



July 26, 2021

Subject: Office of Energy Infrastructure Safety Response to Comments on the 2021 Safety Certification Guidelines

On May 11, 2021, the Office of Energy Infrastructure Safety (Energy Safety)¹ released its draft 2021 Safety Certification Guidance Pursuant to Public Utilities Code § 8389(f)(2) (Guidance). Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), the Coalition of California Utility Employees (CUE), Mussey Grade Road Alliance (MGRA), Protect Our Communities Foundation (PCF), Public Advocates Office (Cal Advocates), and The Utility Reform Network (TURN) submitted opening comments on June 1, 2021. The same stakeholders submitted reply comments on June 15, 2021. Comments focused on two main issues: the “good standing” provision of Public Utilities Code (Pub. Util. Code) § 8389(e)(2) and demonstration of WMP implementation pursuant to Pub. Util. Code § 8389(e)(7). Energy Safety has reviewed and considered all stakeholder comments and reply comments in developing its final 2021 Safety Certification Guidance and provides its responses to stakeholder comments herein.

1. Inclusion of other criteria in evaluation of good standing

Pub. Util. Code § 8389(e)(2) states that the Director of Energy Safety shall issue a safety certification to an electrical corporation if the electrical corporation provides documentation that “the electrical corporation is in good standing, which can be satisfied by the electrical corporation having agreed to implement the findings of its most recent safety culture assessment, if applicable.”

Pursuant to Pub. Util. Code § 8389(d)(4), Energy Safety must conduct annual safety cultures assessments (SCAs) for each electrical corporation.² In 2020, Energy Safety engaged in a public stakeholder process to develop the parameters for its inaugural 2021 SCAs. In addition, Pub. Util. Code § 8386.2 requires that a third-party evaluator conduct an SCA of each electrical corporation at least once every 5 years.

¹ As of July 1, 2021, the Wildfire Safety Division transitioned to the Office of Energy Infrastructure Safety at the California Natural Resources Agency, as statutorily required by Assembly Bill (AB) 111 (signed by the Governor in July of 2019) pursuant to Gov. Code §15475.

² Adopted in Resolution WSD-011.



In its Draft Guidance, Energy Safety proposed that it may consider additional criteria in assessing ‘good standing.’ The electrical corporations and CUE assert that the code section limits Energy Safety to assessing only whether the electrical corporation has agreed to implement the findings of its most recent SCA. The only case where other criteria may be assessed, according to SCE, is absent the presence of an SCA. Cal Advocates and TURN support inclusion of additional criteria, however they request additional clarification on the criteria to be assessed.

To satisfy the “good standing” requirement, the electrical corporation can agree to implement all of the findings (including recommendations for improvement) of its most recent safety culture assessment performed pursuant to Pub. Util. Code §§ 8386.2 and 8389(d)(4).³

2. WMP Implementation

Pub. Util. Code § 8389(e)(7) states that the Director of Energy Safety shall issue a safety certification to an electrical corporation if the electrical corporation provides documentation that “the electrical corporation is implementing its approved [WMP].” The statute requires an electrical corporation to file a notification of implementation with Energy Safety and an information-only submittal to the California Public Utilities Commission (Commission) on a quarterly basis detailing WMP implementation as well as implementation of SCAs and recommendations of the safety committee. The statute affords Energy Safety the ability to audit the veracity of any statements contained in the advice letters.

In its Draft Guidance, Energy Safety detailed the compliance process adopted in Resolution WSD-012 and introduced the concept of evaluating implementation through the compliance process. However, as written, there was confusion about the intent of Energy Safety’s evaluation. The electrical corporations argue that compliance and implementation are separate and should not be conflated; SDG&E notes that Pub. Util. Code § 8389(g) allows for enforcement for noncompliance. MGRA asserts that evaluation of compliance with the WMP is a valid component of issuance of a safety certification.

Pub. Util. Code § 8389(e)(7) requires that the electrical corporation provide documentation that it is implementing its WMP (as well as its SCA and safety committee recommendations). To satisfy this requirement, the electrical corporation must provide

³ The process by which electrical corporations agree to implement these findings will be specified in the Safety Culture Assessment process.



such documentation in its notification of implementation. If Energy Safety has reason to doubt the veracity of the statements contained in the notification or information-only submittal, it will perform an audit of the issue of concern. As noted by several stakeholders, it is necessary for Energy Safety to determine whether the electrical corporation *is implementing* its WMP. The electrical corporation cannot merely demonstrate any implementation, no matter how small, and reasonably be presumed to have satisfied the intent of the statute. The electrical corporation must demonstrate *meaningful* progress in implementing its WMP in its notification of implementation. In this case, meaningful progress means that the electrical corporation is progressing towards the targets set forth in its WMP Demonstration of meaningful implementation is necessary to warrant issuance of a safety certification.

3. Energy Safety Response to Other Issues

a. Timing of Safety Certifications

SDG&E raises concern about the proposed timing of the safety certification stating that safety certifications should be issued prior to the start of wildfire season. Setting aside that there is no official start date to wildfire season, SDG&E's concern exists only in 2021. For each year following 2021, the electrical corporation will have a safety certification, if issued, in place during the wildfire season while Energy Safety evaluates issuance of the subsequent safety certification.

b. Comments and Discovery

Energy Safety agrees that stakeholders should be afforded the opportunity to comment on the electrical corporations' safety certification requests and adopts a comment schedule accordingly. The safety certification process mainly includes demonstration of adherence to criteria that are developed outside of the safety certification process (e.g., executive compensation structures are evaluated separately). Therefore, expedited discovery is denied.

c. Board-level reporting to the Commission

TURN requests that there be a public meeting where there is board-level reporting on safety issues. The Guidance includes such a provision.

d. Adherence to S-MAP and RAMP processes

PCF suggests that Energy Safety should evaluate compliance with the S-MAP and RAMP processes as part of safety certification. While the WMP and RAMP/S-MAP processes are related, as a Commission proceeding, the Commission holds jurisdiction to enforce compliance with the RAMP/S-MAP.

e. Executive Compensation Public Process



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Cal Advocates requests that Energy Safety provide clarification on the executive compensation public process in the Guidelines. The public process will be detailed at a later point as part of the executive compensation evaluation process.

f. Safety Committee Membership

PG&E requests clarity on how it should inform the Commission on safety committee membership. PG&E should contact the Commission to confirm how the Commission would prefer to receive this information.

Sincerely,

A handwritten signature in black ink that reads "Lucy Morgans".

Lucy Morgans
Acting Program Manager
Office of Energy Infrastructure Safety