

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



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Order Instituting Rulemaking to
Implement Electric Utility Wildfire
Mitigation Plans Pursuant to Senate
Bill 901 (2018).

Rulemaking R.18-10-007
(Filed October 25, 2018)

MUSSEY GRADE ROAD ALLIANCE PHASE 2 WORKSHOP COMMENTS

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1. INTRODUCTION

Pursuant to the October 10, 2019 ruling by Administrative Law Judge Thomas inviting parties to file and serve comments on topics raised during the September 17-19th WMP workshops,¹ and the ALJ's October 25th Email Ruling granting Will Abram's request for an extension to November 6th,² the Mussey Grade Road Alliance (Alliance or MGRA) files these comments in response to ALJ Thomas's questions and topics raised in the workshops. To the extent that some of our positions and analysis of these topics have already been included in MGRA's Phase 2 Comments³ and MGRA Supplemental Comments⁴ we will refer to those documents. MGRA has also served data requests on PG&E, SCE, and SDG&E, which are attached to this filing. To the extent that these are responsive to the ALJ's questions we will cite these in the document.

Due to the 25 page limit, MGRA will not respond to questions for which we have no specific information or opinion to add. The numbering scheme will be based on the outline in the Ruling.

2. A. UTILITY PLANS

2.3. Risk Reduction Metrics

“How do you measure the amount that wildfire risk is reduced by each Wildfire Mitigation Plan initiative? Which measure(s) (e.g., covered conductors versus undergrounding, right-of-way clearance versus hazard tree removal, etc.) reduce wildfire risk the most? How do you account for and measure the aggregate impact on wildfire risk reduction when multiple mitigation measures are implemented on or around the same assets (e.g., increased vegetation

¹ R.18-10-007; ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON WORKSHOPS IN PHASE 2; October 10, 2019. (Ruling)

² R.18-10-007; E-MAIL RULING GRANTING ABRAMS MOTION FOR EXTENSION; October 25, 2019.

³ R.18-10-007; MUSSEY GRADE ROAD ALLIANCE COMMENTS ON PHASE 2; August 21, 2019. (MGRA Phase 2 Comments)

⁴ R.18-10-007; MUSSEY GRADE ROAD ALLIANCE SUPPLEMENTAL COMMENTS ON PHASE 2; September 6, 2019.

clearance in the same areas where covered conductors are installed)?

...”⁵

There are two basic approaches to wildfire reduction metrics: 1) predictive measurements based on theoretical models and prior data, and 2) data collected after the improvements are made. Metrics that have been discussed in the proceeding and would be useful in this regard are vegetation contact data, fire ignition data, and outage data. Translating any of these into a wildfire risk metric (and determining what a “wildfire risk metric” means) will require a theoretical model and assumptions, and the Commission should ensure that utilities explicitly define and then adopt common definition of terms, assumptions, and models.

MGRA has long argued for collection of wind speed measurements in association with the above data, and not merely Fire Potential Index (FPI) data, since this allows the measurement of the resiliency of utility infrastructure to stressing events that will also accompany extreme fire weather, even when fire weather conditions are not extreme.⁶ In general, as IOUs implement wildfire mitigation and take corrective actions to reduce vulnerability of their systems to wind stress, one would expect that impacts of wind on ignitions, vegetation contact, and outages would be measurably reduced.

The ALJ’s question illuminates the important fact that when multiple mitigation strategies are implemented simultaneously it will be harder to unambiguously determine the cause of any measurable risk reduction. In this case, the determination must be made by 1) theoretical models based on prior data without the conflating mitigations or 2) phased implementation of mitigation strategies in different locations at different times. For instance, a more stringent EVM policy might be first implemented in different areas than where the first covered conductor is deployed, and then vegetation-related outages could be measured during periods of high winds.

2.4. Near Miss Incidents

How do you monitor ignition and near-miss incidents in your service territory before versus after the implementation of each

⁵ Ruling, pp. 2-3.

⁶ MGRA Phase 2 Supplemental Comments; pp. 1-3.

Wildfire Mitigation Plan initiative? What differences do you observe in those incidents or their occurrence after implementation of mitigation measures in your plans? What near-miss incidents do you monitor?

MGRA maintains that “near miss” incidents should not be isolated to events with high FPI.⁷ Including “near miss” incident from high wind events without other characteristics that generate high FPI (low humidity, low fuel moisture) allows system vulnerabilities to be exposed under “safe” conditions. This would allow the collection of a broader base of data. Also, if the utilities engage in PSPS some “near misses”, such as line slap, may not be identified because the utility infrastructure is de-energized.

2.6. Adjustments to Wildfire Mitigation Plans / Evaluation and Public Input

What specific adjustments to the Wildfire Mitigation Plan guidelines would improve utility Wildfire Mitigation Plans and/or facilitate better evaluation and public input?

The Commission should continue to front load and analyze important topics well before the Wildfire Mitigation Plans are due, as it has done with the present Phase 2. This has worked well and should continue into future WMP review and revision cycles.

The Commission should continue the current emphasis on metrics until usable and comparable metrics exist for all utilities and mitigation measures. Once a set of metrics has been established, the Commission should start the process of analyzing cost/benefit and risk/benefit relationships between cost of mitigations and their effectiveness. This has been wholly lacking in the WMP proceedings to date. This topic is particularly critical in terms of comparing mitigations to PSPS. De-energization can substitute for a wide range of mitigations but brings with it significant societal costs and risks and applied does not provide a long-term solution to the problems with California’s electric infrastructure. Furthermore, the public, consisting of ratepayers and taxpayers alike is losing patience with half measures that rely on power shut-offs that appear willy-nilly in

⁷ Id. and MGRA Phase 2 Comments; p. 10.

their application. In the longer term, the shut-off proceeding R.18-12-005 needs to be re-integrated back into the WMP discussion, but only if the process remains a public discussion.

With regard to public input, given the current guidelines provided by AB 1054, this may well be the very last of the substantive public input to ever go into Wildfire Mitigation Plans in California, particularly in light of the migration of their development to a public agency with no adjudicatory history or framework. This is the worst of outcomes in terms of a legislative “fix” (unless one adopts the thesis that utilities should be regulating their own safety⁸) and will not be tolerated in the long term by Californians. If future public contributions will be voluntary and unpaid it will severely limit input from professional witnesses and law-trained staff, and there seems to be no requirement that public input be addressed in any way even for those who offer it. Furthermore, while safety guidelines will be generated by the AB 1054 process, how to pay for them and cost/benefit issues will not be, since ratemaking duties will remain with the Commission. The Commission needs to determine how this handshake mechanism will work. For stakeholders who are harmed by decisions coming out of WMPs, the California court system may be the sole recourse unless a public participation mechanism equivalent to that set up for the CPUC is put into place. Having to sue the State of California as sole recourse to influence the application of utility fire regulations would be a terrible burden to place onto fire victims and those adversely impacted by utility decisions.

The CPUC must stand up to the plate and regulate IOUs with regard to fire safety to the full extent it is capable under current law. The failure of whole sections of California’s electrical grid is apparent for all to see and is an embarrassment for the world’s 5th largest economy, not to mention agonizing for those affected by fires and power shut-offs.

⁸ San Jose Mercury News; “How PG&E fell 10 years behind San Diego on wildfire safety”; Paul Rogers; November 2, 2019.

“Many are asking why the Public Utilities Commission, made up of five people appointed by the governor, didn’t force PG&E to make the same improvements that San Diego Gas & Electric chose to make.

Catherine Sandoval, who was a PUC commissioner from 2011 to 2017, said under state law utilities are required to run a safe system, so the impetus was on PG&E.

‘Legally, the responsibility for operation of the grid is with the utility,’ said Sandoval, now a law professor at Santa Clara University. ‘The PUC is not the grid operator.’...

Activists say that view ignores the need for regulatory oversight.

‘That philosophy is completely wrong,’ said Diane Conklin, a San Diego activist who has pushed utilities to improve fire safety for the past 20 [sic] years. ‘We are substituting the judgment of a corporate entity that is arranged to make profit and saying, ‘You guys are responsible for our safety.’ That is wrong. Taxpayers look to the PUC to regulate the utilities.’”

3. METRICS

3.7. List of Proposed Metrics

List of proposed metrics. Parties shall meet and confer to revise the list of metrics the Commission's Public Advocates Office (Cal Advocates) compiled...

MGRA attended the meet and confer session led by Cal Advocates, and has offered a minor revision to its proposed metric, and provided this to Cal Advocates.

With regard to utility proposed metrics, MGRA is concerned that data filters limiting outage events to those occurring when FPI is elevated will potentially be biased by PSPS and will reject data that would be useful regarding the response of utility infrastructure to wind events.⁹

Also we note that the SCE definition of “wire down” is different than the definition used by SDG&E and PG&E, and includes wires that are hanging.¹⁰ Utility metrics should use a common definition for wire down events.

PG&E, SCE, and SDG&E also track cause information differently for wire-down events.¹¹ This is confusing and reduces effectiveness of regulation. It would be useful if common categories could be found to either replace utility cause information or map existing utility cause information into a set of agreed common classifications.

3.12. Fire Potential Index

Should utilities develop Fire Potential Indices (FPI) that are comparable, rather than maintaining their own individual FPIs that govern what action they take to mitigate wildfire? Why or why not?

The answer to the first question is an uncategorical “yes”.

⁹ MGRA Phase 2 Supplemental Comments; p. 3.

¹⁰ See Attachment A – Data Request Responses; pp. 1-3.

¹¹ Id; pp. 4-7.

Reasons are:

- Citizens of California have a right to equal access to safe and reliable electricity. Allowing individual utilities to essentially make regulatory decisions that impact safety makes resident safety contingent upon the utility territory in which they reside, which is unfair and unwise.
- While there are different types of climate and vegetation zones within each utility's territory, many of these climate and vegetation zones cross utility service area boundaries. Coastal valley chaparral does not have different fire behavior if it is "SCE chaparral" or "SDG&E chaparral".
- In order to adequately analyze a utility's wildfire mitigation plan and associated metrics, those doing the analysis should have some familiarity with how the metrics are determined. If a different method needs to be learned for each utility's WMP this places a much greater burden on the Wildfire Safety Division and other parties to provide meaningful analysis and input.
- Having different FPIs for each utility makes it extremely difficult to compare metrics from one utility to the other.

3.13. FPI Standards, Vetting, and Verification

Should FPIs be vetted and verified by an independent third party? Why or why not? Should there be regional FPIs (e.g., mountain, coastal, desert, Wildland Urban Interface (WUI), etc.) developed that can be used consistently across utilities? Why or why not?

Rather than have utility FPIs be vetted or verified by a third party, it would be better if a common FPI that applies to all utilities is approved by CALFIRE and be open to public scrutiny and expert input. Such an FPI could be derived from an index currently in use, such as NFDRS, or a new product developed collaboratively using standard fire science and tailored for any special utility requirements. A common FPI could be developed by an SMAP-like process with input from CALFIRE.

FPIs have regional components, vegetation components, and weather-specific components.¹² The best FPI would show the statistically most significant correlations between historical fire propagation patterns and FPI index, and this is one criterion that may be used to judge between models.

In the case that a common FPI cannot be developed, it would be necessary to have FPIs vetted and verified. This could be done by independent third parties or could be developed by an SMAP-like process that incorporates party expert opinion.

3.14. Working Group

Would a working group process similar to that used in the Safety Model Assessment Process (SMAP) context and described at the workshop be useful in the Wildfire Mitigation Plan context? Give specific recommendations.

A working group similar to SMAP could be useful in determining definitions, methods, and practices that are shared in common across utilities. Collaborative process such as SMAP would be particularly applicable in cases where standard methods are unavailable or where standard methods are not optimized for the particular needs of California utilities. In the case where there is a clear standard that utilities should be following that is supported by fire agencies or best utility practice, it may be acceptable for the Commission to specify the methodology to be adopted in a Decision. However, if the problems faced by California utilities merit special consideration and external standards are inapplicable, then instead the Commission would be best served by defining the process by which standard practices can be developed for California IOUs.

¹² R.18-10-007; SAN DIEGO GAS & ELECTRIC COMPANY'S (U 902 E) WILDFIRE MITIGATION PLAN; February 6, 2019; pp. 49-50. PACIFIC GAS AND ELECTRIC COMPANY'S WILDFIRE MITIGATION PLAN; February 6, 2019; Attachment A.

As with SMAP, for example, it will be crucial that intervenors be involved and have input into the process. Intervenor contributions made critical contributions to that proceeding. TURN proposed the risk assessment framework ultimately chosen by the Commission,¹³ for which MGRA proposed a “Test Drive” validation phase,¹⁴ both of which were adopted by the Commission. Likewise, there will need to be a mechanism for intervenor contributions as the review of the Wildfire Mitigation Plans moves into the Wildfire Safety Division and later into the Office of Energy Infrastructure Safety. The uncertainty introduced by the migration of the WMPs into a new division that does not have a defined adjudicatory mechanism undermines the efficacy of the idea of introducing SMAP-like processes to solve the utility wildfire problem both in the immediate and longer term. Including funded participation of external advocates, lawyers, and experts can meaningfully expand both the scope of work to be performed and the range of expertise available to the IOUs and to the WSD and help to solve the seemingly intractable problems currently faced by Californians.

A number of key topics would lend themselves to a collaborative development framework such as SMAP. This approach would be specifically beneficial for developing regulations in the cases where:

- There is no standardized way to determine a metric or a utility practice that is an industry best practice or which has a strong scientific or engineering justification outside of the utility sphere.
- Utilities have practices that differ significantly from one another.
- Developing expertise in the various utility practices that would allow their direct comparison would present a burden to the regulatory body.

The topics that might lend themselves to this approach include but are not limited to:

- Definition of Fire Potential Index
- Determination of factors that go into a cost/benefit analysis to optimize PSPS thresholds
- Development of a quantitative fire risk reduction metric

¹³ D.16-08-018; pp. 194-195.

¹⁴ Id. p. 169.

- Development and approval of a training curriculum and/or certification process for WMP independent evaluators

4. D. INDEPENDENT EVALUATORS

4.26. Independence

What steps should be taken to ensure the independence of evaluators?

Due to the wide range of expertise that will be required of an independent evaluator (or at least of the team that they assemble), it will be necessary to establish that the evaluator is not beholden to any utility. Specifically, it should be mandated that an evaluator has no direct or indirect financial mechanism that can be applied to pressure them. For example, if an evaluator has done past contract work for a utility and it is reasonable to expect that they might do future contract work for it, then the prospect of future financial gain could create an implicit or explicit bias in their audit report.

The pool of people possessing the requisite experience may be small, and it is likely that many evaluator candidates will have utility backgrounds. This may make it difficult to fully ensure that they don't carry implicit or explicit biases that would favor the utility being evaluated. The most essential mechanism to ensure independence, however, is for the Commission (or WSD in the future) to be the body in charge of choosing the evaluators. While AB 1054 requires that each utility will "engage an independent evaluator", it would greatly compromise independence if the utility were to actually *select* the evaluator. If utilities select the evaluators, then the evaluators will need to ensure that they are utility-friendly if they are to be selected again in the future. This is similar to the conundrum posed by binding arbitration clauses: "Thus supposedly neutral arbiters know that revenue will increase if the party on one side of a dispute—the corporation—is pleased with the outcome. That same arbiter knows that rulings in favor of consumers will prompt corporations to take future business elsewhere."¹⁵

¹⁵ National Consumer Law Center; FORCED ARBITRATION – CONSUMERS NEED PERMANENT RELIEF; 2010 ;<https://www.nclc.org/images/pdf/arbitration/report-forced-arbitration.pdf>

To avoid perverse incentives, it is crucial that WSD take over the role of assigning auditors to utilities. The utilities would then engage the assigned auditor. The Commission has asked the utilities to directly pay for third party services before, as with the development of the CPUC Fire Hazard maps, for which third party contractors were selected by CAL FIRE and then engaged and received payment from utilities.¹⁶

4.27. Successful Models

If known, provide examples of successful models that could be leveraged and followed for implementation of the independent evaluator process.

The Environmental Protection Agency (EPA) conducts audits under its Risk Management Plan (RMP) rule which implements Section 112(r) of the 1990 Clean Air Act amendments.¹⁷ These regulations are intended to prevent chemical accidents at facilities that use certain hazardous substances.¹⁸ Owners and operators are required to submit an RMP every five years, and the EPA conducts compliance audits.^{19,20}

The EPA RMP model is similar to the CPUC's WMP model in that companies are required to develop plans to reduce the risk of accidents that could harm the public, and submit these to the regulator for review and audit. The models differ in that the EPA auditors are internal EPA staff rather than third-party auditors. RMP rules also allow the implementing agency to require the owner or operator to require a third-party audit if audits, inspections, or facility visits indicate that an accidental release of a regulated substance might occur. Unlike WMP third-party audits, auditor reports do *not* have to be reported to the regulating agency.²¹ The RMP third-party audits are

¹⁶ D.17-06-024; p. A-6 – A-8.

¹⁷ <https://www.epa.gov/rmp>

¹⁸ <https://www.epa.gov/rmp/risk-management-plan-rmp-rule-overview>

¹⁹ EPA 550-F-00-010; August 2000; <https://www.epa.gov/sites/production/files/2013-10/documents/auditfactsheet.pdf>

²⁰ U.S. ENVIRONMENTAL PROTECTION AGENCY CHECKLIST FOR RISK MANAGEMENT PROGRAM INSPECTIONS OR AUDITS*At Programs 1 & 2 Stationary Sources; Under Title 40 C.F.R. Part 68 - Chemical Accident Prevention Provisions; Revised May 18, 2015.

https://www.epa.gov/sites/production/files/2015-07/documents/rmp_checklist_programs_1_2_form_for_national_website.pdf

²¹ EPA ACTIVITIES UNDER EO 13650: Risk Management Program (RMP) Final Rule Questions & Answers; August 2017. (RMP Q&A 2017)

purportedly supplemental audits designed provide owners/operators additional information to aid compliance.

MGRA takes no position at this time as to whether the EPA RMP model should inform the development of the CPUC's independent evaluator program. We provide this information to the Commission in light of the common goal of catastrophic accident prevention, the required creation of safety plans by companies, and the establishment of a program to audit these plans.

4.28. Primary Focus

What should be the primary focus of independent evaluator compliance reviews?

There are three statutory requirements imposed on the role of the independent evaluator:

1. To review and assess the IOU's compliance with its Wildfire Mitigation Plan,
2. To consult with and report to the Wildfire Safety Division, and
3. To determine whether the IOU has properly funded all activities in its WMP.

As with all activities in this sphere, the overarching goal of the independent evaluator program is to improve safety and reduce the likelihood of catastrophic utility-ignited wildfires. The independent evaluator's role, however, is somewhat constrained by statute: their goal is to compare utility activities and mitigation measures against those the utility specifies in its WMP and alert the WSD as to any gaps. It also has a financial auditing role to ensure that all activities specified in the WMP have been funded and executed. So if there are gaps in the WMP itself – the evaluator realizes that the measures specified in the WMP are not optimally enhancing safety, or if the evaluator finds that the metrics or methods used to measure compliance are not adequate to actually perform that measurement – the evaluator should report this information to the Wildfire Safety Division so that the Division can take the necessary corrective action during the next WMP development cycle (or sooner if the gap discovered presents an immediate fire risk).

4.30. Federal Court Monitor Process

What elements of the federal court monitor process related to PG&E's probation should be utilized for the Wildfire Mitigation Plan independent evaluator process and why?

The federal court monitor process produced a report on vegetation management field inspections, under the supervision of Kirkland and Ellis LLP of arborists contracted employed by Filsinger Energy Partners, an independent energy advisory firm.²²

Elements of the federal court monitor process that might be leveraged for an WMP IE process include:

- A multi-day training program for arborists and for attorneys. This included the CAL FIRE 2008 power line fire prevention field guide and additional CAL FIRE guidance.^{23,24} This training allowed monitor teams to have a common approach to inspections and reporting.
- Corrective guidance provided to PG&E, allowing their VM program to be improved.
- Successful contracting of third-party utility experts answerable to the court monitor.

The program should be regarded as successful as it identified numerous shortcomings and gaps in PG&E's VM program, including program documentation, contractor issues (training, supervision and oversight), and recordkeeping.

²² USA v. Pacific Gas and Electric Company; Northern District of California; Letter from Mark Filip, P.C. to the Honorable William H. Alsup; July 26, 2019; Case 3:14-cr-00175-WHA Document 1089 Filed 08/14/19; p. 4.; <https://www.courthousenews.com/wp-content/uploads/2019/08/pge-monitors-report-7.26.pdf>

²³ Id.

²⁴ USA v. Pacific Gas and Electric Company; Northern District of California; CAL FIRE'S INFORMATIONAL RESPONSE TO REQUESTS FOR INFORMATION AT JANUARY 30, 2019, HEARING; Case 3:14-cr-00175-WHA Document 1012 Filed 02/06/19; <https://www.docketbird.com/court-documents/USA-v-Pacific-Gas-and-Electric-Company/FILED-BY-ATTORNEY-GENERAL-OF-CALIFORNIA-NON-PARTY-CAL-FIRE-Supplemental-Response-of-the-California-Department-of-Forestry-and-Fire-Protection-Following-January-30-2019-Hearing-on-Order-to-Show-Cause-as-to-Pacific-Gas-and-Electric-Company/cand-3:2014-cr-00175-276096-01012>

Differences between the court monitor system and the responsibilities of the WMP IEs include:

- The court monitor program was specifically dedicated to vegetation management, and all monitoring described in the July 2019 report involved PG&E's VM program. The WMP, by contrast, is much broader in scope and requires much wider expertise than just vegetation management. It will require additional expertise in utility operation, wildfire science, meteorology, and accounting.
- The court monitor was appointed to monitor PG&E's compliance with its documented VM program. Monitoring teams consisted of two people, one arborist and one lawyer. The IE program initiated by AB 1054 would appear to have only a technical monitoring component.

In summary, there may be elements of the court monitor program that can be adopted for the WMP IE process. However, the WMP process has a much broader scope that will need additional areas of expertise outside of those developed for the court monitor program, and the Commission will need to determine how best to fill those needs.

4.32. Professional Training

How could government, utilities, and academic institutions work together to improve the development of qualified professionals?

One issue that was raised in the workshops and in utility WMP filings is that there is a shortage of qualified professionals with expertise in key areas (arborists, engineers). Ironically, creation of a pool of independent evaluators having the skills required to audit WMP compliance will further strain the supply chain as this will become an alternative employment for people with the requisite skills. One suggestion raised by a panel member during the workshops was to reach out to the pool of retired utility employees and arborists. At the other end of the age and experience spectrum, recruiting college students and graduates into the field would require that specific programs be developed for this purpose. Concepts that might be explored are:

- Internships for students in a field related to one of the WMP key area (see Section 4.33). Because of the highly specific requirements of the wildfire mitigation plan

review process, it is unlikely that students will have a curriculum exactly matching a requirement. Therefore, students from related fields would need to be recruited in and trained. These might include: electrical engineering, mechanical engineering, environmental science, meteorology, accounting, fire science or firefighting.

- Student debt relief could be offered to recent graduates from related fields who enter the utility fire prevention program, either on the utility or regulatory side.
- Training and certification classes (see Sections 4.33 and 4.34) could be offered as online and night school classes for people looking for development opportunities.

4.33. Curriculum Development

Should there be training curriculum developed to expedite the learning curve for independent evaluators? If so, how should this be done and who should do it?

There will need to be a curriculum developed in order to ensure that all independent evaluators and/or independent evaluator teams are familiar with the goals and requirements of the WMP IE program. Even in the case where a person or team had all of the requisite skills, the Commission and WSD will need to ensure that audits are being conducted in accordance with uniform standards.

However, it is very unlikely that any one person will have the full spectrum of knowledge necessary to be able to judge utility compliance with wildfire mitigation plans. Expertise that will be pulled on will include but not be limited to:

- Wildfire safety, prevention, and detection
- Utility infrastructure engineering and operation
- Meteorology and weather data interpretation
- Utility vegetation management
- Regulatory interpretation
- Budgeting, auditing, and accounting
- Risk management and statistics

Even a person having expertise in a number of these areas will need guidance in assessing other areas where their knowledge is thinner. In the case where a team is assembled having the full spectrum of required expertise, training would still be advisable because 1) it is good for all team members to have a basic idea of the goal of the review and the basic elements that will go into it and 2) the people coordinating and supervising the activity need to have an overview of the components that will go into the final report and how each is important, so that they do not overemphasize their own personal sphere of expertise.

The development of a curriculum can draw from academia (wildfire science, meteorology), fire agencies (CAL FIRE and USFS), private sector consultants (financial and risk management), California electric utilities, and of course resources at the CPUC, which has expertise in most of the requisite areas across its various divisions. The CPUC should drive the development of the curriculum with input from CAL FIRE, but it can draw as necessary on experts to contribute to development. An SMAP-like process could also be used to ensure that all stakeholders have input and that the training covers all key areas.

4.34. IE Certification

Should there be a certification process instituted for certifying qualified independent evaluators? If so, how should this be done and who should do it?

Yes, there should ideally be a certification process for independent evaluators in order for the Commission (or subsequent regulatory body) to ensure that evaluators have the requisite breadth of knowledge. The certification process should be developed in the same manner and at the same time as the training program discussed in Section 4.32.

Some additional considerations related to certification:

- If the evaluation is to be performed by a team rather than an individual, it may not be necessary for all team members to have the same level of expertise or certification in the same topics.
- External certifications may suffice for specific topics to be covered in the evaluation (fire prevention, utility power engineering, certified arborist).

- There should be a general training and certification process covering all relevant fields for anyone who will be supervising, coordinating, or managing the evaluation; or if any person will be covering all or multiple topics required for a complete WMP compliance evaluation. The general training and certification process should be managed by the Commission / WSD.

Certification should be performed by the Commission / WSD, with input from CAL FIRE for fire safety issues.

4.35. Resource Constraints

How, if at all, should utility resource constraints related to the availability of qualified personnel be evaluated in the independent evaluator process?

Utility resources availability can affect the ability of IOUs to meet the commitments stated in their WMPs. It would be useful to track this information in furtherance of the goal of improving the ability of utilities to speed up completion of critical safety tasks. Metrics related to qualified personnel availability might include:

- Number of positions opened for safety-related functions, including engineers and arborists
- Number of positions filled for safety-related functions.
- Average time position remains open before filling or closing
- Number of positions closed without being filled.

It is worth noting that the overlap between requirements for utility staff and independent evaluators could put further pressure on the availability of critical staff if the number of independent evaluators is significant. For instance, availability of third party auditors for the EPA's RMP program purportedly led to relaxation of some of the auditor requirements.²⁵

²⁵ RMP Q&A 2017; p. 10.

5. E. REVIEW PROCESS / AB1054

This section raises a number of related questions regarding the timing and frequency of the WMPs. Answers to some of the questions asked throughout the section turn out to be inputs to the very first question asked in the section, which is related to the timing of the WMPs with respect to the GRCs. Certain answers are therefore assumed in the answer to the first question, details of which are developed in the specific questions asked subsequently in the section.

5.36. Timing of WMPs in Relation to GRCs

Should future Wildfire Mitigation Plan filings be timed to coincide with or relate to utility General Rate Case and related filings? Provide a sample filing timeline.

The fact that the GRCs are the actual funding mechanisms for execution of the WMPs implies that they are linked, and it follows that they should be synchronized in order for the WMP funding considerations to be raised at the proper point in the GRC cycle. Also, as noted previously, a number of answers to subsequent questions will be assumed in order to create a coherent GRC / WMP timeline. It turns out that these answers will also provide additional constraints on the timeline, such that the schedule of the WMP with respect to the GRC is strictly determined.

Specific constraints on the GRC / WMP schedule are:

- Cycle times for the WMPs and GRCs need to be the same.
- WMPs need to complete before the RAMP process is initiated.
- WMPs should be completed in time for implementation work during low-risk seasons.
- WMPs implementation in alpine areas will need to wait for spring
- There should be a pre-WMP phase allowing data requests, comments, and Commission input (through Decision) prior to the issuance of the WMPs.
- The timeline for completion of WMP review is highly constrained by statute.

Using these constraints it is possible to work backwards to determine the timeline for WMPs. One critical issue to first note is that GRCs are going to shift to a four year cycle.²⁶ AB 1054, on the other hand, mandates three-year plans and enables the WSD to require comprehensive WMPs only once every three years. Maintaining a three year planning cycle and a four year funding cycle is likely to lead to considerable confusion and lack of efficiency. Under worst-case conditions for offset between these cycles, funding for wildfire safety initiatives may wait for seven years before it can be recovered. This may require legislative relief. Note that this problem disappears if comprehensive WMP development is a yearly cycle, but if comprehensive fire plans are only required periodically, then that period must be tied to the GRC cycle time in order to efficiently fund them.

There are some efficiencies that could be achieved by tying periodic comprehensive WMP development to the GRC cycle. Given the constraints of development time and statutory requirements, a cycle for a given test year (“TY”) would look like this:

- TY-4, June: OIR/Ruling/Decision opening data request and comment period for specified utility (or utilities) WMPs.
- TY-4, July-November: Data request and comment period for comprehensive WMP.
- TY-4, November: Commission Decision directing specific details for comprehensive WMP
- TY-3, Jan 2: WMP released
- TY-3, Jan-Mar: Comprehensive WMP review period
- TY-3, March 31: WMP adopted
- TY-3, April-June: Lower risk implementation period
- TY-3, December: RAMP filing
- TY-2, November: GRC filing

Of course, tying the WMP cycle to the GRC would mean that the major WMP revisions would be done one utility at a time, since these are offset. The burden of this on WSD staff will be discussed below.

²⁶ R.13-11-006; PROPOSED DECISION OF COMMISSIONER RECHTSCHAFFEN; DECISION MODIFYING THE COMMISSION’S RATE CASE PLAN FOR ENERGY UTILITIES; October 4, 2019.

5.37. Standard Data Requests

Should the Commission order the utilities to respond to a standard data request with their Wildfire Mitigation Plan filings, or before they are filed? If so, how should the process work? There is a standard data request from Cal Advocates for rate cases and Energy Resource Recovery Account (ERRA) proceedings; describe that process and indicate whether it is workable for Wildfire Mitigation Plans.

Yes, a standard data request should be developed specifically for Wildfire Mitigation Plans, and it should be issued along with any utility or context-specific modifications at the point when the WMP development process kicks off, i.e., approximately six months prior to the issuance of the WMP(s) by the utility(ies). The standard data request could contain data requests that had proven to be helpful in prior WMP cycles, and thus make the data request cycle more efficient for intervenors and the Commission, and less burdensome on utilities.

5.38. Future Review Process

Provide any recommendations you have about the process of reviewing future Wildfire Mitigation Plans, including your analysis of what AB 1054 and 111 permit or require.

MGRA believes that the current process, under which key items are determined prior to the issuance of the draft WMPs by the utilities, is effective and that it should continue to be applied in future proceedings. We note that intervenors from many organizations have made substantive contributions to the WMP development process, and that they've far extended the reach and capabilities of the Commission and its assigned organizations. The value provided by intervenors is indisputable in many proceedings before the Commission. There are two reasons for this. The first is that Commission staff do not necessarily share the same perspectives, backgrounds, or expertise that external intervenors do, and as a result intervenors tend to cover gaps in areas not emphasized by staff. The second reason is that regulators (not just in the CPUC) are invariably underfunded and

understaffed, particularly in the current political climate, and cannot cover all necessary areas with the thoroughness required.

We therefore assume that an equivalent intervention program will need to be built into the Wildfire Safety Division and the Office of Energy Infrastructure Safety (OEIS) if there is to be any discussion of proper review at all. AB 1054 stated that the “Wildfire Safety Division shall accept comments on each plan from the public, other local and state agencies, and interested parties, and verify that the plan complies with all applicable rules, regulations, and standards, as appropriate.”²⁷ To the extent that “providing comment” means the ability to provide intervention in the same manner that external intervenors do today, then the review process discussed in this section can work. But this is not particularly clear from the language and will need additional guidance from the Commission and legislators.

Taking the minimalist and pessimistic view that the WSD, a newly established, inexperienced, and as yet unstaffed organization will only accept comment from volunteer unpaid intervenors (with no obligation to respond to those comments) and be responsible for understanding, guiding, and approving safety plans for major IOUs guarantees that only a token level of WMP supervision will be in place. Nevertheless, even under this dark scenario WSD and the OEIS will still perform a critical function in California’s utility regulatory framework: In the event of catastrophe and tragedy arising from IOU conduct, WSD and OEIS will be there to act as a public scapegoat, to be shamed and shunned, to be reorganized and then told to get it right the next time. This allows the true center of regulation to shift to the utilities themselves, exemplifying the Grover Norquist vision of a government drowned in a bathtub, with corporations left free to conduct their business without constraint, a vision that some supporters of AB 1054 might share.

We believe that the Commission and its staff, and nearly all independent parties believe that the IOUs need strong regulatory supervision and guidance. We therefore urge that the Commission interpret provisions added to the California Public Utility Code by AB 1054 and AB 111 in a manner to ensure that effective regulatory supervision and guidance will continue after the creation of the Wildfire Safety Division and Office of Energy Infrastructure Safety. If this is not possible, we

²⁷ AB 1054; Section 17.

would urge the Commission to loudly and publicly state that there is a risk that the utilities will become self-regulating so that the legislature, to the extent that is willing, can take remedial steps.

5.39. Staggering the WMP filings

Should future Wildfire Mitigation Plan filings be staggered? If so, how should they be staggered?

The process followed during the development of the current Wildfire Mitigation Plans was an extreme burden on parties, for two reasons. Firstly, the timeline between draft WMP submission and WMP approval is set by statute to be three months (with possibility for extension). The second reason is that all parties submitted their WMPs at the same time. This resulted in a fairly cursory review of all individual WMPs by parties, or at least cursory in comparison to what parties would have been able to do had they had a reasonable time frame.

For comprehensive revisions, staggered filings that are synchronized with the GRC cycle as described in Section 5.36 would enable the WSD and intervenors to concentrate on one WMP at a time. The disadvantage, of course, is that the review of WMPs becomes a constant process, since one major IOU will usually be undergoing a comprehensive review. Still, this will allow the Wildfire Safety Division to better manage its resourcing and workload over time, as opposed to the peak load that would occur every three years with simultaneous IOU WMP filings.

5.40. WMP Review Schedule

*How long should the Wildfire Mitigation Plan review timeline be?
During the review period, what should the detailed schedule (and deadlines) be for initial statutory review, requests for adjustment, data requests, data request responses, party comment, etc.?*

See Section 5.36.

5.41. Lower-Risk Seasons

By what date would Wildfire Mitigation Plan approval enable utilities to take advantage of lower-risk seasons to implement Wildfire Mitigation Plan measures (particularly for asset construction and maintenance)?

See Section 5.36.

5.42. Public Input

How can mechanisms for effective public input on Wildfire Mitigation Plans be improved?

As previously discussed, public input is most effectively achieved by the inclusion of intervenors in the WMP development process. Evaluating a Wildfire Mitigation Plan is an exhaustive and technical enterprise that requires significant time and dedication, and it will create great hardship on parties if they have to engage technical experts and legal representation at their own expense in order to contribute to public safety and ratepayer savings.

Additionally, the Commission and parties should explore the best way to present draft or approved WMPs to the public in public participation hearings that would have significant attendance. Possibly, a public summary of major changes and new programs should be presented by the IOUs at the time the draft WMP is filed, which, after input from parties, would form the basis of public participation hearings in the IOU's service area.

6. CONCLUSION

The Alliance is pleased that the analysis that will go into the next set of Wildfire Mitigation Plans was initiated during the current year, and hopes that our input proves helpful in improving them. We hope that the Commission is able to ensure continued mechanisms for substantive public input into the WMPs as the responsibility for review changes to the Wildfire Safety Division.

Respectfully submitted this 6th day of November, 2019,

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