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VIA E-MAIL

Caroline Thomas Jacobs
Director, Office of Energy Infrastructure Safety
715 P Street, 20th Floor
Sacramento, CA 95814

**RE: Reply Comments on Parties Comments to SDG&E's Safety Certification Request
Docket # 2021-SCs**

Dear Director Thomas Jacobs:

San Diego Gas & Electric Company (SDG&E) submits its reply to the comments of the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) addressing SDG&E's request to the Office of Energy Infrastructure Safety (Energy Safety) for a safety certification.¹

Cal Advocates acknowledges that "SDG&E's request can satisfy the requirements for receiving a safety certificate."² Thus, Cal Advocates does not appear to object to Energy Safety granting SDG&E's request for a safety certification for the upcoming year. SDG&E appreciates Cal Advocates' acknowledgement that it meets the requirements for a safety certification. Cal Advocates rather requests that Energy Safety impose additional reporting requirements related to SDG&E's implementation of the recommendations of its safety culture assessment and recommends that Energy Safety incorporate additional criteria to the "good standing" requirement of Public Utilities Code Section 8389.

A. The Safety Certification Process is Not the Appropriate Vehicle to Monitor SDG&E's Implementation of the Recommendations of its Safety Culture Assessment

Cal Advocates summarizes the three recommendations made by DEKRA, the consultant retained by Energy Safety to conduct the Safety Culture Assessment, and SDG&E's agreement to implement those recommendations. Energy Safety has acknowledged that SDG&E may meet the "good standing" requirement of Public Utilities Code Section 8389(e)(2) by "agreeing to

¹ *Comments of the Public Advocates Office on the Safety Certification Request of SDG&E*, (Cal Advocates' Comments) submitted October 7, 2021.

² *Id.* at 2.

implement all of the findings (including recommendations for improvement) of its most recent safety culture assessment performed pursuant to Pub. Util. Code §§ 8386.2 and 8389(d)(4), if applicable.”³ Cal Advocates now requests that Energy Safety impose an additional requirement that SDG&E provide “a detailed plan regarding how SDG&E plans to address the SCA recommendations” with its November 2021 Progress Report.⁴

First, Cal Advocates’ request is misplaced as such a report is well outside of the statutory requirements for a safety certification. SDG&E has agreed to implement the recommendations of its safety culture assessment and it will do so. SDG&E’s statement of agreement is sufficient to meet the requirements for a safety certification.

Second, there is no need for SDG&E to provide an *additional* report regarding the implementation of its safety culture assessment. As Cal Advocates acknowledges, SDG&E is *already* required to apprise Energy Safety and the California Public Utilities Commission (Commission) regarding its implementation of the safety culture assessment recommendations.⁵ Public Utilities Code Section 8389(e)(7) requires SDG&E to detail its implementation of the safety culture assessment recommendations (along with the implementation of its Wildfire Mitigation Plan and any recommendations of the safety committee of its board of directors) through the established quarterly notification process. Information regarding the safety culture assessment will be included starting with SDG&E’s upcoming November 1 quarterly notification submittal. There’s simply no need for SDG&E to add this information to the Progress Report scheduled for submission on the same day.

To the extent that Cal Advocates is requesting a forward-looking plan in the November Progress Report, such a request is concerning because it appears that Cal Advocates seeks to curtail SDG&E’s independent ability to exercise judgment regarding how to implement the safety culture assessment recommendations. There is no basis for Energy Safety or Cal Advocates “to give timely instruction to SDG&E to implement any SCA recommendations missed during the quarter.”⁶ The instructions from Energy Safety are already clear—SDG&E should implement the three recommendations for improvement from the safety culture assessment. SDG&E has agreed to do so. Micromanagement of how SDG&E implements those recommendations is unnecessary and would be overly burdensome.

Cal Advocates’ concerns regarding a means to “determine SDG&E’s progress in addressing the recommendations during the quarter” are also addressed by Section 8389 and the safety culture assessment process. SDG&E will provide the ongoing required updates through its quarterly notifications. But the safety culture assessments themselves also provide a vehicle for

³ *Office of Energy Infrastructure Safety’s Final 2021 Safety Certification Guidance Pursuant to Public Utilities Code §8389(f)(2)* (Safety Certification Guidance) (July 26, 2021).

⁴ Cal Advocates’ Comments at 2.

⁵ Pub. Util. Code § 8389(e)(7).

⁶ Cal Advocates’ Comments at 3.

verifying SDG&E's implementation of the recommendations.⁷ Each of the three recommendations includes a "verification method" by which DEKRA will assess SDG&E's progress on the initiatives during the next annual safety culture assessment.⁸

SDG&E intends to implement the recommendations and does not anticipate a compliance issue. But to the extent Cal Advocates or Energy Safety have concerns regarding SDG&E's compliance with its agreement or implementation of the recommendations, the safety certification process is not the appropriate venue to address those concerns. Section 8389 specifically provides that, if Energy Safety "doubts the veracity" of the representations made in the quarterly notifications, it may perform an audit of the issue of concern.⁹ It is thus through the *compliance* process, and *not* the safety certification process, that Energy Safety should address any issues regarding implementation of the safety culture assessment recommendations.

Energy Safety already has the ability to monitor SDG&E's implementation of the safety culture assessment and its recommendations. Thus Energy Safety should deny Cal Advocates' request that SDG&E attach a plan regarding how it intends to address the safety culture assessment recommendations to its November 1 Progress Report.

B. Energy Safety Should Deny Cal Advocates' Request to Expand the Section 8389 Requirements for "Good Standing"

Cal Advocates also requests that Energy Safety vastly expand the requirements of Public Utilities Code Section 8389(e)(2) beyond the necessary agreement to implement the recommendations of the safety culture assessment. First, the time to make such a request is not during the process of considering whether SDG&E's safety certification request meets guidelines that have already been established and finalized by Energy Safety. Second, and more concerning, Cal Advocates' request exceeds the clearly stated means by which electrical corporations may meet the good standing requirement. As has been well established both by Section 8389(e)(2) and Energy Safety, an electrical corporation can satisfy the good standing requirement by agreeing to implement the findings and recommendations of the most recent safety culture assessment. The agreement is enough.

Contrary to the statute, Cal Advocates now requests that Energy Safety add more requirements to evaluate the electrical corporations' good standing. Cal Advocates may believe that the agreement "should not be the only factor"¹⁰ when assessing good standing, but neither they nor Energy Safety may summarily supersede the clear language of the statute. The safety certification process is not designed to penalize utilities for prior offenses or include a retroactive review of past conduct. Rather, it is a forward-looking process by which Energy Safety may review

⁷ See, *Safety Culture Assessment for San Diego Gas & Electric Company*, DEKRA (September 2, 2021).

⁸ *Id.* at 16-18.

⁹ Pub. Util. Code §8389(e)(7).

¹⁰ Cal Advocates' Comments at 3-4.

the electrical corporations' ongoing commitment to safety. That is why the Legislature established a forward-looking method of meeting the good standing requirement. As described above, the Legislature already provided a means for Energy Safety to assess the electrical corporations' compliance with the implementation of their safety culture assessment recommendations—through the quarterly notification process, and if necessary, through an audit and potential enforcement action. Because that process does not implicate the test for good standing, Cal Advocates' request to add additional factors to the good standing requirement should be denied.

C. Conclusion

Energy Safety should promptly grant SDG&E's request for a safety certification for the upcoming year.

Respectfully submitted,

/s/ Laura M. Fulton

Attorney for

San Diego Gas and Electric Company