

December 9, 2021

**BY ENERGY SAFETY E-FILING**

 Melissa Semcer  
 Program Manager, Electric Safety Policy Division  
 Office of Energy Infrastructure Safety  
 California Natural Resources Agency  
 715 P Street, 20<sup>th</sup> Floor  
 Sacramento, CA 95814

 Re: **Pacific Gas and Electric Company’s Reply Comments on the Office of Energy Infrastructure Safety’s Draft 2022 Wildfire Mitigation Plan Update Guidelines 2022-WMPs**

Dear Ms. Semcer:

Pursuant to the instructions in the Office of Energy Infrastructure Safety’s (“Energy Safety”) November 9, 2021 letter, Pacific Gas and Electric Company (“PG&E”) submits the following reply comments on the Draft 2022 Wildfire Mitigation Plan (“WMP”) Update Guidelines (the “Draft Guidelines”).

**RESPONSES TO THE JOINT COMMENTS FILED BY THE PUBLIC ADVOCATES OFFICE, THE UTILITY REFORM NETWORK, AND THE MUSSEY GRADE ROAD ALLIANCE (“JOINT STAKEHOLDERS”)**

Joint Stakeholders offer four proposals that would provide more time for public comment but, each of which, would reduce the amount of time provided to Energy Safety to conduct its WMP evaluation. Our understanding of these four proposals is summarized in the table below. We used the PG&E 2022 WMP as an example, but similar impacts would occur for the WMPs of other electrical corporations.

<b>Joint Stakeholders’ Proposal</b>	<b>WMP Update Deadline</b>	<b>Public Comments</b>	<b>Draft Action Statement</b>	<b>Reduction in Energy Safety Time</b>
Move the deadline for Energy Safety to Issue Draft Action Statements 45 days earlier	February 4, 2022	April 4, 2022 – April 11, 2022	March 21, 2022	45 fewer days
Revert to the schedule used in 2021	February 4, 2022	March 16, 2022	May 2022 (specific day unspecified)	28 fewer days (than in the staggered scheduled)

Joint Stakeholders' Proposal	WMP Update Deadline	Public Comments	Draft Action Statement	Reduction in Energy Safety Time
Permit supplemental public comments and supplemental reply comments	February 4, 2022	March 3, 2022 (initial) and April 14, 2022 (supplemental)	May 6, 2022	69 fewer days (from supplemental comments)
Extend the public comment period by 30 days	February 4, 2022	March 24, 2022	May 6, 2022	21 fewer days

A. Joint Stakeholders' Proposals Do Not Provide Energy Safety Sufficient Time to Conduct its Evaluation

Reducing the amount of time for Energy Safety to perform its own evaluation of the utilities' WMPs — in the interests of providing more time for public comment — would not be beneficial to the WMP process. Joint Stakeholders offer four separate suggestions, each of which would require Energy Safety to significantly reduce the amount of time for performing its own evaluation, and each of which should be rejected for this reason.

Joint Stakeholders first suggest that Energy Safety only be allowed 45 days — rather than the 90 proposed in the Draft Guidelines — to issue a Draft Action Statement or otherwise issue its initial findings.<sup>1</sup> Thus, for PG&E, Energy Safety would be required to publish its Draft Action Statement on March 21, 2022 (45 days after PG&E submits its WMP) rather than on May 26, 2022. Under this proposal, public comment would then be due 14 to 20 days after Energy Safety issues its Draft Action Statement. For PG&E's WMP, public comment would therefore be due between April 4 and April 11, 2022. Implementing such a significant regulatory change so soon before the WMP deadline is not practical and would require Energy Safety to work out a substantial number of important details ahead of time (including foundational issues such as what form Energy Safety's new, abbreviated review would take). Furthermore, this proposal is logically inconsistent. If public comments are as valuable as Joint Stakeholders argue,<sup>2</sup> which PG&E agrees that these comments are valuable, it does not seem prudent for Energy Safety to issue its Draft Action Statement before receiving public comment. Finally, public comments cannot replace the analysis performed by the regulatory agency in charge of approving or denying WMPs and thus reducing Energy Safety's ability to perform such analysis would not be helpful in improving the overall WMP process.

The Joint Stakeholders' second proposal, to revert to the 2021 schedule, raises similar concerns. This proposal would benefit Joint Stakeholders at the expense of Energy Safety.<sup>3</sup> Joint Stakeholders' suggestion to return to last year's schedule would eliminate the staggered schedule

<sup>1</sup> Joint Stakeholders Opening Comments at p. 9.

<sup>2</sup> *See id.* at pp. 4-6.

<sup>3</sup> *Id.* at p. 11.

in the Draft Guidelines and force Energy Safety to simultaneously review all the utilities' WMPs and comments on those WMPs, eliminating the additional time provided to Energy Safety by the new staggered schedule.

The Joint Stakeholders' third proposal is that they be allowed to file a second set of public comments on April 14, 2022, nearly six weeks after the due date for their comments on PG&E's 2021 WMP.<sup>4</sup> Aside from the fact that this would create a regulatory disparity in that PG&E's WMP would be subject to public comment for an additional month longer than SDG&E and two weeks longer than SCE, this solution does nothing to resolve the time problem identified by Energy Safety and, in fact, only exacerbates this problem. Under this proposal, in addition to the first set of public comments, Energy Safety will also have to review a second 15-page supplemental filing filed by every single party who wishes to file public comments. On top of this burden, all the three large investor-owned utilities ("IOUs") would then be forced to file reply comments to each of these supplemental filings and each supplemental filing would then spawn three sets of reply comments (one from each of the three large IOUs), in much the same way mythical hydra sprouted new heads. Thus, instead of providing Energy Safety with additional time to conduct its review, as is intended by the Draft Guidelines, this proposal would instead create additional work for Energy Safety.

The Joint Stakeholders' fourth proposal to extend the public comment period by 30 days is equally problematic. This proposal would reduce Energy Safety's evaluation period by three weeks, while correspondingly increasing the public comment period by three weeks.<sup>5</sup> As with the first proposal, reducing Energy Safety's ability to perform its evaluation in order to extend the period for public comment is not a tradeoff that will improve the WMP process. While the public comment process is important, it is not equivalent to the work performed by Energy Safety, as Joint Stakeholders' proposal implies.

Given that each of these four proposals from Joint Stakeholders would inhibit Energy Safety from achieving its goal of providing itself additional time to conduct a thorough evaluation, these proposals would not be beneficial to the WMP process and should be rejected.

B. Joint Stakeholders' Proposal Ignores the Need for Reply Comments by the Utilities

In suggesting additional time for public comment and calculating the amount of time these changes will leave Energy Safety to perform its own analysis, Joint Stakeholders also ignore the fact that the utilities will need to file reply comments that will also be considered by Energy Safety.<sup>6</sup> Thus, the deadlines proposed by Joint Stakeholders actually provide Energy Safety with seven less days than stated. Given that Joint Stakeholders' proposals already reduce the amount of time for Energy Safety to perform its own analysis, reducing this period by an extra seven days would make this process even more challenging.

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at pp. 12-13.

<sup>6</sup> *See id.* at p. 12

### C. Joint Stakeholders Mischaracterize the Discovery Process

PG&E disagrees with the Joint Stakeholders' statement that the 2021 WMP process was characterized by the "failure of the utilities to abide by the discovery deadlines."<sup>7</sup> PG&E worked tirelessly to provide responses to the massive number data requests it received, which contained hundreds of discrete requests and totaled over 1,000 different sub-requests, many of which were served simultaneously. Contrary to the Joint Stakeholders' assertions, the vast majority of these requests were responded to within the expedited three-day response time.<sup>8</sup>

PG&E also notes that part of what contributed to delays in discovery last year was the volume of material requested. PG&E appreciate Energy Safety's direction to stakeholders as to the scope of discovery this year:

Stakeholders must endeavor to avoid extensive and comprehensive data requests in the 6 weeks before the electrical corporation must submit its 2022 WMP Update if the data could reasonably be requested outside of that timeframe. In addition, Energy Safety reiterates bullet #5 in Discovery and Document Maintenance (above), which states that "parties conducting discovery must first analyze the significant data that will be submitted" with the 2022 WMP Updates.<sup>9</sup>

If stakeholders act in a manner consistent with this direction, this should address any concerns about discovery in the 2022 WMP.

Finally, in order to provide responses as quickly and efficiently as possible, for the 2021 WMP, PG&E segmented data requests so as to deliver immediate responses to certain requests and not delay these responses by waiting to complete the more difficult requests. Additionally, PG&E engaged the parties serving the data requests in a meet and confer process when it appeared the responses could potentially be delayed to explain the difficulties in obtaining the requested data and prevent any misunderstandings. Consequently, given PG&E's track record on this issue in 2021, Joint Stakeholders' criticisms of the data request process are misplaced.

### **CONCLUSION**

PG&E appreciates Energy Safety's efforts to refine the WMP and to allow for more time to conduct a thorough analysis. PG&E respectfully submits these reply comments and looks forward to continuing to work with Energy Safety to promote wildfire safety.

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<sup>7</sup> *Id.* at p. 7.

<sup>8</sup> *Id.* It is unclear to PG&E how the Joint Stakeholders calculated an average response time of 4.8 days or if that number was impacted by a few outlier responses. While PG&E believes that the vast majority of requests were answered within 3 days, some may have taken substantially longer, and thus referencing an average response time does not provide an accurate picture of discovery.

<sup>9</sup> Draft 2022 WMP Guidelines, Attachment 5, p. 13.

If you have any questions, please do not hesitate to contact the undersigned at [jay.leyno@pge.com](mailto:jay.leyno@pge.com).

Very truly yours,

*/s/ Jay Leyno*

Jay Leyno