

California Public Utilities Commission

Implementation of the Safety Policy Statement

Staff Recommendation for Commission's Consideration
January 2016

Introduction

In 2003, the California Public Utilities Commission (CPUC), the California Energy Commission, and the California Power Authority adopted an Energy Action Plan that articulated a single, unified approach to meeting California's post-energy crisis electricity and natural gas needs. That plan had an enormous impact – it represented the first time the energy agencies adopted a common, unified approach to furthering California's energy policy goals. Because of the passage of Assembly Bill 32, California's Global Warming Solutions Act of 2006 and many other pieces of legislation such as the recently adopted Senate Bill 350, California's Clean Energy & Pollution Reduction Act of 2015 and also Senate Bill 327, California's Residential Electricity Rate Reform Act of 2013, the Energy Action Plan is no longer being updated, although the foundation it established continues to drive and define California's energy industry to this day.

> Ultimately, we are striving to achieve a goal of zero accidents and injuries across all the utilities and businesses we regulate, and within our own workplace.
> - *CPUC Safety Policy Statement*

Similar to the Energy Action Plan, in 2015 the CPUC adopted its first ever Safety Action Plan. This Safety Action Plan followed the Safety Policy Statement that the CPUC adopted in 2014,[1] which clarified the CPUC's overall safety strategy.

As with the 2015 Action Plan, this 2016 Safety Action Plan update and its associated action items are made with the intent to fully integrate safety in all aspects of our work, and are based on the following four functional areas or safety management "pillars":

I. **Safety Policy**: Commission decision-making and development of rules and regulations
II. **Safety Compliance and Enforcement**: Audit, investigation and penalty assessment activities
III. **Risk Management**: Risk assessment and risk mitigation strategies
IV. **Safety Promotion**: Communication, collaboration and outreach and the development of a proactive safety culture both within the Commission and in regulated entities.

In the 2015 Safety Action Plan, the CPUC committed to eight action items with twelve deliverables and all have been completed.[2] These efforts were initiated with the idea that taking safety actions offers a good way to develop a safety culture. The action items were primarily focused on improving the CPUC's Safety & Enforcement Division (SED).

In this 2016 Safety Action Plan update, the action items are primarily focused on the rest of the organization. The purpose behind the Safety Policy Statement and the Safety Action Plans is to improve the agency's safety record and safety culture as a whole and, by doing so, improve the safety record and

[1] http://www.cpuc.ca.gov/puc/. The safety policy statement can be found on the CPUC website under "special interest".
[2] http://www.cpuc.ca.gov/PUC/safety/Safety_Policy_and_Action_Plan.htm. This link directs you to the 2015 Safety Action Plan & its twelve deliverables.

safety culture of regulated industries as well. As we continue to improve the agency's effectiveness we will continue to strive for the safest possible operations from California's investor-owned utilities. Our success in these many initiatives will be measured by the ability of Californians to enjoy safe, affordable, sustainable, and reliable utility service, today and far into the future. Research has shown that a safety culture produces safety more reliably than either compliance or sanctioning culture. Development of a proactive safety culture in a regulatory agency with major enforcement responsibilities – which privilege a compliance approach – will present complex challenges for the CPUC.

2016 Action Plan

In this section, we recommend eight action items to further improve the effectiveness of the Commission's safety regulation. Our goal is to leverage our implementation of existing laws, rules, general orders, and regulations so as to continue the momentum of our ongoing safety activities and to push towards a safety culture. While these action items are not exhaustive, they are the next phase of our trajectory of safety excellence.

The eight near-term action items are as follows:

1. Utility Pole En Banc (*Safety Policy*)
2. Administrative Law Judge Training (*Safety Policy*)
3. Industry Division Staff Training (*Safety Policy*)
4. Reorganization of Safety & Enforcement Division (*Safety Compliance and Enforcement*)
5. Staff Reports on Safety-Related Expenditures (*Risk Management*)
6. Safety Review in General Rate Cases (*Risk Management*)
7. Safety Intervenor Workshop (*Safety Promotion*)
8. Advanced Safety Seminar (*Safety Promotion*)
9. Building Strong Safety Capacity Through Collaboration and Coordination With Other State Agencies (*Safety Promotion*)

Each action item has an assigned lead accountable for its completion, and a specific completion date.

Safety Policy Activities

The Safety Policy functional area of safety management includes Commission's decision-making activities, such as creating and modifying General Orders, considering Applications by regulated entities and otherwise providing direction to industry and Commission staff. Action items from the 2015 Safety Action Plan were:

1. Formalizing Safety Advocacy and Advisory Roles
2. Requiring Applicants to Include Relevant Safety Information

In addition to the activities begun in 2015, the Commission will hold an en banc on utility poles designed to better understand the current best practices around the country as well as ensuring that California's policies remain up to date. Additionally, the Commission will add two new training tracks for staff in 2016. The intent of these training sessions are to better understand risk-based decision making and

evaluate the safety impacts of regulatory proposals presented in rates or other capital investment applications. Both trainings will be designed to minimize the abstraction of the material and ensure that the training is relevant to the work staff do every day. These trainings will be offered in 2016, and repeated as often as the leads and the Executive Director deem necessary.

Action Item 1 - Utility Pole En Banc

In recent years, California has experienced blackouts and wildfires associated with utility poles, including the 2007 Fire Siege, sparked by downed electrical lines, and the extended blackout associated with the 2011 windstorm. The Commission's Policy & Planning Division in 2014 also published a paper on utility poles giving a brief overview of the rules applicable to utility poles, summarized recent events and Commission proceedings involving utility poles, and recommended opportunities for additional Commission action to protect safety and continuity of service in California.[3] Continuing the Commission's focus on this issue, the Commission will hold a day-long en banc in 2016 to explore safety issues associated with utility poles, including such issues as pole overloading, engineering and technical concerns, coordination between pole owners and attachers, and inspections.

- ***The Policy and Planning Division Director is the lead responsible for ensuring that this en banc takes place during the first quarter of 2016.***

Action Item 2 - Administrative Law Judge Training

The Commission's Administrative Law Judges represent many different professional backgrounds, including but not limited to law, finance, government, and industry. In order to ensure that all Administrative Law Judges are in the best position to evaluate the safety impacts of proposals made in rulemakings, investigations, and adjudications, the Commission will provide training on recognizing potential safety impacts and ensuring full evidentiary record development. The training will be mandatory.

- ***The Chief Administrative Law Judge is the lead and will engage the resources of Policy & Planning Division to assist in planning this training session. This training will take place by third quarter 2016.***

Action Item 3 - Industry Divisions Staff Training

Similar to the Administrative Law Judge training, the staff training will better equip staff in the Industry Divisions – Energy, Communications, and Water – and the Consumer Assistance Branch to recognize and analyze the safety impacts in work not necessarily related to rulemakings, such as resolutions, daily program administration, complaints, and legislative bill analysis. This training will be tailored to match the responsibilities of each Division or Branch, and will be mandatory.

- ***The Directors of Communications and Water Divisions are the leads and responsible for ensuring that the training takes place by the third quarter 2016. All Industry Divisions will take part in this training and assist accordingly with the organization.***

[3] http://www.cpuc.ca.gov/NR/rdonlyres/6B8E22D3-399B-445B-9DAF-2B9B4673A3AE/0/PPDUtilityPole.pdf

Safety Compliance and Enforcement Activities

The Safety Compliance and Enforcement functional area of safety management includes actions and mechanisms to ensure adherence to safety rules and policies, as well as specifications for identifying and correcting violations of those rules. The Commission staff performs several hundred audits and investigations a year, which lead to enforcement actions ranging from staff citation to formal Commission adjudicatory proceedings. The Safety Compliance and Enforcement action items from the 2015 Safety Action Plan were:

1. Implementing Enforcement Case Tracking and Program Performance Reporting
2. Developing an Enforcement Policy and Delegating Authority to Staff

Action Item 4 – Reorganization of Safety & Enforcement Division

Currently, Safety and Enforcement Division (SED) is the largest Division in the Commission with over 250 staff and programs spanning utility, telecommunication, rail and transportation industries. Despite its name, not all programs that are currently housed in SED are safety related. Specifically, there are two programs with a primary focus on consumer protection: utility enforcement branch and transportation enforcement branch.

Utility and transportation enforcement programs investigates alleged or apparent violations of the Public Utilities Code, other state laws, and Commission regulations by stationary utilities (telephone, cellular, electric, gas, and water), household goods carriers (moving companies) transporting household goods within California, and Passenger Carriers. These investigations typically involve consumer fraud, false or misleading advertising, bait-and-switch tactics, unfair and unlawful business practices, and unsafe or uninsured operations. When sufficient evidence of violations is uncovered, the Special Agents of the Enforcement Branch usually have a wide variety of remedies from which to choose, in three general categories: administrative, criminal, and civil.

In 2016, these two programs will be moved out of SED and merged with current Consumer Information and Services Division (CSID) to create a Consumer Protection and Enforcement Division (CPED). This will allow SED to exclusively focus on providing the best possible infrastructure safety oversight, while at the same time creating a group dedicated exclusively to supporting consumers.

- ***The Deputy Executive Director for Administrative Services is the lead on completing this reorganization by end of second quarter 2016, with the help of Safety & Enforcement Division Director and others as needed.***

Risk Management Activities

Risk management is a forward-looking activity with the purpose of identifying issues before they arise and implementing mitigating strategies. Risk management action items from the 2015 Safety Action Plan include:

1. Implementing a CPUC Incident Command System
2. Implementing a Staff "Safety Flag" System

In 2016, the Commission will add the development of staff reports on utility safety related expenditures.

Action Item 5 - Staff Reports on Safety-Related Expenditures

Electric and gas investor-owned utilities (IOUs) propose expenditures on safety-related programs in their General Rate Cases, and the Commission votes on whether or not to approve the program and the appropriate level of expenditures. General Rate Cases (GRC) are forward-looking exercises, and the analysis of safety programs and expenditures in a rate case necessarily focuses on the programs' prospective benefits and the amount of money necessary to realize those benefits in a cost effective manner. The prospective nature of General Rate Cases has not always, however, been conducive to retrospective examination of safety programs approved in prior General Rate Cases for a given IOU.

The Commission believes that an understanding of the status of safety programs and expenditures approved in prior General Rate Cases will enhance the Commission's evaluation of prospective safety programs and expenditures in General Rate Cases under consideration. For example, how does a newly proposed safety program relate to programs approved in prior General Rate Cases? Have previously authorized expenditures been spent as expected? Are there any economic or operational efficiencies that could be realized in an overlap in funding or program design between newly proposed and previously approved safety programs?

Therefore, in order to contribute to a more robust analysis of the relationship of IOU safety programs to each other and the extent to which previously approved expenditures have been spent as expected, the Commission will implement a new staff report. In this report, Energy Division staff will review the status of safety programs and expenditures approved in prior General Rate Cases.

- ***The Energy Division Director is the lead and responsible for ensuring these reports are completed. The most recent GRC was filed by Pacific Gas & Electric (PG&E) in September 2015 (Application 15-09-001). Energy Division will complete this report by the second quarter of 2016. The timing of other reports will depend on when a GRC is filed, although the expectation is that Energy Division staff will issue this report six months after a GRC is filed.***

Action Item 6 - Safety Review in General Rate Cases – Activity Reporting

In the recent years, CPUC has initiated a General Rate Case (GRC) process reform, with a primary goal of ensuring proper consideration of safety. In 2014 the Commission formalized rules to ensure the effective use of a risk-based decision-making framework to evaluate safety and reliability improvements presented in General Rate Case (GRC) applications (see decision D.14-12-025). Although this process is in its infancy the goal is to create a process that was founded on the following three principles:

- **Transparency**: the Commission and all interested parties should be given full access to all data and models on which the utilities, the Commission staff, and any other parties base their proposals or recommendations;

- **Participatory Inclusivity**: all interested parties should have a full opportunity to participate in each step of the process; and

- **Accountability**: the utilities should be held accountable for achieving the risk mitigation benefits they claim and for spending ratepayer money wisely and efficiently. And, the Commission staff should be held accountable for reviewing and analyzing the reports that are filed.

Decision 14-12-025 established a new paradigm for considering a) how utilities identify and prioritize Safety Risks, b) how that translates into GRC spending requests, and c) how well they performed after funding approval. The proceeding established three new processes:

- Safety Model Assessment Proceeding (SMAP): applications in which the Commission and stakeholders review/evaluate utility risk models.

- Risk Assessment Mitigation Phase (RAMP): process that begins one year before a utility files a GRC application; this includes opening an investigation into how utilities are applying the Risk Models approved under SMAP, and how that has determined what Safety investments they will seek.

- Accountability reports: after a GRC decision, this requires two accountability reports annually covering a) Did IOU spend the money as they said/CPUC approved, if not why not and b) what was the Safety impact of that spending?

This new model for evaluation of safety in GRC is in the early stages of implementations. Last year, the utilities filed their first SMAP applications, which are currently being reviewed by the CPUC. The first utility to have an entire GRC go through this process will be Southern California Gas Company, which is planning to file their RAMP information in fall of 2016.

Even though the Commission hasn't fully determined its policies for RAMP and the accountability report, SED staff already produces reports on risk and safety aspects of GRC filings based on the testimony, and it promotes reporting requirements for safety related expenditures that anticipate this new paradigm. In addition, SED assists the assigned office in scoping a particular proceeding based on testimony to ensure that safety issues as adequately addressed.[4]

[4] It is important to note that even though the CPUC is undertaking improvements in evaluation of safety in GRCs, this process is not appropriate for addressing immediate safety concerns. Utilities should not be raising safety concerns that may pose an immediate threat to public safety in GRCs. When a utility identifies a safety concern, it is required that a utility to take appropriate steps to correct the issue and there are a number of avenues for a utility to seek additional funding if it is needed. For example, a utility can open a Catastrophic Emergency Management Account (CEMA), use funds reserve for operational emergencies, divert funds from non-safety related project or submit an Application for Commission's consideration. Failure by a utility to address an urgent safety issues immediately can trigger an enforcement action by the CPUC.

In the near term, however, the Commission can do more. For 2016 as another step to improve internal process SED will add to its monthly reporting a section on providing a high level summary of utility GRC requests that pose a long-term safety risk, thereby providing a transparent public record of its work to review GRC safety testimony.

- ***This year, SED will continue implementation of Commission Decision D.14-12-025 and will incorporate status updates into the SED monthly report. The SED Director is responsible for this action item and will ensure that SED monthly reporting covers work pertaining to GRCs, including reviewing safety related testimony.***

Safety Promotion Activities

The Safety Promotion functional area of safety management includes communication on safety issues with the public, collaboration with other agencies and organizations and outreach to safety experts to exchange lessons learned and best practices. The Safety Promotion action item from the 2015 Safety Action Plan was:

1. A Safety Awareness campaign, including the first Safety En Banc

Action Item 7 - Safety Intervenor Workshop

The Commission has begun exploring ways of expanding the participation of safety-related intervenors in relevant Commission proceedings. For example, in July 2015, Commission staff distributed a Solicitation for Input seeking informal feedback on potentially expanding the role of safety intervenors, asking, e.g., whether there are specific organizations that could serve as safety intervenors, whether the Commission should require certain competencies of safety intervenors, and whether potential safety intervenors experience barriers to their participation.

Commission staff will research and reach out to potential safety intervenors and invite them to participate in a workshop to discuss the opportunities and challenges surrounding their potential participation in relevant Commission proceedings.

- ***The Director of the News and Outreach Office is the lead responsible for ensuring that this workshop takes place during the second quarter 2016.***

Action Item 8 - Advanced Safety Seminar

To help create a safety culture within the Commission, the Commission plans to introduce a safety brown-bag lunch session in which safety personnel from the various parts of the Commission can address issues that cut across the many different regulatory programs. For example, a topic that could be addressed is how a regulator can assist a regulated entity in making the transition from a compliance oriented perspective into one in which safety issues are actively investigated and resolved independent of any perceived enforcement threat. A second topic for this lunch time discussion is how the Commission itself can transition from a compliance-oriented regulatory perspective into an approach that actively promotes safety across specific regulatory programs. For example, what will it take so that

those checking on rails safety issues will recognize and report on utility poll hazards that they may identify in conjunction with their rail inspections?

This experimental program should help the Commission to identify and cultivate safety leaders within the Commission's ranks. The Commission will evaluate the results of this program through surveys that attempt to measure the impacts of this program on the Commission's safety culture.

- ***The Executive Division will organize and host this Commission-wide safety seminar and will invite attendees. This seminar should take place by second quarter 2016.***

Action Item 9 - Formalizing Coordination with State Agencies – Developing Memoranda of Understanding concerning Safety Issues

Many State agencies play critical roles in advancing the safety of California's infrastructure. There are several examples where the CPUC has some authority over an entity, but has limited or no jurisdiction over safety matters:

- The CPUC gas overall authority over public utilities in California while the California Department of Occupational Safety and Health (Cal/OSHA) has overall authority over worker safety
- The CPUC is tasked with inspecting power plants that shut down for maintenance to validate that the shut-down isn't happening for market speculation reasons while the California Energy Commission (CEC) is responsible for citing, certification and compliance of generation assets
- The CPUC grants Certificate of Public Convenience and Necessity (CPCN) for oil pipelines, but the California Office of the State Fire Marshal (OSFM) regulates and inspects the pipelines for safety
- The CPUC grants CPCNs for gas storage facilities, but the Division of Oil, Gas & Geothermal Resources (DOGGR) is responsible for well safety
- The CPUC requires electric and gas utilities to have an emergency response plan, but California Office of Emergency Services (CalOES) is responsible for overall emergency response preparedness across the state
- The CPUC initiated a formal process for development of fire-threat maps for California, but California Department of Forestry and Fire Protection (Cal-Fire) is responsible for the development of the fire-threat maps

To further integrate safety into management practices, SED will work with Legal division to establish formal coordination processes with other state agencies responsible for inspection and safety. SED and Legal Division will work with other State agencies to put in place memorandums of understanding (MOU) with relevant State agencies including CalOES, Cal-Fire, DOGGR, CEC and Cal/OSHA. These MOUs will serve to open communication within State agencies and also create the means to bring together all regulatory authorities and address safety issues in a comprehensive manner.

- ***SED is the lead on completing this Action Item, with Legal Division supporting. The MOU with DOGGR shall be revised by March 25, 2016. The MOU with CalOES shall be completed by May 27, 2016. The agreements with other agencies shall be revised on an as needed basis, depending on the level of coordination required.***

Next Steps

After the adoption of the Safety Management Strategy and Action Plan, the Commissioners delegate to the Executive Director authority to revise the plan as appropriate. The Executive Director will work with the Divisions identified in the work plan to ensure timely completion of all action items. The Executive Director will also provide quarterly updates on the Action Plan and associated activities at Commission voting meetings.

This update to the Safety Action Plan is guided by the four pillars that should define this Commission's regulation of safety. As stated in the introduction these four pillars are as follows:

I. **Safety Policy**: Commission decision-making and development of rules and regulations
II. **Safety Compliance and Enforcement**: Audit, investigation and penalty assessment activities
III. **Risk Management**: Risk assessment and risk mitigation strategies
IV. **Safety Promotion**: Communication, collaboration and outreach and the development of a proactive safety culture both within the Commission and in regulated entities.