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June 28, 2018

Lana Tran
Safety & Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue
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Re: Comments of the Center for Accessible Technology and The Utility Reform Network on Draft Resolution ESRB-8 Extending De-Energization Reasonableness, Notification, Mitigation and Reporting Requirements in Decision 12-04-024 to All Electric Investor Owned Utilities

Dear Ms. Tran:

Draft Resolution ESRB-8 would extend the requirements of D.12-04-024, currently applicable only to SDG&E, to all electric investor owned utilities. This Decision requires SDG&E “to provide notice and mitigation, to the extent feasible and appropriate, whenever SDG&E shuts off power for public-safety reasons.”¹ The resolution also sets requirements for the utilities to meet with local communities that may be impacted by a future de-energization event before putting the practice into effect, and requires notification to the Safety and Enforcement Division (SED) “as soon as practicable after a decision to de-energize facilities and within 30 minutes after the last service is restored.”² The Center for Accessible Technology (CforAT) and The Utility Reform Network (TURN) strongly support this resolution and the extension of notice and mitigation requirements to all of the regulated IOUs.

D.12-04-024 was issued in response to a Petition for Modification filed in A.08-12-021,³ which initially considered an application by SDG&E seeking increased authority (and

¹ D.12-04-024 at p. 2.

² Draft Res. ESRB-8 at p. 1.

³ The PFM was filed by Disability Rights Advocates through counsel Melissa Kasnitz, who is now the Legal Director at CforAT.

reduced liability) to shut off power at times of increased fire risk; the initial decision (D.09-09-030) denied the application but noted the IOU's existing statutory authority under §451 and §399.2 to shut off power in emergency situations, subject to subsequent reasonableness review by the Commission. In A.08-12-021, the record contained detailed discussions of SDG&E's potential mitigation obligations for customers affected by its decision to shut off power, including targeted assistance to customers at risk of health impacts due to loss of power, and financial assistance to low-income customers who might incur unexpected expenses based on loss of power. While these detailed mitigation options were not addressed in D.12-04-024, they provide the context in which the decision was issued.

Based on the history of A.08-12-021 and a review of the manner in which SDG&E has implemented the requirements of D.12-04-024, CforAT and TURN suggest some modest modifications to the draft Resolution to assist in achieving the stated goals of the Commission.

- The draft resolution requires each IOU to hold informational workshops “to explain, and receive feedback on, the IOU’s de-energization policies and procedures.”⁴ This requirement should specify that the IOUs must invite representatives addressing public health concerns, needs of low-income communities, needs of communities where people have limited English proficiency, and needs of people with disabilities. In particular, each IOU works with many community-based organizations (CBOs) representing vulnerable communities on a variety of issues; these CBO partners should be included in the process of developing IOU de-energization policies. In addition, invitations should be proffered to nursing homes, board and care facilities, and retirement communities in communities likely to be impacted.
- The draft resolution requires each IOU to provide “details regarding its plans for notification in advance of, and during, a de-energization event,” as well as “proposed communication methods for publicizing and convening the De-Energization Informational Workshops.”⁵ The resolution should specify that these plans and proposals must address efforts to communicate effectively with organizations and individuals that have limited English proficiency and those whose ability to use standard forms of communication is limited due to disability. It should also require the plans to address communication with facilities such as nursing homes, board and care facilities, and retirement communities.
- The draft resolution requires each IOU to develop and discuss plans for mitigation when de-energization occurs, but it does not give any specific guidance regarding the nature of the mitigation required. In light of the material in the record in A.08-12-021 and the discussion of mitigation in the SED Review of San Diego

⁴ Draft Resolution ESRB-8 at pp. 5-6.

⁵ Draft Resolution ESRB-8 at p. 6.

Gas & Electric Company December 2017 De-Energization Events (2017 SED Report),⁶ which was required by D.12-04-024 following the 2017 wildfires, it appears that greater specificity regarding appropriate mitigation would be helpful both to the IOUs and to the communities at risk of having service shut off due to wildfire risk. Potential mitigation elements are discussed below.

Mitigation was a key concern in A.08-12-021, and multiple types of mitigation measures were given consideration based on the identified harms facing a community when it loses power. In particular, the record in that proceeding identifies key health and safety impacts as well as financial impacts for customers who lose power based on de-energization.

While these concerns were well-documented in the proceeding leading to the issuance of D.12-04-024,⁷ the actual mitigation measures proffered by SDG&E during the 2017 wildfires and discussed in the 2017 SED Report appear to be much more modest. Based on the information in the report, mitigation efforts targeted at assisting individuals were limited to the provision of water, wi-fi connectivity, and battery charging capabilities.⁸ SDG&E also provided a generator in a single community to power stores and restaurants.

It does not appear that any provision was made to account for losses by individuals (such as food stored in freezers or medicine that must be refrigerated) or to determine whether impacted customers had financial resources to evacuate or to access goods in stores and restaurants, or even to replace prescription medication.⁹ Similarly, it does not appear that any provision was made to address the needs of facilities serving at-risk communities such as nursing homes, board and care facilities, and senior communities.¹⁰ Nor does it appear that any provision was made to address evacuation or any form of transportation for people at risk of harm during a prolonged power

⁶ This report is available on the Commission's website at http://www.cpuc.ca.gov/uploadedFiles/CPUC_Website/Content/About_Us/Organization/Divisions/News_and_Outreach_Office/May%202018%20SED%20Review%20of%20SDGE%20December%202018%20Deenergization%20Events.pdf

⁷ In the initial application by SDG&E, the utility expressed vague plans to provide modest financial support to special needs and low-income customers as well as financial assistance to help offset costs incurred by de-energization. It also provided vague statements of intent to assist in evacuating at-risk customers and providing care centers for customers who cannot stay in their homes without power. The record is replete with statements of concern about the inadequacy of the proposed mitigation measures and the risks to customers subject to lengthy power outages due to a utility determination to shut off power. *See e.g.* Opening Comments of Disability Rights Advocate filed on March 27, 2009 in A.08-12-021 (available at <http://docs.cpuc.ca.gov/PublishedDocs/EFILE/CM/99222.PDF>).

⁸ 2017 SED Report at p. 8.

⁹ While SDG&E made efforts to individually provide notice to customers enrolled in its Medical Baseline program, many customers who are not enrolled in this program could be at risk of health impacts from a prolonged power outage due to issues with medication or other matters that would not generally be known to their utility.

¹⁰ It is possible that there were targeted efforts to reach such facilities, but they are not documented in the 2017 SED Report. *See* complete discussion of mitigation efforts at pp. 8-9.

outage. Moreover, the 2017 SED Report does not indicate that any care centers or other facilities were provided for customers impacted by SDG&E's decision to shut off power, despite the fact that the outages lasted over a number of days during a period of high temperatures and strong winds.¹¹

Each of these potential mitigation measures were addressed in A.08-12-021 before the Commission determined that the application should be rejected. Similar measures should be considered when SDG&E or any other IOU determines that it should shut off power under its existing statutory authority.

While it may not be appropriate for the Commission to require these (or any) specific mitigation measures in a resolution, Draft Resolution ESRB-8 should be modified to identify these types of issues (financial support, evacuation support, needs of at-risk populations, availability of care centers) as matters that must be given consideration in developing a mitigation plan.

A further issue that should be given consideration is the fact that de-energizing power lines will likely shut down the telephone and broadband lines used to receive emergency alerts and place 911 calls. A large percentage of customers receive essential telecommunications service by subscribing to fixed Voice over Internet Protocol (VoIP) telephone service¹², which requires commercial power to function.¹³ VoIP telephone service providers, such as Comcast and AT&T, are not required to provide customers with back-up batteries. Even if back-up batteries are present, batteries in peak condition are generally sufficient to only provide a short period of "talk time." Further during a power outage broadband service will not function absent back-up batteries. In areas with weak or no cell phone signals, wireless service is obtained through a network extender that utilizes a broadband connection. Thus, when power lines are de-energized, customers who subscribe to telecommunications and broadband services that rely on commercial power are at risk of not being able to either receive emergency alerts or place 911 calls. Public notification regarding de-energizing lines is crucial for public safety.

Conclusion:

If adopted by the Commission, the above modifications to Draft Resolution ESRB-8 will assist the IOUs and their community partners in better developing plans to be implemented in the event of de-energization.

¹¹ These conditions, based on a Santa Ana wind event, were the basis of the high fire risk motivating the decision to shut off power. *See* 2017 SED Report at pp. 4-5.

¹² For example, in its February 2018 report on "Voice Telephone Service," the Federal Communications Commission (FCC) observed that nation wide 52% of all wireline retail local telephone service connections were interconnected VoIP. *See* https://apps.fcc.gov/edocs_public/attachmatch/DOC-349075A1.pdf

¹³ *See*, FCC, VoIP and 911 Service, <https://www.fcc.gov/consumers/guides/voip-and-911-service>

CforAT and TURN look forward to adoption of a modified resolution and to ongoing efforts by the Commission to prepare for fire risks in the territories served by regulated utilities.

Respectfully submitted,

Melissa W. Kasnitz, Legal Director
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For CforAT and TURN

cc: Service List for Draft Resolution ESRB-8

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of Draft Resolution ESRB-8 on all parties in these filings or their attorneys as shown on the attached list.

Dated June 28, 2018 at San Francisco, California.

/s/ Haley de Genova

NOTICE

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