



OFFICE OF ENERGY INFRASTRUCTURE SAFETY

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Caroline Thomas Jacobs, Director

September 14, 2021

Paul Marconi
President, Treasurer and Secretary
Bear Valley Electric Service, Inc.
P.O. Box 9028
San Dimas, CA 91773-9028

**SUBJECT: Office of Energy Infrastructure Safety Issuance of Bear Valley
Electric Service Company's Safety Certification Request**

Dear Mr. Marconi:

This letter constitutes the Office of Energy Infrastructure Safety's (Energy Safety's) issuance of Bear Valley Electric Service Company's (BVES's) Safety Certification. BVES has met all the relevant requirements of Public Utilities Code (Pub. Util. Code) §8389, as detailed below, regarding its request for Safety Certification dated February 2, 2021. This Safety Certification is valid for twelve months from issuance and has only the force and effect given to it by Pub. Util. Code §451.1(c) and §8389.

On May 8, 2020,¹ the Wildfire Safety Division (WSD)² issued a guidance letter (2020 Safety Certification Guidance) outlining the submission requirements for the 2020 Safety Certification requests pursuant to Pub. Util. Code §8389(f)(2). On June 25, 2020, the WSD solicited stakeholder input on the 2020 Safety Certification requests and provided supplemental guidance on the meaning of an approved Wildfire Mitigation Plan (WMP) requirement under Pub. Util. Code §8389(e)(1).³ BVES submitted its 2020 Safety Certification request on February 2, 2021. Since this submission date is prior to the publication of the Safety Certification Guidance for 2021 on July 26, 2021,⁴ BVES's Safety Certification request has been reviewed using the 2020 Safety Certification Guidance.

¹ The guidance letter is dated May 6, 2020 but was served on the service list of California Public Utilities Commission Rulemaking 18-10-007 on May 8, 2020.

² On July 1, 2021, the WSD transitioned to the Office of Energy Infrastructure Safety (Energy Safety), a new department under the California Natural Resources Agency. In accordance with Public Utilities Code section 326, all functions of the WSD are transferred to Energy Safety.

³ WSD's letter soliciting Stakeholders input to the 2020 Safety Certification request - <https://energysafety.ca.gov/wp-content/uploads/docs/safety-certificates/wsd-2020-safety-certification-process-stakeholder-comments-and-supplemental-guidance.pdf>

⁴ Safety Certification 2021 Guidance Letter: <https://efiling.energysafety.ca.gov/eFiling/Getfile.aspx?fileid=51679&shareable=true>.

Documentation of an approved executive compensation structure is one of the requirements for the issuance of a Safety Certification. BVES submitted its executive compensation structure merely two weeks prior to its request for a Safety Certification. Because the Safety Certification requires an approved executive compensation structure, WSD held BVES's request for Safety Certification in abeyance while it considered BVES's executive compensation structure.

BVES submitted a request for approval of its 2021 executive compensation structure on January 15, 2021. BVES requested its Safety Certification on February 2, 2021. WSD issued an action statement denying approval of its executive compensation structure on April 14, 2021. BVES submitted its revised executive compensation structure for review on May 24, 2021. BVES received approval on its executive compensation structure on August 12, 2021. Upon approval, Energy Safety reinitiated a review of BVES's submitted Safety Certification request. Issuance of BVES's Safety Certification at this time will now align future Safety Certification requests with those of Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E).⁵

BVES's request for a Safety Certification has been reviewed in accordance with the statutory requirements enumerated in Pub. Util. Code §8389(e). Energy Safety takes a particular interest, however, in how the utilities are implementing all the components required in the Safety Certification across the organization to reduce utility-caused catastrophic wildfire risk.

Discussion

Pursuant to Pub. Util. Code § 8389(e), Energy Safety shall issue a safety certification if BVES provides documentation of the seven criteria as detailed below.

Pub. Util. Code § 8389(e)(1): Approval of a Wildfire Mitigation Plan

BVES originally submitted its 2020 WMP on February 7, 2020. After errors were discovered in the initial filing, BVES submitted an amended WMP on March 6, 2020. Then, following the issuance of Draft Resolution WSD-006, BVES again submitted an amended WMP on May 22, 2020 providing what it characterized as errata. The changes included in BVES's May 22, 2020 errata submission were substantive and rendered much of the WSD's analysis in Draft Resolution WSD-006 moot. All electrical corporations that submitted a WMP after June 11, 2020 were subject to the twelve conditions listed in WSD-002, which found the electrical corporations' WMPs to contain deficiencies and required follow-up information to be submitted via a Remedial Compliance Plan (RCP), Quarterly Report, and its annual update.⁶ The WSD issued its

⁵ As per the 2021 Safety Certification Guidance, the large electrical corporations' requests for Safety Certification were due on September 13, 2021. It should be noted that since this time the Safety Certification submission date for Pacific Gas and Electric Company has been extended.

⁶ See [RES WSD-002 Final Guidance Resolution](#) for complete description of Remedial Compliance Plan, Quarterly Report etc.

Final Action Statement on August 26, 2020, denying BVES's WMP filing pursuant to Public Utilities Code sections 8386 et seq. and 701, and ordering BVES to submit a new WMP no later than 60 days from the date of issuance of the August 26, 2020 Final Action Statement addressing the matters in BVES's May 22, 2020 Errata. On September 18, 2020, BVES submitted its WMP Refile.⁷ Following a comprehensive review of BVES's WMP Refile and related stakeholder input, the Commission ratified the WSD's approval of BVES's WMP Refile with conditions on January 14, 2021, via Resolution WSD-013.⁸ The WSD imposed several specific conditions on BVES's WMP as listed in WSD-013, Appendix A. On the basis of the WSD's conditional approval of BVES's 2020 WMP Refile, BVES satisfies the requirement under Pub. Util. Code §8389(e)(1), that "the electrical corporation has an approved Wildfire Mitigation Plan (§8389 (e)(1))."

BVES has satisfied the requirement under Pub. Util. Code §8389(e)(1), that "the electrical corporation has an approved wildfire mitigation plan."

Pub. Util. Code §8389(e)(2): Safety Culture Assessment

Energy Safety has initiated its first Safety Culture Assessment (SCA) for BVES, and the report is expected to be published later this year. The 2021 BVES SCA report has therefore not been considered as part of this Safety Certification request.

BVES followed the 2020 Safety Certification Guidance and submitted the requested documentation to demonstrate its compliance with the Pub. Util. Code §8389(e)(2). BVES submitted an overarching Safety and Health Policy and Operations and Planning Department Hard Inspection Policy and Procedure. These policies and practices were submitted as Appendix A of their Safety Certification request.

The documentation BVES submitted covers:

- Safety policies, including employee and contractor safety.
- The number of reported ignitions to date in 2020 pursuant to Decision 14-02-015.
- The number of fatalities and/or structures damaged and/or destroyed by wildfires alleged to have been ignited by utility infrastructure and/or equipment.
- Worker and contractor fatalities and incidents since issuance of the previous Safety Certification.
- Commission investigations and court actions, if any, related to safety violations of the electrical corporation, including ongoing and closed investigations.
- Responses to any WSD requests for remedies as a result of compliance findings from the evaluation of the 2019 and 2020 Wildfire Mitigation Plans for remedies.

⁷ BVES's 2020 WMP Refile:

<https://energysafety.ca.gov/wp-content/uploads/docs/misc/wsd/bves-2020-wmp-refile-09.18.2020a.pdf>

⁸ Final Resolution WSD-013 on BVES's 2020 revised WMP:

<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M360/K405/360405876.PDF>

BVES reported that, since the issuance of its previous Safety Certification, there have been:

- No ignitions based on the definition in D.14-02-015 and therefore no fatalities or structural damages.
- No employee or contractor reportable fatalities or injuries pursuant to the Occupational Safety and Health Administration.
- No Commission formal enforcement investigations or court actions related to safety violations, including ongoing and closed investigations.

BVES indicated it had not received any WSD requests for remedies as a result of compliance findings from the evaluations of their 2019 WMP and 2020 WMP Refile.

As noted previously, Energy Safety has not yet reported on the SCA of BVES, and, in its place, BVES met the requirements of the May 8, 2020 Safety Certification Guidance by providing comparable information to satisfy the requirements of §8389(e)(2).

Energy Safety expects that BVES will continue to be committed to its 'principle of Safety First' as demonstrated through the company's commitment to creating and maintaining a safe environment for employees, contractors, and the public.

Accordingly, based on information received to date, BVES's submission satisfies the requirements of §8389(e)(2).

Pub. Util. Code §8389(e)(3): Board of Directors Safety Committee

BVES submitted the names and curriculum vitae of its Safety Committee to demonstrate their safety expertise. The members of the Safety Committee consist of three people: Jack Hawks, Harry Scarborough and Paul Marconi. Two of the three Safety Committee members have substantial regulatory safety experience. The curriculum vitae of the Safety Committee members is included as Appendix B of BVES's Safety Certification request. Based on this submission BVES satisfies the requirement under Pub. Util. Code §8389(e)(3) that "the electrical corporation has established a safety committee of its board of directors composed of members with relevant safety experience."

Pub. Util. Code §8389(e)(4) and §8389(e)(6): Executive Compensation

BVES has established a compensation structure for any new or amended contracts for executive officers, as defined in Section 451.5, that is based on the following principles:

- (i) (I) Strict limits on guaranteed cash compensation, with the primary portion of the executive officers' compensation based on achievement of objective performance metrics. (II) No guaranteed monetary incentives in the compensation structure.
- (ii) It satisfies the compensation principles identified in paragraph (4).

(iii) A long-term structure that provides a significant portion of compensation, which may take the form of grants of the electrical corporation's stock, based on the electrical corporation's long-term performance and value. This compensation shall be held or deferred for a period of at least three years.

(iv) Minimization or elimination of indirect or ancillary compensation that is not aligned with shareholder and taxpayer interest in the electrical corporation.

BVES submitted a request for approval of its executive compensation structure on January 15, 2021. On January 29, 2021, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submitted comments on BVES's and other electrical corporations' 2021 executive compensation structures.⁹ On February 5, 2021, BVES submitted a reply comment.

On April 14, 2021, the WSD issued an Action Statement denying BVES's January 15, 2021, executive compensation structure submission.¹⁰ The Action Statement included the following explanation for the denial:

The WSD has evaluated the submission and concluded that BVES's executive compensation structure does not meet the strict limits on guaranteed cash compensation. The Code establishes a clear requirement that the primary portion of the executive officers' compensation should be based on achievement of objective performance metrics. BVES's submittal outlines an executive compensation structure with a guaranteed base pay representing 66.7% of the total compensation structure. Therefore, the compensation based on objective performance metrics does not comprise the primary portion of the compensation package as required by the Code.

On May 24, 2021, BVES submitted a revised executive compensation structure.¹¹

Energy Safety reviewed and determined that BVES's revised executive compensation structure minimally satisfied the requirements of Pub. Util. Code §8389(e)(4) and §8389(e)(6). Energy Safety approved BVES's revised executive compensation plan

⁹ Letter from the Public Advocates Office:

<https://energysafety.ca.gov/wp-content/uploads/docs/misc/wsd/public-advocates-office-comments-on-2021-executive-compensation-plans.pdf>

¹⁰ April 14, 2021 Action Statement:

https://energysafety.ca.gov/wp-content/uploads/docs/misc/wsd/wsd-action-statement-denying-bves-exec-comp-structure_4-14-21.pdf

¹¹ BVES revised executive compensation structure:

<https://energysafety.ca.gov/wp-content/uploads/docs/misc/wsd/bear-valley-electric-service-inc.-overview-of-revised-executive-compensation-plan-in-compliance-with-public-utilities-code-section-8389e.pdf>

on August 12, 2021.¹² BVES has satisfied the requirements of §8389(e)(4) and § 8389(e)(6) for issuance of a Safety Certification.¹³

Pub. Util. Code § 8389(e)(5): Board level safety performance reporting to the Commission

BVES reports that it fulfills the requirements of §8389(e)(5) through the information provided in its advice letters to communicate safety issues to the Commission. BVES included a copy of their Tier 1 Advice Letter No. 386-E in Appendix C and Tier 1 Advice Letter No. 404-E in Attachment A in its Safety Certification request. Based on the documents received, BVES has minimally satisfied the requirements of Pub. Util. Code §8389(e)(5).¹⁴

Pub. Util. Code §8389(e)(7): Implementation of a Wildfire Mitigation Plan

To satisfy the requirements of §8389(e)(7), the electrical corporation is required to include with its request for a Safety Certification all tier 1 advice letters required by §8389(e)(7) submitted since issuance of the initial Safety Certification, along with an explanation of how the information reported in the advice letters complies with §8389(e)(7). The electrical corporation is also required to submit the results of any WSD compliance audits of 2019 Wildfire Mitigation Plans or audits associated with 2020 WMPs, if any, along with an explanation of remedies.

BVES submitted two tier 1 advice letters detailing implementation of its unapproved WMP. The submission demonstrates WMP progress updates describing BVES's advancement in meeting WMP goals and metrics. The BVES website includes two additional tier 1 advice letters submitted after the January 14, 2021 WMP Refile approval.¹⁵ Based on these advice letters, Energy Safety finds that BVES's submission is adequate to satisfy the requirement of Pub. Util. Code §8389(e)(7).

¹² Approval of BVES's 2021 Executive Compensation Plan can be found in Docket 2021-EC:
<https://efiling.energysafety.ca.gov/Search.aspx?docket=2021-EC>

¹³ BVES should submit documentation of an approved executive compensation structure as part of its next Safety Certification request, rather than requesting a Safety Certification prior to receiving an approved executive compensation structure as BVES did this year.

¹⁴ Energy Safety has expanded requirements for board-level safety performance reporting to the Commission and Energy Safety in the Safety Certification Guidance for 2021. BVES will be expected to meet those requirements for future submissions.

¹⁵ May 3, 2021 Tier 1 Advice Letter:

[https://www.bvesinc.com/media/managed/wmp/421_e_q1_2021_bves_quarterly_wmp_safety_report_pursuant_to_public_utilities_code_section_8389\(e\)\(7\).pdf](https://www.bvesinc.com/media/managed/wmp/421_e_q1_2021_bves_quarterly_wmp_safety_report_pursuant_to_public_utilities_code_section_8389(e)(7).pdf)

August 2, 2021 Tier 1 Advice Letter:

https://www.bvesinc.com/media/managed/wmp/424_E_Q2_2021_BVES_Quarterly_WMP_Safety_Report_Pursuant_to_Public_Utillities_Code_Section_8389_e_7_.pdf

Conclusion

BVES's request for a Safety Certification satisfies the statutory requirements in Pub. Util. Code §8389(e). Energy Safety expects BVES to uphold the values stated in its submission and continue to advance safety as a top priority. This letter approves BVES's February 2, 2021 request for a Safety Certification. This Safety Certification is valid for one year from the date of this letter.

Sincerely,

Lucy Morgans

Lucy Morgans
Acting Program Manager, Safety Policy Division
Office of Energy Infrastructure Safety