Decision 22-11-031 November 17, 2022

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues.	Rulemaking 13-11-005

(See Appendix A for a List of Appearances)

DECISION ORDERING REMEDIES FOR SOUTHERN CALIFORNIA EDISON COMPANY'S MISMANAGEMENT OF THE 2017-2019 ENERGY EFFICIENCY UPSTREAM LIGHTING PROGRAM

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Summary

This decision finds that Southern California Edison Company (SCE) mismanaged its energy efficiency upstream lighting program from 2017 through 2019 and failed to ensure that efficient light bulbs were tracked and sold as intended by the program design. As a result, ratepayers funded significant program efforts that resulted in unaccounted-for light bulbs that were reported to have been shipped to grocery and discount stores, but could not be verified to have produced (or have even had the potential to produce) energy savings.

To remedy this situation, this decision requires the following financial compensation from SCE:

- $76.1 million in program funding shall be credited to ratepayers for the administrative costs and the incentives costs of the light bulbs that could not be accounted for.
- $6.8 million in shareholder incentives through the Efficiency Savings and Performance Incentive (ESPI) mechanism shall be refunded.
- $19.06 million in fines shall be paid to the State's General Fund for violations of Rule 1.1 of the Commission's Rules of Practice and Procedure.

This decision concludes the adjudicatory phase of this proceeding related to SCE's upstream lighting program, but the rest of the proceeding remains open.

1. Procedural and Factual Background

On January 9, 2020, an assigned Administrative Law Judge (ALJ) ruling was issued seeking comment from Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and interested parties, on the 2017 upstream lighting program impact evaluation report. This ALJ ruling first identified concerns raised in the Impact Evaluation Report (Impact Evaluation). This report was managed by the Commission's Energy Division and conducted by DNV GL Energy Insights USE, Inc. (DNV GL).[1] The impact evaluation flagged unusually large volumes of light bulbs shipped to numerous small stores in SCE and SDG&E territories in the 2017 program year. The impact evaluation stated that the reported number of light bulbs shipped to stores was higher than the number of total California light bulb sales determined from other data sources. According to DNV GL, "these data reveal that the market could not have supported the volume of sales that the 2017 program data reported as shipped." Therefore, the impact evaluation concluded that the number of light bulb shipments was overstated and the energy savings claims were too high.

As a result, the 2017 DNV GL impact evaluation report made downward adjustments to the light bulb sales credited to SCE and SDG&E, to adjust for the approximately 15 million lamps, a mixture of standard light emitting diodes (LEDs) and specialty LEDs (such as decorative candelabras, reflector light bulbs, and globe light bulbs), that could not be tracked by the DNV GL evaluators.

The January 2020 assigned ALJ ruling asked that SCE and SDG&E, along with interested parties, respond to five questions and address several topics, including what remedies the Commission should order due to the program not delivering the energy savings benefits expected, while still expending ratepayer funds in its budget. The ruling asked specifically whether refunds should be provided to ratepayers who funded the program, and about any other suggested outcomes.

[1] Available at the following link: https://pda.energydataweb.com/#!/documents/2146/view.

SCE responded to the assigned ALJ ruling on January 31, 2020, by providing an overview of its Primary Lighting Program and a response that "details SCE's corrective actions after learning of the findings from the Impact Evaluation Report."[2] SCE's response also requested more time to gather additional facts. In its response, "SCE acknowledges the Commission's findings regarding the overstocking issues," but states that several key issues require additional inquiry and review in order to make a recommendation.[3]

SCE also stated that in early 2019, after learning of the recommendations in the draft version of the DNV GL 2017 impact evaluation, it launched an internal audit review of the program operations and operating processes, focused on "evaluating and implementing corrective actions necessary to resolve issues on a going-forward basis for the remainder of [program year] PY 2019."[4]

SCE states that it then took "prompt corrective action in 2019 to implement process improvements and strengthen controls for the remainder of the Program term." This corrective action, according to SCE, included the following:

- SCE limited the amount of Program shipments to small retailers and added controls to prevent shipments from multiple manufacturers to the same retailer.
- SCE also increased inspections and redistributed excess light bulbs to other retailers. For example, overstock bulbs from PY 2017 were shipped to places in SCE's service territory such as Catalina Island and Mammoth where incandescent bulbs are still being used.

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2 SCE Responses on Upstream Lighting Program Impact Evaluation for Program Year 2017, January 31, 2020 at 2.

3 *Ibid.*

4 SCE Responses on Upstream Lighting Program Impact Evaluation for Program Year 2017, January 31, 2020 at 2.

- From May through October 2019, SCE inspected over 700 small, hard-to-reach stores, met with participating retail stores, and reviewed the program requirements.
- SCE enhanced tracking and verification of program activity and held manufacturers accountable to the terms of their manufacturer participation agreements.
- In many cases, SCE worked with manufacturers to move overstock inventory, at the manufacturers' cost, to stores with lower inventory numbers.[5]

In addition to the above actions described, SCE asked for additional time for the following:

- Phase I: Data Gathering (Timing: February 2020 – March 2020)
- Phase II: Analyze SCE's Findings and PY2018 Impact Evaluation Report (Timing: March 2020 – April 2020)
- Phase III: Identify Recommendations (Timing: April 2020)
- Phase IV: Submit Final Recommendations (Timing: End of April 2020).

On April 1, 2020, the Commission issued the Upstream and Residential Downstream Lighting Impact Evaluation Report: Lighting Sector - Program Year 2018, conducted by DNV GL. The 2018 Impact Report[6] found that unusually large volumes of bulbs continued to be shipped to discount and grocery stores in SCE's service territory. Specifically, the 2018 Impact Report found that almost 87 percent of SCE's shipments went to these same two types of stores.

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[5] SCE Responses on Upstream Lighting Program Impact Evaluation for Program Year 2017, January 31, 2020 at 2-3.

[6] Available at the following link: https://pda.energydataweb.com/#!/documents/2365/view.

On April 3, 2020, an assigned ALJ ruling was issued setting new dates and seeking further comment from SCE, SDG&E, and interested parties on upstream lighting programs from 2017 as well as 2018.

On June 8, 2020, SCE responded to the assigned ALJ ruling, stating that its field investigation efforts had to be cut short due to the COVID-19 Shelter in Place orders, and therefore its findings were more limited than anticipated. SCE provided a summary of its findings, which included, among other things, the fact that SCE found evidence that an "overstock condition" existed in PY 2017 and 2018 for grocery and discount retailers and that there were potential contract violations by manufacturers.[7] In the response, SCE also proposed that the Efficiency Savings and Performance Incentive (ESPI) mechanism was the appropriate mechanism to account for any deficiencies in program performance, by reducing utility shareholder earnings.

On July 17, 2020, the Public Advocates Office (Cal Advocates) and The Utility Reform Network (TURN) filed a joint motion to order a shareholder-funded independent external investigation of SCE's upstream lighting program and to extend the time to file comments on the ALJ ruling requesting further comments on the 2017 and 2018 upstream lighting programs. In this motion, Cal Advocates and TURN pointed out the "stark contrast"[8] between the SDG&E approach to the DNV GL impact evaluation report of 2017 and SCE's response. In particular, they pointed to the fact that SDG&E was able to complete both an internal and an independent investigation under COVID-19 restrictions, whereas SCE claimed it could not.

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7 SCE Responses to the Administrative Law Judge's Ruling Seeking Further Comment on Upstream Lighting Program Impact Evaluation for Program Years 2017 and 2018 at 2.

8 TURN and Cal Advocates motion, July 17, 2020, at 5.

Cal Advocates and TURN called the SCE investigation "woefully incomplete" and "merely a self-assessment."[9] However, they argued that even SCE's "cursory investigation" showed that it failed to adequately monitor and administer the program to avoid overstock. Cal Advocates also conducted discovery on this matter and stated that in data responses SCE revealed "an inadequate invoice review process that resulted in SCE staff approving incomplete or inaccurate invoices."[10] Further, TURN and Cal Advocates argued that "while there is ample evidence that SCE failed to prudently administer is 2017 and 2018 Upstream Lighting Program, the full scope of likely program mismanagement or violations of program rules, Commission authorities, and/or statutes is unknown due to SCE's failure to complete its investigation."[11]

On this basis, TURN and Cal Advocates sought in their motion to have the Commission require SCE shareholders to fund an independent investigation and have the Commission defer assessment of potential remedies.

On July 22, 2020, SCE responded to the Cal Advocates and TURN motion and stated that Edison International (EIX, SCE's parent company) and its Independent Audit Services Department had already engaged an external third-party consulting firm to perform a full, independent investigation of the upstream lighting program for years 2017-2019. In the response, SCE offered to take input from stakeholders for the scope of the investigation and acknowledged that the upstream lighting program "has experienced some program management shortcomings."[12]

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[9] *Ibid*.

[10] *Ibid*., at 5-6.

[11] *Ibid*., at 6.

[12] SCE response to Cal Advocates and TURN motion, July 22, 2020, at 2.

SCE's response further described the role of the EIX Audit Services Department as providing the EIX "governing body and senior management with comprehensive reasonable audit assurance based on the highest level of independence and objectivity within the organization by conducting audits, investigations, consulting engagements, and other related activities.[13]

Also in its response to the TURN and Cal Advocates motion, SCE argued that the Commission should decide the funding source for the EIX independent investigation at the conclusion of the proceeding, arguing that it is premature to assign these costs to SCE shareholders. Instead, SCE requested to separately track all SCE costs related to the third-party investigation by making entries in a subaccount of the Energy Efficiency Balancing Account, and sought the Commission's authority to modify the balancing account to create the subaccount.

On July 24, 2020, an assigned ALJ email ruling suspended the schedule for party comments and set a deadline of October 30, 2020 for SCE to file the results of the independent EIX investigation into the upstream lighting program.

On August 14, 2020, SCE filed an amended response to the ALJ ruling seeking further comment. This response was an amendment to SCE's response originally filed on June 8, 2020. The amendments affected the number of field inspections conducted (30 instead of 29), the number of on-site inspections reviewed (59 instead of 137), and the percentage of SCE's participating grocery and discount retailers where on-site inspections were conducted in 2018 (6 percent instead of 15 percent).

[13] *Ibid.*, at 3.

On October 19, 2020, SCE requested an extension of time to file the results of its independent investigation to November 30, 2020. This extension was granted by an assigned ALJ ruling on October 19, 2020.

On November 30, 2020, SCE filed the results of the third-party investigation conducted by Deloitte & Touche (D&T), consultants hired by EIX. According to SCE, the scope of the investigation included specific inquiries regarding whether there was overstocking of lightbulbs, whether manufacturers falsified shipments, whether SCE personnel were aware of any falsification activity, and whether manufacturer invoices to SCE were split in order to circumvent SCE's payment approvals or authorizations.[14]

According to SCE, D&T identified various discrepancies in manufacturer-provided supporting documentation, including but not limited to: duplicate photographs used for proof of delivery on different dates; duplicate photographs used for different retailers, duplicate delivery driver and retailer signatures from proof of delivery documentation, and quantity of lightbulbs delivered by a manufacturer to one retailer did not match the amount reportedly received per the retailer's data.[15] D&T also identified 14 instances where daily delivery routes included an excessive number of stops.

In addition, D&T identified 128 instances of overstock[16] of lightbulbs with 124 unique retailers, and the overstock instances were increasing between 2017 and 2019.[17] D&T also found that various levels of SCE personnel were aware of overstock situations between 2017 and 2019.

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[14] SCE Response of November 30, 2020, at 4-5.

[15] *Ibid*. at 9.

[16] "Overstock" is defined as greater than three months of lightbulb stock at a retailer location.

[17] SCE Response of November 30, 2020, at 10.

SCE characterized several D&T findings as "limited upward visibility of inspection reports," where SCE's Quality Assurance team removed program inspection results from the quarterly portfolio management reporting and also failed to conduct program inspections for program year 2018 until early 2019, due to the "transition between management-level employees."[18]

According to SCE, D&T's review also identified instances where retailers did not adhere to, or understand, program rules, including giving away lightbulbs for free or to charity.[19] Eleven retailers interviewed by D&T stated that they had "little to no understanding" of the program or its rules.

As a result of these findings, SCE states that the D&T investigations did not identify any evidence of fraud or collusion between or among SCE employees and/or manufacturers, but admits "instances of gaps in program management and lack of oversight with respect to overstocking at the discount retailers that should have been mitigated through more stringent and diligent program management practices."[20]

SCE's November 30, 2020 Response goes on to describe improvements it made to the program management and controls, but states that "what happened with the Upstream Lighting Program is not acceptable to SCE, and SCE will correct matters with all due speed."

Further, SCE puts blame on the manufacturers participating in the program for not properly educating retailers about the program rules, both at the inception of their participation and at least once every six months.

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[18] *Ibid.*, at 11.

[19] SCE Response of November 30, 2020, at 11-12.

[20] *Ibid.*, at 13.

Based on these representations, SCE proposes a financial remedy of $6.9 million total, composed of refunding $6.1 million in ESPI awards to customers and having SCE shareholders bear the costs of the D&T investigation. As part of this proposal, SCE "acknowledges that its management of the grocery and discount retailer component of the program does not merit SCE earning the associated ESPI earnings."[21]

On January 20, 2021, Cal Advocates filed comments responding to the SCE response to the assigned ALJ's rulings. Based on its review and analysis of filings from SCE and information obtained through discovery, Cal Advocates found the following:

- SCE's review and D&T's investigation demonstrate that SCE failed to appropriately administer the Upstream Lighting Program during program year 2017 and 2018.
- The D&T investigation found that there were inadequate controls, and that what controls were in place to detect non-compliance were removed at the direction of SCE management.
- SCE was aware of overstock occurring during Program Years 2017-2019, yet it failed to take corrective action.
- SCE failed to prudently administer the program in its failure to stop manufacturers and retailers from violating program rules.
- Data discrepancies in SCE's Upstream Lighting Program data demonstrate SCE's failure in oversight, resulting in the failure of its Upstream Lighting Program.
- D&T's report was inadequate in identifying the full extent of SCE's failure to prudently administer the Upstream Lighting Program.[22]

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[21] *Ibid.*, at 16.

[22] Cal Advocates comments, January 20, 2021, at 4.

Based on these findings, Cal Advocates recommends three remedies:

1) A refund of $32.7 million in ESPI awards.
2) Refunding all program expenditures associated with the hard-to-reach portion of the program and all program administration costs for program years 2017-2019, for a total of $91.9 million in refunds.
3) $140 million in fines for violations of Rule 1.1 of the Commission's Rules of Practice and Procedure.

Cal Advocates also on January 20, 2021 filed a motion for leave to file under seal a confidential portion of their comments. The confidential portion, including an appendix, contains references to data request responses from SCE to Cal Advocates where SCE claimed confidentiality of the material. Thus, Cal Advocates sought to be able to refer to this information in its comments by filing a confidential version.

TURN also filed comments on January 20, 2021. TURN recommends four remedies:

1) Conclusion by the Commission that SCE imprudently managed the Upstream Lighting Program in 2017, 2018, and at least part of 2019, citing to oversight changes that SCE admits to, where inspections ceased and invoices were reviewed cursorily, among other examples of mismanagement;
2) Order remedies for SCE's conduct, including a refund of program expenditures, a refund of ESPI awards, and a fine for misleading the Commission by reporting energy savings from the program in amounts that SCE knew, or should have known, were unreliable because of overstocking of program bulbs and hard-to-reach retail channels;
3) Order SCE to provide, at shareholder expense, whistleblower training and adopt other measures to encourage its employees to be effective stewards of

ratepayer funds and timely and effectively report utility conduct that violates the Commission's rules, regulations, requirements, and orders, including but not limited to activities that employees suspect are unsafe, unlawful, or dishonest; and

4) Expand and promote the Commission's own Whistleblower program, and explore the possibility of using any fine paid by SCE in this case to establish a Whistleblower reward pilot program.[23]

On March 5, 2021, SCE replied to the comments of Cal Advocates and TURN. SCE claims that the recommendations of Cal Advocates and TURN are unreasonable, stating that there is a "lack of evidence in the record of intentional misconduct, fraud, falsified information, or widespread collusion."[24]

In the reply comments SCE offers, in addition to the $13.3 million in ESPI earnings that the Commission already reduced as a result of a PY 2017 and 2018 Impact Reports:

- Refund of an additional $6.8 million in ESPI earnings for program years 2017-2019;
- Refund of $8.8 million in program incentive costs associated with bulbs shipped to discount and grocery retailers for program years 2017-2019;
- Refund of $4.3 million in program administration costs for program years 2017-2019; and
- Shareholder funding for the entire cost (approximately $900,000) associated with the D&T investigation.

[23] TURN comments, January 20, 2021, at 3.

[24] SCE Reply Comments, March 5, 2021, at 2.

SCE also proposes to take action, including additional audits and training, in response to the various non-financial recommendations of Cal Advocates and TURN.

On March 15, 2021, SCE filed an amended set of reply comments to its March 5, 2021 reply filing, modifying certain references and details in the filing, but containing the same basic recommendations and proposals.

2. Order to Show Cause

On May 24, 2022, an Assigned Commissioner's Order to Show Cause (OSC) Ruling was issued ordering SCE to address its management of the upstream lighting program in program years 2017-2019. The OSC Ruling asked SCE to show cause why it should not be required to do the following:

1) Refund ratepayer funding for the portion of the program budget associated with light bulbs that were unaccounted for;
2) Refund ESPI shareholder awards associated with unaccounted-for light bulbs; and
3) Pay penalties for misrepresenting program progress and results to the Commission, in violation of Rule 1.1 of the Commission's Rules of Practice and Procedure and Public Utilities Code Sections 451, 701, and 2107-2108.

On June 20, 2022, SCE filed its response to the OSC Ruling. Similar to its earlier responses, SCE proposes the following:

- A refund of $8.8 million of program incentive costs associated with the bulbs shipped to discount and grocery retailers for program years 2017-2019;
- A refund of $4.3 million in program administration costs associated with the entire program for program years 2017-2019;
- A refund of $6.8 million in ESPI earnings for program years 2017-2019; and

- Not charging ratepayers for the approximately $900 million associated with the independent investigation.

In addition, SCE contends that it has taken full accountability for prior program missteps and has also taken steps to ensure that program mismanagement does not happen again. Further, SCE argues that there was no violation of Rule 1.1, and therefore penalties are not warranted. Finally, SCE recommends that since there is already an extensive paper record on this topic, there is no need for hearings.

On July 18, 2022, TURN and Cal Advocates filed a joint reply to SCE's response to the OSC Ruling. TURN and Cal Advocates recommend the following remedies:

- A refund of all ESPI awards for program years 2017-2019 ($32.7 million), or at least all ESPI awards for the upstream lighting program ($21.1 million).
- A refund of all program administration costs, and all implementation costs associated with the hard-to-reach portion of the upstream lighting program for program years 2017-2019 ($91.9 million), or at least all administration costs and those implementation costs associated with unaccounted-for bulbs identified in the Commission's 2017-2019 impact evaluations ($76.1 million).
- $98 million in fines for violations of the Public Utilities Code and Commission rules.

TURN and Cal Advocates argue that SCE harmed ratepayers, the regulatory process, and impeded the furtherance of the state's energy efficiency and greenhouse gas reduction policies and goals.

3. Issues Before the Commission

The OSC Ruling separated the issues to be addressed related to SCE's management of the upstream lighting program for program years 2017 through 2019 into three parts:

- Refunds of program funds where benefits were not realized;
- Refunds of ESPI earnings associated with the upstream lighting program; and
- Penalties related to violations of Commission orders and rules.

This decision is organized into the same three parts, as discussed further below.

3.1. Refunds of Program Funding to Ratepayers

SCE concedes that some amount of program funding for the upstream lighting program should be credited to ratepayers, who did not receive the expected benefits. SCE's proposal is to refund all of the $4.3 million program administration costs for 2017-2019, along with $8.8 million in incentive costs. The $8.8 million is calculated as 10 percent of the total incentive costs, because SCE asserts that based on their independent study, approximately 10 percent of the light bulbs were considered "overstocked" in grocery and discount stores.

TURN and Cal Advocates propose a total of $91.9 million in program funding to be credited to ratepayers, which includes all of the program administration costs in SCE's proposal, plus an additional $87.6 million in implementation costs associated with the hard-to-reach portion of the program for the relevant three years. As an alternative, TURN and Cal Advocates propose, in addition to the administrative costs, a refund of $71.8 million, representing the implementation costs associated with the unaccounted-for bulbs identified in the Commission's 2017-2019 impact evaluation studies. This would result in a total credit of $76.1 million.

On this issue, we agree with the alternative proposal of TURN and Cal Advocates. As they point out, the Commission's own impact evaluations represent the best-available, unbiased accounts of the results of the program for the years in question. Much of the rationale for the Commission taking over impact evaluation oversight approximately 15 years ago was to ensure that the energy savings estimates were free of bias and represented the best-possible estimates of the energy savings produced by the efficiency programs run by the program administrators. This case illustrates the importance of our role overseeing the independent evaluators, to ensure that there is an accurate and fair source of data when such issues arise. We also note that the Commission's impact evaluations were based on sample sizes that were several times larger, particularly in 2018 and 2019, than in the D&T investigation. As such, we agree with basing the program implementation cost credit to ratepayers on the impact evaluation results and their estimates of the costs of the unaccounted-for light bulbs.

On the program administration costs, there is no dispute, with SCE, TURN, and Cal Advocates agreeing that the amount to be credited should be $4.3 million. Therefore, we order the total of $76.1 million in program administration and implementation costs from the 2017-2019 upstream lighting program as a credit to ratepayers in SCE's energy efficiency balancing account.

It is also worth noting that, while not precedential, if we impute the cost per unaccounted-for bulb refunded in Decision (D.) 21-09-002,[25] the settlement

[25] When calculated, the SDG&E settlement adopted in D.21-09-002 resulted in a refund of $2.67 per bulb unaccounted for that was shipped to a grocery or discount store.

adopted by the Commission between Cal Advocates, TURN, and SDG&E related to SDG&E's administration of the same program, the resulting refund amount for SCE would be approximately $79 million, which is in the same ballpark as the amount we order here.[26] This gives us further confidence that the $76.1 million in program fund refunds ordered herein is reasonable.

3.2. Refunds of ESPI Awards

SCE proposes that it should also refund some ESPI award funding associated with discount and grocery store portion of the upstream lighting program. SCE proposes to refund an additional $6.1 million in ESPI awards for 2017 and 2018, which SCE represents is in addition to the approximately $13.3 million in ESPI earnings already reduced by the Commission for 2017 and 2018. Further, SCE agrees to forego the ESPI earnings associated with discount and grocery store channels in 2019, which total approximately $700,000. SCE represents that together, these actions would result in SCE earning zero ESPI awards for the discount and grocery retailers for program years 2017 through 2019, even though savings were actually realized for that portion of the market.

TURN and Cal Advocates originally argued (in their January 20, 2021 comments) that SCE should be required to relinquish all ESPI earnings for 2017-2019 as a result of the mismanagement of this program. However, in their comments from July 18, 2022, TURN and Cal Advocates agree that SCE should refund at least the $6.1 million and forego the $700,000, as proposed by SCE, for a total of an additional $6.8 million in foregone ESPI earnings. TURN and Cal Advocates still point out that SCE's imprudence with regard to the upstream

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[26] The equivalent for SCE's portion of the program over the 2017-2019 period would equal $2.67 for each of the approximately 29.5 million unaccounted-for bulbs found in the Commission's impact evaluations.

lighting program was egregious enough and extended to managers with responsibility for more than just that program, such that a full refund of ESPI awards for 2017-2019 is warranted on principle.

We agree that under no circumstances should SCE earn ESPI awards for its shareholders for its management of the hard-to-reach portion of the upstream lighting program during 2017 through 2019. This should be a minimum consequence of the program mismanagement identified and acknowledged by SCE. At the other end of the spectrum, TURN and Cal Advocates' original proposal of taking away all of SCE's 2017-2019 ESPI earnings in their entirety seems unnecessarily punitive, since SCE's energy efficiency program management did result in savings to customers during this period, and the ESPI mechanism is designed to encourage the delivery of these benefits.

Since this is only one part of the remedy imposed in this decision, and because energy savings were produced by the SCE upstream lighting program despite the program management issues, we will accept the return of $6.8 million in ESPI earnings associated with the hard-to-reach portion of the upstream lighting program during program years 2017 through 2019. We also note that our experience here with this upstream lighting program for both SCE and SDG&E will lead us toward additional scrutiny of the documentation and verification process for upstream programs in the future, to ensure that actual energy savings are produced.

3.3. Penalties for Commission Decision and Rule Violations

This section discusses whether SCE has violated Rule 1.1 of the Commission's Rules of Practice and Procedure, which governs requirements for parties to be factual and accurate in filings before the Commission, and states that any person must "never mislead the Commission or its staff by an artifice or false statement of fact or law."

TURN and Cal Advocates contend that SCE repeatedly violated Rule 1.1 by filing misleading and/or inaccurate energy efficiency annual reports (for program years 2017 through 2019) and quarterly energy savings claims via the California Energy Data and Reporting System (CEDARS) platform during the same program years. TURN and Cal Advocates argue that SCE knowingly filed information that SCE knew or should have known was misleading and inaccurate, and this was directly attributable to SCE's mismanagement.

TURN and Cal Advocates also point out that SCE only began to disclose its violations after the Commission published its own findings. They also argue that SCE was slow to conduct its own investigation. Finally, they distinguish SCE's behavior from that of SDG&E, which hired an independent investigator in an arm's length arrangement and completed it in a timely and forthcoming manner. For all these reasons, TURN and Cal Advocates recommend a $98 million fine for violations of Rule 1.1, calculated as ongoing violations from the time each filing was made.

SCE has always asserted that it has not violated Rule 1.1, so no penalties are warranted. SCE argues that no one has challenged the actual accuracy of the information included in the report filings, and therefore there are no rule violations. In addition, SCE argues that in any case there was no process for it to file corrected reports. SCE asserts that it made its filings based on best-available information at the time of the filings. SCE also asserts that CEDARS filings are "in process" quarterly submissions that are revised to reflect more recent information. Finally, SCE argues that even if the Commission agrees with TURN and Cal Advocates that there were Rule 1.1 violations, they should be considered one-time and not ongoing violations.

Here we agree in principle with TURN and Cal Advocates that fines are warranted. SCE knowingly and repeatedly submitted information in its energy efficiency annual reports and quarterly filings that it knew or should have known was inaccurate and misleading. Certainly by March 2019, when the 2017 upstream lighting draft impact evaluation study was published, SCE was on notice that there were significant issues with the estimated energy savings associated with the hard-to-reach portion of the program. This should have led SCE, at a minimum, to adjust its savings claims, since, as pointed out by TURN and Cal Advocates, those claims lead directly to ESPI earnings.

4. Fines and Penalties

Having concluded that some fines are warranted, the following sections proceed to evaluate the five criteria the Commission considers[27] when determining the fine amount to be imposed.

4.1. Severity of the Offense

The first factor relates to the fact that a fine should be proportionate to the severity of the offense. In this case, we have determined that SCE's action constitute a significant offense and that SCE is required to return $76.1 million in program expenses to ratepayers for benefits that were not received. In addition, SCE is to return $6.8 million in ESPI earnings that should not have been earned.

In addition, we find that there was significant harm to the regulatory process. SCE's knowingly filing inflated energy savings information severely impacted the integrity of a Commission-authorized program, as pointed out by

[27] These factors were originally adopted in D.98-12-075.

TURN and Cal Advocates. In addition, the fact that SCE earned shareholder incentives on the basis of the misleading claims only compounds the harm. As the Commission concluded when setting up the ESPI mechanism, "data submitted to the Commission that impacts the incentive mechanism must be completely accurate and timely" and that the Commission "must be vigilant against abuse and appropriately penalize violations in order to safeguard the integrity of incentive mechanisms going forward for all utilities."[28]

Arguably SCE should have been aware of issues with the hard-to-reach portion of the upstream lighting program as early as 2017. But they were certainly aware by the time the 2017 impact evaluation study was published in March 2019. Thus, similar to the proposal of TURN and Cal Advocates, which reserved their more severe penalty penalties for the post-2019 period, we will impose fines on SCE for the Annual Report and CEDARS quarterly filings that occurred after the publication of our 2017 impact evaluation report. Despite knowing the results of the 2017 impact evaluation, SCE made no adjustments to the subsequent reports detailing savings estimates for the 2018 and 2019 program years.

We also find that the violations were ongoing. SCE argues that there was no process for filing revised reports and that therefore they have not violated any rule. First, utilities file revised versions of documents routinely in the normal course of business, without the Commission needing to identify a specific process. In addition, the rule (Rule 1.1) is that the utility is required to make accurate reports to the Commission. The fact that SCE knew that the savings estimates were overstated, and knowingly included those estimates in

[28] D.08-09-038 at 102-103.

two annual reports on which ESPI earnings were based, means the severity of the offense for the annual reports was high.

SCE argues, and we agree (as do TURN and Cal Advocates), that the CEDARS reports are interim reports that are intended to be revised. As such, the severity of the offense in the inaccurate filing of CEDARS reports is lower. Still, adjustments should have been made, at the very least, as soon as the 2017 impact evaluation was published. The fact that this did not happen warrants some penalty for those reports as well.

4.2. Conduct of the Utility

The Commission also considers the conduct of the utility before, during, and after the offense in assigning the size of a fine. The following factors are considered: 1) the utility's actions to prevent a violation; 2) the utility's actions to detect a violation; and 3) the utility's actions to disclose and rectify a violation.[29]

In this case, the investigation undertaken by D&T on behalf of SCE found that some SCE employees had been aware of anomalies with overstocking of light bulbs back in 2017 and possibly earlier. However, procedures were not changed, and in fact, SCE did not conduct any inspections during all of 2018 and failed to have a functioning database of inspections during at least one year of the 2017-2019 program period. In addition, SCE failed to follow its own oversight and quality control procedures, even without inspections, and failed to report the overstocking of light bulbs or take any corrective action.

SCE did begin to remedy the situation after the Commission's evaluators began asking questions and upon release of the draft impact evaluation results of the 2017 program in early 2019. Still, after the Commission's impact evaluation

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[29] *See* D.98-12-075 at 91.

report was released, SCE continued to submit Annual Reports and quarterly reports for 2018 and 2019, without any acknowledgement of the unaccounted-for bulbs or any reduction in savings claims as a result.

Finally, after the Commission began its own formal inquiry into the situation with the assigned ALJ ruling released on January 9, 2020, SCE still did not undertake its own thorough and independent investigation of the problems until approximately six months later.

We contrast SCE's conduct to that of SDG&E, whose program oversight was first subject to the same criticisms in the 2017 impact evaluation. SDG&E promptly and voluntarily hired an independent third party at shareholder expense, and engaged repeatedly and productively in settlement negotiations, which ultimately resulted in the adoption of a settlement in D.21-09-002. SCE, on the other hand, had its own Audit Services Department manage the third-party investigation, after failing to complete its initial internal investigation and after waiting more than a year after the original impact evaluation identified the potential problems.

In sum, while SCE's response did acknowledge shortcomings in its management, it woefully failed to achieve the exemplary level of response exhibited by SDG&E. Therefore, a larger fine for SCE certainly relative to SDG&E is warranted here.

4.3. Financial Resources of the Utilities

According to D.98-12-075, the size of a fine imposed should reflect the relative financing resources available to the entity, and consider both the value of deterrence, as well as the need to avoid excessiveness. In this case, SCE is one of California's largest investor-owned utilities, with total assets in the neighborhood of $75 billion, and annual net operating income of approximately

$1.5 billion, according to its 2021 Annual Report cited by TURN and Cal Advocates. On this basis, it appears that SCE has the ability to pay at least up to the $98 million in total financial penalties proposed by Cal Advocates and TURN.

4.4. Totality of the Circumstances in Furtherance of the Public Interest

D.98-12-075 discusses two factors that should influence the total fine and make it tailored to the unique circumstances of each case, including the degree of wrongdoing and the harm from the perspective of the public interest.

In this case, the wrongdoing impacted costs to ratepayers, as well as harm to the regulatory process. In comparing the circumstances and responses reflected in SCE's behavior versus that of SDG&E, we find that the harm in the SCE case was more egregious, both because of the poor program management and oversight and the amount of funding at stake, as well as SCE's relative tardiness in taking on and addressing the management issues identified.

4.5. Amount of the Fine in Relation to Prior Commission Decisions or Precedent

For this criterion, TURN and Cal Advocates point to D.08-09-038 as the most relevant to this situation, where the Commission imposed $30 million in penalties for SCE presenting false and misleading data to determine SCE's performance-based ratemaking incentive awards. The fine was approximately 29 percent of the total potential fine of $102 million in that case, where the Commission determined that the violations were ongoing.

In this case, using the 29 percent precedent, Cal Advocates calculates that $98 million is the appropriate penalty, which is 29 percent of a total possible fine of $338 million, as calculated by Cal Advocates.

TURN and Cal Advocates also argue that in the case of D.08-09-038, the Commission acknowledged that SCE had cooperated after fraud and manipulation came to light, whereas in this case SCE was evasive and offered minimal efforts to address the issues identified by the Commission's independent evaluation studies.

D.21-09-002 is the other obvious decision to compare to this one, as we already have. Even though it adopted a settlement that is, by the terms of Rule 12.5 of the Rules of Practice and Procedure, not precedential, it provides a reasonable basis to distinguish SCE's actions from SDG&E's. While SDG&E acted swiftly and undertook a truly independent assessment of the situation, at shareholder expense, SCE was slow to conduct its own internal investigation (and never completed it, by SCE's own admission) and eventually hired an external investigator but left it under the control of SCE's higher-level management.

4.6. Conclusion on Penalties

Taking into account all of the foregoing discussion about the five factors the Commission should consider in imposing penalties on a utility, we conclude as follows.

First, we conclude that the harm to ratepayers was significant. That harm is addressed by the refunds we have already ordered in Sections 3 and 4 above. The harm to the regulatory process is also significant, and it is that harm that we address further with penalties.

Second, we conclude that SCE knew, or should have known, that there were significant questions about the quantity of light bulbs being reported to have been shipped to hard-to-reach market stores during all of 2017 through 2019. We can say with certainty that SCE knew about this problem once the

Commission's 2017 impact evaluation report was issued in March 2019. Therefore, we will impose fines on SCE for the incorrect information included in the Annual Reports (for 2018 and 2019) and quarterly CEDARS reports filed after March 2019.

The inaccurate and misleading information contained in Annual Reports is the most egregious, because that information forms the basis not only for energy savings claims, but also for ESPI earnings claims for SCE shareholders. SCE claims that there was no process for revisions to Annual Reports, but that argument is disingenuous. The Commission does not need to create a specific framework for corrections; parties correct filings routinely. However, in this case, we are talking about information that SCE should have filed correctly in the first place. It is not a situation where the information came to light after the filing was made. This is the most compelling rationale for making the fines continuous, which we do up until the record for this portion of the proceeding closed, which was June 20, 2022.

While the inaccurate and misleading savings amounts in the Annual Reports are the most severe Rule 1.1 violation in this situation, we are cognizant that the harm here is financial to ratepayers and not a safety concern. For that reason, and while also considering precedent, we choose the amount of $10,000 per day of continuous violation. This amount indicates the seriousness of the violation and harm to the regulatory process, without rising to the highest fine amount which we reserve for safety violations that involve loss of property or life.

In addition to the Annual Reports, the CEDARS quarterly reports were also filed inaccurately during and after 2019, when SCE knew there were questions about unaccounted-for bulbs. Although SCE is correct that these filings are interim until the next one is filed, they were still knowingly inaccurate and should have been submitted with correct information reflecting information in which the Commission could have confidence. We will impose a fine of $1,000 per day for these misleading filings, whose importance was lower than the Annual Reports, but still nonetheless vital to the regulatory process.

These determinations result in the penalties shown in Table 1 below.

Table 1. Total Fine Calculations for Annual Reports and Quarterly Update Filings

Filing	Severity	Start Date	Cure Date	Days in Violation	Daily Fine	Total Fine
2018 Annual Report	Medium	6/7/19	6/20/22	1108	$10,000	$11,080,000
2019 Annual Report	Medium	5/15/20	6/20/22	765	$10,000	$7,650,000
CEDARS Q1 2019	Low	6/20/19	9/9/19	81	$1,000	$81,000
CEDARS Q2 2019	Low	9/9/19	11/20/19	72	$1,000	$72,000
CEDARS Q3 2019	Low	11/20/19	2/20/20	92	$1,000	$92,000
CEDARS Q4 2019	Low	2/20/20	5/15/20	85	$1,000	$85,000
Total						**$19,060,000**

Finally, we direct that SCE should not be allowed to recover from ratepayers the costs of the investigation conducted by D&T after the motion from Cal Advocates and TURN. This investigation was the least SCE should have undertaken after learning of the issues with unaccounted-for light bulbs in early 2019, and this investigation should be at shareholder, and not ratepayer, expense.

5. Summary and Next Steps

This section summarizes the findings of this decision and directs how the remedies should be implemented.

The refund ordered of the program funding should be credited to SCE's Procurement Energy Efficiency Balancing Account (PEEBA). The refund of the ESPI awards should be credited to the Base Revenue Requirement Balancing

Account (BRRBA). SCE should file a Tier 1 advice letter showing the credited amounts in each account within 30 days of the issuance of this decision. Along with the advice letter, SCE should send an operational Excel spreadsheet (with formulas intact) showing balancing account workpapers with the credit and transaction log, showing when the credit transactions took place.

For the penalty amount, SCE is required to deliver a check for the full amount, made payable to the State of California General Fund, to the Commission's Fiscal Office within 30 days of the issuance of this decision.

Table 2 below summarizes the total financial remedies we have ordered in this decision.

Table 2. Summary of Remedies Ordered

Item	**Amount**	**Implementation**
Refund of program funding	$76,100,000	Tier 1 advice letter filing to credit PEEBA
Refund of ESPI awards	$6,800,000	Tier 1 advice letter filing to credit BRRBA
Rule 1.1 Violation Fines	$19,060,000	Payable to California General Fund
Total	$101,960,000	

6. Appeal of Presiding Officer's Decision

The Presiding Officer's Decision (POD) was filed and served on September 9, 2022. Pursuant to Rule 14.4 of the Commission's Rules of Practice and Procedure, any party may file an appeal of the POD within 30 days of the date the decision is served. In addition, any commissioner may request review of the POD by filing a request for review within 30 days of the date the decision is served. Appeals and requests for review must specifically identify the grounds on which the appellant or requestor believes the POD to be unlawful or erroneous. Vague assertions as to the record or the law, without citation, may be accorded little weight.

On October 10, 2022, SCE appealed the POD on three basic grounds, stating:

1. The record does not support the POD's program refund of $71.8 million in implementation costs;
2. The record does not support the POD's Rule 1.1 penalty; and
3. The POD should be corrected to reflect the appropriate account to be credited for ESPI refunds.

On October 25, 2022, TURN and Cal Advocates filed a joint response to the SCE appeal, entirely refuting SCE's first two allegations. Each of SCE's points is discussed in greater detail below.

6.1. Program Refunds

In its appeal of the POD, SCE argues that the record of the proceeding does not support the POD's program refund of $71.8 million in implementation costs, for three reasons. First, SCE asserts that the unaccounted-for light bulbs could provide some value to customers, instead of zero, as assumed in the POD, in part because the impact reports represent estimates. SCE argues that some of the unaccounted-for bulbs may have provided value by finding their way into customers' homes and businesses, and therefore SCE should not be required to refund the full program implementation and administrative budget for all of the unaccounted-for bulbs.

Second, SCE argues that the POD errs by disregarding evidence provided by the D&T investigation overseen by SCE's internal auditors about the number of overstocked and/or unaccounted-for light bulbs, choosing to rely on the Commission's impact evaluation reports instead. SCE's appeal argues that the Commission should split the difference between the impact evaluation report numbers and the D&T report. This would reduce the program refunds by approximately $35 million.

Third, SCE argues that the POD errs by failing to consider SCE's performance in its delivery of the program compared to that of SDG&E. By this reasoning, SCE claims it performed 11 percent better, and therefore the refunds should be reduced by approximately $8 million.

In their joint response to the SCE appeal, TURN and Cal Advocates argue that SCE's argument that some of the unaccounted-for bulbs may have provided value is speculative and should be disregarded. They argue that, since the upstream lighting program was a resource program designed to deliver concrete energy savings, the Commission should not base its conclusions on theoretical possibilities.

TURN and Cal Advocates also argue that SCE's appeal is asking the Commission to re-weigh the evidence, and that it is not legal error to decide to rely on the Commission impact evaluation reports instead of the D&T investigation conducted by SCE's internal audit department.

Finally, in response to SCE's argument that its performance in delivering the upstream lighting program was better than SDG&E's and therefore its program refund amount should be reduced, Cal Advocates and TURN point out that the POD's refund for SCE is already proportionally smaller than in the SDG&E settlement, and thus the performance impact is already taken into account by the POD's conclusion on program refunds.

On these issues, we do not make any changes to the POD's conclusions. SCE's appeal is asking us to re-weigh the evidence already considered in the record of this proceeding prior to the issuance of the POD.

On the question of whether unaccounted-for bulbs could potentially have provided value to customers, TURN and Cal Advocates are correct that this potential benefit is entirely speculative. While it is possible that an unaccounted-for bulb may have provided value to a customer somewhere (though also possibly not within SCE's territory), it is equally possible that the bulb never existed and/or was never shipped in the first place. In addition, SCE continues to confuse the issue by calling the bulbs "overstocked," which may describe some of the unaccounted-for bulbs, but certainly not all of them. Overstocked bulbs are fundamentally different from unaccounted-for bulbs, because overstocked bulbs can still be counted.

In addition, the POD did not misunderstand or misconstrue the role of the D&T investigation and SCE's internal auditors. Rather, the POD chose to give more credence to the Commission's own impact evaluation rather than SCE's investigation. The Commission is not required to "split the difference" between the findings of the two reports. It is also worth noting that the Commission's impact evaluation sample sizes for surveys completed over the course of 2017-2019 were considerably larger than the sample size of the D&T investigation (26 percent compared to 6 percent, in 2018, for example).

Finally, we agree with TURN and Cal Advocates that SCE's performance in administering the upstream lighting program overall is already taken into account in the consideration of the amount of funding to be refunded to ratepayers.

In sum, we are satisfied that the $76.1 million in program refunds ordered by the POD is reasonable, based on the record, and should be maintained.

6.2. Rule 1.1 Penalty

SCE's appeal argues that SCE never misled the Commission and therefore no Rule 1.1 violation occurred in the handling of the upstream lighting program. Instead, SCE argues that because the Commission was aware of the issues with the program and that there was an ongoing inquiry, including disputed issues with respect to the Commission's impact evaluation reports, SCE therefore could not have violated Rule 1.1 because the issues were transparently identified.

Secondarily, SCE argues that even if the Commission were to determine that a penalty is warranted, the POD uses an unjustifiably long period of time for the violations and a higher per-day penalty for the Annual Reports than precedent would dictate.

SCE argues that the cure date for any violation should be considered November 30, 2020, when SCE filed the results of its independent investigation. SCE's appeal also defends it conduct during the Commission's inquiry, pointing out that its hiring of an independent investigator predated the TURN and Cal Advocates motion.

SCE also argues that a fine amount of $5,000 per day, instead of the $10,000 per day imposed in the POD, would be more consistent with Commission precedent with other cases, and that a $10,000 per day fine has been imposed in the past where the conduct was more egregious (including deliberate falsification) than was exhibited here. SCE also argues that $5,000 per day is more similar to the amount included in the SDG&E settlement that was adopted by the Commission.

In response to SCE's points in its appeal, Cal Advocates and TURN refute each point.

First and foremost, Cal Advocates and TURN argue that the Commission has routinely held that Rule 1.1 violations have occurred where there has been a lack of candor, withholding of information, or failure to correct information, and that SCE's conduct in this case meets that standard. Further, they argue that SCE cannot be absolved of its responsibility for violating Rule 1.1 just because the Commission's impact evaluators discovered the inaccuracies and they were out in the open. TURN and Cal Advocates also point out that although SCE continued to dispute some aspects of the impact reports, they also acknowledged in writing that there were anomalies in the program reporting that needed to be addressed. In addition, TURN and Cal Advocates emphasize that SCE was earning ESPI awards based on the inaccuracies in the Annual Reports, so it is not simply a matter of data transparency.

Cal Advocates and TURN argue that the POD's cure date of June 20, 2022 is reasonable, but that in fact the violations are ongoing, because SCE still has never corrected its Annual Report filings to account for the issues with the upstream lighting program results.

Cal Advocates and TURN also argue that there is ample precedent for a fine of $10,000 per day, pointing to D.08-09-038 as the most relevant decision where SCE's conduct was similar and there were also shareholder incentives at stake. In that case, the Commission fined SCE 29 percent of the maximum amount possible, whereas in this case the POD recommends an even lower percentage compared to the maximum. TURN and Cal Advocates also point out that the statutory maximum penalty amount per day has been doubled since that decision. In addition, TURN, and Cal Advocates point to several other decisions where other utility conduct was similar and the fine was equivalent to or more than the amounts imposed in the POD.[30]

Finally, TURN and Cal Advocates point out that the POD's penalty of $19.06 million is less than 20 percent of the $98 million fine they recommended, and less than 9 percent of their calculation of the maximum fine of $220.3 million for these filings.

On these issues, we make one correction to the POD to acknowledge that SCE had begun its independent investigation by D&T prior to the TURN and Cal Advocates motion seeking that the Commission order an independent investigation. But that does not change the general characterization of SCE's conduct in this case, where it has been slow to acknowledge and accept responsibility. Although SCE began an internal investigation earlier than the independent investigator was engaged, SCE failed to complete that initial internal investigation and generally failed to act swiftly and decisively to correct the problems with its misleading/inaccurate reporting and program oversight.

Otherwise, we agree with the references provided by Cal Advocates and TURN that there is ample precedent for the Commission imposing a fine of $10,000 per day in situations similar to this one. In addition, we agree that the inaccuracy of the Annual Reports is ongoing, but choose to close this matter as of the date the record was complete.

6.3. Account for Crediting ESPI Refunds

In its appeal, SCE points out that the ESPI refunds should be credited to the Base Revenue Requirement Balancing Account (BRRBA) and not to the

[30] The cited decisions include D.08-09-038, D.20-08-037, D,22-03-010, and D.21-09-002. While SCE argues that its conduct in this case is distinguishable, we agree with Cal Advocates and TURN that it is not.

PEEBA, as originally ordered in the POD, because ESPI awards were originally recorded in the distribution subaccount of the BRRBA. We have corrected the decision to reflect this.

In conclusion, while SCE's appeal makes a number of arguments, none of the issues raised in the appeal of the POD constitutes legal error requiring correction.

7. Assignment of Proceeding

Genevieve Shiroma is the assigned Commissioner and Julie A. Fitch and Valerie U. Kao are the assigned Administrative Law Judges in this proceeding. Judge Fitch is the presiding officer in this OSC.

Findings of Fact

1. DNV GL's impact evaluation report on the 2017 upstream lighting program, published in final form on April 1, 2019, was the first report to identify formally and publicly that there were significant discrepancies in the number of light bulbs reported as shipped and the feasibility of those light bulbs being stocked and sold by grocery and discount stores.

2. Over program years 2017 through 2019, the Commission's evaluators (DNV GL) estimate that there were 29.5 million light bulbs reported as shipped to grocery and discount stores in SCE's territory but that could not be accounted for.

3. In 2019, SCE conducted an internal audit and acknowledged that "overstock conditions" existed for grocery and discount retailers, but claimed in its June 2020 comments that this internal investigation could not be completed due to COVID-19 Shelter in Place orders.

4. On July 17, 2020, Cal Advocates and TURN filed a joint motion to order a shareholder-funded independent external investigation of SCE's upstream lighting program.

5. In its July 22, 2020 comments, SCE acknowledged "program management shortcomings" in its oversight of the upstream lighting program and committed to have Edison International's Audit Services Department oversee an independent investigation conducted by D&T.

6. The D&T investigation results, filed on November 30, 2020 by SCE, identified discrepancies in manufacturer-provided supporting documentation, including duplicate photographs, duplicate delivery driver and retailer signatures for proof of delivery, and mismatched lightbulb quantities.

7. Overall, D&T identified 128 instances of overstock of lightbulbs with 124 unique retailers, and the overstock instances were increasing between 2017 and 2019.

8. D&T found that various levels of SCE personnel were aware of overstock situations between 2017 and 2019.

9. After the DNV GL impact evaluation report was published on April 1, 2019, SCE continued to file Quarterly and Annual Reports that contained inaccurate information about energy savings associated with unaccounted-for light bulbs that SCE knew about. These knowingly-inaccurate filings constitute ongoing Rule 1.1 violations for intentionally misleading the Commission in the regulatory process.

10. SCE's Rule 1.1 violations have harmed its ratepayers and the regulatory process, but did not rise to the level of safety violations.

11. SCE was slower than SDG&E to take responsibility for its mismanagement of the 2017-2019 upstream lighting program.

12. SCE has the financial resources to cover a Rule 1.1 fine for its conduct in this case.

Conclusions of Law

1. To cover the benefits that SCE ratepayers did not receive from the upstream lighting program in 2017 through 2019 due to SCE's mismanagement, SCE should be required to refund all of the program administrative costs as well as all of the incentive costs associated with the 29.5 million unaccounted-for light bulbs shipped to grocery and discount stores, for a total of $76.1 million of credits to ratepayers.

2. Since the energy savings associated with unaccounted-for light bulbs shipped to grocery and discount stores as part of the upstream lighting program between 2017 and 2019 cannot be verified, SCE should be required to refund $6.8 million in ESPI earnings to ratepayers.

3. SCE should be required to pay $19.06 million in penalties for filing misleading and inaccurate light bulb and energy savings figures in its 2018 and 2019 Annual Reports and its 2019 Quarterly Reports that were filed after the final 2017 impact evaluation report by DNV GL was published on April 1, 2019. This fine amount is calculated with continuing violations, since SCE could have corrected its filings at any time, but did not.

4. SCE should not be allowed to recover the costs of its investigation conducted by D&T from ratepayers.

O R D E R

IT IS ORDERED that:

1. Southern California Edison Company (SCE) shall credit its Procurement Energy Efficiency Balancing Account with $76.1 million in refunds of program funds and its Base Revenue Requirement Balancing Account with $6.8 million in

refunds of Efficiency Savings and Performance Incentive earnings. SCE shall file a Tier 1 Advice Letter with an operational spreadsheet of the balancing account workpapers showing the credited amounts within 30 days of the issuance of this decision.

2. Southern California Edison Company shall deliver a check for $19.06 million, made payable to the State of California General Fund, to the Commission's Fiscal Office at 505 Van Ness Avenue, San Francisco, CA within 30 days of the issuance of this decision.

3. Southern California Edison Company shall not recover the costs of the investigation conducted by Deloitte and Touche and included in its November 30, 2020 comments in this proceeding from ratepayers.

This order is effective today.

Dated November 17, 2022, at San Francisco, California.

ALICE REYNOLDS
President
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
DARCIE L. HOUCK
JOHN REYNOLDS
Commissioners

APPENDIX A

Appearances

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(END OF APPENDIX A)