

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Examine Electric  
Utility De-Energization of Power Lines in  
Dangerous Conditions.

R.18-12-005  
(Filed December 13, 2018)

**JOINT COMMUNICATIONS PARTIES  
REPLY COMMENTS ON PHASE 1 ISSUES**

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For Consolidated Communications of  
California Company and the Small LECs

April 2, 2019

Pursuant to the Assigned Commissioner’s Scoping Memo and Ruling (Phase 1) issued on March 8, 2019 (“Scoping Memo”), Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) (“AT&T California”), AT&T Mobility<sup>1</sup> and AT&T Corp. (U 5002 C) (collectively “AT&T”); the California Cable and Telecommunications Association (“CCTA”); CTIA; Celco Partnership (U 3001 C) d/b/a Verizon Wireless; Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California (U 1024 C); Frontier Communications of the Southwest Inc. (U 1026 C) and Frontier California Inc. (U 1002 C) (collectively “Frontier”); Comcast Phone of California, LLC (U 5698 C); Consolidated Communications of California Company (U 1015 C); the “Small LECs”;<sup>2</sup> Sprint Communications Company, L.P. (U 5112 C), Sprint Spectrum L.P. (U 3062 C) and Virgin Mobile USA, L.P. (U 4327 C) (collectively, “Sprint”); and T-Mobile West LLC dba T-Mobile (collectively, “Joint Communications Parties”) reply to the opening comments on Phase 1 issues that were filed in this proceeding on March 25, 2019. With the exception of CTIA, which received party status via oral ruling at the February 19, 2019 prehearing conference and T-Mobile, which received party status by way of a March 20, 2019 e-mail ruling of the Assigned Administrative Law Judge, the remainder of the Joint Communications Parties received party status by virtue of filing comments on the Order Instituting Rulemaking on February 8, 2019.

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<sup>1</sup> As used herein, “AT&T Mobility” refers to, collectively, AT&T Mobility Wireless Operations Holdings, Inc. (U 3021 C); New Cingular Wireless PCS, LLC (U 3060 C) d/b/a AT&T Mobility; and Santa Barbara Cellular Systems, Ltd. (U 3015 C).

<sup>2</sup> The Small LECs are the following carriers: Calaveras Telephone Company (U 1004 C), Cal-Ore Telephone Co. (U 1006 C), Ducor Telephone Company (U 1007 C), Foresthill Telephone Co. (U 1009 C), Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company (U 1011 C), Kerman Telephone Co. (U 1012 C), Pinnacles Telephone Co. (U 1013 C), The Ponderosa Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The Siskiyou Telephone Company (U 1017 C), Volcano Telephone Company (U 1019 C), and Winterhaven Telephone Company (U 1021 C).

## **I. INTRODUCTION**

The opening comments, in both their number and breadth, illustrate the extraordinary impact that a de-energization event has on the public generally, as well as a multitude of various stakeholders such as the Joint Communications Parties. In order to assist the Commission in its effort to reach conclusions on the myriad of issues that were presented for party comment in the Scoping Memo, the Joint Communications Parties remain focused on the issue that is critical to their efforts to operate their networks during a de-energization event - sufficient notice. As illustrated below, the Joint Communications Parties submit that the record supports the imposition by the Commission of minimum notification standards comparable to those proposed by the Joint Communications Parties in opening comments.

In addition, the Joint Communications Parties note that several commenters expressed the need for additional process in association with the submission of after-the-fact reports of de-energization events by the investor owned utilities (“IOUs”). As discussed below, additional process will aid the Commission in determining whether the IOU acted reasonably, but also will be valuable for improving the safety of de-energization events going forward.

Finally, the Joint Communications Parties recognize the need for the Commission to work on an expedited timeline in order to have certain protocols in place prior to this year’s fire season. In this regard, the proceeding allows party input solely through a round of comments. Given this truncated process, it is critical that the proposals that are outside the scope of this Phase of the proceeding be dismissed.

## **II. RESPONSE TO COMMENTS**

### **A. The Commission Should Adopt A Minimum Notification Standard**

In their opening comments, the Joint Communications Parties emphasized that the ability

of communications providers to maintain the operation of their networks during a de-energization event is affected significantly by the timeliness and preciseness of information included in the notice provided by the IOU before, during and after that event.<sup>3</sup> To this end, the Joint Communication Parties proposed the following notification regime for each IOU to follow when implementing a de-energization event:

1. 24-48 Hours Prior to De-energization. Advance notice should be provided when the electric utility first identifies the possible need for a proactive de-energization, which would be approximately 24-48 hours before the de-energization event.
2. 2-4 Hours Prior to De-energization. A further notice should be provided when de-energization is a near certainty, approximately 2-4 hours before the de-energization event occurs.
3. At Initiation of the De-Energization Event. Notice should be provided when de-energization is initiated.
4. During the De-Energization Event. Finally, the electric company should be required to provide status updates regarding the expected duration of the de-energization event and when power is restored.<sup>4</sup>

In making such recommendation, the Joint Communications Parties noted that this notification protocol had already been proposed by at least one electric company, PacifiCorp, in its Wildfire Mitigation Plan. Review of the opening comments reveals that a very similar notification protocol is also used by San Diego Gas & Electric Company (“SDG&E”). Thus, SDG&E states that, to the extent feasible, it sends notice to certain critical customers, including communication providers, on the following schedule:

- 48 hours before power is turned off
- 24 hours before power is turned off

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<sup>3</sup> Joint Communications Parties Opening Comments on Phase 1 Issues, R. 18-11-005 (March 25, 2019) (“Joint Communications Parties Comments”), p. 6.

<sup>4</sup> *Id.*, pp. 6-7.

- 1 hour before power is turned off
- During the public safety outage
- When patrolling has begun
- Once power has been restored<sup>5</sup>

Resolution ESRB-8 requires notification of affected communications providers, as well as other high priority customers such as first responders and local governments, as “practicable and operationally feasible.”<sup>6</sup> Parties to the proceeding, however, have recognized the need for uniformity in minimum notification standards.<sup>7</sup> The Joint Communications Parties’ recommended notification protocols combine these two concepts. These protocols have been shown to be practicable and operationally feasible given that two IOUs have committed to their use. Thus, the Joint Communication Parties submit their proposed notification protocol provides an appropriate uniform minimum standard for all the IOUs.

That said, the Joint Communications Parties recognize that, in certain instances, the IOUs may not be able to comply with the required notifications. In such cases, the IOUs should be required to provide notification to affected communications providers as close to the required intervals as possible. Thereafter, as part of the after-the-fact de-energization event report that an IOU submits to the Safety and Enforcement Division (“SED”), it should be required to set forth

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<sup>5</sup> Opening Comments of San Diego Gas & Electric Company on Phase 1 Issues, R. 18-11-005 (March 25, 2019) (“SDG&E Comments”), p.8.

<sup>6</sup> Resolution ESRB-8, p. 7.

<sup>7</sup> Comments of the Office of Safety Advocate, R. 18-11-005 (March 25, 2019), p. 8 (“Commission needs to adopt a minimum standard for all utilities to adhere to.”) (emphasis in original); Comments of the Public Advocates Office on Phase I Issues, R. 18-11-005 (March 25, 2019) (“Public Advocates Comments”), p.4 (“The utilities should be directed to implement a common timeline for notification schedule approved or established by the Commission. While the Public Advocates Office understands that emergency situations differ on a case-by-case basis, the utilities should follow a consistent notification and action protocol during all de-energization events.”).

whether it complied with the notification timelines, when it in fact provided notice and, if not within the required timeframes, explain why not.

**B. The Commission Should Provide for Release of, and Additional Public Input to, the De-energization Reports**

The Joint Communication Parties’ opening comments highlighted the need for public release of each after-the-fact de-energization report submitted to SED by an IOU, as well as the need for public comment thereon so that SED can fully investigate the reported event and the Commission will have sufficient information to ultimately assess the reasonableness of the IOU’s actions.<sup>8</sup> This sentiment was mirrored by numerous parties. For example, the City and County of San Francisco commented that the “de-energization report should be made public and subject to a thirty-day comment period so affected entities and customers can provide their input,”<sup>9</sup> while the Joint Local Governments recommended that a “final post-de-energization report include feedback from local governments, first responders, and citizens on the event and preliminary after-action report, and that the lessons learned address any problems identified in this feedback.”<sup>10</sup> Indeed, the import of public input on these reports was even expressed by certain IOUs. Thus, in discussing this issue, the California Association of Small and Multi-Jurisdictional Utilities opined that “[w]hile utility input is essential, input from other agencies, emergency responders, and the public can prove equally valuable to share impacts, lessons learned, and recommendations for improvement going forward.”<sup>11</sup>

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<sup>8</sup> Joint Communication Parties Comments. pp. 11-12.

<sup>9</sup> Comments of the City and County of San Francisco on Assigned Commissioner’s Scoping Memo and Ruling (Phase 1), R. 18-11-005 (March 25, 2019), p. 9.

<sup>10</sup> Comment of the Counties of Mendocino, Napa and Sonoma and the City of Santa Rosa on the Phase 1 Scoping Ruling and Staff Proposal, R. 18-11-005 (March 25, 2019), p. 13.

<sup>11</sup> Joint Comments of Bear Valley Electric Service (U 913 E), a Division of Golden State Water Company, Liberty Utilities (CalPeco Electric) LLC (U 933 E), and PacifiCorp (U 901 E) on the Assigned Commissioner’s Scoping Memo and Ruling (Phase 1), R. 18-11-005 (March 25, 2019), p. 11.

The Commission should establish a process that allows for full public comment on all de-energization reports and ensure a reasonableness determination by the Commission on each de-energization event, as proposed by the Joint Communications Parties.<sup>12</sup>

### **III. THE COMMISSION SHOULD REJECT OUT OF SCOPE PROPOSALS**

As set forth in the Order Instituting Rulemaking (“OIR”), the scope of this proceeding is limited to an “examin[ation] of the Commission’s rules regarding *electric utility de-energization practices* pursuant to Public Utilities Code Sections 451 and 399.2(a) and Rule 6.1 of the Commission’s Rules of Practice and Procedure.”<sup>13</sup> As delineated in the OIR, the scope of the proceeding is confined to developing rules applicable to electric utilities, not telecommunications carriers, water utilities or other stakeholders.

Despite the clear scope of this proceeding, parties have suggested certain proposals that purport to impose requirements on telecommunications carriers during and after a de-energization event. For example, in responding to the question as to who should be responsible for notifying customer of a de-energization event, TURN asserted:

The IOUs should be responsible for notifying the customers. If the IOU uses communication channels or other tools provided by other entities (such as telecommunications company or local governments), then it is the other entities’ responsibility to ensure that the communication channel or tool is functioning and to report that back to the IOU.<sup>14</sup>

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<sup>12</sup> Joint Communications Parties Comments, pp. 11-12.

<sup>13</sup> Order Instituting Rulemaking, R. 18-12-005 ( December 13, 2018), p.16 (Ordering Paragraph 1) (emphasis added).

<sup>14</sup> Opening Comments of The Utility Reform Network on Assigned Commissioner’s Scoping Memo and Ruling (Phase 1), R. 18-11-005 (March 25, 2019), p.6. Even if the proposal was in scope, which it is not, it is built on a faulty premise. As a general rule, IOUs – like all other entities in an emergency situation – have to use communication networks to notify customers of an imminent de-energization event. Thus, the TURN proposal seems to be nothing less than an ill-defined outage reporting requirement imposed on the communications providers.



TURN also recommends that “after a de-energization event, the IOUs, telecommunication companies, and water companies should all provide information to the Commission including the number of customers affected (*e.g.*, customers that lost power, communications, or water), the duration of the disruption in service, and the location of the event.”<sup>15</sup> Finally, the Public Advocates Office recommends that “each utility (electric, gas, telecommunications, and water) should assign a liaison to emergency operations centers who is empowered to make decisions on behalf of the utility.”<sup>16</sup>

To the extent that these proposals seek to impose obligations on parties other than IOUs, they are clearly outside the scope of this proceeding and should be rejected. Moreover, given the scope of this proceeding, telecommunications companies were not made respondents and, therefore, have not been provided notice reasonably calculated to convey that the proceeding could lead to rules or directives applicable to them. Commission adoption of TURN’s and the Public Advocates Office’s recommendations would deny telecommunications carriers due process.<sup>17</sup>

In addition, with respect to the proposal of the Public Advocates Office that all utilities embed a representative in the EOC during a de-energization event, the IOUs’ respective opening comments illustrated the impracticalities of the proposal, including how it could result in deploying scarce resources to locations that do not require such assistance.<sup>18</sup> The IOUs also

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<sup>15</sup> *Id.*, p. 12.

<sup>16</sup> Public Advocates Comments, p. 11.

<sup>17</sup> *Mullane v. Central Hanover Bank & Trust Co.* (1950) 339 U.S. 306, 314 (citations omitted) (“An elementary and fundamental requirement of due process . . . is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.”)

<sup>18</sup> The practicality of this proposal is also questionable due to the fact that, as SDG&E notes, “a de-energization event is not yet formally defined as an ‘emergency’ by local county and city jurisdictions; hence jurisdiction EOCs are not activated.” SDG&E Comments, p.22.

noted how the proposal contradicts both Incident Command System and emergency management principles.<sup>19</sup> The Joint Communications Parties agree with those comments. Mandatory deployment of telecommunication personnel to the EOC as advocated by the Public Advocates Office is impractical and does not use limited resources in the most effective manner. Telecommunications providers can share information with the EOC more efficiently via telephonic or email communication. Another alternative is using entities such as the California Utility Emergency Association (“CUEA”) to provide a point of contact for utilities, including electric and telecommunication providers, during emergency events. The CUEA can directly interface with the EOC, providing an appropriate line of communications between the EOC and its member utilities.

#### **IV. CONCLUSION**

The Joint Communications Carriers look forward to continuing to engage with the Commission and other stakeholders on these important issues so as to ensure that de-energization events occur in a manner designed to best protect the safety of the public.

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<sup>19</sup> SDG&E Comments, p.21; Opening Comments of Pacific Gas and Electric Company on Phase 1 Issues, R. 18-11-005 (March 25, 2019), p. 16; Opening Comments of Southern California Edison Company on Phase 1 Issues, R. 18-11-005 (March 25, 2019), pp. 19-20.

Respectfully submitted this April 2, 2019, at San Francisco, California.

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<sup>20</sup> In accord with Rule 1.8 of the Commission's Rules of Practice and Procedure, counsel for CTIA has been authorized to sign this pleading on behalf of each of the Joint Communications Parties.