



FILED

06-30-11

04:59 PM

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

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

R.08-11-005
(Filed November 6, 2008)

**OPENING COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY
(U39E) ON PROPOSED DECISION IN PHASE 2**

**DECISION ADOPTING REGULATIONS TO REDUCE FIRE HAZARDS
ASSOCIATED WITH OVERHEAD POWER LINES AND
COMMUNICATION FACILITIES**

BARBARA H. CLEMENT
Pacific Gas and Electric Company
77 Beale Street, B30A
San Francisco, CA 94105
Telephone: (415) 973-3660
Facsimile: (415) 973-5520
E-Mail: BHC4@pge.com
Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

Dated: June 30, 2011

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. SPECIFIC CHANGES TO PROPOSED DECISION AND RULES.....	2
A. Table of PG&E’s Proposed Specific Changes: the Changes Clarify the Rules and Improve the Proposed Decision	2
B. Expanded Discussion of Selected Proposed Specific Changes: The Changes Will Clarify Certain Proposed Rules and Improve the Proposed Decision	8
1. The PD Should be Clarified to Make it Clear that Utilities May Develop More Stringent Maintenance and Inspection Programs Than Those Mandated by Rule 18A	8
2. Deadlines for Rule 18A Should Not Be Applied to GO 165	10
3. The Definition of “Year” in the PD Should Be Corrected to Reflect the Commission’s Prior Consideration of the Issue as Reflected in the Edison OII Decision.....	12
4. The Requirement to Have a Fire Prevention Plan Should Be Deferred to Phase 3; In the Alternative, It Does Not Belong in Standard 1 of General Order 166 and Its Provisions Needs Significant Reworking	15
III. COST RECOVERY AND IMPLEMENTATION	18
IV. CONCLUSION.....	18

TABLE OF AUTHORITIES

CALIFORNIA

STATUTES

Public Utilities Code

Section 399.2(a)17

Section 45117

CASES

California Water & Tel. Co. v. County of Los Angeles (1967) 253 Cal. App.2d 16; 61 Cal.Rptr. 618; 1967 Cal. App. LEXIS 2315.....9

Pacific Tel. & Tel. Co. v. City and County of San Francisco (1959) 51 Cal.2d 766; 366 P.2d 514; 1959 Cal. LEXIS 301.....9

Sarale v. Pacific Gas & Elec. Co. (2010) 189 Cal. App.4th 225; 117 Cal.Rptr.3d 24; 2010 Cal. App. LEXIS 17769

CALIFORNIA PUBLIC UTILITIES COMMISSION

Rules of Practice and Procedure

Rule 14.32

Decisions

Decision 04-04-065, Order Instituting, Investigation 01-08-029, 2004 Cal. PUC LEXIS 207 (Apr. 22, 2004).....12,13,14

Decision 09-08-029, Order Instituting Rulemaking 08-11-005; 2009 Cal. PUC LEXIS 433 (Aug. 20, 2009).....3,8,11,18

Miscellaneous

General Order 95..... passim

General Order 165..... passim

General Order 166.....6,15,16

SUBJECT INDEX

A. CHANGES TO PROPOSED DECISION

Page 43. PD, Section 6.3.3. GO 95, Rule 18A [Preemption of stricter local rules]. Clarify the language to indicate that the statement refers to local utility programs, not local governmental rules.

Page 43. PD, Section 6.3.3. GO 95, Rule 18A -- Exemption for 165. Delete and amend language that interprets the GO 165 provision to mean that GO 165 maintenance programs schedules cannot exceed Rule 18A deadlines

Page 71-72. PD, Section 6.6.4. [Definition of “year”]. Delete paragraph and footnote 68.

Page 88. PD, Section 6.8.3. [Vegetation management shut off tariff conditions]. Clarify that utilities may terminate power without notice where vegetation hazards pose an immediate threat to public safety and delete the reference to “daily visits”.

Page 95. PD, Section 6.10.3. GO 95, Rule 35 Vegetation Management, Appendix E Guidelines to Rule 35. Delete inconsistent phrase from PD discussion

Page 109. PD, Section 6.13.3. GO 95, Rule 44.2. Additional Construction. Delete the definition of “material increase” and send the issue to the GO 95 Rules Committee for work on developing a definition.

Page 142. PD, Section 6.18. [Record Retention]. Clarify that the new record retention requirements (10 years for patrols/inspections and for the life of the pole for intrusive inspection) and is prospective and only applies to documents created or needed by the utility.

Page 157. PD, Findings of Fact 9. GO 95, Rule 35 Vegetation Management, Appendix E Guidelines to Rule 35. Modify paragraph to reflect the fact that “service reliability” is also considered an important safety issue.

Page 159. PD, Conclusion of Law 4. GO 95, Rule 18A [Preemption of stricter local rules]. Clarify the language to indicate that the statement refers to local utility programs, not local governmental rules.

Page 159 PD, Conclusion of Law 5. GO 95, Rule 18A [Exemption for GO 165]. Delete and amend language that interprets the GO 165 provision to mean that GO 165 maintenance programs cannot exceed Rule 18A deadlines.

Page 161. PD, Conclusion of Law 14. GO 95, Rule 35 Vegetation Management, Appendix E Guidelines to Rule 35. Modify paragraph to reflect the fact that “service reliability” is also considered an important safety issue.

Page 162. PD, Conclusion of Law 23. [Retention of records]. Add “all” to make it clear that all pole load calculations must be retained.

Page 165. PD, Order 4(d). [GO 166 Fire Prevention Plans]. In response to PD requirement the REAX maps be used for Northern California counties for various adopted rules on an interim basis, add the following directive to Order 4(d):

Page 167. PD, Order, Paragraph 7, Section v. [Vegetation management shut off tariff condition]. Clarify that utilities may terminate power without notice where vegetation hazards pose an immediate threat to public safety and delete the reference to “daily visits”.

Page 168. PD, Order 11. [Phase 3 development of fire threat maps]. In response to PD requirement the REAX maps be used for Northern California counties for various adopted rules, add directive to Order 11 (i) to require the sharing of REAX information.

Page 169. PD, Order 14. [Interim use of Cal Fire FRAP maps for Southern California and REAX map for Northern California]. In response to PD requirement the REAX maps be used for Northern California counties on an interim basis, add new subsection (iii) to require the sharing of REAX information.

B. CHANGES TO PROPOSED RULES

Page B-3. PD, Appendix B. General Order 18 Part A, Reporting and Resolution of Safety Hazards..., [new] 1(c). Reinstate inadvertently omitted consensus language regarding notice to CIPs.

Page B-13. PD, GO 95, Rule 44.2. Additional Construction. Delete the Note to Rule 44.2 on p. B-13, which defines “material increase”.

Page B-16. PD, Appendix B. GO 95, Rule 80.1A Inspection Requirements for Communication Lines. Change definition of “year” to calendar year.

Page B-24. PD, Appendix B. GO 165 Inspection Requirements for Electric Distribution and Transmission Facilities, Appendix A, Second Note. [Definition of year]. Change definition of “year” to calendar year.

Page B-25. PD, Appendix B, GO 166, Standard 1.E. Fire Prevention. Defer discussions of fire prevention plans to Phase 3, or change location and name of standard.

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

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

R.08-11-005
(Filed November 6, 2008)

**OPENING COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY
(U39E) ON PROPOSED DECISION IN PHASE 2**

**DECISION ADOPTING REGULATIONS TO REDUCE FIRE HAZARDS
ASSOCIATED WITH OVERHEAD POWER LINES AND
COMMUNICATION FACILITIES**

I. INTRODUCTION

On June 10, 2011, Commissioner Simon issued his [Proposed] *Decision Adopting Regulations to Reduce Fire Hazards Associated with Overhead Power Lines and Communications Facilities* (PD). The PD adopts a number of regulations, identifies the mechanism for recovery of costs incurred associated with compliance with the adopted regulations, orders the revision of utility tariffs to allow the shut off of power to customers who obstruct vegetation management activities, establishes a Phase 3 in the proceedings that will review the collection/use of power line fire data and the creation of fire threat maps, and denies a request to open a rulemaking to consider adding “fire risk” to Rule 20A criteria.

As it did for the proposed Phase 1 Decision, Pacific Gas and Electric Company (PG&E) again compliments Commissioner Simon and ALJ Kenney on a job well done. The issues presented in Phase 2 of this rulemaking were numerous, complex and potentially contentious. There were voluminous papers and many diverse points of view to reconcile. The PD not only contains a set of proposed rules and rules changes that (as a whole) are reasonable and should reduce potential fire hazards associated with overhead power lines and aerial communication facilities located in close proximity to power lines, it is also (thankfully) very clear and organized -- for which the parties all are grateful.

Generally, PG&E supports the PD.¹ However, there are a few rules and requirements that PG&E has some concerns about. These concerns are discussed below – along with PG&E’s recommendations for specific changes that hopefully will provide acceptable alternatives that address both PG&E’s concerns as well as the Commission’s objective to reduce potential fire risks associated with utility facilities.² PG&E will not discuss each and every proposed rule or rule change, and reserves the right to raise concerns about those rules not discussed in its Reply Comments as necessary.

II. SPECIFIC CHANGES TO PROPOSED DECISION AND RULES

A. Table of PG&E’s Proposed Specific Changes: the Changes Clarify the Rules and Improve the Proposed Decision

CPUC Rules of Practice and Procedure Rule 14.3 allows proposals for specific changes to the PD. Below is a table of PG&E’s proposed specific changes to the PD (with supporting rationale). As noted in the table, PG&E will discuss some of its proposed changes in more depth in the following section II (B).

Language or Rule Changed	Proposed Change/Correction and Rationale
<p>General Order 95, Rule 18A: Resolution of Safety Hazards and GO 95 Nonconformances PD, Consensus 1, 4th bullet in section 2(b) at p.A-3. PD, Adopted Rule at p.B-4.</p>	<p>Reinstate inadvertently omitted consensus language regarding notice to CIPs at [new] (1)(c) at p.B-3.</p> <p><u>Where communications company actions result in electric utility GO nonconformances, the electric utility’s remedial action will be to transmit a single documented notice of identified nonconformances to the communications company for compliance.</u></p> <p><u>Rationale:</u></p> <ul style="list-style-type: none"> The omitted language was part of the CPSD proposed rule in Phase 1 of this OIR³ and adopted in the Phase 1 Decision.⁴

¹ PG&E especially appreciates the support in the proposed rules proposed in the vegetation management area. Those Rule 35 and related changes are significant and will go a long way to help the utilities get the clearances they need to ensure safe and reliable electric power service.

² These Opening Comments are submitted in conformance with the June 10, 2011 cover page to the PD, which set the page limits for these opening comments at 25 pages.

³ *Joint Party Workshop Report for Workshops held April 28-29, 2009*, (May 14, 2009) at p.42.

Language or Rule Changed	Proposed Change/Correction and Rationale
	<ul style="list-style-type: none"> • The Phase 2 consensus rule retained the language. • The focus of the PD and its discussion concerning changes to Rule 18A was: 1) changing the term “violation” to “nonconformance”; and 2) the deadline for correcting Level 2 nonconformances. • The contested versions of Rule 18A omitted the requirement in their redrafting but there is no mention of the omission in the PD. • PG&E assumes that the omission of this important previously adopted language was not noticed in the drafting of the PD and was not intentional. • The inclusion of the language is important to ensure cooperation from the CIPs in addressing conditions on their facilities and caused by them that result in a nonconformance on the electric utility facilities. • Since the order of the rule has been changed somewhat, PG&E suggests that the omitted consensus language become a new (1)(c).
<p>General Order 95, Rule 18A: <i>Resolution of Safety Hazards and GO 95 Nonconformances</i> PD, Section 6.3.3 at p.43. Conclusion of Law 4 at p.159</p>	<p>Modify statements in Section 6.3.3 at p. 43 and Conclusion of Law 4 at p.159 re pre-emption of stricter local rules.</p> <p>The specific changes and rationale are discussed below in Section II(B)1.</p>
<p>General Order 95, Rule 35: <i>Vegetation Management</i> PD, Section 6.8.3 at p.88; PD, Order 7, subsection v. at p.167.</p>	<p>Clarify that utilities may terminate power <u>without notice</u> where vegetation hazards pose an immediate threat to public safety and delete the reference to “daily visits” in Section 6.8.3 at p.88 and in Order, Paragraph 7 at p.167.</p> <p>v. For vegetation hazards that pose an immediate threat to public safety, the electric utility may shut off power to the obstructing property owner’s residence or primary place of business at any time <u>without notice</u>. <u>When power has been shut off</u> Under these circumstances, the electric utility shall attempt to contact by daily visits to the property owner <u>send a written notice</u> to the property owner’s residence or primary place of business, in addition to sending written notice, until contact is achieved and that informs the property owner is notified why power has been shut off and what steps need to be taken to restore power.</p> <p><u>Rationale:</u></p>

⁴ D.09-08-029 at pp.17-21.

Language or Rule Changed	Proposed Change/Correction and Rationale
	<ul style="list-style-type: none"> • At the point that power would be discontinued, any refusal customer would be well aware of the fact that the utility needs to perform vegetation management on property owned by the customer. The refusal process currently used by utilities involves multiple contacts, both in person and via written communication about the fact that vegetation work is needed. With this new directive, the refusal process will include a reference to the fact that power may be discontinued at residence or business if the property owner continues to obstruct the needed work – there should be no surprise. • The “daily visit” requirement is neither reasonable nor feasible. The refusal customer may bar entrance to the property, leave town, live or work in a remote area requiring long drives to get to the location, deliberately avoid contact, or possibly even constitute a threat to employee safety (threats, guns, etc). • For reference, Rule 11, Sections H and J (which provide for termination of service <i>without notice</i> for unsafe conditions or unauthorized use) do not require any visit to the customer. • If some kind of notice is deemed necessary, a reasonable alternative to the daily visit requirement is to post a single notice at the residence or business.
<p>General Order 95, Rule 35, Vegetation Management, Appendix E Guidelines: PD, Finding of Fact 9 at p.157. PD, Conclusion of Law 14 at p.161.</p>	<p>Modify Findings of Fact 9 at p. 157 and Conclusion of Law 14 at p.161 to reflect the fact that “service reliability” is also considered an important safety issue.</p> <p>[Findings of Fact 9.] The minimum time-of-trim guidelines to Appendix E of GO 95 provide an adequate margin for fire safety in most circumstances. <u>However</u>, Electric utilities and CIPs are authorized by Appendix E to exceed the minimum time-of-trim guidelines when it is advantageous to do so for fire safety <u>and service reliability</u> purposes.</p> <p>[Conclusion of Law 14.] Electric utilities have wide latitude under Appendix E of GO 95 to exceed the minimum time-of-trim guidelines for fire safety <u>and service reliability</u> purposes.</p> <p><u>Rationale:</u></p> <ul style="list-style-type: none"> • The PD has added “... for the purpose of public safety and service reliability...” to the Rule 35 Appendix E Guidelines⁵

⁵ PD, Adopted Rule at p.B-11.

Language or Rule Changed	Proposed Change/Correction and Rationale
	<p>as part of this fire safety proceeding.</p> <ul style="list-style-type: none"> PG&E agrees that service reliability is a safety issue and manages its vegetation management program to address that issue. The Findings of Fact and Conclusions of Law should be consistent with that purpose.
<p>General Order 95, Rule 35, Vegetation Management, Appendix E Guidelines: Table. PD, Section 6.10.3 at p.95.</p>	<p>Delete inconsistent and unnecessary comment from PD discussion at p. 95.</p> <p>Electric utilities have wide latitude under Appendix E to exceed the minimum time of trim clearances whenever “[r]easonable vegetation management practices may make it advantageous to obtain greater clearances.” We interpret “reasonable vegetation management practices” as including fire safety. For the preceding reasons, we conclude there is no safety-related need to increase the guidelines for minimum time of trim clearances, and we decline to adopt the Joint Utilities’ proposal.</p> <p><u>Rationale:</u></p> <ul style="list-style-type: none"> The deleted language is inconsistent with Finding of Fact 8 at p.157, which states that “the failure to keep power lines clear of vegetation poses a serious fire and threat to public safety” and Finding of Fact 9 at p.157, which states that utilities are authorized to exceed the minimum time-of-trim guidelines”. The deleted language is inconsistent with Conclusion of Law 14 at p.161, which states that utilities “have wide latitude to exceed minimum time-of-trim guidelines”. If not deleted, customers intent on obstructing a utility’s need to perform vegetation management at a location will latch onto this language in the Decision as authority to attempt to limit the utility’s ability to achieve appropriate clearances to only the minimum clearances listed in the Guidelines table (as they use the current Guidelines today).
<p>General Order 95, Rule 44.2: Additional Construction. PD, Section 6.13.3 at p.109. PD, Adopted Rule at p.B-13.</p>	<p>Delete the definition of “material increase in the last paragraph on p.109 and the Note to Rule 44.2 on p. B-13, and send the issue to the GO 95 Rules Committee for work on developing a definition.</p> <p><u>Rationale:</u></p> <ul style="list-style-type: none"> The omission of a definition for “material increase” in the consensus rule was intentional. The parties debated that issue in the workshops and concluded that it was best to leave the language simply saying “material increase”. Under the proposed definition, a utility would have to do a calculation in virtually all cases in order to determine

Language or Rule Changed	Proposed Change/Correction and Rationale
	<p>whether there is a 10% increase – nullifying the exception to the need to do a calculation.</p> <ul style="list-style-type: none"> • The issue is technical and complicated, and should be referred to the technical experts in the GO 95 Rules Committee to consider.
<p>General Order 165: <i>Inspection Requirement for Electric Distribution and Transmission Facilities.</i> PD, Section 6.3.3 at p.43. PD, Law 5 at p.159.</p>	<p>Delete the PD interpretation indicating that the deadlines for corrective action under GO 165 maintenance programs cannot exceed the deadlines for corrective actions in Rule 18A.</p> <p>The specific changes and rationale are discussed below in Section II(B)2.</p>
<p>“Year” definition PD Section 6.6.4 at p.71-72. GO 95, Rule 80.1A, Adopted Rule at p.B-16. GO 165, Appendix A, second Note in Adopted Rule at p.B-24.</p>	<p>Change “year” definition from 12-month requirement to calendar year.</p> <ul style="list-style-type: none"> • Delete paragraph in PD at p.71-72 re “year”. • Change “year” 12-month requirement in Rule 80.1A at p.B-16 and GO 165 at p.B-24 to calendar year to conform with the 2004 Edison OII decision, which approved a calendar year maintenance cycle. <p>The specific changes and rationale are discussed below in Section II(B)3.</p>
<p>General Order 166, Standard 1 E. Fire Prevention [Plans] PD, Section 6.4.3 at pp.47-54. PD, Conclusions of Law 6-10 at p.160. PD, Orders 2-6 at pp.164-166. PD Adopted Rule at p. B-25.</p>	<p><u>Defer</u> requirement for fire prevention plans to Phase 3, or change several requirements for proposed fire prevention plans.</p> <ul style="list-style-type: none"> • Move the requirement to have a fire prevention plan from Standard 1 (which is focused on emergency <u>response</u>) to its own Standard 14 in GO 166 (which would be intended to <u>prevent</u> a fire emergency). • Clarify that the identification of “high fire risk” areas in Northern California is dependent on the creation of the Phase 3 fire threat maps. • Clarify that utilities should have flexibility to craft plans specific to their own geographic conditions and area. <p>The specific changes and rationale are discussed below in Section II(B)4.</p>
<p>Mapping Issues PD, Order 4(d) at p.165 [GO 166 Fire Prevention Plans]. PD, Order 11 at p.168 [Phase 3 development of fire threat maps]. PD, Order 14 (iii) at p.169 .</p>	<p>The PD requires the interim use by both electric and CIPs of the REAX maps for Northern California counties for various adopted rules.</p> <p>Add to the various orders the following directive:</p> <p style="text-align: center;"><u>CIPs shall cooperate with and make available to the other parties, as appropriate, the high definition maps, GIS information and other tools used for the REAX maps and referenced in the REAX report that are needed</u></p>

Language or Rule Changed	Proposed Change/Correction and Rationale
<p><u>Applicable to:</u> GO 95, Rules 80.1 A and B at pp.B-15 to B-18 [CIPs Inspections]</p>	<p><u>for mapping high fire threat areas for Northern California.</u></p> <p><u>Rationale:</u></p> <ul style="list-style-type: none"> • Per various orders, utilities must use the REAX maps for any measures (whether for electric or CIP facilities) adopted for Northern California in this decision. • Utilities may be required to use the REAX maps as the final fire threat map for Northern California coming out of Phase 3. • The CIPs REAX information as provided so far is insufficient to provide information needed to the other parties in order to develop appropriate and comprehensive fire threat maps or comply with the PD’s directives. • Electric utilities also have communication facilities that may be covered by these rules (including GO 95, Rule 80.1 A and B) and will need to be able to use the REAX maps to comply with the new rules.
<p>Record Retention Periods. PD Section 6.18 at p.141-142 <u>which is reflected in:</u> PD Conclusions of Law 23 at pp.162-163; GO 95, Rule 18A, Adopted Rule at p.B-3; GO 95, Rule 18B, Adopted Rule at p.B-6; Go 95, Rule 44.2, Adopted Rule at p.B-13; GO 95, Rule 80.1A, Adopted Rule at p.B-16; GO 95, Rule 80.1B, Adopted Rule at p.B17; GO 165, Section III (C), Adopted Rule at p.B-21</p>	<p>Add language to the PD, Section 6.18 at p.142 that clarifies that the new record retention requirements (10 years for patrols/inspections and for the life of the pole for intrusive inspection) are <u>prospective</u> and are only for documents that the utility itself created or that it keeps in its files for business needs.</p> <p><u>This retention requirement pertains only to documents that the utility itself created or keeps in its files because the documents are needed for its business. Since the retention of such records for this length of time is a new requirement, the requirement is prospective as of the date of this Decision. Utilities must retain any records currently held that fall into the retention period(s), and add to their records retention repository all new records as they are created over the next few years until the required time period has been fulfilled.</u></p> <p><u>Rationale:</u></p> <ul style="list-style-type: none"> • The retention of these various records for this length of time is a <u>new</u> requirement. • Some older records may not exist. For example, PG&E has 2.3 million poles. It would be extremely costly to require the recreation of old records that the company has not been required to keep before. • Only documents that are created by the utility or kept in its files for business needs should be required to be retained.
<p>Record Retention Periods.</p>	<p>Add “all” to Conclusions of Law 23 at p.162 to make it clear</p>

Language or Rule Changed	Proposed Change/Correction and Rationale
PD Conclusions of Law 23 at pp.162-163;	<p>that all pole load calculations must be retained.</p> <p>[Conclusion of Law 23.] Electric utilities and CIPs should create and retain records of <u>all</u> pole-loading calculations, patrol inspections, detailed inspections, and repairs for at least ten years in order to provide information needed for forensic analysis in the event there is a major safety-related incident...</p> <p><u>Rationale:</u></p> <ul style="list-style-type: none"> • Makes the language concerning records consistent with the following requirement to retain all intrusive inspections for wood poles.

B. Expanded Discussion of Selected Proposed Specific Changes: The Changes Will Clarify Certain Proposed Rules and Improve the Proposed Decision

1. The PD Should be Clarified to Make it Clear that Utilities May Develop More Stringent Maintenance and Inspection Programs Than Those Mandated by Rule 18A

There are two references in the PD to the preemption of stricter local rules that should be clarified to avoid unintentional interpretations⁶. The PD states in Section 6.3.3 at p.43:

We also affirm our determination in the Phase 1 Decision that Rule 18A (as modified by today’s decision) does not preempt any stricter local rules establishing priority systems for correcting safety hazards.

A similar statement in the Phase 1 Decision clearly meant that utilities could create more stringent maintenance and inspection programs than the guidelines listed in Rule 18A.⁷

However, as the language now appears standing alone in this PD (without the context provided in the Phase 1 Decision), PG&E fears that this language (and especially the use of the term “preempt”) could be misinterpreted to allow local governmental jurisdictions to impose stricter rules and requirements on utility inspection and maintenance programs than those mandated by the Commission.

⁶ PD, Section 6.3.3 at p.43 and Conclusion of Law 4 at p.159.

⁷ D.09-08-029 at p.17.

Such a result would unnecessarily abdicate Commission authority and jurisdiction over the construction, maintenance and operation of utility facilities. PG&E agrees that local agencies may and should institute rules for handling certain hazardous situations – such as wildland fire prevention and response. However, while a local entity certainly has the authority to protect its citizens under its police and ministerial powers, such actions must be consistent with rules and regulations imposed by the Commission. Specifically in the area of utility construction, operations, maintenance and inspections the Commission is the body that has the expertise. A local governmental entity does not have authority to enact and enforce inconsistent regulations over utility operations.⁸

For example, a local jurisdiction may define a “safety hazard” differently from the Commission and may institute unreasonable priorities for addressing what would otherwise be considered a minor nonconformance under the regulatory scheme set up under Commission orders and rules (in this case Rule 18A). It would be unreasonable to require utilities to tailor and prioritize their safety programs to conform to each local jurisdiction’s unique requirements. The Commission is the only place where all public policy and statewide issues can be balanced concerning the activities of utilities (including service reliability, safety, effectiveness and efficiency of programs, cost, environmental, etc.).

PG&E does not believe that the Commission would intend to abdicate its authority in this manner. To ensure total clarity and to avoid having its intention misconstrued, PG&E suggests that the PD language be changed as follows:

We also ~~affirm~~ clarify our determination in the Phase 1 Decision at p.17 that Rule 18A (as modified by today’s decision) does not ~~preempt~~ foreclose any stricter local ~~rules~~ utility programs establishing priority systems for correcting safety hazards.²

⁸ *Pacific Telephone and Telegraph Co. v. City and County of San Francisco* (1959) 51 Cal.2d 766, 774; *California Water and Telephone Co. v. County of Los Angeles* (1967) 253 Cal.App.2d 16, 27 and 30. See also, *Sarale v. Pacific Gas and Electric Company*, 189 Cal.App.4th 225, at pp. 231 and 242, respectively (civil courts lack jurisdiction to adjudicate individual claims on what constitutes “necessary” vegetation management practices).

² PD, Section 6.3.3 at p.43.

[Conclusion of Law 4.] Rule 18A of GO95, as modified by today’s decision, does not ~~preempt~~ foreclose any stricter local ~~rules~~ utility programs establishing priority systems for correcting safety hazards.¹⁰

PG&E requests that these changes be made to the PD to ensure that the Commission has not unintentionally opened the door to an unworkable patchwork of conflicting local governmental determinations regarding what constitutes necessary or proper management of utility facilities.¹¹

2. Deadlines for Rule 18A Should Not Be Applied to GO 165

The PD has introduced an unexpected and surprising concept associated in its requirements for the inspection of communications facilities. The PD imposes a new requirement that unnecessarily applies the 18A deadlines for corrective actions to GO 165.¹² This new requirement flies in the face of the 2009 Decision in Phase 1 adopting Rule 18 and the Phase 2 Consensus Rule 18A – in which the Commission and now the workshop participants have been seemingly fully agreed that “companies that have existing GO 165 auditable inspection and maintenance programs that are *consistent with the purpose* of Rule 18 *shall* continue to follow their General Order 165 programs”.¹³ (Emphasis added.)

The PD explains that in order for GO 165 to be “consistent” with the purposes of Rule 18A, the specific 18A deadlines (some of which are new to this PD) must be met in GO 165 as well. PG&E disagrees with this interpretation of Rule 18A, which interpretation was not suggested or discussed in the Phase 2 workshops and has not been briefed.¹⁴

¹⁰ PD, Conclusion of Law 4 at p.159

¹¹ Indeed the PD made this very point when it stated: “Fire risk should be assessed from the standpoint of the utility’s entire service territory and not by the piecemeal and narrow geographical perspective of individual jurisdictions.” PD at p.154 (commenting that Rule 20 should not be used to mitigate fire risk).

¹² PD, Section 6.3.3 at p.43 and Conclusion of Law 5 at p.159.

¹³ PD Consensus Rule 18A at p. A-2.

¹⁴ Had PG&E understood that the PD would require the GO 165 companies to meet Rule 18A deadlines, it would have requested an evidentiary hearing to present evidence about its preventive maintenance program.

The *purpose* of Rule 18A is to ensure that all companies have an auditable inspection and maintenance program – especially those that did not already have an inspection and maintenance program. The Commission was very clear about this when it added Rule 18 to GO 95 in Phase 1. It stated: “For companies that *failed to adopt* a comprehensive plan in the past, we provide such a plan for them now...”.¹⁵ (Emphasis added.) Rule 18A provides “principles” for those entities as guidance for what their inspection and maintenance programs should look like. This guidance is not needed for the electric utilities that have been operating for years pursuant to GO 165.

PG&E has had a working General Order 165 program for more than 10 years, with established criteria for identification of conditions needing correction and prioritization for corrective action as well as a robust quality control program. The program is periodically reviewed and updated. For example, PG&E has implemented a risk based model for prioritizing conditions and assigning appropriate response times. This model takes into account many factors, including employee and public safety, service reliability, fire risk and site specific conditions. Further, PG&E has worked closely with and has been regularly audited by the CPSD. Nothing has been presented or even mentioned in Phase 2 to suggest that PG&E’s preventive maintenance model is inadequate or inappropriate or needing further refinement.

Rules 18A and 80.1 are targeted at companies that do not or did not have well-defined auditable inspection and maintenance programs. PG&E’s program (as well as that of the other GO 165 electric utilities) is well established and has not been criticized in this proceeding. The Rule 18A deadlines should apply only to those entities that do not have established inspection and maintenance programs. The interpretation that the deadlines for corrective action under GO 165 maintenance cannot exceed the deadlines for corrective action in Rule 18A is unnecessary and disruptive to PG&E’s well-established program. The interpretation should be amended to indicate that the GO 165 programs should be informed (but not bound) by the Rule 12A deadlines.¹⁶

¹⁵ D.09-08-/029 at p. 18.

¹⁶ The requirement is especially a problem for electric utilities since the proposed GO 165 will now include transmission facilities inspections in its requirements, which have their own unique inspection and

3. The Definition of “Year” in the PD Should Be Corrected to Reflect the Commission’s Prior Consideration of the Issue as Reflected in the Edison OII Decision

The PD has defined the term “year” for the purposes of the inspection programs of both the CIPs in GO 95, Rule 80.1A and for the electric utilities in GO 165 as “12 consecutive months starting the first full calendar month after an inspection is performed”.¹⁷ The proposed definition should not be adopted. If it is necessary to define the term “year”, it should be defined as a calendar year, not in terms of calendar months. The paragraph in PD at p.71-72 re “year” should be deleted and Rule 80.1A at p.B-16 and GO 165 at p.B-24 should be changed to define “year” as a calendar year, as follows.

~~...the term “year” is defined as 12 consecutive calendar months starting the first full calendar month after an inspection is performed~~ measured in calendar years.

There are several reasons why calendar years should be used instead of a 12 month term. First, this issue was fully argued, briefed and decided in the 2004 Edison OII, which approved a calendar year inspection cycle. In that Decision, the Commission stated:

...[T]here is no evidence in the record that such [calendar year] intervals compromise the goals of system safety and reliability. Barring such a showing and recognizing that our historic practice has permitted this limited degree of flexibility in scheduling, we are not persuaded that a more restrictive interpretation of GO 165 does anything but add cost to the utility’s compliance.

...

To elaborate briefly, the language of GO 165 refers to maximum inspection intervals, measured in years. This language may be read either as applying to calendar years or to 365 day intervals. ...Edison argued that its [calendar year] interpretation would be consistent with the intent of GO 165 in having yearly inspections. While CPSD’s example to the contrary demonstrates that inspections held in two calendar years could occur almost two years apart, CPSD introduced no evidence that Edison has in fact gamed the system in this fashion nor did it introduce evidence suggesting that Edison had

maintenance requirements and which are under the oversight of CAISO for operational purposes and FERC for both operational and budgetary purposes.

¹⁷ PD Section 6.6.4 at p.71-72; Adopted Rule at p.B-16 GO 95 [Rule 80.1A]; and Adopted Rule at p.B-24 [GO 165, Appendix A, second Note]. This proposed definition comes as a complete surprise to PG&E as it was not suggested by any party, discussed in the workshops, covered in the Workshop Report or briefed prior to the PD. Thus, it has not been even partially vetted during the Phase 2 proceedings.

any incentive to do so, given its overall obligation to maintain a safe, reliable system. Accordingly, we see no reason to adopt the strict interpretation called for by CPSD in place of the current more flexible practice. This conclusion is consistent with the flexible interpretation of GO 165 employed by the Energy Division and referenced by SDG&E in the appeal.

...
Findings of Fact...8. The maximum interval between inspections pursuant to GO 165 is measured in calendar years.

(D.04-04-065 at pp. 29, 54, and 61, respectively.)

There has been no change in any circumstances since the Edison OII Decision. There has been no evidence or information presented during these proceedings that 1) necessitates a change in how the Commission has previously defined the patrol and inspection intervals; or 2) identified any concern with how electric utilities have historically implemented their inspection and maintenance programs. The utilities have continued to identify, assess and correct conditions pursuant to their preventive maintenance programs, and have continued to perform inspections on a calendar year cycle. Commission staff members have continued to audit and comment on the inspections. The GO 165 annual reports have continued to be submitted each year as required. PG&E is aware of no instance where the use of the calendar year for inspection purposes has or would compromise the goals of system safety and reliability.

On the other hand, this proposed calendar month requirement will have a significant impact on the ability of the utility to manage its patrol and inspection work, and to get that work performed effectively and efficiently each year. It will negate the ability to adjust the patrol/inspection intervals due to events that are outside the utility's control, such as major emergencies, storms, earthquakes, floods, snow, heat storms, etc. The winter storms of 2010 and 2011 are a good example where extended periods of storm events would have precluded PG&E from meeting absolute 12 calendar month cycle while it was using all its resources to respond to those storms and where the facilities damaged in the storms could not have been effectively inspected or patrolled according to that schedule. It would also negate the utility's ability to reorganize the order of and organization of the patrol/inspections for various business reasons

(reassigning circuits to be patrolled/inspected to different schedules or by different internal organizations, depending on workload, for instance).

Finally, since the next scheduled inspection would have to be scheduled well within 12 months of the last performed work to ensure full compliance, the calendar month requirement will have the unintended consequence of inevitably pushing the inspection cycles further and further up in time and into inappropriate seasons or inconvenient times (such as the Christmas holidays). It will also militate against the ability to perform inspections earlier than required or as fill in work. None of this makes any business or system effectiveness sense. None of this supports effective and efficient management of inspections. It could be this specific effect that the Commission was referring to when it stated in the Edison OII Decision that “we are not persuaded that a more restrictive interpretation of GO 165 does anything but add cost to the utility’s compliance”.

The PD has identified no reason (other than “to ensure consistent implementation”) to change the current use of calendar year to calendar months for inspection scheduling purposes. Nor has the PD identified any way that the current use of the calendar year for inspection purposes has or would compromise the goals of system safety and reliability. And, to require now that 12-months must be used for the purposes of inspection cycles is in direct conflict with the Commission’s earlier Edison OII decision, which allows the use of a calendar year for compliance with GO 165’s inspection cycles. The prior Edison OII ruling on this definition allowing the use of the calendar year in GO 165 should stand, and the PD’s proposed change in the definition for “year” to calendar months should not be adopted in either Rule 80.1A or GO 165.¹⁸

¹⁸ For the purposes of this issue, PG&E has made no distinction between the intervals for the patrols/inspection of electric facilities vis-à-vis communications facilities. It believes the definition of “year” should be the same for both. However, if it is deemed necessary that the CIPs be held to a more stringent definition, then PG&E would still argue that the definition of “year” for GO 165 must remain a calendar year based on the Edison OII decision.

4. The Requirement to Have a Fire Prevention Plan Should Be Deferred to Phase 3; In the Alternative, It Does Not Belong in Standard 1 of General Order 166 and Its Provisions Needs Significant Reworking

The PD's proposed new standard that requires electric utilities to have a fire prevention plan appears to be a combination of the Mussey Grade MAP on Rule 18C (which proposed that utilities have contingency plans for predicting and identifying fire hazard conditions)¹⁹ and a San Diego Gas and Electric proposal to proactively shut down portions of its service territory in time of high fire danger.²⁰

PG&E agrees that utilities (both electric and CIPs) should consider fire prevention during their operations – especially at times and in areas that have high fire risk. However, PG&E does not agree that it is necessary to require a formal plan specific to fire prevention. PG&E already has contingency plans that cover a number of events, including fires, and already has operational requirements that address utility work during high fire risk times, such as fire training for its operations personnel and emergency responders, pole and asset pre-treatment to reduce asset damage and improve restoration cycle time, clearing of vegetation, limiting activities at time of high fire risk areas and many other measures.

That being said (and if it is settled that there must be a fire prevention standard), PG&E appreciates the fact that the PD did not locate the proposed fire prevention plan in Rule 18C as originally proposed by Mussey Grade -- which was obviously an inappropriate place for such a rule. However, the proposed fire prevention plan also does not belong in Standard 1 of GO 166. GO 166, Standard 1 is focused solely on emergency preparedness and response, ***not*** prevention. A preparedness plan provides the organization and operational framework for a response to an emergency; a prevention plan by definition is designed to prevent the emergency in the first place.

¹⁹ PD, Contested Proposal 4 at p.A-27.

²⁰ Application 08-12-031, filed December 22, 2008. Although this proceeding has been quite active, the subject matter and issues raised there have never been a part of this rulemaking, nor have they been the subject of any discussions or briefing in this rulemaking.

GO 166 contains a number of miscellaneous requirements. Instead of forcing a fire prevention plan into Standard 1, PG&E suggests that the plan should be made its own *Standard 14* in GO 166 with the entire focus on the prevention of a fire emergency. To that end, PG&E suggests that the title and the first sentence in the proposed Standard be changed to read:

Standard ~~1-E~~ 14: Fire Prevention Plan

~~For those electric utilities identified below, the plan shall have a Fire Prevention Plan that describes the measures the electric utility intends to implement, both in the short run and in the long run, to mitigate the threat of power-line fire ignitions...~~

There are also some details about the ordering language and the proposed fire prevention plan that are problematic. For one, the rule requires the plan to identify facilities in designated fire threat areas of a “fire -threat map adopted by the Commission” in this rulemaking.²¹ For Northern California, this presumably means either the REAX maps or the Phase 3 fire threat maps yet to be developed. If PG&E is to use the REAX maps in the interim, it will need far more information than it has now in order to identify the appropriate high fire threat areas in Northern California. The PD should order the CIPs to provide appropriate high definition mapping, GIS and other necessary pertinent information so that the Northern California utilities will be able to effectively use the REAX map for this and the other purposes ordered in this PD. as follows:

In addition, if PG&E is to use a fire threat map that is yet to be developed in Phase 3, it is unrealistic to set a deadline for the service of a Tier 1 compliance advice letter by December 31, 2012 pertaining to the efficacy of having a fire prevention plan in Northern California -- when it is likely that Phase 3 will not be finished by then.

Also, PG&E is confused by the instruction in the PD to file an application for authority to shut off power if it intends to do so as part of its fire prevention plan²², when at the same time the

²¹ PD, Adopted Rule at p.B-25.

²² PD, Section 6.4.3 at pp.50-51 and Order 6 at p.166.

PD states that a utility has authority under sections 451 and 399.2(a) to shut off power in emergency situations when necessary to protect the public safety.²³ Presumably, the only time a utility would consider shutting off power as part of a fire prevention plan would be during emergency conditions. The instruction to file an application is unnecessary and wasteful of resources – as evidenced by the experience of the SDG&E Application and the tremendous effort and resources consumed there (which still has no clear solution after more than 2 years of work and discussion).

Further, the orders and the rule itself establishing the fire prevention plan are very specific and restrictive. Language needs to be developed that would make it clear that utilities should have flexibility to craft plans based on the unique geographic conditions, weather, utility infrastructure and other factors. For example, high winds in Northern California are most frequently associated with winter storms (not summer fire risk) and may not play as great a role in potential fire risk in Northern California as they do in Southern California.

In addition, the proposed requirements for fire prevention and mitigation in California currently are a mish mash of different maps – in part dependent on geography. PG&E has facilities in areas in both the defined counties of Southern California as well as Northern California. It would like to be able to have ONE fire prevention plan that applies to its entire service territory. To be able to do so requires a good universal map – which will probably not be forthcoming until after Phase 3. The more appropriate time for developing a fire prevention plan is during Phase 3.

Finally, Order 10 at p.160 indicates that the new fire prevention standard should include a requirement to update the plan annually and to conduct an annual exercise of the plan. Language with those requirements should be added to the new Standard 14. A fire prevention plan will likely consist of both engineering countermeasures (such as hardening of power line facilities in areas of high winds and high fire risk) and operational countermeasures. Some aspects of a fire

²³ PD, Section 6.4.3 at p.53.

prevention plan (such as the possible engineering countermeasures) may not be able to be specifically exercised and the language of the order should allow some flexibility in this area as well.

PG&E submits that the PD's proposed fire prevention plan standard is in need of further thought and substantial redrafting. As an alternative to immediate adoption (and in view of the fact that it is in very large part dependent on the development in Phase 3 of a work plan and funding for fire threat maps), PG&E suggests that the development of a standard for a fire prevention plan be deferred to Phase 3.

III. COST RECOVERY AND IMPLEMENTATION

PG&E appreciates the fact that the PD recognizes that complying with the Phase 2 orders and revised rules will require additional, unplanned expenditures on the part of the utilities, and allows the recovery of reasonable costs prudently incurred to comply with the changes. PG&E will be using the memorandum accounts set up following Phase 1 of this proceeding to track any incremental costs and will be prepared to provide cost data associated with Phase 2-related work as directed in the PD, until the costs can be captured in the next GRC.

PG&E also acknowledges the fact that the PD sets reasonable expectations for the implementation of the Phase 2 orders and proposed rules. This approach is fully and appropriately consistent with the approach taken in the Phase 1 Decision, which did not set general deadlines or require compliance plans and expected each entity to establish a reasonable implementation plan to fit its particular circumstances.²⁴ PG&E appreciates the fact that it will have some flexibility to implement the Phase 2 orders and will make its best efforts to implement the rules as they apply to its operations as soon as practicable.

IV. CONCLUSION

There has been substantial progress achieved in Phase 2, in large part because the parties had the help of very able Commission facilitators in ALJ Minkin and ALJ Vieth to help them

²⁴ D.09-08-029 at p.44.

find common ground on measures for which a consensus could be reached and better understand the reasons for positions taken by the various parties on measures where a consensus could not be reached. PG&E thanks ALJs Minkin and Vieth for their invaluable guidance, which was invariably respectful, professional and helpful.

As indicated above, the PD proposes a set of rules and rules changes that (as a whole) are reasonable and able to be implemented. The changes in the rules should reduce potential fire hazards associated with overhead power lines and aerial communication facilities located in close proximity to power lines. They will be further enhanced with the specific changes that PG&E herein respectfully submits.

Respectfully Submitted,

BARBARA H. CLEMENT

By: _____ /s/
BARBARA H. CLEMENT

Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105
Telephone: (415) 973-3660
Facsimile: (415) 973-5520
E-Mail: BHC4@pge.com

Attorney for
PACIFIC GAS AND ELECTRIC COMPANY

Dated: June 30, 2011

APPENDIX

PG&E'S SPECIFIC CHANGES TO PROPOSED DECISION

APPENDIX

PG&E'S SPECIFIC CHANGES TO PROPOSED DECISION

A. CHANGES TO PROPOSED DECISION

Page 43.

PD, Section 6.3.3. GO 95, Rule 18A [Preemption of stricter local rules]. Clarify the language to indicate that the statement refers to local utility programs, not local governmental rules.

Version showing proposed specific changes:

We also ~~affirm~~ clarify our determination in the Phase 1 Decision at p.17 that Rule 18A (as modified by today's decision) does not ~~preempt~~ foreclose any stricter local ~~rules~~ utility programs establishing priority systems for correcting safety hazards

Final version incorporating proposed specific changes:

We also clarify our determination in the Phase 1 Decision at p.17 that Rule 18A (as modified by today's decision) does not foreclose any stricter local utility programs establishing priority systems for correcting safety hazards

Page 43.

PD, Section 6.3.3. GO 95, Rule 18A [Exemption for GO 165]. Delete and amend language that interprets the GO 165 provision to mean that GO 165 maintenance programs schedules cannot exceed Rule 18A deadlines.

Version showing proposed specific changes:

Today's decision retains the current provision in Rule 18A that electric utilities which have established maintenance programs under GO 165 "that are consistent with the purpose of rule 18" shall continue to follow their GO 165 programs.[fn] ~~We interpret this provision to mean that the deadlines for corrective actions under GO 165 maintenance programs cannot exceed the deadlines for corrective actions in Rule 18, as revised by today's decision.~~

...
...Although ~~We~~ concur with SDG&E's assessment that the best way to ensure that threats to worker safety and fire safety are corrected within a reasonable timeframe is to establish an explicit deadline for doing so in Rule 18A, we also note that the electric utilities that have been subject to GO 165 have established maintenance programs that prioritize the correction of conditions according to a number of factors, including worker

safety and fire risk. Therefore, we do not believe that such GO 165 utilities must be bound strictly by the deadlines in 18A, although they should be informed by those deadlines when they do their prioritization for the correction of conditions.

Final version incorporating proposed specific changes:

Today’s decision retains the current provision in Rule 18A that electric utilities which have established maintenance programs under GO 165 “that are consistent with the purpose of rule 18” shall continue to follow their GO 165 programs.[fn]

...

...Although we concur with SDG&E’s assessment that the best way to ensure that threats to worker safety and fire safety are corrected within a reasonable timeframe is to establish an explicit deadline for doing so in Rule 18A, we also note that the electric utilities that have been subject to GO 165 have established maintenance programs that prioritize the correction of conditions according to a number of factors, including worker safety and fire risk. Therefore, we do not believe that such GO 165 utilities must be bound strictly by the deadlines in 18A, although they should be informed by those deadlines when they do their prioritization for the correction of conditions.

Page 71-72.

PD, Section 6.6.4. Definition of “year”. Delete paragraph and footnote 68.

Version showing proposed specific changes:

~~To ensure implementation of the adopted inspection intervals, we define the term “year” as 12 consecutive calendar months starting the first full calendar month after an inspection is performed. For example, in an inspection is performed in January of 2012 and the required inspection interval is one year, the next inspection must be completed by the end of January 2013.[FN 68] We will also add this definition of “year” to GO 165 to ensure consistent interpretation of inspection intervals for both CIPs and electric utilities. [FN 68: Likewise, if an inspection interval is two or five years, the next inspection must be completed within 24 or 60 calendar months, respectively.]~~

Final version incorporating proposed specific changes:

[Paragraph deleted.]

Page 88.

PD, Section 6.8.3. Vegetation management shut off tariff conditions. Clarify that utilities may terminate power without notice where vegetation hazards pose an immediate threat to public

safety and delete the reference to “daily visits”.

Version showing proposed specific changes:

Finally, for vegetation hazards that pose an immediate threat to public safety (such as vegetation contacting a power line during windy conditions), electric utilities may shut off power to the obstructing property owner’s residence or primary place of business at any time without notice. When power has been shut off Under these circumstances, the electric utility shall ~~attempt to contact the property owner by daily visits to send a written notice~~ to the property owner’s residence or primary place of business, ~~in addition to sending written notice, until contact is achieved and that informs~~ the property owner is notified why power has been shut off and what steps need to be taken to restore power.

Final version incorporating proposed specific changes:

Finally, for vegetation hazards that pose an immediate threat to public safety (such as vegetation contacting a power line during windy conditions), electric utilities may shut off power to the obstructing property owner’s residence or primary place of business at any time without notice. When power has been shut off under these circumstances, the electric utility shall send a written notice to the property owner’s residence or primary place of business that informs the property owner why power has been shut off and what steps need to be taken to restore power.

Page 95.

PD, Section 6.10.3. GO 95, Rule 35 Vegetation Management, Appendix E Guidelines to Rule 35. Delete inconsistent phrase from PD discussion

Version showing proposed specific changes:

... Electric utilities have wide latitude under Appendix E to exceed the minimum time of trim clearances whenever “[r]easonable vegetation management practices may make it advantageous to obtain greater clearances.” We interpret “reasonable vegetation management practices’ as including fire safety. For the preceding reasons, we ~~conclude there is no safety-related need to increase the guidelines for minimum time of trim clearances, and we decline to adopt the Joint Utilities’ proposal.~~

Final version incorporating proposed specific changes:

... Electric utilities have wide latitude under Appendix E to exceed the minimum time of trim clearances whenever “[r]easonable vegetation management practices may make it advantageous to obtain greater clearances.” We interpret “reasonable vegetation management practices’ as including fire safety. For the preceding reasons, we decline to

adopt the Joint Utilities' proposal.

Page 109.

PD, Section 6.13.3. GO 95, Rule 44.2. Additional Construction. Delete the definition of “material increase” and send the issue to the GO 95 Rules Committee for work on developing a definition.

Version showing proposed specific changes:

~~Surprisingly, n~~Neither the CIP Coalition’s proposal nor the Joint Utilities’ proposal addresses the issue of what constitutes a material increase in the load on a structure, which triggers the need for a pole-loading calculation. We ~~conclude~~ agree that in order to protect public safety, a pole-loading calculation should be required whenever a ~~proposed attachment would exceed 10% of the estimated remaining unused load, or carrying capacity, of a structure (computed using the minimum end-of-service-life safety factors for the structure required by Rule 44).~~ there is a material increase in the load on a structure to ensure that the addition of the facilities will not reduce the Section IV safety factors. We request the General Order 95 Rules Committee work on a definition of “material increase” that can be incorporated into ~~Our determination of what constitutes a material increase in the load on a structure is included in the adopted text of Rule 44.2 that is contained in Appendix B of today’s decision.~~

Final version incorporating proposed specific changes:

Neither the CIP Coalition’s proposal nor the Joint Utilities’ proposal addresses the issue of what constitutes a material increase in the load on a structure, which triggers the need for a pole-loading calculation. We agree that in order to protect public safety, a pole-loading calculation should be required whenever there is a material increase in the load on a structure to ensure that the addition of the facilities will not reduce the Section IV safety factors. We request the General Order 95 Rules Committee work on a definition of “material increase” that can be incorporated into Rule 44.2.

Page 142.

PD, Section 6.18. [Record Retention]. Clarify that the new record retention requirements (10 years for patrols/inspections and for the life of the pole for intrusive inspection) and is prospective and only applies to documents created or needed by the utility.

Version showing proposed specific changes:

... Therefore, we will adopt a general requirement to create and maintain for ten (10)

years records of all inspections and repairs of overhead facilities. In the case of intrusive inspections of wood poles, we will require records of such inspection, and any repairs that result from such inspection, to be maintained for the life of the pole.

This retention requirement pertains only to documents that the utility itself created or keeps in its files because the documents are needed for its business. Since the retention of such records for this length of time is a new requirement, the requirement is prospective as of the date of this Decision. Utilities must retain any records currently held that fall into the retention period(s), and add to their records retention repository all new records as they are created over the next few years until the required time period has been fulfilled.

Final version incorporating proposed specific changes:

...Therefore, we will adopt a general requirement to create and maintain for ten (10) years records of all inspections and repairs of overhead facilities. In the case of intrusive inspections of wood poles, we will require records of such inspection, and any repairs that result from such inspection, to be maintained for the life of the pole.

This retention requirement pertains only to documents that the utility itself created or keeps in its files because the documents are needed for its business. Since the retention of such records for this length of time is a new requirement, the requirement is prospective as of the date of this Decision. Utilities must retain any records currently held that fall into the retention period(s), and add to their records retention repository all new records as they are created over the next few years until the required time period has been fulfilled.

Page 157.

PD, Findings of Fact 9. GO 95, Rule 35 Vegetation Management, Appendix E Guidelines to Rule 35. Modify paragraph to reflect the fact that “service reliability” is also considered an important safety issue.

Version showing proposed specific changes:

[Findings of Fact 9.] The minimum time-of-trim guidelines to Appendix E of Go 95 provide an adequate margin for fire safety in most circumstances. However, Electric utilities and CIPs are authorized by Appendix E to exceed the minimum time-of-trim guidelines when it is advantageous to do so for fire safety and service reliability purposes.

Final version incorporating proposed specific changes:

[Findings of Fact 9.] The minimum time-of-trim guidelines to Appendix E of Go 95 provide an adequate margin for fire safety in most circumstances. However, electric utilities and CIPs are authorized by Appendix E to exceed the minimum time-of-trim guidelines when it is advantageous to do so for fire safety and service reliability purposes.

Page 159.

PD, Conclusion of Law 4. GO 95, Rule 18A [Preemption of stricter local rules]. Clarify the language to indicate that the statement refers to local utility programs, not local governmental rules.

Version showing proposed specific changes:

[Conclusion of Law 4.] Rule 18A of GO95, as modified by today's decision, does not ~~preempt~~ foreclose any stricter local ~~rules~~ utility programs establishing priority systems for correcting safety hazards.

Final version incorporating proposed specific changes:

[Conclusion of Law 4.] Rule 18A of GO95, as modified by today's decision, does not foreclose any stricter local utility programs establishing priority systems for correcting safety hazards.

Page 159.

PD, Conclusion of Law 5. GO 95, Rule 18A [Exemption for GO 165]. Delete and amend language that interprets the GO 165 provision to mean that GO 165 maintenance programs cannot exceed Rule 18A deadlines.

Version showing proposed specific changes:

[Conclusion of Law 5.] The deadlines for completing corrective actions under the inspection and maintenance programs established by electric utilities pursuant to GO 165 ~~may not exceed the deadlines for completing corrective actions specified in Rule 18 of GO 95, as modified by today's decision.~~ need not be bound strictly by the deadlines in 18A, although those utilities should be informed by those deadlines when they do their prioritization for the correction of conditions.

Final version incorporating proposed specific changes:

[Conclusion of Law 5.] The deadlines for completing corrective actions under the inspection and maintenance programs established by electric utilities pursuant to GO need not be bound strictly by the deadlines in 18A, although those utilities should be informed by those deadlines when they do their prioritization for the correction of conditions.

Page 161.

PD, Conclusion of Law 14. GO 95, Rule 35 Vegetation Management, Appendix E Guidelines to Rule 35. Modify paragraph to reflect the fact that “service reliability” is also considered an important safety issue.

Version showing proposed specific changes:

[Conclusion of Law 14.] Electric utilities have wide latitude under Appendix E of GO 95 to exceed the minimum time-of-trim guidelines for fire safety and service reliability purposes.

Final version incorporating proposed specific changes:

[Conclusion of Law 14.] Electric utilities have wide latitude under Appendix E of GO 95 to exceed the minimum time-of-trim guidelines for fire safety and service reliability purposes.

Page 162.

PD, Conclusion of Law 23. [Retention of records]. Add “all” to make it clear that all pole load calculations must be retained.

Version showing proposed specific changes:

[Conclusion of Law 23.] Electric utilities and CIPs should create and retain records of all pole-loading calculations, patrol inspections, detailed inspections, and repairs for at least ten years in order to provide information needed for forensic analysis in the event there is a major safety-related incident...

Final version incorporating proposed specific changes:

[Conclusion of Law 23.] Electric utilities and CIPs should create and retain records of all pole-loading calculations, patrol inspections, detailed inspections, and repairs for at least ten years in order to provide information needed for forensic analysis in the event there is a major safety-related incident...

Page 165.

PD, Order 4(d). [GO 166 Fire Prevention Plans]. In response to PD requirement the REAX maps be used for Northern California counties for various adopted rules on an interim basis, add the following directive to Order 4(d):

Version showing proposed specific changes:

The CIPs shall cooperate with and make available to the other parties, as appropriate, the high definition maps, GIS information and other tools used for the REAX maps and referenced in the REAX report that are needed for mapping high fire threat areas for Northern California.

Final version incorporating proposed specific changes:

The CIPs shall cooperate with and make available to the other parties, as appropriate, the high definition maps, GIS information and other tools used for the REAX maps and referenced in the REAX report that are needed for mapping high fire threat areas for Northern California.

Page 167.

PD, Order, Paragraph 7, Section v. [Vegetation management shut off tariff condition].

Clarify that utilities may terminate power without notice where vegetation hazards pose an immediate threat to public safety and delete the reference to “daily visits”.

Version showing proposed specific changes:

v. For vegetation hazards that pose an immediate threat to public safety, the electric utility may shut off power to the obstructing property owner’s residence or primary place of business at any time without notice. ~~When power has been shut off~~ Under these circumstances, the electric utility shall ~~attempt to contact by daily visits to the property owner~~ send a written notice to the property owner’s residence or primary place of business, ~~in addition to sending written notice, until contact is achieved and that informs the property owner is notified~~ why power has been shut off and what steps need to be taken to restore power.

Final version incorporating proposed specific changes:

v. For vegetation hazards that pose an immediate threat to public safety, the electric utility may shut off power to the obstructing property owner’s residence or primary place

of business at any time without notice. When power has been shut off under these circumstances, the electric utility shall send a written notice to the property owner's residence or primary place of business that informs the property owner why power has been shut off and what steps need to be taken to restore power.

Page 168.

PD, Order 11. [Phase 3 development of fire threat maps]. In response to PD requirement the REAX maps be used for Northern California counties for various adopted rules, add directive to Order 11 (i) to require the sharing of REAX information.

Version showing proposed specific changes:

The CIPs shall cooperate with and make available to the other parties, as appropriate, the high definition maps, GIS information and other tools used for the REAX maps and referenced in the REAX report that are needed for mapping high fire threat areas for Northern California.

Final version incorporating proposed specific changes:

The CIPs shall cooperate with and make available to the other parties, as appropriate, the high definition maps, GIS information and other tools used for the REAX maps and referenced in the REAX report that are needed for mapping high fire threat areas for Northern California.

Page 169.

PD, Order 14. [Interim use of Cal Fire FRAP maps for Southern California and REAX map for Northern California]. In response to PD requirement the REAX maps be used for Northern California counties on an interim basis, add new subsection (iii) to require the sharing of REAX information.

Version showing proposed specific changes:

(iii) The CIPs shall cooperate with and make available to the other parties, as appropriate, the high definition maps, GIS information and other tools used for the REAX maps and referenced in the REAX report that are needed for mapping high fire threat areas for Northern California.

Final version incorporating proposed specific changes:

(iii) The CIPs shall cooperate with and make available to the other parties, as appropriate,

the high definition maps, GIS information and other tools used for the REAX maps and referenced in the REAX report that are needed for mapping high fire threat areas for Northern California.

B. CHANGES TO PROPOSED RULES

Page B-3.

PD, Appendix B. General Order 18 Part A, Reporting and Resolution of Safety Hazards..., [new] 1(c). Reinstate inadvertently omitted consensus language regarding notice to CIPs.

Version showing proposed specific changes:

(1) (c) Where communications company actions result in electric utility GO nonconformances, the electric utility’s remedial action will be to transmit a single documented notice of identified nonconformances to the communications company for compliance.

Final version incorporating proposed specific changes:

(1) (c) Where communications company actions result in electric utility GO nonconformances, the electric utility’s remedial action will be to transmit a single documented notice of identified nonconformances to the communications company for compliance.

Page B-13.

PD, GO 95, Rule 44.2. Additional Construction. Delete the Note to Rule 44.2 on p. B-13, which defines “material increase”.

Version showing proposed specific changes:

~~Note: For the purpose of Rule 44.2, a material increase in load is when a proposed addition to a structure could exceed 10 percent of the estimated remaining unused load, or carrying capacity, of the structure (with the remaining unused load, or carrying capacity, computed using the minimum end-of-service-life safety factors for the structure required by Rule 44).~~

Final version incorporating proposed specific changes:

[Deleted.]

Page B-16.

PD, Appendix B. GO 95, Rule 80.1A Inspection Requirements for Communication Lines.

Change definition of “year” to calendar year.

Version showing proposed specific changes:

For the purpose of the above table, the term “year” is defined as ~~12 consecutive calendar months starting the first full calendar month after an inspection is performed~~ measured in calendar years.

Final version incorporating proposed specific changes:

For the purpose of the above table, the term “year” is measured in calendar years.

Page B-24.

PD, Appendix B. GO 165 Inspection Requirements for Electric Distribution and Transmission Facilities, Appendix A, Second Note. [Definition of year].

Change definition of “year” to calendar year.

Version showing proposed specific changes:

Note: For the purpose of implementing the inspection intervals in Table 1 above, the term “year” is defined as ~~12 consecutive calendar months starting the first full calendar month after an inspection is performed~~ measured in calendar years.

Final version incorporating proposed specific changes:

Note: For the purpose of implementing the inspection intervals in Table 1 above, the term “year” is measured in calendar years.

Page B-25.

PD, Appendix B, GO 166, Standard 1.E. Fire Prevention. Defer discussion of fire prevention plans to Phase 3, **or** change location and name of standard.

Version showing proposed specific changes:

Standard 1.E 14: Fire Prevention Plan

~~For~~ Those electric utilities identified below, the plan shall have a Fire Prevention Plan that describes the measures the electric utility intends to implement, both in the short run and in the long run, to mitigate the threat of power-line fire ignitions...

Final version incorporating proposed specific changes:

Standard 14: Fire Prevention Plan

Those electric utilities identified below shall have a Fire Prevention Plan that describes the measures the electric utility intends to implement, both in the short run and in the long run, to mitigate the threat of power-line fire ignitions...

(END OF APPENDIX)

VERIFICATION

I, the undersigned, say:

I am an officer of Pacific Gas and Electric Company, a corporation, and am authorized to make this verification for and on behalf of said corporation, and I make this verification for the following reason: I have read the foregoing:

**OPENING COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U39E)
ON PROPOSED DECISION IN PHASE 2: DECISION ADOPTING
REGULATIONS TO REDUCE FIRE HAZARDS ASSOCIATED WITH
OVERHEAD POWER LINES AND COMMUNICATION FACILITIES**

and I am informed and believe the matters therein are true and on that ground I allege that the matters stated therein are true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, this 29th day of June 2011.

/S/

Placido J. Martinez
Vice-President, Regulatory Relations