

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Safety and Enforcement Division

**Resolution SED-6
December 2, 2021**

RESOLUTION

**RESOLUTION SED-6 APPROVING ADMINISTRATIVE CONSENT ORDER
AND AGREEMENT OF THE SAFETY AND ENFORCEMENT DIVISION
AND PACIFIC GAS AND ELECTRIC COMPANY REGARDING THE 2019
KINCADE FIRE PURSUANT TO RESOLUTION M-4846**

SUMMARY

In this Resolution, the California Public Utilities Commission (Commission) approves an Administrative Consent Order and Agreement between the Commission's Safety and Enforcement Division (SED) and Pacific Gas and Electric Company (PG&E) to resolve all issues involving the 2019 Kincade Fire. PG&E agrees to pay a \$40 million fine to the General Fund of the State of California and to not seek rate recovery of capital expenditures in the amount of \$85 million for the permanent removal of abandoned transmission facilities within its service territory, for a total of \$125 million.

BACKGROUND AND DISCUSSION

Resolution ESRB-4, issued in June 2014, directs all investor-owned electric utilities, including PG&E, to take remedial measures to reduce the likelihood of fires started by or threatening utility facilities.

In 2019, the Kincade Fire occurred in PG&E's service territory. SED conducted an investigation of the Kincade Fire and in its investigation report identified possible violations by PG&E of provisions of the California Public Utilities Code and the Commission's General Orders. SED's investigation report is attached as Appendix A.

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

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

SED and PG&E executed the attached Administrative Consent Order and Agreement, pursuant to and consistent with the Enforcement Policy, which resolves all issues related to SED's investigations of the 2019 Kincade Fire and any enforcement action SED might have brought related to or arising from the 2019 Kincade Fire. In accordance with the Enforcement Policy, the proposed settlement between SED and PG&E (collectively, Parties) is memorialized in the attached Administrative Consent Order and Agreement.

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[.]"² 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 PG&E'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.

COMMENTS ON DRAFT RESOLUTION

The Draft Resolution was served on PG&E and other interested parties on November 2, 2021, in accordance with Cal. Pub. Util. Code § 311(g). Comments were received from:

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 PG&E 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 PG&E 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 the 2019 Kincade Fire.
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

² Enforcement Policy, p. 15.

reasonable in light of the circumstances, consistent with the law, and in the public interest.

THEREFORE, IT IS ORDERED that:

1. The Administrative Consent Order and Agreement between SED and PG&E relating to the 2019 Kincade Fire is adopted.
2. This Resolution is effective today.

I certify that the foregoing Resolution was adopted by the California Public Utilities Commission at its regular meeting on December 2, 2021, and the following Commissioners approved favorably thereon:

RACHEL PETERSON
Executive Director