BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to Revise and Clarify Commission Regulations Relating to the Safety of Electric Utility and Communications Infrastructure Provider Facilities.	R.08-11-005 (Filed November 6, 2008)

PHASE 2 OPENING BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY (U902E)

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PHASE 2 OPENING BRIEF OF
SAN DIEGO GAS & ELECTRIC COMPANY (U902E)

I. INTRODUCTION AND PROCEDURAL HISTORY[1]

Pursuant to the May 7, 2010 Ruling of ALJ Kenney Granting the Motion to Extend the Schedule for Phase 2, San Diego Gas & Electric Company (SDG&E) hereby submits its Phase 2 Opening Brief. The Phase 2 rule proposals described in the Workshop Report contain many positive changes. As discussed below, adoption of certain of these proposals will help promote public safety throughout the state, and build upon the solid foundation for safety established by the Commission in Phase 1 of this proceeding.

SDG&E believes that the procedural history set forth in Section II of the Workshop Report is accurate and adequate. SDG&E has nothing to add to the Workshop Report procedural history.

[1] SDG&E is using the common briefing format discussed by workshop participants during the process of preparing the Phase 2 Joint Parties' Workshop Report for Workshops Held January-June 2010 (Workshop Report). SDG&E, however, has little of substance to add at this time regarding certain topics designated for briefing in the common briefing format (e.g., procedural history). Accordingly, SDG&E's opening briefing regarding these topics will be very limited.

II. OVERARCHING PRINCIPLES AND ISSUES

SDG&E commends all workshop participants for working diligently and cooperatively throughout the lengthy Phase 2 workshops.[2] SDG&E does not agree with every position or proposal presented during the workshops. But SDG&E believes that all proposals set forth in the Workshop Report, even those SDG&E does not agree with, are appropriate for Commission consideration in this rulemaking.

A. JURISDICTION ISSUES

The only potential Phase 2 jurisdictional issue SDG&E is aware of is the proposal by the Commission's Consumer Protection and Safety Division (CPSD) to clarify that General Order (GO) 95 applies to the electric supply facilities of publicly-owned utilities (MAP No. 2). SDG&E believes that public and worker safety could potentially be enhanced by inclusion of publicly-owned transmission and distribution facilities within the scope of GO 95. But SDG&E takes no position at this time with respect to this particular proposal or the potential jurisdictional issues it may raise.

B. ELECTRIC TRANSMISSION ISSUES

None of the proposed rule changes (PRCs) in Phase 2 appear to conflict with operational procedures, or inspection and maintenance procedures established by the California Independent System Operator (Cal ISO). Moreover, none of the Phase 2 PRCs appear to conflict with any transmission-related federal or state regulations. Accordingly, it does not appear to SDG&E that the PRCs set forth in the Workshop Report present any electric transmission issues for the Commission to decide. SDG&E reserves the right to respond to electric transmission arguments presented in the opening briefs of other parties (including Cal ISO).

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[2] SDG&E also commends the Phase 2 workshop facilitators, ALJ Minkin and ALJ Vieth. Without their sage guidance, the workshop process would have undoubtedly been much less productive.

III. PROPOSED CONSENSUS RULES

SDG&E supports each of the proposed consensus rules for the reasons stated in the consensus rationales for the proposed rules. For the sake of brevity, SDG&E will not repeat points from the consensus rationales here. SDG&E reserves the right to comment on positions taken by parties regarding the proposed consensus rules in their opening briefs.

IV. MULTIPLE ALTERNATIVES PROCESS ALTERNATIVES

A. MAP NO. 1 – GO 95, RULE 11

1. Rule 11 Proposal by CPSD

As noted in the Workshop Report, SDG&E supports this proposal by CPSD. Elimination of the term "electrical" from Rule 11 should eliminate potential confusion over the types of lines GO 95 applies to.[3] Moreover, SDG&E does not oppose the addition of the words "design" and "maintenance" to Rule 11 since certain portions of GO 95 already concern the design and maintenance of overhead supply and communication lines.

The only point of contention between the parties regarding this proposal appears to be elimination of the term "electrical" from Rule 11, which the CIP Coalition opposes. The CIP Coalition admits that "removal of the word "electrical" may seem elemental given that G.O. 95 clearly contains provisions applicable to communications *facilities* . . .."[4] According to the CIP Coalition, however, CPSD's proposal is defective because CPSD has not justified deletion of "electrical," and because CPSD has not explained how this deletion would impact the other 400+ pages of GO 95.[5] Both arguments are without merit. This "elemental" wording change is justified by the fact that it will eliminate the possibility of communications providers arguing that

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[3] Note that the proposed "final" Rule 11 in the Workshop Report contains a typographical error -- the first "electrical" that CPSD has proposed deleting lives on in the final version. See Workshop Report at B-4.
[4] Workshop Report at B-8 (emphasis in original).
[5] Workshop Report at B-8.

GO 95 does not apply to their overhead lines because the "Purpose" section of the Order only mentions "electrical" lines.[6] In addition, there is no need for CPSD or the Commission to vet the other 400+ pages of GO 95 before deleting "electrical" from Rule 11. The other provisions of GO 95 stand on their own, and CPSD's proposed revision to the "Purpose" section of GO 95 does not affect them in any way.

2. Rule 11 Proposal by CIP Coalition

The CIP Coalition MAP for Rule 11 is identical to CPSD's Rule 11 PRC, except the CIP Coalition would retain the word "electrical." For the reasons just discussed, SDG&E opposes the CIP Coalition proposal. Retention of "electrical" in Rule 11 could facilitate an argument that GO 95 does not apply to overhead communications lines.

B. MAP NO. 2 – GO 95, RULE 12

1. Rule 12 Proposal by CPSD

This proposal by CPSD would clarify that GO 95 applies to the electric supply facilities of publicly-owned utilities. SDG&E believes that public and worker safety could potentially be enhanced by inclusion of publicly-owned supply facilities within the scope of GO 95. But this proposal appears to relate to a jurisdictional dispute between CPSD and the municipal utilities -- a jurisdictional dispute that may have already been resolved by the Commission in Phase 1 of this proceeding. SDG&E is not directly affected by this proposal. Accordingly, SDG&E voted neutral during workshops, and SDG&E continues to take no position regarding CPSD's Rule 12 proposal at this time. SDG&E reserves the right to comment on positions taken by parties regarding the proposal in their opening briefs.

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[6] Note that the CIP Coalition argument quoted above appears to make a distinction between "facilities" and "lines." This distinction is not borne out by the rules.

C. MAP NO. 3 – GO 95, RULE 18A

1. Rule 18A Proposal by CIP Coalition

SDG&E recognizes that communications providers have strong concerns about the Rule 18A adopted by the Commission in D.09-08-029.[7] Along with the other workshop participants, SDG&E worked long and hard to address those concerns. At the same time, however, SDG&E believes that the Rule 18A adopted by the Commission in D.09-08-029 enhanced both fire safety and worker safety, at least in our service territory, and SDG&E does not want those very positive benefits to disappear. SDG&E believes that the workshop discussions and negotiations regarding Rule 18A have resulted in proposed revisions to Rule 18A that for the most part are acceptable, and SDG&E generally supports this Rule 18A proposal by the CIP Coalition for the reasons set forth in the Workshop Report rationale. However, SDG&E cannot support changing the deadline for all Level 2 nonconformances to 59 months. If a nonconformance either compromises worker safety, or creates a fire risk and is located in an Extreme or Very High Fire Threat Zone in Southern California, it should be corrected within 12 months, not 59 months.

2. Rule 18A Proposal by SDG&E

The revised Rule 18A proposed by SDG&E is the same as the Rule 18A proposed by the CIP Coalition in every respect, save one. Under the CIP Coalition's proposal, Level 2 nonconformances need to be corrected within 59 months. Under SDG&E's Rule 18A proposal, Level 2 nonconformances would still generally need to be corrected within 59 months. However, if the nonconformance either compromises worker safety, or creates a fire risk and is located in an Extreme or Very High Fire Threat Zone in Southern California, it would need to be corrected within 12 months.

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[7] See D.09-08-029, mimeo., at 18-20.

This limited revision to the CIP Coalition Rule 18A PRC is both reasonable and necessary. By definition, Level 2 nonconformances can have high safety and/or reliability risks.[8] If such a nonconformance compromises worker safety (e.g., a severe climbing space violation), it should be cured within a year, not five. And in fire-prone regions of Southern California, five years is simply too long to wait for correction of nonconformances that create a fire risk.

The CIP Coalition argues that SDG&E's Rule 18A proposal is unnecessary because "CPSD has explained that it expects the CIPs to take corrective actions within times that are reasonable within the time frame ranges for each priority level (as would be set forth in the CIPs auditable maintenance plan)".[9] SDG&E disagrees. SDG&E cannot think of any potential instances in which safety hazards or GO 95 nonconformances that compromise worker safety or create a fire risk in fire-prone regions of Southern California should remain uncorrected for more than 12 months. Even if CPSD agrees, the best way to make sure that CIPs are correcting such safety hazards and nonconformances is to directly say so in the rule itself. And if the language proposed by SDG&E serves no purpose -- as the CIP Coalition would have the Commission believe -- then why are the CIPs opposed to it?

The CIP Coalition opposes SDG&E's Rule 18A proposal because it is supposedly too vague, and, according to the CIP Coalition, "could be interpreted to mean any alleged nonconformance would require corrective action within 12 months, thus eliminating the entire rationale for having a 59 month range in the first place." SDG&E respectfully disagrees. SDG&E's proposed exceptions to the CIP Coalition's proposed 59-month correction timeframe are reasonable, limited, and sufficiently specific. For each Level 2 (high to low, but non-immediate) safety hazard or GO 95 nonconformance, the same two or three questions simply

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[8] Under existing Rule 18A and both 18A PRCs, Level 2 priorities involve "[v]ariable (non-immediate <u>high</u> to low) safety and/or reliability risk." (Emphasis added.)

[9] Workshop Report at B-45.

need to be asked: (1) does it compromise worker safety? (a substantial climbing space violation would; many other types of technical GO 95 nonconformances would not); (2) is it located in an Extreme or Very High Fire Threat Zone in Southern California? If so, then (3) does it create a fire risk? These questions can be answered by trained personnel in exactly the same way that trained personnel are called upon to decide whether particular safety hazards and GO 95 nonconformances are Level 1, Level 2, or Level 3 -- by applying training, knowledge, and experience to the relevant context.

In its opposition to SDG&E's Rule 18A proposal, the CIP Coalition argues that "[t]he CIP MAP, in contrast, would assign any Safety Hazard as a Priority 1 issue and thus require immediate action."[10] SDG&E is surprised by this statement. The plain words of the CIP Coalition's Rule 18A proposal appear to allow for Level 1, Level 2, and even Level 3 safety hazards. For example, the factors to be considered in prioritizing safety hazards and nonconformances include "whether the Safety Hazard or nonconformance is located in an Extreme or Very High Fire Threat zone in Southern California . . .."[11] If every safety hazard would automatically receive a Level 1 priority (requiring immediate repair) as the CIP Coalition now argues, there would be no need for them to have included safety hazards in the language just quoted, or in the (2)(a) heading discussing the prioritization of both safety hazards and GO 95 nonconformances.[12] Situations requiring immediate repair sap manpower and other resources. SDG&E understood the plain words of the CIP Coalition's Rule 18A proposal to allow for Level 2 safety hazards -- perhaps a substantial climbing space violation on a joint use pole that is not scheduled to be worked on for several months -- and it is a bit strange to have the CIP Coalition

[10] Workshop Report at B-45.
[11] Workshop Report at B-28.
[12] Workshop Report at B-28.

now assert that their proposal requires all safety hazards involving their facilities to be repaired immediately.

Another somewhat surprising assertion, at least to SDG&E, is PG&E's opposition to SDG&E's Rule 18A proposal on the grounds that "SDG&E's proposal introduces mandatory corrective maintenance timeframes into GO 95, which is inappropriate for a construction standard, and hinders the ability to prioritize maintenance work based on local conditions and available resources."[13] SDG&E's proposal is no more "mandatory" than the CIP Coalition's. The only difference is that SDG&E's proposed deadline for the repair of certain Level 2 violations is 12 months whereas the CIP Coalition's proposed deadline for such repairs is 59 months. Otherwise our two proposals are exactly the same.

Finally the CIP Coalition incorrectly argues that SDG&E is seeking to impose a requirement on communications companies that is not also shared by SDG&E:

> SDG&E's MAP unfairly imposes obligations on CIPs that are not imposed on IOUs, whose facilities are known fire risks. SDG&E's MAP adds to the Level 2 priority requirements that are not imposed on IOUs, either in GO 165 or in the Memorandum of Understanding between CPSD and SCE.[14]

These assertions by the CIP Coalition are not accurate. As SDG&E repeatedly pointed out during workshop discussions, SDG&E's Commission-authorized GO 165 inspection and maintenance plan requires SDG&E to correct all safety hazards and nonconformances within 12 months. Accordingly, SDG&E is actually proposing that a much less stringent standard be applied to communications companies than is applied to SDG&E.

In D.09-08-029, the Commission determined that clearance or pole overloading violations in Extreme or Very High Fire Threat Zone in Southern California, and violations

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[13] Workshop Report at B-46.
[14] Workshop Report at B-45.

anywhere that create a significant safety risk to any utility's employees, must be corrected within 30 days. SDG&E understands that the programmatic approach presented by the CIP Coalition Rule 18A may allow for somewhat greater response times for lower-risk nonconformances. But in a proceeding devoted to fire safety, it would not be reasonable for the Commission to switch from a 30-day correction framework to five years for the types of nonconformances addressed by SDG&E's Rule 18A PRC.

D. MAP NO. 4 – GO 95, RULE 18C

1. Rule 18C Proposal by Mussey Grade

SDG&E concurs with the MAP No. 4C discussion submitted by Southern California Edison Company (SCE) in its opening brief.[15] In addition, as explained by SDG&E in the Workshop Report, the Commission has ordered SDG&E to convene a collaborative stakeholder process relating to fire safety and the possibility of a revised emergency power shut-off plan for certain portions of SDG&E's service territory. The contingency planning proposal submitted by Mussey Grade Road Alliance (Mussey Grade) would duplicate work already being done in SDG&E's ongoing collaborative process. There is no need for the Commission to order SDG&E to come up with a contingency plan to deal with wind and fire danger -- SDG&E and interested stakeholders are hard at work addressing these issues already. Mussey Grade's proposal would burden SDG&E's customers with additional costs, with no reasonable prospect of benefits from the additional expenditures. Moreover, because fire safety and wind issues are already fully being considered in the collaborative process, Mussey Grade's proposal would create the potential for inconsistent Commission decisions and requirements.

[15] To avoid repetitive briefing, Pacific Gas and Electric Company (PG&E), SCE, and SDG&E are each taking the lead briefing certain MAP items where they have a common position.

For the reasons set forth in SCE's opening brief and in comments submitted by PG&E, SCE, and SDG&E (Joint Electric Utilities) in the Workshop Report, the Commission should decline to adopt the Rule 18C Proposal by Mussey Grade.

E. MAP NO. 5 – GO 95, RULE 31.1

1. Rule 31.1 Proposal by the Joint Electric Utilities

SDG&E concurs with the MAP No. 5 discussion submitted by PG&E in its opening brief. For the reasons set forth in PG&E's opening brief and in the rationale submitted by the Joint Electric Utilities in the Workshop Report, the Commission should adopt the Rule 31.1 proposal by the Joint Electric Utilities.

F. MAP NO. 6 – GO 95, RULE 31.2

1. Rule 31.2 Proposal 1 by CIP Coalition members CCTA, Comcast, CTIA, NextG, Sprint Nextel, Sunesys, Time Warner, T-Mobile, tw telecom and Verizon (CIP 1)

This CIP Coalition proposal (CIP 1) would require patrol inspections of communications equipment in "Specified Fire Areas" once every three years, and detail inspections of communications equipment in Specified Fire Areas every nine years. Patrol inspections every three years are not enough. As LA County explains, "[i]n areas where trees can grow rapidly in response to above average rainfall, and significant winds blow each year, completing a patrol inspection every three years simply is not frequently enough."[16] Likewise, SDG&E believes that detail inspections should occur more frequently than every nine years in Extreme or Very High Fire Threat Zones. SDG&E performs patrol inspections at least once a year, and detail inspections at least once every five years, on all of its supply facilities located in Extreme and

[16] Workshop Report at B-74.

Very High Threat Zones. So should communications providers who attach their lines and other equipment in close proximity to our supply facilities.

In response to these concerns, the CIP Coalition may attempt to rely on a provision they have carried over from the existing Rule 31.2 which states that "[l]ines shall be inspected frequently and thoroughly for the purpose of insuring that they are in good condition so as to conform with these rules."[17] But reliance on this carryover from existing Rule 31.2 would be a mistake. As CPSD explains in the Workshop Report, the existing "frequently and thoroughly" requirement has not resulted in adequate CIP inspections to date:

> [T]his PRC relies on the text of "frequent and thorough" in the existing rule which has been misinterpreted by CIPs in a way that does not ensure that their entire systems are inspected in any specified period of time. Most CIPs have interpreted "frequent and thorough" to mean they perform a quick visual scan only when a customer calls with a service problem. Otherwise, there is no program in place to ensure that all of the lines are inspected. CPSD has found numerous facilities of CIPs which have not been properly maintained and which utilize electric poles.[18]

In addition, CIP 1 would require no patrol inspections (simple visual inspection) or detail inspections (careful visual inspection) in areas outside Specified Fire Areas. Given the extreme Santa Ana winds that most of San Diego County experiences on a regular basis, it is not adequate for CIP facilities throughout so much of our service territory (including areas such as Fallbrook and Ramona that are at high risk of fire but not within the CIP Coalition's "Specified Fire Areas") to have no required inspections at all. As CPSD explains in the Workshop Report:

> CPSD has found numerous facilities of CIPs which have not been properly maintained and which utilize electric poles. Specific inspection requirements are needed for all CIP facilities that are located on or near joint use poles that support electric facilities because of the inherent dangers of electric supply lines and the

[17] Workshop Report at B-68.
[18] Workshop Report at B-73.

> hazards associated with poorly maintained CIPs facilities on joint poles with electric wires.[19]

2. Rule 31.2 Proposal 2 by CIP Coalition members AT&T, Frontier Communications and Small LECs (CIP2)

This CIP Coalition proposal (CIP 2) would require patrol inspections of communications equipment in "Specified Fire Areas" once every five years, and no detail inspections at all. It is worse in at least two respects than CIP 1. First, for all of the reasons that patrol inspections every three years are not frequent enough, patrol inspections only once every five years are an even worse idea. As CPSD explains, "the five-year patrol cycle is too long, and does not comport with the current requirement to inspect lines "frequently." A five-year patrol inspection cycle would allow violations to exist for several years before being inspected and discovered."[20] And as LA County points out, five years is much too long to ignore the potential effects of fast-growing vegetation on CIP facilities: "the Commission needs to remember how rapidly vegetation grows in California, especially after years when rainfall is higher than average. Completing a patrol inspection every five years in simply not frequent enough to ensure that lines and equipment have not been compromised by rapidly growing vegetation."[21]

As CPSD explains, the absence of a detail inspection requirement in CIP 2 may be an even greater flaw than decreasing the frequency of patrol inspections to only once every five years:

> Patrol inspections are intended to detect obvious safety hazards, and are reactive in nature. Detailed inspections are more proactive and preventative in nature and are intended to detect non-obvious GO 95 safety violations and conditions that may become safety hazards. The scope of each type of inspection is different both in terms of the types of conditions companies should be looking for,

[19] Workshop Report at B-73.
[20] Workshop Report at B-81.
[21] Workshop Report at B-81.

> but also in terms of how they are performed (i.e., patrol inspections may be done by aerial flyovers or by simple visual scans during the ordinary course of business v. having a dedicated inspector visit every pole for detailed inspections). Detailed and patrol inspections work hand-in-hand, and both are necessary to identify and correct safety violations on a utility or CIP's facilities.[22]

Likewise, CIP 2 carries the same geographic genetic flaw as CIP 1, since CIP 2's inspection requirements would only apply to communications facilities located in "Specified Fire Areas." As CPSD explains, it would be a big mistake for the Commission not to require inspections of communications facilities located outside of Specified Fire Areas:

> The next problem with this PRC is that it is too limited in geographic scope. It does not contain specific requirements for inspections of communication facilities located on joint use poles that are located outside of the "Specified Fire Areas", including the urban–wildland interface areas, rural areas, and urban areas which pose threats to the safety of the public. Requiring patrol cycles only in certain "specified fire areas" does nothing to clarify how often CIPs should be inspecting their lines in the rest of the state.[23]

For all of the reasons just discussed, the Commission should decline to adopt either CIP 1 or CIP 2.

3. Rules 31.2 and 80.1 Part A Proposal by CPSD

CPSD would require communications companies to conduct patrol inspections every year in urban areas, every two years in rural areas (except in Extreme and Very High Threat Zones in Southern California, which would be subject to annual patrols), and detailed inspections every 10 years. These new inspection requirements would apply to communications lines located on joint use poles that support electric supply lines, as well as communication lines attached to a CIP-only pole that are one span away from joint use poles that support electric supply lines.[24]

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[22] Workshop Report at B-80-81.
[23] Workshop Report at B-81.
[24] Workshop Report at B-85.

As CPSD explains in the Workshop Report, "due to the inherent dangers of electric supply lines and the hazards associated with poorly maintained CIPs facilities on joint poles with electric wires, the PRC provides specified cycles for CIP lines that are located on or near poles supporting electrical supply lines."[25] The fundamental reason for these new requirements is fire safety: "communication facilities that are not maintained in accordance with General Order 95 and are located near supply facilities could result in a contact between the facilities, resulting in a fire."[26] CPSD's Rule 31.2 and Rule 80.1 proposal will promote fire safety by reducing the risk of poorly-maintained CIP facilities that are in close proximity to electric supply facilities:

> This PRC also reduces fire hazards and other safety hazards associated with poorly maintained CIP facilities in close proximity to electric supply facilities by establishing minimum inspection cycles for joint use poles, including more frequent inspections in high fire threat areas in Southern California. Requiring CIPs to have inspection procedures in place and specifying minimum inspection cycles for certain situations will lead to more discovery and remediation of potential safety hazards, and would also mitigate the risk of fires.[27]

SDG&E generally supports CPSD's proposal. However, SDG&E believes that requiring inspections of CIP-only poles one span away from joint use poles does not go far enough, and therefore SDG&E has presented a PRC that changes CPSD's proposed new 80.1 inspection requirement for CIP-only poles from *one span away* to *within three spans* of Joint Use Poles that contain Supply Circuits. SDG&E's proposed new Rule 80.1 also decreases the maximum interval between detailed inspections for communication facilities located in Extreme and Very High Fire Threat Zones in Southern California from the 10 years proposed by CPSD to five years. This proposed revision would put communication companies on the same schedule for detailed inspections as electric utilities in these high-risk fire threat areas.

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[25] Workshop Report at B-86.
[26] Workshop Report at B-87 (CPSD).
[27] Workshop Report at B-87 (CPSD).

4. Rules 31.2 and 80.1 Part A Proposal by SDG&E

As just explained, SDG&E believes that requiring inspections of CIP-only poles one span away from joint use poles does not go far enough. In our experience, significant stress on CIP-only poles two and three spans away can adversely affect nearby joint use poles. At some point the "domino" effect from a CIP-only pole failure will no longer be a danger to nearby electric facilities. But CIP-only poles within three spans of our electric facilities definitely pose a potential danger, and therefore should be inspected on a regular basis.

SDG&E believes that inspection of CIP-only poles within three spans of electric facilities is a reasonable compromise. CIP-only poles five or even 10 spans away could fail and cascade into nearby electric circuits. But the risk of such a major cascade is probably lower than the risk of a smaller cascade. And if CIPs are already in the field inspecting CIP-only poles located within one span of electric supply facilities, the additional cost to inspect two adjacent poles should be low.

The second change proposed by SDG&E to CPSD's new Rule 80.1 is to decrease the maximum interval between detailed inspections for communication facilities located in Extreme and Very High Fire Threat Zones in Southern California from the 10 years proposed by CPSD to five years. This proposed revision would put communication companies on the same schedule for detailed inspections as electric utilities in these high-risk fire threat areas. SDG&E believes this change is both reasonable and necessary. In Extreme and Very High Fire Threat Zones in Southern California, 10 years is too long of an interval for detailed inspections of CIP facilities that are located in close proximity to electric circuits. The Commission has already established five years as a reasonable detailed inspection interval for electric facilities. In high-risk fire

areas, CIPs should have the same detailed inspection interval as electric utilities do. Facilities on joint use poles are only as strong and safe as their weakest link.

In response to both the CPSD and SDG&E Rules 31.2 and 80.1 Part A proposals, the CIP Coalition argues that CPSD and SDG&E have not provided evidence to support our proposals.[28] The CIP Coalition's insistence on record "evidence" in a rulemaking proceeding is misplaced, and directly conflicts with the procedures all parties voluntarily operated under during the cooperative technical workshops. Moreover, during the workshop discussion of this topic both CPSD and SDG&E explained the reasoning and rationale for our proposals in great detail, and provided a number of factual examples for why we believe these new inspection rules are necessary. Despite the unsubstantiated claims to the contrary by the CIP Coalition, the Commission has an ample basis for moving forward with the revised Rules 31.2 and 80.1 proposed by CPSD and SDG&E.

5. Rules 31.2 and 80.1 Part B Proposal by CPSD (Intrusive Testing)

SDG&E strongly supports CPSD's proposal to require intrusive testing of wood poles supporting only communications lines if the poles are located in close proximity to electric supply lines. As CPSD notes in its Workshop Report rationale, this new requirement will reduce the likelihood of a communication-only pole failing and resulting in problems to the supply lines, for example by causing adjacent supply lines to "slap" and make contact, thus causing arcing that could lead to fires, or by pulling down poles supporting supply lines.[29]

The CIP Coalition argues stridently that there would be no fire prevention benefit from CPSD's intrusive inspection proposal, and that "[t]here is no evidence that the structural integrity of those poles [i.e., CIP-only poles located in close proximity to electric supply lines] has any

[28] See Workshop Report at B-90-92 and B-100-01.
[29] Workshop Report at B-104.

bearing on fire safety.[30] These arguments are utterly unfounded, and directly conflict with common sense. As discussed above, the CIP Coalition's after-the-fact insistence on record "evidence" in a rulemaking proceeding is misplaced, and directly conflicts with the procedures all parties voluntarily operated under during the cooperative technical workshops. Moreover, during the workshop discussion of this topic SDG&E explained that it has experienced problems with the failure of CIP-only facilities located close to our electric supply lines, including a March 2010 failure of a CIP-only pole line approximately 500 feet from our facilities that cascaded into our facilities and caused SDG&E supply conductors to break, causing a small fire. In addition, LA County explained during workshops that poles that fail during wind events can not only ignite fires, but also block egress and ingress of evacuees and first responders, quickly turning a hazardous condition into a life-threatening one.

Perhaps even more important, however, is the fact that the CIP Coalition's assertions about this intrusive inspection proposal fly in the face of common sense. If a CIP-only pole inter-set between supply lines or a CIP-only pole containing communications facilities attached to nearby joint use poles fails, can it harm nearby joint use poles and related supply facilities? Of course. With proximity comes responsibility, and CIP-only poles located close to supply facilities need to be inspected on a regular basis in order to ensure that they do not fail and either pull down or cascade into the nearby supply facilities. Regular intrusive inspections of CIP-only poles located close to supply facilities are particularly important because the wood poles supporting CIP-facilities have a lower safety factor than poles that support supply lines, and therefore they can break more easily in high winds or when subjected to other stresses such as vegetation falling on the CIP-only facilities. As CPSD points out, the high wind conditions that can cause CIP-only poles to break are the same conditions that can lead to catastrophic fire

[30] Workshop Report at B-109.

events, especially in Southern California which experiences Santa Ana winds.[31] For that reason, CPSD's proposal reasonably and appropriately increases the range of CIP-only poles to be intrusively inspected to three spans away from poles that support supply lines in Extreme and Very High Fire Threat Zones in Southern California.

Bottom line, despite the CIP Coalition's illogical and unsupported claims to the contrary, CIP-only poles located in close proximity to electric supply facilities can and do fail, to the detriment of fire safety, worker safety, and general public welfare. CPSD's intrusive testing proposal for CIP-only poles located in close proximity to electric supply facilities is a limited and reasonable solution to a real problem, and should be adopted by the Commission.

G. MAP NO. 7 – GO 95, RULE 35

1. Rule 35, Paragraph 4 Proposal by the Joint Electric Utilities

SDG&E concurs with the MAP No. 7A discussion submitted by PG&E in its opening brief. For the reasons set forth in PG&E's opening brief and in the rationale submitted by the Joint Electric Utilities in the Workshop Report, the Commission should adopt the Rule 35, Paragraph 4 proposal by the Joint Electric Utilities.

2. Rule 35, Exception 3 Proposal by the Joint Electric Utilities

This PRC addresses property owners who refuse to allow supply and communication companies to perform necessary vegetation management work on the customer's property. Pursuant to this proposal, whenever a property owner obstructs access to, or fails to make accessible, overhead facilities for vegetation management activities, the supply or communication company will not be responsible for the consequences of failing to trim or remove such vegetation if they can document (1) at least one attempted personal contact with the owner, (2) at least one written communication to the owner, including documentation of mailing

[31] See Workshop Report at B-104.

or delivery, and (3) notification to Commission Staff. These limitations will help ensure that minor misunderstandings do not trigger this exception.

As the Joint Electric Utilities emphasized during workshops, only a very small percentage of property owners refuse to provide utilities with access to perform necessary vegetation management work. But this very small percentage of property owners creates substantial risks for everyone, and substantial additional costs for our customers. This new proposed Exception 3 would be a very valuable tool in our efforts to implement our vegetation management programs. CPSD asserts that because this proposal could limit utility liability, it is outside the scope of this proceeding.[32] SDG&E disagrees. The focus of this proposal is to obtain cooperation from recalcitrant property owners. It is a reasonable tool for fire and public safety that can and should be considered by the Commission in this proceeding.[33]

CPSD, California Farm Bureau Federation (Farm Bureau), and Mussey Grade each express concern about shifting responsibility away from utilities when property owners prevent utilities from trimming trees.[34] But is it fair for utilities and their customers to be responsible for actions of property owners who endanger everyone around them? SDG&E does not believe so. Moreover, the real focus of this rule is on preventing obstruction, not on shifting responsibility. The Joint Electric Utilities believe this proposal will result in far fewer refusals, particularly since we could point customers to a specific Commission rule on this topic. Based upon our collective experience with recalcitrant property owners, it is our belief that many property owners who might otherwise refuse access are likely to change their minds if it is clear that their

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[32] Workshop Report at B-127.

[33] See D.09-08-029, mimeo., at 29-30: "We will also consider PG&E's proposal regarding the need for even greater clearances in high fire threat areas and options to assist utilities who meet resistance from landowners affected by vegetation management. Many parties expressed support for these proposals and we intend to address these matters fully in phase 2."

[34] See Workshop Report at B-127-29.

refusal absolves the supply or communication company of legal responsibility if the resulting inability to trim causes a fire or other safety problems. This shift in responsibility is fundamentally fair, and is likely to have a particular importance to refusing property owners with significant assets (such as the property the supply and communication companies wish to access in order to perform needed vegetation management activities).

In the Workshop Report, CPSD expresses concern that the proposed standards for attempts at property owner contacts in Exception 3 are supposedly confusing, and inconsistent with the existing "good faith" standard in Exception 2.[35] SDG&E respectfully disagrees. The property owner contact standards in Exception 3 are actually very specific -- a utility either takes these three specified actions or it does not -- and the absence of the "does not preclude other actions" flexibility of Exception 2 is deliberate. The change in legal responsibility described in Exception 3 would only occur if utilities take the specified actions. Unspecified "other actions" would not be enough to trigger the change. Moreover, CPSD's fears that the utilities would no longer attempt to deal with property owner refusals on a case-by-case basis if Exception 3 is adopted are unfounded. Compliance with the notification provisions of Exception 3 will not absolve the utilities from having to comply with Rule 35. Utilities will therefore continue to seek access even after they have made their Exception 3 notifications, and there should be no change to existing utility practices with respect to obtaining permission to trim.

H. MAP NO. 8 – GO 95, RULE 35, APPENDIX E

1. Rule 35, Appendix E Proposal by the Joint Electric Utilities (Table 1)

This Utility proposal would increase the guidelines for minimum time-of-trim vegetation-to-conductor radial clearances for Extreme and Very High Fire Threat Zones in Southern California from 6.5 feet to 10 feet for conductors operating at 2,400 volts or more but less than

[35] Workshop Report at B-127-28.

72,000 volts, and from 10 feet to 15 feet for conductor of a line operating at 72,000 volts or more but less than 110,000 volts. The Joint Electric Utilities believe these new recommended time-of-trim minimum radial clearances are more appropriate than the current recommended minimums adopted for these voltages in D.09-08-029. Southern California faces extreme fire risk, and Santa Ana winds can move even newly-trimmed trees towards conductors.

In the Workshop Report, this PRC was opposed by only two parties, LA County and Mussey Grade.[36] LA County opposes on the grounds that further increase in minimum pruning distances will allegedly have a negative effect on aesthetics and surrounding vegetation, and because utilities already have justification within the existing rule to complete any necessary pruning.[37] Mussey Grade opposes on the basis that Appendix E provides all the flexibility utilities need to trim trees in a manner that protects public safety, and because of concerns about trimming beyond established minimums by SDG&E.[38] These oppositions do not have merit.

First, the minimum time-of-trim guidelines in Table 1 to Appendix E have meaning. Otherwise, the Commission would not have taken the time to revise them upwards in Phase 1 of this proceeding in order to reduce fire hazards before the 2009 fall fire season.[39] These time-of-trim guidelines matter, especially when utilities are dealing with recalcitrant property owners who wish to limit trimming to stated minimums. Moreover, in instances where tree owners refuse to allow utilities to trim trees to obtain safe clearances, it is sometimes necessary to take legal action, and in such instances the utility may only be allowed to trim to the minimum guidelines listed in Appendix E. Increasing minimum recommended time-of-trim clearances for the two specified categories of high-voltage overhead lines will make it more likely that utilities

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[36] See Workshop Report at B-135-36 and B-142. Note that even though LA County opposition is listed MAP 8B (written guidelines), it appears misplaced since it deals in substance with MAP 8A (Table 1).
[37] Workshop Report at B-142.
[38] Workshop Report at B-135-36.
[39] See D.09-08-029, mimeo., at 28-29 and 50 (Finding of Fact Nos. 13 and 14).

are allowed to trim to safe clearances in Extreme and Very High Fire Threat Zones in Southern California.

Any perceived negative effect on aesthetics and surrounding vegetation from additional trimming needs to take a back seat to public safety in the specified high-risk fire areas -- especially since fire is a natural element in these areas, and many of the trees planted near power lines are not. Moreover, utility trimming work is overseen by trained arborists who truly care about trees, tree health, and tree aesthetics. It is simply unfair to argue that aesthetics and nearby vegetation will suffer if minimum recommended time-of-trim clearances are increased a reasonable amount for two categories of overhead lines. In addition, the Commission should keep in mind that these proposed minimum time-of-trim clearances only apply to Extreme and Very High Fire Threat Zones in Southern California where the fire threat is the greatest, and they only increase the minimum recommended clearances to 10 feet and 15 feet, respectively. Taking into consideration tree growth between trim cycles, potential tree sway during windy conditions, terrain, line sag and sway, and the fact that the relevant lines carry substantial voltages, these new proposed time-of-trim guidelines are both reasonable and appropriate.

Mussey Grade's position regarding this PRC is fundamentally inconsistent with its other fire safety arguments. On one hand, Mussey Grade professes to be very concerned about the possibility of wildfires in Southern California, and professes to be the concerned voice of San Diego County's extensive back county. On the other hand, however, Mussey Grade wants to limit the amount of tree trimming done around high-voltage conductors in high-risk fire zones to levels that SDG&E, SCE, and PG&E do not believe are adequate. This dichotomy should give the Commission pause as it considers all of the fire safety claims and arguments made by Mussey Grade. Customers living in the high-risk backcountry areas of San Diego County need

to recognize that in order to ensure greater fire safety, SDG&E needs to keep trees -- even the "historic" oak canopy of Mussey Grade Road -- reasonable distances from its high voltage overhead lines, and that such distances likely need to be greater than those for wetter or less windy locations in other parts of the state.

In addition, Mussey Grade's assertions about alleged excessive tree trimming by SDG&E appear to be based on a misunderstanding by Mussey Grade regarding the nature of the tree trimming work done by SDG&E in the Mussey Grade Road area, and do not form a reasonable basis for opposing the two new recommended time-of-trim minimum radial clearances proposed by the Joint Electric Utilities. During its 2009 and 2010 trim cycles, 86 percent of the trees trimmed by SDG&E in the vicinity of Mussey Grade Road (286 trees out of 330) were trimmed to 10-11.9 feet post-trim clearances.[40] The remaining 44 trees were trimmed to additional clearances, but these were not routine clearance trims that would be covered by the Appendix E recommended guidelines. Rather, virtually all of these trees[41] were identified as having characteristics (e.g., loosely attached branches, included bark, multiple trunks, and other issues) which presented a particular risk of failure and striking lines.[42] Such trimming involves a small minority of trees, but is high priority work for fire mitigation and public safety.

The two new recommended time-of-trim minimum radial clearances proposed by the Joint Electric Utilities will help to ensure that utilities in Southern California have the ability to obtain reasonable clearances between vegetation and conductors carrying 2,400 volts to 110,000 volts that are located in Extreme and Very High Fire Threat Zones in Southern California. These

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[40] Note that trees trimmed in both 2009 and 2010 are included twice in these figures.
[41] At least 41 of the remaining 44 trees fall within this category.
[42] 34 of these trees were Eucalyptus or Sycamores. Only seven were Oaks, and all of these had defects which could be a hazard to adjacent lines.

proposed revisions are limited, reasonable, and would be a very positive step towards enhancing fire safety in these high-risk areas.

2. Rule 35, Appendix E Proposal by the Joint Electric Utilities (Guidelines)

The existing guidelines to Rule 35 provide that "[r]easonable vegetation management practices may make it advantageous to obtain greater clearances than those listed below [in Table 1]." The clarifying language in this Joint Electric Utility proposal builds upon this provision by: (1) explaining that supply and communications companies would obtain these greater clearances in order to ensure compliance until the next scheduled maintenance; and (2) providing a description of the numerous factors that will be taken into consideration when determining the appropriate level of additional clearances that need to be obtained.

These additions to the guidelines should not change utility trimming practices. The Joint Electric Utilities already take into consideration all of the listed factors in order to obtain appropriate additional clearances at time of trim, and we believe that other utilities likely do so as well. But this PRC is important for dealing with the small subset of property owners who want to limit trimming to the minimums set forth in Table 1 to the Appendix E guidelines. Such property owners pose a threat to fire safety, worker safety, and reliability, and the existing language in the Rule 35 guidelines is sometimes not sufficient to convince them that there is a need to obtain greater clearances than those listed in the table. By clarifying that utilities may obtain greater clearances in order to ensure compliance until the next scheduled maintenance, and by providing a description of the numerous factors that will be taken into consideration when determining the appropriate level of additional clearances that need to be obtained, this proposal will encourage property owners to allow the necessary vegetation management work to proceed.

The proposed revisions to the guidelines also help to emphasize that utilities can clear less when they are working with slower growing species, and need to clear greater distances when working with faster-growing species, which should be helpful dealing with customers concerned about trimming distances as they relate to particular trees.

In the Workshop Report, only Farm Bureau and LA County opposed this PRC.[43] LA County's opposition appears misplaced since it deals with MAP 8A (Table 1) rather than MAP 8B.[44] And Farm Bureau opposes the Joint Electric Utilities' proposal simply because Farm Bureau prefers its own version that incorporates two additional wording changes.[45] In effect there is no opposition to the changes to the Rule 35 guidelines proposed by the Joint Electric Utilities, just certain parties who want even more changes to the Rule 35 guidelines. For the reasons discussed below, the additional changes to the Rule 35 guidelines proposed by Farm Bureau and Mussey Grade are ill-advised. Instead, the changes to the Rule 35 guidelines proposed by the Joint Electric Utilities, which have no substantive opposition, are the version the Commission should adopt.

3. Rule 35, Appendix E Proposal by Mussey Grade and Farm Bureau (Guidelines)

Mussey Grade and the Farm Bureau propose to add the phrase *for the purpo*ses *of public safety, reliability or tree health* and the parenthetical *(including when feasible appropriate tree crop production manuals)* to the Rule 35 guideline language sponsored by the Joint Electric Utilities. Both of these changes would be counterproductive. The first phrase specifying three specific purposes for additional trimming would limit the flexibility utilities need to properly manage

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[43] Facilities Management also voted "no" during workshops, but apparently did not submit a statement of opposition for the Workshop Report.
[44] See Workshop Report at B-142.
[45] See Workshop Report at B-142.

vegetation, and generate even more opposition from recalcitrant tree owners. Problem property owners would treat these as words of limitation, and claim that no additional trimming beyond the recommended minimums can take place because none of the three listed factors require trimming beyond the recommended minimums. This underlying purpose is made clear by Farm Bureau's and Mussey Grade's acknowledgment that their added language "bounds the purposes of the additional clearances . . .."[46]

Likewise, the proposed parenthetical about crop production manuals would simply give orchard owners an excuse to refuse appropriate utility line clearing. The utilities already work around the orchard growing season as much as possible. But orchard trees threaten power lines just like any other trees, and maximizing crop production for incompatible trees planted under power lines must take a back seat to ensuring that trees do not make contact with power lines and cause fires, outages, or pose other safety problems.

Customers who refuse to allow necessary vegetation management work are potentially placing the entire community in jeopardy of power outages and potential fires. The Commission should not give them even more arguments to endanger their communities. The Commission should support the Joint Electric Utilities' efforts to improve California's vegetation management guidelines, and not buy into efforts by Mussey Grade and the Farm Bureau to make the guidelines worse.

I. MAP NO. 9 – GO 95, RULE 38, FOOTNOTE (AAA)

1. Rule 38, Footnote (aaa) Proposal by the Joint Electric Utilities

SDG&E concurs with the MAP No. 9 discussion submitted by SCE in its opening brief. For the reasons set forth in SCE's opening brief and in the rationale submitted by the Joint

[46] Workshop Report at B-145.

Electric Utilities in the Workshop Report, the Commission should adopt the Rule 38, Footnote (aaa) proposal by the Joint Electric Utilities.

J. MAP NO. 10 – GO 95, RULE 44.4

1. Rule 44.4 Proposal by CIP Coalition

SDG&E concurs with the MAP No. 10 discussion submitted by SCE in its opening brief. For the reasons set forth in SCE's opening brief and in comments submitted by SDG&E and the other Joint Electric Utilities in the Workshop Report, the Commission should decline to adopt the Rule 44.4 Proposal by the CIP Coalition.

2. Rules 44.2 and 44.4 (Cooperation) Proposal by the Joint Electric Utilities

For the reasons set forth in SCE's opening brief and in the rationale submitted by the Joint Electric Utilities in the Workshop Report, the Commission should either make no change at all to the current language in Rule 44.2, or adopt the Rule 44.2 and Rule 44.4 cooperation proposal by the Joint Electric Utilities.

K. MAP NO. 11 – GO 95, RULE 48

1. Rule 48 Proposal by the Joint Electric Utilities

SDG&E concurs with the MAP No. 11 discussion submitted by SCE in its opening brief. For the reasons set forth in SCE's opening brief and in the rationale submitted by the Joint Electric Utilities in the Workshop Report, the Commission should adopt the Rule 48 proposal by the Joint Electric Utilities.

2. Ordering Paragraph Proposed by CPSD Regarding Revisions to GO 95, Section IV

For the reasons set forth in SCE's opening brief and in comments submitted by SDG&E and the other Joint Electric Utilities in the Workshop Report, the Commission should adopt the Ordering Paragraph proposed by CPSD regarding revisions to GO 95, Section IV. SDG&E believes that the formation of a technical workgroup for the purpose of refreshing Section IV rules is appropriate given the inconsistencies within Section IV that were revealed during workshop discussions. Formation of a Section IV technical working group is not, however, a substitute for the Rule 48 proposal by the Joint Electric Utilities. The Commission should adopt both proposals.

L. MAP NO. 12 – GO 95, RULE 91.5

1. Rule 91.5 Proposal by SDG&E

This proposal by SDG&E would require that communication cables and conductors be marked as to ownership to facilitate identification. SDG&E believes that marking of communication facilities will help facilitate the timely exchange of pole loading data, and the timely notification and correction of Safety Hazards and GO 95 nonconformances, including those that create fire risks in Extreme and Very High Fire Threat Zones in Southern California.

SDG&E believes that this new rule is reasonable, and an important step towards greater worker and fire safety. The CIP Coalition asserts that there "has been no evidence introduced in this proceeding (including at workshops) which would support the establishment of the requirement in the proposed rule."[47] This claim by the CIP Coalition is neither fair nor accurate. During workshops SDG&E explained that it has often been very difficult for SDG&E personnel to identify which particular communications companies are responsible for Safety Hazards and

[47] Workshop Report at B-190.

GO 95 nonconformances on our poles. SDG&E sends out notices as required by Rule 18A, only to hear "not us" from communications companies.[48] As a result, correction is delayed and our workers and the general public put at greater risk. Moreover, in certain instances SDG&E has been told "not us" by a communications company, only to find out after checking with all other possible attaching companies that the facilities were indeed owned by the company SDG&E originally contacted. Physical marking of facilities would help put an end to this sort of inefficient run around.

The need to quickly and accurately identify the ownership of particular communications facilities is even greater in emergency situations, when field crews need to reach the owners of communications facilities immediately. Moreover, the problem of identifying facilities is becoming worse. In past decades, quick identification of the one or two communications tenants on our poles was relatively straightforward. Due to the tremendous growth of the telecommunications industry in recent years, however, now three or more communications providers are often attached to a single joint use pole. These multiple attachments create complexity and potential confusions, and from all that SDG&E has seen, it appears likely that even more communications attachments are likely in the future.

SDG&E believes that physically marking communications facilities will go a long way towards solving the problem. As LA County points out in the Workshop Report, "[r]equiring that equipment be marked is one of the easiest things that can be done that will ensure that the responsible party is quickly informed about violations or hazards that need to be repaired on their

[48] If the Commission needs "evidence" of such communications, SDG&E stands ready to provide it. As discussed above, however, the workshop format in this rulemaking did not provide for the submission of hard copies of communications, sworn testimony, or verified declarations. If SDG&E had attempted to submit such "evidence" during the workshops, other workshop participants would almost certainly have objected on the grounds that we were participating in cooperative workshops, not evidentiary hearings.

lines and equipment."[49] The CIP Coalition argues that electronic databases are all that is needed to effectively track the ownership of communications facilities.[50] SDG&E respectfully disagrees. If SDG&E field personnel could go into an electronic file and accurately determine which communications company is responsible for a particular nonconformance on one of our poles, they would do so. In real life, however, things are not so simple. For example, knowing which four companies currently own the four sets of communications facilities on one of our poles does not really help a lineman who quickly needs to determine who owns the particular facilities that are second from the top. But if our lineman could look at the facilities that are second from the top and see a blue tag, he or she could instantaneously determine from the blue tag that facilities belong to XYZ communications company (as long as XYZ has provided SDG&E with accurate and up-to-date ownership information). This ability to instantaneously identify communications facilities would be particularly useful during emergency situations such as fires or Santa Ana wind events when field personnel need to make quick decisions, and may not have the time or inclination to peruse electronic databases of information from communications providers that may or may not be accurate.

CMUA and PG&E complain that physically marking communications facilities would be costly.[51] SDG&E disagrees. A simple plastic tag (similar to a PG&E service date tag) is all that is needed. Pursuant to Rule 12.3 this new marking requirement would only apply to new construction and reconstruction done after the effective date of the requirement, so communications companies would not have to send workers out simply to mark facilities. Rather, communications workers would simply add a plastic tag to the facilities they have just

[49] Workshop Report at B-189.
[50] Workshop Report at B-190.
[51] Workshop Report at B-190-91.

installed or reconstructed.[52] So no additional labor or site visits would be required. The only additional cost would be the plastic tags, and as SDG&E explained, this cost can be minimal if tags like the one SDG&E brought to the workshops are used. PG&E does not think that the benefits of being able to instantly identify the owners of communications facilities justifies the cost of plastic tags.[53] SDG&E sees things differently. If real-time identification of communication facilities can speed the repair of safety hazards and GO 95 nonconformances, both fire safety and worker safety will be enhanced, perhaps substantially. Moreover, real-time identification of communications facilities during emergency situations such as fires and storms may even lead to faster restoration of communications services. SDG&E believes that these potential benefits far outweigh the small additional cost associated with plastic tags.

PG&E argues that because SDG&E's proposal only would apply to new facilities and reconstructions, it would be "many, many years before there were enough cables/conductors marked with ownership information to have any value."[54] Again, SDG&E disagrees. SDG&E's new marking requirement will help ensure that the current problem of identifying facilities does not get any worse. We think this is crucial given the proliferation of new communications attachments. A joint use pole with two unmarked communications attachments may not present much of an identification problem for a pole owner, especially if the attachers are long-time tenants; a joint use pole with five or more unmarked communications attachments likely would present an identification problem; and a joint use pole with five or more communications

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[52] SDG&E believes it would be both reasonable and prudent for communications companies to tag existing facilities when they are doing work other than reconstruction on the facilities or when they are performing detailed inspections of the facilities. During workshops, the CIPs explained that their technicians make millions of "truck rolls" a year to meet customer service demands, and it seems to SDG&E that there may be a myriad of opportunities for CIPs to attach marking tags to facilities they are already working on during these millions of truck rolls. But to make this proposal more workable for communications companies, SDG&E has not included such a requirement in its proposal.

[53] Workshop Report at B-191.

[54] Workshop Report at B-191.

attachments, all but the original two marked as to ownership, is no more of an identification problem than a joint use pole with two unmarked communications attachments.

PG&E complains that "keeping line ownership labels current would be a nightmare for line owners."[55] No so. A blue tag is a blue tag, and there would be no need to change colors or put a star on each tag just because ownership of a communication line changes. PG&E and CMUA assert that utility workers would not be able to rely on the accuracy of the tags because of frequent changes in the ownership of communications facilities.[56] These contentions do not make sense. If a 10-mile stretch of cable attached to our poles is sold by ABC company to XYZ company, we simply let our linemen know (assuming SDG&E is informed of the ownership change) that the blue-tagged facilities in this area are owned by XYZ company. No "nightmare" for the new owners, and no problem for our linemen to get in touch with the facility owners if they need to. Even with frequent ownership changes, the facilities on a joint use pole tagged with blue stay the facilities tagged with blue, the facilities tagged with red stay the facilities tagged with red, and so on. The real "nightmare" for SDG&E's linemen is to look up at a tangle of five or more unmarked communications attachments and need to determine in real time who is the owner of a particular facility that has a problem.

PG&E argues that SDG&E's marking proposal is flawed because it lacks specificity.[57] SDG&E finds this assertion a bit odd since PG&E generally appears to be a proponent of GO 95 rules that provide utilities with maximum flexibility.[58] Moreover, SDG&E deliberately left this marking requirement non-specific, in order to allow communications companies to mark their facilities in a way that makes sense for them. The method of marking does not matter, so long as

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[55] Workshop Report at B-191.
[56] Workshop Report at B-190-91.
[57] Workshop Report at B-191.
[58] See, e.g., Workshop Report at B-46 (PG&E's MAP arguments).

the end result is achieved -- pole owners and other pole tenants being able to readily identify the owner of particular communications facilities. Requiring physical identification of communications facilities attached to joint use poles is consistent with marking requirements in both the Northern and Southern Joint Pole Agreements (see section 15 in both agreements), so this is not an unfamiliar concept to the CIPs. SDG&E's proposed marking requirement is also consistent with GO 95 Rule 94, which requires wireless communications providers to physically mark their facilities.[59]

In the Commission's general order regarding underground facilities, GO 128, Rule 44.1(d) provides that:

> All communications equipment in a manhole, or other underground splicing chamber with supply cables or conductors, shall be marked if different ownership than the supply cables or conductors.

The Commission has already determined that communications equipment located near underground supply facilities should be physically marked. There is no reason to limit this reasonable and logical requirement to just underground communications facilities. In fact, a marking requirement for overhead facilities is arguably even more crucial because overhead facilities are more accessible, and because overhead communications facilities are much more subject to wind and other environmental conditions that may require quick corrective action.

SDG&E's marking proposal is a reasonable and cost-effective response to a very real identification problem presented by the proliferation of new communications attachments. For the minimal cost of plastic tags, marking will keep the identification problem from getting worse in the near term, and help eliminate the problem over the long run as existing facilities are replaced and reconstructed. The Commission should not be swayed by the misguided arguments

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[59] See GO 95 Rule 94.5 and Exhibit A to Appendix H.

presented by opponents to SDG&E's new Rule 91.5 marking proposal. Just as with underground communications facilities, marking of overhead communications facilities makes sense, and will proactively enhance both fire safety and worker safety throughout the state.

M. MAP NO. 13 – GO 165, SECTION V

1. Ordering Paragraph Proposed by Mussey Grade and CPSD

SDG&E concurs with the MAP No. 13 discussion submitted by PG&E in its opening brief. For the reasons set forth in PG&E's opening brief and in comments submitted by SDG&E and the other Joint Electric Utilities in the Workshop Report, the Commission should decline to adopt the GO 165, Section V Ordering Paragraph proposed by Mussey Grade and CPSD.

2. Ordering Paragraph Proposed by PG&E

For the reasons set forth in PG&E's opening brief and in the rationale submitted by PG&E in the Workshop Report, the Commission should adopt PG&E's fire data collection ordering paragraph.

N. MAP NO. 14 – FIRE MAPS

1. Ordering Paragraph Proposed by CPSD and Mussey Grade re Fire Maps

SDG&E opposes this PRC from Mussey Grade and CPSD. As demonstrated during the technical workshops, SDG&E has already developed and operationalized a utility-specific high-resolution map for its service territory that combines wind and vegetation data and identifies areas at the greatest risk of catastrophic power line wildland fire ignitions. At least for SDG&E's service territory, there is no need for the type of new customer-funded mapping process proposed by Mussey Grade and CPSD. Mussey Grade's and CPSD's proposal would also duplicate work already done by Reax Engineering at the request of the CIP Coalition to

develop a map which specifically characterizes the fire threat in Northern and Central California. Without a Commission determination that the fire mapping work done by SDG&E or Reax is somehow faulty, it would not make sense for the Commission to order all of the work to be re-done.

Moreover, the basic premise of Mussey Grade's mapping plan is fundamentally flawed. Mussey Grade wants utilities and their customers to fund additional mapping work that would focus on wind and vegetation data. Even though these factors are important, they are just part of a complex puzzle. By contrast, SDG&E has used a much more comprehensive risk assessment to develop a utility-specific high-resolution map for its service territory. SDG&E analyzed wind, vegetation, local topography, historical fires, and other practical considerations for operations and maintenance of equipment. Even an excellent analysis from a wind and wind-induced equipment failure perspective lacks vital components that are necessary for a utility fire risk map -- namely downstream impacts of ignitions, and practical concerns for operations and maintenance of equipment.

It is not enough to generate a risk assessment at specific points. One must consider the consequences of ignitions were they to occur. To illustrate, a wind-only study could locate two unique points of equal risk, but due to the location, downstream topography, and assets downstream of each point, there would be large differences in consequences from ignitions starting at those two points. SDG&E's analysis focused on all relevant aspects, including potential downstream impacts. Moreover, our work in this area has led us to conclude that an even higher-resolution wind map such as the one proposed by Mussey Grade would not change the shape or size of SDG&E's Fire Threat Zone. Basic wind data is important, but in most instances basic wind data is sufficient. Once utilities have basic wind data, they and their

customers would be much better served focusing on vegetation and the potential downstream impacts of ignitions, which SDG&E has already done.

2. Designation of Specified Fire Maps for Purpose of CIP Inspections (CIP 1) (Highlighted Language and Map) Proposal by CIP Coalition

SDG&E is not affected by this PRC because it only applies to areas outside Southern California. Accordingly, SDG&E voted neutral during workshops, and SDG&E continues to take no position regarding CIP 1 at this time. SDG&E reserves the right to comment on positions taken by parties regarding CIP 1 in their opening briefs.

3. Designation of Specified Fire Maps for Purpose of CIP Inspections (CIP 2) (Highlighted Language and Map), Proposal by CIP Coalition

SDG&E is not affected by this PRC because it only applies to areas outside Southern California. Accordingly, SDG&E voted neutral during workshops, and SDG&E continues to take no position regarding CIP 2 at this time. SDG&E reserves the right to comment on positions taken by parties regarding CIP 2 in their opening briefs.

V. ANCILLARY ISSUES

A. MAP NO. 15 – COST RECOVERY

1. TURN and DRA Cost Recovery Proposal

SDG&E concurs with the cost recovery discussion submitted by SCE in its opening brief. The Commission has already determined that each cost-of-service regulated utility is entitled to recover reasonable costs prudently incurred to comply with the changes to the Commission's rules adopted in the Phase 1 decision.[60] Both the cost recovery proposal presented by The Utility Reform Network (TURN) and the Division of Ratepayer Advocates (DRA) and the cost recovery proposal presented by the Joint Electric Utilities, Multi-Jurisdictional Electric Utilities, and

[60] D.09-08-029, mimeo., at 47 (Finding of Fact No. 24).

Small LECs would continue this treatment for reasonable costs prudently incurred to comply with the changes to the Commission's rules adopted in Phase 2. The difference between the two proposals is when and where the costs recorded for potential future recovery would be presented to the Commission.

The TURN and DRA proposal would have the Commission consider the recovery of costs resulting from this proceeding in utility GRCs. This approach would create a very long delay in cost recovery for SDG&E and SoCalGas. SDG&E and SoCalGas have already submitted NOIs for their 2012 GRCs. SDG&E and SoCalGas took the Phase 1 rules into account when they created their 2012-2015 forecasts, but they did not have an opportunity to seek recovery of any actual Phase 1 costs in their NOIs. Accordingly, the first GRC in which actual Phase 1 or Phase 2 costs could be considered for either SDG&E or SoCalGas would be their 2016 GRCs. In addition, because Phase 2 rules are currently unknown and therefore cannot be incorporated into their 2012 GRC forecasts, the first opportunity for SDG&E and SoCalGas to forecast Phase 2 costs will also be their 2016 GRCs. And because SoCalGas and SDG&E will be incurring actual Phase 2 costs while their 2016 GRCs are ongoing (i.e., from 2013 through 2016), under the TURN and DRA proposal some of the Phase 2 costs incurred by SDG&E and SoCalGas would not be considered by the Commission until the utilities' 2020 GRCs. SDG&E believes that other utilities would be in similar situations, though timing of individual GRCs varies from utility to utility.

It would be unreasonable and unfair to make SDG&E and SoCalGas wait until 2016 to obtain authorization to recover costs they have incurred to comply with D.09-08-029, and to wait until 2020 to recover all of the costs they will incur to comply with a Phase 2 decision in this proceeding. In addition, GRCs are already huge undertakings for all involved. It would not

make sense to burden these massive forecast-based proceedings with reasonableness reviews of Safety OIR implementation costs, especially since a far more reasonable alternative is available.

2. Joint Electric Utilities, PacifiCorp, Sierra Pacific and Small LECs Cost Recovery Proposal

For the reasons set forth in SCE's opening brief and in the supporting rationale in the Workshop Report, the Commission should adopt the cost recovery proposal presented by the Joint Electric Utilities, PacifiCorp, Sierra Pacific, and the Small LECs.

B. IMPLEMENTATION

The Commission should give affected entities a reasonable amount of time to implement the new rules or requirements adopted in this proceeding. Furthermore, any order regarding implementation should apply to affected "entities" rather than just "parties," "utilities," or "electric and communications utilities." Certain proposed rule changes (e.g., the consensus changes to GO 165) would apply to non-electric utilities such as SoCalGas, and certain communications companies operating in California and attaching to joint-use poles that are not technically "utilities."[61] The implementation order should apply to such entities as well.

It appears to SDG&E that some of the proposed rules can be implemented immediately (e.g., the consensus change to 18As substituting "nonconformance" for "violation;" the consensus change to Rule 37 making existing provisions permanent). However, changes to existing practices and procedures will take some time for affected entities to operationalize. SDG&E proposes that the Commission make PRCs effective immediately if they do not involve changing existing practices and procedures, with all other PRCs effective 90 days thereafter.

[61] This is the reason that certain PRCs (e.g., both Rule 44 proposals in MAP No. 10) use the term "entity" rather than "utility."

SDG&E also proposes that the Commission establish a process that enables an affected entity to petition the Commission for relief if the entity believes it will be unable to operationalize a new rule or requirement within 90 days. Parties to this rulemaking should be allowed to comment on such requests. SDG&E does not believe this implementation relief process should be used often. Generally, the PRCs apply to policies and procedures to be used in the future, and do not require affected entities to reconfigure existing facilities or re-do past calculations. However, this may not be the case in all instances for all affected entities.[62] In addition, Mussey Grade's proposal for new utility "contingency plans" (MAP No. 4), if adopted, would likely take more than 90 days to develop, at least for SDG&E.

VI. CONCLUSION

For the reasons set forth above and in the Workshop Report, SDG&E respectfully requests that the Commission:

- Adopt the consensus proposed changes to Rules 18, 35, 37 (Table 1), 44.1, 44.2, 44.3, and 23, and to GO 165;
- Adopt the Rule 11 proposal by CPSD (MAP No. 1);
- Adopt the Rule 18A proposal by SDG&E (MAP No. 3);
- Adopt the Rule 31.1 proposal by the Joint Electric Utilities (MAP No. 5);
- Adopt the Rules 31.2 and 80.1 proposal by SDG&E (MAP No. 6);
- Adopt the Rules 31.2 and 80.1 Part B proposal by CPSD (intrusive testing) (MAP No. 6);
- Adopt the Rule 35, Paragraph 4 proposal by the Joint Electric Utilities (MAP No. 7);
- Adopt the Rule 35, Paragraph 3 proposal by the Joint Electric Utilities (MAP No. 7);

[62] For example, the strong opposition by the CIP Coalition to CPSD's proposed deletion of the word "electrical" from Rule 11 (MAP No. 1) indicates to SDG&E that there might be certain CIPs who have been operating under the mistaken assumption that GO 95 does not apply to them. For any such companies, CPSD's proposed change to Rule 11 might indeed require remedial work.

- Adopt the Rule 35, Appendix E proposal by the Joint Electric Utilities (Table 1) (MAP No. 8);

- Adopt the Rule 35, Appendix E proposal by the Joint Electric Utilities (Guidelines) (MAP No. 8);

- Adopt the Rule 38, Footnote (aaa) proposal by the Joint Electric Utilities (MAP No. 9);

- Either make no change at all to the current language in Rule 44.2, or adopt the Rule 44.2 and Rule 44.4 cooperation proposal by the Joint Electric Utilities (MAP No. 10);

- Adopt the Rule 48 proposal by the Joint Electric Utilities (MAP No. 11);

- Adopt the Ordering Paragraph proposed by CPSD regarding revisions to GO 95, Section IV (MAP No. 11);

- Adopt the Rule 91.5 proposal by SDG&E (MAP No. 12);

- Adopt the Ordering Paragraph proposed by PG&E regarding GO 165, Section V (fire data collection) (MAP No. 13);

- Adopt the cost recovery proposal by the Joint Electric Utilities, PacifiCorp, Sierra Pacific, and the Small LECs (MAP No. 15);

- Decline to adopt the following proposals: the Rule 11 proposal by CIP Coalition (MAP No. 1); the Rule 18A proposal by CIP Coalition (MAP No. 3); the Rule 18C proposal by Mussey Grade (MAP No. 4); the two Rule 31.2 proposals by CIP Coalition members and the Rules 31.2 and 80.1 Part A proposal by CPSD (MAP No. 6);[63] the Rule 35, Appendix E (Guidelines) proposal by Mussey Grade and Farm Bureau (MAP No. 8); the Rule 44.4 Proposal by CIP Coalition (MAP No. 10); the Ordering Paragraph proposed by Mussey Grade and CPSD regarding GO 165, Section V (MAP No. 13); the Ordering Paragraph proposed by CPSD and Mussey Grade regarding fire maps (MAP No. 14); and the TURN and DRA cost recovery proposal (MAP No. 15);[64] and

- Provide that Phase 2 rule changes become effective immediately if they do not involve changing existing practices and procedures, with all other PRCs becoming effective 90 days thereafter.

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[63] As noted above and in the Workshop Report, SDG&E actually supports this proposal by CPSD, but believes that it should be changed in the manner presented by SDG&E in its own Rules 31.2 and 80.1 Part A proposal.

[64] As noted above, SDG&E takes no position with respect to the Rule 12 proposal by CPSD (MAP No. 2) or the fire map proposals by the CIP Coalition (MAP No. 14).

- Provide entities affected by Phase 2 rule changes with the ability to petition the Commission for relief if the entity believes it will be unable to operationalize a rule change within 90 days. Parties to this rulemaking should be allowed to comment on such requests.

Respectfully submitted,

By: *_____/s/ Michael R. Thorp_____*
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September 3, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **PHASE 2 OPENING BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY (U902E)** on all parties of record in this proceeding by electronic mail, by U.S. Mail to those without an email address, and by Federal Express to Commissioner Simon and ALJ Kenney.

Dated at Los Angeles, California, this 9th day of September, 2010.

/s/ Rose Mary Nava
Rose Mary Nava

CPUC Proceeding: R.08-11-005 - Last update: August 26, 2010

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