also find that TURN's recommendation of a refund for the website and related IT function costs from PG&E's revenue requirement is reasonable and add that \$518,000 to the penalty for the website violations.²⁷⁸ However, we will order that the \$518,000 is instead included in the remedy that is discussed below for the violations as to the website, online outage maps and secure data transfer portals. In summary, the total penalty for the website violations is \$918,000.

As to the violations for the inaccuracy of the online outage maps during the October 9-12, 2019 PSPS event, we will count each day as a separate violation. The number of violations could run much higher depending on the number of public safety partners and local governments that had to deal with inaccurate online outage maps. However, we find that treating each day as a separate violation is appropriate. We will impose the maximum penalty of \$100,000 per

²⁷⁸ TURN's estimate of \$518,000 is the pro rata share of four days of the estimated \$47.3 million infrastructure and operation cost of the website and related IT functions for 2019. TURN Opening Brief, at 12; Ex. TURN-02, at 10.

violation, for a total penalty of \$400,000 (4 days X \$100,000) for the inaccuracy of PG&E's online outage maps.

As to the violations due to the inaccessibility of PG&E's secure data transfer portals to its public safety partners during the October 9-12, 2019 PSPS event, we find four violations. These four violations are based on the issues that the San José, the City of Santa Rosa, Marin County and Nevada County had accessing the appropriate information on PG&E's secure data transfer portals.²⁷⁹ We will impose a penalty of \$25,000 per violation, for a total penalty of \$100,000 (4 X \$25,000) for the inaccessibility of PG&E's secure data transfer portals.

The penalties described above for violations related to the website, online outage maps and secure data transfer portals total \$1.418 million. PG&E shall contribute \$1.418 million in shareholder funds to PG&E's Disability Disaster Access & Resources Program, which provides qualifying customers access to backup portable batteries through grant, lease-to-own, or low-interest loan options.

For PG&E's failure to provide advanced notification of de-energization events to approximately 50,000 customers in Fall 2019, we will treat each instance of a customer not receiving advanced notification as a separate penalty. We impose a penalty of \$97.2 million, consisting of \$13.2 million (22,000 customers X \$600) for the October 9-12, 2019 PSPS and \$84 million (28,000 customers X \$3,000) for the October 23-25, 2019 and October 26-November 1, 2019 PSPS events.²⁸⁰ The penalty amount is higher for the latter two PSPS events because

²⁷⁹ San José Opening Brief, at 12; Exh. CSJ-01, at 7; Joint Local Governments Opening Brief, at 21; Exh. JLG-01, at 6, 8, 9.

²⁸⁰ Ex. PGE-03, at 2; Amended PG&E PSPS Report for the October 9-12, 2019 De-Energization Event, at 16; Amended PG&E PSPS Report for the October 23-25, 2019 De-Energization Event, at 17; Amended PG&E PSPS Report for the October 26 & 29, 2019 De-Energization Event, at 12.

PG&E was on notice concerning its effectiveness in providing the advanced notification to customers, yet continued to have issues notifying a significant number of these customers.

We also find reasonable TURN's recommendation that the Commission direct PG&E to credit, with shareholder funds, \$985,000 for lost sales associated with customers that did not receive proper notice.²⁸¹ We note that the Commission may also take further actions with regards to the issue of lower volumetric sales during a PSPS in the Energy Resource Recovery Account (ERRA) proceeding or other appropriate proceedings. The \$985,000 will be added to the penalty of \$97.2 million for PG&E's failure to provide advanced notification of de-energization events to approximately 50,000 customers in Fall 2019 PSPS.

Therefore, we impose a total penalty of \$98.185 million for the violations for failure to provide advanced notification of de-energization events to the approximately 50,000 customers. However, we will offset this penalty by the \$86 million PG&E has already credited to some electric customers.²⁸² Therefore, the net penalty for failure to provide advanced notification to approximately 50,000 customers is \$12.185 million. This \$12.185 million shall be paid as an additional bill credit to all electric customers in the geographic areas affected by the Fall 2019 PSPS events. The bill credit shall be paid by PG&E shareholders.

²⁸¹ TURN's recommended \$985,000 credit for lost sales is based on an average October daily cost of \$3.23 applied to the 14 PSPS days (10/9-12/2019, 10/23-25/2019, 10/26-11/1/2019) and multiplied by the number of customers who did not receive proper notice. (TURN Opening Brief, at 14; Ex. TURN-02, at 12.) It appears TURN's calculation erred and based on its rationale for the calculation, the total would be \$1,188,640. However, we will maintain the penalty for lost sales at \$985,000 at this time.

²⁸² Ex. TURN-04 (PG&E's Responses to TURN-PGE-05 (All Questions)) at 1-2.

For PG&E' failure to provide advanced notification of the de-energization events to approximately 1,120 Medical Baseline customers, we will treat each instance of a Medical Baseline customer not receiving advanced notification as a separate penalty. We impose a penalty of \$6.4 million, consisting of \$1.2 million (600 Medical Baseline customers X \$2,000) for the October 9-12, 2019 PSPS and \$5.2 million (520 Medical Baseline customers X \$10,000) for the October 23-25, 2019 and October 26-November 1, 2019 PSPS events.²⁸³ The penalty amount is higher for the latter two PSPS events because PG&E was on notice concerning issues with the advanced notification to Medical Baseline customers, yet continued to have issues notifying a significant number of these customers.

Furthermore, the level of per violation penalty is warranted because PG&E is well aware of the heightened risk to Medical Baseline customers from the unexpected loss of power and the record shows that these customers suffered particularly egregious harm due to the PSPS events. The penalty amount is consistent with the amount recommended by Cal Advocates.²⁸⁴ PG&E shareholders shall pay for this penalty via a bill credit to Medical Baseline customers in the geographic areas affected by the Fall 2019 PSPS events.

We decline to adopt the \$19.6 million Joint Local Governments' proposed penalty of \$100,000 per local government that activated its Emergency Operation Center during the Fall 2019 PSPS. While we recognize the significant burden PG&E placed on local municipalities during the Fall 2019 PSPS events and appreciate the efforts of these local municipalities, we find that the record does

²⁸³ Ex. PGE-03, at 2; Amended PG&E PSPS Report for the October 9-12, 2019 De-Energization Event, at 16; Amended PG&E PSPS Report for the October 23-25, 2019 De-Energization Event, at 17; Amended PG&E PSPS Report for the October 26 & 29, 2019 De-Energization Event, at 12.

²⁸⁴ Cal Advocates Opening Brief, at 22.

not demonstrate a sufficient nexus between the violations determined in this OSC and the penalty proposed by the Joint Local Governments.

We also decline to implement Cal Advocates' recommendation regarding sectionalization devices. We do not reach any decision on the merit of such devices, but find that the issue is more appropriately considered in PG&E's General Rate Case.

We decline to adopt the recommendations by CLECA and SBUA at this time. While these recommendations may have merit, we find they are better addressed in: (1) the quasi-legislative portion of this proceeding because they affect de-energization requirements that could apply to other electric IOUs besides PG&E or (2) other appropriate proceedings such as PG&E's Risk Assessment Mitigation Phase (RAMP) proceeding.

8. Appeals of the Presiding Officer's Decision

PG&E and CLECA filed appeals of the Presiding Officer's Decision on June 25, 2021. MGRA, Joint Local Governments, Cal Advocates, TURN, CfotAT, Direct Access Customer Coalition (DACC) and PG&E filed responses on July 12, 2021. Where noted, the Presiding Officer's Decision has been modified in response to the appeals. In all other respects, the appeals are denied.

8.1. Advanced Notification of Customers

PG&E argues that the POD errs by finding that each of PG&E's missed advanced notifications to customers constitutes a separate violation of law. PG&E asserts that the POD errs by "effectively" imposing a strict liability standard.²⁸⁵ PG&E claims that the legal standard should be reasonableness and not strict liability.²⁸⁶ PG&E also argues that the POD further errs by imposing

²⁸⁵ PG&E Appeal of POD, at 6.

²⁸⁶ *Id.* at 7.

higher penalties for later events, claiming that the timeframe between events was insufficient to correct the issues regarding customer notification. Lastly, PG&E contests the POD's inclusion of \$985,000 in the penalty for lost sales, arguing that it is unwarranted and duplicative. PG&E argues that the decision in Investigation (I.) 19-11-013 already addressed the matter.²⁸⁷ PG&E indicates that based on the above arguments, there should be no penalty beyond the \$86 million in customer bill credits already provided by PG&E.

Cal Advocates contests PG&E's argument that the POD applies strict liability to impose a penalty for "each and every" customer that PG&E failed to notify during the Fall 2019 PSPS events, maintaining that PG&E "misconstrues strict liability as a remedy, rather than a causal theory."²⁸⁸ Cal Advocates emphasizes that the POD found PG&E at fault for its implementation of the Fall 2019 PSPS events based on specific sources of legal authority (Pub. Util. Code Section 451, Resolution ESRB-8, and the Phase 1 Guidelines adopted in D.19-05-042) and that the POD clearly identified those sources of legal authority.²⁸⁹

Cal Advocates also asserts that the POD "neither mentions strict liability nor applies it in any of its reasoning on how it arrived at the causal elements of PG&E's liability."²⁹⁰ Cal Advocates states that the POD details its consideration of the reasons, excuses, or factors PG&E presented for its failure to notify some customers, but that "PG&E simply ignores all the reasons the POD presents for why PG&E's actions fell short of what was reasonable to provide adequate

²⁸⁷ *Id.* at 15.

²⁸⁸ Cal Advocates Response to POD Appeals, at 4.

²⁸⁹ *Id.* at 5.

²⁹⁰ *Id.* at 6.

notification to its customers[.]”²⁹¹ Cal Advocates argues that the POD, in considering the totality of the circumstances, reasonably fashions a remedy for PG&E’s failure to notify some customers based on the number of customers who were not notified.

TURN also contests PG&E’s argument that the POD imposes a strict liability standard. TURN asserts that the Commission “has repeatedly affirmed that violations against customers are each counted as a separate violation subject to penalty.”²⁹² TURN cites to D.19-04-041, which states that “[u]nder Pub. Util. Code § 2108, each violation of a Commission requirement is a distinct offense.” TURN further argues that the Commission affirmed this standard recently in Resolution UEB-006 and in D.21-06-040.

TURN also contests PG&E’s argument regarding the \$985,000 shareholder penalty for lost sales, arguing that the Commission provided clear direction in the OSC Scoping Memo, which stated that any other matters regarding PG&E’s late 2019 PSPS events not covered under the specific scope of the OSC will be considered within I.19-11-013. TURN emphasizes that this OSC and I.19-11-013 cover different issues and potential violations and that a “Commission holding “that monetary remedies should be forwarding-looking only in the OII does not preclude the Commission from adopting a monetary remedy here that applies only to PG&E and not to other utilities.”²⁹³

We find that PG&E’s argument regarding strict liability has no merit. The POD does not impose a strict liability standard. The POD found that PG&E’s implementation of the Fall 2019 PSPS events violated Commission requirements

²⁹¹ *Id.*

²⁹² TURN Response to POD Appeals, at 2.

²⁹³ *Id.* at 3.

for de-energization events, specifically Pub. Util. Code Section 451, Resolution ESRB-8, and the Phase 1 Guidelines adopted in D.19-05-042. In fashioning a remedy for the violations determined in the POD, the Commission counted each failure to provide advanced notification as a separate violation subject to penalty. This is consistent with Pub. Util. Code Section 2108, which states that “[e]very 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[.]” Furthermore, the Commission has authority to fashion equitable remedies.²⁹⁴

Additionally, we find that PG&E’s argument as to the \$985,000 shareholder penalty for lost sales is without merit. We agree with TURN that the Commission is not precluded from adopting a monetary remedy in this OSC that applies only to PG&E, which is consistent with the OSC Scoping Memo. However, we will include additional language in the decision to clarify the issue.

8.2. Accuracy of Outage Maps

PG&E asserts that the POD errs in finding that PG&E violated Section 451 and the Phase 1 Guidelines adopted in D.19-05-042 due to inaccurate outage maps. PG&E alleges that the accuracy standard is “unduly vague” and is applied “retroactively and discriminatorily” to PG&E.²⁹⁵ PG&E indicates that it took reasonable actions to produce accurate and specific outage maps and worked with various agencies to standardize a mapping format to display the outage areas. PG&E further alleges that it did not have the capacity to develop

²⁹⁴ D.07-09-041, D.15-04-024, D.15-07-014, D.17-09-024, D.18-04-014, D.19-04-041, D.19-09-037, and D.20-02-036.

²⁹⁵ PG&E Appeal of POD, at 16.

region-wide outage maps that provide the status of every address in its service territory.²⁹⁶

The Joint Local Governments contest PG&E's arguments, indicating that the POD correctly found that PG&E's outage maps did not comply with Section 451 and Phase 1 Guidelines adopted in D. 19-05-042. The Joint Local Governments assert that PG&E did not take reasonable actions to provide the most accurate and specific information possible regarding the de-energization boundaries.²⁹⁷ They argue the conformance of outage maps to CalOES specifications is "irrelevant to whether they were suitable to be used by public safety partners and the public for de-energization planning and response."²⁹⁸ The Joint Local Governments also emphasize that PG&E had multiple options to produce maps with better information. Lastly, the Joint Local Governments contend that the standard requiring the most accurate and specific information possible is not "unduly vague".²⁹⁹

We find no merit in PG&E's arguments. The accuracy and specificity of PG&E's online outage maps during the October 9-12, 2019 PSPS event did not comply with the D.19-05-042 Guidelines or PG&E's obligations under Pub. Util. Code Section 451 and therefore, constitute violations of these requirements. The D.19-05-042 Guidelines require that outage maps depict the "most accurate and specific information possible" and that standard was not met. The fact that the outage maps may have complied with the preferences of CalOES or other

²⁹⁶ *Id.* at 17.

²⁹⁷ Joint Local Governments Response to POD Appeals, at 2.

²⁹⁸ *Id.* at 3.

²⁹⁹ *Ibid.*

agencies is not determinative. PG&E's outage maps did not comply with the Commission's requirements.

PG&E's argument that it did not have capacity at the time to develop region-wide outage maps that provide the status of every address in the service territory is misplaced. The outage maps with up to 20 percent buffers are neither "accurate" nor "specific". There is a considerable gap between the "every address" standard PG&E indicates it could not meet and the up to 20 percent buffers that were the reality for the outage maps for the October 9-12, 2019 PSPS event. As the Joint Local Governments assert, PG&E "had multiple options to provide better information." The lack of "better information" on outage boundaries detrimentally impacted the efforts of public safety partners, local municipalities and customers to prepare for and endure the de-energization events, wasting resources and time that could have been better utilized.³⁰⁰

8.3. Accessibility of Secure Data Transfer Portals

PG&E argues that the POD's finding that the secure data transfer portals were constructively inaccessible violates PG&E's due process rights because the scope of the OSC was limited to "accessibility", not "constructive accessibility."³⁰¹ PG&E contends that it was harmed because it limited its testimony and briefing to an interpretation of inaccessibility that was narrower than addressed in the POD.

The Joint Local Governments characterize PG&E's argument regarding a due process violation as "unpersuasive".³⁰² They assert that the Commission "did not limit the issue to whether public safety partners were able to

³⁰⁰ CforAT Opening Brief, at 15.

³⁰¹ PG&E Appeal of POD, at 18.

³⁰² Joint Local Governments Response to POD Appeals, at 4.

successfully complete the log-in process” and that PG&E’s interpretation of "inaccessibility" was unreasonably literal.³⁰³ They further argue that testimony was submitted by the Joint Local Governments and San José addressing the constructive inaccessibility of the secure data transfer portal and that PG&E had the opportunity to address these allegations in rebuttal testimony, through discovery, or through hearings, but chose not to do so.³⁰⁴

Cal Advocates argues that the case cited by PG&E, *Southern California Edison Company v. Public Utilities Comm.* 140 Cal.App.4th 1085, 1106 (2006), is not appropriate here because the court “was not addressing the broad definition of one word where the utility was trying to narrow the Commission’s use of the word.”³⁰⁵ Cal Advocates further argues that “no court has ever held the Commission to the literal definition of a word in the application of its rules and policies, such that a ‘constructive’ or ‘implied’ definition of that same word within common usage, may be considered outside the scope of a proceeding where the word itself is within the scope.”³⁰⁶

We agree with the Joint Local Governments and Cal Advocates that PG&E’s interpretation of "inaccessibility" is unreasonably narrow. As indicated above, the question of accessibility goes beyond whether the public safety partners could merely access the portals. The D.19-05-042 Guidelines require that specific information regarding a de-energization event must be provided to public safety partners and that did not occur.³⁰⁷

³⁰³ *Id.* at 5.

³⁰⁴ *Id.*

³⁰⁵ Cal Advocates Response to POD Appeals, at 8.

³⁰⁶ *Id.*

³⁰⁷ D.19-05-042, Appendix A, at A16-A17;

The issue of accessibility was in the scope of the proceeding and the allegations of constructive accessibility of the secure data transfer portals were raised in the testimony of the Joint Local Governments and San José. PG&E had the opportunity to address these allegations in rebuttal testimony, briefs and other means but chose not to do so.³⁰⁸ Therefore, we find there is no due process violation.

8.4. Availability and Functionality of PG&E's Website

PG&E argues that the POD errs in finding that PG&E's website was unavailable during the "majority" of the October 9-12, 2019 PSPS event.³⁰⁹ Although PG&E acknowledges that there were periods of time during which customers could not access the website, it asserts that the record does support a finding that the website was unavailable a "majority of the time".

MGRA takes issue with PG&E's argument, particularly the technical distinction PG&E uses to support its argument.³¹⁰ MGRA asserts that PG&E's reliance on the number of unique visitors is misplaced because this metric does not indicate whether: (1) visitors were able to perform the operations they intended to on the website and (2) how many visitors experienced failed connections.³¹¹ MGRA further asserts that the record supports that widespread availability problems with the website were reported. However, MGRA suggests modifications to the POD to clarify the issue.³¹² Cal Advocates and CforAT assert that PG&E's focus on the phrase "majority" is unreasonable and

³⁰⁸ *Id.*

³⁰⁹ PG&E Appeal of POD, at 20.

³¹⁰ MGRA Response to POD Appeals, at 2.

³¹¹ *Id.* at 3.

³¹² *Id.* at Appendix A.

ignores the fact that PG&E's website was unavailable to a considerable number of customers during the October 9-12, 2019 PSPS event, depriving customers of a critical source of public safety information.³¹³

We will modify the POD regarding the availability and functionality of PG&E's website to clarify the nature of the availability and functionality of the website. However, we do not modify the proposed penalty of \$918,000 for the violations regarding PG&E's website. The record reflects that PG&E's website was unavailable to and non-functional for many customers during significant portions of the October 9-12, 2019 PSPS event. This unavailability and non-functionality severely impacted PG&E's customers and constitutes violations of Pub. Util. Code Section 451, the D.19-05-042 Guidelines and Resolution ESRB-8.

8.5. Public Safety Impact of Penalties

PG&E argues that the POD errs because the penalties will not reinforce compliance with the Commission's de-energization requirements and will undermine public safety.³¹⁴ PG&E alleges that the POD's penalty structure creates a "perverse incentive" for customers to not provide contact information in order to secure a bill credit. PG&E asserts that any penalty should be re-directed from bill credits to other programs that "provide tangible resources to our most vulnerable customers."³¹⁵

CforAT contests PG&E's assertion that Medical Baseline customers would avoid updating their contact information to secure future bill credits, characterizing the argument as "absurd".³¹⁶ CforAt states that PG&E's

³¹³ Cal Advocates Response to POD Appeals, at 8; CforAT Response to POD Appeals, at 4.

³¹⁴ PG&E Appeal of POD, at 21.

³¹⁵ *Id.* at 23.

³¹⁶ CforAT Response to POD Appeals, at 5.

characterization of the bill credit included in the POD as an “unexpected windfall” is “disrespectful and cruel in its disregard of customer hardship during extended power outages.”³¹⁷ Cal Advocates also disputes PG&E’s “perverse incentive” argument, indicating that PG&E provided no supporting evidence.³¹⁸ Cal Advocates also characterizes PG&E’s argument as “absurd” and an attempt to deflect from the issue of PG&E’s conduct as to customer notification.³¹⁹

We find that PG&E’s argument has no merit. We agree with CforAT’s and Cal Advocates’ characterization of PG&E’s argument as “absurd”. We find no credible evidence that customers, particularly Medical Baseline customers that depend so significantly on electricity for their health and safety, would risk the unexpected loss of electricity to secure a potential modest future bill credit. The bill credits adopted in the POD as penalties are appropriate and reasonable.

8.6. Distribution of Bill Credits

CLECA contends that the POD is erroneous because of “(1) the failure to equitably address the harm faced by PG&E customers; and (2) the resulting undue discrimination against those customers.”³²⁰ Cal Advocates, TURN and PG&E oppose CLECA’s position. Joint Local Governments and DACC support CLECA’s position.

CLECA argues that more clarity is needed to ensure that the fines and penalties ordered by the POD (specifically the \$12.185 million in bill credits) equitably redress the harm caused by the violations. CLECA argues that bill credits should be directed expressly to transmission-level industrial customers

³¹⁷ *Ibid.*

³¹⁸ Cal Advocates Response to POD Appeals, at 8

³¹⁹ *Ibid.*

³²⁰ CLECA Appeal of POD, at 2.

and that these customers receive a bill credit that is proportionate to their size. CLECA further argues that the omission of an express direction of bill credits to industrial customers is unduly discriminatory.³²¹

Cal Advocates asserts that CLECA cites no statutory or decisional authority to support its position regarding the equitable distribution of bill credits.³²² TURN argues that there is no undue discrimination because the POD does not contain language excluding industrial customers from the group of customers receiving a portion of the \$12.185 million bill credit. TURN also contests CLECA's argument that industrial customers should receive a bill credit proportional to their size because industrial customers pay "drastically" lower rates than residential customers.³²³ PG&E agrees that the POD does not expressly omit industrial customers from receiving a portion of the \$12.185 million bill credits. PG&E also argues that CLECA's request that monies are directed first to industrial customers would be discriminatory by granting industrial customers preferential treatment.³²⁴

We find no merit in CLECA's argument. As accurately characterized by TURN and PG&E, the POD does not contain any language expressly omitting industrial customers from receiving a portion of the \$12.185 million in bill credits. It was not the intent of the POD to exclude these customers, but rather that all electric customers located in the geographic areas affected by the Fall 2019 PSPS events receive a portion of the \$12.185 million in bill credits.³²⁵

³²¹ *Id.* at 5-6.

³²² Cal Advocates Response to POD Appeals, at 10.

³²³ TURN Response to POD Appeals, at 6.

³²⁴ PG&E Response to POD Appeal of CLECA, at 2 and 5.

³²⁵ POD at 85.

However, we will revise the decision to clarify that *all* electric customers located in the geographic areas affected by the Fall PSPS events receive a portion of the \$12.185 million in bill credits. Lastly, we reject CLECA's argument that industrial customers should receive a bill credit proportional to their size. This decision makes no distinction as to the size of a customer with respect to the amount of bill credits a customer will receive; all electric customers receiving a portion of the \$12.185 million will receive the same amount,

9. Assignment of Proceeding

Marybel Batjer is the assigned Commissioner and Marcelo L. Poirier is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. On October 9, 2019, PG&E shut off the power across 35 counties, impacting approximately 729,000 customer accounts. The shutoff lasted until October 12, 2019.

2. Between October 23, 2019 and November 1, 2019, PG&E initiated additional PSPS events that, at one point, impacted 38 counties and approximately 975,000 customer accounts, with many of the affected customers without power for nearly a week.

3. At the October 18, 2019 Commission meeting, PG&E executives admitted to significant shortcomings in the company's execution of the October 9-12, 2019 PSPS event.

4. PG&E identified multiple areas where it failed to meet the requirements of Pub. Util. Code Section 451, Resolution ESRB-8, and D.19-05-042 with regards to those PSPS events in its October 25, 2019, November 8, 2019, and November 18, 2019 compliance reports regarding the October 9-12, 2019 and October 23-November 1, 2019 PSPS events.

5. PG&E's website was unavailable or non-functional during a significant portion of the October 9-12, 2019 PSPS event, with customers and government agencies unable to obtain information on the PSPS event and other important data.

6. PG&E's website has information about upcoming and current PSPS events, outages, answers to frequently asked questions, outage preparation tips, links to a wide variety of PSPS-related and preparedness content, the Address Look-Up Tool, and outage maps.

7. PG&E's notifications on the October 9-12, 2019 PSPS event directed customers to its website because that was the location for the most dynamic alerts on that event.

8. PG&E acknowledges that its website was unavailable to many customers during portions of the October 9-12, 2019 PSPS event.

9. The online outage maps on PG&E's website were not accurate or were unavailable for some affected areas during the October 9-12, 2019 PSPS event.

10. PG&E's online outage maps were buffered and overstated the de-energization boundaries by as much as 20 percent.

11. PG&E's secure data transfer portals were constructively inaccessible to its Public Safety Partners during portions of the October 9-12, 2019 PSPS event, with portions of the data missing or incorrect.

12. San José, the City of Santa Rosa, Marin County and Nevada County had issues accessing the appropriate information on PG&E's secure data transfer portals.

13. PG&E had sufficient staffing at its call centers to handle the volume of customer communications during the October 9-12, 2019 PSPS event.

14. PG&E failed to provide advanced notice of de-energization events to approximately 50,000 customers during the three Fall 2019 PSPS events (October 9-12, 2019, October 23-25, 2019 and October 26-November 1, 2019).

15. PG&E failed to provide advanced notice of de-energization events to approximately 1,100 Medical Baseline customers during the three Fall 2019 PSPS events (October 9-12, 2019, October 23-25, 2019, and October 26-November 1, 2019).

16. PG&E acknowledges its failure to provide advanced notification of de-energization events to approximately 50,000 customers and 1,100 Medical Baseline customers during the Fall 2019 PSPS events.

17. D.98-12-075 identified five factors to be considered in determining the level of penalties to be imposed.

18. Cal Advocates, TURN, and the Joint Local Governments propose penalties consisting of fines, disallowances and other remedies that range from approximately \$21 million to \$165 million.

19. The high number of affected customers, the totality of the circumstances in this case, including the conduct of the utility, severity of the violations, harm to customers, harm to the regulatory system, and the financial resources of the utility, support a significant and deterring penalty in the amount of \$106.003 million for the violations associated with the Fall 2019 PSPS events.

20. PG&E has already issued \$86 million in bill credits to some electric customers in relation to the Fall 2019 PSPS events and it is reasonable to offset the penalty for failure to provide advanced notification to customers by that amount.

21. PG&E has the ability to raise equity to cover penalties and remedies in the amount of \$20.003 million, without harming ratepayers or its ability to raise the

equity needed for revenue-producing investments required to provide adequate and safe service.

Conclusions of Law

1. Each violation of a regulation or statute is considered a separate offense, even if it is the result of the same underlying actions.

2. Pub. Util. Code Section 451 requires all public utilities to provide and maintain “adequate, efficient, just and reasonable” services and facilities as are necessary for the “safety, health, comfort, and convenience” of its customers and the public.

3. Pub. Util. Code Section 451 serves as a separate and individual basis for finding safety violations.

4. In Phase 1 of R.18-12-005, the Commission issued D.19-05-042, which developed de-energization communication and notification guidelines for the electric IOUs along with updates to the requirements established in Resolution ESRB-8. The guidelines adopted by D.19-05-042 expanded upon those in Resolution ESRB-8.

5. Resolution ESRB-8 adopted the rules the Commission set forth for San Diego Gas & Electric Company in D.12-04-024 and made them applicable to all of California’s electric IOUs. Resolution ESRB-8 established de-energization guidelines that include public notification, mitigation and reporting requirements.

6. PG&E violated Pub. Util. Code Section 451, Resolution ESRB-8, and D.19-05-042 due to the unavailability and non-functionality of its website during the October 9-12, 2019 PSPS event.

7. PG&E violated Pub. Util. Code Section 451 and D.19-05-042 due to the inaccuracy of its online outage maps during the October 9-12, 2019 PSPS event.

8. PG&E violated Pub. Util. Code Section 451 and D.19-05-042 because the secure data transfer portals were constructively inaccessible to its Public Safety Partners during portions of the October 9-12, 2019 PSPS event.

9. PG&E did not violate Pub. Util. Code Section 451, Resolution ESRB-8, and D.19-05-042 due to the staffing of its call centers during the October 9-12, 2019 PSPS event.

10. PG&E violated Pub. Util. Code Section 451 and D.19-05-042 due to its failure to provide advanced notification to approximately 50,000 customers for the three Fall 2019 PSPS events (October 9-12, 2019, October 23-25, 2019 and October 26-November 1, 2019).

11. PG&E violated Pub. Util. Code Section 451 and D.19-05-042 due to its failure to provide advanced notification to approximately 1,100 Medical Baseline customers for the three Fall 2019 PSPS events (October 9-12, 2019, October 23-25, 2019 and October 26-November 1, 2019).

12. The Commission may impose fines for violation of laws and regulations pursuant to Pub. Util. Code Sections 2107 and 2108.

13. The California Constitution, along with Pub. Util. Code Section 701, confers broad authority on the Commission to regulate public utilities.

14. The Commission has the authority to fashion equitable remedies pursuant to the California Constitution and Pub. Util. Code Sections 701, 728 and 761.

15. The Commission may order refunds or bill credits as an equitable remedy pursuant to the California Constitution and Pub. Util. Code Sections 701 and 728.

16. The penalties imposed by this decision are not excessive and are necessary to deter future violations.

17. Violations that result in physical or economic harm and the failure to comply with statutes or Commission directions are considered severe violations.

18. The Commission should impose penalties on PG&E because PG&E's website was unavailable or non-functional during the October 9-12, 2019 PSPS event.

19. The Commission should impose penalties on PG&E due the inaccuracy of PG&E's online outage maps during the October 9-12, 2019 PSPS event.

20. The Commission should impose penalties on PG&E due to the inaccessibility of PG&E's secure data transfer portal during the October 9-12, 2019 PSPS event.

21. The Commission should not impose penalties on PG&E due to its staffing levels at its call centers during the October 9-12, 2019 PSPS event.

22. The Commission should impose penalties on PG&E due to PG&E's failure to provide advanced notification of de-energization events to approximately 50,000 customers for the Fall 2019 PSPS events.

23. The Commission should impose penalties due to PG&E's failure to provide advanced notification of de-energization events to approximately 1,100 Medical Baseline customers for October 9-12, 2019, the October 23-25, 2019 and the October 26-November 1, 2019 PSPS events.

24. The purpose of a penalty is to deter future violations by the company and others.

25. Based on the totality of the circumstances, PG&E's statutory obligation to provide safe and reliable electric service, the broad nature and impacts of PG&E's shortfalls during the Fall 2019 PSPS events, and the Commission's and the public interest in ensuring safe and reliable electric service and de-energization events, a severe penalty is warranted.

26. For the combined violations, the Commission should impose a total penalty of \$106,003,000 pursuant to Pub. Util. Code Sections 2107 and 2108.

27. The Commission should impose a penalty of \$918,000 for the violations related to PG&E's website.

28. The Commission should impose a penalty of \$400,000 for the violations related to PG&E's online outage maps.

29. The Commission should impose a penalty of \$100,000 for the violations related to PG&E's secure data transfer portals.

30. PG&E shareholders should deposit the \$1.418 million in penalties associated with PG&E's violations as to its website, online outage maps and secure data transfer portals in the account for the Disability Disaster Access & Resources Program.

31. The Commission should impose a penalty of \$985,000 for lost sales associated with customers that did not receive proper notice during Fall 2019 PSPS events.

32. The Commission should impose a penalty of \$98.185 million for the violations related to PG&E's advanced notifications to customers.

33. The Commission should offset the \$98.185 million penalty for violations related to PG&E's advanced notifications to customers by \$86 million due to a previous bill credit provided by PG&E.

34. PG&E should be ordered to issue one-time bill credits totaling \$12.185 million to its electric customers in the geographic areas affected by the Fall 2019 PSPS events.

35. The Commission should impose a penalty of \$6.4 million for the violations related to PG&E's advanced notifications to Medical Baseline customers.

36. PG&E should be ordered to issue one-time bill credits totaling \$6.4 million to its electric Medical Baseline customers in the geographic areas affected by the Fall 2019 PSPS events.

37. The \$18.585 million in net bill credits and the \$1.418 million contribution to the Disability Disaster Access & Resources Program are equitable remedies for PG&E's violations as to the Fall 2019 PSPS events.

38. All penalties should be paid for by PG&E shareholders.

39. There should be no adjustment to the bill credit or other remedies adopted in this decision to account for any tax benefits PG&E may receive.

40. PG&E should file a Tier 2 Advice Letter within 45 days after the effective date of this decision to implement the bill credit mechanism adopted in this decision as well as the deposit to the Disability Disaster Access & Resources Program. Pacific Gas and Electric Company shall include information showing that the one-time bill credit ordered herein is a "One-time Customer Credit per the Decision on the Order to Show Cause regarding Pacific Gas and Electric Company's implementation of the Fall 2019 Public Safety Power Shutoff Events," when credited to each impacted customer.

41. Within 120 days of the issuance of this decision, PG&E should file a Tier 2 advice letter to the Energy Division, reporting on the success in crediting the bills of the originally affected customers and recommending disposition of credits that cannot be refunded to affected customers.

42. Evidentiary hearings are not required in this phase of the proceeding.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company has violated Public Utilities Code Section 451, Resolution ESRB-8, and Decision 19-05-042 due to its conduct during the October 9-12, 2019, the October 23-25, 2019 and the October 26-November 1, 2019 Public Safety Power Shutoff events.
2. Pacific Gas and Electric Company shall deposit \$1.418 million of shareholder funds in its Disability Disaster Access & Resources Program account.
3. Pacific Gas and Electric Company shall issue one-time bill credits totaling \$12.185 million to its electric customers located in the geographic areas affected by the Fall 2019 PSPS events.
4. Pacific Gas and Electric Company shall issue one-time bill credits totaling \$6.4 million to its electric Medical Baseline customers located in the geographic areas affected by the Fall 2019 PSPS events.
5. Pacific Gas and Electric Company shall submit Tier 2 Advice Letters to implement the remedies adopted in Ordering Paragraphs 2, 3 and 4, including proposed customer bill language, within 45 days of the effective date of this decision. Pacific Gas and Electric Company shall include information showing that the one-time bill credit ordered herein is a “One-time Customer Credit per the Decision on the Order to Show Cause regarding Pacific Gas and Electric Company’s implementation of the Fall 2019 Public Safety Power Shutoff Events,” when credited to each impacted customer. Within 120 days of the issuance of this decision, Pacific Gas and Electric Company shall file a Tier 2 advice letter to the Energy Division, reporting on the success in crediting the bills of the originally affected customers and recommending disposition of credits that cannot be refunded to affected customers. Rulemaking 18-12-005 remains open.

This order is effective today.

Dated September 23, 2021, 2021, at San Francisco, California.

MARYBEL BATJER

President

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE HOUCK

Commissioners