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BY OEIS E-FILING

Jeff Brooks
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Re: **Office of Energy Infrastructure Safety Regulations to be Adopted as Permanent Regulations: Article 1; Reporting, Investigations, Violations; Sections 29300, 29302 2022 Rulemaking Docket (2022-RM)**

Dear Mr. Brooks:

Pacific Gas and Electric Company, Southern California Edison, and San Diego Gas & Electric (collectively, the “Joint IOUs”) jointly submit the following comments in response to the Office of Energy Infrastructure Safety’s (“Energy Safety”) Regulations to be Adopted as Permanent Regulations: Article 1; Reporting, Investigations, Violations; Sections 29300, 29302. Notice of these proposed regulations, to be adopted through the Office of Administrative Law’s (“OAL”) regular rulemaking process, was served on the Joint IOUs on April 27, 2022.

INTRODUCTION

Governor Gavin Newsom signed Assembly Bill 111 and established Energy Safety within the Natural Resources Agency on July 12, 2019. AB 111 provided that, on July 1, 2021, Energy Safety would become the successor to, and be vested with, all of the duties, powers, and responsibilities of the Wildfire Safety Division (“WSD”), a division of the California Public Utilities Commission (“CPUC”).¹ Prior to July 1, 2021, the WSD has been charged with reviewing, approving, or denying the wildfire mitigation plans (“WMPs”) submitted by electrical corporations as part of a coordinated effort to reduce the risk of ignition of wildfires from utility infrastructure.² Pursuant to Energy and Infrastructure Safety Act Section 15475.6, Energy Safety was instructed to use the CPUC’s Rules of Practice and Procedure until the new agency adopted its own set of rules, so as to provide the OEIS with a smooth transition and functioning rules in this interim period. Since September 13, 2021, Energy Safety has been operating under

¹ See also Govt. Code § 15475.

² See Pub. Util. Code §326; see also Govt. Code § 8386.1.

emergency rules of process and procedure relating to certain specific requirements, including ignition notifications, which are discussed below.

On April 27, 2022, Energy Safety provided notice that it proposed to adopt two separate sets of permanent regulations. These comments focus only on the regulations relating to reporting requirements for the utilities, entitled “Article 1; Reporting, Investigations, Violations, Sections 29300, 29302,” and specifically on the portion of these proposed regulations related to ignition notifications.

The Joint IOUs commend Energy Safety on its effort to advance rules and regulations to ensure clear processes when collaborating with utilities on wildfire mitigation work. The Joint IOUs share Energy Safety’s goal of eliminating the threat of catastrophic wildfires and welcome Energy Safety’s oversight of these important topics. The Joint IOUs, therefore, offer the following comments to help improve certain specific aspects of the proposed regulations relating to notification requirements.

SECTION 29300 – NOTIFICATIONS

The current emergency rules setting out Energy Safety’s ignition notification requirements, that has been in effect since September 13, 2021, state as follows:

- (a) A regulated entity shall notify the Office within 12 hours of observing:
 - (1) A fault, outage, or other anomaly on infrastructure it owns or operates occurring within the vicinity of a fire requiring a response from a fire suppression agency; or
 - (2) A wildfire threat that poses a danger to infrastructure it owns or operates requiring a response from a fire suppression agency.
- (b) A regulated entity shall notify the Office within four hours of receiving notice that infrastructure that it owns or operates is being investigated by a governmental agency for involvement in potentially causing an ignition.³

The proposed permanent rules, which would replace the current emergency rules, state that:

- (a) A regulated entity must notify the Office within one business day after the regulated entity knows, or has reason to know, with respect to a fire requiring a response from a fire suppression agency, when:
 - (1) A fault, outage, or other anomaly has occurred on infrastructure that it owns or operates within six hours of the start of the fire; and

³ 14 CCR § 29300.

- (2) The infrastructure with the fault, outage, or anomaly is within one mile of either the origin of the fire or perimeter of the fire at the time of the notification, whichever is known and closest.
- (b) A regulated entity must notify the Office within four hours after the regulated entity knows, or has reason to know, that either: (1) infrastructure owned or operated by the regulated entity might have caused a fire requiring a response from a fire suppression agency, or (2) a government entity is investigating whether infrastructure owned or operated by the regulated entity caused a fire.⁴

As can be seen from the language above, the proposed permanent rules revise the timing of when notifications are required to be submitted under subpart (a), and the Joint IOUs greatly appreciate the revisions Energy Safety made to this portion of the requirement. The change from a 12-hour reporting requirement to a one-business day requirement prevents the utilities from having to file notifications to Energy Safety in the middle of the night, over the weekends, and on public holidays. However, the proposed permanent rules do not meaningfully decrease the broad scope of either section of these notification requirements. Therefore, for the benefit of all parties, the Joint IOUs urge Energy Safety to further refine the proposed permanent rules for the reasons described below.

A. The Data Being Collected Under 29300(a) Helps Neither Energy Safety nor the Utilities Mitigate Wildfires

The proposed permanent notification requirement set out in 29300(a) is substantially overbroad and requires the utilities to spend a large amount of time collecting and analyzing data that has no relationship to wildfire mitigation or utility-caused fires in general. The scope of this proposed permanent rule is the same as that of the current emergency rule and, therefore, the same amount of data will be collected under both rules. Since the implementation of the emergency rules on September 13, 2021, PG&E alone has submitted approximately 1,100 notifications pursuant to 29300(a), which constitutes over 95% of PG&E's total submitted notifications under these rules. Furthermore, the number of notifications submitted by the Joint IOUs is expected to sharply increase during fire season, and PG&E estimates that it will be required to report approximately 2,800 notifications in the year 2022 under the current or proposed rules.

Of the approximately 1,100 notifications provided by PG&E thus far pursuant to 29300(a), only 171, or 15%, are actually related to PG&E infrastructure. Thus, 85% of the fires have no relationship to PG&E's electrical infrastructure and provide no informational value to mitigating wildfires or utility-caused fires. Consequently, gathering, analyzing, and reporting on these fires is beneficial to neither the utilities nor to Energy Safety, since no lessons can be

⁴ Regulations to be Adopted as Permanent Regulations: Article 1; Reporting, Investigations, Violations; Sections 29300, 29302 at p. 1.

learned from these fires. Indeed, the most common type of fire reported by PG&E under these requirements are structure fires, and it is not helpful to have the utilities continuously reporting urban or suburban kitchen or garage fires that pose no wildfire threat and just happen to take place in the vicinity of utility assets. Additionally, Energy Safety states that the reporting is beneficial to assessing the electrical corporations' WMPs and the events the WMPs are intended to prevent.⁵ However, the reporting requirement is not limited to the HFTD areas, where the WMP initiatives are focused. For instance, in 2022 alone, half of SDG&E's incident notifications have addressed ignitions outside of the HFTD areas.⁶ Thus, is the data that is being collecting data that could potentially skew impressions of WMP initiative performance by including information on urban and non-HFTD area infrastructure.

As a result, the Joint IOUs recommend that the language of Section 29300(a) be revised to exclude non-utility caused structure fires and facility fires that do not extend beyond utility assets. This modest revision will remove approximately 75% of the total notifications reported while maintaining the incidents that are important to understanding wildfire mitigation and utility-caused fires. Proposed language illustrating this change is provided below in Section F.

B. The Vast Quantity of Data Requested under 29300(a) Is Enormously Burdensome on the Utilities, Particularly During Fire Season When Reporting Will Spike and Will Siphon Resources From Other Necessary Work

The proposed notification rules also require the utilities to assign resources to fulfilling the reporting requirements of Section 29300(a) that would otherwise being used to respond wildfire threats. During certain times of the year this reallocation may not be so critical, but during peak fire season this could be particularly harmful and would not be an appropriate use of resources. Indeed, PG&E estimates that, under the extremely broad language that requires utilities to report non-utility caused fires, PG&E alone will be required to report between 15 and 20 notifications to Energy Safety each day during fire season, when these resources should be assigned to tracking and responding to fires. While the Joint IOUs do not dispute that reporting requirements are needed, reporting dozens of non-utility related urban and suburban fires each day during wildfire season is not an efficient use of resources. The Joint IOUs, therefore, again recommend that Section 29300(a) be revised to exclude non-utility caused structure fires and facility fires that do not extend beyond utility assets, as this would reduce the number of triggering events by approximately 75%, while maintaining the incidents that are valuable to understanding wildfire mitigation.

C. The Extremely Broad Nature of the Data Requested Under 29300(a) May Exceed Energy Safety's Jurisdiction

⁵ "Initial Statement of Reasons, Reporting Investigations, Violations, Sections 29300, 29302," California Office of Energy Infrastructure Safety (April 27, 2022).

⁶ To date in 2022, SDG&E has submitted 16 notifications, only 8 of which were in the HFTD areas.

Energy Safety arguably does not have the statutory authority to issue such a broad notification requirement as that contained in Section 29300(a). Energy Safety is the successor to, and vested with, all the duties, powers, and responsibilities of the WSD. The primary responsibility of the WSD has been to review and oversee compliance of the utilities' WMPs. This proposed notification requirement goes well beyond the wildfire mitigation efforts set forth in the electrical corporation WMPs to include any fault, outage, or "anomaly" occurring within one mile of a fire perimeter, including non-wildfires, and whether caused by the utility or not.

As described above, only approximately 15% of the 1,100 ignitions that PG&E has reported so far under Section 29300 are actually related to PG&E's infrastructure. Given this discrepancy, it is not clear that the Office of Energy Infrastructure Safety has the authority to compel utilities to provide information on thousands of ignitions every year that are completely unrelated to energy infrastructure. Furthermore, the jurisdictional argument for providing this data becomes even more tenuous when the information is of questionable value to both the utilities and to Energy Safety. Given this questionable authority, the Joint IOUs urge Energy Safety to revise Section 29300(a) as set out in Section F below.

D. The Four-Hour Reporting Requirement in 29300(b) Is Unnecessary and Not Beneficial in Certain Circumstances

Section 29300(b) requires utilities to notify Energy Safety within four hours of knowing, or having reason to know, that the regulated entity might have caused a fire, or that a government entity is investigating whether infrastructure owned or operated by the regulated entity caused a fire. However, the Joint IOUs believe that a four-hour notification requirement is not always necessary or helpful to Energy Safety. Indeed, providing additional time to gather and quality verify the information will allow the utilities to provide more high quality and useful information to Energy Safety. Thus, the Joint IOUs suggest that this four-hour requirement be made more flexible, so that utilities are required to report these incidents "as soon as reasonably possible or, at the very latest, within one business day." Sample language for this proposed revision is provided below in Section F. There is minimal benefit to requiring these notifications to be to meet a rigid four-hour notification requirement at the expense of the quality of the data being submitted.

E. The Quick Turnaround Time to Provide Certain Types of Data Under 29300(a) and 29300(b) Does Not Allow the Utilities to Quality Check that Data, Making Certain Data Requested of Lower Quality and Less Valuable

As part of operationalizing the current emergency rules, Energy Safety provided the utilities with a detailed spreadsheet that is to be completed for every notification submitted. A copy of this spreadsheet is attached to these comments as Attachment A. This spreadsheet contains 46 separate columns requesting specific information about each ignition that is being reported. Although Energy Safety has advised the utilities that they need only complete the fields for which they have the information at the time of reporting, given the abbreviated timeframe in which the utilities must notify Energy Safety, there is insufficient time to quality check the data that the utilities are able to provide—especially if Energy Safety shortens the time

frame for reporting fires believed to be caused by utility infrastructure to four hours. This means that the information provided to Energy Safety may frequently be based on incomplete investigations suffering from minimal and error-prone information that can be misleading and create more problems than it solves.

In particular, the utilities are concerned about the following fields in Attachment A where they believe the information to be of relatively low quality and not beneficial to report on such a short time window: (1) rfw_status; (2) fww_status; (3) hww_status; (4) fire_investigation; (5) fire_ahj; (6) suspected_initiating_cause; (7) determination; (8) equipment_failure; (9) object_contact; and (10) facility_contacted. If Energy Safety is considering utilizing the same, or a similar, spreadsheet as part of the permanent notification rules, the Joint IOUs urge Energy Safety to consider removing these fields from the spreadsheet given the relatively low quality of data that is available in such a short response time and the inability to perform quality control on this data.

F. Proposed Language for Section 29300 – Notification

Based on the above recommendations, the Joint IOUs propose the following revisions to the language of Section 29300 of the proposed permanent rules:

- (a) A regulated entity must notify the Office within one business day after the regulated entity knows, or has reason to know, with respect to a fire requiring a response from a fire suppression agency, when:
 - (1) A fault, outage, or other anomaly has occurred on infrastructure that it owns or operates within six hours of the start of the fire; and
 - (2) The infrastructure with the fault, outage, or anomaly is within one mile of either the origin of the fire or perimeter of the fire at the time of the notification, whichever is known and closest.
 - (3) **The above requirements exclude from notification: (i) non-regulated entity structure fires; and (ii) regulated entity facility fires that do not extend beyond the regulated entity's assets.**
- (b) A regulated entity must notify the Office as soon as reasonably possible or, at the very latest within one business day of when ~~four hours after~~ the regulated entity knows, or has reason to know, that either: (1) infrastructure owned or operated by the regulated entity might have caused a fire requiring a response from a fire suppression agency, or (2) a government entity is investigating whether infrastructure owned or operated by the regulated entity caused a fire.

Implementing the above requirements for Section 29300(a) would reduce the number of incidents reported by approximately 75% while retaining the incidents that are valuable to understanding wildfire mitigation and utility-caused wildfires. Similarly, revising the time

requirement for Section 29300(b) would allow for more flexibility for the less important triggering events, and improve the quality of the data reported to Energy Safety by allowing the utilities a short amount of additional time to gather information and perform quality control on that information.

CONCLUSION

The Joint IOUs appreciate Energy Safety's efforts to ensure clear processes and guidelines for collaborating with utilities on wildfire mitigation work. The Joint IOUs respectfully submit these comments identifying potential areas of improvement in the proposed regulations and look forward to working with Energy Safety to promote wildfire safety going forward.

If you have any questions, please do not hesitate to contact Wade Greenacre at wade.greenacre@pge.com, Peter Van Mieghem at peter.vanmieghem@sce.com, or Laura Fulton at lfulton@sdge.com.

Very truly yours,

/s/ Andy Abranches

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