



January 22, 2024

**Via Electronic Filing**

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**Subject: Comments of the Public Advocates Office on Wildfire Mitigation Plan Process Guidelines for 2025 WMP Updates**

**Docket: 2023-2025-WMPs**

Dear Director Thomas Jacobs,

The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) respectfully submits the following comments regarding the *Draft Revisions to the WMP Documents Related to the 2025 WMP Update* issued on December 22, 2023. Please contact Nathaniel Skinner ([Nathaniel.Skinner@cpuc.ca.gov](mailto:Nathaniel.Skinner@cpuc.ca.gov)) or Henry Burton ([Henry.Burton@cpuc.ca.gov](mailto:Henry.Burton@cpuc.ca.gov)) with any questions relating to these comments.

We respectfully urge the Office of Energy Infrastructure Safety to adopt the recommendations discussed herein.

Sincerely yours,

/s/ **Marybelle C. Ang**

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**TABLE OF CONTENTS**

	<b><u>Page</u></b>
I. INTRODUCTION .....	1
II. SECTION 4: ENERGY SAFETY EVALUATION PROCESS.....	1
A. Energy Safety should verify whether a utility has made a good-faith effort to substantially comply with Areas for Continued Improvement. ....	1
B. Energy Safety should identify a range of remedies and consequences applicable if it finds serious shortcomings in a utility’s WMP or WMP Update. ....	3
III. SECTION 6.2: PUBLIC COMMENTS.....	4
A. Energy Safety should remove page limits for comments on WMPs and Revision Notice Responses. ....	4
IV. CONCLUSION.....	5

## I. INTRODUCTION

On December 22, 2023, the Office of Energy Infrastructure Safety (Energy Safety) issued Draft Revisions to the 2023-2025 Wildfire Mitigation Plan Process and Evaluation Guidelines (Revised WMP Process Guidelines). Pursuant to Energy Safety's notice inviting public comments,<sup>1</sup> the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits these comments in response to the Draft Process Guidelines.

## II. SECTION 4: ENERGY SAFETY EVALUATION PROCESS

### A. Energy Safety should verify whether a utility has made a good-faith effort to substantially comply with Areas for Continued Improvement.

The existing WMP Process and Evaluation Guidelines (adopted in December 2022) as well as the Revised WMP Process Guidelines, require Energy Safety to perform a pre-submission check process. This process serves to assess each WMP submission for completeness based on statutory requirements and adherence to the relevant year's WMP technical guidelines.<sup>2</sup> <sup>3</sup> The pre-submission completeness check that Energy Safety performs consists of five steps that serve as a precursor to the statutory WMP review process.<sup>4</sup> As Cal Advocates has noted in previous comments, Energy Safety should add a sixth step: verifying if the utility has made a good-faith effort to comply with the requirements of all Areas for Continued Improvement from prior years.<sup>5</sup> The purpose of this additional step is to ensure that utilities make prompt and meaningful progress in all of Energy Safety's identified Areas for Continued Improvement.

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<sup>1</sup> Office of Energy Infrastructure Safety, *2023-2025 Wildfire Mitigation Plan Process and Evaluation Guidelines: Draft Revisions* (Revised WMP Process Guidelines), December 22, 2023, Docket 2023-2025-WMPs.

<sup>2</sup> Office of Energy Infrastructure Safety, *2023-2025 Wildfire Mitigation Plan Process and Evaluation Guidelines*, December 6, 2022, Docket 2023-2025-WMPs.

<sup>3</sup> Revised WMP Process Guidelines at 3-5.

<sup>4</sup> Revised WMP Process Guidelines at 4.

<sup>5</sup> *Comments of the Public Advocates Office on Public Advocates Office Comments Guidelines for the 2025 Wildfire Mitigation Plan Updates*, August 18, 2023, at 9-10. Cal Advocates recommends that the guidelines for Energy Safety's pre-submission check process be revised to include the following additional language:

Energy Safety will confirm that the electrical corporation has provided satisfactory responses to previous years' identified Areas for Continued Improvement that are reasonably complete and substantially address the requirements thereof. If the responses

The Revised WMP Process Guidelines state that Energy Safety does not intend to conduct a pre-submission process for the 2025 WMP Updates.<sup>6</sup> However, even if Energy Safety omits the full completeness check, it should at minimum perform a review of compliance with Areas for Continued Improvement.

The Areas for Continued Improvement identify known deficiencies or weaknesses in each utility's wildfire mitigation planning, as well as opportunities for progress. However, in 2023 PG&E's WMP failed to comply with some Areas for Continued Improvement,<sup>7 8</sup> while PacifiCorp's WMP did not respond to the Areas for Continued Improvement that Energy Safety identified in 2022.<sup>9</sup> Because the completeness check process in 2023 did not review compliance with Areas for Continued Improvement, these shortcomings were not formally addressed by Energy Safety for several months. It is critical that the Areas for Continued Improvement be appropriately addressed in a timely manner to ensure that utilities promptly mitigate wildfire risk and use their resources effectively. For example, PacifiCorp addressed the Areas for Continued Improvement in its revised WMP in October 2023,<sup>10</sup> instead of its original WMP submission in May 2023. Because PacifiCorp failed to comply with Energy Safety's 2022 directives, and Energy Safety's directives were not reissued as part of the revision notice process until September 2023, this problem remained unaddressed for most of 2023.

The Revised WMP Process Guidelines should be modified to direct Energy Safety to conduct a completeness check to ensure that each utility has made good-faith efforts to rectify its Areas for Continued Improvement from the previous year. The proposed good-faith completeness check of the Areas for Continued Improvement would prevent incomplete

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are incomplete or noncompliant, Energy Safety notes the deficiencies and marks this element "incomplete."

<sup>6</sup> Revised WMP Process Guidelines at 4.

<sup>7</sup> Office of Energy Infrastructure Safety, *Revision Notice for PG&E's 2023-2025 Wildfire Mitigation Plan*, June 22, 2023, Docket 2023-2025-WMPs, at 10-18 (critical issues RN-PG&E-2023-04 and RN-PG&E-2023-05).

<sup>8</sup> Office of Energy Infrastructure Safety, *Decision on 2023-2025 Wildfire Mitigation Plan*, December 29, 2023, Docket 2023-2025-WMPs, at 42.

<sup>9</sup> Office of Energy Infrastructure Safety, *Revision Notice for PacifiCorp's 2023-2025 Wildfire Mitigation Plan*, September 11, 2023, Docket 2023-2025-WMPs, at 3 (critical issue RN-PC-2023-01).

<sup>10</sup> *PacifiCorp's Revised 2023-2025 Base WMP*, October 12, 2023, Docket 2023-2025-WMPs.

responses that do not reasonably address the Areas for Continued Improvement and ultimately necessitate revision notices (with resulting additional work and delays).

**B. Energy Safety should identify a range of remedies and consequences applicable if it finds serious shortcomings in a utility's WMP or WMP Update.**

Energy Safety should identify the potential remedies and consequences it may apply to utilities with serious shortcomings in their WMPs, especially in the responses to Areas for Continued Improvement.<sup>11</sup> Energy Safety currently lacks a sufficient range of remedies and consequences to address a utility's inadequate compliance (or non-compliance) with the requirements of an Area for Continued Improvement. The only remedies Energy Safety has articulated are issuing a revision notice or denying a WMP.

Cal Advocates raises this concern because utilities have previously provided incomplete or non-compliant responses to Areas for Continued Improvement in the past. For example, PG&E failed to comply with two important Areas for Continued Improvement that Energy Safety identified in 2022, which related to continued asset maintenance backlogs and failure to properly evaluate other system hardening alternatives.<sup>12</sup>

The Revised WMP Process Guidelines do not describe how Energy Safety will hold utilities accountable for non-compliance with Areas for Continued Improvement or other WMP requirements. Energy Safety should revise the WMP guidelines to articulate the enforceable remedies and consequences that Energy Safety has at its disposal. This revision would allow Energy Safety and interested stakeholders to better track a utility's performance and improvement.

Since the WMPs and WMP Updates cover multiple topics of varying degrees of importance, Energy Safety should also employ a wide range of potential remedies or consequences.<sup>13</sup> Cal Advocates recommends that Energy Safety modify the Revised WMP Process Guidelines to identify several oversight and enforcement tools that Energy Safety may

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<sup>11</sup> *Comments of the Public Advocates Office on Public Advocates Office Comments Guidelines for the 2025 Wildfire Mitigation Plan Updates*, August 18, 2023, at 10-11.

<sup>12</sup> *Comments of the Public Advocates Office on the 2023 Wildfire Mitigation Plans of Large IOUs* at 9-15 and 31-34, May 26, 2023, Docket 2023-2025-WMPs.

<sup>13</sup> See *Comments of the Public Advocates Office on Public Advocates Office Comments Guidelines for the 2025 Wildfire Mitigation Plan Updates*, August 18, 2023, at 10-11.

use when it either: (1) rejects a utility's WMP or WMP Update or (2) finds a response to an Area for Continued Improvement to be unsatisfactory or noncompliant. At the least, Energy Safety should include the following options in its oversight and enforcement toolkit:

- Energy Safety may require the utility to submit monthly corrective action reports until the problem is fully resolved;
- Energy Safety may convene monthly or quarterly public forums where high-ranking utility executives describe their progress and answer questions;
- Energy Safety may conduct supplemental, in-depth field inspections and paperwork audits of the initiatives concerned;
- Energy Safety may retain a third-party auditor to examine the ongoing identified issues at utility shareholders' expense;
- Energy Safety may defer action on approving the utility's WMP or WMP Update until the utility has shown sufficient progress in resolving the problems identified;
- Energy Safety may identify a failure to comply with WMP requirements as a violation of Public Utilities Code sections 8386(a) and 8386(c), and refer the matter to the Commission for enforcement action.
- Energy Safety may direct the utility to modify its incentive compensation plan for executives to include metrics pertaining to compliance with WMP requirements.

These additions to the WMP Guidelines will help Energy Safety hold the utilities accountable for achieving the public safety goals of the WMP process.

### **III. SECTION 6.2: PUBLIC COMMENTS**

#### **A. Energy Safety should remove page limits for comments on WMPs and Revision Notice Responses.**

The Revised WMP Process Guidelines limit opening comments for WMPs, revision notice responses, and draft decisions to 15 pages each. Replies are limited to five pages.<sup>14</sup> While 15 pages may be sufficient for comments on draft decisions, the page limit is not appropriate for comments on WMPs or revision notice responses.<sup>15</sup>

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<sup>14</sup> Revised WMP Process Guidelines at 12.

<sup>15</sup> The page limits applicable to comments and reply comments found in Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission do not and should not apply here: a proposed decision comes after parties have litigated a proceeding, so parties have already had multiple opportunities to present evidence and recommendations. See CPUC Rules of Practice and Procedure, Rule 14.3.

Given that the utilities' Base WMPs are often hundreds or thousands of pages in length and cover a wide range of issues, fifteen pages is not sufficient to provide informative analysis and policy recommendations.<sup>16</sup> Because Energy Safety has utilized stakeholders' comments in the past to inform Areas of Continued Improvement,<sup>17</sup> Energy Safety should not restrict the volume of input by imposing a page limit per utility. To ensure stakeholders can draft insightful comments with supporting analysis, Energy Safety should revise the Revised WMP Process Guidelines and remove the proposed page limits for opening comments on WMP submissions and revision notice responses.

As an alternative approach, Energy Safety could first issue a staff report on each WMP, then accept public comments on the staff report. The staff report would: (a) evaluate the strengths and weaknesses of the utility's WMP, (b) assess the utility's compliance with WMP requirements and previous Areas for Continued Improvement, (c) propose whether Energy Safety should issue a revision notice, approve the WMP, or deny the WMP, and (d) if approval is recommended, included proposed Areas for Continued Improvement. Energy Safety should provide at least 30 days for stakeholders to comment on the staff report, prior to preparing a draft decision.

#### **IV. CONCLUSION**

Cal Advocates respectfully requests that Energy Safety adopt the recommendations discussed in these comments.

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<sup>16</sup> Comments of the Public Advocates Office on the 2023 to 2025 Wildfire Mitigation Plans of the Large Investor-Owned Utilities, May 26, 2023. Cal Advocates provided an estimated 37 pages of comments on PG&E's WMP, an estimated 20 pages of comments on SCE's WMP and an estimated 16 pages of comments on SDG&E's WMP.

<sup>17</sup> See, e.g., *Office of Energy Infrastructure Safety, Draft Decision on 2023-2025 Wildfire Mitigation Plan of SDG&E*, August 30, 2023, at A-17.

Respectfully submitted,

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