

under which they will be operated to ensure safe and adequate service; (2) follow the particular rules of GO 95 in the construction of their systems; and (3) follow accepted good practice where there is no particular GO 95 rule governing the situation. The PD recognizes that the clarifying changes to Rule 31.1 adopted in the PD do not relieve utilities of the need to consider specific operating conditions: “If an intended use requires a more rigorous standard than specified in GO 95 ‘to enable the furnishing of safe, proper, and adequate service,’ the company must follow the higher standard.”⁴ CPSD’s belief to the contrary is unfounded and should be rejected.

B. CPSD’s Exclusive Focus On Enforcement Flexibility Is Counterproductive And Disregards Prior Commission Guidance

CPSD likes the present wording of Rule 31.1 because it has given CPSD the discretion to argue that the cause of any failure should have been foreseen as a “local condition.” The changes adopted by the PD provide needed clarity and do not create a “get out of jail free card” for the utilities.⁵ It is hard to imagine how a practice could be unsafe and yet meet the amended rule’s requirement that the practice be followed by a significant portion of the utility industry. CPSD’s comments are too narrowly focused on preserving its own unpredictable enforcement authority at the expense of clarifying the applicability of the rules to encourage safe construction practices. Certainly, it is important that the Commission’s enforcement capability be effective and clear – no one is disputing that. However, these changes will improve enforcement as well, by providing clear, fair, and practical rules with a sound engineering basis for the construction of overhead supply and telecommunications systems. Inflammatory rhetoric such as that found in CPSD’s comments, which unfairly characterizes the rationale underlying the proposed rule changes and clarifications, is counterproductive.

Moreover, CPSD’s reliance on D.05-01-030 is too narrowly focused. In that decision, in a passage immediately after the one cited by CPSD, the Commission also stated:

We appreciate the quandary of the utilities in determining when a condition constitutes a violation of the rules but, as we acknowledged in D.04-04-065, the Commission does not expect utility systems to remain pristine and newly built 100% of the time. We understand that a utility has limited resources and cannot maintain its distribution system so that there are no GO 95 and 128 violations at a given time.⁶

⁴ PD at p. 58 (citing Rule 31.1, first paragraph).

⁵ Opening Comments of CPSD, p. 2.

⁶ D.05-01-030, p. 15.

In that same decision, the Commission also proffered a view of its enforcement obligation that is contrary to CPSD's view expressed in its comments:

Commission enforcement has taken a variety of forms over many years. In particular, we have enforced compliance with electrical system maintenance obligations in part by notifying the utility from time to time of observed violations and giving it a reasonable period of time within which to make corrections, similar to the fix-it ticket that most police departments issue.⁷

SCE thanks the Assigned Commissioner for the PD's thoughtful analysis in adopting the proposed changes to Rule 31.1. We respectfully ask the Commission to set aside CPSD's rhetoric and adopt the PD's version of Rule 31.1 as written.

II. **CPSD'S LENGTHY ATTACK ON RULE 48 IS MISPLACED**

In conformance with CPSD's view, the PD declines to adopt the Joint Utility proposal to remove the "will not fail" language from Rule 48.⁸ Yet, it is telling that CPSD spends eight pages trying to change language in the PD related to an issue on which *it prevailed*.⁹ SCE does not have the luxury of space in these reply comments to refute each of CPSD's erroneous statements contained in those eight pages. Additionally, SCE is especially concerned that CPSD continues to repeat here erroneous arguments that it is making in the Malibu Canyon Fire OII, an adjudicatory proceeding with an ex parte ban that is currently pending at the Commission.¹⁰

CPSD's ability to enforce the rules, though an important consideration, is not really in question here. In fact, contrary to CPSD's protestations, there is nothing difficult about determining whether a pole has been correctly designed using average wood strength values (what CPSD calls "system averages"). But doing so deprives CPSD of claiming that every failure of an in-service, joint use wood pole must have been a design error as long as the wind was below 92.4 MPH. CPSD takes the PD to task for comments that simply recognize the reality CPSD cannot seem to accept: since its inception, GO 95's design strength for wood poles has

⁷ D.05-01-030, p. 15.

⁸ PD at pp. 113-115.

⁹ CPSD's Comments on the PD, pp. 6-13.

¹⁰ See, e.g., CPSD's Comments at p. 8: "Under Rule 44.3, joint wood poles 'shall' be replaced before the safety factor has been reduced to 2/3 of the new construction (i.e., a safety factor of 2.67), which means that the poles must withstand 8 x 2.67 psf of wind velocity, *which equals 92.4 mph*." (emphasis added). This interpretation of Rule 44.3 is a contested issue in the Malibu Canyon Fire OII. SCE has endeavored in these reply comments to respond to this issue as narrowly as possible.

been based on *average* values.¹¹ This is because *it is impossible to know* what the actual strength of a particular wood pole is. That was true before and after the 1992 change in Rule 48, which explains why no utility in California altered its approach to wood pole design as a result of that change.¹² There is no safety benefit whatsoever to be gained from CPSD’s attempts at enforcing an impossible standard. But what such an absolute standard would do is penalize a utility in situations where a utility facility is designed and constructed in accordance with all applicable rules and standards, but the structure just happens to be on the low side of the natural variability strength curve, causing it to fail under loads less than would be needed to cause the failure of a structure with average or better strength. Thus, CPSD’s position makes no sense from either an engineering or regulatory perspective and is patently unfair.

The Commission should give no weight whatsoever to CPSD’s attack on an indisputable concept – that the strength of wood products is subject to natural variability – and reiterate its recommendation that the GO 95/128 Rules Committee consider making conforming changes to all of Section IV.

III. **DRA AND TURN REPEAT PRIOR ARGUMENTS ON COST RECOVERY,** **WHICH SHOULD BE IGNORED**

Instead of accepting that the PD requires utilities to seek cost recovery through an application rather than an advice letter, as both DRA and TURN recommended, both parties continue to argue that only a particular application is good enough – the GRC. Their insistence on using the GRC, if adopted by the Commission, would delay cost recovery – until 2014 for PG&E, 2015 for SCE, and 2015 or 2016 for SDG&E and SoCalGas. They make this recommendation despite the fact that seeking recovery of costs recorded in a memorandum account will further complicate and lengthen GRC proceedings, requiring additional volumes of testimony, witnesses, and hearing time to obtain a ruling unrelated to the utility’s forecast revenue requirement. SCE appreciates that the PD considered and rejected the delay and

¹¹ CPSD uses the term “minimum strength requirements” (Opening Comments of CPSD, p. 7) but in fact that term *never appears* in either Rule 48 or Rule 44.1 with regard to wood structures.

¹² In fact, this is why we have safety factors in the first place – to take into consideration all the variables associated with the design of wood poles, including variability in strength, loading from attachments, potential deterioration, and varying wind loads. If CPSD wants stronger poles, the remedy is to increase the safety factors (and honestly recognize the costs of doing so), rather than penalize utilities when a structure fails where no one without divine powers could have known that pole was on the low end of the strength curve.

complication that would be caused by such a requirement, and urges the Commission to adopt that aspect of the PD so that the electric IOUs may request recovery of their recorded FHPMA costs in appropriate future applications.

IV.

SCE SUPPORTS RECOMMENDATIONS MADE BY OTHER PARTIES

SCE supports PG&E’s proposed revisions to the PD.¹³ Specifically,

- The PD should clarify that the statement on page 43 stating that Rule 18A “does not preempt any stricter local rules establishing priority systems for correcting safety hazards” refers to local utility programs, not governmental rules;
- The requirement for “daily visits” prior to terminating power due to a vegetation hazard that threatens public safety should be removed (see also, SDG&E, below);
- New record retention requirements should be applied prospectively; and
- The requirement to develop fire prevention plans should be deferred to Phase 3 to coincide with the development of the new fire threat maps.¹⁴

SCE also supports SDG&E’s comments and positions on:

- Revising the definition of wind speed in new GO 166;¹⁵
- Changing the requirement for daily visits to one attempt at personal contact in Rule 35, paragraph 4;¹⁶
- Adopting the Joint Utilities’ expanded clearance distances at time of trim in GO 95, Appendix E;¹⁷
- Adopting the Joint Utilities’ proposal to revise Rule 48.¹⁸

V.

CONCLUSION

SCE respectfully requests that the Commission adopt the changes to the Proposed Decision suggested herein and in SCE’s Opening Comments.

¹³ PG&E Opening Comments to PD, at pp. 2-8.

¹⁴ PG&E Opening Comments to PD, at pp. 15-18.

¹⁵ SDG&E Opening Comments to PD, at pp. 4-5.

¹⁶ SDG&E Opening Comments to PD, at p. 6.

¹⁷ SDG&E Opening Comments to PD, at pp. 7-8.

¹⁸ SDG&E Opening Comments to PD, at pp. 10-12

Respectfully submitted,

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