

**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.

Rulemaking 18-12-005
(Filed December 13, 2018)

**REPLY TO RESPONSES TO JOINT MOTION REQUESTING
COMMISSION REVIEW OF PSPS POST-EVENT REPORTS**

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July 10, 2020

Pursuant to Rule of Practice and Procedure 11.1(f) of the California Public Utilities Commission (“Commission”) and permission granted by presiding Administrative Law Judge Poirier by way of email on July 1, 2020, Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) and AT&T Mobility ¹(collectively “AT&T”), the California State Association of Counties, the California Community Choice Association, the Center for Accessible Technology, the City of San Jose, CTIA, the Joint Local Governments (the Counties of Kern, Marin, Mendocino, Napa, Nevada, San Luis Obispo, Santa Barbara, and Sonoma, and the City of Santa Rosa), Mussey Grade Road Alliance, The Protect Our Communities Foundation, the Rural County Representatives of California, Sprint Spectrum L.P. dba Sprint, T-Mobile West LLC dba T-Mobile,² the Utility Consumer Action Network, and The Utility Reform Network (together the “Joint Parties”) reply to the responses filed on June 30, 2020, to the Joint Motion Requesting Review of PSPS-Post Event Reports (“Motion”).

I. INTRODUCTION

The Joint Parties’ request for the Commission undertake a review of each determination by the major investor-owned electric utilities (“IOUs”) to initiate a Public Safety Power Shutoff (“PSPS”) event to assess whether such action was a reasonable exercise of the IOU’s discretion under the Public Utilities Code is not a new idea. Rather, as illustrated in the Motion, it is grounded in a series of Commission decisions emphasizing the importance of the post-PSPS event reports and reiterating the imperative nature of the Commission’s review of each PSPS

¹ 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).

² With the April 2020 consummation of the merger between T-Mobile US, Inc. and Sprint Corporation, T-Mobile West LLC and Sprint Spectrum L.P. are now both wholly-owned subsidiaries of T-Mobile USA, Inc.”

event for reasonableness.³ The responses in opposition to the Joint Parties' Motion not only ignore prior Commission directives on this matter, but also the Commission's general duty under the Public Utilities Code to ensure the reasonableness of the IOUs' actions in rendering service to the public.⁴

II. THE COMMISSION HAS ALREADY CREATED A SOLID FRAMEWORK TO REVIEW REASONABLENESS FOR INITIATION OF PSPS EVENTS

The Coalition of California Utility Employees ("CUE") asserts that "[t]he Commission must reject a reasonableness review of PSPS decisionmaking prior to establishing criteria by which the initiation of a PSPS event will be judged,"⁵ and the determination of such criteria is still pending in Phase 2 of this proceeding.⁶ The Public Advocates Office ("PAO") also suggests that "reasonableness criteria be adopted prior to Commission review" (although PAO also seems to imply that the Commission could proceed with assessing the reasonableness of past PSPS events in the absence of adopted criteria).⁷ These arguments are without merit.

The Commission has definitively and repeatedly stated that any decision by an IOU to shut off the power "may be reviewed by the Commission pursuant to its broad jurisdiction over matters regarding the safety of public utility operations and facilities."⁸ The Commission did not state, as implied by CUE, and to a lesser extent PAO, that it could not exercise its authority to

³ See Joint Motion, pp. 3-6.

⁴ Certain responses to the Motion assert that the Joint Parties submitted the Motion in the wrong proceeding -- that it rightfully belongs in I. 19-11-013. In the Motion (at p. 9), the Joint Parties stated their rationale for filing the Motion in this rulemaking proceeding and still believe that this rulemaking proceeding is an appropriate venue for its resolution. However, if the Commission determines that resolution of the Motion should occur in I. 19-11-013, the Joint Parties are not adverse to such a ruling.

⁵ Opposition of the Coalition of California Utility Employees to Joint Motion Requesting Review of PSPS-Post Event Reports, R. 18-12-005 (June 30, 2020) ("CUE Comments"), p. 2.

⁶ *Id.*, p.4.

⁷ Response of the Public Advocates Office to Joint Motion Requesting Review of PSPS-Post Event Reports, R. 18-12-005 (June 30, 2020), pp 3-4.

⁸ See, e.g., Decision 09-09-030, p. 62; Decision 12-04-024, p. 30.

review the reasonableness of power shut offs until criteria to undertake such review are established. Indeed, the Commission’s responsibility to assess the reasonableness of the IOUs’ actions is engrained in the Public Utilities Code.⁹

Moreover, contrary to the claim of CUE, the Commission has already created a solid framework, applicable to all the IOUs, for use in assessing reasonableness of PSPS events. While CUE claims that the current framework is insufficient as it lacks “clear standards for when it is appropriate to de-energize,”¹⁰ it has never been the intent of the Commission to provide the IOUs a “check the box” list of criteria, which if all met, would result in a “reasonable” exercise of the IOU’s discretion to shut off the power. Indeed, the Commission could not do so, as each PSPS event is unique.

Finally, if CUE, and to a lesser degree PAO, were correct that the Commission cannot properly assess the reasonableness of the IOUs’ determinations to shut off the power until after additional criteria were established, then not only would Commission action be delayed for an indeterminate period of time, but the IOUs may argue that the Commission cannot review the reasonableness of any shutoffs that occurred before the additional criteria were established. Both of these results could serve to insulate the IOUs from accountability for their PSPS decisions. Such is not the message the Commission wants to be sending as we advance closer to the peak of power shutoff season.

III. CONCLUSION

The Joint Parties respectfully request that the Commission grant their Motion and

⁹ See, e.g., Public Utilities Code Section 451 (rates charged by an IOU must be just and reasonable); Section 761 (rules, practices, equipment, appliances, facilities, or service of an IOU must be just and reasonable).

¹⁰ CUE Comments, p. 3.

undertake a review of each IOU decision to initiate a PSPS event to assess whether it was a reasonable exercise of the IOU's discretion under the Public Utilities Code.

Respectfully submitted July 10, 2020, at San Francisco, California.

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