Decision 21-10-019 October 21, 2021

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation into the Creation of a Shared Database or Statewide Census of Utility Poles and Conduit in California.	Investigation 17-06-027
And Related Matter.	Rulemaking 17-06-028

TRACK 2 DECISION ADDING ATTACHMENT DATA TO POLE OWNER DATABASES ORDERED IN DECISION 20-07-004

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TRACK 2 DECISION ADDING ATTACHMENT DATA TO POLE OWNER DATABASES ORDERED IN DECISION 20-07-004

Summary

This decision builds on the Commission's Decision 20-07-004 in Track 1 of this proceeding by imposing on the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T) the duty to include granular information about each electric attachment and communications attachment to each pole in each major pole owner's data base. By requiring the inclusion of standardized attachment data to each major pole owner's data base, the Commission takes a major step forward in providing clearer insight into each pole's safety, available capacity, and available physical space for access.

In a subsequent phase, the Commission will review whether Track 1 and Track 2 requirements adopted in this proceeding should be imposed on Publicly Owned Utilities as well as smaller pole owners.

This proceeding remains open.

1. Background

Factual Background

California has an estimated 5 million utility poles, most of which are owned by five major pole owners (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T).[1] While the ownership is concentrated amongst

[1] The numbers were gleaned from the five major pole owners' responses to the Commission's January 27, 2017 Data Request that asked each utility, *inter alia*, "the number of utility poles in California which you (a) solely own, either directly or indirectly, (b) jointly own, either directly or indirectly, or (c) lease space on." The Commission takes official notice of the Data Request and the five major pole owners' responses pursuant to Rule 13.10 of the Commission's Rules of Practice and Procedure (Rule or Rules).

these five major pole owners, there is no shared data repository to track where the poles are located, what is attached to them, their condition, or even who owns them. California also has thousands of miles of underground utility conduit. Given the sheer number of utility poles, it is difficult for the Commission, as well as for the utilities themselves, to achieve the goal of adequate oversight over the poles without adequate management and sharing of pole data.

Having a better ability to manage poles and share data is more than good business practices and key to the Commission's ability to engage in proper regulatory oversight, it is essential to ensuring public safety. Poorly maintained poles and attachments have caused substantial property damage and repeated loss of life in California. Unauthorized pole attachments are particularly problematic. A pole overloaded with unauthorized equipment collapsed during windy conditions and started the Malibu Canyon Fire of 2007, destroying and damaging homes and burning over 4500 acres. Windstorms in 2011 knocked down many poles in Southern California, some of which were later found to be weakened by termites, dry rot, and fungal decay. Three deaths occurred in one such incident in 2011 when an electrical conductor separated from a pole in high winds, causing a live wire to fall to the ground. At least five more people lost their lives in pole-related failures in 2012 and 2015.

The circumstances that led to the Malibu Canyon Fire, however, were not outliers. Over the years, the Commission has become aware of instances where communication and other wires have been found hanging onto roads or yards. Poles with excessive and/or unauthorized attachments can put utility workers at risk. Facilities deployed in the field may differ from what appears on paper or in a utility's database. As such, the failure to adopt and enforce a comprehensive

and transparent data management system for the many communication attachments and conduit will leave California residents susceptible to property damage, personal injury, and potential loss of life if, and when, the next catastrophic fire occurs.

The value in having a comprehensive data collection system to better understand the safety status of utility poles can be seen in circumstances that have developed outside of this proceeding. For example, in compliance with Decision 13-09-026 the Commission's Safety and Enforcement Division prepared its *Report on Crown Castle's Compliance with Safety Audit, Wind Study, and Remediation Requirements in Decision 13-09-026* (*Report*) on March 24, 2017. The results of this *Report* were alarming from a safety perspective:

- "During the approximately three-year period, 100% of Crown Castle's 61,751 poles were inspected for compliance. The inspections included photo collection and structural analysis generation. 33,640 poles were found to be compliant and maintenance issues were found on 28,111 poles. Over 12,000 maintenance issues were discovered and repaired. Issues belonging to other pole owners and operators were packaged and delivered to the affected parties."
- "Crown Castle developed an auditable database, referred to as the Pole Administration Utility."
- "[T]he audit also involved the collection and review of data regarding joint use agreements for each pole, comparing internal record asset data and the Southern California Joint Pole Committee (SCJPC) pole card data to ensure all attachments had appropriate authorizations."
- "Pole and attachment specification data was collected at every pole and input into a structural analysis program, documenting heights of attachment, equipment sizes, and facility specifications of all attached utilities. This data was

> used to calculate existing pole capacity and generate a level of safety for further review."[2]

To put this into perspective, Crown Castle's process identified maintenance issues on 45 percent of the poles surveyed. If this rate carried over to the rest of the poles in the state, it would mean there are maintenance issues on 1.9 million poles in the state.

Crown Castle's *Report* is instructive as it highlights the importance of the objectives in this proceeding. To ensure the safety of their infrastructure, and that of the other attachments on their poles, this proceeding is seeking to develop auditing procedures and data collection efforts that are like those employed by Crown Castle as they represent the best opportunity for understanding the extent and safety of utility poles and their attachments.

What the Commission intends to accomplish with this decision is also in alignment with the purpose behind the creation of the Office of Energy Infrastructure Safety, previously the Commission's Wildfire Safety Division (WSD).[3] On August 5, 2020, WSD issued its *Draft Wildfire Safety Division Geographical Information System Data Reporting Requirements and Schema for California Electrical Corporations*. One week later, WSD held a workshop on August 12, 2020, wherein WSD specified that utilities should seek to provide all data fields defined in the *Draft Geographic Information Systems (GIS) Standard*, which will then be used to spatially and visually evaluate information, produce custom maps, and perform analyses for decision-makers, utility providers, and the public. As a result of the workshop, on June 19, 2020, the Commission issued

[2] The Commission takes official notice of Safety and Enforcement Division's *Report* pursuant to Rule 13.10.

[3] Because this organization was referred to as WSD during the course of the activities that led to this decision, we retain the name WSD for this decision to minimize confusion.

Resolution WSD-002 Guidance Resolution on 2020 Wildfire Mitigation Plans Pursuant to Public Utilities Code Section 8386, which provided overall guidance on the 2020 Wildfire Mitigation Plans submitted by the electrical corporations that the Commission regulated.

After *Resolution WSD-002* approved the WSD's *Draft Geographic Information Systems (GIS) Standard,* Pacific Gas and Electric Company submitted its *Wildfire Safety Division (WSD) Quality Control (QC) Report on GIS Data Submitted by Pacific Gas and Electric (PG&E)* to WSD on September 9, 2020. In PG&E's *Report*, it acknowledged the importance of collecting the data and making it available to the Commission to prevent future wildfires:

> The Commission's Wildfire Safety Division has endeavored to utilize data to ensure the safety of California's electric utilities.
>
> GIS data is used to spatially and visually evaluate information, produce custom maps, and conduct analysis that adds value for decision-makers, utility providers, and the public. The 2019 WMP reviews and the rapid emergence of widespread PSPS implementation in California revealed both the lack of electric utility GIS data available to California state agencies and the vital importance of having such data. Therefore, the 2020 WMP Guidelines included a list of GIS data to be submitted by each electrical corporation.
>
> In response, electrical corporations submitted a large amount of useful GIS data that the Commission and the WSD had never received at such a scale. A significant portion of this data was posted on the electrical corporations' public websites at the same time it was submitted to the Commission, thus providing interested stakeholders access to unprecedented amounts of utility GIS data.
>
> Up until the submission of 2020 WMPs in February 2020, publicly available transmission line data was the only California electric utility GIS data widely available to the Commission. Utility GIS data is critical in enabling agencies to effectively regulate the safety of the electrical system and

> inform planning of wildfire mitigation initiatives, such as fire-safe fuel treatments and prescribed burns. A wide range of electric utility GIS data also enables agencies to effectively respond to large damaging wildfires and other disasters and enhances efforts to assist the public with evacuation and recovery tied to such events.[4]

Unquestionably, the requirement of data collection is making California a safer state as data enhances the Commission's ability to ensure that Investor-owned Utility (IOU) pole owners maintain their infrastructure in as safe a condition as possible.

As the Commission and some parties have observed in this proceeding, WSD identified inconsistent formats, lack of metadata, and overall discrepancies amongst electrical corporation data which rendered analysis and utilization of such data difficult and inefficient. Accordingly, WSD identified the need to develop and implement standardized data formatting, structuring, and reporting requirements to support the rapid pace of the statutorily mandated three-month timeframe allotted for the review and disposition of wildfire mitigation plans.[5]

Similarly, as we will demonstrate by summarizing the many differing party comments, this proceeding has also documented the need for standardized data identification and collection for the pole attachments as a means of promoting public safety.

Procedural Background

On June 29, 2017, the Commission issued Investigation 17-06-027 and Rulemaking 17-06-028 (OII/OIR proceeding) to consider strategies for increased and nondiscriminatory access to poles and conduit by competitive

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[4] The Commission takes official notice of PG&E's Report pursuant to Rule 13.10.

[5] *Draft GIS Standard*. The Commission takes office notice of WSD's *Draft GIS Standard* pursuant to Rule 13.10.

communications providers, the impact of such increased access on safety, and how best to ensure the integrity of the affected communications and electric supply infrastructure going forward. The Commission also expressed its intention to:

- Investigate the feasibility of a data management platform that will allow stakeholders to share key pole attachment and conduit information;
- Consider rules that will allow broadband Internet access service (BIAS) providers to attach facilities to poles and to use conduit following their classification as public utility telecommunications carriers in the FCC's 2015 Open Internet Order; and
- Consider rules specific to conduit, and better pole management practices.

To facilitate an orderly consideration of the issues that this OII/OIR proceeding established, the OII portion was divided into tracks. In Track 1, the Commission investigated what information to include in pole databases. The result of this investigation led to the adoption of Decision (D.) 20-07-004, in which the Commission set forth 10 pole-specific requirements. In Track 2, the Commission tasked itself with determining what relevant infrastructure data should be shared quickly and efficiently among parties to minimize unnecessary delays, promote competition, and improve adherence to and oversight of safety requirements.

To that end, on October 8, 2020, the assigned Administrative Law Judge issued a *Ruling Requesting Comments on Track 2 Issues* (*Ruling*) and invited parties to comment on proposed additional requirements for pole attachments, and to provide comments on fourteen questions that covered the following categories: data points; data management; costs; and data access.

In accordance with the *Ruling's* schedule, the following parties filed opening comments on November 9, 2020: AT&T (which consists of Pacific Bell Telephone Company d/b/a AT&T California, AT&T Mobility, and AT&T Corp.), California Cable & Telecommunications Association (CCTA), California Municipal Utilities Association (CMUA), CTIA, ExteNet (which consists of ExteNet Systems, Inc. and its affiliate ExteNet Systems (California), LLC), Frontier (which consists of Frontier California Inc., Citizens Telecommunications Company of California, and Frontier Communications of the Southwest Inc.), Pacific Gas and Electric Company (PG&E), Public Advocates Office (Cal Advocates), Safety and Enforcement Division (SED),[6] the Small LECs (which consists of Calaveras Telephone Company, Cal-Ore Telephone Co., Ducor Telephone Company, Foresthill Telephone Co., Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Co., Pinnacles Telephone Co., The Ponderosa Telephone Co., Sierra Telephone Company, Inc., The Siskiyou Telephone Company, Volcano Telephone Company, and Winterhaven Telephone Company), San Diego Gas & Electric Company (SDG&E), Sonic Telecom, LLC (Sonic), Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas), and Verizon (which consists of Cellco Partnership, MCIMetro Access Transmission Services Corp, and XO Communications).

The following parties filed reply comments on November 30, 2020: AT&T, CCTA, Consolidated Communications of California Company (Consolidated), CTIA, ExteNet, Frontier, Cal Advocates, SED, the Small LECs, SDG&E, SCE, and Verizon.

[6] SED filed Amended Opening Comments on November 13, 2020.

2. Jurisdiction

The Commission's Authority to Regulate Rates, Terms, and Conditions of Pole Owners and Their Pole Attachments

This Commission has comprehensive jurisdiction over questions of public health and safety arising from utility operations.[7] The Commission's jurisdiction to regulate utilities is set forth in the California Constitution and in the Public Utilities Code.[8] Such utilities are required to "obey and comply with every order, decision, direction, or rule made or prescribed by the [C]ommission ...."[9] The Commission is obligated to see that the provisions of the Constitution and state statutes affecting public utilities are enforced and obeyed.[10] In addition, the Commission has specific jurisdiction over the safety of overhead electric transmission and distribution facilities, such as wires and poles, as well as underground transmission and distribution facilities,[11] which includes the overhead and underground electric transmission and distribution facilities of municipalities.[12] When the Commission finds that additional safety requirements are necessary, the Commission may adopt such requirements.[13]

The Commission's jurisdiction over electric utilities is also grounded in a series of general orders. General Order (GO) 95 (Rules for Overhead Electrical Construction) was adopted pursuant to Decision 34884, Case No. 4324, so the Commission can "formulate, for the State of California, requirements for

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[7] *San Diego Gas & Electric v. Superior Court* (1996), 13 Cal.4th 893, 923-924.

[8] Cal. Const., Art. 12, §§ 3, 6; Pub. Util. Code §§ 216, 701, 768, 1001.

[9] Pub. Util. Code § 702; *see also*, Id. §§ 761, 762, 767.5, 768, 770.

[10] Pub. Util. Code § 2101.

[11] Pub. Util. Code §§ 8001, *et seq.*

[12] Pub. Util. Code § 8002.

[13] Pub. Util. Code §§ 8037, 8056.

overhead line design, construction, and maintenance, the application of which will ensure adequate service and secure safety to persons engaged in the construction, maintenance, operation or use of overhead lines and to the public in general."[14] GO 128 (Rules for Construction of Underground Electric Supply and Communication System) was adopted pursuant to Decisions 73195 and 73462, Case No. 8208, for the Commission to promulgate "uniform requirements for underground electrical supply and communications systems,"[15] also with the goal of ensuring adequate and safe service. Finally, GO 165 (Inspection Requirements for Electric Distribution and Transmission Facilities) was adopted pursuant to Decision 97-03-070, Case Nos. I.95-02-015 and R.96-11-004, for the Commission to establish requirements for electric distribution and transmission facilities regarding inspections in order to ensure safe and high-quality electrical service.

The Federal Government has also promulgated rules applicable to utilities operating in the communications field. Federal law requires public utilities to provide "a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by" the utility, unless the utility cannot provide access because of "insufficient capacity and for reasons of safety, reliability and generally applicable engineering principles."[16] Within that framework, states can elect to regulate the rates, terms, and conditions for pole attachments under state law, when they certify to the Federal Communications Commission (FCC) that they will do so, and in doing so "consider the interests of the subscribers of the

[14] GO 95, Section I, Rule 11.

[15] GO 128, Section I, Rule 11.

[16] 47 U.S.C. § 224(c).

services offered via such attachments, as well as the interests of the consumers of the [pole owner(s)'] utility services."[17]

Consistent with federal law, and in order to promote communications infrastructure, Communications Infrastructure Providers have been provided access to the electric utilities' poles to attach their communications facilities.[18] Therefore, with the facilities of the Communications Infrastructure Providers utilizing the same poles as electric utilities or otherwise near the wires of the electric utilities, certain safety requirements, such as clearance requirements, have been adopted which apply to the electric utilities and Communications Infrastructure Providers. The Commission's GO 95, Rule 31.1 requires that electrical supply and communication systems must be designed and maintained to enable them to furnish safe, proper, and adequate service. The specific requirements in GO 95 are minimum safety requirements, and Rule 31.1 also requires that those responsible for the design, construction or maintenance of the communications or supply line equipment must take additional steps in accordance with accepted good practice for the given local conditions known at the time.

In GO 95, Rule 31.2, the Commission has also required that the overhead lines must be inspected frequently and thoroughly for the purpose of ensuring that they are in good condition so as to conform to the Commission's rules. In D.07-02-030 the Commission adopted revisions to GO 95 establishing clearance and signage requirements on joint-use facilities for wireless antennas installed on jointly used poles. In D.08-10-017 (issued October 3, 2008), the Commission

[17] 47 U.S.C. § 224(c).

[18] Pub. Util. Code § 9510 *et. seq*.

adopted revisions to GO 95 establishing uniform construction standards for attaching wireless antennas to jointly used poles and towers above the electric supply lines (pole-top antennas).

Authority to Regulate Rights-of Way, Network Safety, and Reliability

Pub. Util. Code § 767 authorizes the Commission to prescribe rules governing access to public utility rights-of-way (ROW):

> Whenever the commission, after a hearing had upon its own motion or upon complaint of public utility affected, finds that public convenience and necessity require the use by one public utility of all or any part of the conduits, subways, tracks, wires, poles, pipes, or other equipment, on, over, or under any street or highway, and belonging to another public utility, and that such will not result in irreparable injury to the owner or other users of such property or equipment or in any substantial detriment to the service, and that such public utilities have failed to agree upon such use or the terms or conditions or compensation therefore, the commission may by order direct that such use be permitted, and prescribe a reasonable compensation and reasonable terms and conditions for the joint use.

Pub. Util. Code §§ 451, 701, 767.5, 767.7, 768, 768.5, and 1702.5, *inter alia*, provide further authority for the CPUC to establish reasonable rates, terms, and conditions for joint use of utility poles, ducts, conduits, and rights-of-way.

This Commission exercised its option to regulate pole attachment rates, terms, and conditions under state law by issuing a detailed set of pole attachment and ROW rules in D.98-10-058 (*Rules Governing Access to Rights-of-Way and Support Structures of Incumbent Telephone and Electric Utilities," known as "ROW Rules*). That decision adopted rules to provide facilities-based local exchange carriers (both incumbent and competitive local exchange carriers, as well as Cable Television (CATV) corporations) with nondiscriminatory access

to utility ROW and support structures that are owned or controlled by "large and midsized Incumbent Local Exchange Carriers (ILECs), … the CL[E]Cs, and … the major electric utilities, PG&E, Edison, and SDG&E." D.98-10-058 also addressed network safety and reliability (while largely delegating safety enforcement to the electric utilities), pole and duct capacity issues (reserved space, total volume, etc.), and the role of joint pole associations.

Aside from the ROW Rules, the specifics of the Commission's pole, pole attachment, and conduit oversight are set forth in a series of GOs:

> GO 52 (Construction and operation of power and communication lines for the prevention or mitigation of inductive interference);
>
> GO 95 (Overhead electric [and communications] line construction);
>
> GO 128 (Construction or' underground electric supply and communication systems); and
>
> GO 159A (Construction of cellular radiotelephone facilities in California).

3. Issues Before the Commission

The Ruling set forth the following Draft Proposal of Required Attachment Data along with a series of questions:

Draft Proposal of Required Attachment Data:

Item #	Field Name	Field Description	Field Type
1	Number of Existing Attachments on Pole	The number of existing attachments on any given pole.	Integer
2	Attachment Owner	The name of the company in ownership of a specific attachment.	Text
3	Application/Attachment Identifying Number	The unique number used to track an attachment.	Text

4	Attachment Status	e.g., submitted, pending, approved, installed, etc.	Text
5	Attachment Status Date	Date of the most recent status update on any given attachment.	Date
6	Attachment Description	*e.g.,* cable, antenna, service drop, electric utility equipment, etc.	Text
7	Attachment Location on Pole	Location of attachment on pole (*e.g.,* within comm. zone, pole top, cross arm, pole mount, etc.).	Text
8	Attachment Orientation	*i.e.* compass direction / description relative to the street.	Text
9	Position relative to other attachments	Expressed in feet from ground.	Integer
10	Attachment Specifications	Description, specific dimensions, and weight. For cables, need to know weight per linear foot, gauge, tension, tensile strength of cable.	Text
11	Pole Loading Information	Loading information, which includes grade and size of attachment, size of cable, average span length, wind loading of their equipment, vertical loading, and bending moment. (D.98-10-058), and any other data used to run software-based pole loading calculation.	Text

12	Safety Factor Impact	Calculation of the load added to the pole by the attachment.	Text

***Ruling* Questions:**

Data Points:

1. Does this list adequately include all relevant information to improve the safety and competitive access of poles?
2. How should each data point be defined? What level of detail should be required for each data point?
3. Should any items be removed from this list of data points? If so, which ones and why?
4. Should any other data points be added? Which data points? How should these data points be defined? What level of detail should be provided on these data points? Why should these data points be added?

Data Management and Sharing:

1. Should each pole owner be responsible for collecting, storing, and sharing all attachment data points on their poles?
2. Is this method of data management and sharing (*i.e.*, each pole owner storing all data on their own poles) more practical than other methods (*e.g.*, having each attacher share their individual attachment data points, having a single statewide repository of pole data, etc.)?
3. If so, should attachers be required to share their complete attachment datasets with the specified attachment data in an accessible format with the respective pole owner? By what date? How regularly should this data be updated?

Costs:

1. Should pole owners be compensated, as appropriate, for serving as a repository for attachment data? How should this compensation be determined?

2. Should costs be handled as part of the general rate cases for the electric utilities? If so, where and how should costs be handled for the incumbent local exchange carriers?
3. Should costs instead be built into the cost of attaching or reflected in annual cost of pole ownership?

Data Access and Confidentiality

1. Should all the specified attachment data points in each pole owner's database be made available to third parties? Which parties (*e.g.*, attachers, commission staff, local governments, interested parties, the public, etc.)? Should any limitations be required? If so, what limitations?
2. In accordance with General Order 66D, what, if any, of this information is confidential? And if so, why is this data considered confidential and for what purposes?
3. Should attachers have to provide additional detailed information upon request from parties (*e.g.*, pole owners, other attachers, commission staff, local governments, interested parties, the public, etc.)? What information can be currently provided by attachers upon request? What data should also be provided upon request?

Other:

1. Are there any other issues that must be addressed in the forthcoming Track 2 Decision?

4. Policy Objectives for Standardized Data Field Record Keeping

Before discussing the party comments regarding the proposed Data Points, it is important that the Commission underscore two important policy objectives that drive the Commission's determination to standardize the types of information required in each data base, and to provide greater informational transparency regarding the millions of poles in California: promoting safety and increased competition. The Commission has undertaken extensive initiatives to improve utility safety, accountability, and to modernize the state's overall

regulation of utilities. When the Commission opened this proceeding in 2017, it was done so in response to concerns with utility safety. This concern predates the tragic and record-breaking wildfires California has experienced since, which have only served to accelerate the Commission's proceedings. While D.20-07-004 required information on poles be standardized and centralized, pole information alone is not enough to achieve greater utility safety. It is, therefore, vital to know what is on the utility poles to determine their safety as the poles themselves do not start the fires. Rather, it is the electrical and communications attachments that start the fires.

The Commission also sees an unmistakable linkage between robust and available standardized Data Points, and greater competition in the industry. The comments from Sonic about its experience in attempting to obtain approval on its attachment applications are instructive on this point:

> Over the course of its network deployments, Sonic has applied for attachments on over 40,000 poles, in the service territories of the IOUs and ILECs that are parties to this proceeding. Many of these applications have been rejected by the pole owners for a variety of reasons: the pole is already overloaded and therefore unsafe as it stands today, the information in Sonic's pole attachment application is incorrect or incomplete (even though Sonic has obtained the information from the pole owner), etc. Sonic eventually resolves the pole attachment application issues on the majority of poles, but that process can be long, frustrating, and expensive, and often causes long delays in the deployment of Sonic's fiber optic facilities." […] This statement explicitly recognizes the dual focus on promoting competition and improving the safety of California's pole infrastructure. Fortunately, these two goals are not at war with each other: promoting

> competition will improve pole safety, and improving pole safety will promote competition.[19]

While other parties question whether the Data Points under consideration by the Commission would improve the speed in which an attachment application is processed,[20] the Commission finds that the Data Points will ensure that an attachment applicant has access to accurate and complete pole data. That in turn will not only assist an applicant in determining if a pole under consideration is already overloaded and unsafe but will also assist the applicant in determining if its application contains all the necessary information about a particular pole to expedite the processing of the application. In reaching the conclusion that greater and standardized information can streamline the application process, the Commission is also mindful about an applicant's duty to conduct field surveys and their duty pursuant to GO 95 to perform proper loading calculations. Nonetheless, the Commission finds that equipped with the information from the Data Points, applicants will be in a better position to conduct appropriate field investigations and determine which poles, given their current configurations, are the most optimal candidates for interested parties to submit an attachment application.

In sum, the Commission bears these dually important public goals of safety and competition in mind as it evaluates the parties' comments.

5. Required Data Points

The Commission appreciates the comments that the parties provided on whether the proposed list adequately includes all relevant pole attachment information, how should each data point be defined, and whether data points

[19] Sonic's Comments, at 2; *See also* ExteNet's Comments, at 1-2.

[20] *See* CCTA's Comments, at 5.

should be added or removed. The Commission has summarized these comments in Attachment B to this decision so that the Commission may focus on party comments regarding specific data points. The Commission has determined that this approach is more efficient as several party comments are duplicative, and that the parties and persons interested in this decision will be better served by receiving an explanation regarding what pole attachment data points are being adopted, deleted, or clarified by this decision.

Party Comments on Specific Proposed Data Points

5.1.1. Data Point 1: Number of Existing Attachments on Poles

CTIA claims that pole databases cannot replace the necessity for pole visits to compile accurate, up-to-date information.[21]

ExteNet claims that a database with attachment information enables CLECs to do planning without the need for an expensive field visit.[22]

Frontier suggests that workshops should be held to consider benefits in comparison to costs.[23]

5.1.2. Data Point 2: Attachment Owner

AT&T argues that this information in the aggregate would be proprietary as it could reveal information regarding a provider's business plans, its service area and its service capabilities within geographic areas.[24]

[21] CTIA's Reply Comments, at 4.

[22] ExteNet's Comments, at 1-2.

[23] Frontier's Reply Comments, at 3.

[24] AT&T's Comments, Attachment A.

SED claims this will enable SED to respond to incidents and safety-related concerns more quickly, and to expedite investigations including the scheduling of site visits and issuance of data requests.[25]

CCTA argues that SED's purported needs for several of the proposed Track 2 data fields miss the mark. Rule 19 of GO 95 requires utilities to give Commission staff "immediate access" to "any factual or physical evidence under the utility's … physical control, custody, or possession" to investigate a major accident or a reportable incident, and SED previously informed the Commission in this proceeding that information regarding overhead facilities are always made available to SED staff when requested.[26]

5.1.3. Data Point 3: Application/Attachment Identifying Number

AT&T states that the Application Number and the Attachment Number refer to two different things. Pole attachment applications typically include multiple attachments. Thus, there would be one identifying number for the application and a separate identifying number for each attachment on the application. Each attachment would have two identifying numbers: (1) an application number (which would be shared with other attachments) and (2) an attachment number. If the attachment number were created, it would have to accommodate an adequate number of unique values.[27]

SED recommends the inclusion of a single identifying number field to facilitate accurate identification of pending and current attachments and reduce

[25] SED's Comments, at 1-2.

[26] CCTA's Reply Comments, at 3-4.

[27] AT&T's Comments, Attachment A.

the need for cross-checking and referencing between pole and attachment owners.[28]

CCTA argues that SED's purported needs for several of the proposed Track 2 data fields miss the mark. Track 1 already includes the number and date of each attachment application, information that will alert parties to the existence of pending applications and allow further inquiry.[29]

5.1.4. Data Point 4: Attachment Status

AT&T argues that this data point would include multiple sub-data points, the number of which would depend on how many statuses are tracked. This data point likely would require ongoing manual updates. The manual updating would be complex because each attachment may have multiple "pending" statuses. For example, an attachment could be pending make-ready survey, pending make-ready estimate payment, pending make-ready construction, and pending construction complete.[30]

SED supports its inclusion but states it should include a standardized, comprehensive list of attachment status terms which, in SED's view, is necessary for the proposed attachment status field to function effectively.[31]

CCTA claims that SED's purported needs for several of the proposed Track 2 data fields miss the mark since Track 1 already includes information about pending attachments.[32]

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[28] SED's Comments, at 2.

[29] CCTA's Reply Comments, at 3-4.

[30] AT&T's Comments, Attachment A.

[31] SED's Comments, at 2.

[32] CCTA's Comments, at 3-4.

5.1.5. Data Point 5: Attachment Status Date

AT&T states that this data point would include multiple sub-data points, the number of which would depend on how many statuses are tracked. This data point likely would require ongoing manual updates and would be unique to each status. As noted above regarding data point 4, each attachment may have multiple statuses. Each of those statuses would have its own status date.[33]

SED recommends that attachment status dates be updated concurrently in the database with any changes in attachment status.[34]

5.1.6. Data Point 6: Attachment Description

AT&T states that should this data point be included, it would be more manageable as a limited set of potential responses, perhaps in a pull-down menu. If sufficiently granular, this information in the aggregate would be proprietary as it could reveal information regarding a provider's business plans, its service area and its service capabilities within geographic areas.[35]

ExteNet suggests that this category should be clarified to indicate that electric utility equipment will be included in the database.[36]

5.1.7. Data Point 7: Attachment Location on Pole

AT&T states it does not track this data point and is not aware of any meaningful use for this data point. Moreover, this data point could be derived from, and is therefore redundant to, data point 9 (Attachment Height). For

[33] AT&T's Comments, Attachment A.

[34] SED's Comments, at 2.

[35] AT&T's Comments, Attachment A.

[36] ExteNet's Comments, at 3.

example, if there are multiple attachments at the same height, one can derive that there is "boxing" or a cross arm in use.[37]

SED recommends that pole owners or attachers should use consistent terms to describe attachment location in order to avoid confusion.[38]

5.1.8. Data Point 8: Attachment Orientation

AT&T states it does not track this data point and is not aware of any meaningful use for this data point.[39]

Cal Advocates suggests that the Commission simplify the data field in one of two ways: (1) consider only compass direction for attachment orientation or (2) separate the data field into Attachment Compass Orientation and Relative Orientation. To help standardize the pole database and reduce the amount of information needed, the Commission should consider using only compass direction for attachment orientation.[40]

SED recommends excluding this field. An attachment orientation field offers no additional value if the database includes attachment location on the pole. Additionally, the proposed attachment orientation criteria would be ambiguous or overly complicated to describe.[41]

5.1.9. Data Point 9: Position Relative to other Attachments

AT&T claims that this data point alone would give potential attachers a rough idea of whether a pole has available room for additional attachments.[42]

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[37] AT&T's Comments, Attachment a.

[38] SED's Comments, at 3.

[39] AT&T's Comments, Attachment A.

[40] Cal Advocates' Comments, at 2-3.

[41] SED's Comments, at 3.

[42] AT&T's Comments, Attachment A.

Cal Advocates suggests that to simplify the information stored in the database, the Commission should rename item 9. The field description shows that item 9 is measured in feet from the ground. The Commission should refer to this field as Attachment Elevation Above Ground as that is the information this data field is showing.[43]

Sonic believes the field should capture inches from the ground, not feet.[44]

SED suggests that the field title should be "vertical position relative to other attachments" since the attachment's position from ground does not reflect its horizontal distance from other attachments.[45]

5.1.10. Data Point 10: Attachment Specifications

AT&T states that this data point would include multiple sub-data points, the number of which would depend on how many specifications are tracked. The list of potential specifications that could be included for each attachment is exceedingly long and would vary greatly in accordance with the type of attachment. For example, cable specifications vary significantly from specifications of equipment, such as transformers and other boxes.[46]

Cal Advocates states that it may be more appropriate to show this data as tabs or general categories of data which encompass multiple data fields. For example, the Attachment Specifications for cables proposes four data elements: weight per linear foot, gauge, tension, and tensile strength of cable. Grouping all these elements together in a singular large data field could lead to confusion or inefficiency in handling information. Items 10 and 11 outline information in the

[43] Cal Advocates' Comments, at 3.

[44] Sonic's Comments, at 7.

[45] SED's Comments, at 3.

[46] AT&T's Comments, Attachment A.

field description that could be duplicative. For example, specific dimensions outlined in item 10 and size of attachment outlined in item 11 appear to provide the same information. The Commission should avoid recording duplicative information where possible. Item 10 should also include cable or attachment voltage where applicable. This information will help improve safety as interested parties can determine if any cable they may encounter in the field is energized. Finally, the data field for Abandoned Attachments would track whether a pole attachment has been abandoned by the attacher. This data field can simply be a text, yes/no field and would be helpful for tracking which attachments are no longer being maintained or not paying for the annual cost of ownership."[47]

Sonic states that this data point needs to include Insulator type, orientation, and offset from the pole height of attachment.[48]

SED states that the weight field should specify cable weight per linear foot, gauge, tension, and tensile strength of cable. Attachment specifications are crucial for pole loading calculations. The attachment specifications should be based on the actual value provided by the manufacturer.[49]

5.1.11. Data Point 11: Pole Loading Information

AT&T states that this data point would include multiple sub-data points, the number of which would depend on how many pole loading data points are tracked. AT&T is not aware of any meaningful use for pole loading information

[47] Cal Advocates' Comments, at 3-4.

[48] Sonic's Comments, at 7.

[49] SED's Comments, at 3.

on a per attachment basis. To be meaningful, pole loading must reflect the overall pole and all attachments on that pole.[50]

PG&E states that this data point has the potential to be outdated due to shifts in pole attachments and work done.

Sonic states that this needs to include pole loading info needed for any pole-owner-specific rules beyond GO 95.[51]

SED recommends that the field should be titled "pole loading calculation inputs" since the intent is to list data and information used in pole loading calculations rather than general pole loading information. The information captured in this field contains crucial inputs to obtain the information in Item 12.[52]

5.1.12. Data Point 12: Safety Factor Impact

AT&T states it is not aware of any meaningful use for safety factor information on a per attachment basis.[53]

SED recommends renaming this field "Bending Moment of Attachments," and changing the field description to "the bending moment imposed on the pole by the attachment." The safety impact of an attachment is calculated by the bending moment of the attachment. Calculating the safety impact of an attachment on a pole is not confined to the attachment itself.[54]

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[50] AT&T's Comments, Attachment A.

[51] Sonic's Comments, at 7.

[52] SED's Comments, at 4.

[53] AT&T's Comments, Attachment A.

[54] SED's Comments, at 4.

Discussion Regarding Party Comments on Data Points 1-12

The parties have made several beneficial suggestions that the Commission has taken to heart in developing this decision, and at the end of this discussion section is the updated data point chart that reflects the changes made because of the comments filed. Before presenting the updated data point chart, this section responds, in narrative form, to some of the key party comments.

With respect to Data Point 2 (Attachment Owner), the Commission rejects AT&T's argument that the name of the company in ownership of a specific attachment is proprietary, because this information is publicly available. Additionally, the Commission sees a public value in making this information known as it can be vital for requesting additional information on attachments or may be useful in notifying companies of potential safety violations and public hazards. To that end, the Commission agrees with SED that this information can aid SED in responding to incidents and safety-related concerns more quickly, and may aid in expediting investigations including the scheduling of site visits and the issuance of data requests.

With respect to Data Point 3 (Application/Attachment Identifying Number), the Commission agrees with AT&T's suggestion to remove the reference to the application number, as the application number and the attachment number refer to two different things and can lead to confusion. The Commission also agrees with SED's suggestion that the Commission include a single identifying number field as that may facilitate accurate identification of pending and current attachments, and may reduce the need for cross-checking and referencing between pole and attachment owners.

With respect to Data Point 4 (Attachment Status), the Commission agrees with SED's suggestion that there should be a standardized, comprehensive list of attachment status terms to assist the attachment status field to function effectively. Thus, each pole owner shall identify all attachment statuses that will be tracked in their respective databases. Terms shall be standardized across pole databases as part of the Track 2 Glossary development process.

With respect to Data Point 5 (Attachment Status Date), the Commission agrees with SED's suggestion that the attachment status date as well as the attachment status be updated concurrently so that every time an attachment status is updated, the date of update will also be updated.

With respect to Data Point 6 (Attachment Description), the Commission will require that each pole owner develop comprehensive attachment descriptions for their respective databases, with terms being standardized across pole databases as part of the Track 2 Glossary development process.

With respect to Data Point 7 (Attachment Location on Pole), the Commission agrees with SED that to avoid confusion, pole owners or attachers should use consistent terms to describe attachment locations. While it is true that most attachments will be in the standard location on the pole (*i.e.*, in the communications zone, the electric zone, or on the pole top), consistent term use can be beneficial for distinguishing the general placement of attachments, especially in instances where there are unique circumstances (such as cross arms, antennas, power supplies, meters, etc.).

With respect to Data Point 8 (Attachment Orientation), the Commission agrees with AT&T's suggestion that this Data Point be removed since it does not appear to have any separate meaningful use, since the Commission is already

requiring that the attachment location be included as part of the orientation criteria.

With respect to Data Point 9 (Position Relative to Other Attachments), the Commission agrees to change this Data Point to Pole Attachment Height which will be expressed in feet and inches from the ground. Such a change is more instructive than the Position Relative to Other Attachments title which is unintentionally ambiguous.

With respect to Data Point 10 (Attachment Specifications), the Commission agrees with the concern raised by AT&T and Cal Advocates that this Data Point includes multiple sub–Data Points and it would, therefore, be more useful to break down this Data Point into multiple Data Points. Such a separation would be beneficial as it would enable interested parties who want to use particular data sets to conduct statistical analyses in a more efficient manner. Finally, searchability and auditability capabilities of the data base would be enhanced by the separation of these Data Points.

With respect to Data Point 11 (Pole Loading Information), the Commission agrees with SED to change the field title to Calculation Inputs since the intent is to list data information used in pole loading calculations rather than general pole loading information. The title change is consistent with the requirement that all attachers provide the loading information for each attachment. Each shall be required to update the database if changes to their equipment alter the load of a pole. Finally, the Commission agrees with Cal Advocates that as this category includes sub-Data Points, it will be broken down into multiple singular Data Points to enhance the searchability and auditability of the data base.

With respect to Data Point 12 (Safety Factor Impact), the Commission agrees with SED's suggestion to rename this field Bending Moment of

Attachments and that the field description be changed to the bending moment imposed on the pole by the attachment. As the calculation of the safety impact of an attachment on a pole is not restricted to the attachment itself, it will be beneficial to consider the bending moment of the attachment in order to assess its safety impact.

With these edits made, as well as the inclusion of the additional data points that the parties proposed, the data points table is revised as follows:

Item #	**Field Name**	**Field Description**	**Field Type**
1	Number of Existing Attachments on Pole	The number of existing attachments on any given pole.	Integer
2	Attachment Owner	The name of the company in ownership of a specific attachment.	Text
3	~~Application /~~Attachment Identifying Number	The unique number used to track an attachment.	Text
4	Attachment Status	*e.g.*, submitted, pending, approved, installed, etc.	Text
5	Attachment Status Date	Date of the most recent status update on any given attachment.	Date
~~7~~6	Attachment Location on Pole	Location of attachment on pole (*e.g.*, within comm. zone, pole top, cross arm, pole mount, etc.).	Text
~~8~~	~~Attachment Orientation~~	~~i.e. compass direction / description relative to the street.~~	~~Text~~

~~9~~7	~~Position relative to other attachments~~ *Pole Attachment Elevation*	Expressed in feet *and inches* from ground.	Integer
~~6~~8	Attachment Description	*e.g.*, cable, antenna, service drop, electric utility equipment, etc.	Text
~~10~~	~~Attachment Specifications~~	~~Description, specific dimensions, and weight. For cables, need to know weight per linear foot, gauge, tension, tensile strength of cable.~~	~~Text~~
9	*Attachment Dimensions*	*Detailed information specifying the size of the attachment. For cables, the gauge of the cable must be provided.*	*Integer*
10	*Attachment Weight*	*Weight of attachment. For cables, the weight per linear foot must be provided.*	*Integer*
11	*Attachment Grade*	*Grade of the attachment.*	*Text*
12	*Cable Tension*	*Tension of the cable.*	*Integer*
13	*Cable Tensile Strength*	*Tensile strength of the cable.*	*Integer*
14	*Cable Average Span Length*	*Average span length of the cable.*	*Integer*
15	*Wind Loading*	*Wind loading of the attachment.*	*Integer*
16	*Vertical Loading*	*Vertical loading of the attachment.*	*Integer*

~~11~~	~~Pole Loading Information Calculation Inputs~~	~~Loading information, which includes grade and size of attachment, size of cable, average span length, wind loading of their equipment, vertical loading, and bending moment. (D. 98-10-058), and any other data used to run software-based pole loading calculation.~~	~~Text~~
~~12~~*17*	~~Safety Factor Impact~~ *Bending Moment of Attachment*	Calculation of the load added to the pole by the attachment.	Text
18	*Support Structures*	*Identify support structures on pole added for the attachment, including but not limited to: guy wires, anchors, cross arms, etc.*	*Text*
19	*Abandoned Attachment*	*Identify whether the attachment has been abandoned.*	*Text*
20	*Voltage*	*Attachment voltage.*	*Integer*

A clean version of this table is appended to this decision as Attachment A.

6. Data Management: Should each pole owner be responsible for the attachment data for their poles and are there more practical methods?

6.1 Party Comments on Pole Responsibility

AT&T states that data points would be best retained in the databases that the major pole owners maintain. AT&T believes it is best to organize attachment data per pole, which makes pole owners the most logical repositories for

attachment data. Collection of attachment data and assignment of that data to particular poles should be the responsibility of attachers.[55]

CCTA suggests that the Commission should not move forward with Track 2. If, however, the Commission decides to move forward with Track 2, CCTA respectfully submits that it should conduct workshops to attempt to address this issue in the least detrimental manner.[56]

CMUA states that pole attachers should be required to conduct their own field investigation. Utilities should not be required to share this type of information with the potential attacher because the field conditions since the last visit may have changed. Moreover, the number and diversity of actors involved on a pole and the fluid nature of utility system activities present significant concerns that information could be inaccurate or out of date almost as soon as it is entered into the database. Information accessed from such a database thus could be misleading or unreliable.[57]

ExteNet states that the only entities in a position to collect, store, and share all attachment data elements about poles and attachments are the pole owners since they manage (in whole or part) all aspects of poles, including communications equipment attachments. In contrast, competitive carriers (CLCs) must apply to attach their equipment on poles and pole owners approve the placement and timing of installation, meaning that CLCs would not have the same access to, and managerial responsibility for, attachment data elements.[58]

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[55] AT&T's Comments, at 6.

[56] CCTA's Comments, at 16.

[57] CMUA's Comments, at 3.

[58] ExteNet's Comments, at 5-6.

Frontier states that if it is shown that the additional data points should be included in the databases under development, the responsibility for collecting, storing, and sharing the attachment data should be examined in workshops to identify the most efficient means of doing so. Frontier notes that pole owners and attachers would still need to confirm the accuracy of the records through site visits to each potential site.[59]

Cal Advocates states that **c**onsidering that pole owners will be creating and maintaining the pole databases, it is reasonable for the pole owners to maintain information on the attachment data until that information is consolidated into a single database.[60]

PG&E states that it works with other IOUs to evaluate these issues, each provider responsible for its information. All info would need disclaimer that it is the most recent and up to the requester to verify/validate in the field.[61]

SCE suggests that if the Commission determines that the value outweighs the cost, each attachment owner should collect data for their own facilities and provide that data to the pole owners required to display such data. Also, pole owners should only be required to store and share data for attachments made by jurisdictional entities to poles located in their own service territory or service area.[62]

SDG&E states that each owner of an attachment should be responsible for collecting, storing, and sharing all attachment information for its own facilities. The owner of the attachment has the most current and accurate information

[59] Frontier's Comments, at 4.

[60] Cal Advocates' Comments at 5.

[61] PG&E's Comments, at 2-3.

[62] SCE's Comments, a t 5.

about its own equipment. It is impractical and inefficient to require pole owners to obtain the information, ensure its accuracy, and keep it up to date. Beyond the initial installation, which could be decades ago in some attachment instances, the owner of the attachment would know what type of attachment/equipment it is and all of the characteristics you could not get from a field observation.[63]

Sonic states that each pole owner should be responsible for collecting, storing, and sharing all attachment data points on their poles electronically. Attachers should not host their own databases.[64]

SED states that regardless of who is responsible for data management and sharing, SED emphasizes that attachment data should be complete, accurate, and updated in real time. Incomplete or inaccurate data may cause pole overloading and/or pole failure. All pole users must have access to the same data in real time to ensure that a pole can withstand the load imposed on it by all attachments, as required by GO 95.[65]

Verizon states that this question is somewhat premature at this stage, given that it is not clear which data points would be useful for the purposes of this proceeding.[66]

AT&T's Reply Comments state that there is no basis to force pole owners to extract such information from "as-built" drawings, as ExteNet proposes. Many of those drawings were provided years, if not decades, ago, and there would be no assurance that the data is accurate or current.[67]

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[63] SDG&E's Comments, at 4.

[64] Sonic's Comments, at 8.

[65] SED's Comments at 5.

[66] Verizon's Comments, at 4.

[67] AT&T's Reply Comments, at 9.

CCTA's Reply Comments **o**ppose a single statewide database as it believes that the proposed rules would require a single entity to manually collect all of the attachment data from the field, as opposed to collecting the data from each attacher that will already have this data available in their asset management databases.[68]

In Reply Comments CTIA states that the Commission should not alter its determination that each pole owner should have an individual data access portal, rather than create a statewide portal.[69]

SDG&E states that it is not efficient for the data to reside with the pole owners and perhaps would be better monitored if there was a state-run database created by the Commission that all parties submitted information to.[70]

SED believes SDG&E's approach "would eliminate the benefit of consolidating pole and attachment datapoints in a databases that holds both sets of data. This would result in an inefficient process for both attachers and SED to respectively conduct and evaluate pole loading calculations attributed to new attachment."[71]

Verizon suggests "[i]t would also be impractical for attachers to access multiple databases as there may be three or more attachers on a pole; an attacher would not only need to know which attachers' databases to access but would need to compile the information across multiple databases for just one pole. Such an exercise would quickly become unwieldy for attachers seeking to attach

[68] CCTA's Reply Comments, at 10.

[69] CTIA's Reply Comments, at 2.

[70] SDG&E's Reply Comments, at 4.

[71] SED's Reply Comments, at 2.

to multiple poles in an area. It is equally infeasible and unnecessary to aggregate pole data information in one statewide database."[72]

6.2 Party Comments on Practical Methods of Data Management

AT&T states that attachers would not be ideal repositories for pole attachment data because, among other things, there are too many (over 100) of them in California. It would not be feasible to access over 100 separate attachment databases.[73]

CMUA states that utilities should not be required to go out into the field in order to collect this information.[74]

CTIA states that an enormous devotion of resources would be necessary to determine with exacting detail the 12 data points identified in the Ruling for an estimated 12.6 million pole attachments. In addition, a substantial effort would be needed to try to keep the data access portals as up-to-date as is reasonable to expect with over 151 million data points.[75]

ExteNet states that because D.20-19-004 approved individual database plans for each pole owner, ExteNet does not support further work toward a statewide database.[76]

Frontier recommends that these issues be addressed in workshops that would provide a superior means to identify the potential options and determine which are more practical than other methods. This would be a major

[72] Verizon's Reply Comments, at 6.

[73] AT&T's Comments, at 6.

[74] CMUA's Comments, at 3.

[75] CTIA's Comments, at 4.

[76] ExteNet's Comments, at 6.

undertaking and, if it were to be pursued, the cost of doing so should be justified by a clear and articulated benefits.[77]

Cal Advocates claims it would be more efficient to access the data for the five Pole Owners in one database. As such, the Commission should ensure that the data fields implemented in Track 2 are standardized so that the data can be consolidated into a single database in the future.[78]

PG&E states that it utilizes the Joint Use Map and Portal (JUMP) for this sort of information and works with companies to make it as well managed as possible. More pertinent information helps. Further dialogue will help more. IOUs could be the main host.[79]

SCE states that the value of a single statewide pole data repository could be explored and vetted by parties in workshops.[80]

SDG&E states that for Track 1 data points, it believes pole owners should store their own data, for their own poles. Notwithstanding that SDG&E believes the suggested Track 2 data points are unnecessary, each attacher should collect, store, validate, update and share its own Track 2 information through their own repository or an agreed upon third party attacher shared repository.[81]

Small LECs claim that the present system for requesting pole attachments has worked satisfactorily for the Small LECs and therefore the expense of putting

[77] Frontier's Comments, at 4.

[78] Cal Advocates' Comments, at 5.

[79] PG&E's Comments, at 3.

[80] SCE's Comments, at 5.

[81] SDG&E's Comments, at 4.

the available data in a uniform format suitable for adding to one of the database providers through an on-line database does not seem justifiable.[82]

SED states that any method of data management and sharing applied must ensure preservation of data accuracy and completeness. SED does not otherwise endorse a specific method or approach to data management and sharing.[83]

Verizon states that the Commission has already established in Track 1 that pole owners shall maintain information about poles in their respective databases. It makes sense that such information should be stored collectively in each pole owner's database.[84]

SDG&E states in Reply Comments that it agrees with Cal Advocates and SCE that if the Commission determines that Track 2 is necessary, the Commission should evaluate the need for, and development of, a centralized statewide database to contain the proposed data points. The majority of pole owners have already established a database for pole information.[85]

Verizon's Reply Comments state that attachers already collect the most current information about poles in field visits, and request any other pole loading information not readily available through these field visits, from the pole occupants under Rule 44.4 of General Order 95.[86]

6.3 Discussion

The Commission rejects the suggestion that Track 2 be either abandoned in its entirety, or that the Commission not adopt the data points without further

[82] Small LECs' Comments, at 1-2.

[83] SED's Comments, at 5.

[84] Verizon's Comments, at 4.

[85] SDG&E's Reply Comments, at 3.

[86] Verizon's Reply Comments, at 3.

workshops. While parties have stressed the need for further workshops, they fail to explain with any granularity why there is a need for further workshops and what will be accomplished at such workshops. The objectives of Track 2 are well known to the parties, who have provided ample comments regarding Track 2's objectives. Undoubtedly, the parties will provide additional comments in the time permitted under the Commission's Rules. Of course, there may be some unforeseen obstacles that might impact the smooth implementation of, and compliance with, the adopted pole attachment data list, so the Commission will give its staff the authority to modify the attachment requirements by resolution provided that good cause can be demonstrated.

The Commission agrees with AT&T, Cal Advocates, PG&E, SCE, and Verizon that pole owners should be responsible for managing the databases, with attachment owners being responsible for providing the relevant data. Such a conclusion is the logical offshoot from the Commission Track 1 decision, D.20-07-004, which approved the work plans that required the five major pole owners, with their unique database systems and access capabilities, to (1) maintain unique identifiers for each of their poles that should include service territory, pole number, and address; (2) utilize the new high Fire-Threat District category zones and tier definitions to identify the tiers where each pole is located; (3) obtain the names of any joint pole owners and the percentage ownership of each owner; (4) maintain records of the last intrusive test, the type of test, the results of the test, and what corrective action has been or will be taken; (5) maintain the records of the pending attachment applications; (6) maintain the records of any pending pole replacements, reinforcements, and

the date for the planned action; and (7) account for Buddy Poles.[87] As the five major pole owners are already performing the requirements imposed by D.20-07-004, pole owners should have the responsibility for managing their respective databases.

Additionally, since each pole owner has pole management responsibility, the Commission does not see the need to require one statewide data base as some parties continue to advocate for. There is also a practicality consideration that militates against the imposition of a statewide pole attachment data base. The Commission found in D.20-07-004 that each of the five major pole owners have separate database systems that use different operating systems to categorize and store pole information,[88] making the creation of a statewide pole attachment data base impractical.

The Commission also rejects the assertion that the value of requiring the attachers to provide their attachment information to the pole owners with whom they are in a contractual relationship with is outweighed by the cost. The Commission's duty to ensure the safety of California residents is of such high importance that it is inconceivable that the parties objecting to this decision could articulate a compliance cost so prohibitive that the cost could take precedence over the need to promote safety. In fact, the requirement to incur such costs is inherent in the pole maintenance requirements of GO 95, Rule 31.1 (Design, Construction and Maintenance) which states:

> For all particulars not specified in these rules, design, construction, and maintenance should be done in accordance with accepted good practice for the given local conditions known at the time by those responsible for the design,

[87] D.20-07-004, OP 2.

[88] D.20-07-004, at 8-9, and FOF 10.

> construction, or maintenance of communication or supply lines and equipment.

A similar requirement can be found in Pub. Util. Code § 8386(a) which states: "Each electrical corporation shall construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment." After the costs have been incurred, Pub. Util. Code § 8386(g) gives the Commission the authority to decide if the costs are reasonable and whether they may be recovered in the electrical corporation's next general rate case: "The commission shall consider whether the cost of implementing each electrical corporation's plan is just and reasonable in its general rate case application." As such, it is imbedded in both the applicable general orders and statutes that the Commission can require the pole owners and the attachers to incur costs to comply with the directives in D.20-07-004 and this decision.

The Commission has also considered the alternative management proposals and has determined them to be insufficient. ExteNet's proposal is deficient because there is no basis to force pole owners to extract such information from "as-built" drawings. As AT&T points out in its comments, many of those drawings were provided years, if not decades, ago, and there would be no assurance that the data is accurate or current.[89]

With respect to SDG&E's proposal, the Commission rejects it as it might eliminate the benefit of consolidating pole and attachment data points in a database that holds both sets of data. This could result in an inefficient process for both attachers and SED to conduct and evaluate pole loading calculations

[89] AT&T's Comments, at 9.

attributed to new attachment.[90] Further, the Commission agrees with AT&T's concern that attachers would not be ideal repositories for pole attachment data because, among other things, there are over 100 of them in California, making it a cumbersome and ultimately infeasible process for attachers and SED to access multiple separate attachment databases.[91]

7. Data Management: If practical, how should attachers share their data, by when?

Party Comments

AT&T states that the attachment data must be provided to pole owners in an accessible format. Technical workshops should be convened to identify the appropriate format, resolving data discrepancies, and the process for making updates.[92]

CMUA states that sufficient time must be provided to ensure that: (1) the design and implementation of the required data and system elements is feasible; (2) a complete audit of all poles as well as electric and telecommunication attachments is complete and verified; and (3) critical data security and critical infrastructure information protections are incorporated. Every attacher should be required to provide information to the database owner every time a new attachment is added to a pole."[93]

ExteNet supports requiring attachers to contribute data on its equipment installations to the pole owner for inclusion in that pole owners' database. ExteNet notes, however, that such data can and should be drawn from as-built

[90] SED's Comments, at 2.

[91] AT&T's Comments, at 6.

[92] AT&T's Comments, at 7.

[93] CMUA's Comments, at 3-4.

drawings that CLCs are required to submit to pole owners upon completion of the communications equipment installation.[94]

Frontier states that if the Commission determines that the proposed additional data points should be added to those adopted in the Track 1 Decision, attachers should be required to share their data about their attachments with the owner of the pole with the attachments to ensure the accuracy of the data and the pole loading calculations.[95]

Cal Advocates states that to ensure such information is accurate, attachers should promptly share the information pole owners need to populate the attachment database and keep it up to date. The pole databases will require collaboration among pole owners, attachers, and other stakeholders such as joint pole groups to be useful. The Commission should focus on ensuring attachers respond promptly to pole owners' request for data and should investigate to what extent pole owners could use existing data on pole attachment applications to submit database information, rather than prescribing a set date for when all attachers should turn over information to all pole owners.[96]

PG&E suggests this should be discussed in the workshop, as well as the differences between proposed, revised, and final schema and uses of attachments. Field inspection verification is still needed.[97]

SCE states that each pole attacher should only be required to share their attachment data sets (in an accessible format) with the responsible pole owners.

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[94] ExteNet's Comments, at 5-6.

[95] Frontier's Comments, at 5.

[96] Cal Advocates' Comments, at 5-6.

[97] PG&E's Comments, at 3.

SCE does not have an affirmative proposal regarding timing but notes that this matter could be vetted by parties in workshops.[98]

SDG&E states that it does not support requiring pole owners to store the attaching owner's information. Should the Commission order that the pole owners be required to store the attachment information, the Commission should order attachers to provide the data to pole owners in an accessible format and preclude inclusion of any proprietary or confidential information. Since the systems are constantly changing, it should be updated as often as necessary to have current information. This should be discussed and determined during workshops.[99]

Sonic states that attachers' data should be hosted by the IOU.[100]

SED states that if attachers are required to share attachment data, SED recommends that it should be available in an accessible format for review by pole owners. SED does not currently have recommendations as to when data access should be granted or how often attachers' complete datasets should be updated.[101]

Verizon states that to the extent that attachers are required to share their data with the respective pole owner, the simple collection and sharing of pole attachment data would be an extraordinarily time-consuming process. While an attacher could share its current attachment data with respective pole owners, the usefulness of such information may be questionable. Although Verizon supports streamlining and ensuring competitive access to poles, imposing the burden of

[98] SCE's Comments, at 6.

[99] SDG&E's Comments, at 5.

[100] Sonic's Comments, at 8.

[101] SED's Comments, at 6.

collecting and updating attachment information on attachers or current pole occupants would not only be highly inefficient but an extremely lengthy and costly process.[102]

In Reply Comments SED agrees with AT&T that it would be unwieldy and impractical to access and cross reference over 100 attachment databases with pole databases in order to calculate and evaluate attachment-related pole loading impacts.[103]

7.1 Discussion

After considering the parties' comments, the Commission will require the following:

> First, attachers shall be required to provide the data points on their attachments proposed in this decision. The Commission finds this to be a reasonable requirement since companies should already have asset management databases. To the extent a company does not have such databases, these requirements will be beneficial for that company's compliance with Commission requirements.
>
> Second, data shall be provided by attachers to the five major pole owners within 12 months from the effective date of the Decision and every six months thereafter until a real-time database entry system is operational. This deadline is similar to the five major pole owners' deadline.
>
> Third, the five major pole owners shall be required to add the initial datasets to their pole databases within 6 months from the expiration of the 12-month deadline set forth above and every three months thereafter until a real-time database entry system is available.

[102] Verizon's Comments, at 5-6.

[103] SED's Reply Comments, at 2.

Fourth, the five major pole owners shall file a Tier 2 Advice Letter three months from the effective date of this decision identifying:

- The specific format by which attachers shall submit their data.
- Any additional data points they require in addition to GO 165.
- An expected timeline for implementation of database system enabling attachers to update their attachment information in real-time.

Fifth, attachers shall provide real-time updates on modifications made to their attachments, starting at the date specified by the respective pole owners initiating that functionality. The Commission believes this requirement will alleviate the concern raised by numerous parties that the databases may become outdated so quickly as to make them unreliable.

Sixth, the five major pole owners shall notify the Commission of any attachers that fail to comply with these requirements.

Seventh, attachers are liable for the accuracy of attachment data they submit to the five major pole owners.

Eighth, the five major pole owners shall include a disclaimer indicating that the data in the databases may not be completely accurate, that the information provided is the most recent information available, and that it is the responsibility of the information requestor to verify and validate the information in accordance with all existing safety requirements.

The Commission's decision to impose these requirements on the attachers derives from the requirements that the Commission has imposed on the major pole owners and the Commission's regulatory authority in this area. As noted above, D.20-07-004 imposed several data retention responsibilities on the major pole owners, and it is essential that the attachers provide the information

required by this decision to the major pole owners so that they may maintain accurate and up to date information regarding each pole attachment. Each attacher has its own data management capability so each attacher is in the best position to provide information regarding its attachments to the major pole owner(s) with whom it has a business relationship.

The need for a robust and up to date database for attachments is not a new concept. As this Commission found in opening this proceeding, there is a need for improved collection and availability of information regarding the location and availability of poles, conduits, rights of way, and attachments.[104] The benefits for requiring the attachers to provide this information serves several beneficial purposes: protecting the safety of the distribution network by avoiding poles being overloaded with attachments; protecting the safety of utility pole workers by providing them with accurate information regarding the poles they are tasked with inspecting; determining the serviceability of poles by maintaining an accurate inventory of manageable attachments; ensuring that claims for unauthorized attachments are substantiated; and ensuring that pole owners can enforce penalties imposed by pole attachment agreements for attaching without authorization.[105] Complete information on all attachments on poles will be a worthwhile yet unattainable goal as long as attachers are not required to provide the pole owners with the information on the attachments that this decision is requiring.

The Commission also finds that the strong public policy of promoting safety, along with the other objectives set forth in the preceding paragraph,

[104] OIR, at 24-25.

[105] OIR, at 25.

through accurate and complete attachment information outweighs the objections and hardships that some parties have raised. The Commission rejects Verizon's assertion that the collection and sharing of pole attachment data would be an extraordinarily time-consuming process. This decision sets the time parameters under which the attachers must operate and the Commission expects that each attacher will deploy sufficient personnel so that the time deadlines imposed will be met. Even if the Commission were to accept Verizon's claim that compliance with this decision would be time consuming, the alternative of making a pole owner or interested third party search through each attacher's pole attachment data base would be a more cumbersome process as there are, by SED's estimate, over 100 attachment databases.

The Commission also rejects Verizon's contention that the usefulness of the required attachment information may be questionable. As there are numerous public policy objectives that will be achieved by requiring all attachers to comply with the Commission's decision, the usefulness of the required attachment information is beyond dispute.

8. Costs

8.1 Should Pole Owners be compensated for being data repositories and how should compensation be determined?

AT&T claims to have processes in place to identify and charge attachers for the costs incurred in relation to pole attachments. AT&T California's standard pole attachment agreement makes attachers responsible for their proportionate share of the cost of any inventory required to identify attachments. AT&T suggests that if the Commission makes the major pole owners the repositories of pole attachment data, the major pole owners should be compensated in the amount of the actual costs incurred by pole owners to

develop, operate and maintain the database, and the cost to import attachment data to the database.[106] AT&T's cost concerns stem from its assessment that generally there are at least 3 attachments per pole: the electric company, the telephone company and the cable company. The Track 2 Ruling proposes that 12 data points—some of which include multiple sub-data points—be collected for each attachment. Excluding the sub-data points, that amounts to over 151 million data points.[107]

CCTA also raises concerns over what it sees as the enormity of the cost of compliance if the *Ruling* is adopted by the Commission. CCTA estimates that starting with the 4.2 million pole number that the Commission utilized when it opened this proceeding, CCTA estimates it will cost at least $150 per pole to conduct a detailed survey and data entry of the proposed data fields for each pole, which amounts to a "cost to the industry of data compilation of at least $650 million.[108] As such, CCTA does not support Track 2 and states its members should not be forced to absorb Track 2's enormous costs. It believes that any party that advocates for Track 2 should be required to provide significant funding for this "enormously expensive undertaking."[109]

CMUA states that every attacher must be made to bear its own cost of maintaining and reporting the required data. In addition, if pole owners are going to serve as a repository for attachment data, then pole owners should certainly be compensated for providing this service. However, even if pole owners are compensated for implementing and maintaining systems to store

[106] AT&T's Comments, at 8.

[107] AT&T's Comments, at 2.

[108] CCTA's Comments, at 10.

[109] CCTA's Comments, at 16.

data that is provided by attachers, pole owners cannot be held accountable for any inaccurate information.[110]

CTIA states that consistent with the intent of the OII to ensure cost effectiveness of any solutions presented, the Commission should undertake an analysis to determine if the benefits of such an undertaking outweigh the costs that would ultimately be passed on to consumers as a result of this regulation.[111]

ExteNet states that AT&T charges attachers a management fee. Thus, it is reasonable to require AT&T to compile, maintain and provide access to attachment information.[112]

Frontier states that the addition of the proposed data points would likely be a very expensive endeavor given the number of attachments and the need to assemble and maintain the database of this information in a single location. Accordingly, it is essential that pole owners be compensated for this work.[113]

PG&E states that it is investigating installing a feature in JUMP to direct info requestor to owner of data for info. PG&E recommends that it be given access to all attachment information for use in making calculations. PG&E requests that the minimum charge for non-approved attachments be increased from $500 to $2,500 per attachment.[114]

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[110] CMUA's Comments, at 4.

[111] CTIA's Comments, at 4.

[112] ExteNet's Comments, at 7.

[113] Frontier's Comments, at 5.

[114] PG&E's Comments, at 4.

SCE states that it expects all costs associated with the Track 1 decision and subsequent decisions requiring changes to its data portal (SPIDAMin) should and will be addressed in future General Rate Case filings.[115]

SDG&E states that if pole owners are directed to serve as a repository for attachment data, they should be compensated so that the costs are paid for by the attachers and not by utility ratepayers. Workshops should be held to address the appropriate method to track and charge these costs to the attachers. All costs incurred to create, obtain, update, and maintain the required databases associated with what has been ordered by the Track 1 Decision (D.20-07-004) be addressed in future GRC filings. As costs to implement the Track 1 D.20-07-004 will be incurred before the next GRC the Commission should authorize utilities to create memorandum accounts to record Track 1 costs.[116]

Small LECs state that the Commission must provide a means for the Small LECs to recover these costs as they are cost of service rate regulated utilities.[117]

Verizon states that the costs of conducting these surveys could be partially collected through pole attachment rates. However, as discussed above, Verizon does not believe that most of the Track 2 proposed data fields provide meaningful or useful data points that could not otherwise be obtained in the course of the requisite site visits. It would not be appropriate to impose all of the considerable costs of collecting and storing the Track 2 data on attachers as this would mean that attachers would effectively need to pay for this data twice.[118]

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[115] SCE's Comments, at 6.

[116] SDG&E's Comments, at 5.

[117] Small LECs' Comments, at 2.

[118] Verizon's Comments, at 6.

AT&T replies that, contrary to ExteNet's claim, AT&T does not already charge a "management fee" that includes costs for maintaining a pole attachment database.[119]

In Reply Comments, CCTA disagrees with ExteNet's proposal to earmark a portion of existing pole attachment application fees to pay for the cost of data entry and database development and with Frontier's and SDG&E's suggestion that, if the Commission proceeds with Track 2, the associated costs could be recovered by increased pole attachment rental fees. Given the costs associated with Track 2, CCTA anticipates that recovering costs through pole attachment fees would require pole owners to substantially increase their pole attachment fees, which are allegedly among the highest in the nation. The proposal further suffers because it would force consumers to fund a program that lacks any material benefit.[120]

ExteNet's Reply Comments state that the Commission has already ordered pole owners to create electronic portals for access to their databases containing pole data. This is by far the largest pool of costs. All databases, including those of the pole owners, already have multiple fields. Identifying additional data that will be populated in database fields is a miniscule cost causer and should not sidetrack the Commission from the important work of completing Track 2 expeditiously.[121]

Frontier replies that given the magnitude of the costs that would be incurred based on the opening comments, it is essential to ensure that those parties who will have the burden of compiling and maintaining this data, and

[119] AT&T's Reply Comments, at 9.

[120] CCTA's Reply Comments, at 12.

[121] ExteNet's Reply Comments, at 3-4.

the utilities operating the databases, be provided a meaningful way to be compensated for this expense.[122]

Cal Advocates replies that any cost recovery mechanism the Commission adopts in this proceeding should ensure costs for the pole database are not unduly burdensome and not recovered multiple times.[123]

In Reply Comments SCE states that it currently charges a post construction inspection fee of $232/pole to qualified attachers who have completed the installation of their facilities on SCE poles. Noting that SCE's overhead electric distribution system is comprised of approximately 1.4 million poles and using the $232/pole post construction inspection fee as a proxy to calculate the approximate cost to identify/verify and capture only SCE's overhead electric distribution facilities, the cost would be approximately $324 million. Further, this estimated $324 million price tag does not include the costs associated with performing surveys of SCE's overhead electric transmission lines, SCE's overhead communication cables attached to non-SCE poles, and other attachments to SCE poles that are owned/operated by government agencies, private companies, and other non-jurisdictional entities.[124]

SDG&E notes that CCTA Comments illustrated that this would take millions of dollars and a tremendous amount of time to achieve.[125]

[122] Frontier's Reply Comments, at 3.

[123] Cal Advocates' Reply Comments, at 1.

[124] SCE's Reply Comments, at 4-5.

[125] SDG&E's Reply Comments, at 3.

8.2 Should costs be handled in GRCs for IOUs? How about for ILECs?

AT&T states that database costs should be recovered in a manner consistent with the Commission's cost recovery principles: require costs to be borne by the cost causer. For example: Stakeholders that benefit from competitive access or the increase in safety should bear the costs. Absent any other recovery mechanism being established by the Commission, AT&T California will include the database costs in its pole attachment rates.[126]

CCTA submits that the Commission should not move forward with Track 2. If, however, the Commission decides to move forward with Track 2, CCTA respectfully submits that it should conduct workshops to attempt to address this issue in the least detrimental manner.[127]

ExteNet generally agrees that earmarking a portion of existing pole attachment application fees paid to IOUs could be used to cover the cost of data entry and database development could be a viable funding mechanism. In the case of AT&T, no additional funding beyond the fees it charges to manage pole attachment applications should be permitted unless AT&T provides detailed information regarding the charges and what costs such charges are used to defray.[128]

Frontier states that with few exceptions, telecommunications companies do not have general rate cases. The costs related to the proposal set forth in the Ruling could be recovered by increased pole attachment rates. However,

[126] AT&T's Comments, at 8-9.

[127] CCTA's Comments, at 17.

[128] ExteNet's Comments, at 7.

additional cost recovery mechanisms, should it be determined that the additional data points be adopted, should be discussed in workshops.[129]

PG&E states that it could allow other users to access the Pole Loading Data Base (internal), with costs to be determined in workshops.[130]

SCE notes that AT&T and Frontier do not have a similar cost recovery mechanism and should be allowed to recover their initial and long-term costs associated with the Track 1 decision and subsequent decisions requiring changes to SCE's data portals. SCE does not have an affirmative proposal regarding a means for AT&T and Frontier to recover their costs for creating and maintaining their data portals, however, SCE believes that SCE's customers should not be negatively impacted any further.[131]

SDG&E believes future and subsequent GRC filings are a proper cost recovery vehicle for providing utility owned data, but ratepayers should not be negatively impacted or required to bear the cost burden for attachers' data. A cost benefit analysis should be conducted to determine if each data point is necessary, which parties it benefits most, and who should be responsible for the costs or portions of cost. SDG&E does not have a proposal for how costs should be handled for ILECs but believes that any company that incurs costs for creating and maintaining their data portals should have the ability to recover such costs.[132]

Small LECs states that for those Small LECs who participate in the CHCF-A and are subject to the general rate case plan, the costs associated with

[129] Frontier's Comments, at 5.

[130] PG&E's Comments, at 4.

[131] SCE's Comments, at 6-7.

[132] SDG&E's Comments, at 6.

implementing the requirements of this proceeding could be designated for recovery through the annual CHCF-A process. However, a comparably prompt annual funding mechanism should be made available to those Small LECs that do not presently participate in the CHCF-A process.[133]

Sonic agrees that the costs of the databases and interfaces that access them should be recovered in the electric company's general rate case.[134]

Verizon states that Electric utilities should be able to recover the costs of their databases (with Track 1 information) through general rate cases because this database benefits electric ratepayers as they are generally also communications customers.[135]

Frontier's Reply Comments state that with few exceptions, telecommunications companies do not have general rate cases as do the electric utilities. One possible alternative solution is that the costs related to the proposal set forth in the *Ruling* be recovered by increased pole attachment rates. However, this may not be viable depending on the magnitude of the costs.[136]

Cal Advocates replies that IOUs should identify what pole database costs they have recovered in previous GRC filings and what costs they plan to recover in their next GRC filings. AT&T California, Frontier California, and other pole owners that would recover pole database costs through pole attachment rates should outline how pole attachment rates would change, who would pay the

[133] Small LECs' Comments, at 2.

[134] Sonic's Comments, at 8-9.

[135] Verizon's Comments, at 6.

[136] Frontier's Reply Comments, at 3.

increased rates, and whether these rates would be reduced once pole owners have recovered the full amount required to implement the pole databases.[137]

Verizon also agrees with commenters explaining that pole attachers should not solely bear the costs of Track 2 data, as most attachers are not in favor of such detailed Track 2 data and would likely not use the data due to concerns about accuracy.[138]

8.3 Should costs be built into attachments or reflected in the annual cost of ownership?

AT&T states that if the Commission does not establish another means of recovering the costs, AT&T California will include its pole database costs in its pole attachment rates.[139]

CMUA states that costs should not be built into the cost of attaching, nor the cost of pole ownership. Attachment fees are governed by the Federal Communications Commission as well as California law. For example, Pub. Util. Code §§ 9510-9520 limit how much Publicly Owned Utilities are able to charge attachers. These limitations look only at the cost of maintaining the pole facility itself. The costs of maintaining a database are separate and very distinct from the cost of installing and maintaining the pole. Therefore, compensation provided to pole owners for storing and maintaining data should be separate and distinct from the costs of attaching, and also separate from the cost of pole ownership.[140]

ExteNet notes that when funding is considered, attachers should not bear the entire burden because: 1) pole owners benefit from attachment fees paid by

[137] Cal Advocates' Reply Comments, at 4.

[138] Verizon's Reply Comments, at 1.

[139] AT&T's Comments, at 10.

[140] CMUA's Comments, at 4-5.

communications companies and decreasing the amount of time required to plan and execute attachments through a comprehensive database that benefits pole owners and 2) the pole database will help improve public safety, which benefits all Californians. Whatever funding mechanism is chosen, it should be based on an analysis of reasonably allowable costs and the entire set of benefits provided by a pole database.[141]

Frontier states that if it is determined that the addition of the data points proposed in the Ruling should be undertaken, the costs could be recovered through increased pole attachment rates.[142]

PG&E believes this issue should be determined in workshop.[143]

SCE believes this question is directed to AT&T, Frontier, and CLECs, because SCE, SDG&E, and PG&E would likely be able to recover costs associated with modifying and updating their respective data portals in their respective general rate cases. Further, this question appears to be a subset of Question B.2 above and the reference to "cost of pole ownership" is unclear. SCE is amenable to discussing a means for AT&T and Frontier to recover their costs associated with creating, modifying, and maintaining their respective data portals, provided IOU customers are not negatively impacted.[144]

SDG&E states that pole owners are not the appropriate entity to host third party Track 2 data. Should this be required then the costs of the database could be included in the fees for attaching to a pole or in an annual charge to attachers. The simplest means to ensure there are no cross subsidies is to require the

[141] ExteNet's Comments, at 7.

[142] Frontier's Comments, at 5.

[143] PG&E's Comments, at 4.

[144] SCE's Comments, at 7.

attachers to make their own data available in a third party attacher data repository.[145]

Small LECs state that given the small number of attachments, particularly in the most rural areas of California, including these costs in pole attachment rate calculations may not be a viable cost recovery solution for Small LECs because the few attachments (or no attachments) on their poles are not likely to provide sufficient revenue to cover the potentially significant costs of implementing the Track 2 proposals without greatly increasing their pole attachment rates beyond reasonable levels (at 2)"[146]

CCTA replies that Track 2 should not be adopted or that, if it is adopted, the associated costs should be imposed on Track 2's proponents – namely, ExteNet, Sonic, and proponents within the Commission.[147]

ExteNet replies that any proposed rate increase should be thoroughly examined and approved by the Commission to prevent AT&T from raising pole attachment costs as a way to stifle competitors.[148]

Frontier replies that one possibility identified in its opening comments is that the costs related to the proposal set forth in the *Ruling* be recovered by increased pole attachment rates. However, this may not be viable depending on the magnitude of the costs.[149]

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[145] SDG&E's Comments, at 6.

[146] Small LECs' Comments, at 2.

[147] CCTA's Reply Comments, at 12.

[148] ExteNet's Reply Comments, at 15.

[149] Frontier's Reply Comments, at 3.

8.4 Discussion

The Commission rejects the concerns raised by various parties that the costs to comply with this decision will be so exorbitant as to potentially outweigh the safety benefits attendant to such an exercise. In fact, just the opposite is true when one considers California's population and the number of poles and attachments that need to be accurately accounted for and managed. In a state of over 39 million people, approximately 163,696 square miles, over 5 million poles, 12.6 million attachments, and 151 million data points, the need for and benefit of standardized data collection methods and modern asset management of pole and attachment databases is beyond dispute. That pole owners do not have this information currently is of grave concern to the Commission. If pole owners do not already know what is on their poles, the Commission has no assurances that each pole owner's infrastructure follows all applicable Commission regulations, or that each pole owner is holding third-party attachers accountable as a result of pole related incidents that lead to loss of life, personal injury, and or property damage.

The Commission also rejects the cost concerns as they are premised on the erroneous underlying assumption that compliance will require an individual, in-person survey of each utility pole. These costs may be greatly reduced by virtue of requiring each attacher, whether electric or communications, to be responsible for providing accurate data on its attachments. CCTA's estimate for what it would cost to perform an individual assessment of all the poles in California is instructive of the fallacy of potential exorbitant compliance costs. CCTA estimates a manual survey of all the pole attachments would cost at least $650 million, with additional costs for regular updates. But this decision does not propose a manual survey. Instead, this decision will have significant

efficiencies, in that all attachers will be responsible for providing their own attachment information and updating it when new attachments are made or modified. Since this decision requires each attacher to maintain detailed information in the database of each major pole owner, no survey will need to be performed to comply with the decision's requirements because attachers will be required to update the information in these databases as they make changes to their attachments without the need for a manual survey of every pole. As such, this data governance model has the capacity to greatly diminishes the costs, while significantly increasing the accuracy of the database.

In reaching this conclusion, the Commission acknowledges that there may be some instances when a field survey might be needed as a result of a power outage, catastrophic event, or need to resolve a joint use ownership dispute. But the Commission sees these instances as the exception rather than the rule since accurate record keeping by the pole owners and the attachers should obviate the need for constant manual surveys.

The Commission also acknowledges costs to comply with this decision will not be completely eliminated. While there may be some costs inherent in complying with this decision, these costs are a function of the manner in which pole owners and attachers currently conduct their business. As noted above, pole owners already have an obligation to manage their poles. Pole attachers already have an obligation to provide whatever information the pole owners require. The requirements adopted in Track 1 (D.20-07-004) and here for Track 2 are simply an extension of these already existing requirements. As such, each pole owner and attacher should address the costs of meeting these additional requirements as they have addressed their existing requirements.

Finally, any costs already incurred by the five major pole owners, as well as costs to implement Track 1 and Track 2, shall be itemized and made available to any attacher upon request. For utilities subject to a general rate case, those costs shall be distributed as appropriate between electric utility rates for electric attachments (*e.g.*, cost of cataloging and making available in the pole database any attachment data), and pole attachment rates for costs incurred for communications attachments (*i.e.,* cost of managing data submissions from attachers, providing technical support staff, information technology equipment, etc.). For pole owners not subject to a general rate case, these costs shall be distributed as appropriate in its pole attachment rates.

9. Data Access

9.1 Should all data be made available to third parties?

AT&T states that disclosure of certain of the pole attachment data would raise trade secret and security concerns. AT&T argues that access to sensitive data must be limited to: 1) identified Commission staff with a need to know should have access to the databases and 2) staff of certified providers and other pole owners only if they sign and comply with an appropriate nondisclosure agreement. Database access should be protected with secure passwords and other appropriate cybersecurity measures.[150]

CCTA states that Track 2 conflicts with the ROW Rules and raises serious concerns about anticompetitive use of Track 2 data and security issues. For this and the other reasons set forth in Section II of CCTA's Comments, CCTA submits that the Commission should not move forward with Track 2. If, however, the Commission decides to move forward with Track 2, CCTA submits that it should

[150] AT&T's Comments, at 10.

conduct workshops to attempt to address this issue in the least detrimental manner.[151]

CMUA states that this information should not be available to the public and should only be made available to those who have a legitimate purpose and use for the information. CMUA recommends that there should be a limit on the number of poles that an attacher can request information on at a given time. CMUA believes that 10-15 poles per attacher request would be a sufficiently limited scope to guard against security concerns.[152]

ExteNet states that individual pole owners databases must be available 24x7, include all data that the pole owner has available to its internal planners about the pole and attachments, and the pole owner should not have unilateral discretion to discontinue offering access to the database. In addition:

- CPUC Staff should have access to any additional data elements to facilitate their regulatory and oversight responsibilities. and be made available to all entities holding a certificate of public convenience and necessity (CPCN) in California.
- first responders should have access to assist with emergency assessment and response.
- non-certificated communications carriers should be required to submit to Commission jurisdiction"153

Frontier states that if included in a database, the proposed additional data points, if adopted by the Commission following workshops, should be available only to the pole owners, licensed attachers, and the CPUC staff. The availability of this information further could compromise safety and security and violate the

[151] CCTA's Comments, at 17.

[152] CMUA's Comments, at 5-6.

[153] ExteNet's Comments, at 7-8.

confidentiality interests of the parties involved as expressed in non-disclosure agreements or other provisions in agreements between pole owners and attachers.[154]

Cal Advocates states that the attachment data in a pole owner's database should be available to all third parties who are permitted to access the data portals. Attachers should promptly share data that pole owners need for the database and Commission staff should be able to request the detailed attachment information they need from attachers. Information stored in the pole owner's database should be accessible through secure means by requiring interested parties to register through a similar process established in Resolution E-4144.[155]

PG&E states that qualified CLECs and CATV are given access by PG&E, in accordance with existing NDAs. No info should be public as the public has no need for this data.[156]

SCE states that it is not clear whether this question is referring to each pole owner's data portal as required by Track 1, or the data bases utilized by pole owners to operate their businesses. SCE believes that access to its data portal (SPIDAMin) required by the Track 1 decision does not need to be expanded beyond the qualified CLECs and CATV companies already recognized by the Track 1 decision as having password protected/secured access to the ordered data portals. Each pole attacher should only be required to share their attachment datasets (in an accessible format) with qualified CLECs and CATV companies.[157]

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[154] Frontier's Comments, at 6.

[155] Cal Advocates' Comments, at 2, 6-7.

[156] PG&E's Comments, at 4-5.

[157] SCE's Comments, at 7-8.

SDG&E states that it does not believe that access should be made available to any other third parties such as local governments, interested parties, or the general public. Limited access and security protocols would be even more crucial to protect the electric and communications systems if SDG&E's data portal also included extensive communications data points as proposed in the *Ruling*.[158]

Sonic believes that bulk data should be available to an attacher for all of the pole owner's territory. Local governments, Commission staff, and safety agencies also need access. Sonic believes no public access is needed.[159]

SED states that since poles and poles attachment are visible to the public, the poles and attachment database should be accessible online to the public in real time. There are no confidentiality issues with making the data publicly available.[160]

Verizon states that where data points are made available to third party attachers, they should be provided only pursuant to strict nondisclosure agreements (NDAs). Commission staff should also be required to submit to such NDAs, and comply with existing requirements pursuant to GO 66-D and Pub. Util. Code § 583.[161]

In Reply Comments AT&T disputes SED's position that the attachment information required by this decision is not confidential since it is readily available. As proof, AT&T states that the record evidence that the data collection effort would take more than a decade and cost hundreds of millions of dollars

[158] SDG&E's Comments, at 7.

[159] Sonic's Comments, at 9.

[160] SED's Comments, at 6.

[161] Verizon's Comments, at 7.

belie the readily available claim. Numerous parties note that, in the aggregate, the data could reveal confidential business plans and information. Moreover, the commenters note that inclusion of attachment data points would create a "one-stop shop" for bad actors seeking extensive and granular critical infrastructure data.[162]

CCTA replies that bad actors have previously targeted communications infrastructure for destruction and vandalism, and Track 2 data would be ideal for plotting future attacks. CCTA members already make data available to Cal OES and CAL FIRE so there is no need to provide further access.[163]

Consolidated disagrees with the recommendation of SED that attachment data (and the entire pole data database) should be open to the public and easily accessible in real-time. Consolidated recommends access be limited to CLECs and cable companies.[164]

ExteNet argues that SCE's comments identified no instance of bad actors attempting to hack or successfully hacking SCE's database and then carrying out an attack on the SCE electrical grid. SCE further fails to explain why adding attachment data to SPIDAMin and there have not been any hacking incidents or misuse reported.[165]

In Reply Comments, Cal Advocates states that once any confidential information has been identified and justified, Pole Owners can create a process to separate confidential or critical infrastructure information from the rest of the information stored in the database. This will allow authorized stakeholders to

[162] AT&T's Reply Comments, at 11.

[163] CCTA's Reply Comments, at 15.

[164] Consolidated's Reply Comments, at 3.

[165] ExteNet's Reply Comments, at 14.

access most of the pole database's information without signing NDAs with many different parties.[166]

SCE disagrees with SED's comments and "provincial view" that any and all pole data related to IOU, ILEC, CLEC, and CATV4 systems or networks should be transparent and made available to the general public.[167]

SED replies that the data access restrictions and protocols necessary to maintain the physical security of electrical supply facilities and distribution substations simply cannot apply to poles and pole attachments, which are visible to the public. In addition to Commission staff and joint owners, other parties have legitimate purposes for accessing pole and attachment data. Local governments and fire safety professionals should have access to the data to evaluate the impact of pole and attachment conditions on fire ignition risk and other unsafe conditions. SED believes the public has a legitimate interest as well.[168]

Verizon states that the data is highly technical, and it is unlikely that local governments or first responders would understand it or conduct pole loading calculations on their own to assess the safety of a given pole. Verizon argues that data is likely to be outdated quickly and therefore, not useful and disclosure of such data to entities such as local governments or first responders presents another serious risk given that these entities are subject to the Public Records Act.[169]

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[166] Cal Advocates' Reply Comments, at 4.

[167] SCE's Reply Comments, at 3.

[168] SED's Reply Comments, at 3.

[169] Verizon's Reply Comments, at 4.

9.2 In accordance with GO 66-D, what data is confidential and why?

AT&T requests that the Commission include in any decision regarding pole attachment data points a preemptive determination of confidentiality for the following proposed data points: Attachment Owner, Attachment Description, and Attachment Specifications. According to AT&T, a preemptive determination under General Order 66-D, Rule 3.4(b) is necessary because there would be millions of instances of these data points in the various databases, which makes specific confidentiality requests for each data point impossible.[170]

CCTA states that by requiring disclosure of the information that the Commission may adopted by this decision would conflict with the Commission's ROW Rules' duty not to disclose proprietary information. In CCTA's view, the Commission has made it clear that information contained in attachment applications is "commercially sensitive" and thus subject to strict protections against disclosure to third parties. The *Ruling*, which would require the major pole owners to disclosed an attacher's alleged commercially sensitive information to third parties – including competitors – conflicts with longstanding Commission precedent. Attachment applications include sensitive information about where the cable company intends to extend or upgrade its network and thus provide a "preview" of the company's network buildout and expansion plans. This information could be used for anticompetitive purposes. If acquired by a bad actor, this information could be used to disable large portions of CCTA members' networks, as well as other services that rely on these networks, such as wireless backhaul services.[171]

[170] AT&T's Comments, at 11-12.

[171] CCTA's Comments, at 12-14, 18.

CMUA states that providing unrestricted access to electric system information certainly raises confidentiality, critical infrastructure information, and security concerns.[172]

ExteNet supports classifying pole and attachment data as confidential and submit that requiring entities to sign a non-disclosure agreement is appropriate. Beyond that, the pole owner should implement a security process consisting of issuing a user identification and password to CLCs for access to the database.[173]

Frontier states that the attachment data contemplated by this decision are confidential, and the Commission should reach an explicit finding preserving their confidentiality if the database requirements contemplated by the Ruling are adopted. In addition, Frontier notes that the databases themselves will not be "public records" under the California Public Records Act (CPRA), as the materials in the databases are not "prepared, owned, used, or retained by any state or local agency."[174] While the Commission may have access to the database, it would reside outside of the Commission and not be subject to the disclosure paradigm under the CPRA.[175]

Cal Advocates' states that the Commission should require pole owners and attachers to show why information should be treated confidentially. If the Commission finds their arguments persuasive, then it should redact any confidential information, then make the remaining information available to interested third parties through a defined registration process. This will allow

[172] CMUA's Comments, at 5.

[173] ExteNet's Comments, at 9-10.

[174] Gov. Code § 6252(e).

[175] Frontier's Comments, at 6.

interested parties to access the data expediently without signing non-disclosure agreements with up to five different pole owners.[176]

PG&E states that GO 66-D does not appear to have direct application to the specialized, technical info relating to utility poles available in JUMP available to qualified CLECs/CATVs. NDAs are sufficient to qualified entities.[177]

SCE states that it does not believe the use of General Order 66-D is appropriate for determining the confidential nature of any new data sets. SCE offers that this is an opportune time for the Commission to recognize the serious consequences of requiring the collection, display, and export of pole attachment information, thus creating a digital roadmap of SCE's PG&E's and SDG&E's overhead electric systems as well as AT&T's, Frontier's, CLEC, and CATV company overhead communication networks.[178]

SDG&E believes that more information is required in order to answer this question. The data points included in the ruling must be studied and defined in order to understand the extent of information that will be required and, therefore, whether it includes anything that must remain confidential under General Order 66D. SDG&E proposes that workshops be used to study each data point and examine whether confidentiality issues arise.[179]

Sonic states that Bulk/Aggregate Data should be deemed confidential.[180]

SED states that when submitting confidential information, utilities must follow the procedures established in GO 66-D, Part 3, "Submission of

[176] Cal Advocates' Comments, at 7.

[177] PG&E's Comments, at 5.

[178] SCE's Comments, at 10.

[179] SDG&E's Comments, at 8.

[180] Sonic's Comments, at 9.

Information with a Claim of Confidentiality to the Commission." Where a utility has followed the requirements under Part 3 and established a lawful basis for confidential treatment of the requested information, the Commission must protect the confidentiality of the information, and will not release it in response to the CPRA request.[181]

Verizon states that all of the proposed data fields are highly confidential and proprietary for the reasons discussed above. The information is protected under Gov. Code § 6254(k) as prohibited trade secrets information. It is also highly sensitive network information, the disclosure of which could result in harm to networks. In addition, under the balancing test of Gov. Code section 6255, the public interest in withholding this information from disclosure far outweighs any public interest in disclosure of such data.[182]

CTIA replies that recommendations that the attachment information contemplated by this decision be made broadly available to the public would threaten to undermine competition and could play into the hands of bad actors, and thus should be rejected. CTIA submits that the approach advanced by Cal Advocates is reasonable, with appropriate modification. First, the Commission should provide the opportunity for pole owners and attachers to make the necessary showing that certain categories of information (*i.e.*, data fields) should be treated as confidential for all providers. The Commission could then issue a ruling setting forth its determinations on confidentiality, allowing such data fields to be masked in the data access portals. Second, access to the confidential data should be limited.[183]

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[181] SED's Comments, at 7.

[182] Verizon's Comments, at 7-8.

[183] CTIA's Reply Comments, at 6-7.

Frontier replies that given the concerns articulated by SCE and others, expanded access to the pole database would be contrary to the goal of the Track 2 to promote safety.[184]

In Reply Comments, Cal Advocates states that Verizon's recommendation that Commission staff must execute a NDA in order to access utility attachment data is contrary to existing law.[185] Historically, Commission staff have been given access to confidential information without having to execute a NDA because GO 66-D and Pub. Util. Code § 583 require that Commission staff protect and not disclose information that has been marked as confidential.

SED replies that a significant portion of the attachment data information is already publicly available because SED's electric audit reports are available on SED's public access webpage and this information is similar to what would be included in the database. SED supports Cal Advocates' proposal to require utilities and pole attachers to adequately justify and support specific requests that items of data receive confidential treatment.[186]

Verizon notes that SED and Cal Advocates claim that the information should be available to the public, they also assert that submitters should explain the confidential nature of any information pursuant to GO 66-D and Pub. Util. Code § 583.12. In this regard, however, CCTA and other parties clarify that data within a private entity's database is not subject to GO 66-D or Pub. Util. Code § 583 to the extent that any non-Commission entity accesses the data. Accordingly, GO 66-D would not cover the data accessed by any non-Commission entity and the Commission must require that any non-

[184] Frontier's Reply Comments, at 4.

[185] Cal Advocates' Reply Comments, at 3.

[186] SED's Reply Comments, at 3-4.

Commission recipient of the information agrees to nondisclosure agreements for accessing the databases.[187]

9.3 Should attachers have to provide additional detailed information upon request?

AT&T states that its pole attachment agreements already require attachers to provide AT&T California with appropriate information regarding attachments. Attachers are also required to provide attachment information within their possession to the Commission upon request.[188]

CCTA states that attachers regularly respond to data requests from the Commission and work cooperatively with the major pole owners. SED previously informed the Commission in this proceeding that information regarding overhead and underground facilities are always made available to SED staff when requested. Moreover, Track 2 data is critical infrastructure information that cannot be disclosed to "interested parties" or the public given the immense security risks associated with such disclosure.[189]

Frontier states that in the interest of network security and the need for confidentiality for safety and competitive reasons, the information should not be made publicly available. Any such requests from the public beyond those who would have access to the database should be evaluated on a case-by-case basis subject to non-disclosure agreements as appropriate. [190]

[187] Verizon's Reply Comments, at 5.

[188] AT&T's Comments, at 12.

[189] CCTA's Comments, at 18.

[190] Frontier's Comments, at 6.

Cal Advocates states that attachers should promptly share data that pole owners need for the database and Commission staff should be able to request the detailed attachment information they need from attachers.[191]

PG&E states that it currently requires attachers to share the following: Overhead License Agreement Number Prior Agreement Number; Application Number; Permittee Company; Street Address/City of Attachment; Requestor Company; Phone Number; Street Address of Requestor Company; Requestor Authorization Signature; Requestor Authorization Name; Requestor Title; Number of Pole(s) Contacted (new); Number of Anchors Contacted (new); Number of Risers Installed (new); Number of Poles Cable Rebuild (exist); Number of Poles Over lashed (exist); Cable size over 2" (diameter in inch); Total vertical feet of Pole used for Telco equipment (Power Supply); Total feet of Underground Conduit used; Attach Make Ready; Load Calcs; PG&E Map; Complete Pole Loading calculations.[192]

SCE states that jurisdictional entities (pole owners and attachers) are already required to provide detailed information regarding their overhead facilities to the Commission upon request, and GO 95, Rule 44.4 (Cooperation) requires jurisdictional entities (pole owners and attachers) to share information necessary to perform a pole load calculation with other jurisdictional entities.[193]

SDG&E states that attachers are already required to share information with pole owners when it cannot be obtained from a field visit, per GO 95 Rule 44.4. This information must also be made available to the Commission, upon request.

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[191] Cal Advocates' Comments, at 7.

[192] PG&E's Comments, at 5-6.

[193] SCE's Comments, at 10.

SDG&E would not expect attachers to have to share such information with local governments, interested parties, or the public and does not see a need to do so.[194]

Verizon states that GO 95 requires that holders of pole loading information provide information on request to authorized joint use occupants and the Commission. (*See* Rule 44.4.)[195]

9.4 Discussion

In reaching our decision today, the Commission is mindful of California's strong public policy favoring the disclosure of information as it relates to the government's business. As the Commission has explained in numerous decisions, the public has a right to access most Commission records.[196] The California Constitution (Cal. Const.), Article I, § 3(b)(1) states:

> The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.[197]

The public right to information is of even greater significance if the access may promote public safety and foster competition in the pole attachment industry.

Furthermore, Cal. Const., Article I §3(b)(2) states that statutes, court rules, and other authority limiting access to information must be broadly construed if they further the people's right of access, and narrowly construed if they limit the

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[194] SDG&E's Comments, at 9.

[195] Verizon's Comments, at 8.

[196] *See e.g.,* D.20-03-014, *Decision on Data Confidentiality Issues Track 3*, at 10-13; *see also* D.17-09-023, *Phase 2A Decision Adopting General Order 66-D and Administrative Processes for Submission and Release of Potentially Confidential Information*, at 2-3, 9-12.

[197] *See e.g., International Federation of Professional & Technical Engineers, Local 21, AFL-CIO v. Superior Court* (2007) 42 Cal.4th 319, 328-329.

right of access.[198] Rules that limit the right of access must be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.[199]

In view of this interest in public access, as well as the goals that public access may help achieve, the pole information required by this decision shall be made available to facilities-based CPCN and video franchise holders. State and local government officials may also receive access upon request and must identify the purpose for receiving access to the information (*e.g.,* a planning department with responsibilities for utility easement planning, public safety entities, etc.). As needed, pole owners shall consider implementing reasonable security measures, such as secure passwords and cybersecurity measures to guard against the wholesale access to the pole information.

In making this determination regarding pole information access, the Commission agrees with SED that the security concerns appear to be overstated since much of this information is either available on Google Maps Street View or is visible to the public. But the Commission will not go so far as to order the databases be made publicly available as this may add to the administrative costs of running the databases and, at this time, there is not a clear benefit in providing such broad availability and security concerns.

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[198] Cal. Const., Article 1, § 3(b)(2): "A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest." (See, e.g., *Sonoma County Employee's Retirement Assn. v. Superior Court (SCERA)* (2011) 198 Cal.App.4th 986, 991-992.)

[199] *Ibid.*

Because of the strong public policy favoring disclosure, the Commission declines to institute a new practice and require every entity obtaining access to pole information to sign an NDA. Of course, to the extent pole owners require attachers to sign NDAs as an existing practice, the pole owners may continue this practice. Finally, pole owners and attachers may not require Commission staff to sign an NDA. Instead, Commission staff will handle any data retrieved from pole databases as they do today.

In reaching these conclusions, the Commission finds that the parties raising confidentiality claims have failed to satisfy their burden of proving that these data points are confidential, trade secrets, or confidential for the purposes of national security. Part of that failure may have been due to fact that a final determination regarding the required attachment information had not been made at the time the parties submitted their comments.[200] But now that the parties are aware of the attachment information that must be made available, this decision will set forth the law and relevant standards in detail so that a party making confidentiality, trade secrets, or national security claims knows what will be expected of it in order to establish the requisite burden of proof.

9.1.1. Confidentiality Claims Pursuant to GO 66-D

GO 66-D, § 3, sets forth the requirements for submission of information to the Commission under a claim of confidentiality. GO 66-D, § 3.2, states:

> An information submitter bears the burden of proving the reasons why the Commission shall withhold any information, or any portion thereof, from the public.

[200] *See* SDG&E's Comments, at 8: "SDG&E believes that more information is required in order to answer this question. The data points included in the ruling must be studied and defined in order to understand the extent of information that will be required and, therefore, whether it includes anything that must remain confidential under General Order 66-D."

To request confidential treatment of information submitted to the Commission, an information submitter must satisfy the following requirements:

a. designate what portions of a document are confidential;
b. state a specific legal basis for the claim (*e.g.* not just "section 583");
c. provide a declaration in support of the claim; and
d. provide a name and email address of a person to contact regarding potential release of information.[201]

GO 66-D further states that if the information submitter cites Gov. Code section 6255(a) (commonly known as the "public interest balancing test") as the legal authority for withholding a document from public release, then the information submitter must demonstrate with granular specificity on the facts of the particular information why the *public* interest served by not disclosing the record clearly outweighs the *public* interest served by disclosure of the record. A *private* economic interest is an inadequate interest to claim in lieu of a *public* interest. Accordingly, information submitters that cite Gov. Code section 6255(a) as the basis for the Commission to withhold the document and rest the claim of confidentiality solely on a *private* economic interest will not satisfy the requirements of this Section.[202]

In formal proceedings, GO 66-D, § 3.3 vests the ALJ and Assigned Commissioner with discretion in determining the requirements parties must follow for confidential treatment of information submitted in the proceeding. Nevertheless, parties requesting confidential treatment in a formal proceeding must meet the same minimum standards in GO 66-D, § 3.2 to demonstrate with

[201] *See* GO 66-D, § 3.2.

[202] *See* D.17-09-023, at 22, and Appendix A, GO 66-D, § 3.2; D.20-03-014 at 24.

particular facts and citation to specific laws why the Commission should not disclose the alleged confidential information.[203]

The Commission notes that some parties question whether it is even appropriate to apply GO 66-D to this proceeding. For example, PG&E notes that GO 66-D governs the submission of information with claims of confidentiality *to the Commission*, but that GO 66-D "does not appear to have direct application to the specialized technical information relating to the status and condition of utility poles that is made available in the JUMP portal to qualified CLECs and CATV companies for limited purpose of making access available for attachment."[204] In PG&E's view, if the information is not filed with the Commission but instead is contained in a portal not within the Commission, then a party claiming confidentiality need not satisfy the GO 66-D standards under either Section 3.2 (filings with the Commission but not part of a formal proceeding) or 3.3 (filings made in the docket of a formal proceeding).

But assuming, arguendo, that PG&E is correct in its reading of GO 66-D's scope, there is no reason why the Commission cannot, as part of its regulatory authority, impose the same evidentiary standards here to a party seeking to shield information from public disclosure on confidentiality grounds. Nothing in GO 66-D prevents such an extension to the fact pattern in this proceeding and, in fact, to prevent the Commission from imposing that same evidentiary burden would be contrary to settled California law on the burden of proof. Evidence Code § 115 defines burden of proof as "the obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the trier of

[203] *See* CPUC Rules of Practice and Procedure, Rules 11.1 and 11.4.

[204] PG&E's Comments, at 5.

fact or the court." Evidence Code § 500 states: "Except as otherwise provided by law, a party has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for relief or defense that he is asserting." There is no substantive difference between the evidentiary standard in GO 66-D for establishing a claim of confidentiality and the burden of proof imposed by Evidence Code §§ 115 and 500 since both require the party asserting a claim to produce evidence to establish each element of that claim. Thus, there is no prohibition against the Commission imposing the same burden of proof set forth in GO 66-D on parties claiming that any of the pole attachment data required by this decision is confidential.

9.1.2. Trade secrets

Evidence Code § 1060 states that the holder of a trade secret has a right to refrain from disclosing a trade secret, and to prevent others from disclosing trade secrets, "if allowance of the privilege would not tend to conceal fraud or otherwise work injustice."[205] "Trade secret" is defined in Civ. Code § 3426.1(d), which falls within the California Uniform Trade Secret Act (CUTSA), Civ. Code § 3426, *et seq.*, as:

> "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:
>
> (1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

[205] Evidence Code § 1061 states that "trade secret" is defined in Civ. Code § 3426.1(d) and Penal Code § 499(c).

The CUTSA provides a cause of action for "misappropriation" of trade secrets, defined in Civ. Code § 3426.1(b) primarily as the acquisition, use, and disclosure of another's valuable, proprietary, information by improper means.[206] Civ. Code § 3426.7 states that: "This title does not affect the disclosure of a record by a state or local agency under the California Public Records Act."

Trade secrets are generally the products of the creativity and hard work of the trade secret holder's efforts to further a business or otherwise reap economic rewards.[207] The idea behind the trade secret privilege is that those who devote time and energy to creating something of value should be protected against the use of such hard won, and economically valuable, information by others who contribute nothing to the creation of the trade secret.[208]

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[206] *See e.g.*, *DVD Copy Control Assn., Inc. v. Brunne*r (2003) 31 Cal.4th 864.

[207] *See e.g.*, *Morlife, Inc. v. Perry* (1997) 56 Cal.App.4th 1514, 1522; *Courtesy Temporary Service, Inc. v. Camacho* (1990) 222 Cal.App.3d 1278, 1287; *American Paper & Packaging Products, Inc. v. Kirgan* (1986) 183 Cal.App.3d 1318, 1326; D.16-01-014; see also, Resolution ALJ-388, *Resolution Denying the Appeals by Uber Technologies, Inc. and Lyft Inc. of the Consumer Protection and Enforcement Division's Confidentiality determination in Advice Letters 1, 2, and 3* (Issued November 16, 2020) at 26, *citing* D.16-01-014 ("While it is true that the word 'information' has a broad meaning, trade secrets usually fall within one of the following two broader classifications: first, technical information (such as plans, designs, patterns, processes and formulas, techniques for manufacturing, negative information, and computer software); and second, business information (such as financial information, cost and pricing, manufacturing information, internal market analysis, customer lists, marketing and advertising plans, and personnel information). The common thread going through these varying types of information is that it is something that the party claiming a trade secret has created, on its own, to further its business interests.")

[208] *See e.g., Altavion, Inc. v. Konica Minolta Systems Laboratory, Inc.* (*Altavion*) (2014) 226 Cal.App.4th 26, 42; *DVD Copy Control Assn. v. Brunner*, *supra*, 31 Cal.4th at 880; *San Francisco Arts & Athletics, Inc. v. United States Olympic Com.* (1987) 483 U.S. 522, 536; *Morlife, Inc. v. Perry* (1997) 56 Cal.App.4th 1514, 1520.

Courts have distinguished between trade secret information versus other secret information:[209]

> It [trade secret] differs from other secret information in a business . . . in that it is not simply information as to single or ephemeral events in the conduct of the business, as, for example, the amount or other terms of a secret bid for a contract or the salary of certain employees, or the security investments made or contemplated, or the date fixed for the announcement of a new policy or for bringing out a new model or the like. A trade secret is a process or device for continuous use in the operation of the business. Generally, it relates to the production of goods, as, for example, a machine or formula for the production of an article.

In misappropriation of trade secrets litigation under the CUTSA, to be a trade secret, information must be: 1) owned by the trade secret asserter, with the trade secret identified with reasonable particularity, sufficient to allow one to distinguish the asserted trade secret from matters of general knowledge;[210] 2) secret – *i.e.*, not generally known to the public, or to other persons who can obtain economic benefit from its disclosure or use;[211] 3) possessed of independent economic value from being secret;[212] and 4) the subject of reasonable efforts to

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[209] *See Cal Francisco Investment Corp. v. Vrionis* (1971) 14 Cal.App.3d 318, 322 (citing Restatement, Torts, section 757, comment (b)); *see also*, Resolution ALJ-388, at 7-9.

[210] Civ. Code § 2019.210; *Altavion*, *supra*, 226 Cal.App.4th at 43; *Diodes, Inc. v. Franzen* (1968) 260 Cal.App.2d 244, 253; *Bunnell v. Motion Picture Ass'n. of America*, 567 F.Supp.2d 1148, 1155 ("A plaintiff must do more than just identify a kind of technology and then invite the court to hunt through the details in search of items meeting the statutory definition [of a trade secret]. [citation omitted]").

[211] Civ. Code § 3426.1(d)(1); *Altavion*, *supra*, 226 Cal.App.4th at 57; *Ruckelshaus v. Monsanto Co.* (1984) 467 U.S. 986, 1002; *DVD Copy Control Assn. v. Brunner*, *supra*, 31 Cal.4th at 881; *AMN Healthcare, Inc. v. Healthcare Services, Inc.* (2018) 28 Cal.App.5th 923, 943.

[212] Civ. Code § 3426.1(d)(2). *See Altavion*, *supra*, 226 Cal.App.4th, at 62 ("Information that is readily ascertainable by a business competitor derives no independent value from not being generally known. [Citation.]" (*Syngenta Crop Protection, Inc. v. Helliker* (2006) 138 Cal.App.4th 1135, 1172 ….)").

maintain its secrecy.[213] "Secrecy is an essential characteristic of information that is protectible as a trade secret."[214]

Thus, if a company 1) has invested resources to obtain information it can choose to withhold or make known to others,[215] 2) can identify such information in a manner sufficient to distinguish it from matters of general knowledge, 3) has made reasonable efforts to protect the secrecy of the information (*e.g.*, marking information as a trade secret, educating employees regarding such status, imposing strict controls, limiting physical or electronic internal and external access to the information, requiring nondisclosure agreements),[216] and 4) can demonstrate that the secret information has independent economic value by virtue of being secret (as evidenced, for example, by the willingness of others to pay for the secret information),[217] the company may have a protectible trade secret.

If a claimant asserts that information has independent economic value by virtue of being secret, the claimant must do more than merely assert that the

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[213] *See* e.g., *Vacco Industries, Inc. v. Van Den Berg* (1992) 5 Cal.App.4th at 34 ("Vacco … undertook reasonable efforts to keep it secret. These efforts included (1) extensive internal controls (*e.g.*, visitor logs, sign-out sheets for proprietary documents and a document destruction policy), (2) availability and required use of locked storage cabinets in the engineering department and (3) strict security control measures with respect to documents which necessarily had to be made available to third party vendors or subcontractors. …"); *see* also, *Citizens of Humanity, LLC. v. Costco Wholesale Corp.* (2009) 171 Cal.App.4th 1, 14; *In Re Providian Credit Card Cases,* 96 Cal.App.4th 292, 306-308.

[214] *Altavion*, *supra*, 226 Cal.App.4th at 57. The Supreme Court noted in *Ruckelshaus v. Monsanto Company*, *supra*, 467 U.S. at 1002 ("Information that is public knowledge or that is generally known in an industry cannot be a trade secret. [citation omitted.]").

[215] *Ibid*.

[216] Failure to have taken such steps may reasonably be deemed as circumstantial evidence that a trade secret privilege asserter had not previously treated information as a trade secret. *Providian Credit Card Cases, supra,* 96 Cal.App.4th at 308.

[217] *See e.g., Syngenta Crop Protection, supra,* 138 Cal.App.4th at 1172.

information would be helpful or of use to a competitor recipient in carrying out a specific activity. Such simple assertions are not enough to compel a fact finder to conclude the information is sufficiently valuable to provide the claimant with an economic advantage over others.[218]

Information will not fall within the definition of a trade secret if it is readily ascertainable by a competitor or others,[219] if the claimant has not made reasonable efforts to maintain the secrecy of the information,[220] or if the claimant fails to substantiate the assertion that the information has independent economic value by virtue of being secret. Nor does information generally available to the public, or to those who can make economic use of it, meet the requirement that trade secret information must be "secret."

The CUTSA provides a cause of action for the misappropriation of trade secrets, as may occur, for example, if someone such as a former employee now in competition with the trade secret holder, or other competitor, obtains the trade secret by improper means, and discloses or uses the trade secret. But not all means of obtaining trade secrets are unlawful; reverse engineering or independent derivation alone are not considered improper means.[221] Similarly,

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[218] *See e.g.*, *Yield Dynamics, Inc. v. TEA Systems Corp.* (2007) 154 Cal.App.4th 547, 564-565; *see also id.*, at 565 ("The fact finder is entitled to expect evidence from which it can form some solid sense of *how* useful the information is, e.g., *how much* time, money, or labor it would save, or at least that these savings would be "more than trivial." (Rest.3d., Unfair Competition, § 39.)

[219] *See Altavion*, *supra*, 226 Cal.App.4th at 62.

[220] *See AMN Healthcare, supra,* 28 Cal.App.5th at 943 ("test for a trade secret is whether the matter sought to be protected is information (1) that is valuable because it is unknown to others and (2) that the owner has attempted to keep secret. [Citation.] ... "); *see* also *Ruckelshaus v. Monsanto, supra,* 467 U.S. at 1002 ("if an individual discloses his trade secret to others who are under no obligation to protect the confidentiality of the information, or otherwise publicly discloses the secret, his property right is extinguished.").

[221] Civ. Code § 3426.1(a).

acquiring information from someone who received it from a trade secret holder but owed the trade secret holder no duty to keep it secret or limit its use would not be misappropriation.

9.1.3. The Interplay Between Government Code § 6254(k) and Privileges Under the Evidence Code

The CPRA, in Gov. Code § 6254(k), provides an exemption for "Records, the disclosure of which is exempted or prohibited by federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege." The Evidence Code includes several privileges that a privilege holder may assert as a basis for refusing to provide evidence and, in certain cases, to prevent others from disclosing information. Such evidentiary privileges include the trade secret privilege (Evidence Code § 1060-1061). If a state agency determines that certain information is subject to one of these privileges, or similar federal or state laws exempting or prohibiting disclosure, it may withhold information from its response to CPRA requests on the ground that such information is exempt from mandatory disclosure, pursuant to Gov. Code § 6254(k). However, while evidentiary privileges such as the trade secret privilege are incorporated into the CPRA as potential bases for an agency to assert the Gov. Code § 6254(k) exemption, an assertion of the trade secret privilege by an entity that submits information to a governmental agency does not guarantee nondisclosure.[222]

A party asserting the trade secret privilege under Evidence Code § 1060 bears the burden of proving that the information it wishes to keep secret meets

[222] *See e.g., Amgen, Inc.*, *supra*, 47 Cal.App.5th at 732.

all elements in the Civ. Code § 3426.1(d) definition of a "trade secret."[223] Evidence Code § 1060 provides that: "If he or his agent (sic) or employee claims the privilege, the owner of a trade secret has a privilege to refuse to disclose the secret, and to prevent another from disclosing it, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice." Thus, in addition to proving that information falls within the applicable statutory definition of a trade secret, one who wishes to avail of the privilege to refuse to disclose, and to prevent another from disclosing, asserted trade secret information, must meet their burden of proving they meet the Evidence Code § 1060 condition: *i.e.,* that they or their agent or employee "claims the privilege," and that "allowance of the privilege will not tend to conceal fraud or otherwise work injustice."

After receiving proof sufficient to support a Commission finding that the information is in fact a trade secret, the Commission must then determine whether it believes assertion of the privilege should be allowed, or whether it believes assertion of the privilege would "tend to conceal fraud or otherwise work injustice." If it believes the latter, it is not required to accept the party's Evidence Code § 1060 trade secret privilege claim.

As noted earlier, the Evidence Code § 1060 trade secret privilege is a conditional privilege that can only be asserted where allowance of the privilege would not tend to conceal fraud or otherwise work injustice.[224] Relying largely on *Uribe v. Howie*, *supra*, the Court in *Coalition of University Employees v. The*

[223] Cal. Evidence Code § 500: "Except as otherwise provided by law, a party has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for relief or defense that he is asserting." *See* also, Cal. Evidence Code § 405; *Agricultural Labor Relations Board v. Richard A. Glass Co., Inc.* (*ALRB*) (1985) 175 Cal.App.3d 703.

[224] *See e.g.*, *Uribe v. Howie*, (1971) 19 Cal.App.3d 194, 205-207, 210-211.

Regents of the University of California (*CUE*)[225], *supra*, explained that, when an agency seeks to withhold records from the public on the grounds that the records are trade secrets, the court is ultimately required to balance the public's interest in disclosure against the public's interest in nondisclosure. The *CUE* Court further explained that *Uribe v. Howie, supra,* construed the "work injustice" language to embody a balancing test analogous to the balancing test required by Gov. Code § 6255(a).[226] Thus, when an agency wants to withhold records on the basis of trade secret privilege assertions, it must first determine whether the records include trade secrets, and then balance public interests for and against disclosure. In *Uribe*, *supra*, *CUE*, and *ALRB*, *supra*, the courts found that the public interest in disclosure outweighed the claimed need for secrecy.

Judicial decisions addressing trade secret privilege claims and the "work injustice" language in Evidence Code § 1060 provide guidance here. While the mere relevance of trade secret information to litigation in which the trade secret privilege is asserted may not necessarily be sufficient to show that the assertion of the privilege would work injustice, some courts have found that:

> the information sought was not just relevant to the general subject matter of the lawsuit and helpful to preparation of the case. Rather, the record in each instance demonstrated prima facie that the information was directly relevant to a material element of the cause of action and further that the moving party would be unfairly disadvantaged in its proof absent the trade secret. Failure to disclose the information would "work an injustice" within the meaning of Evidence Code section 1060 because one side would have evidence-reasonably

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[225] *Coalition of University Employees v. The Regents of theUniversity of California* (CUE) (Super.Ct. Alameda County, 2003, No. RG03–089302) 2003 WL 22717384.

[226] *Uribe v. Howie, supra,* 19 Cal.App.3d at 205-0207.

> believed to be essential to a fair resolution of the lawsuit-which was denied the opposing party."[227]

Thus, if an information submitter demonstrates to the Commission's satisfaction that information meets all of the elements necessary for it to fall within the Civ. Code § 3426.1(d) definition of a trade secret, and the Commission determines that the assertion of the trade secret privilege would not tend to conceal fraud or otherwise work injustice, as discussed above, the Commission may withhold such information from responses to CPRA requests, on the basis of Gov. Code § 6254(k), and from responses to discovery, on the basis of Evidence Code privileges.[228]

9.1.4. The Critical Infrastructure Information Act[229]

We have included a discussion of this law as some parties have raised the possibility of its application depending on the final pole attachment requirements the Commission adopts.[230] The Critical Infrastructure Information

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[227] *Bridgestone/Firestone, Inc. v. Superior Court,* (1992) 7 Cal.App.4th 1384, 1392. This "injustice" discussion appears relevant to Commission proceedings as well, although our CPRA-based disclosure determinations are based on an evaluation of the public's interest in disclosure or nondisclosure, and not just the interests of parties to Commission proceedings.

[228] We note that *Amgem*, supra, 47 Cal.App.5th at 734-735, states that:

"It is not clear to us that the trade secret evidentiary privilege is a broad prohibition on disclosure akin to the constitutional right to privacy or the statutory protection for peace officer personnel records. …

Although the legislature expanded the reach of the evidentiary privileges by incorporating them into the CPRA as exemptions, those exemption, like all exemptions under Government Code Section 6254, are not mandatory. "

[229] The following discussion of the Critical Infrastructure information Act has been taken from the Commission's Decision from R.11-12-001, Decision 20-12-021 *Addressing Carriers' Confidentiality Claims Related to Network Study Ordered in Decision 13-02-023, as Affirmed in Decision 15-08-041*. It has been modified slightly to omit certain narrative references relevant to R.11-12-001.

[230] *See* SDG&E's Comments, at 8, fn. 3

Act (CII Act) of 2002, codified at 6 U.S.C. § 671 *et seq*., was enacted by Congress to protect key resources and critical infrastructure from computer-based or physical attack. The CII Act protects information related to such resources and infrastructure from disclosure in certain circumstances.

As a threshold matter, we must determine what "critical infrastructure" is. "Critical infrastructure" is defined in the Department of Homeland Security (DHS) regulations, at 6 C.F.R. § 29.2(a) as:

> [S]ystems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on the security, national economic security, national public health or safety, or any combination of those matters.[231]

"Critical infrastructure information" is defined in 6 C.F.R. § 29.2(b) as follows:

> Critical Infrastructure Information, or CII, has the same meaning as established in section 212 of the CII Act of 2002 and means information not customarily in the public domain and related to the security of critical infrastructure or protected systems, including documents, records or other information concerning:
>
> 1. Actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, local, or tribal law, harms interstate commerce of the United States, or threatens public health or safety;
>
> 2. The ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment,

[231] 6 CFR § 29.2(a), referring to 42 U.S.C. 5915(c)e.

> projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk-management planning, or risk audit; or
>
> 3. Any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

The DHS website lists 16 critical infrastructure sectors, one of which is the Communications Sector.[232]

The statute, 6 U.S.C. § 671, defines "critical infrastructure information" as information "not customarily in the public domain and related to the security of critical infrastructure or protected systems …."[233]

Thus, for pole attachment information to be considered "critical infrastructure information" per DHS regulations (6 C.F.R. § 29.2(b)), it must be information provided which is not customarily in the public domain, and which might facilitate an attack, interference, compromise, or incapacitation of an electric utility's or communication utility's network.[234] The fact that information may fall within the broad definition of "critical infrastructure information" does not by itself make such information subject to the CII Act's disclosure limitations.

Pursuant to 6 U.S.C. § 673(a)(1), "critical infrastructure information . . . that is voluntarily submitted to a covered Federal agency for use by that agency regarding the security of critical infrastructure and protected systems, analysis,

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[232] *See* https://www.dhs.gov/cisa/critical-infrastructure-sectors.

[233] *See* also 6 C.F.R. § 29.2(b). Carrier infrastructure information that *is* in the public domain does not fall within the 6 U.S.C. § 671 definition of "critical infrastructure information."

[234] Information readily available on the internet, or through other public sources of information, is "customarily in the public domain."

warning, interdependency study, recovery, reconstitution, or other informational purpose, when accompanied by an express statement specified in paragraph (2)" is exempt from disclosure under the Freedom of Information Act and is subject to certain restrictions on its disclosure and use.[235] 6 U.S.C. § 673(a)(1)(E) provides that such information, "shall not, if provided to a State or local government or government agency-- (i) be made available pursuant to any State or local law requiring disclosure of information or records; (ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or (iii) be used other than for the purpose of protecting critical infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act. "

However, the disclosure limitations in 6 U.S.C. § 673(a)(1)(E) only apply to protected "critical infrastructure information," as defined in the CII Act and associated regulations, *which is provided by the Department of Homeland Security to a state agency*. 6 U.S.C. § 673(c) provides that state and local governments obtaining information *independent* of the CII Act's procedures are not bound by the Act's confidentiality provisions:

> Nothing in this section shall be construed to limit or otherwise affect the ability of a State, local or Federal Government entity, agency or authority . . . *to obtain critical infrastructure information in a manner not covered by subsection (a) of this section*, including any information lawfully and properly disclosed generally or broadly to the public and *to use such information in any manner permitted by law*.[236]

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[235] 6 U.S.C. § 671(2): "The term 'covered federal agency' means the Department of Homeland Security."

[236] 6 U.S.C. § 673(c), emphasis added.

Since the Commission may be obtaining the alleged critical infrastructure information directly from the carriers themselves, rather than from the DHS, 6 U.S.C. § 673(c) explicitly excludes here the 6 U.S.C. § 673(a)(1)(E) disclosure limitations.

Congress created the Protected Infrastructure Information (PCII) Program under the CII Act to protect private sector infrastructure information that is voluntarily shared with the federal government for purposes of homeland security.[237] 6 C.F.R., part 29, sets forth uniform procedures for the receipt, validation, handling, storage, marking, and use of critical infrastructure information voluntarily submitted to the DHS.[238]

Under the CII Act, there is a significant difference between "critical infrastructure information" and "protected critical infrastructure information." For "critical infrastructure information," as defined in 6 U.S.C. § 671, to be considered "protected critical infrastructure information," the information must have been voluntarily submitted to the DHS for purposes related to critical infrastructure protection and processed by DHS in accord with its protected critical infrastructure information program procedures. In other words, DHS must have reviewed, approved, and marked the information as falling within its classification of "protected critical infrastructure information."[239] When DHS provides PCII information to a state agency, the state agency's use of such

[237] 6 U.S.C. § 671 *et seq.*

[238] 6 CFR, Part 29, *Procedures for Handling Critical Infrastructure Information; Final Rule,* published in the Federal Register on September 1, 2006.

[239] *See* 6 CFR Part 29, esp. § § 29.5 -29.8.

information is limited, and the information would be provided only in association with DHS confidentiality protocols.[240]

As noted above, state and local governments obtaining critical infrastructure information independent of the CII Act's 6 U.S.C. § 673 procedures are not bound by the Act's confidentiality provisions.[241]

Thus, if a pole owner makes the requisite showing that information it wishes to shield from disclosure is indeed protected infrastructure information, the Commission will need to conduct an independent review to determine if there is a need to protect certain infrastructure information as a matter of public safety. Yet not every piece of information pertaining to infrastructure should be deemed confidential. Whether information should be disclosed may depend on the granularity of the information and the extent to which the information is already public in one form or another. It is in the public interest to reveal information regarding pole attachments to the extent that we can do so without compromising any proven claims of public safety.

In sum, given the granular detail a party must set forth in order to substantiate a claim of confidentiality or privilege, it would be unreasonable, then, as some parties suggest, that the Commission make a preemptive determination that specific data points (*i.e.* Attachment Owner, Attachment Description, and Attachment Specifications) should be deemed confidential. For example, in the case of an attachment owner's identification, this is information that already can be identified through public records such as the Commission's "California Interactive Broadband Map" or through FCC Form 477 Filings. Thus,

[240] 6 CFR § 29.3(b).

[241] 6 U.S.C. § 673(c).

it will be incumbent on a party claiming privilege or confidentiality to substantiate such a claim when the information sought to be withheld is already publicly available.

Finally, the Commission finds that the proposed attachment data points are exempt from Section V: Nondisclosure of the Commission's ROW Rules. Utilities are required to share these datapoints. That these data points would be subject to Section V as some parties suggest is contradictory to the letter and purpose of GO 95 Rule 44.4. The Commission does not see a beneficial purpose to preemptive determinations that could inhibit the ability of attachers to request information from other attachers pursuant to GO 95 Rule 44.4 or perform a proper loading calculation if they are missing the attachment's specifications.

10. Other Issues

10.1 Party Comments

SDG&E states that the costs that the pole owners have incurred, and will incur, to meet the Track 1 requirements have yet to be addressed and should be addressed in Track 2. The Commission should order workshops to (1) conduct a cost-benefit analysis comparing the benefits of access and safety versus substantial costs required to materialize the data points proposed in the Ruling, and (2) address cost origination, allocation, and recovery.[242]

Small LECs state that given their circumstances, the Commission should find that the additional proposed requirements proposed in Track 2 should not apply to the Small LECs. If it is unwilling to exempt the Small LECs from these requirements, the Commission should consider these issues using the workshop

[242] SDG&E's Comments, at 9.

process successfully used in Track 1 and originally designated for Track 2 of this proceeding.[243]

SED recommends that the Track 2 Decision require the use of a consistent attachment application and identifying number between pole owners and attachment owners.[244]

Verizon urges the Commission to proceed with considering the FCC's one touch make ready (OTMR) rules in the rulemaking portion of this proceeding as more relevant to advancing competitive access. Moreover, the Commission should also adopt the FCC's existing rules such as self-help, which will enable attachers to take action where the pole owners fail to comply with timelines. This is particularly important for ensuring efficient deployment of communications services to customers during periods such as the current pandemic where broadband services are in high demand. Verizon recommends that the Commission investigate in Track 2 whether pole owners can unilaterally add restrictive requirements for pole attachments that are not supported by GO 95, and require that, to the extent that pole owners add requirements not addressed in GO 95, such construction or standards information be made a new data field for each pole in the databases. Moreover, Verizon recommends that the Commission consider rules that would require pole owners to increase their current priority levels of replacing poles. Currently, there is no standard or requirement that pole owners expedite pole replacements where there is a need for deployment of communications services. Verizon recommends that the Commission require pole owners to prioritize pole replacements and make-ready

[243] Small LECs' Comments, at 2.

[244] SED's Comments, at 7.

arrangements necessary for communications providers directly below pole replacements made due to safety or damage. "[245]

AT&T included a declaration which claims the cost of doing an in-person survey of 1,200 data points would be exorbitantly expensive.

CCTA states that Sonic suggests that Track 2 is needed because it has encountered long delays with its deployment of fiber-optic facilities, which may be due to overloaded poles. Though 21 CCTA members also sometimes experience frustrating delays with broadband deployment, CCTA believes Sonic fails to explain how a Track 2 database would improve the situation because GO 95 already requires pole owners and attachers to inspect overhead facilities to identify overloaded poles and other GO 95 non-conformances. According to CCTA, Track 2 would squander hundreds of millions of dollars to create a database but would not eliminate the load on or speed access to a single pole. In summary, there is broad consensus among the major industry participants that the Commission should not move forward with Track 2. In contrast, Track 2's proponents are unable to offer any persuasive reasons why it should.[246]

CMUA does not think Track 2 is necessary, and that workshops should be convened.[247] Consolidated also wants workshops.[248]

Cal Advocates states that while they support technical workshops, any workshop in this proceeding should be moderated by Commission staff and identify a specific topic and goal to facilitate workshop discussion. One workshop the Commission should conduct is on the issue of cost recovery for the

[245] Verizon's Comments, at 8-9.

[246] CCTA's Reply Comments, at 5.

[247] CMUA's Comments, at 2.

[248] Consolidated's Reply Comments, at 1-2.

pole database. The workshop agenda should outline the goals or questions to be addressed. Goals should include: 1) Identifying what database costs IOUs already recover in GRCs, 2) Identifying what future costs may need to be recovered either in GRCs or pole attachment rates, 3) Determining if recovering costs through pole attachment rates is reasonable, and 4) Understanding how pole attachment rates would change if pole database recovery costs were included. Additionally, if workshops are scheduled, the Commission should establish a schedule for resolving the topics addressed at the workshop, either through comments or a Commission staff proposal.[249]

10.2 Discussion

The Commission does not believe that these remaining comments and suggestions warrant any additional discussion in this decision. They are either duplicate of comments raised above that this decision has already addressed, or raise issues that the parties can raise with Commission staff as the requirements adopted by today's decision are implemented.

11. Applicability of Pole Attachment Requirements to Publicly Owned Utilities and Other Pole Owners

In a subsequent phase, the Commission will review whether Track 1 and Track 2 requirements adopted in this proceeding should be imposed on Publicly Owned Utilities as well as smaller pole owners.

11.1 Conclusion

Today the Commission adopts the minimum data standards and criteria for pole attachment data reporting. The Commission encourages pole owners to consider imposing additional data requirements from attachers as needed to promote greater public safety and competition.

[249] Cal Advocates' Comments, at 2.

12. Comments on Proposed Decision

The proposed decision of President Batjer in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure.

On September 9, 2021, the following parties filed opening comments: AT&T, CCTA, Cellco (Verizon), CTIA, ExteNet, Frontier, PG&E, Safety and Enforcement Division, SCE and SDG&E.

On September 14, 2021, the following parties filed reply comments: AT&T, CCTA, Cellco (Verizon), CTIA, ExteNet, Frontier, Public Advocates Office (PAO), SDG&E, and SCE.

13. Comments Summary

While the comments, taken collectively, are lengthy, certain themes have become apparent throughout which the Commission will identify and address: (1) the feasibility of complying with the data attachment requirements and deadlines; (2) the cost of complying with the data attachment requirements; (3) protecting the confidentiality of data attachment information; (4) making clarifications or edits to the data attachment nomenclature; (5) making attachers liable for the accuracy of their attachment data; and (6) permitting workshops to help facilitate compliance with the Commission's decision.

13.1.1. Feasibility

AT&T claims that many of the attachment data points are not readily available in a reportable format or may not be available without conducting field surveys. (AT&T Comments, at 2-5.) AT&T also claims that the proposed deadlines are impossible to meet. It estimates that with approximately 5 million poles, there are at least nine attachments per pole, six electric conductors, two

telecommunications, and one cable company. With 20 data points, this amount to nearly 1 billion distinct data points to be developed, collected, shared, and updated in real time, an undertaking that AT&T contends cannot realistically be completed within 12 months from the issuance of the decision. (*Id.*, at 5.) On the whole, AT&T contends that data bases are not helpful because field visits are the best way to verify the accuracy information in the data base.

CCTA also questions the feasibility of the timeline to comply with the decision. (CCTA Comments, at 2.) CCTA asserts that attachers do not maintain a uniform set of data points on their attachments, nor do they maintain the data points for everyone of their attachments that the decision is requiring each attacher to collect and provide to the five major pole owners. (*Id.*) CCTA asks that the attachers be allowed 24 months to provide the data attachments for the Tier 2 and Tier 3 High Fire Threat Districts, and an additional period of 18 months thereafter to provide the "more voluminous data" for attachments in the non-High Fire Threat District areas. (*Id.*, at 9.)

CTIA asserts that the 12-month compliance deadline is unrealistic. While wireless attachers may have much of the requirement information in various records, CTIA claims many are kept in documents that do not disaggregate the data into the 20 specific fields required by the decision. (CTIA Comments, at 3.) CTIA asks that OP 4 be revised to provide attachers with no less than a 48-month implementation period from the date a major pole owner's Tier 2 Advice Letter is approved. (*Id.*, at 5.)

Cellco claims it will take, conservatively, 31 years to comply with the data requirements for a provider that has approximately 60,000 poles. (Cellco Comments, at 7.) Commission should also modify any proposed requirements to provide a reasonable timeframe for providing data points, after the effective date

of the advice letters with allowance for rolling submissions and extensions of time for good cause.

SCE asks for more time for pole owners to meet their compliance obligations. (SCE Comments, at 6.) Specifically, SCE claims to need an additional six months to add attachers' data to its pole databases. (*Id*., at 7.) Additionally, SCE claims that because the pole load calculations that will be needed to populate the data point fields for Data Points 6-17 will be labor intensive, this undertaking will not be completed in the time frame contemplated by the decision. (SCE Reply Comments, at 2.)

SDG&E contends that the time frame for compliance should be determined after post-decision workshops are held. (SDG&E Comments, at 4-5.)

13.1.2. Costs

AT&T states that the cost to manually inventory each of the approximately 5.2 million poles in the manner required by this decision to be around $832 million. (AT&T Comments, at 11.) AT&T proposes that an Ordering Paragraph be added after Ordering Paragraph 18 as reflected in Appendix A hereto clarifying that costs incurred shall be distributed as appropriate in their pole attachment rates. (*Id*., at 13.)

CCTA challenges the decision's finding that AT&T's and Frontier's costs associated with Track 2 shall be distributed as appropriate in their pole attachment rates. (CCTA Comments, at 15.) CCTA reasons that the decision fails to recognize that AT&T and Frontier are both pole owners and attachers, and that just as third-party attachers such as CCTA's members will be forced to absorb their own costs associated with compiling their attachment data, so should the ILECs. CCTA asks that the decision be revised to state: "for pole owners not subject to a general rate case, costs incurred to compile their

attachment data and entering this data into databases shall not be included in accounts used to establish pole attachment rental fees." (*Id*.)

ExteNet asks that the decision be modified to include requirements that will ensure AT&T and any other pole owner seeking pole attachment rate increases to account for the cost of such databases and establish pole attachment rates that are just and reasonable. (ExteNet Comments, at 4.) ExteNet further requests that all pole owners not subject to rate of return regulations be required to submit any proposed rate increase for pole attachments to the Commission for review and approval. (*Id*.) In reviewing such increases, ExteNet argues that the Commission must consider the interests of the subscribers of the services offered via such attachments, as well as the interests of the consumers of the utility services, as required by 47 U.S.C. § 224(c)(2)(B). ExteNet bases its suggestions on the concern that if AT&T and other pole owners are given unfettered authority to increase pole attachment rates, they will almost certainly attempt to impose costs on competitors such as ExteNet that will make pole attachments cost prohibitive, as AT&T predicted.

Frontier asks that in view of the wide range of cost estimates to comply with the decision ($324 million according to Southern California Edison to $650 million according to CCTA), the Commission specify a cost recovery mechanism for utilities without the capacity to file a general rate case. (Frontier Comments, at 3-4.)

PAO states that the Commission should reject Frontier's proposed cost recovery mechanism, because the proposal was not based on the record and parties had no opportunity to comment on it prior to issuance of the decision. (PAO Reply Comments, at 1-2.)

SDG&E asserts that it is important to appropriately allocate costs between pole owners and pole attachers in order to adequately protect utility ratepayers from subsidizing communications infrastructure. (SDG&E Comments, at 6.) SDG&E proposes that the Commission modify OP 19 to clarify that pole owners will modify pole attachment rates to appropriately address the costs.

13.1.3. Confidentiality

AT&T argues that the decision incorrectly concludes that the five major pole owners have not demonstrated that the attachment data required by the decision is confidential, trade secret protected, privileged, exempt from disclosure, or protected from disclosure by national security concerns. (AT&T Comments, at 12.) AT&T asks that the Commission deem this information confidential and exempt from disclosure under Section V (Nondisclsoure of the Commission's Right-of-Way Rules). (*Id.*) AT&T asserts that keeping current NDAs in place while not permitting pole owners from requiring attachers who are not already subject to an NDA to execute an NDA to access the data base could potentially open the door to bad actors who might misuse the new data base. (*Id.*, at 13.)

CCTA claims the decision errs in prohibiting the major pole owners from requiring attachers (or potentially other third parties) to sign a NDA to access pole database. (CCTA Comments, at 10.) CCTA asserts that failure to eliminate COL 16 and OP 24 will have a harmful impact given the network security and anti-competitive concerns. (*Id.*) As written, the decision creates a loophole such that any database user could publicly disseminate vast troves of pole attachment information from across the state, with no legal recourse for attachers or pole owners. At a minimum, CCTA suggests that the Commission ensure that third

parties that access the databases are prohibited from publicly disseminating the attachment data held in the databases.

Cellco asks that the decision reconsider its dismissal of the parties' confidentiality concerns. (Cellco Comments, at 8-12.) First, the decision should be revised to require pole owners to enter into NDAs that place appropriate restrictions on third party attachers for how they may view and use the data.

The Commission should direct the major pole owners to not disclose the name of the carrier whose attachment is being accessed by third parties, except Commission staff. Second, the decision should also be revised to declare affirmatively that the data in the pole databases shall be treated as confidential by all parties, used for appropriate purposes. Third, Cellco asks that the Commission remove the requirement that government agencies have access to the data or that they guarantee the confidentiality of the data. Finally, Cellco suggests that the decision should also be revised to require pole owners to maintain robust cybersecurity measures to prevent breaches of what Cellco terms highly sensitive information.

CTIA asks that the Commission ensure that critical infrastructure information in pole owner databases be protected from disclosure. (CTIA Comments, at 8.) The Commission must ensure that critical infrastructure information in pole owner databases is protected from disclosure. The Pole Owner Databases are designed as resources for attachers and the Commission, but do not contain information that will benefit the general public. Without the limited protections offered by nondisclosure agreements, any attacher, state or local government official, or any other party who obtains access to the pole attachment information will be able to use the data to gain an improper market advantage, exploit attachers' planned network enhancement or new technology

deployment efforts, or pass along the information included in the Pole Owner Databases to anyone else, without limitation. The Commission must also require the Pole Owners to utilize sufficient cybersecurity protections to guard critical utility infrastructure information from unlawful access. Even for the limited set of data that may be ascertained via images or through in person inspections, it is extremely labor intensive for such data to be collected at scale, which is an important impediment to bad actors. To the extent the Pole Owner Databases will contain information for every site, at once, in a convenient format, the database, if accessed by those intent on harming California's communications networks, would provide a well-defined roadmap for bad actors. CTIA therefore suggests OP 22 be modified to read as follows:

> [the Pole Owners] …shall use best efforts to prevent unauthorized access to their pole attachment databases. Such best efforts shall be informed by industry frameworks for the protection of critical infrastructure information, such as the NIST Cybersecurity Framework. At a minimum, pole owners shall apply the same level of protection to the pole owner databases as they do for the most sensitive information they keep electronically, but in no instance shall the level of protection be below the level reasonably necessary to protect critical infrastructure information.

Frontier asks that the Commission revise the decision's approach to confidential treatment of pole attachment information. It asks that the Commission undertake an analysis of each data category to determine whether its disclosure would implicate security concerns. (Frontier Comments, at 5.) Frontier also asks that OP 26 be modified to specify that any motion granted to protect the confidentiality of pole attachment information should apply to all individuals granted access to pole databases through OP 21. (*Id.*)

PAO notes in its Reply Comments that AT&T, CCTA, and CTIA fail to consider the Commission's policy governing confidentiality in Resolution E-4144, OP 26. PAO claims that in Resolution E-4414, the Commission used an approach similar to the decision's to provide confidentiality protections for third-party access to utility interconnection maps. (PAO Reply Comments, at 2-3.)

13.1.4. Clarifications or Edits

AT&T suggests that some of the data field descriptions be clarified. (AT&T Comments, Attachment A.)

CTIA asks that the decision define "real time updates" in OPs 6 and 12. (CTIA Comments, at 6.)

CCTA asks that the Commission modify the data requirements by eliminating data points 7 (pole attachment elevation), 11 (attachment grade), and 15-17 (wind loading, vertical loading, and bending moment). (CCTA Comments, at 5-7.) CCTA also suggests that the Commission prioritize data being provided in the Tier 2 and 3 High Fire-Threat Districts. (*Id*., 8.) the requests are explained as follows:

- Data Point #7 – *Pole Attachment Elevation*. … , there can be ambiguity or variability as to how an attachment's clearance from the ground is measured, which makes it problematic to express this data point with the degree of precision envisioned by the decision. CCTA therefore recommends that the Commission modify to Data Point #7 allow attachers to provide a general range of the attachment's height (e.g., 20 to 22 feet above grade), rather than in feet and inches.
- Data Point #11 – Attachment Grade. CCTA recommends deletion of "attachment grade" from the list of Proposed Data Points because it is not a data point that the major CCTA members maintain in their asset management databases. The decision erroneously presumes "grade" is an attribute of attached facilities, but as CCTA understands the term, grade is

the segment of the pole that attachers lease from pole owners. Accordingly, this data point should not be required.

- Data Points #15 - 17 – Wind Loading, Vertical Loading, and Bending Moment. … CCTA claims its members do not retain loading calculations in asset management databases because they are not an attribute of attachments – they are analyses of a pole's ability to safely accommodate a new or upgraded attachment at a particular point in time – i.e., when the calculation is performed. Accordingly, even if loading calculations were retained by attachers, those calculations would be out of date except in instances where the attacher happens to be the last attacher, no other changes have been made to the pole, and the pole has not degraded. Conversely, pole owners are best suited to provide this information, as they will always have the most current pole loading information from the last attacher or performed, and in the format requested by the pole owner.

Frontier requests that the Commission streamline the additional categories of information. (Frontier Comments, at 1-3.) Frontier also assumes that the "Voltage" data point would only apply to electric utility attachments and asks that the Commission confirm Frontier's understanding.

PG&E has concerns with the removal of the Item 8, the data point relating to Attachment Orientation. (PG&E Comments, at 2.) While the decision removes this data point, noting that AT&T is not aware of any meaningful use for this data point and that SED concludes this field would offer no additional value, PG&E believes that for spans under tension (vs. slack spans and services) the attachment orientation should be recognized as a critical data point relating to pole loading. (*Id.*) In PG&E's view, a true tangent line (0-degree line angle) will offset the bending moment vectors related to tension (bending moments have direction). If there is a slight line angle then the bending moment vectors don't offset, adding to the bending load on the pole. If the attachment orientation is not

available, then PG&E would join in Cal Advocates' prior recommendation that this data point be simplified by including a compass direction. Alternatively, the data point could provide the GPS locations of the wire start and end points (typically the center point of the poles at either end of the wire). (*Id.*)

SCE suggests that the decision be clarified that it is addressing attachers that are subject to the Commission's Right of Way rules. (SCE Comments, at 4-5.) SCE asks for this modification because it has pole attachments that are owned by non-Right of Way entities (such as governmental agencies, private companies, and non-jurisdictional entities). (*Id.*, at 6.) SCE claims that it also has its own electrical attachments on its poles. Without this clarification, SCE believes the decision to be unintentionally overbroad.

SED asks that database terminology should be modified so it is consistent with the terminology used in GO 95. (SED Comments, at 2-3.) SED also asks that the Commission revise the advice letter filing requirement to replace GO 165 with GO 95, so that the five major pole owners file Tier 2 advice letters that identifying any new data points beyond those prescribed by GO 95. (*Id.*, at 4.) In addition, SED asks that the decision clarify how the Commission will enforce the rules adopted by the final decision by specifying which division in the Commission is responsible for enforcement action if an attacher fails to comply with the requirements in this decision. (*Id.*) Finally, SED asks the Commission to clarify that the pole owners' disclaimer in OP 17 does not relieve any entity subject to GO 95 from complying with GO 95's requirements. (*Id.*, at 6.) The specific data attachment edits that SED proposes are as follows:

> • Item 11, Grade of Construction: Item 11 of Attachment A currently includes the field name and description "Attachment Grade" and "Grade of Attachment," respectively. … for clarity and consistency with GO 95 requirements, the Commission should

rename both the field and field description for Item 11 as "Grade of Construction."

•Item 12, Conductor Tension: Item 12 currently uses the field name and description "Cable Tension" and "Tension of the Cable," respectively. … The current Item 12 field name and description should be changed to "Conductor Tension" and "Tension of the Conductor," respectively, for improved clarity and consistency with GO 95.

•Item 15, Wind Loading: Item 15 currently uses the field name and description "Wind Loading" and "Wind Loading of the Attachment," respectively. Wind loading is not caused by an attachment. Rather, it is the result of wind hitting an attachment. To correctly describe wind loading, the Commission should replace the current Item 17 field description with "Wind Loading on the Attachment."

•Item 17, Bending Moment: Accordingly, the current Item 17 field name and field description should be revised to "Bending moment due to attachment" and "Calculation of the pole bending moment caused by the load added to the pole by the attachment."

•Item 20, Voltage: Item 20 currently uses the field name and description "Voltage" and "Attachment Voltage," respectively. For consistency in the voltage values used and reported by all attachers, the Item 20 field description should reference the GO 95 definition of voltage. The field description should read "Attachment Voltage as defined by GO 95, Rule 24.1."

13.1.5. Liability

CCTA claims that the decision errs in finding that attachers are liable for the accuracy of the attachment data they submit to each of the five major pole owners. (CCTA Comments, at 14.) CCTA reasons that the information may be inherently ambiguous and can change over time due to weather conditions or later attachments. As an alternative CCTA suggests that the decision be revised so that attachers are responsible for providing their most recently available attachment data. (*Id.*)

CTIA asserts that even if wireless attachers were to collect such data, they could only guarantee its accuracy as of the date of the field visit, because such data may become outdated by foreseeable intervening events such as other attachers' modifications to the pole or pole replacements. (CTIA Comments, at 4-5.) For instance, CTIA claims that a wireless attacher may have data reflecting that its cable is attached at a certain height on the pole, but if a subsequent attacher has installed a new cable on the pole and relocated the first attacher's facilities to accommodate the new installation, then the first attacher's record data is no longer accurate. Other instances where wireless attachment data points may no longer be accurate include instances of replaced utility poles, could often results in facilities reattached in a different location. (*Id.*)

13.1.6. Workshops

AT&T recommends workshops to develop the necessary data and workplans to implement the Track 2 databases. (AT&T Comments, at 6.)

Frontier asks that workshops be held to address the rationale behind the purpose and benefits of explained information requirements and the costs to gather certain information. (Frontier Comments, at 1-2.)

SCE advocates for workshops to develop a comprehensive and viable work plan with explicit objectives and goals. (SCE Comments, at 2-3.) SCE also suggests that workshops could address the details of the data that attachers must submit and the format in which the attachment data should be presented. (*Id.*, at 3.)

SDG&E recommends that the Commission require technical workshops to achieve consensus and alignment on the definition of the data elements in the proposed decision. (SDG&E Comments, at 1-4.) SDG&E proposes the addition of an Ordering Paragraph requiring pole owners and attachers to hold at least

two technical workshops to define and align each data element in the proposed decision. SDG&E further notes that the magnitude and complexity of the work required to assemble and manage the required data necessitates more time than the proposed decision allows. SDG&E proposes the modification of OPs 4 and 6 to allow pole attachers to file the required Tier 2 Advice Letter following the conclusion of technical workshops and then allow pole attachers to assemble the required data 12 months after approval of that Advice Letter.

13.1 Discussion

13.1.7. Feasibility and Workshops

The Commission combines these two issues as they are related to the larger issue of facilitating compliance with the requirements of this decision. The multiple assertions about difficulty complying with decision's data attachment requirements--due to either insufficient record keeping or the need to conduct arduous field inspections--need to be placed in the proper regulatory context. First, the Commission notes that utilities are currently under obligations to share pole attachment test data and information relating to pole loading calculations pursuant to GO 94 Rule 44.4. In Decision 12-01-032 (*Decision Adopting Regulations to Reduce Fire Hazards Associated with Overhead Power Lines and Communication Facilities*), at 114-115, the Commission spoke of the importance of information sharing between electric utilities, communication providers, and attachers as the foundation for promoting safety against fire risks:

> Cooperation among the electric utilities and CIPs [communication infrastructure providers] is necessary to ensure that attachments to joint-use poles comply with the safety factors set forth in Rule 44. Such cooperation reduces the chance of pole failures and the associated fire risks. Specific cooperation rules will help ensure that all entities have sufficient information to timely evaluate the safety

> implications of potential additions to poles and to timely replace poles when necessary.
>
> There is no dispute about the need for pole owners and pole occupants to cooperate with an entity that seeks to add additional load to a pole. Nor is there any dispute about what information needs to be shared for pole-loading calculations or how long it should take to provide the information.

Second, GO 95, Rule 44.1 requires utilities to maintain all the data required when they install and reconstruct lines. Third, GO 95, Rule 18A requires record keeping on all safety hazards. Fourth, GO 95, Rule 80.1, requires that CIPs to maintain records of the inspections they are required to perform. Fifth, GO 95, Rule 80.1 sets forth the inspection requirements for communications lines in High Fire Threat Districts and throughout the remainder of California. Fifth, SB 901 added Pub. Util. Code § 8386 which requires each electrical corporation to submit a wildfire mitigation plan that includes "plans for inspections of the electrical corporation's electrical infrastructure." In sum, the data attachment requirements adopted today build on the existing requirements established by GO 95, SB 901, and by the Commission's regulatory authority to ensure public safety by preventing utility fires. While this decision imposes a greater degree of specificity as to the pole attachment data fields the attachers must provide to the five major pole owners, attachers will not be performing this task in a vacuum as they should have been gathering and providing some of this information pursuant to the duties of cooperation, data sharing, record keeping, and inspections imposed by GO 95 and D.12-01-032.

Nevertheless, the Commission recognizes that the undertaking attachers and major pole owners are being ordered to complete may take more time to initiate and complete, and that more clarification may be needed so that the attachers understand the manner in which they must provide their attachment

information to the five major pole owners. This is especially true with respect to Data Points 6-17, the attachment specification and loading data points, where the time to complete the data collection for these data points may be extensive. As such, the Commission agrees that the time for compliance should be broken up into two phases: Phase 1, Attachment Identification and Attribute Data Points: 1-5 and 18-20; and Phase 2, Attachment Specification and Loading Data Points: 6-17.

The pole owners shall host a workshop or workshops within 90 days after the Commission issues this decision so that the major pole owners provide the necessary guidance to the attachers as to, *inter alia*, how and in what format the attachment data should be provided. The workshop or workshops shall be noticed on the proceeding service list. After the completion of this 90-day period, the major pole owners will have 60 days to file both a workshop report and their Tier 2 Advice Letters. Once the Advice Letters are approved, the attachers will have 12 months to provide the attachment data for Data Points 1-5 and 18-20, the Phase 1 Attachment Identification and Attribute Data Points.

For Data Points 6-17, Phase 2 Attachment Specification and Loading Data Points, the pole owners shall notice on the proceeding service list and host an additional workshop or workshops within 90 days after the attachers have provided the Phase 1 attachment data, for Data Points 1-5 and 18-20. The workshop shall provide a forum for pole owners and attachers to discuss lessons learned from implementation of Data Points 1-5 and 18-20 and discuss any further refinements that may be needed for implementing the Phase 2 Data Points. After the completion of this 90-day period, the major pole owners will have 60 days to file a workshop report. After the workshop report is filed, the

attachers will have 12 months to provide the attachment data for Phase 2 Data Points 6-17.

The Commission also recognizes that given the number of attachments an attacher has affixed to a pole, as well as the number of major pole owners it interacts with, some attachers may experience more difficulty in completing its work in the time frames adopted by this decision. As such, no later than 30 days before the expiration of the 12-month deadline set forth in the preceding paragraph for Phase 1 Data Points 1-5 and 18-20, an attacher claiming to need more time shall submit a request in writing to the Executive Director in conformity with Rule 16.6 of the Commission's Rules of Practice and Procedure. The letter shall set forth, at a minimum: the number of poles its attachments are appended to; the major pole owners with whom the attacher is interacting; the status of the attacher's compliance with the data attachment requirements; the number of meetings the attacher has had with the major pole owners to complete the data attachment requirements and the results of those meetings; the number of field inspections that have been completed; why the attacher cannot meet the 12-month deadline; and the attacher's proposed schedule for completing its compliance with the data attachment requirements.

Similarly, no later than 30 days before the expiration of the 12-month deadline set forth in the preceding paragraph for Phase 2 Data Points 6-17, an attacher claiming to need more time shall submit a request in writing to the Executive Director in conformity with Rule 16.6 of the Commission's Rules of Practice and Procedure. The letter shall set forth, at a minimum: the number of poles its attachments are appended to; the major pole owners with whom the attacher is interacting; the status of the attacher's compliance with the data attachment requirements; the number of meetings the attacher has had with the

major pole owners to complete the data attachment requirements and the results of those meetings; the number of field inspections that have been completed; why the attacher cannot meet the 12-month deadline; and the attacher's proposed schedule for completing its compliance with the data attachment requirements.

13.1.8. Costs

Party comments regarding the cost of complying with this decision are, at best, speculative. Given the existing information sharing, record keeping, and inspection requirements mandated by GO 95, the Commission finds it difficult to accept the attachers don't already have some, if not all, of the information required by this decision in their possession and haven't already shared it with the major pole owners where the attachments are affixed. Thus, attachers should have information in their possession that can be accessed and provided to the major pole owners without the need to conduct a field inspection.

But even if field inspections were required, the cost to comply is outweighed by California's strong public policy of promoting public safety through minimizing fire hazards. The Commission is aware that there is a cost component, which might be significant, to comply with requirements that are designed to minimize fire hazards. (*See Resolution WSD-002 Guidance Resolution on 2020 Wildfire Mitigation Plans Pursuant to Public Utilities Code Section 8386*, at 2.) Yet, because of the overriding concern over public safety, that cost must be incurred and the party incurring the cost can seek approval to recover the cost in its general rate case by demonstrating the reasonableness of the costs. (Pub. Util. Code § 8386(g).) The Commission sees no reason why parties not subject to a general rate case should not also be required to comply with this decision.

The Commission agrees with CCTA's suggestion that to the extent a pole owner is also a pole attacher, the pole owner shall be responsible for the costs the pole owner incurs with respect to its own attachments.

The Commission agrees with CCTA's suggestion that for pole owners not subject to a general rate case, costs incurred to compile their attachment data and entering this data into databases shall not be included in accounts used to establish pole attachment rental fees.

The Commission rejects Frontier's suggestion to create a new surcharge mechanism as this is an issue beyond the scope of the issues that the Commission is addressing by this decision.

13.1.9. Confidentiality

The decision sets forth, in detail, the law regarding various claims of confidentiality that might be applicable to pole attachment data. The Commission did so to confirm that confidentiality was not presumed as some parties have claimed, and to guide any attacher who might want to make such a confidentiality claim in the future. Yet, in not granting blanket pronouncements of confidentiality as some parties have suggested, the decision shares the concerns that parties have raised over potential cybersecurity attacks by bad actors and the need to have some protections in place to prevent unauthorized third-party access. The Commission agrees with CTIA that the major pole owners should implement measures, if they haven't already done so, to prevent unauthorized access to the pole attachment data base. The major pole owners must also maintain cybersecurity measures that are designed to protect against the infiltration by cybersecurity activists who might try to gain access to and damage the network of utility and communications poles as well as the attendant attachment data.

In addition, as PAO points out in its Reply Comments it is not necessary to require NDAs in all instances to protect data confidentiality. In Resolution E-4414, OP 26, the Commission adopted the following protocol to prevent unfettered access to Investor-owned Utilities' mapping information.

The investor-owned utilities may require developers to register in order to access the interconnection maps as an alternative to signing a non-disclosure agreement. The investor-owned utilities shall not require signing a non-disclosure agreement to access the interconnection maps.

Here, a registration process would give the major pole owners to evaluate third-party requests to gain access to all or part of the pole attachment data. The Commission will add a similar provision to this decision.

The Commission agrees with Frontier's suggestion that any motion that the Commission grants regarding the confidentiality of pole attachment information shall apply to prevent disclosure shall apply to all individuals granted access to pole data bases through OP 21. In addition, the holder of the confidentiality protection can decide, as a prerequisite to sharing this confidential information, if it wishes to enter into a NDA to allow third parties access to pole attachment data that the Commission has determined to be confidential.

13.1.10. Clarifications or Edits

In view of the above comments, the Commission agrees to make the following clarifications or edits to the pole attachment data points and other aspects of the decision:

a. The Commission will change Data Points #7, 10-16 from an "Integer" to a "numeric value." Although PAO had suggested changing "integer" to "Floating Point," the

Commission believes that "numeric value" is more descriptive.

b. The Commission will change Data Point #9 from an "Integer" to a "Text" field, as described by PAO

c. The Commission will modify Data Point 11, 12, and 20 to reference the GO 95 definitions.

   i. 11 – See Rule 42 Table 3

   ii. 12 – See Rule 23.7

   iii. 20 – See Rule 24.1

d. The Commission will rename Data Point 15 to Wind Loading on the Attachment, as SED has suggested.

e. The Commission will rename Data Point 17 to "Bending Moment due to attachment" and re-describe as "Calculation of the pole bending moment caused by the load added to the pole by the attachment," as SED has suggested.

f. OPs' 6 and 12 references to "real time" shall be changed to "updated within 72 hours."

g. The reference to "attachments" in the decision refers to all attachments on the utility poles owned by the five major pole owners, not just attachments covered by the Commission's Right-of-Way Decision.

13.1.11. Liability

The Commission's concern for attachers being responsible for provide the major pole owners with accurate pole attachment data information is best summed up by SCE in its Reply Comments, at 4:

> It remains SCE's position that due to the nature of overhead construction and reconstruction work, which involves pole replacements, reconductoring, the addition and removal of communication cables, antennas, and various types of equipment, the pole data bases being managed by pole owners will always have inaccurate and incomplete information. However, inaccurate or incorrect pole attachment

> data does not mean the poles supporting supply and communication facilities present an inherent safety risk to the public and utility workers.

The Commission finds it difficult to reconcile these two sentences and reaches just the opposite conclusion that SCE draws. If the pole attachment data is inaccurate and incomplete, the Commission finds that there are inherent safety risks to the public and utility workers, and the best way to minimize that safety risk is to hold attachers responsible for providing to the major pole owners pole attachment data that is as accurate and complete as possible.

In placing the responsibility on the attachers to provide complete and accurate pole attachment data and allowing the major pole owners to issue disclaimers, the Commission does not mean to suggest that the major pole owners are relieved of all responsibilities. To the extent the major pole owners have any responsibility under GO 95 or Commission decisions to ensure the accuracy of the information in their pole data bases, those responsibilities shall remain in effect.

14. Assignment of Proceeding

Marybel Batjer is the assigned Commissioner and Robert M. Mason III is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The list of data points proposed in the October 8, 2020 Ruling does not include all relevant pole attachment information.
2. Certain data points proposed in the October 8, 2020 Ruling require revision to provide greater granularity and understanding.
3. Certain data points proposed in the October 8, 2020 Ruling should be deleted.

4. Utilities and attachers are under a duty to cooperate by sharing amongst themselves data regarding attachments to poles.

5. Attachers must cooperate with a company performing load calculations by promptly providing or making reasonably available the most recent information.

6. Utilities and attachers must maintain all of the data required by the Commission regarding their poles and or pole attachments.

7. Utilities and communications infrastructure providers are responsible for keeping records regarding the resolution of all safety hazards.

8. Communications infrastructure providers are required to maintain records of their inspections per GO 95.

9. Communications lines in High Fire Threat Districts must be inspected in accordance with GO 95.

10. Joint-use poles in High Fire Threat Districts must be patrolled and inspected in accordance with GO 95.

11. Communications lines in non-High Fire Threat District must be patrolled and inspected in accordance with GO 95.

12. The data attachment requirements adopted by this decision build on the existing requirements established by GO 95, SB 901, and by the Commission's regulatory authority to ensure public safety by preventing utility fires.

Conclusions of Law

1. It is reasonable to conclude that shared utility and communication pole data will enhance and expedite the ability of utilities to assess the safety of their utility infrastructure.

2. It is reasonable to conclude that the five major pole owners should manage their pole attachment databases.

3. It is reasonable to conclude that attachment owners should be responsible to provide the information regarding their attachments to the five major pole owners.

4. It is reasonable to conclude that pole attachers should cooperate with a company performing load calculations by promptly providing or making reasonably available the most recent intrusive pole test data and information regarding their facilities already on the poles.

5. It is reasonable to conclude that the list of data points proposed in the Ruling should be revised as set forth in Attachment A to this decision.

6. It is reasonable to conclude that the attachment requirements set forth in Attachment A to this decision shall apply to every attachment on each of the five major pole owners' poles.

7. It is reasonable to conclude that the five major pole owners must know the specifications of the existing attachments on their poles as they have a responsibility to determine whether pole attachment applications meet pole loading safety requirements.

8. It is reasonable to conclude that attachers must notify the five major pole owners when they alter their attachments.

9. It is reasonable to conclude that all attachers should be required to provide the five major pole owners with the loading information for their attachments.

10. It is reasonable to conclude that a pole database with comprehensive pole attachment information will provide greater efficiencies for attachers.

11. It is reasonable to conclude that each of the five major pole owners should identify all attachment statuses that will be tracked in their databases.

12. It is reasonable to conclude that terms in each major pole owner's databases should be standardized across pole databases as part of the Track 2 Glossary development process.

13. It is reasonable to conclude that pole owners should make efforts to standardize, within reason, the data submission requirements across each major pole owner's database.

14. It is reasonable to conclude that the five major pole owners should not be liable for the accuracy of the attachment data received from attachers, unless required to do so in accordance with GO 95 and Commission decisions.

15. It is reasonable to conclude that the major pole owners should implement cybersecurity measures, if they haven't already done so, to prevent unauthorized third-party access to their pole and pole attachment data bases.

16. It is reasonable to conclude that attachment data required by this decision should be made available to facilities-based CPCN and video franchise holders provided they register with the major pole owner(s) and explain their reasons for wanting the attachment data required by this decision and with whom they will share the attachment data. In the event the major pole owner denies the request, in whole or in part, the person being denied access may file an appeal with the Commission.

17. It is reasonable to conclude that attachment data required by this decision should be made available to state and local government officials upon request and provided that they identify the purpose for receiving access to the information and identify with whom they will share the attachment data.

18. It is reasonable to conclude that the five major pole owners should implement reasonable security measures to prevent widescale public access to the attachment data required by this decision.

19. It is reasonable to conclude that to the extent they are not already in place, this decision should decline to require third parties to execute a non-disclosure agreement to access the attachment data required by this decision. As set forth in COL 14, third parties must register with the major pole owner(s) and explain their reasons for wanting the attachment data required by this decision.

20. It is reasonable to conclude that the five major pole owners and/or attachers may not require Commission staff to sign a non-disclosure agreement before receiving access to the attachment data required by this decision.

21. It is reasonable to conclude that the five major pole owners and/or attachers have not demonstrated that the attachment data required by this decision is confidential, trade secret protect, privileged, exempt from disclosure from Section V (Nondisclosure of the Commission's Right-of-Way Rules), or protected from disclosure by national security concerns. Any of the five major pole owners and/or attachers may renew their request to prevent the disclosure of their data attachment information by filing a motion and provide the necessary granular information and declaration to support the confidentiality request.

22. It is reasonable to conclude that since the five major pole owners also have pole attachments, that major pole owner shall be responsible for gathering the information required by Attachment A for their own attachments.

23. It is reasonable to conclude that Commission staff may modify the data attachment requirements adopted by this decision by a resolution.

24. It is reasonable to conclude that Commission staff shall have the enforcement authority to ensure the attachers have complied with this decision.

O R D E R

IT IS ORDERED that:

1. The pole attachment data points attached hereto as Attachment A are adopted. These data points establish the minimum requirements for identifying each attachment to each pole for all attachments, including both electric and communications attachments.

2. Each of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall include the data points identified in Attachment A for each attachment and shall store this information in each pole owner's data base.

3. The five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall be responsible for incurring the costs to comply with supplying the attachment data points identified in Attachment A for their own attachments.

4. For pole owners not subject to filing a general rate case, the costs incurred to compile the attachment data identified in Attachment A shall not be included in accounts to establish pole attachment rental fees.

5. Each of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective

reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall manage their respective pole databases and require all entities with attachments on their poles provide the data in Attachment A in accordance with this Decision.

6. Within 90 days from the issuance of this decision, the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall notice on the proceeding service list and hold a joint workshop or workshops to discuss and provide clarification to the attachers regarding the manner in which they must provide their attachment information, and any topics related thereto. After the conclusion of the 90 days from the issuance of this decision, the five major pole owners shall jointly file a workshop report on the proceeding service list and submit their individual Tier 2 Advice Letters within 60 days. Pole owners shall standardize, within reason, the data submission requirements across each major pole owner's database. Commission staff shall have 60 days from receipt to approve each Tier 2 Advice Letter.

7. Within 90 days from the date the attachers provide the attachment information for Phase 1 Data Points 1-5 and 18-20, the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall notice on the proceeding service list and hold a Phase 2 joint workshop or workshops to discuss lessons learned from Phase 1 and provide clarification to the attachers

regarding the manner in which they must provide their attachment information for Phase 2 Data Points 6-17, and any topics related thereto. At the conclusion of the 90 days, the five major pole owners shall file a workshop report.

8. Pole attachers shall be responsible for providing the information required by for Phase 1 Data Points 1-5 and 18-20 in Attachment A for existing and new pole attachments within 12 months from the date the Tier 2 Advice Letters of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) have been approved.

9. Pole attachers shall be responsible for providing the information required for Phase 2 Data Points 6-17 in Attachment A for existing and new pole attachments within 12 months from the date the Phase 2 joint workshop report of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) is filed.

10. In the event an attacher needs more time to provide the information required by Attachment A, the attacher shall submit a letter to the Commission's Executive Director that sets forth, at a minimum, the number of poles its attachments are appended to; the major pole owners with whom the attacher is interacting; the status of the attacher's compliance with the attachment data requirements set forth in Attachment A; how the attacher is in compliance with General Order 95's record keeping requirements; the number of meetings the

attacher has had with the major pole owners to complete the data attachment requirements and the results of those meetings; the number of field inspections that have been completed; why the attacher cannot meet the 12-month deadline; and the attacher's proposed schedule for completing its compliance with the data attachments required by Attachment A. the timing for requesting the extensions shall be as follows: the request for an extension to comply with the Phase 1 Data Points 1-5 and 18-20 shall be no later than 30 days before the deadline to provide the attachment information for the Phase 1 Data Points 1-5 and 18-20. The request for an extension to comply with the Phase 2 Data Points 6-17 shall be no later than 30 days before the deadline to provide the attachment information for the Phase 2 Data Points 6-17.

11. Each of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall add the datasets set forth in Attachment A to their pole databases within 12 months from the date pole attachers provide the information required by Attachment A, and enable integration of regular updates received from attachers to the database thereafter.

12. Pole attachers shall maintain attachment asset management databases.

13. Each of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall identify all pole attachment statuses that will

be tracked in their respective databases. Terms shall be standardized across pole data bases as part of the Track 2 Glossary development process.

14. Each of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall develop comprehensive attachment descriptions for their databases. Terms shall be standardized across pole databases as part of the Track 2 Glossary development process.

15. Each of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall develop comprehensive attachment location descriptions for their databases. Terms shall be standardized across pole databases as part of the Track 2 Glossary development process.

16. Every pole attacher shall maintain attachment asset management databases.

17. Every pole attacher shall provide updates on any modifications made to their attachments, starting at the date specified by the respective pole owners initiating that functionality within 72 hours of the modification.

18. Every pole attacher shall provide to the pole owner the loading information for each of their attachments affixed to that owner's pole.

19. Every pole attacher shall update the database if changes to a pole attacher's equipment alters the load of a pole.

20. Every pole owner shall notify the Commission's Communications Division, Safety Enforcement Division, and Utility Audits Branch of each attacher that fails to comply with the requirements adopted by this decision.

21. Attachers are liable for the accuracy of the attachment data they submit to each of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]).

22. Each of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall include a disclaimer indicating that the data may not be completely accurate, that the information provided is the most recent information available, and that it is the responsibility of the information requestor to verify and validate the information in accordance with all existing safety requirements.

23. Any costs already incurred by any of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]), as well as the costs to implement the decisions in this proceeding, shall be itemized and made available to any attacher upon request.

24. For pole owners subject to a general rate case, those costs incurred to implement the decisions in this proceeding shall be distributed as appropriate between electric utility rates for electric attachments (e.g., cost of cataloging and making available in the pole database for any attachment data), and for pole attachment rates for costs incurred for communications attachments (e.g., cost of managing data submissions from attachers, providing technical support staff, information technology equipment).

25. Each of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall make their respective pole attachment databases available to facilities-based Certificate of Public Convenience and Necessity and video franchise holders.

26. Unless the Commission has determined otherwise in response to a request for confidential treatment, each of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall make their respective pole attachment databases available, with proper security controls, to state or local government official upon request provided the official identifies the purpose for receiving access.

27. Each of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall implement reasonable security measures and cybersecurity measures to prevent unauthorized and widescale public access to their pole attachment databases.

28. Each of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) and attachers shall not require Commission staff to sign a nondisclosure agreement to gain access to their pole attachment databases.

29. Unless a nondisclosure agreement has been in effect six months prior to the effective date of this decision, the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) shall not require attachers to sign a nondisclosure agreement as a condition to gaining access to a pole owner's attachment database.

30. The pole attachment database information set forth in Attachment A is exempt from Section V: Nondisclosure of the Commission's Right-of-Way Rules.

31. If any of the five major pole owners in California (Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Frontier Communications, and AT&T [AT&T is the collective

reference for Pacific Bell Telephone Company d/b/a/ AT&T California, AT&T Corp., and AT&T Mobility]) or attacher claims that any of the pole attachment database information set forth in Attachment A is confidential, trade secret, privileged, and/or protected from disclosure as critical infrastructure information, any of the five major pole owners or attacher who wishes to assert such grounds shall file a motion, within 60 days from the effective date of this decision, for confidential treatment and shall follow the following protocol:

a. designate what portions of the pole attachment database information are confidential and/or privileged;
b. state a specific legal basis for the claim (*e.g.,* not just "section 583");
c. explain in detail how the pole attachment database information fits within the legal basis for the claim of confidentiality and/or privilege;
d. provide a declaration in support of the claim of confidentiality and/or privilege; and
e. provide a name and email address of a person to contact regarding potential release of the information.

32. The Commission authorizes its staff in the Communications Division and Safety Enforcement Division to modify, by resolution, the pole attachment database information set forth in Attachment A as needed to ensure the information required is up to date.

33. In a subsequent phase, the Commission will review whether Track 1 and Track 2 requirements adopted in this proceeding should be imposed on Publicly Owned Utilities as well as smaller pole owners.

34. This Investigation remains open.

This order is effective today.

Dated October 21, 2021, at San Francisco, California.

MARYBEL BATJER
President
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
DARCIE HOUCK
Commissioners

ATTACHMENT A: POLE ATTACHMENT DATA BASE INFORMATION

ATTACHMENT A

Item #	Field Name	Field Description	Field Type
1	Number of Existing Attachments on Pole	The number of existing attachments on any given pole.	Integer
2	Attachment Owner	The name of the company in ownership of a specific attachment.	Text
3	Attachment Identifying Number	The unique number used to track an attachment.	Text
4	Attachment Status	*e.g.,* submitted, pending, approved, installed, etc.	Text
5	Attachment Status Date	Date of the most recent status update on any given attachment.	Date
6	Attachment Location on Pole	Location of attachment on pole (e.g., within comm. zone, pole top, cross arm, pole mount, etc.).	Text
7	Pole Attachment Elevation	Expressed in feet and inches from ground.	Numeric Value
8	Attachment Description	e.g., cable, messenger, antenna, service drop, electric utility equipment, etc.	Text
9	Attachment Dimensions	Detailed information specifying the size of the attachment. For cables and conductors, the gauge of the cable must be provided.	Text
10	Attachment Weight	Weight of attachment. For cables, the weight per linear foot must be provided.	Numeric Value
11	Grade of Construction	Grade of construction As specified in Section IV of GO 95.	Text
12	Conductor Tension	Tension of the conductor, cable, messenger or equivalent.	Numeric Value
13	Cable Tensile Strength	Tensile strength of the conductor, cable, messenger, or equivalent.	Numeric Value
14	Cable Average Span Length	Average span length of the conductor, cable, messenger, or equivalent.	Numeric Value
15	Wind Loading on the Attachment	Wind loading on the attachment.	Numeric Value

16	Vertical Loading	Vertical loading of the attachment.	Numeric Value
17	Bending Moment due to the Attachment	Calculation of the pole bending moment caused by the load added to the pole by the attachment at the time it was installed or modified.	Text
18	Support Structures	Identify support structures on pole added for the attachment, including but not limited to: guy wires, anchors, cross arms, etc.	Text
19	Abandoned Attachment	Identify whether the attachment has been abandoned.	Text
20	Voltage	Attachment voltage as defined by GO 95, Rule 24.1.	Numeric Value

(END OF ATTACHMENT A)

ATTACHMENT B

SUMMARY OF PARTY COMMENTS TO DATA POINT QUESTIONS

ATTACHMENT B

SUMMARY OF PARTY COMMENTS TO DATA POINT QUESTIONS

1. Data Points: Does this List Adequately Include All Relevant Pole Attachment Information?

CCTA claims that none of the Track 2 data proposed in the *Ruling* is essential to accommodate CCTA's members' or other attachers' needs in obtaining access to poles. CCTA believes that the data points proposed in the *Ruling* are inadequate to perform a reliable pole loading calculation, and it would be virtually impossible to capture all the data needed for such a function on a widespread basis.[250]

CTIA states that the Commission should undertake the steps necessary to ensure that any additions to the required data fields in the data access portals meet the intended purposes of the Order Instituting Investigation (OII) in a cost-effective manner, which is the same process the Commission followed in Track 1. CTIA asserts there is no record support to indicate that any of the 12 data points set forth in the *Ruling* as proposed additions to the pole owners' data access portals would improve safety monitoring or competition.[251]

Frontier states that the need for and usefulness of the data identified for Track 2 is unclear at best. The cost of developing this data is unknown. Nevertheless, should the Commission decide to go forward, Frontier believes that workshops rather than comments would be essential in order to address the questions raised by the ALJ for Track 2, as well as address the need for and cost of adding this information to the databases now under development pursuant to the Track 1 Decision. Frontier believes the additional data specified would not

[250] CCTA's Comments, at 15.

[251] CTIA's Comments, at 2.

enhance safety or competitive access to poles and the necessary items relevant to pole safety were addressed and included in the Track 1 Decision. The question of whether the proposed additional items would improve competitive access and pole safety should be addressed in technical workshops in the context of the need for an online database. Further, the cost of compiling and maintaining such additional data should be weighed against the potential benefits to safety and competitive access.[252]

Cal Advocates states that the pole database fields should only have one value per field and uniformly defined as illustrated in Attachment A to Cal Advocates' comments. Additional information should be added as shown in Attachment A of Cal Advocates' comments. The pole database should add new data fields that include information on guy wires, cross arms, conductor voltage, and abandoned attachments as illustrated in Attachment A of Cal Advocates' comments.[253]

PG&E agrees that the datapoints would improve safety/competitive access to poles, are a good starting point, and the rest should be further sussed out in a workshop. The workshop should consider who has access to what data and licensing of space.[254]

SCE believes that the 12 additional data items are unnecessary and do not improve competitive access. This additional data is costly and unnecessary, and in fact, could introduce new risks. It is unclear to SCE what exactly is meant by "improving the safety of poles," however, all relevant information to address competitive access, related to data, has already been addressed in Track 1.

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[252] Frontier's Comments, at 1, 3.

[253] Cal Advocates' Comments, at 1, 3.

[254] PG&E's Comments, at 1.

Further, SCE questions the need for any of the data and believes the 12 additional data items are unnecessary and do not improve competitive access.[255]

SDG&E believes that the data points included in the *Ruling* are unnecessary. The list would require millions of data points not currently tracked by SDG&E to be identified, collected, confirmed, sorted, documented, and maintained. The data points in the *Ruling* are not static and, therefore, the use of a database is not the best way to obtain this information. SDG&E questions the value of expending resources necessary to ensure the accuracy of a database for an unknown benefit. It is also unclear how this information would improve the safety of the system. Most of the information listed in the *Ruling* is either unnecessary for pole attachers or it can be obtained from a field visit.[256]

Small LECs state they have few if any attachers so the need for and usefulness of the data is unclear at best. The Commission should employ workshops rather than comments to examine the proposals identified in the *Ruling* as was done in Track 1 of this proceeding and was the path originally designated for Track 2. The present system for requesting pole attachments has worked satisfactorily for the Small LECs and therefore the expense of putting the available data in a uniform format suitable for adding to one of the database providers through an on-line database does not seem justifiable. Workshops would provide a much more efficient means to address these highly nuanced and often technical issues and their impacts on the various pole owners and attachers.[257]

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[255] SCE's Comments, at 2-3.

[256] SDG&E's Comments, at 2-3.

[257] Small LECs' Comments, at 1-2.

Sonic is supportive of the datapoints, though some of the definitions need editing.[258]

SED states that except for attachment orientation, SED agrees that the list includes relevant information to improve the safety and competitive access of poles.[259]

Verizon claims that the proposed data fields create a real risk of reliance on outdated database information, and thus could undermine safety and competitive access. The Commission should hold technical workshops to explore these important issues so that the full scope of the complexities is laid bare, and the right balance can be achieved among the goals of Track 2. The proposed data fields may have limited value for competitive access and reliance on such data in a database would do nothing to improve safety.[260]

ExteNet's Reply Comments state that the opposition of some parties to having attachment data added to the pole owners' databases makes clear that workshops will be fruitless and would serve only to delay the important work of Track 2 to provide 24x7 access to critical data needed by competitive local exchange carriers (CLECs) and staff, and possibly first responders, to improve competition and safety for California residents.[261]

Cal Advocates' Reply Comments state that while the pole database was not intended to replace the need for field visits, it could be used to make field visits more efficient and make more informed decisions.[262]

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[258] Sonic's Comments, at 7.

[259] SED's Comments, at 5.

[260] Verizon's Comments, at 2-3.

[261] ExteNet's Reply Comments, at 3.

[262] Cal Advocates' Reply Comments, at 3.

SCE's Reply Comments state that if the Commission decides to move forward with Track 2, the core questions as to why any additional pole attachment is needed and the associated costs must be addressed.[263]

In Reply Comments, SDG&E disagrees with Cal Advocates' assertion that several data fields would be beneficial for Track 2, specifically attachment orientation, number of guy wires, number of cross arms, and attachment/conductor voltage. SDG&E disagrees with the need for these fields, asserting none of these provide any value to accessing a pole or improving safety.[264]

SED states that pole users should already have such information in order to comply with the strength requirements in GO 95. Without such information it is impossible to determine whether a pole meets the safety factor requirements of GO 95. Additionally, pole loading information stored in these databases is a critical input for determining the safety factor impact of proposed attachments. If the databases are not available, it will be difficult for attachers to identify poles that can safely support proposed attachments.[265]

2. Data Points: How Should Each Data Point be Defined and with What Level of Detail?

CCTA submits that the Commission should not move forward with Track 2. If, however, the Commission decides to move forward with Track 2, CCTA submits that it should conduct workshops to attempt to address this issue in the least detrimental manner. [266]

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[263] SCE's Reply Comments, at 3.

[264] SDG&E's Reply Comments, at 4-5.

[265] SED's Reply Comments, at 1.

[266] CCTA's Comments, at 15.

ExteNet believes that the level of detail for each data category should be no less than the levels specified in a strawman proposal that had been discussed by a working group.[267]

Frontier states that the list may appear to be self-explanatory, but the terms should be vetted through technical workshops involving subject matter experts who could help identify potential ambiguities and problems with the descriptions of the datapoints and relevant distinctions between the listed elements.[268]

Cal Advocates states that when ordering the implementation of the proposed data fields, the Commission should ensure that each data field contains only one piece of information, uniformly defined.[269]

PG&E believes it would be helpful to develop common terminology for the data points, and that definitions could be sussed out in workshops.[270]

SCE believes this question is premature and should be only addressed if the Commission determines that there is demonstrable benefit and value of requiring pole owners and pole attachers to identify, capture, confirm, collate, display, and maintain millions of additional data points beyond the Track 1 requirements for electric system and communication network infrastructure and attachments that evolve daily.[271]

SDG&E believes that it is premature to define each data point. As an initial matter, the Commission should determine the purpose and need for each

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[267] ExteNet's Comments, at 2-3.

[268] Frontier's Comments, at 3.

[269] Cal Advocates' Comments, at 3.

[270] PG&E's Comments, at 2.

[271] SCE's Comments, at 4.

additional data point. The Commission should conduct a series of workshops to be convened to further examine the necessity, cost benefit, definition, accuracy, and other relevant factors for the suggested data points.[272]

SED states that its responses for each data point includes proposed definitions and details that should be included.[273]

Verizon claims there are many technical aspects to the data points. Workshops would be an appropriate forum for discussing the industry definitions of the proposed data points.[274]

ExteNet**'s** Reply Comments support the clarifications suggested by Cal Advocates.[275]

3. Should Any Data Points be Removed?

CCTA submits that the Commission should not move forward with Track 2. If, however, the Commission decides to move forward with Track 2, CCTA submits that it should conduct workshops to attempt to address this issue in the least detrimental manner.[276]

CTIA claims that the inaccuracy resulting from the ever-changing number of attachments and characteristics of existing attachments would only be compounded by layering on additional data points for each attachment.[277]

Frontier states that a preliminary question that should be addressed is whether the Track 2 proceeding is necessary and whether the additional data

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[272] SDG&E's Comments, at 3.

[273] SED's Comments, at 1-4.

[274] Verizon's Comments, at 3.

[275] ExteNet's Comments, at 4-5.

[276] CCTA's Comments, at 15.

[277] CTIA's Comments, at 3.

points would in fact promote safety and competitive access. Frontier recommends workshops to examine these issues.[278]

PG&E does not suggest removing any items from the list, it believes this issue would benefit from a discussion between the parties in a workshop setting.[279]

SCE does not believe any additional data points should be considered for Track 2.[280]

SED recommends removal of Item 8, Attachment Orientation, from the list.[281]

Verizon claims that many of the proposed data points provide information that could as easily be gathered during a field visit (which is necessary in any event to ensure accuracy), and through an attacher's request for information via GO 95, Rule 44.4.[282]

4. Should any Other Data Points Be Added and if so, How Should They Be Defined and Why?

CCTA submits that the Commission should not move forward with Track 2. If, however, the Commission decides to move forward with Track 2, CCTA submits that it should conduct workshops to attempt to address this issue in the least detrimental manner.[283]

ExteNet requests technical drawings, schematics, photographs, loading calculations and other information submitted during the application process to

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[278] Frontier's Comments, at 3.

[279] PG&E's Comments, at 2.

[280] SCE's Comments, at 4.

[281] SDE's Comments, at 5.

[282] Verizon's Comments, at 3.

[283] CCTA's Comments, at 15-16.

the pole owner also be included as a requirement. ExteNet also proposes to include in the pole database information on real property associated with poles. One example is easements and whether the pole is located on private property or in a public right-of-way.[284]

Frontier does not support the addition of any further data points until the utility of the proposed additional data points to improving safety and competitive access can be justified based on the cost of implementing the proposal relative to specific benefits identified in connection with doing so.[285]

Cal Advocates believes that it is important that the database contain information on other attachments or modifications to a utility pole beyond cable or wireless attachments. The Commission should include information on guy wires, cross arms, and attachment/conductor voltage in the database. Furthermore, the Commission should require a text data field to indicate whether an attachment is abandoned. Both the data fields for guy wires and cross arms should be integer fields which count the number of guy wires and cross arms on a pole, respectively. This will allow interested parties to see whether the pole has guy wires or cross arms quickly, and for Pole Owners to note that information in their database, without needing to record that information as separate attachments. Both the data fields for guy wires and cross arms should be integer fields which count the number of guy wires and cross arms on a pole, respectively. This will allow interested parties to see whether the pole has guy wires or cross arms quickly, and for Pole Owners to note that

[284] ExteNet's Comments, at 4-5.

[285] Frontier's Comments, at 4.

information in their database, without needing to record that information as separate attachments.[286]

PG&E believes this issue should be discussed in a workshop.[287]

Sonic suggests that Pole to Pole guys and down guy/anchor information should be added as anchors are a critical component of the pole line. Electronic delivery of Pole Loading Calculations in their native formats should be added.[288]

Verizon argues that data fields about attachments may not be particularly useful. The critical elements for ensuring competitive access to poles is updating the Right of Way rules to compel a pole owner's timely response to inquiries, pole attachment applications, and to requests for pole replacements or rearrangements necessary to facilitate new attachments to poles.[289]

In Reply Comments AT&T states that **t**hough some commenters proposed additional data points, none presented realistic, compelling Use Cases for those additional data points. Thus, there is no appropriate basis to include additional data points.[290]

CCTA opposes ExteNet's request to include the addition of "graphical information" – namely "technical drawings, schematics, photographs, loading calculations and other information" – because the information is provided confidentially by ExteNet's competitors to the pole owners.[291]

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[286] Cal Advocates' Comments, at 4.

[287] PG&E's Comments, at 2.

[288] Sonic's Comments, at 7.

[289] Verizon's Comments, at 4.

[290] AT&T's Reply Comments, at 9.

[291] CCTA's Reply Comments, at 6.

CTIA claims that a database merely increases the amount of human labor necessary by adding the Sisyphean task of attempting to maintain a database that, due to the sheer volume of information, if not for other reasons, will be inaccurate and out-of-date shortly after or even before data is entered.[292]

ExteNet support the twelve data elements identified in the *Ruling* and submit there is ample documentation in the record of this lengthy proceeding demonstrating that such data is useful and necessary to minimize unnecessary delay, promote competition, and improve adherence to and oversight of safety requirements.[293]

(END OF ATTACHMENT B)

[292] CTIA's Reply Comments, at 2.

[293] ExteNet's Reply Comments, at 17