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Reply Comments of The Utility Reform Network on Draft 10-Year Electrical Undergrounding Plans Guidelines (Docket #2023-UPs)

Senate Bill (SB) 884 directs the California Public Utilities Commission (CPUC or Commission) to establish an expedited utility distribution undergrounding program consistent with the requirements of Public Utilities Code Section 8388.5. The Office of Energy Infrastructure Safety (Energy Safety) released Draft Guidelines for the review of Investor-Owned Utility (IOU) Electric Undergrounding Plans (EUP). TURN offers these reply comments in response to the Opening Comments on those Plans provided by Pacific Gas and Electric (PG&E).

1. Responses to Stakeholder Discovery Should Be Provided Within Three Days.

The draft EUP guidelines direct that a utility submitting an EUP is required to respond to stakeholder discovery requests within three business days.¹ PG&E requests that the time frame for responding to stakeholders be extended to five business days.² PG&E argues this is reasonable because of the work load it will have replying to Stakeholder questions. TURN urges Energy Safety to reject PG&E's request for more time to respond to discovery. In the alternative, if Energy Safety adopts PG&E's proposal, it should be paired with the longer timeframe, 120 days for stakeholder comment proposed by TURN.³

As an initial matter, the Draft Guidelines require stakeholders engaging in discovery to make a reasonable effort to determine if the information sought through discovery has been provided elsewhere, including in another data request.⁴ To the extent that the utility is maintaining an up to date catalog of data responses or otherwise providing data responses to all stakeholders the utility itself can best ensure that it does not receive duplicative requests which should reduce overall discovery volume.

PG&E highlights the CPUC process as allowing for a five-day timeline for discovery responses.⁵ As TURN argued in its Opening Comments, the CPUC process is differentiated from the OEIS process in several ways.⁶ Most importantly, the draft EUP would have already been presented at Energy Safety providing an initial time for review and discovery. Further, the time frame for intervenor comments has not been set for the CPUC review of

¹ Draft Guidelines, p. 60.

² PG&E Comments on the Energy Safety Draft Guidelines for Submission of 10-Year EUP, p. 17 (hereinafter PG&E Comments).

³ Comments of The Utility Reform Network on Draft 10-Year Electrical Undergrounding Plans Guidelines, p. 2 (hereinafter TURN Comments).

⁴ Draft Guidelines, p. 61.

⁵ PG&E Comments, p. 17.

⁶ TURN Comments, pp. 2-3. TURN notes that its opening comments referenced a potential prehearing conference determining a time frame for intervenor comments. That statement was in error, while it is unclear whether there will be a PHC, the timeline for comments will be set via Ruling. It seems likely that, at a minimum, parties will have an opportunity at the public workshop to provide feedback on the time required for comment.

the plans. At a minimum parties will have 30 days until a CPUC workshop with additional time post workshop provided for intervenor comment.⁷ Without detail on the timing of CPUC comments, no comparison of process can be drawn.

TURN's concerns about the sufficiency of time available for intervenor comment provided in the Draft Guidelines would be compounded if Energy Safety were to adopt the PG&E five-day response proposal.⁸ With a longer time allowed for response there would be even less time available for thoughtful consideration and follow up on responses. Already the thirty-day timeframe leaves minimal time for follow up questions and rounds of discovery, it would be further diminished if the timeline for response was slowed. If Energy Safety adopts PG&E's proposal, it should also adopt TURN's proposal allowing, ideally, 120 days for stakeholder comment on the EUP. A longer discovery turn around is less problematic if there is sufficient time allowed for discovery and development of positions.

2. Energy Safety Must Reject PG&E's Hybrid Electric Hardening Work Approval Proposal

PG&E proposes that the scope of the EUP be expanded to include review and approval of hybrid electric hardening work or those sub-projects where there is at least 80 percent undergrounding and 20 percent overhead hardening.⁹ Energy Safety must reject this proposal outright as exceeding the language of the statute.

SB 884 adopted a new process allowing for the expedited review of distribution undergrounding and throughout the statute, the language only refers to undergrounding distribution infrastructure or undergrounding projects as part of the EUP. For example, the statute highlights that "the Commission shall establish an expedited utility distribution infrastructure undergrounding program."¹⁰ Further, a participating utility is directed to "identif[y]... the undergrounding projects that will be constructed as part of the program."¹¹ The statute also specifically calls for "a comparison of undergrounding versus aboveground hardening" distinguishing undergrounding from other hardening work.

The statute is clear that the expedited review is reserved only for undergrounding projects and PG&E is requesting that Energy Safety exceed the direction of statute and bypass review of the General Rate Case for non-undergrounding hardening projects. These non-undergrounding projects must be reviewed in a General Rate Case to be included in customer rates. Energy Safety should be clear in its Guidelines for the EUP that any non-undergrounding projects are included for informational purposes but they are not subject to Energy Safety approval as part of the EUP.

3. Energy Safety Should Reject Any Attempt by PG&E to Provide Less Data.

Throughout the PG&E comments, the utility suggests that certain information need not be provided to Energy Safety. In some cases, PG&E argues that the information is not necessary and in others PG&E argues that the information is not yet easily provided.

⁷ SPD-15, Attachment 1, p. 10.

⁸ TURN Opening Comments, pp. 2-3

⁹ PG&E Opening Comments, pp. 21-22.

¹⁰ Cal. Pub. Util. Code Section 8388.5(a). All references to code throughout this document are to the Public Utilities Code.

¹¹ Cal. Pub. Util. Code Section 8388.5(c)(2).

Regardless of the reason why, Energy Safety should be wary of any call by the utility to provide less rather than more information and should reject the utility requests.

For instance, PG&E suggests that it is unnecessary to provide information on non-EUP projects.¹² The information that would be excluded by the PG&E proposal includes certain information on how that project would have fit into its proposed EUP otherwise and information on timing of the project. This information should continue to be provided for all undergrounding projects. While different undergrounding projects may be considered and pursued for different reasons the information on their completion and the risk that they may be addressing may provide useful to assessing future projects and should be provided.

There are a number of locations where PG&E suggests that it will take additional time to develop the data requested and therefore requests that the data not be required. For instance, PG&E requests that the ablation studies on reliability be excluded from final requirements.¹³ PG&E suggests that it cannot complete the requested study and “timely submit a 10-year EUP.”¹⁴ Even if certain data points would delay the submission of the 10-year EUP, that should not mean that the data point should be removed from the Guidelines. Currently, PG&E has funding through 2026 including the undergrounding projects to be completed in that time. To the extent that the utility is not prepared to file its EUP to cover projects beyond 2026, the utility still has the General Rate Case plan process available for the review of future projects.

Any reduction in data and information provided by the utility in its EUP may result in additional data requests after it is submitted. The utility will then be in the position of providing having to provide these data points in the much more constrained discovery process. Including more data in the EUP up front will likely result in fewer data requests after submission.

4. Conclusion

TURN appreciates the opportunity to provide these reply comments in addition to their earlier comments and participation in the working group. Energy Safety should adjust the Draft Guidelines as outlined in TURN’s opening comments.

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¹² PG&E Comments, pp. 7-8.

¹³ PG&E Comments, p. 11.

¹⁴ PG&E Comments, p.11.