

November 22, 2021

Rachel Peterson
Executive Director
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102
rachel.peterson@cpuc.ca.gov

Re: Sonoma County Response to Resolution SED-6 Adopting the Administrative Consent Order and Agreement between SED and PG&E Relating to the 2019 Kincade Fire

Dear Executive Director Peterson:

In accordance with Rule 14.5 of the Commission's Rules of Practice and Procedure, the County of Sonoma submits its response to Draft Resolution SED-6, which proposed to adopt the Administrative Consent Order and Agreement (Consent Order) between SED and PG&E relating to the 2019 Kincade Fire and impose \$125 million penalty on PG&E for its conduct that contributed to that fire. Sonoma, as the county impacted by the Kincade Fire, appreciates SED's diligence in investigating the fire and identifying violations of General Order 95 and Public Utilities Code section 451. Sonoma does, however, have concerns regarding certain provisions of the Consent Order and the process by which SED and PG&E reached their agreement.

Concerns Regarding the Consent Order

Sonoma has no objection to the proposed \$40 million penalty payment to the State General Fund or the proposed \$85 million in forgone cost recovery for PG&E's removal of permanently abandoned transmission facilities.¹ Based on PG&E's violations, it is appropriate that the utility pay a fine and remediate abandoned infrastructure at shareholder expense. The proposed framework for PG&E's facility removal and shareholder funding, however, does not provide sufficient transparency into PG&E's facility removal plan or sufficient assurance that PG&E shareholders will bear the full \$85 million in costs.

The Consent Order indicates that PG&E will remove the conductor and structures, as applicable, associated with approximately 70 permanently abandoned transmission lines or portions of lines, over a 10-year period.² The Consent Order further provides that PG&E will

¹ Consent Order, p. 4.

² *Id.* at p. 5.

provide its removal plan to SED by April 1, 2022.³ Given the potentially catastrophic consequences of failure of abandoned transmission facilities, and the interests of the communities in which those facilities are located, PG&E's workplan should be made public and should include an explanation of how PG&E identified the facilities and assessed their potential failure risk. Sonoma County wants to know if any of the abandoned facilities are located in the County, the potential risk those facilities pose, and when PG&E will remove them. Sonoma imagines that other communities in PG&E's service territory will feel similarly.

Additionally, it is not clear from the face of the Consent Order that PG&E is guaranteed to perform \$85 million of shareholder-funded removal work by December 31, 2024, which is the cutoff date provided in the Consent Order.⁴ Because the Consent Order provides that PG&E will forgo cost recovery for \$85 million in removal work incurred by the end of 2024, but provides a 10-year timeline for PG&E to complete work identified in its transmission facility removal plan, it appears there is a possibility for PG&E to slow-roll its removal work and cost incursions until 2025. While it may be that PG&E is sincere about being proactive in removing abandoned facilities and incurring the full \$85 million in costs by the end of 2024, Sonoma would appreciate additional clarity in the final Resolution that it is certain that PG&E will prioritize the removal of abandoned facilities and forgo the full \$85 million in facility removal costs.

Concerns Regarding the Process

Sonoma understands that SED and PG&E reached the Consent Order under the recently adopted Enforcement Policy, instead of under the auspices of an Order Instituting Investigation or Order to Show Cause into PG&E's role in the Kincade Fire. Sonoma does not take issue with the Commission's Enforcement Policy. It is not clear, however, that allowing full investigation and resolution of large-scale utility-caused disasters to be completed without the knowledge or input of the impacted communities is the appropriate use of the Enforcement Policy. The Commission opened OIIs into the San Bruno tragedy and PG&E's 2017 and 2018 wildfires; the impacted communities participated and achieved outcomes that redressed some of the harm they suffered and provided for improvements in PG&E's operations going forward. Sonoma would have liked the opportunity to do the same with respect to the Kincade Fire. Sonoma also notes that the Commission used the same private process to resolve SCE's 2017 and 2018 wildfires, which had catastrophic consequences.⁵

Resolutions SED-5 and SED-6 suggest that the Commission is contemplating resolving all future utility-caused disasters behind closed doors. The Commission should not do this. Sonoma believes that SED is capable and diligent in its investigations and enforcement actions, and that SED has the interests of impacted customers and communities in mind. Sonoma also understands the importance of addressing and resolving utility violations expeditiously. But there is no substitute for impacted communities' input, particularly with respect to going-forward changes in utility operations that are specific to the needs of the community. For future large-scale utility-caused disasters, the Commission should combine efficiency and public processes.

³ *Ibid.*

⁴ Consent Order, p. 5.

⁵ Resolution SED-5.

Conclusion

Sonoma appreciates SED's diligence in investigating and resolving PG&E's violations in connection with the Kincade Fire. The penalties and remediation measures set forth in the Consent Order appear appropriate in light of PG&E's failures. Sonoma would, however, appreciate additional clarity on the terms of PG&E's shareholder funding commitment, and PG&E's proposed work plan for removing decommissioned transmission facilities should be made public. Sonoma also asks the Commission to reconsider using the private enforcement process to resolve future large-scale utility-caused disasters that impact our communities.

Sincerely,

DOWNEY BRAND LLP



Megan J. Somogyi

MJS

cc: Leslie Palmer, Director, Safety and Enforcement Division (leslie.palmer@cpuc.ca.gov)
Meredith Allen (MEAE@pge.com)
Alyssa Koo (ATK4@pge.com)
Joel Crane (JP39@pge.com)
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