

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Safety and Enforcement Division

**Resolution SED-10
August 1, 2024**

RESOLUTION

**RESOLUTION SED-10 APPROVING ADMINISTRATIVE
CONSENT ORDER AND AGREEMENT OF THE SAFETY AND
ENFORCEMENT DIVISION AND PACIFICORP REGARDING
THE 2021 PUBLIC SAFETY POWER SHUTOFFS TO
RESOLUTION M-4846**

SUMMARY

In this Resolution, the California Public Utilities Commission (Commission) approves an Administrative Consent Order and Agreement (ACO) between the Commission's Safety and Enforcement Division (SED) and PacifiCorp d/b/a Pacific Power ("PacifiCorp") to resolve all issues involving the 2021 Public Safety Power Shutoffs (PSPS), resulting in financial penalties totaling \$18,030. This Resolution includes an analysis of the Penalty Assessment Methodology.

BACKGROUND AND DISCUSSION

Utilities have the authority to shut off the electric power to protect public safety under California law. Utilities do this during severe wildfire threat conditions as a preventative measure of last resort through PSPS events. Such power cuts reduce the risk of an IOUs' infrastructure to cause or contribute to a wildfire. However, a PSPS can leave communities and essential facilities without power, which brings its own risks and hardships, particularly for vulnerable communities and individuals. From 2018 through 2020, CPUC issued four sets of guidelines; Resolution ESRB-8, Decision (D.) 19-05-042, D.20-05-051, and the Post-Event Report Template directing the IOUs to follow these guidelines in PSPS execution.

In 2021, PacifiCorp initiated one PSPS event and submitted one post event report to the CPUC. Stakeholders provided comments on these post event reports. SED performed reviews on the submitted reports, including consideration of stakeholder comments, to evaluate PacifiCorp's compliance with the reporting requirements under Resolution ESRB-8, D.19-05-942, D.20-05-051, and the Post-Event Report Template.

Resolution M-4846, issued in November 2020, adopted the Commission Enforcement and Penalty Policy (Enforcement Policy) and authorized Commission staff to negotiate and propose an Administrative Consent Order to resolve an enforcement matter, subject to review and consideration by the Commission.¹ SED and PacifiCorp executed the attached ACO,² pursuant to and consistent with the Enforcement Policy, which resolves all issues related to SED's investigations of the 2021 PSPS Events and any enforcement action SED might have brought related to or arising from the 2021 PSPS Events. In accordance with the Enforcement Policy, the proposed settlement between SED and PacifiCorp (collectively, Parties) is memorialized in the attached Administrative Consent Order and Agreement. The ACO includes information consistent with the requirements of Section III.A.7 of the Enforcement Policy.

The Enforcement Policy provides that "the following general considerations should be evaluated as part of any proposed settlement to be submitted for Commission review: (1) Equitable factors; (2) Mitigating circumstances; (3) Evidentiary issues; and (4) Other weaknesses in the enforcement action[.]"³ The Parties explicitly considered these factors in their confidential settlement communications under Rule 12.6 of the Commission's Rules of Practice and Procedure. SED acknowledges PacifiCorp's cooperation with SED on the negotiation of the Administrative Consent Order and Agreement, and SED explicitly considered a range of evidentiary and other matters that would bear upon its pursuit of enforcement actions seeking penalties or citations on disputed issues of fact and law. When taken as a whole, the Parties agree that the ACO amounts are within the range of reasonable outcomes had the matters proceeded to formal litigation.

The Penalty Assessment Methodology sets forth five factors that staff and the Commission must consider in determining the amount of a penalty for each violation: "[s]everity or gravity of the offense, conduct of the regulated entity, financial resources of the regulated entity, including the size of the business, totality of the circumstances in furtherance of the public interest, and the role of precedent."⁴ These factors are addressed here.

A. Severity or Gravity of the Offenses

The Commission has stated that the severity of the offense includes several considerations, including economic harm, physical harm, and harm to the regulatory process.

¹ Resolution M-4846, Findings and Conclusions #8; Enforcement Policy, p. 11.

² The ACO is attached as Attachment A.

³ Enforcement Policy, p. 15.

⁴ Enforcement Policy, pp. 16-21.

1. Physical and Economic Harm

The Commission has described the physical and economic harm criteria as follows:

Economic harm reflects the amount of expense which was imposed upon the victims. In comparison, violations that cause actual physical harm to people or property are generally considered the most severe, followed by violations that threaten such harm.⁵

PacifiCorp had one PSPS event in 2021. The August 17, 2021 event was initially forecasted by PacifiCorp on August 16, 2021, the day before the event, using the National Oceanic and Atmospheric Administration's High Resolution Rapid Refresh model, which provides weather forecasts for 48 hours. This forecast did not allow PacifiCorp enough time to make 48-72 hour notifications. Additionally, the impact winds developed earlier than forecast during the afternoon of August 17, 2021, necessitating de-energization before PacifiCorp made 1-4 hour notifications. Also, due to an unanticipated system overload with PacifiCorp's vendor, 1,753 restoration of service notification calls failed. Due to the emphasis that the Commission has placed on the requirement to notify customers of potential de-energization events and the potential to cause physical or economic harm from missed notifications, PacifiCorp's failure to provide these notifications resulted in monetary penalties.

2. Harm to the Regulatory Process

As part of the severity of the offense factor, the Commission has described the harm to the regulatory process criterion as follows:

"Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the Commission in the matters specified in this part, or any other matter in any way relating to or affecting its business as a public utility, and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees." (Public Utilities Code § 702).

⁵ Enforcement Policy, p. 16.

Such compliance is essential to the proper functioning of the regulatory process. For this reason, disregarding a statutory or Commission directive, regardless of the effects on the public, will be accorded a high level of severity.^{6F}

PacifiCorp complied with SED during the investigation of PacifiCorp's 2021 PSPS Event and in the negotiation and presentation of the ACO. There were no allegations of Rule 1.1 violations and no allegations of other ethical violations, or any deliberate misconduct associated with the PacifiCorp's 2021 PSPS Event. Accordingly, this was not a significant factor in determining the basis for the penalty imposed pursuant to the ACO.

B. The Conduct of the Utility

In evaluating the conduct of the utility, the Commission has described the following considerations in evaluating the utility's conduct: (1) actions taken to prevent a violation; (2) actions taken to detect a violation; (3) actions taken to disclose and rectify a violation; (4) actions taken to conceal, hide or cover up a violation; and (5) prior history of violations.⁷

PacifiCorp explained that in the case of re-energization notifications, while it initiated the required notifications 1,753 outbound calls failed due to an unanticipated system overload with PacifiCorp's vendor. Since this incident, PacifiCorp has started phasing the outbound call rate, implemented an error-checking process, and enhanced vendor and internal customer service staffing to ensure notifications are completed in a timely manner. Additionally, PacifiCorp did not make all advance notifications due to the early arrival of impact winds. To ameliorate forecasting inaccuracy, PacifiCorp has made progress in situational awareness and weather forecasting tools. These advancements will help PacifiCorp better understand and respond to threats and risks with a longer lead time.

PacifiCorp has assured SED that its future post-event reports will be compliant. PacifiCorp will submit, serve, post on its website, and provide contact information for post-event reports for future de-energization events. PacifiCorp will also engage with local and state public safety partners in providing advanced education, outreach, and notification during the events.

^{6F} Enforcement Policy, p. 17.

⁷ Enforcement Policy, p. 17.

C. Financial Resources of the Utility

The Commission has described this criterion as follows:

Effective deterrence also requires that staff recognize the financial resources of the regulated entity in setting a penalty that balances the need for deterrence with the constitutional limitations on excessive penalties. . . . If appropriate, penalty levels will be adjusted to achieve the objective of deterrence, without becoming excessive, based on each regulated entity's financial resources.^{12F}⁸

PacifiCorp is a large utility serving over 1.8 million customers across six states. Considering the nature of the violation and PacifiCorp's efforts to improve its PSPS program, the amount is enough to deter future non-compliance and ensure PacifiCorp implements PSPS improvements.

D. Totality of Circumstances in Furtherance of Public Interest

The Commission has described this criterion as follows:

Setting a penalty at a level that effectively deters further unlawful conduct by the regulated entity and others requires that staff specifically tailor the package of sanctions, including any penalty, to the unique facts of the case. Staff will review facts that tend to mitigate the degree of wrongdoing as well as any facts that exacerbate the wrongdoing. In all cases, the harm will be evaluated from the perspective of the public interest.

An economic benefit amount shall be estimated for every violation. Economic benefit includes any savings or monetary gain derived from the act or omission that constitutes the violation.^{14F}²

The Commission must evaluate penalties in the totality of the circumstances, with an emphasis on protecting the public interest. The ACO amounts described above were tailored to the unique facts of the case and are reasonable. Here, PacifiCorp's most significant violation was its failure to notify 1,753 customers of re-energization, because of a vendor system error. Additionally, PacifiCorp violated two rules for which no monetary penalty is assessed. Specifically, (1) PacifiCorp failed to notify Critical

⁸ Enforcement Policy, p. 19.

² Enforcement Policy, p. 19.

Facilities and customers of the estimated start time, duration, and estimated time to full restoration of the events, and (2) PacifiCorp did not provide a robust explanation of why it missed notifications before re-energization. Regarding Critical Facility notifications, PacifiCorp has worked to improve a number of key data points, communication processes, staffing availability and coordination and to develop and leverage the data integrity and improved communication its Public Safety Portal will offer these partners. PacifiCorp is on notice for these issues and will take corrective action, and SED does not waive its right to assess monetary penalties for future non-compliance. The public interest is served by imposing a penalty of \$18,030.

Furthermore, with an appropriate resolution having been reached, it is in the public interest to resolve this proceeding now. The ACO obviates the need for SED to initiate an enforcement proceeding and for the Commission to adjudicate the disputed facts, alleged violations, and appropriate penalty. Approval of the ACO promotes administrative efficiency so that the Commission and parties are not required to spend substantial time and resources on continued litigation for a matter that has been satisfactory resolved.

E. Consistency with Precedent

The Commission has described the role of precedent as follows:

Penalties are assessed in a wide range of cases. The penalties assessed in cases are not usually directly comparable. Nevertheless, when a case involves reasonably comparable factual circumstances to another case where penalties were assessed, the similarities and differences between the two cases should be considered in setting the penalty amount.

The ACO is reasonable when compared to the outcome of other settlements and outcomes in Commission proceedings. The following are examples of approved settlements and enforcement decisions involving electric utilities and PSPS events.

1. 2020 SDG&E PSPS Event Administrative Enforcement Order (Resolution M-4863)

In 2020, SDG&E initiated five PSPS events. During one event on September 8-9, 49 customers never received notifications during de-energization or re-energization. SED issued an Administrative Enforcement Order (AEO) alleging SDG&E violated the PSPS notification requirements under Commission decision D.19-05-042 and assessed a fine of \$24,000. SED also imposed eight corrective actions to ensure future compliance with the Commission's PSPS rules. SDG&E accepted the Administrative Enforcement Order (AEO) and the AEO was approved by the Commission in Resolution M-4863.

2. 2020 PacifiCorp PSPS Event Administrative Enforcement Order (Resolution M-4862)

In 2020, PacifiCorp initiated two PSPS events. While SED did find PacifiCorp violated some PSPS guidelines, they opted not to assess a penalty because they successfully notified customers as required by the Commission's decisions. SED opted to impose eight corrective actions on PacifiCorp to ensure future compliance with the Commission's PSPS rules. PacifiCorp accepted the Administrative Enforcement Order (AEO), and the AEO was approved by the Commission in Resolution M-4862.

3. 2020 Pacific Gas and Electric PSPS Event Administrative Enforcement Order (Resolution ALJ-445)

In 2020, Pacific Gas and Electric (PG&E) initiated seven PSPS events. SED found that PG&E failed to provide any customer notifications during de-energization. SED issued an Administrative Enforcement Order alleging PG&E violated the PSPS notification requirements under Commission decision D.19-05-042 and assessed a fine of \$12,000,000. SED also included six corrective actions to ensure future compliance with the Commission's PSPS rules. PG&E challenged the Administrative Enforcement Order. SED and PG&E settled the matter with an \$8 million fine. The amount was split up between a \$500,000 penalty to the General Fund and \$7,500,000 for the Independent Safety Monitor between 2023 and 2026. PG&E also had to comply with the eight corrective actions. The Commission approved the settlement in Resolution ALJ-445.

4. 2020 Southern California Edison PSPS Event Administrative Enforcement Order (Resolution ALJ-440)

In 2020, Southern California Edison (SCE) initiated sixteen PSPS events. SED found that 25,573 customers failed to get notifications spread out over the course of the sixteen events. SED issued an Administrative Enforcement Order alleging SCE violated the PSPS notification requirements under Commission decision D.19-05-042 and assessed a fine of \$10,000,000. SED also included fourteen corrective actions to ensure future compliance with the Commission's PSPS rules. SCE challenged the Administrative Enforcement Order. SED and SCE settled the dispute with a \$7 million fine. The amount was split up between a \$500,000 shareholder-funder fine to the General Fund, a \$500,000 shareholder-funded payment to SCE's Energy Assistance Fund, and \$6 million permanent disallowance of PSPSP program-related costs that are eligible for tracking in the Wildfire Mitigation Plan Memorandum Account. SCE also had to comply with the fourteen corrective actions. The Commission approved the settlement in Resolution ALJ-440.

COMMENTS ON DRAFT RESOLUTION

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived or reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today. Comments were provided on July 15, 2024 by The Public Advocates Office of the California Public Utilities Commission. Based on these comments, the Resolution was updated to reflect the potential physical and economic harm posed by PacifiCorp's violations in this action.

FINDINGS AND CONCLUSIONS

1. Resolution M-4846 authorized Commission staff to negotiate and propose an Administrative Consent Order to resolve an enforcement matter, subject to review and consideration by the Commission.
2. SED and PacifiCorp have engaged in settlement negotiations and, consistent with Resolution M-4846 and the Enforcement Policy, have memorialized their proposed settlement in the attached Administrative Consent Order and Agreement.
3. SED and PacifiCorp have agreed that the attached Administrative Consent Order and Agreement resolves all issues related to SED's investigations of and any enforcement action SED might have brought related to or arising from PacifiCorp's 2021 PSPS event.
4. The agreed-upon fines and remedial actions appropriately resolve all issues related to SED's investigations and any enforcement action SED may have brought, are reasonable in light of the circumstances, consistent with the law, and in the public interest.
5. Based on the analysis under the Penalty Assessment Methodology, the agreed-upon fines, safety measures and disallowances are reasonable in light of the circumstances.

THEREFORE, IT IS ORDERED that:

1. The Administrative Consent Order and Agreement between SED and PacifiCorp relating to PacifiCorp's 2021 PSPS events is adopted.
2. PacifiCorp shall pay a monetary penalty of \$18,030 within thirty (30) days after the date that this Resolution is final and no longer subject to appeal. Payment must be with a certified check made or wire transfer payable to the ***California Public Utilities Commission*** to:

California Public Utilities Commission
Attn: Fiscal Office
505 Van Ness Avenue
San Francisco, CA 94102-3298

PacifiCorp shall state on the face of the check or on the wire transfer: "For deposit to the General Fund per Resolution SED-10."

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on August 1, 2024 the following Commissioners voting favorably thereon:

/s/

Rachel Peterson

Rachel Peterson
Executive Director

ALICE REYNOLDS
President

DARCIE L. HOUCK

JOHN REYNOLDS

KAREN DOUGLAS

MATTHEW BAKER

Commissioners

ATTACHMENT A

Administrative Consent Order

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

In the matter of:

PACIFICORP 2021 Public Safety Power
Shutoff Events

[PROPOSED] ADMINISTRATIVE
CONSENT ORDER AND AGREEMENT

Issued pursuant to Commission Resolution M-
4846 (adopting Commission Enforcement
Policy)

**[PROPOSED] ADMINISTRATIVE CONSENT ORDER AND
AGREEMENT**

Dated: June 5, 2024

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[PROPOSED] ADMINISTRATIVE CONSENT ORDER AND AGREEMENT

This Administrative Consent Order and Agreement (hereinafter “ACO” or “Agreement”) is entered into and agreed to by and between the Safety and Enforcement Division (“SED”) of the California Public Utilities Commission (“CPUC” or “Commission”) and PacifiCorp d/b/a Pacific Power (“PacifiCorp”) (collectively, “Parties”) pursuant to Resolution M-4846, dated November 5, 2020, titled *Resolution Adopting Commission Enforcement Policy*.

WHEREAS:

- The Commission has authorized SED “to investigate, negotiate, and draft proposed Administrative Consent Orders, subject to review and consideration by the Commission” via resolution;¹
- The Commission’s Enforcement Policy requires that a “negotiated proposed settlement . . . be memorialized in a proposed Administrative Consent Order,” which requires certain items as set forth in Section 2, below;²
- Consistent with Resolution M-4846, this ACO is a product of direct negotiations between the Parties to resolve and dispose of all claims, allegations, liabilities and defenses related to PacifiCorp’s 2021 Public Safety Power Shutoff (PSPS) events.
- This ACO is entered into as a compromise of disputed claims and defenses in order to minimize the time, expense, and uncertainty of an evidentiary hearing, any further enforcement proceedings, and/or any subsequent appeals, and with the Parties having taken into account the possibility that each of the Parties may or

¹ Resolution M-4846 at 15 (Findings and Conclusions No. 8).

² Resolution M-4846, Enforcement Policy at 10.

may not prevail on any given issue, and to expedite timely action on initiatives that benefit California consumers;

- The Parties agree to the following terms and conditions as a complete and final resolution of all enforcement actions which have been brought by SED related to or arising from PacifiCorp's compliance for its 2021 PSPS events, and all of PacifiCorp's defenses thereto, based on the information known to the Parties, and without trial and adjudication of any issue of law or fact.

NOW, THEREFORE it is agreed that this ACO is made and entered into.

I. PARTIES

The parties to this ACO are SED and PacifiCorp.

SED is a division of the Commission charged with enforcing compliance with the Public Utilities Code and other relevant utility laws and the Commission's rules, regulations, orders, and decisions. SED is also responsible for investigations of utility incidents, including PSPS, and assisting the Commission in promoting public safety.

PacifiCorp is a public utility, as defined by the California Public Utilities Code. It serves over 1.8 million customers in California, Oregon, Washington, Utah, Idaho, and Wyoming.

II. ELEMENTS REQUIRED BY SECTION III.A.7 OF THE COMMISSION'S ENFORCEMENT POLICY FOR ADMINISTRATIVE CONSENT ORDERS

Except as explicitly stated herein, the Parties expressly agree and acknowledge that neither this ACO nor any act performed hereunder is, or may be deemed, an admission or evidence of the validity or invalidity of any allegations of SED, nor is the Agreement or any act performed hereunder to be construed as an admission or evidence of any wrongdoing, fault, omission, negligence, imprudence, or liability on the part of PacifiCorp. This is a negotiated settlement of disputed matters.

A. The law or Commission order, resolution, decision, or rule violated by the regulated entity and the facts that form the basis for each violation

Part I of the Appendix to this ACO contains the Notice of Violation (NOV) issued by SED on PacifiCorp, on April 7, 2023. The NOV includes the Commission orders and decisions that PacifiCorp violated, and the facts that form the basis for each violation. PacifiCorp submitted a response to the NOV, contained in Part II of the Appendix to this ACO, on May 8, 2023, which includes more information from PacifiCorp's 2021 PSPS events and sets forth SED's alleged violations of Commission rules. As a result of PacifiCorp's response and the new information, SED dismisses two violations alleged in the NOV, listed in II.A.1 and II.A.2.

1. For the August 17, 2021 event, PacifiCorp did not report the specific criteria leading to the de-energization event. (D.19-05-042, Appendix A, pages 22-23).
2. For the August 17, 2021 event, PacifiCorp did not report sufficient quantitative information including the specific criteria leading to de-energization. (D.20-05-051, Appendix A, page 9).

This ACO addresses and resolves PacifiCorp's remaining violations set forth in the NOV. PacifiCorp admits and agrees to the remaining violations as set forth in the NOV and the associated penalties, as set forth herein.

B. Information related to the potential for additional or ongoing violations

The Parties intend this Agreement to be a complete and final resolution of all enforcement actions which have been brought by SED related to PacifiCorp's 2021 PSPS events, based on the information known by the Parties.

C. An agreement by the regulated entity to correct each violation

PacifiCorp asserts that it has remediated any alleged continuing violations and is implementing systems to ensure compliance with the PSPS requirements going forward.

D. An agreement by the regulated entity to pay any penalty by a date specified

PacifiCorp agrees to pay a monetary penalty totaling \$18,030 to the California State General Fund within thirty (30) days after the date of Commission Approval (as defined in Section IV.E. below).

III. ADDITIONAL TERMS

A. Confidentiality and Public Disclosure Obligations

The Parties agree to continue to abide by the confidentiality provisions and protections of Rule 12.6 of the Commission's Rules of Practice and Procedure, which governs the discussions, admissions, concessions, and offers to settle that preceded execution of this ACO and Agreement and that were exchanged in all efforts to support its approval. Those prior negotiations and communications shall remain confidential indefinitely, and the Parties shall not disclose them outside the negotiations without the consent of both Parties. The Parties agree to coordinate as to the timing and content of mutual and/or individual public communications. Notwithstanding the foregoing, PacifiCorp may make any disclosures it deems legally necessary, in its sole discretion, in order to satisfy its obligations under securities laws.

B. Future Proceedings

The Parties agree to avoid and abstain from making any collateral attacks on this ACO or taking positions in other venues that would undermine the effect or intent of the ACO.

Nothing in this ACO constitutes a waiver by SED of its legal obligations, authority, or discretion to investigate and enforce applicable safety requirements and standards (including, without limitation, provisions of GO 95 and GO 165) as to other conduct by PacifiCorp unrelated to this ACO or the PSPS events that SED may identify as the basis for any alleged violation(s). SED shall retain such authority regardless of any factual or legal similarities that other PacifiCorp conduct, and any alleged violation(s), may have to PacifiCorp's conduct/alleged

violations related to the 2021 PSPS events. Accordingly, any such similarities shall not preclude SED from using other conduct and alleged violation(s) as a basis for assessing future penalties.

C. Regulatory Approval Process

Pursuant to Resolution M-4846, this ACO shall be submitted for public notice and comment. Upon approval or ratification of this ACO, the final resolution will “validate[] the order, which becomes an act of the Commission itself.”³

By signing this ACO, the Parties acknowledge that they pledge support for Commission Approval and subsequent implementation of all the provisions of this ACO. The Parties shall use their best efforts to obtain Commission Approval of this ACO without modification, and agree to use best efforts to actively oppose any modification thereto. Should any Alternate Draft Resolution seek a modification to this ACO, and should either of the Parties be unwilling to accept such modification, that Party shall so notify the other Party within five business days of issuance of the Alternate Draft Resolution. The Parties shall thereafter promptly discuss the modification and negotiate in good faith to achieve a resolution acceptable to the Parties and shall promptly seek approval of the resolution so achieved. Failure to resolve such modification to the satisfaction of either of the Parties, or to obtain approval of such resolution promptly thereafter, shall entitle any Party to terminate this Agreement through prompt notice to the other Party. (*See also* Section IV.D. below.)

If Commission Approval is not obtained, the Parties reserve all rights to take any position whatsoever regarding any fact or matter of law at issue in any future enforcement action or proceeding related to the 2021 PSPS events.

D. Admissibility

³ Resolution M-4846 at 8.

If this ACO is not adopted by the Commission, its terms are inadmissible for any evidentiary purpose unless their admission is agreed to by the Parties.

E. Due Process

PacifiCorp's waiver of its due process rights for the Commission to hear and adjudicate the alleged violations set forth in Part II of the Appendix to this ACO is conditioned on a final Commission resolution or order approving this ACO without modification, or with modifications agreeable to each of the Parties.

IV. GENERAL PROVISIONS

A. Full Resolution

Upon Commission Approval, this ACO fully and finally resolves any and all enforcement actions and disputes between SED and PacifiCorp related to the 2021 PSPS events, and provides for consideration in full settlement and discharge of all disputes, rights, enforcement actions, notices of violations, citations, and causes of action which have, or might have been, brought by SED related to the 2021 PSPS events based on the information known, or that could have been known, to SED at the time that SED executes this ACO.

B. Non-Precedent

This ACO is not intended by the Parties to be precedent for any other proceeding, whether pending or instituted in the future. The Parties have assented to the terms of this ACO only for the purpose of arriving at the settlement embodied in this ACO. Each of the Parties expressly reserves its right to advocate, in other current and future proceedings, or in the event that the ACO is not adopted by the Commission, positions, principles, assumptions, arguments and methodologies which may be different than those underlying this ACO. The Parties agree and intend that, consistent with Rule 12.5 of the Commission's Rules of Practice and Procedure, a final Commission resolution approving this ACO should not be construed as a precedent or

statement of policy of any kind for or against either Party in any current or future proceeding with respect to any issue addressed in this ACO.

C. General Considerations for Settlement

Section III.B of the Commission's Enforcement Policy states that "the following general considerations should be evaluated as part of any proposed settlement to be submitted for Commission review: 1. Equitable Factors; 2. Mitigating circumstances; 3. Evidentiary issues; and 4. Other weaknesses in the enforcement action[.]"⁴ The Parties explicitly considered these factors in their confidential settlement communications. Without waiving the protections of Rule 12.6 of the Commission's Rules of Practice and Procedure, the Parties represent that they took these factors into account, and each Party considered the risks and weaknesses of their positions. When taken as a whole, the Parties agree that the ACO amounts set forth in Section II are within the range of reasonable outcomes had this matter proceeded to formal litigation.

D. Incorporation of Complete ACO

The Parties have bargained in good faith to reach the ACO terms set forth herein, including in the Appendix. The Parties intend the ACO to be interpreted as a unified, integrated order and agreement, so that, consistent with Section III.C. above, if the Commission rejects or modifies any portion of this ACO or modifies the obligations placed upon PacifiCorp or SED from those that the ACO would impose, each of the Parties shall have a right to withdraw. This ACO is to be treated as a complete package and not as a collection of separate agreements on discrete issues. To accommodate the interests related to diverse issues, the Parties acknowledge that changes, concessions, or compromises by a Party in one section of this ACO resulted in changes, concessions, or compromises by the other Party in other sections. Consequently,

⁴ Resolution M-4846, Enforcement Policy at 15 (Section III.B.).

consistent with Section III.C. above, the Parties agree to actively oppose any modification of this ACO, whether proposed by any Party or non-Party to the ACO or proposed by an Alternate Draft Resolution, unless both Parties jointly agree to support such modification.

E. Commission Approval

“Commission Approval” means a resolution or decision of the Commission that is (a) final and no longer subject to appeal, which approves this ACO in full; and (b) does not contain conditions or modifications unacceptable to either of the Parties.

F. Governing Law

This ACO shall be interpreted, governed, and construed under the laws of the State of California, including Commission decisions, orders and rulings, as if executed and to be performed wholly within the State of California.

G. Other

1. The representatives of the Parties signing this ACO are fully authorized to enter into this Agreement.
2. The Parties agree that no provision of this ACO shall be construed against either of the Parties because a particular party or its counsel drafted the provision.
3. This ACO constitutes the entire agreement between the Parties and, supersedes all prior or contemporaneous agreements, negotiations, representations, warranties, and understandings of the Parties with respect to the subject matter set forth herein.
4. The rights conferred and obligations imposed on either of the Parties by this ACO shall inure to the benefit of or be binding on that Party’s successors in interest or assignees as if such successor or assignee was itself a party to this ACO.
5. Should any dispute arise between the Parties regarding the manner in which this ACO or any term shall be implemented, the Parties agree, prior to initiation of any other remedy, to work in good faith to resolve such differences in a manner consistent with both the express language and the intent of the Parties in entering into this ACO.

6. The Parties are prohibited from unilaterally filing a petition for modification or application for rehearing of the Commission resolution or decision approving this ACO with modification, consistent with the Regulatory Approval Process outlined in Section III.C.
7. This ACO may be executed in counterparts.
8. Nothing in this ACO relieves PacifiCorp from any safety responsibilities imposed on it by law or Commission rules, orders, or decisions.
9. The provisions of Paragraph III.C. shall impose obligations on the Parties immediately upon the execution of this ACO.

V. DISCUSSION OF PENALTY ASSESSMENT METHODOLOGY FACTORS

The Penalty Assessment Methodology appended to the Commission's Enforcement Policy sets forth five factors that staff and the Commission must consider in determining the amount of a penalty for each violation: (1) severity or gravity of the offense; (2) conduct of the regulated entity; (3) financial resources of the regulated entity; (4) totality of the circumstances in furtherance of the public interest; and (5) the role of precedent.⁵ This ACO was the result of arms-length negotiation between SED and PacifiCorp, which was guided by the factors set forth in the Penalty Assessment Methodology. As discussed below, consideration of those factors supports a Commission finding that the ACO is reasonable and in the public interest. The attached NOV in Appendix I to this ACO stipulates facts which provide a record basis for the Commission's determination.

Severity or Gravity of the Offense. The Commission has stated that the severity or gravity of the offense includes several considerations, including economic harm, physical harm,

⁵ Resolution M-4846 (Nov. 5, 2020), Enforcement Policy, Appendix I; see D.22-04-058 at 3–4 (affirming that consideration of the Penalty Assessment Methodology provides a basis for the Commission to determine that a negotiated settlement under the Commission's Enforcement Policy is reasonable and in the public interest).

and harm to the regulatory process. Violations that caused actual physical harm to people or property are considered particularly severe.⁶

PacifiCorp had one PSPS event in 2021. The August 17, 2021 event was initially forecasted on August 16, 2021, which did not allow PacifiCorp to make 48-72 hour notifications. Additionally, the impact winds developed earlier than forecast during the afternoon of August 17, 2021, necessitating de-energization before PacifiCorp made 1-4 hour notifications. Also, due to an unanticipated system overload with PacifiCorp's vendor, 1,753 restoration of service notification calls failed. Due to the emphasis that the Commission has placed on these requirements to notify customers of potential de-energization events, PacifiCorp's failure to provide these notifications resulted in monetary penalties. None of these violations were likely to cause physical harm to persons or property and can be broadly characterized as inconveniences or annoyances.

The Conduct of the Utility. In evaluating the conduct of the utility, the Commission considers the utility's conduct in preventing the violation, detecting the violation, and disclosing and rectifying the violation.⁷

PacifiCorp explained that in the case of re-energization notifications, while it initiated the required notifications, due to an unanticipated system overload with PacifiCorp's vendor, 1,753 outbound calls failed. Since this incident, PacifiCorp has started phasing the outbound call rate, implemented an error-checking process, and enhanced vendor and internal customer service staffing to ensure notifications are completed in a timely manner. Additionally, PacifiCorp did not make all advance notifications due to the early arrival of impact winds. To ameliorate

⁶ D.20-05-019 at 20; Enforcement Policy at 16.

⁷ Enforcement Policy at 17.

forecasting inaccuracy, PacifiCorp has made progress in situational awareness and weather forecasting tools. These advancements will help PacifiCorp better understand and respond to threats and risks with a longer lead time.

Additionally, PacifiCorp has assured SED that its future post-event reports will be compliant. PacifiCorp will submit, serve, post on its website, and provide contact information for post-event reports for future de-energization events. PacifiCorp will also engage with local and state public safety partners in providing advanced education, outreach, and notification during the events.

Financial Resources of the Utility. The Commission has described this criterion as follows:

Effective deterrence also requires that staff recognize the financial resources of the regulated entity in setting a penalty that balances the need for deterrence with the constitutional limitations on excessive penalties If appropriate, penalty levels will be adjusted to achieve the objective of deterrence, without becoming excessive, based on each regulated entity's financial resources.⁸

PacifiCorp is a large utility serving over 1.8 million customers across six states. Considering the nature of the violation and PacifiCorp's efforts to improve its PSPS program, the amount is enough to deter future non-compliance and ensure PacifiCorp implements PSPS improvements.

Totality of Circumstances in Furtherance of Public Interest. The Commission has described this criterion as follows:

Setting a penalty at a level that effectively deters further unlawful conduct by the regulated entity and others requires that staff specifically tailor the package of sanctions, including any penalty, to the unique facts of the case. Staff will review facts that tend to mitigate the degree of

⁸ Enforcement Policy at 17.

wrongdoing as well as any facts that exacerbate the wrongdoing. In all cases, the harm will be evaluated from the perspective of the public interest.⁹

An economic benefit amount shall be estimated for every violation. Economic benefit includes any savings or monetary gain derived from the act or omission that constitutes the violation.¹⁰

The Commission must evaluate penalties in the totality of the circumstances, with an emphasis on protecting the public interest. The ACO amounts described above were tailored to the unique facts of the case and are reasonable. Here, PacifiCorp's most significant violation was its failure to notify 1,753 customers of re-energization, because of a vendor system error; an accident generally resulting in a minor inconvenience for the affected customers. Additionally, PacifiCorp violated two rules for which no monetary penalty is assessed. Specifically, (1) PacifiCorp failed to notify Critical Facilities and customers of the estimated start time, duration, and estimated time to full restoration of the events, and (2) PacifiCorp did not provide a robust explanation of why it missed notifications before re-energization. PacifiCorp is on notice for these issues and will take corrective action, and SED does not waive its right to assess monetary penalties for future non-compliance. The public interest is served by imposing a penalty of \$18,030.

Furthermore, with an appropriate resolution having been reached, it is in the public interest to resolve this proceeding now. The ACO obviates the need for SED to initiate an enforcement proceeding and for the Commission to adjudicate the disputed facts, alleged violations, and appropriate penalty. Approval of the ACO promotes administrative efficiency so

⁹ Enforcement Policy at 19.

¹⁰ Enforcement Policy at 19.

that the Commission and parties are not required to spend substantial time and resources on continued litigation for a matter that has been satisfactorily resolved.

The Role of Precedent. The Commission has described this criterion as follows:

Penalties are assessed in a wide range of cases. The penalties assessed in cases are not usually directly comparable. Nevertheless, when a case involves reasonably comparable factual circumstances to another case where penalties were assessed, the similarities and differences between the two cases should be considered in setting the penalty amount.¹¹

While not binding precedent, prior settlements are useful for comparison, with the acknowledgement that settlements involve compromise positions. SED considered the following settlements in evaluating this incident and the ACO:

- In 2020, SDG&E initiated five PSPS events. During one event on September 8-9, 49 customers never received notifications during de-energization or re-energization. SED issued an Administrative Enforcement Order (AEO) alleging SDG&E violated the PSPS notification requirements under Commission decision D.19-05-042 and assessed a fine of \$24,000. SED also imposed eight corrective actions to ensure future compliance with the Commission's PSPS rules. SDG&E accepted the AEO and the Commission approved the settlement in Resolution M-4863.
- In 2020, PacifiCorp initiated two PSPS events. While SED did find PacifiCorp violated some PSPS guidelines, SED opted not to assess a penalty because PacifiCorp successfully notified customers as required by the Commission's decisions. SED opted to impose eight corrective actions on PacifiCorp to ensure future compliance with the Commission's PSPS rules. The Commission approved the settlement in Resolution M-4862.
- In 2020, Pacific Gas and Electric (PG&E) initiated seven PSPS events. SED found that PG&E failed to provide any customer notifications during de-energization. SED issued an AEO alleging PG&E violated the PSPS notification requirements under Commission decision D.19-05-042 and assessed a fine of \$12,000,000. SED also included six corrective actions to ensure future compliance with the Commission's PSPS rules. PG&E challenged the AEO. SED and PG&E settled the matter with an \$8 million fine. The amount was split up between a \$500,000 penalty to the General Fund and \$7,500,000 for the Independent Safety Monitor between 2023 and 2026. PG&E also had to comply with the eight

¹¹ Enforcement Policy at 21.

corrective actions. The Commission approved the settlement in Resolution ALJ-445.

- In 2020, Southern California Edison (SCE) initiated sixteen PSPS events. SED found that 25,573 customers failed to get notifications spread out over the course of the sixteen events. SED issued an AEO alleging SCE violated the PSPS notification requirements under Commission decision D.19-05-042 and assessed a fine of \$10,000,000. SED also included fourteen corrective actions to ensure future compliance with the Commission's PSPS rules. SCE challenged the AEO. SED and SCE settled the dispute with a \$7 million fine. The amount was split up between a \$500,000 shareholder-funder fine to the General Fund, a \$500,000 shareholder-funded payment to SCE's Energy Assistance Fund, and \$6 million permanent disallowance of PSPSP program-related costs that are eligible for tracking in the Wildfire Mitigation Plan Memorandum Account. SCE also had to comply with the fourteen corrective actions. The Commission approved the settlement in Resolution ALJ-440.

The prior settlements reflect outcomes that included a mix of penalties, shareholder funding of programs, and/or remedial action plans. The Parties believe that the ACO results in a reasonable outcome considering these precedents and the criteria discussed in this section.

The Parties mutually believe that, based on the terms and conditions stated above, this ACO is reasonable, consistent with the law, and in the public interest.

IT IS HEREBY AGREED.

[Signatures immediately follow this page]

DATED: June 5, 2024

PacifiCorp

By: Karen Kruse

Karen Kruse
VP, General Counsel
PacifiCorp

[This space intentionally left blank]

DATED: _____, 2024

Safety and Enforcement Division
California Public Utilities Commission

By: **Leslie L Palmer**

Leslie L. Palmer
Director, Safety and Enforcement Division
California Public Utilities Commission

Digitally signed by Leslie L
Palmer
Date: 2024.06.14 11:35:40
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APPENDIX

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APPENDIX I

PART I

SAFETY AND ENFORCEMENT DIVISION NOTICE OF VIOLATION

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



April 7, 2023

Shelley McCoy
Director, Regulation
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, Oregon 97232

SUBJECT: Notice of Violation – PacifiCorp 2021 Public Safety Power Shutoff Event

Dear Ms. McCoy:

On behalf of the Safety and Enforcement Division (SED) of the California Public Utilities Commission (CPUC), Wildfire Safety & Enforcement Branch (WSEB), Cindy Chen of my staff evaluated the compliance report submitted by PacifiCorp concerning its 2021 Public Safety Power Shutoff (PSPS) event. PacifiCorp initiated one PSPS event in 2021. The information used in our evaluation is from the compliance event report filed by PacifiCorp as required in Resolution ESRB-8, Decision (D.) 19-05-042, D.20-05-051, D.21-06-014, and D.21-06-034. We also considered stakeholders' comments in our evaluation.

Violations of D.19-05-042*Customer Notification Violations*

In D.19-05-042, the Commission set forth a number of notification requirements to ensure customers would be informed prior to a de-energization event. Over the course of our evaluation, WSEB was unable to determine if PacifiCorp properly notified customers when re-energization began. D.19-05-042 requires that the electric investor-owned utility provide notification to customers “at the beginning of a de-energization event, when re-energization begins and when re-energization is complete.” (A8). PacifiCorp only reported that “several” notifications did not get made as re-energization began because of system overload. Without information specifying how many customers did not receive a notification, WSEB must assume that none of the customers received them.

Additionally, the D.19-05-042 requires advance notification 48-72 hours to public safety partners and 1-4 hours to customers prior to a de-energization (D.19-05-042 A8). PacifiCorp did not meet either requirement.

PacifiCorp failed to notify Critical Facilities and customers of the estimated start time, duration, and estimated time to full restoration of the events (A16, A22-23).

Post Event Report

Additionally, the Commission requires utilities to submit a post event report for each PSPS event. D.19-05-042 requires that a link to the report be included on the utilities website with contact information to submit comments (A22). PacifiCorp's service of the de-energization report did not include a link to the report on PacifiCorp's website and contact information to submit comments. In the report, PacifiCorp failed to evaluate the engagement with local and state public safety partners in providing advanced education, outreach, and notification during the events (A22-23).

The Commission requires the electric investor-owned utilities provide the decision criteria leading to de-energization (A22- A23). PacifiCorp did not report the specific criteria leading to the de-energization event.

Violations of D.20-05-051

Post Event Report

Further post event report requirements are set out by the Commission in D.20-05-051. (Appendix A at 4). PacifiCorp did not explain why it missed notifications before re-energization. It also did not report sufficient quantitative information including the specific criteria leading to de-energization as required in Appendix A, page 9.

Please advise me no later than May 7, 2023, of corrective measures taken by PacifiCorp to remedy and prevent the future recurrence of the identified violations, or provide additional data that refutes the violations detailed in this Notice of Violation. Based on your response, this Notice of Violation may lead to an enforcement action. If you have any questions, you can contact Cindy Chen at (415) 660-8312 or email Cindy.Chen@cpuc.ca.gov.

Shelley McCoy
PacifiCorp
April 7, 2023
Page 3

Sincerely,



Ronald DeMayo

Program and Project Supervisor
Public Safety Power Shutoff Section
Wildfire Safety and Enforcement Branch
Safety and Enforcement Division
California Public Utilities Commission

Cc: Lee Palmer, Director, Safety and Enforcement Division, CPUC
Anthony Noll, Program Manager, WSEB, SED, CPUC
Cindy Chen, Senior Public Utilities Regulatory Analyst, WSEB, SED, CPUC

APPENDIX I

PART II

PACIFICORP RESPONSE TO NOTICE OF VIOLATION

May 8, 2023

VIA EMAIL ONLY

Ronald DeMayo
Program and Project Supervisor
Wildfire Safety and Enforcement Branch – PSPS Section
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298
Ronald.DeMayo@cpuc.ca.gov

Re: PacifiCorp's Response Regarding Notice of Violation – PacifiCorp 2021 Public Safety Power Shutoff Event

Dear Mr. DeMayo:

PacifiCorp respectfully submits this response to your April 7, 2023, Notice of Violation regarding PacifiCorp's 2021 Public Safety Power Shutoff Event.

Please direct any question regarding this submission to Pooja Kishore, Regulatory Affairs Manager at californiadockets@pacificorp.com and pooja.kishore@pacificorp.com.

Sincerely,



Allen Berreth
Pacific Power Vice President of Operations
Allen.Berreth@pacifiCorp.com

cc:

Lee Palmer, Director, Safety and Enforcement Division CPUC, Leslie.Palmer@cpuc.ca.gov
Anthony Noll, SED Program Manager, Anthony.Noll@cpuc.ca.gov
Cindy Chen, Senior Public Utilities Regulatory Analyst, WSEB, SED, CPUC,
Cindy.Chen@cpuc.ca.gov

Introduction

On April 7, 2023, PacifiCorp received a Notice of Violation (Notice) from the California Public Utilities Commission related to PacifiCorp’s 2021 Public Safety Power Shutoff event. The Notice included two violations related to Decision (D.) 19-05-042 and one related to D.20-05-051. The response below provides corrective measures to remedy and prevent future recurrence of violations. The tables embedded in the responses below are from [PacifiCorp’s August 17, 2021 PSPS Post-Event Report – Submitted August 31, 2023 \(2021 PSPS Post-Event Report\)](#).¹ The violations and responses are summarized below:

Violations of D.19-05-042

Customer Notification Violations

- a) *In D.19-05-042, the Commission set forth a number of notification requirements to ensure customers would be informed prior to a de-energization event. Over the course of our evaluation, WSEB was unable to determine if PacifiCorp properly notified customers when re-energization began. D.19-05-042 requires that the electric investor-owned utility provide notification to customers “at the beginning of a de-energization event, when re-energization begins and when re-energization is complete.” (A8). PacifiCorp only reported that “several” notifications did not get made as re-energization began because of system overload. Without information specifying how many customers did not receive a notification, WSEB must assume that none of the customers received them.*

PacifiCorp Response

PacifiCorp initiated notifications as indicated in the table below. In addition to telephone calls, PacifiCorp also initiated text and email messages to augment the telephone calls. Regarding restoration notifications, PacifiCorp initiated 1,953 telephone calls, 1,918 text messages and 1,035 emails utilizing all communication methods provided by customers. Due to an unanticipated system overload with PacifiCorp’s vendor, 1,753 outbound calls failed. The failed calls were not identified until the morning of August 18, 2021, after successful event conclusion notifications were complete. PacifiCorp cancelled the pending notifications given the successful event conclusion notifications, and in an effort to not cause any confusion to customers.

Table 8: Customer Notification Summary Table

August 17, 2021 De-Energization Event						
Type of Notification	Date	Time	Total Notifications Initiated			
			Total	Phone	Text	Email
PSPS Watch	8/16/2021	17:09:00	3,014	1,953	26	1,035
De-Energization	8/17/2021	15:35:00	2,988	1,953	0	1,035
Restoration	8/17/2021	21:12:00	4,914	1,953	1,926	1,035
Event Over	8/18/2021	8:29:00	4,906	1,953	1,918	1,035
Total	-	-	15,822	7,812	3,870	4,140

¹ PacifiCorp’s August 31, 2021 Post-event Report, https://www.pacificpower.net/content/dam/pcorp/documents/en/pacificpower/outages-safety/wildfire-safety/california-reports/18-10-007_R18-12-005_PAC_PSPS_Report_8-31-21.pdf

Since this incident, PacifiCorp has started phase the outbound call rate and has implemented an error checking process, and enhanced vendor and internal Customer Service staffing to ensure notifications are completed timely.

- b) *Additionally, D.19-05-042 requires advance notification 48-72 hours to public safety partners and 1-4 hours to customers prior to a de-energization (D.19-05-042, A8). PacifiCorp did not meet either requirement.*

PacifiCorp Response

Due to the rapidly changing weather and environmental conditions, not all planned notifications were initiated. The risk event was initially forecasted on August 16, 2021, not allowing for a 48–72-hour notification. Additionally, the impact winds developed earlier than forecast during the afternoon of August 17, 2021, which required the acceleration of the de-energization from around 5:00 p.m. to just after 3:30 p.m. PacifiCorp had not initiated the 1–4-hour notification at the time the decision to de-energize was made. This was due to early arrival of impact winds. As a result, PacifiCorp will consider initiation of “de-energization imminent” calls closer to the four hour mark where feasible. There were four notifications completed during the event as outlined in the table below.

Table 10: Notification Timeline Summary

August 17, 2021 De-Energization Event			
Notice	Type of Notification	Approximate Date / Time	Implemented According to Plan
48-72 hours	De-energization Warning to Public Safety Partners / Priority Customers	-	<i>[not possible due to rapidly changing forecast]</i>
24-48 hours	De-energization Warning	August 16, 2021 5:09 PM	✓
1-4 Hours ⁶	De-energization Imminent	-	<i>[not possible due to rapidly changing real time events]</i>
Event Begins	De-energization Begins	August 17, 2021 3:35 PM	✓
As Re-energization Begins	Re-energization Begins	August 17, 2021 9:12 PM	See Section 5.4
Once Re-energization is Completed	Re-energization Completed	August 18, 2021 8:29 AM	✓
Cancellation of Event	De-energization Event Canceled	N/A	N/A

In addition, PacifiCorp has made great progress in situational awareness and weather forecasting tools. These advancements will help PacifiCorp better understand and respond to threat and risk with a greater lead time.

PacifiCorp made a significant advancement in our weather prediction capability. In August of 2021, PacifiCorp’s meteorology team was reliant on National Oceanic and Atmospheric Administration’s High

Resolution Rapid Refresh model that provides weather forecasts for 48 hours. PacifiCorp then implemented a high-resolution numerical weather prediction model providing weather forecasts for 96 hours.

PacifiCorp bolstered the weather station network increasing real-time situational awareness capabilities. When the PSPS was enacted, PacifiCorp had 21 weather stations in California. PacifiCorp has installed an additional 55 weather stations in California with plans to install another 30 by the end of 2023. PacifiCorp's weather stations can make 30-second weather observations, allowing for precise real-time decision-making.

PacifiCorp developed and implemented a PSPS decision-support dashboard. This dashboard combines real-time weather data from numerous weather station networks with wind thresholds used for PSPS decision-making. This dashboard aggregates data that allows for situational awareness across the entire service territory.

PacifiCorp collaborated with a vendor to bolster an existing weather situational awareness website that combines real-time weather observations and numerical weather prediction data from multiple sources including PacifiCorp's weather prediction model data. The PSPS decision-making and notification process requires a comparison of wind predictions with real-time observations, to understand whether event timing may be impacted.

- c) *PacifiCorp failed to notify Critical Facilities and customers of the estimated start time, duration, and estimated time to full restoration of the events (D.19-05-042, A16, A22-23).*

PacifiCorp Response

PacifiCorp recognizes the feedback of Public Safety and Communications partners that notifications did not meet expectations. The Company conducted notifications to critical facilities leveraging internal communication mechanisms and Siskiyou County Emergency Management contacts using a variety of methods as described in Section 5.1, p 15. Additional details on these notifications can be found on Appendix B – Notification to Critical Facilities, on p 36 and Appendix F – Notifications to CPUC on p51 of the [2021 PSPS Post-Event Report, pp. 8-9](#). These notifications did not meet expectations and PacifiCorp has worked to improve a number of key data points, improve communication processes, improve staffing availability and coordination and to develop and leverage the data integrity and improved communication the Public Safety Portal will offer these partners.

Post Event Report

- d) *Additionally, the Commission requires utilities to submit a post event report for each PSPS event. D.19-05-042 requires that a link to the report be included on the utilities website with contact information to submit comments (A22). PacifiCorp's service of the de-energization report did not include a link to the report on PacifiCorp's website and contact information to submit comments. In the report, PacifiCorp failed to evaluate the engagement with local and state public safety partners in providing advanced education, outreach, and notification during the events (D.19-05-042, A22-23).*

PacifiCorp Response

PacifiCorp will submit, serve, post on its website and provide contact information for post-event reports for future de-energization events, as required by ESRB-8 and D.19-05-042.

- e) *The Commission requires the electric investor-owned utilities provide the decision criteria leading to de-energization (D.19-05-042, A22- A23). PacifiCorp did not report the specific criteria leading to the de-energization event.*

PacifiCorp Response

On August 17, 2021, PacifiCorp made the decision to implement a PSPS based on a thorough assessment of outage risk and environmental risk. Both risk assessments showed an environment with a high potential for large and rapidly spreading wildfire and wind conditions that typically lead to outages in the area. A summary of the criteria used for decision-making are presented in [2021 PSPS Post-Event Report, pp. 8-9](#).

Violations of D.20-05-051

Post Event Report

- f) *Further post event report requirements are set out by the Commission in D.20-05-051. (Appendix A at 4). PacifiCorp did not explain why it missed notifications before re-energization. It also did not report sufficient quantitative information including the specific criteria leading to de-energization as required in Appendix A, page 9.*

PacifiCorp Response

In [the 2021 PSPS Post-Event Report, Section 5.4](#), p.18, , PacifiCorp acknowledges the missed notifications for customers and discusses the cause of the missed restoration notifications. As a result, PacifiCorp outlined three improvements in the following Section 5.5, p 18:

1. Upon activation of the EOC, PacifiCorp has arranged with the vendor that manages the external notification system to place emergency technical support on call to meet notification requirements and troubleshoot any errors in real time throughout the duration of the event.
2. PacifiCorp has increased education for call center personnel to recognize these types of errors and establish processes to make corrections in a timely manner.
3. PacifiCorp has implemented new steps in PSPS protocols that include internal staff verifying success of vendor notifications very shortly after communications to customers are initiated.

Regarding quantitative information including specific criteria leading to de-energization as required, PacifiCorp initiates a PSPS when winds reach the 95th percentile for weather stations on or in proximity to circuits identified as having extreme wildfire risk. At the time of de-energization, PacifiCorp's weather station PC006 just south of Dunsmuir had a wind gust 95th percentile of 25 mph, and winds were measured at 28 mph. Additional supporting observations included a measured wind gust of 54 mph by the PacifiCorp weather station PC062C that was deployed for the event on a ridge northeast of Dunsmuir, a measurement of 40 mph by a field observer at Castle Crag State Park, and field observations of airborne vegetative debris during strong wind gusts. These quantitative and qualitative factors substantiated the implementation of the PSPS to ensure the safety of the public.