

ATTACHMENT A

Workshop Report

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



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Rulemaking 08-104095
(Filed November 6, 2008)

Order Instituting Rulemaking to Revise
and Clarify Commission Regulations
Relating to the Safety of Electric Utility and
Communications Infrastructure Provider
Facilities.

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**JOINT PARTY WORKSHOP REPORT
FOR WORKSHOPS HELD APRIL 28 – 29, 2009**

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Dated: May 14, 2009

PACIFIC GAS AND ELECTRIC COMPANY

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and Clarify Commission Regulations
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Rulemaking 08-11-005
(Filed November 6, 2008)

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**JOINT PARTY WORKSHOP REPORT
FOR WORKSHOPS HELD APRIL 28 – 29, 2009**

I. Introduction

Pursuant to CPUC Rules of Practice and Procedure Rule 1.8(d), Pacific Gas and Electric Company (PG&E) submits this Joint Workshop Report on behalf of the following parties: AT&T California (AT&T), California Public Utilities Commission’s Consumer Protection And Safety Division (CPSD); California Public Utilities Commission’s Division Of Ratepayer Advocates (DRA); California Cable TV Association (CCTA); California Farm Bureau Federation (CFBF); California Municipal Utilities Association (CMUA); CALTEL; CTIA-The Wireless Association (CTIA); Comcast Phone of California (Comcast); County Of Los Angeles Fire Department (LA County); Cox Communications (Cox); Davey Tree; Los Angeles Dept of Water and Power (LADWP); Mussey Grade Road Alliance; Pacific Gas and Electric Company (PG&E); PacifiCorp; Sacramento Municipal Utility District (SMUD); San Diego Gas and Electric Company (SDG&E); Sempra Energy; Sierra Pacific Power Company (Sierra Pacific); Southern California Edison (SCE); The Utility Reform Network (TURN); T-Mobile; Verizon California Inc. (Verizon).

On November 13, 2008, the California Public Utilities Commission issued an 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).

The OIR has been divided into two phases, with Phase 1 addressing “measures to reduce fire hazards that can be implemented in time for the 2009 autumn fire season in Southern California.” (ACR, p. 2.)

At the April 14, 2009 OIR Prehearing Conference, there was a general consensus that it would be useful to have an informal workshop at which the parties could discuss remaining Phase 1 issues and narrow their differences, if possible, regarding the latest version of CPSD's proposed rules. On April 20, 2009, ALJ Kenney ruled that workshops should take place on April 28-29, 2009 and instructed the parties to prepare a joint Workshop Report, to be filed and served by May 14, 2009.¹

As later amended in a May 4, 2009 ALJ Ruling, the contents of the Workshop Report shall include the following:

- The final iteration of CPSD's proposed rules.
- For each of CPSD's proposed rules, a list of the parties that support the rule and the parties that oppose the rule. Parties may explain their support/opposition to specific rules in their briefs.
- Alternate proposed rules supported by one or more parties. The alternate rules shall be based on CPSD's proposal, with edits, modifications, clarifications, deletions, and other revisions deemed appropriate by the parties submitting the alternate rules.
- For each alternate proposed rule, a list of the parties that support the rule and the parties that oppose the rule. Parties may explain on their support/opposition to specific rules in their briefs.
- Each proposed rule (or alternate proposed rule) shall be accompanied by a detailed description and justification that includes the following information required by the ACR at page 9:
 - The specific electric utilities, CIPs, and others affected by the proposed rule.
 - New and/or revised text for the affected General Order(s), if applicable.
 - The specific hazard(s) addressed by the proposed rule.
 - How the proposed rule reduces or otherwise addresses the hazard(s).
 - The anticipated costs and benefits of the proposed rule.

¹ The due date for the Workshop Report was extended from May 11 to May 14 by ALJ ruling issued on April 30, 2009.

- Whether and how the costs will be recovered from customers.
- Whether and how costs will be shared among electric utilities, CIPs, and others.
- Why it is in the public interest to adopt the proposed rule.
- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.
- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies; and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.
- A detailed summary of any ancillary issues with a direct nexus to CPSD's proposed rules that are addressed in the workshop. The workshop report shall list which parties support or oppose a particular ancillary issue. Parties may explain their support/opposition to specific issues in their briefs.

The informal workshops took place on April 28 and 29, 2009 in San Francisco. A telephone bridge was made available to parties who could not attend in person. The agenda for the Workshop is attached as Exhibit A. The Workshop began with the latest proposals submitted by CPSD in their April 8, 2009, Reply Comments. As the parties addressed each of the CPSD's Proposed Rule Changes, there was a vote of support, neutral, or opposition taken of the active parties. Alternative Language/Proposals were also discussed and voted on in the Workshops. For some of the PRCs, the parties voted on whether the proposal should be considered in Phase 1 of this proceeding. All of the votes are reflected in the following Workshop Report.

After the workshops, a draft of the Workshop Report was distributed to all parties to the proceeding. Parties provided their input to the report, and had an opportunity to review the second draft report prior to its submission. That review was limited to reviewing the portions of the report that reflected their positions. Parties were not allowed to edit other parties' submissions. Some votes were changed in the process

of review. However, no proposals have been changed since the conclusion of the workshops.

All of the parties listed as Workshop Participants in Exhibit B have reviewed this Workshop Report and provided consent to be included in this Report. Note: Parties' consent to be included in this Workshop Report in no way indicates that parties endorse the positions of other parties that have provided input into the Workshop Report. As ordered by the ALJ, the Parties propose the Common Briefing Outline included in Exhibit C.

II. Note on Jurisdiction

The California Municipal Utilities Association (CMUA) participated in the workshop on behalf of its members² in an effort to ensure that General Orders 95 and 165, which are often treated as industry benchmarks, are optimally developed. This participation does not in any way waive any position or argument the publicly-owned utilities may have regarding Commission jurisdiction, or lack thereof, in this matter. CMUA will fully address jurisdictional issues in its Opening Brief.

² CMUA electric utility members are the Cities of Alameda, Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Corona, Glendale, Healdsburg, Lodi, Lompoc, Los Angeles, Needles, Palo Alto, Pasadena, Rancho Cucamonga, Redding, Riverside, Roseville, Santa Clara, and Vernon, as well as the Imperial, Merced, Modesto, Turlock Irrigation Districts, the Northern California Power Agency, Southern California Public Power Authority, Transmission Agency of Northern California, Lassen Municipal Utility District, Power and Water Resources Pooling Authority, Sacramento Municipal Utility District, the Trinity and Truckee Donner Public Utility Districts, the Metropolitan Water District of Southern California, and the City and County of San Francisco, Hetch-Hetchy.

III. Proposed Rules

A. CPSD PRC 1: CIP Inspections

1. CPSD's Proposed Ordering Paragraph

(a) Original From April 8 Reply Comments

Communications Infrastructure Providers shall begin performing patrol inspections of their facilities in designated Extreme and Very High Fire Hazard zones, as identified in Cal Fire's Fire and Resource Assessment Program Fire Threat Map, in the following southern California counties: Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Riverside, and San Bernardino Counties. The boundaries of the Fire Threat map shall be broadly construed, and CIPs are required to use their own expertise and judgment to determine if local conditions require them to go beyond the boundaries of the map. The CIPs' inspections shall encompass all of their facilities and overhead lines installed on joint use poles with electric distribution or transmission facilities, as well as those facilities that are one pole length away from joint use poles with electric distribution or transmission lines in the designated areas. The CIPs shall take appropriate corrective action of any safety hazards or violations of General Orders 95 or 128 that are identified during the inspections. The patrol inspections shall be completed no later than September 30, 2010. CIPs shall maintain documentation which would allow Commission staff to verify that such inspections and corrective action were completed, including the location of the poles/equipment inspected, the date of inspection, and the personnel that performed the inspection and corrective action. Such documentation shall be retained for 5 years.

(b) Workshop Proposed Changes

Communications Infrastructure Providers shall begin performing patrol inspections of their facilities in designated Extreme and Very High Fire Hazard zones, as identified in Cal Fire's Fire and Resource Assessment Program Fire Threat Map, in the following southern California counties: Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Riverside, and San Bernardino Counties. The boundaries of the Fire Threat map shall be broadly construed, and CIPs ~~are required to~~ should use their own expertise and judgment to determine if local conditions require them to ~~go beyond~~ adjust the boundaries of the map. The CIPs' patrol inspections shall encompass all of their ~~facilities and~~ overhead lines installed on joint use poles with electric distribution or transmission facilities, as well as those facilities that are one pole length away from joint use poles with electric distribution or transmission lines in the designated areas. The CIPs shall take appropriate corrective action of any safety hazards or violations of General Orders 95 ~~or 128~~ that are identified during the patrol inspections. The patrol inspections shall be completed no later than September 30, 2010. CIPs shall maintain documentation which would allow Commission staff to verify that such inspections and corrective actions were completed, including the location of the poles/equipment inspected, the date of inspection, and the personnel that performed the inspection and corrective action. Such documentation shall be retained for 5 years.

"Patrol inspection" shall be defined as a simple visual inspection, of applicable communications infrastructure equipment and structures that is designed to identify

obvious structural problems and hazards. Patrol inspections may be carried out in the course of other company business.

(c) Proposed Final

Communications Infrastructure Providers shall begin performing patrol inspections of their facilities in designated Extreme and Very High Fire Hazard zones, as identified in Cal Fire's Fire and Resource Assessment Program Fire Threat Map, in the following southern California counties: Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Riverside, and San Bernardino Counties. The boundaries of the Fire Threat map shall be broadly construed, and CIPs should use their own expertise and judgment to determine if local conditions require them to adjust the boundaries of the map. The CIPs' patrol inspections shall encompass all of their overhead lines installed on joint use poles with electric distribution or transmission facilities, as well as those facilities that are one pole length away from joint use poles with electric distribution or transmission lines in the designated areas. The CIPs shall take appropriate corrective action of any safety hazards or violations of General Orders 95 that are identified during the patrol inspections. The patrol inspections shall be completed no later than September 30, 2010. CIPs shall maintain documentation which would allow Commission staff to verify that such inspections and corrective actions were completed, including the location of the poles/equipment inspected, the date of inspection, and the personnel that performed the inspection and corrective action. Such documentation shall be retained for 5 years.

"Patrol inspection" shall be defined as a simple visual inspection, of applicable communications infrastructure equipment and structures that is designed to identify obvious structural problems and hazards. Patrol inspections may be carried out in the course of other company business.

(d) CPSD Justification/Rationale (CPSD)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

This proposed ordering paragraph would apply to all communications infrastructure providers that come within the jurisdiction of this Commission.

- New and/or revised text for the affected General Order(s), if applicable.

See above.

- The specific hazard(s) addressed by the proposed rule.

As discussed more thoroughly in CPSD's March 9, 2009, Proposed Rules to be Implemented in Time for the 2009 Fall Fire Season (verified by its opening comments filed March 27, 2009, and incorporated by reference herein), due to state and federal mandates, there has been a proliferation of communications facilities sharing poles with electric power lines. (See CPSD's March 9, 2009 Proposed Rules, pp. 17-19.) The Commission has always insisted that the electric utilities and communications infrastructure providers (CIPs) comply with the clearance and other

safety requirements of General Order (GO) 95 and other applicable safety regulations. (See e.g., D.98-10-058, *Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Services*, 82 CPUC 2d 510, 559.) No decision has exempted the CIPs from the GO 95, Rule 31.2 requirement to frequently and thoroughly inspect and maintain their facilities to ensure that they are in good condition.

Currently, there is no explicit requirement setting minimum inspection cycle lengths on CIPs. CPSD believes that even though these utilities are already obligated to inspect and maintain their facilities in a safe manner under Cal. Pub. Util. Code § 451, and Rule 31.2 of GO 95 explicitly requires that electrical supply and communications lines must be "inspected frequently and thoroughly," certain CIPs and other utilities have not complied with this requirement. CPSD has found numerous facilities of CIPs which have not been properly maintained and which utilize electric poles. At the very minimum, there is not a uniform interpretation of what the phrase "inspected frequently and thoroughly" means. CPSD also has found that certain CIPs do not maintain records indicating that they are frequently and thoroughly inspecting their facilities. (CPSD's March 9, 2009 Proposed Rules, at p. 30.) It is a fundamental aspect of GO 95, however, to have an auditable inspection and maintenance program, in order to ensure that the rules are being complied with.

In addition, as more fully stated in CPSD's verified April 8, 2009 Reply Comments (CPSD Reply Comments), at pp. 25-27, CPSD's proposed rules address only communication facilities utilizing the poles with electric facilities, or one pole away from the poles with electric facilities. For 97 years, the Commission and its predecessor, the California Railroad Commission, had clearance requirements, because of the fact that electric wires are hazardous if they come in contact with vegetation or telephone wires. (See CPSD's March 9, 2009 Proposed Rules, at pp. 13-15 and cases cited therein.)

The fact that modern CIP facilities might use fiber optic cables provides no justification for distinguishing these prior cases or refusing to recognize the inherent dangers of poorly maintained CIP facilities on joint poles with electric wires. AT&T's declarant from Exponent, Dr. Anderson, notes at p. 8 that for joint pole use, most of the CIP facilities are attached by lashing wires. Lashing wires are uninsulated metal wires, which if not properly maintained, can break and a strong wind can blow them

into the electric wires, or an inadequate clearance could result in arcing, which could cause fires.

In addition, just by sharing the same poles with electric power lines, there are at least three potential other ways that fires could be caused due to improperly installed or maintained CIP facilities. First, if poles are overloaded with too much weight from all of the CIPs' facilities, then the poles with the electric lines could break, and the electric lines could then create fires from landing on vegetation or from sparks if the electric lines contact each other (after the poles break before the lines hit the ground). Secondly, a sagging communications cable could become so low, such that if a truck or train were to run into it, it could pull or break one or more of the attached poles with the electric lines. Besides the hazards to the general public from that situation, it could also cause a fire if the electric lines were to land on vegetation or cause sparks on the way down. Third, up until now the discussion has centered on CIP facilities below electric power lines. However, on October 3, 2008 in D.08-10-017, the Commission issued pole-top antennas requirements to go into effect nine months later (i.e., July, 2009). To the extent that in the future these CIP facilities were not frequently and thoroughly inspected to make sure they remain in good condition after the initial installation, wind and gravity could cause these CIP facilities to fall onto the electric wires and this could potentially lead to fires. As the Commission stated in the OIR at p. 4: "In October, 2007, there were fires in the San Diego area and Los Angeles area where the facilities of electric utilities and/or Communication Infrastructure Providers may have been contributing factors." Cox itself points out in the enforcement proceeding involving the Guejito Fire in I.08-11-007:

There is no dispute in this proceeding that arcing occurred between the SDG&E power line and the Cox facilities in the San Pasqual Valley on October 22, 2007 or that this arcing ignited dry vegetation below the lines. According to the report of [Cal Fire] on the Guejito fire [footnote omitted], which CPSD has cited and relied upon in its Report, arcing in the vicinity of the SDG&E power poles P196387 and P196394 was observed at approximately the same time as a fire ignited in this vicinity and physical evidence of electrical arcing was apparent on the SDG&E conductor and Cox facilities found at the site after the fire.

There is also no dispute that Cox used lashing wire to secure the supporting messenger strand between the two poles, and that, at some point in time, the lashing wire broke as indicated by the discovery of several pieces of broken lashing wire at the scene. [Footnote omitted.] There is a significant dispute, however, regarding the root cause of the fire.³

Requiring CIPs and other utilities to frequently and thoroughly inspect their facilities to ensure that clearance and other safety regulations are met is especially critical in those areas that have been designated Extreme and High Fire Threat zones by the California Department of Forestry and Fire Protection (Cal Fire). AT&T California's Exponent Report supports CPSD's focus on Extreme and Very High Fire Threat Zones in southern California counties. (See AT&T Comments, at pp. 4-5.) Local conditions in these areas warrant more frequent inspections because of the potential for wildfires to ignite and spread quickly.⁴

- How the proposed rule reduces or otherwise addresses the hazard(s).

In its March 9, 2009 Proposed Rules, CPSD proposed minimum patrol inspection cycles only in Extreme and Very High Fire Threat Zones in California for CIPs, and proposed that CIPs be subject to the same inspection reporting requirement as electric utilities in GO 165. In the interest of minimizing the immediate fire threat, however, CPSD determined that specifying minimum inspection cycles for CIPs, including patrol and detailed inspections for all of California, should be addressed in Phase 2 of this proceeding.

CPSD believes it is imperative for those CIPs that have not already been "frequently and thoroughly" inspecting their facilities to begin inspections now in those areas of California that have the highest fire risk. Therefore, in lieu of submitting its proposed rule change for Rule 31.2, CPSD requests that the

³ See CPSD Reply Comments, p. 28, and Attachment B thereto.

⁴ See CPSD's March 9, 2009 Proposed Rules, pp. 16-21.

Commission issue an interim order requiring CIPs to perform patrol inspections⁵ of their overhead lines⁶ in Extreme and Very High Fire Hazard zones in the seven Fire Resource Assessment Program (FRAP) southern California counties.⁷ The Commission should specify that the inspections must encompass all of their overhead lines (which includes conductors, poles and appurtenances, such as lashing wires, under the definition of “Lines” in GO 95, Rule 22.1) installed on joint use poles with electric distribution or transmission facilities, as well as those overhead lines that are one pole length away from joint use poles with electric distribution or transmission lines in the Extreme and Very High Fire Hazard zones in the seven FRAP southern California counties. This does not, however, change the CIPs’ obligation to frequently and thoroughly inspect their facilities in other areas of the state to ensure that they are in good condition so as to conform with Commission safety regulations.

CPSD’s proposal makes explicit what we believe is already inherent in GO 95 and includes a specific requirement that CIPs to maintain documentation which would allow Commission staff to verify that such inspections were completed. Having a requirement that utilities inspect their facilities “frequently and thoroughly” is meaningless unless there is some verifiable method for the regulating entity to confirm that those inspections have been done. While CPSD has deferred to Phase 2 whether to subject CIPs to the same record-keeping requirements as in GO 165, CPSD nonetheless requires documentation that would allow it to verify basic information concerning the inspections, including the location of the

⁵ As defined in GO 165, “patrol inspections” are “simple visual inspections of applicable utility equipment and structures, that are designed to identify obvious structural problems and hazards” and may be carried out in the course of other company business. At the April 28-29 workshop CPSD modified its original proposed ordering paragraph in order to insert this definition of patrol inspections.

⁶ CPSD had originally proposed a patrol inspection of all facilities, but revised the proposed ordering paragraph to refer to overhead lines.

⁷ The Fire Threat Map can be found on Cal Fire’s Fire and Resource Assessment Program (FRAP) website at <http://frap.cdf.ca.gov/webdata/maps/statewide/ftthreat.map.pdf>. A review of this map makes it readily apparent that more than 95% of the “Extreme” fire threats throughout California can be found in the following counties: Santa Barbara, Ventura, Los Angeles, Orange, San Diego, the western portion of Riverside and southwestern portion of San Bernardino counties (hereinafter, collectively referred to as “FRAP southern California counties.”)

poles/equipment inspected, the date of inspection, and the personnel that performed the inspection.

Finally, CPSD notes that both the CIP Coalition and the Wireless Carriers submitted proposals which would have required such initial inspections to be completed by September 30, 2010 (Wireless Carrier proposal) or by December 31, 2010 (CIP proposal). CPSD believes that a one year implementation schedule for these inspections is more than reasonable given the limited geographic scope (and given the fact that CIPs should already be “frequently and thoroughly” inspecting their lines), and given the fact that CPSD has further focused the inspections to overhead lines, rather than all facilities. Moreover, the CIPs should not be allowed to let yet another fire season pass in southern California before completing these inspections. Therefore, CPSD recommends that the Commission adopt September 30, 2010, as the date by which CIPs must complete these inspections.

CPSD believes that an interim order requiring CIPs to complete a patrol inspection of their overhead lines in the FRAP southern California counties, pending further discussion in Phase 2 of a comprehensive plan for prescriptive minimum inspection cycles, would lead to more discovery and remediation of potential safety hazards in areas of the state that have the greatest potential for wildfires to ignite and spread quickly, and would therefore mitigate the risk of fires.

- The anticipated costs and benefits of the proposed rule.

CPSD does not believe that this proposal should result in major additional costs, because CIPs already have an obligation under GO 95, Rule 31.2, to inspect their communications lines “frequently and thoroughly” to ensure that they are in good condition and in conformance with the rules. Under GO 95, Rule 31.1, CIPs are also supposed to take local conditions into account when maintaining their facilities. CPSD’s interim proposal requiring CIPs to complete a patrol inspection in Extreme and High Fire Threat Zones in the FRAP southern California counties before the 2010 fire season should accordingly result in minimal, if any, additional costs for those CIPs that are already in compliance with GO 95. If CIPs are not complying with the existing safety requirements, then they may incur additional costs. However, that would be due to their own non-compliance, which jeopardizes the safety of California citizens by not ensuring that their facilities are maintained in good condition to comply with the clearance requirements or other safety features of GO 95.

Moreover, in response to certain CIPs' claims that minimum inspection cycles would result in astronomical costs, an SCE representative at the workshop pointed out that SCE's inspection costs were only about \$1 million per year, which covered not only their patrol inspections, but detailed inspections as well for approximately 1.5 million poles. SDG&E also responded to a CPSD data request, which revealed that for SDG&E's service territory, which is smaller than SCE's, SDG&E's actual patrol inspections in 2009 were approximately \$194,000. (See CPSD's March 9, 2009 Proposed Rules, Attachment C (SDG&E's March 5, 2009 data response to CPSD).) PG&E, which has the largest service territory of the electric IOUs, also provided CPSD with cost data showing that it spends approximately \$5 million per year for patrol inspections of their overhead distribution facilities on approximately 1.3 million poles. (See CPSD's March 9, 2009 Proposed Rules, Attachment D (PG&E 2008 GO 165 Costs and Units).) It should be noted that electric utilities are required to perform minimum inspections every one to two years over their entire service territory. By contrast, CPSD's interim proposal requires, at a minimum, patrol inspections for CIPs only in Extreme and Very High Fire Threat zones in the FRAP southern California counties, and only on overhead lines that are located on joint use poles with electric facilities or one pole away. Therefore, the CIPs' patrol inspections could not be too costly in light of the above and when reviewing the electric IOUs' empirical data.

AT&T, the only CIP to offer any cost data, stated in its March 27, 2009, Opening Comments that the cost to perform annual patrol inspections would be \$3 million. However, it is unclear if this is an incremental cost over what it already spends, or should be spending, on performing inspections. Moreover, this estimate was based on spending 15 minutes per pole. While CPSD has already questioned this amount of time in its reply comments (at p. 23), CPSD further notes that AT&T's estimate was based upon eight counties, not seven counties. In addition, AT&T is undoubtedly the CIP with the largest amount of poles or communications overhead lines in California, and in the seven counties at issue, and given its size and amount of California revenues, \$3 million of costs for compliance with safety requirements would be relatively minimal.

In CPSD's March 9, 2009, Proposed Rules filing at pp. 13-19, CPSD provided five basic factual matters justifying the urgent need for CPSD's proposed rules in Phase 1 in this proceeding: (1) live electric lines pose a safety hazard, including a

fire hazard, if clearances are not maintained; (2) wildfires linked to contact with electric power lines have resulted in widespread destruction; (3) the fire dangers are enhanced by the dry conditions caused by global warming; (4) the proliferation of communication facilities sharing poles with electric power lines increases the likelihood of more devastating fires if the communication facilities are not thoroughly and properly maintained; and (5) California cannot afford to have wildfire deaths and destruction, such as the 200 deaths which Australia recently experienced. CPSD has thoroughly discussed the benefits and the urgent need for these proposed rules in its March 9, 2009, Proposed Rules (verified by its March 27, 2009, Opening Comments) and in its verified April 8, 2009, Reply Comments, which are incorporated by reference herein. Thus, in order to help prevent significant and potentially deadly fires, any additional costs imposed by this proposed interim order are clearly outweighed by the benefits.

- Whether and how the costs will be recovered from customers.

For CIPs with market-based rates, CPSD submits that they should recover their costs in market-based rates, and CPSD understands that parties have agreed that this issue, if still disputed, may be addressed in briefs, rather than in the workshop report. For the Small LECs, which are on cost-of-service regulation, CPSD would note that they support CPSD's proposed inspection requirements being limited to the seven southern California counties' Extreme and Very High Fire Threat areas and only for joint poles and one pole away in those areas. They further stated that they should be able to recover their costs in Small LEC rate cases.⁸ CPSD agrees with the Small LECs that they should be able to seek recovery of their compliance costs in rate cases, where DRA and other ratepayer representatives can scrutinize the costs to ensure that they were actually incurred, were prudently incurred, and otherwise follow other ratemaking principles.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

The proposed rules do not require costs to be shared among utilities. However, utilities are free to explore the possibility of performing joint inspections and may determine amongst themselves how to share the cost of doing so.

- Why it is in the public interest to adopt the proposed rule.

⁸ See Small LECs' March 27, 2009 Opening Comments, p. 2.

See the discussion above regarding the specific hazards and the discussion on cost/benefits, above.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

This proposed ordering paragraph does not apply to electric transmission.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

This proposed ordering paragraph does not implicate CEQA.

(e) Parties' Comments

Parties in Support

CPSD

DRA

LA COUNTY

PG&E – PG&E generally supports the CPSD's efforts to regularize the inspection and maintenance of communication facilities in high fire threat areas. PG&E also supports CPSD's proposal to include this interim rule in an ordering paragraph, rather than in a rule in the General Order. This approach will avoid creating inconsistencies within the General Order rules, and maintains the integrity of the General Order as a body of ongoing rules that apply to the design, construction, and maintenance of electric supply and communications facilities.

SDG&E – CPSD's proposed ordering paragraph would strongly promote public safety in Southern California by requiring CIPs to perform patrol inspections in designated Extreme and Very High Fire Hazard zones within a reasonable period of time, to correct any problems uncovered by such inspections, and to maintain auditable inspection records so the Commission can verify that the CIPs are actually undertaking the required patrol inspections.

SIERRA PACIFIC

TURN

Parties Neutral

CFBF

CMUA

LADWP

PACIFICORP – PacifiCorp is not directly affected by CPSD’s ordering paragraph because it is appropriately limited to CIPs within Southern California. However, PacifiCorp is troubled by CPSD’s proposed broad construction of the areas defined as Extreme and Very High Fire Threat Zones in Phase 1. While such broad construction could be appropriate in Southern California given the general contours of the fire threat zones in Southern California, PacifiCorp is concerned that in Phase 2 similar language might be used in Northern California where fire threat zones appear in a spotty manner throughout the map (please see the map of Yreka included as Attachment A to PacifiCorp’s Opening Comments in this proceeding) and broad construction would be inappropriate and wasteful.

A useful analogy is to imagine PacifiCorp’s service territory as a traditional 8x8 checkerboard where half the squares are black and half the squares are white. Consider the Extreme and Very High Fire Threat Zones in PacifiCorp’s service territory as the black squares. A broad construction such as CPSD proposes would likely lead to PacifiCorp having to operate under the assumption that the entire checkerboard was an Extreme or Very High Fire Threat Zone. However, in Southern California the configuration of the checkerboard would be such that the black squares would encompass the entire left side of the board and the white squares would encompass the entire right side of the board. Thus, a broad construction in Southern California would not lead to a wasteful assumption that the entire checkerboard was an Extreme or Very High Fire Threat Zone. This issue must be more fully analyzed in Phase 2.

In addition, PacifiCorp does not believe that the onerous documentation requirements imposed by CPSD’s ordering paragraph will reduce the fire hazard before October 2009 in Southern California. More appropriate and streamlined documentation requirements (including the appropriate length of time that documentation should be retained) are better discussed in Phase 2 of this proceeding.

SCE – As a general matter, SCE supports a regular, prescribed patrol inspection and maintenance program for CIP utilities to be completed on a mutually acceptable

time cycle. Both the CPSD and the CIP proposals in this section are compromises for Phase 1 of this proceeding. Both would require that CIPs begin patrolling all their facilities in high fire threat areas in Southern California and complete those patrols by September 30, 2010 (CPSD) or by December 31, 2010 (CIPs).

SCE looks forward to Phase 2 of this proceeding where the discussion will focus on drafting a rule of statewide applicability.

Additionally, SCE is concerned that Communications Infrastructure Providers (CIPs) is an undefined term. In the event the Commission adopts any new rule containing this term, it should be defined somewhere within the rule. We note that Section II of the OIR includes the following statement:

Consistent with federal law and in order to promote communications infrastructure, communications utilities and cable companies (collectively "Communications Infrastructure Providers") have been provided access to the electric utilities' poles to attach their communications facilities. Therefore, with the facilities of the Communications Infrastructure Providers utilizing the same poles as electric utilities or otherwise near the wires of the electric utilities, certain safety requirements, such as clearance requirements, have been adopted which apply to the electric utilities and Communications Infrastructure Providers.

Thus, it appears that the "access" reference is to Decision 98-10-05 (Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Service) in which multiple telecommunication entities are identified. The entities identified include: Incumbent Local Exchange Carriers (ILECs) Competitive Local Carriers (CLCs), cable companies, commercial mobile radio service and fixed-wireless CLCs.

The Commission should include a definition in any rule using the term "CIPs" identifying the entities included in D.98-10-058 as the CIPs being referred to in this proceeding.

SMUD

Parties in Opposition

AT&T, CALTEL, CCTA, COX, COMCAST, CTIA, SMALL LEC, SUREWEST AND VERIZON – The CIPs oppose this ordering paragraph (OP) for the following reasons. First, the first sentence confuses two sets of FRAP maps. FRAP has a Fire Hazard and a Fire Threat Map. The fire hazard map identifies potential for

structure damages once a fire has commenced and the fire threat map identifies the potential for fire ignition. This appears to be an inadvertent mistake as CPSD has previously advocated for the fire threat map and the remaining language in the OP speaks to the Fire Threat map, not the fire hazard map. In any event, Fire Hazard should be replaced with Fire Threat, as the CIPs have done in their alternative proposal.

Second, the CIPs note the ambiguity in CPSD's use of the FRAP Fire Threat Maps with respect to the maps' boundaries, and have set out that opposition in the section of this report addressing the maps.

Third, the use of the word "all" in the third sentence⁹ is inconsistent with the required "patrol inspections" in that it literally would require inspection of all facilities, including facilities that have no nexus with fire ignition at all, such as a J hook or similar facilities, and would turn the inspection into a detailed inspection, as opposed to a visual inspection of applicable communications infrastructure equipment and structures that is designed to identify obvious structural problems and hazards. The word "all" must be deleted from the OP.

Fourth, the fourth sentence¹⁰ improperly requires taking corrective action of all GO 95 "violations" discovered during a patrol inspection. This requirement is also inconsistent with the goal of preventing or minimizing the ignition of fires, as many so-called violations have absolutely no nexus to fire ignition. The burden on CIPs of broadening of the obligation to take corrective action for all non-conformances with GO 95 is compounded by the record creating and keeping requirement in the OP, which takes away from a focused inspection to be completed as expeditiously as possible to accomplish Phase 1 goals. The words "or violations" must be deleted from the OP.

Fifth, the fifth sentence of the OP requires completion of patrol inspections by September 30, 2010. While some CIPs can meet that deadline, others cannot and

⁹ "The CIPs' patrol inspections shall encompass all of their facilities ~~and~~ overhead lines installed on joint use poles with electric distribution or transmission facilities, as well as those facilities that are one pole length away from joint use poles with electric distribution or transmission lines in the designated areas."

¹⁰ "The CIPs shall take appropriate corrective action of any safety hazards or violations of General Orders 95 ~~or 128~~ that are identified during the patrol inspections."

they need the additional time allowed in Rule 121 of the CIP proposal, to December 31, 2010. Those CIPs that cannot meet the September 30 deadline will work to meet it, but do not want to be in non-compliance due to an earlier deadline. The date in the OP should be changed to December 31, 2010.

Sixth, the last two sentences of the OP¹¹ impose documentation requirements that have not been vetted in workshops and that will create additional burdens that are unnecessary. The OP should not include any documentation requirement with regard to inspections. CPSD's separate rule on maintenance requires an auditable maintenance program and that is the place to address documentation of corrective actions, not here.

¹¹ "CIPs shall maintain documentation which would allow Commission staff to verify that such inspections and corrective actions were completed, including the location of the poles/equipment inspected, the date of inspection, and the personnel that performed the inspection and corrective action. Such documentation shall be retained for 5 years."

2. CIP Alternative Language/Proposal

(a) CIP Proposed Edits Redlined From CPD's April 8 Reply Comments [Rule 121: CIP Inspection of Overhead Facilities]

Rule 121: CIP Inspection of Overhead Facilities CPD's Recommended Ordering Paragraph for CIP Inspections

Communications Infrastructure Providers (CIPs) shall begin performing patrol inspections of their facilities in ~~designated~~ Extreme and Very High Fire Hazard Threat zones, as identified in Cal Fire's Fire and Resource Assessment Program Fire Threat Map, in the following southern California counties: Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Riverside, and San Bernardino Counties. ~~The boundaries of the Extreme and Very High Fire Threat zones map shall be broadly construed, and CIPs are required to use their own expertise and judgement to determine if local conditions require them to go beyond the boundaries of the map.~~ The CIPs' inspections shall encompass all of their facilities and overhead lines facilities installed on joint use poles with electric distribution or transmission facilities, as well as ~~those~~ their facilities on poles that are one pole length away from joint use poles with electric distribution or transmission lines in the designated areas. An initial ~~The CIPs shall take appropriate corrective action of any safety hazards or violations of General Orders 95 or 128 that are identified during the inspections.~~ The patrol inspections shall be completed no later than ~~September~~ December 31 2010. ¹² CIPs shall maintain documentation which would allow Commission staff to verify that such inspections and corrective action were completed, including the location of the poles/equipment inspected, the date of inspection, and the personnel that performed the inspection and corrective action. Such documentation shall be retained for 5 years.

"Patrol inspection" shall be defined as a simple visual inspection, of applicable communications infrastructure equipment and structures that is designed to identify obvious structural problems and hazards. Patrol inspections may be carried out in the course of other company business.

¹² The CIP edits to CPD's rules are contingent upon establishing an appropriate inspection cycle in Phase 2.

(b) Proposed Final

Rule 121: CIP Inspection of Overhead Facilities

Communications Infrastructure Providers (CIPs) shall begin performing patrol inspections of their facilities in Extreme and Very High Fire Threat zones, as identified in Cal Fire's Fire and Resource Assessment Program Fire Threat Map, in the following southern California counties: Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Riverside, and San Bernardino Counties. The CIPs' inspections shall encompass their overhead facilities installed on joint use poles with electric distribution or transmission facilities, as well as their facilities on poles that are one pole length away from joint use poles with electric distribution or transmission lines in the designated areas. An initial patrol inspection shall be completed no later than December 31, 2010.¹³

"Patrol inspection" shall be defined as a simple visual inspection, of applicable communications infrastructure equipment and structures that is designed to identify obvious structural problems and hazards. Patrol inspections may be carried out in the course of other company business.

(c) Justification/Rationale (AT&T, CALTEL, CCTA, COX, COMCAST, CTIA, Small LEC, SureWest and Verizon)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

This rule applies to CIPs in Designated Areas (see CIP Rule 120).

- New and/or revised text for the affected General Order(s), if applicable.

See above.

- The specific hazard(s) addressed by the proposed rule.

The CIPs propose an alternative consistent with the criticisms elaborated above as to CPSD's proposed OP. It: (a) edits the language regarding the FRAP Fire Threat Map; (b) deletes the word "all"; (c) focuses only on patrol inspections and leaves corrective action to a separate rule (CIP Proposed Rule 122), while adding the definition of "patrol inspections" which defines the goal as identifying obvious structural problems and hazards; (d) provides for completion of an initial inspection by December 31, 2010, as opposed to September 30, 2010 and (e) removes documentation requirements from this rule, which are addressed in CIP Proposed Rule 122.

¹³ The CIP edits to CPSD's rules are contingent upon establishing an appropriate inspection cycle in Phase 2.

- How the proposed rule reduces or otherwise addresses the hazard(s).

As further explained in response to CPSD's Rule 12 modifications and the CIP's proposed Rule 120 (above), there is little or no evidence of the need for inspections of CIP facilities because of the negligible risk that such facilities would ignite or contribute to a fire. To the extent that this Phase has focused on broken lashing wires and clearance issues, patrol inspections should identify these non-conformances, regardless that they do not contribute to fire ignition or spread. Patrol inspections will also identify other obvious structural problems or hazards.

- The anticipated costs and benefits of the proposed rule.

Each individual CIP will incur unspecified costs. The benefits of the rule are the promotion of the Phase 1 goals.

- Whether and how the costs will be recovered from customers.

The issue of CIP cost recovery was not discussed during the workshops.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Costs will not be shared.

- Why it is in the public interest to adopt the proposed rule.

The CIPs contend that there is no record proof that CIP facilities cause or contribute to fires and have provided evidence that CIP facilities pose a negligible risk of doing so. CPSD's proposals do not fully take this negligible risk into account and are generally overly broad and impose unnecessary costs and burdens. The CIP proposals advance the goals of this Phase yet create a burden that is less than that created by CPSD's proposed rules advancing the public interest as costs that might otherwise be transferred to customers or customer beneficial investment that might otherwise be foregone is minimized.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

Not applicable.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list

the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable.

(d) Parties' Comments

Parties in Support

AT&T, CALTEL, CCTA, COX, COMCAST, CTIA, SMALL LECS, SUREWEST AND VERIZON – See basis for support above.

PACIFICORP – PacifiCorp is not directly affected by the CIPs' ordering paragraph because it is appropriately limited to CIPs within Southern California. However, PacifiCorp supports the CIPs' more limited approach to rulemaking in Phase 1, as evidenced by this ordering paragraph. Their approach sets the same achievable goals that CPSD has put forward to reduce the fire hazard before October 2009 in Southern California without mandating a specific process that may not be the best approach for all utilities to use in order to reach those goals. Similarly, PacifiCorp agrees with the CIPs' approach in this ordering paragraph not to impose onerous documentation requirements that will be very costly to operationalize while not reducing the fire hazard before October 2009 in Southern California.

SIERRA PACIFIC

Parties Neutral

AT&T

CFBF

CMUA

LADWP

PG&E

SCE - Please see SCE's explanation above regarding CPSD's proposed ordering paragraph on this issue.

SMUD

Parties in Opposition

AT&T

CPSD – CPSD notes that the significance of the number of parties voting for or against an item should not count as much as who are the entities voting for or against the proposed regulation, and the consistency of the parties' position with the Commission's purpose in issuing this OIR "to adopt additional requirements and

clarifications, which may be necessary in order to further reduce the risk of hazards, including fires.”¹⁴

In this first item, CPSD, LA County, DRA and TURN voted for CPSD’s proposed ordering paragraph and against the CIPs’ proposed rule, because the CPSD’s proposed order was more consistent with the public interest and the goal of the OIR.¹⁵ This is demonstrated by a review of the four main differences between CPSD’s and the CIPs’ proposals. First of all, because of the urgency in Phase 1 to get the CIPs’ safety inspections and corrections started before the Santa Ana winds begin blowing in October, 2009, and in light of problems noted by Cal Fire’s comments about the use of its map (as discussed more fully below), CPSD proposed just a Commission ordering paragraph, rather than a rule, and focused on the seven southern California counties with the driest conditions. In Phase 2, when there is more time to address this matter, CPSD intends to propose a more comprehensive statewide rule. In contrast, the CIPs proposed a rule, and their proposed rule has a footnote making it “contingent on an acceptable inspection cycle in Phase 2.” Since Phase 2 would not result in rules until much later than the implementation of Phase 1 orders or rules, the CIPs’ proposed rule is not even workable and appears to undermine the authority of the Commission to regulate the safety of the CIPs’ facilities in Phase 1 or Phase 2. Moreover, it does not make sense to have the proposal embodied as a rule in General Order 95, as the proposal only addresses a one-time initial inspection to be completed by December, 2010. Once those inspections are complete, the “rule” would serve no further purpose, as it does not address the frequency with which patrol inspections are to be conducted after the initial inspection.

The second major difference is that in light of problems noted by Cal Fire’s comments about the use of its map, CPSD’s proposed ordering paragraph would state that the Extreme and Very High Fire Threat in Cal Fire’s Fire Threat Map for

¹⁴ OIR at p.4.

¹⁵ For the sake of convenience, this group of parties, which usually voted for CPSD’s proposed ordering paragraphs or rules and against the alternatives, will collectively be referred to as the “Public Interest Parties,” even if in a given case one of these parties did not vote for CPSD’s proposals.

the southern California counties should be broadly construed, whereas the CIPs' proposed rule omitted any reference to a broad construction.

The third major difference is that CPSD's proposal would have the CIPs' first cycle of inspections completed by September 30, 2010, before the Santa Ana winds begin blowing in October, 2010. In contrast, the CIPs' proposal would not have their first cycle of inspections completed until December 31, 2010. CPSD urges the Commission to reject the December, 2010 deadline for completing the patrol inspections and instead adopt the September, 2010 date originally proposed by the Wireless Carriers in their March 27, 2009, Opening Comments. As has been stated before, when it comes to implementing these rules time is of the essence, and there is no reason why CIPs should be allowed to let yet another southern California fire season pass by before they complete these inspections.

Finally, in order to make the Commission's proposed ordering paragraph enforceable, CPSD's proposal requires documentation of the inspections and corrections of hazards, and retention of the documents for future audits. In contrast, the CIPs' proposed rule would omit any requirements of documentation, let alone retention of documents, making it much more difficult to enforce these requirements.

The differences between CPSD's proposal and the CIPs' proposal in this example is typical of the differences in other proposed rules and why the number of votes should not matter. For the most part, the Public Interest Parties usually voted for CPSD's proposals, whereas the CIPs came out in large numbers to cast many votes for their proposals and against CPSD's proposals. In terms of the electric utilities, SDG&E usually voted for CPSD's proposals, whereas the other electric utilities were all over the map on various proposals, even voting neutral after first getting further concessions from CPSD on its proposals at the last workshop.

Both the OIR and ACR assigned the task to CPSD to propose the rules herein in recognition of the fact that CPSD is the Commission's staff, whose responsibilities are to investigate and make recommendations to the Commission to enhance safety. For all eight days of workshops, there were always at least two of CPSD's safety engineers and two attorneys representing CPSD. Los Angeles County Fire Chief Todd, whose expertise in fire prevention is beyond dispute, also personally attended all of the workshops, and, with one exception, consistently voted the same way as CPSD. In light of the above, including the goals of the OIR, the weight given to the votes of the Public Interest Parties should be greater than the weight given to

the number of votes from the regulated entities, which often voted for or neutral on proposals for less safety in regulations than the limited, safety requirements in CPSD's further revised proposals for Phase 1.

DRA

LA COUNTY

SDG&E – The CIPs' proposal would defer patrol inspections by CIPs for too long. These inspections should be completed by the start of next year's fire season, not New Year's Eve. Moreover, it makes no sense for the CIPs to be allowed to ignore safety problems they uncover during their inspections, and to keep no records of their inspections. Public safety requires more than unverifiable inspections two winters from now that lead to no corrective actions.

TURN

B. CPSD PRC 2. Proposed Revisions/Additions to General Order 95,¹⁶ Rule 12: Applicability of Rules

1. CPSD Proposal

(a) Original From April 8 Reply Comments

Rule 12 Applicability of Rules

Unless otherwise indicated, these rules apply to owners of all overhead electrical supply and communication facilities, including lines which come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities, and publicly-owned utility electric transmission and distribution facilities, as follows:

[The remainder of Rule 12 has been omitted here, but shall remain unchanged.]

(b) Workshop Proposed Changes

Unless otherwise indicated, these rules apply to owners of all any overhead electrical supply and communication facilities, including lines which that come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities and publicly-owned utility electric supply transmission and distribution facilities, as follows:

[The remainder of Rule 12 has been omitted here, but shall remain unchanged.]

(c) Proposed Final

Rule 12 Applicability of Rules

Unless otherwise indicated, these rules apply to owners of any overhead electrical supply and communication facilities that come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities and publicly-owned utility electric supply facilities, as follows:

[The remainder of Rule 12 has been omitted here, but shall remain unchanged.]

(d) Justification/Rationale (CPSD)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

¹⁶ Only relevant excerpts of General Order 95 are included herein for purposes of showing CPSD's proposed changes.

This proposed rule change would affect owners of any overhead electrical supply and communications facilities that come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities, and publicly-owned utility electric supply facilities.

- New and/or revised text for the affected General Order(s), if applicable.

See above.

- The specific hazard(s) addressed by the proposed rule.

CPSD has consistently met with resistance from publicly-owned utilities when enforcing the Commission's rules and regulations concerning the safety of overhead and underground electric transmission and distribution facilities. There has also been some confusion over whether the Commission's safety rules apply to owners of electric facilities that belong to non-electric utilities.

- How the proposed rule reduces or otherwise addresses the hazard(s).

The proposed rule change clarifies that GO 95 rules apply to owners of electric facilities that belong to non-electric utilities and publicly-owned utility electric supply facilities. CPSD will further address the jurisdiction issue in its briefs.

- The anticipated costs and benefits of the proposed rule.

As this proposed rule change merely clarifies the existing state of the law regarding the applicability of the Commission's safety regulations over publicly-owned electric utilities and owners of electric facilities that belong to non-electric utilities, there should be no additional costs associated with this proposal.

The benefits include eliminating any confusion over the applicability of GO 95 safety regulations to publicly-owned electric utilities and owners of electric facilities that belong to non-electric utilities.

- Whether and how the costs will be recovered from customers.

As a general rule, except for vegetation management, where SCE has alleged a significant amount of costs for Phase 1, no party has submitted comments showing significant costs relating to CPSD's proposed rules for Phase 1, as refined by the focus of parties' efforts to the Cal Fire FRAP Map for the extreme and very high fire

threats in the seven southern California counties.¹⁷ This is, in part, because many of the proposed requirements are also already required in existing General Orders, Decisions or Resolutions.¹⁸ Consequently, except for vegetation management, which will be addressed in CPSD's proposed ordering paragraph on vegetation clearance cost recovery, CPSD addresses the cost recovery issue herein as a general matter, rather than on an issue-by-issue basis.

Due to the lack of any showing of significant costs, CPSD submits that investor-owned utilities (IOUs) regulated on a cost-of-service basis (i.e., electric utilities, other utilities with outside, privately-owned electric lines and small LECs) can seek to recover their costs in rate cases, where DRA and other ratepayer representatives can scrutinize the costs to ensure that they were actually incurred, were prudently incurred, and otherwise follow other ratemaking principles. It makes sense to review these costs in rate cases, because the issues involving such costs are company specific (e.g., whether the costs are already being recovered in a different account or are truly incremental, whether the costs are verifiable, whether the costs are reasonable), discovery would be necessary on a company by company basis, and companies are on different rate case cycles.

The publicly-owned utilities (POUs) similarly control how they recover their costs from their ratepayers and should follow their own procedures for doing so.

For CIPS with market-based rate authority, CPSD submits that they should recover their costs in market-based rates, and CPSD understands that parties have agreed that this issue, if still disputed, should be addressed in briefs, rather than in the workshop. See also discussion in PRC 1, above, for CIPs and Small LECs.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Not applicable.

- Why it is in the public interest to adopt the proposed rule.

See discussion in PRC 1, above.

¹⁷ See CPSD Reply Comments at p. 22.

¹⁸ See CPSD March 9, 2009, Proposed Rules at pp. 24 (electric utility accident reports), 27 (cooperation requirement), 31-32 (inspection and maintenance requirements), 35 (pole safety factor tests), 39 (records showing inspections and corrections) and 46 (flexible suggestions for high wind speeds in certain local areas).

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

GO 95 already applies to electric transmission, however, the proposed rule change clarifies that GO 95 rules apply to publicly-owned transmission facilities. CPSD will address the application of the rules to transmission, as well as the jurisdiction over publicly-owned electric utilities in its opening brief.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable.

(e) Parties' Comments

Parties in Support

CPSD

DRA

LA COUNTY

PACIFICORP – PacifiCorp agrees with CPSD that non-electric utilities that own electric facilities should be subject to the requirements of General Order 95. PacifiCorp is neutral on the issue of whether publicly-owned electric supply facilities are under the Commission's jurisdiction. For that reason, PacifiCorp can support both this and SCE's proposed language.

SDG&E – CPSD's proposed changes to Rule 12 provide useful clarification to the rule.

TURN

Parties Neutral

CFBF

PG&E

SCE – SCE is neutral on CPSD's proposal because SCE believes it is unnecessary to modify Rule 12 at this time in order to accomplish CPSD's goals in Phase 1 of this

proceeding. SCE's proposal below essentially returns Rule 12 to its original state with minor modifications. Please see SCE's description below of its own proposal for further explanation of its position.

SIERRA PACIFIC

Parties in Opposition

AT&T, CALTEL, CCTA, COX, COMCAST, CTIA, SMALL LECs, SUREWEST AND VERIZON – This Phase of the proceeding is focused on actions that can be taken by October 2009 or as soon thereafter as possible to prevent or minimize the possibility of utility or CIP facilities igniting or contributing to fires. The rules proposed should therefore also focus on this goal, but CPSD's modifications to Rule 12 impact all existing GO 95 rules and are not in the least focused on fires or this goal. The CIPs submit that rules proposed in Phase 1 should constitute either an entirely new Section XII of GO 95 or ordering paragraphs in the final interim decision in this proceeding, as discussed below in CIP Proposed Rule 120. Caveat: subject to CPUC's determination on jurisdiction; CIP issues in Rule 120, not meant to replace Rule 12 – should be considered in separate section.

CMUA – CMUA objects to the CPSD's proposed rule change to GO 95, Rule 12 because it incorrectly asserts Commission jurisdiction over publicly-owned electric utilities. This issue has been addressed extensively in CMUA's Opening Comments and Reply Comments, and CMUA will reiterate these points in its Opening Brief. Regardless of the jurisdictional dispute, there is no reason to insert the phrase "including . . . publicly-owned electric utility supply" into GO 95 Rule 12. Even if, as the CPSD asserts, the Commission does have this authority, including this language is redundant and serves no purpose.

LADWP

SMUD – SMUD objects to the CPSD's proposed rule change to GO 95, Rule 12 because it is pointless to assert Commission jurisdiction over publicly-owned electric utilities, in a General Order. If, as the Commission asserts, it does have this authority, including this language is redundant and serves no purpose. If they don't have jurisdiction these statements have no force.

VERIZON

2. SCE Alternative Proposal

(a) Strikeout/Underline of CPSD Proposed Final

12 Applicability of Rules

~~Unless otherwise indicated, these rules apply to owners of all overhead electrical supply and communication facilities, including lines which that come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities, and publicly owned utility electric transmission and distribution facilities, as follows:~~

[The remainder of Rule 12 has been omitted here, but shall remain unchanged.]

(b) Proposed Final

12 Applicability of Rules

These rules apply to all overhead electrical supply and communication facilities that come within the jurisdiction of this Commission, located outside of buildings, including electric facilities that belong to non-electric utilities, as follows:

[The remainder of Rule 12 has been omitted here, but shall remain unchanged.]

(c) Justification/Rationale (SCE)

Consistent with SCE's statement above that Rule 12 should remain unchanged but for some minor modifications, SCE offers this alternate proposal for adoption by the Commission in Phase 1 of this proceeding. As a matter of cleaning up the drafting of the Rule, SCE agrees with the use of the more modern term "facilities" as a replacement for the original term "lines" as the newer term appears to be more comprehensive.

The other major change CPSD makes to Rule 12 is to include within G.O. 95's applicability the electric facilities of non-electric utilities that otherwise come within the Commission's jurisdiction. SCE supports this change, which is incorporated into its rule as well. However, SCE remains concerned that the "non-electric utilities" being addressed by this change have not been clearly identified or represented in this proceeding. Should the Commission agree to this addition, such entities may remain unaware of the new rule and expanded jurisdictional reach of this General Order.

SCE disagrees with the remainder of CPSD's proposed revisions to Rule 12, and has edited them out of its proposal.

First, the inclusion of the “unless otherwise indicated” disclaimer to the beginning of this rule is superfluous, in that General Order 95 includes nearly two hundred case specific exceptions, two of which appear within Rule 12 itself. (See Rule 12.1 and 12.1C).

Also, the refocusing of the rule to facility “owners” is unnecessary and technically out of context. When read within the context of GO 95 Rules 11, 13, 14, 15 and 16, adding the word “owners” to Rule 12 is unnecessary because the construction of overhead electric and communication facilities is (of course) initiated by the owners of these facilities and as such they are unquestionably subject to the Commission’s jurisdiction. In SCE’s view, the focus of GO 95 should continue to be on the “facilities” (e.g. wires, cables, poles, cross-arms, equipment, strength of materials) not the owners of the facilities.

Moreover, CPSPD’s inclusion of municipal utilities in this rule is unnecessary because the question of jurisdiction over public utilities will be decided as a matter of law. The addition is also duplicative because in the event it is decided as a matter of law that G.O. 95 could apply to municipal utilities, the phrase ‘within the jurisdiction of this commission’ would capture them. Finally, this change to Rule 12 would do nothing to reduce future fire hazards in advance of the Fall 2009 fire season.

- The specific electric utilities, CIPs, and others affected by the proposed rule.

All entities within the Commission’s jurisdiction, specifically including non-electric utilities that own electric facilities.

- New and/or revised text for the affected General Order(s), if applicable.

See text provided above.

- The specific hazard(s) addressed by the proposed rule.

The possibility that privately-owned electric facilities are not constructed in accordance with G.O. 95 standards.

- How the proposed rule reduces or otherwise addresses the hazard(s).

Such facilities would now be expressly covered by G.O. 95 and the Commission’s jurisdiction.

- The anticipated costs and benefits of the proposed rule.

Cannot be determined. May lead to some upgrades of privately-owned electrical facilities.

- Whether and how the costs will be recovered from customers.

Unknown.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Incremental costs will be borne solely by the affected parties, i.e., non-electric utilities that own electric facilities.

- Why it is in the public interest to adopt the proposed rule.

In order to ensure that more of the State's electric infrastructure must conform to the minimum construction standards of G.O. 95.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

It is unlikely that the new covered parties own electric transmission.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

SCE has not specifically investigated this issue, but presumes that minimal additional hardening of some existing electric facilities owned by non-electric utilities would be exempt from CEQA. See, e.g., California Code of Regulations, Title 14, Ch. 3, Art. 18 (Statutory Exemptions) §§ 15268 (Ministerial Projects), and 15269(b) and (c) (Emergency Projects). Moreover, Rule 12 merely defines the entities to which G.O. 95 is applicable. Rule 12 does not, itself, require any construction activity that would be considered a project under CEQA. See California Code of Regulations, Title 14, Ch. 3, Art. 20 (Definitions) § 15378 (Projects).

(d) Parties' Comments

Parties in Support

CMUA – CMUA supports SCE's proposed rule change because it does not unnecessarily insert disputed jurisdictional issues into GO 95, Rule 12.

LADWP

PACIFICORP – PacifiCorp agrees with SCE that non-electric utilities that own electric facilities should be subject to the requirements of General Order 95. PacifiCorp is neutral on the issue of whether publicly-owned electric supply facilities are under the Commission's jurisdiction. For that reason, PacifiCorp can support both this and CPSD's proposed language.

PG&E – PG&E supports this version of the rule because it is better crafted. It eliminates unnecessary language, retains the proper focus on electric facilities (and not the ownership of the facilities), allows jurisdictional issues to be settled outside of the rule and ensures that all electric facilities are subject to the same rules in California.

SCE – SCE supports its alternate Rule 12 proposal for the reasons stated above regarding CPSD's changes to Rule 12.

SIERRA PACIFIC

SMUD – SMUD supports SCE's proposed rule change because it does not unnecessarily insert disputed jurisdictional issues into GO 95, Rule 12.

Parties Neutral

CFBF

SDG&E – Edison's revisions to CPSD's language (such as the elimination of "owners of") may make the rule somewhat more clear. But SDG&E questions whether elimination of publicly owned transmission and distribution facilities would be in the best interests of safety.

TURN

Parties in Opposition

AT&T, CALTEL, CCTA, COX, COMCAST, CTIA, SMALL LECs, SUREWEST AND VERIZON – The CIPs oppose this alternative for the same reason they oppose CPSD's modifications to Rule 12.

CPSD – CPSD opposes SCE’s proposed rule change because it specifically excludes publicly-owned utilities from the applicability section of GO 95. Although CPSD will further discuss the jurisdictional issues in its opening brief, CPSD notes that Commission decisions already require POUs to comply with GO 95 rules. Therefore, SCE’s change would, contrary to the Commission’s decisions, give the POUs additional reason to continue to argue that the rules do not apply to POUs.

DRA

LA COUNTY

3. CIP Alternate Proposal [Rule 120]

(a) Proposed Edits to Applicability of Rules From CPSD Proposed Rule 12 – Redlined

Rule ~~1162~~ 120 Applicability of Rules

The following rules apply to the inspection, maintenance, and construction of overhead electrical supply and communication facilities and lines which come within the jurisdiction of this Commission, located on poles jointly used by communication infrastructure providers (“CIPs”) and electric supply companies, outside of buildings, in Extreme or Very High Fire Threat Zones in Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego Counties, and Imperial Counties (“Designated Areas”).

Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection’s Fire and Resource Assessment Program (FRAP) Fire Threat Map. Unless otherwise indicated, these rules apply to owners of all overhead electrical supply and communication facilities, including lines which come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities, and publicly owned utility electric transmission and distribution facilities, as follows:

[The remainder of Rule 12 has been omitted here, but shall remain unchanged.]

(b) Proposed Final

Rule 120 Applicability of Rules

The following rules apply to the inspection, maintenance, and construction of overhead electrical supply and communication facilities and lines which come within the jurisdiction of this Commission, located on poles jointly used by communication infrastructure providers (“CIPs”) and electric supply companies, outside of buildings, in Extreme or Very High Fire Threat Zones in Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego Counties (“Designated Areas”).

Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection’s Fire and Resource Assessment Program (FRAP) Fire Threat Map.

(c) Justification/Rationale (*AT&T, CALTEL, CCTA, COX, COMCAST, CTIA, SMALL LECs, SUREWEST AND, VERIZON*)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

This rule would apply to CIPs and electric utilities in Designated Areas (as defined). The CIPs propose four rules that are meant to be considered as an

integrated package that seek to promote the goal of Phase 1 to prevent or minimize ignition or contribution to fires in connection with poles jointly used by CIPs and electric utilities. The four rules (120-123) may be added to GO 95 as a new Section XII or can be a directive from the Commission in a series of ordering paragraphs in the decision resulting from Phase 1. For purposes of this Workshop Report, the CIPs present their four rules as a new Section XII of GO 95. As provided in Rule 120, the package is designed to focus on the areas of most concern with regard to the ignition of wildland fires that could be propagated by Santa Ana winds; that is, the specified Southern California counties and the Extreme and Very High Fire Threat Zones depicted in CalFire's FRAP Fire threat map.

- New and/or revised text for the affected General Order(s), if applicable.

See text of rule above.

- The specific hazard(s) addressed by the proposed rule.

This rule is designed to introduce the applicability of Rules 121 (inspections), 122 (maintenance and notification) and 123 (pole loading) (discussed herein). The Rule specifically focuses on seven Southern California counties and Extreme and Very High Fire Threat zones.

- How the proposed rule reduces or otherwise addresses the hazard(s).

Not applicable.

- The anticipated costs and benefits of the proposed rule.

Not applicable.

- Whether and how the costs will be recovered from customers.

Not applicable.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Not applicable

- Why it is in the public interest to adopt the proposed rule.

There is little or no evidence that CIP facilities cause or contribute to fires or that any of the CPSD rules related to CIP facilities are necessary or narrowly focused. The record is clearly devoid of sufficient evidence to support a finding that CIP facilities cause or contribute to fires. The Commission may choose to adopt some rules in spite of the lack of a record of demonstrated risk, and the lack of a record of a sound cost and benefit analysis, and the CIPs offer some clarifying reasonable

rules in known areas of high fire occurrence zones such as those located in Southern California's Extreme and Very High Fire Threat zones. The CIP Coalition and CTIA discussed the lack of a record that CIP or wireless facilities pose a fire risk at length in their comments filed on March 27 and April 8, 2009.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

Not applicable.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable.

(d) Parties' Comments [No vote was taken on this alternative at the workshop]

PACIFICORP – PacifiCorp strongly supports this proposed language from the CIP Coalition, however believes that this language should be included as an ordering paragraph in a Commission decision or as part of an interim rule instead of as a permanent addition to General Order 95. Any regulations that are promulgated as a result of Phase 1 are temporary additions or revisions that will be replaced by permanent regulations determined in Phase 2 of this proceeding. As a result, changes to the General Orders should wait until the conclusion of Phase 2 of this proceeding.

The CIP Coalition's proposed language directly follows the mandate in the January 6, 2009 *Assigned Commissioner's Ruling and Scoping Memo* that the rule additions and revisions being promulgated in Phase 1 of this proceeding should reduce fire hazards in time for the 2009 autumn fire season in southern California. Therefore, the CIP Coalition's proposed language correctly targets the other interim regulations to areas in which they will have the most immediate impact for southern California before October 2009, namely the Extreme and Very High Fire Threat Zones in Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside,

and San Diego Counties. The parties in this proceeding have coalesced around these designated areas as the proper focus for Phase 1.

CPSD – CPSD opposes the CIPs’ proposed rule for several reasons. First, it limits the applicability of all of the safety rules, including pole overloading and maintenance, to only Extreme and Very High Fire Threat Zones in southern California counties. Although CPSD has limited the application of certain of its proposals which may require more resources to implement to Extreme and Very High Fire Threat Zones in southern California counties, there is no reason why *all* of the proposals should be so limited. Limiting all of the proposed rules in such a manner conflicts with the goals of the OIR to *enhance* safety in the state of California. Second, the CIPs’ proposal is inconsistent with the general structure of General Order 95 and would conflict with other rules in GO 95, including the “frequently and thoroughly” inspection requirement in Rule 31.2, and the current pole overloading/safety factor calculations requirements in Rule 44.1, which apply throughout the entire state of California.

4. Is OIR Phase 1 Appropriate for Rule 12 Changes?

Parties Yes

CPSD

DRA

LA COUNTY

Parties Neutral

CFBF

PACIFICORP – PacifiCorp is neutral as to whether any change to Rule 12 will help reduce the fire hazard in Southern California before October 2009.

PG&E

SCE – SCE is neutral on whether Rule 12 should be modified in Phase 1. As stated above, SCE believes that Rule 12 as currently drafted is sufficient to bind all entities that come within the Commission’s jurisdiction.

SDG&E

SIERRA PACIFIC

TURN

Parties No

AT&T

CALTEL

CCTA

COX

COMCAST

CMUA – The CPSD’s stated goal for Phase I is to minimize the risk of further fires by adopting rules that can be implemented before the 2009 fire season. It is not at all clear to CMUA why the CPSD feels that resolving a decade old jurisdictional dispute under the severe time constraints of Phase I will in any way minimize the risk of fires during the 2009 fire season. If the Commission does feel the need to include jurisdictional statements in its General Orders, this should be done in Phase II where a measured and reasoned debate of the issue can occur.

CTIA

LADWP – The LADWP objects to CPSD’s proposed rule change to GO 95 Rule 12, because it will not minimize the risk of fires during the 2009 fire season.

SMALL LECs

SUREWEST

VERIZON

SMUD – The CPSD’s stated goal for Phase I is to minimize the risk of further fires by adopting rules that can be implemented before the 2009 fire season. Reopening the jurisdictional issue in Phase I will not result in any resolution of the jurisdictional issue or reduce the risk of fires during the 2009 fire season.

C. CPSD PRC 3. Rule 18: Proposed New GO 95, Rule 18: Reporting and Resolution of Safety Hazards Discovered by Utilities

1. CPSD Proposal

(a) Original From April 8 Reply Comments

Each utility is responsible for taking appropriate corrective action to remedy safety hazards posed by their facility. Upon completion of the corrective action, the utility records shall show the nature of the work, the date and identity of persons performing the work. Prior to the work being completed, the utility shall document the current status of the safety hazard, including whether the safety hazard is located in an Extreme or Very High Fire Threat Zone, and shall include a scheduled date of corrective action and reasons why the safety hazard is not completed. These records shall be preserved by the utility for at least five years, and shall be of sufficient detail to allow Commission staff during an audit, if any, to determine that the safety hazard has been remedied. The records shall be made available to Commission staff immediately upon request. Additionally, for any work completed after the initial scheduled date of corrective action, the utility will document the reason or reasons that the work was not completed by the original scheduled date of corrective action.

For purposes of this rule, “safety hazard” means a condition that poses a threat to life or property, including but not limited to the ignition of a wildland or structure fire.

If a utility, while inspecting its facilities, discovers a safety hazard on or near a communications facility, electric transmission or distribution facility involving another utility, the inspecting utility shall notify the other utility and/or facility owner of such safety hazard no later than 10 business days after the discovery. The inspecting utility shall also provide a copy of the notice to the pole owner(s). The inspecting utility shall include in such notice whether the safety hazard which requires corrective action is located in a designated Extreme or Very High Fire Threat Zone. To the extent the inspecting utility cannot determine the owner/operator of other utility, it shall contact the pole owner(s), who shall be responsible for promptly notifying the utility owning/operating the facility with the safety hazard. The notification shall be in writing and must be preserved by all parties for at least five years. It is the responsibility of each pole owner to know the identity of each entity using or maintaining equipment on its pole.

Each utility shall establish an auditable maintenance program for maintaining its facilities and lines, including a timeline for remedial actions following the identification of a safety hazard or violation of General Orders 95 or 128 on the utility’s communication infrastructure, electrical distribution, or electrical transmission system. Priorities shall be based on the specifics of the safety hazard or violation as related to direct impact and the probability for impact on safety or reliability using the following factors:

- Type of facility or equipment;
- Location;

- Accessibility;
- Climate;
- Direct or potential impact on operations, customers, electrical utility workers, communications workers, and the general public;
- Whether the safety hazard or violation is located in an Extreme or Very High Fire Threat zone.

There will be three priority levels, as follows:

- Level 1:
 - Immediate safety and/or reliability risk with high probability for significant impact.
 - Take action immediately, either by fully repairing the condition, or by temporarily repairing and reclassifying the condition to a lower priority.
- Level 2:
 - Variable (non-immediate high to low) safety and/or reliability risk.
 - Take action to correct within specified time period (fully repair, or by temporarily repairing and reclassifying the condition to a lower priority).
 - Time period for correction to be determined at the point of identification by a qualified company representative:
 - Overhead: 0-59 months
 - Underground: 0-35 months
 - Where communications company actions result in electric utility GO violations, the electric utility's remedial action will be to transmit a single documented notice of identified violations to the communications company for compliance.
- Level 3:
 - Acceptable safety and/or reliability risk.
 - Take action (re-inspect, re-evaluate, or repair) at or before the next detailed inspection.

Exceptions (Levels 2 and 3 only) –Correction times may be extended under reasonable circumstances, such as:

- Third party refusal
- Customer issue
- No access
- Permits required
- System emergencies (e.g. fires, severe weather conditions)

Notes: With the exception of a safety hazard or violation requiring immediate correction, a utility must correct a violation or safety hazard within 30 days of discovering or being notified of a violation or safety hazard, if the violation or safety hazard violates a clearance requirement listed in columns E, F, or G of Table 1 in this

General Order, or violates a pole overloading requirement in Rule 44.2 of this General Order, and is located in an Extreme or Very High Fire Threat Zone.

A utility must correct a violation or safety hazard within 30 days if the utility is notified that the violation must be corrected to alleviate a significant safety risk to any utility's employees.

Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish minimum boundaries for purposes of this rule. The boundaries of the map are to be broadly construed and utilities are required to use their own expertise and judgment to determine if local conditions require them to go beyond the boundaries of the map.

(b) Workshop Proposed Changes

Rule 18 Part A: Reporting and Resolution of Safety Hazards And GO 95 Violations Discovered by Utilities

Each utility is responsible for taking appropriate corrective action to remedy safety hazards and GO 95 violations posed by their facility. Upon completion of the corrective action, the utility records shall show the nature of the work, the date and identity of persons performing the work. Prior to the work being completed, the utility shall document the current status of the safety hazard, including whether the safety hazard is located in an Extreme or Very High Fire Threat Zone in Southern California, and shall include a scheduled date of corrective action and reasons why the safety hazard is not completed. These records shall be preserved by the utility for at least five years, and shall be of sufficient detail to allow Commission staff during an audit, if any, to determine that the safety hazard has been remedied. The records shall be made available to Commission staff immediately upon request. Additionally, for any work completed after the initial scheduled date of corrective action, the utility will document the reason or reasons that the work was not completed by the original scheduled date of corrective action.

For purposes of this rule, "safety hazard" means a condition that poses a significant threat to life or property, including but not limited to the ignition of a wildland or structure fire.

Part B: Notification of Safety Hazards Discovered By Utilities

If a utility, while inspecting its facilities, discovers a safety hazard on or near a communications facility, electric transmission or distribution facility involving another utility, the inspecting utility shall notify the other utility and/or facility owner of such safety hazard no later than 10 business days after the discovery. The inspecting utility shall also provide a copy of the notice to the pole owner(s). The inspecting utility shall include in such notice whether the safety hazard which requires corrective action is located in a designated Extreme or Very High Fire Threat Zone in Southern California. To the extent the inspecting utility cannot determine the owner/operator of other utility, it shall contact the pole owner(s), who shall be responsible for promptly notifying the utility owning/operating the facility with the safety hazard. The

notification shall be in writing and must be preserved by all parties for at least five years. It is the responsibility of each pole owner to know the identity of each entity using or maintaining equipment on its pole.

Each utility shall establish an auditable maintenance program for maintaining its facilities and lines, including a timeline for remedial actions following the identification of a safety hazard or violation of General Orders 95 or 128 on the utility's communication infrastructure, electrical distribution, or electrical transmission system. Priorities shall be based on the specifics of the safety hazard or violation as related to direct impact and the probability for impact on safety or reliability using the following factors:

- Type of facility or equipment;
- Location;
- Accessibility;
- Climate;
- Direct or potential impact on operations, customers, electrical utility workers, communications workers, and the general public;
- Whether the safety hazard or violation is located in an Extreme or Very High Fire Threat zone.

There will be three priority levels, as follows:

- Level 1:
 - Immediate safety and/or reliability risk with high probability for significant impact.
 - Take action immediately, either by fully repairing the condition, or by temporarily repairing and reclassifying the condition to a lower priority.
- Level 2:
 - Variable (non-immediate high to low) safety and/or reliability risk.
 - Take action to correct within specified time period (fully repair, or by temporarily repairing and reclassifying the condition to a lower priority).
 - Time period for correction to be determined at the point of identification by a qualified company representative:
 - Overhead: 0-59 months
 - Underground: 0-35 months
 - Where communications company actions result in electric utility GO violations, the electric utility's remedial action will be to transmit a single documented notice of identified violations to the communications company for compliance.
- Level 3:
 - Acceptable safety and/or reliability risk.

- Take action (re-inspect, re-evaluate, or repair) at or before the next detailed inspection.

Exceptions (Levels 2 and 3 only) –Correction times may be extended under reasonable circumstances, such as:

- Third party refusal
- Customer issue
- No access
- Permits required
- System emergencies (e.g. fires, severe weather conditions)

Notes: With the exception of a safety hazard or violation requiring immediate correction, a utility must correct a violation or safety hazard within 30 days of discovering or being notified of a violation or safety hazard, if the violation or safety hazard violates a clearance requirement listed in columns E, F, or G of Table 1 in this General Order, or violates a pole overloading requirement in Rule 44.2 of this General Order, and is located in an Extreme or Very High Fire Threat Zone in Southern California. Southern California shall be defined as the following: Santa Barbara, Ventura, San Bernardino, Riverside, Los Angeles, Orange, and San Diego Counties.

A utility must correct a violation or safety hazard within 30 days if the utility is notified that the violation must be corrected to alleviate a significant safety risk to any utility's employees.

Part B: Notification of Safety Hazards Discovered By Utilities

If a utility, while inspecting its facilities, discovers a safety hazard on or near a communications facility, electric transmission or distribution facility involving another utility, the inspecting utility shall notify the other utility and/or facility owner of such safety hazard no later than 10 business days after the discovery. The inspecting utility shall also provide a copy of the notice to the pole owner(s). The inspecting utility shall include in such notice whether the safety hazard which requires corrective action is located in a designated Extreme or Very High Fire Threat Zone in Southern California. To the extent the inspecting utility cannot determine the owner/operator of other utility, it shall contact the pole owner(s), who shall be responsible for promptly notifying the utility owning/operating the facility with the safety hazard. The notification shall be in writing and must be preserved by all parties for at least five years. It is the responsibility of each pole owner to know the identity of each entity using or maintaining equipment on its pole.

(c) Proposed Final

Rule 18 Part A: Resolution of Safety Hazards And GO 95 Violations Discovered by Utilities

Each utility is responsible for taking appropriate corrective action to remedy safety hazards and GO 95 violations posed by their facility. Upon completion of the corrective action, the utility records shall show the nature of the work, the date and

identity of persons performing the work. Prior to the work being completed, the utility shall document the current status of the safety hazard, including whether the safety hazard is located in an Extreme or Very High Fire Threat Zone in Southern California, and shall include a scheduled date of corrective action and reasons why the safety hazard is not completed. These records shall be preserved by the utility for at least five years, and shall be of sufficient detail to allow Commission staff during an audit, if any, to determine that the safety hazard has been remedied. The records shall be made available to Commission staff immediately upon request. Additionally, for any work completed after the initial scheduled date of corrective action, the utility will document the reason or reasons that the work was not completed by the original scheduled date of corrective action.

For purposes of this rule, “safety hazard” means a condition that poses a significant threat to life or property, including but not limited to the ignition of a wildland or structure fire.

Each utility shall establish an auditable maintenance program for maintaining its facilities and lines, including a timeline for remedial actions following the identification of a safety hazard or violation of General Orders 95 on the utility’s communication infrastructure, electrical distribution, or electrical transmission system. Priorities shall be based on the specifics of the safety hazard or violation as related to direct impact and the probability for impact on safety or reliability using the following factors:

- Type of facility or equipment;
- Location;
- Accessibility;
- Climate;
- Direct or potential impact on operations, customers, electrical utility workers, communications workers, and the general public;
- Whether the safety hazard or violation is located in an Extreme or Very High Fire Threat zone.

There will be three priority levels, as follows:

- Level 1:
 - Immediate safety and/or reliability risk with high probability for significant impact.
 - Take action immediately, either by fully repairing the condition, or by temporarily repairing and reclassifying the condition to a lower priority.
- Level 2:
 - Variable (non-immediate high to low) safety and/or reliability risk.
 - Take action to correct within specified time period (fully repair, or by temporarily repairing and reclassifying the condition to a lower priority).
 - Time period for correction to be determined at the point of identification by a qualified company representative:

- Overhead: 0-59 months
 - Where communications company actions result in electric utility GO violations, the electric utility's remedial action will be to transmit a single documented notice of identified violations to the communications company for compliance.
- Level 3:
 - Acceptable safety and/or reliability risk.
 - Take action (re-inspect, re-evaluate, or repair) at or before the next detailed inspection.

Exceptions (Levels 2 and 3 only) –Correction times may be extended under reasonable circumstances, such as:

- Third party refusal
- Customer issue
- No access
- Permits required
- System emergencies (e.g. fires, severe weather conditions)

Notes: With the exception of a safety hazard or violation requiring immediate correction, a utility must correct a violation or safety hazard within 30 days of discovering or being notified of a violation or safety hazard, if the violation or safety hazard violates a clearance requirement listed in columns E, F, or G of Table 1 in this General Order, or violates a pole overloading requirement in Rule 44.2 of this General Order, and is located in an Extreme or Very High Fire Threat Zone in Southern California. Southern California shall be defined as the following: Santa Barbara, Ventura, San Bernardino, Riverside, Los Angeles, Orange, and San Diego Counties.

A utility must correct a violation or safety hazard within 30 days if the utility is notified that the violation must be corrected to alleviate a significant safety risk to any utility's employees.

Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish approximate boundaries for purposes of this rule. The boundaries of the map are to be broadly construed and utilities should use their own expertise and judgment to determine if local conditions require them to adjust the boundaries of the map.

Part B: Notification of Safety Hazards Discovered By Utilities

If a utility, while inspecting its facilities, discovers a safety hazard on or near a communications facility, electric transmission or distribution facility involving another utility, the inspecting utility shall notify the other utility and/or facility owner of such safety hazard no later than 10 business days after the discovery. The inspecting utility shall also provide a copy of the notice to the pole owner(s). The inspecting utility shall include in such notice whether the safety hazard which requires corrective

action is located in a designated Extreme or Very High Fire Threat Zone in Southern California. To the extent the inspecting utility cannot determine the owner/operator of other utility, it shall contact the pole owner(s), who shall be responsible for promptly notifying the utility owning/operating the facility with the safety hazard. The notification shall be in writing and must be preserved by all parties for at least five years. It is the responsibility of each pole owner to know the identity of each entity using or maintaining equipment on its pole.

(d) Justification/Rationale (CPSD)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

This proposed rule would apply to owners of any overhead electrical supply and communications facilities that come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities and publicly owned utility electric supply facilities.

- New and/or revised text for the affected General Order(s), if applicable.

See above.

- The specific hazard(s) addressed by the proposed rule.

As discussed in its verified comments, in its audits of CIPs, CPSD has found numerous instances where facilities of CIPs have not been properly maintained and which utilize electric poles. In addition, several electric companies, including SDG&E, complained at the workshops that they send CIPs notices of safety hazards discovered on joint use poles, but that many of the hazards go uncorrected. (See CPSD March 27, 2009 Opening Comments, Attachment.) If the CIPs' facilities and lines are not properly maintained, their broken equipment may come into contact with electric lines and result in fires. In addition, safety hazards, including clearance requirements, which are not corrected may pose serious danger to workers and the public, including threat of electrocution.

- How the proposed rule reduces or otherwise addresses the hazard(s).

Although all utilities are required to maintain their facilities in a safe manner, CPSD proposes further clarification with an explicit requirement in GO 95 that a utility correct safety hazards and violations discovered on their facilities. As CPSD stated above, it is fundamental to have an auditable inspection and maintenance program in order to ensure the safety of utility operations.

At the April 28-29 workshop, CPSD divided its proposed rule into two parts. Part A explicitly requires utilities to take remedial action to correct safety hazards

and GO 95 violations. CPSD originally proposed that utilities “promptly” take corrective action; however, at the workshops, several utilities requested that specific timelines for remedial actions be inserted into the rule, and raised SCE’s Memorandum of Understanding (MOU) developed in Investigation (I.) 01-08-029 as a model. In response to these constructive comments made at the workshops, CPSD revised its proposal so that each utility is required to establish an auditable maintenance program for maintaining its facilities and lines, which provides for a priority system for taking remedial actions following the identification of a safety hazard or GO 95 violation. The proposed rule is based on the MOU developed between CPSD and SCE in response to D.04-04-065 in I. 01-08-029, which examined SCE’s electric line construction, operation, and maintenance practices during 1998-2000. The purpose of the MOU was to develop a “Common Platform” for correcting GO 95 violations, and was created with the goal of adopting the Common Platform as a statewide guide for prioritized electric distribution system maintenance following the identification of GO 95 violations.

The proposed rule requires utilities to maintain records showing what corrective action has been taken, and preserve those records so that CPSD may audit them, but it gives utilities flexibility with regard to the type of documentation they use to record maintenance practices. Thus, utilities are required to design their maintenance program using the following factors: type of facility or equipment; location; accessibility; climate; direct or potential impact on operations, customers, utility workers, and the general public; and whether the condition is located in an Extreme or Very High Fire Threat zone.

Although CPSD’s earlier version of the proposed rule did not contain any timeframes for correcting violations, CPSD has added language, taken from SCE’s MOU, that provides for three basic priority levels with associated time frames for taking action to correct violations or safety hazards. CPSD has also inserted exceptions where correction times may be extended. While this portion of the proposed rule is almost verbatim copied from SCE’s MOU, CPSD has added language to reflect the need for additional attention that is warranted by Extreme and Very High Fire Threat areas. Thus, utilities are required to consider whether a condition is in an Extreme or Very High Fire Threat zone as a factor in developing its priority system for maintaining their facilities. In addition, the proposed rule sets forth a 30 day time period to correct those hazards which violate a clearance

requirement listed in columns E, F, or G of Table 1 GO 95, or violate a pole overloading requirement in Rule 44.2 of GO 95, and is located in an Extreme or Very High Fire Threat Zone (unless such hazards or violations require immediate attention). A utility must also correct a violation or safety hazard within 30 days if the utility is notified that the violation must be corrected to alleviate a significant safety risk to any utility's employees. The reasoning behind this is that certain clearance violations or pole overloading violations that occur in high fire threat areas, as well as hazards that significantly affect worker safety, should not be subject to the 0-59 month time span for correction that is currently provided for "Level 2" priorities.

Although CPSD included the timeframes from the SCE MOU, that does not mean that CPSD agrees that utilities are allowed to have violations on their systems for any given period of time. Moreover, by including the priority system timeframes in the rule, this does not mean that CPSD or the Commission would agree with the priority timeframes that a utility establishes for correcting any given safety hazard or violation at issue. Indeed, according to the Commission in D.04-04-065, 2004 Cal. PUC LEXIS 207 at *18, which led to the SCE MOU, a "nonconformance" or failure to comply with a general order is a violation. ("Nothing in the language of GO 95, 128 or 165 provides a specified grace period within which to comply with these GOs, or provides that failure to comply is a "nonconformance," with a violation occurring at a later time determined by the utility in accordance with its maintenance schedules.")

It should be noted, however, that this proposed rule is not intended to preempt any stricter local rules establishing priority systems for correcting safety hazards. For example, Los Angeles County Fire Chief John Todd stated at the workshops that Los Angeles County uses a three-tiered priority system regarding vegetation, burning, and arcing: those conditions which require immediate attention (i.e., where vegetation is contacting an electric line and causing sparking, the county will stand by with a fire truck until the utility comes out to correct); conditions which require prompt action, which must be taken care of within 24 hours; and lower priority conditions which must be corrected within 2 weeks.

In response to comments and workshop discussions, CPSD also inserted a definition of the phrase "safety hazard" into its proposed Rule 18. CPSD based its definition of "safety hazard" on the language proposed by the electric utilities: "safety

hazard” means a condition that poses a threat to life or property, including but not limited to the ignition of a wildland or structure fire.¹⁹ (See Opening Comments of PG&E, at p. 24; SCE, at p. 10; PacifiCorp, at Attachment B.) CPSD removed the word “immediate” from the utilities’ definition in order to make it more consistent with the manner in which the term “hazard” is already used in GO 95. (See, e.g., Rule 31.6.)

Part B of CPSD’s proposed rule requires inspecting utilities to promptly notify in writing the other appropriate utilities, as well as appropriate utility pole owners, of any safety hazards they encounter while performing their inspections. This part is separate because it deals only with safety hazards, as opposed to violations of GO 95. This part of CPSD’s proposed rule is intended to facilitate better communication between utilities regarding potential safety hazards, and is intended to capture obvious hazards that are discovered by utility employees during inspections. It is not intended, for example, to require additional training of an electric utility employee to be able to identify GO 95 violations of communications facilities. Finally, the proposal provides for written communications between utilities that may be audited by CPSD staff.

- The anticipated costs and benefits of the proposed rule.

The mere written communication of safety hazards and maintenance of such records in and of themselves should not cause any significant incremental costs. Most, if not all, electric utilities at the workshops stated that they already provide such notices to CIPs when they discover safety hazards presented by CIP equipment. In addition, several CIPs stated at the workshop that they already have a priority system in place for correcting safety hazards and violations, and keep some kind of records reflecting the maintenance performed. Moreover, the actual remedial measures to ensure safety are already required under Cal. Pub. Util. Code § 451, and Rule 31.2 of GO 95.

Furthermore, the flexibility provided for prioritizing correction action would further mitigate any costs. The exceptions to such flexibility, such as the requirement for immediate corrections or the 30-day limit for correcting safety hazards or violations

¹⁹ CPSD notes that the Wireless Carriers use the phrase “hazard that creates an immediate safety risk” in their proposed new Rule 118, which does not appear to contain any additional meaning than the phrase “safety hazard.”

in Extreme or Very High Fire Threat Zones, are obviously necessary, because those corrections are already necessary to ensure safety and to try to prevent fires. There would be much greater costs to a company and the public at large if a utility was notified of such a safety hazard or violation and instead chose not to take corrective action.

In addition to the benefits discussed above, the benefits include having safe electric and communications systems in California. As discussed above, the clearance and safety requirements in the Commission's General Orders were designed to ensure safe and reliable utility operations, and should be maintained. Moreover, the proposed rule will have the additional benefit of ensuring that extra attention and caution are exercised in Extreme and Very High Fire Threat zones in California, where local conditions increase the risk and likelihood of catastrophic fires.

See also, discussion in PRC 1, above, regarding costs/benefits.

- Whether and how the costs will be recovered from customers.

See discussion in PRC 2, above.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

CPSD does not anticipate that the rule will require any cost sharing among utilities. However, if pole owners and pole tenants wish to make arrangements whereby pole owners perform corrective actions for facilities on the poles, they can work out reimbursement amongst themselves.

- Why it is in the public interest to adopt the proposed rule.

See discussion of benefits, above, and discussion on costs/benefits in PRC 1, above.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

See discussion in PRC 2, above.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list

the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable.

(e) Parties' Comments

Parties in Support

CPSD

DRA

LA COUNTY

SDG&E – CPSD’s Rule 18 proposal would enhance safety by establishing auditable utility maintenance programs, prioritizing corrective actions in a rational manner, and providing a framework for notification of safety hazards involving utility equipment that are discovered during inspections by other utilities. SDG&E strongly supports these changes. Although SDG&E supports CPSD’s proposed Rule 18, SDG&E believes the auditable maintenance program provisions in CPSD’s rule should only apply to utilities that do not have existing General Order 165 maintenance programs. Accordingly, SDG&E has proposed limited alternative language to that effect. In addition, SDG&E is concerned that under certain circumstances safety hazards and violations described in the “Notes” section of Part A may not be curable within 30 days as required by that section (e.g., if the required permits take longer to obtain). SDG&E believes that the “extension of correction times under reasonable circumstances” language CPSD has included in its proposed rule should explicitly apply to the violations and safety hazards described in the “Notes” section. SDG&E mentioned this concern to CPSD after the workshop, and it appears that CPSD may not object to this proposed clarification. But because this particular clarification was not discussed during the workshop, SDG&E will propose it in its opening brief rather than here.

TURN

Parties Neutral

CFBF

Parties in Opposition

CMUA – CMUA objects to the CPSD’s proposed rule change to add GO 95 Rule 18. This new rule would impose extensive new record keeping requirements. Because of the accelerated timeframe of Phase I, the likely costs and the likely benefits of these new requirements have not been adequately considered. CMUA also

disagrees with the CPSD's overly prescriptive requirement for an auditable maintenance program. While CMUA appreciates that the SCE MOU served as the basis for this section of the rule, individual utilities should have much greater discretion in the design of their maintenance programs. CMUA believes that part B of the CPSD's Rule 18 is well intentioned but flawed in its lack of flexibility. It may be true that greater communication is needed between utilities about safety hazards discovered on each other's facilities. However, the CPSD's approach imposes too many unnecessary additional requirements.

LADWP – This requires extensive record keeping and it would be impossible to correct all safety hazards and GO 95 infractions within 30 days.

PACIFICORP – Throughout the Proposed Rules, CPSD defines all non-conformances with the Commission's General Orders as violations. A "violation" implies an intentional act. In this instance, the utilities do not intentionally set out to be out of compliance with the Commission's General Orders. Instead, conditions arise that result in a utility's non-compliance with the rules and regulations as set forth within the Commission's General Orders. These conditions, which CPSD labels "violations," should be described as "non-conforming conditions."

PART A

In this Rule, CPSD proposes to have utilities document all non-conformances with General Order 95. As parties have indicated throughout the workshop, not all non-conformances with General Order 95 pose a significant fire hazard. Therefore, the documentation of every single non-conformance posed by PacifiCorp's facilities in Northern California, along with all of the other information requested by CPSD within this rule, would be extremely onerous to prepare and would offer no corresponding benefit to reducing the fire hazard before October 2009 in Southern California. Not only would CPSD's proposed rule require a great deal more documentation than is currently prepared by PacifiCorp, it would also require PacifiCorp to operationalize a documentation procedure across its entire service territory and a new document management system that would adequately capture the required information and ensure immediate access to that information should CPSD seek it in a future audit. This would cost PacifiCorp, at minimum, approximately \$1.1 million for the management system and an additional two full-time employees to manage the system.

This rule also requires that all utilities create an auditable maintenance program. PacifiCorp agrees that every utility should have such a program. However, PacifiCorp objects to the overly prescriptive nature of CPSD's rule detailing the specific processes of such a program. The utilities themselves are in the best position to determine the maintenance program that best suits them. CPSD's attempt to lay out a specific prioritization system that will attempt to fix non-conformances in PacifiCorp's territory in Northern California over the next 5 years is outside the scope of Phase 1.

Similarly, CPSD includes a rule aimed at fixing non-conformances that may affect utility worker safety into a proceeding focused on fire safety. While the goal of such a proposed rule is laudable, it is outside the scope of this proceeding and parties have neither had the opportunity to appropriately focus on determining the best language for such a rule nor the opportunity to determine whether 30 days is an appropriate time limit for fixing such non-conformances.

PART B

PacifiCorp agrees that notifications of safety hazards, as defined by CPSD in this rule, should occur between utilities to the extent possible. However, PacifiCorp questions the value of having that notification be in writing and be retained in Phase 1. PacifiCorp believes that the notification can and should be given in whatever manner that the utility deems appropriate in the particular situation. After all, it is the notification itself and not the documentation of that notification that will reduce the fire hazard in Southern California before October 2009.

In addition, the pole owner should not have the responsibility to always know the identity of the utilities using and maintaining facilities on its poles. While PacifiCorp does its best to maintain that information, it has no viable recourse to ensure that such information is always up-to-date, especially given the increasingly fluid nature of both the ownership of the communication companies and the ownership of their equipment. If the Commission intends to impose such a responsibility on pole owners, the Commission must either allow pole owners to impose some sort of sanction when tenants do not keep information about facilities on PacifiCorp's poles up-to-date or the Commission must mandate that tenants under the Commission's jurisdiction must always communicate changes in the ownership of their equipment or changes in their contact information to the pole owner so that the information that the pole owner has is always up-to-date.

CPSD's proposed rule also requires that the pole owner be responsible for contacting a pole tenant operating a facility with a safety hazard that is not identifiable by a different pole tenant who notices the safety hazard. However, the pole owner is not allowed to seek payment through increased rents to its tenants for providing such a service to its tenants. In addition, it is unclear how CPSD expects PacifiCorp to distinguish between various tenant facilities (most likely communication facilities) in order to contact the specific pole tenant operating a facility with a safety hazard, especially if another inspecting utility (a communication utility itself) was unable to identify the owner of the facility with a safety hazard (another communication facility). As PacifiCorp has stated before, requiring that tenants physically mark their individual facilities on-site would ensure that any inspecting utility could directly contact another utility, an issue that has been moved to Phase 2. Thus, any requirement beyond mandating that utilities should provide notifications to other utilities to the extent possible should be left for Phase 2 or to the utilities themselves to determine the complicated process of creating a mutually agreeable notification system.

PG&E – PG&E supports the concept of better communication among the parties about observed safety hazards in the field and, indeed, already has in place a process for third party notification of safety hazards. However, the CPSD proposed Rule 18 is confusing, conflicts with other rules, and is simply unworkable. This proposal attempts to combine two very different functions into one rule: 1) the addressing of observed safety hazards; and 2) the prioritization and correction of GO 95 "violations" or (a better term) non-conformances. Combining these two functions into one rule causes confusion for the responding utilities. By using the words "safety hazard" interchangeably with "violation" results in confusion for the responding utilities in how to prioritize their response. It makes no distinction between addressing a safety hazard (which might require urgent attention) and a routine (and not hazardous) GO 95 nonconformance (such as a missing high voltage sign). This confusion will likely hinder, rather than promote improved safety, since responding utilities will be forced to interpret the rule too broadly to avoid being found out of compliance. PG&E urgently requests that the Commission either defer this subject to Phase 2 to allow time to develop a better, more cogent rule, or narrow the focus of this rule to address (as the title says) only the notification of safety hazards discovered by other utilities.

More specifically, Part A should be completely stricken for several reasons. First, if CPSD intended to create a Phase 1 rule that requires utilities to address “safety hazards” in an appropriate manner, it has failed to limit the words in the rule to achieve its intended effect. The rule is too broad and unworkable to be effective. CPSD’s attempt to incorporate a workable maintenance prioritization model (from the SCE MOU that was approved in SCE’s 2009 GRC) is laudable, but is too preliminary in its development to be successfully adopted at this time. Part A simply needs more time and discussion to ensure it is workable and in the correct place in the General Orders. Second, Part A’s documentation requirement, which seems to require that each and every non-conformance be listed, is unnecessarily paper intensive. PG&E meets its non-conformance correction obligations as effectively and efficiently as possible. If a non-conformance is identified and can be immediately corrected in the field, there is no need to create a tag for it; it requires no follow up because it is fixed. Also, when several issues are identified at one location for correction, only the most serious is coded in the system – as that condition drives the prioritization. The other items get fixed but are not included in the database. It is far better to use field resources to actually address problems than have them unnecessarily spend time on unimportant data input and collection. Part A is unnecessarily prescriptive, unworkable and should not be adopted.

PG&E has less of a problem with Part B, but it also is overly prescriptive and unnecessarily paper intensive. It is true that on occasion PG&E has notified another company about an observed hazard that does not get corrected right away or possibly ever, and PG&E acknowledges that there should be some way to check to ensure that hazards get fixed. PG&E suggests that, with a little more time, the utilities may be able to work out a system that is practical and achieves those goals.

Finally, the rule as a whole requires additional documentation if a hazard or non-conformance is in a high fire area. The existence of a high fire threat is only one of a number of factors used to assess the urgency of the need to address a condition. Having special documentation rules or timelines specifically for fire threat factors creates more work and does not ensure that the hazard will be addressed any more effectively.

SCE – SCE cannot support CPSD’s proposed new Rule 18 because it is too prescriptive to implement and contains requirements that will impose costs without improving fire safety. SCE has put forth its own proposal, described below, which

requires third party notification of safety hazards and a plan to remediate safety hazards when discovered or notified (satisfying CPSD's twin goals). Please see SCE's rationale appended to its own proposal below for a more detailed description of SCE's position.

SIERRA PACIFIC – For the reasons discussed below regarding SCE's alternate proposed Rule 18, Sierra supports SCE's alternate language rather than CPSD's proposed Rule 18.

SMUD – SMUD objects to the CPSD's proposed rule change to add GO 95 Rule 18. This new rule would impose overly prescriptive requirements. Individual utilities should have much greater discretion in the design of their maintenance programs. The CPSD's approach imposes too many unnecessary additional requirements.

AT&T, CALTEL, CCTA, COX, COMCAST, CTIA, SMALL LECs, SUREWEST AND VERIZON –

PART A

There has been no evidence introduced which would support the establishment of the requirements in the proposed rule. The requirements would impose burdensome, unnecessarily detailed and impractical state-wide obligations on utilities and CIPs (e.g., documenting current status of safety hazard before corrective action is taken, documenting why corrective action was not completed by scheduled date) without any appreciation of the resulting problems created for those responsible to implement them and without any indication of how that would promote safety.

Moreover, not only are the requirements of the rule internally inconsistent (e.g., they would require entities to document why a "safety hazard is not completed" prior to the work being completed), the proposed priority levels are inconsistent with the rest of the rule (e.g., "high probability of significant impact" v. "safety hazard") and otherwise seem to impose requirements where there is no safety issue at stake (e.g., 30 days for all clearance issues).

Finally, the proposed definition of "safety hazard" is so overbroad that it makes the rule too subjective and otherwise impossible to implement in a meaningful manner.

PART B

There has been no evidence introduced which would support the establishment of the requirements in the proposed rule. These requirements would impose

burdensome, unnecessarily detailed and impractical state-wide obligations on utilities and CIPs (e.g., 10 days to provide notice) without any appreciation for the type of operational problems they create for those responsible to implement them.

Moreover, the requirements require written notice despite the statements of a number of participants at the workshop that many of the communications on identification of potential hazards are either oral (i.e., by telephone) or by email.

2. SCE Alternate Proposal

(a) Strikeout/Underline of CPSD Proposed Final

18. Reporting and Resolution of Safety Hazards Discovered by Utilities

~~Each utility is responsible for taking appropriate corrective action to remedy safety hazards posed by their facility. Upon completion of the corrective action, the utility records shall show the nature of the work, the date and identity of persons performing the work. Prior to the work being completed, the utility shall document the current status of the safety hazard, including whether the safety hazard is located in an Extreme or Very High Fire Threat Zone, and shall include a scheduled date of corrective action and reasons why the safety hazard is not completed. These records shall be preserved by the utility for at least five years, and shall be of sufficient detail to allow Commission staff during an audit, if any, to determine that the safety hazard has been remedied. The records shall be made available to Commission staff immediately upon request. Additionally, for any work completed after the initial scheduled date of corrective action, the utility will document the reason or reasons that the work was not completed by the original scheduled date of corrective action.~~

~~For purposes of this rule, “safety hazard” means a condition that poses a threat to life or property, including but not limited to the ignition of a wildland or structure fire.~~

~~If a utility, while inspecting its facilities, discovers a safety hazard involving on or near a communications facility, or electric supply transmission or distribution facility, involving another utility, the inspecting utility shall secure the location to the best of its ability and immediately notify the other responsible utility and/or facility owner of such safety hazard no later than 10 business days after the discovery. The inspecting utility shall also provide a copy of the notice to the pole owner(s). The inspecting utility shall include in such notice whether the safety hazard which requires corrective action is located in a designated Extreme or Very High Fire Threat Zone. To the extent the inspecting utility cannot determine the owner/operator of other utility, it shall contact the pole owner(s), who shall be responsible for promptly notifying the utility owning/operating the facility with the safety hazard. The notification shall be in writing and must be preserved by all parties for at least five years. It is the responsibility of each pole owner to know the identity of each entity using or maintaining equipment on its pole.~~

~~Each utility shall establish an emergency response auditable maintenance program in order to provide the necessary and appropriate for maintaining its facilities and lines, including a timeline for remedial actions following the identification of a safety hazard by its own employees and following notification by another utility, a public safety agency, or the public. or violation of General Orders 95 or 128 on the utility’s communication infrastructure, electrical distribution, or electrical transmission system. Priorities shall be based on the specifics of the safety hazard or violation as related to direct impact and the probability for impact on safety or reliability using the following factors: For purposes of this rule, “safety hazard” means a condition that poses a threat to life or property, including but not limited to the ignition of a wildland or structure fire.~~

- ~~Type of facility or equipment;~~
- ~~Location;~~
- ~~Accessibility;~~
- ~~Climate;~~
- ~~Direct or potential impact on operations, customers, electrical utility workers, communications workers, and the general public;~~
- ~~Whether the safety hazard or violation is located in an Extreme or Very High Fire Threat zone.~~

~~There will be three priority levels, as follows:~~

● ~~Level 1:~~

- ~~Immediate safety and/or reliability risk with high probability for significant impact.~~
- ~~Take action immediately, either by fully repairing the condition, or by temporarily repairing and reclassifying the condition to a lower priority.~~

● ~~Level 2:~~

- ~~Variable (non-immediate high to low) safety and/or reliability risk.~~
- ~~Take action to correct within specified time period (fully repair, or by temporarily repairing and reclassifying the condition to a lower priority).~~
- ~~Time period for correction to be determined at the point of identification by a qualified company representative:~~

- ~~Overhead: 0-59 months~~
- ~~Underground: 0-35 months~~

- ~~Where communications company actions result in electric utility GO violations, the electric utility's remedial action will be to transmit a single documented notice of identified violations to the communications company for compliance.~~

● ~~Level 3:~~

- ~~Acceptable safety and/or reliability risk.~~
- ~~Take action (re-inspect, re-evaluate, or repair) at or before the next detailed inspection.~~

~~Exceptions (Levels 2 and 3 only) — Correction times may be extended under reasonable circumstances, such as:~~

- ~~Third party refusal~~
- ~~Customer issue~~
- ~~No access~~
- ~~Permits required~~
- ~~System emergencies (e.g. fires, severe weather conditions)~~

~~Notes: With the exception of a safety hazard or violation requiring immediate~~

~~correction, a utility must correct a violation or safety hazard within 30 days of discovering or being notified of a violation or safety hazard, if the violation or safety hazard violates a clearance requirement listed in columns E, F, or G of Table 1 in this General Order, or violates a pole overloading requirement in Rule 44.2 of this General Order, and is located in an Extreme or Very High Fire Threat Zone.~~

~~A utility must correct a violation or safety hazard within 30 days if the utility is notified that the violation must be corrected to alleviate a significant safety risk to any utility's employees.~~

(b) Proposed Final

18. Reporting and Resolution of Safety Hazards Discovered by Utilities

If a utility, while inspecting its facilities, discovers a safety hazard involving a communications or electric supply facility, the inspecting utility shall secure the location to the best of its ability and immediately notify the responsible utility.

Each utility shall establish an emergency response program in order to provide the necessary and appropriate remedial actions following the identification of a safety hazard by its own employees and following notification by another utility, a public safety agency, or the public. For purposes of this rule, "safety hazard" means a condition that poses a threat to life or property, including but not limited to the ignition of a wildland or structure fire.

(c) Justification/Rationale (SCE)

CPSD's proposal suffers from complexity and an attempt to impose a "one-size fits all" solution to a multi-sized problem. Specifically, CPSD's requirement for an auditable maintenance program is an entirely separate issue from notification and remediation of safety hazards, which should be addressed in Phase 2 of this proceeding. Notably, the Commission declined to impose a one-size-fits-all approach following the extensive workshops and record that ultimately led to the issuance of GO 165.

Today, SCE already identifies GO 95 violations on joint use poles in accordance with the CPSD/SCE Memorandum of Understanding (MOU). It has been our experience that when noticed, either by phone or in writing, the joint owners and Licensees have responded appropriately in the vast majority of cases. Further, if the non-conforming condition requires same day correction, SCE has and continues to take appropriate action to stabilize the situation and stay on site (if necessary) while the responsible party is contacted by phone and the responsible company's crews arrive to remedy the condition. In the vast majority of cases, joint owners and Licensees in SCE's service territory have responded and remedied conditions the

same day as notified, and, in certain instances (where the necessary qualified workers, equipment and materials were available and it was safe to do so), SCE crews have remedied the condition to help ensure public safety and system reliability. As required by the SCE/CPSD MOU, non-conforming conditions not requiring same-day attention are typically transmitted in writing and joint owners and Licensees are allowed to correct the condition in a reasonable time frame.

SCE views the third paragraph and the bulleted items in CPSD's proposed rule as an unhelpful distortion of the priority system set forth in the CPSD/SCE Memorandum of Understanding, because the exact requirements are not clear and would be difficult if not impossible to operationalize. Certainly utilities can and have developed auditable inspection programs, but these programs are customized to fit the unique circumstances of each utility, and were not developed overnight. For example, SCE's new distribution inspection and maintenance program took approximately three years to develop and fully implement following the signing of a memorandum of understanding between SCE and CPSD in August 2005.

Phase 1 of this proceeding did not give parties sufficient time to vet and come to consensus on the prescriptive requirements that would be imposed by CPSD's version of this rule such as: the specific record keeping requirements that will require extensive process and training changes, a 30-day correction requirement for certain types of violations that would be impossible to implement in the field, and an overly-prescriptive 10 business day notification requirement that would doom the utilities to failure from the moment the Rule is implemented. Both the Commission and CPSD have recognized that it is impossible for a utility to maintain its system in perfect compliance with GO 95 at any given moment, and that identified violations should be prioritized for repair taking into account the specifics of the condition.

SCE's proposal will accomplish the Phase 1 goals of CPSD – specifically requiring third-party notification of safety hazards and remediation of those hazards. Implementation procedures, such as time frames, are left to the utilities as is customary in G.O. 95 and necessary to ensure actual compliance. SCE's proposal does not preclude further discussion of these specific issues in Phase 2.

It should be noted that after the close of the April 28-29, 2009 workshops, certain supporters of the SCE proposal suggested alternative language that SCE finds acceptable. Due to the agreed upon protocols for this workshop report, SCE sets forth this alternative language below for the Commission's consideration.

“If a utility, while inspecting its facilities, discovers a safety hazard involving a communications or electric supply facility, the inspecting utility shall secure the location to the best of its ability in a manner consistent with the severity and likelihood of the harm presented, and immediately notify the responsible utility.”

[Second Paragraph of SCE’s Alternate Rule remains unchanged]

- The specific electric utilities, CIPs, and others affected by the proposed rule.

All utilities subject to Commission jurisdiction.

- New and/or revised text for the affected General Order(s), if applicable.

Included above, as SCE Final Proposal. Alternative language offered by a supporting party after the workshop included in rationale.

- The specific hazard(s) addressed by the proposed rule.

Communications to third parties regarding conditions that pose a threat to life or property, including but not limited to the ignition of a wildland or structure fire.

- How the proposed rule reduces or otherwise addresses the hazard(s).

The rule would require utilities to safeguard the area where a safety hazard is identified, immediately notify responsible entity, and establish an emergency response program.

- The anticipated costs and benefits of the proposed rule.

Program costs would vary and depend somewhat on existing protocols. Benefits are uncertain, in that CPSD has not presented any evidence that such communications and corrective action are not being made today in the absence of a rule change.

- Whether and how the costs will be recovered from customers.

Utilities under cost-of-service ratemaking would be entitled to recovery of incremental costs incurred due to the additional requirements of this rule. Incremental costs would be recovered from all ratepayers until the utilities’ next general rate cases wherein such additional costs will form part of the forecast costs.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Cost sharing is not anticipated.

- Why it is in the public interest to adopt the proposed rule.

In the event safety hazards are identified and addressed that would not otherwise have been addressed in the absence of this rule, the immediate addressing of safety hazards is preferable to a delayed response.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

SCE is not aware of any other state or federal regulations that would directly conflict with this proposed rule.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

SCE does not believe that this rule would create any projects under CEQA.

(d) Parties' Comments

Parties in Support

CMUA – CMUA supports SCE's proposed rule change to GO 95, Rule 18 because it addresses many of the concerns that were raised in the OIR to this proceeding, while allowing the flexibility for each utility to design a suitable program based on local conditions. Of primary importance, SCE's proposal permits each utility to notify the utility responsible for a safety hazard, in accordance with the utility's own procedures and does not impose a cumbersome record keeping requirement.

LADWP – LADWP supports SCE's proposed rule change to GO 95, Rule 18 because it is practical and appropriate for a utility to take action in accordance with the utility's own procedures, and does not impose a record keeping requirement.

PACIFICORP – SCE's proposed rule successfully mandates that utilities should provide notifications to other utilities to the extent currently possible, while leaving the complicated task of creating a mutually agreeable notification system to Phase 2 or to the utilities themselves.

Thus, SCE's rule focuses on an achievable result that will reduce the fire hazard in Southern California before October 2009 by ensuring that every utility has some

sort of an emergency response program. Then within Phase 2 or on their own, the Commission and the parties can more thoroughly determine the appropriate requirements and priorities of an auditable maintenance system that will focus on managing non-conformances and reducing the fire hazard over the long term.

SCE – As stated above, SCE supports its proposal over CPD's and the other proposals because it is designed to accomplish CPD's Phase 1 goals without imposing impossible to implement and costly requirements that were not properly vetted by the parties. SCE's proposal, if adopted, does not preclude further discussion of these issues in Phase 2.

SIERRA PACIFIC – Sierra believes SCE's alternate language improves CPD's proposed Rule 18 in several ways:

- (1) It removes the provisions in the first paragraph of CPD's proposal that would impose a redundant requirement for utilities to maintain their facilities and remedy safety violations; utilities already have that obligation under G.O. 95.
- (2) It removes the provisions in the first paragraph of CPD's proposal that would impose redundant and possibly conflicting documentation and record-keeping requirements; these issues are more appropriate to Phase 2, because they require greater analysis and discussion between the parties, and they do not meet the requirements for inclusion in Phase 1 because they will not reduce fire hazards for the Fall 2009 fire season.
- (3) In the third paragraph of CPD's proposal, it simplifies the requirement that a utility provide notice to third parties of safety hazards the utility finds on a third party's facilities. Importantly, it requires immediate notification of the responsible utility, rather than notice within 10 business days as CPD's proposal does.
- (4) It eliminates CPD's proposed requirement for a specific form of maintenance program (which is not an appropriate issue for Phase 1) in favor of a requirement that each utility establish an emergency response program to ensure remedial action following the identification of a safety hazard.

SMUD – SMUD supports SCE's proposed rule change to GO 95, Rule 18 because it addresses many of the concerns that were raised in the OIR to this proceeding, while allowing the flexibility for each utility to design a suitable program based on local conditions. Of primary importance, SCE's proposal permits each utility to notify the utility responsible for a safety hazard, in accordance with the utility's own procedures and does not impose a cumbersome additional record keeping

requirement. This allows the leveraging of SMUD's membership in the Northern Joint Pole Committee.

Parties Neutral

CFBF

PG&E

AT&T, CALTEL, CCTA, COX, COMCAST, CTIA, SMALL LECs, SUREWEST AND VERIZON – SCE's proposed rule seems to address the primary motivation behind Rule 18 as described by CPSD and that is to make sure that entities with facilities on poles communicate and work together when they identify significant safety hazards on poles. The definition of "safety hazard" in this proposal should be refined.

Parties in Opposition

CPSD – CPSD opposes SCE's proposed rule change for several reasons. First, it eliminates the requirement that utilities take appropriate corrective action to remedy safety hazards or GO 95 violations. Thus, it does not address the problem identified by CPSD and other parties, namely that certain utilities have not been maintaining their facilities and have not been responsive when they are notified by other utilities that their facilities pose a hazard. Second, it eliminates the requirement that utilities maintain documentation showing that corrective action has been done. Therefore it takes away the ability of CPSD to conduct audits to ensure that corrective action has been taken and takes away the ability to enforce the rule. Third, SCE's proposal is limited to just safety hazards, and does not include GO 95 violations. Fourth, it is vague as to what is meant by "secure the location to the best of its ability" – does this mean the discovering utility is to remain at the location until the responsible utility is able to come out and remedy the safety hazard? It is unclear whether this proposed rule is meant to only deal with safety hazards that require immediate attention, or whether it also applies to safety hazards which may not require immediate attention, but should nevertheless be corrected promptly because it affects worker safety, poses a clearance problem in an Extreme or High Fire Threat Zone, or poses a danger to the general public. The proposal is too vaguely worded and leaves too much discretion to the utilities in establishing "an emergency response program", which leaves CPSD with the question of how to enforce such a rule. Finally, CPSD notes that SCE's proposal eliminates the various timeframes for correcting certain violations or safety hazards, which CPSD had inserted after hearing utilities' concerns at the workshop that any proposal requiring corrective

action to be taken should recognize the utilities' need to prioritize the corrective action.

DRA

LA COUNTY

SDG&E – Edison's proposal simply restates the status quo, at least for electric utilities. The Commission should move forward from the status quo and establish auditable maintenance programs for all utilities with overhead facilities, prioritize corrective actions, and establish a workable framework for notification of safety hazards involving utility equipment that are discovered during inspections by other utilities.

TURN

3. SDG&E Alternative Proposal to Insert Language at 3rd Paragraph of CPSD Proposed Part A

(a) SDG&E Proposed Language

Insert at 3rd Paragraph of CPSD Original Proposed Part A Rule 18:

Each utility Utilities that have existing General Order 165 maintenance programs shall continue to follow the requirements of General Order 165 with respect to such programs. Utilities that do not have existing General Order 165 maintenance programs shall establish an auditable maintenance program for maintaining its facilities and lines, including a timeline for remedial actions following the identification of a safety hazard or violation of General Orders 95 or 128 on the utility's communication infrastructure, electrical distribution, or electrical transmission system. Priorities shall be based on the specifics of the safety hazard or violation as related to direct impact and the probability for impact on safety or reliability using the following factors:

[resume CPSD's proposed rule]

(b) Proposed Final

Insert at 3rd Paragraph of CPSD Original Proposed Part A Rule 18:

Utilities that have existing General Order 165 maintenance programs shall continue to follow the requirements of General Order 165 with respect to such programs. Utilities that do not have existing General Order 165 maintenance programs shall establish an auditable maintenance program for maintaining its facilities and lines, including a timeline for remedial actions following the identification of a safety hazard or violation of General Orders 95 or 128 on the utility's communication infrastructure, electrical distribution, or electrical transmission system. Priorities shall be based on the specifics of the safety hazard or violation as related to direct impact and the probability for impact on safety or reliability using the following factors:

[resume CPSD's proposed rule]

(c) Justification/Rationale (SDG&E)

- The specific electric utilities, CIPs, and others affected by the proposed rule.
See CPSD discussion.
- New and/or revised text for the affected General Order(s), if applicable.
See CPSD discussion.
- The specific hazard(s) addressed by the proposed rule.
See CPSD discussion.

- How the proposed rule reduces or otherwise addresses the hazard(s).
See CPSD discussion.
- The anticipated costs and benefits of the proposed rule.
See CPSD discussion.
- Whether and how the costs will be recovered from customers.
See CPSD discussion.
- Whether and how costs will be shared among electric utilities, CIPs, and others.
See CPSD discussion.
- Why it is in the public interest to adopt the proposed rule.
See CPSD discussion.
- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.
See CPSD discussion.
- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.
See CPSD discussion.

(d) Parties' Comments

Parties in Support

CPSD

DRA

LA COUNTY

SDG&E – SDG&E supports CPSD's proposed Rule 18, but the auditable maintenance program provisions in CPSD's rule should only apply to utilities that do not have existing General Order 165 maintenance programs. There is no reason to apply the auditable maintenance program provisions to utilities such as SDG&E that have existing General Order 165 maintenance programs overseen by the

Commission, and doing so could create confusion and unnecessary duplication of effort. SDG&E's alternative would accomplish this limited but important clarification.

TURN

Parties Neutral

CFBF

SCE – SCE appreciates SDG&E's attempt to moderate the adverse impact of CPSD's addition of maintenance and inspection requirements to Rule 18. SDG&E's proposal would essentially exempt SCE from those requirements, which is why SCE has voted neutral. However, the Rule still suffers from the same implementation problems SCE describes above. Thus, SCE continues to support its own proposal as the best solution to the Phase 1 issue of third party notification and correction of safety hazards.

Parties in Opposition

CMUA – CMUA opposes SDG&E's proposal for the same reasons it opposes the CPSD's proposal.

LADWP

PACIFICORP – Though PacifiCorp appreciates that SDG&E's rule would limit the effect of this rule on utilities like PacifiCorp that have existing maintenance programs, PacifiCorp cannot support this rule for the reasons that PacifiCorp stated in opposition to CPSD's rule above.

PG&E – See discussion in opposition to the CPSD proposed rule.

SIERRA PACIFIC – For the reasons discussed above regarding SCE's alternate proposed Rule 18, Sierra supports SCE's alternate language requirement utilities to establish an emergency response program for responding to safety hazards rather than SDG&E's proposed language requiring establishment of a maintenance program that goes beyond addressing safety hazards and, therefore, should not be considered until Phase 2.

SMUD – SMUD opposes SDG&E's proposal for the same reasons it opposes the CPSD's proposal.

AT&T, CALTEL, CCTA, COMCAST, COX, CTIA, SMALL LECs, SUREWEST,

VERIZON – See responses to CPSD Proposed Rule 18 A. and B. above. The opponents also note that GO 165 seems to impose an inspection requirement on electric utilities; not the type of maintenance program envisioned by the CPSD rule.

Thus, SDG&E's proposed modification would seem to exempt it from these requirements.

4. CIP Alternative Language/Proposal to CPSD Proposal

(a) CIP Proposed Edits Redlined [Rule 122, Part A: Notification of Safety Hazards and Part B: Maintenance Plans]

Rule ~~118-122~~ Reporting and Resolution of Safety Hazards Discovered by Utilities

[Divided into Part A – Notification of Safety Hazards and Part B – Maintenance Plans]

Part A – Notification of Safety Hazards

Each utility ~~or CIP~~ is responsible for taking appropriate corrective action to remedy safety hazards posed by their facilities ~~iesiesy~~. Upon completion of the corrective action, the utility ~~or CIP shall maintain any records that it collects in the normal course of business in taking the corrective action.~~ records shall show the nature of the work, the date and identity of persons performing the work. Prior to the work being completed, the utility shall document the current status of the safety hazard, including whether the safety hazard is located in an Extreme or Very High Fire Threat Zone, and shall include a scheduled date of corrective action and reasons why the safety hazard is not completed. These records shall be preserved by the utility for at least five years ~~and~~, and shall be of sufficient detail to allow Commission staff during an audit, if any, to determine that the safety hazard has been remedied. The records shall be made available to Commission staff immediately upon request. ~~Additionally, for any work completed after the initial scheduled date of corrective action, the utility will document the reason or reasons that the work was not completed by the original scheduled date of corrective action.~~

For purposes of this rule, “safety hazard” means a condition that poses a significant and immediate and material a threat to human life or real property, including but not limited to the ignition of a wildland or structure fire.

If a utility ~~or CIP~~, while inspecting its facilities, discovers a safety hazard on or near a communications facility ~~or on or near an~~, electric transmission ~~or distribution~~ facility involving another utility, the inspecting utility shall notify the other utility and/or facility owner of such safety hazard ~~no later than 10 business days after the discovery.~~ The inspecting utility shall also provide a copy of the notice to the pole owner(s). The inspecting utility shall include in such notice whether the safety hazard which requires corrective action is located in a designated Extreme or Very High Fire Threat Zone. ~~To the extent the inspecting utility cannot determine the owner/operator of other utility, it shall contact the pole owner(s), who shall be responsible for promptly notifying the utility owning/operating the facility with the safety hazard. The notification shall can be verbal, written or electronic. in writing and must be preserved by all parties for at least five years. It is the responsibility of each pole owner to know the identity of each entity using or maintaining equipment on its pole.~~

Part B – Maintenance Plans

Each utility ~~CIP~~ shall establish an auditable maintenance plan ~~program~~ for maintaining its facilities and lines, including a timeline for remedial actions following

the identification of a safety hazard or ~~violation~~ nonconformance with of General Orders 95, ~~or 128 on the utility's communication infrastructure, electrical distribution, or electrical transmission system.~~ The plan may include a system of P priorities shall be based on the specifics of the safety hazard or ~~violation~~ nonconformance as related to direct impact and the probability for impact on safety, ~~or reliability~~ using the following factors:

- ~~Type of facility or equipment;~~
- ~~Location;~~
- ~~Accessibility;~~
- ~~Climate;~~
- ~~Direct or potential impact on operations, customers, electrical utility workers, communications workers, and the general public;~~
- ~~Whether the safety hazard or violation is located in an Extreme or Very High Fire Threat zone.~~

There plan will be three may include the following priority levels, as follows:

- Level 1:
 - ~~Immediate safety and/or reliability risk with high probability for significant impact. A safety hazard as defined above.~~
 - Take action immediately upon discovering or being notified of the condition, either by fully repairing the condition, or by temporarily repairing and reclassifying the condition to a lower priority.
- Level 2:
 - Variable (non-immediate high to low) safety ~~and/or reliability~~ risk.
 - Take action to correct within specified time period of discovering or being notified of the condition ~~(fully repair, or by temporarily repairing and reclassifying the condition to a lower priority).~~
 - Time period for correction to be commensurate with risk and hazard and may range: ~~determined at the point of identification by a qualified company representative:~~
 - Overhead: 0-59 months
 - ~~Underground: 0-35 months~~
 - ~~Where communications company actions result in electric utility GO violations, the electric utility's remedial action will be to transmit a single documented notice of identified violations to the communications company for compliance.~~
- Level 3:
 - Acceptable safety ~~and/or reliability~~ risk.
 - Take action to correct on or before 60 months ~~(re-inspect, re-evaluate, or repair) at or before the next detailed inspection.~~

Exceptions (Levels 2 and 3 only) –Correction times may be extended under reasonable circumstances, such as:

- Third party refusal
- Customer issue
- No access
- Permits required
- System emergencies (e.g. fires, severe weather conditions)

~~Notes: With the exception of a safety hazard or violation requiring immediate correction, a utility must correct a violation or safety hazard within 30 days of discovering or being notified of a violation or safety hazard, if the violation or safety hazard violates a clearance requirement listed in columns E, F, or G of Table 1 in this General Order, or violates a pole overloading requirement in Rule 44.2 of this General Order, and is located in an Extreme or Very High Fire Threat Zone.~~

~~A utility must correct a violation or safety hazard within 30 days if the utility is notified that the violation must be corrected to alleviate a significant safety risk to any utility's employees.~~

~~Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish minimum boundaries for purposes of this rule. The boundaries of the map are to be broadly construed and utilities are required to use their own expertise and judgement to determine if local conditions require them to go beyond the boundaries of the map.~~

(b) Proposed Final

Rule 122 Reporting and Resolution of Safety Hazards Discovered by Utilities

[Divided into Part A – Notification of Safety Hazards and Part B – Maintenance Plans]

Part A – Notification of Safety Hazards

Each utility or CIP is responsible for taking appropriate corrective action to remedy safety hazards posed by their facilities. Upon completion of the corrective action, the utility or CIP shall maintain any records that it collects in the normal course of business in taking the corrective action. These records shall be preserved by the utility for at least five years and shall be made available to Commission staff upon request. For purposes of this rule, "safety hazard" means a condition that poses a significant threat to human life or real property, including but not limited to the ignition of a wildland or structure fire.

If a utility or CIP, discovers a safety hazard on or near a communications facility or on or near an electric distribution facility involving another utility, the inspecting utility shall notify the other utility and/or facility owner of such safety hazard. The notification can be verbal, written or electronic.

Part B – Maintenance Plans

Each CIP shall establish a maintenance plan for maintaining its facilities and lines, including a timeline for remedial actions following the identification of a safety hazard or nonconformance with General Order 95. The plan may include a system of priorities based on the specifics of the safety hazard or nonconformance as related to direct impact and the probability for impact on safety.

The plan may include the following priority levels:

- Level 1:
 - A safety hazard as defined above.
 - Take action immediately upon discovering or being notified of the condition, either by fully repairing the condition, or by temporarily repairing and reclassifying the condition to a lower priority.
- Level 2:
 - Variable (non-immediate high to low) safety risk.
 - Take action to correct within specified time period of discovering or being notified of the condition.
 - Time period for correction to be commensurate with risk and hazard and may range:
 - Overhead: 0-59 months
- Level 3:
 - Acceptable safety risk.
 - Take action to correct on or before 60 months.

Exceptions (Levels 2 and 3 only) – Correction times may be extended under reasonable circumstances, such as:

- Third party refusal
- Customer issue
- No access
- Permits required
- System emergencies (e.g. fires, severe weather conditions)

Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish minimum boundaries for purposes of this rule.

(c) Justification/Rationale

PART A

(AT&T, CALTEL, CCTA, COX, COMCAST, CTIA, SMALL LECS, SUREWEST AND VERIZON)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

The proposed rule would be applicable to all electric utilities and CIPs that come within the Commission's jurisdiction.

- New and/or revised text for the affected General Order(s), if applicable.

To the extent this rule was adopted as part of the GOs, it would be entirely new as was the CPSD proposal. In fact, as discussed above, this rule is part of an overall package of rules proposed by the CIPs which is designed to address CPSD's desire to take some type of immediate action to address perceived fire concerns. As noted in earlier comments, there has been no evidence introduced which would support or otherwise justify the imposition of new regulations at this time.

Nonetheless, the CIPs have attempted to draft a focused and practical approach to these issues by focusing on initiating actions concerning the perceived but yet unproven material safety hazards related to CIPs, if any, that might exist in the Extreme and Very High Fire Threat Zones in the seven Southern California counties. It should be noted that the CIP's proposed rule is the only rule that conforms with the April 20, 2009 ALJ Ruling and January 6, 2009 ACR which states that "the scope of Phase 1 is limited to measures to reduce fire hazards that are (1) proposed by CPSD and (2) can be implemented in time for the 2009 autumn fire season in Southern California." ACR at 2-3; ALJ Ruling at 4.

- The specific hazard(s) addressed by the proposed rule.

As noted above, there has been no evidence introduced regarding the specific safety hazard CPSD intends to address with this type of rule. Nonetheless, the CIPs understand CPSD has concerns about the manner in which the utilities and CIPs communicate with one another when they identify a safety hazard on joint use poles that theoretically could create a fire risk and the manner in which they remedy any such problem.

- How the proposed rule reduces or otherwise addresses the hazard(s).

The alternate rule proposed by the CIPs addresses all of the potential concerns identified with respect to communications among utilities. Among other things, it:

- Defines “safety hazard” as a condition that poses a significant threat to human life or real property, then relies on that definition throughout the proposed rule; and
- Requires each utility and/or CIP to establish a prioritized maintenance program for facilities, including taking immediate action on safety hazards (as defined).
- The anticipated costs and benefits of the proposed rule.

The parties did not discuss the costs anticipated from the implementation of this proposed rule although the CIP proposal attempts to minimize any costs by allowing carriers to use patrol inspections (as defined in CIP Proposed Rule 121) and ordinary business practices where possible. As for the benefits, the Proposed Rule – especially as focused on the fire zones in the seven counties – ensures that there is an established process for addressing significant threats to human life or real property in these areas to the extent that actions taken by CIPs might possibly reduce perceived risks related to CIP facilities. At the same time, the scope and timeframe of the proposed rule is more realistic and thus it is more likely that utilities and CIPs could implement it successfully.

- Whether and how the costs will be recovered from customers.

The Small LECs are rate of return regulated and may seek to recover these costs in their rate cases in their annual CHCF-A filings, or through another interim ratemaking mechanism. Other CIPs (such as AT&T) may attempt to recover the amounts via authorized surcharges. But the overwhelming majority of the CIPs are URF carriers that are not rate regulated, or wireless carriers whose rates are not regulated by the Commission or cable companies that are also not rate regulated by the Commission. As a result, it is not clear that these competitive entities will be able to recover any of their costs in a competitively neutral manner; thus, it is of paramount importance that any adopted rules especially those applicable to CIPs consider the cost recovery issues and how best to minimize them.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Each entity will be responsible for its own reporting program costs.

- Why it is in the public interest to adopt the proposed rule.

As discussed above, the proposed rule would meet the primary goal of ensuring that utilities and CIPs notify one another of any significant safety hazard in the

designated Southern California fire zones and that they remedy any such hazard appropriately, commensurate with the risk involved. At the same time, the proposed rule would allow them to accomplish these goals in a measured and focused manner and thus mitigate the expenses incurred.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

Not applicable.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable.

**Justification/Rationale for Alternative Language/Proposal (Part B):
(AT&T, CCTA, COX, COMCAST, CTIA, SUREWEST AND VERIZON)**

- The specific electric utilities, CIPs, and others affected by the proposed rule.

See rationale for identical bullet point in Part A above.

- New and/or revised text for the affected General Order(s), if applicable.

See rationale for identical bullet point in Part A above.

- The specific hazard(s) addressed by the proposed rule.

See rationale for identical bullet point in Part A above

- How the proposed rule reduces or otherwise addresses the hazard(s).

The alternate rule proposed by the CIPs addresses all of the potential concerns identified with respect to communications among utilities. Among other things, it requires each utility and/or CIP to:

- Take corrective action when it becomes aware of a safety hazard (as defined) in the affected areas;
- Maintain records of its corrective action;
- Establish a prioritized maintenance program for facilities, including taking immediate action on safety hazards (as defined).

The alternate rule also defines “safety hazard” as a condition that poses a significant threat to human life or real property, then relies on that definition throughout the proposed rule:

- The anticipated costs and benefits of the proposed rule.

See rationale for identical bullet point in Part A above.

- Whether and how the costs will be recovered from customers.

See rationale for identical bullet point in Part A above

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Each entity will be responsible for its own maintenance program costs.

- Why it is in the public interest to adopt the proposed rule.

See rationale for identical bullet point in Part A above

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

Not applicable.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable

(d) Parties' Comments

Part A: Notification of Safety Hazards

Parties in Support

AT&T, CALTEL, CCTA, COMCAST, COX, CTIA, SMALL LECS, SUREWEST, VERIZON – See above justification/rationale for proposed language.

PACIFICORP – The CIPs’ proposed rule appropriately narrows the definition of a safety hazard to significant threats to human life and real property, an important distinction not captured in the other rules. PacifiCorp does not believe that the other parties intend to protect threats to non-human life or non-real property.

Otherwise, PacifiCorp supports the CIPs' proposed rule for the same reasons that it supports SCE's proposed rule above.

PG&E – The CIP proposal represents a reasonable and workable statement of a third party observed hazard notification process and can be supported.

SCE – SCE continues to support its own proposal as the best solution to the issue of notification and correction of safety hazards for Phase 1 of this proceeding. With that said, SCE can also support the CIP proposal for notification and correction of safety hazards. Although the language of the final proposals is different, both SCE's and the CIPs's proposal removes all of the prescriptive portions of CPSD's proposal that would be difficult if not impossible to implement. Thus, SCE can support this proposal if SCE's proposal is not adopted.

SIERRA PACIFIC – At the workshop, Sierra supported the CIPs' alternate proposal for Rule 18, because it corrects some of the flaws in CPSD's proposed Rule 18. Nonetheless, Sierra believes SCE's alternate Rule 18 proves the best approach. The CIP proposal includes requirements on the form and content of a mandated utility maintenance plan. This issue should wait for Phase 2, and any requirement that is ultimately needs to be flexible enough that a utility's existing maintenance plan (and all utilities already have their own) can be utilized without requiring the utility to create a wholly-different plan.

SMUD – *CIP Proposal Part A* - SMUD presently retains these basic records for 5 or more years in most cases, and could readily comply with this proposal.

Parties Neutral

CFBF

CMUA

Parties in Opposition

CPSD – CPSD opposes this proposed rule for several reasons. First, it limits the obligation of utilities to take appropriate corrective action to remedy safety hazards or GO 95 violations to only Extreme and Very High Fire Threat Zones in southern California counties. This conflicts with the general structure of GO 95, which requires utilities to maintain their facilities in compliance with GO 95 rules at all times, and which applies throughout California. Second, CPSD opposes the language that requires a utility to only maintain records “that it collects in the normal course of business in taking the corrective action.” As CPSD noted in its verified

comments, CPSD's audits have revealed that several CIPs do not maintain any records "in the normal course of business" concerning their inspection or maintenance practices. Third, although the CIPs' definition of "safety hazard" includes conditions that impose a "significant" threat to human life, CPSD notes that there is no timeframe within which the utility that discovers a safety hazard must notify the responsible utility. Therefore, a safety hazard that poses a significant threat to life could go unreported to the responsible utility for weeks or months. CPSD also opposes language in the proposed rule which allows for verbal communications, which are unauditible and thus unenforceable. Fourth, CPSD opposes the use of the term "nonconformance" in the proposed rule. According to the Commission in D.04-04-065, 2004 Cal. PUC LEXIS 207 at *18, a "nonconformance" or failure to comply with a general order is a violation. ("Nothing in the language of GO 95, 128 or 165 provides a specified grace period within which to comply with these GOs, or provides that failure to comply is a "nonconformance," with a violation occurring at a later time determined by the utility in accordance with its maintenance schedules.") Finally, CPSD objects to the use of the word "may" in the section concerning priority systems and elimination of the various factors that a utility must consider in establishing a maintenance program. This leaves too much discretion in the hands of the utilities and would be difficult for CPSD to enforce.

DRA

LA COUNTY

LADWP

SDG&E – The CIP alternative does not water down CPSD's proposal as much as the Edison alternative. But SDG&E still prefers the stronger safety-oriented provisions in CPSD's proposed Rule 18.

TURN

Part B: Maintenance Plans

Parties in Support

AT&T, CCTA, COMCAST, COX, CTIA, SUREWEST, VERIZON – See above justification/rationale for proposed language.

SCE – SCE supports the CIPs's maintenance plan proposal because it expressly applies only to the CIPs and SCE supports the CIPs's effort to develop an implementable plan they feel comfortable with. The proposed maintenance priority

plan is modeled after SCE's Memorandum of Understanding re: maintenance and inspection with CPSD.

Parties Neutral

CFBF

CMUA

LAWDP

PACIFICORP – The CIPs' proposed rule achieves the same results as SCE's proposed rule, but in this phase provides optional guidelines for utilities to create maintenance plans that best prioritize fixing non-conformances with General Order 95. PacifiCorp.

SMUD

Parties in Opposition

CPSD – See CPSD's reasons for opposition under Part A, above.

DRA

LA COUNTY

PG&E – See earlier Comments in response to the CPSD proposed rule.

SDG&E – The CIP alternative does not water down CPSD's proposal as much as the Edison alternative. But SDG&E still prefers the stronger safety-oriented provisions in CPSD's proposed Rule 18.

SIERRA PACIFIC

TURN

CALTEL AND THE SMALL LECs – Although CALTEL and the Small LECs support Part A of the CIPs' proposal for Rule 122, CALTEL and the Small LECs cannot support Part B of the CIPs' proposal. Part B would impose a requirement on CIPs that they develop and document specific maintenance plans for remedying nonconformances with G.O. 95 that have been identified. The rule suggests that these plans would be viewed as non-compliant if they do not include a triaging of anticipated maintenance work into a "system of priority levels" based on criteria specified in the rule. CALTEL and the Small LECs oppose Part B of proposed Rule 122 because it appears to remove the flexibility in the current G.O. 95 rules, under which carriers are permitted to address non-conformance with G.O. 95 specifications in accordance with a general reasonableness standard. CALTEL and the Small LECs do not believe that the maintenance standards under G.O. 95 should be modified.

5. Is OIR Phase 1 Appropriate for Rule 18 Changes?

**(a) Part A: Resolution of Safety Hazards and GO 95 Violations
Discovered by Utilities**

Parties Yes

AT&T

CALTEL

CCTA

Cox

CPSD

DRA

LA COUNTY

SDG&E – Rule 18 should be included in Phase I. These important safety-oriented provisions should be adopted by the Commission as quickly as possible.

TURN

Parties Neutral

VERIZON

COMCAST

CFBF

Parties No

CMUA

CTIA

LADWP

PACIFICORP – While resolution of safety hazards that pose a significant threat to human life or real property will reduce the fire hazard in Southern California before October 2009, resolution of all non-conformances with General Order 95 discovered by utilities is not relevant to that goal. As mentioned before, the general consensus of all parties during workshops was that not all non-conformances with General Order 95 pose a significant fire hazard. Similarly, the resolution processes for non-conformances that might take place years into the future is outside the scope of Phase 1.

PG&E – While PG&E understand the desire to adopt a rule that would require appropriate correction of safety hazards in high fire threat areas, CPSD's and SDG&E's proposals are not implementable within the timeframe of Phase 1.

Rule 18 is much too complicated, sweeping, and conflicting with other parts of the CPUC's general orders to be an effective rule in Phase 1.

SCE – CPSD's Part A includes requirements that cannot be implemented – as described above – and includes the maintenance and inspection piece that is overbroad and overly complex. The issues at the heart of this rule should be subject to additional discussion and analysis in Phase 2.

SIERRA PACIFIC

SMALL LECS

SUREWEST

SMUD – SMUD already takes appropriate corrective actions to remedy safety hazards. Further, we notify other facility owners of safety hazards that we discover. It is not apparent how additional reporting and documentation requirements will minimize the risk of fires during the 2009 fire season.

(b) Part B: Notification of Safety Hazards Discovered by Utilities

Parties Yes

AT&T

CALTEL

CCTA

COX

CPSD

CTIA

DRA

LA COUNTY

PACIFICORP – PacifiCorp does believe that notifications of safety hazards between utilities should be discussed in Phase 1 because it can ensure that a safety hazard is rectified in a timely manner and thus reduce the fire hazard in Southern California before October 2009. However, the Commission should be careful to apply a limited and interim regulation whose goal can be achieved by October 2009. Such a regulation can always be expanded and refined, if necessary, after careful examination in Phase 2.

PG&E

SCE – SCE supports including third-party notification of safety hazards in Phase 1, so long as the Rule can be implemented. Thus, SCE has made a proposal that

would accomplish CPSD's goals for Phase 1 and urges Commission adoption of its proposal.

SDG&E – Rule 18 should be included in Phase I. These important safety-oriented provisions should be adopted by the Commission as quickly as possible.

SIERRA PACIFIC

SMALL LECs

SUREWEST

TURN

COMCAST

Parties Neutral

CFBF

CMUA

LADWP

SMUD

VERIZON

Parties No

[None]

D. CPSD PRC 4: CPSD's Proposed Language Regarding Fire Threat Map

1. CPSD Proposal

(a) Original From April 8 Reply Comments

Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish minimum boundaries for purposes of this rule. The boundaries of the map are to be broadly construed and utilities are required to use their own expertise and judgment to determine if local conditions require them to go beyond the boundaries of the map.

(b) Workshop Proposed Changes

Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish ~~minimum~~ approximate boundaries for purposes of this rule. The boundaries of the map are to be broadly construed and ~~utilities are required to~~ should use their own expertise and judgment to determine if local conditions require them to ~~go beyond~~ adjust the boundaries of the map.

(c) Proposed Final

Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish approximate boundaries for purposes of this rule. The boundaries of the map are to be broadly construed and utilities should use their own expertise and judgment to determine if local conditions require them to adjust the boundaries of the map.

(d) Justification/Rationale (CPSD)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

The Fire Threat Map language is not in and of itself a proposed rule, but rather is used to limit application of certain proposed rules to those areas in southern California counties having local conditions which warrant heightened attention because of the potential for wildfires to ignite and spread quickly. However, the language is part of proposed rules or ordering paragraphs which affect owners of any overhead electrical supply and communications facilities that come within the jurisdiction of this Commission, located outside of buildings, including owners of

electric facilities that belong to non-electric utilities, and publicly-owned utility electric supply facilities.

- New and/or revised text for the affected General Order(s), if applicable.

See above.

- The specific hazard(s) addressed by the proposed rule.

As discussed in more detail in CPSD's March 9, 2009, Proposed Rules, at pp. 4-17, devastating fires in southern California occurred in October 2007, and October 2008, and may have been caused by electric wires or CIPs facilities sharing poles with electric wires. CPSD has proposed several safety requirements or clarifications with a focus on Very High and Extreme Fire Threat areas in southern California. These local conditions are well known, and warrant enhanced safety requirements that can be implemented prior to October 2009.

There is no dispute of the devastating nature of fires linked to power lines. According to Cal Fire, the Witch Fire in October 2007 was the third largest California wildland fire in terms of structures destroyed and fourth largest wildland fire in terms of acreage burned.²⁰ In addition, counting the Witch Fire, according to Cal Fire, at least four of the 20 largest wildland fires in California history were attributable to power lines.²¹ Therefore, 20% of the largest wildland fires in California's history (since reliable data has been recorded) have been attributable to power lines. The reason that this is true was explained at the workshop on February 2009 by Los Angeles County Fire Chief John Todd, where he stated that the local conditions, such as the Santa Ana Winds, which may contribute to the power lines' ignition of fires, are also the conditions which can quickly cause the fires to spread.

The widespread nature of the fires, which occurred in October 2007 and October 2008, may also be signs of the future as the result of global warming, which is why more safety requirements are necessary. At the February 6, 2009 workshop,

²⁰ See Cal Fire's web sites:

www.fire.ca.gov/communications/downloads/fact_sheets/20_LACRES.pdf and www.fire.ca.gov/communications/downloads/fact_sheets/20_LSTRUCTURES.pdf.

The Witch Fire refers to both the Witch Fire and the Guejito Fire, which both merged into one fire. The fact that Cal Fire's reference to the Witch Fire in these charts includes the Guejito Fire is evident from the amount of acres destroyed and the fact that it was the Guejito Fire that resulted in two casualties.

²¹ See *id.*

George Gentry, Executive Officer of the California Board of Forestry and Fire Protection, further explained both the necessity and urgency of Commission action by stating that the conditions in southern California are rapidly moving towards the conditions recently seen in Australia due to southern California's drier climate, types of vegetation, and locations of where people are living. He therefore stated that it was most urgent for the Commission to require further measures to prevent or mitigate fires in southern California's very high and extreme fire threat areas, because that is where the greatest risk of a catastrophic conflagration may occur.

- How the proposed rule reduces or otherwise addresses the hazard(s).

In accordance with the January 6, 2009 Scoping Memo's directive to focus Phase 1 on measures that can reduce fire hazards and begin implementation in time for the October 2009 southern California fire season, CPSD has limited the application of several of its proposals to those areas in southern California counties having local conditions which warrant heightened attention because of the potential for wildfires to ignite and spread quickly.

To this end, CPSD proposed using Cal Fire's FRAP Fire Threat Map to identify designated Extreme and Very High Fire Threat zones in California. CPSD recognizes that the Fire Threat Map was not specifically designed as a scoping mechanism for utility regulations, and that there are limitations to using the map in the context of these proposed rules. However, several parties, including PacifiCorp and SDG&E, acknowledge that the FRAP Fire Threat Map is "the best resource currently available" and "will likely provide a workable solution." (See PacifiCorp Comments, at p. 4; SDG&E Comments, at p. 7.) The main concern with using this map, as pointed out by Cal Fire and other parties, is that the data format of the map is resolved in 100m squares of land, which results in blocky, "pixilated" boundaries, which make it difficult to determine exact boundaries and may allow for the possibility that one segment of a power line is "in" which others immediately adjacent would be "out." Another concern, raised by Cal Fire, is that the map is not routinely maintained, and was last updated in 2004.

In order to address these limitations, CPSD has inserted language into the proposed rules which provides that the Fire Threat Map is to be used as a tool to establish approximate boundaries; the boundaries shall be broadly construed and utilities should utilize their expertise and exercise their own judgment to determine if local conditions require them to adjust the boundaries of the map. This is consistent

with the scope of existing safety rules, which “embody only the requirements which are most important from the standpoint of safety and service” and which require utilities to use “accepted good practice for the given local conditions.” (See GO 5, Rule 3.) This language is a reasonable approach that allows utilities to utilize whatever methods or technology is available (such as “splining”) to adjust the boundaries of the map in a sensible manner so it may be overlaid with maps of utility systems. The language also gives utilities the flexibility to adjust the boundaries outward, in cases where local conditions have changed to a degree that they should now be considered Extreme or Very High Fire Threat Zones. It also gives utilities flexibility to adjust the boundaries of the map inward, to exclude areas which no longer may be considered Very High or Extreme Fire Threat Zones (as in the case of development for example).

- The anticipated costs and benefits of the proposed rule.

The FRAP Map language is not in and of itself a proposed rule, therefore CPSD will address the costs in context with the proposed rules which include the FRAP Map language. However, CPSD notes that limiting the application of certain proposed rules to Extreme and Very High Fire Threat Zones in southern California should have the effect of lessening the financial burden on utilities to comply with the rules.

CPSD refers to the discussion above, as well as the discussion in PRC 1 regarding the benefits of this proposal.

- Whether and how the costs will be recovered from customers.

See discussion in PRC 2.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Not applicable.

- Why it is in the public interest to adopt the proposed rule.

See discussion above regarding benefits, and discussion in PRC 1 regarding cost/benefits.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

Not applicable.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable.

(e) Parties' Comments

Parties in Support

CPSD

DRA

LA COUNTY

SDG&E – This map-related language provides a workable basis for establishing which areas should constitute Extreme and Very High Fire Threat Zones. As SDG&E pointed out in written comments, the Fire Threat Map will need to be refined for utility use. In particular, the map will need to be tailored to exclude those areas described as “measles” in the March 16, 2009 technical workshop. In addition, the outline of the Fire Threat Map is quite irregular, and will need to be smoothed through a technique called splining to make the map more useful with linear features such as power lines. CPSD’s revised language allows this necessary map refinement process to take place.

TURN

Parties Neutral

CMUA

LADWP

PG&E

SMUD

Parties in Opposition

AT&T, CALTEL, CCTA, COMCAST, COX, CTIA, SMALL LECS, SUREWEST AND VERIZON – While the use of the FRAP Fire Threat Maps to define the geographic areas in which certain obligations will be imposed on electric utilities and CIPs is supported by the above listed parties, CPSD’s proposal inserts a significant degree of ambiguity into the determination of those actual geographic areas. The result is a

considerable potential for electric utilities and/or CIPs to be subject to liability for failure to perform an ordered task within what CPSD interprets to be the defined area.

Specifically, requiring that the boundaries of the FRAP Fire Threat Maps be “broadly construed” and that CIPs/electric utilities must use their own expert judgment in determining whether local conditions require them to adjust those boundaries imposes a standard which is impossible to meet, thereby placing CIPs/electric utilities in an untenable situation. First, the CPSD proposal introduces conflicting standards in that its states that the FRAP Fire Threat map is to be used to establish “approximate” boundaries, but then states that those boundaries should be “broadly construed.” This would seem to imply that while the boundaries are approximate, the CIP/electric utility could not adjust them such that geographic area would be, in any manner, reduced. Second, it is unclear whether CIPs/electric utilities have the expertise to determine whether the boundaries of the FRAP Fire Threat map should be adjusted for the purposes of performing the activity (e.g., inspection, maintenance) required by the rule to take into account local, fire related, conditions. Moreover, “use of expert judgment” to determine geographic boundaries leaves open the potential for potential of post facto investigation and retrospective determination by the CPSD whether that expert judgment was appropriately utilized.

CFBF – The opposition to the use of the maps is tied to the Alternate proposed by CFBF to the clarification to Table 1, Case 14 regarding orchards. The opposition would be removed if the clarifying footnote is incorporated.

CTIA

PACIFICORP – The last sentence of this paragraph adds unnecessary ambiguity to this rule and will lead to unnecessary disagreements about the proper boundaries of these Fire Threat Zones. In addition, as discussed in PacifiCorp’s comments to CPSD’s first proposed rule change related to CIP inspections, CPSD’s proposed broad construction of the areas defined as Extreme and Very High Fire Threat Zones may be appropriate in southern California given the general contours of their Fire Threat Zones covering wide swaths of continuous area. However, Fire Threat Zones in northern California appear in a spotty manner throughout the map. A broad construction of such a spotty map may have a much more wasteful implication

on all of the various rules utilizing the map. Use and refinement of the Fire Threat Map should be more fully analyzed in Phase 2.

SCE – Although SCE supports PG&E’s proposed language as providing the most flexibility for establishing boundaries based upon the Fire Threat Maps, SCE greatly appreciates the changes CPSD made during the workshops. CPSD’s proposal would allow more flexibility than the original language, which could not have been practically implemented because the Fire Threat Maps were not designed to predict utility-caused fires and the boundaries are not smooth.

However, CPSD’s compromise language would still require that modifications made to the maps only extend the Map’s boundaries. SCE supports PG&E’s proposal as more practical because PG&E’s proposal would allow for the drawing of lines based on actual conditions in the field that could result in boundaries that are narrower than those on the Map.

SIERRA PACIFIC – Sierra believes PG&E’s revised language regarding the use of the California Department of Forestry and Fire Protection’s FRAP Fire Threat Map for establishing boundaries improves upon CPSD’s language because it more clearly enunciates the need for the Commission to give utilities flexibility in use of the map by providing that the map is to be used to establish approximate boundaries. The last sentence of CPSD’s revised language confuses contradicts that directive by providing that the boundaries of the map are to be broadly construed.

2. PG&E Alternative Language/Proposal to Fire Threat Map Language

(a) PG&E's Changes to CPSD's Language

Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish minimum approximate boundaries for purposes of this rule. The boundaries of the map are to be broadly construed and utilities are required to should may use their own expertise and judgment to determine if local conditions require them to go beyond adjust the boundaries of the map.

(b) Proposed Final

Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish approximate boundaries for purposes of this rule.

(c) Justification/Rationale (PG&E)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

The FRAP Fire Threat Map and fire threat zones will be used in several rules in GO 95 to establish areas in the state that will require additional activity on the part of electric and communications utilities that have facilities in those areas.

- New and/or revised text for the affected General Order(s), if applicable.

See above text.

- The specific hazard(s) addressed by the proposed rule.

The hazard being addressed through the use of these maps is the potential risk of fires in Extreme and Very High Fire Threat Zones associated with the presence of electric and communications facilities. Although the maps are an imperfect tool for a variety of reasons (not intended for use in a utility fire mitigation context, lack of accuracy or ability to define specific lines that denote fire threat, outdated information that does not reflect changing climatic, vegetation, development and population conditions, etc.), they can be a reasonable surrogate – provided the utilities are given some latitude in defining fire threat boundaries and are not penalized for imperfections in the process. Any potential determination of possible violations should be based on a due diligence standard which looks at whether a

utility has demonstrated a reasonable approach to determining potential fire threat areas.

- How the proposed rule reduces or otherwise addresses the hazard(s).

The FRAP Fire Threat Map and fire threat zones will be used in several rules in GO 95 to establish areas in the state that will require additional activity in the form of inspections, maintenance, construction, etc. on the part of electric and communications utilities that have facilities in those areas, which additional activity may provide additional mitigation of the potential risk of fires in high fire hazard areas.

- The anticipated costs and benefits of the proposed rule.

Costs will be addressed in relation to the individual rules that will refer to the FRAP Fire Threat Maps. See above for benefits.

- Whether and how the costs will be recovered from customers.

Not applicable.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Not applicable.

- Why it is in the public interest to adopt the proposed rule.

See discussion above concerning the benefits.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

Not applicable at this time.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable.

(d) **Parties' Comments**

Parties in Support

AT&T, CALTEL, CCTA, COMCAST, COX, CTIA, SMALL LECS, SUREWEST AND VERIZON – The PG&E alternative maintains the use of the FRAP Fire Threat map to define the geographic areas in which certain obligations will be imposed on CIPs/electric utilities, but takes away the significant ambiguity regarding the application of the map boundaries which is inherent in the CPSD proposal. While the PG&E alternative, by providing that the FRAP map is to provide “approximate” boundaries, allows for the CIP/electric utility to conform the sometimes “jagged edges” of the FRAP Fire Threat map boundaries to their service area, it does not then introduce the conflicting language present in the CPSD alternative that the boundaries are to be “broadly construed.” Moreover the PG&E alternative does not impose the obligation for the CIP/electric utility to use an expertise which it may or may not have to determine whether the boundaries of the map should be expanded to take into account local, fire related, conditions.

PACIFICORP – Parties at the workshop seem to have come to a general consensus that Cal-Fire’s Fire Threat Map, while the best available map, is not as useful or as accurate a tool for targeting the efforts of the parties as the parties would like. A modified Fire Threat Map needs to address these additional factors:

- the granularity of its pixilated data
- ember spread based on extreme and probable wind conditions
- the type of utility facilities
- agricultural lands
- the need for splining

The collective wisdom and expertise of both fire personnel and utility personnel are necessary to develop a fire map that provides an accurate reference tool to focus efforts to effectively reduce the fire hazard posed by utility lines. In the meantime, however, the existing Fire Threat Map can be used to determine approximate boundaries in southern California where the fire threat zones do not appear spotty in nature. As has been mentioned before, the Extreme and Very High Fire Threat Zones in PacifiCorp’s service territory are spotty in nature, as opposed to covering wide swaths of continuous area in southern California.

There are great difficulties with delineating the exact boundaries of each spot on the map that identifies these fire threat zones to a sufficient level of granularity so that they are useful to workers on the ground. In addition, there could be a loss in efficiency as crews will be required to shuffle between various protocols as they move in and out of fire threat zones even while performing inspections and maintenance along a specific line or within a specific area. Together, these difficulties and inefficiencies will lead to increased costs with little to no benefit for fire safety. Thus, the value of the Fire Threat Map in northern California needs to be further analyzed before its use. In southern California, using the Fire Threat Map as an approximate guide will allow its best use before October 2009.

PG&E – PG&E has proposed alternate language to better characterize the flexibility that is needed in order to make use of the FRAP Fire Threat Maps, which as described above are an imperfect tool, at best.

SCE – SCE supports PG&E’s language for the reasons stated above regarding CPD’s proposal.

SIERRA PACIFIC – Sierra believes PG&E’s revised language regarding the use of the California Department of Forestry and Fire Protection’s FRAP Fire Threat Map for establishing boundaries improves upon CPD’s language more clearly enunciates the need for the Commission to give utilities flexibility in use of the map by providing that the maps to be used to establish approximate boundaries.

Parties Neutral

CMUA

LADWP

SDG&E – The first two sentences of this proposed rule are the same as the CPD language SDG&E supports. But PG&E’s elimination of CPD’s final sentence makes it unclear whether utilities would be able to refine the Fire Threat Map for utility use, and therefore SDG&E prefers CPD’s proposed rule.

SMUD

Parties in Opposition

CFBF – The opposition to the use of the maps is tied to the Alternate proposed by CFBF to the clarification to Table 1, Case 14 regarding orchards. The opposition would be removed if the clarifying footnote is incorporated.

CPD – The language that has been removed by PG&E was intended to address the concerns raised by Cal Fire in their opening comments concerning the fact that

the map is not frequently updated. Thus, CPSD inserted language informing utilities that they should use their own expertise and judgment to determine if local conditions require them to adjust the boundaries of the map. This is in line with other parts of GO 95 which require utilities to use accepted good practice for the given local conditions. Thus, as conditions in southern California get drier, utilities may be required to adjust the boundaries of the map to include areas which are not reflected in the current version of the map. Likewise, it gives utilities the ability to exclude areas that may no longer be considered Extreme or High Fire Threat Zones, due to development for example.

DRA

LA COUNTY

TURN

E. CPSD PRC 5: Proposed New GO 95, Rule 19: Cooperation With Commission Staff; Preservation of Evidence Related to Incidents

1. CPSD Proposal

(a) CPSD Original From April 8 Reply Comments

Each utility shall provide full cooperation to Commission staff in an investigation into any major accident (as defined in Rule 17) or any reportable incident (as defined in General Order 165), regardless of pending litigation or other investigations, including those which may be related to a Commission staff investigation. Once the scene of the incident has been made safe and electric power has been restored, each utility shall provide Commission staff upon request immediate access to:

- Any factual or physical evidence under the utility or utility agent's physical control, custody, or possession related to the incident;
- The name and contact information of any known percipient witness;
- Any employee percipient witness under the utility's control;
- The name and contact information of any person or entity that has taken possession of any physical evidence removed from the site of the incident;
- Any and all documents under the utility's control that are related to the incident and are not subject to attorney-client privilege.

Any and all documents or evidence collected as part of the utility's own investigation related to the incident shall be preserved for at least five years. The Commission's statutory authorization under Cal. Pub. Util. Code §§ 313, 314, 314.5, 315, 581, 582, 584, 701, 702, 771, 1794, 1795, 8037 and 8056 to obtain information from utilities, which relate to the incidents described above, is delegated to Commission staff.

(b) Workshop Proposed Changes

Each utility shall provide full cooperation to Commission staff in an investigation into any major accident (as defined in Rule 17) or any reportable incident (as defined in General Order 165 or CPUC Resolution E4184), regardless of pending litigation or other investigations, including those which may be related to a Commission staff investigation. Once the scene of the incident has been made safe and ~~electric power~~ service has been restored, each utility shall provide Commission staff upon request immediate access to:

- Any factual or physical evidence under the utility or utility agent's physical control, custody, or possession related to the incident;
- The name and contact information of any known percipient witness;
- Any employee percipient witness under the utility's control;
- The name and contact information of any person or entity that has taken possession of any physical evidence removed from the site of the incident;

- Any and all documents under the utility's control that are related to the incident and are not subject to attorney-client privilege.

Any and all documents or evidence collected as part of the utility's own investigation related to the incident shall be preserved for at least five years. The Commission's statutory authorization under Cal. Pub. Util. Code §§ 313, 314, 314.5, 315, 581, 582, 584, 701, 702, 771, 1794, 1795, 8037 and 8056 to obtain information from utilities, which relate to the incidents described above, is delegated to Commission staff.

(c) Proposed Final

Rule 19: Cooperation With Commission Staff; Preservation of Evidence Related to Incidents

Each utility shall provide full cooperation to Commission staff in an investigation into any major accident (as defined in Rule 17) or any reportable incident (as defined in General Order 165 or CPUC Resolution E4184), regardless of pending litigation or other investigations, including those which may be related to a Commission staff investigation. Once the scene of the incident has been made safe and service has been restored, each utility shall provide Commission staff upon request immediate access to:

- Any factual or physical evidence under the utility or utility agent's physical control, custody, or possession related to the incident;
- The name and contact information of any known percipient witness;
- Any employee percipient witness under the utility's control;
- The name and contact information of any person or entity that has taken possession of any physical evidence removed from the site of the incident;
- Any and all documents under the utility's control that are related to the incident and are not subject to attorney-client privilege.

Any and all documents or evidence collected as part of the utility's own investigation related to the incident shall be preserved for at least five years. The Commission's statutory authorization under Cal. Pub. Util. Code §§ 313, 314, 314.5, 315, 581, 582, 584, 701, 702, 771, 1794, 1795, 8037 and 8056 to obtain information from utilities, which relate to the incidents described above, is delegated to Commission staff.

(d) Justification/Rationale (CPSD)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

This proposed rule would apply to owners of any overhead electrical supply and communications facilities that come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities and publicly-owned utility electric supply facilities.

- New and/or revised text for the affected General Order(s), if applicable.

See above.

- The specific hazard(s) addressed by the proposed rule.

When major fires or other accidents, such as explosions, need to be investigated by CPSD for preparing accident reports, providing guidance to the Commission for new rules, or to investigate violations of existing Commission rules or regulations, the recalcitrance of utilities can thwart or significantly delay CPSD's investigations. Moreover, once an adjudicatory Order Instituting Investigation (OII) is issued, the Commission faces a legislative deadline of 12 months to issue its decision, therefore timely cooperation by utilities is necessary in order to meet this deadline.

Although the fires in October, 2007, gave rise to this OIR, it will not be until slightly before October, 2009, before the Commission can adopt or clarify rules to try to prevent future fires involving the utilities' facilities under the expedited schedule of Phase 1 of this OIR. This delay is due, in large part, from the lack of cooperation which CPSD faced in the investigation of the October 2007, fires, as well as the limited resources of Commission staff. Indeed, since this was already the law, and yet CPSD met much resistance investigating these fires, it is necessary for the Commission to support its staff, so that their enforcement of the rules adopted in Phase 1 of this proceeding do not fall prey to the same delays for CPSD.

Significantly, the Commission made this the very first issue in the OIR in its preliminary scope of issues. In doing so, the Commission stated that "a utility's obligation to cooperate with CPSD under applicable law should be reinforced." (OIR at p. 11). To the extent that CPSD, which is the investigatory arm of the Commission, does not have full support of the Commission to conduct these investigations, then the Commission's own authority and statutory duty to protect the safety of the people of California from hazardous utility facilities would be undermined. As the Commission found in D.02-02-049, *mimeo*, at p. 4, "legislative bodies must be able to delegate broadly, because without such delegation, the wheels of government grind to halt. [citation omitted.] The same is true of administrative agencies." Citing *California School Employees Assn v. Personnel Comm.*, (1970) 3 Cal.3d 139, 144, the Commission held that it may delegate authority to its staff to investigate, determine facts and make recommendations. (D.02-02-049, *mimeo*, at p. 5.)

The Commission, accordingly, already expects the type of cooperation CPD has set forth in its proposed rule; the proposed rule is simply meant to make this expectation clear and easy to understand in order to prevent disputes between CPD staff and utility staff, and minimize the need for attorney assistance in obtaining cooperation.

For these reasons, it is imperative that the Commission support CPD's efforts to find the objective facts and evidence in these accident investigations by clarifying that the CPD is entitled to promptly receive information it requests pursuant to the Commission's authority under Pub. Util. Code §§ 313, 314, 315, 581, 582, 584, 701, 702, 771, 1794, 1795, 8037 and 8056. Moreover, it is also critical to understanding the truth of what occurred to require the utilities to preserve any factual evidence and documents not protected by the attorney-client privilege.

- How the proposed rule reduces or otherwise addresses the hazard(s).

CPD proposes a new provision in GO 95 which places an obligation on each utility to fully cooperate with CPD staff during investigations, and requires each utility to preserve factual evidence related to a reportable incident and make that evidence available to CPD staff immediately upon request. In this regard, CPD requests that the Commission clarify that with regards to CPD staff investigating a reportable incident, all of the Commission's statutory authority to gather information from utilities is available to CPD staff, which is the investigating arm of the Commission.

Certain parties claimed that the requirement that utilities provide "immediate" access to witnesses and evidence was unreasonable, as the utility's primary obligation during a significant incident is to make the scene safe and restore service. CPD does not imagine that its staff would interfere with utility workers attempting to make an accident scene safe or restoring power. Nonetheless, CPD revised its proposed rule to clarify that once an incident scene has been made safe and service has been restored, utilities have an obligation to provide immediate access to witnesses and factual evidence. CPD has retained the word "immediate" in the proposed rule because sometimes it is necessary for CPD to have access to witnesses and physical evidence as close as possible to the timing of the incident. CPD prefers "immediate" to "prompt" or "timely" because in CPD's experience the utilities believe that as much as a two month delay in responding could still be considered "prompt" or "timely."

CPSD deleted the full definition of “reportable incident” which was in an earlier version of its proposed rule and instead cross referenced GO 165 and GO 95, Rule 17 in order to streamline the proposal. CPSD has concurrently proposed that GO 165 be modified to include the electric utility accident reporting requirements, which are currently contained in Resolution E-4184 (and which contain the definition of a “reportable incident”). If the Commission agrees with CPSD’s proposal to insert the accident reporting requirements into GO 165 (see PRC 9, below), then proposed Rule 19 should retain its reference to GO 165; otherwise, the rule should refer to Resolution E-4184. A placeholder indicating these choices has been inserted in the proposed rule above.

- The anticipated costs and benefits of the proposed rule.

As this rule merely clarifies the utilities’ obligation to cooperate with Commission investigations, CPSD anticipates no additional costs associated with the proposed rule. The benefits include the ability of CPSD to prepare accident reports, provide guidance to the Commission for new rules, or to investigate violations of existing Commission rules or regulations. This ultimately results in enhanced public safety. See also the discussion above and in PRC 1 for additional benefits.

- Whether and how the costs will be recovered from customers.

Not applicable.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Not applicable.

- Why it is in the public interest to adopt the proposed rule.

The public interest in this clarification is already clearly stated in the Commission’s OIR, p. 11, when it stated:

The CPSD is charged with investigating utility-related incidents and accidents pursuant to the mandate of Pub. Util. Code § 315. If utilities fail to promptly report incidents to CPSD, and/or fail to provide meaningful access to information and evidence, then the critical public safety intent of the statute is frustrated. Regardless of pending litigation and other investigations, which may be related to a CPSD investigation, a utility’s obligation to cooperate with CPSD under applicable law should be reinforced. See, e.g., Pub. Util. Code §§ 313, 314, 315, 581, 582, 584, 701, 702, 771, 1794 and 1795. Similarly, municipalities providing electric services

should fully cooperate with CPSD when they are inspecting the municipalities' electric facilities under Pub. Util. Code §§ 8037 and 8056.

More specifically, the Commission may clarify: the need for immediate reporting of any fire related incident to CPSD; the need for preservation of documents; the need for preservation of evidence implicated by a CPSD investigation; the need for prompt, *complete* and accurate responses to CPSD's inquiries (whether written or oral); and a utility's obligation not to impede the discovery of information from agents of a utility.

See also, the *discussion* above concerning the benefits of the proposed rule, and the cost/benefit discussion in PRC 1, above.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

See discussion in PRC 2, above.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable.

(e) Parties' Comments

Parties in Support

CPSD

LA COUNTY

TURN – TURN supports CPSD's rule but is neutral on the inclusion of the attorney work-product doctrine language.

Parties Neutral

CFBF

Parties in Opposition

AT&T, CALTEL, CCTA, COX, COMCAST, CTIA, SMALL LECS, SUREWEST, AND VERIZON – There is no basis for adopting CPSD's Proposed Rule 19. First,

CPSD fails to identify a fire hazard and describe how the rule reduces the risk of the fire hazard. Second, CPSD states it anticipates that there are no additional costs associated with its Proposed Rule 19. This conclusion is erroneous. This rule creates costs for utilities and CIPs, especially with regard to retention of physical evidence. For example, there are numerous automobile accidents throughout the State of California that involve poles. Under CPSD's Rule 19, utilities and CIPs would apparently have to retain these poles whenever, among other conditions, damages exceed \$50,000 or there was personal injury requiring in-patient hospitalization. Certainly, many accidents could meet this criterion, and utilities or CIPs would have to store these poles for at least five years under the proposed rule. Third, this rule is entirely unnecessary rule with respect to its requirements regarding cooperation with the Commission's Staff. Under CPSD's Rule 19, the Commission authority to perform investigations is "delegated to the Commission Staff" under certain statutes. This rule is unnecessary because the Commission and its Staff already have the statutory authority to gain access to the records of utilities, subject to certain privileges, and there is no reason that such authority needs to be put into a rule or a General Order.

CMUA – CMUA rejects the CPSD's proposed new GO 95, Rule 19 for the following reasons: (1) the Commission lacks the jurisdiction to investigate accidents that involve the facilities of a publicly-owned electric utility; (2) Rule 19 issues are more appropriate for Phase 2 because it is unrelated to preventing fires in the 2009 fire season; (3) Rule 19 is unnecessary because existing legislation and GO 95 Rules already give the Commission the authority to take these actions against Commission-jurisdictional entities; and (4) the CPSD's proposed Rule 19 does not acknowledge the attorney work product privilege.

LADWP

PACIFICORP – Parties have stated during the course of this proceeding that "timely" access to the various items sought by CPSD may be possible and of the same benefit to CPSD as "immediate" access because "immediate" access may be impossible or especially onerous. Similarly, documents that constitute attorney work product are not required to be produced. For these reasons, PacifiCorp agrees with the SDG&E revision of CPSD's rule.

PG&E – PG&E recognizes the CPSD's duty and obligation to investigate incidents on behalf of the Commission, has always tried to cooperate with the CPSD

investigations and believes that it has a good track record in that respect. PG&E recognizes and appreciates the fact that CPSD has removed a number of objectionable provisions of the earlier version of this proposed rule. However, it continues to oppose this because: (1) it has nothing to do with preventing fires so is outside the scope of this proceeding and especially Phase 1; (2) the CPSD already has authority to investigate and simply needs to enforce that authority; (3) the requirement for “immediate” access to witnesses and evidence is not reasonable, and does not consider due process, the rights or convenience of the employee or the need of the utility to operate its business; and (4) the rule does not recognize the attorney work product doctrine protections. If there have been abuses/lack of cooperation from certain parties during recent investigations, then the more appropriate course is to address those issues individually – not create yet another rule.

SCE – SCE opposes CPSD’s Rule 19 because, fundamentally, this is a Phase 2 issue. Nothing in this proposed rule will prevent fires from occurring this season. If the Commission does wish to adopt a rule, SDG&E’s version preserves the Attorney Work Product Doctrine (a statutory privilege), cites the correct resolution for accident reporting, and substitutes the more implementable “timely” for “immediate” when requiring access to materials involved in an incident.

SDG&E – SDG&E does not believe CPSD’s proposed new Rule 19 is necessary. Reasonable access to evidence relevant to utility-related incidents and evidence preservation is already provided by existing rules, code provisions, and common law requirements. If, however, the Commission believes there needs to be a new cooperation with staff and evidence preservation rule before the next fire season, SDG&E urges the Commission to include the limited but important changes to CPSD’s proposed Rule 19 sponsored by SDG&E.

SIERRA PACIFIC – For the reasons Sierra provides below with regard to the question of whether this proposed addition to G.O. 95 is appropriate for Phase 1, this proposed changes is outside the scope of Phase 1, as that scope was established by the ACR.

SMUD – SMUD rejects the CPSD’s proposed new GO 95, Rule 19 for the following reasons: (1) In previous G.O. 95 rulemaking the Commission has correctly acknowledged that POUs are responsible to their elected boards or city councils in conducting accident investigations; (2) Rule 19 issues are more appropriate for

Phase 2 because it is unrelated to preventing fires in the 2009 fire season; and
(3) the CPSD's proposed Rule 19 does not acknowledge the attorney work product
privilege.

2. SDG&E Alternate Language/Proposal

(a) Strikeout/Underline of CPD Proposed Rule

Rule 19 Cooperation with Commission Staff; Preservation of Evidence Related to Incidents

Each utility shall provide full cooperation to Commission staff in an investigation into any major accident (as defined in Rule 17) or any reportable incident (as defined in General Order 165 or CPUC Resolution E-4184), regardless of pending litigation or other investigations, including those which may be related to a Commission staff investigation. Once the scene of the incident has been made safe and ~~electric power~~ service has been restored, each utility shall provide Commission staff upon request ~~immediate~~ timely access to:

- Any factual or physical evidence under the utility or utility agent's physical control, custody, or possession related to the incident;
- The name and contact information of any known percipient witness;
- Any employee percipient witness under the utility's control;
- The name and contact information of any person or entity that has taken possession of any physical evidence removed from the site of the incident;
- Any and all documents under the utility's control that are related to the incident and are not subject to the attorney-client privilege or attorney work product doctrine.

Any and all documents or evidence collected as part of the utility's own investigation related to the incident shall be preserved for at least five years. The Commission's statutory authorization under Cal. Pub. Util. Code §§ 313, 314, 314.5, 315, 581, 582, 584, 701, 702, 771, 1794, 1795, 8037 and 8056 to obtain information from utilities, which relate to the incidents described above, is delegated to Commission staff.

(b) Proposed Final

Rule 19 Cooperation with Commission Staff; Preservation of Evidence Related to Incidents

Each utility shall provide full cooperation to Commission staff in an investigation into any major accident (as defined in Rule 17) or any reportable incident (as defined in General Order 165 or CPUC Resolution E-4184), regardless of pending litigation or other investigations, including those which may be related to a Commission staff investigation. Once the scene of the incident has been made safe and service has been restored, each utility shall provide Commission staff upon request timely access to:

- Any factual or physical evidence under the utility or utility agent's physical control, custody, or possession related to the incident;
- The name and contact information of any known percipient witness;
- Any employee percipient witness under the utility's control;

- The name and contact information of any person or entity that has taken possession of any physical evidence removed from the site of the incident;
- Any and all documents under the utility's control that are related to the incident and are not subject to the attorney-client privilege or attorney work product doctrine.

Any and all documents or evidence collected as part of the utility's own investigation related to the incident shall be preserved for at least five years. The Commission's statutory authorization under Cal. Pub. Util. Code §§ 313, 314, 314.5, 315, 581, 582, 584, 701, 702, 771, 1794, 1795, 8037 and 8056 to obtain information from utilities, which relate to the incidents described above, is delegated to Commission staff.

(c) Justification/Rationale (SDG&E)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

See CPSD discussion.

- New and/or revised text for the affected General Order(s), if applicable.

See CPSD discussion.

- The specific hazard(s) addressed by the proposed rule.

SDG&E does not believe that any specific hazard is addressed by the proposed rule.

- How the proposed rule reduces or otherwise addresses the hazard(s).

Not applicable.

- The anticipated costs and benefits of the proposed rule.

Costs are unknown and benefits, if any, are uncertain.

- Whether and how the costs will be recovered from customers.

Utilities should be allowed to recover from customers all reasonable costs of complying with new rules or requirements adopted in this proceeding, including any new rule relating to preservation of evidence and cooperation with Commission staff.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

See previous answer.

- Why it is in the public interest to adopt the proposed rule.

SDG&E does not believe that any particular public interest is served by a new rule relating to preservation of evidence and cooperation with Commission staff.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

Not applicable.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

See CPSD discussion.

(d) Parties' Comments

Parties in Support

PACIFICORP – Please see PacifiCorp's comment to CPSD's proposed rule above.

PG&E – If a new rule is truly needed on this subject, then PG&E supports the language of the SDG&E alternate proposal. The word "timely" is more appropriate than "immediate" and the protection of the attorney work product doctrine has been added. The rule is phrased to additionally indicate that only documents protected by the attorney work doctrine would be protected (which would properly include any document prepared at the direction of an attorney in anticipation of litigation, but would not protect routine business records). Again, if a party is abusing the attorney work product doctrine, then the proper remedy is with the discovery referee – there is no reason to exclude that recognized protection from the rule.

SCE – SCE supports SDG&E's version of this rule although SCE's first preference is to move this issue to Phase 2. Two important changes were made in SDG&E's version. First, SDG&E's version recognizes that the Attorney Work Product Doctrine applies in any Commission proceeding or investigation, which is no less true in the context of this Rule. Second, the effect of changing the word "immediate" to "timely" is important to SCE since "immediate" implies an objection can be made even when events are out of SCE's control. The word "timely" not only connotes urgency, but also reasonableness and cooperation.

SDG&E – As noted above, SDG&E does not see a need for a new rule mandating preservation of evidence and cooperation with Commission staff. If the Commission

disagrees, then the two limited changes proposed by SDG&E need to be in the rule. First, CPSD would require the utilities to provide “immediate” access to accident sites, utility witnesses, and all relevant documents. SDG&E’s version of the rule would require “timely” rather than “immediate” access to evidence for Commission staff. Given the numerous variables involved with incidents and accidents, and given the substantial time often required to access potentially voluminous documents, the “immediate” access to documents and evidence proposed by CPSD is not realistic.

Second, SDG&E’s revised language would clarify that both the attorney-client privilege and the attorney work product doctrine apply to document requests under the new rule. The Commission recognizes both the attorney-client privilege and the attorney work product doctrine, and so should any new rule mandating preservation of evidence and cooperation with Commission staff.

Parties Neutral

CCTA, COX and CTIA – While as expressed above in response to the CPSD proposal, there is no basis for this type of rule, if the Commission proceeds to adopt a rule of this nature, the SDG&E alternative has some critical components not present in the CPSD option. First it makes the obligation on utilities to provide access to CPSD to a variety of items a ‘timely’ one compared to ‘immediate’, thus allowing flexibility comensurate with the specific circumstances. Moreover, it protects the attorney work product doctrine.

CFBF

SIERRA PACIFIC – If, and only if, the Commission decides to add to G.O. 95 a redundant requirement to cooperate with Staff and preserve evidence as part of its Phase 1 notwithstanding the fact that this issue is beyond the stated scope of Phase 1 issues, SCE’s alternate language is superior to CPSD’s proposal because it correctly and appropriately recognizes the existence of the attorney work product doctrine.

TURN

Parties in Opposition

AT&T, CALTEL, COMCAST, SMALL LECS, SUREWEST, AND VERIZON – These parties oppose the SDG&E Alternative on the same basis given for their opposition to the CPSD proposed rule.

CMUA – CMUA rejects SDG&E’s proposal for the same reasons that it rejects the CPSD’s proposal.

CPSD – There are two substantive differences between CPSD’s proposed Rule 19 and SDG&E’s proposed Rule 19. First, SDG&E deletes the word “immediate” from the first paragraph and inserts the word “timely” instead. Certain parties originally claimed that CPSD’s requirement that utilities provide “immediate” access to witnesses and evidence was unreasonable, as the utility’s primary obligation during a significant incident is to make the scene safe and restore power. As explained above, CPSD already modified its original proposal to accommodate this concern. CPSD opposes SDG&E’s modification because the word “timely” is vague and does not recognize CPSD’s need to obtain access to documents, witnesses, and evidence as close as possible to the actual timing of the incident. Second, SDG&E inserts the phrase “attorney work product doctrine” into the bullet point concerning access to documents. CPSD will further discuss the use of the attorney work product doctrine in the context of this rule in its opening brief. However, while CPSD agrees that an attorney’s mental impressions are privileged, CPSD is concerned that this language will be used to deprive CPSD access to documents, witnesses, or physical evidence related to an incident.

LA COUNTY

LADWP

SMUD – SMUD rejects SDG&E’s proposal for the same reasons that it rejects the CPSD’s proposal.

3. Is OIR Phase 1 appropriate for Proposed CPSD PRC 5 Rule 19?

Parties Yes

CPSD

LA County

TURN

Parties Neutral

CFBF

Parties No

AT&T, CalTel, CCTA, COX, COMCAST, CTIA, SMALL LECS, SUREWEST, AND

VERIZON – Brief Summary of Reasons Why CPSD’s Proposed Rule 19 Should Be Addressed in Phase 2. CPSD has not shown that this proposed rule is related to reducing fire hazards associated with the fire season. For this reason, it should not be part of Phase 1.

CMUA – The CPSD’s stated goal for Phase I was to minimize the risk of further fires by adopting rules that can be implemented before the 2009 fire season. While Proposed Rule 19 could likely be implemented before the 2009 fire season, it is not at all clear how Proposed Rule 19 would minimize the risks of fire in the 2009 fire season. The rule aims to improve the Commission’s ability to investigate incidents that have already occurred. Any resulting fire prevention would presumably come from new Commission safety rules informed by more accurate information. This is a long-term benefit and could clearly be a part of Phase II.

LADWP – The rule aims to improve the Commission’s ability to investigate incidents that have already occurred. Thus, rule 19 issues are more appropriate for Phase 2 because it is unrelated to preventing fires in the 2009 fire season.

PACIFICORP – This rule will not reduce the fire hazard in southern California before October 2009 and so is outside the scope of Phase 1. Physical evidence retention, which might potentially include whole poles, for five years is particularly onerous and should be evaluated in Phase 2 to determine its need, if any.

PG&E – As previously noted, this rule is not within the scope of this proceeding at all, and certainly will do nothing to mitigate fire risk as soon as this Fall.

SCE – SCE’s first position with respect to proposed Rule 19 is that the issue should be discussed in Phase 2 of this proceeding. Phase 1 was dedicated to developing rules that will mitigate fire risk and could be implemented quickly. This Rule has no

relationship to mitigating fire risk. In fact, by definition, this rule only applies after a fire has already happened. Thus, the Rule is out of scope and deserves more discussion in Phase 2.

SDG&E – As noted above, SDG&E does not believe CPSD’s proposed new Rule 19 is necessary. Reasonable access to evidence relevant to utility-related incidents and evidence preservation is already provided by existing rules, code provisions, and common law requirements. Utilities have a broad responsibility to preserve information and provide it to the Commission pursuant to numerous Public Utilities Code provisions. If the Commission believes a utility has not lived up to these statutory responsibilities, it can and will investigate the utility’s conduct. The primary impetus for this new rule appears to be CPSD’s displeasure with the cooperation provided by SDG&E after fires in the fall of 2007 in SDG&E’s service territory. But SDG&E’s cooperation after these fires is already an issue in two ongoing Commission investigations. SDG&E believes that this proposed rule, and the numerous complex questions it raises, is not an appropriate subject of Phase I of this proceeding. Before any such rule is created, the Commission and affected utilities should be allowed to take a much more careful look at whether the rule is necessary, and, if so, whether the provisions being proposed now are appropriate. Concerns that should be looked at more carefully include: (1) the limited ability of utilities to provide access to sites and evidence controlled by Cal Fire or other agencies; (2) the right of utility employees and the employees of third-party contractors to consult with counsel before being interviewed by CPSD or other investigators; and (3) the potential burdens created by requiring all evidence relating to accidents and incidents (including automobiles striking utility poles) for five years.

SIERRA PACIFIC – CPSD’s PRC 5, to add a Rule 19 to G.O. 95 requiring utilities to cooperate with CPSD in its investigation into reportable incidents and preserve evidence, is inappropriate for Phase 1.

As set forth in the ACR, the scope of Phase 1 is limited to (1) measures to reduce fire hazards that are (2) proposed by CPSD and (3) can be implemented in time for the 2009 autumn fire season in southern California.

First, utilities are already required, by at least the 14 state statutes that CPSD cites in its proposed Rule 19, to cooperate with Commission Staff and preserve evidence. Second, a requirement to cooperate with Staff and preserve evidence will

not reduce fire hazards in the 2009 autumn fire season and thus is beyond the scope of Phase 1.

SMUD – CPSD’s stated goal for Phase I was to minimize the risk of further fires by adopting rules that can be implemented before the 2009 fire season. While Proposed Rule 19 could likely be implemented before the 2009 fire season, it is not at all clear how Proposed Rule 19 would minimize the risks of fire in the 2009 fire season. The rule aims to improve the Commission’s ability to investigate incidents that have already occurred. Any resulting fire prevention would presumably come from new Commission safety rules informed by more accurate information. This is a long-term benefit and could clearly be a part of Phase II.

**F. CPSD PRC 6a. Proposed Revisions/Additions to GO 95,
Rule 35: Tree Trimming**

1. CPSD Proposal

(a) CPSD Original From April 8 Reply Comments

Rule 35 ~~Tree Trimming~~ Vegetation Management

Where overhead conductors are located by vegetation ~~wires pass through trees,~~ safety and reliability of service demand that vegetation management ~~tree trimming~~ be done in order that conductors ~~the wires may clear branches and foliage~~ vegetation by a reasonable distance. The minimum clearances established in Table 1, Cases 13 and 14, measured between line conductors and vegetation under normal conditions, shall be maintained. (Also see Appendix E for tree trimming guidelines.)

When a utility has actual knowledge, obtained either through normal operating practices or notification to the utility, dead, rotten and diseased trees or portions thereof, that overhang or lean toward and may fall into a span, should be removed.

Communication and electric supply circuits, energized at 750 volts or less, including their service drops, should be kept clear of vegetation ~~limbs and foliage~~, in new construction and when circuits are reconstructed or repaired, whenever practicable. When a utility has actual knowledge, obtained either through normal operating practices or notification to the utility, that any circuit energized at 750 volts or less shows strain or evidences abrasion from ~~tree contact~~ vegetation, the condition shall be corrected by slacking or rearranging the line, trimming the ~~tree~~ vegetation or placing mechanical protection on the conductor(s). For the purpose of this rule, abrasion is defined as damage to the insulation resulting from the friction between the ~~tree~~ vegetation and conductor. Scuffing or polishing of the insulating covering is not considered abrasion. Strain on a conductor is present when there is additional tension causing a deflection of the conductor beyond the slack of the span. Contact between ~~limbs~~ vegetation and these conductors, in and of itself, does not constitute a violation of the rule.

EXCEPTIONS:

- (1) Rule 35 requirements do not apply to conductors, or aerial cable that complies with Rule 57.4-C , 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 to avoid conductor damage by abrasion and grounding of the circuit through the vegetation.
- (2) Rule 35 requirements do not apply where the utility has made a “good faith” effort to obtain permission to trim or remove vegetation but permission was refused or unobtainable. A “good faith” effort shall consist of current documentation of a minimum of an attempted personal contact and a written communication, including documentation of mailing or delivery. However, this does not preclude other action or actions from demonstrating “good faith”. If permission to trim or remove vegetation is unobtainable and requirements of

- exception 2 are met, the utility is not compelled to comply with the requirements of exception 1.
- (3) The Commission recognizes that unusual circumstances beyond the control of the utility may result in nonconformance with the rules. In such cases, the utility may be directed by the Commission to take prompt remedial action to come into conformance, whether or not the nonconformance gives rise to penalties or is alleged to fall within permitted exceptions or phase-in requirements.
- (4) Mature trees whose trunks and major limbs are located more than six inches, but less than ~~18 inches~~ the clearance required by Table 1, Cases 13E and 14E, from primary distribution conductors are exempt from the required minimum clearance requirement under this rule. The trunks and limbs to which this exemption applies shall only be those of sufficient strength and rigidity to prevent the trunk or limb from encroaching upon the six-inch minimum clearance under reasonably foreseeable local wind and weather conditions. The utility shall bear the risk of determining whether this exemption applies, and the Commission shall have final authority to determine whether the exemption applies in any specific instance, and to order that corrective action be taken in accordance with this rule, if it determines that the exemption does not apply.

(b) Workshop Proposed Changes

Rule 35 Vegetation Management²²

Where overhead conductors traverse ~~are located by~~ trees and vegetation, safety and reliability of service demand that certain vegetation management activities be ~~done~~ performed in order that ~~conductors clear vegetation by~~ to establish necessary and reasonable distance clearances. The minimum clearances ~~established~~ set forth in Table 1, Cases 13 and 14, measured between line conductors and vegetation under normal conditions, shall be maintained. (Also see Appendix E for tree trimming guidelines.)

When a utility has actual knowledge, obtained either through normal operating practices or notification to the utility, dead, rotten and diseased trees or portions thereof, that overhang or lean toward and may fall into a span, should be removed.

Communication and electric supply circuits, energized at 750 volts or less, including their service drops, should be kept clear of vegetation, in new construction and when circuits are reconstructed or repaired, whenever practicable. When a utility has actual knowledge, obtained either through normal operating practices or notification to the utility, that any circuit energized at 750 volts or less shows strain or evidences abrasion from vegetation contact, the condition shall be corrected by ~~slacking~~ reducing conductor tension, or rearranging or replacing the line conductor,

²² The Phrase "Tree Trimming" should be changed to "Vegetation Management" at page II-2 of the Table of Contents for Section III, and at page 36 of the Index to GO 95.

~~trimming, pruning or clearing~~ the vegetation, or placing mechanical protection on the conductor(s). For the purpose of this rule, abrasion is defined as damage to the insulation resulting from the friction between the vegetation and conductor. Scuffing or polishing of the ~~insulation covering~~ insulating covering is not considered abrasion. Strain on a conductor is present when ~~deflection causes there is additional tension~~ causing a deflection of the conductor beyond the intended allowable tension slack of the span. Contact between vegetation and ~~these~~ insulated conductors, in and of itself, does not constitute a violation of the rule.

EXCEPTIONS:

- (1) Rule 35 requirements do not apply to conductors, or aerial cable that complies with Rule 57.4-C, 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 to avoid conductor damage by abrasion and grounding of the circuit through the vegetation.
- (2) Rule 35 requirements do not apply where the utility has made a “good faith” effort to obtain permission to trim or remove vegetation but permission was refused or unobtainable. A “good faith” effort shall consist of current documentation of a minimum of an attempted personal contact and a written communication, including documentation of mailing or delivery. However, this does not preclude other action or actions from demonstrating “good faith”. If permission to trim or remove vegetation is unobtainable and requirements of exception 2 are met, the utility is not compelled to comply with the requirements of exception 1.
- (3) The Commission recognizes that unusual circumstances beyond the control of the utility may result in nonconformance with the rules. In such cases, the utility may be directed by the Commission to take prompt remedial action to come into conformance, whether or not the nonconformance gives rise to penalties or is alleged to fall within permitted exceptions or phase-in requirements.
- (4) Mature trees whose trunks and major limbs are located more than six inches, but less than ~~48 inches~~ the clearance required by Table 1, Cases 13E and 14E, from primary distribution conductors are exempt from the required minimum clearance requirement under this rule. The trunks and limbs to which this exemption applies shall only be those of sufficient strength and rigidity to prevent the trunk or limb from encroaching upon the six-inch minimum clearance under reasonably foreseeable local wind and weather conditions. The utility shall bear the risk of determining whether this exemption applies, and the Commission shall have final authority to determine whether the exemption applies in any specific instance, and to order that corrective action be taken in accordance with this rule, if it determines that the exemption does not apply.

(c) Proposed Final

Rule 35 Vegetation Management

Where overhead conductors traverse trees and vegetation, safety and reliability of

service demand that certain vegetation management activities be performed in order to establish necessary and reasonable clearances. The minimum clearances set forth in Table 1, Cases 13 and 14, measured between line conductors and vegetation under normal conditions shall be maintained. (Also see Appendix E for tree trimming guidelines.)

When a utility has actual knowledge, obtained either through normal operating practices or notification to the utility, dead, rotten and diseased trees or portions thereof, that overhang or lean toward and may fall into a span, should be removed.

Communication and electric supply circuits, energized at 750 volts or less, including their service drops, should be kept clear of vegetation, in new construction and when circuits are reconstructed or repaired, whenever practicable. When a utility has actual knowledge, obtained either through normal operating practices or notification to the utility, that any circuit energized at 750 volts or less shows strain or evidences abrasion from vegetation contact, the condition shall be corrected by reducing conductor tension, rearranging or replacing the conductor, pruning the vegetation, or placing mechanical protection on the conductor(s). For the purpose of this rule, abrasion is defined as damage to the insulation resulting from the friction between the vegetation and conductor. Scuffing or polishing of the insulating covering is not considered abrasion. Strain on a conductor is present when deflection causes additional tension beyond the allowable tension of the span. Contact between vegetation and conductors, in and of itself, does not constitute a violation of the rule.

EXCEPTIONS:

- (1) Rule 35 requirements do not apply to conductors, or aerial cable that complies with Rule 57.4-C , 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 to avoid conductor damage by abrasion and grounding of the circuit through the vegetation.
- (2) Rule 35 requirements do not apply where the utility has made a “good faith” effort to obtain permission to trim or remove vegetation but permission was refused or unobtainable. A “good faith” effort shall consist of current documentation of a minimum of an attempted personal contact and a written communication, including documentation of mailing or delivery. However, this does not preclude other action or actions from demonstrating “good faith”. If permission to trim or remove vegetation is unobtainable and requirements of exception 2 are met, the utility is not compelled to comply with the requirements of exception 1.
- (3) The Commission recognizes that unusual circumstances beyond the control of the utility may result in nonconformance with the rules. In such cases, the utility may be directed by the Commission to take prompt remedial action to come into conformance, whether or not the nonconformance gives rise to penalties or is alleged to fall within permitted exceptions or phase-in requirements.
- (4) Mature trees whose trunks and major limbs are located more than six inches,

but less than the clearance required by Table 1, Cases 13E and 14E, from primary distribution conductors are exempt from the minimum clearance requirement under this rule. The trunks and limbs to which this exemption applies shall only be those of sufficient strength and rigidity to prevent the trunk or limb from encroaching upon the six-inch minimum clearance under reasonably foreseeable local wind and weather conditions. The utility shall bear the risk of determining whether this exemption applies, and the Commission shall have final authority to determine whether the exemption applies in any specific instance, and to order that corrective action be taken in accordance with this rule, if it determines that the exemption does not apply.

(d) Justification/Rationale (CPSD)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

This proposed rule would apply to owners of any overhead electrical supply and communications facilities that come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities and publicly-owned utility electric supply facilities. However, the majority of CPSD's proposed rule change will only affect electric utilities.

- New and/or revised text for the affected General Order(s), if applicable.

See above.

- The specific hazard(s) addressed by the proposed rule.

The above proposed changes to Rule 35 only consist of part of the overall changes CPSD has proposed for vegetation management rules (see PRC 6b and PRC 6c, below). In this part of the proposed rule change, CPSD changed the phrase "tree-trimming" to "vegetation management." This change is necessary to avoid confusion over what type of vegetation may constitute a "tree." The use of the term "vegetation management" also reflects industry standard, and is the term commonly used in FERC regulations as well as the California Public Resource Code.

- How the proposed rule reduces or otherwise addresses the hazard(s).

First, the proposed changes clarify the name of the rule from "Tree Trimming" to "Vegetation Management" because the rule has always been about maintaining a safe clearance between vegetation and the conductors. Second, the rule change incorporates the reference to Case 14 (see PRC 6c, below), which requires greater clearances in Extreme and Very High Fire Threat zones in southern California counties. Third, the proposed rule cleans up the paragraph that deals

with insulated-low voltage conductors and communication conductors. The third change does not make the rule stricter, but gives a utility more information on how to correct a violation between vegetation and insulated-low voltage conductors and communication conductors, and cleans up the language so it is easier to understand.

- The anticipated costs and benefits of the proposed rule.

There should be no costs associated with the proposed changes to this part of the rule.

- Whether and how the costs will be recovered from customers.

Not applicable.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Not applicable.

- Why it is in the public interest to adopt the proposed rule.

See discussion regarding benefits, above. See also, discussion on cost/benefits in PRC 1, above.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

See discussion in PRC 2, above.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

See discussion in PRC 2, above.

(e) **Parties' Comments**

Parties in Support

CFBF

CMUA – The changes to the language of the CPSD's proposed rule change to GO 95, Rule 35 were the result of a collaborative effort at the workshop. CMUA supports these changes.

CPSD

LA COUNTY

LADWP

MUSSEY GRADE – Mussey Grade Road Alliance voted for this version of Rule 35 and believes it to be a reasonable. However, the Alliance suggests that, in Phase 2, the term "vegetation management" is defined as used in Rule 35.

PACIFICORP – PacifiCorp agrees that "vegetation management" is a more appropriate industry term for the activities taking place as a result of Rule 35 than "tree trimming." In addition, PacifiCorp supports the removal of the word "slacking" and its replacement with the appropriate methods of correcting or rearranging a line. However, though PacifiCorp supports SCE's and CPSD's proposed changes in this rule, PacifiCorp does not believe that including the option of "pruning" eliminates the need to include "clearing" among the activities that a utility may need to perform to keep its lines clear of vegetation. The option to clear vegetation should be and will be used infrequently, but should remain an option for utilities when simply "pruning" the vegetation will not be enough to keep a line clear.

PG&E – PG&E appreciates the collaborative nature of the discussion on this rule and supports the clarifications contained in the changes.

SCE – SCE supports this effort to clean-up the language of Rule 35 and conform it to the other changes and cross-references agreed to at the workshops. SCE greatly appreciates that CPSD has adopted its proposal as a near-consensus proposal for Rule 35. SCE does not view the language changes to Rule 35 to be substantive in nature, but instead the changes resolve some ambiguities previously observed with the Rule.

SDG&E – The proposed wording changes provide additional clarity to Rule 35.

SIERRA PACIFIC

SMUD – The changes to the language of the CPSD’s proposed rule change to GO 95, Rule 35 were the result of a collaborative effort at the workshop. SMUD supports these changes.

TURN

Parties Neutral

SMALL LEC

SUREWEST

Parties in Opposition

AT&T, CCTA ,COMCAST AND COX – CPSD’s Proposed Rule 35 changes the title of the rule as well as the term “tree trimming” used throughout to “vegetation management.” The term “vegetation management” has not been defined by CPSD. Because this term is undefined, utilities have no basis for determining how to implement it. Consequently, utilities would have to rely on their own discretion to determine how to define this term. If CPSD then audited utilities regarding the measures they had implemented for vegetation management, CPSD could claim that utilities had violated the rule by not sufficiently implementing it. To avoid such problems associated with implementation of this new rule, the revision should include a definition of vegetation management. Because CPSD did not provide a definition during the workshops, this issue should either be deferred until Phase 2 or the term “tree trimming” should be retained.

**G. CPSD PRC 6b. Proposed Revisions/Additions Re GO 95,
Rule 35, Appendix E: Guidelines to Rule 35**

1. CPSD Proposal Re Appendix E: Guidelines to Rule 35

(a) CPSD Original From April 8 Reply Comments

<u>Case</u>	<u>Voltage of Lines</u>	<u>Case 13 of Table 1</u>	<u>Case 14 of Table 1</u>
A.	Radial clearances for any conductor of a line operating at 2,400 or more volts, but less than 72,000 volts	4 feet	<u>6.5 feet</u>
B.	Radial clearances for any conductor of a line operating at 72,000 or more volts, but less than 110,000 volts	6 feet	<u>10 feet</u>
C.	Radial clearances for any conductor of a line operating at 110,000 or more volts, but less than 300,000 volts	10 feet	<u>15 feet</u>
D.	Radial clearances for any conductor of a line operating at 300,000 or more volts	15 feet	<u>20 feet</u>

(b) Workshop Proposed Changes

<u>Interim Revisions to Guidelines to Rule 35</u>			
<p>The following are guidelines to Rule 35.</p> <p>The radial clearances shown below are minimum clearances that should be established, at time of trimming, between the vegetation and the energized conductors and associated live parts where practicable. <u>Reasonable</u> vegetation management practices may make it advantageous to obtain greater clearances than those listed below:</p>			
<u>Case</u>	<u>Voltage of Lines</u>	<u>Case 13 of Table 1</u>	<u>Case 14 of Table 1</u>
A.	Radial clearances for any conductor of a line operating at 2,400 or more volts, but less than 72,000 volts	4 feet	<u>6.5 feet</u>
B.	Radial clearances for any conductor of a line operating at 72,000 or more volts, but less than 110,000 volts	6 feet	<u>10 feet</u>
C.	Radial clearances for any conductor of a line operating at 110,000 or more volts, but less than 300,000 volts	10 feet	15 <u>20 feet</u>
D.	Radial clearances for any conductor of a line operating at 300,000 or more volts	15 feet	<u>20 feet</u>

(c) Proposed Final

Interim Revisions to Guidelines to Rule 35

The following are guidelines to Rule 35.

The radial clearances shown below are minimum clearances that should be established, at time of trimming, between the vegetation and the energized conductors and associated live parts where practicable. Reasonable vegetation management practices may make it advantageous to obtain greater clearances than those listed below:

<u>Voltage of Lines</u>	<u>Case 13 of Table 1</u>	<u>Case 14 of Table 1</u>
Radial clearances for any conductor of a line operating at 2,400 or more volts, but less than 72,000 volts	4 feet	6.5 feet
Radial clearances for any conductor of a line operating at 72,000 or more volts, but less than 110,000 volts	6 feet	10 feet
Radial clearances for any conductor of a line operating at 110,000 or more volts, but less than 300,000 volts	10 feet	20 feet
Radial clearances for any conductor of a line operating at 300,000 or more volts	15 feet	20 feet

(d) Justification/Rationale (CPSD)

- The specific electric utilities, CIPs, and others affected by the proposed rule.
See PRC 6a, above.
- New and/or revised text for the affected General Order(s), if applicable.
See above.
- The specific hazard(s) addressed by the proposed rule.
See discussion in PRC 6a, above, and PRC 6c, below.
- How the proposed rule reduces or otherwise addresses the hazard(s).

The Guidelines to Rule 35 (see GO 95, Appendix E) provide for additional minimum clearances that should be established at the time of trim, and provides that, “[v]egetation management practices may make it advantageous to obtain greater clearances than those listed below.” The Guidelines currently provide for an additional clearance of 2½ feet at the time of trim. CPSD agreed that this additional 2½ feet of clearance also should apply to CPSD’s revised minimum clearance standard for Extreme and Very High Fire Threat zones in southern California, and CPSD has revised the Guidelines to Rule 35 accordingly.

- The anticipated costs and benefits of the proposed rule.

This proposed change is merely ancillary to the revisions in PRC 6c, below. See discussion in PRC 6c, below. CPSD does not anticipate any additional costs associated with this portion of the rule change, as it is merely intended to maintain the utilities' ability to trim an additional 2½ feet beyond the revised minimum clearances, as set forth in Case 14 of Table 1, below.

- Whether and how the costs will be recovered from customers.

This proposed change is merely ancillary to the revisions in PRC 6c, below. See discussion in PRC 6c, below.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Not applicable.

- Why it is in the public interest to adopt the proposed rule.

This proposed change is merely ancillary to the revisions in PRC 6c, below. See discussion in PRC 6a, above, and PRC 6c, below.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

See discussion in PRC 2, above.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

See discussion in PRC 2, above.

(e) Parties' Comments

Parties in Support

CFBF – Support of this revision is dependent upon the inclusion of the alternative proposed by CFBF clarifying Table 1, Rule 14.

CPSD

MUSSEY GRADE – The Alliance suggested the term reasonable be included in this section, which was adopted. The clarification that additional trimming beyond the stated minimum clearances be reasonable is consistent with Rule 35 language.

LADWP

Parties Neutral

CMUA

CCTA

COX

COMCAST

SMUD

TURN – TURN supports PG&E’s additional language clarifying vegetation management practices which may make it advantageous for a utility to obtain greater clearances. HOWEVER, TURN cannot support or oppose PG&E’s proposed increases to the Case 14 clearances because there is not enough information at this time regarding the potential additional costs of this proposal.

Parties in Opposition

LA COUNTY

PACIFICORP – It has been PacifiCorp’s experience that this language in the Guidelines to Rule 35 is not sufficient to convince its customers that a utility will need greater clearances than those listed in the table. Ensuring that utilities in Southern California have the ability to obtain greater clearances than those listed in this table, especially necessary in those targeted areas where there is a higher fire threat, will greatly reduce the fire hazard in Southern California before October 2009. While increasing the minimum clearances may be a reasonable first step, it is the performance language included in PG&E’s alternative that will go much further in ensuring that a utility can obtain the access from land owners that it needs to obtain the appropriate clearances and ensure that its lines are kept clear of vegetation.

PG&E – PG&E supports the increased clearances proposed in this guideline change. However, PG&E opposes this version of the guidelines because they do not go far enough in supporting the mandated and necessary vegetation management efforts of the electric utilities. The Commission and the utilities have a joint responsibility to ensure safe and reliable electric power at a reasonable cost, and vegetation management along power lines and right-of-ways is an essential tool in making sure that responsibility is met and to maintain the continuous delivery of

safe and reliable power. The Commission should be a strong and staunch partner in this activity.

Managing such a program is no small task. Each year, PG&E's vegetation management program reviews every mile of every line in the PG&E service territory to identify the work that needs to be done to maintain clearances. PG&E's specially trained and qualified tree care professionals annually prune or remove approximately 1.6 million trees and clear vegetation from the base of 120,000 power poles. PG&E is one the largest employers of International Society of Arboriculture (ISA) Certified Arborists in the nation, and its staff includes Registered Professional Foresters and Utility Arborists. Its program has been recognized throughout the country as "best in class" and has received awards annually since 1995 for its arboriculture practices that protect and enhance America's urban forests. It has a robust public information program focused on educating property owners both on the need to keep the lines clear of vegetation as well as appropriate landscaping and plant selection near power lines.

However, currently, the language of this rule causes more problems than it solves and it needs to be enhanced. Sometimes property owners who have land where trees pose a threat to the electric lines (whether a fire threat, a safety issue or a reliability problem) may deny access to overhead lines for trimming or other vegetation management measures, or demand that trees be trimmed only to the stated "minimum" clearances "at "time of trim" in Rule 35 or the Appendix E guidelines. Of course, if the utility were to comply with these demands, the vegetation just trimmed will be out of compliance within days or weeks of the trim – posing unacceptable and substantial safety and reliability risks as well as regulatory noncompliance exposure. Appropriate and reasonable utility vegetation management requires the ability to manage a program that obtains clearances beyond the minimum, taking into consideration the factors enumerated in the PG&E proposed alternate below. Given its role in ensuring safe and reliable power, the Commission should be strongly supporting PG&E's efforts to improve California's vegetation management guidelines so that everyone – the regulator, the utility and the property owner all understand and support the need to keep California's electric power lines clear and safe.

SCE – SCE supports PG&E's alternate proposal below for changes to the Guidelines at time of trim and opposes CPSD's. SCE appreciates CPSD's

agreement at the workshop to consider its proposal an interim change to Guidelines. Labeling the changes interim changes implies that these issues will be revisited in Phase 2 of this proceeding. At that time, SCE looks forward to drafting a rule of statewide application.

SCE supports PG&E's alternate over CPSD's proposal because PG&E's alternate adopts greater and more practical recommended clearances at time of trim in high fire threat areas than CPSD's and includes language that could assist those utilities who perform vegetation management with landowners who refuse to permit trimming activities beyond the minimum clearances. Of course, any vegetation management program must trim beyond the minimum at time of trim to maintain the minimum throughout the trimming cycle.

SCE believes the differences between CPSD's and PG&E's proposals are significant. The greater recommended clearances at time of trim and the language justifying those clearances in PG&E's proposals make the new clearance requirements possible. With CPSD's proposal, SCE anticipates much greater resistance from landowners affected by the Rule that could negate the Rule's effectiveness or require drastically increased costs due to increased mid-cycle trimming requirements.

SDG&E – SDG&E appreciates CPSD proposing increased minimum time-of-trim clearances for Extreme and Very High Fire Threat Zones. These new Case 14 minimums are certainly preferable to the existing Case 13 minimums. CPSD's new Case 14 minimums do not, however, go far enough. SDG&E already consistently trims to greater distances, particularly around higher-voltage conductors, and adoption of CPSD's minimums could create unrealistic expectations among property owners whose trees abut our conductors. For these reasons, SDG&E supports the PG&E Appendix E alternative discussed below.

SIERRA PACIFIC

2. PG&E Alternative Language/Proposal Re Appendix E: Guidelines to Rule 35

(a) PG&E Proposal Made at Workshop

<u>Interim Revisions to Guidelines to Rule 35</u>			
The following are guidelines to Rule 35.			
<p>The radial clearances shown below are minimum clearances that should be established, at time of trimming, between the vegetation and the energized conductors and associated live parts where practicable. Vegetation management practices may make it advantageous to obtain greater clearances. than those listed below: <u>Each utility shall determine and apply additional appropriate and reasonable clearances beyond the established minimums, to be achieved at time of trimming, which take into consideration various factors, including: line operating voltage, length of span, line sag, planned maintenance cycles, location of vegetation within the span, species type, vegetation growth rate and characteristics, vegetation management best practices (ANSI A300), local climate, elevation, and fire risk.</u></p>			
<u>Case</u>	<u>Voltage of Lines</u>	<u>Case 13 of Table 1</u>	<u>Case 14 of Table 1</u>
A.	Radial clearances for any conductor of a line operating at 2,400 or more volts, but less than 72,000 volts	4 feet	<u>8 feet</u>
B.	Radial clearances for any conductor of a line operating at 72,000 or more volts, but less than 110,000 volts	6 feet	<u>12 feet</u>
C.	Radial clearances for any conductor of a line operating at 110,000 or more volts, but less than 300,000 volts	10 feet	<u>20 feet</u>
D.	Radial clearances for any conductor of a line operating at 300,000 or more volts	15 feet	<u>20 feet</u>

(b) Proposed Final

Interim Revisions to Guidelines to Rule 35

The following are guidelines to Rule 35.

The radial clearances shown below are minimum clearances that should be established, between the vegetation and the energized conductors and associated live parts where practicable. Vegetation management practices may make it advantageous to obtain greater clearances. Each utility shall determine and apply additional appropriate and reasonable clearances beyond the established minimums, to be achieved at time of trimming, which take into consideration various factors, including: line operating voltage, length of span, line sag, planned maintenance cycles, location of vegetation within the span, species type, vegetation growth rate and characteristics, vegetation management best practices (ANSI A300), local climate, elevation, and fire risk.

<u>Voltage of Lines</u>	<u>Case 13 of Table 1</u>	<u>Case 14 of Table 1</u>
Radial clearances for any conductor of a line operating at 2,400 or more volts, but less than 72,000 volts	4 feet	8 feet
Radial clearances for any conductor of a line operating at 72,000 or more volts, but less than 110,000 volts	6 feet	12 feet
Radial clearances for any conductor of a line operating at 110,000 or more volts, but less than 300,000 volts	10 feet	20 feet
Radial clearances for any conductor of a line operating at 300,000 or more volts	15 feet	20 feet

(c) Justification/Rationale (PG&E)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

Any entity that operates electric power lines would be affected by the proposed rule.

- New and/or revised text for the affected General Order(s), if applicable.

See language above.

- The specific hazard(s) addressed by the proposed rule.

The hazard addressed is the danger that vegetation will come into contact with power lines and become a fire threat, a safety risk or a reliability problem.

- How the proposed rule reduces or otherwise addresses the hazard(s).

The rule provides important additional information and guidance about how vegetation clearances should be managed, which will support electric utilities in the field as they conduct their mandated tree trimming. Improved clearances and a better educated public will improve electric line safety and reliability.

- The anticipated costs and benefits of the proposed rule.

As to the increased clearances proposed by CPSD in its proposed rule and incorporated into this version, PG&E has only limited facilities in areas in Southern California designated as Extreme or Very High Fire Threat areas. There will be some additional costs, especially initially as the PG&E performs additional vegetation management to achieve the new minimum clearances, but PG&E does not expect the costs associated with achieving those increased clearances to be overwhelming.

- Whether and how the costs will be recovered from customers.

There should be a cost recovery mechanism in place to recover those costs until PG&E can request compensation in its next rate case.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

If PG&E incurs costs for managing vegetation for communications lines or others, it will expect to be compensated for the CIP's pro-rata share.

- Why it is in the public interest to adopt the proposed rule.

The proposed rule changes will improve the safety and reliability of the electric power lines.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

While PG&E's Vegetation Management activities on electric transmission facilities is regulated by the CAISO, these guidelines are consistent with the practices necessary to perform Vegetation Management work around transmission lines.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list

the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

At this time, it is not expected that the proposed new rule would require any alteration in or exemption from California's Environmental Quality Act (CEQA) in advance of adoption or implementation. (See Section 15301 (h) of the CEQA Guidelines, 14 Cal. Code of Regs, section 15000 et seq., and the CPUC's Rules of Practice and Procedure, Rule 2.4.)

(d) Parties' Comments

Parties in Support

LA COUNTY

PACIFICORP – Please see PacificCorp's comments to CPSD's proposed rule above.

PG&E – The suggested language concerning the various factors to consider when planning an appropriate and reasonable vegetation management program does exactly what a good General Order rule should do. It looks to the “requirements that are most important from the standpoint of safety and service” (General Order 95, Rule 13) and expects the utility to perform the appropriate maintenance “in accordance with accepted good practice for the given local conditions known at the time by those responsible for the ... maintenance of [the] lines and equipment” (General Order 95, Rule 31.1).

The electric utilities have worked hard to develop their expertise in determining what appropriate and reasonable utility vegetation management practices are. They have dedicated arborists and other professionals whose job it is to make the key decisions as to the necessary clearances to obtain — and who love the forests and trees probably more than most people in the state. The utilities have no monetary incentive to take too much in clearances when they trim as any additional or unnecessary trimming or removals adds to the cost of the work. The utilities have every incentive to do a job that keeps their customers happy and safe, the lights on and their power lines in compliance with all laws and regulations.

See also, PG&E's comments in opposition to the CPSD proposed rule.

SCE – SCE supports PG&E's proposal for the reasons stated above regarding its vote on CPSD's proposal.

SDG&E – PG&E's Appendix E alternative presents Case 14 minimums that are more realistic for SDG&E given the time-of-trim distances that SDG&E already achieves. The greater time-of-trim minimums proposed by PG&E will help prevent

unrealistic expectations among property owners whose trees abut our conductors. The clarifying language added by PG&E to the text of this rule provides a very useful description of the numerous factors utilities need to consider when they develop vegetation management programs and trim individual trees. SDG&E strongly supports these proposed revisions to Appendix E.

SIERRA PACIFIC

Parties Neutral

CCTA

COX

COMCAST

TURN – TURN supports PG&E’s additional language clarifying vegetation management practices which may make it advantageous for a utility to obtain greater clearances. HOWEVER, TURN cannot support or oppose PG&E’s proposed increases to the Case 14 clearances because there is not enough information at this time regarding the potential additional costs of this proposal.

Parties in Opposition

CFBF – Opposes changing the language as proposed without taking into account the landowner’s perspective about the impact to trees and such matters as the affect of variances in trimming requirements on income producing trees.

CMUA – CMUA objects to PG&E’s proposed rule change to GO 95, Rule 35 Appendix E because the minimum clearances are too large. While CMUA recognizes that Appendix E is a guideline, it still feels that these clearances are excessive.

CPSD – CPSD’s opposition is primarily based upon the language proposed that “Each utility shall determine and apply additional appropriate and reasonable clearances beyond the established minimums, ...” This section of GO 95 contains suggested guidelines only and does not prescribe requirements, as PG&E’s language would indicate, but is in GO 95 to provide recommendations to utilities in executing their vegetation management programs. Utilities may currently exercise judgment to trim more than the minimum clearance at the time of trim, if needed. (See CPSD Reply Comments, pp. 11-12.) In addition, PG&E’s amendments to CPSD’s proposal in regards to the radial clearances for Case 14 of Table 1 from 6.5 feet to 8 feet and 10 feet to 12 feet for any conductor of a line operating at 2,400 or more volts, but less than 72,000, and at 72,000 or more volts, but less than

110,000 volts, respectively, are excessive in combination with PG&E's proposed mandatory additional clearances.

CPSD does not believe that each of the electric utilities can or should have the discretion as indicated by PG&E's proposed language. As an example, it must be noted that SDG&E has proposed time of trim radial clearances of 25 feet and minimum radial clearances of 15 feet for electric lines as low as 750 volts to 20 kV. SDG&E has also proposed no overhang over electric lines at or above 750 volts.²³ First of all, SDG&E's proposal could perpetuate the fire hazards caused by global warming by eliminating too many trees, which could otherwise help absorb carbon dioxide emissions. Secondly, the extreme levels suggested by SDG&E could end up costing ratepayers much higher rates as landowners bring condemnation actions. Such higher rates could make the utility service less affordable for certain California citizens and businesses. This is precisely why the Commission must be involved in deciding these matters, because the Commission must balance all of these policy issues to achieve the Commission's "basic regulatory objective of maintaining the lowest reasonable rates consistent with safe, reliable, and environmentally sensitive utility service." (D.04-10-034 at p. 97.)

In addition, whereas CPSD's proposal for minimum clearances of 4 feet (with a guidance level of 6.5 total feet at time of trim) may not have implicated CEQA issues, CPSD submits that much more extreme measures, such as time of trim proposals of 25 feet, may trigger CEQA review. For these reasons, CPSD submits that these complex issues are best determined in Phase 2. In contrast, the more moderate proposal by CPSD can and should be implemented in Phase 1.

LADWP – LADWP objects to PG&E's proposal because we believe it to be excessive.

MUSSEY GRADE - No data has been presented to justify the increase in clearances beyond the clearances specified in the CPSD proposal. The Alliance is also concerned that adoption of this language **requires** utilities to trim beyond the already expanded trimming distance, without any maximum specified. The Alliance suggested the term reasonable be included in this section, which was adopted. We favor the inclusion of a "reasonableness" standard along with the use of best

²³ See SDG&E Opening Comments (March 27, 2009), Appendix D.

management practices to determine what “reasonable” means. However, we oppose the PG&E language overall in the context of the proposal made by SDG&E that trimming be mandated out to 25 feet, which would greatly damage trees, views and the natural landscape of rural roads and properties in Southern California, and potentially cause environmental damage requiring CEQA review. Our concern is that the PG&E language could be used by a utility to justify such an extreme approach. We have stated a preference for an upper limit on trimming in our comments. In lieu of this, we have remaining only the “reasonableness” standard, and of course a utility might argue that in the light of fire danger, a massive tree removal program such as proposed by SDG&E is reasonable. We anticipate that this issue will return to the Commission at a future date should utilities press the boundaries of what they consider to be “reasonable” vegetation management, and therefore hope that the issue of maximum limits for tree trimming can be addressed in Phase 2 of these proceedings.

SMUD – SMUD objects to PG&E’s proposed rule change to GO 95 Rule 35 Appendix E because the minimum clearances are too large. While SMUD recognizes that Appendix E is a guideline, it still feels that these clearances are excessive.

**H. CPSD PRC 6c: Proposed New Case 14 to GO 95, Rule 37,
Table 1: Minimum Allowable Vertical Clearances...**

1. CPSD Proposal

(a) CPSD Original From April 8 Reply Comments

Rule 37 Minimum Clearances of Wires above Railroads, Thoroughfares, Buildings, Etc.								
[See Revisions to Relevant Excerpts of Table 1, below.]								
Case No.	Nature of Clearance	Table 1: Basic Minimum Allowable Vertical Clearance of Wires above Railroads, Thoroughfares, Ground or Water Surfaces; Also Clearances from Poles, Buildings, Structures or Other Objects (nn) (Letter References Denote Modifications of Minimum Clearances as Referred to in Notes Following This Table)						
		Wire or Conductor Concerned						
		A Span Wires (Other than Trolley Span Wires) Overhead Guys and Messengers	B Communication Conductors (Including Open Wire, Cables and Service Drops), Supply Service Drops of 0 - 750 Volts	C Trolley Contact, Feeder and Span Wires, 0 - 5,000 Volts	D Supply Conductors of 0 - 750 Volts and Supply Cables Treated as in Rule 57.8	E Supply Conductors and Supply Cables, 750 - 22,500 Volts	F Supply Conductors and Supply Cables, 22.5 - 300 kV	G Supply Conductors and Supply Cables, 300 - 550 kV(mm)
13	Radial clearance of bare line conductors from tree branches or foliage vegetation (aaa) (ddd)	-	-	18 inches (bbb)	-	18 inches (bbb)	1/4 pin spacing shown in table 2, Case 15 (bbb) (ccc)	1/2 pin spacing shown in table 2, Case 15
14	Radial clearance of bare line conductors vegetation in Extreme and Very High Fire Threat Zones in southern California (aaa) (ddd) (hhh)	-	-	18 inches (bbb)	-	48 inches (bbb) (iii)	48 inches (fff)	120 inches (ggg)

- (aaa) Special requirements for communication and supply circuits energized at 0 - 750 volts - Rule 35
- (bbb) May be reduced for conductor of less than 60,000 volts when protected from abrasion and grounding by contact with tree - Rule 35
- (ccc) For 22.5 kV to 105 kV, minimum clearance shall be 18 inches.
- (ddd) Clearances in this case shall be maintained for normal annual weather variations, rather than at 60 degrees, no wind.
- (eee) May be reduced to 18 feet if the voltage does not exceed 1000 volts and the clearance is not reduced to more than 5% below the reduced value of 18 feet because of temperature and loading as specified in Rules 37 and 43.
- (fff) Clearances in this case shall be increased for conductors operating above 88 kV, to the following:
 - 1) Conductors operating between 88kV and a 110 kV shall maintain a 60 inch clearance
 - 2) Conductors operating above 110 kV shall maintain a 120 inch clearance

- (ggg) Shall be increased by 0.40 inch per kV in excess of 500 kV
- (hhh) Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish minimum boundaries for purposes of this rule. The boundaries of the map are to be broadly construed, and utilities are required to use their own expertise and judgment to determine if local conditions require them to go beyond the boundaries of the map. Southern California shall be defined as the following: Santa Barbara, Ventura, San Bernardino, Riverside, Los Angeles, Orange, and San Diego Counties.
- (iii) May be reduced to 18 inches for conductors operating less than 2.4kV.

(b) Workshop Proposed Changes: (Interim) Rule 37 Minimum Clearances, Case Nos. 13 and 14 [NEW]

(Interim) Rule 37 Minimum Clearances of Wires above Railroads, Thoroughfares, Buildings, Etc.								
[See Revisions to Relevant Excerpts of Table 1, below.]								
Case No.	Nature of Clearance	Table 1: Basic Minimum Allowable Vertical Clearance of Wires above Railroads, Thoroughfares, Ground or Water Surfaces; Also Clearances from Poles, Buildings, Structures or Other Objects (nn) (Letter References Denote Modifications of Minimum Clearances as Referred to in Notes Following This Table)						
		Wire or Conductor Concerned						
		A Span Wires (Other than Trolley Span Wires) Overhead Guys and Messengers	B Communication Conductors (Including Open Wire, Cables and Service Drops), Supply Service Drops of 0 - 750 Volts	C Trolley Contact, Feeder and Span Wires, 0 - 5,000 Volts	D Supply Conductors of 0 - 750 Volts and Supply Cables Treated as in Rule 57.8	E Supply Conductors and Supply Cables, 750 - 22,500 Volts	F Supply Conductors and Supply Cables, 22.5 - 300 kV	G Supply Conductors and Supply Cables, 300 - 550 kV(mm)
13	Radial clearance of bare line conductor s from tree branches or foliage vegetation (aaa) (ddd)	-	-	18 inches (bbb)	-	18 inches (bbb)	1/4 pin spacing shown in table 2, Case 15 (bbb) (ccc)	1/2 pin spacing shown in table 2, Case 15
14	<u>Radial clearance of bare line conductor s vegetation in Extreme and Very High Fire Threat Zones in southern California (aaa) (ddd) (hhh)</u>	-	-	<u>18 inches (bbb)</u>	-	<u>48 inches (bbb) (iii)</u>	48 inches (fff)	<u>120 inches (ggg)</u>

- (aaa) Special requirements for communication and supply circuits energized at 0 - 750 volts - Rule 35
- (bbb) May be reduced for conductor of less than 60,000 volts when protected from abrasion and grounding by contact with tree - Rule 35
- (ccc) For 22.5 kV to 105 kV, minimum clearance shall be 18 inches.

- (ddd) Clearances in this case shall be maintained for normal annual weather variations, rather than at 60 degrees, no wind.
- (eee) May be reduced to 18 feet if the voltage does not exceed 1000 volts and the clearance is not reduced to more than 5% below the reduced value of 18 feet because of temperature and loading as specified in Rules 37 and 43.
- (fff) Clearances in this case shall be increased for conductors operating above 88 kV, to the following:
 - 1) Conductors operating between 88kV and a 110 kV shall maintain a 60 inch clearance
 - 2) Conductors operating above 110 kV shall maintain a 120 inch clearance
- (ggg) Shall be increased by 0.40 inch per kV in excess of 500 kV
- (hhh) Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish minimum boundaries for purposes of this rule. The boundaries of the map are to be broadly construed, and utilities are required to use their own expertise and judgment to determine if local conditions require them to go beyond the boundaries of the map. Southern California shall be defined as the following: Santa Barbara, Ventura, San Bernardino, Riverside, Los Angeles, Orange, and San Diego Counties.
- (iii) May be reduced to 18 inches for conductors operating less than 2.4kV.

(c) Proposed Final

(Interim) Rule 37 Minimum Clearances of Wires above Railroads, Thoroughfares, Buildings, Etc.

[See Revisions to Relevant Excerpts of Table 1, below.]

Case No.	Nature of Clearance	Table 1: Basic Minimum Allowable Vertical Clearance of Wires above Railroads, Thoroughfares, Ground or Water Surfaces; Also Clearances from Poles, Buildings, Structures or Other Objects (nn) (Letter References Denote Modifications of Minimum Clearances as Referred to in Notes Following This Table)						
		Wire or Conductor Concerned						
		A Span Wires (Other than Trolley Span Wires) Overhead Guys and Messengers	B Communication Conductors (Including Open Wire, Cables and Service Drops), Supply Service Drops of 0 - 750 Volts	C Trolley Contact, Feeder and Span Wires, 0 - 5,000 Volts	D Supply Conductors of 0 - 750 Volts and Supply Cables Treated as in Rule 57.8	E Supply Conductors and Supply Cables, 750 - 22,500 Volts	F Supply Conductors and Supply Cables, 22.5 - 300 kV	G Supply Conductors and Supply Cables, 300 - 550 kV(mm)
13	Radial clearance of bare line conductors from vegetation (aaa) (ddd)			18 inches (bbb)		18 inches (bbb)	1/4 pin spacing shown in table 2, Case 15 (bbb) (ccc)	1/2 pin spacing shown in table 2, Case 15
14	Radial clearance of bare line conductors from vegetation in Extreme and Very High Fire Threat Zones in southern California (aaa) (ddd) (hhh)			18 inches (bbb)		48 inches (bbb) (iii)	48 inches (fff)	120 inches (ggg)

(aaa) Special requirements for communication and supply circuits energized at 0 - 750 volts - Rule 35

- (bbb) May be reduced for conductor of less than 60,000 volts when protected from abrasion and grounding by contact with tree - Rule 35
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- (fff) Clearances in this case shall be increased for conductors operating above 88 kV, to the following:
 - 1) Conductors operating between 88kV and a 110 kV shall maintain a 60 inch clearance
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- (ggg) Shall be increased by 0.40 inch per kV in excess of 500 kV
- (hhh) Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish approximate boundaries for purposes of this rule. The boundaries of the map are to be broadly construed, and utilities should use their own expertise and judgment to determine if local conditions require them to adjust the boundaries of the map. Southern California shall be defined as the following: Santa Barbara, Ventura, San Bernardino, Riverside, Los Angeles, Orange, and San Diego Counties.
- (iii) May be reduced to 18 inches for conductors operating less than 2.4 kV.

(d) Justification/Rationale (CPSD)

- The specific electric utilities, CIPs, and others affected by the proposed rule.
See PRC 6a, above.
- New and/or revised text for the affected General Order(s), if applicable.
See above.
- The specific hazard(s) addressed by the proposed rule.

Vegetation that comes into contact with overhead electric lines and conductors causes outages and fires. The California Public Resource Code (PRC), Section 4293, has established vegetation clearance requirements between overhead conductors and vegetation. These clearance requirements are stricter than those clearances established in GO 95, Rule 35. However, these clearances only apply in State Responsibility Areas (SRAs), as defined by Cal Fire, and do not apply to all Local Responsibility Areas (LRAs). Moreover, these clearance requirements only apply during the portion(s) of the year in which Cal Fire determines there is a High Fire Risk. CPSD's proposed rule changes to GO 95, Rule 35 (and Table 1) in the attached red-lined version: (1) make the vegetation requirements of the PRC applicable to Extreme and Very High Fire Threat Zones in FRAP southern California counties, thus eliminating the distinction between SRAs and LRAs; and (2) make the clearance requirements year round. A more consistent approach is necessary due to the fact that an overhead conductor in an LRA has the same possibility of starting a fire as a conductor in an SRA, and thus should have the same clearance requirements. In addition, although the most severe forest fires have recently been in October, forest fires are not just seasonal events. The potential for a forest fire

exists year round, and thus clearance requirements should not change during the year.

- How the proposed rule reduces or otherwise addresses the hazard(s).

This proposed rule reduces the hazard of vegetation-caused fires is by requiring greater clearance between vegetation and conductors in areas designated by Cal Fire as Extreme and Very High Fire Threat zones in FRAP southern California counties, as discussed above.

- The anticipated costs and benefits of the proposed rule.

There will be an increase in trimming cost of electric utilities because the clearances established by the Public Resource Code (4293) will no longer be limited to just SRAs. The increase in cost for this should not be significant, however, because most of the Extreme and Very High Fire Threat zones constitute the same areas as SRAs or are in LRAs. Therefore, there is not much additional area that a utility would have to trim in that is not already covered by the PRC.

SDG&E, for example, stated in its March 27, 2009, opening comments at p. 9, that it already trims to meet the PRC Section 4293 standards in portions of its service territory most threatened by fires. PG&E noted in its March 27, 2009, opening comments at p. 25, that while most of the areas identified in this rule are in southern California, Santa Barbara is in PG&E's service territory. However, PG&E noted that the "additional cost to meet a four foot clearance requirement will be minimal in that limited area."

SCE's opening comments at pp. 15-16 allege that SCE already complies with the California Public Resource Code Section 4293 requirements of four feet clearances for lines operating at 2.4 kV to 72 kV for SRAs, but it would result in a "preliminary estimate" of approximately \$50 million of costs (\$12.5 million over four years) for SCE to increase from an 18-inch to a four feet clearance for lines below 66 kV in LRAs. SCE's \$50 million estimate seems unusually large, because it assumes that it had not even trimmed beyond the 18 inches in all of its LRAs even though the current guidelines had provided for the additional 2½ feet. In addition, SCE assumes that all LRAs have not required four feet clearances, and that it is not true. For example, for its largest LRA, Los Angeles County Fire Code Section 317 has already mirrored the California Public Resource Code Section 4293 requirements of four feet clearances for lines operating at 2.4 kV to 72 kV for SRAs.

(See CPSPD's Reply Comments, filed April 8, 2009, at p. 33 and Attachment D.) There are probably other County or City requirements in LRAs in SCE's service territory, where SCE also already has to comply with these four feet clearance requirements.

Therefore, SCE's estimate of costs seems highly inflated. In any event, for those LRAs in its service territory where SCE would have to increase its clearance requirements from 18 inches to four feet in Extreme or Very High Fire Threat areas, it cannot be seriously questioned that this would reduce the risk of fires. Not only does this make sense given the nature of the fire threat in these areas, it is also reasonable because it is consistent with the State Legislature's determination for SRAs in Section 4293 of the California Public Resource Code and Los Angeles County's determination to mirror this requirement in its LRA.

For additional benefits, see discussion above, and see discussion on cost/benefits in PRC 1, above.

- Whether and how the costs will be recovered from customers.

In Attachment A to CPSPD's Reply Comments, CPSPD proposed the following ordering paragraph for Phase 1:

CPSPD's Recommended Ordering Paragraph for Electric Utility Cost Recovery

Any electric utility that requires cost recovery for additional vegetation clearance requirements that exceed its current allotted amount for vegetation clearances, shall file a compliance filing requesting the increased amounts, provided that (1) all of the costs for vegetation clearance requirements are tracked in a balancing account, and (2) the increased amount does not exceed 10% of the total cap per year.

CPSPD's Reasons for Supporting an Order Authorizing Balancing Account Treatment for Additional Phase 1 Vegetation Clearance Costs

In contrast to PG&E and SDG&E, who have capped balancing accounts to recover costs for their vegetation clearances and who did not allege this would cause them any significant increases in costs, SCE still uses forecasts in rate cases for its vegetation clearance costs, and appears to be the only party that could potentially face any significant amounts of additional costs from this requirement.

CPSPD's recommended proposed ordering paragraph is provided as an option to SCE as a way to increase its recovery of vegetation clearance costs in

Phase 1, to the extent that SCE's costs would not be recovered from its approved rates in its recent general rate case. Although CPSD strongly disputes SCE's \$50 million "preliminary estimate," CPSD is willing to support up to a 10% increase per year if SCE agrees to have a capped balancing account treatment, like PG&E and SDG&E. In this way, SCE could not profit from the increase; it would have to incur and track the costs, and only recover the costs, rather than make an unreasonably high forecast and then not actually spend all of the increased amounts necessary for this safety measure. Because SCE's vegetation clearance costs can be found in various parts of SCE's Account 593, Maintenance of Overhead Line Expenses, CPSD has informed SCE that CPSD would be agreeable to using the entire Account 593 in a capped, balancing account, such that SCE could increase the recently approved amount for this entire account by up to an additional 10% per year (i.e., approximately \$8 million per year).²⁴

See also, discussion in PRC 2, above.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

The majority of the cost will be the electric utility's cost. However, there could be cost sharing when a tree that was removed affected other entities on the pole.

- Why it is in the public interest to adopt the proposed rule.

It is in the public interest to adopt this proposed rule because it will cause utilities to have greater vegetation clearance requirements in areas designated Extreme and Very High Fire Threat zones by Cal Fire, and thus reduce the likelihood of vegetation caused outages and fires.

See also, discussion above regarding cost/benefits and discussion on cost/benefits in PRC 1, above.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

See discussion in PRC 2, above.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion

²⁴ See D.09-03-025 (March 12, 2009) at pp. 98-100.

that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

CEQA Guidelines Section 15304 lists examples of minor alterations to land which are exempt from CEQA review. For purposes of this proposed rule, the Guidelines provide an exemption for:

Fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation, provided that the activities will not result in the taking of endangered, rare, or threatened plant or animal species or significant erosion and sedimentation of surface waters. This exemption shall apply to fuel management activities within 100 feet of a structure if the public agency having fire protection responsibility for the area has determined in writing, or by written policy or ordinance, that 100 feet of fuel clearance is required due to extra hazardous fire conditions.

In addition, the proposed rule does not constitute a new project or new vegetation management standards which would trigger a CEQA review. Current vegetation management rules set minimum clearance standards, and utilities are already required to take local conditions into account, and have the ability to go beyond the minimum clearances if local conditions warrant such actions. See GO 95, Rule 31.1. This proposed rule only clarifies that local conditions in certain Extreme and High Fire Threat zones in California already require increased minimum clearances. Indeed, the PRC already requires a 48-inch clearance in State Responsibility Areas. As the Commission has stated in D.97-01-044 (70 CPUC 2d 693, at 699), a “reasonable” amount of tree trimming does not require review under CEQA. The Commission clarified that:

The mere adoption of a standard which interprets that term does not expand the obligation that utilities have had all along to keep foliage sufficiently trimmed to prevent it from coming into contact with energized lines...How drastically the utilities elect to prune, or on what cycle, is not mandated as part of this proceeding; we are simply concerned that the specified minimum distance be maintained.

Id. Because CPSPD’s proposed rule only clarifies what the minimum standards should be in certain areas, given the local conditions there which already required further trimming, it is exempt from CEQA review.

(e) Parties' Comments

Parties in Support

CPSD

LA COUNTY

MUSSEY GRADE

PACIFICORP – PacifiCorp is generally supportive of this rule because establishing increased clearances in southern California is the type of proposed rule in this phase that may actually reduce the fire hazard in southern California before October 2009.

SCE – SCE appreciates CPSD's agreement to label its changes to the Table interim changes recognizing that these issues will continue to be discussed in Phase 2 of this proceeding. As a result of that concession, SCE withdrew its own proposal. SCE looks forward to drafting a rule of statewide application in Phase 2. The changes to this Table conform the Table to the parties' understanding of the increased vegetation management requirements in high fire threat areas in southern California. SCE supports these changes so long as it recovers the incremental costs associated with the new requirements and is given a reasonable time to implement those changes.

SDG&E – SDG&E will continue to advocate for even greater minimum clearances in Phase II of this proceeding. But the new minimum clearances proposed by CPSD for Extreme and Very High Fire Threat Zones will promote public safety in southern California. Although SDG&E currently trims to greater clearances and attempts to maintain clearances at least as great as those described in CPSD's Case 14, it will be a strong step in the right direction to add the higher minimums to Rule 37 and extend existing PRC clearance requirements to all portions of Extreme and Very High Fire Threat Zones.

TURN

Parties Neutral

CCTA

COX

COMCAST

CMUA

LADWP

PG&E

SIERRA PACIFIC

SMUD

Parties in Opposition

CFBF – Opposition to the changes in this proposal is because CFBF contends there should be clarification regarding the affects on agricultural lands as detailed in the alternate proposed by CFBF.

2. CA Farm Bureau Federation Alternate Language/Proposal

(a) CA Farm Bureau Proposed Clarification Re Table 1, Case 14, fn. (jjj)

The proposed additional footnote would be an addendum to Case 14 of Table 1 proposed by CPSD. Case 14 of Table 1 sets out the radial clearance of bare line conductors from vegetation in Extreme and Very High Fire Threat Zones in the seven southern California counties. Tied to Case 14 are the additional time of trimming guidelines for the specified Fire Threat Zones set forth in Appendix E to Rule 35, GO 95. The additional footnote clarifying Case 14, would affect Appendix E and clarify the time of trimming required in orchards as well.

~~(jjj) Clearances in this case outlined here shall not apply to orchards of fruit, nut or citrus trees that are plowed or cultivated, areas characterized as irrigated agriculture. In those areas Case 13 clearances shall continue to apply.~~

(b) Proposed Final

(jjj) Clearances in this case shall not apply to orchards of fruit, nut or citrus trees that are plowed or cultivated. In those areas Case 13 clearances shall apply.

(c) Justification/Rationale (CFBF)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

Any of the utilities that conduct vegetation management activities would be affected.

- New and/or revised text for the affected General Order(s), if applicable.

(jjj) Clearances in this case outlined here shall not apply to orchards of fruit, nut or citrus trees that are plowed or cultivated areas characterized as irrigated agriculture. In those areas Case 13 clearances shall continue to apply.

- The specific hazard(s) addressed by the proposed rule.

The purpose of the clarification addressed in the footnote is to recognize that cultivated, actively managed orchards do not pose the same level of hazard as other areas reflected in the southern California counties. Details regarding the rationale for the clarification are provided in the public interest section below.

- How the proposed rule reduces or otherwise addresses the hazard(s).

Not applicable.

- The anticipated costs and benefits of the proposed rule.

As explained in the public interest section, there are many reasons to treat agricultural areas differently. This limited clarifying footnote will allow the utilities to focus on areas that create higher risks and allow better use of resources to meet the underlying purpose in this Rulemaking: "... to reduce fire hazards that can be implemented in time for the 2009 autumn fire season in Southern California." (Assigned Commissioner Ruling and Scoping Memo, p. 8, dated January 6, 2009.)

- Whether and how the costs will be recovered from customers.

Not applicable.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Not applicable.

- Why it is in the public interest to adopt the proposed rule.

The underlying rationale in support of the clarification to Case 14 is the recognition that agricultural lands are distinct from other areas identified in the FRAP Fire Threat Map and therefore should not be subject to the increase in trimming requirements that have been targeted for high fire risk areas. The need for the clarification is closely tied to the use of the FRAP Fire Threat Map, as it serves as the basis for establishment of the trimming requirements in specified areas.

The proposed CPSD Rule (PRC 4) states that "the FRAP Fire Threat Map is to be used to establish approximate boundaries for purposes of the rule. The boundaries of the map are to be broadly construed and utilities should use their own expertise and judgment to determine if local conditions require them to adjust the boundaries of the map."

The FRAP Fire Threat Map states on its face that areas that do not support wildland fuels, such as agricultural lands are excluded. Simply based on the map itself, a logical assumption is that agricultural areas are not affected by changes to any of the proposed rules, which are based on the FRAP Map, including the trimming requirements. However, there is a risk of differing interpretations. Because the use of the map as a tool is new and is to be broadly construed, there is a potential that some areas that were not intended for inclusion in designated high fire risk areas will be subject to the expanded trimming distances. Since the utilities are being instructed to be overly-inclusive, landowners could be subject to more severe trimming requirements than are necessary or were intended.

The increased trimming requirements set forth in Case 14 of Table 1 reflect an effort by CPSD to mirror Public Resource Code, Section 4293, which addresses fire prevention standards. (See CPSD Reply Comments at page 12.) Regulations implementing PRC Section 4293 recognize that the minimum clearance provisions of PRC 4293 are not required in certain areas. (14 CA ADC Sections 1255 and 1257; Title 14 of California Code of Regulations, Division 1.5, Chapter 7, Article 4 Fire Prevention Standards for Electric Utilities.) The regulations list various agricultural lands and recognize that the categories listed may not propagate fire, including “orchards of fruit, nut or citrus trees that are plowed or cultivated.” The clarification to Case 14 uses the language from the regulation to be consistent with the intent. As it is the orchards in agricultural areas that are most impacted from any change in trimming requirements, only that category is proposed for these purposes.

The implementation of the increased trimming requirements relies on presumptions about how to address high risk fire areas. However, the information creating a basis for the presumption, as it relates to agricultural areas, raises significant questions about what areas are meant to be included. Both the FRAP Map and the Public Resource Code, upon which new trimming requirements are based, indicate agricultural areas should not be included in the presumptions about high risk fire areas. An unnecessarily broad interpretation in this context could harm the livelihoods of these landowners, as orchards are income producing assets. The manner and timing of the trimming can significantly affect the health and productivity of a tree.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

Not applicable.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable.

(d) Parties' Comments

Parties in Support

CFBF

CPSD

LA COUNTY

MUSSEY GRADE

TURN

Parties Neutral

CCTA

COX

COMCAST

CMUA

LADWP

PACIFICORP

SCE – SCE is neutral on CFBF's proposal since SCE does not believe the proposal will either benefit or harm SCE if implemented. If the Commission agrees with CFBF's rationale for excluding orchards from the heightened clearance requirements, then SCE will not oppose that exemption. SCE would like the Commission and the parties, including CFBF, to acknowledge in the final Commission decision that an orchard that has been abandoned or that has not been irrigated over the past year would no longer be an exempted orchard for the purposes of this Rule.

SIERRA PACIFIC

SMALL LECs

SUREWEST

SMUD

Parties in Opposition

PG&E – PG&E cannot support this blanket exemption to proposed Case 14 because: (1) there are too many variables associated with trees and vegetation on agricultural property; and (2) it applies not only to the minimum clearances in proposed Case 14, but also (by extension) to the Appendix E guidelines associated with Case 14.

While it may be true that orchards under irrigation pose less of a fire hazard than other more wild areas, there remains the potential that orchards will be allowed to go fallow or are not properly maintained or irrigated – thus becoming a fuel source for fires. In addition, many orchards are bounded by other trees and vegetation along roads, ditches, on vacant land or associated with structures on the property – which do pose a potential fire hazard. Given the concerns expressed for the public safety in this proceeding, PG&E feels that it is more prudent to require the same clearances for every situation, and address the relatively lesser risk in the drawing of the boundaries of the Extreme and Very High Fire Threat Zones.

Further, PG&E supports the increased Appendix E guidelines for Case 14 based on its experience with orchard trees (especially walnut trees) growing into electric power lines. While the safety issue most discussed in these proceedings is that of wildland fires, there are other safety and reliability risks associated with vegetation getting too close to lines which should not be discounted.

SDG&E – SDG&E is sympathetic to CFBF's argument that irrigated avocado orchards (the primary crop in SDG&E's service territory) do not pose the same fire risk as non-irrigated foliage. If we could resolve concerns about how to treat orchards where irrigation is no longer taking place, or taking place only intermittently, SDG&E could perhaps live with Rule 37 Case 13 minimums for certain avocado orchards in our service territory. But CFBF's proposal would also reduce Appendix E time-of-trim clearances, and SDG&E strongly opposes a reduction in Case 14 time-of-trim distances. Avocado growers have historically opposed SDG&E's efforts to trim to greater clearances than those proposed in Rule 35 or Appendix E. In fact, even though the Appendix E clearly allows the utilities to obtain greater clearances, it has not been easy to obtain even the required minimum clearances in avocado orchards. After years of working with the growers, SDG&E is now generally able to obtain the desired clearances during routine trim cycles. But the change proposed by CFBF is likely to be interpreted by the growers as a reduction of clearances at time of trim, and could undo all of our past progress with the growers. Greater clearances in avocado groves enhances not only fire safety, but also the safety of workers who often use long-handled conductive tools and aluminum ladders to pick avocados.

**I. CPSD PRC 7. Proposed New Footnote “zz” to GO 95, Rule 38,
Table 2: Minimum Clearances of From Wires Other Wires**

1. CPSD Proposal

(a) CPSD Original From April 8 Reply Comments

Table 2: Basic Minimum Allowable Clearance of Wires from Other Wires at Crossings, in Midspans and at Supports (Letter References Denote Modifications of Minimum Clearances as Referred to in Notes Following This Table) All Clearances Are in Inches												
Case No.	Nature of Clearance and Class and Voltage of Wire, Cable or Conductor Concerned	Other Wire, Cable or Conductor Concerned										
		A	B	C	Supply Conductors (Including Supply Cables)							
		Span Wires, Guys and Messengers	Trolley Contact Conductors 0 – 750 Volts	Communication Conductors (Including Open Wire, Cables and Service Drops)	D 0 – 750 Volts (Including Service Drops) and Trolley Feeders (a)	E 750 - 7,500 Volts	F 7,500 - 20,000 Volts	G 20,000 - 35,000 Volts	H 35,000 - 75,000 Volts	I 75,000 - 150,000 Volts	J 150,000 - 300,000 Volts	K (kk) 300,000 - 550,000 Volts
	Horizontal separation of conductors on same crossarm											
15	Pin spacing of longitudinal conductors vertical conductors and service drops (v, w, zz)	-	-	3 (x)	11–1/2 (h, x)	11 1/2 (x)	17–1/2 (x)	24 (x)	48	60 (ff)	90 (gg)	150 (hh)
	Radial separation of conductors on same crossarm, pole or structure— incidental pole wiring											
16	Conductors, taps or lead wires of different circuits (v, y, s, zz)	-	-	3 (x)	11–1/2 (h, x)	11 1/2 (x)	17–1/2 (x)	24 (x)	48	60 (ff)	90 (gg)	150 (hh)
16a	Uncovered, grounded, non-dielectric fiber optic cables on metallic structures, in transition (ss)	-	15	15	15	1	18	18	18	24	36	120
17	Conductors, taps or lead wires of the same circuit (v, s, aa, zz)	-	-	3	3	6	6	12	24	60 (ff)	90 (gg)	150 (hh)
(zz)	In areas that are subjected to high winds, a utility may need to take extra precautions to maintain all required separation clearances. Extra precautions may include but are not limited to, spacer bars, increased pin spacing, and insulated conductors.											

(b) Workshop Proposed Changes

[See Revisions to Relevant Excerpts of Table 2, below.]

Table 2: Basic Minimum Allowable Clearance of Wires from Other Wires at Crossings, in Midspans and at Supports (Letter References Denote Modifications of Minimum Clearances as Referred to in Notes Following This Table) All Clearances Are in Inches												
		Other Wire, Cable or Conductor Concerned										
		Supply Conductors (Including Supply Cables)										
Case No.	Nature of Clearance and Class and Voltage of Wire, Cable or Conductor Concerned	A Span Wires, Guys and Messengers	B Trolley Contact Conductors 0 – 750 Volts	C Communication Conductors (Including Open Wire, Cables and Service Drops)	D 0 – 750 Volts (Including Service Drops) and Trolley Feeders (a)	E 750 - 7,500 Volts	F 7,500 - 20,000 Volts	G 20,000 - 35,000 Volts	H 35,000 - 75,000 Volts	I 75,000 - 150,000 Volts	J 150,000 - 300,000 Volts	K (kk) 300,000 - 550,000 Volts
	Horizontal separation of conductors on same crossarm											
15	Pin spacing of longitudinal conductors vertical conductors and service drops (v, w, zz)	-	-	3 (x)	11–1/2 (h, x)	11 1/2 (x)	17–1/2 (x)	24 (x)	48	60 (ff)	90 (gg)	150 (hh)
	Radial separation of conductors on same crossarm, pole or structure— incidental pole wiring											
16	Conductors, taps or lead wires of different circuits (v, y, s, zz)	-	-	3 (x)	11–1/2 (h, x)	11 1/2 (x)	17–1/2 (x)	24 (x)	48	60 (ff)	90 (gg)	150 (hh)
16a	Uncovered, grounded, non-dielectric fiber optic cables on metallic structures, in transition (ss)	-	15	15	15	1	18	18	18	24	36	120
17	Conductors, taps or lead wires of the same circuit (v, s, aa, zz)	-	-	3	3	6	6	12	24	60 (ff)	90 (gg)	150 (hh)
(zz) In areas that are subjected to high winds, a utility may need to take extra <u>precautions measures</u> to maintain all required separations <u>clearances</u> . <u>Extra precautions Measures</u> may include but are not limited to, spacer bars, <u>and</u> increased pin spacing, <u>and</u> insulated conductors.												

(c) Proposed Final

[See Revisions to Relevant Excerpts of Table 2, below.]

Table 2: Basic Minimum Allowable Clearance of Wires from Other Wires at Crossings, in Midspans and at Supports (Letter References Denote Modifications of Minimum Clearances as Referred to in Notes Following This Table) All Clearances Are in Inches

Case No.	Nature of Clearance and Class and Voltage of Wire, Cable or Conductor Concerned	Other Wire, Cable or Conductor Concerned										
		A Span Wires, Guys and Messengers	B Trolley Contact Conductors 0 – 750 Volts	C Communication Conductors (Including Open Wire, Cables and Service Drops)	D 0 – 750 Volts (Including Service Drops) and Trolley Feeders (a)	E 750 - 7,500 Volts	F 7,500 - 20,000 Volts	G 20,000 - 35,000 Volts	H 35,000 - 75,000 Volts	I 75,000 - 150,000 Volts	J 150,000 - 300,000 Volts	K (kk) 300,000 - 550,000 Volts
	Horizontal separation of conductors on same crossarm											
15	Pin spacing of longitudinal conductors vertical conductors and service drops (v, w, zz)	-	-	3 (x)	11–1/2 (h, x)	11 1/2 (x)	17–1/2 (x)	24 (x)	48	60 (ff)	90 (gg)	150 (hh)
	Radial separation of conductors on same crossarm, pole or structure— incidental pole wiring											
16	Conductors, taps or lead wires of different circuits (v, y, s, zz)	-	-	3 (x)	11–1/2 (h, x)	11 1/2 (x)	17–1/2 (x)	24 (x)	48	60 (ff)	90 (gg)	150 (hh)
16a	Uncovered, grounded, non-dielectric fiber optic cables on metallic structures, in transition (ss)	-	15	15	15	18	18	18	18	24	36	120
17	Conductors, taps or lead wires of the same circuit (v, s, aa, zz)	-	-	3	3	6	6	12	24	60 (ff)	90 (gg)	150 (hh)

(zz) In areas that are subjected to high winds, a utility may need to take extra measures to maintain all required separations. Measures may include but are not limited to, spacer bars and increased pin spacing.

(d) Justification/Rationale (CPSD)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

This proposed rule would apply to owners of any overhead electrical supply and communications facilities that come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities and publicly-owned utility electric supply facilities.

- New and/or revised text for the affected General Order(s), if applicable.

See above.

- The specific hazard(s) addressed by the proposed rule.

Strong winds can cause overhead conductors to contact, resulting in sparks, leading to fires. High winds in localized areas can present a fire risk and therefore diligence and caution need to be employed to minimize chances that a fire could be inadvertently ignited.

- How the proposed rule reduces or otherwise addresses the hazard(s).

GO 95, Rule 38, Table 2, Cases 15 and 16 require that conductors have separation at all times. Rule 38 allows this clearance to be reduced up to 10% due to temperature or loading. Additionally, Rule 31.1 states in part “For all particulars not specified in these rules, design, construction, and maintenance should be done in accordance with accepted good practice for the given local conditions known at the time by those responsible for the design, construction, or maintenance of [the] communication or supply lines and equipment.” CPSD’s proposed rule is not changing the requirements of GO 95, Rules 31.1, 38, and Table 2, but instead, simply clarifies to utilities that they need to account for local conditions and gives suggestions for compliance with these requirements of GO 95.

- The anticipated costs and benefits of the proposed rule.

The utilities are already under an obligation to account for local conditions, including high winds in localized areas, when designing, constructing, or maintaining their lines and equipment. The proposed rule change merely provides suggestions for compliance with the requirements of GO 95 in high wind areas. Therefore, utilities should not incur any costs beyond what they already incur to account for these conditions.

The benefits are that the proposed rule gives utilities flexibility to determine what extra precautions might be appropriate to account for high winds in order to maintain required separation of overhead conductors. This in turn will lessen the chances that these lines will come into contact with each other and spark, and reduce the risk

of fires. It is a reasonable approach to addressing the topic of maintaining line-to-line clearances in areas subject to high-winds, and it further minimizes the chances that fires could be ignited due to overhead conductors contacting each other in high wind areas.

- Whether and how the costs will be recovered from customers.

See discussion in PRC 2, above.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Not applicable.

- Why it is in the public interest to adopt the proposed rule.

See benefits, discussed above. See also, discussion on cost/benefits in PRC 1, above.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

See discussion in PRC 2, above.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable.

(e) Parties' Comments

Parties in Support

CFBF

CMUA – CMUA supports the CPSD's proposed GO 95, Rule 38 Footnote (zz) as a reasonable codification of the good practice of taking known local conditions into account when designing, constructing, and maintaining electric facilities.

CPSD

LA COUNTY

LADWP – LADWP supports the CPSD’s proposed GO 95 Rule 38 Footnote (zz) as a reasonable codification of the good practice of taking known local conditions into account when designing, constructing, and maintaining electric facilities.

PACIFICORP – PacifiCorp agrees that this footnote may provide guidance to a utility that will help reduce the fire hazard in southern California before October 2009. In PacifiCorp’s service territory, all of its poles are snow-loading ready, and high winds are generally accompanied by rain and snow that greatly reduce any fire hazard. Thus, any regulation aimed at the increased fire risk derived from Santa Ana winds prevalent only in southern California should not be imposed on all of California.

PG&E – PG&E supports this footnote (zz) to Table 2, and appreciates the clarification and guidance it provides.

SCE – CPSD’s new footnote zz to Table 2 adds sensible recommendations for additional measures utilities can take in high wind areas. SCE supports the changes to the Table and appreciates CPSD’s additional changes to the language of the footnote made during the workshops.

SDG&E – The revised footnote zz proposed by CPSD provides a reasonable and helpful clarification to Table 2.

SIERRA PACIFIC

SMUD – SMUD supports the CPSD’s proposed GO 95 Rule 38 Footnote (zz) as a reasonable codification of the good practice of taking known local conditions into account when designing, constructing, and maintaining electric facilities.

TURN

Parties Neutral

Parties in Opposition

AT&T, CCTA, COMCAST, COX, SMALL LECS, AND SUREWEST – CPSD’s Proposed Rule 38, Footnote zz applies “[i]n areas that are subjected to high winds.” The term “areas subject to high winds” has not been defined by CPSD. Because this term is undefined, utilities have no basis for determining how to implement it. Consequently, utilities would have to rely on their own discretion to determine how to define such areas. If CPSD then audited utilities regarding the measures they had implemented in high wind areas, CPSD could claim that utilities had violated the rule by not correctly defining high wind areas. To avoid such problems associated with implementation of this new rule, the revision should include a definition of high wind

areas. Alternatively, this footnote should be limited to the Extreme or Very High Fire Threat Zones on the FRAP Map located in Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego counties. Because CPSD did not provide a definition of high winds or otherwise limit the applicability of the footnote during the workshops, this issue should be deferred until Phase 2.

J. CPSD PRC 8: Proposed New GO 95: Rule 44.2: Additional Construction

1. CPSD Proposal

(a) CPSD Original From April 8 Reply Comments

Rule 44.2 Additional Construction

Any Constructing Entity (utility or communication infrastructure provider) planning the addition of facilities that materially increases the load on a pole shall perform a loading calculation with the best available information to ensure that the addition of the facilities will not result in the pole maintaining a safety factor less than the safety factors specified in Rule 44.3.

Note: Constructing Entities are entities that initiate the latest construction on the pole.

The design shall consider the structural loading requirements of all facilities currently occupying, or planned to occupy the structure and shall account for deterioration such that the safety factor does not fall below the values required by Rule 44.3. For purposes of this rule, the term “planned/planning” applies to the facilities intended to occupy the structure that are actually known to the Constructing Entity at the time of design.

Constructing Entities are required to (1) perform loading calculations using pertinent data, including available intrusive test results, to calculate transverse and vertical strength requirements (see Rules 45 and 46); (2) maintain the pole loading information for audit purposes; and (3) provide the pertinent structure information, including available intrusive test results, to authorized joint-use pole occupants upon request.

The pertinent data referenced above shall be provided within 15 business days upon request by the entity who has the data, e.g., pole owner. Intrusive testing results shall be provided either as the level of decay of the pole at ground level in inches or by specifying the percentage strength remaining of the pole (by stating that, e.g., “75% strength remaining”).

Calculations are not required when the load being added is less than 5 percent per installation, or 10 percent over a 12 month span.

Note: Nothing contained in this rule shall be construed as allowing the safety factor of a facility to be reduced below the required values specified in Rules 44.1 and 44.2.

**(b) Workshop Proposed Changes [Rule 44.2: Additional
Construction and Renumbered Rule 44.3: Replacement]**

[Note: CPSD’s original April 8 proposed rule was discussed at the first day of the workshop. CPSD brought an alternative proposal that was significantly different from its April 8 version to the second day of the workshop, after hearing the concerns raised by both the electric utilities and CIPs at the first day of the workshop. Thus, the changes below reflect changes to the alternative version of the proposal after discussion by the parties at the second day of the workshop.]

Rule 44.2 Additional Construction

Any utility or CIP planning the addition of facilities that materially increases the load on a structure shall perform a loading calculation ~~with the best available information~~ to ensure that the addition of the facilities will not reduce the safety factors below the values specified by Section IV. Such utility or CIP shall maintain these pole loading calculations and shall provide such information to authorized joint use pole occupants and the Commission upon request.

All other utilities or CIPs on the subject pole shall cooperate with the utility or CIP performing the load calculations described above including, but not limited to, providing intrusive pole loading data and other data necessary to perform those calculations. The necessary data shall be provided upon request within fifteen business days of the request; however, if circumstances do not allow for the data to be provided within fifteen days, the utility or CIP providing the data shall inform the requesting party and CPSD (or its successor) of the delay, reason for the delay and the estimated date the data will be provided.

For purposes of this Rule, additional facilities that “materially increases the load on a structure” refers to an addition which increases the load on a pole by more than 5 percent per installation, or 10 percent over a 12 month span of the utility’s or CIP’s current load.

Note: Nothing contained in this rule shall be construed as allowing the safety factor of a facility to be reduced below the required values specified in Rules 44.1 and 44.3.

Rule 44.23 Replacement

Lines or parts thereof shall be replaced or reinforced before safety factors have been reduced (due to deterioration) in Grades “A” and “B” construction to less than two-thirds of the construction safety factors specified in Rule 44.1 and in Grades “C” and “F” construction to less than one-half of the construction safety factors specified in Rule 44.1. Poles in Grade “F” construction shall also conform to the requirements of Rule 81.3-A.

In no case shall the application of this be held to permit the use of structures or any member of any structure with a safety factor less than one.

(c) Proposed Final

Rule 44.2 Additional Construction

Any utility or CIP planning the addition of facilities that materially increases the load on a structure shall perform a loading calculation to ensure that the addition of the facilities will not reduce the safety factors below the values specified by Section IV. Such utility or CIP shall maintain these pole loading calculations and shall provide such information to authorized joint use pole occupants and the Commission upon request.

All other utilities or CIPs on the subject pole shall cooperate with the utility or CIP performing the load calculations described above including, but not limited to, providing intrusive pole loading data and other data necessary to perform those calculations. The necessary data shall be provided upon request within fifteen business days of the request; however, if circumstances do not allow for the data to be provided within fifteen days, the utility or CIP providing the data shall inform the requesting party and CPSD (or its successor) of the delay, reason for the delay and the estimated date the data will be provided.

For purposes of this Rule, additional facilities that “materially increases the load on a structure” refers to an addition which increases the load on a pole by more than 5 percent per installation, or 10 percent over a 12 month span of the utility’s or CIP’s current load.

Note: Nothing contained in this rule shall be construed as allowing the safety factor of a facility to be reduced below the required values specified in Rules 44.1 and 44.3.

Rule 44.3 Replacement

Lines or parts thereof shall be replaced or reinforced before safety factors have been reduced (due to deterioration) in Grades “A” and “B” construction to less than two-thirds of the construction safety factors specified in Rule 44.1 and in Grades “C” and “F” construction to less than one-half of the construction safety factors specified in Rule 44.1. Poles in Grade “F” construction shall also conform to the requirements of Rule 81.3-A.

In no case shall the application of this be held to permit the use of structures or any member of any structure with a safety factor less than one.

(d) Justification/Rationale (CPSD)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

This proposed rule would apply to owners of any overhead electrical supply and communications facilities that come within the jurisdiction of this Commission,

located outside of buildings, including owners of electric facilities that belong to non-electric utilities and publicly-owned utility electric supply facilities.

- New and/or revised text for the affected General Order(s), if applicable.

See above.

- The specific hazard(s) addressed by the proposed rule.

This proposed rule will address the issue of poles being overloaded by new facilities being added to the pole. Overloaded poles may cause the pole to break, which may lead to fires. The safety factor of Joint Use Wood Poles is affected by two factors: (1) the change of construction of the pole; and (2) the deterioration of the pole. Currently, GO 165 requires electric utilities to conduct intrusive inspections on the poles to determine if the pole complies with GO 95, Rule 44.2. However, there is no rule that states the Utility must share the information with the other pole owners or determine if the other pole owners have changed the installation or added new facilities to the poles. This creates two possible scenarios:

In the first scenario, "Power Utility A," conducted an intrusive pole inspection of a Joint Use Wood Pole and determined that the safety factor of the wood pole is currently 3, due to deterioration of the pole. "Phone Company B" decided to increase their lines on the pole in question. "Phone Company B" does a safety factor calculation based on the pole being a sound pole, unaware that the "Power Utility A" is aware that the safety factor is already compromised. "Phone Company B" installs the new conductors believing the pole is in compliance. However, the safety factor of the pole is now 2.5, which is in violation of GO 95, Rule 44.2 which requires a safety factor for pole of this type to be 2.67.

In the second scenario, "Cable Company D" upgrades its facilities on a joint use pole. This lowered the safety factor to what was believed to be 3.6. However, the pole had deteriorated on the inside (no visible signs on the outside). "Power Utility C," conducts an inspection after the "Cable Company D" upgraded, and calculates the safety factor to be 2.8. "Power Utility C" does not calculate the safety factor of the pole based upon what is on the pole. Its calculation is based upon the shell thickness, which does not account for changes in construction by another party.

These two scenarios are currently happening in the State. CPSD's proposed rule changes will help to eliminate these risks of pole overloading by requiring the

Utilities to share more information with each other and ensure compliance with the safety factors.

- How the proposed rule reduces or otherwise addresses the hazard(s).

The proposed rule addresses the concern that pole occupants may be overloading poles due to several different pole occupants adding facilities on poles without adequate pole calculation data. The proposed rule change reduces the aforementioned hazard by codifying the requirement that safety factor calculations be done prior to adding facilities to a pole. Furthermore, the proposed rule change requires utilities adding facilities to the pole to use all information available such as intrusive pole inspection results. It further requires utilities to cooperate with each other by providing relevant information, including intrusive pole loading data, upon request. CPSD agreed with the CIPs that there should be a time frame on when pole owners should provide intrusive test results to constructing entities, and has inserted the 15-business day time frame suggested by the CIPs. However, CPSD also recognizes that there may be circumstances in which additional time may be needed to provide the relevant information, such as when the request encompasses a large number of poles. CPSD has accordingly inserted language into the proposed rule to accommodate these situations as well.

- The anticipated costs and benefits of the proposed rule.

CPSD notes that the cost to do the safety factor calculation is approximately \$60 (sixty dollars) per pole. However, utilities should currently be performing safety factor calculations prior to adding new facilities to a pole. As CPSD's proposed rule merely clarifies this current obligation, it should not result in increased costs to the utilities. The benefit of the proposed rule is that poles that are overloaded or will become overloaded will be noticed for replacement sooner, thus enhancing public safety and potentially reducing the risk of fires.

See also discussion regarding benefits above, and discussion on cost/benefits in PRC 1, above.

- Whether and how the costs will be recovered from customers.

See discussion in PRC 2, above.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

The cost of doing the safety factor calculation will be the responsibility of the utility adding the facilities. However, the cost associated with the replacement of the

poles may be shared amongst the utilities if the pole was overloaded prior to the new facilities being added. In the event that new facilities reduce the safety factor, the sharing of costs of necessary pole upgrade or replacement is left up to the contracts that the utilities have amongst themselves.

- Why it is in the public interest to adopt the proposed rule.

It is in the public interest to adopt this proposed rule, because it will cause utilities to conduct safety factor calculations prior to installing facilities that reduce the safety factor of a pole below the limits allowed by General Order 95. It is important to keep the safety factors above the required values because if they fall too low, this increases the likelihood that a pole will fail and result in a death or a fire.

See also, discussion on benefits above, and discussion on cost/benefits in PRC 1, above.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

See discussion in PRC 2, above.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable.

(e) Parties' Comments

Parties in Support

CPSD

LA COUNTY

TURN

Parties Neutral

CFBF

Parties in Opposition

AT&T, CALTEL, CCTA, COMCAST, COX, CTIA, SMALL LECS, SUREWEST AND VERIZON – With its latest iteration of proposed Rule 44.2, CPSD narrowed the gap significantly between its proposed rule and the alternative offered by the CIPs Coalition (see below). The primary differential rests with the fact that the CPSD rule is not limited to Extreme or Very High Fire Threat Zones in Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego Counties, but would be applicable statewide. Given the limited time which parties were given to craft the rules, and the limited time to commence implementation, coupled with what even CPSD has recognized, as “a consensus among the parties that the increased Phase 1 safety efforts, which the Commission may prescribe, **should center on the FRAP Southern California Counties,**”²⁵ there is no basis for extension of any of the Phase I rules beyond the limited geographic area.

Moreover, CPSD introduces one element into the rule which detracts from the ability of CIPs to effectively perform necessary aspects of their businesses. Specifically, the CPSD proposal does not resolve the critical concept of a means to proceed to effect necessary additions to a pole if the utility with the requested data does not timely respond. Merely allowing the utility to note that it will be late and provide an estimated delivery data, as proposed by CPSD, does not affect the necessary resolution and allow CIPs to make necessary infrastructure enhancements on a timely basis.

CMUA – CMUA recognizes the concerns that the CPSD is attempting to address in its proposed rule change to GO 95 Rule 44.2. However, because of the complexity of this issue, there simply is not enough time to create an effective and well reasoned rule in Phase I of this proceeding. The short time frame of Phase I has not permitted adequate evaluation of the likely costs and benefits of this proposed rule.

LADWP – This item needs more time to discuss the complex processes and effects on utilities.

PACIFICORP – For the most part, PacifiCorp is the sole owner of its poles. As the owner of these poles, PacifiCorp tests and treats each of them. PacifiCorp does not

²⁵ See CPSD’s Proposed Rules to be Implemented in Time for the 2009 Fall Fire Season, R.08-11-005 (March 9, 2009) at p. 20.

currently keep the intrusive test data for each pole in an easily accessed database as it has neither been required to do so nor has been paid by its tenants to collect and provide that information when requested. Instead, each pole is simply tagged as to whether it passed or failed an intrusive test. Some of the percentages calculated and data gathered from the intrusive test results, which this rule expects to be shared with a constructing entity, may be recorded in the handwritten field notes of those workers who performed these intrusive tests over the years, however, it would take PacifiCorp more than fifteen days to retrieve that data and send it to a requesting utility.

If PacifiCorp were required to create and administer a database that holds intrusive test data for each pole, the cost would be approximately \$1.1 million to create the system, and require two additional full-time employees to manage it each year, as described in PacifiCorp's comments to Rule 3. There would, of course, be significant extra costs if PacifiCorp is required to retest all of its poles in order to have all of the specific data and percentages that CPD may wish to be provided.

As PacifiCorp would not be able to simply raise the rental rates that it charges its tenants in order to recoup those costs, PacifiCorp would require cost recovery from its customers for performing these functions. However, PacifiCorp does not believe that these actions are necessary to accomplish CPD's goal of ensuring that the addition of facilities does not reduce the safety factor of that pole beyond the acceptable amount. This is especially true in Phase 1 where forcing PacifiCorp's customers in northern California to bear additional costs does not help reduce the fire hazard in southern California before October 2009.

PacifiCorp agrees that each constructing entity should perform loading calculations. In fact, each constructing entity should also perform appropriate clearance calculations as well. However, using conservative estimates of the intrusive test data to perform those calculations, when actual intrusive test data is not available, would be a more cost-effective method to accomplish CPD's goal of ensuring that the addition of facilities does not reduce the safety factor of the pole beyond the acceptable amount. This proposed rule will also eliminate any problems, brought up by a handful of CIPs during the workshops, with additional delays related to conveying intrusive test data.

PG&E – PG&E supports the concept and the development of a rule to address improved communication among the parties regarding pole loading information, but

this version of the rule is not ready and adopting a rushed version of a rule at this point will not have any significant impact on potential fire threats this fall. The subject should be deferred to Phase 2 where a more thorough review can be undertaken and the following issues addressed: (1) how the North or South joint pole agreements affect the proposed rule; (2) what would be the best way to handle the exchange of information; (3) whether the 5% factor used has a sound engineering basis; (4) what is the appropriate time period for a response; and (5) whether years old data needs to be provided and whether it should be relied upon, etc. The parties just need more time to work on the various versions of the proposed rule before it is adopted.

Further, CPSD states there are no cost impacts since utilities already do calculations. This completely ignores the impacts of the process changes; cost to create, maintain and provide technical support for a shared and secure database (if that is the solution), cost of document/information sharing (sharing pole test data and facility information), cost of training employees, cost of modifying existing Joint Pole Association agreements, related processes and cost sharing. Now that the CPSD's proposed rule is final, PG&E will be able to provide a cost estimate for implementing this rule in its opening brief.

Also, CPSD acknowledges that there is a business agreement between the utilities for sharing of pole replacement costs, but ignores that same agreement when imposing a 15-day turnaround time to share pole test and other facility information. Fifteen days appears to be arbitrary and ignores other utility priorities e.g., emergency/storm response, new business applications, customer requests, etc. To address the utilities concern, CPSD added to the bureaucracy and costs with the following:

“If circumstances do not allow for the data to be provided within fifteen days, the utility or CIP providing the data shall inform the requesting party and CPSD (or its successor) of the delay, reason for the delay and the estimated date the data will be provided.”

If a utility was going to be one day late (now a GO 95 violation under the proposed rule), there are onerous notification and documentation requirements associated with that delay. A 15-day response time is inappropriate as a GO 95 requirement and should be left to the parties to work out in business agreements. Finally, the fifteen day response time puts the entire burden on the responding utility.

There are no requirements placed on the requesting utilities/companies e.g. the minimum information needed that would constitute a valid request.

To recap, this rule change will not impact the fall fire threat and realistically won't materially impact safety or pole failures in the near term. While the concept is worthwhile, any positive impacts will be incremental while the negative impacts of the process changes will be immediate.

SCE – Although SCE agrees that changes should be made to the processes currently used for sharing pole loading information and calculating wind loading prior to adding additional facilities to a pole, SCE cannot support CPSD's proposed language for a new Rule 44.2 to G.O. 95. SCE does appreciate the change made by CPSD during the workshop to add the phrase "upon request" to its proposal. CPSD's proposed rule would codify process and procedure (e.g., 15 business days to communicate data) into a General Order where parties have until now dealt with such matters contractually and through the joint pole organizations. SCE also does not believe the exception to the rule (5 percent load increase) has been thoroughly vetted or that the exception could be practically implemented in the field.

In short, although something should be done in the interim as SCE proposes below, the changes advocated by CPSD have not been given due consideration and therefore they should not be permanently added to G.O. 95. SCE looks forward to additional discussion of this Rule in Phase 2.

SDG&E – 15 days is not enough time to provide pole loading data in many instances (our current standard is 45 days). Therefore, SDG&E is sponsoring an alternate that modifies this one element of CPSD's proposal.

SIERRA PACIFIC

SMUD – SMUD recognizes the concerns that the CPSD is attempting to address in its proposed rule change to GO 95 Rule 44.2. Most if not all of these concerns were addressed by a 2005 G.O. 95 pole loading rule change/clarification, regarding safety factor. Due to the nature of utility construction the impact of this rule change cannot be expected to be immediately apparent.

2. SDG&E Alternative Language/Proposal [Rule 44.2: Additional Construction]

(a) SDG&E Strikeout/Underline of CPSD Proposal

44.2 Additional Construction

Any utility or CIP planning the addition of facilities that materially increases the load on a structure shall perform a loading calculation ~~with the best available information~~ to ensure that the addition of the facilities will not reduce the safety factors below the values specified by Section IV. Such utility or CIP shall maintain these pole loading calculations and shall provide such information to authorized joint use pole occupants and the Commission upon request.

All other utilities or CIPs on the subject pole shall cooperate with the utility or CIP performing the load calculations described above including, but not limited to, providing intrusive pole loading data and other data necessary to perform those calculations. The necessary data shall be provided upon request within a mutually agreed-upon timeframe. ~~fifteen business days of the request; however, if circumstances do not allow for the data to be provided within fifteen days, the utility or CIP providing the data shall inform the requesting party and CPSD (or its successor) of the delay, reason for the delay and the estimated date the data will be provided.~~

For purposes of this Rule, additional facilities that “materially increases the load on a structure” refers to an addition which increases the load on a pole by more than 5 percent per installation, or 10 percent over a 12 month span of the utility’s or CIP’s current load.

Note: Nothing contained in this rule shall be construed as allowing the safety factor of a facility to be reduced below the required values specified in Rules 44.1 and 44.3.

(b) Proposed Final

44.2 Additional Construction

Any utility or CIP planning the addition of facilities that materially increases the load on a structure shall perform a loading calculation to ensure that the addition of the facilities will not reduce the safety factors below the values specified by Section IV. Such utility or CIP shall maintain these pole loading calculations and shall provide such information to authorized joint use pole occupants and the Commission upon request.

All other utilities or CIPs on the subject pole shall cooperate with the utility or CIP performing the load calculations described above including, but not limited to, providing intrusive pole loading data and other data necessary to perform those calculations. The necessary data shall be provided upon request within a mutually agreed-upon timeframe.

For purposes of this Rule, additional facilities that “materially increases the load on a

structure” refers to an addition which increases the load on a pole by more than 5 percent per installation, or 10 percent over a 12 month span of the utility’s or CIP’s current load.

Note: Nothing contained in this rule shall be construed as allowing the safety factor of a facility to be reduced below the required values specified in Rules 44.1 and 44.3.

(c) Justification/Rationale (SDG&E)

- The specific electric utilities, CIPs, and others affected by the proposed rule.
See CPSD discussion.
- New and/or revised text for the affected General Order(s), if applicable.
See CPSD discussion.
- The specific hazard(s) addressed by the proposed rule.
See CPSD discussion.
- How the proposed rule reduces or otherwise addresses the hazard(s).
See CPSD discussion.
- The anticipated costs and benefits of the proposed rule.
See CPSD discussion.
- Whether and how the costs will be recovered from customers.
See CPSD discussion.
- Whether and how costs will be shared among electric utilities, CIPs, and others.
See CPSD discussion.
- Why it is in the public interest to adopt the proposed rule.
See CPSD discussion.
- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.
See CPSD discussion.
- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

See CPSD discussion.

(d) Parties' Comments

Parties in Support

PG&E – See discussion above. PG&E believes that parties need more time to finalize this rule. However, if the Commission intends to adopt a rule addressing pole loading calculations in Phase 1 of this proceeding, this version of the rule offers a more flexible approach to communications and cooperation that should be taking place in any case.

SDG&E – SDG&E supports almost all elements of CPSD's proposed rule change. As noted above, however, 15 days is not enough time to provide pole loading data in many instances. SDG&E alternate replaces CPSD's proposed 15-day deadline with "a mutually agreed-upon timeframe." This more flexible deadline will serve both pole owners and CIPs planning the addition of facilities by providing flexibility that can be tailored to meet the particular needs and circumstances of the parties involved in the proposed attachments, as well as the circumstances surrounding particular proposed attachments (e.g., gathering data for one proposed attachment is a very different proposition from gathering data for 1,000 proposed attachments). Moreover, this terminology providing flexibility is consistent with existing language in GO 95 Section IX (Joint Use).

Parties Neutral

CFBF

PACIFICORP – Most of the objections that PacifiCorp had with CPSD's rule remains with SDG&E's rule. However, by eliminating the fifteen day requirement and allowing the utilities to mutually agree upon an appropriate time frame to give any necessary data, PacifiCorp believes it will be able to retrieve the necessary data and furnish a constructing entity with that data without having to completely revamp its current system and create a new database with this information in order to meet the fifteen day requirement.

However, PacifiCorp continues to believe that this is not the best approach to accomplish CPSD's goal to ensure that the addition of facilities does not reduce the safety factor beyond an acceptable amount. This is especially true in Phase 1 where forcing PacifiCorp's customers in northern California to bear additional costs does not help reduce the fire hazard in southern California before October 2009.

PacifiCorp agrees that each constructing entity should perform loading calculations. In fact, PacifiCorp also believes that each constructing entity should also perform appropriate clearance calculations as well. However, PacifiCorp believes that performing those calculations by conservative estimates of the intrusive test data, when such intrusive test data is not available, would be a more cost-effective method to accomplishing CPSD's goal to ensure that the addition of facilities does not reduce the safety factor beyond an acceptable amount. This would also eliminate any problems, brought up by a handful of CIPs during the workshops, with additional delays related to conveying intrusive test data.

SCE – The major change to this Rule advocated by SDG&E—removing the prescriptive time limit and forcing parties to mutually agree—makes this rule one that could now be implemented, which is why SCE is neutral on the proposal. However, SCE still strongly believes that the Rule is not ripe for permanent entry into G.O. 95 without additional discussion in Phase 2. SCE advocates for its ordering paragraph suggestion below, which adopts requirements for sharing information while putting off the specific language for a rule change to Phase 2 of the proceeding after parties have had a chance to discuss the issue within the context of their current relationships as joint owners or pole tenants.

SIERRA PACIFIC

SMUD

Parties in Opposition

AT&T, CALTEL, CCTA, COMCAST, COX, CTIA, SMALL LECS, SUREWEST AND VERIZON – The parties remain in opposition to SDG&E's alternative for the primary reason they oppose CPSD's proposal – the alternative is not limited to the Extreme or Very High Fire Threat Zones in Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego Counties and it does not resolve the critical concept of a means to proceed to effect necessary additions if the utility with the requested data does not provide data in a timely manner.

CMUA – CMUA agrees that removing the 15-day requirement for responding to requests for pole loading data is an improvement over the CPSD's proposal. However, SDG&E's proposal has not been sufficiently vetted and is more appropriate for Phase II of this proceeding.

CPSD – This proposed rule is similar to CPSD’s proposal and would accomplish many of the same concerns. However, CPSD opposes SDG&E’s proposal because it does not specify a time interval for utilities to get information to other utilities. This is problematic because a company planning on adding facilities to a pole could have its project delayed by another party taking too long to get information back. The Commission has agreed that electric poles can be used for communications infrastructure purposes. CPSD’s proposed rules are an attempt to make sure this is done safely. SDG&E’s proposal, in contrast, leaves too much discretion and leverage in the hands of electric utilities, which may delay the efforts of CIPs to install their facilities, thus thwarting federal law goals and the Commission’s own certification requirements allowing CIPs to install facilities on electric poles. As the proposal does not fully facilitate communication and the exchange of relevant information between the utilities, CPSD urges the Commission to reject it.

LA COUNTY

LADWP – Even though this is an improvement by removing the 15-day requirement, it still needs more time to discuss the complexities involved.

TURN

3. SCE Alternate Language/Proposal

(a) SCE Strikeout/Underline of CPSD Proposed Final [Ordering Paragraph]

Alternate to Proposed New GO 95 Rule 44.2

Ordering Paragraph

Electric supply utilities and communication infrastructure providers planning to add facilities that will materially increase the load(s) on support structures or line elements shall perform appropriate pole loading calculations, utilizing the best available information (including available wood pole intrusive test results) to ensure the additional load(s) will not result in a non-conformance with the minimum safety factors required by this Section IV. The parties shall cooperate with one another in performing the load calculations described above including but not limited to providing the information or the data necessary on a timely basis.

Electric supply utilities and communication infrastructure providers that occupy joint use utility poles are ordered to initiate discussions in advance of the opening of Phase 2 of this proceeding to develop methods for exchanging pole loading information (including wood pole intrusive test results) and loading calculations to ensure the integrity of shared overhead infrastructure. Additionally, parties will consider a practical means for retaining such information.

(b) Proposed Final

Alternate to Proposed New GO 95 Rule 44.2

Ordering Paragraph

Electric supply utilities and communication infrastructure providers planning to add facilities that will materially increase the load(s) on support structures or line elements shall perform appropriate pole loading calculations, utilizing the best available information (including available wood pole intrusive test results) to ensure the additional load(s) will not result in a non-conformance with the minimum safety factors required by this Section IV. The parties shall cooperate with one another in performing the load calculations described above including but not limited to providing the information or the data necessary on a timely basis.

Electric supply utilities and communication infrastructure providers that occupy joint use utility poles are ordered to initiate discussions in advance of the opening of Phase 2 of this proceeding to develop methods for exchanging pole loading information (including wood pole intrusive test results) and loading calculations to ensure the integrity of shared overhead infrastructure. Additionally, parties will consider a practical means for retaining such information.

(c) Justification/Rationale (SCE)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

All utilities that add facilities to existing wood poles.

- New and/or revised text for the affected General Order(s), if applicable.

See SCE's proposed Ordering Paragraphs, above.

- The specific hazard(s) addressed by the proposed rule.

Possible lack of communication regarding all data necessary to perform pole loading studies when adding facilities to existing wood poles.

- How the proposed rule reduces or otherwise addresses the hazard(s).

To the extent a hazard exists, SCE's proposal would require parties to cooperate in communicating the data necessary to perform accurate pole loading studies.

- The anticipated costs and benefits of the proposed rule.

Since the extent of the problem is unknown or speculative, so are the benefits. Some costs are likely to be incurred due to the time needed to identify and communicate all the data necessary to perform accurate calculations.

- Whether and how the costs will be recovered from customers.

Through rates in the case of cost-of-service regulated utilities. Utilities on market-based pricing may or may not be able to pass these costs to customers.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

SCE anticipates that the discussions which are to begin prior to Phase 2 will identify and allocate increased shared costs among pole owners and tenants.

- Why it is in the public interest to adopt the proposed rule.

The public benefits to the extent any problems with pole loading calculations are improved.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

SCE sees no conflict with other state or federal regulations.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

SCE does not believe the activity regulated by this rule qualifies as a project under CEQA. See California Code of Regulations, Title 14, Ch. 3, Art. 20 (Definitions) § 15378 (Projects); and California Code of Regulations, Title 14, Ch. 3, Art. 18 (Statutory Exemptions) §§ 15269(b) and (c) (Emergency Projects).

(d) Parties' Comments

Parties in Support

AT&T, CCTA, COMCAST, COX, CTIA AND VERIZON – The SCE alternative is structured to recognize not only the extreme technical nature of the subject area, but also procedures which are already in place (such as those of the northern California Joint Pole Association and the southern California Joint Pole Committee) which may conflict with any directives regarding additions to poles which are enacted by the Commission at this time. Under the SCE alternative, electric utilities and CIPs would be ordered to work in a cooperative manner such that necessary pole loading calculations could be performed, while at the same time establishing a process for working through issues related to maintaining and sharing necessary data for pole load calculations and the results of those calculations. While the CIP Coalition is advancing an alternative in this proceeding, the SCE proposed ordering paragraph (in particular the latter half) could work in conjunction with the CIPs' alternative as a means of going forward to address issues associated with additions to poles.

CMUA – CMUA supports SCE's proposed ordering paragraph because it directs utilities to immediately begin cooperating on this issue, while allowing sufficient time to develop the actual rule by postponing the issue until Phase II.

PACIFICORP – SCE's proposed rule will mandate that PacifiCorp and the other utilities must provide each other with the best available information that they have to ensure that poles are not overloaded in Phase 1. This will reduce the fire hazard in southern California before October 2009.

Then in Phase 2 or on their own, parties can begin to develop the complicated processes necessary to determine what information and processes are precisely needed to ensure that poles are not overloaded or what information and processes are needed to ensure that the attachments themselves are not overloaded. In PacifiCorp's service territory, the pole itself usually remains standing while a specific attachment that is overloaded or not suitably attached may fall off the pole. Thus, the current pole loading processes have proven sufficient to ensure that the pole itself remains standing.

PG&E – See Comments above. PG&E can support this version of the proposed rule.

SCE – SCE urges the Commission to adopt this interim solution to the pole loading and sharing of information problem pending further development in Phase 2. SCE strongly believes that its interim solution for an ordering paragraph requiring the sharing of pole loading information with specifics to be developed later solves the problems identified by CPSD for resolution in Phase 1 of this proceeding while permitting the parties to work diligently on developing a consensus proposal for a permanent rule change in Phase 2.

SIERRA PACIFIC

SMUD – SMUD supports SCE’s proposed ordering paragraph because it directs utilities to immediately begin cooperating on this issue, while allowing sufficient time to develop the actual rule by postponing the issue until Phase II.

Parties Neutral

CALTEL

CFBF

LADWP – LADWP supports SCE’s proposed ordering paragraph because it directs utilities and CIP to perform appropriate action to begin cooperating on this issue, while allowing sufficient time to develop methods and procedures by postponing the issue until Phase II.

SDG&E

SMALL LEC

SUREWEST

Parties in Opposition

CPSD – CPSD opposes SCE’s proposal because it is only an ordering paragraph which would require the issue to be addressed in phase two, and, like SDG&E’s proposal, does not specify the time intervals for data to be shared amongst parties. The temporary addressing of this proposal leaves too many issues for Phase 2, and does not address all of the problems identified by CPSD above, regarding lack of communication and exchange of relevant information between utilities. In addition, by deleting the note which states that “Nothing contained in this rule shall be construed as allowing the safety factor of a facility to be reduced below the required values specified in Rules 44.1 and 44.3,” SCE leaves it up to the utilities to

determine whether they will perform the necessary safety factor calculations. In addition, this proposal has no requirement for retaining records, which is the only way CPSD can audit to see if the appropriate calculations were done.

LA COUNTY

TURN

4. CIP Alternate Language/Proposal

(a) **Strikeout/Underline of CPSP Proposed Final [Rule 123: Additions to Poles]**

44.2123 Additions to Poles Construction

~~Any Constructing Entity (utility or communication infrastructure provider) CIP planning the addition of facilities that materially increases the load on a pole in a Designated Area shall perform a loading calculation with the best available information to ensure that the addition of the facilities will not result in the pole maintaining a safety factor less than the safety factors specified in Rule 44.32. Such utility or CIP shall maintain these pole loading calculations and results for a period of three years and shall provide such information to authorized joint use pole occupants and the Commission upon request.~~

~~Note: Constructing Entities are entities that initiate the latest construction on the pole.~~

~~The design shall consider the structural loading requirements of all facilities currently occupying, or planned to occupy the structure and shall account for deterioration such that the safety factor does not fall below the values required by Rule 44.3. For purposes of this rule, the term “planned/planning” applies to the facilities intended to occupy the structure that are actually known to the Constructing Entity at the time of design.~~

~~Constructing Entities are required to (1) perform loading calculations using pertinent data, including available intrusive test results, to calculate transverse and vertical strength requirements (see Rules 45 and 46); (2) maintain the pole loading information for audit purposes; and (3) provide the pertinent structure information, including available intrusive test results, to authorized joint-use pole occupants upon request.~~

~~The pertinent data referenced above shall be provided within 15 business days upon request by the entity who has the data, e.g., pole owner. Intrusive testing results shall be provided either as the level of decay of the pole at ground level in inches or by specifying the percentage strength remaining of the pole (by stating that, e.g., “75% strength remaining”).~~

~~All other utilities or CIPs on the subject pole shall cooperate with the utility or CIP performing the load calculations described above including, but not limited to, providing the information or data necessary to perform those calculations. If no information or data is available or is not provided within fifteen business days of the request for such information or data, reasonable assumptions using standardized tools may be made in performing load calculations.~~

~~For purposes of this Rule, additional facilities that “materially increases the load on a pole” refers to an addition which increases the total existing load on a pole by moreCalculations are not required when the load being added is less than 5 percent per installation, or 10 percent over a 12 month span.~~

~~Note: Nothing contained in this rule shall be construed as allowing the safety factor of a facility to be reduced below the required values specified in Rules 44.1 and 44.2.~~

(b) Proposed Final

123 Additions to Poles Construction

Any utility or CIP planning the addition of facilities that materially increases the load on a pole in a Designated Area shall perform a loading calculation with the best available information to ensure that the addition of the facilities will not result in the pole maintaining a safety factor less than the safety factors specified in Rule 44.2. Such utility or CIP shall maintain these pole loading calculations and results for a period of three years and shall provide such information to authorized joint use pole occupants and the Commission upon request.

All other utilities or CIPs on the subject pole shall cooperate with the utility or CIP performing the load calculations described above including, but not limited to, providing the information or data necessary to perform those calculations. If no information or data is available or is not provided within fifteen business days of the request for such information or data, reasonable assumptions using standardized tools may be made in performing load calculations.

For purposes of this Rule, additional facilities that “materially increases the load on a pole” refers to an addition which increases the total existing load on a pole by more than 5 percent per installation, or 10 percent over a 12 month span.

(c) Justification/Rationale (CIP) Not Provided

AT&T, CALTEL, CCTA, COMCAST, COX, CTIA, SMALL LECS, SUREWEST AND VERIZON

- The specific electric utilities, CIPs, and others affected by the proposed rule.

This proposed alternative would impact both electric utilities and CIPs with facilities in the extremely or very high fire threat zones in Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside and San Diego Counties.

- New and/or revised text for the affected General Order(s), if applicable.

See language of rule above.

- The specific hazard(s) addressed by the proposed rule.

As with all the proposals offered by the CIP Coalition, this alternative addressing additions to poles is not offered in response to any particular fire hazard which CIP facilities engender. CIPs facilities are not an ignition source for fire. That said, a concern was raised by CPSD that over loading electric poles with either

communications facilities or electric facilities may result in pole collapse resulting in the high voltage electric wire attached to the pole to cause a fire. This alternative by the CIP Coalition is designed to mitigate the potential for such occurrence in the areas of the state which have the highest potential for fire in the Fall 2009, as required by the January 6, 2009 ACR and the April 20, 2009 ALJ Ruling.

- How the proposed rule reduces or otherwise addresses the hazard(s).

The proposed alternative addresses potential pole failure from overloading by requiring the performance of a loading calculation whenever a CIP or electric utility plans to materially increase the load on a pole so as to ensure the additional load(s) will not result in a non-conformance with the Commission's minimum safety factors. While the alternative provides a definition for "materially increases," it is the intent that this definition would be further refined in Phase II of this proceeding.

- The anticipated costs and benefits of the proposed rule.

The CIP Coalition has not attempted to quantify either the costs or benefits of this proposed alternative. That said, the CIP proposal attempts to minimize any costs by focusing on the very high and extreme fire threat zones in the seven southern California counties. Similarly, by more narrowly focusing the rule, it ensures that there is an established process for addressing the potential for pole overloading in these high risk areas while making it more probable that the rule can be implemented in a timely fashion.

- Whether and how the costs will be recovered from customers.

This issue was not discussed during the workshops.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

It is not anticipated that there would be any cost sharing between electric utilities and CIPs.

- Why it is in the public interest to adopt the proposed rule.

As referenced above, the primary difference between the CPSD proposal and the CIP's alternative is the geographic area covered by the rule. Given the lack of evidentiary predicate for any rule at this juncture, coupled with the lack of a robust cost-benefit analysis, it is not in the public interest to adopt a broad sweeping rule such as that offered by CPSD. Indeed, were the Commission to do such, it would

fail in its “basic regulatory objective of maintaining the lowest reasonable rates consistent with safe, reliable, and environmentally sensitive utility service.”²⁶

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

Not applicable.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable.

(d) Parties' Comments

Parties in Support

AT&T, CALTEL, CCTA, COMCAST, COX, CTIA, SMALL LECS, SUREWEST AND VERIZON – See above justification/rationale for proposed alternative.

PACIFICORP – This rule captures PacifiCorp’s belief that performing load calculations by conservative estimates of the intrusive test data, when such intrusive test data is not available, would be the most cost-effective method to accomplishing CPSD’s goal to ensure that the addition of facilities does not reduce the safety factor beyond an acceptable amount. As PacifiCorp stated in its objections to CPSD’s proposed rule, requiring the determination, retention, and distribution of intrusive data test calculations for every pole in PacifiCorp’s service territory would be costly and inappropriate for Phase 1. Therefore, PacifiCorp can support this rule as well, though it believes that SCE’s rule provides the best approach to the issue of pole overloading.

²⁶ See D.04-10-034 at p. 97.

Parties Neutral

CFBF

MUSSEY GRADE

SMUD

Parties in Opposition

CMUA – CMUA believes that that the CIP Coalition’s proposed rule change to GO 94, Rule 44.2 is a good effort to address the problems that exist. However, CMUA believes that more time must be spent developing such a rule in order to avoid unintended consequences and unnecessary costs.

CPSD – CPSD strongly opposes this proposal. This proposed rule change would only require safety factor calculations to be done by utilities prior to adding facilities to a pole when the pole was located in a southern California county Extreme or Very High Fire Threat area. This is problematic for two reasons. First, there is no difference between a joint-use-pole in northern and southern California.

Furthermore, poles located outside of Extreme and Very High Fire Treat areas can become overloaded and cause safety problems and should be checked to ensure compliance with the safety factor rules and this proposal does not do this. Second, by explicitly requiring calculations in a small area of the state, this proposed rule leaves the question of what would be required in the rest of the state.

It is important to recognize that CPSD’s proposal is a clarification of an existing obligation that safety factor calculations be done prior to adding facilities to a pole. By contrast, the CIPs’ proposal implies that this obligation does not exist in areas outside Extreme and Very High Fire Threat areas in southern California counties. This proposal would create more confusion in the rest of the state and is narrowly trying to address an issue that is greater than the proposed “designated area.”

In addition, the CIPs’ proposal only requires utilities to maintain pole loading calculations for a period of three years. However, these utility poles are in service for decades, and therefore CPSD’s investigations into whether utilities are properly maintaining their facilities necessarily span a period of time much longer than three years. As CPSD explained in its April 8, 2009 reply comments, the Commission has generally established a policy of retaining records for five years. Indeed, Section 314.5 of the California Public Utilities Code requires the Commission

to inspect and audit the books and records of utilities, including telegraph and telephone utilities, for regulatory purposes at least once every three to five years depending upon the amount of customers they have.

Finally, CPSD opposes the CIPs' proposal because it allows utilities to go ahead and proceed with installation based on "reasonable assumptions" if they do not get requested pole loading information such as intrusive pole testing results within 15 business days. This proposal is unenforceable and unsafe, as it would result in the same situation that exists today where utilities are installing facilities on poles without performing the necessary safety factor calculations. CPSD also opposes the deletion of the "Note," for the same reason explained above with regard to SCE's proposal.

LA COUNTY

LADWP

PG&E – See discussion above. PG&E supports more work in this area, but does not believe that the subject is ready with a rule that should be adopted. PG&E is especially uncomfortable with the 15-day deadline imposed in this proposed rule.

SCE – For the reasons stated regarding its votes above, SCE cannot support the CIPs' proposal because it would codify a process into G.O. 95 that SCE would not be able to practically implement. SCE would be doomed to failure from the outset of this proposed rule since SCE cannot guarantee that it could meet a 15-day deadline in all cases for the sharing of the required information.

SDG&E – SDG&E opposes the CIP proposal because it includes an unrealistic 15-day deadline for exchanging pole loading data, and because it would facilitate pole overloading and inappropriate attachments by allowing calculations to be based on "reasonable assumptions using standardized tools" if the 15-day deadline is not met. In addition, the CIPs' proposed limitation of this rule to an unspecified "Designated Area" is confusing and, appears contrary to the interests of safety—as does the CIPs' elimination of CPSD's language clarifying that this rule cannot be used to allow the safety factor of a facility to be reduced below the required values specified in Rules 44.1 and 44.3.

SIERRA PACIFIC

TURN

**K. CPSD PRC 9: Proposed Revisions/Additions to GO 165:²⁷
(Parts I, II, III, IV and New Section V)**

1. CPSD's Proposal (Part I, II, III, IV, V and Table)

(a) CPSD Original From April 8 Reply Comments

Public Utilities Commission of the State of California Inspection Cycles and Other Safety Requirements for Electric Distribution Facilities

I. Purpose

The purpose of this General Order is to establish minimum requirements for owners of electric distribution facilities regarding inspection (including maximum allowable inspection cycle lengths), condition rating, scheduling and performance of corrective action, record-keeping, and reporting, in order to ensure safe and high-quality electrical service, and to implement the provisions of Section 364 of Assembly Bill 1890, Chapter 854, Statutes of 1996.

II. Applicability

~~As of March 31, 1997, t~~This General Order applies to owners of all electrical distribution facilities that come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities, and publicly owned utility electric distribution facilities, unless otherwise indicated. Pacific Gas and Electric Company, PacifiCorp, San Diego Gas and Electric Company, Sierra Pacific Power Company, and Southern California Edison Company.

The requirements of this order are in addition to the requirements imposed upon utilities under General Orders 95 and 128 to maintain a safe and reliable electric system. Nothing in this General Order relieves any ~~u~~Utility from any requirements or obligations that it has under General Orders 95 and 128.

III Definitions

[Definitions A-F are omitted here, but shall remain unchanged.]

G "Utility" as used herein refers to the entity owning, operating or otherwise responsible for the electrical distribution facilities referred to in Section II "Applicability" in this General Order, including municipal and/or publicly-owned electric utilities. The term "Utilities" as used herein refers to more than one Utility.

IV. Standards for Inspection, Record-keeping, and Reporting

~~Each u~~Utility subject to this General Order shall conduct inspections of its

²⁷ Only relevant excerpts of General Order 165 are included herein for purposes of showing CPSD's proposed changes.

distribution facilities, as necessary, to assure reliable, high-quality, and safe operation, but in no case may the period between inspections (measured in years) exceed the time specified in the attached table (Appendix A).

Each ~~utility~~ Utility ~~subject to this General Order~~ shall submit to have on file with the Commission ~~by no later than July 1, 1997~~, compliance plans for the inspections and record-keeping required by this order. These compliance plans will include the proposed forms and formats for annual reports and source records, as well as the ~~utility's~~ Utility's plans for the types of inspections and equipment to be inspected during the coming year. For detailed and intrusive inspections, schedules should be detailed enough (in terms of the months of inspection and the circuit, area, or equipment to be inspected) to allow staff to confirm that schedule inspections are proceeding as planned. For patrol inspections, ~~companies~~ Utilities should explain how all required facilities will be covered during the year. ~~Energy~~ Consumer Protection and Safety Division (CPSD) or any successor staff divisions may prescribe changes relating to data, definitions, reporting and record-keeping formats and forms when and as necessary.

Each ~~utility~~ Utility ~~subject to this General Order~~ shall submit an annual report detailing its compliance with this General Order under penalty of perjury by July 1 of each year. ~~The first report required under this section shall be filed with the Commission by no later than July 1, 1998. Each utility shall file subsequent annual reports for every following year by no later than July 1.~~ The report shall identify the number of facilities, by type which have been inspected during the previous period. It shall identify those facilities which were scheduled for inspection but which were not inspected according to schedule and shall explain why the inspections were not conducted, and a date certain by which the required inspection will occur. The report shall also present the total and percentage breakdown of equipment rated at each condition rating level, including that equipment determined to be in need of corrective action. Where corrective action was scheduled during the reporting period, the report will present the total and percentage of equipment which was and was not corrected during the reporting period. For the latter, and explanation will be provided, including a date certain by which required corrective action will occur. The report will also present totals and the percentage of equipment in need of corrective action, but with a scheduled date beyond the reporting period, classified by the amount of time remaining before the scheduled action. All of the above information shall be presented for each type of facility identified in the attached table and shall be aggregated by district.

The ~~company~~ Utility shall maintain records of inspection activities which shall be made available to parties or Commission staff pursuant to Commission rules upon 30 days notice. Commission staff shall be permitted to inspect such records consistent with Public Utilities Code Section 314(a).

For all inspections, within a reasonable period, ~~company~~ Utility records shall specify the circuit, area, or equipment inspected, the name of the inspector, the date of the inspection, and any problems any and all violations of General Orders 95 or 128, and any safety or reliability problems identified during each inspection, as well as the scheduled date of corrective action. For detailed and intrusive inspections, ~~companies~~ Utilities shall also rate the condition of inspected equipment. Upon

completion of corrective action, ~~company~~ Utility records will show the nature of the work, the date, and the identity of persons performing the work. Additionally, any work completed after the initial scheduled date of corrective action, the Utility will document the reason or reasons that the work was not completed by the original scheduled date of corrective action.

V. Reporting of Accidents

The following Accident Reporting Requirements apply to all investor-owned utilities with regards to the electric distribution lines which they own in the State of California. This section also applies to an investor-owned utility's privately-owned electric lines, which are extensions from an electric utility's distribution line, outside of buildings and in the State of California.

Accident Reporting Requirements

1. Within 2 hours of a reportable incident during normal working hours or within 4 hours of a reportable incident outside of normal working hours, the Utility shall provide notice to designated Commission staff of the general nature of the incident, its cause and estimated damage. The notice shall identify the time and date of the incident, the time and date of notice to the Commission, the location of the incident, casualties that resulted from the incident, identification of casualties and property damage, and the name and telephone number of a Utility contact person. This notice may be by (a) using the Commission's Emergency Reporting Web Page, (b) calling an established Commission Incident Reporting Telephone Number designated by the Commission's Consumer Protection and Safety Division (CPSD) or its successor, (c) sending a message to an electronic mail address designated by the Commission's CPSD or its successor, or (d) sending a message to the Commission's facsimile equipment using a form approved by the Commission's CPSD or its successor and at numbers CPSD may designate for use during normal business hours. Telephone notices provided at times other than normal business hours shall be followed by a facsimile report by the end of the next working day.

2. Within twenty business days of a reportable incident, the Utility shall provide to designated Commission staff a written account of the incident which includes a detailed description of the nature of the incident, its cause and estimated damage. The report shall identify the time and date of the incident, the time and date of the notice to the Commission, the location of the incident, casualties which resulted from the incident, identification of casualties and property damage. The report shall include a description of the Utility's response to the incident and the measures the Utility took to repair facilities and/or remedy any related problems on the system which may have contributed to the incident.

3. Reportable incidents are those which: (a) result in fatality or personal injury rising to the level of in-patient hospitalization and are attributable or allegedly attributable to Utility owned facilities; (b) are the subject of significant public attention or media coverage and are attributable or allegedly attributable to Utility facilities; or (c) involve damage to property of the Utility or others estimated to exceed \$50,000.

Electric <u>Distribution</u> Company System Inspection Cycles (Maximum Intervals in Years)						
	Patrol		Detailed		Intrusive	
	Urban	Rural ¹	Urban	Rural	Urban	Rural
Transformers						
Overhead	1	2	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Switching/Protective Devices						
Overhead	1	2	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Regulators/Capacitors						
Overhead	1	2	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Overhead Conductor and Cables						
Overhead Conductor and Cables	1	2	5	5	---	---
Streetlighting	1	2	x	x	---	---
Wood Poles under 15 years	1	2	x	x	x	x
Wood Poles over 15 years which have not been subject to intrusive inspection	1	2	x	x	10	10
Wood poles which passed intrusive inspection	---	---	---	---	20	20

(1) Patrol inspections in rural areas shall be increased to once per year in Extreme and Very High Fire Threat Zones in the following counties: Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego. Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish minimum boundaries for purposes of this rule. The boundaries of the map are to be broadly construed, and Utilities are required to use their own expertise and judgement to determine if local conditions require them to go beyond the boundaries of the map.

(b) Workshop Proposed Changes

Public Utilities Commission of the State of California Inspection Cycles and Other Safety Requirements Accident Reporting Requirements for Electric Distribution Facilities

I. Purpose

The purpose of this General Order is to establish minimum requirements for owners of electric distribution facilities regarding inspection (including maximum allowable inspection cycle lengths), condition rating, scheduling and performance of corrective action, record-keeping, and reporting, in order to ensure safe and high-quality electrical service, and to implement the provisions of Section 364 of Assembly Bill 1890, Chapter 854, Statutes of 1996.

II. Applicability

~~As of March 31, 1997, t~~This General Order applies to owners of all electrical distribution facilities that come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities, and publicly owned utility electric distribution facilities, unless otherwise indicated. Pacific Gas and Electric Company, PacifiCorp, San Diego Gas and Electric Company, Sierra Pacific Power Company, and Southern California Edison Company.

The requirements of this order are in addition to the requirements imposed upon utilities under General Orders 95 and 128 to maintain a safe and reliable electric system. Nothing in this General Order relieves any ~~u~~Utility from any requirements or obligations that it has under General Orders 95 and 128.

III. Definitions

[Definitions A-F are omitted here, but shall remain unchanged.]

G "Utility" as used herein refers to the entity owning, operating or otherwise responsible for the electrical distribution facilities referred to in Section II "Applicability" in this General Order, including municipal and/or publicly-owned electric utilities. The term "Utilities" as used herein refers to more than one Utility.

IV. Standards for Inspection, Record-keeping, and Reporting

Each ~~u~~Utility ~~subject to this General Order~~ shall conduct inspections of its distribution facilities, as necessary, to assure reliable, high-quality, and safe operation, but in no case may the period between inspections (measured in years) exceed the time specified in the attached table (Appendix A).

Each ~~u~~Utility ~~subject to this General Order~~ shall ~~submit to~~ have on file with the Commission ~~by no later than July 1, 1997,~~ compliance plans for the inspections and record-keeping required by this order. These compliance plans will include the proposed forms and formats for annual reports and source records, as well as the ~~u~~Utility's plans for the types of inspections and equipment to be inspected during the coming year. For detailed and intrusive inspections, schedules should be detailed enough (in terms of the months of inspection and the circuit, area, or equipment to be inspected) to allow staff to confirm that schedule inspections are proceeding as planned. For patrol inspections, ~~companies~~ Utilities should explain how all required facilities will be covered during the year. Energy Consumer Protection and Safety Division (CPSD) or any successor staff divisions may prescribe changes relating to data, definitions, reporting and record-keeping formats and forms when and as necessary.

Each ~~u~~Utility ~~subject to this General Order~~ shall submit an annual report detailing its compliance with this General Order under penalty of perjury by July 1 of each year. ~~The first report required under this section shall be filed with the Commission by no later than July 1, 1998. Each utility shall file subsequent annual reports for every following year by no later than July 1.~~ The report shall identify the number of facilities, by type which have been inspected during the previous period. It shall identify those facilities which were scheduled for inspection but which were not inspected according to schedule and shall explain why the inspections were not conducted, and a date certain by which the required inspection will occur. The report shall also present the total and percentage breakdown of equipment rated at each condition rating level, including that equipment determined to be in need of corrective action. Where corrective action was scheduled during the reporting period, the report will present the total and percentage of equipment which was and was not corrected during the reporting period. For the latter, and explanation will be provided, including a date certain by which required corrective action will occur. The report will also present totals and the percentage of equipment in need of corrective action, but with a scheduled date beyond the reporting period, classified by the amount of time remaining before the scheduled action. All of the above information shall be presented for each type of facility identified in the attached table and shall be aggregated by district.

The ~~company~~ Utility shall maintain records of inspection activities which shall be made available to parties or Commission staff pursuant to Commission rules upon 30 days notice. Commission staff shall be permitted to inspect such records consistent with Public Utilities Code Section 314(a).

For all inspections, within a reasonable period, ~~company~~ Utility records shall specify the circuit, area, or equipment inspected, the name of the inspector, the date of the inspection, ~~and any problems~~ any and all violations of General Orders 95 or

128, and any safety or reliability problems identified during each inspection, as well as the scheduled date of corrective action. For detailed and intrusive inspections, companies Utilities shall also rate the condition of inspected equipment. Upon completion of corrective action, company Utility records will show the nature of the work, the date, and the identity of persons performing the work. Additionally, any work completed after the initial scheduled date of corrective action, the Utility will document the reason or reasons that the work was not completed by the original scheduled date of corrective action.

V. Reporting of Accidents

The following Accident Reporting Requirements apply to all investor-owned utilities with regards to the electric distribution lines which they own in the State of California. This section also applies to an investor-owned utility's privately-owned electric lines, which are extensions from an electric utility's distribution line, outside of buildings and in the State of California.

Accident Reporting Requirements

1. Within 2 hours of a reportable incident during normal working hours or within 4 hours of a reportable incident outside of normal working hours, the Utility shall provide notice to designated Commission staff of the general nature of the incident, its cause and estimated damage. The notice shall identify the time and date of the incident, the time and date of notice to the Commission, the location of the incident, casualties that resulted from the incident, identification of casualties and property damage, and the name and telephone number of a Utility contact person. This notice may be by (a) using the Commission's Emergency Reporting Web Page, (b) calling an established Commission Incident Reporting Telephone Number designated by the Commission's Consumer Protection and Safety Division (CPSD) or its successor, (c) sending a message to an electronic mail address designated by the Commission's CPSD or its successor, or (d) sending a message to the Commission's facsimile equipment using a form approved by the Commission's CPSD or its successor and at numbers CPSD may designate for use during normal business hours. Telephone notices provided at times other than normal business hours shall be followed by a facsimile report by the end of the next working day.

2. Within twenty business days of a reportable incident, the Utility shall provide to designated Commission staff a written account of the incident which includes a detailed description of the nature of the incident, its cause and estimated damage. The report shall identify the time and date of the incident, the time and date of the notice to the Commission, the location of the incident, casualties which resulted from the incident, identification of casualties and property damage. The report shall include a description of the Utility's response to the incident and the measures the Utility took to repair facilities and/or remedy any related problems on the system which may have contributed to the incident.

3. Reportable incidents are those which: (a) result in fatality or personal injury rising to the level of in-patient hospitalization and are attributable or allegedly attributable to Utility owned facilities; (b) are the subject of significant public attention or media coverage and are attributable or allegedly attributable to Utility facilities; or

(c) involve damage to property of the Utility or others estimated to exceed \$50,000.

GO 165 Revisions to Table:

Electric Distribution Company System Inspection Cycles (Maximum Intervals in Years)

	Patrol		Detailed		Intrusive	
	Urban	Rural	Urban	Rural	Urban	Rural
Transformers						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Switching/Protective Devices						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Regulators/Capacitors						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Overhead Conductor and Cables						
Overhead Conductor and Cables	1	2 ¹	5	5	---	---
Streetlighting	1	2	x	x	---	---
Wood Poles under 15 years	1	2	x	x	x	x
Wood Poles over 15 years which-have not been subject to intrusive inspection	1	2	x	x	10	10
Wood poles which passed intrusive inspection	---	---	---	---	20	20

⁽¹⁾ Patrol inspections in rural areas shall be increased to once per year in Extreme and Very High Fire Threat Zones in the following counties: Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego. Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish minimum boundaries for purposes of this rule. The boundaries of the map are to be broadly construed, and Utilities are required to use their own expertise and judgment to determine if local conditions require them to go beyond the boundaries of the map.

(c) Proposed Final

Public Utilities Commission of the State of California Inspection Cycles and Accident Reporting Requirements for Electric Distribution Facilities

I. Purpose

The purpose of this General Order is to establish minimum requirements for owners of electric distribution facilities regarding inspection (including maximum allowable inspection cycle lengths), condition rating, scheduling and performance of corrective action, record-keeping, and reporting, in order to ensure safe and high-quality electrical service, and to implement the provisions of Section 364 of Assembly Bill 1890, Chapter 854, Statutes of 1996.

II. Applicability

This General Order applies to owners of all electrical distribution facilities that come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities, and publicly owned utility electric distribution facilities, unless otherwise indicated.

The requirements of this order are in addition to the requirements imposed upon utilities under General Orders 95 and 128 to maintain a safe and reliable electric system. Nothing in this General Order relieves any Utility from any requirements or obligations that it has under General Orders 95 and 128.

III. Definitions

[Definitions A-F are omitted here, but shall remain unchanged.]

G “Utility” as used herein refers to the entity owning, operating or otherwise responsible for the electrical distribution facilities referred to in Section II “Applicability” in this General Order, including municipal and/or publicly-owned electric utilities. The term “Utilities” as used herein refers to more than one Utility.

IV. Standards for Inspection, Record-keeping, and Reporting

Each Utility shall conduct inspections of its distribution facilities, as necessary, to assure reliable, high-quality, and safe operation, but in no case may the period between inspections (measured in years) exceed the time specified in the attached table (Appendix A).

Each Utility shall have on file with the Commission compliance plans for the inspections and record-keeping required by this order. These compliance plans will include the proposed forms and formats for annual reports and source records, as well as the Utility’s plans for the types of inspections and equipment to be inspected during the coming year. For detailed and intrusive inspections, schedules should be detailed enough (in terms of the months of inspection and the circuit, area, or equipment to be inspected) to allow staff to confirm that schedule inspections are proceeding as planned. For patrol inspections, Utilities should explain how all

required facilities will be covered during the year. Consumer Protection and Safety Division (CPSD) or any successor staff divisions may prescribe changes relating to data, definitions, reporting and record-keeping formats and forms when and as necessary.

Each Utility shall submit an annual report detailing its compliance with this General Order under penalty of perjury by July 1 of each year. The report shall identify the number of facilities, by type which have been inspected during the previous period. It shall identify those facilities which were scheduled for inspection but which were not inspected according to schedule and shall explain why the inspections were not conducted, and a date certain by which the required inspection will occur. The report shall also present the total and percentage breakdown of equipment rated at each condition rating level, including that equipment determined to be in need of corrective action. Where corrective action was scheduled during the reporting period, the report will present the total and percentage of equipment which was and was not corrected during the reporting period. For the latter, an explanation will be provided, including a date certain by which required corrective action will occur. The report will also present totals and the percentage of equipment in need of corrective action, but with a scheduled date beyond the reporting period, classified by the amount of time remaining before the scheduled action. All of the above information shall be presented for each type of facility identified in the attached table and shall be aggregated by district.

The Utility shall maintain records of inspection activities which shall be made available to parties or Commission staff pursuant to Commission rules upon 30 days notice. Commission staff shall be permitted to inspect such records consistent with Public Utilities Code Section 314(a).

For all inspections, within a reasonable period, Utility records shall specify the circuit, area, or equipment inspected, the name of the inspector, the date of the inspection, any and all violations of General Orders 95 or 128, and any safety or reliability problems identified during each inspection, as well as the scheduled date of corrective action. For detailed and intrusive inspections, Utilities shall also rate the condition of inspected equipment. Upon completion of corrective action, Utility records will show the nature of the work, the date, and the identity of persons performing the work. Additionally, any work completed after the initial scheduled date of corrective action, the Utility will document the reason or reasons that the work was not completed by the original scheduled date of corrective action.

V. Reporting of Accidents

The following Accident Reporting Requirements apply to all investor-owned utilities with regards to the electric distribution lines which they own in the State of California. This section also applies to an investor-owned utility's privately-owned electric lines, which are extensions from an electric utility's distribution line, outside of buildings and in the State of California.

Accident Reporting Requirements

1. Within 2 hours of a reportable incident during normal working hours or within

4 hours of a reportable incident outside of normal working hours, the Utility shall provide notice to designated Commission staff of the general nature of the incident, its cause and estimated damage. The notice shall identify the time and date of the incident, the time and date of notice to the Commission, the location of the incident, casualties that resulted from the incident, identification of casualties and property damage, and the name and telephone number of a Utility contact person. This notice may be by (a) using the Commission’s Emergency Reporting Web Page, (b) calling an established Commission Incident Reporting Telephone Number designated by the Commission’s Consumer Protection and Safety Division (CPSD) or its successor, (c) sending a message to an electronic mail address designated by the Commission’s CPSD or its successor, or (d) sending a message to the Commission’s facsimile equipment using a form approved by the Commission’s CPSD or its successor and at numbers CPSD may designate for use during normal business hours. Telephone notices provided at times other than normal business hours shall be followed by a facsimile report by the end of the next working day.

2. Within twenty business days of a reportable incident, the Utility shall provide to designated Commission staff a written account of the incident which includes a detailed description of the nature of the incident, its cause and estimated damage. The report shall identify the time and date of the incident, the time and date of the notice to the Commission, the location of the incident, casualties which resulted from the incident, identification of casualties and property damage. The report shall include a description of the Utility’s response to the incident and the measures the Utility took to repair facilities and/or remedy any related problems on the system which may have contributed to the incident.

3. Reportable incidents are those which: (a) result in fatality or personal injury rising to the level of in-patient hospitalization and are attributable or allegedly attributable to Utility owned facilities; (b) are the subject of significant public attention or media coverage and are attributable or allegedly attributable to Utility facilities; or (c) involve damage to property of the Utility or others estimated to exceed \$50,000.

Appendix A

Electric Distribution System Inspection Cycles (Maximum Intervals in Years)

	Patrol		Detailed		Intrusive	
	Urban	Rural	Urban	Rural	Urban	Rural
Transformers						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Switching/Protective Devices						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---

Regulators/Capacitors						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Overhead Conductor and Cables						
Overhead Conductor and Cables	1	2 ¹	5	5	---	---
Streetlighting	1	2	x	x	---	---
Wood Poles under 15 years	1	2	x	x	x	x
Wood Poles over 15 years which-have not been subject to intrusive inspection	1	2	x	x	10	10
Wood poles which passed intrusive inspection	---	---	---	---	20	20
<p>⁽¹⁾ Patrol inspections in rural areas shall be increased to once per year in Extreme and Very High Fire Threat Zones in the following counties: Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego. Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish approximate boundaries for purposes of this rule. The boundaries of the map are to be broadly construed, and Utilities should use their own expertise and judgment to determine if local conditions require them to adjust the boundaries of the map.</p>						

(d) Justification/Rationale (CPSD)

- The specific electric utilities, CIPs, and others affected by the proposed rule.

This proposed rule applies to owners of all electrical distribution facilities that come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities, and publicly owned utility electric distribution facilities. The accident reporting requirement did not previously and would not apply to California publicly-owned utilities owning electric transmission or distribution facilities.

- New and/or revised text for the affected General Order(s), if applicable.

See above.

- The specific hazard(s) addressed by the proposed rule.

This proposed rule addresses four problems. First, as discussed above, CPSD has met resistance from publicly-owned utilities over the applicability of safety regulations to publicly-owned electric facilities. There has also been some confusion over whether the Commission's safety rules apply to owners of electric facilities that belong to non-electric utilities.

Second, in order to facilitate CPSD's job in enforcing safety regulations, in cases where corrective action was completed after the initial scheduled date, CPSD wants utilities to document the reason why the work was not completed by the original scheduled date of corrective action. CPSD further notes that the language in the rule requiring utilities to document "any problems" identified during inspections is vague, and therefore proposes language which clarifies the types of problems or violations that should be noted. The proposed rule changes do not mean that CPSD agrees that utilities are allowed to have violations on their systems for any given period of time. Indeed, according to the Commission in D.04-04-065, 2004 Cal. PUC LEXIS 207 at *18, a "nonconformance" or failure to comply with a general order is a violation. ("Nothing in the language of GO 95, 128 or 165 provides a specified grace period within which to comply with these GOs, or provides that failure to comply is a "nonconformance," with a violation occurring at a later time determined by the utility in accordance with its maintenance schedules.")

Third, local conditions in southern California, such as the Santa Ana Winds, which may contribute to the power lines' ignition of fires, are also the conditions which can quickly cause the fires to spread. As stated above, CPSD has proposed several safety requirements or clarifications with a focus on Very High and Extreme Fire Threat areas in southern California. These local conditions are well known, and warrant enhanced safety requirements, including increased frequency of minimum inspection cycles in those areas.

Finally, in October, 2007, certain electric utilities did not report major fires allegedly attributable to their electric distribution or transmission lines within two hours as required by the then current Commission accident reporting rules. (See D.06-04-055, Appendix B.) The purpose of the two hour time frame was so that CPSD staff would be made aware of a reportable incident as close to the actual timing of the incident as possible. Major fires or other accidents, such as explosions, may require immediate CPSD attention, and delay in reporting by utilities can significantly hinder CPSD's investigations and ability to timely preserve evidence. CPSD is unable to do its job to investigate accidents and improve safety if it is not notified of accidents. On August 25, 2008, in Resolution E-4184, the Commission slightly changed the time for reporting to CPSD a reportable incident, which must now be reported within two hours during business hours or four hours outside of business hours. A reportable incident includes major fires "allegedly attributable" to

the utilities' electric facilities, because "reportable incident" is defined as those which: (a) result in fatality or personal injury rising to the level of in-patient hospitalization and are attributable or "allegedly attributable" to utility owned facilities; (b) are the subject of significant public attention or media coverage and are attributable or "allegedly attributable" to utility facilities; or (c) involve damage to property of the utility or others estimated to exceed \$50,000 . See Resolution E-4184 (August 21, 2008).

The reporting requirements in Resolution E-4184 also include a provision for reporting emergencies to Commission staff through the Commission's web site. However, these provisions are not generally known, because they are not currently included in any General Order. CPSD's proposed rule remedies this problem by adding the accident reporting requirements to GO 165.

- How the proposed rule reduces or otherwise addresses the hazard(s).

CPSD's proposed rule changes include adding publicly-owned utility electric distribution facilities and owners of electric facilities that belong to non-electric utilities to the applicability section of the rule.

CPSD also inserts language clarifying that utilities should document "any and all violations of General Orders 95 or 128, and any safety or reliability problems" identified during inspections. CPSD further adds language requiring utilities to document the reason why any work was completed after the original scheduled date of corrective action.

CPSD also proposes to increase the minimum inspection cycle from two years to one year in rural areas that are located in Extreme and Very High Fire Threat zones in FRAP southern California counties. This would lead to more discovery and remediation of potential safety hazards and GO violations and would therefore mitigate the risk of fires.

Finally, CPSD's proposed rule adds the accident reporting requirements as a provision of GO 165 and clarifies that California IOUs, which are owners of electric distribution facilities, are subject to the accident reporting requirements. This clarification includes IOUs that have privately owned electric distribution lines that are not dedicated to public use, but does not include publicly-owned utilities. This proposed change is necessary to make the accident reporting requirements more visible and easier to access, not only for utilities and Commission staff, but for the public as well. In addition, CPSD notes that the accident reporting requirements

only apply to gas and electric companies. The requirements are already contained as part of a general order (GO 112-E) which applies only to gas utilities. As GO 165 applies only to electric utilities, it makes sense to incorporate the accident reporting requirements into this general order.

- The anticipated costs and benefits of the proposed rule.

As most of the utilities' electric facilities are clearly already under an obligation to report accidents to CPSD staff, CPSD does not anticipate any significant costs associated with this part of the rule.

Moreover, CPSD does not anticipate any costs associated with clarifying that publicly-owned electric utilities and owners of electric facilities that belong to non-electric utilities are subject to GO 165 (with the exception that the accident reporting requirements do not apply to publicly-owned utilities).

CPSD does not anticipate significant costs associated with its clarifications regarding the types of problems that are to be documented, or documenting the reasons for delaying scheduled corrective action.

There may be additional costs associated with increasing the minimum inspection cycle for rural areas that are located in Extreme or Very High Fire Threat zones in southern California counties. However, these areas have local conditions that warrant additional inspections, and any reduction in power line fires under extreme weather conditions would have a significant positive impact on public safety and avoided losses.

The benefits include enhancement of public safety and minimizing occurrence of fire ignition from electric power lines. The benefits also include having accident reporting requirements in a more visible and accessible place. See also, discussion of cost/benefits in PRC 1.

- Whether and how the costs will be recovered from customers.

See discussion in PRC 2.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Not applicable.

- Why it is in the public interest to adopt the proposed rule.

See discussion on benefits, above, and discussion on cost/benefits in PRC 1, above.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

Not applicable.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

Not applicable.

(e) Parties' Comments

Parties in Support

CPSD

LA COUNTY

Parties Neutral

TURN

Parties in Opposition

CMUA – As with GO 95 Rule 12, CMUA objects to the CPSD's proposed rule change to GO 165 because it incorrectly asserts Commission jurisdiction over publicly-owned electric utilities. This issue has been addressed extensively in CMUA's Opening Comments and Reply Comments, and CMUA will reiterate these points in its Opening Brief. Further, nothing in the CPSD' proposed rule change to GO 165 will have an impact on the 2009 fire season, and therefore, should be considered in Phase II.

LADWP – LADWP objects to the CPSD's proposed rule change to GO 165. This issue has been addressed extensively in LADWP's Opening Comments and Reply Comments, and LADWP will reiterate these points in its Opening Brief.

PACIFICORP – PacifiCorp generally agrees with CPSD's proposal to increase patrol inspections in Extreme and Very High Fire Threat Zones in Southern California. However, that the increased documentation required to document "any and all violations of General Orders 95 or 128, and any safety or reliability problems identified during each inspection, as well as the scheduled date of corrective action"

is extremely onerous. As parties have indicated throughout the workshop, not all non-conformances with General Order 95 pose a significant fire hazard. General Order 128 has nothing to do with fire hazards and so is irrelevant to this proceeding.

Therefore, the documentation of every single non-conformance posed by PacifiCorp's facilities in Northern California would be extremely onerous with no benefit to reducing the fire hazard before October 2009 in Southern California. This burden is only compounded by CPSD's rule requiring the documentation of why a particular non-conformance "was not completed by the original scheduled date of corrective action." Documentation of that information will not reduce the fire hazard before October 2009 in Southern California. In addition, documenting why something has not been completed seems a wasteful exercise as compared to redirecting those resources to actually completing the corrective action.

Not only would CPSD's proposed rule require a great deal more documentation than PacifiCorp currently prepares, it would also require PacifiCorp to operationalize a documentation procedure across its entire service territory and a new document management system that would adequately capture the required information and ensure immediate access to that information should CPSD seek it in a future audit of PacifiCorp's system. For PacifiCorp, the additional document management system would cost approximately \$1.1 million and require two full-time employees, as described in our comments to Rule 3. The additional annual fire safety patrol would cost approximately \$300,000.

PacifiCorp also does not believe that inclusion of reporting requirements for incidents that occur in Northern California will reduce the fire hazard in Southern California before October 2009. Thus, these reporting requirements should be evaluated in Phase 2.

PG&E – With the exception of CPSD's proposal to require annual patrols in Extreme and Very High Fire Threat areas in southern California, CPSD's proposals to modify GO 165 will do nothing to mitigate or prevent fires this fall. Indeed, CPSD admits that these modifications are intended to clarify the meaning of existing words, or add existing accident reporting requirements to the GO. These modifications are outside the scope of this phase of the proceeding. The two changes that are most troublesome are (1) the need to document "any and all violations" during inspections; and (2) the addition to GO 165 of the existing accident reporting requirements.

With respect to the addition of the words “any and all violations,” PG&E raises the following objections: (1) the word “violation” when applied to GO 95 and GO 128 takes on a very broad and vague meaning. No electric distribution system in California can be in compliance with every requirement of GOs 95 and 128 at all times. The Commission has acknowledged this in its recent decision in the SCE Maintenance OII (D.04-04-065). To require utilities to document “any and all violations” is setting up the utilities to fail their compliance responsibilities.

(2) Moreover, PG&E finds no value in documenting this information in its inspection program. The purpose of PG&E’s inspection program is to identify conditions in need of repair so that PG&E ensures safe, reliable, and cost effective service to its customers. The purpose is not to look for and document every nonconformance to the GOs. That would be a waste of limited resources at a time when PG&E and the Commission wants to focus limited resources on taking actions to prevent or mitigate fires. While CPSD maintains that these changes will not result in any cost burdens to utilities, PG&E has submitted several times in this proceeding its estimates of the costs it would incur if these modifications were adopted. The seemingly minor addition of “any and all violations” into GO 165 will result in the need to revamp data collection processes that will increase costs to PG&E, with no identified benefits.

(3) PG&E, as well as SCE and SDG&E, have been working over the past 3 years with CPSD to improve GO 165 to make it more useful to both CPSD as well as the utilities. Modifications had been developed and agreed upon, but until now, there was no available forum to present these changes for adoption. Phase 2 of this proceeding presents such an opportunity; yet, CPSD appears to have abandoned these changes, and presented new modifications without input from the entities that must implement them. While CPSD certainly has a mandate to oversee utility activities in an effort to ensure safety to the public, they are most effective in achieving their mandate when they seek utility input to rule changes, and work with the utilities to achieve their stated goal. That effort was not made with respect to the proposed changes to GO 165 in this proceeding.

With respect to the addition of Accident Reporting requirements to GO 165, PG&E maintains that such an addition is unnecessary and would cause confusion. PG&E does not understand how adding existing accident reporting requirements to GO 165 improves the visibility or recognition of these rules to those who are subject to them. GO 165 is an electric distribution inspection standard. All of the electric

distribution companies in California know of GO 165, and all of them know of the accident reporting requirements that are currently located in Resolution E-4184. If CPSD is not satisfied with the level of compliance with these rules, the answer is not to move them into a General Order. The answer is to exercise its enforcement authority, and enforce the rules. Moving these established accident reporting requirements into GO 165 will do nothing to improve compliance (nor fire risk). Moreover, it will inhibit the ability to easily change the wording in these requirements to address new issues as they arise. Making changes to a general order requires either an application or a petition for a rulemaking. Making changes to a resolution can be made through a petition for modification, a much more streamlined process.

For these reasons, PG&E strongly opposes CPSD's changes to GO 165. PG&E supports the SCE alternate proposal. The SCE alternate is a good compromise because it provides additional inspections in Southern California in an effort to mitigate fire risk this fall, but does not make any other substantial changes to General Order 165 – changes that will not mitigate fire risk this fall and require much more discussion before they should be adopted and implemented. Moreover, there is no need to deal with the incident reporting requirements at this time because they are in place and being complied with right now pursuant to Resolution E-4184.

SCE – SCE strongly urges the Commission not to adopt any changes to GO 165 at this time. SCE hopes to tackle GO 165 changes head-on during Phase 2 of this proceeding. There are three parts to CPSD's changes to GO 165: the language changes to the body of the rule, the addition of accident reporting requirements, and the changes to the Inspection Cycles Table.

CPSD does not fully appreciate the additional burden and expense that would be imposed on utilities by the few changes made to the body of GO 165 – namely, the addition of “any and all violations” of GO 95 and 128 and any safety and reliability problems to the record of all inspections, as well as the new requirement to document reasons why corrective action had not been completed by an earlier self-imposed deadline. These small language changes would require SCE to overhaul its entire inspection program at considerable cost for what SCE views as no additional benefit.

CPSD's addition of accident reporting requirements into GO 165 is unnecessary. Additionally, if the goal of CPSD is to make these accident reporting requirements easier to find (in the G.O. rather than a resolution), SCE does not believe putting the

requirements here accomplishes that goal. A commission resolution has already adopted accident reporting requirements for electric utilities. The requirements do not differ materially from CPSD's proposal, which would only clutter GO 165 with unnecessary duplication.

Finally, SCE recommends that the changes in inspection cycles advocated by CPSD be deferred pending additional discussion in Phase 2.

SDG&E – SDG&E does not believe changes need to be made to GO 165, at least in Phase I of this proceeding. For example, accident reporting requirements do not need to be added to GO 165 since they already apply to electric utilities such as SDG&E pursuant to Commission resolution. Certainly, none of the changes are needed prior to the 2009 fire season. If the Commission believes changes need to be made to GO 165 at this time, SDG&E supports the more limited proposed changes to GO 165 sponsored by Edison.

SIERRA PACIFIC

SMUD – As with GO 95 Rule 19, SMUD rejects the CPSD's proposed new GO 95, Rule 19 for the following reasons: (1) In previous G.O. 95 rulemaking the Commission has correctly acknowledged that POUs are responsible to their elected boards or city councils in conducting accident investigations, (2) Rule 19 issues are more appropriate for Phase 2 because it is unrelated to preventing fires in the 2009 fire season.

2. SCE Alternate Language/Proposal

(a) Strikeout/Underline of CPSD Proposed Final

Public Utilities Commission of the State of California Inspection Cycles and ~~Other Safety Requirements for Electric Distribution Facilities~~

I. Purpose

The purpose of this General Order is to establish minimum requirements for ~~owners of~~ electric distribution facilities regarding inspection (including maximum allowable inspection cycle lengths), condition rating, scheduling and performance of corrective action, record-keeping, and reporting, in order to ensure safe and high-quality electrical service, and to implement the provisions of Section 364 of Assembly Bill 1890, Chapter 854, Statutes of 1996.

II. Applicability

As of March 31, 1997, this General Order applies to Pacific Gas and Electric Company, PacifiCorp, San Diego Gas and Electric Company, Sierra Pacific Power Company, and Southern California Edison Company. ~~owners of all electrical distribution facilities that come within the jurisdiction of this Commission, located outside of buildings, including owners of electric facilities that belong to non-electric utilities, and publicly owned utility electric distribution facilities, unless otherwise indicated.~~

The requirements of this order are in addition to the requirements imposed upon utilities under General Orders 95 and 128 to maintain a safe and reliable electric system. Nothing in this General Order relieves any Utility from any requirements or obligations that it has under General Orders 95 and 128.

III. Definitions

[Definitions A-F are omitted here, but shall remain unchanged.]

G "Utility" as used herein refers to the entity owning, operating or otherwise responsible for the electrical distribution facilities referred to in Section II "Applicability" in this General Order, ~~including municipal and/or publicly owned electric utilities.~~ The term "Utilities" as used herein refers to more than one Utility.

IV. Standards for Inspection, Record-keeping, and Reporting

Each Utility shall conduct inspections of its distribution facilities, as necessary, to assure reliable, high-quality, and safe operation, but in no case may the period between inspections (measured in years) exceed the time specified in the attached table (Appendix A).

Each Utility shall have on file with the Commission compliance plans for the inspections and record-keeping required by this order. These compliance plans will include the proposed forms and formats for annual reports and source records, as

well as the Utility's plans for the types of inspections and equipment to be inspected during the coming year. For detailed and intrusive inspections, schedules should be detailed enough (in terms of the months of inspection and the circuit, area, or equipment to be inspected) to allow staff to confirm that schedule inspections are proceeding as planned. For patrol inspections, Utilities should explain how all required facilities will be covered during the year. Consumer Protection and Safety Division (CPSD) or any successor staff divisions may prescribe changes relating to data, definitions, reporting and record-keeping formats and forms when and as necessary.

Each Utility shall submit an annual report detailing its compliance with this General Order under penalty of perjury by July 1 of each year. The report shall identify the number of facilities, by type which have been inspected during the previous period. It shall identify those facilities which were scheduled for inspection but which were not inspected according to schedule and shall explain why the inspections were not conducted, and a date certain by which the required inspection will occur. The report shall also present the total and percentage breakdown of equipment rated at each condition rating level, including that equipment determined to be in need of corrective action. Where corrective action was scheduled during the reporting period, the report will present the total and percentage of equipment which was and was not corrected during the reporting period. For the latter, an explanation will be provided, including a date certain by which required corrective action will occur. The report will also present totals and the percentage of equipment in need of corrective action, but with a scheduled date beyond the reporting period, classified by the amount of time remaining before the scheduled action. All of the above information shall be presented for each type of facility identified in the attached table and shall be aggregated by district.

The Utility shall maintain records of inspection activities which shall be made available to parties or Commission staff pursuant to Commission rules upon 30 days notice. Commission staff shall be permitted to inspect such records consistent with Public Utilities Code Section 314(a).

For all inspections, within a reasonable period, Utility records shall specify the circuit, area, or equipment inspected, the name of the inspector, the date of the inspection, ~~any and all violations of General Orders 95 or 128, and any safety or reliability problems identified during each inspection, as well as the scheduled date of corrective action.~~ For detailed and intrusive inspections, Utilities shall also rate the condition of inspected equipment. Upon completion of corrective action, Utility records will show the nature of the work, the date, and the identity of persons performing the work. ~~Additionally, any work completed after the initial scheduled date of corrective action, the Utility will document the reason or reasons that the work was not completed by the original scheduled date of corrective action.~~

SCE Proposes to Delete Reporting of Incidents Section

GO 165 Table:

Electric Distribution Company System Inspection Cycles (Maximum Intervals in Years)

	Patrol		Detailed		Intrusive	
	Urban	Rural	Urban	Rural	Urban	Rural
Transformers						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Switching/Protective Devices						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Regulators/Capacitors						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Overhead Conductor and Cables						
Overhead Conductor and Cables	1	2 ¹	5	5	---	---
Streetlighting	1	2	x	x	---	---
Wood Poles under 15 years	1	2	x	x	x	x
Wood Poles over 15 years which-have not been subject to intrusive inspection	1	2	x	x	10	10
Wood poles which passed intrusive inspection	---	---	---	---	20	20

⁽¹⁾ Patrol inspections in rural areas shall be increased to once per year in Extreme and Very High Fire Threat Zones in the following counties: Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego. ~~in the following counties: Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego.~~ Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish minimum approximate boundaries for purposes of this rule. ~~The boundaries of the map are to be broadly construed, and Utilities are required to~~ should use their own expertise and judgment to determine if local conditions require them to adjust the boundaries ~~them to go beyond the boundaries broader use~~ of the map.

(b) Proposed Final

Public Utilities Commission of the State of California Inspection Cycles for Electric Distribution Facilities

I. Purpose

The purpose of this General Order is to establish minimum requirements for electric distribution facilities regarding inspection (including maximum allowable inspection cycle lengths), condition rating, scheduling and performance of corrective action, record-keeping, and reporting, in order to ensure safe and high-quality electrical service, and to implement the provisions of Section 364 of Assembly Bill 1890, Chapter 854, Statutes of 1996.

II. Applicability

As of March 31, 1997, this General Order applies to Pacific Gas and Electric Company, PacifiCorp, San Diego Gas and Electric Company, Sierra Pacific Power Company, and Southern California Edison Company.

The requirements of this order are in addition to the requirements imposed upon utilities under General Orders 95 and 128 to maintain a safe and reliable electric system. Nothing in this General Order relieves any Utility from any requirements or obligations that it has under General Orders 95 and 128.

III. Definitions

[Definitions A-F are omitted here, but shall remain unchanged.]

G "Utility" as used herein refers to the entity owning, operating or otherwise responsible for the electrical distribution facilities referred to in Section II "Applicability" in this General Order. The term "Utilities" as used herein refers to more than one Utility.

IV. Standards for Inspection, Record-keeping, and Reporting

Each Utility shall conduct inspections of its distribution facilities, as necessary, to assure reliable, high-quality, and safe operation, but in no case may the period between inspections (measured in years) exceed the time specified in the attached table (Appendix A).

Each Utility shall have on file with the Commission compliance plans for the inspections and record-keeping required by this order. These compliance plans will include the proposed forms and formats for annual reports and source records, as well as the Utility's plans for the types of inspections and equipment to be inspected during the coming year. For detailed and intrusive inspections, schedules should be detailed enough (in terms of the months of inspection and the circuit, area, or equipment to be inspected) to allow staff to confirm that schedule inspections are proceeding as planned. For patrol inspections, Utilities should explain how all required facilities will be covered during the year. Consumer Protection and Safety

Division (CPSD) or any successor staff divisions may prescribe changes relating to data, definitions, reporting and record-keeping formats and forms when and as necessary.

Each Utility shall submit an annual report detailing its compliance with this General Order under penalty of perjury by July 1 of each year. The report shall identify the number of facilities, by type which have been inspected during the previous period. It shall identify those facilities which were scheduled for inspection but which were not inspected according to schedule and shall explain why the inspections were not conducted, and a date certain by which the required inspection will occur. The report shall also present the total and percentage breakdown of equipment rated at each condition rating level, including that equipment determined to be in need of corrective action. Where corrective action was scheduled during the reporting period, the report will present the total and percentage of equipment which was and was not corrected during the reporting period. For the latter, an explanation will be provided, including a date certain by which required corrective action will occur. The report will also present totals and the percentage of equipment in need of corrective action, but with a scheduled date beyond the reporting period, classified by the amount of time remaining before the scheduled action. All of the above information shall be presented for each type of facility identified in the attached table and shall be aggregated by district.

The Utility shall maintain records of inspection activities which shall be made available to parties or Commission staff pursuant to Commission rules upon 30 days notice. Commission staff shall be permitted to inspect such records consistent with Public Utilities Code Section 314(a).

For all inspections, within a reasonable period, Utility records shall specify the circuit, area, or equipment inspected, the name of the inspector, the date of the inspection, and any problems identified during each inspection, as well as the scheduled date of corrective action. For detailed and intrusive inspections, Utilities shall also rate the condition of inspected equipment. Upon completion of corrective action, Utility records will show the nature of the work, the date, and the identity of persons performing the work.

SCE Proposes to Delete Reporting of Incidents Section

GO 165 Table:

Electric Distribution System Inspection Cycles (Maximum Intervals in Years)

	Patrol		Detailed		Intrusive	
	Urban	Rural	Urban	Rural	Urban	Rural
Transformers						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Switching/Protective Devices						

Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Regulators/Capacitors						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Overhead Conductor and Cables						
Overhead Conductor and Cables	1	2 ¹	5	5	---	---
Streetlighting	1	2	x	x	---	---
Wood Poles under 15 years	1	2	x	x	x	x
Wood Poles over 15 years which-have not been subject to intrusive inspection	1	2	x	x	10	10
Wood poles which passed intrusive inspection	---	---	---	---	20	20
<p>⁽¹⁾ Patrol inspections in rural areas shall be increased to once per year in Extreme and Very High Fire Threat Zones in the following counties: Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego. Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish approximate boundaries and Utilities should use their own expertise and judgment to determine if local conditions require them to adjust the boundaries of the map.</p>						

(c) Justification/Rationale (SCE)

It is SCE's position that the majority of CPSD's proposed revisions to General Order 165 fall outside the scope of this proceeding and should not be adopted during Phase 1. SCE's principal disagreement concerns CPSD's proposed addition of new, unrelated reporting requirements to a General Order that addresses utility inspection cycles. However, in its proposal, SCE does recognize that there may be value in increasing the current frequency of patrol inspections in rural areas that lie within Extreme and Very High Fire Threat Zones.

Adding a new Accident Reporting Requirement section to GO 165 as proposed by the CPSD is unnecessary because it replicates existing reporting requirements of investor owned utilities that were recently modified by the Commission in Resolution E-4184 (August 21, 2008).

SCE strongly disagrees with CPSD's proposal to require utilities to identify "any and all violations of GO 95 or GO 128 and any safety and reliability problems," as well as the proposal to require supplemental documentation for maintenance

completed after the initial scheduled correction date. CPD's proposal is out of scope and CPD has offered no evidence of need or compelling reasons for adding such broad and cumbersome requirements to this General Order, nor is there any substantive link to the prevention of fires in the near or long term. SCE would also point out, that until recently, the CPD has been working with the Investor Owned Utilities on revising the text of General Order 165 to assure clarity and improved reporting. However, upon the opening of this Proceeding, CPD has abandoned those discussions and is now seeking to impose unilateral revisions to GO 165 with no regard for our previous deliberations.

SCE does agree that there is value in CPD's proposal to increase utility patrol inspections in rural areas located with Extreme and Very High Fire Threat Zones (in Southern California) and would agree that such measures are within the scope of this rulemaking. SCE has not fully evaluated the increased costs associated with performing additional patrols and we reserve our right to recover in rates the incremental costs incurred by complying with new regulatory requirements.

- The specific electric utilities, CIPs, and others affected by the proposed rule.

Electric utilities covered by GO 165.

- New and/or revised text for the affected General Order(s), if applicable.

SCE respectfully urges the Commission not to adopt any new text. In the event the Commission agrees with increased rural patrol inspections, please see SCE's proposal above.

- The specific hazard(s) addressed by the proposed rule.

SCE does not believe that any specific hazard is addressed by CPD's or SCE's proposed rule.

- How the proposed rule reduces or otherwise addresses the hazard(s).

Not applicable.

- The anticipated costs and benefits of the proposed rule.

Costs will be incurred to comply with either proposed rule. SCE has not calculated the exact costs but anticipates the costs will be significant.

- Whether and how the costs will be recovered from customers.

All costs prudently incurred to comply with new regulations should be recovered from ratepayers.

- Whether and how costs will be shared among electric utilities, CIPs, and others.

Any patrol costs currently shared via pole attachment rates will increase.

- Why it is in the public interest to adopt the proposed rule.

SCE believes the costs outweigh the benefits. Therefore, the Commission should not adopt any changes to GO 165 in Phase 1.

- If the proposed rule applies to electric transmission, why the rule does not conflict with other federal or state regulations.

The proposed rule does not apply to transmission.

- Whether the adoption and implementation of the proposed rule is exempt from the California Environmental Quality Act (CEQA) and, if so, why. Any assertion that CEQA does not apply must cite the relevant statute and/or regulation where the exemption is listed. Conversely, any assertion that CEQA does apply must (1) cite the relevant statute and/or regulation that show CEQA applies, and (2) list the steps that need to occur under CEQA before the proposed rule can be adopted and implemented.

SCE is not aware that its patrol inspections implicate CEQA. See, e.g., California Code of Regulations, Title 14, Ch. 3, Art. 18 (Statutory Exemptions) §§ 15268 (Ministerial Projects), and 15269(b) and (c) (Emergency Projects). Moreover, Rule 12 merely defines the entities to which G.O. 95 is applicable. Rule 12 does not, itself, require any construction activity that would be considered a project under CEQA. See California Code of Regulations, Title 14, Ch. 3, Art. 20 (Definitions) § 15378 (Projects).

(d) Parties' Comments

Parties in Support

CMUA – CMUA supports SCE's proposed rule change to GO 165 because it does not unnecessarily insert jurisdictional language into the rules.

LADWP – LADWP supports SCE's proposed rule change to GO 165 because it does not unnecessarily insert jurisdictional language into the rules.

PACIFICORP – For all the reasons described in its opposition to CPSD's proposed rule above, PacifiCorp supports SCE's proposed rule.

PG&E – PG&E continues to urge the Commission to defer changes to GO 165 to Phase 2. However, if the Commission wishes to adopt changes to GO 165 in this

phase, SCE's alternative is appropriate, since its focus is on addressing fire risk in southern California.

SCE – SCE's primary position remains that GO 165 should be unchanged in Phase 1. However, in the event the Commission agrees that increased patrol inspection cycles in high fire threat areas in Southern California should be resolved in Phase 1, then SCE advocates for its proposal instead of CPSD's. SCE's proposal would return GO 165 to its original state and add only the increased inspection cycles advocated by CPSD. Thus, in the event the Commission agrees that the inspection cycle issue should be resolved in Phase 1, SCE urges the Commission to adopt its alternate to CPSD's GO 165 proposed rule changes and eliminate the other more burdensome changes contained in CPSD's proposal.

SDG&E – SDG&E does not believe changes need to be made to GO 165, at least in Phase I of this proceeding. If the Commission disagrees, SDG&E supports the more limited proposed changes to GO 165 sponsored by Edison.

SIERRA PACIFIC

SMUD – SMUD supports SCE's proposed rule change to GO 165 because it does not unnecessarily insert jurisdictional language into the rules.

TURN – While TURN can support the content of CPSD's proposed language, SCE's version is more appropriate for inclusion in a General Order, particularly given the expedited time frame in which parties have had to review the various proposals.

Parties Neutral

[None]

Parties in Opposition

CPSD – CPSD opposes this proposal because it specifically excludes application to publicly owned utilities and owners of electric facilities that belong to non-electric utilities. This is contrary to state law, as well as the goals of this OIR to enhance safety, as it perpetuates confusion over the applicability of these safety rules to these entities. In addition, CPSD opposes SCE's proposal because it eliminates language requiring documentation of the reasons why corrective action was taken after its originally scheduled date, which is necessary for CPSD to conduct audits to ensure inspections and corrective action are being taken, and also eliminates other language clarifying the types of problems that should be documented during an inspection.

Finally, CPSD opposes this alternate because it takes the accident reporting requirements out of GO 165, thus keeping them hidden away in a Commission resolution, which is much harder for utilities, Commission staff, and members of the public to find.

LA COUNTY

3. Is OIR Phase 1 appropriate for GO 165 changes?

Parties Yes

AT&T, CCTA, COX, COMCAST AND VERIZON – These parties in support take no position on the merits of CPSD’s proposed revisions/additions to General Order 165. However, the GO 165 proposed rule changes have been thoroughly vetted throughout the course of this Rulemaking in pleadings and workshop discussions and are ripe for resolution in Phase I.

CPSD

LA COUNTY

SMALL LEC

SUREWEST

TURN – TURN supports the inclusion of the issues of additional patrols and applicability of the rules in Phase 1. HOWEVER, TURN believes that the issue of accident reporting is more appropriate in Phase 2.

Parties Neutral

[NONE]

Parties No

CMUA – CPSD’s stated goal for Phase I was to minimize the risk of further fires by adopting rules that can be implemented before the 2009 fire season. It is not at all clear to CMUA why the CPSD feels that resolving a decade old jurisdictional dispute under the severe time constraints of Phase I will in any way minimize the risk of fires during the 2009 fire season. If the Commission does feel the need to include jurisdictional statements in its General Orders, this should be done in Phase II where a measured and reasoned debate of the issue can occur.

LADWP – The LADWP feels that nothing in the CPSD’ proposed rule change to GO 165 will have an impact on the 2009 fire season, and hence, the Commission should consider GO 165 in Phase II.

PACIFICORP – CPSD’s proposed changes to General Order 165 will not reduce the fire hazard in Southern California before October 2009, except for increasing the number of patrol inspections. All other changes will impose onerous and costly regulations on utilities that should be fully evaluated in Phase 2 rather than hastily applied in Phase 1.

PG&E – CPSD has not provided any compelling justification for adopting the proposed modifications to GO 165 in Phase 1. The wording changes and the

accident reporting requirements will do nothing to improve fire risk in southern California prior to fire season, and will cause utilities to divert resources from its inspection and maintenance activities to make significant investments in data collection systems for unidentified benefits.

SCE – As explained above, although SCE offers an alternative to CPSD’s proposed changes to GO 165, most of SCE’s edits return GO 165 to the status quo. SCE’s primary position remains that GO 165 should not be changed at all in Phase 1. In the event the Commission agrees that the length between patrol inspections in rural, high fire threat areas should be shortened, SCE encourages the Commission to adopt its alternative to CPSD’s proposal.

SDG&E – As noted above, SDG&E does not believe changes need to be made to GO 165 in Phase I of this proceeding.

SIERRA PACIFIC

SMUD – CPSD’s stated goal for Phase I was to minimize the risk of further fires by adopting rules that can be implemented before the 2009 fire season. It is not at all clear to SMUD why the CPSD feels that resolving a decade old jurisdictional dispute under the severe time constraints of Phase I will in any way minimize the risk of fires during the 2009 fire season. If the Commission does feel the need to include jurisdictional statements in its General Orders, this should be done in Phase II where a measured and reasoned debate of the issue can occur.

IV. Ancillary Issues

A. Cost Recovery

1. CPSD's Recommended Ordering Paragraph for Electric Utility Cost Recovery

Any electric utility that requires cost recovery for additional vegetation clearance requirements that exceed its current allotted amount for vegetation clearances, shall file a compliance filing requesting the increased amounts, provided that (1) all of the costs for vegetation clearance requirements are tracked in a balancing account, and (2) the increased amount does not exceed 10% of the total cap per year.

(a) Workshop Proposal

Any electric utility that requires cost recovery for additional vegetation clearance requirements that exceed its current allotted amount for vegetation clearances, shall file a compliance filing requesting the increased amounts, provided that (1) all of the costs for vegetation clearance requirements are tracked in a balancing account, and (2) the increased amount does not exceed 10% of the total cap per year.

(b) Proposed Final

Any electric utility that requires cost recovery for additional vegetation clearance requirements that exceed its current allotted amount for vegetation clearances, shall file a compliance filing requesting the increased amounts, provided that (1) all of the costs for vegetation clearance requirements are tracked in a balancing account, and (2) the increased amount does not exceed 10% of the total cap per year.

(c) Justification/Rationale (CPSD)

CPSD already responded to the cost recovery issue for each of its proposed rules. CPSD proposed an ordering paragraph to specifically address cost recovery for its vegetation management proposal, because of the significant costs claimed by SCE in particular. This proposed ordering paragraph is not a separate proposal, but rather responds to the bullet point on cost recovery for CPSD's PRC 6c, concerning vegetation management. Therefore, CPSD refers to the discussion concerning cost recovery in PRC 6c, above, for its justification for this proposed ordering paragraph.

(d) Parties' Comments

[Note: No vote was taken on this proposed ordering paragraph.]

Parties in Support

Parties Neutral

Parties in Opposition

PACIFICCORP – PacifiCorp objects to CPSD's recommended ordering paragraph as too limited. CPSD's proposal makes no mention of the other incremental expenses that an electric utility may prudently and necessarily incur due to the proposed rules. As the electric utilities have made clear throughout this proceeding, almost every rule change proposed by CPSD requires additional documentation, database design, and increased document retention. Operationalizing new standards will require retraining across the entire service territory and the creation of new processes and positions to accomplish these new standards. All of this will require electric utilities to incur additional costs not currently reflected in rates and therefore will require additional cost recovery. Therefore, the Commission should include an ordering paragraph that states that an electric utility is entitled to recover in rates its prudently incurred, incremental costs related to these additional requirements.

PG&E – PG&E appreciates the effort of the CPSD to address cost recovery associated with the proposed new rules or rules changes. PG&E further supports using a balancing account to track costs pending the inclusion of the costs associated with these new mandates in its next General Rate Case (which will take effect in 2011) and is not opposed to providing appropriate justification for any interim incurred incremental costs. However, the proposed Ordering Paragraph is insufficient in two ways: (1) it is limited only to costs associated with vegetation management clearances and does not include **all** the incremental costs PG&E will incur associated with the rules proposed for Phase 1 implementation; and (2) using a 10% cap is a simplistic and possibly unfair method to assess the recovery of the appropriate costs.

The proposed rules cover more than just increased clearances and inspection cycles for vegetation management. For example, there will be costs associated with developing, implementation and training for the proposed improved communication processes among the utilities regarding pole loading and test/treat information as well as for the reporting of safety hazards observed on other utilities facilities. There will be additional and continued costs associated with overlaying and maintaining utility mapping with the FRAP maps to establish appropriate fire threat boundaries.

Further, changes to General Order 165 inspection requirements will require PG&E to expend resources to conform its current maintenance program in order to collect data that it does not currently maintain. Finally, although PG&E is an electric utility, it also has communications facilities in Santa Barbara County that will be affected by the proposed requirement for increased inspections and additional documentation for communication facilities.

The proposed Ordering Paragraph is insufficient to fairly address all of the incremental costs that will be incurred by PG&E should the CPSD Phase 1 rules be adopted. The Commission should specifically acknowledge in its decision that utilities are entitled to recover all prudently-incurred costs to comply with the adopted changes to the Commission's rules. Unless there is a provision for an accompanying appropriate cost recovery mechanism for all the incremental costs, the proposed rules amount to an unfunded mandate that will burden the affected utilities with increased costs without appropriate compensation. While CPSD points to utilities' General Rate Cases as the appropriate avenue to recover costs incurred as a result of adopting new rules in this proceeding, it fails to explicitly recognize that each utility will incur costs resulting from these new rules prior to their opportunity to seek cost recovery in their next GRC. PG&E's next GRC will set rates beginning January 1, 2011. If the new rules must be implemented prior to 2011, PG&E will need a mechanism to recover its prudently-incurred costs. PG&E will recommend such a mechanism for adoption in its opening brief.

SCE – Cost recovery is a significant issue for SCE in this proceeding. SCE's 2009 GRC has just concluded, and will run through 2011. The incremental costs that would have to be spent to come into compliance with the Phase 1 rules proposed by CPSD were not included in SCE's test year 2009 revenue requirement. SCE anticipates that its next rate case will begin with a test year 2012. Thus, cost of service ratemaking principles demand a ratemaking mechanism that will ensure recovery of incremental costs between rate cases for expenses incurred to comply with new regulatory requirements. In the alternative, CPSD and the Commission could agree to delay implementation of the new requirements until the test year for each utility's next rate case, wherein each utility will forecast the additional revenue required for compliance.

Assuming that the Commission would like an earlier implementation date than the utilities' next GRCs, SCE requests the following language be added to an

ordering paragraph in the final Commission decision adopting any Phase 1 rule changes:

“Each utility shall be entitled to recover all costs prudently incurred to comply with the changes to the Commission’s rules adopted in this decision.”

Upon commencement of the new regulations, each utility would record its incremental costs in a new account to avoid retroactive ratemaking. The mechanism for recovery of such costs up until the utilities’ next rate cases could be an annual advice letter filing, or in the annual ERRRA reasonableness proceeding to ensure that the entries are appropriate and in compliance with Commission decisions.

SCE understands that CPSD would like to treat the incremental costs associated with complying with the new vegetation management requirements differently from the other proposed rule changes due to the magnitude of the costs expected to be incurred. In its earlier-filed verified comments, SCE has offered a preliminary estimate of \$50 million over four years (or \$12.5 million/yr.) to come into compliance with the new 48 inch clearance requirements in high fire threat areas in southern California. In addition, SCE estimates that it would incur additional corporate overhead, pension & benefits, and Claims expenses to implement the new regulations. SCE is currently refining its estimate in anticipation of further discussions with CPSD. Finally, SCE anticipates it will incur significant annual costs indefinitely to perform mid-cycle trims in the areas subject to the 48-inch clearance requirement. CPSD has offered the language above be incorporated into an ordering paragraph. According to CPSD, such a paragraph would permit SCE to collect up to \$8 million per year over its current allocation for vegetation management.

SCE does not believe that \$8 million per year will cover its costs of complying with the new requirements. SCE is currently studying the matter and considering various alternatives to CPSD’s proposal. SCE and CPSD have agreed to cooperate to the extent possible to reach consensus on proposed language for this ordering paragraph. SCE and CPSD will continue to negotiate, and, no later than the due date for reply briefs on the workshop report (currently, June 1, 2009), SCE will either describe the consensus proposal with CPSD or, in the event consensus cannot be reached, SCE will offer its alternative proposal or proposals for incorporation into a proposed decision.

SDG&E – The Commission should make it clear, at least for utilities that have not been deregulated, that the utilities may recover from customers all reasonable additional costs of complying with new rules or requirements adopted in this proceeding. SDG&E also requests that the Commission authorize utilities to begin tracking such costs for potential future recovery as soon as any new rules or requirements are adopted in this proceeding. SDG&E understands that there may be special issues associated with the recovery of additional costs by deregulated CIPs. SDG&E takes no position at this time with respect to the recovery of additional rule-related costs by deregulated CIPs.

SIERRA PACIFIC POWER COMPANY – Sierra appreciates CPSD’s effort to address the concerns expressed by utilities about their ability to recover incremental costs they incur to comply with new or increased requirements imposed by any of the Phase 1 proposals the Commission ultimately adopts. However, Sierra believes that this ordering paragraph needs to provide a mechanism for recovery of all incremental costs they prudently incur to comply with new requirements adopted in Phase 1, not just increased vegetation clearance requirements. Sierra believes this proposed ordering paragraph should be revised to read as follows:

The Commission acknowledges that electric utilities may incur incremental costs to comply with new requirements adopted in this proceeding. To the extent an electric utility prudently incurs incremental costs to comply with new requirements adopted in this proceeding, it is authorized to recover those incremental costs. The utility shall record those costs in a memorandum account and submit those incremental costs to the Commission on an annual basis through the filing of an advice letter. The Energy Division or DRA may audit those submitted costs to ensure that they were in fact incurred to comply with new or increased requirements imposed by the Commission in this proceeding and were incurred prudently.

TURN – TURN opposes this ordering paragraph. The implementation schedule for vegetation management has major impacts on the costs, and TURN cannot support any language on cost recovery without having some indication of the total costs of implementation. Failure to address the implementation schedule is a major gap in the record of this proceeding. TURN is opposed to an unreasonable implementation schedule of vegetation clearance requirements. Prior to ordering cost recovery for vegetation management, the Commission should determine a reasonable implementation period to minimize total costs.

In addition to our comments on the implementation schedule, TURN cannot support the ordering paragraph as written. An increase of 10% of authorized tree trimming expenses may be excessive for some utilities, and a reasonableness review may be warranted.

B. Implementation Issues (*to be included in brief*)

SDG&E – The Commission should give utilities a reasonable amount of time to implement the new rules or requirements adopted in this proceeding. Implementation deadlines should either be established in the rules themselves (such as CPSD’s ordering paragraph establishing a September 30, 2010 deadline for completion of CIP patrol inspections) or through submission of compliance plans to the Commission.

V. Conclusion

The preparation of this Workshop Report required a great deal of coordination and cooperation among the parties over a very short period of time, and all parties should be commended for their thorough and timely input. The parties participating in the workshop are listed in Exhibit B. Any verifications of factual statements will be submitted separately by the individual party.

Respectfully submitted,

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Dated: May 14, 2009



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EXHIBIT A

R.08-11-005 DM OIR Workshops

PROPOSED AGENDAS

Tuesday – April 28th

1. 9:00 – 9:15 a.m. Opening remarks, Self-introductions, Safety Briefing (PG&E)
2. 9:15 – 9:30 a.m. Ground rules, Recap PHC Ruling, Pre-workshop teleconferences
3. 9:30 – 10:15 a.m. CPSD PRC – GO 95 Rule 12 and Alternates
4. 10:15 – 12:00 p.m. CPSD PRC – FRAP Fire Threat Maps / GO 95 Rule 18 and Alternates
5. 12:00 noon – 1:00 - Lunch –
6. 1:00 – 1:30 p.m. Complete discussion of previous topic
7. 1:30 – 2:30 p.m. CPSD Proposed Ordering Paragraph #1 (CIP Inspections) and Alternates
8. 2:30 – 2:45 p.m. Process Check and Break
9. 2:45 – 3:45 p.m. CPSD PRCs – GO 95 Rule 44.2 and 44.3 and Alternates
10. 3:45 – 4:30 p.m. CPSD PRCs – GO 95 Rule 19 and Alternates
11. 4:30 – 5:00 p.m. Process Check – Closing

Wednesday – April 29th

1. 9:00 – 9:10 a.m. Re-open, attendee self-introductions, safety briefing
2. 9:10 – 10:15 a.m. CPSD PRC GO 95 Rule 35 / Table 1 (clearances)
3. 10:15 – 10:25 a.m. - Break -
4. 10:25 – 11:25 a.m. CPSD PRC GO 95 Rule 35 / Guidelines to Rule 35
5. 11:25 – 11:55 a.m. CPSD PRC – GO 95 Rule 38, Table 2, Footnote “zz”
6. 11:55 a.m. – 1:00 p.m. - Lunch -
7. 1:00 – 2:30 p.m. CPSD PRC – GO 165 and Alternates
8. 2:30 – 3:30 p.m. CPSD Proposed Ordering Paragraph #1 (Cost Recovery)
9. 3:30 – 3:45 p.m. Process Check and Break
10. 3:45 – 4:30 p.m. Workshop Report – responsibilities / due dates / teleconferences
11. 4:30 – 4:45 p.m. Phase 2 discussion (workshops, schedule, proposed rule changes)
12. 4:45 – 5:00 p.m. Closing

EXHIBIT B

EXHIBIT B

R.08-11-005 WORKSHOP PARTY PARTICIPANTS 4/28-4/29, 2009

AT&T CALIFORNIA

CALIFORNIA PUBLIC UTILITIES COMMISSION'S CONSUMER PROTECTION AND SAFETY DIVISION

CALIFORNIA PUBLIC UTILITIES COMMISSION'S DIVISION OF RATEPAYER ADVOCATES

CALIFORNIA CABLE TV ASSOCIATION

CALIFORNIA FARM BUREAU FEDERATION

CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION (REPRESENTED BY BRAUN BLAISING MCLAUGHLIN, P.C.)

CALTEL

CTIA-THE WIRELESS ASSOCIATION (REPRESENTED BY GOODIN MACBRIDE SQUERI DAY & LAMPREY LLC)

COMCAST PHONE OF CALIFORNIA (REPRESENTED BY LAMPREY LLP)

COUNTY OF LOS ANGELES FIRE DEPARTMENT

COX COMMUNICATIONS

DAVEY TREE

LOS ANGELES DEPT OF WATER AND POWER

MUSSEY GRADE ROAD ALLIANCE (BY PHONE BRIDGE)

PACIFIC GAS AND ELECTRIC COMPANY

PACIFICORP (REPRESENTED BY GOODIN MACBRIDE SQUERI DAY & LAMPREY LLC)

SACRAMENTO MUNICIPAL UTILITY DISTRICT

SAN DIEGO GAS AND ELECTRIC COMPANY

SEMPRA ENERGY (REPRESENTED BY SAN DIEGO GAS AND ELECTRIC COMPANY)

SIERRA PACIFIC POWER COMPANY

SOUTHERN CALIFORNIA EDISON

THE UTILITY REFORM NETWORK

T-MOBILE (REPRESENTED BY WILSON & BLOOMFIELD, LLP)

VERIZON CALIFORNIA INC.

R.08-11-005 WORKSHOP NON-PARTY PARTICIPANTS

ANAHEIM

ES&C INC.

MODESTO IRRIGATION DISTRICT

SPRINT NEXTEL

TIME WARNER

EXHIBIT C

Exhibit C

OIR 08-11-005 BRIEFING COMMON OUTLINE

I. INTRODUCTION

II. OVERARCHING PRINCIPLES AND ISSUES

III. PROPOSED RULES

A. CPSD PRC 1. CIP INSPECTIONS

1. CPSD's Proposed Ordering Paragraph
2. CIP Alternate Language/Proposal

B. CPSD PRC 2. Proposed Revisions /Additions to General Order 95, Rule 12: Applicability of Rules

1. CPSD Proposal
2. SCE Alternate Proposal
3. CIP Alternate Proposal [Rule 120]

C. CPSD PRC 3: Rule 18: Proposed New GO 95, Rule 18: Reporting and Resolution of Safety Hazards Discovered by Utilities

1. CPSD Proposal
2. SCE Alternate Proposal
3. SDG&E Alternative Proposal to insert Language at 3d paragraph of CPSD
Proposed Part A
4. CIP Alternative Language/Proposal to CPSD Proposal [Rule 122, Part A:
Notification of Safety Hazards and Part B: Maintenance Plans]
 - A. Part A: Notification of Safety Hazards
 - B. Part B: Maintenance Plans
5. CalTel Alternate Language/Proposal [Rule 118: Reporting and Resolution of
Safety Hazards Discovered by Utilities]

D. CPSD PRC 4: CPSD's Proposed Language regarding Fire Threat Map

1. CPSD Proposal
2. PG&E Alternate Language/Proposal to Fire Threat Map Language

E. CPSD PRC 5: Proposed New GO 95, Rule 19: Cooperation with Commission Staff; Preservation of Evidence Related to Incidents

1. CPSD Proposal
2. SDG&E Alternate Language/Proposal

F. CPSD PRC 6a & b: Proposed Revisions/Additions to GO 95, Rule 35: Tree Trimming

1. CPSD Proposal – Language Changes
2. CPSD Proposal re Appendix E: Guidelines to Rule 35
3. PG&E Alternative Language/Proposal re Appendix E: Guidelines to Rule 35
[Interim Revisions to Guidelines to Rule 35]

- G. CPSD PRC 6c:** Proposed New Case 14 to GO 95, Rule 37, Table 1: Minimum Allowable Vertical Clearances...
 - 1. CPSD Proposal (Interim) Rule 37 Minimum Clearances, Case Nos. 13 and 14 [NEW]
 - 2. CA Farm Bureau Federation Alternate Language/Proposal re Table 1, Case 14, fn. (jjj)

- H. CPSD PRC 7:** Proposed New Footnote “zz” to GO 95, Rule 38, Table 2: Minimum Clearances of Wires from Other Wires

- I. CPSD PRC 8:** Proposed New GO 95: Rule 44.2: Additional Construction
 - 1. CPSD Proposal [Rule 44.2: Additional Construction and Renumbered Rule 44.3: Replacement]
 - 2. SDG&E Alternative Language/Proposal [Rule 44.2: Additional Construction]
 - 3. SCE Alternate Language/Proposal [Ordering Paragraph]
 - 4. CIP Alternate Language/Proposal [Rule 123: Additions to Poles]

- J. CPSD PRC 9:** Proposed Revisions/Additions to GO 165¹: (Parts I, II, III, IV and new Section V)
 - 1. CPSD Proposal (Part I, II, III, IV, V, and Table)
 - 2. SCE Alternate Language/Proposal

IV. ANCILLARY ISSUES

A. Cost Recovery

- 1. CPSD’s Recommended Ordering Paragraph for Electric Utility Cost Recovery
- 2. Large ILEC Cost Recovery

B. Implementation Issues

V. CONCLUSION

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA S IST

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Commissioner Assigned: Timothy Alan Simon on November 13, 2008

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ATTACHMENT B

General Order 95 -- Revisions

12 Applicability of Rules

These rules apply to all overhead electrical supply and communication facilities that come within the jurisdiction of this Commission, located outside of buildings, including facilities that belong to non-electric utilities, as follows:

[The remainder of Rule 12 has been omitted here, but shall remain unchanged.]

General Order 95 Rule 18 Part A: Resolution of Safety Hazards And General Order 95 Violations

Each company (including utilities and CIPs) is responsible for taking appropriate corrective action to remedy safety hazards and GO 95 violations posed by their facility. Upon completion of the corrective action, the company records shall show the nature of the work, the date and identity of persons performing the work. Prior to the work being completed, the company shall document the current status of the safety hazard, including whether the safety hazard is located in an Extreme and Very High Fire Threat Zone in Southern California, and shall include a scheduled date of corrective action. These records shall be preserved by the company for at least five years, and shall be of sufficient detail to allow Commission staff during an audit, if any, to determine that the safety hazard has been remedied. The records shall be made available to Commission staff immediately upon request. Additionally, for any work completed after the initial scheduled date of corrective action, the company shall document the reason or reasons that the work was not completed by the original scheduled date of corrective action.

For purposes of this rule, “safety hazard” means a condition that poses a significant threat to life or property, including, but not limited to, the ignition of a wildland or structure fire. “Extreme and Very High Fire Threat Zones” are defined in the Commission decision issued in Phase I of R.08-11-005. “Southern California” is defined as the following: Santa Barbara, Ventura, San Bernardino, Riverside, Los Angeles, Orange, and San Diego Counties.

Companies that have existing General Order 165 auditable inspection and maintenance programs that are consistent with the purpose of Rule 18 shall continue to follow their General Order 165 programs. All companies shall establish an auditable maintenance program for their facilities and lines. Further, all companies must include a timeline for corrective actions to be taken following the identification of a safety hazard or violation of General Orders 95 or 128 on the companies' facilities..

The auditable maintenance program should be developed and implemented based on the following principles.

(1) Priorities shall be assigned based on the specifics of the safety hazard or violation as related to direct impact and the probability for impact on safety or reliability using the following factors:

- Type of facility or equipment;
- Location;
- Accessibility;
- Climate;
- Direct or potential impact on operations, customers, electrical company workers, communications workers, and the general public;
- Whether the safety hazard or violation is located in an Extreme or Very High Fire Threat zone.

(2) There will be three priority levels, as follows:

(a) Level 1:

- Immediate safety and/or reliability risk with high probability for significant impact.
- Take action immediately, either by fully repairing the condition, or by temporarily repairing and reclassifying the condition to a lower priority.

(b) Level 2:

- Variable (non-immediate high to low) safety and/or reliability risk.
- Take action to correct within specified time period (fully repair, or by temporarily repairing and reclassifying the condition to a lower priority).

- Time period for correction to be determined at the point of identification by a qualified company representative:
 - Overhead: 0-59 months
- Where communications company actions result in electric utility GO violations, the electric utility's remedial action will be to transmit a single documented notice of identified violations to the communications company for compliance.

(e) Level 3:

- Acceptable safety and/or reliability risk.
- Take action (re-inspect, re-evaluate, or repair) at or before the next detailed inspection.

(d) Exceptions (Levels 2 and 3 only) –Correction times may be extended under reasonable circumstances, such as:

- Third party refusal
- Customer issue
- No access
- Permits required
- System emergencies (e.g. fires, severe weather conditions)

(3) Upon completion of the corrective action, the company's records shall show the nature of the work, the date, and the identity of persons performing the work. These records should be preserved by the company for at least five years.

(4) The company shall prioritize implementing this maintenance plan within the Extreme and Very High Fire Threat Zones of Southern California. With the exception of a safety hazard or violation requiring immediate correction, a company must correct a violation or safety hazard within 30 days of discovering or being notified of a violation or safety hazard, if the violation or safety hazard violates a clearance requirement listed in columns E, F, or G of Table 1 in this General Order, or violates a pole overloading requirement in Rule 44.2 of this General Order, and is located in an Extreme and Very High Fire Threat Zone in Southern California.

The company must correct a violation or safety hazard within 30 days if the utility is notified that the violation must be corrected to alleviate a significant safety risk to

any utility's employees.

Part B: Notification of Safety Hazards

If a company, while inspecting its facilities, discovers a safety hazard on or near a communications facility, electric transmission or distribution facility involving another company, the inspecting company shall notify the other company and/or facility owner of such safety hazard no later than 10 business days after the discovery. The inspecting company shall also provide a copy of the notice to the pole owner(s). The inspecting company shall include in such notice whether the safety hazard which requires corrective action is located in a designated Extreme and Very High Fire Threat Zone in Southern California. To the extent the inspecting company cannot determine the owner/operator of other company, it shall contact the pole owner(s), who shall be responsible for promptly notifying the company owning/operating the facility with the safety hazard. The notification shall be in writing and must be preserved by all parties for at least five years. It is the responsibility of each pole owner to know the identity of each entity using or maintaining equipment on its pole.

General Order 95 Rule 19: Cooperation with Commission Staff; Preservation of Evidence Related to Incidents

Each utility shall provide full cooperation to Commission staff in an investigation into any major accident (as defined in Rule 17) or any reportable incident (as defined in CPUC Resolution E-4184), regardless of pending litigation or other investigations, including those which may be related to a Commission staff investigation. Once the scene of the incident has been made safe and service has been restored, each utility shall provide Commission staff upon request immediate access to:

- Any factual or physical evidence under the utility or utility agent's physical control, custody, or possession related to the incident;
- The name and contact information of any known percipient witness;
- Any employee percipient witness under the utility's control;
- The name and contact information of any person or entity that has taken possession of any physical evidence removed from the site of the incident;

- Any and all documents under the utility's control that are related to the incident and are not subject to the attorney-client privilege or attorney work product doctrine.

Any and all documents or evidence collected as part of the utility's own investigation related to the incident shall be preserved for at least five years. The Commission's statutory authorization under Cal. Pub. Util. Code §§ 313, 314, 314.5, 315, 581, 582, 584, 701, 702, 771, 1794, 1795, 8037 and 8056 to obtain information from utilities, which relate to the incidents described above, is delegated to Commission staff.

General Order 95 Rule 35: Vegetation Management

Where overhead conductors traverse trees and vegetation, safety and reliability of service demand that certain vegetation management activities be performed in order to establish necessary and reasonable clearances. The minimum clearances set forth in Table 1, Cases 13 and 14, measured between line conductors and vegetation under normal conditions shall be maintained. (Also see Appendix E for tree trimming guidelines.)

When a utility has actual knowledge, obtained either through normal operating practices or notification to the utility, of dead, rotten and diseased trees or portions thereof, that overhang or lean toward and may fall into a span, said trees or portions thereof should be removed.

Communication and electric supply circuits, energized at 750 volts or less, including their service drops, should be kept clear of vegetation in new construction and when circuits are reconstructed or repaired, whenever practicable. When a utility has actual knowledge, obtained either through normal operating practices or notification to the utility, that any circuit energized at 750 volts or less shows strain or evidences abrasion from vegetation contact, the condition shall be corrected by reducing conductor tension, rearranging or replacing the conductor, pruning the vegetation, or placing mechanical protection on the conductor(s). For the purpose of

this rule, abrasion is defined as damage to the insulation resulting from the friction between the vegetation and conductor. Scuffing or polishing of the insulating covering is not considered abrasion. Strain on a conductor is present when deflection causes additional tension beyond the allowable tension of the span. Contact between vegetation and conductors, in and of itself, does not constitute a violation of the rule.

EXCEPTIONS:

- (1)** Rule 35 requirements do not apply to conductors or aerial cables that comply with Rule 57.4-C , 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 to avoid conductor damage by abrasion and grounding of the circuit through the vegetation.
- (2)** Rule 35 requirements do not apply where the utility has made a “good faith” effort to obtain permission to trim or remove vegetation but permission was refused or unobtainable. A “good faith” effort shall consist of current documentation of a minimum of an attempted personal contact and a written communication, including documentation of mailing or delivery. However, this does not preclude other action or actions from demonstrating “good faith”. If permission to trim or remove vegetation is unobtainable and requirements of exception 2 are met, the utility is not compelled to comply with the requirements of exception 1.
- (3)** The Commission recognizes that unusual circumstances beyond the control of the utility may result in nonconformance with the rules. In such cases, the utility may be directed by the Commission to take prompt remedial action to come into conformance, whether or not the nonconformance gives rise to penalties or is alleged to fall within permitted exceptions or phase-in requirements.
- (4)** Mature trees whose trunks and major limbs are located more than six inches, but less than the clearance required by Table 1, Cases 13E and 14E, from

primary distribution conductors are exempt from the minimum clearance requirement under this rule. The trunks and limbs to which this exemption applies shall only be those of sufficient strength and rigidity to prevent the trunk or limb from encroaching upon the six-inch minimum clearance under reasonably foreseeable local wind and weather conditions. The utility shall bear the risk of determining whether this exemption applies, and the Commission shall have final authority to determine whether the exemption applies in any specific instance, and to order that corrective action be taken in accordance with this rule, if it determines that the exemption does not apply.

General Order 95 Interim Revisions to Appendix E: Guidelines to Rule 35

The radial clearances shown below are minimum clearances that should be established, at time of trimming, between the vegetation and the energized conductors and associated live parts where practicable. Reasonable vegetation management practices may make it advantageous to obtain greater clearances than those listed below:

<u>Voltage of Lines</u>	<u>Case 13 of Table 1</u>	<u>Case 14 of Table 1</u>
Radial clearances for any conductor of a line operating at 2,400 or more volts, but less than 72,000 volts	4 feet	6.5 feet
Radial clearances for any conductor of a line operating at 72,000 or more volts, but less than 110,000 volts	6 feet	10 feet
Radial clearances for any conductor of a line operating at 110,000 or more volts, but less than 300,000 volts	10 feet	20 feet
Radial clearances for any conductor of a line	15 feet	20 feet

operating at 300,000 or more volts		
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General Order 95 Interim Rule 37: Minimum Clearances of Wires above Railroads, Thoroughfares, Buildings, Etc.

[See Revisions to Relevant Excerpts of Table 1, below.]

Case No.	Nature of Clearance	Table 1: Basic Minimum Allowable Vertical Clearance of Wires above Railroads, Thoroughfares, Ground or Water Surfaces; Also Clearances from Poles, Buildings, Structures or Other Objects (nn) (Letter References Denote Modifications of Minimum Clearances as Referred to in Notes Following This Table)						
		Wire or Conductor Concerned						
		A Span Wires (Other than Trolley Span Wires) Overhead Guys and Messengers	B Communication Conductors (Including Open Wire, Cables and Service Drops), Supply Service Drops of 0 - 750 Volts	C Trolley Contact, Feeder and Span Wires, 0 - 5,000 Volts	D Supply Conductors of 0 - 750 Volts and Supply Cables Treated as in Rule 57.8	E Supply Conductors and Supply Cables, 750 - 22,500 Volts	F Supply Conductors and Supply Cables, 22.5 - 300 kV	G Supply Conductors and Supply Cables, 300 - 550 kV(mm)
13	Radial clearance of bare line conductors from vegetation (aaa) (ddd)			18 inches (bbb)		18 inches (bbb)	1/4 pin spacing shown in table 2, Case 15 (bbb) (ccc)	1/2 pin spacing shown in table 2, Case 15
14	Radial clearance of bare line conductors from vegetation in Extreme and Very High Fire Threat Zones in Southern California (aaa) (ddd) (hhh)(jjj)			18 inches (bbb)		48 inches (bbb) (iii)	48 inches (fff)	120 inches (ggg)

General Order 95 Interim Rule 37 Interim Footnotes (fff)(ggg)(hhh)(iii):

- (fff) Clearances in this case shall be increased for conductors operating above 88 kV, to the following:
 - 1) Conductors operating between 88kV and a 110 kV shall maintain a 60 inch clearance
 - 2) Conductors operating above 110 kV shall maintain a 120 inch clearance
- (ggg) Shall be increased by 0.40 inch per kV in excess of 500 kV
- (hhh) Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish approximate boundaries for purposes of this rule. The boundaries of the map are to be broadly construed, and utilities should use their own expertise and judgment to determine if local conditions require them to adjust the boundaries of the map.
Southern California shall be defined as the following: Santa Barbara, Ventura, San Bernardino, Riverside, Los Angeles, Orange, and San Diego Counties.
- (iii) May be reduced to 18 inches for conductors operating less than 2.4 kV.

General Order 95 Interim Rule 37 Interim Footnote (jjj): Orchard Exclusion

- (jjj) Clearances in this case shall not apply to orchards of fruit, nut or citrus trees that are plowed or cultivated. In those areas Case 13 clearances shall apply.

General Order 95 Rule 38 [Revisions to Relevant Excerpts of Table 2, below]												
Table 2: Basic Minimum Allowable Clearance of Wires from Other Wires at Crossings, in Midspans and at Supports (Letter References Denote Modifications of Minimum Clearances as Referred to in Notes Following This Table) All Clearances Are in Inches												
Case No.	Nature of Clearance and Class and Voltage of Wire, Cable or Conductor Concerned	Other Wire, Cable or Conductor Concerned										
		A	B	C	D	E	F	G	H	I	J	K (kk)
		Supply Conductors (Including Supply Cables)										
		Span Wires, Guys and Messengers	Trolley Contact Conductors 0 – 750 Volts	Communication Conductors (Including Open Wire, Cables and Service Drops)	0 – 750 Volts (Including Service Drops) and Trolley Feeders (a)	750 - 7,500 Volts	7,500 - 20,000 Volts	20,000 - 35,000 Volts	35,000 - 75,000 Volts	75,000 - 150,000 Volts	150,000 - 300,000 Volts	300,000 - 550,000 Volts
	Horizontal separation of conductors on same crossarm											
15	Pin spacing of longitudinal conductors vertical conductors and service drops (v, w, zz)	-	-	3 (x)	11–1/2 (h, x)	11 1/2 (x)	17–1/2 (x)	24 (x)	48	60 (ff)	90 (gg)	150 (hh)
	Radial separation of conductors on same crossarm, pole or structure— incidental pole wiring											
16	Conductors, taps or lead wires of different circuits (v, y, s, zz)	-	-	3 (x)	11–1/2 (h, x)	11 1/2 (x)	17–1/2 (x)	24 (x)	48	60 (ff)	90 (gg)	150 (hh)
16a	Uncovered, grounded, non-dielectric fiber optic cables on metallic structures, in transition (ss)	-	15	15	15	18	18	18	18	24	36	120
17	Conductors, taps or lead wires of the same circuit (v, s, aa, zz)	-	-	3	3	6	6	12	24	60 (ff)	90 (gg)	150 (hh)
(zz) In areas that are subjected to high winds, a utility may need to take extra measures to maintain all required separations. Measures may include but are not limited to, spacer bars and increased pin spacing.												

General Order 95, Rule 44.2 Additional Construction

Any utility planning the addition of facilities that materially increases the load on a structure shall perform a loading calculation to ensure that the addition of the facilities will not reduce the safety factors below the values specified by Section IV. Such utility shall maintain these pole loading calculations and shall provide such information to authorized joint use pole occupants and the Commission upon request.

All other utilities or on the subject pole shall cooperate with the utility performing the load calculations described above including, but not limited to, providing intrusive pole loading data and other data necessary to perform those calculations. As an interim measure, the necessary data shall be provided upon request within fifteen business days of the request; however, if circumstances do not allow for the data to be provided within fifteen days, the utility or CIP providing the data shall inform the requesting party and CPSD (or its successor) of the delay, reason for the delay and the estimated date the data will be provided. Also for interim purposes, additional facilities that “materially increase the load on a structure” refers to an addition which increases the load on a pole by more than 5 percent per installation, or 10 percent over a 12 month span of the utility’s or CIP’s current load.

Note: Nothing contained in this rule shall be construed as allowing the safety factor of a facility to be reduced below the required values specified in Rules 44.1 and 44.3.

General Order 95 Rule 44.3 Replacement

Lines or parts thereof shall be replaced or reinforced before safety factors have been reduced (due to deterioration) in Grades “A” and “B” construction to less than two-thirds of the construction safety factors specified in Rule 44.1 and in Grades “C” and “F” construction to less than one-half of the construction safety factors specified in Rule 44.1. Poles in Grade “F” construction shall also conform to the requirements of Rule 81.3-A.

In no case shall the application of this be held to permit the use of structures or

any member of any structure with a safety factor less than one.

(END OF ATTACHMENT B)

ATTACHMENT C

General Order 165 -- Revisions

**General Order 165 Public Utilities Commission of the State of California
Inspection Cycles for Electric Distribution Facilities**

GO 165 Table:

Electric Distribution System Inspection Cycles (Maximum Intervals in Years)

	Patrol		Detailed		Intrusive	
	Urban	Rural	Urban	Rural	Urban	Rural
Transformers						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Switching/Protective Devices						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Regulators/Capacitors						
Overhead	1	2 ¹	5	5	---	---
Underground	1	2	3	3	---	---
Padmounted	1	2	5	5	---	---
Overhead Conductor and Cables						
Overhead Conductor and Cables	1	2 ¹	5	5	---	---
Streetlighting	1	2	x	x	---	---
Wood Poles under 15 years	1	2	x	x	x	x
Wood Poles over 15 years which have not been subject to intrusive inspection	1	2	x	x	10	10
Wood poles which passed intrusive inspection	---	---	---	---	20	20

(1) Patrol inspections in rural areas shall be increased to once per year in Extreme and Very High Fire Threat Zones in the following counties: Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego. Extreme and Very High Fire Threat Zones are defined by California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) Fire Threat Map. The FRAP Fire Threat Map is to be used to establish approximate boundaries and Utilities should use their own expertise and judgment to determine if local conditions require them to adjust the boundaries of the map.

(END OF ATTACHMENT C)