

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the
Commission's Own Motion on the Late
2019 Public Safety Power Shutoff Events.

**FILED
PUBLIC UTILITIES COMMISSION
NOVEMBER 13, 2019
SAN FRANCISCO
I.19-11-013**

ORDER INSTITUTING INVESTIGATION

I. INTRODUCTION

The California Public Utilities Commission (Commission) hereby institutes this investigation to determine whether California's investor-owned utilities prioritized safety and complied with the Commission's regulations and requirements with respect to their Public Safety Power Shutoff (PSPS) events in late 2019. The Commission's-jurisdictional electric corporations – Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), Liberty Utilities/CalPeco Electric (Liberty), Bear Valley Electric Service, a division of Golden State Water Company (Bear Valley), and Pacific Power, a division of PacifiCorp (PacifiCorp) – are named Respondents in this Investigation.

The Commission opens this investigation as a companion to Rulemaking (R.) 18-12-005, the Commission's rulemaking to examine utility de-energization of powerlines in dangerous condition. This investigation will serve as a forum for taking evidence to evaluate both the effectiveness and impacts of all phases of the PSPS events. In the first phase of this proceeding, the Commission's Safety and Enforcement Division (SED) shall investigate, and produce a consultant's report that evaluates the utilities' actions prior to, during and after the PSPS events in late 2019, and utility compliance with the Commission's existing de-energization regulations and requirements. The report shall also assess whether further changes to existing de-energization regulations and

requirements are necessary to ensure public safety. We are not solely concerned with technical or “check-the-box” compliance with our directives, and SED and its consultant shall also review the quality of the utilities’ internal coordination, situational awareness, external communication (both from the point of view of the amount and quality of information provided and the effectiveness of the utilities’ chosen methods of communication), pre-planning and execution for these PSPS events.

This investigation will also serve as the forum for the Commission to consider instances when an electric corporation’s actions related to a PSPS event resulted in violations of any statutes or Commission rules or regulations. If apparent violations are found, the Commission will take action to ensure the utilities are held accountable. We will also consider whether the utilities’ actions were ill-conceived, poorly planned, uncoordinated (both internally and externally) and ineffectively communicated in a way that contravenes either basic tenets of management and organization or was unreasonable under section 451, 761 or related statutes.

This Investigation is initiated as a result of recent PSPS events, which raise concerns regarding whether the electric utilities’ communication of a potential de-energization or communication and execution of an actual de-energization during hazardous weather conditions properly balanced the need to provide reliable service with public safety and were properly planned and executed. Based on the impact of the late 2019 PSPS events on critical infrastructure and public safety, the Commission seeks to ensure that utility decisions to shut off power to prevent wildfires are only made when absolutely necessary and are based on actual and substantiated conditions. The Commission also seeks to ensure that such events are not conducted in an ineffective or haphazard way because of the potential of such events to endanger the public health and safety.

II. BACKGROUND

California Public Utilities Code (Pub. Util. Code) Sections 451 and 399.2(a) give electric utilities authority to shut off electric power in order to protect public safety. This authority includes shutting off power for the prevention of fires where strong winds, heat

events, and related conditions are present. The Commission has reviewed the implications of this authority through a line of cases following the devastating October 2007 Witch, Guejito and Rice wildfires reviewed in Decision (D.) 17-11-033, reh'g. denied D.18-07-025, U.S. Sup. Ct. cert. denied (October 7, 2019).

In Application (A.) 08-12-021, SDG&E sought review of its Fire Preparedness Plan, which included provisions for: replacing wood poles with steel poles, expanding ground and aerial inspections of power lines and poles, disabling automatic reclosers during Red Flag Warnings in the Wildland Fire Area, staging crews during Red Flag Warnings, and a proactive de-energization procedure. SDG&E also included a request to modify its Tariff Rule 14 in order to be immune from liability caused by a pro-active shut off, which was denied in D.09-09-030. D.09-09-030 also concluded that if SDG&E were to exercise its statutory authority to shut off power, the Commission could review SDG&E's decision after the fact for reasonableness.

Decision 12-04-024, which granted a petition to modify D.09-09-030, ordered SDG&E to (1) take all appropriate and feasible steps to provide notice and mitigation to its customers whenever the utility shuts off power pursuant to §§ 451 and 399.2(a), and (2) report any de-energization events to SED within 12 hours after a shut off.¹ Decision 12-04-024 also confirmed that while "SDG&E will be in the best position to determine when power should be shut off[,]" power should be shut off "only as a last resort" and "there is a strong presumption that power should remain on."²

On July 18, 2018, in the wake of the devastating 2017 fires, the Commission issued Resolution ESRB-8, which extended D.12-04-024's reasonableness, public notification, mitigation and reporting requirements to all electric IOUs to ensure that public and local officials are prepared for power shut off and aware of the electric IOUs'

¹ D.12-04-024 at COL 1, 2.

² D.12-04-024 at 29-30.

de-energization policies.³ Resolution ESRB-8 also strengthened reporting requirements, and the public outreach, notification, and mitigation guidelines of D.12-04-024.

On December 19, 2018, the Commission opened Rulemaking (R.) 18-12-005 to further examine the de-energization policies and guidelines adopted in D.12-04-024 and Resolution ESRB-8. On June 4, 2019, the Commission issued D.19-05-042, which adopted de-energization (also known as Public Safety Power Shut-off) communication and notification guidelines for the electric utilities.⁴ One of the “overarching” guidelines is that: “[t]he electric investor-owned utilities must deploy de-energization as a measure of last resort and must justify why de-energization was deployed over other possible measures or actions.”⁵

Most recently, during October 2019, PG&E, SCE and SDG&E initiated the following PSPS events:

Utility	Event Start	Event End	Counties Affected	Customer Accounts Affected (approximate)*	Average Duration (Hours)*
PG&E	10-5-2019	10-6-2019	3	11,300	18
PG&E	10-9-2019	10-12-2019	35	729,000	45
SCE	10-9-2019	10-12-2019	6	24,000	25
SCE	10-16-2019	10-21-2019	5	440	16
SCE	10-24-2019	10-26-2019	6	30,000	
SCE	10-28-2019	10-25-2019	6	26,000	
SCE	10-30-2019	11-2-2019	10	86,000	
PG&E	10-23-2019	10-25-2019	17	177,084	46
SDG&E	10-24-2019	10-26-2019	1	19,500	
PG&E	10-26-2019		38	975,000	
SDG&E	10-29-2019	11-1-2019	1	24,600	
PG&E	10-29-2019	11-1-2019	28	515,838	58

³ ESRB-8 at 5-7.

⁴ The adopted PSPS Guidelines are Attachment A of the decision.

⁵ D.19-05-042, Appx. A at A1.

* Approximate number of customers affected, and average duration of outage based on informal information received by SED from the utilities.

III. Purpose of Investigation

This investigation will evaluate the electric utilities' implementation of the PSPS Guidelines during late 2019. Among other things, the first phase of this proceeding will assess for each utility: 1) the effectiveness of the utility's procedures to notify the public of the PSPS events (including the information provided and outreach efforts), 2) the utility's communication and coordination with first responders, local jurisdictions and state agencies, and 3) the utility's management of its resources to ensure public safety. In later phases of this proceeding, the Commission may consider taking action if it finds violations of statutes or its decisions or general orders have been committed and to enforce compliance, if necessary. This investigation will not duplicate efforts currently under way in R.18-12-005, which focuses on establishing the guidelines and protocols for when a PSPS event is called. However, we acknowledge that the record developed in this proceeding, and the findings and conclusions made here, may be relevant to issues being addressed in R.18-12-005.

IV. DIRECTION FOR SED TO INVESTIGATE UTILITY ACTIONS DURING THE OCTOBER 2019 PSPS EVENTS AND FOR PREPARATION OF A CONSULTANT'S REPORT

In the initial phase of this proceeding, we direct SED to act in its advisory capacity to assess the electric utilities implementation of the PSPS Guidelines and to identify areas where the PSPS Guidelines and/or utility actions must be improved. More generally, as described above, we will consider whether utility conduct met basic standards of good management. SED's assessment should be contained in a consultant's report and provided to the assigned Commissioner and the assigned Administrative Law Judge.

We hereby authorize SED to retain the services of an expert consultant(s) to assist it in this investigation and reporting. The expert consultant(s) shall maintain the confidentiality of data gathered in this investigation, its work product, and the consultant's report unless otherwise directed by the assigned Commissioner, assigned Administrative Law Judge, or Commission.

V. PRELIMINARY SCOPING MEMO**A. Issues Presented**

Phase 1 of this proceeding shall address the following issues:

1. To what extent has each of the electric utilities implemented the requirements contained in Attachment A of D.19-05-042 (the PSPS Guidelines)?
 - a. Did delay in implementing any of the requirements present challenges during the late 2019 PSPS events?
 - b. Were the procedures adopted by the electric utility to implement requirements effective?
2. How did the electric utility communicate with and notify state and local agencies, first responders, tribal governments, and its customers prior to, during and after the PSPS event?
 - a. How effective were the notifications and communications?
 - b. What was the cause of ineffective notification and communication (e.g., technological shortcomings, lack of communication services, lack of planning regarding the type of information to be released)?
3. What efforts were undertaken by an electric utility to minimize the impacts of a PSPS event on the public? How effective were these efforts?
 - a. What efforts should have been undertaken by other entities (e.g., communications providers, other state agencies) to minimize the impacts of a PSPS event on the public?
 - b. How effective were the Community Resource Centers and what challenges were faced by customers using these centers?
 - c. Did the electric utility appropriately consider the impact of the PSPS event on Access and Functional needs populations, including, but not limited to, low-income and medically vulnerable communities?
4. What actions were taken between the electric utility, state and local governments, first responders and non-government organizations to ensure public safety? How effective were the actions?
5. What, if any, minimum procedures for notification and communication of PSPS events should be adopted for all electric utilities?
6. Should there be different communication and/or notification procedures required based on the magnitude of the PSPS event?

7. To what extent did a lack of pre-planning, rehearsal, internal and external coordination, situational awareness or the application of basic principles of good management interfere with the utilities' ability to properly conduct PSPS events.

In subsequent phases of this proceeding, the Commission will consider whether an electric utility's actions during any one of its PSPS events failed to comply with any Commission decisions, general orders or statutes and whether any necessary actions should be taken to enforce compliance.

B. Categorization of Proceeding

The initial phase of this proceeding is dedicated to SED's investigation consistent with this Order, and SED's consultant will produce a report on the issues presented in the preliminary scoping memo. This initial phase of the proceeding is categorized as ratesetting because it will present and consider issues both of fact and policy,⁶ and because the Respondents do not face the prospect of fines, penalties, or remedies in this phase. After the initial phase of this proceeding, when the consultant(s) has completed its report, the assigned Commissioner will determine the scope of and next actions in this proceeding.

The determination as to category is appealable under Rule 7.6. Pursuant to Rule 7.6(a), appeals of the categorization of this investigation, if any, are to be filed and served within 10 days of the date this OII is issued.

Rule 8.3 and any applicable law or Commission rule or order concerning *ex parte* Communications in ratesetting proceedings shall apply in this initial phase. This includes the three-day pre-meeting ban in Rule 8.2(c)(2)(C).

⁶ See *Interim Opinion - Recategorizes this proceeding from the quasi-legislative to the ratesetting category*, D.01-05-061, *mimeo* at 10 (issued May 15, 2001) ("The investigatory phase of this proceeding is appropriately categorized as ratesetting. This phase of the proceeding will involve an inquiry into Respondents' past conduct and whether it complies with the Commission's holding company decisions or applicable law. It will also involve an inquiry into appropriate prospective changes in our decisions or other rules governing Respondents' holding company structure."); *Interim Opinion Denying PG&E Corporation's Request for Rehearing on Categorization*, D.01-06-031, *mimeo* at 4 (issued June 21, 2001).

The determination as to category of the proceeding is appealable under Rule 7.6. Pursuant to Rule 7.6(a), appeals of the categorization of this investigation, if any, are to be filed and served within 10 days of the date this OII is issued.

C. Preliminary Determination of Need for Hearings and Schedule of Proceeding

As discussed above, the initial phase of this proceeding will consist of SED's investigation into, and presentation of a consultant's report to the assigned Commissioner and Administrative law Judge on, the electric utilities' actions during the late 2019 PSPS events and the questions raised in this Order. Therefore, evidentiary hearings are not needed in Phase 1.

Each Respondent is directed to file and serve a response to this OII that includes a report on each of the PSPS events that occurred in late 2019. These reports shall provide, at a minimum, the information contained in the de-energization reports required pursuant to D.19-05-042. To the extent that a utility found its ability to respond effectively during a PSPS event was limited due to a communications network failure, it should identify the specific instance(s). Other parties or entities who wish to become parties to this proceeding may subsequently file and serve responses to the OII, which may also address the Respondents' responses to the OII.

The preliminary schedule for this proceeding is:

EVENT	DATE
Respondents to file and serve a response to the OII	December 13, 2019
Other responses to the OII filed and served	January 10, 2020
Prehearing Conference	TBD

After SED's consultant completes its report, the assigned Commissioner may schedule another prehearing conference to determine the next steps in this proceeding, including the scope and categorization of the next phase of this proceeding and if hearings are necessary.

D. Parties and Service List

PG&E, SCE, SDG&E, Liberty, Bear Valley, and PacifiCorp are named as Respondents to this investigation. During the first phase of the investigation, SED will be serving as the primary advisory staff.

E. Service of OII

This Order shall be served on all Respondents.

In addition, in the interest of broad notice, this Order will be served on the official service lists for the following proceedings:

- Rulemaking 18-12-005, Order Instituting Rulemaking to Examine Electric Utility De Energization of Power Lines in Dangerous Conditions
- Rulemaking 18-10-007, Order Instituting Rulemaking Implement Electric Utility Wildfire Mitigation Plans Pursuant to Senate Bill 901 (2018);
- Rulemaking 18-03-011, Order Instituting Rulemaking regarding Emergency Disaster Relief Program;
- Rulemaking 15-05-006, Order Instituting Rulemaking to Develop and Adopt Fire-Threat Maps and Fire-Safety Regulations;
- Rulemaking 15-06-009, Order Instituting Rulemaking Regarding Policies, Procedures and Rules for Regulation of Physical Security for the Electric Supply Facilities of Electrical Corporations Consistent with Public Utilities Code Section 364 and to Establish Standards for Disaster and Emergency Preparedness Plans for Electrical Corporations and Regulated Water Companies Pursuant to Public Utilities Code Section 768.6;
- Application 15-09-010, Application of San Diego Gas & Electric Company for Authorization to Recover Costs Related to the 2007 Southern California Wildfires Recorded in the Wildfire Expense Memorandum Account (WEMA);

- Application 17-07-011, Application of Pacific Gas and Electric Company for Authority to Establish the Wildfire Expense Memorandum Account;
- Application 18-04-001, Application of Southern California Edison Company to Establish the Wildfire Expense Memorandum Account;
- Application 18-09-002, Application of Southern California Edison Company for Approval of Its Grid Safety and Resiliency Program;
- Application 19-07-020, Application of Southern California Edison Company (U338E) for Authorization to Recover Costs Related to 2018-2020 Wildfire Insurance Premiums Recorded in its Wildfire Expense Memorandum Account and
- Application 08-12-021, Application of San Diego Gas & Electric Company for Review of its Proactive De-Energization Measures and Approval of Proposed Tariff Revisions.

Service of the OII does not confer party status or place a person who has received such service on the Official Service List for this proceeding.

F. Subscription Service

Persons may monitor the proceeding by subscribing to receive electronic copies of documents in this proceeding that are published on the Commission's website. There is no need to be on the official service list in order to use the subscription service. Instructions for enrolling in the subscription service are available on the Commission's website at <http://subscribecpuc.cpuc.ca.gov/>.

VI. CONFIDENTIALITY OF DISCOVERY, STAFF WORK PRODUCT, AND REPORTS UNTIL ISSUANCE OF CONSULTANT'S REPORT AND ORDER AUTHORIZING APPROPRIATE DISTRIBUTION

Fundamentally, the public has the constitutional right to scrutinize Commission business,⁷ which is undertaken on behalf of the public. In that vein, the Commission has

⁷ See Cal. Const. Art. 1, § 3(b)(1).

the discretion to disclose investigation records under Section 583 of the Public Utilities Code.

We exercise our discretion here to limit public disclosure of documents during the initial phase of this proceeding, as SED conducts its investigation with the assistance of experts. We emphasize here that our determination is temporary only, until the investigation moves beyond this initial phase. The assigned Commissioner or assigned Administrative Law Judge shall have the discretion to make staff work product and reports public, subject to all appropriate protections.

Pursuant to Public Utilities Code Section 314(a), the Commission and its staff may seek information from the Respondents at any time. Further, the Commission hereby confirms that under Pub. Util. Code §§ 313, 314, 314.5, 315, 581, 582, 584, 701, 702, 771, 1794, and 1795, the Commission staff may obtain information from utilities and is already deemed to have the general investigatory authority of the Commission.

We do, however, place a moratorium on the Respondents' ability to conduct discovery on the Commission and its staff during this initial phase of the proceeding, to enable SED to conduct its investigation without interference.

VII. PUBLIC ADVISOR

Any person or entity interested in participating in this investigation that is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor's Office in San Francisco at (415) 703-2074, (866) 849-8390, or e-mail public.advisor@cpuc.ca.gov; or in Los Angeles at (213) 576-7055, (866) 849-8391, or e-mail public.advisor.la@cpuc.ca.gov. The TTY number is (866) 836-7825. Written communication may be sent to the Public Advisor, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102.

VIII. INTERVENOR COMPENSATION

As discussed, after SED's consultant completes its report, the assigned Commissioner may schedule an additional prehearing conference to determine the next steps in this proceeding, including the scope and categorization of the next phase of this

proceeding, and if hearings are necessary. Accordingly, notices of intent to claim intervenor compensation should be filed only after the assigned Commissioner and/or assigned Administrative Law Judge holds a prehearing conference in this proceeding.

Therefore, **IT IS ORDERED** that:

1. An investigation is instituted on the Commission's own motion to determine whether California's investor-owned utilities prioritized safety and complied with the Commission's regulations and requirements with respect to their late 2019 Public Safety Power Shutoff events.
2. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Liberty Utilities/CalPeco Electric, Bear Valley Electric Service, a division of Golden State Water Company, and Pacific Power, a division of PacifiCorp are named as Respondents to this investigation.
3. During the initial phase of the investigation, the Safety and Enforcement Division will be serving as the primary advisory staff to the Commission.
4. Safety and Enforcement Division (SED) is directed to assess the electric utilities' implementation of the Public Safety Power Shutoff (PSPS) Guidelines during the late 2019 PSPS events and to identify areas where the PSPS Guidelines and/or utility actions must be improved. SED's investigation should be contained in a consultant's report, which should be provided to the assigned Commissioner and the assigned Administrative Law Judge, and as further directed by the assigned Commissioner.
5. The Commission staff may obtain any information from Respondents, Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Liberty Utilities/CalPeco Electric, Bear Valley Electric Service, a division of Golden State Water Company, and Pacific Power, a division of PacifiCorp, that the Safety and Enforcement Division's staff and consultant(s) require to conduct its investigation and reporting.
6. The Commission imposes a moratorium on Respondents, Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Liberty Utilities/CalPeco Electric, Bear Valley Electric Service, a division of

Golden State Water Company, and Pacific Power, a division of PacifiCorp, on conducting discovery on the Commission and its staff during the initial phase of this investigation.

8. This Order includes a preliminary scoping memo.

9. Pursuant to Rule 7.1(c) of the Commission's Rules of Practice and Procedure, the initial phase of this proceeding is categorized as ratesetting.

10. The ex parte requirements applicable to ratesetting proceedings of Article 8 shall apply to the initial phase of this proceeding.

11. The Executive Director shall cause a copy of this Order to be served electronically on the official service lists for Rulemaking (R.) 18-12-005, R.18-10-007, R.18-03-011, R.15-05-006, R.15-06-009, Application (A.) 15-09-010, A.17-07-011, A.18-04-001, A.18-09-002, A.19-07-020, and A.08-12-021.

13. The Executive Director shall cause a copy of this Order to be served electronically and by certified mail on the Respondents at:

William D. Johnson
CEO
Pacific Gas & Electric Company
77 Beale Street, Mail Code B32
San Francisco, CA 94105
William.Johnson@pge-corp.com

Michael Lewis
Senior Vice President
Electric Operations
Pacific Gas & Electric Company
77 Beale Street, Mail Code B32
San Francisco, CA 94105
Michael.Lewis2@pge.com

Janet C. Loduca
Senior Vice President and Interim General
Counsel
Pacific Gas & Electric Company
77 Beale Street, Mail Code B32
San Francisco, CA 94105
Janet.Loduca@pge.com

Meredith Allen
Director of Regulatory Affairs
Pacific Gas & Electric Company
77 Beale Street, Mail Code B10C
San Francisco, CA 94177
MEAe@pge.com

Kevin Payne
President and CEO
Southern California Edison Company
8631 Rush St.
Rosemead, CA 91770
Kevin.Payne@sce.com

Phil Herrington
Senior Vice President, Transmission and
Distribution
8631 Rush St.
Rosemead, CA 91770
Phil.Herrington@sce.com

Russell Swartz
Senior Vice President and General Counsel
Southern California Edison Company
8631 Rush St.
Rosemead, CA 91770
Russell.Swartz@sce.com

Kevin Sagara
Chairman and CEO
San Diego Gas & Electric Company
8326 Century Park Court, CP33A
San Diego, CA 92123
KSagara@sdge.com

Diana Day
Vice President, General Counsel and Chief
Risk Officer
San Diego Gas & Electric Company
8326 Century Park Court, CP33B
San Diego, CA 92123
DDay@sdge.com

Dan Marsh
Manager, Rates and Regulatory Affairs
Liberty Utilities (CalPeco Electric) LLC
9750 Washburn Road
Downey, CA 90241
Dan.Marsh@libertyutilities.com

Pooja Kishore
PacifiCorp
Regulatory Affairs Manager
825 NE Multnomah St., Suite 2000
Portland, OR 97232
californiadockets@pacificorp.com

Keith Switzer
Vice President Regulatory Affairs
Bear Valley Electric Service Division
Golden State Water Company
630 E. Foothill Blvd.
San Dimas, CA 91773
kswitzer@gswater.com

Carla Peterman
Senior Vice President, Regulatory Affairs
8631 Rush St.
Rosemead, CA 91770
Carla.Peterman@sce.com

David Geier
Senior Vice President, Electric Operations
San Diego Gas & Electric Company
8326 Century Park Court, CP33A
San Diego, CA 92123
DGeier@sdge.com

Mitch Mitchell
Vice President, State Governmental Affairs
and External Affairs
San Diego Gas & Electric Company
8326 Century Park Court, CP33A
San Diego, CA 92123
EMitchell@semprautilities.com

Sharon Yang
Director of Legal Services
Liberty Utilities (CalPeco Electric) LLC
9750 Washburn Road
Downey, CA 90241
Sharon.Yang@libertyutilities.com

Jessica Buno Ralston
PacifiCorp
Senior Attorney
825 NE Multnomah St., Suite 2000
Portland, OR 97232
Jessica.Ralston@pacificorp.com

Paul Marconi
Director
Bear Valley Electric Service
42020 Garstin Drive
P.O. Box 1547
Big Bear Lake, CA 92315
Paul.Marconi@bves.com

This order is effective today.

Dated November 13, 2019, at San Francisco, California.

MARYBEL BATJER
President
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners