

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 22, 2012

To: The Commission
(Meeting of May 24, 2012)

From: Lynn Sadler, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 2556 (Allen) – Electrical lines: trimming of trees.**
As amended: May 1, 2012

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: OPPOSE

SUMMARY OF BILL

AB 2556 seeks to avoid what it terms “excessive tree trimming” by requiring public utilities to do the following:

- “...not remove a tree unless the utility has actual knowledge ... that the tree is dead, rotten, or diseased...”
- “If an electrical corporation ... determines that a tree should be removed... the utility shall do the following: (a) Obtain written confirmation by an arborist ... that the tree is dead, rotten, or diseased ... (b) Publish legal notification of its intent to remove a tree at least once in a newspaper... not less than 120 days prior to the scheduled removal of the tree.”
- “In performing tree trimming maintenance or brush removal, each electrical corporation ... shall do the following: ... (c) Prior to conducting vegetation management, a utility shall provide notification to any property owners that will be affected by the vegetation management ... This notification shall contain the utility’s contact information to allow the property owners to contact the utility in order to ... express their concerns regarding the vegetation management.”

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION

General Order (GO) 95, Rules 35 and 37, provide mandatory rules applicable to tree-line clearances. These rules are intended to ensure the safety and reliability of the overhead electrical system. Introducing any deviations from these rules or interfering

with the utilities' ability to comply with them will negatively impact safe, proper, and reliable service. AB 2556 appears to be aimed at preventing or discouraging the removal or trimming of healthy trees. Although excessive tree trimming may occur in certain cases, safety to the general public and to utility employees should be of primary concern. Any amendment that impedes the utility's ability to ensure safety and reliability should be rejected. Furthermore, GO 95 already contains several exceptions to the tree trimming requirement that would prevent excessive tree trimming.

SUMMARY OF SUGGESTED AMENDMENTS

None.

DIVISION ANALYSIS (Energy Division)

The proposed legislation would negatively impact the CPUC electric safety program because it:

- Prohibits the removal of a tree unless the tree is "dead, rotten, or diseased". Trees are often planted near or directly underneath bare, energized conductors. That these trees may eventually grow and make contact with the conductors could be foreseeable in certain cases. In such cases, and depending on the severity of the situation, the utility should have the option to remove the tree, regardless of the tree's condition.
- Requires 120 days prior notice before a tree that is "dead, rotten, or diseased" can be removed. This 120 day period prevents the utility from undertaking prompt remedial action, especially in cases where the condition is hazardous or could potentially become hazardous.
- Requires the utility to provide notification to any property owners that will be affected by the vegetation management. The bill states that the "notification shall contain the utility's contact information to allow the property owners to contact the utility in order to ... express their concerns regarding the vegetation management." This requirement introduces three obstacles for the utilities: 1) properly identifying a tree's owner, 2) successfully notifying the tree owner of the impending tree trimming, and 3) waiting for the tree owner to express any concerns regarding the tree trimming. Tree trimming and brush removals are performed by utilities throughout their territory, and on a regular basis. To impose any ambiguous waiting period would significantly delay such activities, and may cause utilities to violate GO 95, Rule 35: Tree Trimming, and Rule 37, Table 1, Case 13, the latter of which requires supply conductors of 750 – 22,500 volts to maintain a radial clearance of 18 inches from tree branches or foliage at all times.

GO 95, Rule 35 states: "Where overhead wires pass through trees, safety and reliability of service demand that tree trimming be done in order that the wires may clear

branches and foliage by a reasonable distance. The minimum clearances established in [Rule 37] Table 1, Case 13, measured between line conductors and vegetation under normal conditions, shall be maintained.” Amongst other requirements, this rule requires that bare supply conductors of 750 – 22500 volts maintain a minimum radial clearance of 18 inches from tree branches or foliage. However, Rule 35 does allow exceptions to the clearance requirement, namely for conductors of less than 750 volts, and conductors of less than 60,000 volts where tree trimming is not practicable and the conductor is separated from the tree with a suitable material. Thus GO 95, Rule 35 provides for legitimate tree trimming to ensure safety and reliability of the overhead electrical system.

AB 2556 is aimed at preventing “excessive tree trimming”. Excessive tree trimming may occur in particular instances, but as a whole, tree trimming is done in a proper manner and for legitimate purposes. The utilities use trained arborists and/or tree trimming contractors to evaluate and perform tree trimming. Tree trimming is done so that utility facilities conform to GO 95, Rule 35. Additionally, GO 95 provides several exceptions to tree trimming requirements. GO 95, Rule 35, Exception 1 states “Rule 35 requirements do not apply to conductors, or aerial cable ... energized at less than 60,000 volts, where trimming or removal is not practicable and the conductor is separated from the tree with suitable materials or devices ...” GO 95, Rule 35, Exception 4, states “Mature trees whose trunks and major limbs are located more than six inches, but less than 18 inches, from primary distribution conductors are exempt from the 18-inch minimum clearance requirement under this rule... the Commission shall have final authority to determine whether the exemption applies in any specific instance...” Furthermore, conductors of 750 volts or less are allowed to contact tree limbs; if tree contact causes strain or abrasion to the conductor, the condition can be corrected by methods other than tree trimming, such as by slacking or rearranging the line, or placing mechanical protection on the conductor.

GO 95, Rule 35 already provides for alternatives to tree trimming. Conductors of less than 750 volts are allowed to make tree contact, and can be slacked, rearranged, or mechanically protected in the event there is excessive tree strain or abrasion. GO 95, Rule 35, Exception 1 allows conductors of 60,000 volts to be separated from a tree by a suitable material, thus avoiding tree trimming. GO 95, Rule 35, Exception 4 allows mature trees to have a clearance of less than 18 inches, but more than 6 inches, from primary distribution conductors.

AB 2556 would harm the CPUC’s objective of ensuring the safety and reliability of the overhead electric system. Two examples of this harm are detailed below:

- Example 1: A utility discovers that an overhead primary conductor has fallen or is about to fall below the 18 inch minimum radial clearance requirement from a tree. AB 2556 would then require the utility to successfully notify the tree’s owner of the impending tree trimming, and then wait for the tree owner to express any concerns regarding the tree trimming. During this waiting period, the tree may

grow into the conductor, or be forced into the conductor due to wind or other natural phenomenon.

- Example 2: A utility discovers that a tree has been planted directly underneath an overhead primary conductor. This type of tree has the ability to grow into the conductor. As long as the tree is healthy, AB 2556 prevents the utility from taking preventative corrective action, such as removing the tree.

PROGRAM BACKGROUND

GO 95, Rule 35: 'Tree Trimming' outlines the tree trimming requirements that utilities must follow. Originally, the rule only required overhead primary conductors to not contact vegetation. The amount of radial clearance simply had to be more than zero. As a result of numerous major incidents caused by trees in the vicinity of power lines, the rule was amended to require overhead primary conductors to maintain a minimum 18 inch radial clearance from vegetation. After this amendment was put in place, the number of vegetation caused outages decreased significantly. The decrease in outages demonstrates that greater clearance requirements lessen the instances of tree-line contact, and also promotes greater safety for both the general public and utility employees.

National Electrical Safety Code (NESC), C2-2007, Rule 218A: Vegetation Management, states: "(1). Vegetation that may damage ungrounded supply conductors should be pruned or removed. Vegetation management should be performed as experience has shown to be necessary. (2) Where pruning or removal is not practical, the conductor should be separated from the tree with suitable materials or devices to avoid conductor damage by abrasion and grounding of the circuit through the tree." As most states adopt some form of NESC, tree trimming is an accepted, common, and industry-wide practice that promotes safety and reliability.

The North American Electric Reliability Corporation (NERC) Transmission Vegetation Management NERC Standard FAC -003-2 Technical Reference states, "... the best management practice for the Transmission Owner is to exercise its maximum legal rights to achieve the objectives of the transmission vegetation management program. This minimizes the possibility of conflicts between energized conductors and vegetation"; it also states, "pruning is an inefficient maintenance method. Removal is always superior to pruning in ensuring tree conflicts do not occur." Table 1 of this reference outlines in detail the minimum clearance distances between transmission conductors of various voltages and vegetation. This NERC Technical Reference was developed under the oversight of the Federal Energy Regulatory Commission (FERC) and has become the FERC standard for transmission line vegetation management.

FISCAL IMPACT

AB 2556 would require ongoing costs of \$231,573 annually for two Utility Engineers to respond to and investigate new tree trimming complaints.

STATUS

AB 2556 is pending consideration in the Assembly Appropriations Committee on May 25th.

SUPPORT/OPPOSITION

Support:

None on file.

Oppose:

Bear Valley Electric Service
California Association of Small and Multi-jurisdictional Utilities (CASMU)
California Chamber of Commerce (CalChamber)
California Licensed Foresters Association (CLFA) (unless amended)
California Pacific Electric Company
Northern California Power Agency (NCPA)
Pacific Gas and Electric Company (PG&E) (unless amended)
Pacific Power
San Diego Gas & Electric Company (SDG&E)
Southern California Edison (SCE)

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BILL LANGUAGE

BILL NUMBER: AB 2556 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MAY 1, 2012
AMENDED IN ASSEMBLY MARCH 29, 2012

INTRODUCED BY Assembly Member Allen

FEBRUARY 24, 2012

An act to amend Sections 4292 and 4295 of the Public Resources Code, and to add Chapter 6 (commencing with Section 8390) to Division 4.1 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2556, as amended, Allen. Electrical lines: trimming of trees.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing boards. Existing law, except as specified, requires any person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous, forest-covered, brush-covered, or grass-covered land to maintain a clearance in all directions between all vegetation and all conductors that are carrying electric current, as prescribed. Pursuant to its existing authority, the PUC has adopted rules applicable to electrical corporations for the construction of electrical lines and the trimming of trees near electrical lines.

This bill would require each electrical corporation and local publicly owned electric utility to avoid excessive tree trimming that threatens the health of a tree, to make a good faith effort to implement good forestry practices and vegetation management practices, and to preserve the health of mountainous lands, forest-covered lands, and brush-covered lands ~~—, and protect the aesthetic, cultural, and property value of the area~~. The bill would prohibit removal of trees unless specified circumstances exist and require the utility to obtain the written confirmation by an arborist of the need to remove a tree and to provide specified notice prior to removal of a tree. The bill would require an electrical corporation or local publicly owned electric utility to ~~provide notification to a property owner~~ *annually provide a copy of the company's vegetation management plan to the affected locality*, ~~provide notification~~ *publish the plan* on its Internet Web site, and ~~publish legal~~ *provide notification to affected property owners* prior to ~~undertaking tree trimming maintenance or brush removal~~ *conducting vegetation management*. By placing requirements upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4292 of the Public Resources Code is amended to read:

4292. Except as otherwise provided in Sections 4295 and 4296, any person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous land, or forest-covered land, brush-covered land, or grass-covered land shall, during such times and in such areas as are determined to be necessary by the director or the agency which has primary responsibility for fire protection of such areas, maintain around and adjacent to any pole or tower which supports a switch, fuse, transformer, lightning arrester, line junction, or dead end or corner pole, a firebreak which consists of a clearing of not less than 10 feet in each direction from the outer circumference of such pole or tower. This section does not, however, apply to any line which is used exclusively as telephone, telegraph, telephone or telegraph messenger call, fire or alarm line, or other line which is classed as a communication circuit by the Public Utilities Commission. The director or the agency which has primary fire protection responsibility for the protection of such areas may permit exceptions from the requirements of this section which are based upon the specific circumstances involved.

SEC. 2. Section 4295 of the Public Resources Code is amended to read:

4295. (a) A person is not required by Section 4292 or 4293 to maintain any clearing on any land if ~~such~~ the person does not have the legal right to maintain ~~such~~ the clearing, nor do ~~such~~ those sections require any person to enter upon or to damage property ~~which~~ that is owned by any other person without the consent of the owner of the property.

(b) In complying with the requirements of Sections 4292 and 4293, each electrical corporation and local publicly owned electric utility shall do all of the following:

(1) Avoid excessive tree trimming that threatens the health of a tree , *unless doing so is required by the utility's planned vegetation management cycle* .

(2) Make a good faith effort to implement good forestry practices and vegetation management practices, and preserve the health of mountainous lands, forest-covered lands, and brush-covered lands.

~~(3) Protect the aesthetic, cultural, and property value of the area.~~

~~(4)~~

(3) Comply with the requirements of Chapter 6 (commencing with Section 8390) of Division 4.1 of the Public

Utilities Code.

~~—(d)~~

(c) For purposes of this section, "electrical corporation" and "local publicly owned electric utility" have the same meanings, respectively, as defined in ~~Section~~ Sections 218 and 224.3 of the Public Utilities Code.

(d) Nothing in this section shall be construed to prevent a utility from complying with federal or state law.

SEC. 3. Chapter 6 (commencing with Section 8390) is added to Division 4.1 of the Public Utilities Code, to read:

CHAPTER 6. TREE TRIMMING AND REMOVAL PRACTICES

8390. (a) The requirements of this chapter are applicable to each local publicly owned electric utility when complying with the requirements of Chapter 3 (commencing with Section 4291) of Part 2 of Division 4 of the Public Resources Code.

(b) The requirements of this chapter are applicable to each electrical corporation when complying with the requirements of Chapter 3 (commencing with Section 4291) of Part 2 of Division 4 of the Public Resources Code or any rule or order of the commission, including Rule 35 of General Order 95.

(c) Nothing in this chapter shall be construed to prevent a utility from complying with federal or state law.

8392. An electrical corporation or local publicly owned electric utility shall not remove a tree unless the utility has actual knowledge, obtained through either normal operating practices or notification to the utility, that the tree is dead, rotten, or diseased and one of the following circumstances exists:

(a) Removal of the tree is necessary to maintain responsible fire protection.

(b) The tree overhangs, or leans toward, a transmission or distribution line such that there is a reasonable possibility that the tree may damage the line.

(c) The tree is required to be trimmed so extensively, in order to comply with the requirements of Chapter 3 (commencing with Section 4291) of Part 2 of Division 4 of the Public Resources Code or, for an electrical corporation, Rule 35 of General Order 95, that the health of the tree would be compromised and the tree would ultimately become dead, rotten, or diseased and need to be removed to maintain responsible fire protection.

8394. If an electrical corporation or local publicly owned electric utility determines that a tree should be removed pursuant to Section 8392, the utility shall do the following:

(a) Obtain written confirmation by an arborist licensed by the International Society of Arboriculture and registered with the Contractors' State License Board that the tree is dead, rotten, or diseased or would likely become dead, rotten, or diseased with the required extensive trimming.

~~—(b) Provide written notification to the property owner of the intent to remove the dead, rotten or diseased tree no less than 120 days prior to the scheduled removal of the tree accompanied by the written confirmation from the licensed arborist obtained pursuant to subdivision (a). If the owner of the property is a city, county, city and county or other entity of local government, notice shall be given to the city council, board of supervisors, or other governing~~

~~body. If the owner of the property is the state, notice shall be given to the state entities that administer and occupy the property and to the city council or board of supervisors of the city, county, or city and county where the state property is located.~~

~~—(c)~~

(b) Publish legal notification of its intent to remove a tree at least once in a newspaper of general circulation serving the area of the proposed tree removal not less than 120 days prior to the scheduled removal of the tree.

8396. In performing tree trimming maintenance or brush removal, each electrical corporation and local publicly owned electric utility shall do all of the following:

~~—(a) Provide written notification to the property owner of the intent to trim trees or remove brush no less than 120 days prior to the scheduled tree trimming or brush removal. If the owner of the property is a city, county, city and county or other entity of local government, notice shall be given to the city council, board of supervisors, or other governing body. If the owner of the property is the state, notice shall be given to the state entities that administer and occupy the property and to the city council or board of supervisors of the city, county, or city and county where the state property is located.~~

~~—(b) Provide notification on the utility's Internet Web site no less than 120 days prior to the scheduled tree trimming or bush removal.~~

~~—(c) Publish legal notification of the scheduled tree trimming or brush removal at least once in a newspaper of general circulation serving the area of the proposed tree trimming or brush removal not less than 120 days prior to the scheduled tree trimming or brush removal.~~

(a) Annually provide a copy of the utility's vegetation management plan to the city, county, city and county, or other entity of local government that will be affected by the plan.

(b) Publish the vegetation management plan on the utility's Internet Web site.

(c) Prior to conducting vegetation management, a utility shall provide notification to any property owners that will be affected by the vegetation management. This notification shall explain that the utility may remove trees that are unhealthy or too close to power lines. This notification shall contain the utility's contact information to allow the property owners to contact the utility in order to obtain more information or express their concerns regarding the vegetation management.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.