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**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA** H2207009

Resolution ALJ-440  
Administrative Law Judge Division  
June 8, 2023

**R E S O L U T I O N**

Resolution ALJ-440 Resolving Request for Hearing (H.) 22-07-009 in  
Administrative Enforcement Order Regarding 2020 Public Safety Power  
Shutoff Events Pursuant to Resolution M-4846

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**SUMMARY**

In this Resolution, the California Public Utilities Commission (Commission) approves and adopts the Settlement Agreement between Southern California Edison Company (SCE) and the Commission’s Safety and Enforcement Division (SED) to resolve SED’s investigation into alleged noncompliance with requirements in Resolution ESRB-8, Decision (D.) 19-05-042 and D.20-05-051 arising from SCE’s 2020 Public Safety Power Shutoff (PSPS) events.

SCE must pay a \$500,000 shareholder-funded fine to the General Fund of the State of California and a \$500,000 shareholder-funded payment to SCE’s Energy Assistance Fund. Payment shall be within 30 days of the Commission’s approval date of the Settlement Agreement as set forth in Section IV of the Settlement Agreement. SCE will also be subject to a \$6 million permanent disallowance of PSPS program-related costs that are eligible for tracking in the Wildfire Mitigation Plan Memorandum Account and/or Fire Risk Mitigation Memorandum Account. SCE must comply with 14 Corrective Actions set forth in SED’s Proposed Administrative Enforcement Order (AEO). Compliance with the Corrective Actions must be completed by June 23, 2023. SCE must also provide SED with quarterly validation of compliance with the Settlement Agreement for a period of two years after the Commission’s approval date of the Settlement Agreement as set forth in Section IV of the Settlement Agreement.

This Resolution finds the Settlement Agreement between SCE and SED complies with the guidelines and relevant precedent for adopting settlements and includes an analysis of the Penalty Assessment Methodology set forth in Commission Resolution M-4846.<sup>1</sup>

SCE's Motion to withdraw its request for hearing is granted. Proceeding H.22-07-009 will be closed as of the issuance of this Resolution.

## **BACKGROUND**

Resolution M-4846, issued in November 2020, adopted the Commission Enforcement and Penalty Policy (Enforcement Policy) and authorized Commission staff to issue a Proposed Administrative Enforcement Order (AEO), as well as to resolve an enforcement matter, subject to review and consideration by the Commission.

Investor-owned utilities (IOUs) have the authority to shut off the electric power to protect public safety under California Law. Utilities may do this during severe wildfire threat conditions as a preventive measure of last resort through a Public Safety Power Shutoff (PSPS). Such power shutoffs help reduce the risk of the IOUs' infrastructure to cause or contribute to a wildfire. When a PSPS event happens this can leave communities and essential facilities without power, which brings its own risks, particularly for vulnerable communities and individuals. From 2018 through 2020, the Commission issued three sets of guidelines, namely, Resolution ESRB-8, Decision (D.)19-05-042, and D.20-05-051, which provide direction to IOUs on the actions which they must undertake in PSPS executions.

In 2020, Southern California Edison Company (SCE) initiated a total of 16 PSPS events and submitted 12 post-event reports to the Commission. Stakeholders provided comments on the submitted post-event reports. The Commission's Safety and Enforcement Division (SED) conducted reviews on the submitted reports to evaluate SCE's compliance with the reporting requirements under Resolution ESRB-8, D.19-05-042, and D.20-05-051.

On June 15, 2022, SED issued a Proposed AEO to SCE.<sup>2</sup> In the Proposed AEO SED asserts that SCE did not comply with certain PSPS guidelines as established by the Commission. SED recommends in the Proposed AEO that SCE take 14 corrective actions set forth in the Proposed AEO. SED also recommends that SCE pay a monetary fine of \$10 million.

SCE disputed the findings of the Proposed AEO and on July 15, 2022, submitted a request for hearing on the Proposed AEO. SCE set forth the grounds for requesting a

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<sup>1</sup> The Penalty Assessment Methodology is set forth in Appendix I to the Enforcement Policy, which in turn is an attachment to Resolution M-4846.

<sup>2</sup> Attached to the Proposed AEO is a 2020 PSPS Post Event Report Review which summaries in detail SED's observations on SCE's 2020 PSPS compliance record.

hearing in its hearing request. Shortly after filing the request for hearing, the parties requested that the procedural schedule in this matter be stayed while the parties engaged in settlement discussions.

The procedural schedule was suspended until October 14, 2022, pending an update from SCE and SED on the status of their settlement discussions. On October 13, 2022, SCE and SED jointly filed a Motion for Approval of Settlement Agreement (Settlement Agreement).<sup>3</sup>

### **SUMMARY OF PARTIES POSITIONS**

The Proposed AEO alleges that SCE violated certain guidelines set forth in Resolution ESRB-8, D.19-05-042, and D.20-05-051, with respect to the 2020 PSPS events, including but not limited to guidelines pertaining to PSPS customer notifications and reporting thereof.

Among other things, in the Proposed AEO SED alleges that SCE failed to provide the required notifications during the de-energizing events. For SCE's alleged failure to comply with the Commission's required PSPS guidelines related to notification during and after the de-energizing events, the Proposed AEO sought to subject SCE to a \$10 million fine and requires SCE to undertake 14 corrective actions outlined in the Proposed AEO.

The Proposed AEO alleges that in 2020, SCE did not consistently provide to all de-energized customers three types of PSPS customer notices. The three types of PSPS customer notices are: (a) when the de-energization is initiated, (b) before re-energization begins, and (c) once re-energization is completed. SED contends that providing these three types of notices is in the control of the IOU because they are triggered by the utility's decisions to de-energize and to re-energize. SED also contends that there was a lack of clarity in reporting which notifications were sent out and which customers received them, and that these actions harmed the regulatory process.

SCE's position in this matter is that, in evaluating the need for and size of any penalty, the Proposed AEO should take into consideration certain surrounding circumstances and mitigating circumstances. These include the nature of the PSPS events, the fact that the PSPS program was relatively new in 2020, and SCE's focus on reducing the scope and duration of the PSPS events. SCE also asserts that the PSPS guidelines were new and evolving in 2020 and there was some confusion on SCE's part about which PSPS guidelines were considered mandatory, and which were discretionary.

SCE contends that although there may have been some violations, there is no evidence of any physical or economic harm to customers attributable to the alleged missed notifications. SCE also asserts that they are implementing its 2021 PSPS Corrective Action Plan and other PSPS improvements to address some of the issues that occurred

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<sup>3</sup> The Settlement Agreement is included as Attachment A to the Joint Motion for Approval of the Settlement Agreement.

in 2020. SCE asserts that these actions resulted in significantly diminished PSPS customer impacts during the 2021 fire season.

SCE further contends that by June 3, 2022, it has successfully completed all but one of the 132 corrective actions in the 2021 PSPS Corrective Action Plan. SCE also notes that in D.21-06-014, the Commission found that in balancing the need for utilities to initiate PSPS events in response to evolving, dangerous conditions against the need to do so safely, it would not impose penalties for the IOU's failure to fully comply in 2019 with customer notification and other PSPS guidelines and should rather create ongoing incentives for utilities to improve conduct.

### **SUMMARY OF SETTLEMENT TERMS**

The Settlement Agreement resolves all issues between SED and SCE. The Settlement Agreement provides that SCE will be subject to a penalty of \$7 million as follows: \$500,000 shareholder funded fine to the General Fund of the State of California; \$500,000 shareholder funded non-recoverable contribution to SCE's Energy Assistance Fund (EAF); \$6 million permanent disallowance of PSPS program related costs; compliance with all corrective actions set forth in the Proposed AEO (Proposed AEO Corrective Actions); and SCE will withdraw its request for hearing.

SCE shareholders will pay the \$500,000 fine to the General Fund of the State of California and \$500,000 non-recoverable contribution to SCE's Energy Assistance Fund. The payment to the General Fund will occur within 30 days of the adoption of the Settlement Agreement as set forth in Section IV of the Settlement Agreement. The payment to EAF will also occur within 30 days of the adoption of the Settlement Agreement as set forth in Section IV of the Settlement Agreement. EAF provides direct benefits to customers needing financial assistance in paying their electric bills. Through EAF, a maximum of \$100 of assistance is available once per 12 months to eligible California Alternate Rates for Energy (CARE) customers. SCE will not incur additional administrative costs in distributing the payment to the EAF program.

SCE will also permanently waive its right to seek cost recovery for the \$6 million of PSPS program-related costs focused on customer outreach, backup batteries, and notification improvements that are eligible for tracking in the Wildfire Mitigation Plan Memorandum Account and/or the Fire Risk Mitigation Memorandum Account. Of the \$6 million SCE incurred \$2.5 million in 2022 and the remainder will be incurred in 2023. SCE will demonstrate the aggregate \$6 million write-off in cost recovery applications covering reasonableness reviews for 2022-2023 for recorded costs above the amounts authorized for wildfire mitigation activities for those years in SCE's 2021 General Rate Case (D.21-08-036<sup>4</sup>).

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<sup>4</sup> Details of the allocation, timing, and specific PSPS programs and spending areas of the PSPS program-related costs are set forth in Appendix A to the Settlement Agreement.

The 14 corrective actions which SCE must comply with are as follows:

1. SCE must timely file, submit and serve the post-event report in compliance with the guideline requirements for each individual PSPS event. Should SCE require an extension of time to submit the post-event reports, SCE must submit a request for an extension of time in compliance with the Commission's Rules of Practice and Procedure and concurrently serve this request via email on the Commission's Safety and Enforcement Division Director.
2. SCE must report the number of de-energized customers broken down by the required categories.
3. SCE must report the local communities' representatives it contacted prior to the de-energization in addition to the jurisdiction.
4. SCE will implement a tracking system to completely track and report any formal and informal Commission complaints filed directly with SCE.
5. SCE must operate the Community Crew Vehicles/Customer Resource Centers (CRCs/CCV) in compliance with the required operation hours for each PSPS event. SCE must completely and accurately report the days and hours of operation, and provide the address and assistance offered in each CRC/CCV location.
6. SCE must send accurate and complete notifications to the Director of SED, including notification timeline and content.
7. SCE must report the threshold or criteria leading to the de-energization including, but not limited to the Fire Potential Index (FPI).
8. SCE must provide the alternatives it considered and the evaluation of each alternative.
9. SCE must send the notification to public safety partners and customers in compliance with the requirements under D.19-05-042 including timeline and notification content.
10. SCE must provide an evaluation of its engagement with local and state public safety partners.
11. For positive or affirmative notifications, SCE must track customers beyond critical care customers and provide the timing of such notification.
12. SCE must report lessons learned from each PSPS event.

13. SCE must enumerate and explain the cause of situations at-issue, which involves some level of perceived defect in notice, including but not limited to, when customers were de-energized without any advance notifications and when customers are notified for de-energization, but end up with no power shut off.

14. SCE must provide thorough and detailed quantitative factors in calling a PSPS event and why the de-energization was the last resort.

SCE has performed 12 of the 14 AEO Corrective Actions and has nearly completed the remaining two corrective actions. SCE will complete the remaining actions (Numbers four and six) and certify completion of all AEO Corrective Actions by June 30, 2023. SCE will also provide SED with quarterly validation of compliance with the Settlement Agreement for a period of two years after the adoption of the Settlement Agreement.

This Resolution provides an analysis of whether the Settlement Agreement should be adopted and an analysis of the Penalty Assessment Methodology (PAM) applicable to this Resolution.

## **DISCUSSION**

The Settlement Agreement must comply with Commission guidelines and relevant precedent for settlements. The general criteria for Commission approval of settlements are set forth in Rule 12.1(d) of the Commission's Rules of Practice and Procedure. Specifically, the Commission will not approve stipulations or settlements whether contested or uncontested, unless the stipulation or settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

The Commission must also assess the PAM. In D.22-04-057, the Commission set forth five factors that must be considered in evaluating the PAM. In determining the amount of a penalty for each violation, the Commission must consider the following: "[S]everity or gravity of the offense, conduct of the regulated entity, financial resources of the regulated entity, totality of the circumstances in furtherance of the public interest, and role of precedent."<sup>5</sup>

## **ADOPTION OF SETTLEMENT AGREEMENT**

### **A. The Settlement Agreement is Reasonable in Light of the Record**

The Proposed AEO and SCE's request for hearing set forth the record in this proceeding. SED and SCE reached settlement in this matter after several arm's length and good faith negotiations to obtain an understanding of each side's position and

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<sup>5</sup> D.22-04-057 at 3.

potential allegations and defenses with respect to the Proposed AEO. The parties are knowledgeable and experienced regarding the issues in this matter and after careful negotiations, have succeeded in achieving a settlement that they believe balances the various interests affected. The Settlement Agreement represents a negotiated compromise between the parties to avoid the risks, burdens, and expense of further litigation. Concessions by one party on some issues were offset by concessions by the other party on other issues. The Settlement Agreement represents a series of tradeoffs between the parties. Absent reaching the settlement, the parties would have had to continue to litigate their issues through an evidentiary hearing, with attendant expense, burden, and drain on finite Commission resources. For these reasons and in light of the terms the settling parties negotiated, the Settlement Agreement is reasonable.

**B. The Settlement Agreement is Consistent with Law**

We must evaluate whether the Settlement Agreement is consistent with the law. SED and SCE believe that the terms of the Settlement Agreement comply with all applicable statutes, rules, and prior Commission decisions. In agreeing to the terms of the Settlement Agreement, SED and SCE explicitly considered the relevant statutes and Commission decisions and assert that the Commission can approve the Settlement Agreement without any conflict with applicable statutes, tariffs, or prior Commission decisions. Without any evidence to suggest otherwise, we conclude that the Settlement Agreement is consistent with the law.

**C. The Settlement Agreement is in the Public Interest**

The Settlement Agreement represents a reasonable compromise of SCE's and SED's litigation positions. It resolves the issues in a prudent and economical manner and provides an appropriate, timely resolution of the disputed issues in this matter. Approval of the Settlement Agreement will allow stakeholders to avoid incurring the significant costs and burden that litigation often entails. By settling their issues, SCE and SED have helped conserve Commission resources that would otherwise be expended to preside over continued litigation and reach a final decision in the contested matter. The Settlement Agreement is in the public interest.

The Settlement Agreement is consistent with the Commission's policy favoring settlements and negotiated resolution of issues. By reaching a settlement SED and SCE were able to resolve all issues between them, without the expense of Commission resources. As such, the Settlement Agreement promotes judicial economy and efficiency. It is reasonable in light of the record as a whole, consistent with the law, and in the public interest. Accordingly, the Settlement Agreement should be approved and adopted in its entirety and without any modifications.

**PENALTY ASSESSMENT METHODOLOGY AND THE SETTLEMENT AGREEMENT**

Resolution M-4846 specifies the factors that must be considered when determining the amount of a penalty. As set forth below, the Settlement Agreement adequately accounts for the PAM factors of severity or gravity of the offense; conduct of the regulated utility; financial resources of the regulated entity; the totality of circumstances in furtherance of the public interest; and role of precedent. For the reasons set forth below, the Settlement Agreement complies with PAM.

**A. Severity or Gravity of the Offense**

The Commission has stated that the severity of the offense includes several considerations, including economic harm, physical harm, and harm to the regulatory process.<sup>6</sup>

**1. Physical and Economic Harm**

The Commission has described the physical and economic harm criteria as follows:

Economic harm reflects the amount of expense which was imposed upon the victims. In comparison, violations that cause actual physical harm to people or property are generally considered the most severe, followed by violations that threaten such harm.<sup>7</sup>

The Proposed AEO sought to fine SCE for failure to provide notification during the de-energization event. There is no evidence that there was any physical or economic harm due to the lack of notification. The number of customers affected is also unclear based on SCE's post-event reporting.

**2. Harm to the Regulatory Process**

As part of the severity of the offense factor, the Commission has described the harm to the regulatory process criterion as follows:

Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the Commission in the matters specified in this part, or any other matter in any way relating to or affecting its business as a public utility and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees. (Public Utilities (Pub. Util.) Code §702). Such compliance is essential to the proper functioning of the regulatory process. For this reason, disregarding a statutory or

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<sup>6</sup> D. 20-05-019 at 20.

<sup>7</sup> Enforcement Policy at 16.



Commission directive, regardless of the effects on the public, will be accorded a high level of severity.<sup>8</sup>

There were no allegations of Rule 1.1 violations and no allegations of other ethical violations, or any deliberate misconduct associated with SCE's execution of 2020 PSPS events. Accordingly, this was not a significant factor in determining the basis for the penalty imposed in the Settlement Agreement.

### **B. Conduct of the Regulated Entity**

The second factor we consider is the conduct of SCE. In describing the conduct of the utility aspect of the reasonableness analysis, the Commission has recognized the utility's conduct in: (1) preventing the violation; (2) detecting the violation, and (3) disclosing and rectifying the violation.<sup>9</sup>

The Commission gave IOUs discretion in several areas given the nature of the events and the infancy of the PSPS program in 2020. This is also true for advance notifications prior to a de-energization event. While the Commission recognizes the importance of advance notification prior to a PSPS, it also recognized situations where advance notice is impossible due to changing circumstances. Resolution ESRB-8 requires the IOU to notify customers to the extent feasible and appropriate, recognizing that it is not practicable to have an absolute requirement that electric IOUs provide advance notification to customers prior to a de-energization event. D.19-05-042 expanded somewhat on advance notifications to customers but again acknowledged there may be times when de-energization must occur with little to no notification in order to respond to an emergency situation, to avoid the risk of a utility-caused wildfire, or because de-energization occurs due to an unforeseen circumstance outside of the control of the utility. D.19-05-042 requires IOUs to provide advance notifications 48-72 hours in advance of an anticipated de-energization, 24-48 hours in advance, and 1-4 hours in advance whenever possible. It further recognizes that advance notification 1-4 hours before an anticipated de-energization event may not be possible at this juncture.

SED alleges that (1) the Commission does not extend deference to utilities in three instances of required notifications to affected customers: when a de-energization was initiated, when re-energization begins, and once re-energization is completed; (2) These events are unambiguous in that they are triggered by an event completely in the control of the utility, the physical de-energization; and (3) These notifications are required by the Commission.

SED alleges that during the PSPS events in 2020, there were instances where SCE did not send out notifications to affected customers when de-energization was initiated, immediately before re-energization began or when re-energization was complete.

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<sup>8</sup> Enforcement Policy at 17.

<sup>9</sup> *Ibid.*

However, while some customers may not have received a notification during de-energization or re-energization, they still may have received an advance notification prior to shut-off. It does not appear that any customers went through an entire PSPS event with no notification, in advance of the event or during it.

SCE's conduct in preventing the violation, detecting the violation, and disclosing and rectifying the violations was expressly considered while the parties engaged in confidential discussions that led to the Settlement Agreement.

**C. Financial Resources of the Regulated Entity, Including the Size of the Business**

The Commission has described this criterion as follows:

Effective deterrence also requires that staff recognize the financial resources of the regulated entity in setting a penalty that balances the need for deterrence with the constitutional limitations on excessive penalties. . . . If appropriate, penalty levels will be adjusted to achieve the objective of deterrence, without becoming excessive, based on each regulated entity's financial resources.<sup>10</sup>

SCE has approximately five million electric residential and commercial accounts, serving about 15 million people across a large and geographically diverse service territory. As such, SCE is one of the largest electric utilities in the state of California in terms of customers and revenue. The \$7 million, consisting of fines, contribution to SCE's EAF, safety measures, and disallowances, is enough to emphasize the importance of ensuring that appropriate notices are sent for future PSPS events. This amount is sufficiently substantial to have a deterrent effect.

**D. Totality of the Circumstances in Furtherance of the Public Interest**

The fourth factor under Resolution M-4846 is an evaluation of the penalty in the totality of the circumstances, with an emphasis on protecting the public interest. The Commission has described this criterion as follows:

Setting a penalty at a level that effectively deters further unlawful conduct by the regulated entity and others requires that staff specifically tailor the package of sanctions, including any penalty, to the unique facts of the case. Staff will review facts that tend to mitigate the degree of wrongdoing as well as any facts that exacerbate the wrongdoing. In all cases, the harm will be evaluated from the perspective of the public interest.

An economic benefit amount shall be estimated for every violation. Economic benefit includes any savings or monetary

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<sup>10</sup> Enforcement Policy at 19.

gain derived from the act or omission that constitutes the violation.<sup>11</sup>

The totality of the circumstances in furtherance of public interest supports approval of the Settlement Agreement. First, it provides a significant resolution of the issues identified here. SCE agrees to fines, a contribution to SCE's EAF, a permanent disallowance of PSPS program-related costs, and safety measures totaling \$7 million, consisting of:

- \$500,000: Shareholder-funded fine to the General Fund of the State of California;
- \$500,000: Shareholder-funded contribution to SCE's EAF;
- \$6,000,000 Permanent Disallowances of PSPS program-related costs; and
- 14 Corrective Actions set forth in the Proposed AEO.

Second, with an appropriate resolution having been reached, it is in the public interest to resolve this proceeding now. The Settlement Agreement obviates the need for the Commission to adjudicate the disputed facts, alleged violations, and appropriate penalties. Approval of the Settlement Agreement promotes administrative efficiency so that the Commission and parties are not required to expend substantial time and resources on continued litigation for a matter that has been satisfactorily resolved.

#### **E. The Role of Precedent**

The Commission has described the role of precedent as follows:

Penalties are assessed in a wide range of cases. The penalties assessed in cases are not usually directly comparable. Nevertheless, when a case involves reasonably comparable factual circumstances to another case where penalties were assessed, the similarities and differences between the two cases should be considered in setting the penalty amount.<sup>12</sup>

This and the concurrently issued AEOs constitute the first use of the AEO process to enforce PSPS requirements since the Commission issued D.19-05-042 and D.20-05-051.

The following are examples of approved enforcement decisions involving 2020 PSPS events.

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<sup>11</sup> *Ibid.*

<sup>12</sup> *Id.* at 21.

**1. San Diego Gas & Electric Company (SDG&E) 2020 PSPS Events (Resolution M-4863)**

In this proceeding, the CPUC approved an AEO issued by SED against SDG&E concerning SDG&E's 2020 PSPS events. In 2020, SDG&E submitted five post-PSPS event reports to the Commission. These reports summarized SDG&E's seven PSPS events. Based on the information in the submitted reports SED issued a Post Event Report Review that summarized the findings of the seven 2020 PSPS events. SED's Post Event Report Review found SDG&E did not comply with ESRB-8, D.19-05-042, and D.20-05-051. This AEO proposed a fine of \$24,000 and included eight corrective actions that SDG&E must comply with. SDG&E did not request a hearing on the AEO and paid the fine associated with the AEO.

**2. PacifiCorp 2020 PSPS Events (Resolution M-4862)**

In this proceeding, the CPUC approved an AEO issued by SED against PacifiCorp concerning PacifiCorp's 2020 PSPS events. In 2020, PacifiCorp initiated a total of three PSPS events and submitted two post-PSPS event reports to the Commission. Based on the information submitted in these reports, SED released a Post Event Report Review that summarized the findings of those three 2020 PSPS events. SED's Post Event Report Review found PacifiCorp did not comply with certain reporting requirements under Resolution ESRB-8, D.19-05-042 and D.20-05-051. The AEO did not propose any monetary fines but required compliance with various corrective actions. PacifiCorp did not request a hearing on the AEO and the corrective actions in the AEO became final.

While this and other concurrently issued AEOs may constitute the first use of an AEO to enforce PSPS requirements, we note that we previously investigated violations stemming from the PSPS events in 2019 conducted by Pacific Gas and Electric Company (PG&E), SCE, and SDG&E and directed the utilities to take certain corrective actions. (See D.21-06-014, Decision Addressing the Late 2019 Public Safety Power Shutoffs by Pacific Gas and Electric Company, Southern California Edison, and San Diego Gas & Electric Company to Mitigate the Risk of Wildfire Caused by Utility Infrastructure). We also separately investigated violations stemming from PG&E's PSPS events of late 2019 and issued D.21-09-026, which imposed various penalties for PG&E's violations of implementation and reporting requirements.<sup>13</sup>

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<sup>13</sup> PG&E was assessed a \$106.003 million fine, which was offset by \$86 million based on bill credits provided by PG&E to some customers in 2019. The net fine assessed was \$20.003 million.

As the Enforcement Policy notes, “The penalties assessed in cases are not usually directly comparable.”<sup>14</sup> That appears to be the situation here – an examination of potentially relevant Commission precedent shows that the factual circumstances presented in D.21-06-014 and D.21-09-026 are not exactly comparable to those in this case, except in a very broad sense. We find these precedents in D.21-06-014 and D.21-09-026 do not weigh in favor of a higher penalty under the circumstances. We find that SED’s and SCE’s evaluation of the Methodology factors and the proposed penalty constitutes a reasonable resolution of the violations stemming from SCE’s 2020 PSPS events.

The Settlement Agreement is reasonable when compared to the outcome of other AEOs to enforce PSPS requirements. In Resolution M-4863, SDG&E had a total of seven PSPS events in which SED found SDG&E failed to comply with Resolution ERSB-8, D.19-05-042, and D.20-05-051. This resulted in corrective actions against SDG&E and a monetary fine of \$24,000. In Resolution M-4862, PacifCorp had three PSPS events in which SED found PacifCorp did not comply with Resolution ERSB-8, D.19-05-042, and D.20-05-051. This resulted in corrective actions against PacifCorp. Here, SCE had 16 PSPS events that resulted in SED issuing the Proposed AEO.

When examined in a broad manner, the level of sanctions imposed here is certainly within the range previously imposed by the Commission, which ranges from no fine to a net fine of \$20.003 million. Based on the totality of the circumstances the Settlement Agreement results in a reasonable outcome considering the applicable precedents and the strengths and weaknesses of SED’s Proposed AEO and SCE’s position set forth in its request for hearing.

Resolution M-4846 specifies the factors that must be considered when determining the amount of a penalty. As set forth above, the Settlement Agreement adequately accounts for the PAM factors of severity or gravity of the offense; conduct of the regulated utility; financial resources of the regulated entity; the totality of circumstances in furtherance of the public interest; and role of precedent. For the reasons set forth above, the Settlement Agreement complies with PAM.

#### **MOTION TO WITHDRAW REQUEST FOR A HEARING AND OTHER MOTIONS FILED**

On May 1, 2023, SCE filed a motion to withdraw its request for a hearing on the Proposed AEO contingent upon the Commission adopting the Settlement Agreement. This Resolution adopts the Settlement Agreement as submitted by SED and SCE. Therefore, SCE’s motion to withdraw its request for hearing on the Proposed AEO is granted.

All other motions not previously ruled on or addressed in this Resolution are denied.

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<sup>14</sup> Enforcement Policy at 21.

**COMMENTS ON DRAFT RESOLUTION**

No public review and comment is required for this Resolution because public review and comment are waived pursuant to Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure.

**ASSIGNMENT OF PROCEEDING**

Gerald F. Kelly is the assigned Administrative Law Judge for this proceeding.

**FINDINGS AND CONCLUSIONS**

1. Resolution M-4846, issued in November 2020, adopted the Commission Enforcement and Penalty Policy (Enforcement Policy) and authorized Commission staff to issue a Proposed Administrative Enforcement Order (AEO), as well as to resolve an enforcement matter, subject to review and consideration by the Commission.
2. SED issued the Proposed AEO on June 15, 2022.
3. SCE filed a request for hearing on July 15, 2022.
4. SCE and SED jointly filed a motion for adoption of the Settlement Agreement on October 13, 2022.
5. The Settlement Agreement complies with Commission guidelines and relevant precedent for adoption of a settlement agreement.
6. The Settlement Agreement is consistent with the PAM guidelines set forth in Resolution M-4846.
7. SCE filed a Motion to withdraw its request for hearing on the Proposed AEO on May 1, 2023.
8. SCE's Motion to withdraw its request for hearing on the Proposed AEO should be granted.
9. The fines, contribution to SCE's EAF, \$6 million permanent disallowance of PSPS program-related costs, and 14 corrective actions in the Settlement Agreement resolve all issues related to SED's investigation of SCE's 2020 PSPS events.
10. This proceeding should be closed.

**THEREFORE, IT IS ORDERED** that:

1. The Settlement Agreement between the Commission's Safety and Enforcement Division and Southern California Edison Company filed on October 13, 2022, is adopted.
2. Southern California Edison Company (SCE) shall comply with all requirements in the Settlement Agreement relating to its 2020 Public Safety Power Shutoff event violations.
3. Southern California Edison Company (SCE) shall pay a \$500,000 shareholder-funded fine into the General Fund of the State of California as follows: SCE shall make one lump sum payment of \$500,000 by check, money order, or other form of payment acceptable to the Commission, payable to the California Public Utilities Commission (Commission) and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102, within 30 days of the effective date of this Resolution. SCE shall write on the face of the check or money order "For deposit to the General Fund pursuant to Resolution ALJ-440."
4. Southern California Edison Company (SCE) shall make a shareholder-funded contribution to SCE's Energy Assistance Fund (EAF) in the amount of \$500,000. The payment to the EAF shall occur within 30 days of the effective date of this Resolution.
5. Southern California Edison shall also be subject to a \$6 million permanent disallowance of Public Safety Power Shutoff program-related costs that are eligible for tracking in the Wildfire Mitigation Memorandum Account and/or Fire Risk Mitigation Memorandum Account.
6. Southern California Edison Company (SCE) must also comply with the 14 Corrective Actions set forth in the Settlement Agreement. SCE must comply with the 14 Corrective Actions no later than June 30, 2023.
7. Southern California Edison must provide the California Public Utility Commission's (Commission) Safety and Enforcement Division with quarterly validation of compliance with the Settlement Agreement for a period of two years after the Commission approval of the Settlement Agreement as defined in Section IV of the Settlement Agreement.
8. Southern California Edison's Motion to withdraw its request for hearing of the Proposed Administrative Enforcement Order is granted.

9. The proceeding is closed.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on June 8, 2023, the following Commissioners voting favorably thereon:

/s/ RACHEL PETERSON

Rachel Peterson  
Executive Director

ALICE REYNOLDS  
President  
GENEVIEVE SHIROMA  
DARCIE L. HOUCK  
JOHN REYNOLDS  
KAREN DOUGLAS  
Commissioners