



July 28, 2023

Office of Energy Infrastructure Safety
715 P Street, 20th Floor
Sacramento, CA 95814
Docket No. 2022-WSRR

RE: Comments of the California Municipal Utilities Association on the Public Workshop on Safety Requirements to Address Increasing Wildfire Risk from Climate Change and Aging Infrastructure

Dear Energy Safety,

The California Municipal Utilities Association (CMUA) respectfully submits these comments to the Office of Energy Infrastructure Safety (OEIS) on the Public Workshop on Safety Requirements to Address Increasing Wildfire Risk from Climate Change and Aging Infrastructure (Workshop), which was held on July 13 and 14, 2023. During the Workshop, Green Grid Incorporated (Green Grid) led discussions in which they identified various areas that may be appropriate for increased specificity or standardization in regulations and then sought input from panelists and other stakeholders. CMUA submits these comments to help inform this process, as OEIS takes stakeholder input and develops recommendations for new safety requirements to propose to the California Public Utilities Commission (CPUC).

I. INTRODUCTION

CMUA is a statewide organization of local public agencies in California that provide electricity and water service to California consumers. CMUA membership includes publicly-owned electric utilities (“POUs”) that operate electric distribution and transmission systems. In total, CMUA members provide approximately 25 percent of the electricity load in California. POUs develop wildfire mitigation plans (WMPs) under the guidance of their locally elected governing boards. Once those plans have been presented to their local governing board at a public hearing, the WMPs are submitted to the Wildfire Safety Advisory Board (WSAB) for review and recommendations. Further, POUs voluntarily follow the standards incorporated into the CPUC’s General Orders (GOs) 95, 128, 165, and 174, and therefore have a strong interest in OEIS’s potential recommendations.

CMUA greatly appreciates the efforts of OEIS and Green Grid for facilitating this discussion and working to improve safety of the grid and reduce the risk of catastrophic wildfires in California. In these initial comments, CMUA encourages OEIS to utilize a robust public review process before submitting recommendations to the CPUC. A thorough vetting of any proposed changes to the CPUC's regulations can serve to greatly improve both the CPUC process and the ultimate outcome. CMUA also urges OEIS to consider which recommendations are more appropriately implemented as utility-specific mitigation measures that are incorporated into the WMPs as opposed to those recommendations that would be made a requirement through amendments to GOs 95, 128, 165, 166, and/or 174. CMUA supports providing utilities with the necessary flexibility to select the mitigation measures best suited to their wildfire risk profile, geography, system characteristics, and community needs. This flexibility can make these mitigation measures more effective at a reduced cost. Finally, before making any recommendations, CMUA urges OEIS to review recent CPUC proceedings amending these GOs. The record in those proceedings will help inform OEIS and determine if the specific proposals have recently been evaluated by the CPUC, and if they have, if there are any changed circumstances that would justify considering additional changes.

II. COMMENTS ON THE JULY 13-14 WORKSHOP

A. OEIS Should Utilize the GO 95/128 Rules Committee and Allow for a Thorough Public Review and Input Process Before Submitting Safety Recommendations to the CPUC.

CMUA recommends that OEIS and Green Grid utilize a multi-step process to obtain input from technical experts and stakeholders before submitting recommendations to the CPUC. Specifically, CMUA recommends the following steps:

Step 1: OEIS publicly releases a draft of recommended changes to GOs 95, 128, 165, 166, and 174 in the form of either actual changes to the text of those GOs or as expressly stated goals.

Step 2: OEIS requests that the GO 95/128 Rules Committee review the proposed GO changes/goals and provide recommended edits to the textual changes and language implementing any of the stated goals.

Step 3: OEIS provides an opportunity for all stakeholders to submit comments on both the OEIS draft and the GO 95/128 Rules Committee recommended edits and implementing language.

Step 4: OEIS finalizes its recommendations and submits them to the CPUC.

As described below, this approach has significant historical support for successfully developing effective rule changes in an accelerated manner.

The GO 95/128 Rules Committee (Rules Committee) is an ad hoc committee of technical experts from electric utilities, communications utilities, cable television companies, trade associations, and labor

unions, which was formed in response to the direction of the CPUC in 1967 for the utilities to keep the GOs up to date.¹ Numerous POUs are members of the Rules Committee and have a long history of actively participating and serving in leadership roles. The Rules Committee meets twice a year and its meetings are open to the public. The Rules Committee encourages the participation of the CPUC in its meetings.

A key benefit of the Rules Committee is that it provides a forum for industry experts to debate and review technical issues outside of a formal CPUC proceeding. This allows for a free exchange of ideas without the fear of waiving legal rights or committing their company or utility to certain formal positions. This is a useful approach to drafting technically sound language that can be incorporated into the engineering and operational standards of the GOs. CPUC proceedings that have considered GO proposals that were not vetted through the Rules Committee often suffered because significant time and effort was spent on aligning technical aspects of the proposals rather than the underlying goals and policies. This resulted in significantly longer CPUC rulemakings, which wasted the valuable resources of the CPUC, utilities, and other stakeholders.

In contrast, there are many examples where the CPUC did utilize the Rules Committee to develop and/or vet proposed GO changes and the resulting CPUC rulemakings were greatly improved, as recognized by the CPUC. For example, in a 2005 CPUC rulemaking developing rules for attaching wireless antennas to joint-use utility poles, the parties could not reach consensus on a new rule for pole top antenna construction requirements. To resolve this impasse, the CPUC requested the Rules Committee take on the task of developing a new rule that had statewide consensus.² The Rules Committee held technical conferences and ultimately developed a consensus proposal that was submitted to the CPUC. Because the Rules Committee was able to resolve the many non-controversial technical issues, the CPUC's rulemaking process was able to focus solely on the few outstanding controversial points. In adopting these new rules, the CPUC cited the Rules Committee's collaborative process as evidence that the new rule was reasonable in light of the whole record, consistent with the law, and in the public interest.³ The CPUC also found that the new rule would support worker and public safety based on the Rules Committee's process, stating:

the proposed revisions to GO 95 were carefully reviewed by the GO 95/128 Rules Committee and the participants at the technical conferences. The reviewers included utility engineers, Commission staff, electrical workers, and other professionals knowledgeable about the structural characteristics of utility poles and the installation, maintenance, and repair of equipment attached to joint-use utility poles. These professionals agree that the proposed revisions to GO 95 are safe.

¹ See D.73195, Oct. 17, 1967.

² D.07-02-030, Opinion Adopting Proposed Rule 94 in General Order 95 Dealing with Installation of Wireless Antennas on Utility Poles at 10, Feb. 15, 2007 (R.05-02-023).

³ D.08-10-017 at 14-16.

As another example, the Rules Committee spent three years developing proposals to correct existing GO 95 rules that were antiquated, unclear, or needed to be changed to improve system reliability. In 2014, the Rules Committee submitted a petition to the CPUC to consider adopting 29 proposed rule changes to GO 95.⁴ The CPUC initiated a new rulemaking to consider 16 of these proposed rules.⁵ As part of the CPUC's rulemaking, the CPUC directed the Rules Committee to chair an all-party meeting to identify any areas of dispute and reach agreement. During that all-party meeting, the parties were able to reach consensus on all outstanding issues. The CPUC then adopted all 16 of the proposed changes as agreed to during the all-party meeting.⁶ Because of the Rules Committee's efforts, the CPUC proceeding was extremely efficient. The rulemaking was initiated in August 2014 and the final decision adopting the rule changes was approved in January of 2015, meaning the entire CPUC rulemaking process was completed in just 6 months.

The four-step process recommended above would provide OEIS with the benefit of utilizing the Rules Committee to both provide their extensive experience with these GOs and to resolve any technical issues, while clearly identifying any outstanding controversies. This can be achieved in timely fashion and without limiting the opportunities of other stakeholders to provide input prior to submitting any recommendations to the CPUC. CMUA urges OEIS to use this process.

B. OEIS Should Carefully Consider Whether Each Individual Proposed Change Would be More Appropriate as a Mitigation Measure Selected through the WMP-Development Process or if the Proposed Change Should Actually be Written Into a GO.

Many of the recommendations discussed during the Workshop deal with wildfire mitigation measures that are currently considered and implemented through the utility WMPs. A key advantage of this process is that the mitigation measures applied to specific areas can be customized based on the relative wildfire risks, geography, system characteristics, and the needs of local communities. To the extent that improvements can be made to these mitigation measures, the current WMP process provides the opportunity for OEIS to give that direction to the IOUs and for the WSAB to provide recommendations to the POU's and electric cooperatives. This structure allows for flexibility in choosing the mix of mitigation measures that will be most effective for the individual utility and minimize costs. However, if these recommendations become requirements that are amended into the GOs, they then become static minimum standards that are broadly applicable, and potentially inapplicable for some utilities. The severity and nature of wildfire risks vary greatly across California and new technologies are being developed each year. This means that many mitigation measures that may be appropriate for one region would be ineffective or unnecessary in others. Further, technologies that may be the best practice today, may be replaced by new technologies in just a few short years. OEIS should carefully evaluate each proposed rule change and determine if it would be more effective as a recommended change in the

⁴ See Petition 14-02-010.

⁵ See *Order Instituting Rulemaking Proceeding to Consider Proposed Amendments to General Order 95*, Aug. 20, 2014, (R.14-08-012).

⁶ See D.15-01-005.

WMPs as a tool to mitigate wildfire risk, or whether it is clear that the greatest benefit will be achieved by directly incorporating the changes in the construction and operational requirements of the GOs.

C. OEIS Should Evaluate Recent CPUC Rulemakings to Determine What Rule Changes Should be Considered in this Process.

Several of the topics raised during the Workshop relate to issues that have recently been the subject of extensive evaluation during various CPUC proceedings. In order to avoid wasting time and resources, OEIS should carefully review the record of these recent proceedings to determine if a re-evaluation is merited.

For example, the Workshop presentation included proposals relating to the safety factors that are applied when determining construction standards under GO 95, such as (i) applying different safety factors in the CPUC’s High Fire Threat District, (ii) adjusting safety factors based on climate change impacts and local conditions, (iii) adjusting safety factors based all anticipated loads and stresses, and/or (iv) utilizing a residual safety factor. CMUA notes that in the CPUC’s recent rulemaking considering safety improvements to GO 95, the rules that incorporate a safety factor were discussed extensively and the CPUC ultimately adopted D.14-02-015, which amended eleven different GO 95 rules to greatly expand and increase the safety factors that are applied to utility pole construction requirements. More recently, the CPUC adopted D.20-01-010, which added several new safety factor requirements to GO 95, including a requirement for attachers of new equipment to a utility pole to ensure that the minimum safety factors will continue to be met considering the impacts of the new equipment. Before proposing new changes to the safety factors specified in GO 95, OEIS should review the record that led up to D.14-02-015 and D.20-01-010 to determine if any of these issues have already been proposed and evaluated. If the proposal has already been considered, OEIS should determine if some change in science or industry practices justifies a re-evaluation.

Similarly, the Workshop presentation also proposed considering “heavy wind load” as part of local conditions considered for new construction. D.14-02-015 also included an extensive discussion of wind loading and how it is applied to safety factors to determine the construction requirements. Later in 2014, the CPUC clarified (in response to an application for rehearing) that the wind loading speed specified in GO 95 will not be deemed adequate if known local conditions demonstrate a higher wind speed should be utilized.⁷ Again, OEIS should evaluate these most recent changes regarding wind loading to determine if the CPUC has already considered or implemented similar proposals.

III. CONCLUSION

CMUA appreciates the opportunity to provide these comments to OEIS. We look forward to working collaboratively with OEIS to support its efforts in making recommendations to the CPUC.

⁷ See D.14-12-089 at 5.