

# ELLISON SCHNEIDER HARRIS & DONLAN LLP

ATTORNEYS AT LAW

2600 CAPITOL AVENUE, SUITE 400

SACRAMENTO, CALIFORNIA 95816

TELEPHONE: (916) 447-2166

<http://www.eslawfirm.com>

JEDEDIAH GIBSON  
JJG@ESLAWFIRM.COM

June 28, 2018

Lana Tran  
Safety and Enforcement Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Re: Joint Comments of Bear Valley Electric Service, a division of Golden State Water Company, Liberty Utilities (CalPeco Electric) LLC, and PacifiCorp on Draft Resolution ESRB-8

In accordance with Rule 14.5 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure and the June 8, 2018 email from Lana Tran at the Commission extending the comment deadline, Bear Valley Electric Service, (“BVES”), a division of Golden State Water Company, Liberty Utilities (CalPeco Electric) LLC (“Liberty CalPeco”), and PacifiCorp, d.b.a. Pacific Power (“PacifiCorp”) (collectively, the California Association of Small and Multi-Jurisdictional Utilities (“CASMU”)), submit these joint comments on Draft Resolution ESRB-8 (“Draft Resolution”).

CASMU supports the Commission’s goals of promoting safety and transparency. CASMU recognizes the need to provide reliable service but similarly understands that broad safety goals may require de-energization to prevent fires and avoid creating emergency situations under certain circumstances. CASMU appreciates the Commission’s work on these issues and supports the objectives of the Draft Resolution to strengthen public safety requirements, provide clear standards on reasonableness, and to ensure that clear notification, mitigation, and reporting take place.

However, as explained below, CASMU respectfully recommends, in order to leverage administrative efficiencies, (i) that the notification and reporting requirements in the Draft Resolution be provided by CASMU members on an annual basis consistent with other outage reporting requirements (instead of on an incident-by-incident basis as described in the Draft Resolution); and (ii) that the public outreach requirements in the Draft Resolution be consolidated by CASMU members with other public outreach requirements under existing regulations. Moreover, CASMU respectfully requests that the Draft Resolution be revised to include certain clarifications regarding utility authority to de-energize facilities to protect public safety, as described below.

## **Background**

In order to provide de-energization guidelines for utilities and to strengthen public safety requirements, the Draft Resolution would impose new reporting requirements on all electric utilities, including the CASMU members. Specifically, the Draft Resolution would require utilities to notify the Director of the Safety and Enforcement Division (“SED”) within 12 hours after a power shut-off and submit a report to the Director of SED within 10 business days describing the circumstances and details of the shut-off. Additionally, the Draft Resolution requires strengthened reporting requirements, so reports would be required after de-energization events and even when no de-energization occurred if high threat events triggered precursors to de-energization.

In addition to complying with new reporting requirements under the Draft Resolution, utilities also would be required to conduct public outreach, notification, and mitigation activities related to de-energization. For example, utilities must “convene De-Energization Informational Workshops with representatives of entities that may be affected by a de-energization event,”<sup>1</sup> and submit a report to SED outlining its outreach, notification, and mitigation plan.

## **Suggested Revisions to Draft Resolution**

CASMU supports the requirements to provide notice of and report on de-energization events and to conduct public outreach. However, CASMU recommends that the Draft Resolution’s notification, reporting, and outreach obligations be harmonized with existing requirements. In addition, CASMU suggests that the Draft Resolution be clarified regarding utilities’ authority to de-energize as a means of ensuring public safety.

### ***Leveraging Existing Reporting and Public Outreach Requirements***

#### **1. Reporting on De-Energization Events**

CASMU believes that the Commission and SED could utilize existing reports to obtain and evaluate much of the information the Commission and SED seek to obtain under the Draft Resolution. For example, the reporting requirements under the Draft Resolution could be satisfied using the annual reliability reports currently provided by utilities under D.16-01-008. These annual reports describe service reliability and outage events, including de-energization events addressed by the Draft Resolution. Alternatively, the reporting contemplated under the Draft Resolution could be provided as part of the annual emergency and disaster compliance reports provided under General Order 166. Utilizing existing reports would eliminate the need to provide additional, duplicative reports and would make review and evaluation of reported information simpler and more streamlined for the Commission and SED.

---

<sup>1</sup> Draft Resolution, p. 5.

## 2. Public Outreach Activities

CASMU further recommends that certain public outreach objectives of the Draft Resolution can be achieved through existing processes. To the extent the public outreach activities required under the Draft Resolution are not currently covered by existing outreach efforts, CASMU believes they could be easily incorporated into existing practices to provide the public with additional information on de-energization. For example, in accordance with D.16-01-008, utilities currently conduct at least one annual public briefing on utility reliability performance.<sup>2</sup> These existing public meetings could be used to provide the additional information on de-energization and notification practices required by the Draft Resolution. Leveraging existing meetings will ensure that necessary information is provided to the public while minimizing the public's need to attend multiple similar meetings and/or workshops.

## 3. Rationale for Leveraging Existing Reporting and Public Outreach Requirements; Alternate Resolution for CASMU

As described above, CASMU recommends that the safety and transparency goals of the Draft Resolution can be achieved efficiently by revising the Draft Resolution to leverage existing reporting and outreach requirements to avoid duplicative reporting requirements and streamline and optimize public outreach efforts. Administrative efficiency is particularly crucial to CASMU members which have significantly fewer customers than California's largest investor owned utilities ("Large IOUs"). Moreover, CASMU members' utility planning efforts and reporting compliance, as well as public outreach and education, are conducted and handled by significantly smaller staffs than the Large IOUs.<sup>3</sup>

Streamlining reporting and outreach activities for CASMU members also is appropriate given that CASMU members are not similarly situated in comparison to the Large IOUs in a number of key respects and face different risks and issues than the Large IOUs. In particular, CASMU members are winter-peaking utilities whereas the Large IOUs are summer-peaking. Accordingly, fire-related de-energization events of the CASMU members are not likely to occur

---

<sup>2</sup> Ordering Paragraph 7 of D.16-01-008 provides that "[a]ll California electric utilities shall conduct at least one annual public in-person presentation about the information in their annual electric reliability report."

<sup>3</sup> For example, BVES currently has 52 employees and approximately 24,000 customers, and Liberty CalPeco has approximately 100 employees and approximately 49,000 customers. Compared to Southern California Edison Company's ("SCE's") 12,234 employees for its 5.10 million customers, BVES and Liberty CalPeco, respectively, have approximately 0.4% and 0.8% of the workforce to meet any reporting and public outreach-related requirements and 0.5% and 1% of the customer base from which to recover administrative costs. (These numbers are based on SCE's 2017 Financial & Statistical Report, available at <https://www.edison.com/content/dam/eix/documents/investors/sec-filings-financials/2017-financial-statistical-report.pdf>.) PacifiCorp, with approximately California 45,000 customers, has approximately 0.9% of SCE's customer base from which to recover administrative costs.

during periods of peak demand. Further, conditions that may give rise to a de-energization event in the Large IOUs' service territories are not prevalent in the CASMU members' service territories. For example, while wind events contribute to fire risks, the windiest conditions in BVES' and Liberty CalPeco's service territories typically do not occur during fire season. Instead, these winds will occur during the winter, when fire risks are low due to cooler temperatures and wetter and/or snowy conditions. Further, fire-related de-energization events of PacifiCorp, which has approximately four customers per square mile and electric facilities that are geographically-dispersed, will typically impact far fewer customers than a de-energization event in more developed areas that characterize much of the Large IOUs' service territories.

The Commission has routinely found that “the small size of [CASMU members] and the nature of their operations” make it inappropriate and burdensome for the Commission to impose certain requirements on CASMU members or require that the Commission allow CASMU members to take a more limited approach than that required for the Large IOUs.<sup>4</sup> The Commission has noted that imposing certain planning and reporting requirements on CASMU members “would only impose costs and inefficiencies on these small IOUs.”<sup>5</sup> Similarly, the Commission has recognized that CASMU members may be at different stages than the Large IOUs with regard to infrastructure deployment or other initiatives and so meeting certain standards “could be overly burdensome on [a CASMU member's] small ratepayer base.”<sup>6</sup>

Given this precedent and the unique characteristics of the CASMU members, CASMU recommends that, at a minimum, the Draft Resolution be revised to allow the CASMU members to meet any reporting obligations through the use of existing annual reliability reports and to consolidate public outreach by including a description of de-energization processes and plans during the existing annual public briefing(s) on outages.

Alternatively, if CASMU's recommendations to streamline reporting and public outreach requirements are not adopted by the Commission and SED, CASMU respectfully requests that the Commission and SED considering adopting a separate resolution for the CASMU members and apply the Draft Resolution only to the Large IOUs. In a separate resolution, reporting and outreach requirements could be tailored to provide additional flexibility for the CASMU members.

---

<sup>4</sup> See, e.g., Decision 09-12-046, at 2 (exempting CASMU members from certain smart grid-related requirements).

<sup>5</sup> Decision 09-12-046, at 27; see also Decision 08-05-028 (granting CASMU members the ability to file less complex annual procurement plans or to use the integrated resource plans they file in other states).

<sup>6</sup> Decision 09-12-046, at 50; see also Decision 04-02-044 and Decision 03-07-011 (decisions granting Sierra Pacific Power Company, now Liberty Utilities, and PacifiCorp, an exemption from filing long-term procurement plans).

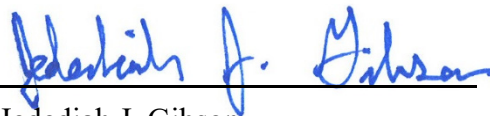
***Suggested Clarifications to Promote Best Public Safety Outcome***

In order to maximize public safety, CASMU recommends that the Draft Resolution be modified to clarify that utilities have clear authority to take action, including de-energizing, to protect public safety. As written, the Draft Resolution imposes additional requirements before and after de-energization can occur. CASMU is concerned that, without more, these new requirements could have the effect of discouraging utilities from taking proactive steps to de-energize to ensure and enhance overall public safety. Accordingly, CASMU recommends that the Draft Resolution clarify that utilities are empowered to take action, including de-energization, to protect public safety. Such a clarification would acknowledge the authority of utilities under existing law, including Public Utilities Code Sections 451 and 399.2(a), to de-energize facilities to promote safety and respond to emergency situations.<sup>7</sup>

**Conclusion**

CASMU appreciates this opportunity to provide comments on the Draft Resolution and, for the reasons described above, recommends that the goals of the Draft Resolution can be best achieved by adopting revisions that: (i) leverage existing reporting and public outreach requirements; and (ii) clarify and acknowledge the existing authority of utilities to de-energize their facilities in furtherance of public safety.

Respectfully submitted,



Jedediah J. Gibson  
Ellison Schneider Harris & Donlan LLP  
2600 Capitol Avenue, Suite 400  
Sacramento, CA 95816-5905  
Telephone: (916) 447-2166  
Email: [jjg@eslawfirm.com](mailto:jjg@eslawfirm.com)

*Attorneys for Bear Valley Electric Service, a  
division of Golden State Water Company, Liberty  
Utilities (CalPeco Electric) LLC, and PacifiCorp*

cc: Charlotte TerKeurst, Program Manager, Electric Safety and Reliability Branch  
Service List for Draft Resolution ESRB-8.

---

<sup>7</sup> Indeed, the Commission has concluded that electric utilities have the “authority under § 451 and § 399.2(a) to shut off power in emergency situations when necessary to protect public safety” and that statutory obligations require a utility “to shut off its system if doing so is necessary to protect public safety.” (D.09-09-030, p. 61.)