



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

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

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

U 39 E

**REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC
COMPANY (U39E) ON PROPOSED RULES OF CPSD AND
OTHER PARTIES IN PHASE 1 OF R.08-11-005**

LISE H. JORDAN
BARBARA H. CLEMENT
Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105
Telephone: (415) 973-6965
Facsimile: (415) 973-0516
E-Mail: LHJ2@pge.com
Attorney for
PACIFIC GAS AND ELECTRIC COMPANY

Dated: April 8, 2009

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I. INTRODUCTION

Pacific Gas and Electric Company (PG&E) files these reply comments pursuant to the Administrative Law Judge's March 20, 2009 Ruling, as well as the Assigned Commissioner's ruling and Scoping Memo (ACR) dated January 6, 2009. PG&E replies to comments filed by Cal Fire, the CIP Coalition, Mussey Grade Road Alliance, The Utility Reform Network (TURN), San Diego Gas and Electric Company (SDG&E), the California Municipal Utilities Association (CMUA), and Los Angeles Department of Water and Power (LADWP).

PG&E continues to urge the Commission to limit Phase 1 of this proceeding to only those rules that have the potential to reduce fire hazards and "that can be implemented in time for the 2009 autumn fire season in Southern California." (ACR, p. 2). Given this limited scope of Phase 1, new General Order rules are not practical or advisable. The rules adopted in a General Order are intended to regulate the behaviors and activities of the regulated entities over the many years that the regulated entities are in business in California. Temporary or short-term requirements to address an urgent need are more appropriately adopted in Commission decisions, which can be more readily changed or updated.

Moreover, many parties proposed modifications to existing proposals, or new proposals, in their opening comments to address the issues in this proceeding. Even if these proposals were appropriate for inclusion in General Orders, the process for review of these proposals has been inadequate. The limited workshops, and the structure of facilitation (the main rule proponent, CPSD, facilitating the critical discussion of their proposals), have not resulted in balanced and effective proposals to potentially prevent catastrophic fires. PG&E hopes that the Commission will adopt a more workable process for Phase 2 of this proceeding so that permanent General Order rule changes can be fully vetted and analyzed prior to adoption.

In the remainder of these comments, PG&E will first comment on the need for a cost recovery mechanism and then reply to the following proposals:

- Cal Fire’s comments on the appropriateness of using the Fire Threat Map^{1/}
- Cal Fire’s suggested changes to CPSD’s Proposed Rule 19 (Cooperation with CPUC Investigations)
- Mussey Grade’s proposal for per-incident data collection
- The CIP Coalition’s Alternative Proposal that addresses many of CPSD’s proposed rule changes
- SDG&E’s pole loading proposal, vegetation clearance proposals, and alternate to Rule 18
- TURN’s comments supporting PG&E’s position regarding the CAISO’s jurisdiction over Electric Transmission Inspection and Maintenance activities
- CMUA and LADWP’s comments about Commission jurisdiction over publicly-owned utilities.

^{1/} Cal Fire included a general discussion about the vegetation management issues that will be addressed in Phase 2. PG&E does not include a reply to that discussion in these Reply Comments. PG&E will respond to that discussion during Phase 2 of this proceeding.

II. THE COMMISSION SHOULD PROVIDE THAT COSTS ASSOCIATED WITH ANY CHANGES IN THE RULES BE RECOVERED THROUGH AN APPROPRIATE COST RECOVERY MECHANISM

In the ACR, the Assigned Commissioner and the ALJ recognized that the adoption of new rules may result in increased costs, and asked each rule proponent to state the anticipated costs and benefits of the proposed rule, as well as whether and how those costs will be recovered from customers (ACR, p. 9). CPSD attempted to address these issues in their proposals, but ultimately did not provide much, if any, incremental cost data. While the proposed rules have not been finalized, it is likely that the rules ultimately adopted will result in incremental increases for entities subject to those new rules. Indeed, PG&E has provided cost estimates for proposed rules that would result in increased costs for PG&E if implemented as written. Given that PG&E's next General Rate Case will be filed for Test Year 2011, PG&E anticipates requesting permission to record the incremental costs into a memorandum account, with the expectation that PG&E would recover the incremental costs within a reasonable timeframe. At this point, given that the rules are not finalized, PG&E requests the Commission acknowledge the appropriateness of utilities' recovering their incremental costs, and providing for a process to establish the appropriate cost recovery mechanism once the rules and cost estimates are finalized.

III. RESPONSE TO CAL FIRE OPENING COMMENTS

A. The Utilities Should Have Flexibility In Applying "Fire Threat" Mapping Criteria, Given The Limitations In The FRAP Fire Threat Map Identified By Cal Fire

Cal Fire has voiced a number of reservations about the use of the FRAP fire threat map as a basis for delineating areas of special fire risk where additional utility inspections or construction practices might be required to mitigate fire risk associated with the presence of electric and communications facilities. Of special concern to PG&E is the fact that it will be very difficult to overlay utility maps on the FRAP fire threat maps in a way that provides 100% accuracy on actual fire threat given: 1) the disaggregated data available from the maps (the "measles mentioned"); 2) the fact that the data does not and will not ever reflect actual seasonal

conditions (whether fuel load or weather conditions); and 3) the fact that Cal Fire does not have the resources to respond to questions or keep the mapping information current.

The proposed rules and requirements do not take these limitations into account and will set the utilities up for not only failure but for the imposition of penalties for technical violations of an impossible standard as well as negligence per se exposure in civil litigation. If any fire threat maps are to be used, it should be made clear in the standard or rule that the maps are simply a guideline, and not the ultimate authority. PG&E suggests that the proposed language concerning the definition of Extreme and Very High Fire Threat Zones be modified as follows:

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. **[New] This map is a useful (but inexact) surrogate for high fire risk areas. Utilities should make reasonable efforts to align circuits and facilities to the FRAP Fire Threat Map to determine where in their service territory extra precautions may be needed to mitigate fire risk. If such reasonable efforts are made, that utility will be presumed to be in compliance with this standard, even if there might be a slight discrepancy between the FRAP Fire Threat Map and the zones the utilities use for fire threat mitigation purposes pursuant to this standard.**

B. It Is Not Necessary To Include “Fire Department Response” As An Additional Criteria For Major Incident Reporting, As The Other Criteria Should Already Capture Such Incidents

Cal Fire proposes that an additional “trigger” for incident reporting to the Commission be added to the current requirements, so that reporting would be required for any incident that “require[s] a response by a Fire Department for either a medical emergency and/or fire suppression”. PG&E appreciates Cal Fire’s concern that all incidents get reported and recognizes the importance of the role of emergency providers. However, PG&E suggests that the proposed additional trigger sweeps too broadly and that the existing triggers would already capture any incident where there has been a significant emergency response.

The intent of the current reporting requirements is to bring *major* incidents to the Commission’s attention. The reporting requirements for major incidents and media events have been in place for a long time, and are well known and understood. Reportable incidents are

those that: (a) result in fatality or personal injury rising to the level of hospitalization and are attributable or allegedly attributable to utility owned electric facilities; (b) are the subject of significant public attention or media coverage and are attributable or allegedly attributable to utility owned electric facilities; or (c) involve damage to property of the utility or others estimated to exceed \$50,000.

Fire departments respond to many incidents – big and small. A fire department response to put out a spot fire or an emergency response for an injury from a car-pole accident is not the kind of incident that should require notification to the Commission. On the other hand, any incident that meets the current established notification criteria listed above would invariably involve emergency or fire personnel; an additional trigger would be duplicative.

Although it would serve no purpose to expand the notification triggers for Commission incident reporting as suggested by Cal Fire, PG&E suggests that there is always opportunity for better communication and the fostering of a closer partnership among utilities, local, state or federal fire authorities as well as the Commission. For example, PG&E hosts annual joint meetings with local, state and federal fire authorities in various geographic areas in preparation for fire season in Northern California, which the Commission is welcome to attend. PG&E suggests that all parties continue to find such opportunities to ensure that communications – especially during times of emergency response – continue to be a two-way street.

C. There is No Need to Add Additional Language About Preservation of Fire Evidence; The Duty to Preserve Evidence Is Already Codified and Well Understood

Cal Fire has requested additional language for CPSD’s proposed Rule 19, which concerns “full cooperation” on incident investigations. As PG&E stated in its Opening Comments, there is no need for Rule 19 at all (Opening Comments, p.13-15). It simply restates rules and responsibilities that already exist in State Law. The consequences associated with failing to preserve evidence either in a regulatory, civil or criminal proceeding are great. There is no need to duplicate these requirements in General Order 95, which (after all) simply sets out minimum

uniform requirements for overhead electrical supply and communication line construction. (General Order 95, Sections 11, 12).

IV. RESPONSE TO MUSSEY GRADE OPENING COMMENTS

A. There is No Need For Yet Another Collection of Fire Incident Data

The CPSD has incorporated into its proposed rules for Phase 1 a concept advocated by Mussey Grade that would require electric utilities to collect (and make public) data on fire ignitions associated with electric equipment. Mussey Grade states in its March 27 Comments that this data must be incident-specific and will not be helpful in the aggregate. PG&E objects to this proposal for several reasons.

First, the data is not needed. As reflected in the Anderson study (AT&T Comments, Appendix A) and even in the Mussey Grade Comments, there are already several collections of fire data that can be “mined” by an interested party. Cal Fire maintains wildland fire information in its FRAP database as well as information about all ignitions in California in an ignition database (CARS). The Anderson study referenced data and information from a variety of sources, including the National Fire Protection Association as well as FEMA’s National Fire Incident Reporting System (NFIRS) (which is used by a wide variety of agencies that study fire issues).

Second, there are due process and privilege issues at play. Utilities and their personnel can be subject to regulatory, civil and criminal prosecution related to a serious fire. Fire incident investigations performed by a utility are usually performed in anticipation of litigation and are protected by the attorney work product privilege. The Commission has recognized that it cannot require a utility to disclose the fruits of its privileged investigations. (General Order 95, Rule 17 (A): “Nothing in this rule is intended to extend, waive, or limit any claim of attorney client privileged and/or attorney work product privilege”.)

Third, the electric utilities were required for some time to report all vegetation-related fires to the Commission. The Commission in its wisdom discontinued this burdensome

requirement. PG&E agreed with that decision at the time because it believed that the burden of collecting and maintaining that information far outweighed whatever value and use was made of it.

Mussey Grade, and particularly Dr. Mitchell, would like to have the electric utilities collect fire incident data on the theory that it might be helpful for study in the future. There are other existing credible and independent fire incident data resources housed with the fire agencies (which have the benefit of the most complete information available). It makes no common sense to impose yet another duplicative, burdensome and expensive data and documentation duty on electric utilities and their customers – just on the off chance that some member of the public might find the information interesting.

B. PG&E Agrees With Mussey Grade That Wind Loading Issues Should Be Continued Into Phase 2

Mussey Grade has recognized that wind loading issues are complex and should receive a fuller examination in Phase 2 of this Proceeding. PG&E agrees with this assessment and looks forward to working with Mussey Grade on these issues.

V. RESPONSE TO CIP COALITION’S ALTERNATIVE PROPOSAL

A. The CIP Coalition’s Alternative Proposal Should Be Adopted by the Commission in a Decision, Rather Than Adopted As A Rule Change To General Order 95

The CIP Coalition’s Alternative Proposal distills six proposed rule changes proposed by CPSD, including rules addressing pole loading, notification and communications among pole occupants, identification of communications facilities, and inspection and maintenance requirements for CIPS, into a streamlined set of proposed requirements that purport to address the need to reduce the fire risk in southern California. PG&E applauds the CIPs’ effort to constructively address the issues in Phase 1 of this proceeding, and considers the CIPs’ proposal to be clear and reasonable. However, the proposal as written should not be incorporated into GO 95.

First, the proposal would appear to modify several existing GO rules (e.g., Rules 44.1, 31.2), and as such, more work needs to be done to address any potential inconsistencies within GO 95 as a whole. Second, the proposal contains information that by its nature is not static, and therefore not appropriately included in a General Order. For instance, the proposal contains a date as well as locations that will vary over time. Such interim information is not appropriate in a General Order.

B. The CIP Alternative Proposal Has The Potential To Be the Basis of Improved Inspection and Maintenance Requirements for Electric Distribution Utilities in California

While the proposal needs more work to fit into GO 95, PG&E believes that this proposal has the potential to be the basis for a broader proposal to modify all utility inspection and maintenance requirements, perhaps even to replace GO 165 for electric distribution utilities. As indicated in PG&E's Opening Comments, several electric distribution utilities have been working with CPSD to streamline and improve the documentation and reporting requirements in GO 165. If the Commission includes modifications to GO 165 as within the scope of Phase 2 in this proceeding, the CIP Alternative Proposal should be considered as a model for further streamlining of the Commission's inspection and maintenance requirements for utilities in California.

VI. RESPONSE TO SDG&E'S OPENING COMMENTS

A. SDG&E's Vegetation Management Proposals Should Be Addressed in Phase 2 of this Proceeding

PG&E generally supports SDG&E's effort to achieve more clearance around power lines, and supports changes to the Commission's rules that allow utilities better access to the vegetation that requires trimming and removal. However, SDG&E's specific clearance proposals and its proposal for utilities to clear overhanging vegetation are too extreme as written for PG&E to support. Parties need more time to fully discuss each of these proposals to ensure that they are effective, and targeted so as to minimize the environmental impact of the clearances.

In addition, SDG&E proposes to eliminate the Good Faith exception in Rule 35 that protects utilities from being found in violation of the clearance rule when they are unable to achieve the clearance due to circumstances out of their control. While PG&E does everything in its power to achieve the necessary clearance around its power lines to maintain safety and reliability, there are times, albeit very few, that PG&E is unable to achieve the clearance. This exception to Rule 35 is an acknowledgement of the limitations placed on utilities to achieve the required clearance, and should be retained.

B. SDG&E’s Modifications to CPSD’s Rule 18, and Its Proposed Rule 22.3, Should Be Reviewed In Phase 2 of this Proceeding

SDG&E proposes alternatives to the CPSD’s proposed Rule 18, including a new Rule 22.3, that are intended to eliminate several problems contained in CPSD’s proposals. However, SDG&E’s proposals as written create their own problems within the general orders. For instance, they use inconsistent terminology, such as “facilities and lines” rather than distribution system, and Compliance Programs rather than Compliance Plans. As these terminologies are not yet defined, it does not add clarity to the existing rules and will cause confusion. While these issues can be resolved with further discussion among parties, the proposals should not be adopted as written. Indeed, with further discussion, perhaps even better suggestions will be developed that will be consistent with the rest of the general orders, and address specific issues that require clear rules.

VII. RESPONSE TO TURN’S OPENING COMMENTS

TURN supports PG&E’s position that the CAISO fully occupies the field of electric transmission inspection and maintenance over the lines covered by the Transmission Control Agreement, and that it is inappropriate for the CPSD to regulate that same field. TURN also proposes language for GO 165 that would clarify that only those transmission lines not covered by the CAISO would be required to comply with GO 165. PG&E supports TURN’s proposed or similar language.

VIII. RESPONSE TO CMUA AND LADWP OPENING COMMENTS

A. The Commission Has Properly Asserted Jurisdiction Over Publicly-Owned Electric Utilities

The Commission in its Order Instituting Rulemaking^{2/} and the CPSD in its Proposed Rules to be Implemented in Time for the 2009 Fall Fire Season^{3/} both assert that the Commission has jurisdiction over safety aspects of electric facilities operated by municipal and publicly owned utilities. PG&E agrees with this position and supports Commission oversight over the inspection and maintenance of electric facilities owned and operated by municipal and other publicly owned utilities.^{4/}

The California Supreme Court addressed this issue head on in its decision in *Polk v. City of Los Angeles*, 26 Cal.2d 519 (1945). After reviewing the well established law that the Commission cannot regulate municipal *rates*, the *Polk* court turned to Commission jurisdiction over statewide electric safety concerns:

However, there are two valid grounds for holding that the above rule does not render inapplicable to municipally operated utilities, in actions based upon the negligence of the municipality, the safety standards established by the Railroad Commission with reference to the maintenance of wires carrying electricity. First, a statute was adopted in 1911 which sets forth certain safety requirements for such electric equipment. (Stats. 1911, p. 1037; *Deering's Gen. Laws*, 1944, Act 2284.) That act by its express terms applies to municipalities.

No commission, officer, agent or employee of the State of California, or of any city and county or city or county or other political subdivision thereof, and no other person, firm or corporation shall ...,” and then follow the various requirements. (Stats. 1911, p. 1037, § 1.) A violation of the act is a misdemeanor (§ 4). It is also provided in said act that:

^{2/} OIR at p. 3-8.

^{3/} CPSD, *Proposed Rules* at p.5-11.

^{4/} However, as stated by PG&E in its *Opening Comments* at p.27-36, to the extent that any utility has submitted its transmission facilities over to the operational control of the California Independent System Operator (CAISO) or its transmission facilities are subject to the NERC Reliability Standards as approved by FERC, the Commission should withdraw its claim to jurisdiction over those facilities.

The railroad commission of the state of California is hereby vested with authority and power, ... and is hereby instructed to inspect all work which is included in the provisions of this act, and to make such further additions or changes as said commission may deem necessary for the purpose of safety to employees and the general public, and the said railroad commission is hereby charged with the duty of seeing that all the provisions of this act are properly enforced.” (§ 8.)

Then noting that the electric safety rules promulgated by the CPUC (originally General Order 64, now General Order 95) were developed pursuant to this specific legislative direction, the Polk court stated:

There can be no doubt that the Legislature was empowered to pass such a statute and make it applicable to municipally operated electric systems even though the municipality is chartered and has control over municipal affairs. **The safety of overhead wire maintenance is a matter of state-wide, rather than local, concern, and the state law is paramount.** It has been held that the public liability act (Stats. 1923, p. 675; *Deering's Gen. Laws*, 1944, Act 5619) which imposes liability upon municipalities for dangerous or defective condition of public streets, highways, buildings, grounds, works and property embraces a subject of state-wide concern rather than municipal affairs. (*Douglas v. City of Los Angeles*, 5 Cal.2d 123 [53 P.2d 353]; *Rafferty v. City of Marysville*, 207 Cal. 657 [280 P. 118]; *Helbach v. City of Long Beach*, 50 Cal.App.2d 242 [123 P.2d 62].) And the requirements with respect to maintenance and elimination of grade crossings in a municipal corporation where the carrier is a private public utility, is not a municipal affair (*City of San Mateo v. Railroad Commission*, 9 Cal.2d 1 P.2d 713]), because danger to the public is a matter of state concern. Specifically, the rules of the Railroad Commission with reference to maintenance of pole lines are applicable to a city, although the commission has no authority to regulate or control city utilities. (See *Sincerney v. City of Los Angeles*, 53 Cal.App. 440, 445 [200 P. 380].) Such safety rules are in reality not regulations or the exercise of control by the commission of the municipally owned utility as considered in *City of Pasadena v. Railroad Commission*, *supra*, and the cited cases. **Rather they are nothing more than safety requirements in which the entire state has an interest.** The imposition of liability for dangerous condition of municipal property undoubtedly imposes upon the city the alternative of adopting safety measures or suffering the ensuing liability for failure in its duty. Likewise, the safety rules here involved impose the same alternative. Furthermore, it is pertinent to observe that “If a state statute affects a municipal affair only incidentally in the accomplishment of a proper objective of state-wide concern, then the state law applies to charter cities. (*Dept. of Water & Power v. Inyo Chem. Co.*, 16 Cal.2d 744 [108 P.2d 410].)” (*Wilson v. Walters*, 19 Cal.2d 111, 119 [119 P.2d 340].) The effect of the rules in the instant case is purely incidental.

Continuing, the *Polk* court notes that:

Even if it be assumed that the commission's authority is limited to the regulation of privately owned public utilities and that the commission had no authority to adopt rules and regulations applicable to defendants and none could be conferred upon it by the Legislature (see *City of Pasadena v. Railroad Commission, supra*), yet the Legislature has conferred upon the commission the duty of making safety rules and regulations applicable to privately owned public utilities, and it is clear that such rules and regulations establish the standard of care required of such utilities. **We can perceive of no reason why the same standard of care should not be applicable to all utilities whether publicly or privately owned.** Hence, it was proper for the trial court to advise the jury that such rules and regulations had been adopted and promulgated by the Railroad Commission and that they could be considered in determining whether defendant had exercised the standard of care required of those maintaining electric power lines under the circumstances here presented.

(*Polk*, at p. 540-542 (*emphasis added*).)

In D.98-03-036, the Commission applied the General Order 165 inspection and maintenance rules to publicly owned utilities, which it affirmed on rehearing in D.98-10-059. In that decision, the Commission concluded that: 1) the State Legislature gave the Commission jurisdiction in Public Utilities Code sections 8000-8057 to regulate the maintenance and construction of electric lines owned by municipal utilities; 2) the California Constitution, Article XII, section 5, permits the legislature to grant such jurisdiction; and 3) such jurisdiction was approved by the California Supreme Court both in *County of Inyo v. Public Utilities Commission*, 26 Cal.3d 154, 164 (1980) and *Polk v. City of Los Angeles*, 26 Cal.2d 519, 540-41 (1945). See also *Modesto Irrigation District v. City of Modesto*, 210 Cal.App.2d 652, 655 (1962) (deciding that the *Polk* holding extends to issues of location as well as maintenance).^{5/}

^{5/} The legislative history of the Commission as laid out in the Preface to General Order 95 supports this analysis:

On April 22, 1911, the State Legislature passed an act (Chapter 499, Statutes of 1911), which regulated the erection and maintenance of poles, wires, etc., employed in overhead electric line construction. In 1915 the Legislature issued Chapter 600, which amended Chapter 499. The Statutes of 1915 required the Railroad Commission to inspect all work affected by the provisions of the act, and to make such further additions and changes as it might deem necessary for the protection of employees and the general public.

B. Subsequent Legislative Activity Has Not Restricted the Commission's Jurisdiction over Publicly-Owned Utilities

CMUA and LADWP disagree with this position. Among other things, they claim that as part of California's 1996 electrical restructuring, Public Utilities Code section 364 (which states in part that the Commission shall adopt inspection, maintenance, repair and replacement standards for the distribution systems of investor-owned electric utilities) expressly restricted the Commission's authority to promulgate inspection, maintenance and other standards for investor-owned electric utilities (because there is no mention of publicly owned utilities in that statute).

However, the Commission has pointed out several times that the electrical restructuring legislation, AB 1890, did not repeal Public Utilities Code sections 8001-8057, which continue to give the Commission jurisdiction over the safety of overhead and underground electric facilities (including those owned by publicly owned utilities). Sections 8037 and 8056 state in pertinent part:

...[T]he commission may inspect all work which is included in the provisions of this article, and may make such further additions or changes as the commission deems necessary for the purpose of safety to employees and the general public.

In fact, as noted above, it was in 1998 (after AB 1890 was enacted) that the Commission expressly applied the maintenance standards adopted in D.97-03-070 (General Order 165) to municipal and publicly-owned utilities. (D.98-03-036; *CMUA Application for rehearing denied D.98-10-059*; *CMUA petition to modify decision denied D.99-12-052*.)^{6/}

As the Commission stated in D.98-10-059:

Contrary to CMUA's position, the rules reflect sound public policy. The rules ensure the continued safety and reliability of the State's electrical systems. Public safety is best served if electric utilities are subject to uniform standards and operational protocols. As pointed out by ORA, emergencies or power outages within a municipal utility's service area can have effects on the State's grid that are not confined to that utility's electric system. There is also no evidence of an unreasonable financial burden associated with implementing the rules. A publicly-owned utility may seek an exemption from specific rules by way of an advice letter which demonstrates active local regulatory oversight over the

^{6/} This progression of Decisions addressed all the jurisdictional arguments posed again by CMUA and LADWP in this proceeding.

relevant activities and that the utility's program is reasonable in light of prevailing industry standards. Moreover, the rules are not rate regulations simply by virtue of an indirect effect on rates. [Citations omitted.]

PG&E supports the consistent and uniform application of construction, inspection, maintenance and operating standards for electric utilities in California^{7/} and, therefore, supports the Commission's position that it has jurisdiction to set standards for the operations of publicly-owned utilities.

IX. CONCLUSION

PG&E urges the Commission to focus its attention on those activities that can really make a difference this year in mitigating the risk of catastrophic fires in California, and address in Phase two of this proceeding other rule changes that require more time and effort to finalize.

Respectfully Submitted,

LISE H. JORDAN
BARBARA H. CLEMENT

By: _____ /S/
LISE H. JORDAN

Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105
Telephone: (415) 973-6965
Facsimile: (415) 973-0516
E-Mail: LHJ2@pge.com

Attorney for
PACIFIC GAS AND ELECTRIC COMPANY

Dated: April 8, 2009

^{7/} The oversight provided by CAISO to utilities under the Transmission Control Agreement and by NERC via its Reliability Standards also serves the public policy goal of ensuring consistent and uniform standards, and should not be duplicated by Commission activity.

VERIFICATION

I, the undersigned, say:

I am an officer for PACIFIC GAS AND ELECTRIC COMPANY, a corporation, am authorized pursuant to Code of Civil Procedure Section 446 and Rule 1.11 of the Commission's Rules of Practice and Procedure to make this verification for and on behalf of said corporation, and I make this verification for that reason.

I have read the foregoing "REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U39E) ON PROPOSED RULES OF CPSD AND OTHER PARTIES IN PHASE 1 OF R.08-11-005" and am informed and believe that the matters therein are true, and on that ground I allege that the matters stated herein are true.

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

Executed at San Francisco, California, this 8th day of April, 2009.

/s/

Placido J. Martinez
Vice President, Asset Strategy
Pacific Gas and Electric Company
245 Market Street, #1064
Tele: (415) 973-9005
Email: PJMz@pge.com

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the party to the within cause; and that my business address is 77 Beale Street, B30A, San Francisco, California 94105. I hereby certify that I have this day electronically served the foregoing document(s) upon each member of the official service list of **R.08-11-005** pursuant to Rule 2.3 of the California Public Utilities Commission's Rules of Practice and Procedure:

REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U39E) ON PROPOSED RULES OF CPSD AND OTHER PARTIES IN PHASE 1 OF R.08-11-005

to the attached e-mail service list, and if no e-mail address was available, the party was served by U.S. Mail.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 8, 2009 at San Francisco, California.

/S/

Jennifer S. Newman
PACIFIC GAS AND ELECTRIC COMPANY
77 Beale Street, B30A
San Francisco, CA 94105
(415) 973-7469
jsn4@pge.com