



July 15, 2022

VIA ELECTRONIC FILING

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**Subject: Comments of the Public Advocates Office on 15-Day Noticed Amended Proposed Process Regulations, dated June 30, 2022
Docket #: 2022-RM**

Dear Director Thomas Jacobs,

The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits the following comments on the proposed permanent regulations submitted by the Office of Energy Infrastructure Safety (Energy Safety) regarding its amended process regulations¹ published on June 30, 2022, pursuant to Energy Safety's Notice of 15-Day Publication. We respectfully urge Energy Safety to adopt the recommendations discussed herein.

I. INTRODUCTION

On June 13, 2022, Cal Advocates provided comments on these process regulations. We continue to urge Energy Safety to adopt the recommendations in those comments for the purpose of promoting robust and meaningful stakeholder participation in Energy Safety's proceedings.²

In the instant comments, Cal Advocates provides additional comment on the revised process regulations.³

¹ Cal. Code of Regs., tit. 14, §§ 29100-29200 (Title 14. Natural Resources, Division 17. Office of Energy Infrastructure Safety, Chapter 1. Rules of Practice and Procedure) (process regulations).

² *Comments of the Public Advocates Office on Proposed Rulemakings on Process and Investigation Regulations, dated April 27, 2022, Docket #: 2022-RM, June 13, 2022.*

³ Rev. Cal. Code of Regs., tit. 14, §§ 29100-29200 (Title 14. Natural Resources, Division 17. Office of Energy Infrastructure Safety, Chapter 1. Rules of Practice and Procedure), published June 30, 2022 (amended process regulations or revised process regulations).

II. PROCESS REGULATIONS

A. Confidentiality (Section 29000)⁴

Cal Advocates continues to have concerns with the regulations in Section 29000 and the process for stakeholders who are not the proponent of designating information as confidential. In particular, the proposed regulations lack a means to challenge inappropriate or overly broad confidentiality designations. Cal Advocates hereby incorporates by reference its June 13, 2022 comments on these issues.

B. Accessibility (Sections 29100, 29101)⁵

Section 29100(c) of the revised process regulations states:

Each person who submits information through the [Energy Safety] Office's e-filing system must ensure that the information complies with the accessibility requirements set forth in Government Code section 7405. The office will not accept any information submitted through the e-filing system that does not comply with these requirements.⁶

This regulation requires any person who submits information to Energy Safety's e-filing system to comply with accessibility requirements⁷ before Energy Safety will accept the submission. However, Energy Safety's regulation is at odds with the statute it references as setting forth the accessibility requirements. The latter places the obligation *on the state agency* (in this case, Energy Safety) to make documents it receives and publishes accessible – not on members of the public who wish to provide input.⁸ This provision must be removed or revised.

If Energy Safety nonetheless seeks to transfer its accessibility responsibilities onto stakeholders, it should clarify the requirements. Currently, the regulations are unclear as to which accessibility requirements Energy Safety is requiring stakeholders to meet. The statutes setting forth the

⁴ Revised (Rev.) Cal. Code Regs., tit. 14, § 29000.

⁵ Rev. Cal. Code Regs., tit. 14, §§ 29100, 29101.

⁶ Rev. Cal. Code Regs., tit. 14 § 29100(c).

⁷ The proposed regulations cite Government Code section 7405, which references accessibility requirements of the Federal Rehabilitation Act of 1973, Section 508, as amended (29 U.S.C. Sec. 794d) (Rehabilitation Act).

⁸ Gov. Code section 7405 states in part:

State governmental entities, in developing, procuring, maintaining, or using electronic or information technology ... shall comply with the accessibility 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.

Gov. Code § 7405(a).

accessibility requirements contain voluminous and complex requirements for accessibility.² It is unclear whether Energy Safety is requiring stakeholders to comply with all these requirements or only some. Requiring stakeholders and members of the public to understand and comply with these complex, rigorous, and voluminous accessibility standards is both contrary to law and unreasonably burdensome.

Section 29100(b) provides that stakeholders can submit filings in hard copy by U.S. mail, in lieu of using Energy Safety's e-filing system¹⁰ and, therefore, bypass accessibility requirements. However, this alternative approach is still unduly burdensome and untenable for stakeholders. Because filing hard-copy documents by U.S. Mail is more burdensome and time-consuming than submitting documents electronically, it will impede the participation of stakeholders.

Energy Safety should aim to make it as easy as possible for stakeholders and members of the public to provide facts and analysis that support its policy decision-making. At a minimum, Energy Safety must explain filers' obligations. Furthermore, once a document has been filed on Energy Safety's e-filing system, Energy Safety – not the stakeholders – should address any residual needs to fulfill Energy Safety's statutory accessibility obligations.

Cal Advocates recommends that if Energy Safety continues to require that stakeholders comply with accessibility requirements, it should clarify and if necessary, minimize the specific requirements stakeholders must meet for their electronic documents to be accepted. This will serve to encourage participation by members of the public who do not have the resources to comply with rigorous accessibility requirements.

Energy Safety's revised section 29101 regulations already set forth the requirements for documents to be accepted onto Energy Safety's docket system (including formatting and word searchability).¹¹ Cal Advocates recommends that Energy Safety clarify whether or not meeting the requirements in revised section 29101 and the E-Filing System User's Guide is sufficient for submissions onto Energy Safety's e-filing system to be accepted by Energy Safety.

² The proposed regulations cite Government Code section 7405, which references the Federal Rehabilitation Act of 1973, Section 508, as amended (29 U.S.C. Sec. 794d) (Rehabilitation Act) **and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations.** Gov. Code § 7405(a).

¹⁰ Rev. Cal. Code Regs., tit. 14 § 29100(b).

¹¹ See Rev. Cal. Code Regs., tit. 14 § 29101(b), (c).

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III. CONCLUSION

Cal Advocates respectfully requests that Energy Safety adopt the recommendations discussed herein. For any questions relating to these comments, please contact Henry Burton (Henry.Burton@cpuc.ca.gov) or myself.

Sincerely,

/s/ CAROLYN CHEN

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