



Via E-File to: wsab@energysafety.ca.gov

February 1, 2024

Jessica Block
Chair, California Wildfire Safety Advisory Board
Office of Energy Infrastructure Safety
715 P Street, 20th Floor
Sacramento, CA 95814

**Re: Docket Numbers 2023-WSAB-POU-WMP; 2024-WSAB-WMP-GPSCA
Comments of the California Video and Broadband Association on California
Wildfire Safety Advisory Board's Draft Policy Paper on Updating Utility
Regulations in Light of Climate Change and Wildfire Risks**

Dear Chair Block:

The California Video & Broadband Association (“CalBroadband”)¹ respectfully submits these comments in response to the January 22, 2024 notice² regarding the updated draft of the California Wildfire Safety Advisory Board’s (“WSAB”) Policy Paper on Updating Utility Regulations in Light of Climate Change and Wildfire Risks (“Policy Paper”).³

CalBroadband’s members utilize millions of joint-use aerial and underground facilities across the state to connect Californians to advanced communications services and are committed to infrastructure safety. CalBroadband and its members strongly support efforts by the WSAB and the California Public Utilities Commission (“CPUC”) to reduce wildfire ignition risk. CalBroadband and its largest members participated in all CPUC General Order (“GO”) 95 and GO 128 rulemakings addressing wildfire and other risks,⁴ and actively participate in the GO 95/128

¹ CalBroadband, formerly known as “CCTA,” is a trade association consisting of cable companies that have invested over \$45 billion in California infrastructure since 1996 to provide video, voice, and Internet service to millions of customers statewide.

² California Wildfire Safety Advisory Board, Notice of WSAB Q1 2024 Board Meeting and Updated Draft Policy Papers (Jan. 22, 2024), available at: <https://energysafety.ca.gov/wp-content/uploads/2024/01//notice-of-wsab-q1-2024-board-meeting-and-updated-draft-policy-papers.pdf>.

³ California Wildfire Safety Advisory Board, Draft Policy Paper on Updating Utility Regulations in Light of Climate Change and Wildfire Risks (Jan. 22, 2024), available at: <https://energysafety.ca.gov/wp-content/uploads/2024/01//clean-draft-new-and-amended-utility-regulations-policy-paper-1.22.24.pdf>.

⁴ See, e.g., R.17-10-010, *Rulemaking Proceeding to Consider Amendments to General Order 95* (filed Oct. 12, 2017); R.15-05-006, *Rulemaking to Develop and Adopt Fire-Threat Maps and Fire-Safety*

Rules Committee⁵ in order to improve public and worker safety—including wildfire ignition mitigation—as well as electric and telecommunications system reliability.

California also faces the challenge of addressing “the broadband infrastructure deficiencies still impacting rural and low-income communities [in order to bring] the state closer to achieving affordable, high-speed broadband internet services for all communities.”⁶ CalBroadband members are committed to both safety and digital divide imperatives, and believe that CalBroadband's recommendations below will help the state better achieve both goals.

The Policy Paper contains 32 draft proposals to update GOs 95 and 128, which are intended to reduce wildfire ignition risk. However, if adopted, several of those recommendations would have an outsized impact on communications providers and create barriers to broadband network deployment and upgrades. Some of these recommendations also may hinder the Governor's efforts to facilitate broadband deployment under the “Broadband for All” Executive Order,⁷ without meaningfully reducing wildfire risk.

CalBroadband therefore respectfully submits comments on draft proposals that impact communications providers and suggests the WSAB remove those recommendations from the final version of the Policy Paper.

Review of GOs 95 and 128

The Policy Paper proposes that “all the GOs related to electrical infrastructure safety should be subject to a regular, scheduled review process to ensure that they are adequate to meet current and future dynamic natural, man-made and digital risks,” and that such reviews “could occur every five to ten years.”⁸

Regulations (filed May 7, 2015); R.08-11-005, *Rulemaking to Revise and Clarify Commission Regulations Relating to the Safety of Electric Utility and Communications Infrastructure Provider Facilities* (filed Nov. 8, 2008).

⁵ The General Order 95/128 Rules Committee (“Rules Committee”) is a California consensus-based organization dedicated to the collaborative consideration and development of GO 95 and GO 128 rules. Rules Committee members come from California's public and privately held electric and telecommunication companies, trade associations, and labor unions.

⁶ Governor Newsom Signs Historic Broadband Legislation to Help Bridge Digital Divide (July 20, 2021), available at: <https://www.gov.ca.gov/2021/07/20/governor-newsom-signs-historic-broadband-legislation-to-help-bridge-digital-divide/>.

⁷ Executive Order N-73-20 (Aug. 14, 2020) (“[The] CPUC ... is requested to seek opportunities to use programs under its jurisdiction to accelerate broadband deployment and to leverage utility infrastructure to increase access to existing fiber and cost-effectively deploy new fiber.”).

⁸ Policy Paper at 3–4.

This proposal is unnecessary. The CPUC has established a GO 95/128 specific process⁹ whereby interested parties such as the CPUC's Safety & Enforcement Division ("SED") or the Public Advocates Office can file a petition for rulemaking if they believe changes are necessary. In addition, the Rules Committee meets regularly to assess GOs 95 and 128 and makes recommendations for changes to the GOs when necessary.¹⁰ Thus, the draft proposal for the CPUC to implement scheduled reviews of GOs 95 and 128 is superfluous and should be removed from the final version of the Policy Paper.

CPUC Fire Map Updating Cycle

The Policy Paper proposes to modify the CPUC's Fire Map "to reflect new information since 2018 (in addition to minor edits in the 2021 update) and fix boundary issues that have been identified."¹¹ The Policy Paper also recommends an accelerated High Fire-Threat District ("HFTD") revision process: a three- to five-year process (instead of the current 10-year cycle) "to reflect new information and due to the dynamic risk of climate change."¹²

Developing a statewide fire map is a multi-year, complex, and resource-intensive process for the CPUC and stakeholders.¹³ Proceedings to develop the current version of the CPUC Fire Map began in 2008 and yielded a completed map in 2018.¹⁴ The CPUC acknowledged that this task was "complex and technically challenging."¹⁵ The Policy Paper fails to explain why this enormous undertaking should be repeated every three to five years.

The Policy Paper also does not explain the need to modify the current 10-year cycle or why "three to five years" is an appropriate interval for updates to the CPUC Fire Map. As a practical matter,

⁹ See D.05-01-030, O.P. 8 at 37 (Jan. 13, 2005),

https://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/43139.pdf ("Following good-faith meet-and-confer discussions, parties (preferably jointly) should file a petition to adopt, amend or repeal provisions of GO 95 and GO 128 pursuant to Pub. Util. Code § 1708.5 and Rule 14.7 [now Rule 6.3] of the Rules of Practice and Procedure.").

¹⁰ See, e.g., Petition to Adopt, Amend or Repeal a Regulation Pursuant to Pub. Util. Code Section 1708.5 and Decision (D). 05-01-030 and, in Particular, to Amend General Order 95 (P.07-07-020) (July 25, 2007), <https://docs.cpuc.ca.gov/PublishedDocs/EFILE/PR/70598.pdf> (recommending new rules to address pole top antennas).

¹¹ Policy Paper at 4.

¹² *Id.* at 4 (footnotes omitted).

¹³ See D.17-01-009, as modified by D.17-06-024 (setting forth the processes for review and adoption of the CPUC's Fire-Threat Map).

¹⁴ See R.08-11-005; R.15-05-006 (continuing the unfinished work of R.08-11-005) (Jan. 19, 2018) (adopting the final CPUC Fire-Threat Map); CPUC, *Fire-Threat Maps and Fire-Safety Rulemaking* (accessed Jan. 29, 2024) ("On January 19, 2018 we adopted, via (SED) disposition of a Tier 1 Advice Letter, the final CPUC Fire-Threat Map."). The map was subsequently revised in August of 2021 as a result of SED-4 and an update to CAL FIRE's Tier 1 of the High Hazard Zones.

¹⁵ D.18-01-025 at 2.

increasing update cycles to every three to five years would result in a perpetual updating process, creating uncertainty and making planning very difficult. The CPUC Fire Map establishes important operational obligations for communications companies with facilities in the Tier 2 and Tier 3 HFTDs: specific inspection cycles (GO 95, Rule 80.1-A); accelerated repair intervals (GO 95, Rule 18); and a 72-hour backup power requirement (D.21-02-029). Rapid changes to the CPUC Fire Map would cause confusion and frustrate efforts to comply with these obligations. Further, the CPUC's existing process, outlined in D.17-01-009, provides a viable process for parties to propose changes to its Fire Map.¹⁶ This process includes the creation of a preliminary map for approval by a neutral expert, followed by a refinement stage in which local experts, utilities and other stakeholders can offer input, with a final Independent Review Team-approved map submitted to the SED via a Tier 1 advice letter.¹⁷

Given the resource-intensive nature of statewide fire-threat mapping, the absence of evidence supporting an accelerated update cycle, and the existence of adequate processes for making changes, this proposal is unnecessary and should be removed from the final version of the Policy Paper.

Pole Loading Calculations Thresholds in the HFTDs

The Policy Paper states that GO 95 “should be revised to increase pole load calculations in the HFTD and areas exposed to heavy winter storms or Easterly winds” and “may need to require new standards for storm and multi-directional guying techniques in the HFTD and high wind-exposed areas.”¹⁸ This proposal is unnecessary.

The CPUC considered and rejected a similar proposal during the last rulemaking proceeding addressing changes to GO 95, reasoning that a “blanket increase ... would be very costly,” and utilities are already required under Rule 31.1 to “design and maintain their facilities based on known local conditions,” including “foreseeable fire-wind conditions in their service territories.”¹⁹ Additionally, such increases would likely have adverse impacts on the expansion of reliable and affordable broadband services across California. As previously noted, CalBroadband's members utilize millions of aerial facilities to connect Californians to broadband. An unwarranted increase in GO 95's pole loading safety factors could hinder and delay the deployment of broadband facilities, impeding the efforts of CalBroadband's members to connect unserved and underserved Californians. Therefore, the WSAB should remove this proposal from the final version of the Policy Paper.

¹⁶ For example, Southern California Edison Company successfully used this process to request changes to the CPUC Fire Map. *See* Southern California Edison Company Petition for Modification of Decision 17-12-014 (Aug. 19, 2019); D.20-12-030 (adopting Southern California Edison's proposed changes).

¹⁷ *See* D.17-01-009.

¹⁸ Policy Paper at 5.

¹⁹ D.17-12-024 at 66–67.

Overhead Inspection Cycles

The Policy Paper proposes that (1) “GO 165 patrol inspection cycles for distribution should be reevaluated to consider carrying them out on a more frequent basis than every two years”;²⁰ and (2) “GO 165 should be updated to increase the frequency of their detailed inspection cycles.”²¹ The Policy Paper suggests patrol inspection cycles “on an annual or biannual basis,”²² and detailed inspection cycles of “every 3 years in the HFTD.”²³ These proposals should be removed from the final version of the Policy Paper.²⁴

The CPUC established the current inspection cycles after an extensive rulemaking proceeding. Specifically, R.08-11-005²⁵ commenced in 2008 and concluded more than three years later with the adoption of D.12-01-032.²⁶ For Communications providers, those inspection cycles require that communication lines on Joint-Use poles in Tier 3 of HFTD receive an annual patrol inspection.²⁷ The fact-finding process in R.08-11-005 included 25 days of workshops held over six months with participation from CPUC staff, investor-owned utilities, municipal utilities, telecommunications companies, a labor union, consumer groups, and independent consultants.²⁸ The CPUC found that “[t]he workshop process resulted in many thoughtful proposals for reducing fire hazards.”²⁹ The Policy Paper presents no evidence that would warrant changes to the present inspection cycles, particularly in light of the exacting fact-finding process used by the CPUC to establish those cycles.

The rationale stated in the Policy Paper for these proposals is that “inspections are limited to the utility facilities and do not set requirements for vegetation inspections. During these time frames, a lot of issues can emerge on the system that could pose risks.”³⁰ However, this rationale does not

²⁰ Policy Paper at 6.

²¹ *Id.* at 7.

²² *Id.* at 6.

²³ *Id.* at 7.

²⁴ GO 165 applies only to electric facilities, and the Policy Paper makes no recommendation regarding changes to GO 95, Rules 31.1 and 80.1-A, which specify inspection requirements for overhead communications facilities. However, CalBroadband is concerned that these proposals could be extended beyond GO 165 and therefore, if the WSAB elects not to remove these proposals, it should revise the Policy Paper to clarify that it does not intend these proposals to apply to communications facilities.

²⁵ *Order Instituting Rulemaking to Revise and Clarify Commission Regulations Relating to the Safety of Electric Utility and Communications Infrastructure Provider Facilities* (filed Nov. 6, 2008).

²⁶ *Decision Adopting Regulations to Reduce Fire Hazards Associated with Overhead Power Lines and Communications Facilities* (issued Jan. 12, 2012).

²⁷ GO 95, Rule 80.1 A (1).

²⁸ D.12-01-032 at 7.

²⁹ *Id.* at 8.

³⁰ Policy Paper at 2.

apply to communications companies including CalBroadband's members, which inspect for vegetation issues as part of their patrol and detailed inspections.³¹

Finally, the Policy Paper fails to consider the potential for substantially increased costs associated with more frequent inspections. If the Policy Paper's proposals were to be extended to GO 95, unnecessarily frequent inspection cycles could divert resources from deploying new broadband facilities to unserved and underserved areas in California.

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CalBroadband and its members strongly support efforts by the WSAB and the CPUC to reduce wildfire ignition risk. However, for the reasons discussed, CalBroadband respectfully requests that the WSAB remove the above-referenced proposals from the final version of the Policy Paper.

Respectfully submitted,

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³¹ GO 95, Rule 35 requires communications providers to remove dead or rotten trees (or portions thereof) that threaten communications lines when the provider becomes aware of the situation. Moreover, the patrol and detailed inspections required by GO 95, Rule 80.1-A ensure that vegetation management issues are identified. *See* GO 95, Rule 80.1-A(3).