

**State of California**  
**Office of Energy Infrastructure Safety**

**Initial Statement of Reasons**

TITLE 14. NATURAL RESOURCES  
DIVISION 17. OFFICE OF ENERGY INFRASTRUCTURE SAFETY  
CHAPTER 1. RULES OF PRACTICE AND PROCEDURE

ARTICLE 2. PROCEEDINGS  
SECTIONS 29100, 29101

ARTICLE 3. DATA COLLECTION, DATA ACCESS AND  
CONFIDENTIALITY  
SECTION 29200

E-FILING, FORMATTING REQUIREMENTS, SUBMISSION OF  
CONFIDENTIAL INFORMATION

**Background**

The Office of Energy Infrastructure Safety (“Energy Safety”) is the successor to the former Wildfire Safety Division within the California Public Utilities Commission. Energy Safety is vested with all the duties, responsibilities, and authority of the Wildfire Safety Division. Those responsibilities include reviewing and approving annual wildfire mitigation plans submitted by certain electric service providers, (Pub. Util. Code § 8386), overseeing compliance with those plans, (Pub. Util. Code § 8386.3(c)), investigating

compliance with the plans, (Gov. Code §§ 15475.1, 15473(c)(2)(D)), and evaluating safety culture assessments of the electric service providers. (Pub. Util. Code § 8386.2.)

## **Statement of Purpose, Problem, Necessity, and Benefits**

### **Section 29100. Submission of Documents for Filing**

#### **Problem Statement**

In enacting Government Code section 7405, the Legislature declared that the ability to utilize electronic information technology is essential. The Legislature found that, in maintaining and using information technology, compliance with the accessibility requirements of the Rehabilitation Act of 1973 by government entities benefits individuals with disabilities, particularly those with visual impairments. Further, in enacting Government Code section 6250, the Legislature declared that access to information concerning the conduct of the people's business is a fundamental and necessary right.

Energy Safety's mission is to advance long-term utility wildfire safety by developing data-driven, comprehensive utility wildfire mitigation evaluation and compliance criteria, collaborating with local, state, and federal agencies, and supporting efforts to improve utility wildfire safety culture and innovation.

In performing that work, Energy Safety receives from electric service providers a wide range of, and large quantity of, electronic information. That information includes annual wildfire mitigation plans with related data and reports. Energy safety publishes that information, as well as investigative findings regarding compliance with the mitigation plans, for review and comment by state and local agencies and interested members of the public. Energy Safety needs a cost-effective, and readily accessible, way to receive, work with, and publish all relevant information.

#### **Benefits**

Benefits of the proposed regulation include, through the e-filing interface, providing members of the public with the ability to locate and immediately access documents that relate to wildfire mitigation matters. Further, the e-filing system provides Energy Safety with an efficient system for receiving, tracking, organizing, and publishing documents, which serves the interest of economy, transparency, and public access. The regulation ensures that

published documents comply with the accessibility requirements established by Government Code section 7405.

The regulation will improve the quality of service that Energy Safety provides to individuals who request access to documents used during Energy Safety's business thereby increasing the level of public participation in, and trust in, Energy Safety's work. In increasing public participation, Energy Safety anticipates that new perspectives, ideas, and innovation will be brought to bear on the problems involving utility-caused wildfires.

### **Purpose**

Section 29100, subdivisions (a) and (b): The purpose of subdivisions (a) and (b) is to clarify and make specific the ways regulated electrical corporations must, and members of the public may, furnish information to Energy Safety. Government Code section 15475(g) requires regulated electricity utilities to provide information "in the form and detail as the office prescribes."

Section 29100, subdivision (c): The purpose of subdivision (c) is to specify requirements that ensure that documents published on Energy Safety's website are accessible by persons with disabilities.

Section 29100, subdivision (d): The purpose of subdivision (d) is to clarify how Energy Safety will determine the date of submission for documents submitted after regular business hours for submissions that are subject to deadlines.

### **Necessity**

Section 29100, subdivisions (a) and (b): Subdivisions (a) and (b) are necessary for Energy Safety the California Energy Infrastructure Safety Act to clarify and implement the Government Code section 15475(g) discretion to specify the "form and detail" of information submitted. Energy Safety expects the number, and size, of submissions from members of the public to be small enough for staff to receive, organize, and process if submitted either by hard copy or electronically. For this reason, subdivision (b) allows members of the public to submit documents either through the U.S. mail or through the e-filing system.

By contrast, Energy Safety expects that the volume of information submitted by regulated electrical corporations to be sufficiently voluminous to require electronic handling. The information submitted to Energy Safety by the electrical corporations relates to matters including compliance with

wildfire mitigation plans, (Pub. Util. Code §§ 326(a)(1), 8386(b)), field audits of wildfire mitigation plan compliance, (Pub. Util. Code § 326(a)(3)), performance metrics related to reducing wildfire risks, (Pub. Util. Code § 326(a)(2)), investigations into compliance with wildfire mitigation plans, (Gov. Code § 15473(c)(2)(D)), and digital records such as maps, geographic information systems data. (Gov. Code § 15473(d).) Given this need for electronic document handling, subdivision (a) requires use of the e-filing system to more narrowly the “form and detail” of information submitted by electrical corporations

Incorporated E-Filing System User Guide: Subdivision (a) incorporates the e-filing system user guide dated April 2022. The User Guide is a reference guide and training tool for users of Energy Safety’s e-filing system.

#### E-Filing Process

Section 2.2      Submit E-filing

Section 4        E-filing

Section 4.1.1    Select a Docket and Add Submitter Info

Section 4.1.2    Upload Files

The system permits users to register and submit (“e-file”) documents. The registration requirement is needed so that when Energy Safety receives documents, the system can route and track the documents electronically. It also allows other users to locate documents filed by the submitter.

The requirement that submitters provide descriptive information for each document enables other users and Energy Safety staff to readily identify the document when viewing file directories.

The requirement that submitters identify their “role” is needed because the system uses that information to categorize and track documents.

When users submit documents, they select the “docket,” or item of business, to which the document pertains. Users can identify the desired “docket” by viewing the subject matter labels, which are hyperlinks, listed on the top-level system page. Those labels include references such as, “Electrical Compliance Enforcement,” “Rulemaking,” and “WSAB: Investor-Owned Utilities.”

The system limits file size to 50 megabytes. This limit must be specified because it is a limit imposed by the software, which cannot process larger files.

## User Registration

Section 1.1 About this Document

Section 3 Account Creation and Profile Maintenance

Section 3.1 User Registration

In section 1.1, the User Guide categorizes users of the system based upon “roles,” which distinguish members of the public (“intervenor”), regulated electrical corporations (“utility”), and Energy Safety staff (“Office of Energy Infrastructure Safety”). The system requires both members of the public and regulated electrical corporations to register as users of the system to serve the interests of transparency, public access, and efficiency. Once registered, users can specify matters about which they want to be notified when new documents become available. Energy Safety can use the contact information lists maintained by the system to push out notifications to interested persons. In automating administration of those contact lists and electronic service, the system provides Energy Safety with a means of disseminating information that is quicker and less work-intensive than manual maintenance of email lists, serving documents individually, or respond to multitudes of requests for records.

## Profile Management

Section 3.2 User Profile Management

Section 3.3 Client Profile Management

The system requires users to create “profiles” to manage their password and contact information, and to recover passwords without needing to first contact Energy Safety and then wait for staff to resolve the issue.

The system uses the contact information to automatically provide information to all users who have requested to receive notice in specified matters. This feature serves the interest of efficiency and transparency

because it allows members of the public to obtain documents without the need to wait for Energy Safety to respond to a request.

## Organization by “Docket”

### Section 1.1 About this Document

Section 1.1 of the user guide also indicates that Energy Safety staff will use the system to manage documents according to “dockets,” and refers to accepting or rejecting documents. The term “docket” is a general term that refers to an item of business which might be a request for a hearing on a notice of violation or defect, a case, or other subject-matter category such as a Wildfire Mitigation Plan.

### Document Acceptance & Rejection

#### Section 1.1 About this Document

#### Section 4.1.3 Review and Submit

Energy Safety will reject documents for these reasons:

1. The document was not timely filed pursuant to a regulation or guideline governing the submission.
2. The document does not conform to the requirements prescribed by the proposed regulation section 29101 (also part of this rulemaking action).
3. The document is an identical duplicative copy of a previously filed document.
4. The document contains material that is:
  - a. Profane, obscene, or threatening
  - b. Content that promotes fosters or perpetuates discrimination on the basis of race, age, religion, gender, marital status, national origin, physical or mental disability or sexual orientation.
5. The document is password protected.
6. The document exceeds 50 mb the maximum file size permitted by the system.

7. The document is not one of the compatible file types. The compatible file types are: pdf, doc, docx, xls, xlsx, ppt, pptx, rtf, txt, dwg, dxf, kmz, kml, jpg, jpeg, tif, tiff, gif, mp4, avi, wmv, mov, and mpeg.

The rejection criteria are necessary to ensure that the documents are accessible and viewable by Energy Safety staff, a hearing officer, regulated entities, and the public. The requirements also ensure that material in the system does not have the effect of harassing or discriminating against any person.

## Filing of Confidential Documents

### Section 4.2 Confidential E-Filing

The e-filing system provides users with an option for the filing of documents which the submitter asserts should not be disclosed to the public. In providing that option, it implements proposed regulation section 29200, Confidential Information, in this rulemaking action.

The e-filing system allows users to upload an application for “confidential” status along with confidential documents pursuant to regulation section 29200(a), which specifies the information a submitter must provide, and which Energy Safety uses to determine whether to grant the application. That information includes the “Confidentiality Sunset Date,” which corresponds to the section 29200(a)(3) requirement. Further, Energy Safety will return applications that are incomplete pursuant to section 29200(b).

The decision to approve an application for confidential status is made based on the provisions of the California Public Records Act or other law providing for an exemption from disclosure, which corresponds to subdivisions (a)(4) (statutory basis), (a)(5) (application of statutory exemption to the information), and (a)(6) (duration of statutory exemption) of section 29200. The user guide indicates that Energy Safety will notify submitters of applications for “confidential” status of the disposition of the application.

The user guide indicates that when Energy Safety approves an application for confidential treatment, the document will not be disclosed to the public. This provision is consistent with subdivision (a) of section 29200.

Section 29100, subdivision (c): The requirement that documents submitted to Energy Safety be made accessible is necessary to allow Energy Safety staff to publish documents on its website without delay and to allow

persons with disabilities or other access and functional needs to access information in the document.

Section 29100, subdivision (d): The requirement that a document received after the close of business be considered as received on the following day is necessary to ensure that documents that must be filed by a particular deadline are received timely, and so that persons submitting documents are aware of how the deadline is established with respect to time.

## **Section 29101. Format, Content, and Other Required Characteristics of Filed Documents, Electronic Signatures**

### **Problem Statement**

In submitting annual wildfire mitigation plans and related documents, electric service providers submit large quantities of electronic information to Energy Safety. Energy Safety staff must receive, organize, work with, and in most cases, publish those documents on Energy Safety's website. Energy Safety needs a cost-effective, efficient, and transparent way to perform this work.

### **Benefits**

The regulation ensures that all documents filed with Energy Safety comply with the accessibility requirements established by Government Code section 7405. Another impact will be to serve the interests of efficiency by ensuring that submitted documents are legible, word searchable, and indicate the matter to which the document refers, therefore facilitating handling and organization by Energy Safety staff.

### **Purpose**

The purpose of the proposed regulation is to clarify and make specific the requirement that regulated electrical corporations must furnish information to Energy Safety "in the form and detail as the office prescribes." (Gov. Code section 15475(g).) The regulation specifies procedures that are needed so that Energy Safety staff can efficiently and effectively receive, review, organize, work with, and publish documents submitted by third parties.

### **Necessity**

Section 29101, subdivision (b): Requiring that documents submitted to Energy Safety be word searchable is necessary to ensure that Energy Safety staff can efficiently locate information in the documents.

Section 29101, subdivision (c): Requiring that paper documents submitted to Energy Safety be on standard-sized paper, typewritten or mechanically printed, and bound securely, is necessary to ensure the documents are legible and prevents the pages from falling out of order. Requiring paper documents to be printed on both sides (when feasible) serves the interest of efficiency by reducing the number of pages used in printing the document.

Section 29101, subdivision (d): Requiring that paper documents submitted to Energy Safety be printed in a legible font that is at least 11 points in size, and be page numbered consecutively, is necessary to ensure that the documents are easily readable by Energy Safety staff. Requiring paper documents to indicate the name of the matter to which they relate, the number of the docket, and indicate the title of the document is necessary to ensure that Energy Safety staff can efficiently route, organize, and work with the documents.

Section 29101, subdivision (e): Allowing electronic documents to be signed electronically is necessary to allow persons who prepare documents for submission to Energy Safety to do so without first printing hard copies to obtain wet signatures, then converting the document back into an electronic format.

## **Section 29200. Submission of Confidential Information**

### **Problem Statement**

In enacting the California Public Records Act, the Legislature declared that access to information concerning the conduct of the people's business is a fundamental and necessary right. (Gov. Code § 6250.) However, the Legislature has also exempted certain types of information from disclosure to the public. For example, the Public Records Act exempts certain "critical infrastructure information" from disclosure. (Gov. Code § 6254(ab).) And Public Utilities Code section 583 prohibits the California Public Utilities Commission from disclosing information that a public utility submits to the Commission except for information which the Public Utilities Act (Pub. Util. Code §§ 201 – 2282.5) requires "to be open to the public."

Regarding Energy Safety, Government Code section 15475(c) provides that Energy Safety will continue to receive information that was submitted to the Public Utility Commission's former Wildfire Safety Division. This subdivision requires Energy Safety to comply with the Public Utilities Code section 583 prohibitions against disclosure of information. And the subdivision expressly imposes two additional confidentiality requirements on Energy Safety:

- Energy Safety must maintain the confidentiality of information submitted by public utilities in a manner "consistent with appropriate protections."
- Energy Safety must "provide for the confidentiality of records, the protection of proprietary information, and the protection of the reasonable expectation of customers of public utilities in the privacy of customer-specific records maintained by" the public utility.

Section 15475(c), however, does not specifically identify the types of information, identify the "appropriate protections," define "confidentiality," "proprietary information," or "the reasonable expectations of customers."

### **Benefits**

Benefits of the proposed regulation include ensuring that, when an electrical service provider submits information that it considers to be exempt from disclosure pursuant to a statute, Energy Safety staff knows exactly which information the provider considers to be exempt, Energy Safety can assess the legal sufficiency of the submitter's claim that a given statute requires maintaining particular information in confidence, the exempt information will be segregated from the information to be published on Energy Safety's website, and redacted copies of documents will be available to Energy Safety to use in comply with Public Records Act requests.

### **Purpose**

Section 29200, subdivision (a)(1): The purpose of subdivision (a)(1) is to ensure that a submitter of information notifies Energy Safety that certain information is exempt from disclosure, and to enable Energy Safety to determine exactly which information in a document or set of documents is subject to the claim.

Section 29200, subdivisions (a)(2) and (a)(3): The purpose of subdivision (a)(2) is to ensure that when Energy Safety receives information that's exempt from disclosure, the information is in a form or format that separates the exempt information from the non-exempt. Providing a redacted copy along with the unredacted copy can accomplish this in some instances.

Section 29200, subdivisions (a)(4) and (a)(5): The purpose of subdivisions (a)(4) and (a)(5) is to inform Energy Safety staff of the legal and factual reasons why a submitter of information believes the information is exempt from disclosure. This requirement is needed so that Energy Safety can efficiently and expediently perform the legal analysis required to comply with the Government Code section 15475(c) requirement that Energy Safety "provide for the confidentiality of records" and the Public Utilities Code section 583 prohibition against disclosure of certain information.

Section 29200, subdivision (a)(6): The purpose of subdivision (a)(6) is to inform Energy Safety staff when the basis for withholding a document is limited with respect to time. This requirement is needed so that Energy Safety can efficiently and expediently perform the legal analysis required to comply with the Government Code section 15475(c) requirement that Energy Safety "provide for the confidentiality of records" and the Public Utilities Code section 583 prohibition against disclosure of certain information.

Section 29200, subdivisions (a)(7) and (a)(8): The purpose of subdivisions (a)(7) and (a)(8) is to provide Energy Safety with assurance that submitters who claim that information is exempt from disclosure are doing so on a good faith basis. It is also to provide Energy Safety with a point of contact if Energy Safety staff need to discuss the application for confidential treatment with the submitter.

Section 29200, subdivision (b): The purpose of subdivision (b) is to clarify and make specific the meaning of the term "proprietary information" in Government Code section 15475(c) by specifically addressing instances when submitters provide trade secrets or information that could cause a loss of competitive advantage. The information specified by subdivisions (b)(1) through (b)(4) are required to provide Energy Safety with the information needed to evaluate the submitter's claimed basis for non-disclosure.

Section 29200, subdivision (c): The purpose of subdivision (c) is to inform the party who requests confidential handling of information that Energy Safety's decision will be made based on the legal authority, including the California Public Records Act, and the other related information provided with the request. Further, the subdivision provides a process and time period, seven days, within which a submitter may remedy any deficiencies or problems with the request that would make Energy Safety unable to grant the request.

Section 29200, subdivision (d): The purpose of subdivision (d) is to inform the party who requests confidential handling of information that Energy Safety will comply with laws requiring disclosure of the information notwithstanding Energy Safety's grant of a request for confidential handling. Further, it informs the source of the information that Energy Safety will attempt, when legally permissible, to notify the source of Energy Safety's intent to disclose the information.

### **Necessity**

Section 29200, subdivision (a)(1): When a person who provides information to Energy Safety also asserts that some of the information is exempt from disclosure, requiring that person to identify the exempt information is the most effective and least burdensome way of ensuring that Energy Safety can determine exactly which information is subject to the claim. This procedure is needed so that Energy Safety can implement practices in compliance with the Government Code section 15475(c) requirement that Energy Safety "provide for the confidentiality of records" and the Public Utilities Code section 583 prohibition against disclosure of certain information.

Section 29200, subdivisions (a)(2) and (a)(3): Requiring persons who submit confidential information to Energy Safety to segregate the confidential information, and to provide both a redacted and an unredacted copy, is the most effective, least burdensome way of ensuring that Energy Safety can publish (or provide in response to a request) information that is not confidential. This procedure is needed so that Energy Safety can implement practices in compliance with the Government Code section 15475(c) requirement that Energy Safety "provide for the confidentiality of records" and the Public Utilities Code section 583 prohibition against disclosure of certain information.

Section 29200, subdivisions (a)(4) and (a)(5): Requiring persons who submit confidential information to Energy Safety to identify both the statutory and the factual basis for the claim that the information is exempt from disclosure is the most effective, least burdensome way of allowing Energy Safety to (1) assess the sufficiency of the analysis supporting the claim, and (2) best determine how to discharge Energy Safety's statutory obligations under the California Public Records Act, the Government Code section 15475(c) requirement that Energy Safety "provide for the confidentiality of records"; and the Public Utilities Code section 583 prohibition against disclosure of certain information.

Section 29200, subdivision (a)(6): Requiring submitters of information that is confidential only for a period of time to identify the period of time and explain the basis for the claim is the most effective, least burdensome way of allowing Energy Safety to (1) assess the sufficiency of the analysis supporting the claim, and (2) best determine how to discharge Energy Safety's statutory obligations under the California Public Records Act, the Government Code section 15475(c) requirement that Energy Safety "provide for the confidentiality of records"; and the Public Utilities Code section 583 prohibition against disclosure of certain information.

Section 29200, subdivisions (a)(7) and (a)(8): Requiring submitters of information who request confidential handling to submit a verification that the request is true, correct, and accurate, and that the submitter is authorized to make the request on behalf of the submitting organization is the most effective, least burdensome way of ensuring that the requests are not spurious or made without good reason, and further, to provide Energy Safety with a point of contact should staff need to discuss the request with the submitter. This procedure is needed so that Energy Safety can implement practices in compliance with the Government Code section 15475(c) requirement that Energy Safety "provide for the confidentiality of records" and the Public Utilities Code section 583 prohibition against disclosure of certain information.

Section 29200, subdivision (b): Requiring submitters of information who request confidential handling of trade secrets or information that, if disclosed, could cause a loss of competitive advantage, to (1) identify the competitive advantage, (2) explain how disclosure would cause a loss, (3) state the value of the information, and (4) describe the ease (or difficulty) with which others could acquire or duplicate the information is necessary for Energy Safety to evaluate the legal sufficiency of the basis for the request. Further, this information is needed so that Energy Safety can

implement practices in compliance with the Government Code section 15475(c) requirement that Energy Safety “provide for the confidentiality of records,” “the protection of proprietary information,” and the Public Utilities Code section 583 prohibition against disclosure of certain information.

Section 29200, subdivision (c): Subdivision (c) is necessary to inform submitters who request confidential treatment of information that Energy Safety will evaluate the request based on statutory requirements and factual information provided by the submitter. Further, Energy Safety informs an information submitter that a request for confidential handling is incomplete, a seven-day period is necessary because it both gives the submitter sufficient time to respond while balancing Energy Safety’s need to expediently work with and publish documents. The subdivision is necessary to implement the Government Code section 15475(c) requirement that Energy Safety “provide for the confidentiality of records” and the Public Utilities Code section 583 prohibition against disclosure of certain information.

Section 29200, subdivision (d): Subdivision (d) is necessary to inform submitters of information who request confidential handling that even if Energy Safety grants the request, Energy Safety may be required by law to produce the information at a point in the future. The subdivision is necessary to implement the Government Code section 15475(c) requirement that Energy Safety “provide for the confidentiality of records” and the Public Utilities Code section 583 prohibition against disclosure of certain information.

### **Technical, Theoretical, and Empirical Studies, Reports, and Similar Documents Relied Upon**

Energy Safety relied on the following documents:

1. Data Request Response from Bear Valley Electric Service, Inc., dated March 4, 2022
2. Southern California Edison Data Request Set Energy Safety-SCE-2022RM-01 (March 2, 2022)
3. Tyler Morris email to Stephanie Ogren dated April 8, 2022
4. Wade Greenacre email to Melissa Semcer dated January 7, 2022

5. State of California Civil Service Pay Scale (Alpha by Class Title), accessed on April 8, 2022, available at:

[https://www.calhr.ca.gov/Pay%20Scales%20Library/PS\\_Sec\\_15.pdf](https://www.calhr.ca.gov/Pay%20Scales%20Library/PS_Sec_15.pdf)

6. Governor Newsom Appointment Announcement for Melissa Semcer appointment, dated December 2, 2021; accessed on April 8, 2022, available at:

<https://www.gov.ca.gov/2021/12/02/governor-newsom-announces-appointments-12-2-21/#:~:text=Semcer%20earned%20a%20Master%20of,Semcer%20is%20a%20Democrat>

## **Documents Incorporated by Reference**

Energy Safety has incorporated the following documents by reference:

1. Energy Safety E-Filing System User's Guide (April 2022), available at: <https://efiling.energysafety.ca.gov/Help.aspx> (incorporated by reference into the text of proposed regulation section 29100, Submission of Documents for Filing.)

## **Information Supplied by Interested Parties**

1. Southern California Edison Data Request Set Energy Safety -SCE-2022RM-01 (March 2, 2022)
2. Bear Valley Electric Service, Inc., Data Request Response (March 4, 2022)
3. Wade Greenacre email to Melissa Semcer dated January 7, 2022

## **Economic Impact Assessment**

Pursuant to Public Utilities Code section 8385(b), Energy Safety is responsible for supervising electrical corporations' compliance with the requirements of Chapter 6 (Wildfire Mitigation, §§ 8385 – 8389.) "Electrical corporation" is defined in Public Utilities Code section 218, and there are eight electrical corporations in California which fall within the scope of that definition. Those eight are San Diego Gas & Electric, Southern California Edison, Pacific Power, Bear Valley Electric Service, Liberty Utilities, Horizon West Transmission, Trans Bay Cable, and Pacific Gas & Electric. None of the eight companies is a small business within the meaning of Government Code section 11346.3(b)(4)(B).

Energy Safety anticipates that these proposed regulations will have cost impacts on the regulated electrical corporations in two respects. One, the requirement that companies make documents accessible before submitting them, (§ 29100(c)) and two, providing the information needed to request confidential handling of information. (§ 29200.)

The regulations could potentially impact persons and entities other than the eight regulated electrical corporations because Energy Safety receives input from state and local government entities and from members of the public. However, Energy Safety anticipates that any costs by those persons and entities would be insignificant for these reasons. One, use of the e-filing system does not itself impose any cost beyond that incurred to make a document accessible. And persons who are not the eight regulated electrical corporations can choose to submit information through the U.S. mail. In those instances, the submitter would not incur a cost. Three, Government Code section 6254.5(d) allows Energy Safety to share confidential information with other government entities by agreement, which means that those entities will not need to use the proposed regulation section 29200 process to request that Energy Safety maintain information in confidence.

### **Section 29100. Submission of Documents for Filing**

This proposed regulation will impose costs by operation of the subdivision (c) requirement that submitters make documents accessible before submitting them.

To inform this analysis, Energy Safety asked one of the regulated electrical corporations that will be subject to the regulation, Pacific Gas & Electric, to estimate the costs it will incur. PG&E estimated that it will incur the cost of between \$8 and \$12 per page, though some documents will cost as much as \$100 per page depending on the content.<sup>1</sup> And Energy Safety contacted a third-party provider of document remediation services, Access Ingenuity, who telephonically provided this range of costs for government contracts for fewer than 10,000 pages:

For simple documents (i.e., standard Word documents) = \$4 per page

For medium documents (i.e., with column text) = \$5 per page

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<sup>1</sup> Wade Greenacre email to Melissa Semcer dated January 7, 2022

For complex documents (i.e., with complex tables) = \$6 per page

For fillable documents = separate quote<sup>2</sup>

For purposes of this analysis, Energy Safety has assumed that PG&E's estimated \$12 per page rate is a reasonable basis for the estimate. And further, estimates that each of the eight regulated electrical corporations will need to process the 50,000 pages per year that PG&E estimates that it will process. Based on these assumptions, Energy Safety estimates that the cost impact on each of the regulated companies will be \$600,000.

\$12 per page \* 50,000 pages per year = \$600,000 per year

### **Section 29200. Submission of Confidential Information**

This proposed regulation will impose costs by operation of the requirements that apply to submitters of confidential information. To inform this analysis, Energy Safety asked two regulated electrical corporations who will be subject to the regulation, Bear Valley and Southern California Edison, to estimate the costs they will each incur.

Bear Valley estimated that it will incur a minimum cost of \$14,651 each time it submits confidential information. If the information contains a trade secret or information which, if disclosed, could cause a loss of competitive advantage, then Bear Valley estimates that it will incur a cost of \$26,075.<sup>3</sup> Southern California Edison estimated that complying with the regulation will cost between \$1,000 and \$60,000 each time confidential information is submitted.

Energy Safety cannot estimate with a high degree of specificity what the cost impact of proposed regulation section 29200 will be. In providing its cost estimates, Southern California Edison confirmed the difficulty in quantifying the costs: "Cost impacts to identify, segregate, redact, and explain the basis for confidential data would require a study to determine."<sup>4</sup>

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<sup>2</sup>Tyler Morris email to Stephanie Ogren dated April 8, 2022

<sup>3</sup> Bear Valley Electric Service, Inc., Data Request Response (March 4, 2022)

<sup>4</sup> Southern California Edison Data Request Set Energy Safety-SCE-2022RM-01 (March 2, 2022)

Energy Safety bases its analysis of the cost impacts on the anticipated costs reported, below, by Bear Valley and Southern California Edison.

#### Subdivision (a)(1)

Subdivision (a)(1) requires submitters of confidential information to specifically identify and mark confidential information. Bear Valley estimated that complying with this requirement will cost \$3,015.00.<sup>5</sup> Southern California Edison estimates that it will expend between one hour and “a week or longer” to comply with the requirement.<sup>6</sup>

#### Subdivisions (a)(2)

Subdivision (a)(2) requires submitters of confidential information to segregate confidential information. Bear Valley estimated that complying with this requirement will cost Bear Valley \$3,015.<sup>7</sup> Southern California Edison indicated that in some instances, the data can be segregated with automated tools, and in other instances, the work must be done manually and might “take up to a week to complete.”<sup>8</sup>

#### Subdivision (a)(3)

Subdivision (a)(3) requires submitters of confidential information to provide Energy Safety with both redacted and unredacted copies of documents that contain confidential information. Bear Valley estimated that complying with this requirement will cost Bear Valley \$3,015.<sup>9</sup> Southern California Edison indicated that in some instances, the data can be segregated with automated tools, and in other instances, the work must be done manually and might “take up to a week to complete.”<sup>10</sup>

#### Subdivision (a)(4)

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<sup>5</sup> Bear Valley Electric Service, Inc., Data Request Response (March 4, 2022)

<sup>6</sup> Southern California Edison Data Request Set Energy Safety-SCE-2022RM-01 (March 2, 2022)

<sup>7</sup> Bear Valley Electric Service, Inc., Data Request Response (March 4, 2022)

<sup>8</sup> Southern California Edison Data Request Set Energy Safety-SCE-2022RM-01 (March 2, 2022)

<sup>9</sup> Bear Valley Electric Service, Inc., Data Request Response (March 4, 2022)

<sup>10</sup> Southern California Edison Data Request Set Energy Safety-SCE-2022RM-01 (March 2, 2022)

Subdivision (a)(4) requires submitters of confidential information to identify the statutory basis for the claimed exemptions from disclosure. Bear Valley estimated that complying with requirement will cost Bear Valley \$2,803.<sup>11</sup> Southern California Edison indicated that the work can require between “a few hours” or as many as two days.<sup>12</sup>

Subdivision (a)(5)

Subdivision (a)(5) requires submitters of confidential information to explain the reasons why the exemption claimed applies to the information. Bear Valley estimated that complying with requirement will cost Bear Valley \$2,803.<sup>13</sup> . Southern California Edison indicated that the work can require between “a few hours” or as many as two days.<sup>14</sup>

Subdivision (b)

Subdivision (b) requires submitters of information that is a trade secret or that, if disclosed, would cause the loss of a competitive advantage. Bear Valley estimated that complying with these requirements will cost Bear Valley \$11,424, which it itemized this way:

Identify the competitive advantage	\$2,803
State how the advantage would be lost	\$2,803
State the value of the information	\$3,015
Ease of legitimate acquisition or duplication	\$2,803 <sup>15</sup>

Southern California Edison estimated the complying with the subdivision (b) requirements could be “a relatively short process (a few days) or take multiple days.”<sup>16</sup>

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<sup>11</sup> Bear Valley Electric Service, Inc., Data Request Response (March 4, 2022)

<sup>12</sup> Southern California Edison Data Request Set Energy Safety-SCE-2022RM-01 (March 2, 2022)

<sup>13</sup> Bear Valley Electric Service, Inc., Data Request Response (March 4, 2022)

<sup>14</sup> Southern California Edison Data Request Set Energy Safety-SCE-2022RM-01 (March 2, 2022)

<sup>15</sup> Bear Valley Electric Service, Inc., Data Request Response (March 4, 2022)

<sup>16</sup> Southern California Edison Data Request Set Energy Safety-SCE-2022RM-01 (March 2, 2022)

Energy Safety does not possess information needed to determine exactly how many times each company will request confidential treatment of information it submits. Nor does information available allow Energy Safety to estimate whether more submissions will tend to be toward either the lower or higher ends of Southern California Edison's estimate.

However, because Bear Valley's higher estimated cost (\$26,075) is near the midpoint between Southern California Edison's high and low estimates (\$29,500), Energy Safety here estimates the average impact of complying with proposed regulation section 29200 to be \$29,500 per submission.

Further, Energy Safety estimates that each of the eight companies will submit confidential information to Energy Safety 40 times per year. Based on those assumptions, Energy Safety estimates that the cost impact on each regulated electrical corporation will be \$1,180,000 per year.

$\$29,500 \text{ per submission} * 40 \text{ submissions per year} = \$1,180,000 \text{ per year}$

### **Creation or Elimination of Jobs in California**

Energy Safety does not anticipate that any jobs will be eliminated due to implementation of these regulations. Energy Safety anticipates that the cost impact of the document accessibility regulation has the potential to create new jobs because Energy Safety estimates that the eight regulated electrical corporations will need to process approximately 400,000 pages per year. If that volume of work is sufficient, either the electrical corporations or their contractors might need to hire additional staff to perform the work.

Energy Safety does not anticipate that the confidential information submission requirements will create new jobs although there is a likelihood that jobs may be created. It appears that the regulated electrical corporations already perform substantially the same type of work in submitting information to other regulators including the California Public Utilities Commission, California Energy Commission, and California Office of Emergency Services. Energy Safety does not know whether the volume of this work required by Energy Safety will result in these companies creating more jobs to perform the work.

### **Creation of New Businesses or the Elimination of Existing Businesses in California**

Energy Safety does not anticipate that these proposed regulations will have an impact on the creation of new businesses or elimination of existing businesses in the State of California.

### **Expansion of Businesses Currently Doing Business within California**

Energy Safety does not anticipate that these proposed regulations will have an impact on or limit or discourage the expansion of business within the State of California.

### **Benefits to Health and Welfare, Worker Safety, and the Environment**

Energy Safety anticipates that these regulations will have a positive impact on the health and welfare of California residents and to the environment. Use of the e-filing system will allow members of the public to directly, and immediately, obtain information relating to Energy Safety's work involving wildfire mitigation efforts. Additionally, the ability of an informed public to comment on various aspects of Energy Safety's work will likely make new ideas and perspectives available to Energy Safety. The benefits to the environment will likely result from the submission of electronic documents in place of paper documents, which Energy Safety anticipates will reduce carbon emissions and the use of paper.

### **Consideration of Reasonable Alternatives**

Energy Safety has thoroughly reviewed the proposed regulatory action, including both the positive and negative impacts it will place upon the industry. No alternatives considered by Energy Safety would be more effective and less burdensome in carrying out the purposes of the proposed regulation. Energy Safety invites and will consider all public comments on alternatives to any of the proposed regulations.

#### **E-Filing System Alternative 1**

One alternative to the requirement that regulated electrical corporations submit documents through Energy Safety's e-filing system is to allow submission via U.S. mail or as attachments to email. This alternative would overwhelm Energy Safety's resources due to the volume of documents and data received, and would prevent Energy Safety from effectively receive, organize, work with, and publish documents.

Further use of the e-filing system does not impose any cost on users, and it allows Energy Safety to automatically notify interested persons upon the

posting of new documents that relate to matters of interest. This benefit could not be achieved without the e-filing system.

### **Document Accessibility Alternative 1**

Energy Safety is required to make documents that it publishes accessible pursuant to Government Code section 7405. The alternative to the regulation requirement is to perform the work with Energy Safety resources.

This alternative is not an option because without the regulation, Energy Safety staff would need to process the documents before publishing them. That would (1) preclude Energy Safety staff from performing other work during the time needed to process the documents, and (2) delay Energy Safety's efforts to publish documents on Energy Safety's website and respond to Public Records Act requests. At the estimated submission rate of 50,000 pages per year, given eight regulated electrical corporations, Energy Safety would need to process 400,000 pages each year. That outcome would not allow Energy Safety to providing the public with transparent access to critical wildfire mitigation work.

### **Confidential Information Submission Alternative 1**

One alternative is to not require submitters of confidential information to identify the legal exemption from disclosure and explain how the exemption applies to the information.

This alternative is not an option because Energy Safety staff lack the information and resources to perform the work. To "align the confidential information to the relevant statutes," Southern California Edison requires a "few hours" or longer.<sup>17</sup> And to state "the reasons why each exemption claimed applies" Southern California Edison requires between "a few hours" and two days.<sup>18</sup>

If the proposed regulation did not impose these requirements, based upon the estimated 30 submissions per year and the eight regulated electrical corporations, Energy Safety would need multiple employees to expend between several hours and several days to determine which statutory

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<sup>17</sup> Southern California Edison Data Request Set Energy Safety-SCE-2022RM-01 (March 2, 2022)

<sup>18</sup> Southern California Edison Data Request Set Energy Safety-SCE-2022RM-01 (March 2, 2022)

exemptions might apply to the information in 240 submissions throughout a given year. This outcome would not allow Energy Safety to appropriately protect confidential information while also providing the public with transparent access to critical wildfire mitigation work.

### **Confidential Information Submission Alternative 2**

A second alternative is to not require submitters of confidential information to segregate and redact (where possible) confidential information.

This alternative is not an option because Energy Safety staff lack the information and resources to perform the work. To perform this work with its own data, Southern California Edison uses subject matter experts, case managers, and administrators to “identify, mark, and/or redact” the documents.<sup>19</sup> That work can sometimes be performed with automated tools and sometimes requires “several people man hours to complete.” Further, extensive redactions “can take up to a week to complete.”<sup>20</sup>

Omitting these requirements from the regulation would prevent Energy Safety from, in some cases, determining exactly which information was subject to withholding. And in other cases, it would significantly delay Energy Safety’s efforts to publish the information or to provide it in response to Public Records Act requests. Without these requirements, based upon the estimated 30 submissions per year, given the eight regulated electrical corporations, Energy Safety would need multiple staff to expend between several hours and as much as a week processing 240 submissions.

### **Reasonable Alternatives that Would Lessen Adverse Impacts on Small Business**

The proposed regulations have no substantial impacts on small business because none of the eight electric corporations regulated by Energy Safety are small businesses within the meaning of Government Code section 11346.3(b)(4).

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<sup>19</sup> Southern California Edison Data Request Set Energy Safety-SCE-2022RM-01 (March 2, 2022)

<sup>20</sup> Southern California Edison Data Request Set Energy Safety-SCE-2022RM-01 (March 2, 2022)

As discussed above, the regulations could potentially impact persons and entities other than the eight regulated electrical corporations because Energy Safety receives input from state and local government entities and from members of the public. However, the proposed regulations allow for the use of U.S. mail as an alternative to the e-filing system and Government Code section 6254.5(d) allows other government entities to share confidential information with Energy Safety by agreement.

Energy Safety has identified no alternative that would lessen adverse impact, if any, on small business and believes that there are no reasonable alternatives to the proposed regulations that would reduce any adverse impact on small business and still allow Energy Safety to effectively enforce the regulations. However, Energy Safety invites and will consider all public comments on alternatives to any of the proposed regulations.

### **Evidence Supporting Finding No Significant Statewide Adverse Economic Impact Directly Affecting Business**

Although the proposed action will directly affect businesses statewide, Energy Safety concludes that the regulations will not have a significant impact the ability of California businesses to compete with businesses in other states.

The requirement that documents be submitted in compliance with certain formatting requirements will affect some businesses. And the requirement that confidential information be submitted with information and analysis relating to the confidential status will cause businesses to incur the expense of preparing that information and analysis.

However, Energy Safety has determined that the cost of the formatting requirements and the confidential-information analysis would be insignificant in light of the fact that Energy Safety could not timely or efficiently perform the work. Therefore, the proposed regulations will not have a significant statewide adverse economic impact directly on the regulated electrical corporations.

### **Duplication or Conflict with Federal Law**

Energy Safety has not found any unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations. The proposed regulatory action, at section 29100, implements the requirements of section 508 of the federal Rehabilitation Act of 1973, as amended (29

U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations. In requiring submitters of electronic documents to ensure that the documents comply with these accessibility requirements, there is no unnecessary duplication of, or conflict with, these federal regulations.