

October 15, 2021

Caroline Thomas Jacobs
Director, Office of Energy Infrastructure Safety
Docket No. 2022-EC
715 P Street (20th Floor)
Sacramento, CA 95814

SUBJECT: Southern California Edison Company’s Comments on September 29, 2021
Executive Compensation Guidance Workshop

Dear Director Thomas Jacobs:

On September 29, 2021, the Office of Energy Infrastructure Safety (“Energy Safety”) held a public workshop on executive compensation guidance for 2022 and 2023 (“EC Guidance”) pursuant to Assembly Bill (AB) 1054 and requested comments on the workshop by October 15, 2021. SCE appreciates the efforts made by Energy Safety to share the potential changes to the EC Guidance and allowing an opportunity to provide its comments below on the workshop presentations, including presentations by Energy Safety and its consultant, NorthStar Consulting (“NorthStar”), on proposals for updating EC Guidance for 2022 and 2023 (“Proposals”). We commend Energy Safety for proposing guidance based on specific interpretations of Pub. Util. Code 8389(e)(6). Though we disagree with some of these interpretations as outlined in our comments below, Energy Safety’s approach facilitates a constructive comment process that we trust will lead to better guidance.

SCE’s executive compensation structure is a product of executive compensation expertise. It is established by an independent Compensation Committee comprised of non-employee Directors who have significant experience and qualifications in driving performance and setting compensation. The Compensation Committee’s decisions are based on market data and expert advice provided by an independent compensation consultant retained by the Compensation Committee. The Wildfire Safety Division (on June 30, 2020) and Energy Safety (on August 11, 2021) have previously approved SCE’s executive compensation structure as complying with the requirements of AB 1054.

SCE’s objective in designing its executive compensation structure is to attract and retain qualified executives while meeting company goals, particularly with regards to safety and financial stability. The former enables the latter – consistent, qualified leadership is crucial for meeting safety and financial stability goals. SCE welcomes input from Energy Safety on how to continue driving desired performance while aligning with the clear intent and statutory language of AB 1054 to avoid unintended outcomes and afford utilities the flexibility necessary to manage

the complex operations of the utility. SCE's comments below primarily focus on maintaining this statutory integrity.

COMMENTS ON PROPOSALS TO UPDATE EXECUTIVE COMPENSATION GUIDANCE

A. The Definition of “Executive Officer” for Pub. Util. Code Section 8389 Should Be Interpreted in the Same Manner as the Definition of “Executive Officer” in Rule 3b-7 of the Securities Exchange Act

Pub. Util. Code 8983(e) specifies that its executive compensation provisions apply to the compensation structure established by an “electrical corporation” for its “executive officers, as defined in Section 451.5” of the Pub. Util. Code. The definition in Pub. Util. Code 451.5 contains two requirements that a person must satisfy to be treated as an executive officer: (1) the person “performs policy making functions;” and (2) the person “is employed by the public utility subject to the approval of the board of directors.”

On an annual or more frequent basis, SCE's Board of Directors (“SCE Board”) evaluates and determines who performs policy making functions for SCE. The SCE Board designates these policy-makers as its executive officers under Rule 3b-7 of the Securities Exchange Act of 1934 (“Rule 3b-7”).¹ As the California Public Utilities Commission (“Commission”) stated in its decision in SCE's 2021 General Rate Case (“2021 GRC”), the definition of “executive officer” in Pub. Util. Code 451.5 “is similar to the definition provided in Rule 3b-7.”² Both definitions require a person to perform a “policy making function” and both provide that such policy-makers include the company's “president” and “any vice president... in charge of a principal business unit, division, or function.”

SCE currently has twenty-four Vice Presidents who are not Senior Vice Presidents or Executive Vice Presidents. The SCE Board does not view any of these twenty-four Vice Presidents as being in charge of a *principal* business unit, division, or function, or otherwise performing a *policy-making* function. All Vice Presidents report up to a Senior Vice President, Executive Vice President, or President/CEO. Even some Senior Vice Presidents are not treated as being in charge of a *principal* business unit, division or function, or otherwise performing a *policy-making* function, because they advise the President/CEO or Executive Vice President rather than make final policy decisions themselves on major issues and/or because the business unit, division or function they oversee is not a principal one for SCE. Currently, SCE has six officers who, in the judgment of the SCE Board, are in charge of *principal* business units/divisions/functions or otherwise *make* policy decisions for the company: President and CEO; Executive Vice President, Operations; Senior Vice President, Transmission & Distribution; Senior Vice President, Customer Service; Senior Vice President & Chief Financial Officer; and Senior Vice President & General Counsel.

Since the determination of who performs a policy-making function for a company depends so much on the facts and circumstances of each person's actual role within the company's decision-

¹ 17 C.F.R. §240.3b-7, which defines an “executive officer” as a “president, any vice president... in charge of a principal business unit, division or function (such as sales, administration or finance), any **other** officer who performs a policy making function or any other person who performs similar policy making functions.” [Emphasis added.]

² D.21-08-036, p. 417, fn. 1353.

making structure and cannot be determined by a person’s title (other than the president), the Securities and Exchange Commission (“SEC”) presumes that a company’s board of directors’ judgment is correct when it designates the executive officers of that company.³

In SCE’s 2021 GRC, the Commission delved deeply into Rule 3b-7 and the determination of SCE’s executive officers. According to the Commission, “there is a reasonable basis for drawing a distinction between treatment of compensation for Rule 3b-7 officers and other executives.... Rule 3b-7 officers are senior-level management, responsible for policy decisions of the company, and directly answerable to SCE’s Board of Directors.”⁴ Although the Commission was discussing SB 901’s prohibition on ratepayer funding of officer compensation (under Pub. Util. Code 706), the same rationale and conclusion applies to AB 1054’s regulation of the structure of executive officer compensation (under Pub. Util. Code 8983)—the utility’s Rule 3b-7 executive officers are its policy makers and there is a reasonable basis for regulating their compensation differently than the compensation of other executives.

The Commission, like the SEC, deferred to the SCE Board’s determination of who is a policy-maker and executive officer for SCE.⁵ For consistency among regulators, and because the SCE Board is best-positioned to make this facts and circumstances determination, Energy Safety should also defer to the SCE Board’s determination of who is a policy-maker and executive officer of SCE.

At the workshop, NorthStar suggested expanding the scope of Energy Safety’s review beyond what is permitted by the Pub. Util. Code. NorthStar included “Holding Company CEOs” and “All Senior Vice Presidents” in its list of possible executive officers.⁶ However, Pub. Util. Code 8389(e) does not apply to executive officers of the holding company who are not executive officers of the utility. Pub. Util. Code 8389(e) and Pub. Util. Code 451.5 by their terms apply only to executive officers of the “electrical corporation” and executive officers of the “public utility,” respectively. EIX is not an electrical corporation or a public utility, and therefore a person’s role at EIX is not relevant for purposes of Pub. Util. Code 8389(e)(4) and (6).⁷ In addition, EIX officers are elected by the EIX Board. Any EIX officer who has not also been elected an officer of SCE by the SCE Board (e.g., EIX’s CEO is not an elected officer of SCE) is not “subject to the approval of the board of directors” of the “public utility” and therefore cannot be an executive officer of SCE under Pub. Util. Code 451.5 or 8389(e). The Commission has interpreted similar language in SB 901 (the ratepayer funding prohibition in Pub. Util. Code 706 applies to “an officer of an electric corporation”) as meaning that, even for shared officers of EIX and SCE, the provision applies only to “shared officers who are Rule 3b-7 officers of SCE.”⁸ Energy Safety should similarly adopt the Commission’s approach and apply Pub. Util. Code 8389(e)(4) and (6) only to SCE’s Rule 3b-7 executive officers.

³ See 17 CFR 240.16a-1(f).

⁴ D.21-08-036, p. 419.

⁵ *Id.*

⁶ Slide 5 of NorthStar’s presentation at the Sept. 29 workshop that Energy Safety’s Docket #2022-EC describes as “Presentation on Potential Changes to Executive Compensation Guidelines” (“NorthStar Presentation on Potential Changes”).

⁷ See D.21-08-036 at p. 419 (“SCE correctly notes that EIX is not an electric corporation and that SB 901 does not apply to EIX”).

⁸ D.21-08-036, p. 419.

In addition, NorthStar included Vice Presidents of risk management, safety, and wildfire mitigation in its list of possible executive officers.⁹ However, as explained above, only policy-makers can be executive officers, and none of SCE’s twenty-four Vice Presidents are policy-makers.

Finally, it should be noted that Pub. Util. Code 451.5 and Rule 3b-7 differ in that the former lists three specific positions as policy makers—president, secretary, and treasurer—while the latter lists only the president. The three positions listed in Pub. Util. Code 451.5 reflect repealed corporate law provisions that previously required California corporations to have as officers at least a president, a secretary, a treasurer, and a vice president.¹⁰ With only four officer positions, each one would have a policy-making function. SCE has approximately forty officer positions. Its Secretary and Treasurer are officers who do not have policy-making functions and therefore are not executive officers for purposes of Pub. Util. Codes 451.5 or 8983(e), or for Rule 3b-7. In addition, the SCE Board does not evaluate the performance of the Secretary, the Treasurer, or any of SCE’s twenty-two other Vice Presidents.¹¹ SCE’s CEO evaluates the performance of Vice Presidents and determines whether to continue to employ or terminate them. The SCE Board focuses on more senior officers.¹² Accordingly, SCE’s Secretary and Treasurer are also not executive officers because they are not “employed by the public utility subject to the approval of the board of directors.”

B. The Phrase “Compensation Structure for... Contracts” in Pub. Util. Code 8389(e)(6)(A) Refers to Employment Contracts that Commit to a Compensation Structure

Pub. Util. Code 8389(e)(6)(A) specifies certain requirements for the “compensation structure for any new or amended contracts for executive officers, as defined in Pub. Util. Code 451.5.”

When the language for Pub. Util. Code 8389(e)(6)(A) was being developed in mid-2019, SCE understood through legislative negotiations that the reference to “compensation structure for... contracts for executive officers” was intended to apply to employment contracts of the type announced by PG&E Corporation in April 2019 for William D. Johnson to become its CEO and President. In that contract, PG&E committed to a specific compensation structure for three years.

SCE does not enter into any such contracts with its executive officers. SCE advises its executive officers, and they agree, that SCE may modify their compensation at any time in SCE’s discretion.

Since SCE does not contractually commit to a compensation structure for any of its executive officers, the requirements in Pub. Util. Code 8389(e)(6)(A) should not apply to SCE’s executive officers.

⁹ NorthStar Presentation on Potential Changes, slide 5.

¹⁰ Repealed Corporations Code 821. It was replaced by Corporations Code 312, which requires a chief financial officer instead of a treasurer. SCE’s chief financial officer is a Rule 3b-7 executive officer.

¹¹ The Secretary and the Treasurer are also Vice Presidents.

¹² See Charter for the Compensation and Executive Personnel Committee for SCE’s Board of Directors, at Article IV, section 1(b). This document is available at <https://library.sce.com/content/dam/sce-doclib/documents/aboutus/SCECEPAmendedCharter.pdf> (as of October 15, 2021).

Energy Safety staff indicated at the workshop that it was interpreting “compensation structure for... contracts” as applying to *every* executive officer, regardless of whether or not the electrical corporation has a contractual commitment to a specific compensation structure for the executive officer. Under Energy Safety’s proposed interpretation, the compensation for each of SCE’s executive officers would need to comply with multiple requirements that were not intended to apply to those officers under the statute.

In addition, Energy Safety’s proposed interpretation goes against the long-established principle of statutory interpretation that ambiguous text must be interpreted narrowly if it is part of a restriction to a general policy or right.¹³ The Commission’s approach in a related context is illustrative of this maxim. Pub. Util. Code 706’s prohibition on customer funding of “officer” compensation is an exception to the general policy of customer funding of reasonable employee and service provider compensation. When the Commission interpreted the ambiguous term “officer” as meaning “executive officer” under Rule 3b-7, the narrow interpretation was in accord with the applicable principle of statutory interpretation. Similarly, the restrictions in Pub. Util. Code 8389(e)(4) and (6) are exceptions to the general right of SCE to establish a compensation structure for its executive officers and to change that structure in its discretion. Energy Safety should follow the approach of the Commission and narrowly interpret the ambiguous phrase “compensation structure for... contracts for executive officers” as applying solely to employment contracts that commit to a specific compensation structure for the executive officer, such as PG&E’s 2019 contract for Mr. Johnson.

C. Energy Safety Should Reconsider Its Proposed Test for Pub. Util. Code 8389(e)(6)(A)(i)(I)

To the extent that Pub. Util. Code 8389(e)(6)(A) applies to executive officers’ compensation structure, Pub. Util. Code 8389(e)(6)(A)(i)(I) requires that the “the primary portion of the executive officers’ compensation [be] based on achievement of objective performance metrics.” SCE requests that Energy Safety reconsider its proposed guidance for this section, specifically as the proposals relate to its: a) interpretation that “primary portion” means a majority; and b) proposed test to determine the proportion that incentive compensation comprises of overall compensation. SCE also suggests that Energy Safety’s guidance clarify that: a Compensation Committee’s use of upward or downward discretion does not prevent annual incentive compensation from being based on achievement of objective performance metrics; and stock options and restricted stock units are based on the achievement of objective performance metrics

a. “Primary Portion” is not Synonymous with “Majority”

Energy Safety has proposed a test requiring the “majority of the executive compensation reward” to be based on the achievement of objective performance metrics. Energy Safety should reconsider its proposed test as “majority” does not have the same meaning as “primary portion.” “Primary portion” is the most among the group. It does not need to be over fifty percent (i.e., it does not need to be the majority) when, as is the case here, the group is larger than two.

¹³ See *Maracich v. Spears*, 570 U.S. 48, 60 (2013) (quoting *Commissioner v. Clark*, 489 U.S. 726, 739 (1989): “An exception to a ‘general statement of policy’ is ‘usually read... narrowly in order to preserve the primary operation of the provision.’” See *Smart Corner Owners Association v. CJUF Smart Corner LLC*, 279 Cal.Rptr.3d 11, 32 (2021): “Statutory exceptions are to be narrowly or strictly construed.”

In order for the test to correctly reflect the statutory language (i.e., to test for “primary portion” and not “majority”), the test should be whether incentive compensation based on achievement of objective performance metrics is (i) larger than base salary and (ii) larger than incentive compensation that is not based on the achievement of objective performance metrics.

b. Grant Value Should be Used Instead of Threshold Value

A related issue is how to value compensation for Pub. Util. Code 8389(e)(6)(A)(i)(I). The most uniform approach would be to use the grant value of long-term incentive compensation as determined for accounting purposes. That is the value that is disclosed in proxy statement summary compensation tables for executive officers who are proxy officers. It is also the value that is typically used for benchmarking and setting incentive compensation for executive officers. For consistency, target value would also be used for short-term incentive compensation.

Instead, Energy Safety has proposed calculating the value of incentive compensation “at both the threshold and maximum reward levels.” As the following examples illustrate, incentive compensation should not be valued at the threshold payout level when determining the primary portion of compensation for the compensation *structure*. Assume an electrical corporation sets target total direct compensation for an executive officer at \$700,000, allocated as follows: \$250,000 base salary; \$50,000 in target incentive compensation not based on the achievement of objective performance metrics; and \$400,000 in target incentive compensation based on the achievement of objective performance metrics. Assume also that (as is the case for SCE’s long-term incentives) the threshold payout level is 25% of target and the maximum payout level is 200% of target for all the incentive compensation. At the target grant value (i.e., using the compensation value that is used for accounting purposes, proxy disclosure, and benchmarking and setting compensation), \$400,000 out of \$700,000 (i.e., 57%) is based on the achievement of objective performance metrics. This compensation structure clearly complies with Pub. Util. Code 8389(e)(6)(A)(i)(I). But it would fail Energy Safety’s proposed test because at the threshold payout level, \$100,000 out of \$362,500 is based on the achievement of objective performance metrics.¹⁴ A more stark example is that if the payout for threshold performance is set at 0% (which is a common practice), it would be impossible for a compensation structure to satisfy the proposed Energy Safety test, even if 99% of target total direct compensation was based on the achievement of objective performance metrics.

Threshold and maximum performance likelihoods and payout amounts are taken into account in the determination of grant value for accounting purposes, so by using grant value for the primary portion test, Energy Safety can avoid the problem (shown in the examples above) with mandating that the value of incentive compensation for the primary portion test be determined through separate calculations based on threshold and maximum payouts.

¹⁴ The \$362,500 reflects the total direct compensation that would be paid if threshold performance occurred for all incentives: \$250,000 of base salary; plus \$12,500 in incentive compensation not based on the achievement of objective performance metrics (i.e., 25% of \$50,000); plus \$100,000 in incentive compensation based on the achievement of objective performance metrics (i.e., 25% of \$400,000). The assumed payout of \$100,000 in incentive compensation based on the achievement of objective performance metrics is 28% of this \$362,500, compared to the 69% comprised of base salary.

c. Annual Incentives Can Count for the Primary Portion Even if Discretion is Used

Another issue is what types of incentive compensation are “based on the achievement of objective performance metrics.” The use of the phrase “based on” means that the achievement of objective performance metrics has to be a basis, but does not need to be the sole basis, for the incentive compensation. Accordingly, the discretion that is typically provided to Compensation Committees to adjust the scoring for annual incentives does not prevent annual incentive compensation from being based on the achievement of objective performance metrics. For example, if the achievement of objective performance metrics would result in a score of five out of ten points, and the independent Compensation Committee uses positive or negative discretion to adjust the score by two points to take into account real-world developments after metrics were established, then the final scoring would still be “based on” the achievement of objective performance metrics.

d. Stock Option and Restricted Stock Unit Values are Based on the Achievement of Objective Performance Metrics

One of the questions raised at the workshop was whether stock options and restricted stock units count as compensation based on the achievement of objective performance metrics. Stock options clearly do. The change in EIX’s stock price is the objective performance metric. EIX sets the exercise price for its options equal to the closing stock price on the date of grant. If the stock price stays flat or decreases compared to the exercise price, then the options will have zero value. If the stock price increases above the exercise price, then the recipient will gain from that increase when exercising the stock option and the gain is directly dependent on the extent of that appreciation in value. The same basic argument applies with respect to restricted stock units. The objective performance metric is the change in company stock price. If the stock price on the date of payout is above the stock price on the grant date, then the payout value will be more than the grant value. If the stock price on the date of payout is less than the stock price on the grant date, that will result in a lower value.

D. Energy Safety’s Proposed Test for Pub. Util. Code 8389(e)(6)(A)(i)(II) is Inappropriate

To the extent that Pub. Util. Code 8389(e)(6)(A) applies to executive officers’ compensation structure, Pub. Util. Code 8389(e)(6)(A)(i)(II) requires that there be “No guaranteed monetary incentives in the compensation structure.” The simplest and best interpretation of this requirement is that when incentive compensation is granted, there must be no guaranteed level of payout. In other words, there must be some risk on the part of the executive officer.

Unfortunately, Energy Safety has proposed an alternative approach that is inappropriate and does not follow from the statutory text. Energy Safety has proposed requiring electrical corporations to certify or state that “Compensation associated with a performance metric(s) will not be earned if the threshold metric target for that performance metric is not achieved.” At the workshop, Energy Safety explained that this test would not be satisfied if a Compensation Committee has

the ability to use upward discretion in the event of below-threshold performance. However, a Compensation Committee’s ability to use upward discretion does not in any way provide a “guaranteed” payout to executive officers. SCE’s Compensation Committee is independent and has a fiduciary duty to use its business judgment in the best interests of the company, and not for the benefit of executive officers. In fact, we don’t recall the last time the Compensation Committee even used its authority to exercise upward discretion.

Preserving the ability to adjust annual incentive compensation upward and downward is important to maintaining focus on the overall goals of safety and financial stability. Formulaic and overly rigid structures could lead to unintended consequences. For example, if a certain performance metric is technically “failed” early in the year and the reason for that failure was beyond the reasonable control of the company, a formulaic approach could potentially undermine performance in that metric category for the remainder of the year by removing any incentive to perform well. Allowing upward discretion in such a situation (which would not guarantee a payout, since upward discretion would only be exercised by the independent Compensation Committee if doing so was, in its judgment, in the best interests of the company) incentivizes continued performance towards the ultimate goals of safety and financial stability.

Energy Safety should replace its proposed requirement with a requirement that electrical corporations certify or state that there is no guaranteed level of payout at grant for executive officer incentive compensation. Such a requirement would be in accordance with the statutory text and would continue to allow upward and downward discretion, which is a key tool to help ensure continued performance.

E. SCE Recommends Clarifications to Energy Safety’s Proposed Test and Disclosure Requirement for Pub. Util. Code 8389(e)(6)(A)(iii)

Energy Safety has proposed that Pub. Util. Code 8389(e)(6)(A)(iii) would be satisfied by a certification or statement that all executive officers “receive a portion of their performance-based compensation that is delayed three or more years, with that compensation based on the electric corporation’s performance and value over those proceeding three or more years.”

SCE recommends that the determination of whether compensation is “delayed three or more years” be calculated by subtracting the calendar year of grant from the calendar year of payment. For example, if a grant is made in 2022 and is paid out in 2025, that would satisfy the requirement of the compensation being delayed three years (2025 minus 2022 equals a delay of 3 years: 2022, 2023, and 2024).

All of the long-term incentives granted to SCE’s executive officers are valued in relation to, and/or paid out in the form of, EIX common stock. The “performance and value” of EIX common stock is clearly “based on the electrical corporation’s performance and value” since SCE is the largest driver of EIX’s performance. However, EIX used to have another significant subsidiary and may again have one in the future. The use of the phrase “based on” means that the performance and value of SCE has to be a basis, but does not need to be the sole or even primary basis, for the performance-based compensation. Accordingly, SCE recommends that Energy

Safety's guidance make clear that performance-based compensation is "based on the electric corporation's performance and value" if it is valued in relation to, and/or paid out in the form of, stock of either the electrical corporation or its holding company.

Finally, as this letter explains above, both stock options and restricted stock units are based on the achievement of objective performance metrics. They therefore constitute "performance-based compensation" for Energy Safety's proposed test for Pub. Util. Code 8389(e)(6)(A)(iii).

Energy Safety has also proposed a disclosure requirement pursuant to Pub. Util. Code 8389(e)(6)(A)(iii): all submissions must "include for each internal executive classification the compensation components (base pay, annual bonus/incentive information, and long-term incentive pay), including percentages of overall compensation for each component at both the threshold and maximum award levels." This disclosure requirement must be limited to the electrical corporation's executive officers. It should not apply to any other "internal executive classification[s]." It also should not apply to any executive officer whose compensation is not subject to the requirements of Pub. Util. Code 8389(e)(6)(A); see the discussion in Section B above.

We commend Energy Safety for stating at the workshop that it would not seek information regarding dollar amounts of compensation. Its written guidance should reiterate and follow that statement. California courts have held that an employee's salary, incentive pay, and other compensation is personal financial information within the zone of privacy protected by Article I, Section 1 of the California Constitution. The right of privacy may be abridged to accommodate a compelling public interest, but only to the extent absolutely necessary. As reflected by Energy Safety's statement at the workshop, information regarding dollar amounts of compensation is not necessary for Energy Safety to implement the provisions of Pub. Util. Code 8389(e). In addition, Pub. Util. Code 8389(e) focuses solely on the executive compensation structure as established. It is not necessary for Energy Safety to obtain information on actual payouts to individual executive officers. Contrary to NorthStar's suggestion otherwise, we request Energy Safety to continue to respect individual executive officers' right to privacy and not pursue any such information. Finally, we recommend that Energy Safety accommodate confidential treatment for any individual compensation information (e.g. base pay as a % of target total direct compensation) of executive officers that is not already public.

F. SCE's Executive Officer Compensation Meets the Requirements for Pub. Util. Code 8389(e)(6)(A)(iv), as is Reflected in Publicly-Available Information

To the extent that Pub. Util. Code 8389(e)(6)(A) applies to executive officers' compensation structure, Pub. Util. Code 8389(e)(6)(A)(iv) requires the "minimization or elimination of indirect or ancillary compensation that is not aligned with shareholder and taxpayer interest in the electrical corporation." Energy Safety has asked for input on what constitutes "indirect or ancillary compensation." We are unaware of the phrase being a term of art with a specific meaning. Presumably it refers to perquisites such as personal financial planning services or golf club memberships. SCE does not provide perquisites to executive officers.

A question was raised at the workshop regarding whether supplemental executive retirement plan (“SERP”) benefits are “indirect or ancillary compensation.” SERPs are not considered perquisites, and should not be categorized as indirect or ancillary compensation. In addition, SERPs are clearly aligned with shareholder and taxpayer interest in the electrical corporation. They are part of a competitive compensation package used to attract well-qualified executive officers and to retain well-qualified executive officers with a deep knowledge of the company. Longevity is important not only for continuity of performance, but also because avoiding excess turnover helps the company minimize the significant time, resources, and costs involved in searches for new executive officers. Furthermore, pension and retirement programs (such as SERPs) are encouraged by the government, as is reflected by the deferred taxation for SERP benefits that are accrued but not yet paid.

Finally, we encourage Energy Safety to avoid imposing unnecessary submission requirements for Pub. Util. Code 8389(e)(6)(A)(iv). SCE’s compensation structure for executive officers is already detailed in proxy statements, General Rate Cases, General Order 77-M filings, and previous AB 1054 submissions and data request responses.

G. Draft Guidance Should Not be Issued for NorthStar Proposals

We commend Energy Safety for proposing guidance based on specific interpretations of Pub. Util. Code 8389(e)(6) that it explained at a public workshop. We have discussed the interpretations we disagree with in this letter, but Energy Safety’s approach facilitates a constructive comment process that we trust will lead to better guidance.

In contrast, NorthStar has discussed possible guidance for Pub. Util. Code 8389(e)(4) without providing any specifics on how the guidance is justified under the statutory text. SCE suggests that Energy Safety not issue any draft guidance on NorthStar proposals until (i) NorthStar specifically explains to the electrical corporations (in a public workshop or other context) how its proposals are justified by Pub. Util. Code 8389(e)(4), and (ii) the electrical corporations are given an opportunity to provide written comments on NorthStar’s statutory interpretations.

SCE has already explained in its AB 1054 executive compensation structure submissions how and why its compensation structure for executive officers complies with Pub. Util. Code 8389(e)(4). The Wildfire Safety Division and Energy Safety have both approved SCE’s executive compensation structure as complying with Pub. Util. Code 8389(e)(4). Given that history, it is particularly important that no new guidance be issued for Pub. Util. Code 8389(e)(4) without: a specific explanation of how the guidance is justified by the statutory text; and a sufficient opportunity for comments.

H. NorthStar’s Procedural Proposals Need to be Modified

NorthStar proposed that 2022 executive compensation submissions be made in March 2022, and that four months be allotted for discovery, requests for additional information, and Energy Safety feedback, with final approval or denial occurring in summer of 2022. SCE disagrees with this approach. SCE establishes and communicates its annual incentive goals to *all* employees (executive officers, represented employees, etc.) in January and February of the goal year to set expectations and incent the intended performance for the year. SCE’s philosophy is to use the same goals for all employees and to communicate those goals to employees early in the year so

that the entire company works together to achieve the company's goals. Similarly, the annual grant date for long-term incentives is on or about March 1 of each year. Accordingly, it is too late to make changes to the compensation structure for a year after the beginning of March of that year.

As SCE has explained previously, we recommend a process in which Energy Safety issues specific and appropriate guidance in the summer or early fall for the following year's executive compensation structure. SCE is about to enter the finalization stage for its 2022 executive compensation structure. We propose that Energy Safety not provide any new substantive requirements for 2022 and that it instead focus on guidance for 2023 executive compensation structures. If the final guidance for 2023 is issued by the summer or early fall of 2022, SCE will have time to thoughtfully structure its 2023 executive compensation structure to comply with the guidance. Energy Safety's review of SCE's final 2023 executive compensation structure would then occur in 2023 and be confined to (i) determining whether SCE substantively complied with the guidance for 2023 and (ii) evaluating changes to the guidance for 2024 executive compensation structures.

NorthStar also proposed that 2022 executive compensation submissions be made using a standardized report template that NorthStar and/or Energy Safety will provide. NorthStar said that the template would require the electrical corporations to report annual incentive success measures using categories established by NorthStar and/or Energy Safety, instead of the categories used by the electrical corporation. While SCE understands and is supportive of the desire for consistency in reporting, SCE recommends that the template include an express disclaimer that the categorization of success measures in the report to Energy Safety is based on reporting requirements specified by Energy Safety and does not necessarily reflect how the electrical corporation categorizes the success measures for its communications to employees, reporting to other regulatory agencies, or other purposes.

CONCLUSION

SCE appreciates the opportunity to submit its comments on the workshop. If you have any questions, or require additional information, please contact me at Michael.Backstrom@sce.com.

Sincerely,

//s//

Michael Backstrom
Vice President, Regulatory Policy
Southern California Edison Company

CC: Adrian Ownby, Public Utility Research Analyst, Office of Energy Infrastructure Safety,
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Service List for Executive Compensation