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

Order Instituting Rulemaking to Implement
Electric Utility Wildfire Mitigation Plans
Pursuant to Senate Bill 901 (2018)

R.18-10-007
(Issued October 25, 2018)

**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) ON PROPOSED
DECISION PROVIDING GUIDANCE ON THE 2019 WILDFIRE MITIGATION PLANS
SUBMITTED PURSUANT TO SENATE BILL 901**

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SUBJECT INDEX OF RECOMMENDED CHANGES

Pursuant to Rule 14.3 of the California Public Utilities Commission's (CPUC or Commission) Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) provides the following Subject Index of Recommended Changes in support of its comments on the Proposed Decision (PD). The issues set forth below should be corrected in a final decision adopted by the Commission. Specific language to implement these recommended changes is included in Attachment A to these comments:

- Clarify the requirements for the “Data Collection for Wildfire Mitigation Plans” and “Results Oriented Metrics for Assessing Wildfire Mitigation Plans” advice letters;
- Allow for interim recovery of costs incurred in complying with the approved Wildfire Mitigation Plans, subject to refund;
- Authorize the utilities to record and recover the costs of complying with the Commission's order to coordinate Public Safety Power Shutoff outreach with CAL FIRE and Cal OES;
- Advise on how utilities should self-report failures to achieve targets set by the Wildfire Mitigation Plans; and
- Clarify that the Commission's standard rules for responding to data responses applies once the Wildfire Mitigation Plans have been approved.

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Pacific Gas and Electric Company (“PG&E”) respectfully submits these comments on the proposed *Guidance Decision on 2019 Wildfire Mitigation Plans Submitted Pursuant to Senate Bill 901* (“Guidance PD”). To facilitate comprehensive action before wildfire season, the statutory schedule required this proceeding to be conducted on an accelerated basis. PG&E appreciates the efforts of Administrative Law Judges (“ALJs”) Allen and Thomas and the staff of the California Public Utilities Commission (“Commission” or “CPUC”) in preparing the Guidance PD to address issues common to all of the Wildfire Mitigation Plans (“Plans”). The Commission’s Guidance PD provides detailed substantive and procedural guidance on how the utilities should continue to reassess and develop measures to address wildfire risk, in recognition that we will not solve the problems of catastrophic wildfires in one year.

I. INTRODUCTION

PG&E is generally supportive of the Guidance PD but proposes a few changes to clarify requirements and allow for coordination of two advice letters. In addition, PG&E asks the Commission to approve interim cost recovery. PG&E also seeks guidance on how to self-report failure to achieve Wildfire Mitigation Plan targets. Finally, PG&E asks the Commission to clarify the procedural rules applicable to this proceeding. Specifically, PG&E asks the Commission to modify the Guidance PD to:

- Clarify the requirements for the “Data Collection for Wildfire Mitigation Plans” Tier 3 Advice Letter, and modify the deadline to align with the July 30, 2019 deadline to file the related “Results Oriented Metrics for Assessing Wildfire Mitigation Plans” Tier 3 advice letter;
- Allow for interim recovery of costs incurred in complying with the approved Wildfire Mitigation Plans, subject to refund;
- Authorize the utilities to record the costs of complying with the Commission’s order to coordinate Public Safety Power Shutoff outreach with the California Department of Forestry and Fire Protection (“CAL FIRE”) and California Office of Emergency Services (“Cal OES”) in the memorandum account authorized under Public Utilities Code (“PUC”) Section 8386(j) and recover the reasonable incremental costs through an application;
- Advise how utilities should self-report failures to achieve targets set by the Wildfire Mitigation Plans; and
- Clarify that the Commission’s standard rules for responding to data responses applies once the Wildfire Mitigation Plans have been approved.

These requests are discussed in more detail below.

II. COMMENTS

A. Data Collection for Wildfire Mitigation Plans

PG&E asks that the Commission clarify the requirements for two advice letters the utilities are required to file by the PD. The PD requires that the utilities submit two Tier 3 advice letters. The first, “Data collection for Wildfire Mitigation Plans,” due June 28, 2019 (“Data Collection Filing”), must list the data the utility collects that may be useful in assessing the effectiveness of its Plan, suggest new areas of data collection that could be useful, propose a schedule for collection and use of data, and propose a manner to make the data available to third party researchers. Before making this filing, the utilities must “consult experts in data analysis,

including presenters at the Wildfire Technology Innovation Summit co-sponsored by this Commission on March 20-21, 2019.” (PD at OP 3.) The second advice letter, “Results Oriented Metrics for Assessing Wildfire Mitigation Plans,” due July 30, 2019 (“Metrics Filing”), must propose metrics to assess whether the Wildfire Mitigation Plans are or will reduce the risk of catastrophic wildfires.

First, PG&E asks that the Commission modify the PD to direct the utilities to submit two reports – a Data Collection Report and a Metrics Report – rather than Tier 3 Advice Letters. As articulated in the Commission’s Energy Industry Rules, matters appropriate for Advice Letters are establishing or changing to tariffs, rates, or contracts; withdrawing or abandoning a service; refund programs; transferring funds; or amortization of a balance in a balancing account. (See CPUC Energy Industry Rules 5.1-5.3.) In contrast, the PD directs utilities to submit two reports proposing data and metrics to assess the efficacy of the Plans. There are no official changes to tariffs, rates, or contracts, or to services, refund programs, funds, or balancing accounts. Instead, the data and metrics will be used by the utilities in developing and assessing their Plans. The Commission and interested parties will have the opportunity to test and evaluate the data and metrics through discovery on the Plans and review of the reports. PG&E thus asks the Commission to direct the utilities to file the Data Collection and Metrics information as reports instead of advice letters.

Second, PG&E asks that the Commission modify the deadline to submit the Data Collection Filing. The two filings are interrelated. For the Data Collection Filing, the utilities must determine what data is or could be collected to assess Plan effectiveness. For the Metrics Filing, the utilities will analyze and evaluate what metrics can be measured based on the collected data. This is likely to be an iterative process: Development of new metrics may spur innovative or original ideas about possible data. PG&E thus asks the Commission to make both filings due July 30, 2019, to allow the utilities to coordinate and refine the data collection and metrics analyses.

For the Data Collection Filing, PG&E also asks the Commission to clarify the requirement that the utilities consult experts in data analysis. It is unclear whether Ordering Paragraph 3 requires the utilities to consult specifically the presenters at the Wildfire Technology Innovation Summit, or if they are mentioned solely as an example of experts in data analysis. PG&E has been consulting experts in data analysis and will continue to further its discussions. These experts are already familiar with PG&E's available data, systems, and operations. PG&E would prefer to continue to work with these experts to avoid the delays and additional expense caused by ramping up with new experts. In addition, if all utilities subject to Senate Bill ("SB") 901 must consult with the same experts, i.e., the presenters at the Wildfire Technology Innovation Summit, there is a risk that those experts would lack sufficient time to respond to all utilities thoroughly. Also, there would necessarily be less innovation in exploring data collection issues if all utilities used the same sets of experts. PG&E requests that the Commission confirm that the utilities have the discretion to select the experts in data analysis they choose to consult.

B. Cost Recovery for Utilities

1. Wildfire Mitigation Plan costs

The PD declines to approve the costs of implementing the Plans and states that cost recovery will be addressed in each utility's General Rate Case ("GRC"). PG&E asks that Commission authorize the utilities to obtain interim cost recovery, in a manner that does not conflict with the PD's position, in order to fund the substantial costs of implementing the Wildfire Mitigation Plans in the intervening periods between GRCs.

SB 901 requires utilities to operate their facilities in accordance with the wildfire mitigation plans approved by the Commission. Moreover, the Commission oversees compliance with the approved plans.¹ To accomplish this oversight, the Commission conducts an annual review of each utility's compliance with its respective plan.² As part of the Commission's

¹ Public Utilities Code (PUC), § 8386(b).

² *Id.* § 8386(h).

review, an independent evaluator under the direction of the Safety and Enforcement Division (“SED”) will assess compliance including “whether the [utility] failed to fund any activities included in the plan.”³ The Commission is directed to assess penalties for failure to “substantially comply with its plan.”⁴

Approval of a Plan by the Commission therefore creates compliance obligations on the part of the utility by ordering the utility to fund and incur reasonable costs to implement the Plan. Failure to substantially comply with approved Plans will result in penalties. Without a provision for an accompanying appropriate cost recovery mechanism for all the incremental costs, the approval of the Plans amounts to an **unfunded mandate** that will burden the affected utilities with increased costs without appropriate compensation. To avoid the unfunded mandate but review costs in the GRC, PG&E proposes that the Commission first decide reasonableness of the proposed programs through approval of the plans and then decide reasonableness of the costs in a GRC.

PG&E’s 2020 GRC includes costs for most of the programs in PG&E’s Plan. To the extent these programs are approved in the 2020 GRC proceedings, the Commission should not be required to re-evaluate the reasonableness of these programs. The Commission’s reasonableness review of the programs in the 2020 GRC should apply to the 2019 costs for the proposed programs.

At a minimum, PG&E asks the Commission allow interim cost recovery, subject to refund, to ensure utilities can continue to fund Plan programs and routine utility operations. PG&E has presented an ambitious Plan with enhanced, accelerated, and new programs to aggressively address the risk of catastrophic wildfires. As shown in Attachment E to PG&E’s Plan, PG&E forecasts that these programs will require significant incremental costs that are not included in PG&E’s approved rates or its 2020 GRC rate case. In light of the multi-year

³ *Id.* § 8386(h)(2)(B)(i).

⁴ *Id.* § 8386.1.

intervals between GRCs and the likely substantial costs to implement the annual plans, the Commission should authorize utilities to seek interim cost recovery via annual application or advice letter, with costs subject to refund upon reasonableness review in the GRC.⁵ The Commission should not adopt inflexible cost recovery rules that limit cost recovery to triennial GRC proceedings as this may slow the pace of the utility’s critical fire safety work.

2. PSPS Outreach costs

The Proposed Decision in the Commission’s parallel proceeding, Rulemaking (“R.”) 18-12-005, requires the utilities to immediately begin coordinating with CAL FIRE and Cal OES in a statewide public education and outreach campaign about PSPS. PG&E supports this campaign and has already begun participating in the coordinated efforts, including developing talking points and strategies and initiating outreach and education. As participation in this campaign is a new directive from the Commission, the program and the corresponding costs are not contemplated in the utilities’ past rate cases or in the utilities’ Plans. The reasonable incremental costs of this campaign – as well as other new measures required by the final decision – should be recoverable immediately by the utilities. PG&E requests that the Commission authorize the utilities to record these costs to the memorandum account established under Public Utilities Code Section 8386(j) for costs not covered in revenue requirements (i.e., the Fire Risk Mitigation Memorandum Account or FRMMA) and seek recovery of these costs through an application.

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⁵ While the review of costs to implement plans should ordinarily occur in connection with GRCs, the Commission has acknowledged its authority to approve cost recovery for wildfire mitigations outside of the GRC. In D.19-01-019, the Commission determined that while the GRC is the preferred venue for recovery of wildfire mitigation costs, it has authority to approve such costs outside of a GRC in a cost recovery application filed by a utility. *See* D.19-01-019 at p. 7.

C. Self-Reports

As mentioned above, SB 901 directs the Commission to penalize the utilities for failure to substantially comply with the approved Plans.⁶ In determining the appropriate penalty, the Commission must consider the factors identified in PUC Section 8386.1, including “[w]hether the [utility] self-reported the circumstances constituting non-compliance.”⁷

PG&E asks the Commission to provide guidance on how the utilities should submit self-reports in compliance with Section 8386.1. In particular, PG&E seeks guidance on timing, recipient, and format. For timing, PG&E asks the Commission to confirm whether the utility should submit self-reports within a reasonable time after becoming aware that the utility has missed a target or other requirement of the Plan. PG&E would also appreciate guidance on whether self-reports should be submitted to SED or in a Commission proceeding and the format of these submittals.

D. OIR Proceeding Data Requests

The statutory timing and the need to prepare for the upcoming wildfire season necessitated expedited deadlines for this proceeding, with less than five months from approval of the statute to submission of the Plans and only three months from filing of the Plans to the issuance of the PD. This has resulted in an accelerated schedule for the utilities to develop and for Commission staff and parties to evaluate the Plans, including a three-business day turnaround to respond to data requests. The utilities have tried – and for the most part succeeded – to respond to the hundreds of data requests in the required time frame. PG&E alone has responded to over 400 data requests, including subparts, relying on the same personnel critical to implementing PG&E’s wildfire risk reduction measures to support the responses. While PG&E recognizes the need for the very short turnaround time in light of the brief statutory period to approve the Plans, PG&E’s personnel also are critical to implementing and studying the efficacy

⁶ PUC § 8386.1.

⁷ *Id.* § 8386.1(c).

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Guidance Decision

Attachment A
Proposed Changes to Conclusions of Law and Appendix A

Ordering Paragraphs

No.	Original Text and Proposed Modification (in underline or strikethrough)	Reason for Proposed Clarification
2	All electrical corporations shall, by July 30, 2019, file and serve on the service list for this proceeding, a <u>report</u> Tier 3 advice letter entitled “Results Oriented Metrics for Assessing Wildfire Mitigation Plans” proposing metrics that assess whether the Wildfire Mitigation Plans are having or will have the desired result – a reduction in catastrophic wildfire. The electrical corporation may make such proposals singly or in combination with other electrical corporations or parties to this proceeding. The metrics shall not focus on the number of actions taken, but instead on how those actions measurably reduce the risk of catastrophic wildfire.	1. To reflect the nature of the filing.
3.	All electrical corporation respondents shall, by <u>July 30, June 28</u> , 2019, file and serve on the service list for this proceeding a <u>report</u> Tier 3 advice letter filing entitled “Data Collection for Wildfire Mitigation Plans” that: a) lists the data the electrical corporation collects that could be useful in assessing the effectiveness of its Wildfire Mitigation Plan (WMP) in reducing wildfire; b) suggests new areas of data collection that could assist in assessing WMP effectiveness; c) proposes a schedule for collecting and using the data for future wildfire mitigation efforts; and d) proposes a manner of making the data available to third party researchers for the purposes of improving wildfire mitigation. Before making this filing, the electrical corporations shall consult experts	1. To align deadline with deadline for related and dependent Tier 3 advice letter entitled “Results Oriented Metrics for Assessing Wildfire Mitigation Plans.” 2. To reflect the nature of the filing. 3. To clarify the obligation and allow utilities flexibility in selecting experts.

	<p>in data analysis, including, <u>at the discretion of the electrical corporations</u>, presenters at the Wildfire Technology Innovation Summit co-sponsored by this Commission on March 20-21, 2019, to ensure they gather the data in a manner that allows assessment, including using common data gathering methods across all respondent electrical corporations. The filing shall include the results of this consultation.</p>	
<p>NEW PARAGRAPH: 8A</p>	<p><u>Utilities shall record the incremental costs of coordinating with CAL FIRE and Cal OES in a statewide public education and outreach campaign about PSPS to the memorandum account established under Public Utilities Code Section 8386(j) and may seek recovery of these costs through an application.</u></p>	<p>1. To authorize utilities to recover the reasonable incremental costs to comply with the new directive from the Commission.</p>
<p>NEW PARAGRAPH: 8B</p>	<p><u>The Commission’s standard rules of procedure apply to responding to data requests related to this proceeding.</u></p>	<p>1. To allow utilities sufficient time to focus on implementing the approved Wildfire Mitigation Plans, evaluate the efficacy of the Plans, and develop the 2020 Plans, without having to suspend work to answer data requests in three business days.</p>