PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SAFETY POLICY DIVISION Resolution M-4855

July 15, 2021

RESOLUTION

**Resolution M-4855. Approving and denying elements of Pacific Gas and Electric Company’s (PG&E) Advice Letter 4401-G/6116-E Requests to Comply with Decision 20-05-053 to Implement an Independent Safety Monitor (ISM).**

PROPOSED OUTCOME:

* Approves with modifications PG&E’s request to implement an ISM consistent with the Commission’s Decision 20-05-053 approving PG&E’s Bankruptcy Plan of Reorganization.
* Adopts a solicitation and selection process, scope of work, schedule, and $5 million annual budget each year over 5 years for the ISM (collectively, the ISM Plan).
* Denies PG&E’s request to establish a new memorandum account to track ISM Plan costs.
* Denies cost recovery and finds PG&E shareholders must pay ISM Plan costs.

SAFETY CONSIDERATIONS:

* The ISM will fulfill a role that supports the Commission's ongoing safety oversight of PG&E’s activities.

ESTIMATED COST: None

By Advice Letter 4401-G/6116-E, filed on March 15, 2021.

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# Summary

In Decision (D.) 20-05-053, approving the Bankruptcy Plan of Reorganization for Pacific Gas and Electric Company (PG&E), the Commission directed PG&E to file a Tier 3 Advice Letter (AL) to establish terms for PG&E to engage an Independent Safety Monitor (ISM). The ISM will fulfill a role that supports the Commission's ongoing oversight of PG&E’s activities related to electric and gas safety. Pursuant to the process described herein, the ISM's engagement will begin before the term of the Federal Monitor appointed in PG&E’s federal criminal probation proceeding before Judge William Alsup, case number CR 14-00175 WHA (N.D. Cal.), expires in early 2022, and will continue for five (5) years thereafter.

On March 15, 2021, PG&E submitted AL 4401-G/6116-E pursuant to D.20-05-053. This Resolution approves portions of the AL with modifications, and denies PG&E’s request to establish a memorandum account. Specifically, the Resolution addresses the following: 1) solicitation and selection of the ISM; 2) ISM scope of work; 3) annual budget; 4) schedule and duration; and 5) memorandum account and cost recovery. As directed in D.20-05-053, the Commission seeks to ensure the ISM has a role "functionally equivalent" to the Federal Monitor, with adaptations adopted herein.

# Background

***Federal Monitor***

On January 26, 2017, PG&E was criminally convicted of violating the U.S. Pipeline Safety Act and obstructing an agency proceeding in association with its role in the deadly 2010 San Bruno gas pipeline explosion.**[[1]](#footnote-2)** As a result of PG&E’s conviction, the federal court ordered PG&E to report to a federal probation officer that would evaluate, assess, and monitor company activities for five years, commencing in January 2017.**[[2]](#footnote-3)**The federal probation officer is known as the Federal Monitor.

The federal court’s order required PG&E and the United States Attorney’s Office to collaborate and select an acceptable entity to serve as the Federal Monitor. Kirkland & Ellis LLP was selected for this role, and was directed to evaluate, assess, and monitor PG&E’s safety activities related to gas transmission pipeline safety and maintenance.

After PG&E equipment was found to have been the ignition source of catastrophic wildfires in 2017, the work of the Federal Monitor was expanded to include evaluation of PG&E’s wildfire preparedness. In April 2019, the federal court adopted additional conditions of probation requiring the Federal Monitor to assess specific wildfire mitigation efforts including vegetation management and power inspections and maintenance.**[[3]](#footnote-4)**In August 2020, the court added further conditions of probation requiring in-house management at PG&E to oversee workforce resources, document asset age conditions and anticipate expected useful life of critical asset components.**[[4]](#footnote-5)**

On January 26, 2022, PG&E’s five-year criminal probation and the work of the Federal Monitor will end.

***Commission Directive for the ISM***

On May 28, 2020, the Commission issued D.20-05-053, approving PG&E’s Bankruptcy Plan of Reorganization. The decision requires the establishment of “an Independent Safety Monitor that will report to the Commission and be functionally equivalent to the federal court monitor.”**[[5]](#footnote-6)**

D.20-05-053 required PG&E to submit a Tier 3 AL proposing a scope of work, budget, solicitation process for an Independent Safety Monitor (ISM), and a process for selection/approval by the Commission.**[[6]](#footnote-7)** On March 15, 2021, PG&E submitted its Tier 3 AL requesting implementation of an ISM in response to D.20-05-053.

# NoticE

Notice of AL 4401-G/6116-E was published in the Commission’s Daily Calendar on March 17, 2021. PG&E states that copies of the AL were mailed and distributed in accordance with Section IV of General Order 96-B.

# Advice Letter and Protests

PG&E’s AL proposes a solicitation and selection process, scope of work and budget for the ISM. PG&E also requests the Commission’s approval to establish a new memorandum account to track and record costs related to its implementation of the ISM Plan.

On April 5, 2021, Public Advocates Office (Cal Advocates) and The Utility Reform Network (TURN) filed timely protests to AL 4401-G/6116-E.

On April 12, 2021, PG&E responded to the parties’ protests. The issues raised in PG&E’s advice letter, the parties’ protests, and PG&E’s responses are summarized below.

***Advice Letter Process***

Cal Advocates and TURN argue that a formal hearing is required and that the submitted Tier 3 Advice Letter does not comply with Commission process rules requiring a hearing for such matters as set forth in General Order (GO) 96-B, Rule 7.4.2, part 5.**[[7]](#footnote-8)** TURN requests that the ISM process be addressed in PG&E’s Safety Culture Investigation   
(I.) 15-08-019.**[[8]](#footnote-9)**

PG&E responded that it complied with the Commission’s requirement to submit a Tier 3 AL to establish an ISM.

***ISM Solicitation and Selection Process***

PG&E proposes to institute, “in close coordination with Commission staff,” a solicitation process to identify ISM candidates.[[9]](#footnote-10) PG&E would then present three high-scoring ISM candidates from the Request for Proposals for Commission staff selection and approval.**[[10]](#footnote-11)**

Cal Advocates and TURN ask the Commission to minimize and clarify PG&E’s involvement in the ISM selection process. Cal Advocates asserts that PG&E should have no role in selecting the ISM. TURN suggests that if PG&E is involved, the Commission staff must approve the solicitation documents and select the ISM.**[[11]](#footnote-12)**

PG&E disagrees and states there is nothing unusual or objectionable about its involvement in the selection process. PG&E notes that the federal court allowed it to collaborate with the U.S. Attorney to select the Federal Monitor. PG&E urges Commission staff and PG&E coordination on ISM selection. PG&E agrees with TURN that the Commission may approve the solicitation documents but asks that the Commission consider PG&E’s recommendations.**[[12]](#footnote-13)**

***ISM Scope of Work***

PG&E proposes that the scope of work be developed in close coordination with Commission staff for the ISM’s focus on: (1) governance processes, (2) risk management processes, (3) recordkeeping and record management, (4) policy, procedures and training, (5) data analytics, and (6) prioritization, evaluation and performance of safety initiatives.**[[13]](#footnote-14)**

Cal Advocates and TURN comment that PG&E’s proposed ISM scope of work lacks detail and should more closely mirror the scope of the Federal Monitor’s work. Cal Advocates states that PG&E’s scope does not comply with the requirement in   
D.20-05-053 that the ISM be the "functional equivalent" of the Federal Monitor.**[[14]](#footnote-15)** TURN argues that “the AL does not even discuss how these matters are addressed in connection with the Federal Monitor … [and] PG&E provides no comparison of its proposal with the provisions governing the Federal Monitor in order to meet the functional equivalence [requirement].”**[[15]](#footnote-16)**

PG&E disputes TURN and Cal Advocate’s interpretation of the ISM’s functional equivalence to the Federal Monitor and states that in D.20-05-053 the Commission envisioned that there would be a new scope of work specific to the ISM.PG&E believes “the ISM can be equivalent in the manner in which it functions (as an independent monitor reporting to the regulating body), without having the same scope of work.” PG&E states that just as the Federal Monitor’s work is dynamic to match evolving needs, there should be flexibility in the ISM’s mandate, and the ISM should not duplicate the work of the Commission’s Safety and Enforcement Division (SED) and Wildfire Safety Division (WSD). PG&E also asserts “it is typical for the subject of a monitorship to be involved in the development of the monitor’s work plan.”**[[16]](#footnote-17)**

***ISM Budget***

PG&E proposes a budget of $2 to $5 million per year for the ISM. PG&E bases its proposed budget on the cost of retaining NorthStar Consulting in connection with the Commission’s investigation of PG&E's safety culture.**[[17]](#footnote-18)**

Cal Advocates and TURN argue that this amount is inadequate and that it is inappropriate to use NorthStar's budget to estimate the ISM's budget. Cal Advocates notes that PG&E does not provide any additional supporting details for this budget figure.**[[18]](#footnote-19)** TURN also argues the “budget should serve as an estimate, not a cap.”**[[19]](#footnote-20)**

PG&E asserts that the budget comparison is valid “because the ISM, similar to NorthStar, will effectively operate as an arm of the Commission, and will have the benefit of the experience and resources of Commission staff.”In addition, PG&E argues that

“much of the Federal Monitor’s current scope overlaps with the Commission’s regulatory oversight activities, which should not be duplicated by the ISM. An annual budget of $2 to $5 million for the ISM is reasonable and appropriate for the proposed scope of work.”**[[20]](#footnote-21)**

***ISM Term***

PG&E proposes a two-year period of engagement for the ISM.**[[21]](#footnote-22)**

Cal Advocates and TURN comment that PG&E’s proposed two-year duration of the ISM is insufficient. Cal Advocates asks the Commission to adopt a term that is the longer of either five years or three years after PG&E is no longer under the Six Step Enhanced Oversight and Enforcement (EOE) process adopted in D.20-05-053.**[[22]](#footnote-23)**TURN likewise argues two years is too short, and that the ISM should serve no fewer than four years. TURN adds “provided that PG&E is not in any step of the EOE process, PG&E should be allowed to submit a Tier 3 AL requesting sunsetting of the ISM [accompanied by] a wholly independent statement from the ISM regarding whether the ISM’s term should be terminated and the reasons for the ISM’s position.”**[[23]](#footnote-24)**

PG&E asserts a two-year engagement is reasonable to complete the duties of an ISM and points out that the Commission retains the authority to extend the ISM’s tenure if needed.**[[24]](#footnote-25)**

***ISM Memorandum Account***

PG&E requests Commission approval to establish a memorandum account to track and record (a) ISM solicitation and selection costs, and (b) ISM engagement costs. PG&E states that the “mere opening of a memorandum account does not prejudice any party’s ability to contest the recorded costs at the point that PG&E seeks cost recovery” and would “preserve PG&E’s ability to later request Commission review and approval of the recoverability of such costs.”**[[25]](#footnote-26)**

Cal Advocates and TURN oppose PG&E’s request to establish a memorandum account. Cal Advocates asserts that “the need for an [ISM] arises from PG&E’s imprudent and/or unreasonable conduct, the resulting costs are the responsibility of the shareholders,” adding that “the Commission should order PG&E to record all costs… in a ledger … [to] ensure that ratepayers are not burdened with the cost of the [ISM].”**[[26]](#footnote-27)** TURN similarly argues that PG&E’s shareholders should pay for the ISM, noting that “[o]ne of the key features of the federal monitorship is that all costs … have been paid by PG&E’s shareholders … [and] the ISM is only needed because of PG&E’s track record of criminal and negligent conduct… that has not abated….”**[[27]](#footnote-28)**

PG&E clarifies its request by stating it is not seeking “a determination that costs associated with the ISM are recoverable in rates,” but only “authorization to open a memorandum account that will permit PG&E to track costs associated with the ISM.” In addition, PG&E states that any party can “contest cost recovery for costs recorded in the memorandum account should PG&E seek authorization to recover these costs in the future.”**[[28]](#footnote-29)**

# Discussion

The Commission makes the following determinations, based on the information before us.

***Advice Letter Process***

A Tier 3 AL and this Resolution are required pursuant to D.20-05-053,**[[29]](#footnote-30)** which directs that there “be an Independent Safety Monitor that will report to the Commission and be functionally equivalent to the federal court monitor.”**[[30]](#footnote-31)** Therefore, a Tier 3 AL process is appropriate, and the appropriate challenge to this process was in the proceeding leading to D.20-05-053.

***ISM Solicitation and Selection Process***

The Commission's Safety Policy Division (SPD) staff will direct PG&E in its support of the drafting and issuance of solicitation materials, including a Request for Proposals (RFP). Allowing PG&E's administrative involvement as the conduit for the preparation and issuance of the RFP under direction from SPD will facilitate a timely completion of the solicitation process prior to the expiration of the Federal Monitor’s engagement. While PG&E will serve in an administrative facilitation role for the issuance of the RFP under the direction of SPD, the Commission's Executive Director or her designee will have sole responsibility and discretion to review and select the ISM from eligible candidates that responded to the RFP.

***ISM Scope of Work***

Consistent with this Resolution, the ISM shall fulfill a role that supports the Commission's ongoing oversight of PG&E's activities related to electric and gas safety that is functionally equivalent to the current Federal Monitor, as required by   
D.20-05-053.**[[31]](#footnote-32)**

In determining the scope of work, we have considered the extensive additional safety regimes established in recent years by the California Legislature, the Commission, and the federal government to mitigate safety risks posed by utilities’ electric and natural gas infrastructure generally, and for PG&E specifically, that had not been implemented when the Federal Monitor began its oversight of PG&E. These initiatives include, but are not limited to, the following:

1. Wildfire Mitigation Plans (WMPs);**[[32]](#footnote-33)**

2. Annual Safety Culture Assessments;**[[33]](#footnote-34)**

3 Independent Evaluators;**[[34]](#footnote-35)**

4. Safety Culture Assessments;**[[35]](#footnote-36)**

5. Safety Model Assessment Proceeding (S-MAP);**[[36]](#footnote-37)**

6. Risk Assessment Mitigation Phase (RAMP);**[[37]](#footnote-38)**

7. Root Cause Analysis Consultants;**[[38]](#footnote-39)**

8. Safety Evaluators;**[[39]](#footnote-40)**

9. Enhanced Oversight and Enforcement;**[[40]](#footnote-41)**

10. Locate and Mark System Enhancement Initiatives; and**[[41]](#footnote-42)**

11. Oversight of Public Safety Power Shutoffs.**[[42]](#footnote-43)**

We find that the ISM’s scope of work should complement but not unnecessarily duplicate the work of Commission staff or the forthcoming Office of Energy Infrastructure Safety that will be the successor to the Commission’s Wildfire Safety Division. On the other hand, the ISM’s role should not be restricted by such safety oversight manifested in applicable laws and regulations, and in other proceedings.

Accordingly, the ISM’s scope of work shall cover the following areas:

1. Monitor and alert Commission staff whether PG&E is implementing its highest priority and risk-driven safety mitigations. In fulfilling this scope of work, the ISM will help the Commission ensure that PG&E prioritizes and implements the highest level of risk reduction across all levels of the company, from senior officials to field personnel. The ISM will assess PG&E’s risk management activities in the field to ensure PG&E implements activities the Commission, the ISM, or PG&E itself have identified as a priority to reduce the public safety risks from its electric and gas systems. The ISM shall support the Commission's efforts to ensure PG&E’s risk assessment process identifies where its operations and infrastructure create the greatest risk to public safety.
2. Monitor PG&E's safety-related recordkeeping and record management systems. The ISM will support the Commission’s oversight so that modernization efforts PG&E implements are informed by prior failures and support the safe system construction, operation, and maintenance in PG&E’s electric and gas lines of business. The ISM shall assess the availability and effective use of records and data for safety-related decision-making at all levels.

In order to fulfill its role and effectively perform the areas within this scope of work, the ISM must be embedded within PG&E and have ongoing and regular access to PG&E’s non-privileged, every-day decision-making at all levels. The ISM must be able to raise safety concerns with PG&E and the Commission immediately as they arise. Accordingly, PG&E shall grant the ISM access to personnel and records on the same basis as it has given the Federal Monitor. If material is privileged or confidential, PG&E may so mark the material. If time is of the essence, PG&E may produce records under a generalized claim of confidentiality and reserve privilege objections but shall not delay the production of records due to the need to conduct a confidentiality or privilege review. In short, the ISM must monitor the real-time execution of PG&E’s safety activities to ensure that PG&E’s field implementation matches its prioritization and that PG&E demonstrates utmost safety in execution.

The ISM’s effectiveness may require adjustments in this scope of work in response to changed circumstances or unanticipated risks. Accordingly, revisions to the ISM's scope of work may be proposed by either the ISM or Commission staff, and the Commission’s Executive Director may approve revisions so long as they are achievable within the approved budget.

***ISM Budget***

The budget for the ISM shall be $5 million per year, calculated from the date the ISM begins work, and continuing for 12-month periods thereafter through the term of the ISM. This amount is appropriate considering the scope of work. The Commission may expand the budget as appropriate and necessary, consistent with Commission procedures.

As discussed above, we have recognized and considered numerous safety initiatives newly instituted by the Commission in recent years that are intended to enhance PG&E's and other regulated utilities' safety, that were not instituted at the time the Federal Monitor began its work. The ISM scope and budget approved herein is appropriate because it has been carefully considered so as to complement such initiatives that are directed at monitoring and ensuring PG&E is effectively prioritizing safety and risk mitigation to improve its safety performance. While D.20-05-053 requires the ISM to be "functionally equivalent" to the Federal Monitor, the Commission has discretion to define the ISM's role such that it will not duplicate other safety-related work carried out by the Commission or the forthcoming Office of Energy Infrastructure Safety.

***ISM Term***

The ISM shall presumptively be engaged for a term of five years. This amount of time is appropriate as it will provide a sufficient initial period to monitor PG&E's performance. While PG&E proposed two years, we agree with TURN that two years is too short as it is an insufficient amount of time for the ISM to initiate and achieve the scope of work adopted. We further agree with TURN that a longer term is warranted in light of the Commission’s ongoing and extensive concerns with PG&E’s safety progress. This initial term may be extended by the Commission if warranted by findings of safety conditions that would benefit from continued ISM involvement.

***ISM Memorandum Account and Cost Recovery***

We deny PG&E’s request to establish an ISM memorandum account for ISM Plan costs because PG&E has not demonstrated a memorandum account is warranted. Additionally, we find that these costs should be paid by PG&E shareholders. As such, PG&E may not seek cost recovery of the ISM Plan costs in the future.

A memorandum account allows a utility to track costs arising from events that were not reasonably foreseen in the utility’s last general rate case. By tracking these costs in a memorandum account, a utility preserves the opportunity to seek recovery of these costs at a later date without raising retroactive rate-making issues.**[[43]](#footnote-44)** In determining when a memorandum account is appropriate, the Commission has taken into account various factors, including determining the cost at issue was caused by an event of an exceptional nature that is not under the utility’s control, and whether ratepayers will benefit from the memorandum account treatment.**[[44]](#footnote-45)**

D.20-05-053 did not direct PG&E to establish a memorandum account nor did it determine whether shareholders or ratepayers are responsible for the cost of the ISM.**[[45]](#footnote-46)** Yet, PG&E does not address in its AL any of the criteria or conditions that the Commission considers relevant to a determination to authorize memorandum account treatment.

The Commission considered a requirement for an independent safety monitor as a condition of its approval of PG&E’s bankruptcy plan of reorganization to address compliance issues and to enhance PG&E’s safety performance.**[[46]](#footnote-47)** D.20-05-053 clearly states that in “order for the Commission to approve PG&E’s reorganization plan under AB 1054, the Commission must find that the reorganization plan (and other documents resolving the insolvency proceeding) is ‘acceptable in light of the electrical corporation’s safety history.’”**[[47]](#footnote-48)** The Commission approved PG&E's reorganization plan with conditions and modifications, one of which was the imposition of the independent safety monitor. PG&E's advice letter, as required by D.20-05-053, and the ISM Plan approved by this resolution effectuates the Commission's conditional approval of PG&E reorganization plan. This approval was informed by PG&E's safety performance, which the decision characterized as ranging from "dismal to abysmal.”**[[48]](#footnote-49)** These facts are well known to PG&E. We find that the costs PG&E will incur to engage the ISM are not of an exceptional nature outside PG&E’s control. We accordingly deny PG&E’s request due to its failure to demonstrate memorandum account treatment is warranted.

Because PG&E’s request to establish a memorandum account is denied, and for the reasons stated above, PG&E may not seek cost recovery from ratepayers of the ISM Plan costs in the future. We note that this treatment is also consistent with the fact that PG&E’s costs for the Federal Monitor are not recoverable, as they resulted from PG&E’s safety transgressions. We agree with the arguments of TURN and Public Advocates that shareholders must pay for such costs.

# Comments

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review. Please note that comments are due 20 days from the mailing date of this Resolution. Section 311(g)(2) provides that this 30-day review period and 20-day comment period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day review and 20-day comment period for the draft of this Resolution was neither waived nor reduced. Accordingly, this draft Resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today. The draft resolution is also being served on the service list for I.19-09-016.

# Findings

1. On January 26, 2017, PG&E was criminally convicted of violating the U.S. Pipeline Safety Act and obstructing an agency proceeding in association with its role in the deadly 2010 San Bruno gas pipeline explosion.
2. As a result of PG&E’s conviction, the federal court ordered PG&E to report to a Federal Monitor that would evaluate, assess, and monitor company activities for five years, commencing in January 2017.
3. After PG&E equipment was found to have been the ignition source of catastrophic wildfires in 2017, the work of the Federal Monitor was expanded to include evaluation of PG&E’s wildfire preparedness.
4. On January 26, 2022, PG&E’s five-year criminal probation and the work of the Federal Monitor are scheduled to end.
5. On May 28, 2020, the Commission issued D.20-05-053, approving PG&E’s Bankruptcy Plan of Reorganization. The decision requires the establishment of “an Independent Safety Monitor that will report to the Commission and be functionally equivalent to the federal court monitor.”
6. The ISM’s scope of work should complement but not unnecessarily duplicate the work of Commission staff or the forthcoming Office of Energy Infrastructure Safety.
7. D.20-05-053 required PG&E to submit a Tier 3 AL with a proposed scope of work, budget, solicitation process for an Independent Safety Monitor, and a process for selection/approval by the Commission.
8. PG&E has not demonstrated that a memorandum account to record and track the ISM Plan costs is warranted.
9. The ISM costs should be paid by PG&E shareholders, not recovered from ratepayers.

# Therefore it is ordered that:

1. Pacific Gas and Electric Company Advice Letter 4401-G/6116-E is approved as modified herein.
2. The Commission's Executive Director or designee shall select an Independent Safety Monitor to fulfill a role that supports the Commission's ongoing oversight of Pacific Gas and Electric Company’s activities related to electric and gas safety that is functionally equivalent to the current Federal Monitor, as required by Decision 20-05-053.
3. Pacific Gas and Electric Company shall work at the direction of the Commission's Safety Policy Division in an administrative role to support the drafting and issuance of solicitation materials including a Request for Proposals.
4. The Commission's Executive Director or designee will select the Independent Safety Monitor from among eligible responses to Request for Proposals.
5. The Independent Safety Monitor scope of work shall focus on the following areas, which are designed to support the Commission’s ability to ensure Pacific Gas and Electric Company (PG&E) prioritizes the reduction of its highest risk activities: (a) Monitor and alert Commission staff whether PG&E is implementing its highest priority and risk-driven safety mitigations; and (b) Monitor PG&E's safety-related recordkeeping and record management systems.
6. The Independent Safety Monitor, with approval from the Commission's Executive Director or designee, may revise the scope of work and tasks within scope, as reasonably needed based on Pacific Gas and Electric Company's safety record and performance or changes in risks.
7. The Independent Safety Monitor budget shall be $5 million annually over the term of the ISM unless modified by the Commission.
8. The Independent Safety Monitor (ISM) term shall be for five years from the date the ISM begins work and may be extended by the Commission if warranted by findings of safety conditions that would benefit from continued ISM involvement.
9. Pacific Gas and Electric Company’s request for authorization to establish an Independent Safety Monitor memorandum account is denied.
10. Pacific Gas and Electric Company shareholders shall bear the Independent Safety Monitor costs.

This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on July 15, 2021; the following Commissioners voting favorably thereon:

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Rachel Peterson

Executive Director

1. [*United States v. Pacific Gas and Electric Co., Case No. 3:14-CR-00175*, 2017 WL 1434572](https://1.next.westlaw.com/Document/I3c1d9c00295211e79eadef7f77b52ba6/View/FullText.html?transitionType=Default&contextData=(sc.Default)) (N.D. Cal. Jan. 9, 2017). [↑](#footnote-ref-2)
2. *Id.* at Dkt. No. 916, Order (Jan. 26, 2017). [↑](#footnote-ref-3)
3. *Id.* at Dkt. No. 1040, Order Adopting New Conditions of Probation (Apr. 3, 2019). [↑](#footnote-ref-4)
4. *Id.* at Dkt. No. 1243, Order (Aug. 7, 2020). [↑](#footnote-ref-5)
5. D.20-05-053 at 22. [↑](#footnote-ref-6)
6. D.20-05-053 at 122, Ordering Paragraph 8. [↑](#footnote-ref-7)
7. TURN Protest at 1; Cal Advocates Protest at 2. [↑](#footnote-ref-8)
8. TURN Protest at 1. [↑](#footnote-ref-9)
9. PG&E AL at 4. [↑](#footnote-ref-10)
10. *Id.* [↑](#footnote-ref-11)
11. TURN Protest at 8. [↑](#footnote-ref-12)
12. PG&E Reply to Protest at 3. [↑](#footnote-ref-13)
13. PG&E AL at 4-5. [↑](#footnote-ref-14)
14. Cal Advocates Protest at 6. [↑](#footnote-ref-15)
15. TURN Protest at 2. [↑](#footnote-ref-16)
16. PG&E Reply to Protest at 4. [↑](#footnote-ref-17)
17. PG&E AL at 5. [↑](#footnote-ref-18)
18. Cal Advocates Protest at 5. [↑](#footnote-ref-19)
19. TURN Protest at 8. [↑](#footnote-ref-20)
20. PG&E Reply to Protest at 5. [↑](#footnote-ref-21)
21. PG&E AL at 5. [↑](#footnote-ref-22)
22. Cal Advocates Protest at 5. [↑](#footnote-ref-23)
23. TURN Protest at 9. [↑](#footnote-ref-24)
24. PG&E Reply to Protest at 5-6. [↑](#footnote-ref-25)
25. PG&E AL at 6. [↑](#footnote-ref-26)
26. Cal Advocates Protest at 8-9. [↑](#footnote-ref-27)
27. TURN Protest at 6. [↑](#footnote-ref-28)
28. PG&E Reply to Protest at 6. [↑](#footnote-ref-29)
29. D.20-05-053 at 122, Ordering Paragraph 8. [↑](#footnote-ref-30)
30. D.20-05-053 at 24. [↑](#footnote-ref-31)
31. D.20-05-053 at 24 (“[T]his decision directs that there will be an Independent Safety Monitor that will report to the Commission and be functionally equivalent to the federal court monitor.”). [↑](#footnote-ref-32)
32. Pursuant to SB 901 (Dodd, 2018) and AB 1054 (Holden, 2019), WSD reviews utilities’ three-year Wildfire Mitigation Plans, which outline their proposed activities to prevent and reduce impacts from utility-caused wildfires. [↑](#footnote-ref-33)
33. AB 1054 (Holden, 2019) requires WSD to conduct annual Safety Culture Assessments for each electrical corporation with a focus on wildfire. [↑](#footnote-ref-34)
34. Independent, third-party evaluators must assess compliance with annual WMPs; validate quality assurance/control programs in place for WMP compliance; and determine if utility failed to fund any activities within their WMPs, per AB 1054 (Holden, 2019) and SB 901 (Dodd, 2018). [↑](#footnote-ref-35)
35. Pursuant to SB 901 (Dodd, 2018), SPD will develop a process for each regulated electric and gas utility to conduct a comprehensive safety culture assessment at least once every five years. [↑](#footnote-ref-36)
36. Through S-MAP, the Commission reviews the models that major energy utilities use to identify, rank, and budget for safety risk mitigations. The Commission is refining metrics adopted in the first phase of the S-MAP proceeding (D.19-04-020) in R.20-07-013 and developing new safety and operational metrics as needed to link to the Enhanced Oversight and Enforcement Process (below). [↑](#footnote-ref-37)
37. Large utilities are required to incorporate a risk-based decision framework to evaluate the safety and reliability improvements in their General Rate Case (GRC) applications, as directed by D. 14-12-025. Through RAMP, utilities describe their plans to identify, assess and mitigate risks. [↑](#footnote-ref-38)
38. In D.20-05-019, the Commission required an independent root cause analysis (RCA) consultant to conduct RCAs for specific 2017 and 2018 wildfires that involved PG&E facilities. The RCA consultant will analyze the factors that contributed to wildfire ignitions and make recommendations of systemic, programmatic, management, and structural matters that should be addressed to mitigate the risk of similarly caused fires in the future. [↑](#footnote-ref-39)
39. In D.20-05-019, the Commission directed independent consultant(s) to perform independent audits and reviews of PG&E’s policies and procedures, practices, and compliance with shareholder-funded System Enhancement Initiatives and to assess financial data related to PG&E’s Wildfire Safety Plans over a three-year period. [↑](#footnote-ref-40)
40. If PG&E makes insufficient progress related to specific triggering events described within its bankruptcy decision (D.20-05-053), PG&E triggers the Enhanced Oversight and Enforcement Process (EOE Process). On April 15, 2021, PG&E was placed in Step 1 of the EOE Process for insufficiently prioritizing its Enhanced Vegetation Management based on risk and was required to submit a Corrective Action Plan within 20 days (Resolution M-4852). [↑](#footnote-ref-41)
41. In D.20-02-036 (approving the Locate and Mark settlement), the Commission required PG&E to complete 28 System Enhancement Initiatives including retaining three independent consultants to conduct a compliance and ethics corrective action audit, locate and mark compliance and timeliness audit, and a locate and mark field compliance audit. [↑](#footnote-ref-42)
42. In the Phase 1 (D.19-05-042) and Phase 2 (D.20-05-051) Decisions of the Public Safety Power Shutoff (PSPS) Rulemaking (R. 18-12-005), the Commission issued requirements for electric investor-owned utilities to mitigate the impacts of PSPS on customers and communities and to protect public safety. I.19-11-013 and the Phase 3 Decision for R. 18-12-005, expected in summer 2021, will broaden existing guidelines to include pre-and post-season reporting and identification of critical facilities and infrastructures. [↑](#footnote-ref-43)
43. CPUC Resolution W-4835at 4. [↑](#footnote-ref-44)
44. *See*, e.g., CPUC Resolution W-4835 at 4. [↑](#footnote-ref-45)
45. D.20-05-053 at 24. [↑](#footnote-ref-46)
46. D.20-05-053 at 21. [↑](#footnote-ref-47)
47. *Id.* at 17. [↑](#footnote-ref-48)
48. *Id.* [↑](#footnote-ref-49)