

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EXECUTIVE DIVISION

December 2, 2021
Resolution M-4860

R E S O L U T I O N

RESOLUTION M-4860. RESOLUTION PURSUANT TO THE REQUIREMENTS OF PUBLIC UTILITIES CODE SECTIONS 8389(D)(1), (2), (3) AND (4), RELATED TO CATASTROPHIC WILDFIRES CAUSED BY ELECTRICAL CORPORATIONS SUBJECT TO THE COMMISSION'S REGULATORY AUTHORITY.

SUMMARY:

This Resolution satisfies the requirements of Public Utilities Code (Pub. Util. Code) Sections 8389(d)(1), (2) (3) and (4), related to catastrophic wildfires.¹ The statute requires the following:

(d) By December 1, 2020, and annually thereafter, the [C]ommission, after consultation with the [Wildfire Safety [D]ivision]^[2], shall adopt and approve all of the following:

- (1) Performance metrics for electrical corporations.
- (2) Additional requirements for wildfire mitigation plans.
- (3) A wildfire mitigation plan compliance process.
- (4) A process for the division to conduct annual safety culture assessments for each electrical corporation.

Pursuant to Sections (d)(1) and (d)(2), this Resolution recommends continuing the performance metrics used to evaluate 2021 Wildfire Mitigation Plans (WMP) and maintaining the existing WMP requirements. Pursuant to Sections (d)(3) and (d)(4), this Resolution provides updates and revisions to the processes for overseeing WMP compliance and for conducting the Office of Energy Infrastructure Safety's (Energy Safety) annual safety culture assessment.

Pursuant to Assembly Bill (AB) 1054 (2019), in late 2020 for 2021 WMPs, the Commission adopted and approved performance metrics for electrical corporations, revised guidance for utilities to complete their 2021 WMP updates, and created a WMP compliance process and a

¹ All statutory references are to the Public Utilities Code unless otherwise noted.

² *** The Wildfire Safety Division (WSD) transitioned from the California Public Utilities Commission (CPUC) to the Office of Energy Infrastructure Safety (Energy Safety) at the California Natural Resources Agency (CNRA) on July 1, 2021. Any references herein to WSD actions that post-date this transition should be interpreted as actions taken by Energy Safety. WSD is used to describe the work of the WSD prior to July 1, 2021. Energy Safety is used to describe the work of Energy Safety beginning on July 1, 2021. Any references to WSD action post July 1, 2021, or to Energy Safety action prior to July 1, 2021, are inadvertent and should be interpreted as the actions of WSD or Energy Safety as appropriate.

process for Energy Safety to conduct annual safety culture assessments. The Commission adopted Resolutions WSD-011³ and WSD-012⁴ to meet the Section 8389(d) requirements.

This Resolution is in furtherance of the requirement in Section 8389(d) to annually adopt and approve the above requirements and processes after consultation with Energy Safety.

Energy Safety's proposed updates and revisions to each of the 8389(d) requirements is contained within this Resolution in the following Attachments:

- **Attachment 1: Energy Safety's Recommended Performance Metrics**
Energy Safety did not recommend changes to the performance metrics for electrical corporations, however, it reviewed and responded to the Wildfire Safety Advisory Board's (WSAB) recommendations to create communication and community outreach performance metrics.
- **Attachment 2: Energy Safety's Review of Additional WMP Requirements**
Energy Safety did not recommend additional WMP requirements.
- **Attachment 3: Energy Safety's Proposed Compliance Process for 2021 WMPs**
Energy Safety recommended updates to the compliance process to, in part, align the process with its new statutory authority and role following the transition from a division within the Commission to a new department under the California Natural Resources Agency.
- **Attachment 4: Energy Safety's Proposed 2022 Safety Culture Assessment Process**
Energy Safety recommended updates to the annual safety culture assessment process pursuant to Pub. Util. Code § 8389(d)(4) to update the principal forms of data (otherwise called "inputs") that inform the assessment and remove the verification of the board's structure and board-level safety reporting from the process because these are verified during Energy Safety's review of an electrical corporation's application for a Safety Certification.

³ Resolution WSD-011, *Resolution implementing the requirements of Public Utilities Code Sections 8389(d)(1), (2) and (4) related to catastrophic wildfire caused by electrical corporations subject to the Commission's regulatory authority* (November 19, 2020).

⁴ Resolution WSD-012, *Resolution implementing the requirements of Public Utilities Code Sections 8389(d)(3) related to catastrophic wildfire caused by electrical corporations subject to the Commission's regulatory authority* (November 19, 2020).

- PROPOSED OUTCOME:
 - Adopts Energy Safety’s recommendation to maintain existing performance metrics for 2022 WMPs.
 - Adopts Energy Safety’s recommendation to maintain existing WMP requirements for 2022 WMPs.
 - Adopts Energy Safety’s proposals for the WMP compliance process and annual safety culture assessment process.
- SAFETY CONSIDERATIONS:
 - Mitigation of catastrophic wildfires in California is among the most important safety challenges the Commission-regulated electrical corporations face. WMPs provide an electrical corporation’s proposed actions to help prevent catastrophic wildfires, so comprehensive WMPs are essential to safety.
 - Any changes to WMPs should enhance California’s ability to review and monitor the electrical corporations’ actions in mitigating catastrophic wildfire.
 - The process for conducting annual safety culture assessments should help ensure electrical corporations improve their focus on and culture of safety at all levels of their businesses.
 - Compliance with WMPs is essential to achieving a reduction in catastrophic wildfires.
- ESTIMATED COST:
 - This Resolution does not address or approve costs.
 - Costs incurred to comply with WMPs are to be addressed in electrical corporation General Rate Cases or other applications, not in WMPs or safety culture assessments.

DISCUSSION**1. Attachment 1: Performance Metrics****1.1. Energy Safety's Recommendations**

Energy Safety recommended no changes to the existing performance metrics as described in Attachment 1 to this resolution. In consideration of whether changes to performance metrics were needed, Energy Safety reviewed the Wildfire Safety Advisory Board's (WSAB) Recommendations on the 2022 Wildfire Mitigation Plan Guidelines, Performance Metrics, and Safety Culture Assessment.⁵ The WSAB's recommendations pertain to communication and community outreach performance metrics, and a summary of WSAB's recommendations and Energy Safety's responses are summarized below.

- WSAB Recommendation #1: The WSAB recommended the 2022 WMP Guidelines incorporate the outcomes from Investigation, I.19-11-013⁶, and Rulemaking, R.18-12-005.⁷ ⁸ Energy Safety did not incorporate these changes into its 2022 WMP Update Guidelines stating that it needs more time to effectively collaborate with the CPUC to determine whether any outcomes or required actions specified by the Commission in D.21-06-014⁹ or other public safety power shutoffs (PSPS) related proceedings will be useful performance metrics to include in future WMP Guidelines.¹⁰
- WSAB Recommendations #2 and #3: The WSAB recommended that the 2022 WMP Guidelines require utilities to include an analysis of the correlation between the quantity of PSPS contacts and effectiveness of the outreach methods and to include additional performance metrics to measure the success of community outreach efforts.¹¹ Energy Safety explained it did not see its mission as including PSPS stakeholder outreach and, instead, identified the Commission as having the appropriate authority.¹² Therefore, Energy Safety did not recommend adopting these recommendations.

⁵ Available at: <https://energysafety.ca.gov/wp-content/uploads/docs/misc/wsab/recommendations-on-the-2022-wmp-guidelines-issued-6.30.21.pdf>

⁶ Investigation 19-11-013, *Order Instituting Investigation on the Commission's Own Motion on the Late 2019 Public Safety Power Shutoff Events* (November 13, 2019).

⁷ Rulemaking (R.)18-12-005, *Order Instituting Rulemaking to Examine Electric Utility De-Energization of Power Lines in Dangerous Conditions* (December 13, 2018).

⁸ Attachment 1 (Energy Safety's 2021 Review of Performance Metrics for Electrical Corporations), p. 5.

⁹ Decision (D.) 21-06-14, *Decision Addressing the Late 2019 Public Safety Power Shutoffs by Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company to Mitigate the Risk of Wildfire Caused by Utility Infrastructure* (June 3, 2021).

¹⁰ Attachment 1, p. 6.

¹¹ Attachment 1, p. 6.

¹² Attachment 1, p. 6.

1.2. Discussion

The Commission recognizes Energy Safety's decision to not adopt WSAB Recommendation #1 and supports Energy Safety's approach to work collaboratively to determine whether any outcomes or required actions from the Commission's decisions in these proceedings will be useful performance metrics to include in the future. The Commission further acknowledges with regard to WSAB's Recommendation #2 that public outreach before, during, and after a wildfire is within the Commission's purview. The Commission specifically addressed electrical corporation outreach efforts in D.20-03-004.¹³

Additionally, after review of the existing WMP performance metrics set forth in WSD-011 against the Safety Performance Metrics¹⁴ measuring the safety of electric grids and the Safety and Operational Metrics under consideration in CPUC's rulemaking proceeding, R.20-07-013,¹⁵ the Commission notes that the performance metrics adopted in WSD-011 complement the safety metrics in these Commission proceedings.

The Commission further encourages the electrical corporations to consult with Energy Safety and the Commission's Safety Policy Division (SPD) to ensure performance metric data is subjected to sufficient quality assurance and quality control procedures to effectively evaluate continued progress on safety performance.

Consistent with Energy Safety's recommendation attached herein as Attachment 1, the Commission will not adopt changes to the performance metrics for 2022.

2. Attachment 2: Review of Additional WMP Requirements

Energy Safety did not recommend additional requirements for 2022 WMP filings.¹⁶ Consistent with Energy Safety's recommendation attached herein as Attachment 2, the Commission will not adopt additional WMP requirements for 2022.

3. Attachment 3: WMP Compliance Process

On November 19, 2020 in WSD-012, the Commission approved the first WMP compliance process designed to oversee electrical corporation compliance with wildfire safety pursuant to Pub. Util. Code § 8386.3(c). That process provided direction to electrical corporations on demonstrating compliance with WMP initiatives while retaining appropriate operational flexibility to address dynamic field conditions and necessary improvements. The Commission also recognized that the WMP compliance process would evolve over time as lessons are learned

¹³ D.20-03-004, *Decision on Community Awareness and Public Outreach Before, During and After a Wildfire, and Explaining Next Steps for Other Phase 2 Issues* (March 12, 2020).

¹⁴ See D.19-04-020, *Application of San Diego Gas & Electric Company (U902M) for Review of its Safety Model Assessment Proceeding Pursuant to Decision 14-12-025* (April 25, 2019), requiring PG&E, SCE, SDG&E and SoCal Gas to report on 26 specific Safety Performance Metrics.

¹⁵ R.20-07-013, *Order Instituting Rulemaking to Further Develop a Risk-Based Decision-Making Framework for Electric and Gas Utilities* (July 16, 2020).

¹⁶ Attachment 2 (Energy Safety's 2021 Review of Additional Requirements for Wildfire Mitigation Plans), p. 2.

in the field and circumstances evolve, subject to Commission adoption and approval annually under Section 8389(d)(3).¹⁷

In considering whether to approve refinements to the WMP compliance process for 2021 WMPs and in consultation with Energy Safety, the Commission reviewed Energy Safety's updated compliance process attached herein as Attachment 3 to this Resolution. Energy Safety's proposed compliance process is similarly structured to its current process. For instance, there remain two major components that makeup Energy Safety's compliance process:

1. Compliance assessments: Energy Safety verifies actions committed to by electrical corporations in their currently approved WMPs through ongoing assessments which includes field inspections, audits, Independent Evaluator reports, and customer safety concerns. Energy Safety determines ongoing compliance based on the outcomes of its inspections and audits and whether the electrical corporation has timely corrected any identified violations and defects.¹⁸ Electrical corporations are required to correct violations and defects identified by Energy Safety staff in accordance with specified timelines.¹⁹
2. Consequences of compliance assessments: Energy Safety notifies electrical corporations of compliance assessment findings, including severity levels and remediation timelines.²⁰

3.1 Energy Safety's Recommendations

Energy Safety recommended updates to the existing compliance process for WMPs set forth in WSD-012 based on the lessons learned in 2020 and 2021 and updates to electrical corporation reporting and compliance operations.²¹ Most of the revisions made to the compliance process for 2021 WMPs, however, are necessary in light of the transition of the Commission's former Wildfire Safety Division to a new department under the California Natural Resources Agency as of July 2021.²² Further, in 2021 the California Legislature authorized Energy Safety to issue notices of defect (NOD) and notices of violation (NOV) for noncompliance with an approved WMP or for failure to comply with laws, regulations, or guidelines.²³ The WMP compliance process in Attachment 3 of this Resolution reflects Energy Safety's new authorities.

A summary of Energy Safety's proposed updates and changes is below.

¹⁷ Resolution WSD-012, *Resolution implementing the requirements of Public Utilities Code Sections 8389(d)(3) related to catastrophic wildfire caused by electrical corporations subject to the Commission's regulatory authority* (November 19, 2020), p. 4.

¹⁸ Attachment 3 (Energy Safety's 2021 WMP Compliance Process), p. 6.

¹⁹ Attachment 3, p. 6.

²⁰ Attachment 3, p. 3.

²¹ Attachment 3, p. 2.

²² Attachment 3, p. 2.

²³ Cal. Gov. Code § 15475.2.

- With regard to the correction timeline of violations and defects, Energy Safety recommended keeping the correction of violations rated as “Moderate” to no more than a six-month period.²⁴ The 12-month correction timeframe was removed from the “Moderate” category because it was duplicative of the timeframe for the “Minor” category. Energy Safety explained that this change will formalize how the correction timeline is presently operationalized in practice.
- Upon receipt of an NOV or NOD, Energy Safety will provide electrical corporations 30 calendar days to respond.²⁵
- In the electrical corporation’s response to the NOV or NOD, it must include a plan of action or actions that will be taken to remediate the violation or defect, and a timeline for completing those actions.²⁶
- An electrical corporation will have the option to include in its response a request for a hearing to take public comment or present additional information.²⁷
- Should a hearing be requested, it will be presided over by a designated hearing examiner at Energy Safety.²⁸
- If an electrical corporation does not request a hearing with its NOV or NOD response, the determinations and conditions set forth in the NOV or NOD become final at the expiration of the 30-day period.²⁹
- Following completion of the corrective actions outlined in its NOV or NOD response, the electrical corporation must provide Energy Safety with documentation validating the resolution or correction of the identified violation or defect.³⁰

²⁴ Attachment 3, p. 8.

²⁵ Attachment 3, p. 8.

²⁶ Attachment 3, p. 8.

²⁷ Attachment 3, p. 8.

²⁸ Attachment 3, p. 8.

²⁹ Attachment 3, p. 8.

³⁰ Attachment 3, p. 8.

- Energy Safety will include the electrical corporation’s response and the resolution status of any violations or defects in the summaries it provides to the Commission.³¹

Finally, Energy Safety clarified that its annual safety compliance process period for 2020-2022 WMPs runs from January 1 to December 31 for each calendar year of the three-year WMP.³²

3.2 Discussion

The Commission reviewed Energy Safety’s recommendations and is satisfied with Energy Safety’s updates and revisions to the compliance process for 2021 WMPs with one clarification. The Commission’s Safety Enforcement Division staff³³ may issue a citation, if appropriate, or determine whether to recommend the Commission initiate an enforcement proceeding or approve an administrative consent order in light of information provided by Energy Safety as a result of its ongoing or annual compliance assessments, including but not limited to Energy Safety’s issuance of an NOV or NOD and the electrical corporation’s subsequent response or other action. Consistent with its authority pursuant to Pub. Util. Code § 8386.1, the Commission may assess penalties on an electrical corporation that fails to substantially comply with its wildfire mitigation plan. Nothing restricts or reduces the Commission from pursuing appropriate enforcement through other enforcement tools and procedures.

4. Attachment 4: Annual Safety Culture Assessment Process

Pursuant to § 8389(d), by December 1, 2020, and annually thereafter, the Commission, after consultation with Energy Safety, must adopt and approve a process for Energy Safety to conduct annual safety culture assessments for each electrical corporation.

Energy Safety’s annual safety culture assessment is distinct from the broader safety culture assessment required of the Commission by Pub. Util Code § 8386.2 and focuses on foundational components of safety culture and components specific to wildfire risk.

4.1. Energy Safety’s Recommendations

In 2021, Energy Safety conducted a baseline safety culture assessment.³⁴ For 2022, Energy Safety’s proposed safety culture assessment process, detailed in Attachment 4 herein, assesses each electrical corporation’s progress as measured against the inaugural year’s baseline

³¹ Attachment 3, p. 8.

³² The Commission in WSD-011 left open the specific determination of the compliance period to Energy Safety’s discretion.

³³ In the first instance, the Commission’s enforcement staff, not the Commission as a body, makes a determination whether to pursue an enforcement action. *Cf* Attachment 3 p. 9 (“The Commission will determine whether the Energy Safety NOV or NOD and subsequent electrical corporation response is sufficient, or if additional Commission enforcement action is needed.”)

³⁴ Attachment 4 (Energy Safety’s 2022 Safety Culture Assessment Process), p. 5.

assessment.³⁵ Energy Safety stated that its assessment for 2022 evaluates how each electrical corporation's organizational foundation may be influencing safety culture and how safety culture may be influencing outcomes.³⁶ Energy Safety's recommended changes from the 2021 to the 2022 safety culture assessment process are intended to improve readability, use consistent language, and include the following substantive updates:

- **Clarified Inputs:** Energy Safety clarified the principal forms of data (now called "inputs") informing its safety culture assessment. In 2021, Energy Safety created four primary inputs to inform the assessment but did not identify which were required and which were discretionary. For 2022 WMPs, Energy Safety relied on the same four inputs but clarified that three are required and one is discretionary.

The three required inputs collected from the electrical corporations in the 2022 safety culture assessment process are: (1) a targeted workforce survey; (2) a management self-assessment and summary plan for the coming year; and (3) objectives and lessons learned.³⁷ These are the same three required inputs used in the 2021 assessment, with clarifying changes made to the names of the latter two inputs. The input, "interviews and observational visits," was included as a primary input in 2021 but was in fact a discretionary input.

- **Removed Safety Culture Assessment Process:** Energy Safety removed from the safety culture assessment process verification of the Board's structure and reporting requirements. Board structure and board-level safety reporting to the Commission is required by and verified during Energy Safety's Safety Certification review in which an electrical corporation must demonstrate satisfaction of the requirements in Pub. Util. Code §§8389(e)(3) and (e)(5).³⁸

4.2. Discussion

The Commission reviewed Energy Safety's recommended safety culture assessment process attached herein as Attachment 4 and is satisfied with the updates and changes. As the CPUC builds the safety culture assessment framework in R.21-10-001,³⁹ the Commission recognizes that collaboration with Energy Safety will help ensure that the annual and periodic assessments align and are complementary of one another.

³⁵ Attachment 4, p. 5.

³⁶ Attachment 4, p. 5.

³⁷ Attachment 4, p. 5.

³⁸ Attachment 4, p. 8.

³⁹ R.21-10-001, *Order Instituting Rulemaking to Develop Safety Culture Assessments for Electric and Natural Gas Utilities* (October 7, 2021).

5. COMMENTS

A draft of this Resolution was served on the service list of R.18-10-007, noticed on the Commission's Daily Calendar, and posted on the CPUC website (www.cpuc.ca.gov) on November 1, 2021.

On November 22, 2021, timely comments were submitted by Southern California Edison (SCE), San Diego Gas & Electric (SDG&E), Pacific Gas and Electric (PG&E), and Green Power Institute (GPI). No stakeholders submitted comments regarding the performance metrics or the proposed process for conducting annual safety culture assessments for 2022. GPI affirmatively supported the draft resolution and made recommendations for the next three-year cycle.⁴⁰ GPI's comments can and should be addressed in Energy Safety's WMP guidelines or proposals to the Commission under Section 8389(d) for 2023.

SCE and SDG&E commented on the need for Commission authorization of additional WMP requirements pursuant to Section 8389(d)(2). While Energy Safety did not propose any new WMP requirements for the Commission's approval in 2022 in this Resolution, both SCE and SDG&E assert that the Draft 2022 WMP Update Guidelines Energy Safety issued on November 9, 2021 impose significant new requirements that are more appropriately considered "additional requirements" and thus are subject to Commission approval. Both assert that Energy Safety's proposed guidelines will require utilities to provide additional mapping and granularity of risk and mitigation data that was not previously necessary and that may be difficult to comply with due to data availability and/or required development time.⁴¹ We acknowledge and agree that new WMP requirements must be authorized by the Commission pursuant to Pub. Util. Code Section 8389(d)(2). We also observe that Energy Safety may require electrical corporations to include "[a]ny other information that the Wildfire Safety Division [Energy Safety] may require" in the WMPs.⁴² We believe Energy Safety, with input from the electrical corporations and other stakeholders, will appropriately distinguish "additional requirements" from additional information as it finalizes the 2022 WMP guidelines. We look forward to collaborating with Energy Safety to consider any additional WMP requirements that may be appropriate to adopt for the next three-year cycle beginning in 2023.

PG&E, SCE, and SDG&E raised concerns with proposed revisions to the compliance process. PG&E urged Energy Safety to establish criteria to standardize the method by which the severity of the violation/defect is determined so that similar violations/defects would be accorded similar risk categorizations.⁴³ SDG&E requested that Energy Safety clarify the definitions of NOD and

⁴⁰ Comments of the Green Power Institute on Draft Resolution M-4860, pp. 1-5.

⁴¹ Comments of San Diego Gas & Electric Company on Draft Resolution M-4860 and Related Attachments, November 22, 2021, pp. 1-2; Southern California Edison Company's Comments on Draft Resolution M-4860 and Related Attachments, November 22, 2021, p. 2.

⁴² Pub. Util. Code Section 8386(c)(22).

⁴³ Pacific Gas and Electric Company's Opening Comments on Draft Resolution M-4860, November 22, 2021, pp. 1-2.

NOV and provide further specificity regarding the risk categories within its correction timeline.⁴⁴ PG&E supports creating a process by which Energy Safety can issue NODs and NOVs and a requirement to identify the specific violation or failure that requires correction.⁴⁵ SCE and SDG&E also both urge the Commission to clarify that our approval of Energy Safety's proposed compliance process is limited to WMP compliance.⁴⁶ SCE also raised concerns that the compliance process places an undue focus on outcome-based metrics that are outside of the electrical corporation's control, based on language in Energy Safety's proposed compliance process stating, "Additionally, through linking outcomes to WMP activities, Energy Safety can focus compliance tracking on electrical corporations' improvement of outcomes and reduction of risk over time."⁴⁷ SCE commented that without clarification, the Draft Resolution could implicate due process' basic requirement to put the utilities on adequate notice of what results could lead to a sanction.⁴⁸

First, regarding comments requesting that Energy Safety specify definitions, establish processes for issuing, and standardizing methods for determining the severity of NODs and NOVs, we agree these kinds of improvements could be valuable as Energy Safety continues to implement and refine its enforcement authority pursuant to Government Code Sections 15475.2 and 15475.4. We also agree with SDG&E and SCE, however, that this Resolution constitutes the Commission's approval of the WMP compliance process required by Section 8389(d)(3). We do not approve Energy Safety's duly adopted regulations.⁴⁹ Nor will the Commission determine in the normal course if an electrical corporation has corrected an alleged violation or defect of its WMP. Rather, the Commission's role is to approve the WMP compliance process and to assess penalties on an electrical corporation that fails to substantially comply with its WMP.⁵⁰ Accordingly, we modify the Resolution to clarify that the Commission's Safety Enforcement Division staff may consider the relevance and significance of NOV or NODs that Energy Safety has issued to an electrical corporation, and any subsequent responses or other developments, to inform CPUC staff's decision whether to pursue further enforcement. Similarly, the Commission may weigh such information insofar as it is appropriate within the enumerated

⁴⁴ Comments of San Diego Gas & Electric Company on Draft Resolution M-4860 and Related Attachments, November 22, 2021, pp. 2-3.

⁴⁵ Pacific Gas and Electric Company's Opening Comments on Draft Resolution M-4860, November 22, 2021, p. 2.

⁴⁶ Southern California Edison Company's Comments on Draft Resolution M-4860 and Related Attachments, November 22, 2021, p. 5; Comments of San Diego Gas & Electric Company on Draft Resolution M-4860 and Related Attachments, November 22, 2021, p. 3.

⁴⁷ Resolution M-4860, Attachment 3, p. 6.

⁴⁸ Southern California Edison Company's Comments on Draft Resolution M-4860 and Related Attachments, November 22, 2021, p. 4.

⁴⁹ We do expect that Energy Safety's regulations, including any processes relating to issuing NOV and NODs, will be consistent with the Commission's adopted WMP compliance process.

⁵⁰ See Sections 8389(d) and 8386.1.

statutory factors it shall consider in determining an appropriate penalty for substantial non-compliance.⁵¹

Second, the language SCE cites as placing an undue focus on outcome-based metrics for compliance appears in the compliance process approved in 2021; there is no change to that language proposed in 2022.⁵² Energy Safety's ongoing compliance process will verify that electrical corporations implement the actions they have committed to taking in their approved WMPs.⁵³ Energy Safety has also said it intends to incorporate risks and data collected in outcome metrics into its compliance assessments.⁵⁴ Finally, as we noted previously, the Commission considers a number of statutorily defined factors when determining an appropriate penalty. In this context, we find that Energy Safety's use of outcome-based metrics to inform and focus compliance tracking on electrical corporations' improvement of outcomes and reduction of wildfire risk does not raise any due process concerns.

FINDINGS

1. Pub. Util. Code §§ 8389(d)(1), (2), (3) and (4) require the Commission to adopt, after consultation with Energy Safety, the following: (1) performance metrics for electrical corporations, (2) additional requirements for wildfire mitigation plans, (3) wildfire mitigation plan compliance process, and (4) a process for the division to conduct annual safety culture assessments for each electrical corporation. This Resolution with its Attachments meets each of the foregoing requirements.
2. Pub. Util. Code § 326(a)(1) requires Energy Safety to oversee and enforce electrical corporations' compliance with wildfire safety pursuant to Chapter 6 (commencing with § 8385) of Division 4 and § 8386.3(c) requires Energy Safety to oversee compliance with the WMPs.
3. Pub. Util. Code § 8386.1 allows the Commission to assess penalties on an electrical corporation that fails to substantially comply with its WMP.
4. Energy Safety's proposal to maintain the existing performance metrics is reasonable.
5. Energy Safety's proposal to maintain the existing WMP requirements is reasonable.

⁵¹ The factors are: (a) the nature and severity of any noncompliance with the plan, including whether the noncompliance resulted in harm; (b) the extent to which the commission has found that the electrical corporation complied with its plans in prior years; (c) whether the electrical corporation self-reported the circumstances constituting noncompliance; (d) whether the electrical corporation implemented corrective actions with respect to the noncompliance; (e) whether the electrical corporation knew or in the exercise of reasonable care should have known of the circumstances constituting noncompliance; (f) whether the electrical corporation had previously engaged in conduct of a similar nature that caused significant property damage or injury; and (g) any other factors established by the commission in a rulemaking proceeding, consistent with this section. Pub. Util. Code Section 8386.1.

⁵² WSD-012, Attachment 1, p. 4.

⁵³ Attachment 3, p. 6.

⁵⁴ Attachment 3, p. 9.

6. Energy Safety’s recommendation to revise and update the WMP compliance process for 2021 WMPs in Attachment 3 is reasonable.
7. Energy Safety’s recommendation to change and update the safety culture assessment process in Attachment 4 is reasonable.
8. Energy Safety’s recommendations contained in Attachments 1, 2, 3, and 4 to this Resolution reasonably address the requirements of Public Utilities Code §§ 8389(d)(1), (2), (3) and (4).

THEREFORE, IT IS ORDERED that:

1. The Office of Energy Infrastructure Safety’s recommendations are hereby adopted for the following: (1) performance metrics for electrical corporations, (2) additional requirements for wildfire mitigation plans, (3) wildfire mitigation plan compliance process, and (4) a process for Energy Safety to conduct annual safety culture assessments for each electrical corporation. This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on December 2, 2021; the following Commissioners voting favorably thereon:

/s/ RACHEL PETERSON
Rachel Peterson
Executive Director

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

Attachments 1-4