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October 18, 2021

### **Via Electronic Filing**

Caroline Thomas Jacobs, Director  
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Re: **Reply Comments of the Coalition of California Utility Employees on the Safety Certification Request of San Diego Gas & Electric Company (Docket No. 2021-SCs: 2021 Safety Certifications)**

Dear Director Thomas Jacobs:

We write on behalf of the Coalition of California Utility Employees (CUE) to provide reply comments on the Safety Certification Request of San Diego Gas & Electric Company (SDG&E).

CUE is a coalition of labor unions whose approximately 43,000 members work at nearly all the California utilities, both publicly and privately owned. CUE's coalition union members make up the on-the-ground workforces of the three large electrical corporations that implement electric operations and maintenance policies and practices, including, for example, service restoration following a power safety power shutoff event. CUE's coalition union members are directly impacted by implementation of the IOUs' wildfire mitigation plans (WMPs) and Safety Culture Assessments (SCAs). CUE has participated in proceedings before the California Public Utilities Commission for more than 25 years, including as a party to the Order Instituting Rulemaking to Implement Electric Utility Wildfire Mitigation Plans Pursuant to Senate Bill 901 (2018), R. 18-10-007 and other related proceedings. CUE also provided comments on the 2021 Safety Certification Guidelines issued by the Office of Energy Infrastructure Safety (Energy Safety).

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CUE's comments address the recommendations by Public Advocates Office (Cal Advocates) on requirements for future safety certification submissions. Even though Cal Advocates acknowledges that "SDG&E's request can satisfy the requirements for receiving a safety certificate,"<sup>1</sup> they recommend that Energy Safety (1) require SDG&E to provide more detail regarding how it intends to implement the SCA recommendations and (2) consider an electrical corporation's history of implementing SCA recommendations in the last year, as part of the Public Utilities Code § 8389(e)(2) good standing requirement.<sup>2</sup> As a threshold matter, this is not the appropriate forum to consider modifications to the 2021 Safety Certification Guidelines. Regardless, Cal Advocates' recommendations should be declined because they are inconsistent with AB 1054 and previously rejected by Energy Safety.

AB 1054 established a Wildfire Fund that allows participating electrical corporations to seek payments for eligible third-party catastrophic wildfire liability claims that have been settled or finally adjudicated. An electrical corporation can only access the Wildfire Fund if it has a valid safety certification on the date of the ignition. Energy Safety is responsible for issuing safety certifications to electrical corporations, based on the electrical corporation's demonstration that it satisfied the requirements enumerated in Public Utilities Code § 8389(e).<sup>3</sup>

Section 8389(e)(2) requires an IOU to demonstrate that it is in "good standing" by "having agreed to implement the findings of its most recent safety culture assessment, if applicable."<sup>4</sup> To meet this requirement, an IOU must provide documentation showing it agreed to implement the findings of its most recent SCA performed pursuant to Sections 8386.2 and 8389(d)(4), if applicable.<sup>5</sup>

AB 1054's language is clear and unambiguous. It does not mandate a retrospective review of an IOU's implementation of SCA recommendations. Rather, the statute requires a commitment from the IOU to improve safety and execute prudent wildfire mitigation efforts. The Legislature could have demanded proof

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<sup>1</sup> Public Advocates Office, Comments of the Public Advocates Office on Safety Certification Request of SDG&E Case No. 2021-SC (Oct. 7, 2021) p. 2.

<sup>2</sup> *Id.* at pp. 2-4.

<sup>3</sup> All section references are to the Public Utilities Code unless indicated otherwise.

<sup>4</sup> Pub. Utilities Code § 8389(e)(2).

<sup>5</sup> Office of Energy Infrastructure Safety, Office of Energy Infrastructure Safety's Final 2021 Safety Certification Guidance Pursuant to Public Utilities Code § 8389(f)(2) (July 26, 2021) p. 4 (hereinafter "Final 2021 Guidance").

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that an IOU is implementing the findings of its most recent SCA as it did with WMPs,<sup>6</sup> but it did not. Moreover, an IOU's history of implementing SCA recommendations is already captured through the SCA process because any future recommendations would take into consideration an IOU's past performance. Compelling IOUs to provide documentation showing its history of implementing SCA recommendations is duplicative and inconsistent with AB 1054's explicit requirements.

In addition, Energy Safety (acting then as Wildlife Safety Division) has already rejected utilizing such criteria to evaluate "good standing." In its draft 2021 Safety Certification Guidelines, Energy Safety proposed to consider "the findings of any other SCAs and the extent to which an electrical corporation is implementing the associated recommendations" when evaluating compliance with the "good standing" requirement.<sup>7</sup> However, Energy Safety declined to adopt additional criteria in response to comments from CUE and the IOUs showing that AB 1054 limits Energy Safety's assessment to whether the electrical corporation has agreed to implement the findings of its most recent SCA.<sup>8</sup> Cal Advocates has not provided any new information or legal authority showing that changes to the 2021 Safety Certification Guidelines are necessary or permissible under the law.

For the reasons stated above, Energy Safety should decline to adopt Cal Advocates' recommendations. Because no interested party asserts that SDG&E failed to satisfy the requirements for receiving a safety certificate, Energy Safety should approve SDG&E's request.

Sincerely,



Andrew J. Graf

AJG:acp

Cc: Service lists of R.18-10-007, R.18-12-005

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<sup>6</sup> Public Utilities Code § 8389(e)(7) (requiring an electrical corporation provide documentation showing that it "is implementing its approved wildfire mitigation plan"); *see also* Final 2021 Guidance at p. 3.

<sup>7</sup> Wildfire Safety Division, Wildfire Safety Division's Proposed Changes to the 2021 Safety Certification Guidance pursuant to Public Utilities Code § 8389(f)(2) (May 11, 2021) pp. 4-5.

<sup>8</sup> Office of Energy Infrastructure Safety, Office of Energy Infrastructure Safety Response to Comments on the 2021 Safety Certification Guidelines (July 26, 2021) pp. 1-2.

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