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Caroline Thomas Jacobs, Director
Office of Energy Infrastructure Safety
California Natural Resources Agency
715 P Street, 20th Floor
Sacramento, CA 95814
caroline.thomasjacobs@energysafety.ca.gov

Via Electronic Mail

Re: Pacific Gas & Electric Company's Reply Comments to Request for 2021 Safety Certification Pursuant to Pub. Util. Code § 8389
Proceeding: 2021-SCs

Dear Director Thomas Jacobs:

Pacific Gas and Electric Company (PG&E) respectfully submits these reply comments on its November 12, 2021 request for safety certification. These reply comments are made in accordance with the guidance outlined in the Office of Energy Infrastructure Safety's (Energy Safety) Final 2021 Safety Certification Guidance, issued on July 26, 2021.

Only one set of opening comments were filed on PG&E's request for safety certification, and these were filed by the Public Advocates Office (Cal Advocates).¹ Cal Advocates' comments on PG&E's safety certification request are substantially similar to the comments Cal Advocates filed on the requests for safety certification made by San Diego Gas & Electric Company (SDG&E) and Southern California Edison Company (SCE).² Four of the six arguments presented by Cal Advocates are similar, if not identical, to the arguments made by Cal Advocates in the requests by SDG&E and SCE, and which have been rejected by Energy Safety. The remaining two arguments presented by Cal Advocates "are applicable to the safety certification process in general" — but not to PG&E in particular — and should have no impact

¹ Comments of the Public Advocates Office on the Safety Certification Request of PG&E (Cal Advocates PG&E Opening Comments) (Dec. 13, 2021).

² Comments of the Public Advocates Office on the Safety Certification Request of SDG&E (Cal Advocates SDG&E Opening Comments) (Oct. 7, 2021); Comments of the Public Advocates Office on the Safety Certification Request of SCE (Cal Advocates SCE Opening Comments) (Oct. 13, 2021).

on PG&E’s request for a safety certification under the current guidelines.³ Indeed, these last two arguments consist of suggestions for revising the 2022 safety certification and executive compensation guidelines, and not the merits of PG&E’s current request. Thus, PG&E’s present safety certification application is not the appropriate forum to raise these issues and they should instead be reserved to comment on Energy Safety’s draft 2022 safety certification and executive compensation guidelines.

ENERGY SAFETY HAS REPEATEDLY REJECTED CAL ADVOCATES’ ARGUMENT THAT IMPLEMENTING THE SAFETY CULTURE ASSESSMENT FINDINGS IS NOT SUFFICIENT TO DEMONSTRATE GOOD STANDING

Cal Advocates’ arguments continue to ignore the plain language of Public Utilities Code Section 8389(e)(2).⁴ Section 8389(e)(2) states that, as one of the criteria for being granted a safety certificate, an electrical corporation must be “in good standing.” It further states that good standing “can be satisfied by the electrical corporation having agreed to implement the findings of its most recent safety culture assessment.”⁵ Cal Advocates argues that accepting the findings of the most recent safety culture assessment is not sufficient to satisfy the requirement of good standing and that a utility must provide more information to demonstrate good standing.⁶

Cal Advocates first presented this argument when commenting on Energy Safety’s draft guidelines for the 2021 safety certification process.⁷ However, in response, Energy Safety rejected this reasoning stating that “[t]o satisfy the ‘good standing’ requirement, the electrical corporation can agree to 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).”⁸ Cal Advocates then repeated this identical argument twice more in urging Energy Safety not to grant safety certificates for SDG&E and SCE.⁹ Energy Safety again

³ Cal Advocates PG&E Opening Comments at p. 2.

⁴ Cal Advocates PG&E Opening Comments at pp. 3-4.

⁵ Pub. Util. Code § 8389(e)(2).

⁶ Cal Advocates PG&E Opening Comments at p. 4 (“Thus, the specific terms of Public Utilities Code section 8389(e)(2) provide Energy Safety the authority to look beyond the utility’s agreement to implement the findings of its safety culture assessment.”).

⁷ Office of Energy Infrastructure Safety Response to Comments on the 2021 Safety Certification Guidelines at p. 2 (“Cal Advocates and TURN support inclusion of additional criteria” in assessing good standing) (Jul. 26, 2021).

⁸ *Id.*

⁹ Cal Advocates SDG&E Opening Comments at p. 3 (“It is not sufficient for the electrical corporations to issue a nominal agreement each year to implement the SCA with no plan on how they will address those recommendations...it should not be the only factor.”); Cal Advocates SCE Opening Comments at pp. 4-5 (“It is not sufficient for the electrical corporations to annually issue agreements to implement the SCA with no plan on how they will address those recommendations...the agreement to implement SCA findings should not be the only factor.”).

rejected Cal Advocates’ argument.¹⁰ That the language of the statute offers no alternative method for establishing good standing makes it clear the legislature intended this particular statutory section to mean exactly what it says. Furthermore, the legislative history of this statute demonstrates that the legislature considered and rejected the very thing proposed by Cal Advocates. Indeed, the legislature considered requiring utilities to show “substantial compliance...with the findings of its most recent safety culture assessment” but explicitly rejected this approach in favor of a transparent “good standing” criterion that would allow for more certainty.¹¹

Cal Advocates make four arguments on this point, all of which are unavailing. In Section II(A)(1), Cal Advocates argues that Energy Safety should insert additional requirements to determine good standing, despite the plain language of Section 8389(e)(2).¹² In Section II(A)(2), Cal Advocates argues that these additional good standing requirements should include PG&E’s historical safety record.¹³ In Section II(A)(3), Cal Advocates urges Energy Safety to create and specify the additional criteria to be used to determine good standing.¹⁴ Finally, in Section II(B), Cal Advocates urges Energy Safety to require PG&E to — not just agree to implement the findings of the safety culture assessment — but to provide “an upfront and specific plan” on how PG&E intends to implement the recommendations.¹⁵ Each of these arguments arise from the same faulty premise that Energy Safety has rejected on three previous occasions in the last several months. Consequently, Energy Safety should reject Cal Advocates’ fourth attempt to insert additional requirements into an unambiguous statute.

CAL ADVOCATES’ SUGGESTION THAT PROCEDURAL ASPECTS OF FUTURE SAFETY CERTIFICATION REQUESTS SHOULD BE CHANGED IS BOTH MISGUIDED AND ENTIRELY UNRELATED TO THE MERITS OF PG&E’S CURRENT SAFETY CERTIFICATION REQUEST AND SHOULD BE IGNORED BY ENERGY SAFETY

Cal Advocates argues that the timing of future safety certification processes should be altered so that it coincides with the evaluation of a utilities’ wildfire mitigation plan (WMP).¹⁶ This proposal does not address the merits of PG&E’s present request for a safety certificate. The proper forum for this argument will be in Cal Advocates’ comments on Energy Safety’s Draft

¹⁰ Energy Safety’s Issuance of SDG&E’s 2021 Safety Certification at p. 3 (“SDG&E’s agreement to implement the findings satisfies the ‘good standing’ requirement in the code.”) (Dec. 6, 2021); Energy Safety’s Issuance of SCE’s 2021 Safety Certification at p. 4 (“SCE’s agreement to implement the findings satisfies the ‘good standing’ requirement in the code.”) (Dec. 10, 2021).

¹¹ Draft of Assembly Bill 1054 at p. 86 (Feb. 21, 2019).

¹² Cal Advocates PG&E Opening Comments at pp. 3-4.

¹³ Cal Advocates PG&E Opening Comments at pp. 4-6.

¹⁴ Cal Advocates PG&E Opening Comments at pp. 6-7.

¹⁵ Cal Advocates PG&E Opening Comments at p. 8.

¹⁶ Cal Advocates PG&E Opening Comments at p. 9.

2022 Safety Certification Guidance. However, since Cal Advocates included this issue in its comments, PG&E will briefly address it here.

Cal Advocates' contention that the timing of the safety certification process should be changed is misplaced. Cal Advocates is unable to articulate any meaningful benefit to changing the timing of the safety certification process. Cal Advocates argues that change is necessary to "prevent the possibility of a utility inappropriately receiving the benefits of a safety certification for that year even if it fails to submit an adequate and reasonable WMP for that same year."¹⁷ However, the period for which a utility without an approved WMP would be unable to obtain the benefits of safety certification would be identical in either instance: 12 months from whenever the last safety certification expired. Thus, there is no benefit to the utility in either scenario, as it will still be forced to eschew the benefits of having a valid safety certificate for 12 months in both situations. Cal Advocates' proposal is also focused on the calendar year, ignoring the fact that 12 months remains 12 months, and that June 1st to May 31st is as equally meaningful a period as January 1st to December 31st. What is meaningful is that Energy Safety reviews the WMPs on an annual basis and not that the review concludes on January 1st of each year.

Cal Advocates' proposal also ignores the administrative burden that would be placed on both Energy Safety and the utilities in attempting to simultaneously prepare and review the WMPs and the safety certification requests. Given the massive amount of work that goes into the preparation and regulatory review of the WMPs, there is no need to make this process more difficult by forcing the safety certification to occur at the same time.

CAL ADVOCATES' RECOMMENDATION THAT FUTURE EXECUTIVE COMPENSATION STRUCTURES BE REVISED TO COINCIDE WITH THE SAFETY CERTIFICATION PERIOD IS SIMILARLY UNRELATED TO THE REQUEST AT ISSUE AND SHOULD SIMILARLY BE DISREGARDED

As with Cal Advocates' suggestion that the timing of the safety certification process be revised to coincide with the approval of WMPs, Cal Advocates' recommendation that the executive compensation process also be revised to overlap with the approval of WMPs is similarly out of place. Future executive compensation proceedings have no connection to the merits of PG&E's present application for a safety certification, as it is evaluated under the currently published guidelines. Furthermore, this is not even the correct regulatory proceeding for Cal Advocates to raise this issue given that Energy Safety has specifically created a proceeding to address these types of issue entitled "2022-EC." Consequently, this recommendation should not be considered by Energy Safety in evaluating whether to issue PG&E a safety certification.

CONCLUSION

PG&E appreciates the opportunity to offer reply comments on this important issue and looks forward to continuing to work with Energy Safety to promote wildfire safety.

¹⁷ Cal Advocates PG&E Opening Comments at p. 9.

If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in black ink that reads "Meredith E. Allen". The signature is written in a cursive style with a large, prominent "M" and "A".

Meredith E. Allen
Senior Director - Regulatory Relations