

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement  
Electric Utility Wildfire Mitigation Plans  
Pursuant to Senate Bill 901 (2018).

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Rulemaking 18-10-007  
(Filed October 25, 2018)

**COMMENTS OF THE JOINT LOCAL GOVERNMENTS ON PG&E'S 2021 WILDFIRE  
MITIGATION PLAN UPDATE**

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Santa Rosa

Dated: March 29, 2021

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In accordance with Resolution WSD-001, and the Wildfire Safety Division's March 1, 2021 letter extending the filing dates for opening and reply comments, the Counties of Kern, Marin, Mendocino, Napa, Nevada, San Luis Obispo, Santa Barbara, and Sonoma, and the City of Santa Rosa (the Joint Local Governments) submit their comments on PG&E's 2021 Wildfire Mitigation Plan update.

**I. COMMENTS**

**A. Over-Arching Concerns About PG&E's Approach to Wildfire Mitigation**

While PG&E's 2021 WMP update shows that PG&E has been engaged in a wide variety of wildfire mitigation activities since 2019, the update also shows some troubling patterns. The fact that PG&E's vegetation management, asset inspections, and risk modeling have until now failed to prioritize the High Fire Threat Districts in PG&E's service territory is deeply troubling.<sup>1</sup> Given PG&E's history of causing wildfires and the impacts of its widespread de-energization events, prioritizing wildfire risk reduction in HFTDs should have been the

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<sup>1</sup> PG&E 2021 WMP Update, Section 4, Lessons Learned.

obvious choice. The fact that it was not raises questions about the value of the work PG&E has done over the last two years, the costs to customers of that work, and whether PG&E is truly capable of prioritizing its customers. The 2021 WMP update promises to remedy those past failings, but the real test of any plan is how well it is implemented. The Wildfire Safety Division and Commission must keep close watch over PG&E in the coming years.

PG&E's 2021 WMP update also paints a broad picture of the extent to which the utility is externalizing its wildfire mitigation work. Many of the activities PG&E describes involve changing the environment around PG&E's electrical equipment, instead of hardening the equipment itself. PG&E will continue its aggressive vegetation management program, which now includes a plan to widen transmission rights-of-way at the cost of approximately 270,000 trees, despite the fact that vegetation contacts account for approximately 2% of HFTD transmission ignitions.<sup>2</sup> Through all of its various vegetation management programs, PG&E is significantly altering the landscape surrounding its infrastructure, while it only targeted 220 miles of overhead infrastructure for hardening in the HFTD in 2020.<sup>3</sup> PG&E is contemplating prophylactic use of fire retardant in its rights-of-way,<sup>4</sup> which could have devastating and long-lasting impacts on the environment and groundwater, instead of taking a more aggressive approach to ensuring its infrastructure is hardened. And PG&E contemplates de-energization as a permanent fixture in its wildfire mitigation program,<sup>5</sup> which has significant impacts on PG&E's customers, and which is a tool predicated on the assumption that PG&E's infrastructure is not sturdy enough to withstand certain weather events. PG&E's 2021 WMP update makes it clear

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<sup>2</sup> PG&E 2021 WMP Update, pp. 634–636; *id.* at p. 95, Table PG&E 4.3-1.

<sup>3</sup> PG&E 2021 WMP Update, p. 557.

<sup>4</sup> *Id.* at pp. 642–644.

<sup>5</sup> *Id.* at pp. 865–866, Table 8-1.

that PG&E intends to continue placing a significant burden on its customers and on the physical environment surrounding its infrastructure, instead of focusing on making its system more resilient.

The Joint Local Governments do not argue that PG&E should not adhere to line clearance requirements for trees or vegetation, or that factors other than PG&E's electric infrastructure do not contribute to wildfire risk. But it is not clear that PG&E's 2021 WMP update provides a plan of action that focuses the appropriate level of work on the appropriate mitigation measures.

**B. System Hardening—Distribution (Section 7.3.3.17.1)**

While the Joint Local Governments generally support PG&E's system hardening work, it is not clear from the 2021 WMP update that PG&E is being sufficiently aggressive—or forthright—with its approach. In 2019, PG&E targeted 150 miles of electric facilities for hardening, and completed 171 miles.<sup>6</sup> In 2020, PG&E targeted 220 miles for hardening and completed 342.<sup>7</sup> And PG&E only targets 180 miles in 2021.<sup>8</sup> By contrast, SCE has installed over 1,480 circuit miles of covered conductor since 2018, and its targets for 2021 and 2022 are 1,000 miles and 1,600 miles, respectively.<sup>9</sup> In addition to concerns about PG&E's extremely conservative approach to system hardening, the Joint Local Governments note that, of the 342 miles of facilities PG&E hardened in 2020, 194 of those miles were hardened during wildfire

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<sup>6</sup> PG&E 2021 WMP Update, p. 557.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Id.* at p. 558. PG&E states that those 180 miles represent a greater risk reduction value than the 300 miles it originally planned for 2021, but the fact remains that PG&E's system hardening goals are miniscule compared to its total overhead system miles in elevated fire risk areas, even when its goals increase to 450 or 500 miles per year in 2024. (*Id.* at p. 559.)

<sup>9</sup> SCE 2021 WMP Update, p. 6.

rebuild efforts.<sup>10</sup> Though it is certainly important to replace burned electrical infrastructure with state-of-the-art equipment, it is not clear that post-fire restoration work properly counts toward the incremental system hardening PG&E is supposed to be doing every year.

**C. Vegetation Management and Inspections (Section 7.3.5)**

The Joint Local Governments are concerned by the increasing disconnect between PG&E's vegetation management activities as they appear on paper and as they are enacted in practice. On paper, PG&E's plans are laid out in tidy categories: number of circuit miles covered; number of trees trimmed or removed; distance of clearances maintained; regulations complied with; amount of risk reduced. In practice, however, those work categories have translated into clear-cutting huge swaths of private and public property, massive amounts of debris left for landowners to deal with, serious erosion risks and environmental impacts, limited oversight of third-party contractors, and extraordinary customer frustration with PG&E's vegetation management criteria and practices. In the North Bay, PG&E's aggressive clearing of electric line rights-of-way is creating an explosion of Scotch broom, because the rights-of-way suddenly receive more sunlight than they used to. Scotch broom is invasive and flammable, and is increasing fire risk in the areas where it is now growing aggressively. It is not enough for PG&E and the Commission to look only at vegetation management on paper; the actual impacts of what PG&E is doing, and how it is doing it, must be taken into account as well. The Joint Local Governments remind PG&E and the Commission that this is not an either/or proposition: PG&E can remediate hazardous vegetation and comply with clearance requirements in a way that also complies with environmental regulations, does not burden landowners with huge cleanup obligations, ensures better oversight of third-party contractors, and allows for

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<sup>10</sup> PG&E 2021 WMP Update, p. 557.

meaningful communication between customers and the utility.

**1. Additional Efforts to Manage Community and Environmental Impacts (Section 7.3.5.1)**

PG&E states that its vegetation management activities face numerous legal challenges (e.g., land rights, environmental requirements, local permit requirements) and that the utility proactively communicates and partners with impacted customers, landowners, government agencies, and community organizations regarding planned work and long-term solutions for neighborhoods and communities.<sup>11</sup> While the Joint Local Governments believe that PG&E does make an effort to provide notice to impacted property owners, to educate communities about vegetation management work, and to obtain necessary permits, we have seen first-hand that the level of engagement PG&E considers to be proactive communication or collaboration can fall short of what local governments or customers expect. Simply applying for a local permit does not constitute coordination or communication with the local government issuing the permit. Similarly, the letters, postcards, door hangers, fact sheets, brochures, presentation materials, outbound calling, website, social media, emails, and text messages PG&E uses to mitigate community and environmental impacts are one-way information dumps, not proper communication or collaboration.<sup>12</sup> Moreover, the fact that PG&E relies almost entirely on third-party contractors to do its vegetation management means that customers and communities have limited ability to obtain information or discuss specifics about the planned work with the people who will be doing it. The Joint Local Governments have also observed that, because of its heavy reliance on third-party contractors, PG&E does not have the necessary level of oversight or knowledge of on-the-ground conditions to know when its contractors have deviated from

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<sup>11</sup> PG&E 2021 WMP Update, p. 627.

<sup>12</sup> *Ibid.*

vegetation management or environmental protocols.

The Joint Local Governments do not suggest that it is feasible for PG&E to have an in-depth discussion and negotiate the specifics of vegetation removal with every property owner, but there is room in PG&E's outreach and communications for improvement. The Commission and Wildfire Safety Division should also bear in mind when evaluating PG&E's vegetation management program that there is often a significant difference between PG&E's plans as they appear on paper and how the plans are actually implemented.

## **2. Detailed Inspections of Vegetation Around Transmission Electric Lines and Equipment (Section 7.3.5.3)**

PG&E's Right of Way (ROW) Expansion program, which would clear a minimum 20-foot corridor around transmission lines, is concerning.<sup>13</sup> PG&E's vegetation management work is already having significant unaddressed environmental and practical impacts, and PG&E estimates that an additional 270,000 trees will be targeted under this program.<sup>14</sup> Based on the information PG&E has provided, it is not clear that the ROW Expansion program is necessary when vegetation accounts for 2% of transmission ignitions in PG&E's High Fire Threat District territory.<sup>15</sup>

The expanded vegetation clearing along transmission rights-of-way is also concerning because of PG&E's "lop and scatter" fuel treatments.<sup>16</sup> "Lop and scatter" sounds innocuous, but, as the Joint Local Governments showed in their comments asking the Commission to direct PG&E to reinstate its practice of removing felled trees that it cuts down as part of its post-fire

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<sup>13</sup> PG&E 2021 WMP Update, p. 634.

<sup>14</sup> *Id.* at p. 636.

<sup>15</sup> *Id.* at p. 95, Table PG&E 4.3-1.

<sup>16</sup> *Id.* at p. 634.

system restoration work, the reality is that significant numbers of huge logs are left to dry out and rot where they are felled.<sup>17</sup> That practice creates safety, environmental, and fire hazards. PG&E is already leaving too much dead fuel on the ground as a result of its vegetation management work; it is not clear that PG&E has justified the need to add to that problem.

### **3. Fuel Management and Reduction of "Slash" From VM Activities (Section 7.3.5.5)**

The Wildfire Safety Division asked PG&E to explain its plan to reduce the availability of fuel in proximity to potential sources of ignition, including slash from vegetation management activities that produce vegetation material such as branch trimmings and felled trees.

PG&E never answers that question.<sup>18</sup> The Commission should take notice of that fact.

It is not clear that PG&E is doing enough to remove the slash created by its vegetation management activities, particularly with respect to felled trees. To effectively assess PG&E's activities, the Commission would first need to know the volume of slash PG&E generates as a byproduct of its vegetation management work, and the type of material that comprises the slash (species, twigs, leaves, small branches, entire trees, etc.). The Joint Local Governments are not aware of any such quantification provided by PG&E. From our first-hand experience, however, we can state that the volume of slash is significant and that it often includes large numbers of felled trees. While PG&E's contractors will generally remove slash, including felled trees, at the property owner's request under the Enhanced Vegetation Management program, PG&E has multiple vegetation management programs and it is not clear that PG&E's removal policies are consistent across all of them.

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<sup>17</sup> Comments of the Joint Local Governments on Administrative Law Judge's Ruling Requesting Comment on Closing this Proceeding, *passim* (December 11, 2020).

<sup>18</sup> PG&E 2021 WMP Update, pp. 641–642.

#### 4. Plans for Use of Fire Retardant (Section 7.3.5.5, Action PGE-8)

The prospect of PG&E using fire retardant to pre-treat rights-of-way as a means of limiting the potential for sparks to cause a wildfire is deeply concerning for a number of reasons.<sup>19</sup> During the public workshop on its 2021 Wildfire Mitigation Plan, PG&E stated that the fire retardant will likely have to be reapplied every year, as it will wash away with the rain. Fire retardant is comprised of chemicals that should not necessarily be applied to the environment and washed into the surrounding soil, groundwater, and waterways on an annual basis. Allowing PG&E to engage in annual prophylactic use of fire retardant throughout its service territory could have severe and long-lasting harmful impacts on the environment. The Commission must not allow PG&E to use fire retardant without a robust environmental review that includes significant stakeholder engagement.

PG&E does note that fire retardants must be evaluated for potential environmental impacts, but the subsequent discussion of how PG&E might go about deploying fire retardant across its service territory raises several concerns.<sup>20</sup> First, PG&E's discussion of permitting and environmental studies is limited to state and federal lands. PG&E states that the USFS requires issuance of a Pesticide Use Permit and both the National Parks Service and Bureau of Land Management would require NEPA review for fire retardant.<sup>21</sup> PG&E also notes that it has various O&M agreements with state and federal land management agencies across its service territory, but that PG&E would still need to pursue a Special Use Permit and undertake NEPA/CEQA review—similar to the process of getting herbicides approved for use on federal

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<sup>19</sup> PG&E 2021 WMP, pp. 643–644.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Id.* at p. 643.

and state property.<sup>22</sup> For private property, however, PG&E only states that a land rights assessment will be necessary and that any fire retardant application outside its existing ROW easement would need new property rights or landowner approval.<sup>23</sup> Given the potential severity of the environmental impacts associated with widespread, repeated, and long-term use of fire retardant in PG&E's ROWs, the lack of discussion about environmental impact studies for the areas of PG&E's service territory outside state and federal lands is deeply concerning. PG&E's service territory contains significant amounts of private agricultural property, private coastal property in high fire threat areas, and customers who depend on groundwater for drinking and household use. PG&E's obligation to understand the impacts of prophylactic fire retardant use goes beyond a land rights assessment for private property.

During the public workshop examining the large electric utilities' Wildfire Mitigation Plan updates, PG&E stated that it will undertake a comprehensive environmental review of the potential impacts of fire retardant before enacting that program; PG&E further stated that it would share the results of its review with the Commission and with stakeholders. The Joint Local Governments cannot overstate the importance of PG&E making good on that promise and the necessity of rigorous Commission oversight. Much of PG&E's current wildfire mitigation program is external-facing and not focused on improving the resiliency and safety of PG&E's actual infrastructure: de-energization events have serious impacts on customers and communities; and aggressive vegetation management impacts landowners and the environment. PG&E must not be allowed to add another external-facing mitigation, and one that requires blanketing ROWs with potentially toxic chemicals, absent a robust and public environmental

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<sup>22</sup> PG&E 2021 WMP Update, pp. 643–644.

<sup>23</sup> *Id.* at p. 644.

review process—if PG&E should be allowed to implement this program at all.

## **5. Stakeholder Cooperation and Community Engagement (Section 7.3.10)**

PG&E's plans for improved coordination and engagement with communities and customers appear, on paper, to be well-considered. If PG&E is able to implement its plans effectively, local governments, customers, and other stakeholders will likely see an improved relationship with the utility. The Joint Local Governments support PG&E's plan to be more customized in its outreach efforts to local agencies, which may include field tours of grid control centers or temporary generation sites, co-creating ideas for new tools and processes, establishing additional user testing groups to gather real-time feedback as PG&E builds new emergency management tools and practices, hosting topic-specific workshops, co-hosting public-facing events with agency partners to address questions and concerns from the community, and partnering with additional external partner agencies to assist with outreach and engagement.<sup>24</sup> That level of hand-on partnership and coordination is necessary to build an effective working relationship between PG&E and the local agencies in its service territory. The Joint Local Governments look forward to working with PG&E to implement these practices.

### **D. De-Energization**

PG&E's de-energization events improved between 2019 and 2020, and the additional plans in the 2021 WMP update for improvements to situational awareness, data and modeling, sectionalization, microgrids and temporary generation, infrastructure technology, and operations appear reasonable. While issues relating to the utilities' de-energization protocols and implementation will largely be addressed in R.18-12-005, the Joint Local Governments support

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<sup>24</sup> PG&E 2021 WMP Update, p. 806.

PG&E's identification areas where it has room to improve following the 2020 de-energization events.<sup>25</sup>

There are two aspects of PG&E's de-energization planning that raise concerns. First, it appears that PG&E has not been forthright about relevant orders in its federal probation proceeding or the likely impacts on customers of those orders. PG&E's 2021 WMP update stated that PG&E was assessing how to incorporate the presence of known, high-risk vegetation conditions adjacent to powerlines into de-energization decisionmaking, which could result in de-energization of power lines that do not otherwise meet de-energization event criteria.<sup>26</sup> This vague announcement did not provide information about why PG&E was considering including those criteria in its de-energization decisionmaking process. The Commission's March 19, 2021 motion for leave to file an amicus letter in PG&E's federal probation proceeding provided the answers that PG&E did not: the inclusion of high-risk vegetation in PG&E's de-energization decisionmaking process is a requirement that Judge Alsup is considering imposing in the probation proceeding.<sup>27</sup> PG&E's 2021 WMP update does not mention that. The Commission's letter also revealed that PG&E has accepted the proposed requirements and has now analyzed the potential impacts of the court's potential order, which would *more than double* the number of de-energization events in PG&E's service territory, as well as making outage footprints larger and increasing the average outage duration.<sup>28</sup> That is an alarming prospect in itself, particularly for the communities that are already at high likelihood for de-energization. But it is also deeply

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<sup>25</sup> PG&E 2021 WMP Update, p. 860.

<sup>26</sup> *Id.* at pp. 851–852.

<sup>27</sup> Attachment A, pp. 1–2. The Commission's letter was served on the service list for R.18-12-005 on March 19, 2021.

<sup>28</sup> *Id.* at p. 2.

concerning that PG&E does not appear to have updated its 2021 WMP to reflect that information. The errata that PG&E provided on March 17 does contain edits to Table 11 of the "All Data Tables Required by 2021 WMP Guidelines" spreadsheet, which appears to show a significant increase in de-energization impacts, but it is not apparent from the errata if those changes are the result of PG&E running the numbers on the court's proposed requirements or due to other calculation errors. Regardless, the fact that PG&E has not made it clear to the Commission and stakeholders in this proceeding that it now knows the likely impacts of including high-risk vegetation in its de-energization decisionmaking is unacceptable. As the Commission stated in its amicus letter, PG&E's lack of public transparency and regulatory oversight regarding its plan for implementing the proposed conditions is concerning.<sup>29</sup>

Doubling the number of PG&E de-energization events is also unacceptable. The Joint Local Governments recognize that the Commission has limited ability to influence the federal court's orders in PG&E's probation proceeding, but we cannot overstate the importance of the Commission's warning to Judge Alsup of the dire consequences of those proposed requirements.

The Joint Local Governments also share the Commission's concern that PG&E's plan to implement the court's proposed requirements has not been examined in the context of PG&E's Enhanced Vegetation Management program.<sup>30</sup> The Commission is starting to learn about the on-the-ground effects of PG&E's aggressive vegetation clearing, as well as the questionable level of day-to-day oversight and quality control that PG&E has over its third-party contractors. Given the potential scope and severity of the impacts to customers and the

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<sup>29</sup> Attachment A, p. 3.

<sup>30</sup> *Id.* at p. 4.

environment of including high-risk vegetation in de-energization decisionmaking, we greatly appreciate that the Commission emphasized to the court the importance of careful and holistic consideration of the practical implications of the proposed requirements.

The second concerning issue is that PG&E's 10-year projection shows no change in the frequency of de-energization events under normalized weather conditions or in total.<sup>31</sup> For the normalized fire weather projections, PG&E states that the number of de-energization events can be reduced by either building its system to hardened standards to withstand extreme weather or mitigated by de-energization impact equipment or services.<sup>32</sup> PG&E's juxtaposition of a steady number of de-energization events a decade from now with the observation that the number of de-energization events can be reduced by system hardening calls into question the effects of PG&E's current system hardening activities. If all of the system hardening PG&E is doing, at a cost of many billions of dollar to its customers, will not result in a system that is hardened to withstand extreme weather conditions, then what are PG&E's customers paying for? PG&E's explanation of the expected steady state of de-energization frequency for all events in total also implicates that question: PG&E states that long-term climate models suggest a higher probability of more frequent fire weather conditions, meaning the absolute number of de-energization events will not change or may even increase.<sup>33</sup> Again, if the billions PG&E is spending on system hardening and wildfire risk reduction will not yield a system that is capable of remaining energized during at least some fire weather conditions, is PG&E approaching its wildfire mitigation program effectively?

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<sup>31</sup> PG&E 2021 WMP Update, pp. 865–866, Table 8-1.

<sup>32</sup> *Id.* at p. 865.

<sup>33</sup> *Id.* at p. 866.

The ten-year de-energization forecast also raises questions about the Commission's expectations. Does the Commission expect that de-energization will become normalized and that Californians will start thinking of it as an acceptable and ordinary part of fire season? Is it reasonable to allow the utilities to shut off the power indefinitely instead of hardening their systems to withstand most extreme weather conditions? Given the significant impacts on customers and communities from de-energization events, is de-energization sustainable as a long-term fire prevention strategy? Will the threat, or reality, of perpetual de-energization cause an exodus from frequently impacted communities, and if so, what harm will that cause to the communities in terms of reduced tax revenue and diminished funding for public services and infrastructure? The Commission needs to consider what it wants the future of de-energization to be.

## **II. CONCLUSION**

PG&E's 2021 WMP update shows that the Commission needs to ask some hard questions about PG&E's activities and long-term plans. Should PG&E be allowed to continue to externalize a significant portion of its mitigation work? Is PG&E taking an aggressive enough approach to system hardening? What are the on-the-ground impacts to communities and the environment of PG&E's aggressive vegetation management work? Are PG&E's contractors adhering to environmental requirements and respecting private property rights? How extensive must the environmental review be for PG&E's plan to use fire retardant in its rights-of-way? Why won't the extensive and costly mitigation measures PG&E is undertaking reduce the number of de-energization events in 10 years? Does PG&E's WMP really present the optimal combination of mitigation activities in the optimal proportions? There are ways for PG&E to effectively mitigate wildfire risk in its service territory that do not impose such a large and damaging burden on PG&E's communities and customers. The Joint Local Governments have

had a front-row seat to two years' of PG&E's wildfire mitigation efforts, and what we see is that PG&E cannot be allowed to continue conducting mitigation work in any manner it sees fit. If the Commission does not emphasize to PG&E that *how* it implements mitigation measures is as important as the mitigation itself, the resulting long-term damage to the environment, to communities, and to customers will be significant.

Respectfully submitted March 29, 2021, at San Francisco, California.

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By: /s/ Megan Somogyi

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**ATTACHMENT A**

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9 Commissioners of the California Public Utilities Commission

10 **UNITED STATES DISTRICT COURT**  
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
12 **SAN FRANCISCO DIVISION**

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 vs.

17 PACIFIC GAS AND ELECTRIC COMPANY,

18 Defendant.  
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Case No. 14-cr-00175-WHA

**CPUC MOTION FOR LEAVE TO FILE  
AMICUS LETTER**

Hearing Date: 03/23/2021  
Time: 8:00 am  
Courtroom: 12, 19th Floor  
Judge: Hon. William H. Alsup

1 The California Public Utilities Commission (“CPUC”) hereby seeks leave of the  
2 Court to file an *Amicus* letter regarding the new proposed terms of probation for defendant  
3 Pacific Gas and Electric Company (“PG&E”). Federal courts have inherent authority to  
4 entertain Amicus briefs. *In re Bayshore Ford Truck Sales, Inc.*, 471 F.3d 1233, 1249, n.34  
5 (11th Cir. 2006).

6 The CPUC’s proposed letter is attached hereto as **Exhibit 1**.

7  
8 Respectfully submitted,

9  
10 March 19, 2021

By: /s/ Christofer C. Nolan  
AROCLES AGUILAR  
CHRISTINE JUN HAMMOND  
CHRISTOFER C. NOLAN

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13 Attorneys for the CALIFORNIA PUBLIC  
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# EXHIBIT 1

STATE OF CALIFORNIA

GAVIN NEWSOM Governor

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



March 19, 2021

**VIA ELECTRONIC MAIL**

Honorable William H. Alsup  
United States District Court  
Northern District of California  
Courtroom 12 - 19th Floor  
450 Golden Gate Avenue  
San Francisco, California 94102

*Re: Proposed Probation Conditions 11 and 12 in Case No. 14-cr-00175-WHA*

Dear Judge Alsup,

The California Public Utilities Commission (“CPUC”) requests leave of the Court to offer additional comments out of time with the Court’s schedule. See ECF No. 1294.

Given the overriding importance of the issues that the Court is currently considering, the CPUC wishes to further inform the Court of public safety consequences in connection with the Court’s consideration of imposing modified Proposed Conditions of Probation Nos. 11 and 12 on defendant Pacific Gas and Electric Company (“PG&E”). See *id.* In summary, the potential doubling of Public Safety Power Shutoff (“PSPS”) events in PG&E’s service territory under these modified Proposed Conditions could translate into a corresponding or even greater increase in the public safety perils flowing directly from the use of PSPS. There has been no critical analysis of PG&E’s expected use of the number of trees in its PSPS decision-making model. There has further been no critical analysis of whether the wildfire risk mitigation that may be accomplished by the modified Proposed Conditions is commensurate with the corresponding increased risk to public safety that will be brought about by more frequent PSPS events impacting millions of Californians.

As the California Governor’s Office of Emergency Services emphasized to the Court this month, “[disaster] prevention and mitigation require careful deployment of a broad array of measures that must be evaluated for their efficacy at risk reduction or mitigation, but also the broader impacts to the community of implementing those measures.” ECF No. 1319 at 3-4. The CPUC again submits that PG&E’s implementation of PSPS as a wildfire mitigation tool of last resort would best serve the public if it is considered in one of the pending CPUC proceedings, where local and tribal representatives and state and local public service and first responder entities can speak to and be heard on their personal and local public safety priorities.

Hon. William H. Alsup  
March 19, 2021  
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On February 4, 2021, the Court modified Proposed Condition Nos. 11 and 12 relating to criteria for consideration in PSPS events. ECF No. 1294. PG&E responded on February 19, indicating that it accepts the modified Proposed Conditions and that its acceptance will lead to “the significant potential expansion [of] PSPS.” ECF No. 1310 at 2:25-26. On March 17, PG&E stated that it is “continuing to move forward on operationalizing changes to its PSPS program” pursuant to the modified Proposed Conditions and further elaborated:

Those changes, which will significantly increase the customer impacts of PSPS events, are subject to ongoing refinement and engagement with regulators. But PG&E currently anticipates that the changes to its PSPS program as described for the Court in the context of Proposed Conditions 11 and 12 will reduce wildfire risk and, if the fire conditions that prevailed in the run-up to the Zogg Fire were to occur in 2021, would lead to the de-energization of the Girvan Circuit in the area of interest. (*See* Dkt. 1310.)

ECF No. 1344 at 3:13-20.

PG&E’s characterization of a “significant potential” expansion of PSPS events as a consequence of implementing modified Proposed Condition Nos. 11 and 12 does not appear to fairly capture PG&E’s anticipated impact on their customers, the broader public, and on state, local, and tribal public and emergency resources.

In the course of recent communications between PG&E and CPUC staff, CPUC staff asked PG&E to assess how its plan for implementing the modified Proposed Condition Nos. 11 and 12 would affect the size, scope, and frequency of PSPS events in its service territory. PG&E provided CPUC staff with estimates, based on historic weather data from 2010 – 2019. PG&E’s estimates show that, had PG&E conducted PSPS over that time period,<sup>1</sup> adding the revised Probation Conditions Nos. 11 and 12 as triggers to execute a PSPS event would have more than doubled the total number of PSPS events conducted in PG&E’s service territory.

Additionally, the average event would have impacted a greater number of customers, including access and functional needs, economically disadvantaged, and limited English proficiency households.

The CPUC staff further learned that PG&E estimates the average event duration would have increased from 23 to 28 hours if the modified Proposed Conditions had been implemented as part of PG&E’s PSPS protocols, an average increase from approximately 78 million to approximately 118 million customer hours.

Under such circumstances, the extensive public input the CPUC has received in numerous public forums about PSPS events make clear that local and tribal governments and first responders would suffer an impaired ability to serve their communities. See ECF No. 987 at 21-23, 25; and ECF No. 1314 at 17-21.

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<sup>1</sup> PG&E only began conducting PSPS events in October 2018.

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Because PSPS requires inspection of lines prior to re-energization,<sup>2</sup> expansion of PSPS events over a greater footprint could cause longer-duration outages. And longer-duration outages can magnify public safety impacts.

For example, customers in remote locations lacking wireless connectivity rely on their wireline connections for 911 service, emergency text messages, and other communications. Wireline service depends on connection to telecommunications central offices that require electric power. In Tier 2 and Tier 3 High Fire Threat Districts (“HFTDs”), only 14% of central offices have backup generation to support communications for more than 24 hours.<sup>3</sup> Until last July, when the CPUC mandated at least 72 hours of backup power for both wireline and wireless communications providers in Tier 2 and Tier 3 HFTDs, the Federal Communications Commission required only 24 hours of emergency backup power at wireless cell sites.<sup>4</sup> Such CPUC orders should help mitigate the risk of public safety impacts associated with PSPS events, but communications service providers/carriers have 18 months from July 2020 in which to comply with the CPUC’s July 2020 order for at least 72 hours of backup power – which means many facilities in Tier 2 and Tier 3 HFTDs will not have 72 hours of backup capability for most of the upcoming wildfire season. As PG&E’s PSPS outages have generally lasted more than 24 hours, and have repeatedly lasted as long as five to six days, longer PSPS outages would directly impact public safety.

The CPUC is very concerned about PG&E’s lack of public transparency and regulatory oversight regarding its plan for implementing modified Proposed Conditions of Probation Nos. 11 and 12. PG&E states that it will implement the modified Proposed Conditions of Probation Nos. 11 and 12 “by using expert analysis to set fire-risk thresholds to determine when conditions warrant de-energization.” ECF No. 1310 at 2:17-18. PG&E does not explain to the Court what specific data PG&E’s experts will use to establish these fire-risk thresholds, such as the number of trees and their proximity to electrical equipment. CPUC staff understands that PG&E has utilized LiDAR-generated maps to develop a list of areas it would de-energize during a PSPS event. But PG&E has not described this methodology publicly, it has not (to the CPUC’s knowledge) communicated this methodology and its anticipated impacts to potentially impacted customers, communities, and first responders, it has not produced details to the CPUC staff, nor has it allowed for or proposed a method for validating the analysis it used to translate “tree density” into a risk model to inform PSPS decision-making.

PSPS is a tool that should be used responsibly and judiciously. PG&E has made it known that it is proceeding with operationalizing modified Proposed Conditions 11 and 12, even as the Court has not yet

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<sup>2</sup> See, e.g., CPUC Decision 20-05-051, Appendix A at 6-7 (“Restoration of power service upon conclusion of public safety need for de-energization”) (accessible at <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M339/K524/339524880.PDF>); and PG&E’s 2021 Wildfire Mitigation Plan at 690-92 (Section 7.3.6.4 Protocols for Public Safety Power Shutoff (PSPS) Re-Energization), 854-857, and 887-91 (Section 8.2.3 Re-Energization Strategy) (accessible at [https://www.pge.com/pge\\_global/common/pdfs/safety/emergency-preparedness/natural-disaster/wildfires/wildfire-mitigation-plan/2021-Wildfire-Safety-Plan.pdf](https://www.pge.com/pge_global/common/pdfs/safety/emergency-preparedness/natural-disaster/wildfires/wildfire-mitigation-plan/2021-Wildfire-Safety-Plan.pdf)).

<sup>3</sup> See CPUC Decision 21-02-029 at 50, Table 1 (Availability of Backup Power Using Batteries for Wireline Service Providers' Facilities in Tier 2 and 3 High Fire Threat Districts) (accessible at <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M366/K625/366625041.PDF>).

<sup>4</sup> See CPUC Decision 20-05-051 at 10.

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adopted the conditions of probation. See ECF No. 1344 at 3:13-14. The CPUC has also come to learn, based on recent communications between PG&E and CPUC staff, that PG&E has used LiDAR-generated data collected in 2019 and early 2020 to develop its approach to operationalize Probation Condition Nos. 11 and 12. Yet PG&E has not described how it has or will account for Enhanced Vegetation Management completed in 2020-2021 – or going forward including if PG&E implements its Proposed Condition No. 1 – which should in turn reduce the need for PSPS events.

Such a lack of careful and holistic consideration could result in wider, broader, and longer PSPS outages – and accompanying public safety risks – than would be necessary. Other vitally important considerations will inevitably emerge as PG&E implements its Wildfire Mitigation Plan and continues to redesign and harden its electric utility system.

The CPUC has previously urged that considerations affecting PSPS events should be thoroughly vetted in a public proceeding informed by public comments and expert opinions on PG&E's modeling, technology integration, and expert input. See ECF No. 1314. Having briefed the Court on the public safety consequences flowing from PSPS events and the need to make targeted and restrained use of PSPS as a tool of last resort, the CPUC is alarmed to have learned that implementation of the modified Proposed Conditions would have increased the impact of any one of its most aggressive PSPS events by almost 25,000 additional households in California.

The CPUC again respectfully submits that these kinds of operationalizing decisions that impact PG&E's use of PSPS should be subject to a thorough vetting by the CPUC's Safety and Enforcement Division and Wildfire Safety Division, other experts, local residents and their representatives, tribal governments, and public service and first responder agencies, so that PG&E utilizes PSPS events optimally and only as a measure of last resort.

Sincerely,

/s/ *Christine Jun Hammond*

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9 Commissioners of the California Public Utilities Commission

10 **UNITED STATES DISTRICT COURT**  
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
12 **SAN FRANCISCO DIVISION**

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 vs.

17 PACIFIC GAS AND ELECTRIC COMPANY,

18 Defendant.

Case No. 14-cr-00175-WHA

**CPUC CERTIFICATE OF SERVICE RE  
MOTION FOR LEAVE TO FILE  
AMICUS LETTER**

Hearing Date: 03/23/2021

Time: 8:00 am

Courtroom: 12, 19th Floor

Judge: Hon. William H. Alsup

1 I am a citizen of the United States, over 18 years of age, employed in  
2 the City and County of San Francisco, and not a party to the subject cause. My  
3 business address is the California Public Utilities Commission, Legal  
4 Division, 505 Van Ness Avenue, San Francisco, California 94102.

5 On March 19, 2021, I sent the following documents:

- 6 **1. CPUC MOTION FOR LEAVE TO FILE AMICUS LETTER;**
- 7 **2. CPUC CERTIFICATE OF SERVICE RE MOTION FOR LEAVE**  
8 **TO FILE AMICUS LETTER**

9 to the following interested parties by email:

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 19, 2021, at San Francisco, California.

By: /s/ Christofer C. Nolan  
AROCLES AGUILAR  
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