



Gary Chen  
Director, Safety & Infrastructure Policy  
gary.chen@sce.com

July 5, 2024

**VIA ELECTRONIC FILING**

**Docket # Compliance Guidelines**

Patrick Doherty  
Program Manager, Compliance Assurance Division  
Office of Energy Infrastructure Safety  
715 P Street, 20th Floor  
Sacramento, CA 95814

**RE: Southern California Edison, Pacific Gas and Electric, and San Diego Gas & Electric Company's Joint Comments on Office of Energy Infrastructure Safety's Proposed Compliance Guidelines 2024 Update**

Dear Program Manager Doherty:

Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company (the "IOUs") provide the following joint comments addressing the Proposed Compliance Guidelines Draft 2024 Update ("Draft Guidelines") issued by the Office of Energy Infrastructure Safety ("Energy Safety") on June 5, 2024. The IOUs generally support the adoption of the 2024 Draft Guidelines. However, to ensure clarity and consistency of application and promote an effective and consistent compliance process, the IOUs recommend the following modifications to the Draft Guidelines.

## **I. COMMENTS**

### **A. The Compliance Guidelines lack a process and criteria for which an electrical corporation will be evaluated for compliance with its approved Wildfire Mitigation Plan.**

Whereas previous versions of Energy Safety's compliance guidelines have included guidelines explaining the criteria Energy Safety uses to evaluate whether an electrical corporation ("EC") complied with its Wildfire Mitigation Plan ("WMP"),<sup>1</sup> the 2024 Compliance Guidelines omit any section discussing the Energy Safety Annual Report on Compliance ("ARC"). For example, Section 7.0 of the 2023 Compliance

---

<sup>1</sup> See, e.g., Energy Safety 2023 Compliance Guidelines, Section 7.0 ("Energy Safety ARC"); Section 7.1 ("Elements of Analysis"); Section 7.2 ("Evaluation Criteria").

Guidelines<sup>2</sup> includes an “Elements of Analysis” section listing the types of information that Energy Safety considers when it performs its ARC. The 2023 Compliance Guidelines also include “Evaluation Criteria” for Energy Safety’s ARC. The section detailing guidelines for Energy Safety’s ARC has been removed in its entirety from the Draft Guidelines. The reason for this omission is unexplained. The Draft Guidelines do not state whether Energy Safety will provide a response to an EC after submittal of documentation substantiating compliance with a WMP, a timeframe for publishing the Energy Safety ARC, or any standard under which the EC will be evaluated for compliance with its WMP.

Without clarity in the ARC evaluation criteria, the ECs will be inhibited from understanding Energy Safety’s reasoning when assessing compliance with an approved WMP. Consistent with previous iterations of compliance guidelines, the IOUs request that Energy Safety explain the criteria Energy Safety will use to assess the ECs’ compliance with their WMPs. By removing the section regarding Energy Safety’s ARC, the 2024 Compliance Guidelines lack clarity as to how an EC’s compliance with its WMP will be measured, and also leaves the EC uninformed on how it might self-assess and make informed decisions to continuously improve.

Furthermore, given the transition to the year-ahead WMP review and approval, the IOUs request that Energy Safety provide additional clarity regarding its assessment of WMP compliance if forecasted targets are not reached due to circumstances outside of the IOUs control, or if revised assessments of risk or efficiency render the previous target inefficient or inconsistent with other regulatory requirements and approvals. Because the IOUs must forecast annual targets well in advance of the applicable compliance period, intervening circumstances such as supply chain constraints, land rights issues, or regulatory decisions at the California Public Utilities Commission—including but not limited to the IOUs General Rate Cases—may result in the IOUs falling off-track from forecasted targets or electing to reprioritize work away from forecasted programs. Energy Safety’s Policy Division provides limited opportunities and criteria for approved changes to WMP targets and has provided that the electrical corporations should address failure to meet targets for many of the reasons stated above, including infeasibility, through the compliance process.

The IOUs continue to balance the cost efficiencies of WMP initiatives, new and emerging data and information, and stakeholder input in their respective efforts to promote the safety of their communities and reduce the risk of utility related wildfires and PSPS. For this reason, Energy Safety should allow reasonable flexibility in assessing WMP compliance where changed or new circumstances may render targets infeasible or inefficient. To allow the IOUs better understanding of how WMP compliance will be assessed in such circumstances, the IOUs encourage Energy Safety’s Compliance Division to collaborate with its Policy Division on these issues and update the 2024 Compliance Guidelines to provide guidance on how IOUs should address changed circumstances in their Annual Reports on Compliance, and establish

---

<sup>2</sup> Issued on September 8, 2023.

that failure to meet previously approved targets under such circumstances will not result in a finding of non-compliance.

**B. The Definition of “Commitment” Should Be Clarified**

The IOUs request that the definition for the term “Commitment” in Section 2.0 of the Draft Guidelines be revised because it is overbroad, vague, and ambiguous.<sup>3</sup> As it is currently written, any declarative sentence containing an action in an EC’s Wildfire Mitigation Plan (WMP) can be considered to be a regulatory “commitment.” This is not practical for a document that often exceeds 900 pages and will have an unintended chilling effect on the information that the ECs include in their WMPs. Therefore, the IOUs urge Energy Safety to clarify the definition of commitment as follows:

“Commitment” – Within the WMP, a formally-defined target or objective that the electrical corporation states it will or plans to accomplish within the compliance period. The commitment may be quantitative or qualitative in nature.

Such a revision is particularly important in light of Section 7.0, which sets out the compliance guidelines for the Independent Evaluator process.<sup>4</sup> By providing a precise definition of “commitment,” the scope of what is being evaluated is clear and the ECs can focus their efforts on the issues Energy Safety considers to be important. Without clarification, there will be confusion as to what is being evaluated in these proceedings and potentially disparate results across ECs from year to year since it is simply not possible to verify every declarative statement in a 900-page document each year.

**C. The Guidelines do not specify when an NOV/NOD is satisfactorily closed after all required reporting has been provided.**

The IOUs request that Section 3.0 includes guidance on what the utility can expect from Energy Safety when it submits all required documentation in response to an NOV/NOD.

The IOUs similarly request that Section 3.0 be revised to include clear definitions of what constitutes each of the three categories of NOV/NOD. No definitions are provided for any of these three risk categories (Severe, Moderate, and Minor), and it is unclear what would make a violation or defect fall into a particular category. Without clarity on this issue, there will not be uniformity in how NOVs or NODs are issued or resolved. This will inhibit the ECs’ ability to formulate compliance strategies and focus on improvement.

**D. Wildfire Safety Concern (WSC) is not a defined term and is not distinguished from a defect.**

---

<sup>3</sup> Draft Guidelines at 1.

<sup>4</sup> Draft Guidelines at 10-12.

Section 4.0 of the Guidelines provides requirements for an EC to respond to a WSC. This term is undefined and vague. Energy Safety describes WSCs as “certain conditions that lead it to believe that the risk of wildfire would subsequently increase.” This description is largely similar to that of a “defect,” which is defined as “deficiencies, errors, or conditions that increase the risk of ignition posed by electrical lines and equipment requiring correction.” Therefore, the IOUs suggest that defects and WSCs be reported and tracked via the process outlined in Section 4.0 Wildfire Safety Concerns and that Section 3.0 be reserved for Notices of Violation.

Regarding the method for reporting on status of corrective actions for WSCs, the IOUs suggest reporting a list of comprehensive WSCs and associated corrective actions on the 10<sup>th</sup> day of each calendar quarter by email to the [Compliance@EnergySafety.ca.gov](mailto:Compliance@EnergySafety.ca.gov) email inbox, and not replying to the specific email that issued the WSCs. Replying to specific emails for each WSC would result in multiple email threads and tracking mechanisms, whereas providing a single, comprehensive list of all open WSCs once per quarter would be more efficient.

Furthermore, the IOUs request that Energy Safety commit to provide photos of the identified defects and WSCs along with their descriptions and associated details. Photos will assist the EC in determining whether it intends to take corrective action. Absent the photos, EC must field verify every condition identified to determine next steps. If Energy Safety is unable to provide photos, the IOUs request that the timeframe to respond within 10 business days be extended to 30 calendar days.

Lastly, the IOUs request that Section 4.0 be revised to provide flexibility in responding to a notification of a WSC upon a showing of good cause by the EC, as follows:

Within 10 business days of receipt, the electrical corporation must reply to the email and inform Energy Safety of whether it intends to take corrective action for each of the WSCs. This 10-business day deadline may be extended upon a showing of good cause by the electrical corporation. If the electrical corporation does not intend to take corrective action for a given WSC, it must explain why.

**E. The requirement to submit Initiative Construction Standards annually by March 31 and two weeks after effective updates is overburdensome and unnecessary.**

While the IOUs agree that it is beneficial for Energy Safety to have access to initiative construction standards, the process and timeframe requirements to provide updated versions of construction standards are overburdensome and unnecessary in light of existing updates provided to Energy Safety. Instead, the IOUs recommend that each utility provide Energy Safety their appropriate standards on a quarterly basis, at the same time as their quarterly reporting.

The draft guideline concerning updates to construction standards is unnecessary given existing practices. For example, SDG&E makes its standards publicly available on its Standards and Manuals website. SCE submits an ongoing quarterly data request response with updated standards and would continue to utilize that process. PG&E would be interested in a similar process to that of SCE. This approach would ensure that Energy Safety can access updated standards on a regular basis without it being overburdensome for the IOUs to gather.

Additionally, SDG&E employs a standard practice to provide Energy Safety's Compliance division with a monthly Standards Newsletter that outlines which Standards have been revised in that month. SDG&E recommends that this practice remain as a proactive means to notify Energy Safety of updated standards.

SDG&E's Electric Standard Practices (work methods) are classified as *INTERNAL* documents and the IOUs urge Energy Safety to remove "construction methods" from the "Initiative Construction Standards" definition.

#### **F. Comments on Requirements for the Electrical Corporation Annual Report on Compliance**

Several of the requirements in Section 6.0 require reporting on 10-year objectives in the Annual Report on Compliance. The IOUs suggest removing requirements relating to 10-year objectives, as progress on 10-year objectives might not be significant until it gets closer to the year scheduled for completion. Objectives are established using the best available information at the time of the WMP submission. Objectives consider risk, authorized funding, resource availability, weather and climate conditions, standards and regulations, technology and material availability, strategic goals, and other factors. Some of these factors are outside of electrical corporations' control. If a utility's assumptions around the future state of these factors is materially different than what transpires over the WMP cycle, an objective may become untenable, insufficient, or require modification to appropriately account for those changes. Indeed, given the longer-term nature of objectives, it would not be surprising if several objectives need to be modified or reconsidered as shorter-term developments lead to a re-assessment of longer-term goals.

In Part (1)(a) of Section 6.0, the IOUs suggest removing the requirement to report on summarized objectives for the 10-year WMP plan cycle as a 10-year WMP plan cycle does not exist. Section 4.2 of the 2023-2025 WMP Technical Guidelines, as footnoted in part (1)(a), only includes plan objectives for the 3-year cycle. Therefore, it is not applicable to report on summarized 10-year objectives.

In Part (1)(b) of Section 6.0, the IOUs suggest removing "with completion dates within the recently completed compliance period" as it believes the intent of this section is to report progress on all objectives, not only those that were due to be completed in the compliance period. Part (1)(c) sufficiently covers the requirement for an assessment

of completion for objectives that were due to be completed in the compliance period. Parts (1)(b) and (1)(c) would be duplicative if the language “with completion dates within the recently completed compliance period” remains in (1)(b).

In Part (1)(c) of Section 6.0, the IOUs point out that 10-year objectives will not have completion dates within the recently completed compliance period. Objectives that are expected to be completed in the current WMP cycle are 3-year objectives. For this reason, the IOUs suggest removing the requirement to report on *completed* 10-year objectives.

**G. The timeframe for executing a contract with an independent evaluator is unreasonable.**

While the IOUs acknowledge the need for a timely contract execution with an independent evaluator, the 45-day timeframe provided in the Draft Guidelines is infeasible. As explained below, The IOUs recommend a 60-day timeframe.

The typical timeframe to complete a contract from releasing the Request for Proposal (RFP) to potential independent evaluators is eight weeks, or approximately 60 days. For example, for one of the IOUs, independent evaluators are typically provided four weeks to submit proposals. This four-week timeframe allows sufficient time for bidders to evaluate the scope of work, submit questions to the utility and receive responses prior to submitting its final proposal. A bid is typically accepted two weeks after proposals are submitted, following a review, evaluation, and comparison of each bidder’s proposal. The contract is then developed and circulated for review and approval by the parties, which takes additional time. Contract development, review, and approvals typically span two weeks.

Additionally, there are certain factors that may elongate the timeframe required to finalize a contract. For example, when an independent evaluator has never previously been contracted for work by the utility, additional time is required to onboard the firm for the first time. Moreover, in some cases, the independent evaluator may plan to use certain technologies such as drones to perform field verifications, which requires a more thorough and time-consuming cybersecurity review. For all of these reasons, the IOUs recommend a 60-day timeframe to execute a contract with an independent evaluator.

**H. Clarifications to the Timeline of the Substantial Vegetation Management Audit**

The IOUs recommend that Energy Safety establish a specified timeframe by which Energy Safety anticipates completing the Substantial Vegetation Management (SVM) audit of an electrical corporation and submit its initial audit report. As the SVM audit is an annual process, prolonged audit durations may lead to confusion as audit processes bleed over from year to year. Further, a defined audit timeline will allow the

electrical corporations to address any identified issues without unnecessary report delays.

The IOUs recommend an audit completion timeframe within six months following the date of an electrical corporation's final notification to Energy Safety indicating it has completed its Substantial Vegetation Management work for the associated WMP compliance year. This recommendation is in alignment with Pub. Util. Code 8386.3(c)(5) which states Energy Safety, "...shall promptly audit the work performed by, or on behalf of, the electrical corporation." Additionally, facilitating a prompt audit process will allow continued cadence of the audits and alignment with the most recently approved WMP.

### **I. Draft Guidelines May Not Be Applied Retroactively**

When these Draft Guidelines are finalized and published by Energy Safety, they should clarify that they do not apply retroactively to work performed prior to 2025. Work must be performed and evaluated in accordance with the guidelines in operation at the time. Since work must be planned and performed on an annual basis and, given that it is already more than halfway through 2024, it would be contrary to state law to apply a standard that was not in effect at the time the work was performed. Thus, assuming these Draft Guidelines are finalized and published prior to the end of 2024, the appropriate time for them to replace the 2023 Guidelines would be January 1, 2025.

### **II. Conclusion**

The IOUs appreciate the opportunity to provide these comments and look forward to further discussion and engagement on them. Should you have any questions or concerns, please do not hesitate to contact the undersigned.

Sincerely,

//s//

Gary Chen

Director, Safety & Infrastructure Policy