

CALIFORNIA PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of:

San Diego Gas & Electric Company's
Execution of 2020 Public Safety Power
Shutoff Events

[PROPOSED] ADMINISTRATIVE
ENFORCEMENT ORDER

[PROPOSED] ADMINISTRATIVE ENFORCEMENT ORDER

YOU ARE GIVEN NOTICE THAT:

1. San Diego Gas & Electric Company is alleged to have violated Commission Resolution ESRB-8, Decision (D.) 19-05-042, D.20-05-051.
2. The California Public Utilities Commission's Safety and Enforcement Division (SED or Division) issues this proposed Administrative Enforcement Order (Proposed Order) to San Diego Gas & Electric Company (SDG&E or Respondent) pursuant to the Commission Enforcement Policy adopted by Resolution M-4846 (Policy). Pursuant to the Policy, SED is authorized to issue a proposed Administrative Enforcement Order (Proposed Order) to a regulated entity that has violated a Commission order, resolution, decision, general order, or rule. That Proposed Order may include a directive to pay a penalty.

RIGHT TO HEARING

3. Respondent is required to respond to this Proposed Order by 5:00 p.m. on ***Friday, July 15, 2022***. By way of such response, Respondent, must either: 1) pay any penalty required by this Proposed Order or 2) request a hearing on the Proposed Order. To request a hearing, the Respondent must file a Request for Hearing (including a complete title page complying with Rule 1.6 of the Commission's Rules of Practice and Procedure) along with copies of any materials the Respondent wants to provide in support of its request with the Commission's Docket Office **and** must serve the Request for Hearing, at a minimum, on:
 - 1) The Chief Administrative Law Judge (with an electronic copy to Administrative_Enforcement_Appeals_Coordinator@cpuc.ca.gov).
 - 2) The Director of Safety and Enforcement Division
 - 3) The Executive Director
 - 4) General Counsel
 - 5) The Director of the Public Advocates Office at the California Public Utilities Commission

The right to a hearing is forfeited if a Request for Hearing is not timely filed. If a timely Request for Hearing is not filed, this Proposed Order will become final and effective upon adoption by the Commission (Final Order).

4. Respondent must comply with the corrective action requirements of this Proposed Order by the date specified in the Proposed Order in paragraph 12 below, regardless of whether a Request for Hearing is filed. Neither payment of the penalty assessed in this Proposed Order nor the filing of a timely Request for Hearing shall excuse Respondent from curing the violations identified in this Proposed Order.
5. A requested hearing shall be conducted by an Administrative Law Judge in accordance with the hearing provisions in the Citation Appellate Rules. After hearing, this Proposed Order or any Administrative Law Judge modifications to the Proposed Order shall become a Final Order, effective upon Commission approval of the draft resolution prepared by the Administrative Law Judge. The draft Administrative Law Judge resolution approved by the Commission is subject to rehearing pursuant to Public Utilities Code section 1731 and to judicial review pursuant to Public Utilities Code section 1756.
6. This Proposed Order includes a requirement that Respondent pay a penalty. The factors set forth in the Penalty Assessment Methodology (Policy, Appendix I) were used to determine the penalty amount. The requirement that the penalty be paid shall be stayed during the hearing and rehearing process.
7. Unless otherwise specified, "days" means calendar days.

FINDINGS

8. ***Facts:*** Investor-owned utilities (IOUs) have the authority to shut off the electric power to protect public safety under California law. Utilities do this during severe wildfire threat conditions as a preventative measure of last resort through Public Safety Power Shutoff (PSPS). Such power cuts reduce the risk of the IOUs' infrastructure to cause or contribute to a wildfire. However, a PSPS can leave communities and essential facilities without power, which brings its own risks and hardships, particularly for vulnerable communities and individuals. From 2018 through 2020, the Commission issued three sets of guidelines, namely, Resolution ESRB-8, D.19-05-042 and D.20-05-051, directing the IOUs to follow these guidelines in PSPS execution. In 2020, SDG&E initiated a total of seven PSPS events and submitted five post event reports to CPUC. Stakeholders provided comments on these post event reports. SED performed reviews on the submitted reports, including consideration of stakeholder comments, to evaluate SDG&E's compliance with the reporting requirements under Resolution ESRB-8, D.19-05-042 and D.20-05-051.

Table 1

Report #	Report Title	Events Covered
1	September 8 – September 9, 2020	Sep. 8 – Sep. 9
2	September 28 – September 29, 2020	Sep. 28 -Sep. 29
3	October 26 – October 27, 2020	Oct. 26 – Oct. 27
4	November 26 – December 9, 2020	1. Nov. 26 – Nov. 28 2. Dec. 2 – Dec. 5 3. Dec. 6 – Dec. 9
5	December 23 – December 24, 2020	Dec. 23 – Dec. 24

SDG&E did not fully comply with certain provisions of Commission Resolution ESRB-8, D.19-05-042 and D.20-05-051. Please see attachment “2020 Public Safety Power Shutoff (PSPS) Post Event Report Review - San Diego Gas & Electric Company” for more details.

A. Resolution ESRB-8 states in part “IOUs shall submit a report to the Director of SED within 10 business days after each de-energization event, as well as after high-threat events where the IOU provided notifications to local government, agencies, and customers of possible de-energization though no de-energization occurred”. (ESRB-8 at 5).

A.1. In the November 26 through December 9 report, SDG&E covered three PSPS events. SDG&E combined the three events into one reporting without prior approval from SED. SDG&E did not meet the reporting deadline for two of the three events. See details below:

Table 2

Weather Events	Event concluded	Report due dates	SDG&E’s filing dates	Dates overdue
November 26 – 28	Nov. 28	Dec. 11	Dec. 23	12
December 2 – 5	Dec. 5	Dec. 18	Dec. 23	5
December 6 – 9	Dec. 9	Dec. 23	Dec. 23	N/A

B. D.19-05-042 Appendix A states in part “[i]n addition to submitting a report to the Director of the Commission’s Safety and Enforcement Division within 10 business days of power restoration, electric investor-owned utilities must serve their de-energization report on the service lists of this proceeding and Rulemaking 18-10-007 or their successor proceedings. Service should include a link to the report on the utility’s website and contact information to submit comments to the Director of the Safety and Enforcement Division.” (Appendix A at A22).

B.1. SDG&E’s November 26 – December 9 post event report, served on December 23, 2020, covered multiple events. SDG&E missed the deadline for the following two events.

Table 3

Weather Events	Event concluded	Service due dates	SDG&E's serving dates	Dates overdue
November 26 – 28	Nov. 28	Dec. 11	Dec. 23	12
December 2 – 5	Dec. 5	Dec. 18	Dec. 23	5

C. D.19-05-042 Appendix A states in part “the electric investor-owned utilities must provide the decision criteria leading to de-energization, including an evaluation of alternatives to de-energization that were considered and mitigation measures used to decrease the risk of utility-caused wildfire in the de-energized area” (D.19-05-042 at A22-A23). “Each electric investor-owned utility must clearly articulate thresholds for strong wind events as well as the conditions that define “an extreme fire hazard” (humidity, fuel dryness, temperature) that the electric investor-owned utility evaluates in considering whether to de-energize.” (D.19-05-042 at 91).

C.1 SDG&E reported it considered various factors in calling a PSPS event. However, it has not developed a specific PSPS algorithm that lists, quantifies and calculates the weight of each factor that is incorporated into a PSPS. SDG&E did not clearly articulate the decision criteria and threshold for each event.

C.2 SDG&E reported once extreme fire risk weather conditions have materialized, alternatives to PSPS are limited. However, SDG&E did not provide the specific alternatives it considered for each event nor the evaluation of the alternatives.

D. D.19-05-042 states in part “[t] the electric investor-owned utilities must provide notice when a decision to de-energize is made, at the beginning of a de-energization event, when re-energization begins and when re-energization is complete. The electric investor-owned utilities should, whenever possible, adhere to the following minimum notification timeline:”

- 48-72 hours in advance of anticipated de-energization: notification of public safety partners/priority notification entities
- 24-48 hours in advance of anticipated de-energization: notification of all other affected customers/populations
- 1-4 hours in advance of anticipated de-energization, if possible: notification of all affected customers/populations
- When de-energization is initiated: notification of all affected customers/populations
- Immediately before re-energization begins: notification of all affected customers/populations

- When re-energization is complete: notification of all affected customers/populations (D.19-05-042 at A8).

D.1. For four of the five reports submitted, SDG&E did not comply with the required minimum notification timeline. These included:

D.1.1 No de-energization initiation notifications to customers.

D.1.2 No 1-4 hour imminent notifications

Table 3 lists the notification timeline noncompliance for each event (page number references are to SDG&E’s PSPS post event report for the dates listed)

Table 3

Event dates	Non-compliance
Sep. 8 – Sep. 9	No notifications to customers when the de-energization was initiated.
Nov. 26 – Dec. 9	No 1-4 hour imminent notifications (Appendix 1, Page 2-3)
Dec. 23 – Dec. 24	No 1-4 hour imminent notifications (Appendix 1, Page 2)

D.2 SDG&E did not send out any advance notifications to some customers prior to the beginning of de-energizations in three instances. The number of customer not provided any advance notifications are below:

- October 26 – 27: 1,466 customers
 - November 26 – December 9: 5,510 customers
 - December 23 – 24: 1,765 customers
- Total: 8,741 customers

D.3 For the September 8 – 9 event, SDG&E did not send the restoration completion notifications to public safety partners. (page 34)

E. D.19-05-042 states in part “[t]he electric investor-owned utilities must partner with local public safety partners to communicate with all other customers that a de-energization event is possible, the estimated start date and time of the de-energization event, the estimated length of the de-energization event, which may be communicated as a range, and the estimated time to power restoration, which again, may be communicated as a range.” (D.19-05-042 at A17).

E.1 SDG&E’s customer notifications did not contain the estimated length of the de-energization event, and the estimated time of restoration.

F. D.19-05-042 states in part “the electric investor-owned utilities must provide the following information: 4) A description and evaluation of engagement with local

and state public safety partners in providing advanced education and outreach and notification during the de-energization event” (D.19-05-042 at A22-A23).

F.1 SDG&E did not report it evaluated the engagement with local and state public safety partners by conducting a survey after the September 28-29 PSPS event although there was no actual power shut off during the event.

G. D.19-05-042 states in part “the electric investor-owned utilities must provide the following information: 5) For those customers where positive or affirmative notification was attempted, an accounting of the customers (which tariff and/or access and functional needs population designation), the number of notification attempts made, the timing of attempts, who made the notification attempt (utility or public safety partner) and the number of customers for whom positive notification was achieved;” (D.19-05-042 at A22-A23).

G.1. SDG&E reported that it successfully made affirmative notifications to medical baseline (MBL) customers who were not reached by phone. However, SDG&E did not report the number of notification attempts made to MBL customers and the timing of attempts.

H. D.20-05-051, Appendix A (c) states in part “[e]ach electric investor-owned utility shall enumerate and explain the cause of any false communications in its post event reports by citing the sources of changing data” (D.20-05-051 at Appendix A, page 4).

H.1. SDG&E did not enumerate nor explain the cause for instances when customers were notified of de-energization but did not have their power shut off.

I. D.20-05-051, Appendix A (h) states in part “[t]hese reports shall include a thorough and detailed description of the quantitative and qualitative factors it considered in calling, sustaining, or curtailing each de-energization event (including information regarding why the de-energization event was a last resort option) and a specification of the factors that led to the conclusion of the de-energization event. (D.20-05-051 at Appendix A, page 9).

I.1. SDG&E did not provide thorough and detailed quantitative factors it used to decide to call a PSPS event and why the de-energization was the last resort.

PENALTIES

9. The Commission has broad authority to impose penalties on any public utility that “fails or neglects to comply with any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the commission.” (PU Code § 2106). We outlined several instances in this Order where SDG&E did not meet the

provisions of Resolution ESRB-8, D.19-05-042, and D.20-05-051 as directed by the Commission. In part, these orders give guidance to IOUs of the type and timing of notifications to customers and public safety partners. In assessing penalties, we follow the Penalty Assessment Methodology as set forth by the Commission and outlined in Resolution M-4846. This methodology evaluates the reasonableness of a penalty using a five-factor analysis.

As discussed below, given the deferential nature of the PSPS requirements, SDG&E's failure to notify some customers during de-energization and re-energization, the evolving nature of the PSPS program, SDG&E's financial resources in being able to pay a fine, and the public interest in timely notifying customers and public safety partners before, during and after a PSPS event, SED recommends a fine of \$24,000.

I. Severity or Gravity of the Offense

The severity of the offense considers the physical and economic harms of the offenses, harm to the regulatory process, and the number of people affected by the offense. As we explain below, the violation SDG&E is fined for is a failure to provide notifications during the de-energization event. There is no evidence that there was any physical or economic harm because of the lack of notification. The number of customers affected by the violation was not especially numerous. For example, during the PSPS event on September 8-9, no notification was sent out during de-energization or re-energization but only 49 customers were affected. Furthermore, the lack of clarity in the reporting of which notifications were sent out and which customers received them posed a harm to the regulatory process. For example, SDG&E references an "overnight" notification but makes no reference to Commission's decision that requires this type of notification.

II. Conduct of the Regulated Entity

The second factor we consider is the conduct of SDG&E. We are mindful that the Commission gave IOUs great discretion in several areas given the dynamic nature of these events and the infancy of the PSPS program. This is especially true of advance notifications prior to a de-energization event. While the Commission highlights 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" (p. 4), recognizing that "it is not practicable to have an absolute requirement that electric IOUs provide advance notification to customer prior to a de-energization event." (p. 5). 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.” (pp. 85-86).

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”. (p. 86-87). It further recognizes that advanced notification 1-4 hours before an anticipate de-energization event “may not be possible at this juncture.” (p. 87, fn. 93).

With that, the Commission does not extend deference to utilities in three instances of required notification to affected customers; when de-energization was initiated, when re-energization begins, and once re-energization is completed. These events are unambiguous in that they are triggered by an event completely in the control of the utility— the physical de-energization. These notifications are required by order of the Commission.

This Order and the accompanying report lay out instances where SDG&E did not provide advance notifications to certain customers as required by the Commission. SDG&E is required to explain why no advanced notification was made to these customers and should use this information to better inform decisions for future PSPS events.

During the PSPS events in 2020, there were instances SDG&E did not send out notifications to affected customers when de-energization was initiated, immediately before re-energization began or when re-energization was complete. As noted above, the September 8-9 event saw several customers receiving no notifications at the initiation of and conclusion of the event. SDG&E’s failure to provide those notifications to customers was a violation of D.19-05-042. But we would point out that while a customer may not have received a notification during de-energization or re-energization, they may have still received an advance notification prior to shut-off. It does not appear that any customer would have gone through an entire PSPS event with no notifications, in advance of the event or during.

III. Financial Resources of the Regulated Entity, Including the Size of the Business

The third factor under the methodology is the financial resources of the utility. Here, the Commission must ensure against excessive fines or penalties while imposing an effective fine/penalty. An effective fine or penalty is one that reflects the severity of the harm (the first factor examined above) and is also proportionate to the offending entity and those similarly situated to deter future similar offense of violations, without putting them out of business or otherwise impacting the entity in a catastrophic way.

Here, we recommend SDG&E be assessed a fine of \$24,000. SDG&E is one of the largest electric utilities in the state of California in terms of customers and revenue. This amount is enough to emphasize the importance of the notification requirements relative to its size.

IV. 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. As described above, a \$24,000 fine is reasonable under the circumstances. D.19-05-042 went into detail about the importance of notification requirements during a PSPS event (p.35-37, 85-87). The Commission emphasized the balance that must be struck in communicating the risk of a PSPS without causing confusion or ambivalence. This fine represents the importance the Commission placed on the notification framework in D.19-05-042. While all customers may have received a notification of a de-energization at some point, the Commission emphasized a more structured approach to optimize public awareness.

V. The Role of Precedent

The final factor is an examination of fines in other Commission Decisions with similar factual situations. This is the first implementation of the PSPS program since the Commission Decisions D.19-05-042 and D.20-05-051. We believe a \$24,000 fine in this instance can serve as an adequate benchmark for any potential violations during future PSPS events.

Based on the above, we believe a fine of \$24,000 is reasonable and appropriate under Resolution M-4846.

10. This penalty is due within 30 days of adoption of the Final Order. Respondent's payment shall be by check or money order and shall be made payable to the California Public Utilities Commission. Respondent shall write on the face of the check or money order: "For deposit to the State of California General Fund." Respondent shall deliver payment to:

California Public Utilities Commission's Fiscal Office
505 Van Ness Avenue
Room 3000
San Francisco, CA 94102

11. In the event the payment specified in paragraph "Penalties" is not timely received by the Commission, a late payment will be subject to interest in the amount of 10% per year, compounded daily and to be assessed beginning the calendar day following the payment-due date. The Commission may take all necessary action to

recover any unpaid penalty and ensure compliance with applicable statutes and Commission orders.

The penalty amount shall not be placed in rates or be otherwise paid for by ratepayers.

CORRECTIVE ACTION

12. Respondent shall conduct the following actions in the manner specified herein, and in accordance with a schedule specified by the Division as follows:
 - 1) SDG&E must file, submit and serve the post event report in compliance with guideline requirements for each individual PSPS event
 - 2) SDG&E must report the decision criteria, clearly articulate the thresholds it evaluated in considering whether to de-energize.
 - 3) SDG&E must provide specific alternatives it considered for each event as well as the evaluation of the alternatives.
 - 4) SDG&E must send the notifications to public safety partners and customers in compliance with the requirement under D.19-05-042 including timeline and notification content.
 - 5) SDG&E must provide the evaluation of engagement with state and local public safety partners.
 - 6) For customers where positive or affirmative notification was attempted, SDG&R must report the number of notification attempts made and the timing of attempts.
 - 7) SDG&E 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.
 - 8) SDG&E must provide thorough and detailed quantitative factors it considers in calling a PSPS event and why the de-energization was the last resort.
13. Within 120 days following adoption of this Order by the Commission (Final Order), Respondent shall submit to the Division written certification that it has corrected all violations. The certification shall include confirmation of its compliance (accompanied by all supporting documentation) or noncompliance with all requirements set forth in Paragraph 12. Any notice of noncompliance required under this paragraph shall state the reasons for noncompliance and when compliance is expected and shall include a detailed plan for bringing the Respondent into compliance. Notice of noncompliance shall in no way excuse the noncompliance.
14. Respondent shall be subject to an additional penalty amount for each failure to comply with the actions required by Paragraph 12. The penalty amount shall be within the range allowed by statute and calculated in accordance with the

Commission's Penalty Assessment Methodology, attached as Appendix I to the Policy.

15. All written submittals from Respondent pursuant to this Order shall be sent to:
Division Director Lee Palmer
Safety and Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

All other communications from Respondent shall be to:

Anthony Noll
Program Manager
Anthony.noll@cpuc.ca.gov,
(916) 247-9372.

16. All approvals and decisions of the Division will be communicated to Respondent in writing by the Division Director or a designee. No informal advice, guidance, suggestions, or comments by the Division regarding reports, plans, specifications, schedules or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required or to bind the Commission.
17. If the Division determines that any report, plan, schedule, or other document submitted for approval pursuant to the Proposed or Final Order (Order) fails to comply with the Order, the Division may:
 - (a) Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Division a revised document incorporating the recommended changes.
18. If Respondent is unable to perform any activity or submit any document within the time required under this Order, Respondent may, prior to expiration of time, request an extension of time in writing. The extension request shall include a justification for the delay and a detailed plan for meeting any new proposed compliance schedule. All such requests shall be in advance of the date on which the activity or document is due.
19. If the Division determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule. Respondent shall comply with the new schedule.
20. All plans, schedules, and reports that require the Division approval and are submitted by Respondent pursuant to this Order are incorporated into this Order upon approval by the Division.

21. Neither the State of California, nor its employees, agents, agencies (including the Commission), representatives, or contractors, shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the Commission be held as a party to a contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.
22. A Final Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations. Respondent shall provide a copy of this Final Order to all contractors, subcontractors, laboratories, and consultants that are retained to conduct any work or activities performed under this Final Order, within [15] days after the effective date of this Final Order or the date of retaining their services, whichever is later. Respondent shall condition any such contracts upon satisfactory compliance with this Final Order. Notwithstanding the terms of any contract, Respondent is responsible for compliance with this Order and for ensuring that its subsidiaries, employees, contractors, consultants, subcontractors, agents, and attorneys comply with this Order.
23. Nothing in this Order shall relieve Respondent from complying with all other applicable laws and regulations. Respondent shall conform all actions required by this Order with all applicable federal, state, and local laws and regulations.
24. This is an action to enforce the laws and regulations administered by the Commission. The method of compliance with this enforcement action consists of payment of an administrative penalty and compliance actions to enforce a permit or order issued by the Commission. The Commission finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code § 2100 et seq.) pursuant to section 15321(a)(2); chapter 3, title 14 of the California Code of Regulations exempting actions to enforce or a permit prescribed by a regulatory agency.
25. The Respondent shall not have any ex parte communications with Commission decisionmakers and will only communicate with the Commission through Request for Hearings or other appropriate procedural avenues.

IT IS ORDERED.

DATE: _____ BY: _____

Leslie Palmer
Director, Safety and Enforcement Division
California Public Utilities Commission

