

October 25, 2022

Via Electronic Filing

Caroline Thomas Jacobs, Director
Office of Energy Infrastructure Safety
California Natural Resources Agency
715 P Street, 20th Floor
Sacramento, CA 95814
caroline.thomasjacobs@energysafety.ca.gov

Reference Attorney
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
staff@oal.ca.gov

Re: Joint Utilities' Comments on Modified Text of Proposed Regulations
Relating to Article 3: Data Collection, Data Access, and Confidentiality
Proceeding: 2022 Rulemaking (2022-RM)

Dear Director Thomas Jacobs:

Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric (SDG&E), and Southern California Edison (SCE) (collectively the Joint Utilities) provide the following comments on the October 7, 2022 revisions to the proposed permanent regulations Article 3: Data Collection, Data Access and Confidentiality (Proposed Regulations) from the Office of Energy Infrastructure Safety (Energy Safety).

**THE REVISIONS TO THE PROPOSED CONFIDENTIALITY RULES WILL NOT
SUFFICIENTLY PROTECT THE CONFIDENTIAL INFORMATION SUBMITTED**

We appreciate Energy Safety's responsiveness to our comments and willingness to issue multiple revisions of the proposed confidentiality rules. However, we have concerns about Section 29200(e) which, after revision, now reads:

In granting a confidential designation, the Office is not making a final determination or guarantee that the information will be withheld

from disclosure pursuant to the California Public Records Act or other provisions of law.¹

The Joint Utilities are concerned because, as currently phrased, this language does not clearly demonstrate the effect of the confidentiality process. By saying that any confidential information submitted to Energy Safety may be disclosed under the California Public Records Act (CPRA), the language inappropriately suggests that the material is not protected from disclosure. Indeed, protection from public disclosure under the CPRA is the chief concern of the Joint Utilities when submitting confidential information to Energy Safety or any government agency. Therefore, we recommend Section 29200(e) be revised to read:

In granting a confidential designation, the Office is ~~not~~ making a ~~final~~ determination ~~or guarantee~~ that the information ~~will be withheld~~ is exempt from disclosure pursuant to under the California Public Records Act ~~or other provisions of law~~.

Additionally, we also remain concerned that Section 29200(f) will not sufficiently protect the confidential information that has been submitted to Energy Safety. In its most current form, it has been revised to read:

In the event of a request for disclosure of confidentially designated information, the Office will attempt to notify the submitter of the information prior to disclosure unless notification is prohibited by law.

Despite this most recent revision, as we noted in our previous comments, this section should be revised to allow for a 14-day window where the party submitting the confidential information is informed prior to its disclosure, unless prohibited by law.² Thus, we recommend Section 29200(f) be modified as follows:

In the event of a legally mandated request for disclosure of confidentially designated information, the Office will ~~attempt to~~ notify the submitter of the information 14 days prior to disclosure unless notification is prohibited by law.

This will allow the party that submitted the confidential information to take any necessary steps to prepare for the disclosure, which could include contacting the party requesting the information to see if alternative arrangements could be made.

¹ [Proposed Regulations \(Oct. 7, 2022\)](#), p. 6.

² See Joint Utility Comments on Proposed Regulations: Rules of Practice and Procedure, Proceedings (Sections 29100, 29101); and Data Collection, Data Access and Confidentiality (Section 29200) (June 13, 2022), p. 6.

Lastly, the Joint Utilities request that Energy Safety consider the proposals made in our previous comments on the confidentiality provision. Specifically, we urge Energy Safety to consider two proposals in particular. First, Energy Safety should implement a closed room procedure, either virtual or physical, to protect the most security sensitive data from the utilities.³ This approach would more securely protect the most sensitive cybersecurity data and Critical Energy Infrastructure Information and align Energy Safety with the processes at the North American Electric Reliability Corporation and the Safety and Enforcement Division of the California Public Utilities Commission.⁴ Second, is the retention of the confidentiality review process and timeframe that was included in previous drafts of these rules.⁵ This language provided helpful clarity on the entire confidentiality process and set forth important procedures in the event that Energy Safety disagrees with an application for confidentiality. We believe all parties would benefit from these revisions.

CONCLUSION

We appreciate the opportunity to offer these comments and look forward to continuing to work with Energy Safety throughout the rulemaking process. If you have any questions, please do not hesitate to contact Wade Greenacre at wade.greenacre@pge.com, Laura Fulton at lfulton@sdge.com, or Peter Van Mieghem at peter.vanmieghem@sce.com.

Sincerely,

/s/

Wade Greenacre
(on behalf of the Joint Utilities)
PG&E, Regulatory Relations

³ *Id.*, pp. 6-7.

⁴ *Id.* p. 7.

⁵ *Id.*, pp. 5-6.