

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

*Order Instituting Rulemaking Regarding
Emergency Disaster Relief Program*

Rulemaking 18-03-011
(Filed March 22, 2018)

**COMMENTS OF RURAL COUNTY REPRESENTATIVES OF
CALIFORNIA ON PROPOSED DECISION ADOPTING WIRELESS
PROVIDER RESILIENCY STRATEGIES**

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Commission Decisions:

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SUMMARY OF RECOMMENDATIONS

Per Rule 14.3 (b) of the Rules of Practice and Procedure, and as discussed below, RCRC respectfully requests that the Proposed Decision be modified to:

- Add a new Conclusion of Law (Paragraph 50) to expand the 72-hour backup requirement to include wireless facilities that lost power during two or more discrete Public Safety Power Shutoff (PSPS) events, consistent with Decision 20-01-021, and modify the Order accordingly.
- Amend Conclusions of Law (Paragraph 54) to require Communications Resiliency Plans to additionally discuss actions that will be taken to mitigate service loss resulting from sites that are unable to support backup power due to a safety risk or where it is objectively impossible or infeasible to deploy backup power, and modify the Order accordingly.
- Adopt various changes to the Findings of Fact (Paragraphs 16 and 62) and Conclusions of Law (Paragraphs 2 and 28) to correct factual errors and avoid unnecessary limitations.

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I. Introduction

In accordance with Rule 14.3 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules”), the Rural County Representatives of California (RCRC) respectfully submits comments on Commission Batjer’s Proposed Decision in the Order Instituting Rulemaking 18-03-011 (“Rulemaking”).

II. Background

On behalf of the Rural County Representatives of California (RCRC), we are pleased to offer comments to the Assigned Commissioner’s *Proposed Decision Adopting Wireless Provider Resiliency Strategies*, dated June 11, 2020. RCRC was granted party status via written ruling by the Administrative Law Judge on November 13, 2019. RCRC is an association of thirty-seven rural California counties, and its Board of Directors is comprised of one elected supervisor from each of our member counties.

RCRC member counties comprise the vast majority of the state's forested lands and high fire hazard severity zones. Our communities have borne the majority of destruction caused by high severity wildfires and experienced most of the state's Public Safety Power Shutoff (PSPS) events. Given the massive communications outages that occurred during the October 2019 Public Safety Power Shutoff (PSPS) events, RCRC believes that establishing the proposed resiliency rules for wireless communications service providers is vital to protect public health and safety. For this reason, we strongly support the Proposed Decision.

III. Discussion

Reliable and resilient communications services are vital to meet the public's need to access 9-1-1 and emergency services and local governments' need to receive and respond to emergency calls, issue evacuation orders, and maintain the operation of critical facilities and infrastructure. As the Proposed Decision correctly notes, "emergency responders must have reliable clear communication regarding network outages, resiliency, and backup power"... "to effectively manage these catastrophes."¹

RCRC believes that the Proposed Decision's requirement for wireless providers to have emergency backup power for their facilities, file communications resiliency plans, and submit annual emergency operations plans is a significant step toward to improving overall system resiliency and protecting the ability for local governments and residents to access essential communications services. These changes are even more important because "many Californians have no alternative means of communications than their wireless network; without wireless network they simply cannot communicate."²

RCRC also supports the Proposed Decision's establishment of minimum service levels and coverage, which includes 9-1-1 service, 2-1-1 service, the ability to receive emergency alerts and notifications, and basic internet browsing during a disaster or power outage.³ Requirements for system resiliency mean nothing without minimum service levels.

We offer the following suggestions to improve effectiveness of the Proposed Decision, correct factual errors, and avoid unnecessary limitations on the reach of these requirements:

¹ Proposed Decision at 45.

² Proposed Decision at 40.

³ Proposed Decision at 81-82.

A. Expand the 72-hour backup requirement to include wireless facilities that lost power during two or more discrete Public Safety Power Shutoff (PSPS) events, consistent with Decision 20-01-021.

RCRC supports the CPUC’s goal of “ensur[ing] that California’s wireless customers have access to communications services during disasters or power outages, can receive emergency alerts and notifications, and access the internet for critical information during times of crises”⁴ in order to “support those who are disproportionately affected most by disasters: emergency responders, frontline personnel, medical personnel, individuals with access and functional needs, and hard to reach customers.”⁵ Additionally, we agree with the notion that “The public has an expectation that they will hear a dial tone on their wireless device, receive emergency alerts and notifications on their wireless device, and access critical information during an emergency on their wireless device – especially when the power is out.”⁶

While we support the Proposed Decision’s overarching strategy to increase resiliency, we must reiterate our previous comments that “a 72-hour standard establishes an appropriate baseline,” but that “it cannot be acceptable for 9-1-1 or emergency notification services to go dark for any period of time – especially in rural and high fire risk areas during the wildfire season... The possibility of a communications site only remaining operational for 72 hours during a five-day (or longer) PSPS event is unacceptable.”⁷

Furthermore, we caution against limiting the scope of the 72-hour backup power requirement to portions of a wireless service provider’s service territories that are located in Tier 2 and Tier 3 High Fire Threat Districts (HFTD).⁸ Those areas encompass many of the regions impacted by last year’s PSPS events, but many other customers living outside of those Tier 2 and Tier 3 HFTDs also lost power. To address this concern and avoid leaving pockets of the state out of this resiliency strategy, we suggest adopting changes to make these requirements consistent with the geographic territory that is eligible for PSPS mitigation funding under the Equity Resiliency Budget of the Self-Generation Incentive Program (SGIP). The CPUC’s 2019 Equity Resiliency

⁴ Proposed Decision at 74.

⁵ Proposed Decision at 76.

⁶ Id.

⁷ Opening Comments of Rural County Representatives of California to the Assigned Commissioner’s Proposal, Order Instituting Rulemaking Regarding Emergency Disaster Relief Program, R-18-03-011, March 26, 2020 at 9.

⁸ Proposed Decision at 49.

Decision⁹ initially restricted SGIP PSPS mitigation funding to individuals living in Tier 2 and Tier 3 High Fire Threat Districts; however, Decision D.20-01-021 expanded eligibility to those customers either residing “in a Tier 3 or Tier 2 HFTD or whose electricity was shut off during two or more discrete PSPS events.”¹⁰ This change was in recognition of the fact that the late 2019 PSPS events were unprecedented in scale and impacted many residents outside of those Tier 3 and Tier 2 HFTDs.

In light of last year’s widespread communications outages, and in order to ensure that Californians have access to communications services, and to facilitate the continued operation of critical facilities and management of emergency response during PSPS events, the Proposed Decision should be modified to expand the 72-hour backup requirement to additionally include those wireless facilities that lost power during two or more discrete Public Safety Power Shutoff (PSPS) events. The added costs and challenges associated with this change should be significantly mitigated by the fact that the Proposed Decision allows wireless providers to identify in their Communications Resiliency Plans those “facilities that do not need backup power, are unable to support backup power due to a safety risk, or that are objectively impossible or infeasible to deploy backup power.”¹¹

These changes can be accomplished through adding the following Conclusion of Law, Paragraph 50, and renumbering the following paragraphs accordingly:

“It is reasonable to require the wireless providers to ensure that wireless facilities that lost power during two or more discrete Public Safety Power Shutoff (PSPS) events have 72-hours of backup power or explain why backup power is not necessary at each of those facilities.”

Additionally, Paragraph 2 of the ORDER should be modified to accomplish these changes as follows:

“2. Facilities-based wireless providers shall, in their Communications Resiliency Plan pursuant to Section 6.5.2 of this decision, demonstrate their ability to meet the 72-hour backup power requirement, in Tier 2 and Tier 3 High Fire Threat Districts **and at facilities that lost power during two or more discrete Public Safety Power Shutoff (PSPS) events**, consistent with Sections 6.4.2, 6.4.4, and 6.4.6 of this decision, as well as describe

⁹ D.19-09-027 - Decision Establishing a Self-Generation Incentive Program Equity Resiliency Budget, Modifying Existing Equity Budget Incentives, Approving Carry-Over of Accumulated Unspent Funds, and Approving \$10 million to Support the San Joaquin Disadvantaged Community Pilot Projects (September 12, 2019) at A1.

¹⁰ D.20-01-021 - Self-Generation Incentive Program Revisions Pursuant to Senate Bill 700 and Other Program Changes (January 16, 2020) at 40-41.

¹¹ Proposed Decision at 94.

their ability to maintain a minimum level of service and their long-term investment plan to comply with the 72-hour backup power requirement of this decision.”

B. Require Communications Resiliency Plans to additionally discuss actions that will be taken to mitigate service loss resulting from sites that are unable to support backup power due to a safety risk or where it is objectively impossible or infeasible to deploy backup power.

The Scoping Memo and Ruling and Assigned Commissioner’s Ruling explored whether to establish a waiver process through which entities could avoid the 72-hour backup requirement. In place of that waiver process, the Proposed Decision instead requires wireless providers to “identify, in their Resiliency Plans, facilities that do not need backup power, are unable to support backup power due to a safety risk, or that are objectively impossible or infeasible to deploy backup power.”¹²

The Proposed Decision requires wireless providers to “detail how service will otherwise be maintained for a minimum of 72 hours immediately following the loss of power” for those facilities or classes of facilities that do not require 72-hours of backup power.¹³ The important feature here is that wireless providers must explain why backup power is not necessary at those facilities to achieve the minimum service levels and achieve system resiliency.

Unfortunately, the Resiliency Plan requirements for other types of facilities that cannot comply with the 72-hour backup power requirement miss the mark. For wireless facilities (or classes of facilities) that are unable to comply with the 72-hour backup power requirement because of significant risk to safety of life or health, specific existing federal, state, tribal, or local laws, or where 72-hours of backup power is objectively impossible or infeasible to achieve, the wireless provider is merely required to “detail the impact to service.”¹⁴ There is no requirement for the wireless provider to take any additional measures to mitigate those impacts to service. Resiliency is not achieved solely through deployment of backup generation, but is the result of a portfolio of backup power, redundancy, network hardening, temporary facilities, etc. Where wireless providers cannot deploy backup generation, they should not merely be required to “detail the

¹² Proposed Decision at 94.

¹³ Proposed Decision at 95.

¹⁴ Id.

impacts to service” that will result, but should instead be required to mitigate those impacts and describe the mitigation measures in their Resiliency Plan.

To address these concerns, RCRC suggests incorporating the following changes into the Proposed Decision by modifying Conclusion of Law Paragraph 54 as follows:

“It is reasonable to allow the wireless providers to identify, in their Communications Resiliency Plans, facilities that do not need backup power, are unable to support backup power due to a safety risk, or are unable to support backup power because the conditions make it objectively impossible or infeasible to deploy backup power, **and to require a discussion of actions being taken by the wireless provider to mitigate service loss resulting from the lack of backup power at those locations.**”

Additionally, Paragraph 1 of the ORDER should be modified to accomplish these changes as follows:

“1. Facilities-based wireless providers shall file a Communications Resiliency Plan...The Communications Resiliency Plan shall include, but is not limited to, the following information:

...
“Identify facilities that do not need backup power, are unable to support backup power due to a safety risk, or that are objectively impossible or infeasible to deploy backup power pursuant to Section 6.6.2, **and discuss actions being taken by the wireless provider to mitigate service loss resulting from the lack of backup power at those locations;** and”

C. Adopt various changes to the Findings of Fact and Conclusions of Law to correct factual errors and avoid unnecessary limitations on the scope of this decision.

1. Findings of Fact

- a. **Paragraph 16** of the Proposed Decision’s Findings of Fact notes that “*The first major PSPS event took place on October 9-11, 2019, with the second and third event taking place between October 26- 31 that year.*”¹⁵

RCRC believes this is a factual error that can easily be addressed by clarifying that those were the largest PSPS events. Our member counties have experienced numerous PSPS events, and while the October 2019 events were certainly the largest, we dispute the notion that they were the first *major* PSPS events. The October 14-17, 2018 PSPS event impacted 60,000 customers across seven counties in the Bay Area and Sierra foothills. The June 7-9, 2019 event impacted 22,000 customers in the North Bay and Sierra Nevada foothills. The September 23 and 25,

¹⁵ Proposed Decision at 111.

2019 events impacted 26,000 customers and 49,000 customers respectively in the North Bay and Sierra foothills. These events, some of which resulted in the loss of power to over 100,000 Californians, should certainly be considered a “major PSPS event” as they caused widespread disruption of life and economic impacts throughout the communities affected.

In light of these facts, we suggest modifying Findings of Fact Paragraph 16 as follows:

“Many individual PSPS events have impacted tens of thousands of customers, with the first major largest PSPS events taking place on October 9-11 and 26-31, 2019, with the second and third event taking place between October 26-31 that year.”

- b. **Paragraph 62** of the Proposed Decision’s Findings of Fact notes that “Using fossil fuel generators for backup power reliability and resiliency in both the 2020 and 2021 wildfire and PSPS seasons may be necessary to ensure minimum continuity of service.”

While we understand the CPUC’s efforts to transition communications providers to cleaner, renewable sources of backup generation, there may be limitations on the capabilities of those devices in the near term. The Proposed Decision acknowledges those limitations and procurement challenges and so “allow[s] wireless providers to use fossil fuel generators for backup power in the short-term” while requiring Communications Resiliency Plans to include an approximate timeline of when and how the wireless provider will transition to renewable generation for backup power resiliency.¹⁶ Additionally, the Proposed Decision’s Conclusion of Law Paragraph 55 finds that “It is reasonable to allow the wireless providers to use fossil fuel generation as a primary backup power resource, *in the near-term* [emphasis added], but require the wireless providers to transition to a future of renewable backup generation.”¹⁷ The reality is that “the near term” may extend beyond the 2020 (which we are now entering) and 2021 fire and PSPS seasons, so this Finding of Fact is unnecessarily restrictive.

¹⁶ Proposed Decision at 100.

¹⁷ Proposed Decision at 126.

Considering the challenges associated with procurement and capabilities of renewable backup generators, and the fact that the Conclusion of Law allows use of fossil fuel generators over the “near term” rather than just in the 2020 and 2021 fire and PSPS seasons, we suggest slightly amending Finding of Fact Paragraph 62 as follows:

“Using fossil fuel generators for backup power reliability and resiliency in ~~both the 2020 and 2021 wildfire and PSPS seasons~~ the near term may be necessary to ensure minimum continuity of service.”

2. Conclusions of Law

- a. **Paragraph 2** of the Proposed Decision’s Conclusions of Law states that “California is in an unprecedented climate emergency that has produced increasingly deadly and destructive wildfires, and PSPS events.”

We believe this Conclusion of Law is factually inaccurate because it paints far too simple of a picture of what is an extremely complex problem. While climate change is a contributing factor to increasingly deadly and destructive wildfires and the utilization of PSPS events, the reality is much more complex. The California Forest Carbon Plan notes that “Decades of fire exclusion, coupled with drought and the stressors associated with climate warming, have dramatically increased the size and intensity of wildfires and bark beetle infestations and have exposed millions of urban and rural residents to unhealthy smoke-laden air.”¹⁸

Furthermore, while providing an essential public service, California’s electrical utilities are also responsible for some of the most devastating and destructive wildfires. Equipment owned by California’s three large investor-owned utilities ignited over 2,000 fires between 2014-2017.¹⁹ The Tubbs and Camp Fires together killed nearly 130 Californians and burned several hundred thousand acres

¹⁸ Forest Climate Action Team, 2018, California Forest Carbon Plan: Managing Our Forest Landscapes in a Changing Climate. Sacramento, CA. <https://ww2.arb.ca.gov/sites/default/files/2019-01/California-Forest-Carbon-Plan-Final-Draft-for-Public-Release-May-2018.pdf>, Page 1.

¹⁹ Wildfires and Climate Change: California’s Energy Future – A Report from Governor Newsom’s Strike Force, April 12, 2019, page 2. <https://www.gov.ca.gov/wp-content/uploads/2019/04/Wildfires-and-Climate-Change-California’s-Energy-Future.pdf>

of land and tens of thousands of structures.²⁰ As the Legislative Analyst’s Office noted in 2019, “some of the most damaging fires in the last couple of years have been ignited by utility equipment... Only about 10 percent of fires are started by utility equipment, and many of those fires result in little or no property damage. However, some of the most damaging fires are started by utility equipment. For example, utility powerlines caused at least 8 of the 20 most destructive fires (40 percent) in California’s history.”²¹

We suggest amending Conclusion of Law Paragraph 2 as follows to better reflect the more complex reality that has led to the increasing destructiveness of wildfires and utilization of PSPS events:

“California is in an unprecedented climate emergency that, **combined with decades of fire exclusion and aging electrical utility infrastructure, have** ~~has~~ produced increasingly deadly and destructive wildfires, and PSPS events.”

- b. **Paragraph 28** of the Proposed Decision’s Conclusions of Law states that “The regulatory measures promulgated in this Decision are consumer safeguards intended to protect the health and safety of utility customers, particularly those encountering wildfires and related public emergencies triggered by historic climate change.”

RCRC supports the Proposed Decision and generally agrees with this Conclusion of Law; however, it would benefit from three changes to address unnecessarily restrictive language and remedy the failure to explicitly reference that it is intended to safeguard consumers against the loss of power.

First, we suggest replacing “impacted by” with “encountering.” Utility customers do not necessarily “encounter” wildfires and related public emergencies, but are instead “impacted by” those events.

Next, we suggest adding “loss of power” to reflect that these measures are intended to protect consumers against the loss of electricity during a PSPS event.

²⁰ California Public Utilities Commission, CPUC Penalizes PG&E \$2 Billion for 2017 and 2018 Wildfires, May 7, 2020. <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M337/K016/337016958.PDF>

²¹ Legislative Analyst’s Office, Allocating Utility Wildfire Costs: Options and Issues for Consideration, June 2019. <https://lao.ca.gov/reports/2019/4079/allocating-wildfire-costs-062119.pdf>

Finally, we suggest editing the clause “triggered by historic climate change” to describe the wildfires and related public emergencies that these measures are intended to guard against. Climate change is certainly a factor in many of the emergencies, wildfires, and losses of power that the Proposed Decision contemplates; however, it is not the *only* trigger of those events, nor will it always be a trigger for each event. As noted above, many wildfires and PSPS events are attributable to a number of contributing factors, which may include, but are not limited to, climate change, overly dense forests, decades of excluding fire from our forest management tool kit, and electrical infrastructure. Paragraph 28 should be amended to acknowledge that the types of public emergencies and disasters envisioned in this proceeding are not all triggered by historic climate change, but may certainly be exacerbated by it.

We suggest amending Conclusion of Law Paragraph 28 as follows:

“The regulatory measures promulgated in this Decision are consumer safeguards intended to protect the health and safety of utility customers, particularly those **encountering impacted by** wildfires, **loss of power**, and related public emergencies **exacerbated by** ~~triggered by~~ historic climate change.”

IV. Conclusion

The Rural County Representatives of California respectfully requests that the Commission’s Docket Office be directed to accept these comments for filing and make the suggestions outlined above. We eagerly look forward to forthcoming CPUC “resiliency requirements for other providers,”²² as other Californians are dependent on landlines and/or internet access for communications.

Respectfully submitted,

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²² Proposed Decision at 108.

APPENDIX A

**PROPOSED CHANGES TO THE FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

This Appendix is provided in compliance with Rule 14.3(b) of the Rules of Practice and Procedure and contains RCRC’s proposed changes to the Findings of Fact and Conclusions of Law.

1. The following changes should be made to the Findings of Fact. Additions are underlined, and strikethroughs signify deletions.

a. Paragraph 16

“Many individual PSPS events have impacted tens of thousands of customers, with
the first major largest PSPS events took taking place on October 9-11 **and 26-31**, 2019,
with the second and third event taking place between October 26– 31 that year.”

b. Paragraph 62

“Using fossil fuel generators for backup power reliability and resiliency in ~~both the 2020~~
~~and 2021 wildfire and PSPS seasons~~ **the near term** may be necessary to ensure minimum
continuity of service.”

2. The following changes should be made to the Conclusions of Law. Additions are underlined, and strikethroughs signify deletions.

a. Paragraph 2

“California is in an unprecedented climate emergency that, **combined with decades of fire**
exclusion and aging electrical utility infrastructure, have ~~has~~ produced increasingly
deadly and destructive wildfires, and PSPS events.”

b. Paragraph 28

“The regulatory measures promulgated in this Decision are consumer safeguards intended
to protect the health and safety of utility customers, particularly those ~~encountering~~
impacted by wildfires, **loss of power**, and related public emergencies ~~exacerbated by~~
~~triggered by~~ historic climate change.”

c. Add a new Paragraph 50 and renumber the following paragraphs accordingly.

“It is reasonable to require the wireless providers to ensure that wireless facilities that
lost power during two or more discrete Public Safety Power Shutoff (PSPS) events

have 72-hours of backup power or explain why backup power is not necessary at each of those facilities.”

d. *Paragraph 54*

“It is reasonable to allow the wireless providers to identify, in their Communications Resiliency Plans, facilities that do not need backup power, are unable to support backup power due to a safety risk, or are unable to support backup power because the conditions make it objectively impossible or infeasible to deploy backup power, **and to require a discussion of actions being taken by the wireless provider to mitigate service loss resulting from the lack of backup power at those locations.”**

3. The following changes should be made to the Paragraphs 1 and 2 of the **ORDER**. Additions are underlined, and strikethroughs signify deletions.

Paragraph 1 of the ORDER

“1. Facilities-based wireless providers shall file a Communications Resiliency Plan...The Communications Resiliency Plan shall include, but is not limited to, the following information:

...

“Identify facilities that do not need backup power, are unable to support backup power due to a safety risk, or that are objectively impossible or infeasible to deploy backup power pursuant to Section 6.6.2, **and discuss actions being taken by the wireless provider to mitigate service loss resulting from the lack of backup power at those locations;** and”

Paragraph 2 of the ORDER

“2. Facilities-based wireless providers shall, in their Communications Resiliency Plan pursuant to Section 6.5.2 of this decision, demonstrate their ability to meet the 72-hour backup power requirement, in Tier 2 and Tier 3 High Fire Threat Districts **and at facilities that lost power during two or more discrete Public Safety Power Shutoff (PSPS) events**, consistent with Sections 6.4.2, 6.4.4, and 6.4.6 of this decision, as well as describe their ability to maintain a minimum level of service and their long-term investment plan to comply with the 72-hour backup power requirement of this decision.”