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SUMMARY OF RECOMMENDATIONS

In the following Opening Brief, SCE recommends the following actions be taken with respect to the Workshop Report for Phase 2 of this Rulemaking:

- Each of the consensus rules in Appendix A of the Workshop Report should be adopted.
- The following proposed rule changes in Appendix B (Multiple Alternative Proposals) of the Workshop Report should be **adopted**:
 - MAP No. 1 (G.O. 95, Rule 11) – CPSD’s proposal;
 - MAP No. 3 (G.O. 95, Rule 18A) – The CIP Coalition proposal;
 - MAP No. 5 (G.O. 95, Rule 31.1) – The Joint Electric Utilities proposal;
 - MAP No. 6 (G.O. 95, Rule 31.2) – Either of the two CIP Coalition proposals;
 - MAP No. 7 (G.O. 95, Rule 35) – the two proposals by the Joint Electric Utilities on Paragraph 4 and Exception 3;
 - MAP No. 8 (G.O. 95, Rule 35, Appendix E) – the two proposals by the Joint Electric Utilities on Table 1 and the language in the Guidelines;
 - MAP No. 9 (G.O. 95, Rule 38, Footnote (aaa)) – the Joint Electric Utilities proposal;
 - MAP No. 10 (G.O. 95, Rule 44.4 (Cooperation)) – the Joint Electric Utilities proposal;
 - MAP No. 11 (G.O. 95, Rule 48) – both of the proposals by the Joint Electric Utilities and CPSD;
 - MAP No. 13 – the ordering paragraph proposed by PG&E;
 - MAP No. 15 (Cost Recovery) – the proposal by the Joint Electric Utilities, the multi-jurisdictional utilities, and the Small LECs.

- The following proposed rule changes in Appendix B should be **rejected**:
 - MAP No. 1 (G.O. 95, Rule 11) – The CIP Coalition proposal;
 - MAP No. 3 (G.O. 95, Rule 18A) – SDG&E’s proposal;
 - MAP No. 4 (G.O. 95, Rule 18C) – Mussey Grade’s proposal;
 - MAP No. 8 (G.O. 95, Rule 35, Appendix E) – the Mussey Grade and California Farm Bureau proposal;
 - MAP No. 10 (G.O. 95, Rule 44.4 (Cooperation)) – the CIP Coalition proposal;
 - MAP No. 12 (G.O. 95, Rule 91.5) – SDG&E’s proposal;
 - MAP No. 13 (G.O. 165, Section V) – Mussey Grade’s proposal;
 - MAP No. 14 (Fire Maps) – Mussey Grade’s proposal;
 - MAP No. 15 (Cost Recovery) – the TURN and DRA proposal.
- SCE is **neutral** or takes **no position** on the following proposed rule changes:
 - MAP No. 2 (G.O. 95, Rule 12) – CPSD’s proposal;
 - MAP No. 6 (G.O. 95, Rules 31.2 and 80.1) – the two inspection proposals from CPSD and SDG&E, and the intrusive testing proposal by CPSD;
 - MAP No. 14 (G.O. 95, Rule 31.2, Fire Maps) – both of the CIP Coalition proposals.

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

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

**OPENING BRIEF OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)
ON THE PHASE 2 WORKSHOP REPORT**

I.

INTRODUCTION

Pursuant to the Assigned Commissioner’s Ruling and Scoping Memo, the Administrative Law Judge’s Ruling Granting the Motion to Extend the Schedule for Phase 2 (May 7, 2010), and Rule 13.11 of the Rules of Practice of Procedure of the California Public Utilities Commission (Commission or CPUC), Southern California Edison Company (SCE) respectfully files its Opening Brief on the Phase 2 Workshop Report submitted August 13, 2010 in this proceeding.

II.

OVERARCHING PRINCIPLES AND ISSUES

The November 5, 2009 Assigned Commissioner’s Ruling and Scoping Memo for Phase 2 of this Proceeding (ACR) states that “[t]he main purpose of this rulemaking proceeding is to consider measures to reduce fire hazards associated with (1) electric transmission and distribution facilities, and (2) communication infrastructure provider (CIP) facilities in close

proximity to overhead electric power lines.”¹ Further, this proceeding was split into two phases. The first phase considered rules that could be implemented prior to the 2009 fire season, and concluded with Decision (D).09-08-029. “The purpose of Phase 2 is to address measures that require more time to consider and implement.”²

Throughout both phases of this proceeding, SCE has had in mind the “main purpose” of this rulemaking. Implementation costs and difficult operational changes associated with proposed rules that do not satisfy the purpose of this proceeding should not be incurred. Adopting ill-considered rules does not protect lives or property, distracts from the important task of drafting and implementing more urgently needed rules of real utility, and wastes limited financial and human resources. SCE supports most of the rule changes in the workshop report, including all the consensus rules, and favors at least one version of certain non-consensus (or MAP) rules. However, for each rule that SCE believes would require increased costs and difficult operational changes without offsetting benefits, or that otherwise does not fit within the purpose of this rulemaking, SCE explains the reasons for its opposition in this opening brief. SCE encourages the Commission to give due consideration and weight to the views of the utilities responsible for implementing and operationalizing new or modified requirements when deciding whether to adopt a particular proposed rule change.

Another overarching principle important to SCE is cost recovery for incremental costs prudently incurred as a result of the new regulations. The ACR recognizes cost as a principle and states that, “[t]he scope of Phase 2 includes regulatory procedures for recording, tracking, and recovery of costs incurred by utilities to comply with regulations adopted in this proceeding.”³ SCE’s authorized revenue requirement adopted for test year 2009 does not include forecast revenue to comply with new regulations that arise out of this rulemaking. Moreover, in its 2012 general rate case filing, SCE does forecast the costs it expects to incur as a result of the

¹ See ACR, at p.1.

² See ACR, at p. 2.

³ See ACR, at pp. 7-8.

Phase 1 rule changes. Cost of service ratemaking principles require that incremental costs prudently incurred to comply with new regulations through the end of SCE's current rate case cycle be recovered from ratepayers. However, the Commission has not yet adopted a mechanism to track, review, and recover recorded costs up to the date of SCE's 2012 rate case decision, as well as all costs required to comply with Phase 2 rule changes. SCE requests the Commission adopt the cost recovery proposal of the regulated electric and small telecommunications utilities (the Small-LECs), which is based upon sound ratemaking principles.

Finally, SCE would like to take this opportunity to thank our workshop facilitators, ALJs Jean Vieth and Angela Minkin. As a result of their leadership in facilitating the 25 days of workshops held from January through June in Phase 2 of this proceeding, the 35-plus parties were able to get through an aggressive agenda while reaching consensus in important areas. ALJs Vieth and Minkin were instrumental to the process – maintaining an orderly debate while challenging participants to provide adequate, substantive support for their positions. The Phase 2 workshop process was a welcome contrast to the un-facilitated and sometimes contentious process that unfolded during most of Phase 1. SCE would also like to acknowledge CPSD, DRA, TURN, the CIP Coalition, PG&E, SDG&E, Los Angeles County and the other parties who worked together with us in a collective attempt to forge improved rules for fire safety in California.

A. Jurisdiction Issues

For the purposes of this proceeding, SCE takes no position regarding the Commission's jurisdiction over municipal utilities with respect to G.O. 95 and G.O. 165. This issue should be decided as a matter of law taking into consideration all the applicable statutes, CPUC decisions, and case law precedent.

B. Electric Transmission Issues

In its initial proposed rule changes for Phase 1 of this proceeding, CPSD had proposed to include transmission lines within General Order (G.O.) 165.⁴ After meeting well-founded and unanimous resistance from the utilities, CPSD ultimately withdrew this proposal from Phase 1. CPSD again proposed to treat transmission lines no differently from distribution in G.O. 165 with its Phase 2 proposed rule changes. During the workshops, CPSD, the California Independent System Operator, and the electric utilities worked together to achieve consensus regarding the extent to which transmission lines should be subject to G.O. 165 requirements. The ultimate proposed rule change is presented in Appendix A of the workshop report as the consensus rule regarding G.O. 165, Sections I-IV, and the proposal preserves the utilities' existing CAISO-approved transmission inspection and maintenance programs.⁵ The parties reached consensus after considering the following basic principles.

- Each IOU already has a California Independent System Operator (CAISO) approved plan and audit process for transmission inspection and maintenance.
- The IOUs affirmed that they inspect and maintain their transmission lines.
- PG&E's, SCE's, and SDG&E's programs are performed and audited in accordance with the CAISO's Transmission Control Agreement.
- The same facilities of these IOU inspection and maintenance programs are also subject to certain related Western Electricity Coordinating Council (WECC) and

⁴ See The Consumer Protection and Safety Division's Proposed Rules to Be Implemented in Time for the 2009 Fall Fire Season, filed March 9, 2009, at pp. 29-34.

⁵ The portion of the G.O. 165 proposed rule change dealing with transmission facilities states:

“Each utility shall prepare and follow procedures for conducting inspections and maintenance activities for transmission lines.

Each utility shall maintain records of inspection and maintenance activities. Commission staff shall be permitted to inspect records and procedures consistent with Public Utilities Code Section 314 (a).” (Proposed G.O. 165, Section IV.)

the North American Electric Reliability Corporation (NERC) requirements and associated reporting requirements.

- The IOUs believe that additional requirements from the Commission coming on top of those that already exist will do nothing to prevent fires, could lead to conflicting requirements between different jurisdictions, and will burden ratepayers by adding to utilities' cost of service.

SCE believes that the consensus rule on G.O. 165 Sections I-IV preserves these basic principles, represents compromises made by all affected parties, and should be adopted.

III.

PROPOSED CONSENSUS RULES

This Opening Brief of SCE will address the proposed rules as they existed at the end of the last workshop held June 14-15, 2010, and as reflected in the Workshop Report.⁶ SCE appreciates the collaboration that occurred among all the parties at each of the 25 days of workshops held during Phase 2. Consistent with the workshop protocols, SCE voted neutral or in support of each of the consensus proposed rule changes and then confirmed that vote at the next workshop session. Appendix A of the Workshop Report includes a statement of rationale for the rule as well as justifications for each proposal based upon the template provided in the ACR.

In the sections below, SCE provides its arguments supporting its vote on each consensus proposal. In many cases for both the consensus and non-consensus rules, the final proposal reflects compromises worked out after discussions among the parties. In some cases, SCE's arguments include cautions or recommendations about future interpretations of the rule changes

⁶ To avoid overlapping and duplication of argument in this opening brief, SCE incorporates by reference the rationales and justifications that are contained in the Workshop Report for rules proposed by SCE, proposed by the Joint Electric Utilities, or supported by SCE. SCE further incorporates by reference comments made by SCE, PG&E, or SDG&E in opposition to rules proposed by others for rules also opposed by SCE. Finally, SCE incorporates by reference arguments made by PG&E or SDG&E for or against a particular rule as presented in the Opening Brief of each of those parties as indicated herein.

or suggestions for improvements of the language of the rules. SCE recommends that each of the consensus rules be adopted for the reasons stated in the Workshop Report and in this Opening Brief.

A. General Order 95, Rule 18A (Term “Nonconformance”)

The parties agreed to substitute the word “nonconformance” for “violation” wherever it occurs in G.O. 95, Rule 18A (correction of safety hazards). It is important to note that additional changes are being recommended to Rule 18A to clean up its language generally. There are two such proposals presented as MAP No. 3 in Appendix B of the Workshop Report, and discussed further in Section IV of this brief below. No matter how Rule 18A is ultimately structured after considering the changes presented in the Workshop Report, all the parties reached consensus that the final rule will include the substitution of nonconformance for violation. For ease of presentation, the version of Rule 18A included in Appendix A of the Workshop Report is the current version, before considering the other changes presented in MAP No. 3.

There is an important distinction between the terms nonconformance and violation. First, nonconformance is broader than violation, and by using the term “nonconformance,” Rule 18A will broaden the applicability of the rule to conditions that do not rise to the level of a safety hazard or other General Order discrepancies that have been termed “violations” by Commission staff and in Commission decisions. Second, the term violation in the context of Rule 18A may imply that any corrective action taken by a utility following its maintenance plan marks a violation of a General Order that could lead to penalties or liability. This is simply not the case. It makes sense to encourage utilities to take corrective action whenever the utilities deem it necessary – even when those corrective actions are not prompted by actual violations of a General Order. SCE encourages the Commission to adopt this consensus change and to replace

the term “violation” with “nonconformance” wherever it appears in whichever version of Rule 18A is ultimately adopted.⁷

B. General Order 95, Rule 18B (Notification Of Safety Hazards)

Rule 18B (Notification of Safety Hazards) is a new rule recently adopted in the Phase 1 Decision (D.09-08-029). However, the rule as adopted was difficult to interpret and could not be put into practice with any certainty that the operational changes actually met all the requirements of the rule. The rule required significant revisions for clarity, and to ensure that the final version could be executed by the electric utilities and communications companies consistently with good quality.

The consensus changes to Rule 18B provide the clarity required to make the operational changes necessary to meet its requirements. Adoption of the consensus changes will make it clear that utility inspectors are to apply the rule’s requirements during inspections consistent with the utility’s or company’s adopted inspection and maintenance plan. This rule will not apply during other times, such as emergency conditions or trouble calls, when the focus is properly on restoring service.

The changes also now recognize the actual conditions faced by joint pole owners and tenants in identifying entities attached to specific poles. Utilities have knowledge of the companies that share joint ownership on its poles, and they also know who its tenants are in the spaces it owns on the poles. Utilities do not always know, however, who the tenants are of other joint pole owners. The clarified rule now recognizes this reality of joint pole ownership, and permits the inspecting company to notify the pole owners when it cannot identify the particular entity whose facilities are causing the safety hazard. It is then the responsibility of the particular pole owner to notify that entity of the condition.

⁷ This change is also consistent with the terminology found in GO 95 Rule 12.6 (Third Party Nonconformance) and Rule 35 (Vegetation Management) – Exception #3.

SCE disfavors placing time frames (and other operational requirements) such as those found in this Rule 18B into General Order 95. Instead, SCE favors a “programmatic approach” to regulation within G.O. 95. Specifically, G.O. 95 should set forth the standards to be met by regulated utilities. The utilities should be required to develop processes or a program to meet those standards, and Commission staff should audit the utilities to ensure their programs are designed to meet the standards set by the rule and that each utility is following its program. This approach allows each utility to take into consideration the unique aspects of its service territory and operations when developing compliance programs. It also permits utilities to refine their programs over time and incorporate new technology and efficiencies rather than be hampered by a “one-size-fits-all” set of operational requirements that may be outdated by the time they are adopted.

In the case of this consensus Rule 18B, SCE would also support a rule that states:

If a company, while performing inspections of its facilities, discovers a safety hazard(s) on or near a communications facility or electric facility involving another company, the inspecting company shall notify the other company and/or facility owner of such safety hazard(s).

NOTE: To the extent the inspecting company cannot determine the facility owner/operator, it shall contact the pole owner(s), who shall be responsible for notifying the company owning/operating the facility with the safety hazard(s). Each pole owner must be able to determine all other pole owners on poles it owns. Each pole owner must be able to determine all authorized entities that attach equipment on its portion of a pole.

This version provides the standard – *companies must notify others of safety hazards identified while performing inspections* – and guidance – *pole owners are expected to be able to determine the identity of their tenants* – while permitting each company to develop a compliance program of its own to meet the standard. Regulated companies and Commission staff would then be expected to cooperate to ensure that the companies’ programs are designed and implemented to meet the requirements of the rule. This approach fosters mutual respect between

companies and the regulators and should be favored over prescriptive rules that mandate operational requirements that are difficult to change when new circumstances arise.

The changes to Rule 18B were adopted as consensus changes by the workshop participants, including SCE. The changes include compromises made in order to achieve consensus. Although SCE believes a rule without operational requirements is preferable, SCE continues to support the consensus proposal.

C. General Order 95, Rule 35, Paragraphs 1-3

Consensus was reached on proposed changes to the first three paragraphs of G.O. 95, Rule 35 (vegetation management). These changes accomplish three important tasks: (i) it makes clear that the vegetation clearance requirements apply to all facilities in California, including those on State or local agency land; (ii) it clarifies previously ambiguous language requiring that electric and telecommunications companies must remove the dead, rotten, or diseased portions of trees that overhang or lean toward and may fall into a span of electric or telecommunications lines they know about, but that healthy trees that overhang or lean toward conductors are permissible; and (iii) it clarifies previously ambiguous language defining “strain” on a conductor.

SCE affirms its support of the consensus revisions made during the workshop process to these first three paragraphs of Rule 35. Although other proposals related to Rule 35 did not reach consensus, SCE believes the amendments made to these three paragraphs are not dependant on the non-consensus proposals and clarify the vegetation management requirements for electric and communication companies and should aid in future interpretations of this rule.

D. General Order 95, Rule 37, Table 1, Case 14, And Footnotes (fff) – (iii)

The proposed consensus changes to Rule 37 (minimum line clearances), Case 14, and Footnotes (fff) – (jjj) retain the footnotes adopted by the Phase 1 Decision, removing the “interim” label. These changes also correct a typo in Case 14.

SCE does not object to retaining Case 14 and associated footnotes “fff”, “ggg”, “iii” and “jjj” that were adopted as “interim” requirements in the Phase 1 Decision. As part of the

consensus vote, SCE also agreed to retain footnote “hhh.” However, SCE has serious concerns regarding footnote “hhh” (and similar references in G.O. 95 and G.O. 165) to Cal-FIRE’s Fire and Resource Assessment Program (FRAP) Fire Threat Map. SCE does not agree that references to the FRAP Map should be retained permanently for Southern California. Because no consensus was reached on replacing the FRAP Map with a more suitable alternative, SCE agreed to retain footnote “hhh” for now, but is doing so without prejudice to a request in a subsequent proceeding to replace or modify footnote “hhh” and similar references adopted in Phase 1.

Shortly after the initiation of the Phase 2 workshops, three Work Groups were formed. The “Mapping” Work Group was tasked with reviewing existing interim rules associated with the FRAP Map and also determining the applicability of the maps to parts of the state not previously defined as “Southern California.” Because the Phase 1 decision included an Interim Ordering Paragraph requiring the patrol of communication facilities in designated Extreme and Very High Fire Threat Zones in Southern California using the FRAP Map, the communication company representatives requested that this Working Group initially focus on other parts of California, so as not to interrupt or complicate the implementation of the ordered patrol inspections. SCE agreed with the understanding that whether use of the FRAP Map was prudent or necessary on a long term or permanent basis would be vetted during the workshops. However, such a vetting did not occur during the workshops.

SCE respectfully requests that the Commission affirm in the Phase 2 Decision that the matter of utilizing Cal-FIRE’s FRAP Map in Southern California as referenced in G.O. 95 and G.O. 165 is subject to change in a future proceeding.

E. General Order 95, Rules 44.1, 44.2, 44.3, And 23.0 (Except Cooperation)

The parties agreed to several important consensus changes to the pole loading rules in Section IV of G.O. 95 (pole loading). These clarify that both electric and telecommunications companies are required to perform pole load calculations that consider both structural loading

and mechanical strength, whenever facilities are added that increase the vertical, transverse, or longitudinal loading on a structure. The changes also clarify that the safety factors to be used are in Rule 44.3 (as opposed to the prior, ambiguous reference to “Section IV”). The record retention requirement for pole load calculations is set at five years. Finally, the change to Rule 23.0 clarifies that changes in grade of construction or class of circuits is considered “reconstruction.”

SCE affirms its support of the consensus revisions made during the workshop process. SCE believes the consensus revisions improve the version of Rule 44.2 adopted in Phase 1.

On the topic of “cooperation” (identified as “reserved” in Appendix A to the Workshop Report), which is discussed at length in our comments to MAP proposals in Section IV of this brief below, SCE observes that the consensus version of Rule 44.2 already includes a “cooperation” requirement. Consistent with SCE’s view on taking a “programmatic approach” to G.O. 95 rules, SCE believes that the existing cooperation requirement in Rule 44.2 is sufficient to ensure that the data necessary to perform pole loading calculations is shared among the companies sharing space on joint poles.

Moreover, the ACR defined the cooperation issue narrowly as “sharing information in coordination with the Northern California Joint Pole Committee and the Southern California Joint Pole Committee.”⁸ We note that the CIP Coalition’s original PRC and their current PRC included as MAP No. 10 in Appendix B of the Workshop Report extends well beyond the ACR, and fails entirely to recognize the importance of coordinating with the Joint Pole Committees. In addition, SCE is concerned that communication companies will use the new rule to reopen and renegotiate existing pole attachment agreements with the electric utilities.

⁸ ACR at p. 6.

F. General Order 165, Sections I-IV

SCE affirms its support for the consensus changes proposed for G.O. 165, Section IV for the reasons stated in the Workshop Report. The majority of these changes codify negotiations that predated this proceeding, and will vastly improve G.O. 165 by streamlining many of its requirements. The consensus proposal also includes a new subpart IV – Transmission Facilities, which is discussed above in Section II.B of this brief.

IV.

MULTIPLE ALTERNATIVE PROPOSALS

Despite the progress made during the workshops, the Workshop Report presents fifteen Multiple Alternative Proposals (MAPs) for consideration and decision. The Commission could decide to adopt one of the proposals in each set, adopt a modified version of one of the proposals, or decide not to adopt any of the proposals in a particular set. These MAPs were established according to the workshop protocols, which permitted parties to submit alternatives to the initial proposal even if the party did not offer the alternative in its initial pleadings. A proposed rule change became a MAP only after often lengthy debate determined that consensus would not be reached.

In the Workshop Report, SCE indicated which of the choices is the best fit (or whether no version of the rule should be adopted) considering the competing interests of new regulations aimed at preventing wildfires and burdening ratepayers with new, costly requirements. In this Opening Brief below, SCE continues to advocate for its positions as described in the Workshop Report, many of which include compromises from earlier positions after having considered the arguments of other parties, including CPSD. We encourage the Commission to adopt the positions advocated by SCE regarding the proposals below after considering all the costs, operational changes, and purported benefits of each set of MAP proposals.

A. MAP No. 1: General Order 95, Rule 11

Two alternatives are presented in the Workshop Report to modify G.O. 95, Rule 11 (Purpose of Rules) – one from CPSD and one from the CIP Coalition. SCE supports the CPSD proposal and opposes the CIP Coalition proposal.

1. Rule 11 Proposal By CPSD

In addition to construction requirements, CPSD’s proposal adds “design” and “maintenance” to this prefatory rule, clarifying that lines must be designed and maintained (as well as constructed) in accordance with the applicable G.O. 95 requirements. The CPSD proposal also deletes the modifier “electrical” from before “line” in the rule to remove a possible ambiguity in this rule regarding whether communications lines were exempt from all of G.O. 95.

SCE supports deleting the term “electrical” to make it clear that G.O. 95 also applies to communications lines (which no party disputes). SCE is concerned, however, with the addition of “design” and “maintenance” to this rule. Technology changes quickly, and the more details and processes that are inserted into G.O. 95, the less flexibility a utility has to tailor its activities to fit its business needs. SCE would prefer to keep G.O. 95 principally focused on construction requirements, and is concerned that broadening the scope of the rules to include requirements for the “design” and “maintenance” of lines through such a seemingly innocuous reference will actually create more confusion than clarify, and opens other portions of G.O. 95 to the insertion of inappropriate procedural and operational requirements that are often untested and very difficult to change. This General Order should provide high level requirements that the utilities can build upon to fit their operational and business needs, not prescriptive details.

2. Rule 11 Proposal By CIP Coalition

Like the CPSD proposal, the CIP Coalition proposal also would add “design” and “maintenance” to this rule, which describes the purpose of G.O. 95. The CIP Coalition proposal, however, retains the confusing “electrical” modifier.

G.O. 95 clearly applies to both electric and communication overhead lines. Although historically the term “electrical lines” included communication lines, a new person reading the rule today – especially with all the changes in technology and the fact that there is a Section VIII in G.O. 95 that specifically refers to communication lines – it is possible that a reader might interpret the retention of the word “electrical” as intending to exclude communications lines from the Rule. The CPSD deletion clarifies the rule, and that version should be adopted.

B. MAP No. 2: General Order 95, Rule 12

For the reasons stated above in this brief under “Jurisdictional Issues,” SCE takes no position on this proposed change to Rule 12, which would clarify that G.O. 95 applies to the facilities of publicly-owned utilities.

C. MAP No. 3: General Order 95, Rule 18A (Except Term “Nonconformance”)

Two MAP alternatives have been offered proposing changes to G.O. 95, Rule 18A (correction of safety hazards). During the workshops, SCE supported the alternative offered by the CIP Coalition and opposed the alternative offered by SDG&E. SCE affirms these positions. Nonetheless, SCE remains concerned about the prescriptive nature of both of these proposals. Consistent with its preference for rules that set basic standards and permit regulated companies to develop programs, practices, and procedures to comply with those standards, SCE offers below an approach to addressing the issues in Rule 18A in a manner more appropriate for inclusion as a rule in G.O. 95.

1. Rule 18A Proposal By CIP Coalition

In its Work Report Comments, SCE joined in PG&E’s comments supporting the CIP Coalition’s proposed revisions to Rule 18A. SCE supported this proposal in an attempt to achieve consensus. However, SCE would point out that G.O. 95 already has a “maintenance” rule and a definition that can be edited to achieve the intent of Rule 18A using a programmatic approach, while integrating the concepts into existing Rules 12.2 and 22.2.

Prior to the Commission’s adoption of Rule 18A in Phase 1 of this proceeding, electric and communication companies (subject to G.O. 95) were already required to maintain their facilities. SCE favors integrating the concepts contained in Rule 18A into existing G.O. 95 rules, creating flexibility while maintaining high standards.

SCE recommends the Commission order:²

- Rule 12.2 be revised to include a requirement for electric and communication companies to establish an auditable maintenance program;
- The definition of Safety Hazard in revised Rule 18 be added to Section II as new Rule 23.3;
- With minor edits, Part A of revised Rule 18 be included in G.O. 95 as new Appendix “J”; and
- The definition of “Extreme and Very High Fire Threat Zones” in revised Rule 18 be added as a footnote to new Appendix “J”;

As shown below (SCE’s proposed edits are underlined):

² SCE’s intent in offering alternatives to the Workshop Report version of proposed rule changes here and elsewhere in this brief is, with the benefit of hindsight, to make suggestions to the Commission that remove prescriptive operational requirements while preserving the substance of the proposals and better aligning the text with the existing structure of G.O. 95. SCE also would like to avoid or minimize the need for future proceedings to clean up inconsistencies and other textual problems in G.O. 95 as a result of the changes adopted in this proceeding. SCE hopes other parties (including CPSD) voice their support for these changes in their Reply Briefs.

12.2 Maintenance of Lines

All lines and portions of lines shall be maintained in such condition as to provide safety factors not less than those specified in Rule 44.3. Lines and portions of lines constructed or reconstructed on or after the effective date of this Order shall be kept in conformity with the requirements of this Order.

Electric supply and communication companies shall establish an auditable maintenance program for their facilities and lines.

The restoration of clearance originally established prior to the effective date of this Order, where the original clearance has been reduced by additional sagging or other causes, is not considered to be reconstruction and the reestablished clearance shall conform to the requirements of the rules in effect at the time the original clearance was established. The changing of clearance for any other purpose is reconstruction and clearances so changed shall comply with the rules of this Order applicable to reconstruction.

23.3 Safety Hazard means a condition that poses a significant threat to human life or property.

Appendix J: Auditable Maintenance Programs

(1) Rule 12.2 requires electric supply and communication companies to establish an auditable maintenance program for their facilities and lines.

(2) Programs must include a timeline for corrective actions to be taken following the identification of a Safety Hazard or nonconformances with General Order 95 on the company's facilities.

(3) Programs must prioritize corrective actions consistent with the priority levels set forth below and based on the following factors, as appropriate:

- Safety and reliability as specified in the priority levels below;
- Type of facility or equipment;
- Location, including whether the Safety Hazard or nonconformance is located in an Extreme or Very High Fire Threat Zone in Southern California;
- Accessibility;
- Climate;
- Direct or potential impact on operations, customers, electrical company workers, communications workers, and the general public;

Note: “Extreme and Very High Fire Threat Zones” are defined in the Commission Decision 09-08-029. “Southern California” is defined as the following: Santa Barbara, Ventura, San Bernardino, Riverside, Los Angeles, Orange, and San Diego.

There should be at least 3 priority levels.

(i) 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.

(ii) 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 time of identification by a qualified company representative, but not to exceed 59 months.¹⁰

(iii) Level 3:

- Acceptable safety and/or reliability risk.
- Take action (re-inspect, re-evaluate, or repair) as appropriate.

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).

(4) Upon completion of the corrective action, the company's records shall show, with sufficient detail, the nature of the work, the date, and the identity of persons performing the work. These records shall be preserved by the company for at least five years and shall be made available to Commission staff upon 30 days notice.

(5) Companies that have existing General Order 165 auditable inspection and maintenance programs shall continue to follow their General Order 165 programs.

2. Rule 18A Proposal By SDG&E

In its Workshop Report Comments, SCE joined in PG&E's comments opposing SDG&E's proposed revisions to Rule 18A. Essentially, SDG&E would like all communication companies operating within its service territory to follow SDG&E's own internal standards for corrective action. SCE is sympathetic to SDG&E's concerns regarding the timely correction of identified G.O. 95 nonconformances that affect worker and/or public safety by other companies sharing its system. However, consistent with SCE's belief that G.O. 95 rules should set standards and not dictate operational requirements, SDG&E's proposal is simply not appropriate for inclusion in G.O. 95.

¹⁰ Although SCE is generally opposed to placing operational timeframes in G.O. 95 rules, this particular requirement to record a date for corrective action not to exceed 59 months from the time of identification is acceptable to SCE because it is sufficiently flexible to permit the utility to design a program that meets this timeframe while considering all the factors unique to the particular utility's operations and service territory.

Moreover, prescriptive time frames such as those in SDG&E’s proposal are not appropriate for a rule of statewide application. Instead, SCE recommends the programmatic approach to reforming Rule 18A outlined in subsection C.1. above.

D. MAP No. 4: General Order 95, Rule 18C

Mussey Grade’s proposal for a new Rule 18C would place an ambiguous and burdensome new requirement on electric utilities to develop contingency plans that include the analysis of the risk from equipment that currently meets the requirements set by G.O. 95. There is a good reason why Mussey Grade’s proposal was supported by the “yes” votes of only two other parties and was opposed by every party to this proceeding that is actually regulated by the CPUC.

First, proposed Rule 18C does not belong in G.O. 95, which establishes uniform requirements related to overhead line construction. G.O. 95 does not and should not address business issues such as “contingency planning” with ambiguous, impossible to meet requirements. Second, electric utilities currently develop contingency plans for all types of events, not just wild land fires. Examples are systems failures, overload conditions, and major rain or heat storms. Finally, pursuant to D.98-07-097, General Order 166 already requires that utilities adopt rules that govern planning for responses to major emergencies, disasters, and power outages.

The proposed rule is also severely flawed because it assumes the utilities (or anyone else) can predict wildfires in areas containing facilities that conform to G.O. 95. Thus, the proposed rule is impossible to operationalize. Rules and regulations must not be designed to ensure failure, yet this one clearly is. In the first instance, electric utilities will have to decide what “measures” are necessary “to prevent ignitions of wildland fires by equipment that meets G.O. 95 . . . requirements.” Inevitably, however, some interests groups will insist the utilities are not doing enough while others will argue that the utilities are spending too much ratepayer money

“planning” when the money could be put to better use elsewhere – such as replacing obsolete or worn equipment.

This proposal is ill-conceived and should not be adopted. Instead, SCE encourages Mussey Grade to support the full funding of each utility’s vegetation management program (in conformance with the Phase 1 decision) and infrastructure replacement program.

E. MAP No. 5: General Order 95, rule 31.1

This proposal by the Joint Electric Utilities to clarify the applicability of Rule 31.1 was the most widely supported rule that did not reach consensus. In fact, it is the only rule to receive an initial consensus vote but then be rejected on confirmation – in this case with only CPSD dissenting.

The changes proposed to Rule 31.1 would clarify that utilities must meet the standards set in G.O. 95, or, where no G.O. 95 standard exists, utilities must follow accepted good practice. It is important that utilities understand, in advance, what the regulatory requirements are so that they have an opportunity to meet those standards. The changes fix ambiguities in the rule and should be adopted.

To avoid duplication of arguments in these opening briefs, SCE incorporates by reference the rationale and justifications for this rule contained in the Workshop Report and PG&E’s arguments for adoption of this rule contained in its Opening Brief.

F. MAP No. 6: General Order 95, Rule 31.2

In its Workshop Report Comments, SCE noted that it supported both of the CIP Coalition rule change proposals, and voted neutral on the CPSD and SDG&E proposals. SCE continues to believe both of the CIP Coalition proposals are better aligned with the intent and goals of this proceeding as described in the ACR, while the CPSD and SDG&E proposals, instead, seek to expand the scope of the inspections to locations not considered high fire hazard areas without providing adequate justification of need, without a showing of current nonconformances by the

affected companies, and without a showing of the expected short-term or long-term benefits from these proposed expansive rules and prescriptive time frames.

1. Rule 31.2 Proposal By CIP 1

Of the four rule changes being considered, SCE finds this proposal (CIP 1) to be the most reasonable in terms of its patrol and inspection timeframes. However, SCE does not agree with the addition of prescribed timeframes and embedded definitions specific to “communication inspections” to Rule 31.2. It remains our view that such requirements are best suited for a separate General Order, or in the alternative, the Commission should strongly consider adopting the content of Proposal CIP 1 in Section VIII of G.O. 95 as denoted below.

Further, the definition of “Specified Fire Areas” in this proposal seeks to continue the use of Cal-FIRE FRAP Maps in Southern California and adopt new maps developed by REAX Engineering for use in Northern California. Again, SCE respectfully requests the Commission affirm in the Phase 2 Decision that the matter of utilizing Cal-FIRE FRAP Maps in Southern California (as referenced in G.O. 95 and G.O. 165) is subject to consideration in a future proceeding. Further, it remains our hope that a consolidated map for communication company inspections for use in both Northern and Southern California might still be developed.

SCE Alternate (CIP 1): Rule 31.2 – Inspection of Lines

Lines shall be inspected frequently and thoroughly for the purpose of insuring that they are in good condition so as to conform with these rules. Lines temporarily out of service shall be inspected and maintained in such condition as not to create a hazard.

A. Communication Lines (See Rule 80.1.)

B. Electric Lines shall be inspected in compliance with the requirements of General Order 165.

SCE Alternate (CIP 1): Rule 80.1 Inspection Requirements for Communication Lines

Communication lines shall be inspected in Specified Fire areas, as follows:

A. Patrols shall be performed not less often than once every three (3) years on overhead communications lines installed on joint use poles with electric distribution or transmission facilities, as well as on communication lines one span away.

1. Patrol means a simple visual inspection of communications equipment and structures that is designed to identify obvious structural problems and hazards. Patrols may be carried out in the course of other company business.

B. Detail Inspections shall be performed not less often than once every nine (9) years on overhead communications lines installed on joint use poles with electric distribution or transmission facilities, as well as on communication lines one span away.

1. Detail Inspection means a careful visual inspection of communications equipment and structures using inspection tools such as binoculars and measuring devices, as appropriate. Detail Inspections may be carried out in the course of other company business.

C. For all Patrols and Detail Inspections, records shall specify the facility or equipment inspected; the name of the inspector; the date of the inspection; and any problems (or items requiring corrective action) identified during each inspection, as well as the scheduled date of corrective action.

D. Records of Patrols and Detail Inspections shall be made available to Commission staff upon 30 days notice.

2. Rule 31.2 Proposal By CIP 2

SCE also voted to support the CIP 2 proposed change to Rule 31.2, and we continue to support the proposal. However, consistent with our comments above, as a general matter, we do not agree with the addition of prescribed timeframes and embedded definitions specific to “communication inspections” to Rule 31.2. As an alternative, SCE supports the language it offers in subsection F.1. above regarding the CIP 1 proposal for Rule 31.2.

3. Rules 31.2 And 80.1 Part A Proposal By CPSD

SCE voted neutral on CPSD’s communication inspections proposal for Rules 31.2 and 80.1 Part A. As noted above, SCE favors the two CIP proposals over CPSD’s proposal; however, if the Commission instead adopts CPSD’s version, the content of this proposal should be placed in a separate General Order, and not within G.O. 95.

SCE notes that CPSD’s proposal very closely resembles G.O. 165. As an alternative to inclusion in G.O. 95, the Commission, to the extent it agrees with the CPSD version, should strongly consider publishing this proposal, with minor revisions (strikeout and double-underlined), as a new General Order No. 170:¹¹

SCE Alternate (CPSD): Rule 31.2 – Inspection of Lines

Lines shall be inspected frequently and thoroughly for the purpose of insuring that they are in good condition so as to conform with these rules. Lines temporarily out of service shall be inspected and maintained in such condition as not to create a hazard.

A. Communication Lines (See General Order 170)

B. Electric Lines shall be inspected in compliance with the requirements of General Order 165.

SCE Alternate (CPSD): GO170 – Inspection Cycles for Communication Lines

A. Each company shall prepare, follow and modify as necessary procedures for conducting inspections for all Communication Lines. The procedures at a minimum shall contain the following:

- Proximity to electric facilities
- Terrain
- Accessibility
- Location

In no case may the period between inspections (measured in years) for Communication Lines located on Joint Use Poles (See GO 95 Rule 21.8) that contain Supply Circuits (See GO 95 Rule 20.6-D), as well as those Communication Lines attached to a pole that are within three spans of Joint Use Poles that contain Supply Circuits, exceed the time specified in the below Table below.

Patrol		Detailed
Urban	Rural	
1	2 ¹	10 ¹

¹¹ In addition, CPSD’s proposal also includes a definition of “Specified Fire Areas” that seeks to continue the use of Cal-FIRE FRAP Maps in Southern California. Again, SCE respectfully requests the Commission affirm in the Phase 2 Decision that the matter of utilizing Cal-FIRE’s FRAP Map in Southern California (as referenced in GO 95 and GO 165) is subject to consideration in a future proceeding.

(1) Patrol inspections in rural areas shall be increased to once per year, and detailed inspections shall be increased to once every five years, 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.

- Methodology to ensure that all lines are subjected to:

- Detailed Inspections

Note: For the purpose of this rule Detailed Inspection shall be defined as a careful visual inspection of Communication facilities and structures using inspection tools such as binoculars and measuring devices, as appropriate.

- Patrol Inspections

Note: For the purpose of this rule Patrol Inspection shall be defined as a simple visual inspection, of applicable communications facilities 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.

- Procedures describing ratings of identified conditions specifying what problems shall be identified

B. Procedures for wood pole intrusive inspections

- Wood poles supporting only Communication Lines or equipment, that are:

Located in Extreme or Very High Fire Threat Zones in Southern California and inter-set between joint use poles supporting Supply Lines,

Or,

Located in Extreme or Very High Fire Threat Zones in Southern California and extend up to three spans from a joint use pole supporting Supply Lines,

Or,

Located in areas outside Extreme or Very High Fire Threat Zones in Southern California and extend one span from a joint use pole supporting Supply Lines,

shall be intrusively inspected in accordance with the schedule established in General Order 165 for wood poles that support Supply Lines.

Note: For the purpose of this rule Wood pole intrusive inspection shall be defined as an inspection involving movement of soil, and/or using more sophisticated diagnostic tools beyond visual inspections or instrument reading.

Each company shall maintain records of inspections. Commission staff shall be permitted to inspect records and procedures consistent with Public Utilities Code Section 314 (a).

4. Rules 31.2 And 80.1 Part A Proposal By SDG&E

SCE voted neutral on SDG&E's proposal for communication inspections in Rules 32.3 and 80.1. As noted above, SCE favors the two CIP proposals over SDG&E's proposal; however, if the Commission adopts SDG&E's version, the language should be placed in a separate General Order, and not within G.O. 95, as suggested above in subsection F.3. (discussion of CPSD's proposal).

5. Rules 31.2 And 80.1 Part B Proposal By CPSD (Intrusive Testing)

SCE voted neutral on this intrusive inspection proposal by CPSD because SCE believes that intrusive inspections of wood communications poles near electric lines could prevent pole failures from affecting electric facilities. As stated in our comments to this proposal in the workshop report, SCE would have supported a narrower rule that is more consistent with the scope of this proceeding, and which limited wood pole intrusive inspections to high fire hazard areas. See comments to CPSD's Rule 80.1 Part A and proposed alternate G.O. 170 in subpart F.3. above.

G. MAP No. 7: General Order 95, Rule 35

The Joint Electric Utilities proposed two additions to Rule 35 designed to counter customer refusals of vegetation management work to prevent vegetation contact with energized equipment. Both faced very little opposition during the workshops and should be adopted.

1. Rule 35, Paragraph 4 Proposal By The Joint Electric Utilities

New Paragraph 4 to Rule 35, proposed by the Joint Electric Utilities, would allow utilities to terminate power to customers at any location where they receive service who refuse to allow vegetation inspections, or who create an imminent threat of a clearance violation. SCE voted in favor of the proposal during the workshops. SCE supports the right to terminate service at the location where access is restricted, and is neutral on authority to terminate service at other locations where the property owner receives service. To avoid duplication of arguments in these opening briefs, SCE incorporates by reference the rationale and justifications for this rule contained in the Workshop Report and PG&E's arguments for adoption of this rule contained in its Opening Brief.

SCE intends to use this rule as a tool to obtain permission from objecting property owners to conduct necessary vegetation management activities around its energized facilities under egregious circumstances where the threat to public safety is real. SCE will use all available means to obtain permission from a property owner prior to terminating service. Furthermore, SCE will rely first on its authority under Tariff Rule 11 to terminate service for unsafe conditions. Finally, SCE hopes that the mere possibility of termination will be sufficient to convince property owners to permit access for vegetation management activities. As a matter of policy, SCE does not intend to turn off service at a location different from the location causing the unsafe condition, but may choose to terminate service at the location of the obstructed access if the threat of harm from the condition appears imminent and all other options for correcting the condition have been exhausted.

2. Rule 35, Exception 3 Proposal By The Joint Electric Utilities

New Exception 3 to Rule 35 would make clear to property owners who refuse access for vegetation management that they will be held responsible for the consequences of their actions if their refusal results in a contact between vegetation and energized

equipment. The Joint Electric Utilities all support this proposal, which received very little opposition. To avoid duplication of arguments in these opening briefs, SCE incorporates by reference the rationale and justifications for this rule contained in the Workshop Report and SDG&E's arguments for adoption of this rule contained in its Opening Brief. SCE urges the Commission to adopt this important tool for preventing vegetation-caused fires from igniting due to a lack of access to property.

H. MAP No. 8: General Order 95, Rule 35, Appendix E

Three proposals were offered during the workshops addressing G.O. 95, Rule 35, Appendix E (Guidelines). The two proposals made by the Joint Electric Utilities were widely supported, faced little opposition, and should be adopted. In contrast, the third proposal, made by Mussey Grade and the Farm Bureau, garnered little support, was opposed by virtually every electric utility in California, and should be rejected.

1. Rule 35, Appendix E, Table 1 Proposal by The Joint Electric Utilities

This Joint Electric Utility proposal would increase the guidelines for minimum time-of-trim vegetation-to-conductor radial clearances for Extreme and Very High Fire Threat Zones in Southern California from 6.5 feet to 10 feet for conductors operating at 2,400 volts or more but less than 72,000 volts, and from 10 feet to 15 feet for conductor of a line operating at 72,000 volts or more but less than 110,000 volts. The Joint Electric Utilities all support this proposal, which received very little opposition. To avoid duplication of arguments in these opening briefs, SCE incorporates by reference the rationale and justifications for this rule contained in the Workshop Report and SDG&E's arguments for adoption of this rule contained in its Opening Brief. SCE continues to support the proposal, which should be adopted.

2. Rule 35, Appendix E (Guidelines) Proposal By The Joint Electric Utilities

This Joint Electric Utility proposal would clarify language in Appendix E (Guidelines) to Rule 35 by adding descriptive factors that will be taken into consideration when determining the appropriate level of additional clearances that need to be obtained at the time of trim. The Joint Electric Utilities all support this proposal, which received very little opposition. To avoid duplication of arguments in these opening briefs, SCE incorporates by reference the rationale and justifications for this rule contained in the Workshop Report and SDG&E's arguments for adoption of this rule contained in its Opening Brief. SCE continues to support the proposal, which should be adopted.

3. Rule 35, Appendix E (Guidelines) Proposal By The Mussey Grade Road Alliance And The California Farm Bureau Federation

This alternative to the Joint Electric Utilities' proposal by Mussey Grade and the Farm Bureau would add two phrases to the list of factors used to determine the appropriate clearances at time of trim. The additions are counterproductive and should be rejected. The Joint Electric Utilities all oppose this proposal. To avoid duplication of arguments in these opening briefs, SCE incorporates by reference the arguments against this rule contained in the Workshop Report and SDG&E's arguments contained in its Opening Brief. SCE continues to oppose this proposal, which should be rejected.

I. MAP No. 9: General Order 95, Rule 38, Footnote (aaa)

New Footnote (aaa) to G.O. 95, Rule 38 is advisory only. It states in its entirety: "The vertical separation requirement between conductors in the adjoining mid-span may or may not require increased vertical separation at the pole based on the sag characteristics of the conductors." The footnote is designed to remind companies constructing facilities on an existing structure to consider all the factors that contribute to the sag of the conductors that are already there. Specifically, companies are reminded that one cannot assume that the existing conductors

will always sag by the same amount (within 10%) as observed on the day of construction. In consideration of the fact that conductors may sag by a larger amount under different conditions (reducing the amount of clearance between the old conductors and newly constructed lines), the company installing the new lines may need to increase the separation distance at the attachment point on the pole.

This basic engineering principle is non-controversial, and SCE is puzzled by the opposition to the proposal by the CIP coalition (CPSD voted neutral). This proposal is a reminder only – it does not contravene any other clearance requirement or construction standard in G.O. 95. This proposal complements all those other rules cited by the CIP coalition in Appendix B, footnote 32 of the Workshop Report. Under existing rules, conductors must be designed to remain a specified distance apart to reduce the possibility of conductors contacting each other, which can cause outages and sparks. A 10% allowance in that clearance is made for temperature and loading. It is prudent to remind constructing companies to consider all the factors that can increase sag when designing the height of attachment on the pole.

J. MAP No. 10: General Order 95, Rule 44.4 (Cooperation)

Of all the proposals debated during the workshop process, the one describing how electric utilities and communications companies will cooperate with each other to facilitate timely and accurate pole loading calculations on joint use poles garnered the most discussion and came closest to resolution without reaching consensus. The final language of both proposals is nearly identical. SCE is genuinely disappointed that, after much compromise from all parties, the gap ultimately could not be bridged.

SCE firmly believes that the existing language in Rule 44.2 is sufficient to ensure cooperation by utilities performing pole load calculations on joint use poles and to permit enforcement of that requirement by Commission staff. Rule 44.2 as adopted in the Phase 1 Decision currently states: “All other utilities 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.”¹² This language embodies the “programmatic” approach that SCE believes is consistent with the overall structure of G.O. 95, and is more efficient, cost-effective, and flexible than permanently enshrining prescriptive requirements into G.O. 95.

The ACR itself did not contemplate a far ranging “cooperation” rule in Section IV of G.O. 95. Instead, the scope of Phase 2 included only two issues touching on the cooperation issue: (i) “[a]rea specific rules for sharing information between utilities regarding pole overloading” which “includes sharing information in coordination with the Northern California Joint Pole Committee and the Southern California Joint Pole Committee”;¹³ and (ii) “[t]imeframe for exchanging data for load calculations,”¹⁴ which refers to the 15 business day requirement adopted as an interim ordering paragraph in the Phase 1 Decision. However, both of the proposals go much farther than was contemplated in the ACR – but only one of the proposals places the extraneous operational requirements in an Appendix to G.O. 95, preserving the G.O. 95 rules themselves as construction standards.

Thus, SCE encourages the Commission to reject both MAP proposed rule changes and leave Rule 44.2 as it is. However, if the Commission decides to adopt one of the proposals, the Joint Electric Utilities’ proposal should be the one adopted for the reasons argued below.

1. Rule 44.4 (Cooperation) Proposal By The CIP Coalition

The CIP Coalition’s proposal for a new Rule 44.4 in G.O. 95 is misplaced, unnecessary, and should be rejected. Four of the five new requirements are no different from what is currently required under Rule 44.2 and the Phase 1 Decision, specifically:

(i) sharing intrusive inspection data;¹⁵ (ii) sharing other information necessary to perform

¹² General Order 95, Rule 44.2.

¹³ ACR at p. 6 (No. 18).

¹⁴ ACR at p. 7 (No. 21).

¹⁵ General Order 95, Rule 44.2, second paragraph (“including . . . providing intrusive pole loading data”).

a pole load calculation;¹⁶ (iii) sharing standard input values;¹⁷ and (iv) providing such data within 15 business days.¹⁸ The fifth requirement is outside the scope of Phase 2: the requirement to provide reasons for rejecting a pole attachment application. SCE agreed to this extraneous requirement as a concession in an attempt to achieve consensus, which failed.

The CIP Coalition proposal is duplicative of Rule 44.2 and does not belong in G.O. 95. As a result of the extensive discussions during the workshop process, SCE is convinced that the CIP Coalition proposal is designed to undermine current contractual agreements between SCE and its joint pole partners by inserting the new, unrelated requirement to provide reasons for rejecting pole attachment applications into the Commission's General Orders. Operational details among joint pole users are currently described in a Routine Handbook¹⁹ (for joint owners, *i.e.*, members of the Southern California Joint Pole Committee) and in pole attachment agreements (for joint pole tenants). The joint pole committee handbook and party agreements are where operational details such as those described in the CIP Coalition proposal are negotiated. By putting such details into G.O. 95, the CIP Coalition seeks to short-circuit the contractual process, which would throw those agreements and the joint pole committees into disarray. This is an improper high-jacking of the Commission's rules, which should not be tolerated.

In short, the CIP Coalition "cooperation" proposal is unnecessary in light of current Rule 44.2. Today, companies must share intrusive inspection data and other data necessary to complete a pole load calculation. And the Phase 1 Decision requires that the information be exchanged within 15 business days. Each of these requirements is subject to enforcement by Commission Staff. It should be up to the parties, negotiating in good

¹⁶ General Order 95, Rule 44.2, second paragraph ("including . . . providing . . . other data necessary to perform those calculations").

¹⁷ General Order 95, Rule 44.2, second paragraph ("including . . . providing . . . other data necessary to perform those calculations").

¹⁸ D.09-08-029, p. 53, Ordering Paragraph No. 3.

¹⁹ Official Title: Southern California Joint Pole Committee (SCJPC) Routine Handbook (2010 Edition).

faith, to work out the operational details within the current contractual arrangements, including within the joint pole committee process. G.O. 95 should not be rewritten improperly to accomplish the business goals of specific parties. Instead, if the Commission feels that operational guidelines should be included within its rules, then the Joint Electric Utilities' proposal accomplishes that goal.

2. Rules 44.2 And 44.4 (Cooperation) Proposal By The Joint Electric Utilities

The language of the Joint Electric Utilities' proposal for Rules 44.2 and 44.4 is virtually identical to the CIP Coalition proposal, including the concession to explain reasons for pole attachment application rejections. The proposal also expressly acknowledges that the new requirements are duplicative of Rule 44.2. That is why the Joint Electric Utilities' proposal would move the second paragraph of Rule 44.2 to a new cooperation rule – Rule 44.4. The difference is that the Joint Electric Utilities' proposal places the operational specific language into a new Appendix to G.O. 95 as guidelines to Rule 44.4. This is consistent with the purpose and intent of G.O. 95 as a design and construction standard, and would preserve parties' contractual agreements as well as the joint pole committee process. New Appendix I would serve as a guidepost to parties during informal interactions, in future contractual negotiations, and throughout the joint pole committee process. If a dispute arises, the guidelines in the Appendix may be cited as the basis for a CPUC complaint against a non-conforming entity.

In short, SCE continues to urge the Commission to reject both MAP rules offered in Phase 2 in favor of the current language in Rule 44.2. However, if additional language is adopted, the only proposal that preserves the integrity of existing agreements and G.O. 95 itself is the Joint Electric Utilities' proposal.

K. MAP No. 11: General Order 95, Rule 48

There are two proposals related to G.O. 95, Rule 48. SCE supports both. The first is a change proposed by the Joint Electric Utilities to the language of Rule 48 to conform it to other

provisions of G.O. 95, Section IV. The second is a proposal by CPSD to form a technical workgroup that would survive this proceeding and make suggestions for revising all of G.O. 95, Section IV within 12 months. Both proposals are consistent with each other and both should be adopted.

1. Rule 48 Proposal By The Joint Electric Utilities

This proposal by the Joint Electric Utilities removes language from G.O. 95, Rule 48 that suggests that structures cannot fail under any load less than their maximum working load. The current rule, which cannot be complied with under ordinary circumstances, is inconsistent with the loading requirements in G.O. 95 that utilities actually use to construct their facilities.²⁰ According to current Rule 48, if a utility constructs its facilities to G.O. 95 standards, and those facilities are subject to loads greater than the design loads but less than the maximum working load, those facilities must nonetheless remain standing in contravention of the laws of physics. Moreover, if the properly designed and constructed facilities do fail, the utility is then considered to be in nonconformance with Rule 48, an example of ineffective “gotcha” regulation.

Recognizing that it is not good regulatory policy to enforce a rule that cannot be met under ordinary operating conditions, the Joint Electric Utilities’ proposal to conform Rule 48 to the other provisions in G.O. 95 was assigned to one of three special working groups. Ultimately, the working group considering the proposed change to Rule 48, which included a wide array of technical personnel, was not able to resolve the concerns expressed by CPSD and its legal counsel. In SCE’s view, CPSD’s principal concern was that it could not justify replacing a “zero tolerance” requirement with a standard that conforms to reality without the change being painted as a reduction in public or worker

²⁰ Research into the origins of Rule 48 revealed that a technical revision made in an earlier rulemaking designed to streamline the structure of Section IV of G.O. 95 had the unintended consequence of applying Rule 48’s “no fail” standard to all wood poles. Previously, due to its placement within G.O. 95, the problematic language applied to materials like steel and concrete, but was not intended to apply to wood. Although CPSD was advised of this accident of history, CPSD nonetheless has refused to support correcting the error.

safety even though the rule cannot be met and utilities do not currently use Rule 48 when designing and constructing facilities.

In their opposition comments in the Workshop Report, CPSD and LA County expressed the concern that the proposed modifications would change Rule 48's current performance standard (will not fail) into a design standard (must be constructed using proper safety factors). However, the performance standard in Rule 48 is amorphous because it does not actually lead to more robustly constructed facilities than are otherwise built using the other provisions of G.O. 95. Rule 48 only comes into play after a structure has failed, and therefore has no safety value whatsoever.

In proposing this change, the Joint Electric Utilities intended to draft requirements that are consistent and capable of being followed. It is irrefutable that Rule 48 conflicts with other G.O. 95 rules, including other subparts of Rule 48 (Rules 48.2, 48.4, and 48.7) and Appendix F. These standards require that the material yield strengths be divided by the safety factors specified in Table 4, Rule 44. Not one purports to require that the maximum working loads be multiplied by the safety factors. This is for good reason. The result would be a requirement that poles be enormously oversized at great expense.

It is also demonstrably not true (as CPSD claims) that this proposed rule change will lower safety requirements. First, during the working group discussions, electric utility representatives confirmed to CPSD that their design criteria currently does not include the multiplication of maximum working loads by the safety factors specified in Rule 44. Thus, the proposed rule revision would not alter their current practices. Further, CPSD has not offered adequate justification in either phase of this proceeding demonstrating a deficiency of the historical performance of overhead electric and communication lines, nor has it done a cost-benefit analysis to support the increased costs of constructing to Rule 48's standards as opposed to the rest of Section IV.

Finally, CPSD complains that the Joint Electric Utilities' rule revision could not easily be enforced. As an impossible to meet standard, the current Rule 48 is also

impossible to enforce. As a legal matter, the utilities do not believe that an enforcement proceeding could survive challenge based solely on an alleged violation of Rule 48 due to all the problems inherent in the rule as described herein. Rule 48 should be modified now in recognition of actual design standards and practices.

2. Ordering Paragraph Proposal By CPSD (Regarding GO 95, Section IV)

In its Comments to the Workshop Report, SCE joined PG&E and SDG&E in support of CPSD's proposal to form a technical workgroup for the purpose of refreshing Section IV rules, as appropriate. SCE notes that no party has opposed CPSD's proposal. SCE continues to support CPSD's proposal, and urges its adoption along with the change to Rule 48 proposed above. In addition, SCE respectfully requests the Commission establish firm timelines and goals for the proposed technical workgroup.

L. MAP No. 12: General Order 95, Rule 91.5

SCE continues to oppose this proposal to require marking of communications cables as to ownership for the reasons stated in the Workshop Report.

M. MAP No. 13: General Order 165, Section V

For MAP No. 13, Mussey Grade proposed a data collection rule opposed by every electric utility and communication company. As an alternative, PG&E proposed a collaboration among the electric utilities and CPSD to discuss and report on CPSD's data needs. To avoid duplication of arguments in these opening briefs, SCE incorporates by reference the supporting and opposing arguments contained in the Workshop Report and PG&E's arguments in its Opening Brief. As indicated in the Workshop Report, SCE strongly opposes Mussey Grade's proposal and supports PG&E's alternative.

1. Section V Proposal By CPSD And the Mussey Grade Road Alliance

The Mussey Grade data collection proposal is ill-conceived. Rules must be crafted such that SCE can determine what it must do to comply so that we can draft internal processes and procedures designed to meet the requirements of the rule. This rule completely fails that test. This proposal is not a rule that belongs in G.O. 95 and should not be adopted.

2. Ordering Paragraph Proposal By PG&E

The utilities understand why Mussey Grade would like us to collect all conceivable data on fire ignitions. However, such a proposal is not practical nor reasonable. More time than was available in the workshops is needed to explore the wide range of data collection options. As a compromise, PG&E proposed that the electric utilities and CPSD meet to determine what data CPSD or other agencies need and how best to meet that need. This proposal from PG&E, unlike the hastily proposed rule from Mussey Grade, should be adopted.

N. MAP No. 14: Fire Maps

None of the three mapping proposals would significantly affect SCE's service territory because none of the maps would change the applicability of the Cal-FIRE FRAP Maps to the majority of SCE's territory in those cases where distinctions are made in the rules between fire hazard areas and non-fire hazard areas. SCE reserves the right to argue in a future proceeding for an alternative to using the Cal-FIRE FRAP Map in Southern California.

1. Ordering Paragraph Proposal By CPSD And The Mussey Grade Road Alliance

SCE opposes adoption of this ordering paragraph for the reasons stated by PG&E in Appendix B of the Workshop Report. Specifically, SCE believes this proposal would

impose significant costs on the utilities that are duplicative of the work already performed by Cal-FIRE and the CIP Coalition in the development of the Reax Engineering map. Additionally, the electric utilities and communications companies are not qualified to develop new fire maps, which was the conclusion of the mapping subgroup, and which led to the CIP Coalition hiring an outside consultant to develop the Reax Map.

2. Rule 31.2 Fire Maps Proposal By CIP 1

SCE voted neutral on this proposal. Because the boundaries of the Reax Map specifically exclude the majority of SCE's service territory, SCE takes no position on the adoption of this proposal.

3. Rule 31.2 Fire Maps Proposal By CIP 2

SCE voted neutral on this proposal. Because the boundaries of the Reax Map specifically exclude the majority of SCE's service territory, SCE takes no position on the adoption of this proposal.

V.

ANCILLARY ISSUES

A. MAP No. 15: Cost Recovery

As SCE has reiterated throughout this proceeding, cost recovery is a major issue because the Company began its three-year rate case cycle prior to adoption of the Phase 1 Decision.²¹ As a result, the costs currently being incurred in compliance with the Phase 1 Decision are not presently included in rates. 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.

²¹ See Workshop Report, at pp. B-253 to B-260.

The Phase 1 Decision imposed substantial costs on SCE due primarily to the increase in vegetation clearance requirements to 48 inches from 18 inches in high fire hazard areas. The requirement only applies to Southern California. On the subject of cost recovery, the Phase 1 Decision articulates the principle “that each cost-of-service regulated utility is entitled to recover reasonable costs prudently incurred to comply with the changes to the Commission’s rules adopted today.”²² However, the decision deferred until Phase 2 the discussion of what the proper mechanism should be to implement cost recovery. Pursuant to the decision, SCE established a memorandum account to record its incremental costs. Those costs are currently accumulating in the FHPMA (Fire Hazard Prevention Memorandum Account).

Below are two proposals for cost recovery mechanisms to ensure regulated utilities have the opportunity to recover the costs of complying with new regulations adopted in both the Phase 1 and the upcoming Phase 2 Decision. The utility proposal is the only one that maintains the regulatory compact by adopting a process to timely recover reasonable costs prudently incurred to comply with the new regulations. The DRA and TURN proposal is deeply flawed and should not be adopted.

1. Cost Recovery Proposal By DRA And TURN

The TURN and DRA proposal, if adopted, would require that recovery of the costs recorded in the memorandum accounts approved in the Phase 1 Decision be delayed until presented for approval in a future general rate case. This requirement will add unnecessary complexity to the GRC process for SCE. Generally, a GRC is used to forecast future expenses. And a GRC is prepared 18 months in advance of a decision. Here, SCE has already prepared its 2012 GRC, and we did not include testimony regarding costs recorded in our FHPMA because, at the time of our July NOI filing, less than a year of costs had been incurred, and no decision has been issued in this proceeding

²² D.09-08-029, p. 43.

adopting a cost recovery mechanism. Therefore, under the TURN and DRA proposal, SCE will have to wait until its 2015 GRC, where it will be required to submit testimony regarding costs incurred beginning in 2009, a six year delay. Even more troubling is the fact that SCE, DRA, and intervenors will have to prepare and argue a separate case within the GRC regarding the reasonableness of those recorded costs, adding to the volume of testimony, rebuttal testimony, briefs, and evidentiary hearing days. Additionally, while the GRC is pending, SCE will continue to incur costs up until the GRC decision is issued. Thus, under the TURN and DRA proposal, it is possible that SCE will have to wait another three years, until 2018, to litigate again and then fully recover the costs it incurred during the 18 months its 2015 GRC was pending, finally recovering all the costs spent to comply with the new regulations adopted in this proceeding.²³

In contrast, the regulated utilities' proposal uses more traditional procedures outside of a GRC for review and recovery of recorded costs, resulting in a more efficient and effective process not only for the utilities, but also for intervening parties. Under this proposal, utilities would have the option of recovering costs annually until such costs have been forecasted in a general rate case and the memorandum account is closed.

TURN and DRA's fear that the utilities' proposal would result in "automatic" recovery is overstated and unfounded. For SCE, the proposal would permit us to transfer annually the FHPMA balance to the Base Revenue Requirement Balancing Account (BRRBA), where the costs will be evaluated for reasonableness in our ERRR Review Proceeding (no differently than most of its other memorandum and balancing accounts), which is a proceeding in which DRA and TURN regularly participate. It does not make

²³ SCE has included in its 2012 GRC forecasts cost increases due to the Phase 1 Decision. If its forecasts are adopted, SCE proposes to stop recording Phase 1 costs in its FHPMA following its 2012 GRC decision. This would also mean, under the TURN and DRA proposal, that SCE would stop recording Phase 1 costs in 2012 because expected ongoing costs should be included in rates with the 2012 GRC Decision, but SCE would not recover the costs it actually incurred from 2009 through 2012 until its 2015 GRC Decision is issued.

sense to force SCE to wait until our 2015 GRC (a much larger proceeding than ERRRA) to submit recorded costs when an annual proceeding designed to evaluate such costs already exists.

2. Cost Recovery Proposal By The Joint Electric Utilities, PacifiCorp, Sierra Pacific, And The Small LECs

The cost recovery proposal presented by the regulated utilities should be adopted because it ensures that the utilities actually have the opportunity to timely recover their reasonable costs prudently incurred as a result of the new regulations, as ordered in the Phase 1 Decision. By ensuring that cost-of-service regulated utilities can recover such costs, the utilities' proposal will provide necessary funding, without delay, for programs and other actions necessary to comply with measures adopted in this proceeding.

The utilities' proposal utilizes existing processes for most of the affected utilities that are already used to review costs recorded in memorandum and balancing accounts (i.e. Annual Electric True-Up Advice Letter filing for PG&E, ERRRA Review Proceeding for SCE, and the CHCF-A advice letter process for the Small LECs). Alternatively, the utilities would have the option of filing annually or less often a Tier 3 Advice Letter to recover the costs recorded to date (e.g., SDG&E and SoCalGas propose a new annual FHPMA balance Tier 3 advice letter). Each of these processes include at minimum protest periods and full review by the Commission ending with a final decision or resolution. This process gives both DRA and intervenors ample opportunity to participate and consider the reasonableness of the proffered costs.

B. Implementation Issues

SCE recommends that for all rules proposed in the Workshop Report except MAP No. 13 (the Mussey Grade data collection proposal), the Phase 2 Decision should state that the affected companies shall have 90 days following the date of adoption of the decision to implement the

requirements. Implementation in this context means that the affected companies have established processes and procedures designed to comply with the new rules.

In order to avoid, among other things, major implementation issues, the Mussey Grade data collection requirement (MAP No. 13) should be rejected. However, if any version of the Mussey Grade version of MAP No. 13 is adopted over the ordering paragraph proposed by PG&E, SCE requests that implementation be suspended pending an Application for Rehearing. As argued herein, that proposal is ambiguous, costly, and cannot be operationalized as written. It also violates attorney-client privilege and would needlessly expose SCE to liability. In the event the proposal is adopted, SCE plans to file an Application for Rehearing and would request that implementation of the rule be suspended pending resolution of that Application.

VI.

CONCLUSION

SCE appreciates the commitment of the parties, the ALJ, facilitators Jean Vieth and Angela Minkin, Assigned Commissioner Simon, CPSD, and the Commission to this proceeding. SCE respectfully submits this Opening Brief in support of the Phase 2 Workshop Report.

Respectfully submitted,

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September 03, 2010

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of OPENING BRIEF OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) ON THE PHASE 2 WORKSHOP REPORT on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **9th day of September, 2010**, at Rosemead, California.

/s/ Raquel Ippoliti
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