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# California State Assembly

## UTILITIES AND ENERGY



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**State Capitol, P.O. Box**  
942849  
(916) 319-2083  
FAX: (916) 319-2099

## OVERSIGHT HEARING

### *The Execution & Regulation of Public Power Safety Shutoffs*

Wednesday, March 3, 2021

#### What are Public Power Safety Shutoffs?

A significant element of each electric utility's wildfire mitigation plan (WMP) is to proactively cut power to distribution and transmission lines as a preventative measure of last resort if the utility reasonably believes that there is an imminent and significant risk that strong winds (typically coupled with low humidity and often high heat) may topple power lines or cause major vegetation-related issues leading to increased risk of fire. This effort to reduce the risk of fires caused by electric infrastructure by cutting off power and creating outages is called "deenergization" or Public Safety Power Shutoffs (PSPS). The CPUC has opined that the IOUs have a statutory obligation to operate utility systems safely which does result in a requirement that the utilities deenergize systems "if doing so is necessary to protect public safety."<sup>1</sup>

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<sup>1</sup> California Public Utilities Code sections 451 & 399.2(a); CPUC D.12-04-024.

## CPUC Oversight

Customer impacts as a result of PSPS events are significant. Consequently the CPUC evaluates both the effectiveness and impacts of all phases of the PSPS events and utility compliance with CPUC regulations and requirements on an ongoing basis in consultation with CalFIRE and OES. The CPUC has examined conditions under which proactive and planned deenergization is practiced and has developed standardized protocols to ensure an orderly and effective set of criteria for evaluating deenergization programs. The CPUC has ordered the IOUs to coordinate PSPS events with state and local level first responders; required measures to mitigate the impact of deenergization on vulnerable populations; examined whether there are ways to reduce the need for deenergization; required notice to affected stakeholders of possible deenergization and follow-up notice of actual de-energization; required specified notice to affected customers; and required notice and reporting to the CPUC of deenergization events.<sup>2</sup> The CPUC continues to refine and expand those protocols.<sup>3</sup>

## Growth of PSPS

SDG&E began using PSPS as a wildfire mitigation measure in 2013. In 2018, SCE and PG&E initiated the use of PSPS. In October 2019, the greatest number of PSPS events occurred with the greatest number of customers impacted and for the longest time particularly in PG&E's territory. The fall of 2019 was a low point in the use of PSPS. The late 2019 PSPS events by the three utility companies caused customer confusion, anger, and resulted in some customers, including medical baseline customers, not being notified of the PSPS.

The CPUC instituted an investigation to determine if the IOUs prioritized safety and complied with the regulations and requirements established by the CPUC. A staff report was produced by the Safety and Enforcement Division<sup>4</sup> and described the manner and extent to which each IOU implemented the PSPS

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<sup>2</sup> See "Decision Adopting Phase 2 Updated and Additional Guidelines for deenergization of Electric Facilities to Mitigate Wildfire Risk," California Public Utilities Commission, June 5, 2020, at <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M339/K524/339524880.PDF>

<sup>3</sup> See "Assigned Commissioner's Phase 3 Scoping Memo and Ruling," California Public Utilities Commission, February 19, 2021, at <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M366/K566/366566637.PDF>

<sup>4</sup> See "Public Report on the Late 2019 Public Safety Power Shutoff Events", California Public Utilities Commission, April 30, 2020, at [https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/News\\_Room/NewsUpdates/2020/SED%20PSPS%20OII%20PUBLIC%20Report.pdf](https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/News_Room/NewsUpdates/2020/SED%20PSPS%20OII%20PUBLIC%20Report.pdf)

guidelines, and an initial assessment of performance, and a summary of the deficiencies of each utility.

Over the following several months in 2020 extensive work was led by the CPUC resulting in additional IOU guidelines<sup>5</sup> to improve communication, coordination and collaboration between the electric IOUs and affected customers, and local and state government officials and agencies, as well as to reduce the scope, frequency and magnitude of the events. Regular consultations (sometimes as often as weekly) occurred between the utilities and state agencies to prepare for efficient and safe execution of PSPS events. The OES and CPUC led simulation exercises with each utility in June and August 2020. The agency's work with the utilities culminated in the filing of PSPS plans for preparedness for the 2020 fire season by each utility.<sup>6</sup>

The CPUC recently initiated steps to expand and refine PSPS protocols with the intention of adopting a final decision in approximately June of this year before the 2021 fire season.<sup>7</sup> Attachment 1 to the scoping memo includes a staff report with proposed additional and modified guidelines for which public comment will be made and proposed decision rendered for consideration by the full commission.<sup>8</sup>

### Safety & Enforcement Division

The CPUC's Safety and Enforcement Division (SED) oversees the safety of electric and communication facilities, natural gas infrastructure and propane facilities. SED is comprised of three branches of utility engineers, analysts and investigators that focus on ensuring the safety of utility infrastructure and reducing utility caused wildfires. SED advocates for public safety through performing safety audits, conducting incident investigations, and appearing in CPUC safety proceedings. SED has the authority to issue citations and then fine a utility who violates public utility safety codes and CPUC decisions, orders and requirements.

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<sup>5</sup> See "Decision Adopting Phase 2 Updated and Additional Guidelines for De-energization of Electric Facilities to mitigate Wildfire Risk", D.20-05-051, May 20, 2020 at <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M339/K524/339524880.PDF>

<sup>6</sup> See Electric Utility 2020 Planning for Public Safety Power Shutoffs, <https://www.cpuc.ca.gov/general.aspx?id=6442465765>

<sup>7</sup> See "Assigned Commissioner's Phase 3 Scoping Memo and Ruling," California Public Utilities Commission, February 19, 2021, at <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M366/K566/366566637.PDF>

<sup>8</sup> *Id.* at A-1.

The SED’s Wildfire Safety & Enforcement Branch (WSEB) is dedicated to the enforcement of public utility wildfire safety and PSPS violations. WSEB is the lead investigator for utility incidents relating to wildfire, PSPS events and other aspects related to wildfire events. The staff conducts audits, incident investigations, and provides input into policy development.

The SED participates in each utility’s PSPS event starting with notice from the utility that an event may be called and they continue to participate in real-time by way of the State Executive Calls and in supporting Operational Coordination meetings. In these forums SED collaborates with the utility, Cal OES, CalFIRE, local public safety officials, the affected communities and other stakeholders.

According to SED there were a total of 33 PSPS events in 2020, an increase from the 22 PSPS events in 2019.

<b>Utility</b>	<b>Number of 2020 Events</b>
PG&E	7
SCE	16
SDG&E	7
PacifiCorp	7
<b>Total</b>	<b>33</b>

The IOUs are required to report to SED (post-event report) within ten 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. The reports include detailed summaries of all notices to customers and state and local public safety officials, the number and nature of complaints received by the utilities, claims filed against the utility, detailed description of the steps it took to restore power, and the address of each community resource center (with the assistance available and days and hours of availability).<sup>9</sup>

SED does post event annual compliance review documents and the division is in the process of finalizing its review for 2020. There were four IOUs who had PSPS in 2020: PG&E, SCE, SDG&E and PacifiCorp. So, there will be four annual

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<sup>9</sup> All post-event reports filed by the IOUs can be found at <https://www.cpuc.ca.gov/psps/>

compliance reviews for each of the four IOUs. The annual compliance review will consolidate the review for each post event report into one document.

### Fining Authority

The full commission can assess fines against utilities for failure to comply with any law, decision order, or other mandate up to \$100,000 per offense<sup>10</sup> with no overall cap. This can take many forms including per customer, per day, or per customer and day for example. The Safety and Enforcement Division staff have the specific authority, by statute, to issue citations and assess fines.<sup>11</sup> In 2016 the Commission adopted a decision which set an administrative limit of \$8 million per citation issued and also the “goal of establishing a robust citation program which ensures that utilities do not have incentives to make economic choices that cause or unduly risk violations, while providing that the most egregious violations should be presented to the Commission in an OII.”<sup>12</sup>

There have been no fines or other penalties against a utility for failures in the use and execution of PSPS events. Fines have not been assessed against a utility for failures in administration of PSPS events but could add up quickly if assessed based on per customer affected by the number of days.

The CPUC did open a formal investigation of the performance of all electric utilities for PSPS events in 2019 to determine whether the “utilities prioritized safety and complied with the Commission’s regulations and requirements with respect to their Public Safety Power Shutoff (PSPS) events in late 2019.”<sup>13</sup> It is not clear that that CPUC has established authority for the SED to issue citations and assess fines against electric utilities for failures in execution of PSPS events.

### PSPS Events in Real-Time

Once a PSPS event is initiated by an IOU (typically 72 hours from likely deenergization) the utility “stands up” its emergency operations center (EOC) which is maintained until all circuits are reenergized. The OES is required to be notified as well as other public safety officials, the CPUC, and customers which

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<sup>10</sup> Public Utilities Code §2107

<sup>11</sup> Public Utilities Code § 1702.5

<sup>12</sup> CPUC D.16-09-005.

<sup>13</sup> CPUC I.19-11-013

are expected to be de-energized. Twice-daily calls (State Executive Calls) occur with the utility's EOC personnel (e.g. incident commander, meteorologist) and representatives from the CPUC, CalOES, CalFIRE, U.S. Forest Service, Governor's Office, and other state agencies to communicate the weather forecast, customers in scope, community resources available, and answer any questions regarding the event.

Immediate notice to OES by the CPUC is critical. As OES Director Mark Ghilarducci stated recently, the utility and OES must "stay in sync." If a utility fails to timely notify the OES and local agency partners, there are adverse consequences and cascading impacts to the affected communities for which the OES and others must assume responsibility to mitigate and play catch-up to address.<sup>14</sup>

### Southern California Edison

Of major concern is the execution of 16 PSPS events by SCE from May through December of 2020 with a majority of the events occurring in November and December including Thanksgiving and Christmas. CPUC President Marybel Batjer issued a letter<sup>15</sup> to Edison in January in which she stated that "SCE's PSPS execution appeared tactless, and in many regards, seemed deficient in meeting the standard its customers deserve." OES Director Ghilarducci reported that OES "initiated a series of meetings with SCE to do operational reviews of the protocols and each time the utility consistently stated that they understood and were on board, would apologize for failures, but then continued to fail time and time again."<sup>16</sup>

Five primary failures by SCE were outlined by Batjer:

- 1) Transparency of the PSPS the decision-making process;
- 2) Execution of the notification process;
- 3) Coordination and communication with state and local governments;

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<sup>14</sup> SCE Meeting on Execution of 2020 PSPS Events, January 26, 2021, California Public Utilities Commission at <http://www.adminmonitor.com/ca/cpuc/other/20210126/>

<sup>15</sup> See Letter to Kevin Payne, President & CEO, Southern California Edison, January 19, 2021, at [https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/News\\_Room/NewsUpdates/2021/BATJER%20LETTER%20SCE%20PSPS%20EXECUTION%20Jan%2019%202021.pdf](https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/News_Room/NewsUpdates/2021/BATJER%20LETTER%20SCE%20PSPS%20EXECUTION%20Jan%2019%202021.pdf)

<sup>16</sup> SCE Meeting on Execution of 2020 PSPS Events, January 26, 2021, California Public Utilities Commission at <http://www.adminmonitor.com/ca/cpuc/other/20210126/>

- 4) Identification and notification of Medical Baseline and Access and Functional Needs customers; and
- 5) Quality of PSPS post-event reports.

The letter called on SCE executives to publicly address the mistakes and operational gaps identified in the utility's execution of its 2020 PSPS events and to provide lessons learned to ensure they are not repeated. The meeting occurred on January 25, 2020.<sup>17</sup> All commissioners were present and accompanied by CalFIRE Chief Tom Porter, and OES Director Mark Ghilarducci. The utility was also required to submit a corrective action plan to the CPUC by February 12, 2021 and did so.<sup>18</sup> An additional public hearing was held by the Commission on March 1<sup>st</sup> at which time SCE executives provided an update on its Corrective Action Plan.<sup>19</sup>

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<sup>17</sup> See video at <http://www.adminmonitor.com/ca/cpuc/other/20210126/>

<sup>18</sup> See "Southern California Edison's (U-338) Corrective Action Plan," February 12, 2021, filed in proceeding R.18-12-005, [https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/News\\_Room/NewsUpdates/2021/R1812005-SCE%20Corrective%20Action%20Plan.pdf](https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/News_Room/NewsUpdates/2021/R1812005-SCE%20Corrective%20Action%20Plan.pdf)

<sup>19</sup> California Public Utilities Commission Meeting on SCE's 2020 Public Safety Power Shut- Off Corrective Action Plan, March 1, 2021, <http://www.adminmonitor.com/ca/cpuc/>