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Decision 98-03-036 March 12, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking for Electric Distribution Facility Standard Setting. (U 39 E)	R.96-11-004 (Filed November 6, 1996)

ORIGINAL

OPINION

Summary

This decision proposes rules to govern the electric utilities' planning for and response to emergencies and major power outages. The rules are proposed pursuant to Public Utilities Code Section 364(b) and as part of the Commission's ongoing efforts to develop and refine standards to promote the safety and reliability of the state's electric utility distribution system. We also propose minor modifications to accident reporting requirements by electric utilities.

I. Background

Section 364(b) states in part:

> "The Commission shall ...adopt standards for operation, reliability, and safety during periods of emergency and disaster. The Commission shall require each utility to report annually on its compliance with the standards. That report shall be made available to the public.

Decision (D.) 97-03-070 directed the utilities to propose such standards no later than August 1, 1997. Subsequently, the date was moved to October 1, 1997 in order to provide the utilities an opportunity to coordinate their efforts with the state's Independent System Operator (ISO).

Prior to the filing of utility proposals, the California Utilities Emergency Association (CUEA) formed a committee of utilities to develop a single proposal for

emergency standards.[1] As a result of the efforts of the CUEA committee, several parties filed a "Joint Party Proposal" (Joint Proposal) on October 1, 1997. Those parties are Pacific Gas and Electric Company (PG&E), PacifiCorp, San Diego Gas & Electric Company (SDG&E), Sierra Pacific Power Company, Southern California Edison Company, Los Angeles Department of Water and Power (LADWP), Sacramento Municipal Utility District, CUEA, and the International Brotherhood of Electrical Workers Local 1245 (IBEW). On the same day, The Utility Reform Network (TURN) filed a proposal which seeks to supplement the Joint Proposal.

The proponents of the Joint Proposal, Office of Ratepayer Advocates (ORA), TURN, and IBEW subsequently filed comments on the Joint Proposal or the TURN proposal or both.

On a related issue, the Commission solicited comments from parties in D.97-03-070 as to whether Commission rules regarding electric distribution system safety and reliability should apply to municipal and publicly-owned utilities. On September 15, 1997, several parties filed comments on this subject.

II. Emergency Rules Proposed by the Parties

A. Joint Proposal

In general, the Joint Proposal requires the utilities to prepare an emergency response plan, enter into mutual assistance agreements with other utilities, provide annual training to employees, adhere to certain communications and coordination requirements during an emergency or outage, and file an annual report.

No party objects to the majority of the Joint Proposal. Parties have some suggestions with regard to certain of its elements.

TURN raises concerns that the Joint Proposal provides too many opportunities for the utilities to claim extenuating circumstances if they do not meet the

[1] CUEA is a voluntary association whose members are energy, water and telecommunications utilities, utility districts and local governments who provide utility services.

standards set forth in the rules. TURN proposes strengthening the standards in the Joint Proposal with regard to utility liability for restoring service and meeting quantitative goals.

ORA generally supports the Joint Proposal, commenting that the utilities and their customers will benefit from a coordinated response plan. ORA makes several minor suggestions mainly in support of TURN's modifications.

The Director of the Governor's Office of Emergency Services (OES) sent a letter to the assigned administrative law judge (ALJ) expressing general support for the Joint Proposal but recommending that it include more timely activation of notification and evaluation procedures.[2]

The ISO also sent a letter to the ALJ stating its intent to develop emergency standards that are complementary to those adopted for the distribution companies.[3]

The IBEW generally supports the Joint Proposal but objects to the Joint Proposal's statement to the effect that no correlation exists between the number of personnel and restoration times. IBEW believe the converse is "beyond dispute."

B. TURN's Proposal

TURN's proposal is generally the same as the Joint Proposal modified to address certain concerns. TURN's proposal requires that the utilities maintain 95% of the number of employees of maintenance crews that were available at the time of the utilities' performance-based ratemaking (PBR) or general rate case filings; train call center representatives for emergency activities; not fall below a certain level of busy signals at the call centers during emergencies; and assure that any computerized outage management system is operational 99.5% of the time during an emergency.

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[2] The letter is not technically part of the formal record but is included in the formal file of the proceeding.

[3] The letter is not technically part of the formal record but is included in the formal file of the proceeding.

Parties to the Joint Proposal object to the provisions in TURN's proposal that create mandatory staffing requirements and that require call center training, commenting that both would reduce the utilities' flexibility to manage the system during emergencies. They also object to TURN's proposed standard for maintaining less than 50% busy signals in the call centers during emergencies, commenting that such a standard does not address the quality of information to customers and relies on the reliability of telecommunications systems over which the electric utilities have no control.

C. Discussion

The need for standards governing the utilities' responses to emergencies and major outages has become increasingly more obvious in recent years. Our review of PG&E's response to storm damage in 1995 and 1996 underscored the problems associated with a lack of benchmarks by which to judge utility performance and the reliability of electric service. Since then, the California Legislature codified the requirement to have emergency standards in place as part of a larger Legislative initiative to promote competition in electric markets. As we have stated, and as Assembly Bill (AB) 1890 implies, competition in electric markets may impose pressures on distribution utilities to compromise system safety and reliability in order to be competitive in generation markets. The standards we have adopted in past decisions, and those we propose today, recognize the need for increased regulatory oversight of the monopolistic distribution system in order to assure the continued safety and reliability of that system.

We appreciate the efforts of the parties to present comprehensive proposals here. Although we do not describe here every element of the proposals or the comments on them, we propose standards following substantial review of the record by the Commission and its staff. We believe the rules we propose today are (1) broad enough to recognize the need for management discretion so that each utility may tailor its emergency response and planning programs according to the nature of its resources, expertise, and service area; (2) specific enough to permit the Commission to

judge utility performance before, during and after emergencies and major outages; (3) attentive to the needs of customers and the public generally with regard to information and reliable service. The proposed rules also recognize the need for regulation to provide measurable incentives for utilities to plan for and respond competently to emergencies and major outages. In that regard, we propose specific penalties for the failure of a utility to restore power in specified timeframes. In addition to providing a financial incentive for utility performance and planning, the penalty may recognize, however crudely, the value of power to customers generally, especially following an extended outage.

In the broadest sense, the rules we propose today require the jurisdictional electric utilities to:

1. Create an emergency plan, follow it, and update it annually;
2. Train staff to handle emergencies and outages;
3. Coordinate with media and interested governmental agencies in disseminating information to the public about emergencies and major outages;
4. Develop mutual assistance agreements with other utilities and take advantage of them when appropriate;
5. Conduct annual emergency exercises in cooperation with interested agencies.

None of the activities included in the standards we propose today differ substantially from the types of efforts the utilities already undertake in preparation for emergencies or in response to them. The proposed standards may differ from existing utility programs somewhat in their scope or the way the utilities are required to involve third parties. In general, however, they are the standards the utilities themselves have proposed with a few exceptions. For example, we have removed language which arguably excuses the utilities from compliance with the standards or protects them from Commission action. The Commission may determine in specific instances that the utility acted reasonably even if it was unable to comply with the rules, consistent with past practice. We also remove references to the application of the standards to entities which

are outside our jurisdiction. While others may find the standards useful, we do not need to provide permission for others to adopt them. We also remove language which asserts facts which may be subject to dispute, such as that referring to a lack of correlation between the number of utility employees and restoration times. A general order is an inappropriate document for making factual findings that are the subject of controversy, especially where, as here, we have not explored the allegations in hearings. Finally, we do not adopt TURN's proposals that the utilities maintain certain crew levels and assure computer systems are operational for specified periods, consistent with our view that the utilities should be responsible for and have discretion to meet the standards in whatever way they believe is most effective and efficient.

III. Applicability of Commission Safety and Reliability Rules to Municipal and Publicly-Owned Electric Utilities

D.97-03-070 adopted minimum inspection cycles applicable to overhead, padmounted, and underground equipment of electric distribution systems. In that order, the Commission solicited the comments of parties regarding whether the Commission should apply reliability and safety standards to utilities that are not within its ratemaking jurisdiction, that is, those that are publicly-owned (herein referred to as "publicly-owned utilities," and including municipal utilities, public utilities districts, and other electric utilities that are operated by governmental or quasi-governmental agencies). Numerous parties responded to this invitation, namely, California Municipal Utilities Association (CMUA),[4] Merced Irrigation District (MID), LADWP, California Utility Employees (CUE), ORA, PG&E, and TURN.

CMUA states that its members provide high-quality, safe electric service and do not need the Commission's regulatory oversight to continue this effort. It expresses concern that the Commission's standards would be duplicative of efforts already undertaken by the publicly-owned utilities to assure public safety. CMUA argues that

[4] CMUA represents LADWP, Sacramento Municipal Utility District and numerous other publicly-owned utilities.

Section 364(a) restricts the Commission's authority to regulate publicly-owned utilities with regard to public safety matters. It adds that its members intend to continue to work cooperatively with their investor-owned counterparts to help prevent and respond to emergencies and system outages. MID makes similar comments, adding that the Commission does not have the authority to impose costs on publicly-owned utilities. LADWP also makes similar comments and observes that the Commission's initiative here resulted from conditions affecting investor-owned utilities, not publicly-owned utilities.

CUE argues that the Commission has the authority to require publicly-owned utilities to comply with Commission rules governing construction and maintenance and that it should require them to comply with those rules. CUE believes that Section 364(a) did not intend to change the Commission's historic role in regulating the safety of publicly-owned utilities' systems but rather simply set a deadline by which the Commission was to implement certain standards for investor-owned utilities.

TURN believes the Commission should apply safety standards to publicly-owned utilities in part due to the interdependence of utility systems which makes investor-owned utility facilities vulnerable when those of a publicly-owned utilities create damage or hazard. TURN suggests that publicly-owned utilities' compliance with Commission standards need not be burdensome if their local regulatory authorities are responsible for monitoring compliance.

ORA believes public safety is best served if all utilities are subject to the same standards and operational protocols during emergencies.

PG&E also argues that the Commission should adopt uniform standards for all public utilities notwithstanding their ownership. It argues that the Commission has had longstanding jurisdiction over the safety of publicly-owned utilities' operations. PG&E believes that permitting publicly-owned utilities to adopt independent safety and reliability standards would, by definition, lead to unacceptable levels of maintenance and inconsistency in administering interconnected systems. PG&E also believes that fairness requires that publicly-owned utilities be subject to the same standards as investor-owned utilities.

Discussion. The Commission has historically had authority over the public safety aspects of publicly-owned utilities. Public Utilities Code, Sections 8001-8057 confer on the Commission the authority to regulate the state's electric systems "for the purpose of safety to employees and the general public." The law provides that this Commission not only has the authority to regulate public safety aspects of the publicly-owned utilities'operations, but that it has a duty to do so: Sections 8037 and 8056 require the Commission to enforce these provisions. The Commission's authority over such regulation has been confirmed by the court, which has found that the Commission has jurisdiction over publicly-owned utilities' maintenance and construction of electric systems (Polk v. City of Los Angeles (1945) 26 Cal.2d 519, 540).

The Legislature did not change the Commission's jurisdiction over publicly-owned utilities when it enacted Section 364(a). That section merely directs the Commission to implement standards for emergency operations by a certain date and directed that they apply to investor-owned utilities. We agree that neither the statutes nor the courts require that these particular standards are applicable to publicly-owned utilities. The statute nevertheless does not change the role of the Commission in regulating publicly-owned utilities with regard to maintenance and construction of the electric system and leaves in place Sections 8001-8057.

Having determined that the Commission has jurisdiction over maintenance and construction of publicly-owned utilities' electric systems, we consider whether we should apply the same standards to all utilities in the state. We are not convinced that the regulations we would apply to the publicly-owned utilities would be duplicative. Some may be more stringent and some may be less stringent than those the publicly-owned utilities have designed for themselves. Those that are less stringent impose no burden or duplication on the utility. Those that are more stringent are not duplicative. The standards we adopted in D.97-03-070 are based on industry standards and designed to protect the public. To the extent we require inspections that are more frequent than those conducted by a publicly-owned utility today, the requirement is reasonable and imposed on behalf of the public's safety.

As some commenters observe, we initiated this inquiry as the result of circumstances involving a single investor-owned utility. Nevertheless, the logic behind our decision to implement new rules applies to publicly-owned utilities as well as investor-owned utilities, specifically, that the initiation of competition in generation markets imposes cost-cutting pressures on electric utilities which may motivate them to compromise the safety and reliability of their distribution systems. The circumstance applies even if the publicly-owned utility does not permit or pursue competitive generation markets in its own territory. The fact that competition exists on its periphery will create competitive pressures for the publicly-owned utility and affect its management.

It is not the Commission's intent to impose undue burdens on any utility but rather to find the most effective and efficient methods of protecting the public. In that context, we find that flexibility is warranted in certain cases. For example, a publicly-owned utility may be accomplishing the objectives of a rule in ways which are reasonable but different from the specific rule. We also recognize that some publicly-owned utilities are very small and unable to accommodate some of the reporting requirements we might impose.

We intend to apply the rules we adopted in D.97-03-070 to all of the state's utilities, including publicly-owned utilities. We will, however, consider appeals from a publicly-owned utility for exemptions from specified rules upon a showing that the utility's local regulatory authority is actively overseeing the matters at issue. For instance, if the publicly-owned utility's local regulatory authority has adopted specific inspection standards that have been implemented by the publicly-owned utility and that are reasonable given industry standards, we will defer to the local authority. Similarly, we will consider exemptions from annual reporting requirements if the publicly-owned utility can demonstrate that its local regulatory authority is actively monitoring the utility's compliance with related public safety rules and programs. We will permit the publicly-owned utility to seek such exemptions by way of advice letter and subject to Commission resolution.

IV. Accident Reporting

In light of experience with accident reporting and recent fires which have allegedly resulted from overgrown vegetation around utility power lines, the Commission proposes to modify to some extent the rules adopted in D.96-09-045. The proposed rules are attached as Appendix B. In general, they require the utilities to provide written reports on accidents in a more timely fashion, to improve the content of those reports, and to submit reports following accidents involving vegetation foliage around utility power lines.

V. Procedures for Development of Final Rules

The Commission herein proposes the rules attached as Appendix A and Appendix B. Parties may comment on the rules with 20 days of the effective date of this order. The Commission intends to issue final rules as soon as possible thereafter.

Findings of Fact

1. The Commission initiated this inquiry in recognition that competition in generation markets may put pressure on electric utilities to compromise distribution system maintenance and reliability and pursuant to Section 364(b).

2. The prospects for competition affect publicly-owned utilities as well as investor-owned utilities.

3. The Commission's objective to promote public safety on the electric systems of publicly-owned utilities may be fulfilled where local regulatory authorities actively oversee the publicly-owned utility's safety programs, where such programs are consistent with industry standards or otherwise reasonable.

4. Section 364(b) requires the Commission to adopt certain standards by a certain date which would govern investor-owned utilities. The statute is silent with regard to publicly-owned utilities.

Conclusions of Law

1. Sections 8001-8057 confer jurisdiction on the Commission over the safety of the electric systems of all types of utilities in the state.

2. The Legislature did not change the Commission's jurisdiction over the public safety aspects of the electric systems of publicly-owned utilities when it enacted AB 1890.

3. The Commission should propose to adopt the rules attached as Appendix A and Appendix B and provide an opportunity for interested parties to comment on them.

4. The Commission should require the state's publicly-owned utilities to comply with the standards adopted in D.97-03-070 or to seek exemptions from specified standards by way of advice letter.

O R D E R

IT IS ORDERED that:

1. The Commission proposes to adopt the rules and standards attached as Appendix A and Appendix B.

2. Parties who wish to comment on the rules proposed in Appendix A and Appendix B shall file such comments no later than 20 days from the effective date of this order. Responsive comments shall be filed no later than 27 days from the effective date of this order.

3. The state's publicly-owned utilities shall comply with the inspection and maintenance standards adopted in Decision (D.) 97-03-070. Each of the state's publicly-owned utilities shall submit a letter to the Commission's Energy Division within 30 days of the effective date of this order. The letter shall inform the Commission of the publicly-owned utility's intent to implement the Commission's standards or to seek exemptions from certain standards, which the letter shall specify. A publicly-owned utility may seek an exemption from specific standards by way of advice letter which demonstrates that its local regulatory authority actively oversees the relevant utility maintenance and inspection activities and that the publicly-owned utility's related inspection and maintenance program is reasonable in consideration of prevailing industry practices and standards. A publicly-owned utility that fails to implement the

standards or seek exemptions from specified standards within 60 days of the effective date of this order shall be in violation of this order.

This order is effective today.

Dated March 12, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

I will file a concurring opinion.

/s/ JESSIE J. KNIGHT, JR.
Commissiner

I will file a concurring opinion.

/s/ P. GREGORY CONLON
Commissioner

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Proposed General Order No. ____

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Standards for Operation, Reliability, and Safety During Emergencies and Disasters

Applicability: This General Order applies to all electric utilities subject to the jurisdiction of the CPUC with regard to matters relating to electric service reliability and/or safety.

Purpose: The purpose of these standards is to insure that jurisdictional electric utilities are prepared for emergencies and disasters in order to minimize damage and inconvenience to the public which may occur as a result of electric system failures, major outages, or hazards posed by damage to electric distribution facilities. The standards will facilitate the Commission's investigations into the reasonableness of the utility's response to emergencies and major outages. Such investigations will be conducted following every major outage, pursuant to and consistent with Public Utilities Code Section 364(c) and Commission policy.

Summary: The following rules require each jurisdictional electric utility to:

- Prepare an emergency response plan and update the plan annually. Standard 1.
- Enter into mutual assistance agreements with other utilities. Standard 2.
- Conduct annual emergency training and exercises using the utilities emergency response plan. Standard 3.
- Develop a strategy for informing the public and relevant agencies of a major outage. Standard 4.
- Coordinate internal activities during a major outage in a timely manner. Standard 5.

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- Notify relevant individuals and agencies of an emergency or major outage in a timely manner. Standard 6.
- Evaluate the need for mutual assistance during a major outage. Standard 7.
- Inform the public and relevant public safety agencies of the estimated time for restoring power during a major outage. Standard 8.
- Train additional personnel to assist with emergency activities. Standard 9.
- Coordinate emergency plans with state and local public safety agencies. Standard 10.
- File an annual report describing compliance with these standards. Standard 11.

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Definitions

Accessible: A condition which permits safe and legal access.

Appropriate Regulatory Authority: The agency or governmental body responsible for regulation or governance of the utility.

Critical Customers: Customers requiring electric service for life sustaining equipment.

Emergency or Disaster: An event which, in the context of this general order, results in a major outage, hazards or damage on the electric system. Emergencies and disasters include natural events (including but not limited to storms, lightning strikes, fires, floods, hurricanes, volcanic activity, landslides, earthquakes, windstorms, tidal waves and the Governor's early warning of an earthquake or volcanic eruption) and events not caused by nature (including but not limited to terrorist activities, riots, labor strikes, civil disobedience, wars, chemical spills, explosions, deterioration of facilities, faulty maintenance or use of the system, and airplane or train collisions.)

Essential Customers: Customers requiring electric service to provide essential public health and safety services.

Major Outage: Consistent with Public Utilities Code Section 364, a major outage occurs when 10 percent of the electric utility's serviceable customers experience a simultaneous, non-momentary interruption of service. For utilities with less than 150,000 customers within California, a major outage occurs when 50 percent of the electric utility's serviceable customers experience a simultaneous, non-momentary interruption of service.

Safety Standby: Interim activities undertaken to mitigate immediate public safety hazards.

Serviceable: Accessible, prepared, and properly equipped to receive service.

Standard 1. Emergency Response Plan

The utility shall prepare an emergency response plan ("plan") setting forth anticipated responses to emergencies and major outages. The plan will help assure the utility is best able to protect life and property during an emergency or major outage and communicate the scope and expected duration of an outage. The plan shall include the following elements:

A. Internal Coordination

The plan shall describe the utility's procedures for coordinating internal activities during an emergency or major outage, including how the utility will gather, process, and disseminate information within the service area, and coordinate activities to restore service. The plan shall describe how the utility will determine priorities and allocate internal resources for restoring service. The plan shall describe how and where managers will coordinate internal activities depending on the nature of the emergency or outage.

B. ISO/TO Coordination

The plan shall describe how the utility will coordinate its efforts with the ISO, including how it will gather, process and disseminate information from the ISO, and how the utility will establish priorities and estimates of service restoration. A utility that does not deal directly with the ISO shall describe how it will coordinate its efforts with the TO.

C. Media Coordination

The plan shall describe how the utility will make timely and complete information available to the media before, during and immediately after a major outage. Such information shall include estimated restoration times and a description of potential safety hazards if they exist.

D. External and Government Coordination

The plan shall describe how the utility will coordinate emergency activities with appropriate state and local government agencies. The utility shall maintain lists of contacts at each agency which shall be included in the plan and readily accessible to employees responsible for coordinating emergency communications. The utilities shall adhere to the principles of California's Standardized Emergency Management System (SEMS) to the extent possible during emergency situations and, during major outages, use the Response Information Management (RIMS) in their communications with local, county and state authorities. The utility's emergency center shall be prepared to operate a RIMS terminal no later than October 1, 1998.

E. Safety Considerations

The plan shall describe how the utility will assure the safety of the public and utility employees and the utility's procedures for safety standby. The plan shall describe how the utility will reallocate resources to respond to an increased number of reports concerning unsafe conditions.

F. Damage Assessment

The plan shall describe the process for assessing damage to the utility system and the property of others where the utility system may have caused such damage. The plan shall describe how the utility will reallocate resources to respond expeditiously to safety hazards and system damage. The plan shall describe how the utility will set priorities, facilitate communication, and restore service. During a major outage or emergency, the utility shall provide an assessment of damage and resource needs to the Utilities Branch of the Office of Emergency Services or its successor.

G. Customer Communication

The plan shall describe procedures for informing customers of conditions before, during and immediately following a major outage. The plan shall describe how the utility will inform customers of the

estimated time when service will be restored in each affected geographic area. The utility shall provide to customers and public safety agencies updated estimates of service restoration as information becomes available.

H. Restoration Priority Guidelines

The plan shall include guidelines for setting priorities for service restoration. In general, the utility shall set priorities so that service is restored first to critical and essential customers, and so that the largest number of customers receive service in the shortest amount of time.

I. Mutual Assistance

The plan shall describe how the utility intends to employ resources available pursuant to mutual assistance agreements for emergency response. Mutual assistance shall be requested when local resources are inadequate to assure timely restoration of service or public safety. Mutual assistance need not be requested if it would not substantially improve restoration times or mitigate safety hazards.

J. Plan Update

The plan shall be updated annually to incorporate changes in procedures, conditions, law or Commission policy. The utility shall submit plan updates as part of the annual report required by Standard 11.

Standard 2. Mutual Assistance Agreement(s)

The utility shall enter into mutual assistance agreement(s), such as those facilitated by the California Utilities Emergency Association, with bordering electric utilities and each of the three largest electric utilities serving the state which are subject to Commission jurisdiction. The agreements shall be submitted annually to CPUC designated staff as part of the report required by Standard 11. The agreements shall include the following elements:

A. Resources that are available to be shared.

B. Procedures for requesting and providing assistance.

C. Provisions for payment, cost recovery, liability and other financial arrangements.

D. Activation and deactivation criteria.

Standard 3. Emergency Training and Exercises

A. The utility shall conduct an exercise annually using the procedures set forth in the utility's emergency plan. If the utility uses the plan during the twelve-month period in responding to an emergency or major outage, the utility is not required to conduct an exercise for that period.

B. The utility shall annually evaluate its response to an exercise, emergency or major outage. The evaluation shall be provided to the CPUC as part of the report required by Standard 11.

C. The utility shall annually train designated personnel in preparation for emergencies and major outages. The training shall be designed to overcome problems identified in the evaluations of responses to an emergency, major outage or exercise and shall reflect relevant changes to the plan.

D. The utility shall provide no less than ten days notice of its annual exercise to appropriate state and local authorities, including the CPUC, state and regional offices of the OES or its successor, the California Energy Commission, and emergency offices of the counties in which the exercise is to be performed. The utility shall participate in other emergency exercises designed to address problems on electric distribution facilities or services, including those emergency exercises of the state and regional offices of the OES or its successor, and county emergency offices.

Standard 4. Communications Strategy

The utility shall develop and maintain a written strategy for how it will communicate with the public before, during and immediately following major outages and emergencies as follows:

A. Customer Communications - Media & Call Center

The communications strategy shall describe how the utility will provide information to customers by way of its call center and other communications media before, during and immediately following an emergency or major outage. The strategy shall anticipate the use of radio, television, newspapers, mail and electronic communications media.

B. Government

The communications strategy shall describe how the utility will coordinate its communications with appropriate state and local government agencies, including the CPUC, OES, CEC and emergency offices of counties in which the utility offers services. The utility shall negotiate agreements with appropriate authorities to 1) allow the utility to clear roads when the utility has the equipment, expertise, and resources to do so; 2) allow the utility to inspect its facilities where appropriate; 3) identify individuals who should be contacted in government agencies and within the utility in the case of an outage or emergency; 4) coordinate the response plan with those of relevant state and local agencies; 5) coordinate with OES or its successor regarding the use of SEMS and RIMS in the utility's emergency response communications systems at the utility's corporate and district offices.

C. Independent System Operator/Transmission Owner

The communications strategy will describe how the utility will coordinate its communications with the ISO and/or the TO. The utility shall cooperate with the ISO/TO to coordinate the information provided to customers, media, and governmental agencies when the operation of the transmission system affects customer service.

D. Call Center Standards

The utility shall adhere to the following standards applicable to its call center during or in anticipation of emergency situations:

a. Achieve an average queue wait of less than 40 seconds, and busy signal occurrence of less than 3% during outages.

b. Explore mutual assistance opportunities with other utilities and assure backup assistance from vendors.

c. Provide backup call center employees with adequate orientation to utility's service area and customers. All call center employees, including regular, backup and emergency must be familiar with city names and locations, local landmarks, and streets in affected areas.

d. Develop a phone system that would either 1) allow the customer to choose an alternative from a menu that would provide their service areas restoration schedule, or 2) allow the customer to leave a message with their specific concerns and outage information, that would call them back with either a personal (live) or recorded estimate of restoration time for their service area.

   i. The return call would be made within one hour of leaving message.

   ii. If a restoration estimate is not available within one hour, (1) a call to the customer letting them know the message was received and information will be provided as available will be made and (2) when restoration information is available; another call will be made to the customer informing them of the estimate.

e. Train customer service representatives to enable them to understand and identify potential service and safety problems.

Standard 5. Activation Standard

Within one hour of a major outage, the utility shall begin coordinating its internal resources as set forth in its emergency plan.

Standard 6. Initial Notification Standard

Within one hour of a major outage, the utility shall notify the Warning Center at the Office of Emergency Services and the CPUC of the location, possible cause and expected duration of the outage. The Warning Center at the OES is expected to notify other state and local agencies of the outage. Subsequent contacts between state and local agencies and the utility shall be conducted between personnel identified in advance, as set forth in Standard 4.B.

Standard 7. Mutual Assistance Evaluation Standard

No later than 4 hours after the onset of a major outage, the utility shall evaluate and document the need for mutual assistance. The utility is not required to seek assistance if it would not substantially expedite restoration of electric service or promote public safety. The utility should reevaluate the need for assistance throughout the period of the outage.

Standard 8. Major Outage and Restoration Estimate Communication Standard

A. Within 2 hours of a major outage, the utility shall make information available to customers through its call center and notify the media of the major outage, its location, expected duration and cause. The utility shall provide estimates of restoration times as soon as possible following an initial assessment of damage and the establishment of priorities for service restoration.

B. Within 4 hours of the initial damage assessment and the establishment of priorities for restoring service, the utility shall make available through its call center and to the media the estimated service restoration times by geographic area. If the utility is unable to estimate a restoration time for a certain area, the utility shall so state.

C. Using RIMS and other methods of communication, the utility shall inform the OES Utilities Branch of significant changes in the status of the event or damage or restoration times as the change occur to the extent possible and otherwise at intervals not to exceed four hours.

Standard 9. Personnel Redeployment Planning Standard

The utility shall maintain a training and redeployment plan for performing safety standby activities and assessing damage during a major outage or emergency. The utility should plan to have personnel available to augment the number of employees whose duties include safety standby and damage assessment activities. The utility shall identify and train additional employees to perform safety standby activities and assess damage during emergencies and major outages and in lieu of their normal duties.

Standard 10. Annual Pre-Event Coordination Standard

The utility shall annually coordinate emergency preparations with state and regional offices of the OES or its successor, the CPUC, the CEC, county and local government agencies in the utility's territory, other utilities and the ISO/TO. As part of such activities, the utility shall establish and confirm contacts and communication channels, plan the exchange of emergency planning and response information, and participate in emergency exercises or training. This coordination shall be consistent with the principles of SEMS and use the RIMS communication system. The utility shall coordinate its activities with local and regional offices of the utility and relevant state and local agencies.

Standard 11. Annual Report

The utility shall annually report to the CPUC by October 31 regarding its compliance with this general order for the previous twelve months ending June 30. The annual report shall identify and describe any modifications to the utility's emergency plan.

Standard 12. Restoration Criteria

The utility shall maintain sufficient resources to restore power within 24 hours to 90% of customers who lost service; within 48 hours to 5% of customers who lost power; and within 72 hours the remaining 5% of customers who lost power. Within 30 days of an emergency or major outage, the utility shall provide to CPUC designated staff data which permits an analysis of whether the utility met these restoration requirements.

Penalties

The Commission may penalize the utility for non-compliance with any of the standards set forth in this general order and consistent with the Public Utilities Code. Failure to comply with the restoration requirements set forth in Standard 12 creates a prima facie case of a violation of this general order. In such cases, the Commission will impose penalties unless the utility is able to demonstrate affirmatively that (1) it could not have fulfilled the requirements of Standard 12 with additional personnel or improved system maintenance and; (2) that it has complied with all orders, rules and law setting forth standards for maintenance and repair of relevant facilities. The minimum penalty for failure to comply with Standard 12 shall be equal to the number of customer-hours which exceed the standards set forth in Standard 12 multiplied by $10.

(END OF APPENDIX A)

APPENDIX B

ACCIDENT REPORTING REQUIREMENTS

1. Within 2 hours of a reportable incident, the utility shall provide notice to designated CPUC staff of the general nature of the incident, its cause and estimated damage. The notice shall identify the time and date of the incident, the time and date of notice to the Commission, the location of the incident, casualties which resulted from the incident, identification of casualties and property damage, and the name and telephone number of a utility contact person. This notice may be by telephone, fax, or electronic mail during business hours. During other times, the notice shall be by fax or electronic mail.

2. Within twenty business days of a reportable incident, the utility shall provide to designated CPUC staff a written account of the incident which includes a detailed description of the nature of the incident, its cause and estimated damage. The report shall identify the time and date of the incident, the time and date of the notice to the Commission, the location of the incident, casualties which resulted from the incident, identification of casualties and property damage. The report shall include a description of the utility's response to the incident and the measures the utility took to repair facilities and/or remedy any related problems on the system which may have contributed to the incident.

3. Reportable incidents are those which: (a) result in fatality or personal injury rising to the level of in-patient hospitalization and attributable or allegedly attributable to utility owned facilities; (b) are the subject of significant public attention or media coverage and are attributable or allegedly attributable to utility facilities; (c) involve or allegedly involve trees or other vegetation in the vicinity of power lines and result in fire and/or personal injury whether or not in-patient hospitalization is required.

4. Incidents involving damage to property of the utility or others estimated to exceed $20,000 that are attributable or allegedly attributable to utility owned facilities shall be reported within 60 days of their occurrence to designated staff of the CPUC. The report shall be structured in a form acceptable to the designated staff.

(END OF APPENDIX B)

R.96-11-004
D.98-03-036

Commissioner Jessie J. Knight, Jr., Concurring:

It is true that California needs standards for governing the responses of the monopoly utilities to emergencies and major power outages. The Commission is required to have emergency standards in place, as part of the state's restructuring of the electric industry.

However, I disagree with at least one conclusion in the proposed order. The dicta of the proposed order indicates that competition in electric markets may impose pressures on distribution utilities to compromise system safety and reliability in order to accommodate competitive generation markets. While this is a hypothetical possibility, it may also prove to be untrue for California's future. In California, a new breed of companies and enterprises are emerging due to its burgeoning restructuring efforts. The business of the utility distribution company (UDC) is focused now more than ever on the distribution of electricity, rather than issues around its generation. It is my belief that this new focus will more likely enhance system safety and reliability as time rolls on. When the UDC's business is solely distribution, the economic incentive is to provide service, safety and reliability.

While I whole-heartedly empathize with the goals of this proposed order, I am concerned by the direction and tone articulated therein, thus fuelling my skepticism of some of the rules which are proposed. I am not convinced that there has been an adequate determination of the relative benefits and costs of the standards which the decision places before us. In order to assess these rules fairly, we must determine such benefits and costs before we impose them on the utilities.

There are a few issues that I would like to have interested parties explore in their comments. First, I believe that it is appropriate to distinguish between power outages caused by system failures (e.g. transmission problems or localized distribution system outages) and power outages caused by serious natural catastrophes. Therefore, I believe that the Commission should consider suspending or adjusting these proposed rules when either the President of the United States or the Governor formally declare a State of Emergency.

Second, I have analytical and policy concerns whether there is sufficient evidence on the costs of the various proposed rules relative to the speculated

benefits. Specifically, I asked my advisors to research the assumptions on how the specific numerical standards were determined and to give me a briefing on the concomitant cost benefit analysis which led to what is being proposed in the order. I am not satisfied with the answers they found to my questions. Therefore, I present these issues now to the parties for comment rather than delay the issuance of this important order. Parties should be mindful that I am truly committed to having a strong, sustainable regime in place to provide California citizens the peace of mind to know that emergency situations will be addressed properly and adequately by this Commission.

To put the issue in context, I believe that it is important for the two different types of outages to be segregated and dealt with clearly and effectively. Power outages caused by a failure in the utility system are very different from power outages caused by events outside the system, such as major catastrophes like earthquakes, fires or floods. I am not certain that, in the event of a serious earthquake, or fire or flood, it is reasonable for the Commission to expect a utility to make information available to customers during a predetermined or expected duration of an outage. I also question whether this is even possible if an event is also accompanied by major telecommunications outages in a given location. The proposed rules may lead to gold-plating a massive telecommunications infrastructure in order for the utility to meet the proposed standards when there are major outages as a result of natural disasters. This investment in infrastructure may prove to be useless if the same natural disaster impacts the state's telecommunications networks as well. Moreover, accompanying events may make the restoration criteria impossible to achieve during a major natural disaster. For example, all of the northeastern utilities would have violated these proposed standards a hundredfold during this winter's ice storms that paralyzed the delivery of all services to that region of the country.

My fears on this subject are not misplaced. History has shown California that we have our unfair share of natural disasters. Some say we have two seasons in California, fire season and flood season, in between which we await earthquakes. The Commission should be very careful not to set standards that are impossible to meet. Nor should we set excessively high standards bearing high implementation costs that will flow through to ratepayers. At this point in time, I am not convinced that the standards offered in this proposed decision are in the public interest because of their costs relative to public benefit.

Before I vote to impose final rules on California utilities, I will need compelling evidence that the proposals are grounded in reality, that the benefits of these standards outweigh their costs and that the standards will, in fact, improve

the level of reliability of the system. The Commission's focus should be proactively increasing reliability of the system by virtue of these standards, rather than reactively finding fault after disaster strikes. I do not want to put the Commission in the unnecessary and unproductive position of having to play the blame game after a natural catastrophe, indeed a vestige of our old regulatory role. This is why it is vital we adopt realistic standards.

I vote in support of today's proposed order but look forward to reactions to my concurrence and statement in order to put the appropriate final rules into place.

Dated March 12, 1998 at San Francisco, California.

/s/ Jessie J. Knight, Jr.
Jessie J. Knight, Jr.
Commissioner

R.96-11-004, D.98-03-036

Commissioner P. Gregory Conlon, Concurring:

I support the need for the utilities to plan in advance for emergencies and to respond promptly in emergency situations. However, I believe that it is equally important to try and minimize up-front the impact that natural disasters (such as storms) have on the electric distribution system.

One means to minimize local electric outages due to storms and high winds is to underground the local distribution system. In my study tour of the United Kingdom's restructuring of its electric industry, I was highly impressed going throughout London and not seeing any above-ground wires.

Commission Rule 20A establishes a program to promote the undergrounding of the electric utility distribution system. This program is funded at a level of approximately 1-2% of each utility's gross revenue. The budget for this program for 1998 is approximately $128 million. This program requires that either local governments or the utility's customers also contribute to the cost of any undergrounding effort. Partially because of this, statewide there is almost $450 million in unutilized funding that has been carried over from previous years.

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Some utilities, especially Pacific Gas & Electric, have been actively involved in implementing the undergrounding program and in searching out ways to increase program participation. I urge all of California's utilities to explore alternative methods to insure that all available undergrounding funds are utilized. I urge the utilities, as well as all other interested parties, to comment on this issue.

/s/ P. Gregory Conlon
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San Francisco, California
March 12, 1998

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D.98-03-036

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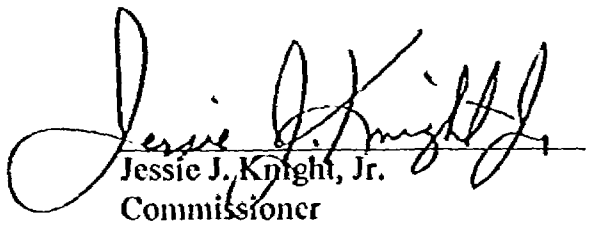

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San Francisco, California
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