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California Public Utilities Commission
Attn: Caroline Thomas Jacobs, Director
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Sent Via Email (wildfiresafetydivision@cpuc.ca.gov)

RE: The Protect Our Communities Foundation's Comments on Proposed Roadmap

Dear California Public Utilities Commission:

The Protect Our Communities Foundation (PCF) provides the following comments on the Draft Reducing Utility-Related Wildfire Risk – Utility Wildfire Mitigation Strategy and Roadmap for the Wildfire Safety Division, and the appendices thereto (Proposed Roadmap). PCF agrees with and has long been advocating for many of the recommendations in the Proposed Roadmap. Below, PCF provides critical context for the recommendations made in the Proposed Roadmap, both legal and factual, that should – and must – inform wildfire risk mitigation now and in the future. When read in this context, the Proposed Roadmap establishes that the utilities and the Commission have failed to meet their statutory obligations to protect Californians and minimize the risks from utility-related wildfires. In an appropriate context in the Commission's wildfire mitigation plan proceedings, and perhaps in the context of any adoption of this Proposed Roadmap, the Commission should set forth the numerous legal requirements to make clear all the statutory mandates that apply to the utilities' wildfire mitigation plans and actions.

I. PCF Agrees WSD Has Encountered “Pain Points” Which Impair Long-Term Wildfire Risk Management Objectives: They Result From The Utilities’ Failure to Comply With Legal Requirements and Prevent the Requisite Wildfire Risk Reduction in the Short Term Too.

PCF agrees that the Wildfire Safety Division (WSD) “and California’s broader wildfire community, encounter a set of pain points that limit their ability to pursue long-term, utility-related wildfire risk management objectives,” which included “Poor data quality and limited availability,” “Lack of process standardization across stakeholders,” “Need for manual intervention in decision-making processes,” “Lack of transparency,” and “Limited participation of relevant stakeholders.”¹

¹ Appendix 3, p. 3; *see also* Appendix 1, p. 18 (footnotes omitted) (“Data and analytics to support risk-informed decision-making. A key focus of the WSD is on incorporating data and analytics into their risk management approaches ...these efforts have taken place in silos, with each major utility developing

As discussed below, each of the “pain points” identified in the Proposed Roadmap can be traced to legal mandates shirked by the utilities to date. Accordingly, PCF raises the question whether the Commission should adopt the moniker of “pain points” to describe the circumstances that have prevented the utilities from meeting key and critical statutory mandates. Instead of minimizing the real and troubling issues that prevent the Commission and WSD from exercising the necessary oversight, and instead of shifting even further away from compliance requirements, the Commission should more appropriately focus on achieving robust compliance with the myriad statutory safety mandates as the Legislature has directed.

The statutory wildfire risk reduction mandate found in Section 8386(a) requires wildfire risk reduction in the present as well as in the future; and has not changed since the 2016 enactment of SB 1028, the legislation that initially mandated the utilities to prepare and submit wildfire mitigation plans (WMPs) and which first required that “[e]ach electrical corporation shall construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment.”² SB 901, enacted in 2018 “to reduce the risk of these wildfires by expanding the requirements” of then existing wildfire mitigation efforts by imposing “additional requirements as part of the electric utility’s annual wildfire mitigation plans,”³ kept SB 1028’s wildfire risk reduction mandate intact.⁴ SB 901 mandated nineteen items be included in WMPs; replaced an audit required by SB 1028 with a post-approval independent evaluation process;⁵ and added the requirement that the Commission “verify that the plan complies with all applicable rules, regulations, and standards, as appropriate.”⁶ AB 1054 was intended to “create additional safety oversight,”⁷ and left intact the statutory risk reduction mandate and post-approval independent evaluation process. AB 1054 amended SB 901 by requiring the establishment of WSD⁸ and, among other things, designated WSD as the initial body to “verify that the plan complies with all applicable rules, regulations, and standards” as required by SB 901.⁹

unique analytical and decisionmaking processes. These examples highlight some of the issues, further detailed in Figure 7 below, that the WSD and utilities still face related to use of data and analytics. These pain points hamper rigorous wildfire risk calculations based on standardized data and methodologies, thereby precluding a shared understanding of wildfire risk and a synchronized response to the threat of wildfires.”); Appendix 1, p. 19 (Figure 7).

² Sen. Bill No. 1028 (2015-2016 Reg. Sess.) § 1.

³ Sen. Floor Analysis of Sen. Bill No. 901 (2017-2018 Reg. Sess.) August 31, 2018, p. 13.

⁴ Sen. Bill No. 901 (2017-2018 Reg. Sess.) § 38 (“(d) The commission shall accept comments on each plan from the public, other local and state agencies, and interested parties, and verify that the plan complies with all applicable rules, regulations, and standards, as appropriate.”) (emphasis added).

⁵ Sen. Bill No. 901 (2017-2018 Reg. Sess.) § 38 (Section 8386, subd. (h)).

⁶ Sen. Bill No. 901 (2017-2018 Reg. Sess.) § 38, emphasis added; *see also* D.19-05-036, *Guidance Decision on 2019 Wildfire Mitigation Plans Submitted Pursuant to Senate Bill 901* (May 30, 2019), p. 13.

⁷ Assem. Floor Analysis of Assem. Bill No. 1054 (2019-2020 Reg. Sess.) July 11, 2019, p. 1.

⁸ Pub. Util. Code, § 326, subd. (a) (“By January 1, 2020, the commission shall establish the Wildfire Safety Division within the commission...”).

⁹ Assem. Bill No. 1054 (2019-2020 Reg. Sess.), § 17.

As detailed below, the same problems identified by the Proposed Roadmap as impairing long-term risk management objectives also serve to impair risk management objectives existing today; and adhering to the terms of all applicable statutes would address the problems identified in the Proposed Roadmap. Thus, although WSD prefers to focus on the future,¹⁰ ensuring that the utilities comply with all existing applicable statutes and Commission orders should be WSD's top priority right now. Long-term resilience would be the natural result if the Commission and the utilities were to adhere to the letter of the law applicable today. Moreover, the possibility of future improvement should not become an excuse for the utilities' repeated failures to comply with the wildfire mitigation statutes, past Commission decisions, and other legislative mandates – here and now, today, in the present.

II. PCF Agrees That WSD Should Put the Utilities' Role in the Proper Context and That WSD Has Failed to Hold the Utilities Accountable and Remains Unfocused On Ensuring Compliance.

PCF agrees with the conclusions in the Proposed Roadmap relating to WSD's failure to hold the utilities accountable¹¹ and that WSD should not proceed with new actions or a revised approach until it puts the role of the utilities in the right context.¹² The Proposed Roadmap also appropriately recognizes that WSD "is especially focused on shifting away from a compliance-focused culture."¹³ As Figure 12 in Appendix 3 reveals, WSD's analysis compares the WMPs to WSD targets as opposed to legal requirements.¹⁴

¹⁰ Cover Letter, p. 1 ("This Proposed Roadmap contains specific objectives, actions, and performance measures to underpin the WMP evaluation process in future years."); Cover Letter, p. 2 ("Revised WMP process, including Guidelines and a Utility Wildfire Mitigation Maturity Model that focuses on understanding utility wildfire risk and program effectiveness to drive continued improvement and rigor over time.").

¹¹ Appendix 1, p. 16 ("Additionally, the CPUC's Office of the Safety Advocate (OSA), the duties of which are now under other CPUC divisions, has recommended improvements to oversight, which the WSD needs to adopt, and to utilities' safety management, safety culture and utility infrastructure."); Appendix 3, p. 4 ("Historically, the CPUC has conducted its regulatory oversight using manual processes and static reporting products, resulting in oversight that is neither efficient nor sufficiently rigorous. Today, the WSD receives utilities' WMPs in different formats, requiring manual review by staff. The plans are typically made available in only PDF, and both the WSD and the public (which has the right to comment) lack access to interfaces or tools (e.g., GIS-enabled maps) that could make the plans easier to understand.").

¹² Proposed Roadmap, p. 25 ("...before the WSD pursues additional actions or revises their existing approach, they need to more clearly articulate the problem to solve. Without this clarity, utilities may continue to focus on technical solutions or standalone activities. Only by articulating the holistic challenge can the WSD put the role of the utilities in the right context and clearly define the vision and objectives for utility wildfire mitigation. Once the WSD has clarified this, the division then can advance the conversation about adjusting and prioritizing ongoing (or new) efforts...").

¹³ Appendix 1, p. 16 ("The WSD is especially focused on shifting utilities from a compliance-focused culture towards a culture centered on public safety.").

¹⁴ Appendix 3, p. 22.

The Proposed Roadmap does not purport to examine the specific existing legal requirements which WSD shifts away from, nor does it purport to address the impact that compliance with existing mandates could have on public safety or toward achieving the vision statement set forth in the Proposed Roadmap.

PCF disagrees with the suggestion in the cover letter to the Proposed Roadmap which implies that WSD has yet been focused on compliance,¹⁵ and notes that the Proposed Roadmap itself appropriately does not suggest WSD has been focused on compliance at any time.

The cover letter to the Proposed Roadmap also misdescribes WSD's statutory obligations.¹⁶ Among other things, the wildfire mitigation statutes require WSD to "verify that the plan complies with all applicable rules, regulations, and standards, as appropriate."¹⁷ To date, neither the Commission nor WSD have so verified.

PCF similarly disputes any suggestion in the cover letter that WSD to date has ascertained the effectiveness of the utilities' WMPs.¹⁸ Although the Commission repeatedly has acknowledged that effective wildfire risk reduction remains the statutory mandate,¹⁹ both WSD and the Commission have also acknowledged that to date it has not been possible to ascertain the effectiveness of the utilities' WMPs.²⁰

¹⁵ Cover Letter, p. 3 ("Culture and behavior: Develop a safety and risk management culture within utilities that is no longer focused solely on compliance, but proactively drives towards the vision for utility wildfire mitigation.").

¹⁶ Cover Letter, p. 1 (stating that WSD and others "determine whether the actions proposed by each utility are appropriate to address the level of risk identified and whether the plan will put the utility on a path to achieving the CPUC's long-term wildfire risk-reduction goals").

¹⁷ Pub. Util. Code, § 8386, subd. (d).

¹⁸ Cover Letter, p. 1 ("With a long-term vision and specific objectives, the WSD's review of WMPs will have greater effectiveness and account for a fuller set of impacts, tradeoffs, and considerations for the state to support better decision-making.").

¹⁹ D.19-05-036, p. 26; Resolution WSD-002, *Guidance Resolution on 2020 Wildfire Mitigation Plans Pursuant to Public Utilities Code Section 8386* (June 11, 2020), p. 2.

²⁰ See e.g. D.19-05-036, p. 4-5 ("There are limits on what can be accomplished in this proceeding, as the strict statutory deadlines – three months to approve the Wildfire Mitigation Plans, with very limited exceptions – provide little time to evaluate each Plan's effectiveness. At the same time, this is only the first of what we anticipate will be many Wildfire Mitigation Plan proceedings, so this decision contains many substantive and procedural requirements for future plans based on lessons learned this year); Resolution WSD-002, p. 19-30. The Commission also erroneously delayed evaluation of effectiveness. R.18-10-007, The Protect Our Communities Foundation Application for Rehearing of D.20-03-004 (April 17, 2020); D.20-03-004, *Decision on Community Awareness and Public Outreach Before, During and After a Wildfire, and Explaining Next Steps for Other Phase 2 Issues* (March 12, 2020).

²⁰ See e.g. D.19-05-036, p. 4-5, 27-29; Resolution WSD-002, p. 19-30.

For example, the Commission raised serious concerns about the utilities' risk assessments and analyses in the decisions on the utilities' 2019 WMPs,²¹ describing the utilities' risk assessments in their 2019 WMPs as a "black box with insufficient description of the supporting information and rationale for proposed programs" and noting that a "trust us, we know what we are doing" approach to risk assessment is not appropriate given recent wildfire activity.²² This year, the Commission and WSD determined, among other things, that the utilities' 2020 WMPs continue to fail to assess and analyze risk properly.²³ As discussed below, the Commission's determinations with respect to the utilities' risk assessment failures – both in 2019 and now again in 2020 – necessarily means that the utilities continue to violate Section 8386's threshold risk reduction mandate as well its specific provisions regarding the required elements necessary for inclusion in WMPs.²⁴

III. PCF Agrees the Utilities' Risk Assessments Fail to Meet Rudimentary Risk Assessment Principles; They Also Fail to Meet Applicable Legal Mandates.

The utilities are already required to be at level 6 on the risk management maturity model chart set forth in Figure 6 of Appendix 1 to the Proposed Roadmap,²⁵ because the wildfire mitigation statutes require the utilities "to include all relevant wildfire risk and risk mitigation information" required by the Commission's Safety Model Assessment Proceeding (S-MAP), the Risk Assessment and Mitigation Phase (RAMP) filings in the utilities WMPs.²⁶ Below, PCF briefly describes the S-MAP and RAMP decisions and explains how the concerns raised in the Proposed Roadmap reveal the utilities fail include the information required by the S-MAP and RAMP decisions.

²¹ D.19-05-036, p. 28-29; D.19-05-038, *Decision on Southern California Edison Company's 2019 Wildfire Mitigation Plan Pursuant to Senate Bill 901* (May 30, 2019), p. 22-23, 52-53 (OP 6); D.19-05-039, *Decision on San Diego Gas & Electric Company's 2019 Wildfire Mitigation Plan Pursuant to Senate Bill 901* (May 30, 2019), p. 23-24, p. 31 (OP 12); D.19-05-037, *Decision on Pacific Gas and Electric Company's 2019 Wildfire Mitigation Plan Pursuant to Senate Bill 901* (May 30, 2019), p. 56 (OP 27), p. 60 (OP 8).

²² D.19-05-036, p. 29, fn. 42.

²³ Resolution WSD-002, p. 19-30; Resolution WSD-003, *Resolution Ratifying Action of the Wildfire Safety Division on Pacific Gas & Electric Company's 2020 Wildfire Mitigation Plan Pursuant to Public Utilities Code Section 8386* (June 11, 2020), p. 23-28, 33-34, 36, 42, 45-46, 55; Resolution WSD-004, *Resolution Ratifying Action of the Wildfire Safety Division on Southern California Edison Company's 2020 Wildfire Mitigation Plan Pursuant to Public Utilities Code Section 8386* (June 11, 2020), p. 10-12, 18, 22-23, 25-29, 34-36, 38-40, 43, 46, 48-49; Resolution WSD-005, *Resolution Ratifying Action of the Wildfire Safety Division on San Diego Gas & Electric Company's 2020 Wildfire Mitigation Plan Pursuant to Public Utilities Code Section 8386* (June 11, 2020), p. 11-12, 23-25, 33, 37-38, 43-44, 46, 49.

²⁴ See e.g. Pub. Util. Code, § 8386, subd. (a), (c); D.19-05-036, Appendix A, p. A2.

²⁵ Appendix 1, p. 18.

²⁶ Pub. Util. Code, § 8386, subd. (c)(11); D.19-05-036, p. 28-29.

A. The S-MAP and RAMP Decisions Already Require the Information That the Proposed Roadmap Correctly Notes Remain Lacking.

In R.13-11-006, the Commission adopted “a risk-based decision-making framework, consisting of the Safety Model Assessment Proceeding [S-MAP], the Risk Assessment and Mitigation Phase [RAMP] proceeding, and the filing of annual verification reports consisting of the Risk Mitigation Accountability Report and the Risk Spending Accountability Report.”²⁷ In proceeding R.13-11-006, the Commission issued D.14-12-025 which required the utilities to file comprehensive²⁸ RAMP submissions that contained the following information:

- The utility’s prioritization of the risks it believes it is facing and a description of the methodology used to determine these risks...
- A description of the controls currently in place, as well as the “baseline” costs associated with the current controls.
- The utility’s prioritization of risk mitigation alternatives, in light of estimated mitigation costs in relation to risk mitigation benefits (Risk Mitigated to Cost Ratio).
- The utility’s risk mitigation plan, including an explanation of how the plan takes into account: Utility financial constraints; Execution Feasibility; Affordability Impacts; Any other constraints identified by the utility.
- For comparison purposes, at least two other alternative mitigation plans the utility considered and an explanation of why the utility views these plans as inferior to the proposed plan.²⁹

In addition to requiring RAMP reports, D.14-12-025 required at least two Safety Model Assessment Proceedings (S-MAP) for the large energy utilities, so that the Commission and the parties could “explore and analyze each energy utility’s approach to prioritize the risk to safety associated with each utility’s system and services, and the tools or activities that the energy utilities use to manage, mitigate, and minimize those safety risks.”³⁰

²⁷ D.14-12-025, *Decision Incorporating a Risk-Based Decision-Making Framework into the Rate Case Plan and Modifying Appendix A of Decision 07-07-004* (December 4, 2014), p. 54-55 (OP 1).

²⁸ D.14-12-025 at 39-40 (Limiting the utility’s RAMP submission to just 10 asset categories may prevent the Commission and interested parties from having a comprehensive view of the utilities potential safety risks, and its plans for addressing those risks. Since the RAMP will provide the first opportunity for parties to see how the utility prioritizes safety in terms of its assets and operations, the RAMP should not be limited to a maximum of 10 asset categories. Accordingly, the utility’s RAMP submission shall include all of its risk assessments and mitigation plans.”).

²⁹ D.14-12-025, p. 32.

³⁰ D.14-12-025, p. 25, 27.

D.16-08-018, the first decision the Commission issued in the first S-MAP proceeding, highlighted the importance of a cost effectiveness analysis and clarified that calculating risk reduction per dollar “is required by D.14-12-025 and is necessary information for balancing safety with reasonable rates and holding utilities accountable for safety spending,” found that “[p]rioritizing based on cost-effectiveness measures is an important improvement to rate cases and an important step to optimizing portfolios,” concluded that the “utilities’ RAMP filings should include calculations of risk reduction and a ranking of mitigations based on risk reduction per dollar spent,” and ordered that RAMP filings “shall explicitly include calculation of risk reduction and a ranking of mitigations based on risk reduction per dollar spent.”³¹ D.16-08-018 also concluded that “[p]rioritizing the reduction of safety risks should be geared towards safety risk, and should not include financial interests” and that the utilities “should remove shareholders’ financial interests from consideration in their risk models and decision frameworks. . . .”³² and directed the utilities “to remove shareholders’ financial interests from consideration in their risk models and decision frameworks used to support case expenditure proposals, especially at the operational level, unless the utility can make a good case for an exception in its” RAMP filing.³³

Later in the S-MAP proceeding, in D.18-12-014, the Commission adopted a settlement agreement between all of the large utilities, the Public Advocates Office, and several intervenors, which expanded on the requirements of D.14-12-025 and D.16-08-018.³⁴ Among other things, D.18-12-014 mandates that (1) the utilities “clearly and transparently explain its rationale for selecting mitigations for each risk and for its selection of its overall portfolio of mitigations;” (2) that “[i]nputs and computations...should be clearly stated and defined” and “the sources of inputs should be clearly specified,” (3) that the utilities “use utility specific data” in identifying potential consequences of and frequency of a risk event; (4) that the utilities measure risk reduction provided by a risk mitigation; and (5) that the utilities calculate risk spend efficiency (RSE) “by dividing the mitigation risk reduction benefit by the mitigation cost estimate.”³⁵ As the Commission has explained, the settlement agreement approved in D.18-12-014 “provided a more robust and stronger version of the ten recommended RAMP components than was first introduced in D.16-08-018,” including the requirement “that risk spend efficiency [RSE] calculations for risk mitigations are independent of RAMP risk selection.”³⁶

³¹ D.16-08-018, *Interim Decision Adopting the Multi-Attribute Approach (Or Utility Equivalent Features) and Directing Utilities to Take Steps Toward a More Uniform Risk Management Framework* (August 18, 2016), p. 187 (Finding of Fact 81, 82), p. 192 (Conclusion of Law 30), p. 196 (OP 8).

³² D.16-08-018, p. 192-193 (Conclusion of Law 36, 37).

³³ D.16-08-018, p. 195-196 (OP 7).

³⁴ D.18-12-014, *Phase Two Decision Adopting Safety Model Assessment Proceedings (S-MAP) Settlement Agreement with Modifications* (December 13, 2018), Attachment A, p. A-3 (defining Settling Parties).

³⁵ D.18-12-014, Attachment A, p. A-8, A-12, A-13, A-14, A-17.

³⁶ I.19-11-010/011, Order Instituting Investigation into the Risk Assessment and Mitigation Phase Submission of San Diego Gas & Electric Company (November 7, 2019), p. 3-4.

Although a meaningful cost effectiveness analysis and elimination of shareholder interests in risk-based decision-making has been required by the Commission for many years, the Commission described the utilities' risk assessments that were contained in their 2019 WMPs as a "black box."³⁷ The Commission also acknowledged that Section 8386 requires the utilities "to include all relevant wildfire risk and risk mitigation information" required by the Commission's S-MAP and RAMP decisions, including the Risk-Spend Efficiency analysis required by D.18-12-014 and ordered the utilities to comply with these mandates in their 2020 WMPs.³⁸

AB 1054, which became effective after the Commission's decisions on the utilities' 2019 WMPs, did not change the requirement that the utilities' WMPs must adhere to the S-MAP and RAMP decisions.³⁹ Thus, the utilities remain statutorily-required to demonstrate compliance with the Commission's safety orders in D.14-12-025, D.16-08-018, and with D.18-12-014, each of which require a cost-effectiveness analysis in order properly to assess risk and prioritize risk reduction measures.⁴⁰ Nevertheless, WSD and the Commission correctly concluded that the utilities in their 2020 WMPs continue to fail to provide the requisite analysis of risk reduction per dollar spent.⁴¹

³⁷ D.19-05-036, p. 29, fn. 42 ("...that risk assessment is often a black box with insufficient description of the supporting information and rationale for proposed programs. Future filings should provide documentation of the risk analysis used to justify the proposals. A "trust us, we know what we are doing" approach to risk assessment is not appropriate given recent wildfire activity.").

³⁸ D.19-05-036, p. 28-29 ("The WMP statute refers to the Commission's safety-oriented processes carried out during GRCs.[] We interpret the inclusion of those processes to reflect a desire to ensure the safety work in GRCs is incorporated into WMPs. We agree that both processes are important to a consideration of the adequacy of utility safety efforts. Our recent decision in the S-MAP/GRC context adopted an approach that prioritizes actions based on their 'Risk-Spend Efficiency.' The approach uses a tool called Multi-Attribute Value Function (MAVF) that provides a single value to measure the combined effects of each mitigation measure on a certain risk event. The process involves performing risk assessments and ranking risks using safety, reliability, and other attributes. This approach provides a means to compare the programs against each other for effectiveness, especially when multiple overlapping programs are proposed for the same assets and intended to mitigate the same risk event (i.e., increased vegetation clearing coupled with installing covered conductor and expanded de-energization practices). Including such analysis in the WMPs would provide the Commission a transparent and effective way to balance overlapping programs in the WMP and assess which programs are needed and effective. As stated above, the statute requires 'all relevant wildfire risk and risk mitigation information that is part of the Safety Model Assessment Proceeding and Risk Assessment Mitigation Phase filings.' This quantitative information is relevant, and the process of conducting these analyses may allow stakeholders to better understand the cost effectiveness of proposed mitigations.").

³⁹ Pub. Util. Code, § 8386, subd. (c) (11), (12), (17).

⁴⁰ See e.g. D.19-05-036, p. 28-29; D.16-08-018, p. 187; D.18-12-014, Attachment A, p. A-13.

⁴¹ Resolution WSD-002, p. 20 ("Although RSE concepts have been considered for several years through Commission GRCs, utilities still display unrefined and limited abilities to produce such information. Considering that utilities propose to spend billions of dollars on WMP initiatives, not having quantifiable information on how those initiatives reduce utility ignition risk relative to their cost severely limits the WSD's ability to evaluate the efficacy of such initiatives and each utility's portfolio of initiatives, as outlined in 2020 WMPs.").

WSD attempts to address the utilities' many risk assessment failures by requiring remedial correction plans and quarterly reports as a condition of approval.⁴² Thus, it remains an open question whether WSD will enable the utilities to continue to shirk their statutory and Commission-ordered obligations.⁴³ Whatever risk-related recommendations the Proposed Roadmap makes, compliance with the Commission's RAMP and S-MAP decisions, and thus with Section 8386, should be the top priority.

B. PCF Agrees that the Utilities' WMP Are Overly Capital-Intensive and Fail to Address Cost-Effectiveness: The Utilities' WMPs Thus Fail to Comply with Section 8386 and D.14-12-025 and D.16-08-018.

The Proposed Roadmap accurately recognizes that the utilities maintain a financial incentive to focus on capital expenditures, and that the WMPs reflect the utilities' financial incentives.⁴⁴ The Proposed Roadmap also appropriately concludes that the utilities should, but have not appropriately addressed cost-effectiveness.⁴⁵

⁴² See e.g. Resolution WSD-002, p. 19-30; Resolution WSD-002, Appendix A, p. A1-A3.

⁴³ See e.g. D.19-05-039, p. 30 (OP 12) ("San Diego Gas & Electric's 2020 Wildfire Mitigation Plan shall use the quantitative risk assessment framework adopted in Decision 18-12-014 in the Safety Model Assessment Proceeding to evaluate and compare the cost effectiveness of each of the mitigations that were under consideration in developing the Wildfire Mitigation Plan. The Wildfire Mitigation Plan shall provide the risk spend efficiency results of the quantitative risk analysis and include an explanation of the Multi-Attribute Variable Framework used and how it was constructed.").

⁴⁴ Appendix 1, p. 23-24 ("Implicit financial incentives also influence resource allocation decisions by utilities. In California, investor-owned utilities are generally incentivized to make purchases of capital equipment over operational investments, assuming they earn a set rate of return on their capital investments through cost recovery mechanisms in the general rate case (GRC). Furthermore, the process of approving and monitoring utility wildfire mitigation investments falls to different stakeholders within the CPUC from those who approve and monitor the utilities' activities.⁴⁷ This complicates the assessment of utility wildfire mitigation resource efficiency, compliance, and enforcement."); Appendix 1, p. 20 ("At this time, many widely-discussed methods of reducing utility-related wildfire risk, such as undergrounding utility lines or installing covered conductors, are extremely capital-intensive relative to their ability to reduce statewide wildfire risk. New technologies promise more effective and cost-effective risk reduction, but utilities will need to validate their safety and effect on reliability.")

⁴⁵ Appendix 2, p. 9 ("To set an affordability goal however, more than only ratepayer costs must be considered. Many investments today are still needed to both prepare for upcoming wildfire seasons and to support longer-term resiliency. Thus, this affordability objective focuses on cost-effectiveness and an assessment of whether utility wildfire mitigation spend is being done in an intelligent, efficient way. When developing and executing their plans, utilities must consider the most reasonable ways to mitigate each driver of risk before selecting initiatives to pursue based on magnitude of risk reduction, cost, and other important factors. The WSD should also consider the efficiency of submitted Wildfire Mitigation Plans during their approval process, although the WSD does not assess appropriate budget size in its WMP evaluation."); Appendix 1, p. 22 ("The WSD must also consider the affordability and resource efficiency of utilities' wildfire mitigation plans. In 2019, the three large IOUs planned to invest a combined \$3.9 billion to mitigate risk of wildfire ignition from their systems, focusing on investments in system hardening, vegetation management, enhanced inspection programs, and situational awareness, as

As described above, S-MAP decision D.16-08-018 ordered that RAMP filings “shall explicitly include calculation of risk reduction and a ranking of mitigations based on risk reduction per dollar spent”⁴⁶ and mandated that the utilities “remove shareholders’ financial interests from consideration in their risk models and decision frameworks used to support case expenditure proposals, especially at the operational level, unless the utility can make a good case for an exception in its” RAMP filing.⁴⁷

Thus, while PCF agrees that “[f]inancial incentives to reduce wildfire risk from utilities” are necessary,⁴⁸ focusing on existing legal mandates must be the top priority and will achieve the same result.

C. PCF Agrees the WMPs Are Not Guided By Data and Science, Overly Rely Upon Subject Matter Experts, and Lack Transparency: the Utilities’ WMPs Thus Fail to Comply with Section 8386 and D.18-12-014.

PCF agrees that risk-informed,⁴⁹ science-based, and data-supported⁵⁰ decisions should be guiding wildfire mitigation activities,⁵¹ and that reliance on subject matter experts (SMEs) should be limited.⁵² PCF also agrees that utility data and modeling should be transparent⁵³ and should allow for information sharing.⁵⁴

outlined below in Figure 8. Utilities’ plans to construct a more resilient system are phased over multiple years to account for planning, permitting, and workforce constraints as utilities execute the backlog of activities that must occur after the disastrous 2017 and 2018 wildfire years. Overall, these investments and risk reduction actions highlight the potential costs, as well as the challenges and tradeoffs, of utility wildfire mitigation efforts.”)

⁴⁶ D.16-08-018, p. 187 (Finding of Fact 81, 82), p. 192 (Conclusion of Law 30), p. 196 (OP 8).

⁴⁷ D.16-08-018, p. 195-196 (OP 7).

⁴⁸ Appendix 1, p. 26 (explaining that in other jurisdictions, “Should a utility cause more ignitions than the target, the state reduces the rate they can charge customers in the coming year”).

⁴⁹ Cover Letter, p. 3 (prioritizing a “Detailed Risk Assessment: Modeling and analysis of wildfire risk from utility assets to communities and natural resources to be able to support the utilities’ wildfire mitigation resource allocation decisions...”).

⁵⁰ Cover Letter, p. 3 (recommending “Applied science, technology, and data: Leverage advancements in science, technology, and data and analytics that support more informed decision-making and create a shared understanding of utility-related wildfire risk.”)

⁵¹ Cover Letter, p. 2.

⁵² Appendix 3, p. 3 (“Decisions require manual intervention. Many of the decisions are ultimately made by subject matter experts, and do not follow objective criteria.”).

⁵³ Appendix 3, p. 3 (“Lack of transparency. WSD has little visibility into the diagnostics and decision-making carried out by IOUs, as well as the data they utilize, as they prioritize their efforts.”).

⁵⁴ Cover Letter, p. 3 (“Data and Analytics Strategy: Strategy to enable information sharing across stakeholders to support processes such as the Wildfire Mitigation Plan in the near-term, and drive analytics in the longer-term that will support prevention, response, and recovery activities.”).

Risk-informed, data-supported, transparent decision-making is already required by Section 8386 and the Commission’s S-MAP and RAMP decisions. As mentioned above, S-MAP decision D.18-12-014 requires the utilities to “clearly and transparently explain its rationale for selecting mitigations for each risk and for its selection of its overall portfolio of mitigations” and “use utility specific data” in identifying potential consequences of and frequency of a risk event; and that the utilities measure risk reduction provided by a risk mitigation.⁵⁵ Additionally, D.18-12-014 limits reliance on SMEs to situations where utility-specific data is unavailable; and, when SMEs must be used, requires the utilities to describe the process, assumptions, and information utilized.⁵⁶ The utilities’ failure to comply with the S-MAP decisions – and the terms of the settlement to which they agreed - should be the top priority and in no way glossed over by any additional requirements imposed going forward.

Moreover, any additional suggested “collaboration” between WSD and the utilities⁵⁷ raises the concern that ratepayers will be paying twice – for WSD’s efforts and for the utilities’ efforts as well. California law requires the utilities to justify their rates; and ratepayers must not be charged for unjustified expenses.⁵⁸ To avoid double charges to the citizenry - and because the utilities have repeatedly failed to provide the information that WSD and others need to make their jobs possible, the utilities’ shareholders should be responsible for the costs of such collaboration.

IV. PCF Agrees the Utilities Have Been Making Unilateral Decisions: the Utilities and the Commission Are Legally Required to Consider Reasonable Alternatives in the Public Interest.

PCF agrees that stakeholder participation has been limited,⁵⁹ that the utilities should incorporate good ideas generated by non-utility representatives,⁶⁰ with respect to the importance of ascertaining the truth,⁶¹ that a need to break down silos persists,⁶² and that WSD must hold the utilities accountable.⁶³

⁵⁵ D.18-12-014, Attachment A, p. A-8, A-14, A-17, A-18.

⁵⁶ D.18-12-014, Attachment A, p. A-8, A-17, A-18.

⁵⁷ Appendix 1, p. 12.

⁵⁸ Pub. Util. Code, §§ 451, 454.

⁵⁹ Appendix 3, p. 5 (“Limited stakeholder participation. Utilities develop their plans mostly in isolation, with limited collaboration within IOUs and with other stakeholders.”).

⁶⁰ Appendix 1, p. 4 (“As the WSD and the utilities learn from the implementation of the initial WMPs, they can also look to utility wildfire mitigation practices from other geographies. While no one method, tool, or innovation is a ‘silver bullet’, five areas have interesting or differing practices to consider....”).

⁶¹ Appendix 1, p. 26 (commending Victoria, Australia for implementing “Data and analytics to establish a single source of truth”).

⁶² Cover Letter, p. 2.

⁶³ Appendix 1, p. 14 (commending Australia’s Bushfire Committees because “Utilities are held accountable for their part of mitigation plans (e.g., vegetation management), as well as in incident response”).

PCF has cautioned against overreliance on the utilities' self-reporting to gauge mitigation efforts,⁶⁴ and has long advocated for evidentiary hearings and the need to consider alternatives to the utilities' proposed wildfire mitigation efforts.⁶⁵ Whatever additional recommendations are ultimately adopted to achieve the ends which the Proposed Roadmap and PCF have proposed, the Commission will remain legally required to consider the alternatives presented by the stakeholders throughout the process.⁶⁶

Additionally, the Proposed Roadmap highlights another area where adherence to already existing legal mandates would address the concerns presented, when it astutely provides the utilities' vegetation management practices as an example of the problematic "siloe utility approach."⁶⁷ If the Commission simply adhered to longstanding legal requirements set forth in the California Environmental Quality Act (CEQA), the cumulative environmental impacts of the utilities' vegetation practices would be considered holistically, the Commission would be required meaningfully to engage the public and stakeholders, and the Commission and the utilities would be held accountable for the adverse environmental impacts for which they are responsible.⁶⁸ CEQA requires that the public be informed of the environmental consequences of projects before they are undertaken, it obliges public agencies to respond to public comments, and it requires science and fact-based decision-making, consideration of alternatives, and implementation of feasible mitigation.⁶⁹

⁶⁴ Appendix 1, p. 16 ("Specifically, the 2020 WMP guideline updates introduced a new tool, the Utility Maturity Model, to gain insight into utilities plans to continue to improve their utility-related wildfire mitigation efforts over time."); R.18-10-007, The Protect Our Communities Foundation Comments on Wildfire Mitigation Plan Templates and Related Material (January 7, 2020), p. 9.

⁶⁵ See e.g. R.18-10-007, The Protect Our Communities Foundation Comments on Wildfire Mitigation Plan Templates and Related Material (January 7, 2020), p. 12-14; R.18-10-007, Motion for Evidentiary Hearings by The Protect Our Communities Foundation (November 6, 2019), p. 3.

⁶⁶ See e.g. *City of Los Angeles v. Public Utilities Com.* (1975) 15 Cal.3d 680, 694 ("the commission should consider available alternatives").

⁶⁷ Appendix 1, p. 13 ("One example of the siloe utility approach to coordination is in their vegetation management plans. Today, utilities are focused on executing the vegetation management adjacent to their infrastructure to maintain compliance with clearance requirements in GO 95 and to address grow-in or fall-in risk to utility equipment. However, utility vegetation management programs are not often coordinated with overall fuel management efforts led by local land managers like the California Department of Forestry and Fire Protection (CAL FIRE), the United States Forest Service (USFS), and/or local communities. While CAL FIRE and USFS coordinate projects that border each other, in certain situations, lack of utility collaboration can result in missed opportunities for these stakeholders to leverage vegetation management efforts to support creation of fire breaks and other fuel treatments for at-risk communities. Land managers also highlighted the absence of a combined record of utility, CAL FIRE, USFS, and other fuel management activity as a knowledge gap that enables fragmented and uncoordinated activity.").

⁶⁸ *Laurel Heights Improvement Assn. v. Regents of University of Cal.* (1988) 47 Cal.3d 376, 392, 394.

⁶⁹ See e.g. Cal. Code Regs., tit. 14, § 15064, subd. (b)(1); Cal. Code Regs., tit. 14, § 15126.6; Cal. Code Regs., tit. 14, § 15088; *No Oil, Inc. v. Los Angeles* (1974) 13 Cal.3d 68, 81.

Instead of complying with CEQA,⁷⁰ however, WSD went so far as to repeat without investigating SDG&E's false claim that an indication exists "that a 25-foot post-trim clearance has had a positive impact on wildfire risk."⁷¹ No such indication in fact exists, and SDG&E should have no need to clear vegetation beyond its existing easement rights.⁷² In any event, before authorizing any such vegetation practices, the Commission must first ascertain the scope of the utilities' existing easements so as to avoid exceed the scope of its authority.⁷³

V. CONCLUSION

PCF requests that these comments be considered and incorporated into California's wildfire mitigation planning efforts – now and in the future. PCF submits that contextualizing the Proposed Roadmap within existing legal requirements will most efficiently result in the wildfire risk reduction vision shared by the Legislature, past Commission decisions, the Proposed Roadmap, PCF, and the public at large.

Sincerely,

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⁷⁰ See The Protect Our Communities Foundation Comments on the 2020 Wildfire Mitigation Plans Pursuant to Resolution WSD-001 (April 7, 2020), p. 24-25 (no CEQA exemption exists).

⁷¹ See Resolution WSD-005, p. 52.

⁷² Real property law instructs that "an easement carries with it certain secondary easements essential to its enjoyment, such as the right to make repairs, renewals, and replacements," and that the right to make repairs and replacements are limited by the requirement that both the easement owner and the land owner must act reasonably. *Haley v. Los Angeles County Flood Control Dist.* (1959) 172 Cal.App.2d 285, 290; *Dolnikov v. Ekizian* (2013) 222 Cal.App.4th 419, 429-430 ("Incidental or secondary easement rights are limited by a rule of reason. 'The rights and duties between the owner of an easement and the owner of the servient tenement...are correlative. Each is required to respect the rights of the other. Neither party can conduct activities...that unreasonably interfere with the other party's use of the property.'")

⁷³ *Camp Meeker Water System, Inc. v. Public Utilities Com.* (1990) 51 Cal.3d 845, 861 (recognizing the Commission's "power to construe, for purposes of exercising its regulatory and ratemaking authority, the existing rights of a regulated utility"); *Richfield Oil Corp. v. Public Utilities Com.* (1960) 54 Cal.2d 419, 430 (dedication is "an implicit limitation" to public utility regulation); *Greyhound Lines, Inc. v. P.U.C.* (1968) 68 Cal.2d 406, 411 ("It was early decided and remains the law that the perimeter of commission authority to order service modifications is staked out by the limits of a utility's dedication or devotion of its property to public use. The power to order "additions, extensions, repairs, improvements" within the scope of dedication is extensive; without the scope of dedication, the commission's power is ineffectual."); *Cerf v. Peleging* (1892) 94 Cal.131, 136 (one cannot dedicate the land of another).